

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written "Categorical Exclusion Determination" is not required for this final rule.

### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. From May 18, 2001 through November 30, 2001, section 117.795 is temporarily amended, by adding a new paragraph (e), to read as follows:

#### § 117.795 Jamaica Bay and connecting waterways.

\* \* \* \* \*

(e) The Beach Channel Railroad Bridge, at mile 6.7, shall open on signal after at least a twenty-four hours advance notice is given from 6 a.m. to 7 p.m., on each Monday, Wednesday, and Friday, from May 18, 2001 through November 30, 2001. Advance notice may be given by calling the number posted at the bridge.

Dated: May 18, 2001.

**Gerald M. Davis,**

*Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.*

[FR Doc. 01-13640 Filed 5-30-01; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[CGD01-00-248]

RIN 2115-AA97

### Safety Zone: Triathlon, Ulster Landing, Hudson River, NY

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent safety zone for the annual Hudson Valley Triathlon swim on the Hudson River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Hudson River.

**DATES:** This rule is effective July 2, 2001.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-00-248) and are available for inspection or copying at room 204, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, NY 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

## SUPPLEMENTARY INFORMATION:

### Regulatory Information

On March 2, 2001, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Triathlon, Ulster Landing, Hudson River, NY in the **Federal Register** (66 FR 13030). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

### Background and Purpose

The Coast Guard is establishing a permanent safety zone for the annual Hudson Valley Triathlon swim on the Hudson River. The safety zone encompasses all waters of the Hudson River, in the vicinity of Ulster Landing, bound by the following points: 42°00'03.7"N, 073°56'43.1"W; thence to 41°59'52.5"N, 073°56'34.2"W; thence to 42°00'15.1"N, 073°56'25.2"W; thence to 42°00'05.4"N, 073°56'41.9"W (NAD 1983); thence along the shoreline to the point of beginning.

The safety zone is effective annually from 6 a.m. until 9 a.m. on the first Sunday after July 4th. The safety zone prevents vessels from transiting a portion of the Hudson River. It is needed to protect swimmers and boaters from the hazards associated with 500 swimmers competing in a confined area of the Hudson River. Recreational vessels can still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone. Commercial vessels will be precluded from transiting the area because the safety zone encompasses about 800 yards of Barrytown Reach and there is no viable alternative route. No vessel may enter the safety zone without permission from the Captain of the Port, New York.

Special Local Regulations have been published for this event in 33 CFR 100.121 for 7 a.m. to 9 a.m. on the same date. The location of this event was moved 3.5 nautical miles north in the summer of 2000 to the new location in the northern area of Barrytown Reach. A Temporary final rule was required for the 2000 event. This new location encompasses about 800 yards of Barrytown Reach and is about 1,000 yards smaller than the permanent area in 33 CFR 100.121.

This safety zone covers the minimum area needed and imposes the minimum restrictions necessary to ensure the protection of all swimmers and vessels. Public notifications will be made prior to the event via the Local Notice to Mariners.

## Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. No changes were made to this rulemaking.

## Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This safety zone temporarily closes a portion of the Hudson River to vessel traffic; however, the impact of this regulation is expected to be minimal for the following reasons: This is an annual marine event currently published in 33 CFR 100.121; this safety zone will close a smaller portion of the Hudson River during this event; this zone is only 3.5 miles north of the current zone; the event is limited in duration; the event occurs early on a Sunday morning, which historically is a time when there is less commercial traffic transiting the area; advance advisories will be made to allow the maritime community to schedule transits before and after the event; the event has been held for 4 years in succession and is therefore anticipated annually; and recreational vessels may still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small

entities: the owners or operators of vessels intending to transit or anchor in a portion of the Hudson River during the time this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this is an annual marine event currently published in 33 CFR 100.121; this safety zone will close a smaller portion of the Hudson River during the event; the event is limited in duration; it is expected that no more than 1 or 2 commercial vessels will be affected by this event early on a Sunday morning; advance advisories will be made to allow the maritime community to schedule transits before and after the event; the event has been held for 4 years in succession and is therefore anticipated annually; and recreational vessels may still transit to the east of the zone during the event and will not be precluded from mooring at or getting underway from recreational piers in the vicinity of the zone.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. However, we received no requests for assistance from small entities.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

## Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

## Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

## Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs

the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

## Taking of Private Property

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## Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

## Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

## Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add § 165.170 to read as follows:

### § 165.170 Safety Zone: Triathlon, Ulster Landing, Hudson River, NY.

(a) *Regulated area.* The following area is a safety zone: All waters of the Hudson River, in the vicinity of Ulster Landing, bound by the following points: 42°00'03.7"N, 073°56'43.1"W; thence to 41°59'52.5"N, 073°56'34.2"W; thence to 42°00'15.1"N, 073°56'25.2"W; thence to 42°00'05.4"N, 073°56'41.9"W (NAD 1983); thence along the shoreline to the point of beginning.

