

§ 48.6421(c) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; time for filing claims; period covered.

Sec. 6421. Gasoline used for certain nonhighway purposes or by local transit systems. * * *

(c) Time for filing claims; period covered—(1) Gasoline used before July 1, 1965. Except as provided in paragraphs (2) and (3), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during the one-year period ending on June 30 of any year. No claim shall be allowed under this paragraph with respect to any one-year period unless filed on or before September 30 of the year in which such one-year period ends.

(2) Exception. Except as provided in paragraph (3), if \$1,000 or more is payable under this section to any person with respect to gasoline used during a calendar quarter, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

(3) Gasoline used after June 30, 1965—(A) In general. In the case of gasoline used after June 30, 1965—

(i) Except as provided in subparagraph (B), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during his taxable year; and

(ii) No claim shall be allowed under this subparagraph with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year.

For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A, except that a person's first taxable year beginning after June 30, 1965, shall include the period after June 30, 1965, and before the beginning of such first taxable year.

(B) Exception. If \$1,000 or more is payable under this section to any person with respect to gasoline used during any of the first three quarters of his taxable year, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this subparagraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

[Sec. 6421(c) as added and in effect Jan. 1, 1959, and as amended by sec. 809(b)(2), Excise Tax Reduction Act 1965 (79 Stat. 166); sec. 207(b), Airport and Airway Rev. Act 1970 (84 Stat. 248)]

PAR. 14. Section 48.6421(e) is amended by adding a new paragraph (3) to section 6421(e) and by revising the historical note, as follows:

§ 48.6421(e) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; exempt sales; other payments or refunds available.

Sec. 6421. Gasoline used for certain nonhighway purposes or by local transit systems. * * *

(e) Exempt sales; other payments or refunds available. * * *

(3) Gasoline used in noncommercial aviation. This section shall not apply in respect of gasoline which is used after June 30, 1970, as a fuel in an aircraft in noncommercial aviation (as defined in section 4041(c)(4)).

[Sec. 6421(e) as added and in effect Jan. 1, 1959, and as amended by sec. 205(b)(1)(B), Airport and Airway Rev. Act 1970 (84 Stat. 241)]

PART 142—TEMPORARY EXCISE TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

PAR. 15. Section 142.1-1 is amended by deleting paragraph (d), as follows:

§ 142.1-1 Imposition of tax; exclusion for light-duty trucks, etc.; exemptions for local transit buses and trash containers.

(d) [Deleted]

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

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 6, 1977.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc. 77-1174 Filed 1-12-77; 8:45 am]

Title 29—Labor

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2608—INTERIM REGULATION ON ALLOCATION OF ASSETS

Amendment to Allow Subclasses

On November 3, 1976, the Pension Benefit Guaranty Corporation ("PBGC") published in the FEDERAL REGISTER an Interim Regulation on Allocation of Assets (41 FR 48480 et seq.) and a Supplemental Notice of Proposed Rulemaking on Allocation of Assets (41 FR 48492 et seq.). The Interim Regulation only applied to plans which received a Notice that the PBGC was unable to determine whether the plan would have sufficient assets to pay all guaranteed benefits after the assets were allocated in accordance with § 4044 of the Employee Retirement Income Security Act of 1974 ("Act"). The supplemental notice contained rules for allocating assets in plans that receive a Notice of Sufficiency from the PBGC ("sufficient plan"), and it also prescribed rules under which a plan may establish subclasses for allocating assets within the priority categories contained in section 4044(a) of the Act.

The rules in the supplemental proposal regarding allocation of assets in sufficient plans required that the allocation be based on the value of benefits in those plans. A number of comments were received regarding the valuation of benefits in sufficient plans which the PBGC is studying. Therefore, issuance of rules relating to allocation of assets in those plans would be premature at this time.

However, PBGC received only one comment regarding the proposed subclass rules. The comment noted that permitting subclasses is ill advised because "it is extremely complex and because capricious results may develop as to the benefit delivery to individual participants." Thus, the comment would seem to suggest that subclasses should not be allowed. Section 4044(b)(6) of the Act specifically authorizes a plan to establish subclasses within the priority classes of section 4044(a) of the Act in accordance with PBGC regulations. Therefore, the comment is rejected because it is contrary to the express provisions of the Act.

The language of the exception to the subclasses rule (§ 2608.12(b)) has been changed to make it clear that only those priorities based on greater length of service, older age or disability that were contained in the plan on the effective date of the Act be used as subclasses under the exception. To prevent abuse of the exception, under § 2608.12(b)(ii), a plan that wishes to establish subclasses under the exception must do so within 180 days of the effective date of this amendment. Plans in which the allocation provisions were amended in a good faith effort to comply with the allocation priorities of § 4044 of the Act may reamend within the 180 day period to establish subclasses.

One other comment was directed to a situation in which a participant makes a contribution to a plan to obtain additional benefits funded in part through employer contributions. It noted that such contributions appear to be mandatory contributions and stated that it seemed "inequitable" to deduct all benefits received from the plan from accumulated mandatory contributions as required by § 2608.7(b) of the Interim and Proposed regulations. The comment noted that in the situation it described there were effectively two plans. The second plan being the one that provided additional benefits for employees who made contributions.

Section 4044(b)(5) of the Act specifically requires all amounts paid to an employee from the plan to be deducted in determining the total amount of mandatory contributions. Thus, the suggestion in the comment that not all payments from the plan be deducted is contrary to the express provisions of the Act. There is, however, nothing in Title IV that would prohibit the creation of a separate contributory plan, and if that were done, the apparent inequity referred to in the comment would be cured.

