

requirements.¹ I am pleased that the Commission is seeking comment on this issue.

Specifically, this Notice seeks comment on whether a more flexible approach to labeling obligations would provide sufficient guidance to businesses while simultaneously fulfilling the Commission's mandate under the statute.² The current requirements are highly prescriptive. For example, the Rule specifies the trim size dimensions for labels, including the precise width and length (*e.g.*, width 5¼ to 5½ inches (13.34 cm to 13.97 cm)); the number of picas for the copy set (between 27 and 29); the type style and setting; the weight of the paper stock on which the labels are printed (not less than 58 pounds per 500 sheets (25" × 38") or equivalent); and a suggested minimum peel adhesive capacity of 12 ounces per square inch. These highly prescriptive requirements depart significantly from the approach employed by other Commission Rules and Guides that contain labeling requirements. For example, the Rules and Regulations Under the Textile Fiber Products Identification Act provide simply that the "label shall be conspicuous and shall be of such durability as to remain attached to the product and its package throughout any distribution, sale, resale and until sold and delivered to the ultimate consumer."³ The Commission's Guides for Select Leather and Imitation Leather Products similarly require that the label "should be affixed so as to remain on or attached to the product until received by the consumer purchaser."⁴

While I have great faith in markets to produce the best results for consumers, the prerequisite of healthy competition is sometimes absent. In limited situations, regulations can help address market failures. But for regulations to succeed in restoring market forces, they must eliminate the market failure in the most narrow and targeted manner possible. Regulatory "fixes" that extend beyond simply correcting the problem may upset the balance of forces in the rest of the market and, ultimately, may harm consumers.⁵ That is why I share

the President's goal of eliminating unnecessary and burdensome regulatory requirements.⁶

The Trump administration has called for agencies to carefully review regulations. I am proud that the FTC has had a long tradition of proactively reviewing our rules to ensure our regulatory program protects consumers while seeking to avoid the unnecessary imposition of costs on businesses.⁷ In the last few years, the FTC has repealed or streamlined significantly a number of Rules and Guides. For example, the FTC recently repealed the Picture Tube Rule, which the Commission determined was no longer necessary to prevent deceptive claims regarding the size of television screens.⁸ The FTC also revised the Jewelry Guides, removing outdated provisions as well as lifting restrictions on the marketing of gold-content products.⁹ Just last year, the FTC rescinded the Nursery Guides—rules governing the sale of outdoor plants—because they had outlived their utility for consumers and industry.¹⁰

I applaud the FTC's regular, systematic review of all of its rules and guides on a rotating basis. When the Commission conducts a review of a Rule or Guide, we regularly ask if the regulation is still necessary. We ask about the costs and benefits to businesses and consumers; conflicts with state, local, federal or international laws; whether consumer perceptions have changed; and the effect, if any, that changes in relevant technological, economic or environmental conditions have had on Rules and Guides. This process lends transparency to the Commission's regulatory review. The Commission is receptive and responsive to the comments, often making

regproject.org/paper/the-proper-role-of-rules-in-a-gloriously-unruly-economy/ (discussing large and unintended consequences of burdensome regulations).

⁶ Executive Order 13,771, 82 FR 9339 (Feb. 3, 2017) (imposing a rule that for every new regulation created, two must be eliminated).

⁷ In the 1990s, the Commission rescinded 24 Guides (addressing, *e.g.*, fallout shelters, the decorative wall paneling industry, and the dog and cat food industry) and 13 trade rules, including those concerning the misuse of "automatic" or terms of similar import as descriptive of household electric sewing machines; deceptive advertising and labeling as to size of tablecloths and related products; and the Frosted Cocktail Glass Rule.

⁸ See <https://www.ftc.gov/policy/federal-register-notices/16-cfr-part-410-deceptive-advertising-sizes-viewable-pictures-shown>.

⁹ See <https://www.ftc.gov/public-statements/2018/07/statement-basis-purpose-final-revisions-jewelry-guides>.

¹⁰ See Press Release, Fed. Trade Comm'n., "FTC Approves Proposal Rescinding Nursery Guides," (June 4, 2019), <https://www.ftc.gov/news-events/press-releases/2019/06/ftc-approves-proposal-rescinding-nursery-guides>.

regulatory revisions to address changing market forces.

