

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

## **Temporary Regulations Relating to Qualified Joint and Survivor Annuities, Treasury Decision 7379; Correction**

On Friday, October 3, 1975, Treasury decision 7379 was published in the FEDERAL REGISTER (40 FR 45810). The following corrections are made to the temporary regulations:

(1) In line 6 of subparagraph (2) of § 11.401(a)-11(e) (page 45812), the reference to (d) (2) should be redesignated "(d) (3)".

(2) In line 3 of paragraph (f) of § 11.401(a)-11 (page 45812), the reference to (d) (2) should be redesignated "(d) (3)".

(3) In line 8 of paragraph (f) of § 11.401(a)-11 (page 45812), the reference to (d) (2) should be redesignated "(d) (3)".

ROBERT A. BLEY,  
Acting Director,  
Legislation and Regulations Division.

[FR Doc. 75-28491 Filed 10-21-75; 8:45 am]

# **Title 33—Navigation and Navigable Waters**

## **CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION**

[CGD 75-098]

## **PART 2—GENERAL DUTIES AND JURISDICTION**

### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

#### **Jurisdiction and Navigable Waters**

These amendments delete superfluous and misleading material and update definitions of jurisdictional terms used by the Coast Guard under Part 2 and Part 100 of Title 33, Code of Federal Regulations.

Sections 2.01-1 and 2.01-5 have been deleted to eliminate any reference to Coast Guard statutory functions and responsibilities, since the new subpart 2 will only concern Coast Guard jurisdiction.

Section 2.01-10 has been deleted. All regulations relating to civil penalty procedures are now found in 33 CFR Subpart 1.07.

Subpart 2.05 has been deleted in its entirety, since it merely repeated statutory provisions. The Coast Guard's functions and powers greatly exceed those listed in subpart 2.05, making that subpart misleading.

Subpart 2.10 is replaced by new subpart 2.05. Subpart 2.05 now includes updated definitions of jurisdictional terms, as currently utilized by the Coast Guard. The definition of "State waters" has been deleted, since the statute utilizing that term has been repealed.

Subpart 2.15 has been deleted and replaced by new subpart 2.10. The procedures for making jurisdictional decisions respecting navigable waters of the United States and waters subject to the jurisdiction of the United States will be set forth

in a detailed internal agency instruction, which will be available to the public in accordance with paragraph (b) of § 1.10-5 of this chapter. A list of jurisdictional decisions will be available in the district office whose area includes the waters in question, in accordance with new subpart 2.10.

Subpart 2.20 has been deleted. Section 2.20-1 referred to lists which are being deleted by this amendment; these lists will now be maintained in the district offices in accordance with subpart 2.10. The material in § 2.20-5 is either included in new § 2.05-30 or deleted as being merely repetitive of statutes.

Subparts 2.21 through 2.99 have been deleted. These subparts listed specific determinations, by the Commandant, that certain waters were or were not navigable waters of the United States, for the purpose of Coast Guard jurisdiction. These lists served no public or agency purpose and were misleading, in that Coast Guard jurisdictional decisions, other than Commandant's determinations, did not appear in the regulations. The Coast Guard processes over 200 jurisdictional decisions annually, only a small number of which are made by the Commandant. Publication of all these decisions in the Code of Federal Regulations and the FEDERAL REGISTER would be an unwarranted and costly administrative exercise.

Public access to this material will be maintained through district offices, in accordance with new subpart 2.10. By making information available through the district offices, the Coast Guard will be better able to provide the public with accurate, up to date information than that which was possible under the former Code of Federal Regulations publication system, since the Code of Federal Regulations lists were only reprinted annually.

Section 100.05(b) of Part 100 has been deleted in conformance with the changes made in Part 2. The definition of "navigable waters of the United States" is now found in § 2.05-25.

Since these amendments concern only general statements of policy, interpretations, and rules of agency procedure, they are exempt from the notice requirements in 5 U.S.C. 553(b).

In consideration of the foregoing, 33 CFR Part 2 and Part 100 are amended as follows:

The heading and the text of Part 2 are revised as follows:

## **PART 2—JURISDICTION**

### **Subpart 2.01—Purpose**

Sec.	
2.01-1	Purpose.
<b>Subpart 2.05—Definitions of Jurisdictional Terms</b>	
2.05-1	High seas.
2.05-5	Territorial seas.
2.05-10	Territorial sea baseline.
2.05-15	Contiguous zone.
2.05-20	Internal waters and inland waters.
2.05-25	Navigable waters of the United States; Navigable Waters; Territorial Waters.

Sec.  
2.05-30 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.

### **Subpart 2.10—Availability of Jurisdictional Decisions**

2.10-1	Maintenance of decisions.
2.10-5	Availability of lists and charts.
2.10-10	Decisions subject to change or modification.

