

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD09-07-061]

RIN 1625-AA00

**Safety Zone; Mackinac Bridge 50th Anniversary Celebration, Lake Huron, St. Ignace, MI****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Huron, St. Ignace, MI. This zone is intended to restrict vessels from a portion of Lake Huron during the Mackinac Bridge 50th Anniversary Celebration July 28, 2007 fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 9 p.m. to 11:59 p.m. on July 28, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD09-07-061 and are available for inspection or copying at U.S. Coast Guard Sector Sault Ste Marie, 337 Water St., Sault Ste Marie, Michigan, 49783 between 7:30 a.m. (local) and 4 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT. John Peterson, Prevention Department, Sector Sault Ste Marie, MI, 337 Water St., Sault Ste Marie, MI 49783; (906) 635-3341.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), 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 vessels and spectators from hazards associated

with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Sault Ste Marie has determined that fireworks launches proximate to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

**Discussion of Rule**

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Mackinac Bridge 50th Anniversary Celebration fireworks display. The fireworks display will occur between 9 p.m. and 11:59 p.m. on July 28, 2007.

The safety zone for the fireworks will encompass all waters of Lake Huron within a 2000 ft. radius around the Mackinac Bridge Authority Pier, St. Ignace, MI at position 45-50.78N, 084-43.285W. [DATUM: NAD 83].

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

**Regulatory Evaluation**

This 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 zones' 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 Huron off St. Ignace, between 9 p.m. and 11:59 p.m. on July 28, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only three hours for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Sault Ste Marie 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 this 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 this safety zone 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 and Department of Homeland Security Management Directive 5100.1, which guide 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, 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.T09–061 is added to read as follows:

#### § 165.T09–061 Safety zone; Mackinac Bridge 50th Anniversary Celebration, Lake Huron, St. Ignace, MI.

(a) *Location.* The following area is a temporary safety zone: waters of Lake Huron within a 2000 ft. radius around the Mackinac Bridge Authority Pier, St. Ignace, MI at position 45–50.78N, 084–43.285W [DATUM: NAD 83].

(b) *Effective period.* This regulation is from 9 p.m. to 11:59 a.m. on July 28, 2007.

(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 Sault Ste Marie, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Sault Ste Marie or his designated 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 designated 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 Sault Ste

Marie 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 Sault Ste Marie or his on-scene representative.

Dated: June 25, 2007.

**L.W. Hewett,**

Commander, U.S. Coast Guard, Alternate Captain of the Port Sault Ste Marie.

[FR Doc. E7-13504 Filed 7-11-07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA 2007-28694, Notice 1]

RIN 2127-AJ90

### Federal Motor Vehicle Safety Standards; Tire Pressure Monitoring Systems

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule; partial response to petitions for reconsideration.

**SUMMARY:** This document responds in part to petitions for reconsideration of our statutorily-mandated rulemaking establishing a new Federal motor vehicle safety standard (FMVSS) requiring installation in new light vehicles of a tire pressure monitoring system (TPMS) capable of detecting when one or more of a vehicle's tires is significantly under-inflated. We established the standard in a final rule published in April 2005. We responded to petitions for reconsideration of that final rule in a final rule published in September 2005. This final rule responds to the petition for reconsideration of our September 2005 final rule submitted by the Alliance of Automobile Manufacturers, which raised a number of technical issues pertaining to the combined low tire pressure/TPMS malfunction indicator lamp. (The agency will respond subsequently in a separate notice to a second petition for reconsideration submitted by ETV Corporation Pty Limited.) We are granting the Alliance's petition, and through this document, we are amending the standard accordingly. We anticipate that today's amendments, which are of a minor technical nature, will not necessitate redesign of current TPMSs nor appreciably change the costs of compliance with the safety standard.

**DATES: Effective Date:** The amendments made in this final rule are effective August 13, 2007. Voluntary compliance is permitted immediately.

**Petitions for Reconsideration:** If you wish to submit a petition for reconsideration for this rule, your petition must be received by August 27, 2007. The agency will not consider redundant petitions.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number above and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, 4th Floor, Washington, DC 20590.

See the **SUPPLEMENTARY INFORMATION** portion of this document (Section VI; Rulemaking Analyses and Notices) for DOT's Privacy Act Statement regarding documents submitted to the agency's dockets.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mr. George Soodoo or Mr. Samuel Daniel, Office of Crash Avoidance Standards (Telephone: 202-366-2720) (Fax: 202-366-4329).

For legal issues, you may call Ms. Rebecca Schade, Office of Chief Counsel (Telephone: 202-366-2992) (Fax: 202-366-3820).

You may send mail to these officials at the National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, 4th Floor, Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

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#### I. Summary of Decision

This document responds to a petition for reconsideration submitted by the Alliance of Automobile Manufacturers (Alliance) related to our rulemaking establishing FMVSS No. 138, *Tire Pressure Monitoring Systems*, which was adopted in a final rule published in the **Federal Register** on April 8, 2005.<sup>1</sup>

<sup>1</sup> 70 FR 18136 (April 8, 2005) (Docket No. NHTSA-2005-20586-1).

The petitioner sought further amendments to the standard pertaining to matters that it deemed either to be insufficiently addressed by or newly arising from our September 2005 final rule<sup>2</sup> responding to petitions for reconsideration of the April 2005 final rule. Specifically, the petitioner requested changes to the specifications for the TPMS malfunction warning provided by a combined low tire pressure/TPMS malfunction warning telltale (see section IV of this document for a complete discussion of issues raised in the petition and their resolution). We have decided to grant the petition for the reasons below. (We further note that a second petition for reconsideration was submitted by ETV Corporation Pty Limited (ETV), in response to which the agency is currently analyzing additional data. In order to prevent unnecessary delay in responding to the separate and distinct requests for amendment set forth in the Alliance's petition, we have decided to bifurcate our response to this latest round of petitions for reconsideration of the TPMS rulemaking. Accordingly, we have decided to respond to the ETV petition subsequently, as part of a separate document.)

After careful consideration of the Alliance's request and available data, the agency has decided to amend FMVSS No. 138 in response to one technical matter raised in this latest round of petitions for reconsideration, which involves the standard's requirements and test procedures related to operation of the combined low tire pressure/TPMS malfunction indicator lamp (MIL) telltale. Specifically, we have decided to retain the requirement for the system to detect a system malfunction and to initiate a 60-90 second flashing sequence by the combined TPMS telltale (followed by continuous illumination) within 20 minutes of occurrence of that malfunction. However, we are amending the standard to provide that if the TPMS subsequently encounters additional, separate malfunctions, the TPMS may (but is not required to) initiate another flashing sequence for each distinct malfunction condition.

As a related matter, we are amending the standard's test procedures to provide that only one malfunction will be simulated during each malfunction detection test (*i.e.*, one per ignition cycle). Under the standard, the agency may still test for more than one malfunction, although each additional malfunction would be simulated in a

<sup>2</sup> 70 FR 53079 (Sept. 7, 2005) (Docket No. NHTSA-2005-22251-1).