This amendment includes some minor technical changes as well. One technical change is made to clarify the benefits in priority category 5. Those benefits consist of all nonforfeitable benefits in the plan, other than ones contained in a higher priority category, including any lump sums in which a participant is vested, but not including any optional forms of annuity to which a participant is not entitled under § 2605.5 of the Guaranteed Benefits Regulation.

Because the amendments are either of a technical nature and do not change the substance of the regulation, because the regulation interprets section 4044 of the Act, because the section allowing subclasses removes the restriction on subclasses that existed under the Interim Regulation, and because of the need for immediate guidance, the PBGC finds that good cause exists for making these amendments effective immediately.

In consideration of the foregoing Part 2608 of Chapter XXVI, Title 29, is amended as follows:

1. Sections 2608.7(b) (1) (i) (C) and (b) (2) (i) (A) are revised to read:

§ 2608.7 Priority category 2 benefits.

- (b) * * *
- (1) * * *
- (i) * * *

"(C) Interest, if any, on the sum of the of the amounts determined under paragraphs (b) (1) (i) (A) and (B) of this section compounded annually at the applicable rate under section 204(c) (2) (C) (iii) of the Act, from the beginning of the first plan year to which section 204 (c) of the Act applies to the earlier of the participant's retirement date or the date of plan termination."

"Add accumulated employee contributions computed under paragraph (b) (1) of this section and interest at the applicable rate on such contributions under section 204(c) (2) (C) (iii) of the Act from the date of plan termination to the date on which the participant would attain normal retirement age."

3. Section 2608.10(a) is revised to read:

§ 2608.10 Priority category 5 benefits.

"Priority category 5 benefits consist of all nonforfeitable benefits payable with respect to a participant in a plan, other than benefits derived from voluntary employee contributions assigned to priority category 1 and all benefits assigned to priority categories 2, 3 or 4. The only benefits payable as annuities contained in this section are those benefits payable as annuities to which a participant is entitled under § 2605.5 of this chapter.

4. A new § 2608.12 is added to read as follows:

§ 2608.12 Subclasses.

(a) *General*—A plan may establish one or more subclasses (which do not result in discrimination prohibited by the Internal Revenue Code of 1954, as amended, and regulations thereunder), within any priority category other than priority categories 1 and 2, based specifically on greater length of service, older age or disability (or any combination thereof) of a participant. Assets of a plan allocable to a priority category may be allocated in accordance with the provisions of the subclasses established by the plan for that priority category to the extent that such allocation does not increase or decrease the assets which

otherwise would be allocated to the guaranteed benefits in such priority categories.

(b) *Exception*—(1) *General*. Notwithstanding the provisions of paragraph (a) of this section, a plan that on September 2, 1974, provided for allocation of plan assets to benefits upon termination of the plan based specifically on greater length of service, older age or disability (or any combination thereof) of a participant may adopt an amendment establishing subclasses (which do not result in discrimination prohibited by the Internal Revenue Code of 1954, as amended, and regulations thereunder) within a priority category, other than priority categories 1 or 2, under which the subclasses are the same as the allocation priorities based specifically on greater length of service, older age or disability (or any combination thereof) that were in effect on September 2, 1974.

(2) *Limitation*. The exception contained in this paragraph only applies to subclasses which are adopted before the [one hundred and eighty-first day after publication in the FEDERAL REGISTER], except for modifications that may be required by the Internal Revenue Service as a condition of qualification. If the allocation provisions of a plan were amended after September 2, 1974, the plan may establish subclasses under this paragraph only if the allocation provisions were amended as part of a good faith effort to comply with section 4044 of the Act.

These amendments are effective January 13, 1977.

(Sec. 4002(b) (3), 4044, Pub. L. 93-406, 88 Stat. 1004, 1025-27 (29 U.S.C. 1302(b) (3), 1344).)

Issued at Washington, D.C. on this 30th day of December, 1976.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing the Chairman to issue same.

W. J. USERY, Jr.,
Chairman, Board of Directors,
Pension Benefit Guaranty
Corporation.

HENRY ROSE,
Secretary, Pension Benefit
Guaranty Corporation.

[FR Doc. 77-1132 Filed 1-12-77; 8:45 am]

PART 2610—INTERIM REGULATION ON VALUATION OF PLAN BENEFITS

Amendment Adopting Additional PBGC Rates

On November 3, 1976, the Pension Benefit Guaranty Corporation ("PBGC") published in the FEDERAL REGISTER an Interim Regulation on the Valuation of Benefits for plans that do not receive a notice from the PBGC that after allocation of assets in accordance with section 4044 of the Employee Retirement Income Security Act of 1974 ("Act") the plan has sufficient assets to pay all benefits guaranteed under Title IV of the Act. (41 FR 48484 et seq.) On that same date

the PBGC also published in the FEDERAL REGISTER a Supplemental Notice of Proposed Rulemaking on the Valuation of Plan Benefits that contained rules for valuing the benefits in plans that receive a Notice of Sufficiency from the PBGC ("sufficient plans"). (41 FR 48498 et seq.) The supplemental proposal also contained rates to be used for valuing annuities provided by the PBGC for plans that terminated after September 30, 1975 and before September 1, 1976.