### **Subpart 2.01—Purpose**

#### **§ 2.01-1 Purpose.**

The purpose of this part is to inform the public of the definitions which the Coast Guard uses to examine waters to determine whether the Coast Guard has jurisdiction on those waters under particular U.S. laws.

### **Subpart 2.05—Definitions of Jurisdictional Terms**

#### **§ 2.05-1 High seas.**

(a) Except as provided in paragraphs (b) and (c) of this section, "high seas" means all waters which are neither territorial seas nor internal waters of the United States or of any foreign country.<sup>1</sup>

(b) "High seas", as used in 18 U.S.C. 7(1), means the Great Lakes and waters seaward of the low water line along the coast, except waters within harbors or narrow coastal indentations enclosed by promontories.<sup>1</sup>

(c) "High seas", as used in section 2 of the Act of February 19, 1895, as amended, 33 U.S.C. 151, and all laws referring thereto, means the waters seaward of the lines described in Part 82 of this chapter.

#### **§ 2.05-5 Territorial seas.**

(a) With respect to the United States, "territorial seas" means the waters within the belt, 3 nautical miles wide, that is adjacent to its coast and seaward of the territorial sea baseline.

(b) With respect to any foreign country, "territorial seas" means the waters within the belt that is adjacent to its

<sup>1</sup> It should be noted that under 14 U.S.C. 89 the Coast Guard is authorized to enforce the laws of the United States upon the "high seas" and waters over which the United States has jurisdiction. Certain of the criminal laws of the United States are based on its special maritime and territorial jurisdiction, one of whose components is the "high seas", as defined in paragraph (b). However, this definition of "high seas" does not apply to the use of "high seas" found in 14 U.S.C. 89, to which the definition in paragraph (a) applies. A clear distinction should be maintained between the Coast Guard's authority under 14 U.S.C. 89 and the jurisdictional base of the criminal laws which apply to the special maritime and territorial jurisdiction. For example, while assault (18 U.S.C. 113) committed seaward of the territorial sea could be committed on the "high seas" for both purposes, an assault committed within the territorial sea could be committed on the "high seas" to bring it within the special maritime and territorial jurisdiction and at the same time be committed on waters over which the United States has jurisdiction (not the "high seas") for purposes of the Coast Guard's authority to undertake enforcement action.



coast and whose breadth and baseline are recognized by the United States.

**§ 2.05-10 Territorial sea baseline.**

"Territorial Sea Baseline" means the delimitation of the shoreward extent of the territorial seas of the United States drawn in accordance with principles, as recognized by the United States, of the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606. Charts depicting the territorial sea baseline are available for examination in accordance with § 1.10-5(b) of this chapter.

**§ 2.05-15 Contiguous zone.**

"Contiguous Zone" means the belt of high seas, 9 nautical miles wide, that is adjacent to and seaward of the territorial seas of the United States and that was declared to exist in Department of State Public Notice 358 of June 1, 1972, 37 FR 11906.

**§ 2.05-20 Internal waters and inland waters.**

(a) "Internal waters" and, except as provided in paragraph (b) of this section, "inland waters" mean:

(1) With respect to the United States, the waters shoreward of the territorial sea baseline.

(2) With respect to any foreign country, the waters shoreward of the baseline of its territorial sea, as recognized by the United States.

(b) "Inland waters", as used in 33 U.S.C. Chapter 3, means the waters shoreward of the lines described in Part 82 of this chapter, except the Great Lakes and their connecting and tributary waters as far east as Montreal, the waters of the Mississippi River between its source and the Huey P. Long Bridge and all of its tributaries emptying thereinto and their tributaries, that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North.

**§ 2.05-25 Navigable waters of the United States; Navigable Waters; Territorial Waters.**

(a) Except as provided in paragraph (b) of this section, "navigable waters of the United States," "navigable waters," and "territorial waters" mean, except where Congress has designated them not to be navigable waters of the United States:

(1) Territorial seas of the United States;

(2) Internal waters of the United States that are subject to tidal influence; and

(3) Internal waters of the United States not subject to tidal influence that:

(i) Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or

(ii) A governmental or non-governmental body, having expertise in water-

way improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce.

(b) "Navigable waters of the United States" and "navigable waters," as used in sections 311 and 312 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1321 and 1322, mean:

(1) Navigable waters of the United States as defined in paragraph (a) of this section and all waters within the United States tributary thereto; and

(2) Other waters over which the Federal Government may exercise Constitutional authority.

