

allow for initiation of the enterprise, provided there is assurance the enterprise will be initiated forthwith within the extended time period. The Commissioner will notify the lender in writing of a proposed action to require the return of grant funds or of a proposal to extend the time.

§ 80.22 Reports.

(a) Grantees are required to furnish the Commissioner comparative balance sheets and profit and loss statements semi-annually for the first two years of operation following receipt of the grant, and annually thereafter for the succeeding three years. These may be copies of financial statements required by and furnished to the lender which provided the loan portion of the total financing required. If the lender does not require financial statements, the grantee must prepare and furnish copies of comparative balance sheets and profit and loss statements to the Commissioner.

(b) The Commissioner will establish accounting and reporting systems which will appropriately show the status of the Indian Business Development Program at all times.

RAYMOND V. BUTLER,  
Acting Deputy Commissioner  
of Indian Affairs.

[FR Doc.74-30254 Filed 12-26-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T. D. 7338]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Temporary Regulations Relating to Elections With Respect to Retroactive Amendments

This document contains temporary income tax regulations (26 CFR Part 11) under section 412(c) (8) of the Internal Revenue Code, as added by section 1013 of the Employee Retirement Income Security Act of 1974, in order to provide rules for elections with respect to retroactive plan amendments pursuant to both section 412(c) (8) of the Code and section 302(c) (8) of such Act.

Section 412 of the Internal Revenue Code of 1954 provides minimum funding standards for certain pension plans. Subsection (c) (8) of section 412 provides that certain plan amendments adopted after the close of the plan year may be given retroactive effect.

Under section 412(c) (8), a plan amendment adopted after the close of a plan year will be deemed to have been made on the first day of the plan year at the election of the plan administrator as long as the amendment does not reduce the accrued benefit of any participant determined as of the beginning of such plan year.

For multiemployer plans, an amendment must be adopted no later than two years after the close of the plan year. In the case of all other plans, the amendment must be adopted no later than two and one-half months after the close of the plan year.

If an amendment reduces the accrued benefit of any participant determined as of the date of adoption of the amendment, approval of the Secretary of Labor must be requested before an election as to retroactive application can take effect. Approved by the Secretary of Labor is based on a finding of substantial business hardship in accordance with the factors outlined in section 412(d) (2) of the Code, and a determination that a waiver by the Secretary of the Treasury for substantial business hardship under section 412(d) (1) of the Code is unavailable or inadequate.

The temporary regulations provide, in general, that the election under section 412(c) (8) of the Code is to be made by attaching a statement of election to the annual information return required to be filed by the employer or plan administrator under section 6058 of the Code. The statement of election must state the date the plan year ended and the date the amendment was adopted. It must also contain a statement that the amendment does not reduce the accrued benefit of any employee as of the beginning of the plan year in question. In addition, it must contain either (1) a statement that the amendment does not reduce any accrued benefits as of the date of adoption, or (2) a copy of the notice filed with the Secretary of Labor and a statement as to whether approval has been granted, or the Secretary has failed to act within 90 days.

The report of the Conference Committee on the Employee Retirement Income Security Act of 1974 states that section 412(c) (8) was intended to allow amendments that retroactively reduce accrued benefits only in a situation where (1) there would otherwise be an accumulated funding deficiency for all or part of the plan year, (2) the funding deficiency could not be avoided through the implementation of any other reasonably available alternative (such as a waiver of the minimum funding requirements under section 412(d) or an extension of the amortization period under section 412(e)), and (3) the funding deficiency was not primarily attributable to the failure by employers to discharge contractual obligations to make contributions under the plan.

Special rules provide for the making of elections after the annual information return has been filed. The temporary regulations apply for purposes of section 412(c) (8) of the Code and section 302(c) (8) of the Employee Retirement Income Security Act of 1974 (88 Stat. 872).

*Amendments to the regulations.* In order to prescribe temporary regulations relating to elections with respect to retroactive plan amendments pursuant to section 412(c) (8) of the Internal Revenue Code of 1954, as added by section 1013 of the Employee Retirement Income

Security Act of 1974 (P.L. 93-406, 88 Stat. 917) and section 302(c) (8) of such Act (88 Stat. 872), the following temporary regulations are hereby adopted:

§ 11.412(c)-7 Election to treat certain retroactive plan amendments as made on the first day of the plan year.

(a) *General rule.* Under section 412(c) (8), a plan administrator may elect to have any amendment which is adopted after the close of the plan year to which it applies deemed to have been made on the first day of such plan year if the amendment—

(1) Is adopted no later than 2 and one-half months after the close of such plan year (or, in the case of a multi-employer plan, no later than 2 years after the close of such plan year),

(2) Does not reduce the accrued benefit of any participant determined as of the beginning of such plan year, and

(3) Does not reduce the accrued benefit of any participant determined as of the time of adoption of the amendment, or, if it does so reduce such accrued benefit, it is shown that the plan administrator filed a notice with the Secretary of Labor notifying him of the amendment, and—

(i) The Secretary of Labor approved the amendment, or

(ii) The Secretary of Labor failed to disapprove the amendment within 90 days after the date on which the notice was filed.

