

**SUPPLEMENTARY INFORMATION:** The NJTRO Lower Hack Bridge, across the Hackensack River, mile 3.4, at Jersey City, New Jersey, has a vertical clearance in the closed position of 40 feet at mean high water and 45 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.723(b).

The bridge owner, New Jersey Transit Rail Operations (NJTRO), requested a temporary deviation to facilitate scheduled maintenance, upgrades to the control system at the bridge.

The waterway has seasonal recreational vessels, and commercial vessels of various sizes. All known waterway users were advised of the requested bridge closure period and offered no objection.

Under this temporary deviation the bridge may remain closed from 7 a.m. through 5 p.m. on June 21, 2008 and June 22, 2008, with a rain date of June 28, 2008 and June 29, 2008. Vessels able to pass under the closed draw may do so at any time and vessels that must have a bridge opening may do so by providing a two-hour advance notice by calling the bridge on VHF channels 13 or 16.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 11, 2008.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. E8-13860 Filed 6-18-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2008-0477]

RIN 1625-AA-09

#### **Drawbridge Operation Regulations; Intracoastal Waterway (ICW); Beach Thorofare, NJ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Margate Bridge, at ICW mile 74, across Beach Thorofare at Margate, New

Jersey. The deviation is necessary to sandblast, paint and make repairs to the bridge. This deviation allows the bridge to provide partial vessel openings.

**DATES:** This deviation is effective from 7 a.m. on October 1, 2008, to 11:59 p.m. on December 31, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0477 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Sandra S. Elliott, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6557.

**SUPPLEMENTARY INFORMATION:** The subcontractor on behalf of the Margate Bridge Company, who owns and operates this double-leaf bascule drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.5 that requires the bridge to open promptly and fully for the passage of vessels when a request to open is given.

Margate Bridge, located at ICW mile 74, across Beach Thorofare at Margate, New Jersey, has a vertical clearance in the closed position to vessels of 14 feet above mean high water (MHW).

The Coast Guard reviewed the 2007 bridge logs provided by the Margate Bridge Company. The logs recorded approximately 79 vessel openings granted in October, 34 vessel openings granted in November and 4 vessel openings granted in December of last year.

Under this temporary deviation, the drawbridge will provide partial openings of the lift spans for vessels. The maintenance and repairs require immobilizing half of the draw span to single-leaf operation each day, beginning 7 a.m. on Wednesday, October 1, 2008, until and including 11:59 p.m. Wednesday, December 31, 2008, with a work barge occupying one-half of the 58-foot wide channel under the bridge, so passage through the bridge will be limited to a 29-foot width for the duration of the project. The opposite connecting span while not

under repair will continue to open for vessels if at least a half-hour advance notice is given to the bridge tender at (609) 822-9175 or via marine radio on channel 13 VHF. Mariners requiring the full opening of the lift spans or the full width of the channel under the bridge will be directed to use the Atlantic Ocean as the alternate route between Absecon and Great Egg Harbor Inlets.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the partial openings of the draw span to minimize transiting delays caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 11, 2008.

**Waverly W. Gregory, Jr.,**

*Chief, Bridge Administration Branch, Fifth Coast Guard District.*

[FR Doc. E8-13879 Filed 6-18-08; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0483]

RIN 1625-AA00

#### **Safety Zone; World War II Beach Invasion Re-enactment, Lake Michigan, St. Joseph, MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Michigan, St. Joseph, MI. This zone is intended to restrict vessels from a portion of Lake Michigan during a re-enactment of a World War II beach invasion. This temporary safety zone is necessary to protect event participants and spectator vessels and restrict spectators and other vessels from the re-enactment site.

**DATES:** This rule is effective from 8 a.m. to 2 p.m. on June 21, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0483 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West

Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207, between 8:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on the temporary rule, call Lieutenant Commander Kimber Bannan, U.S. Coast Guard Sector Lake Michigan, Prevention Department, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207, 414-747-7155. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This safety zone was implemented for an emergency situation and required immediate activation. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

##### **Background and Purpose**

This temporary safety zone is necessary to ensure the safety of event participants and spectators on Lake Michigan on June 21, 2008 during the re-enactment of World War II beach invasions. Establishing a safety zone to control vessel movement around the location of the re-enactment site will help ensure the safety of persons and property participating in the event as well as spectators and vessels transiting through the area.

##### **Discussion of Rule**

A temporary safety zone is necessary to ensure the safety of event participants and spectator vessels. The safety zone will be enforced from 8 a.m. to 2 p.m. on June 21, 2008. The safety zone will encompass all waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06'55" N, 086°29'23" W; then west/northwest along the north breakwater to 42°06'59"

N, 086°29'41" W; then northwest 100 yards to 42°07'01" N, 086°29'44" W; then northeast 2,243 yards to 42°07'50" N, 086°28'43" W; then southeast to the shoreline at 42°07'39" N, 086°28'27" W; then southwest along the shoreline to the point of origin.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

##### **Regulatory Evaluation**

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

##### **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 may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of Lake Michigan near Tiscornia Park in St. Joseph, MI from 8 a.m. to 2 p.m. on June 21, 2008.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic will only be limited for 4 hours and vessels can safely transit around the safety zone. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to

transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

##### **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. 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). The Coast Guard will not retaliate against small entities that question or complain about the rule or any policy or action of the Coast Guard.

##### **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**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

##### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

##### **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.

### Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that this Rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedure; and related management system practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are 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, and 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–0483 is added as follows:

### § 165.T09–0483 Safety Zone; World War II Beach Invasion Re-enactment, Lake Michigan, St. Joseph, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of Lake Michigan in the vicinity of Tiscornia Park in St. Joseph, MI beginning at 42°06'55" N, 086°29'23" W; then west/northwest along the north breakwater to 42°06'59" N, 086°29'41" W; the northwest 100 yards to 42°07'01" N, 086°29'44" W; then northeast 2,243 yards to 42°07'50" N, 086°28'43" W; the southeast to the shoreline at 42°07'39" N, 086°28'27" W; then southwest along the shoreline to the point of origin.

(b) *Effective period.* This regulation is effective from 8 a.m. to 2 p.m. on June 21, 2008.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: June 9, 2008.

**Bruce C. Jones,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

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