

**PART 404—FEDERAL OLD-AGE,
SURVIVORS AND DISABILITY
INSURANCE (1950—)**

Subpart J—[Amended].

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a), (b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a), (b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Add § 404.937 to read as follows:

§ 404.937 Protecting the safety of the public and our employees in our hearing process.

(a) Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out in this section to ensure the safety of the public and our employees in our hearing process.

(b)(1) At the request of any hearing office employee, the Hearing Office Chief Administrative Law Judge will determine, after consultation with the presiding administrative law judge, whether a claimant or other individual poses a reasonable threat to the safety of our employees or other participants in the hearing. The Hearing Office Chief Administrative Law Judge will find that a claimant or other individual poses a reasonable threat to the safety of our employees or other participants in the hearing when he or she determines that the individual has made a threat and there is a reasonable likelihood that the claimant or other individual could act on the threat. In making a finding under this paragraph, the Hearing Office Chief Administrative Law Judge will consider all relevant evidence, including any information we have in the claimant's record and any information we have regarding the claimant's or other individual's past conduct.

(2) If the Hearing Office Chief Administrative Law Judge determines that the claimant or other individual poses a reasonable threat to the safety of our employees or other participants in the hearing, the Hearing Office Chief Administrative Law Judge will either:

- (i) Require the presence of a security guard at the hearing; or
- (ii) Require that the hearing be conducted by video teleconference or by telephone.

(c) If we have banned a claimant from any of our facilities, we will provide the claimant with the opportunity for a hearing that will be conducted by telephone.

(d) The actions of the Hearing Office Chief Administrative Law Judge taken under this section are final and not subject to further review.

**PART 416—SUPPLEMENTAL
SECURITY INCOME FOR THE AGED,
BLIND, AND DISABLED**

Subpart N—[Amended].

■ 3. The authority citation for subpart N continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 4. Add § 416.1437 to read as follows:

§ 416.1437 Protecting the safety of the public and our employees in our hearing process.

(a) Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out in this section to ensure the safety of the public and our employees in our hearing process.

(b)(1) At the request of any hearing office employee, the Hearing Office Chief Administrative Law Judge will determine, after consultation with the presiding administrative law judge, whether a claimant or other individual poses a reasonable threat to the safety of our employees or other participants in the hearing. The Hearing Office Chief Administrative Law Judge will find that a claimant or other individual poses a reasonable threat to the safety of our employees or other participants in the hearing when he or she determines that the individual has made a threat and there is a reasonable likelihood that the claimant or other individual could act on the threat. In making a finding under this paragraph, the Hearing Office Chief Administrative Law Judge will consider all relevant evidence, including any information we have in the claimant's record and any information we have regarding the claimant's or other individual's past conduct.

(2) If the Hearing Office Chief Administrative Law Judge determines that the claimant or other individual poses a reasonable threat to the safety of our employees or other participants in the hearing, the Hearing Office Chief Administrative Law Judge will either:

- (i) Require the presence of a security guard at the hearing; or
- (ii) Require that the hearing be conducted by video teleconference or by telephone.

(c) If we have banned a claimant from any of our facilities, we will provide the claimant with the opportunity for a hearing that will be conducted by telephone.

(d) The actions of the Hearing Office Chief Administrative Law Judge taken under this section are final and not subject to further review.

[FR Doc. 2011–5750 Filed 3–11–11; 8:45 am]

BILLING CODE 4191–02–P

**DEPARTMENT OF HOMELAND
SECURITY**

Coast Guard

33 CFR Part 3

[Docket No. USCG–2009–0929]

RIN 1625–ZA29

**Ninth Coast Guard District Sector
Realignment; Northern Lake Michigan
and Lake Huron**

AGENCY: Coast Guard, DHS.

ACTION: Final Rule.

SUMMARY: This rule makes nonsubstantive, technical changes to Title 33 of the CFR to reflect the realignment of boundaries shared among Sector Lake Michigan, Sector Detroit, and Sector Sault Ste. Marie. This action is taken to rebalance workload and span of control among Ninth District sector commands. These changes affect internal Coast Guard organization and functioning only and will have no substantive effect on mariners or other members of the public.

DATES: This final rule is effective at 12:00:01 EDT on April 1, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0929 and are available online by going to <http://www.regulations.gov>, inserting USCG–2009–0929 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Doug McCann, Ninth District Resources Planning Branch, U.S. Coast Guard, telephone 216–902–6008, e-mail douglas.a.mccann@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the rule involves "agency organization" or when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(A), the Coast Guard finds that with respect to this rule the requirement to publish a notice of proposed rulemaking (NPRM) does not apply because these changes merely involve agency organization. Also, the Coast Guard finds, under 5 U.S.C. 553(b)(B), that good cause exists for not publishing an NPRM with respect to this rule because it is unnecessary. Comments are unnecessary because they would not change the Coast Guard's internal delegation of authority or duties among the Ninth District's sector commands nor would they provide expertise regarding Coast Guard functions.

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** because these changes affect internal Coast Guard organization and functioning only and will have no substantive effect on the public.

Background and Purpose

On July 2, 2007, in order to reflect the establishment of the new system of sector commands, the Coast Guard extensively revised 33 CFR part 3. That revision included various changes to the Coast Guard's internal organization to include the reassignment of Station Charlevoix and Station Alpena from Group Sault Ste. Marie to Sectors Lake Michigan and Detroit, respectively. That reassignment was done in order to have all units on Lake Michigan assigned to one sector and all units on Lake Huron assigned to another. The Coast Guard has decided, however, to further adjust sector boundaries to provide a more balanced workload and span of control among Ninth District sectors. An effect of this boundary adjustment is that Stations Charlevoix and Alpena will be reassigned to Sector Sault Ste. Marie.

In addition to balancing workload and span of control, this realignment will also enhance planning and coordination with our maritime partners. Specifically, these changes will align Ninth District sectors more closely with

Customs and Border Protection, Immigration and Customs Enforcement, Environmental Protection Agency, Chippewa Ottawa Resource Authority, and the Tri-County 911 Center servicing Charlevoix, Cheboygan, and Emmet counties. This alignment is expected to improve cooperation, consistency, and efficiency in maritime security, safety, and environmental response. This rule is not intended or expected to require any new actions on the part of the public.

Discussion of Rule

Generally, this rule expands Sector Sault Ste. Marie's Area of Responsibility (AOR). Its new AOR will encompass Grand Traverse Bay, other northern portions of Lake Michigan, and additional portions of northern Lake Huron. To accomplish this realignment, this rule amends 33 CFR 3.45-15, 3.45-20, and 3.45-45, which define the boundaries of Sector Lake Michigan, Sector Detroit, and Sector Sault Ste. Marie respectively.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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. As this rule involves internal agency organization and non-substantive changes, it will not impose any costs on the public.

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. This rule does not require a general notice of proposed rulemaking and therefore, is exempt from the requirements of the Regulatory Flexibility Act.

Although this rule is exempt, we have reviewed this rule for potential

economic impacts on small entities. We found that that this rule will not have a significant economic impact on a substantial number of small entities. This rule will not have a significant economic impact on a substantial number of small entities because it involves internal agency organization and non-substantive changes.

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 a 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 will not result in such an 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 will not create 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, 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.

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 procedures; and related management systems 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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human

environment. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(b), of the Instruction. This rule concerns Coast Guard internal functions and organization in that it redefines certain sector boundaries. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 3

Organization and functions (Government agencies).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 3 as follows:

PART 3—COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

- 1. The authority citation for part 3 continues to read as follows:

Authority: 14 U.S.C. 92; Pub. L. 107-296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1, para. 2(23).

- 2. Revise § 3.45-15 to read as follows:

§ 3.45-15 Sector Lake Michigan Marine Inspection Zone and Captain of the Port Zone.

Sector Lake Michigan’s office is located in Milwaukee, WI. The boundaries of Sector Lake Michigan’s Marine Inspection Zone and Captain of the Port Zone include all navigable waters of the United States and contiguous land areas within the boundaries of an area starting from a point at latitude 44°43’00” N, longitude 84°30’00” W, proceeding due west to longitude 85°40’00” W; thence northwest to the eastern shore of Lake Michigan at latitude 45°01’00” N; thence northwest to latitude 45°22’30” N, longitude 86°19’00” W; thence northeast to latitude 45°41’00” N, longitude 86°06’00” W; thence northwest to latitude 46°20’00” N, longitude 87°22’00” W; thence west to latitude 46°20’00” N, longitude 90°00’00” W; thence south to latitude 41°00’00” N; thence east to the Ohio-Indiana border at latitude 41°00’00” N, longitude 84°48’12” W; thence north along the Ohio-Indiana border to the intersection of the Ohio-Indiana-Michigan border at latitude 41°41’59” N, longitude 84°48’22” W; thence east along the Ohio-Michigan border to latitude 41°42’13” N, longitude 84°30’00” W; thence north to the start point.

- 3. Revise § 3.45-20 to read as follows:

§ 3.45-20 Sector Detroit Marine Inspection Zone and Captain of the Port Zone.

Sector Detroit’s office is located in Detroit, MI. The boundaries of Sector Detroit’s Marine Inspection Zone and Captain of the Port Zone include all navigable waters of the United States and contiguous land areas within the boundaries of an area starting from a point at latitude 41°00’00” N, longitude 84°48’12” W on the Ohio-Indiana boundary, proceeding east to longitude 82°25’00” W; thence north to the international boundary in Lake Erie at latitude 41°40’36” N, longitude 82°25’00” W; thence north along the international boundary to latitude 44°43’00” N in Lake Huron; thence due west to latitude 44°43’00” N, longitude 84°30’00” W; thence south to the Michigan-Ohio boundary at latitude 41°42’13” N; thence west along the Michigan-Ohio boundary to the Ohio-Michigan-Indiana boundary at latitude 41°41’46” N, longitude 84°48’22” W; thence south along the Ohio-Indiana boundary to the starting point.

- 4. Revise § 3.45-45 to read as follows:

§ 3.45-45 Sector Sault Ste. Marie Marine Inspection Zone and Captain of the Port Zone; Marine Safety Unit Duluth.

Sector Sault Ste. Marie’s office is located in Sault Ste. Marie, MI. A subordinate unit, Marine Safety Unit (MSU) Duluth, is located in Duluth, MN.

(a) Sector Sault Ste. Marie’s Marine Inspection Zone and Captain of the Port Zone comprise all navigable waters of the United States and contiguous land areas within an area starting from a point at latitude 44°43’00” N on the international boundary within Lake Huron; proceeding due west to longitude 85°40’00” W; thence northwest to the eastern shore of Lake Michigan at latitude 45°01’00” N; thence northwest to latitude 45°22’30” N, longitude 86°19’00” W; thence northeast to latitude 45°41’00” N, longitude 86°06’00” W; thence northwest to latitude 46°20’00” N, longitude 87°22’00” W; thence west to the Minnesota-North Dakota boundary at latitude 46°20’00” N, longitude 96°36’30” W; thence north along the Minnesota-North Dakota boundary to the intersection of the Minnesota-North Dakota boundary and the international boundary at latitude 49°00’02” N, longitude 97°13’46” W; thence east along the international boundary to the starting point; and in addition, all the area described in paragraph (b) of this section.

(b) The boundaries of the MSU Duluth Marine Inspection and Captain of the Port Zones comprise all navigable

waters of the United States and contiguous land areas within an area starting at a point latitude 46°20'00" N, longitude 88°30'00" W, proceeding west to the Minnesota-North Dakota boundary at latitude 46°20'00" N, longitude 96°36'30" W; thence north along the Minnesota-North Dakota boundary to the intersection of the Minnesota-North Dakota boundary and the international boundary at latitude 49°00'02" N, longitude 97°13'46" W; thence east along the international boundary to a point at latitude 47°59'23" N, longitude 87°35'10" W; thence south to a point near Manitou Island Light at latitude 47°25'09" N, longitude 87°35'10" W; thence southwest to a point near the shore of Lake Superior at latitude 46°51'51" N, longitude 87°45'00" W; thence southwest to the point of origin.

Dated: March 7, 2011.

Kathryn A. Sinniger,
Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 2011-5731 Filed 3-11-11; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2010-0903; FRL-9278-7]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revisions to the Open Burning Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Virginia State Implementation Plan (SIP). The revisions recodify the open burning regulations which are currently in the Virginia SIP. There are no substantive changes to the rule. EPA is approving these revisions to Virginia's open burning regulations in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on May 13, 2011 without further notice, unless EPA receives adverse written comment by April 13, 2011. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0903 by one of the following methods:

A. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail: frankford.harold@epa.gov*.

C. *Mail:* EPA-R03-OAR-2010-0903, Harold A. Frankford, Air Protection Division, Mailcode 3AP00, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2010-0903. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your

name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittals are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814-2108, or by e-mail at *frankford.harold@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On September 27, 2010, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of the recodification of its open burning regulations.

II. Summary of SIP Revision

The recodification moves the Commonwealth's SIP-approved open burning regulations from 9VAC5, Chapter 140, Part II Article 40 to a new 9VAC5 Chapter 130, Part I. The following table summarizes the current and new Virginia Administrative Code (VAC) citations for these regulations:

Regulation title	Current Virginia SIP citation in 9VAC5 chapter 40, part II, article 40	Revised Virginia SIP citation in 9VAC5 chapter 130, part I
Applicability	5-40-5600	5-130-10
Definitions	5-40-5610	5-130-20
Open Burning Prohibitions	5-40-5620	5-130-30
Permissible Open Burning	5-40-5630	5-130-40