(b) *Time and manner of making election.* (1) The election under section 412(c) (8) shall be made by the plan administrator by a statement of election described in subparagraph (3) of this paragraph, attached to the annual return relating to minimum funding standards required to be filed under section 6058 with respect to the plan year to which the election relates.

(2) In the event that an amendment to which paragraph (a) of this section applies is adopted after the filing of the annual return required under section 6058, the plan administrator may make the election under section 412(c) (8) by attaching a statement of election, described in paragraph (b) (3) of this section, to a copy of such annual return, and filing such copy no later than the time allowed for the filing of such returns under section 6058. (In the case of multiemployer plans, such copy may be filed within a 24 month period beginning with the date prescribed for the filing of such returns.)

(3) The statement of election filed by or on behalf of the plan administrator shall—

(i) State the date of the close of the first plan year to which the amendment applies and the date on which the amendment was adopted;

(ii) Contain a statement that the amendment does not reduce the accrued benefit of any participant determined as of the beginning of the plan year preceding the plan year in which the amendment is adopted; and

(iii) Contain either—

(A) A statement that the amendment does not reduce the accrued benefit of any participant determined as of the time of adoption of such amendment, or

(B) A copy of the notice filed with the Secretary of Labor under section 412(c) (8) and a statement that either the Secretary of Labor has approved the amendment or he has failed to act within 90 days after notification of the amendment.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7806 Internal Revenue Code of 1954 68A Stat. 917 (26 U.S.C. 7805))

Approved: December 20, 1974.

[SEAL] DONALD C. ALEXANDER,  
Commissioner of Internal Revenue.

FREDERICK W. HICKMAN,  
Assistant Secretary of the Treasury.

[FR Doc. 74-30277 Filed 12-26-74; 8:45 am]

#### Title 29—Labor

### CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

#### PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

##### Hawaii Plan; Approval of Occupational Health Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and Part 1902 of this chapter. On January 4, 1974, a notice was published in the FEDERAL REGISTER (39 FR 1010) of the approval of the Hawaii plan and of the adoption of Subpart Y of Part 1952 containing the decision of approval. On April 16, 1974, the State of Hawaii submitted a supplement to the plan involving developmental changes (see Subpart B of 29 CFR Part 1953). On October 21, 1974, a notice was published in the FEDERAL REGISTER (39 FR 37440) concerning the submission of this supplement to the Assistant Secretary of Labor for Occupational Safety and Health and the fact that the question of its approval was before him.

The supplement contained the occupational health plan for Hawaii. The plan provides that responsibility for the Hawaii occupational health program will be lodged in the Branch of Occupational Health of the Department of Labor and Industrial Relations, Division of Occupational Safety and Health. The Branch is to be fully staffed with a complement of ten persons within the three year developmental period. The

supplement also provides for the participation of State laboratory services in the proficiency testing program operated by the National Institute for Occupational Safety and Health and also includes the Hawaii Occupational Health Laboratory Standard Procedures Manual. Joint funding of the occupational health program by the State and Federal governments under section 23(g) of the Act (29 U.S.C. 672(g)) is provided.

In addition, the developmental schedule for the implementation of the Hawaii occupational health program has been revised by the supplement. Full implementation of the occupational health program is now scheduled for January 1975, rather than December 1974.

Interested persons were afforded at least 30 days from the publication of the proposed supplement in the FEDERAL REGISTER to submit written comments or request an informal hearing concerning the supplements.

2. *Issues.* No comments or requests for a hearing were received during the period provided for public comments. However, in the course of the review of the supplement by the Assistant Secretary, the adequacy of the Hawaii procedures for the safeguarding of samples submitted for analysis was questioned, particularly in regard to their acceptance as evidence in any legal proceedings which might arise. By letter dated November 19, 1974, the State has provided assurances that a supplement will be added to its Occupational Health Laboratory Standard Procedures Manual which would provide adequate safeguards for samples submitted for analysis.

3. *Decision.* After consideration of the Hawaii plan supplement and the assurances of November 19, 1974, incorporated in it, it is hereby approved under Subpart B of 29 CFR Part 1953. The decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart Y of 29 CFR Part 1952 is amended as set forth below, effective December 20, 1974.

1. Section 1952.133 is corrected to be numbered § 1952.313; paragraphs 1 through 5 of renumbered § 1952.313 are redesignated as paragraphs (a) through (e) respectively, and redesignated paragraph (d) is amended to read as follows:

##### § 1952.313 Developmental schedule.

(d) Complete implementation of occupational health program in January 1975.

2. Section 1952.314 of Subpart Y (appearing at 39 FR 44203; Dec. 23, 1974) is amended by inserting "(a)" before the first paragraph and by adding a new paragraph, (b), to read as follows:

##### § 1952.314 Completed developmental steps.

(b) In accordance with § 1952.313(d), as amended, the Hawaii Occupational

Health Plan was submitted to the Assistant Secretary on April 16, 1974, and approved on December 20, 1974, incorporating assurances from the State, by letter dated November 19, 1974.

(Secs. 8(g) (2), 18, Pub. L. 84 Stat. 1600, 1608 (29 U.S.C. 657(g) (2), 667))

Signed at Washington, D.C. this 20th day of December 1974.

JOHN STENDER,  
Assistant Secretary of Labor.

[FR Doc. 74-30227 Filed 12-26-74; 8:45 am]

#### Title 33—Navigation and Navigable Waters

### CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

#### PART 204—DANGER ZONE REGULATIONS

##### Gulf of Mexico, Florida and Strait of Juan De Fuca, Washington

1. a. On September 13, 1974, the Department of the Army, acting through the Chief of Engineers, published in the FEDERAL REGISTER (39 FR 33003) proposed regulations to amend the present regulations in 33 CFR 204.120 which governs the use of navigation of danger zones in the Gulf of Mexico, southeast of St. Andrew Bay, east entrance, Florida.

b. The public comment period for this regulation expired on October 15, 1974. No comments were received.

c. The Department of the Army, acting through the Corps of Engineers is publishing herewith the final regulations as set forth below.

2. a. On October 9, 1974, the Department of the Army, acting through the Chief of Engineers, published in the FEDERAL REGISTER (39 FR 36347 and 36348) regulations to govern the use and navigation of a restricted area in the Strait of Juan de Fuca in the vicinity of Smith Island, Washington.

b. The comment period for this regulation expired on November 8, 1974. No comments were received.

c. The Department of the Army, acting through the Corps of Engineers is publishing herewith the final regulations as set forth below.

By authority of the Secretary of the Army.

FRED R. ZIMMERMAN,  
Chief,  
Plans Office, TAGO.

Accordingly, §§ 204.120(a) (1) and 204.220 are revised to read as follows:

§ 204.120 Gulf of Mexico, southeast of St. Andrew Bay East Entrance, Small Arms Firing Range, Tyndall Air Force Base, Fla.

(a) *The Danger Zones*—(1) *Area No. 1.* The waters of the Gulf of Mexico, southeast of St. Andrew Bay East Entrance within a rectangular area beginning at a point on shore at latitude 30°04'32", longitude 85°37'07"; thence to latitude 30°03'03", longitude 85°38'42"; thence to latitude 30°02'14", longitude 85°37'15"; thence to a point on shore at latitude 30°04'13", longitude

85°36'47"; thence along the shoreline to the point of beginning.

(Regs. December 9, 1974, 1522-01 (Gulf of Mexico, Fla.)—DAEN-CWO-N) (Sec. 7, 40 Stat. 266, Chap. XIX, 40 Stat. 892; (33 U.S.C. 1, 3))

**§ 204.220 Strait of Juan de Fuca, Washington; air-to-surface weapon range, restricted area.**

(a) *The restricted area.* A circular area immediately west of Smith Island with a radius of 1.25 nautical miles having its center at latitude 49°19'11" North and longitude 122°54'12" West. In the center of the area will be located a lighted and radar reflective buoy to serve as a navigational aid to mariners. The area will be used for air-to-surface target practice using non-explosive training devices.

(b) *The regulations.* (1) No vessel or other watercraft shall enter or remain within the designated restricted area between 0700 and 2400 hours daily, local time except as authorized by the enforcing agency and as follows: The area will be open to commercial gill net fishing during scheduled fishing periods from 15 June through 15 October annually. The October 15 closure date will be extended by the enforcing agency if determined as advantageous to the commercial gill net fishing by the Washington State Department of Fisheries.

(2) Prior to each target practice operation the restricted area will be patrolled by naval aircraft. Those vessels found within the restricted area will be overflown by the aircraft at an altitude of not less than 300' in the direction in which the unauthorized vessel is to proceed to clear the area.

(c) The regulations in this section shall be enforced by the Commandant, Thirteenth Naval District, Seattle, Washington, and such agencies as he may designate.

(Regs. December 9, 1974, 1522-01 (Strait of Juan de Fuca, Washington)—DAEN-CWO-N) (Sec. 7, 40 Stat. 266, Chap. XIX, 40 Stat. 892; (33 U.S.C. 1, 3))

[FR Doc. 74-30195 Filed 12-26-74; 8:45 am]

**Title 41—Public Contracts and Property Management**

**CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS**

**SUBCHAPTER H—UTILIZATION AND DISPOSAL**

[FPMR Amdt. H-87]

**MANAGEMENT OF GOVERNMENT-OWNED PERSONAL PROPERTY**

**Changes in Titles, Addresses, and Administrative Procedures**

This regulation provides editorial and procedural changes to update existing regulations.

**PART 101-42—PROPERTY REHABILITATION SERVICES AND FACILITIES**

**Subpart 101-42.1—Sources of Property Rehabilitation Services**

1. Section 101-42.101 is amended as follows:

**§ 101-42.101 General.**

(a) The GSA Supply Catalog is published by the Federal Supply Service, GSA, to indicate sources of supply and service provided by GSA for the use of Federal agencies, including property rehabilitation type service contracts. The GSA Supply Catalog is issued in accordance with Subpart 101-30.6.

(b) GSA regional Federal Supply Service offices periodically issue bulletins to heads of Federal agencies to provide information concerning GSA service support for the maintenance, repair, rehabilitation, and reclamation of Government-owned personal property.

(c) A GSA regional Federal Supply Service office will, upon receipt of a written request from a Federal agency serviced by that office, develop sources of services, evaluate contractor capabilities, and conduct surveys or studies to justify establishing term contracts for services not available at the time the needs arise.

2. Section 101-42.102-1(b) is revised to read as follows:

**§ 101-42.102-1 Primary source provisions.**

(b) When an agency determines that services available from an existing term contract price schedule will not fill its required needs, a request to waive the requirement shall be submitted to the GSA regional Federal Supply Service office administering the contract. These requests shall specify the quantities involved, describe the difference between the services required and those listed in the price schedule, and give the reasons why the services will not meet the requirements. Waivers are not required in the case of public exigencies.

3. Section 101-42.102-3 is revised to read as follows:

**§ 101-42.102-3 Contract administration.**

GSA regional Federal Supply Service offices administer service contracts for and on behalf of the contracting office with respect to: (a) expediting orders; (b) evaluating the acceptability of contract workmanship; (c) ensuring contractor compliance with technical requirements of the contract; and (d) assisting in the resolution of issues that may arise between ordering agencies and contractors concerning performance of contract provisions.

**Subpart 101-42.2—Property Rehabilitation Services Performed by Federal Facilities**

Section 101-42.203(b) is revised to read as follows:

**§ 101-42.203 Notifications.**

(b) Before establishing or substantially expanding facilities for repair, maintenance, rehabilitation, or reclamation of personal property, agencies shall furnish specific details of the proposal to the General Services Adminis-

tration (FW), Washington, D.C. 20406. The details should include type of facility, personnel complement, capability, and geographical area to be served so that the proposal may be evaluated against existing contracts and facilities. Information regarding Department of Defense facilities will pertain only to reconditioning or depot maintenance facilities.

**PART 101-43—UTILIZATION OF PERSONAL PROPERTY**

**Subpart 101-43.3—Utilization of Excess**

1. Section 101-43.303-1(b) is revised to read as follows:

**§ 101-43.303-1 Acquisition of mercury.**

(b) Mercury, minimum 99.9 percent pure (not triple distilled), is available for transfer from GSA stocks at fair market value. Requests for mercury by an agency for its use or for use by its cost-reimbursement type contractors shall be made to the Project Manager, Minerals and Ores, General Services Administration (AP), Washington, D.C. 20405. The Project Manager will furnish the current fair market value to the requesting agency which then will submit a request for transfer to the Project Manager for the quantity required. The unit of issue is a 76-pound flask.

2. Section 101-43.309 is revised to read as follows:

**§ 101-43.309 Controlled substances.**

Holding agencies shall arrange for transfers in accordance with § 101-43.315-5. In effecting the utilization of excess controlled substances, the holding agencies shall transfer excess controlled substances only to those Federal agencies which certify that they are registered with the Drug Enforcement Administration (DEA) (formerly the Bureau of Narcotics and Dangerous Drugs (BNDD)), Department of Justice, and are authorized to procure the particular controlled substances being transferred. The certification shall include the registration number of the BND Form 223, Certificate of Registration, issued by DEA.

3. Section 101-43.311-2 is revised to read as follows:

**§ 101-43.311-2 Form and distribution of reports.**

Reports of excess property shall be made on Standard Form 120, Report of Excess Personal Property, and Standard Form 120A, Continuation Sheet (Report of Excess Personal Property), illustrated in §§ 101-43.4902 and 101-43.4902-2, in accordance with the instructions in § 101-43.4902-1, or, when acceptable to GSA, by data processing output. The Standard Form 120 and 120A shall be submitted in an original and three copies. Reporting by data processing output shall be submitted in the number of copies agreed upon by GSA. Reports shall be submitted to the