**§ 2.05-30 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.**

"Waters subject to the jurisdiction of the United States" and "waters over which the United States has jurisdiction" mean:

(a) Navigable waters of the United States;

(b) Other waters that are located on lands, owned by the United States, with respect to which jurisdiction has been accepted in accordance with 33 U.S.C. 733 by the authorized federal officer having custody, control, or other authority over them;

(c) Other waters that are located on lands, owned by the United States, with respect to which the United States retains concurrent or exclusive jurisdiction from the date that the State in which the lands are located entered the union; and

(d) waters within the territories and possessions of the United States and the Trust Territories of the Pacific Islands.\*

**Subpart 2.10—Availability of Jurisdictional Decisions**

**§ 2.10-1 Maintenance of decisions.**

Each Coast Guard district maintains:

(a) A list of waters within the district which the Coast Guard has decided to be navigable waters of the United States for the purposes of its jurisdiction, and

(b) Charts reflecting Coast Guard decisions as to the location of the territorial sea baseline for the purposes of Coast Guard jurisdiction, if the district includes portions of the territorial seas.

**§ 2.10-5 Availability of lists and charts.**

The lists and charts referred to in § 2.10-1 of this chapter are available to the public and may be inspected or obtained in accordance with § 1.10-5(b) of this chapter.

\*In various laws administered and enforced by the Coast Guard, the terms "State" and "United States" are defined to include some or all of the territories and possessions of the United States. The definitions in sections 2.05-25 and 2.05-30 should be considered as supplementary to these statutory definitions and not as interpretive of them.

**§ 2.10-10 Decisions subject to change or modification.**

The decisions referred to in § 2.10-1 of this subpart are subject to change or modification. Inquiries concerning the status of specific waters, for the purposes of Coast Guard jurisdiction, should be directed to the District Commander of the district in which the waters are located.

2. In Part 100, § 100.05(b) is deleted and reserved.

**§ 100.05 Definitions of terms used in this part.**

(b) [Reserved]

(14 U.S.C. 633; 80 Stat. 931 (49 U.S.C. 1655 (b)); 49 CFR 1.4(b), 1.46(b).)

Effective date: These amendments will become effective on November 24, 1975.

Dated: October 14, 1975.

O. W. SILER,  
Admiral, U.S. Coast Guard  
Commandant.

[FR Doc. 75-28428 Filed 10-21-75; 8:45 am]

[CGD 73-162]

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

Cheesequake Creek, N.J.

This amendment changes the regulations for the New York and Long Branch railroad bridge across Cheesequake Creek to allow closed periods during the late fall, winter, and early spring months when vessel traffic is light. This amendment was circulated as a public notice dated August 15, 1973, by the Commander, Third Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 73-162p) on August 10, 1973, (38 FR 21650). Seventy comments were received which generally objected to the proposed change. The Coast Guard then held meetings with the railroad and marine interests. As a result of these meetings, the marine interests and the railroad agreed to closed periods that would be less restrictive to navigation. The Coast Guard will continue to monitor this matter and if additional changes in these regulations are indicated, they may be made at that time.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new subparagraph (6) to paragraph (j) of § 117.215 to read as follows:

**§ 117.215** Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.

(j) \* \* \*

(6) New York and Long Branch railroad bridge across Cheesequake Creek.



The draw shall open on signal except at the following times the draw shall open on signal only if at least four hours notice is given:

(i) 6 p.m. to 6 a.m. from January 1 through March 31.

(ii) 10 p.m. to 6 a.m. Monday through Thursday and midnight Sunday to 6 a.m. Monday from April 1 through April 30 and November 1 through November 30.

(iii) 10 p.m. to 6 a.m. from December 1 through December 31.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655 (g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

**Effective date.** This revision shall become effective on November 24, 1975.

Dated: October 15, 1975.

R. I. PRICE,  
Rear Admiral, U.S. Coast Guard,  
Chief, Office of Marine Environment and Systems.

[FR Doc.75-28429 Filed 10-21-75; 8:45 am]

[CGD 74-32]

#### PART 157—RULES AND REGULATIONS FOR PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN DOMESTIC TRADE

##### Tank Vessels Carrying Oil in Domestic Trade

###### Correction

In FR Doc. 75-27230 appearing at page 48280 of the issue for Tuesday, October 14, 1975, make the following changes:

1. In the second line of § 157.09(b), page 48284, "voltage" should read "voyage".

2. In paragraph 3, *Hypothetical Outflow of Oil*, to Appendix A, page 48286, in the third line the symbol for bottom damage, now reading "O<sub>2</sub>", should read "O<sub>1</sub>".

3. In the formulas for K<sub>1</sub>, Z<sub>1</sub>, and S<sub>1</sub>, appearing in Appendix A, page 48286, the term from which the fraction is subtracted, which now in each case reads "1", should read "1."