A number of comments were received regarding the rules on valuation of benefits in sufficient plans. Those rules are intimately related to the regulation on determination of plan sufficiency on which the PBGC has received many conflicting comments. Therefore, PBGC has decided not to issue final rules on the valuation of benefits in sufficient plans until the determination of sufficiency regulation is finalized.

GENERAL

One commentator objected to the issuance of any regulations by PBGC on the valuation of plan benefits. The commentator expresses concern that the actuarial basis for valuing benefits in terminating plans promulgated by PBGC might be extended to on-going plans. The valuation rates prescribed by the PBGC are designed to reflect PBGC's cost of providing benefits in terminating plans. Those costs do not reflect in any manner the reasonable actuarial assumptions which on-going plans should use. On-going plans must take into account projected benefit levels and other factors which are not relevant in determining costs of a terminated plan because no more benefits will accrue after termination. Therefore, PBGC actuarial factors should not be applied to on-going plan situations unless the plan's actuary determines them to be the most reasonable factors. However, PBGC believes it should inform plan administrators, plan sponsors, and plan participants of the basis on which benefit values are determined when PBGC provides the benefits since those values determine the appropriate allocation of assets to benefits and whether there is any employer liability.

EARLY RETIREMENT BENEFITS

One comment suggested that participants who were entitled to retire early be required to irrevocably elect a retirement date when the plan terminates to eliminate the guesswork involved in estimating rates of early retirement. PBGC disagrees with this suggestion because it would deprive a participant of a vested right under the plan; the flexibility to decide when to retire, and such an election might be unenforceable because it requires the participant to make an irrevocable advance commitment to give up his primary means of support on a given date even though subsequent events may lead the participant to decide not to retire.

PBGC RATES

One comment suggested that PBGC rates on deferred annuities appeared too

conservative (i.e. the benefit values under the rates would be too high) and should reflect the rates currently being paid on long term government securities. The commentator also "believed" that the rates for disabled lives not receiving Social Security benefits and the early retirement rates and resulting assumed retirement ages may very well prove to be too conservative. With respect to the first comment, the reason why the discount rates for deferred annuities appear lower is primarily because of two factors.

First, the rates must take into account the rates at which earnings from the initial investments made to fund such annuities can be reinvested. Secondly, PBGC rates contain loading factors for the anticipated expenses associated with providing the annuities. Since annuity payments associated with deferred annuities are generally less than for immediate annuities, recurring administrative costs tend to be a larger percentage of the total cost of providing the annuity. Also, any fixed charges incurred at the time of a commitment are also a larger factor for deferred annuities than for immediate annuities. It is these expenses which account for a large share of the apparent lower yield on deferred annuities.

Regarding the comments on early retirement rates and rates for disabled lives not eligible for Social Security, PBGC has not discovered any accurate tables or valid studies on those types of annuities, and therefore, will as the comment implies monitor its experience to develop such tables and rates. The current rates represent PBGC's best estimate, based on currently available data, of its expected experience in these areas.

Accordingly, PBGC has decided to amend the Interim Regulation to add the additional interest rates and factors published in the supplemental proposal covering the period from October 1, 1975 through August 31, 1976.

Because of the need to provide immediate guidance for the valuation of benefits in plans that terminated before September 1, 1976, and because no adjustment by on-going plans is required by this amendment, PBGC finds that good cause exists for making the amendment effective immediately.

In consideration of the foregoing, Part 2610 of Chapter XXVI, Code of Federal Regulations is amended as follows:

Appendix B—Interest Rates and Quantities Used to Value Annuities is revised to read as follows:

APPENDIX B—INTEREST RATES AND QUANTITIES USED TO VALUE DEFERRED ANNUITIES

I. The following interest rates and quantities used to value benefits shall be effective for plans which terminate on or after September 2, 1974 and on or before September 30, 1975:

Table I.—Interest rate for valuing immediate annuities. An interest rate of 8% shall be used to value immediate annuities, to compute the quantity "G" in § 2610.6, and for valuing both portions of a cash refund annuity.

Table II.—Interest rate for valuing death benefits. An interest rate of 5% shall be used

to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

Table III.—Interest rates and quantities used to value deferred annuities. The following factors shall be used to value deferred annuities pursuant to § 2610.6:

- (1) $k_1=1.0725$
- (2) $k_2=1.0575$
- (3) $k_3=1.0425$
- (4) $n_1=7$
- (5) $n_2=8$

II. The following interest rates and quantities used to value benefits shall be effective for plans which terminate on or after October 1, 1975 and on or before December 31, 1975:

Table I.—Interest rate for valuing immediate annuities. An interest rate of 7½ percent shall be used to value immediate annuities, to compute the quantity "G" in § 2610.6, and for valuing both portions of a cash refund annuity.

Table II.—Interest rate for valuing death benefits. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

Table III.—Interest rates and quantities used to value deferred annuities. The following factors shall be used to value deferred annuities pursuant to § 2610.6:

- (1) $k_1=1.0725$
- (2) $k_2=1.0575$
- (3) $k_3=1.0425$
- (4) $n_1=7$
- (5) $n_2=7$

III. The following interest rates and quantities used to value benefits shall be effective for plans which terminate on or after January 1, 1976 and on or before February 29, 1976:

Table I.—Interest rate for valuing immediate annuities. An interest rate of 8 percent shall be used to value immediate annuities, to compute the quantity "G" in § 2610.6, and for valuing both portions of a cash refund annuity.