Freeing businesses from unnecessarily prescriptive requirements benefits consumers. Although the Commission long ago abandoned some of the most egregious instances of invasive regulatory zeal that earned it the sobriquet of the "second most powerful legislature in Washington,"¹¹ forswearing new mistakes is not enough. Accordingly, I am pleased to see the Agency reviewing the more prescriptive aspects of this Rule and am committed to an ongoing practice of identifying opportunities to streamline our regulations by updating, modifying, or eliminating outdated, burdensome, or unnecessary provisions.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2020-0201]

RIN 1625-AA00

Safety Zone; Lake of the Ozarks, Mile 1.5 on the Gravois Arm of the Lake of the Ozarks, Lake Ozark, MO

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Lake of the Ozarks. This action is necessary to provide for the safety of life on these navigable waters during a fireworks display scheduled for June 6, 2020. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative. We invite your comments on this proposed rulemaking. **DATES:** Comments and related material must be received by the Coast Guard on or before May 11, 2020.

ADDRESSES: You may submit comments identified by docket number USCG-2020-0201 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the "Public Participation and Request for

¹¹ See, *e.g.*, J. Howard Beales, III & Timothy J. Muris, FTC Consumer Protection at 100: 1970s Redux or Protecting Markets to Protect Consumers?, 83 Geo. Wash. L. Rev. 2157, 2159 (2015) (quoting Jean Carper, The Backlash at the FTC, Wash. Post, Feb. 6, 1977, at C1).

¹ See Dissenting Statement of Commissioner Christine S. Wilson on the Notice of Proposed Rulemaking: Energy Labeling Rule (Dec. 10, 2018), <https://www.ftc.gov/public-statements/2018/12/dissenting-statement-commissioner-christine-s-wilson-notice-proposed>.

² Energy Policy and Conservation Act, 42 U.S.C. 6295.

³ 16 CFR part 303.15.

⁴ 16 CFR part 24.2(g).

⁵ See, *e.g.*, Howard Beales, et al., "The Proper Role of Rules in a Gloriously Unruly Economy," released by the Regulatory Transparency Project of the Federalist Society, August 28, 2019, <https://>

Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christian Barger, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email Christian.J.Barger@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On March 14, 2020, AM Pyrotechnics, LLC notified the Coast Guard that it will be conducting a firework display from 9:00 p.m. through 9:30 p.m. on June 6, 2020. The fireworks are to be launched from a barge located at mile 1.5 on the Gravois Arm of the Lake of the Ozarks in Lake Ozark, MO. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within a 420-foot radius of the barge.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 420-foot radius of the fireworks barge before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 8:30 through 10 p.m. on June 6, 2020 to allow for moving the firework barge into place, conducting the display, and removal of the barge. The safety zone would cover all navigable waters within 420 feet of the barge located at mile 1.5 on the Gravois Arm of the Lake of the Ozarks in Lake Ozark, MO. The duration of the zone is intended to ensure the safety of persons, vessels, and these navigable waters before, during, and after the scheduled 9:00 p.m. to 9:30 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without

obtaining permission from the COTP or a designated representative. The COTP or a designated representative will inform the public of the enforcement dates and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone, through Local Notices to Mariners (LNM).

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the temporary safety zone. This action involves a firework display that impacts only a half mile stretch of Lake of the Ozarks for one and a half hours.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. 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 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a temporary safety zone lasting only one and a half hours on one day that would prohibit entry within 420 feet of a firework barge. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment

applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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 proposes to amend 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: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T08–0201 to read as follows:

§ 165.T08–0201 Safety Zone; Lake of the Ozarks, Mile 1.5 on the Gravois Arm of the Lake of the Ozarks, Lake Ozark, MO

(a) *Location.* The following area is a safety zone: Lake of the Ozarks, Mile 1.5 on the Gravois Arm of the Lake of the Ozarks, Lake Ozark, MO.

(b) *Period of enforcement.* This section is effective from 8:30 p.m. through 10 p.m. on June 6, 2020.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, persons and vessels are prohibited from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River

(COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted by telephone at 314–269–2332.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative while navigating in the regulated area.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Local Notices to Mariners (LNM).

Dated: April 6, 2020.

S.A. Stoermer,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1192

[Docket No. ATBCB–2020–0002]

RIN 3014–AA42

Americans With Disabilities Act Accessibility Guidelines for Transportation Vehicles; Rail Vehicles; Extension of Comment Period

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) is extending until July 14, 2020 the comment period for the document entitled “Americans with Disabilities Act Accessibility Guidelines for Transportation Vehicles; Rail Vehicles” that appeared in the **Federal Register** on February 14, 2020. In that document, the Access Board requested comments by May 14, 2020. The Access Board is taking this action to allow interested persons additional time to submit comments.