#### Title 40—Protection of Environment

##### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 438-8]

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

##### Florida: Approval of Plan Revisions

On March 27, 1975 (40 FR 13521), the Agency announced the receipt of two revisions in the Florida plan. These consisted of changes in the plan's limits on sulfur dioxide emissions from existing sulfur recovery plants and sulfuric acid plants. They were adopted by the State after notice and public hearing in conformity with 40 CFR 51.4 and were submitted for the Agency's approval on February 12, 1975, along with other plan revisions. Copies of the two revisions were made available for public inspection at

the Agency's Region IV headquarters in Atlanta, Georgia and at the offices of the Florida Department of Environmental Regulation (formerly Department of Pollution Control) throughout the State. Written comments were solicited from the public, but none were received.

Under the Florida implementation plan's original regulations for sulfur recovery plants, existing facilities were allowed to emit no more than 0.004 pounds of SO<sub>2</sub> for each pound of sulfur recovered from an oil well; this limit, to be achieved by July 1, 1975, corresponded to a sulfur recovery efficiency of 99.8 percent. Under the newly adopted regulation, existing plants are subject to an immediately effective limit of 0.08 pounds of sulfur dioxide per pound of sulfur recovered; this corresponds to a recovery efficiency of 96 percent. All of the sources affected by the revised regulation are now operating in the Jay oil field (Santa Rosa County).

The second of these revisions resulted from a petition of the Occidental Chemical Company, which operates two sulfuric acid plants in White Springs (Hamilton County). Under the regulations of the approved Florida plan, existing H<sub>2</sub>SO<sub>4</sub> plants are required to achieve, by July 1, 1975, an emission limit of 10 pounds of SO<sub>2</sub> per ton of 100 percent sulfuric acid produced. This limit was based on the degree of SO<sub>2</sub> emission reduction needed to attain standards in the model County used in developing the plan's original control strategy for sulfur dioxide, that is, in Hillsborough County, site of the highest measured concentrations of the pollutant. The State now takes the position that this degree of control is not needed in Hamilton County, where there is only one other significant source of SO<sub>2</sub> emissions, and where the original emission limit might produce only a negligible improvement in air quality if achieved. Accordingly, the emission limit for sulfuric acid plants in the Florida portion of the Jacksonville, Florida-Brunswick, Georgia Interstate Air Quality Control Region is being relaxed to 29#SO<sub>2</sub>/ton 100 percent H<sub>2</sub>SO<sub>4</sub>. (The plants of Occidental Chemical Company presently emit about 35#/ton, as opposed to 42#/ton emitted in January, 1972.)

The Agency has thoroughly reviewed these plan revisions in the light of the revised sulfur dioxide control strategy and supporting air quality data and mathematical modeling results submitted with them. A written summary of the findings of this review may be examined at the following locations:

Air & Hazardous Materials Division, Region IV, Environmental Protection Agency, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

Freedom of Information Center, Environmental Protection Agency, 232 Watergate Mall West Tower, 401 M Street SW., Washington, D.C. 20460.

The Administrator has determined that the two Florida plan revisions described above meet the requirements of section 110 of the Clean Air Act and the implementing regulations of 40 CFR

Part 51. Accordingly, they are hereby approved.

"This action is effective (upon date of publication)." The Administrator finds that good cause exists for making his approval immediately effective since these revisions are already in effect under Florida law, and the Agency's action places no additional burden on affected facilities.

(Section 110(a) of the Clean Air Act (42 U.S.C. 1957c-5(a)))

Dated: October 14, 1975.

JOHN QUARLES,  
Acting Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

In § 52.520, paragraph (c) is amended to read as follows:

§ 52.520 Identification of plan.

(c) Supplemental information was submitted by the Department of Pollution Control on April 10 and May 5, 1972, on June 1, August 6, and September 25, 1973, on February 26, May 30, September 25, and November 21, 1974, and on January 9, February 12 (revised limits on SO<sub>2</sub> emissions from sulfur recovery and sulfuric acid plants), March 31, April 9 and 15, 1975.

[FR Doc.75-28386 Filed 10-21-75; 8:45 am]

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

##### CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

[FPMR Amendment A-22]

#### PART 101-6—MISCELLANEOUS REGULATIONS

##### Acquisition of Real Property

The Office of Management and Budget (OMB) has revised OMB Circular No. A-11. Federal agencies are no longer required to obtain a statement from the General Services Administration concerning the availability of other Federal property when their budget estimates include funds of more than \$100,000 for the acquisition of real and related personal property. Therefore, Subpart 101-6.3 is deleted.

The table of contents for Part 101-6 is amended to delete Subpart 101-6.3 and to reserve the subpart as follows:

Subparts 101-6.3—101-6.48 [Reserved]

Part 101-6 is amended to delete the provisions of Subpart 101-6.3 and to reserve the subpart as follows:

Subparts 101-6.3—101-6.48 [Reserved]

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

**Effective date.** This amendment is effective on October 22, 1975.

Dated: October 10, 1975.

ARTHUR F. SIMPSON,  
Administrator of  
General Services.

[FR Doc.75-28373 Filed 10-21-75; 8:45 am]