Table II.—Interest rate for valuing death benefits. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

Table III.—Interest rates and quantities used to value deferred annuities. The following factors shall be used to value deferred annuities pursuant to § 2610.6:

- (1) $k_1=1.0725$
- (2) $k_2=1.0525$
- (3) $k_3=1.04$
- (4) $n_1=7$
- (5) $n_2=10$

IV. The following interest rates and quantities used to value benefits shall be effective for plans which terminate on or after March 1, 1976 and on or before May 31, 1976:

Table I.—Interest rate for valuing immediate annuities. An interest rate of 7½ percent shall be used to value immediate annuities, to compute the quantity "G" in § 2610.6, and for valuing both portions of a cash refund annuity.

Table II.—Interest rate for valuing death benefits. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

Table III.—Interest rates and quantities used to value deferred annuities. The following factors shall be used to value deferred annuities pursuant to § 2610.6:

- (1) $k_1=1.07$
- (2) $k_2=1.05$
- (3) $k_3=1.04$

- (4) $n_1=7$
- (5) $n_2=10$

V. The following interest rates and quantities used to value benefits shall be effective for plans which terminate on or after June 1, 1976 and on or before August 31, 1976:

Table I.—Interest rate for valuing immediate annuities. An interest rate of 7½ percent shall be used to value immediate annuities, to compute the quantity "G" in § 2610.6, and for valuing both portions of a cash refund annuity.

Table II.—Interest rate for valuing death benefits. An interest rate of 5 percent shall be used to value death benefits other than the decreasing term insurance portion of a cash refund annuity pursuant to § 2610.8.

Table III.—Interest rates and quantities used to value deferred annuities. The following factors shall be used to value deferred annuities pursuant to § 2610.6:

- (1) $k_1=1.0675$
- (2) $k_2=1.0475$
- (3) $k_3=1.035$
- (4) $n_1=7$
- (5) $n_2=10$

These amendments are effective January 13, 1977.

(Secs. 4002(b) (3), 4044, 4062(b) (1) (A), Pub. L. 93-408, 88 Stat. 1004, 1025-27, 1029 (29 U.S.C. 1302(b) (3), 1344, 1362(b) (1) (A)).)

Issued at Washington, D.C. on this 30th day of December 1976.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing the Chairman to issue same.

W. J. USERY, Jr.,
Chairman, Board of Directors,
Pension Benefit Guaranty Corporation.

HENRY ROSE,
Secretary, Pension
Benefit Guaranty Corporation.

[FR Doc. 77-1133 Filed 1-12-77; 8:45 am]

Title 32—National Defense CHAPTER XX—INTERAGENCY CLASSIFICATION REVIEW COMMITTEE PART 2000—ADMINISTRATIVE PROCEDURES

Submission of Reports and Appeals Procedures

The Interagency Classification Review Committee (ICRC) is revising Chapter XX, Part 2000 of its Rules and Regulations to require semiannual rather than quarterly submission of most reports described in Subpart B and to distinguish between classification abuses and administrative security violations for reporting purposes.

The table of contents for Part 2000 is revised as follows:

Subpart A—General	
Sec.	
2000.1	Purpose.
2000.2	Scope.
2000.3	Jurisdiction.
Subpart B—National Security Information or Material Reports	
2000.10	Original classification authorities.
2000.11	Classification abuses/administrative security violations.
2000.12	Unauthorized disclosures.
2000.13	Mandatory declassification review actions.

- Sec.
 2000.14 Annual review lists.
 2000.15 Annual declassification list.
 2000.16 Semiannual summary.
 2000.17 Listing of national security classified material requiring protection beyond 30 years.

Subpart C—Appeals Procedures

- 2000.20 Notice of an appeal.
 2000.21 Exhaustion of other remedies.
 2000.22 Acceptance of appeal.
 2000.23 Consideration of appeal.
 2000.24 ICRC review.
 2000.25 Decision.

Subpart D—Forms

- 2000.30 Scope of part.
 2000.31 Standard forms.

Subpart A—General

1. Section 2000.1 is amended as follows:

§ 2000.1 Purpose.

(b) Procedures and reports for semiannual, annual, and special reporting by the Departments to the ICRC.

Subpart B—National Security Information or Material Reports

2. Subpart B is revised to read as follows:

§ 2000.10 Original classification authorities.

(a) The number of officials who have been designated as original Top Secret, Secret, and Confidential classification authorities pursuant to sections 2(A) and 2(B) of Executive Order 11652, as amended, must be reported to the ICRC semiannually by using Standard Form 244.

(b) The report must:

- (1) Be typed and submitted in duplicate;
- (2) Not contain any classified information; and
- (3) Be submitted no later than 30 calendar days after the end of each reporting period (June 30 and December 31).

(c) Paragraph (a) of this section does not dispense with the provisions of section ID of the National Security Council Directive which requires a list of authorized classifiers to be maintained by each Department. Departments shall ensure the capability of providing prompt access to the current lists upon the request of the Chairman or the Executive Director.

§ 2000.11 Classification abuses and administrative security violations.

(a) A classification abuse is a violation of the terms of Executive Order 11652 (or of implementing regulations or directives of any executive branch Department or Agency) the effect of which would be to preclude or delay the release of official information, to include overclassification, unnecessary classification, classification without authority, unnecessary exemption or exemption without authority.

