

(e) *Dual jobs.* In some situations an employee is employed in dual jobs, as, for example, where a maintenance person in a hotel also works as a server. In such a situation if the employee customarily and regularly receives at least \$30 a month in tips for the employee's work as a server, the employee is engaged in a tipped occupation only when employed as a server. The employee is employed in two occupations, and no tip credit can be taken for the employee's hours of employment in the occupation of maintenance person.

(f) *Engaged in a tipped occupation.* An employee is engaged in a tipped occupation when the employee performs work that is part of the tipped occupation. An employer may only take a tip credit for work performed by a tipped employee that is part of the employee's tipped occupation.

(1) *Work that is part of the tipped occupation.* Any work performed by the tipped employee that produces tips is part of the tipped occupation. Work that directly supports tip-producing work is also work that is part of the tipped occupation provided it is not performed for a substantial amount of time.

(i) *Tip-producing work.* Any work for which tipped employees receive tips is tip-producing work. A server's tip-producing work includes waiting tables; a bartender's tip-producing work includes making and serving drinks and talking to customers; a nail technician's tip-producing work includes performing manicures and pedicures.

(ii) *Directly supports.* Work that directly supports tip-producing work is also part of the tipped occupation provided that it is not performed for a substantial amount of time. Work that directly supports the work for which employees receive tips is work that assists a tipped employee to perform the work for which the employee receives tips. Work performed by a server that directly supports the tip-producing work includes, for example, preparing items for tables so that the servers can more easily access them when serving customers or cleaning the tables to prepare for the next customers. Work that directly supports the work of a bartender would include slicing and pitting fruit for drinks so that the garnishes are more readily available to bartenders as they mix and prepare drinks for customers. Work that directly supports the work of a nail technician would include cleaning all the pedicure baths between customers so that the nail technicians can begin customers' pedicures without waiting.

(iii) *Substantial amount of time.* An employer can take a tip credit for the

time a tipped employee spends performing work that is not tip-producing, but directly supports tip-producing work, provided that the employee does not perform that work for a substantial amount of time. For the purposes of this section, an employee has performed work for a substantial amount of time if:

(A) For any workweek, the directly supporting work exceeds 20 percent of the hours worked during the employee's workweek. If a tipped employee spends more than 20 percent of the workweek on directly supporting work, the employer cannot take a tip credit for any time that exceeds 20 percent of the workweek; or

(B) For any continuous period of time, the directly supporting work exceeds 30 minutes. If a tipped employee performs directly supporting work for a continuous period of time that exceeds 30 minutes, the employer cannot take a tip credit for any of that continuous period of time.

(2) *Work that is not part of the tipped occupation.* Work that is not part of the tipped occupation is any work that does not generate tips and does not directly support tip-producing work. If a tipped employee is required to perform work that is not part of the employee's tipped occupation, the employer may not take a tip credit for that time. For example, preparing food or cleaning the bathroom is not part of a server's occupation. Preparing food or cleaning the dining room is not part of a bartender's occupation. Ordering supplies for the nail salon is not part of a nail technician's occupation.

Jessica Looman,

Principal Deputy Administrator, Wage and Hour Division.

[FR Doc. 2021-13262 Filed 6-21-21; 11:15 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2021-0416]

RIN 1625-AA00

Safety Zone; Sabine River, Orange, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain navigable waters of the Sabine River, extending the entire width of the

river, adjacent to the public boat ramp located in Orange, TX. The safety zone is necessary to protect persons and vessels from hazards associated with a high-speed boat race competition in Orange, TX. Entry of vessels or persons into this zone would be prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur 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 July 8, 2021.

ADDRESSES: You may submit comments identified by docket number USCG-2021-0416 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Scott Whalen, Marine Safety Unit Port Arthur, U.S. Coast Guard; telephone 409-719-5086, email Scott.K.Whalen@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
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 April 29, 2021, the Coast Guard published a temporary safety zone to protect persons and vessels from the hazards associated with high speed boat races in Orange, TX (86 FR 22610). That event was cancelled due to weather. On May 19, 2021 the City of Orange, TX notified the Coast Guard that they rescheduled the races for September 18 and 19, 2021, in the same location, adjacent to the public boat ramp in Orange, TX. The Captain of the Port Port Arthur (COTP) has determined that potential hazards associated with high speed boat races would be a safety concern for spectator craft and vessels in the vicinity of these race events.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters of the Sabine River adjacent to the public boat ramp in Orange, TX 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 7:30 a.m. on September 18, 2021 through 6 p.m. on September 19, 2021. The safety zone would be enforced from 7:30 a.m. to 6 p.m. on both the 18th and the 19th. The safety zone would cover all navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX bounded to the north by the Orange Public Wharf and latitude 30°05'50" N and to the south at latitude 30°05'33" N. The duration of the safety zone is intended to protect participants, spectators, and other persons and vessels, in the navigable waters of the Sabine River during high-speed boat races and will include breaks and opportunity for vessels to transit through the regulated area.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. They will be available on VHF-FM or by telephone.

The COTP or a designated representative may prohibit or control the movement of all vessels in the zone. The COTP or a designated representative may terminate the operation of any vessel at any time it is deemed necessary for the protection of life or property. The COTP or a designated representative may terminate enforcement of the safety zone at the conclusion of the event.

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. 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).

This regulatory action determination is based on the proposed size, location and duration of the rule. The safety zone will encompass a less than half-mile

stretch of the Sabine River for 10.5-hours on each of two days. The Coast Guard will notify the public by issuing Local Notice to Mariners (LNM), and/or Marine Safety Information Bulletin (MSIB) and Broadcast Notice to Mariners via VHF-FM radio and the rule will allow vessels to seek permission to enter the zone during scheduled breaks.

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 temporary 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 safety zone that would last 8 hours on each of two days and that would prohibit entry on less than a half-mile stretch of the Sabine River in

Orange, TX. 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. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. 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 is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREA 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.T08-0416 to read as follows:

§ 165.T08-0416 Safety Zone; Sabine River, Orange, Texas.

(a) *Location.* The following area is a safety zone: All navigable waters of the Sabine River, extending the entire width of the river, adjacent to the public boat ramp located in Orange, TX bounded to the north by the Orange Public Wharf and latitude 30°05'50" N and to the south at latitude 30°05'33" N. The duration of the safety zone is intended to protect participants, spectators, and other persons and vessels, in the navigable waters of the Sabine River during high-speed boat races and will include breaks and opportunity for vessels to transit through the regulated area.

(b) *Enforcement periods.* This section will be enforced from 7:30 a.m. through 6 p.m. daily on September 18, 2021 and September 19, 2021.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Port Arthur (COTP) or a designated representative. They may be contacted on VHF-FM channel 13 or 16, or by phone at by telephone at 409-719-5070.

(2) The COTP or a designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(3) The COTP or a designated representative may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(4) The COTP or a designated representative will terminate enforcement of the special local regulations at the conclusion of the event.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: June 8, 2021.

Molly A. Wike,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Zone Port Arthur.

[FR Doc. 2021-12870 Filed 6-22-21; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2021-0369; FRL-10024-69-Region 9]

Air Plan Approval; Arizona; Maricopa County Air Quality Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Maricopa County Air Quality Department's (MCAQD) Rule 510 as part of the Arizona State Implementation Plan (SIP). These rule revisions concern revisions to the maximum levels of ambient air pollution for the protection of public health and welfare. We are proposing to approve this rule to regulate these emissions under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before July 23, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2021-0369 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish