

II. Background

Section 580.6 of the regulations requires that any person desiring to request an administrative hearing on a notice of determination issued by the Department of Labor (assessing civil money penalties for violations under section 12 of the FLSA relating to child labor, or repeated and willful violations of sections 6 and 7 relating to the minimum wage and overtime requirements of the FLSA) must do so in writing within 15 days after the date of receipt of the notice. Additionally, section 580.6 specifies that the written hearing request shall be made to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

This revision is being made in order to streamline the process by which hearing requests are acknowledged by consolidating all aspects of processing hearing requests into the operations of the office which issued the administrative determination upon which the request for a hearing is based. Accordingly, all such hearing requests are not to be made to the Wage and Hour official that issued the determination in care of the address of the office that originated the determination.

III. Summary of Rule

Section 580.6 of regulations, 29 CFR part 580, is amended to provide for a new address for purposes of requesting administrative hearings. Hearing requests are now directed to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. Under the amended regulation, these requests will be directed to the Wage and Hour Division official who issued the determination, at the address appearing on the determination notice.

Executive Order 12866

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866. The rule merely adopts a technical address change, which will facilitate the timeliness and handling of the hearing process. Accordingly, these changes are not expected to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere

with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b), the requirements of the Regulatory Flexibility Act, Public Law 96-354, 94 Stat. 1165, 5 U.S.C. 601 *et seq.* pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2). The rule simplifies the handling of hearing requests and will not have a significant economic impact on a substantial number of small entities.

Administrative Procedure Act

This regulation is procedural in nature. Accordingly, the Secretary, for good cause, finds pursuant to 5 U.S.C. 553(b)(3), that prior notice and public comment are unnecessary, impracticable, and contrary to the public interest.

The Secretary also for good cause finds, pursuant to 5 U.S.C. 553(d)(3), that this rule should take effect immediately because it is merely a technical procedural change which does not affect any substantive rights.

Document Preparation: This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 580

Administrative practice and procedure, Child labor, Employment, Labor, Law enforcement, Penalties.

For the reasons set forth above, 29 CFR part 580 is amended as set forth below.

Signed at Washington, DC, on this 30th day of March, 1995.

Maria Echaveste,
Administrator, Wage and Hour Division.

PART 580—CIVIL MONEY PENALTIES—PROCEDURES FOR ASSESSING AND CONTESTING PENALTIES

1. The authority citation for part 580 continues to read as follows:

Authority: 29 U.S.C. 9a, 203, 211, 212, 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App.; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 13-71, 36 FR

8755; 5 U.S.C. 500, 503, 551, 559; sec. 9, Pub. L. 101-157, 103 Stat. 938; sec. 3103, Pub. L. 101-508.

2. Paragraph (a) of § 580.6 is revised to read as follows:

§ 580.6 Exception to determination of penalty and request for hearing.

(a) Any person desiring to take exception to the determination of penalty shall request an administrative hearing pursuant to this part. The exception shall be in writing to the official who issued the determination at the Wage and Hour Division address appearing on the determination notice, and must be received no later than 15 days after the date of receipt of the notice referred to in § 580.3 of this part. No additional time shall be added where service of the determination of penalties or of the exception thereto is made by mail.

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[FR Doc. 95-8335 Filed 4-4-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 94-107]

RIN 2115-AF00

Ninth District Marine Inspection and Captain of the Port Zone Boundaries

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the descriptions of several Marine Inspection and Captain of the Port zone boundaries in the Ninth Coast Guard District to reflect recent organizational changes. These changes will clarify Coast Guard responsibilities with the Ninth District. These changes will not impact the type or level of Coast Guard services performed.

EFFECTIVE DATE: May 5, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council, (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., Room 3406, Washington, DC 20593-0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT:
ENS Harry E. George, Office of Marine Safety, Security and Environmental

Protection (G-MPS-3), Room 1108, (202) 267-0491.

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are ENS Harry E. George, Project Manager, Port Safety and Security Division, and C.G. Green, Project Counsel, Office of Chief Counsel.

Background and Purpose

During 1994, the Coast Guard carried out three separate organizational changes that revised the Marine Inspection (MI) and Captain of the Port (COTP) zones of responsibility and consolidated and relocated MI and COTP offices for several units in the Ninth Coast Guard District. The Coast Guard is amending the descriptions of MI and COTP zone boundaries and offices in the Ninth Coast Guard District to reflect these recent organizational changes.

The Coast Guard is proceeding directly to a final rule under section 533(b)(3)(A) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), which excludes rulemakings relating to agency organization, procedure, or practice from the requirements of public notice and comment.

Discussion of Comments and Changes

Section 3.45-35, describing the Sturgeon Bay Marine Inspection Zone, and paragraph (c) of § 3.34-30, describing the Milwaukee Marine Inspection Zone, are being deleted. In February, 1994, the Sturgeon Bay Marine Inspection Zone was combined with the Milwaukee Inspection Zone and the Marine Inspection Office in Sturgeon Bay, Wisconsin was merged with the Marine Inspection Office in Milwaukee, Wisconsin. The new Milwaukee Marine Inspection Zone covers the same area and has the same boundaries as the Milwaukee Captain of the Port Zone, so the two zones and their offices can be described in a single CFR section. Paragraph (b) of § 3.45-30, therefore, is being revised to describe the boundaries and the office locations for both the new Milwaukee Marine Inspection Zone and the Milwaukee Captain of the Port Zone.

Section 3.45-45 is being revised to change the name of the St. Ignace Marine Inspection Zone to the Sault Ste. Marie Marine Inspection Zone. In July, 1994, the Marine Inspection Office in St. Ignace, Michigan was closed and a new Marine Inspection Office was opened in Sault Ste. Marie, Michigan, colocated with the Sault Ste. Marie Captain of the Port Office. The St. Ignace Marine Inspection Zone and the Sault Ste.

Marie Captain of the Port Zone had the same boundaries, but each zone was named for the location of the office servicing it. The St. Ignace Marine Inspection Zone has therefore been renamed to Sault Ste. Marie Marine Inspection Zone, to reflect the change in office location, but with no change to the boundary description of the zone.

Sections 3.45-60, Chicago Captain of the Port Zone, and 3.45-80, Grand Haven Captain of the Port Zone, are being deleted. In July, 1994, Captain of the Port Zone Chicago and Captain of the Port Zone Grand Haven were combined into a single COTP zone, and the Captain of the Port Office in Grand Haven, Michigan was merged with the Captain of the Port Office in Chicago, Illinois. The area of the combined Chicago and Grand Haven COTP zones is now known as the Chicago Captain of the Port Zone and has the same boundaries as the Chicago Marine Inspection Zone. Section 3.45-15, describing the Chicago Marine Inspection Zone, therefore, is being revised to describe the boundaries and the office locations for both the Chicago Marine Inspection Zone and the new Chicago Captain of the Port Zone.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been reviewed by the Office of Management and Budget under that order. It is not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the Department of Transportation Regulatory Policies and Procedures is unnecessary.

Small Entities

This regulation is administrative in nature and is not expected to have any economic impact on small entities. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule involves changes to names and descriptions of Marine Inspection and Captain of the Port zones of responsibility in the Ninth Coast Guard District and clearly does not have any environmental impact. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 3

Organization and functions (Government agencies). For the reasons set out in the preamble, the Coast Guard amends Title 33, part 3, of the Code of Federal Regulations as follows:

PART 3—[AMENDED]

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

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

2. Section 3.45-15 is revised to read as follows:

§ 3.45-15 Chicago Marine Inspection Zone and Captain of the Port Zone.

(a) The Chicago Marine Inspection Office and the Chicago Captain of the Port Office are located in Chicago, Illinois.

(b) The Chicago Marine Inspection Zone and the Chicago Captain of the Port Zone include those parts of Michigan, Indiana, Ohio, and Illinois within the following boundaries: From the Illinois-Wisconsin boundary at longitude 90° W.; thence due east to longitude 87° W.; thence due north to latitude 44°15' N., thence northeasterly to latitude 44°43' N., longitude 86°40' W.; thence due east to longitude 84°30' W.; thence due south to latitude 41° N.; thence due west to longitude 90° W.; thence due north to the starting point.

3. Section 3.45-30 is amended by removing paragraph (c) and revising paragraph (b) to read as follows:

§ 3.45-30 Milwaukee Marine Inspection Zone and Captain of the Port Zone.

* * * * *

(b) The boundary of the Milwaukee Marine Inspection Zone and the Milwaukee Captain of the Port Zone starts at the Illinois-Wisconsin boundary at longitude 90° W.; thence due east to longitude 87° W.; thence due north to latitude 44°15' N.; thence northeasterly to latitude 44°43' N., longitude 86°40' W.; thence due north to latitude 45°27' N.; thence due west to longitude 88°30' W.; thence due north to latitude 46°20' N.; thence due west to longitude 90° W.; thence due south to the starting point.

§ 3.45-35 [Removed]

4. Section 3.45-35 is removed.
5. Section 3.45-45 is revised to read as follows:

§ 3.45-45 Sault Ste. Marie Marine Inspection Zone and Captain of the Port Zone.

(a) The Sault Ste. Marie Marine Inspection Office and the Sault Ste. Marie Captain of the Port Office are located in Sault Ste. Marie, Michigan.

(b) The boundary of the Sault Ste. Marie Marine Inspection Zone and the Sault Ste. Marie Captain of the Port Zone starts at the international boundary at latitude 44°43' N.; thence due west to longitude 86°40' W.; thence due north to latitude 45°27' N.; thence due west to longitude 88°30' W.; thence due north to latitude 46°20' N.; thence northeasterly to the shore of Lake Superior at longitude 87°45' W.; thence northerly to Manitou Island Light, located at latitude 47°25' N., longitude 87°35' W.; thence due north to the international boundary at longitude 87°35' W.; thence southeasterly along the international boundary to the starting point.

§ 3.45-60 [Removed]

6. Section 3.45-60 is removed.

§ 3.45-80 [Removed]

7. Section 3.45-80 is removed.

Dated: February 8, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95-8387 Filed 4-4-95; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE**39 CFR Part 265****Demands for Testimony or Records in Certain Legal Proceedings**

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule establishes a procedure for Postal Service response to subpoenas or other demands for Postal Service employees to testify about, or produce records concerning, Postal Service matters in private litigation or other proceedings in which the United States is not a party.

EFFECTIVE DATE: April 5, 1995.

FOR FURTHER INFORMATION CONTACT: Julie A. Holvik, Attorney, (312) 765-5230.

SUPPLEMENTARY INFORMATION: The rule provides that, in response to subpoenas or other demands for testimony or records concerning Postal Service matters in private litigation or other proceedings in which the United States is not a party, Postal Service employees may testify or produce records only if the General Counsel or the General Counsel's delegate authorizes compliance with the demand. In making this determination, the General Counsel or his or her delegate will consider whether compliance is in accordance with applicable laws, privileges, rules, authority, and regulations and would not be contrary to the interests of the United States.

On February 17, 1995, the Postal Service published a notice of proposed rulemaking (60 FR 8610-8612) with a 30-day comment period. No comments were received during the comment period. Accordingly, the rule is adopted as proposed.

List of Subjects in 39 CFR Part 265

Administrative practice and procedure, Freedom of information, Government employees.

For the reasons set out above, 39 CFR part 265 is amended as follows.

PART 265—RELEASE OF INFORMATION

1. The authority citation for part 265 is revised to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601.

2. Section 265.12 is added to read as follows:

§ 265.12 Demands for testimony or records in certain legal proceedings.

(a) *Scope and applicability of this section.* (1) This section establishes procedures to be followed if the Postal Service or any Postal Service employee receives a demand for testimony concerning or disclosure of:

- (i) Records contained in the files of the Postal Service;
- (ii) Information relating to records contained in the files of the Postal Service; or
- (iii) Information or records acquired or produced by the employee in the

course of his or her official duties or because of the employee's official status.

(2) This section does not create any right or benefit, substantive or procedural, enforceable by any person against the Postal Service.

(3) This section does not apply to any of the following:

(i) Any legal proceeding in which the United States is a party;

(ii) A demand for testimony or records made by either House of Congress or, to the extent of matter within its jurisdiction, any committee or subcommittee of Congress;

(iii) An appearance by an employee in his or her private capacity in a legal proceeding in which the employee's testimony does not relate to the employee's official duties or the functions of the Postal Service; or

(iv) A demand for testimony or records submitted to the Postal Inspection Service (a demand for Inspection Service records or testimony will be handled in accordance with rules in § 265.11).

(4) This section does not exempt a request from applicable confidentiality requirements, including the requirements of the Privacy Act. 5 U.S.C. 552a.

(b) *Definitions.* The following definitions apply to this section:

(1) *Adjudicative authority* includes, but is not limited to, the following:

(i) A court of law or other judicial forums, whether local, state, or federal; and

(ii) Mediation, arbitration, or other forums for dispute resolution.

(2) *Demand* includes a subpoena, subpoena duces tecum, request, order, or other notice for testimony or records arising in a legal proceeding.

(3) *Employee* means a current employee or official of the Postal Service.

(4) *General Counsel* means the General Counsel of the United States Postal Service, the Chief Field Counsels, or an employee of the Postal Service acting for the General Counsel under a delegation of authority.

(5) *Legal proceeding means:*

(i) A proceeding before an adjudicative authority;

(ii) A legislative proceeding, except for a proceeding before either House of Congress or before any committee or subcommittee of Congress; or

(iii) An administrative proceeding.

(6) *Private litigation* means a legal proceeding to which the United States is not a party.

(7) *Records custodian* means the employee who maintains a requested record. For assistance in identifying the custodian of a specific record, contact