(b) An administrative security violation is the marking of a document in a manner which does not conform with the requirements of Executive Order

11652 and implementing directives. Examples include: failure to apply downgrading/declassification assignments, failure to indicate classification authority, failure to apply internal classification markings (when required by Agency), or incorrectly computing declassification dates under the General Declassification Schedule.

(c) A reportable abuse or violation which becomes known during the reporting period, including one which is the result of Departmental inspection programs, must be reported semiannually on SF 322.

§ 2000.12 Unauthorized disclosures.

(a) An unauthorized disclosure is a communication or physical transfer of classified information or material to a person not authorized to receive it.

(b) An unauthorized disclosure is reportable when an incident of deliberate or inadvertent release of classified information warrants formal investigation and such investigation confirms that an important disclosure did occur.

(c) Unauthorized disclosures must be reported to the ICRC semiannually using Standard Form 323. The report must be submitted in duplicate no later than 30 calendar days after the end of the reporting period (June 30 and December 31). Any classified information included in the report should be forwarded under separate cover.

§ 2000.13 Mandatory declassification review actions.

Summary information concerning all requests and appeals for mandatory declassification review of classified documents over 10 years old must be submitted, in duplicate, on Standard Forms 242 and 243, no later than 30 calendar days after the end of the reporting period (June 30 and December 31). No classified information may be included on these forms.

§ 2000.14 Annual review list.

(a) An Annual Review List of classified material not scheduled for automatic declassification must be submitted for review by the ICRC by April 1st of each year.

(b) The list must include all documents which:

- (1) Are exempt and over 10 years old;
- (2) Specify an event for declassification; and
- (3) Are in the Data Index System on or before December 31 of the previous calendar year.

(c) Sorting shall be in the following order: classifier in alphabetical sequence by last name and first name or initial; classification category in descending order, "T," "S," then "C". The list shall be printed in the following sequence across the page: origin, classifier, classification category title or description, document date, subject, area code, declassification schedule, exemption category (if any), and declassification date. If any titles or descriptions are classified, such list shall carry the highest classification indicated.

§ 2000.15 Annual declassification list.

(a) The Annual Declassification List is a two part listing of documents including those documents declassified on or before December 31 of the previous calendar year, and those documents listed in the Annual Review List for which a declassification determination has been made. The Annual Declassification List must be printed by both subject and area code; it must be submitted to the ICRC by September 1st of each year.

(b) The List must be printed across the page in the following sequence: subject, originating office, document date, area in unabbreviated form, title or description, and classification category. The area list must be printed in the same sequence across the page except area in abbreviated form shall appear in place of subject as the first item.

§ 2000.16 Semiannual summary.

(a) A Semiannual Summary must be submitted by each Department, Agency or organizational unit that creates classified records. The report must cover data related to the:

- (1) Volume of documents being classified;
- (2) Use of declassification schedules;
- (3) Efforts to increase public access to declassified information; and
- (4) Efforts to improve management of classified material.

(b) Reports must:

- (1) Be submitted on Standard Form 324 in duplicate;
- (2) Be submitted no later than 30 calendar days after the end of the reporting period (June 30 and December 31); and
- (3) Not contain any classified information.

§ 2000.17 Listing of national security classified material requiring protection beyond 30 years.

If records need to be exempt from the automatic declassification process and protected beyond 30 years, use Standard Form 325. Submit SF 325 to the Archivist of the United States with a letter from the head of the agency or department attesting to his/her personal determination that records listed on the SF 325 require continued classification beyond 30 years.

Subpart D—Forms

3. Subpart D is revised to read as follows:

§ 2000.30 Scope of subpart.

This Subpart contains the Standard Forms (SF) that are prescribed for use in connection with the subject matter covered in other parts of Chapter XX.

§ 2000.31 List of forms.

The Standard Forms listed below may be obtained from the nearest General Services Administration (GSA) supply source.

- SF 242 "Report of Mandatory Review Appeals Actions"
 SF 243 "Report of Mandatory Declassification Review Actions"

- SF 244 "Report of Original Classification Authorities"
- SF 322 "Report of Classification Abuses and Administrative Security Violations"
- SF 323 "Report of Unauthorized Disclosures"
- SF 324 "Semiannual Summary Report to the ICRC"
- SF 325 "Listing of National Security Classified Material Requiring Protection Beyond 30 Years"

Effective date: This regulation is effective January 13, 1977.

NOTE.—The ICRC has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 7, 1977.

JAMES B. RHOADS,
Acting Chairman.

[FR Doc.77-1157 Filed 1-12-77; 8:45 am]

Title 33—Navigation and Navigable Waters
CHAPTER 1—COAST GUARD,
DEPARTMENT OF TRANSPORTATION
[CGD 75-174]

PART 92—ANCHORAGE AND NAVIGATION
REGULATIONS: ST. MARYS RIVER,
MICHIGAN

Lookout Stations

The Coast Guard has completely discontinued Lookout Station No. 3, Mission Point, Little Rapids Cut, St. Marys River.

Lookout Station No. 4, Rock Cut, West Neebish Channel, St. Marys River has been discontinued as a Lookout Station. The Coast Guard may man the site of Lookout Station No. 4, or use automated equipment to monitor channel conditions. Visual channel obstruction or closure signals will no longer be displayed at the site of Lookout Station No. 4.

These are matters of agency procedure and therefore notice of proposed rule-making and public procedures are unnecessary.