(b) *Effective period.* This section is in effect annually from 6 a.m. until 9 a.m. on the first Sunday after July 4th.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) No vessels will be allowed to transit the safety zone without the permission of the Captain of the Port, New York.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 14, 2001.

**R.E. Bennis,**

*Rear Admiral, U.S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 01–13643 Filed 5–30–01; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

**RIN 2900–AK12**

### Schedule for Rating Disabilities: Disabilities of the Liver

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (38 CFR part 4) by revising the portion of the Digestive System that addresses

disabilities of the liver. The intended effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

**DATES:** *Effective Date:* This rule is effective July 2, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Carol McBrine, M.D., Consultant, Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC 20420, (202) 273–7210.

**SUPPLEMENTARY INFORMATION:** As part of its review of the Schedule for Rating Disabilities (38 CFR part 4), VA published a proposal to amend that portion of the Schedule pertaining to liver disabilities. The proposed rule was published in the **Federal Register** on August 7, 2000 (65 FR 48205). Interested persons were invited to submit written comments on or before October 6, 2000. We received comments from the Disabled American Veterans and one VA employee.

In the preamble of the proposed rule, we proposed to delete diagnostic code 7313 but inadvertently did not include this change in the amendatory instructions portion of the document. No comment was made on this proposed change which is now reflected in the final rule.

One commenter questioned our proposal to provide percentage evaluation levels of 10, 30, 50, 70, and 100% for diagnostic code 7312 (cirrhosis of the liver, primary biliary cirrhosis, or cirrhotic phase of sclerosing cholangitis) and levels of zero, 10, 20, 40, 60, and 100% for diagnostic codes 7345 (chronic liver disease without cirrhosis (including hepatitis B, chronic active hepatitis, autoimmune hepatitis, hemochromatosis, drug-induced hepatitis, etc., but excluding bile duct disorders and hepatitis C)) and 7354 (hepatitis C (or non-A, non-B hepatitis)). The commenter felt all of these conditions should have the same evaluation levels because the symptom criteria are almost identical.

We do not adopt the comment for the following reasons. The symptom criteria for cirrhotic and non-cirrhotic liver diseases are not nearly identical. The evaluation criteria proposed for cirrhotic diseases (diagnostic code 7312) are based on largely objective signs, symptoms, and complications of cirrhosis, such as jaundice, weakness, weight loss, ascites, hepatic encephalopathy, and hemorrhage. The

evaluation levels for cirrhotic diseases have not been changed, except for the addition of the 10 percent rating recommended by our consultants. The evaluation criteria proposed for non-cirrhotic diseases (diagnostic codes 7345 and 7354) are based primarily on specific signs and symptoms of hepatitis or other chronic liver disease without cirrhosis, such as fatigue, malaise, nausea, vomiting, anorexia, arthralgia, and right upper quadrant pain.

Alternatively, non-cirrhotic liver disease and hepatitis C may be rated or on an alternative set of criteria based on incapacitating episodes if it will result in a higher evaluation. VA proposed in the **Federal Register** on February 24, 1996 (62 FR 8204) to also rate intervertebral disc syndrome based on incapacitating episodes. To maintain internal consistency in the rating schedule, we are using the same percentage evaluation levels that we proposed for rating intervertebral disc syndrome when it is based on incapacitating episodes. The evaluation levels for cirrhotic diseases, however, are not based on incapacitating episodes. Accordingly, we do not believe using the same levels of evaluation for such diseases is appropriate, and we have not adopted the commenter's suggestion.

The same commenter suggested that we provide criteria for diagnostic code 7312 based on incapacitating episodes, as we have done for hepatitis or other chronic liver disease without cirrhosis.

Cirrhosis results in liver scarring and progressive liver damage that eventually leads to liver decompensation with the complications of hemorrhage, encephalopathy, ascites, or jaundice. Treatment is aimed at preventing the progression of liver damage, but it cannot reverse it, because it is permanent. Since cirrhosis does not have an overall episodic course, although its complications may occur intermittently once it has reached the decompensated stage, an alternative set of criteria based on incapacitating episodes is not appropriate, and we have not adopted this suggestion.

Section 4.112 currently addresses weight loss in general terms for purposes of application to § 4.114. We proposed to revise this section by defining these terms in more detail and referencing them to the individual's "baseline weight." For example, we proposed to define "substantial weight loss," as meaning a loss of greater than 20 percent of the individual's baseline weight, sustained for three months or longer. One commenter recommended that we include some guidance for determining baseline weight because a