

(B) *Utilization test.* In 2007, the plan sponsor of Plan G, after reviewing participants' benefit elections, determines that no participant in the 2 prior plan years (2005 and 2006) elected a 5-year term certain and life annuity with a social security leveling option. During the 2 prior plan years, Plan G has made the 5-year term certain and life annuity with a social security leveling option available to 142 participants who were at least age 55 and who elected an optional form of benefit with an annuity commencement date during that 2-year period. In addition, during 2005-06 plan years, 20 of the 142 participants elected a single-sum distribution and there was no retirement-type subsidy available for a limited period of time. Plan G, in accordance with paragraph (f)(1) of this section, is amended on September 1, 2007, effective as of January 1, 2008, to eliminate all 5-year term certain and life annuities with a social security leveling option for all annuity commencement dates on or after January 1, 2008.

(ii) *Conclusion.* The amendment satisfies the requirements of paragraph (f) of this section. First, the 5-year term certain and life annuity with a social security leveling option is not a core option as defined in paragraph (g)(5) of this section. Second, the plan amendment is not applicable with respect to an optional form of benefit with an annuity commencement date that is earlier than the number of days in the maximum QJSA explanation period after the date the amendment is adopted. Third, the 5-year term certain and life annuity with a social security leveling option has been available to at least 100 participants who are taken into account for purposes of paragraph (f)(4) of this section during the look-back period of 2005 and 2006. Fourth, during that period, no participant elected any optional form that is part of the generalized optional form being eliminated (*i.e.*, the 5-year term and life annuity with a social security leveling option).

\* \* \* \* \*

(j) \* \* \*

(3) *Effective date for rules relating to section 411(a) nonforfeitability provisions.* The rules provided in paragraph (a)(3) of this section are effective June 7, 2004.

(4) *Effective date for rules relating to utilization test.* The rules provided in paragraph (f) of this section are effective for amendments adopted after December 31, 2006.

\* \* \* \* \*

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 41, 48 and 145**

[REG-103829-99]

RIN 1545-AX10

**Excise Taxes; Definition of Highway Vehicle**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Withdrawal of notice of proposed rulemaking.

**SUMMARY:** This document withdraws a proposed regulation relating to the definition of a highway vehicle for purposes of various excise taxes. The withdrawal affects vehicle manufacturers, dealers, and lessors; tire manufacturers; sellers and buyers of certain motor fuels; and operators of heavy highway vehicles.

**FOR FURTHER INFORMATION CONTACT:** Barbara Franklin, (202) 662-3130 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 6, 2002, a notice of proposed rulemaking was published in the **Federal Register** (67 FR 38913). A public hearing was held on February 27, 2003. This notice of proposed rulemaking proposed amending the definition of "highway vehicle" for purposes of the Highway Use Tax Regulations (26 CFR part 41), the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48), and the Temporary Excise Tax Regulations Under the Highway Revenue Act of 1982 (Pub. L. 97-424) (26 CFR part 145).

Sections 851 and 852 of the American Jobs Creation Act of 2004 (Pub. L. 108-357) addressed the issues raised in the proposed regulation. Thus, the proposed regulation is unnecessary.

**List of Subjects**

*26 CFR Part 41*

Excise taxes, Motor Vehicles, Reporting and recordkeeping requirements.

*26 CFR Parts 48 and 145*

Excise taxes, Reporting and recordkeeping requirements.

**Withdrawal of Notice of Proposed Rulemaking**

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG-103829-99) that was published in the **Federal Register** on

June 6, 2002 (67 FR 38913), is withdrawn.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[CGD05-05-020]

RIN 1625-AA08

**Special Local Regulations for Marine Events; Piankatank River, Gloucester County, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; withdrawal.

**SUMMARY:** The Coast Guard is withdrawing its notice of proposed rulemaking concerning the "2005 Piankatank River Race". Pursuant to 33 CFR 100.25, the marine event permit application for a powerboat race to be held on the Piankatank River in Virginia on July 23, 2005 was disapproved.

**DATES:** The notice of proposed rulemaking is withdrawn on August 12, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dennis Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398-6204.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 29, 2005, we published a notice of proposed rulemaking entitled "Special Local Regulations for Marine Events; Piankatank River, Gloucester County, VA" in the **Federal Register** (70 FR 15788). The rulemaking concerned a proposal to establish special local regulations during the "2005 Piankatank River Race", a marine event to be held over the waters of the Piankatank River in Gloucester County, Virginia. Special local regulations are necessary to provide for the safety of life on navigable waters during the event.

**Withdrawal**

We have decided to withdraw this project after safety and environmental review. All comments and documents received in this docket will be available for use in future rulemakings.

This action is taken under the authority of 33 U.S.C. 1233; Department