Accordingly, Part 92 of Title 33 of the Code of Federal Regulations is amended as follows:

§ 92.09 [Revoked]

1. By deleting § 92.09.

§ 92.15 [Revoked]

2. By deleting § 92.15.

§ 92.19 [Amended]

3. In § 92.19(a), by deleting the second sentence.

(33 U.S.C. 474.)

Effective date: This amendment shall become effective on January 13, 1977.

Dated: January 4, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-1184 Filed 1-12-77; 8:45 am]

[CGD 75-176]

PART 183—BOATS AND ASSOCIATED
EQUIPMENT

Amendments Affecting the Safe Loading
and Flotation Standards for Boats

The purpose of these amendments to the Coast Guard safe loading and flotation standards is to clarify the meaning of certain terms used in the standards and to clarify the applicability of the flotation standard.

A notice of proposed rulemaking was published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18679). The date of the end of the public comment period was omitted from the notice. A correction notice was published in the FEDERAL REGISTER on May 19, 1976 (41 FR 20590) and on May 27, 1976 (41 FR 21650) listing June 21, 1976 as the end of the public comment period on the proposed amendments.

No public hearing was held and no written comments were received on the proposed amendments. However, several errors were discovered in the notice which have resulted in minor editorial changes to the final rule. A typographical error in § 183.3 resulted in new paragraph (k) being shown as paragraph (h). In paragraphs §§ 183.33(b)(2)(iv) and 183.35(b)(2)(iv) the word "fuel" in the phrase "weight of full permanent fuel tanks" was misspelled "full." In addition, the phrase "full fuel system and tanks" in the definition of "machinery weight" in paragraph § 183.33(b)(3) was not deleted. This error would have resulted in the addition of the weight of full fuel tanks twice in the calculation of "boat weight" for inboard and inboard-outdrive boats.

Another error was discovered in § 183.37. The word "and" following paragraph § 183.37(b)(iii) should have followed the semicolon at the end of paragraph § 183.37(b)(ii) and a period should have appeared in place of the semicolon at the end of paragraph § 183.37(b)(iii). With the exception of the correction of these errors, the amendments are adopted as proposed.

In consideration of the foregoing, Part 183 of Title 33 of the Code of Federal Regulations is amended as follows:

1. Section 183.3 is amended by adding a new paragraph (k) to read as follows:

§ 183.3 Definitions.

(k) "Permanent appurtenances" means equipment that is mounted or fastened, so that it is not removable without the use of tools. Seats, inboard engines, windshields, helm stations, or hardtops are permanent appurtenances. Outboard motors, controls, batteries, and portable fuel tanks are not permanent appurtenances.

2. Section 183.33 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 183.33 Maximum weight capacity: Inboard and inboard-outdrive boats.

- (b) * * *
- (2) "Boat weight" is the combination of:
- (i) Hull weight;
 - (ii) Deck and superstructure weight;
 - (iii) Weight of permanent appurtenances; and
 - (iv) Weight of full permanent fuel tanks.
- (3) "Machinery weight" is the combined weight of installed engines or motors, control equipment, drive units, and batteries.

3. Section 183.35 is amended by revising subparagraph (b)(2) to read as follows:

§ 183.35 Maximum weight capacity: Outboard boats.

- (b) * * *
- (2) "Boat weight" is the combination of:
- (i) Hull weight;
 - (ii) Deck and superstructure weight;
 - (iii) Weight of permanent appurtenances; and
 - (iv) Weight of full permanent fuel tanks.

4. Section 183.37 is amended by revising subparagraph (b)(2) to read as follows:

§ 183.37 Maximum weight capacity: Boats without mechanical propulsion.

- (b) * * *
- (2) "Boat weight" is the combination of:
- (i) Hull weight;
 - (ii) Deck and superstructure weight; and
 - (iii) Weight of permanent appurtenances.

5. Section 183.61 is revised to read as follows:

§ 183.61 Applicability.

This subpart applies to monohull boats less than 20 feet in length, except sailboats, canoes, kayaks, inflatable boats, submersibles, surface effect vehicles, and amphibious vehicles.

6. Section 183.63 is revised to read as follows:

§ 183.63 Quantity of flotation required.

- (a) Each boat must have—
- (1) At least that quantity of flotation prescribed in § 183.67; or
 - (2) Enough flotation to keep any portion of the boat above the surface of the water when the boat is filled with water and loaded with:
 - (i) A weight that, when submerged, equals two-fifteenths of the persons capacity marked on the boat;
 - (ii) A weight that, when submerged, equals 25 percent of the dead weight;

(iii) A weight in pounds that, when submerged, equals 62.4 times the volume in cubic feet of the two largest air chambers, if air chambers are used for flotation; and

(iv) For outboard boats, a weight that, when submerged, equals the sum of the submerged motor, control, and battery weight from Table 183.67(a).

(b) For the purpose of this section, "dead weight" means:

(1) For outboard boats and boats without mechanical propulsion, the maximum weight capacity marked on the boat minus the sum of:

(i) Motor and control weight, battery weight (dry), and full portable fuel tanks from Table 183.67(a);

(ii) The persons capacity determined under § 183.41 for the boat; and

(2) For inboard boats, the maximum weight capacity marked on the boat minus the persons capacity determined under § 183.39 for the boat.

(c) Dead weight must be zero or a positive number.

7. Section 183.67 is amended by revising paragraph (a) to read as follows:

§ 183.67 Method for determining quantity of flotation.

(a) Step 1: Determine the Submerged Weight of the boat (Ws) in the formula:

$$W_s = (W_h K_1) + (W_d K_2) + (0.69 W_v)$$

Where:

W_s = Submerged weight of boat.

W_h = Dry weight of hull.

W_d = Dry weight of deck and superstructure.

W_v = Dry weight of permanent appurtenances.

K₁ and K₂ = Conversion factors for materials used from Table 183.67(b)

(46 U.S.C. 1454; 49 CFR 1.46(n) (1).)

Effective date: This regulation is effective on July 22, 1977.

NOTE.—Affected persons may voluntarily comply with this amendment prior to July 22, 1977.

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 4, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc. 77-1185 Filed 1-12-77; 8:45 am]

[CGD 74-286]

PART 183—BOATS AND ASSOCIATED EQUIPMENT

Capacity and Safe Loading Requirements for Low Powered and Non-Powered Boats

This amendment to the safe loading standard in Subpart C of Part 183 establishes new formulas for the calculation of maximum weight capacity and persons capacity for boats rated for manual propulsion and boats rated for motors of two horsepower or less. This amendment

also establishes two new capacity information formats in Subpart B of Part 183 for displaying the maximum weight capacity and persons capacity for these low powered and non-powered boats.

A notice of proposed rulemaking was published in the FEDERAL REGISTER on June 24, 1976 (41 FR 26027). A comment period was specified during which any interested person could submit written comments on the proposal. The written comment period ended 24 August 1976. No public hearing was held; however, the notice did provide an opportunity for any person who wished to present his comments orally and informally to do so.

Of the comments received, two of them suggested that additional requirements be added to the amendment such as painting a load waterline on boats and requiring additional warning labels with pertinent safety information. The comments were not within the scope of the amendment; however, the Coast Guard is conducting research in these areas and these suggestions may become the subject of a future rulemaking action. The Coast Guard, however, has no relevant data or information at this time that indicates any significant enhancement of boating safety would result from these suggested requirements.

Another commenter suggested that three horsepower should be the horsepower limit for small dinghies because these types of boats have used this size of motor in the past with no apparent safety problems. The amendment does not require a boat manufacturer to rate his boat for two horsepower because it is a dinghy or other small boat. Subpart D of Part 183 allows a manufacturer to rate his boat for three or more horsepower depending on the size of the boat, which does allow a dinghy to be rated for three horsepower. The two horsepower rating is not mandatory, but if a manufacturer chooses to rate his boat for two horsepower or less he can increase the load carrying capacity of his boat as provided in this amendment.

Several comments objected to the eight-inch minimum freeboard requirement in the formula for maximum weight capacity. The commenters stated that the eight inch minimum freeboard requirement does not enhance the safety of a boat. The commenters added that the eight-inch requirement appears to be arbitrary and that it may mislead a boat owner into believing that an eight-inch freeboard is safe regardless of the boat's usage and the conditions in which it operates. The Coast Guard agrees in principle with these comments, except for the comment suggesting that the eight inch requirement is an arbitrary value. The eight inches was adopted from the International Council of Marine Industry Associations (ICOMIA) where it is used as a minimum freeboard requirement for boats of five meters or less in length. The Coast Guard felt that adoption of the eight-inch freeboard restriction was necessary to prevent excessive overloading of small boats in light of the increased capacities that are being allowed by the

amendment. The Coast Guard has reconsidered the results of tests of the types of boats that may be rated under this amendment. The boats tested were loaded to the capacities allowed by the amendment and none of them had less than eight inches of freeboard. Based on these results, the Coast Guard does not feel that the eight-inch minimum freeboard requirement is necessary and the requirement has been removed from the final rule. Accordingly, the maximum weight capacity for a boat rated for manual propulsion or for motors of two horsepower or less is $\frac{3}{10}$ of the difference between the boat's maximum displacement and the boat's weight in pounds.

Another comment suggested that the amendment should state the location of the test weights in a boat when determining the maximum weight capacity at the eight-inch minimum freeboard. Since the eight-inch restriction has been removed from the amendment this comment is no longer relevant.

The remaining commenters objected to the application of the amendment to canoes, kayaks, and sailboats. These comments were not relevant to the subject of the amendment because canoes, kayaks, and sailboats are specifically excepted in § 183.31 from the safe loading standards.

In consideration of the foregoing, Part 183 of Title 33, Code of Federal Regulations is amended as follows:

1. By amending § 183.25 by revising the introductory text of paragraph (b) (2) and by adding new paragraphs (b) (3) and (b) (4) to read as follows:

§ 183.25 Display of markings.

(b) * * *

(2) For inboard boats and inboard outdrive boats:

(3) For boats rated for motors of two horsepower or less:

U.S. COAST GUARD CAPACITY INFORMATION	
Maximum horsepower.....	XXX
Maximum persons capacity.....	XXX
Maximum weight capacity (persons, and gear) (pounds).....	XXX

(4) For boats rated for manual propulsion:

U.S. COAST GUARD CAPACITY INFORMATION	
This boat rated for manual propulsion.	
Maximum persons capacity (pounds).....	XXX
Maximum weight capacity (persons, and gear) (pounds).....	XXX

2. By amending § 183.37 by revising the heading and paragraph (a) to read as follows:

§ 183.37 Maximum weight capacity: Boats rated for manual propulsion and boats rated for motors of two horsepower or less.

(a) The maximum weight capacity marked on a boat that is rated for manual propulsion or for motors of two horsepower or less must not exceed $\frac{3}{10}$ of the difference between the boat's

maximum displacement and the boat's weight in pounds.

3. By revising the heading and text of § 183.43 to read as follows:

§ 183.43 Persons capacity: Boats rated for manual propulsion and boats rated for motors of two horsepower or less.

The persons capacity marked on a boat that is rated for manual propulsion or for motors of two horsepower or less must not exceed—

(a) For boats rated for manual propulsion, 90 percent of the maximum weight capacity in pounds; and

(b) For boats rated for motors of two horsepower or less, 90 percent of the maximum weight capacity in pounds, less 25 pounds.

(46 U.S.C. 1454; 49 CFR 1.46(n)(1).)

Effective date: This regulation is effective on July 22, 1977.

NOTE.—Affected persons may voluntarily comply with this amendment prior to July 22, 1977.

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 4, 1977.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[FR Doc.77-1183 Filed 1-12-77; 8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-3—PROCUREMENT BY NEGOTIATION

Subpart 3-3.3—Determinations, Findings, and Authorities

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The purpose of these amendments is to allow class determinations for research and development procurements to be in effect for three years instead of one. This period will be consistent with the policy expressed in the revised regulation on noncompetitive procurement concerning "whole project buys."

It is the general policy of the Department to allow time for interested parties to participate in the rule making process. However, the public rule making process is deemed unnecessary in this instance as the amendments concern administrative matters.

1. Subpart 3-3.301(b) is revised to read as follows:

Subpart 3-3.3—Determinations, Findings, and Authorities

§ 3-3.301 General.

(b) Class determinations and findings shall be justified on the basis of need to

avoid processing multiple determinations and findings when more than one contract must be negotiated under the same negotiation authority for the same program or project. The multiple procurements must be for items or services which are to be negotiated at or near the same time and are so related as to constitute a logical and distinct class. All class determinations and findings shall be limited to a period of 1 year or less, except that those determinations and findings required by § 1-3.211 may be authorized for 3 years.

2. Subpart 3-3.305-50(a)(3) is revised to read as follows:

§ 3-3.305-50 Sample formats.

(3) Section 1-3.211 Class of contracts

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DETERMINATION AND FINDINGS

Authority to Negotiate a Class of Contracts under 41 U.S.C. 252(c)(11)

I hereby find that:

(1) The (agency title) proposes to negotiate approximately (number) contracts in support of (identify program or project, and state the anticipated funding level).

(2) The proposed procurements are for (experimental, developmental, or research work, or for the manufacture or furnishing of property for experimentation, development, research or test¹).

(a) (Set forth facts and circumstances which support a judgment that the work to be performed is in fact experimental, developmental or research).

(3) It is impracticable to secure competition by formal advertising for the contracts contemplated because:

(a) (Set forth reasons why the procurements cannot be formally advertised, e.g., only ultimate objectives and general scope of work can be outlined, work cannot be described by definite drawings and specifications, etc.)

I hereby determine that:

On the basis of the above findings, the proposed procurements are for (experimental, developmental, or research work, for the manufacture or furnishing of property for experimentation, development, research, or test¹) and that negotiation of contracts for such (work or property¹) is authorized pursuant to 41 U.S.C. 252(c)(11); provided the required (work or property¹) has been authorized by law.

This class determination shall remain in effect until (state terminal date (limit effective period not to exceed three years)).

Date _____

Signature _____

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date: The provisions of this amendment will be effective Thursday, January 13, 1977.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal

¹ Use applicable word or statement.

requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 7, 1977.

JOHN OTTINA,
Assistant Secretary for
Administration and Management.

[FR Doc.77-1151 Filed 1-12-77; 8:45 am]

PROCUREMENT, NEGOTIATION, TYPES AND METHODS, FORMS AND ADMINISTRATIVE MATTERS

Miscellaneous Amendments to Chapter

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. Subparagraph 3-3.303-52(a)(9) is deleted. Subparagraph 3-3.408(d)(1) is amended to execute organizational title changes. Section 3-4.5400 is amended to raise the dollar limit requiring preprocurement clearances of audiovisual materials and contracts for public affairs services. Subparagraphs 3-16.5001(h)(1)(B) and (2)(B) are amended to clarify the solicitation requirements for technical proposals. Subparagraph 3-16.5001(h)(iii)(C) is amended to revise the Small Business Representation. Subparagraph 3-50.402(a)(3) is amended to reduce the distribution of procurement documents. Paragraph 3-50.603(g) is amended to provide explicit instruction regarding the obligation of funds under the incremental funding concept.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, the amendments herein involve internal administrative procedures. Therefore, the public rule making process is deemed unnecessary in this instance.

(5 U.S.C. 301; 40 U.S.C. 486(c).)

Effective date: These amendments shall be effective January 13, 1977.

NOTE: The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 7, 1977.

JOHN OTTINA,
Assistant Secretary for
Administration and Management.

PART 3-3—PROCUREMENT BY NEGOTIATION

Subpart 3-3.3—Determinations, Findings, and Authorities

§ 3-3.303-52 [Amended]

Subparagraph 3-3.303-52(a) is amended to delete § 3-3.303-52(a)(9) in its entirety.

Subpart 3-3.4—Types of Contracts

§ 3-3.408 [Amended]

Under Paragraph 3-3.408, Letter contract, the listing of organization titles in