

- (1) No smoking placards (Special Condition No. 1);
- (2) Emergency illumination (Special Condition No. 5);
- (3) Two-way voice communication (Special Condition No. 6);
- (4) Emergency alarm system (Special Condition No. 7);
- (5) Seat belt fasten signal or return to seat signal as applicable (Special Condition No. 8);
- (6) Emergency firefighting and protective equipment (Special Condition No. 9); and
- (7) Smoke or fire detection system (Special Condition No. 10).

15. The requirements of two-way voice communication with the flight deck and provisions for emergency firefighting and protective equipment are not applicable to lavatories or other

small areas that are not intended to be occupied for extended periods of time.

16. Where a waste disposal receptacle is fitted, it must be equipped with an automatic fire extinguisher that meets the performance requirements of § 25.854(b).

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of § 25.853(a) as amended by Amendment 25–83. Mattresses must comply with the flammability requirements of § 25.853(c), as amended by Amendment 25–83.

18. The addition of a lavatory within the overhead crew rest compartment would require the lavatory to meet the same requirements as those for a lavatory installed on the main deck

except with regard to Special Condition No. 10 for smoke detection.

19. All enclosed stowage compartments within the overhead crew rest compartment that are not limited to stowage of emergency equipment or airplane supplied equipment (*i.e.*, bedding) must meet the design criteria given in the table below. Enclosed stowage compartments greater than 200 ft³ in interior volume are not addressed by this special condition. The in flight accessibility of very large enclosed stowage compartments and the subsequent impact on the crewmembers' ability to effectively reach any part of the compartment with the contents of a hand fire extinguisher will require additional fire protection considerations similar to those required for inaccessible compartments such as Class C cargo compartments.

Fire protection features	Stowage compartment interior volumes		
	Less than 25 ft ³	25 ft ³ to 57 ft ³	57 ft ³ 200 ft ³
Materials of construction ¹	Yes	Yes	Yes.
Detectors ²	No	Yes	Yes.
Liner ³	No	Yes	Yes.
Locating Device ⁴	No	Yes	Yes.

¹ *Material.* The material used to construct each enclosed stowage compartment must at least be fire resistant and must meet the flammability standards established for interior components (*i.e.*, 14 CFR part 25 Appendix F, parts I, IV, and V) per the requirements of § 25.853. For compartments less than 25 ft³ in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

² *Detectors.* Enclosed stowage compartments equal to or exceeding 25 ft³ in interior volume must be provided with a smoke or fire detection system to ensure that a fire can be detected within a one-minute detection time. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

- (a) A visual indication in the flight deck within one minute after the start of a fire,
- (b) An aural warning in the overhead crew rest compartment, and
- (c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

³ *Liner.* If it can be shown that the material used to construct the stowage compartment meets the flammability requirements of a liner for a Class B cargo compartment (*i.e.*, § 25.855 at Amendment 25–93, and Appendix F, part I, paragraph (a)(2)(ii)), then no liner would be required for enclosed stowage compartments equal to or greater than 25 ft³ in interior volume but less than 57 ft³ in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft³ in interior volume but less than or equal to 200 ft³, a liner must be provided that meets the requirements of § 25.855 for a Class B cargo compartment.

⁴ *Location Detector.* Overhead crew rest compartment which contain enclosed stowage compartments exceeding 25 ft³ interior volume and which are located away from one central location such as the entry to the overhead crew rest compartment or a common area within the overhead crew rest compartment would require additional fire protection features and/or devices to assist the firefighter in determining the location of a fire.

Issued in Renton, Washington on October 15, 2002.

Ali Bahrami,

Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.

[FR Doc. 02–27035 Filed 10–22–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. FHWA–2002–11819]

RIN 2125–AE94

Designation of Dromedary Equipped Truck Tractor-Semitrailers as Specialized Equipment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is requesting comments on a proposal to include as specialized equipment, dromedary

equipped truck tractor-semitrailer combination vehicles when hauling munitions for the U.S. Department of Defense (DOD). This proposal is in response to a petition from the U.S. DOD, specifically the Department of the Army (DA) that would help to expedite the movement of munitions for the military, especially in times of national emergency.

DATES: Comments must be received on or before November 22, 2002.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001, or submit electronically at <http://dmses.dot.gov/submit>. All comments

should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgement page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Forjan, Office of Freight Management and Operations (202-366-6817), or Mr. Raymond W. Cuprill, Office of the Chief Counsel (202-366-1377), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: <http://dms.dot.gov/submit>. Acceptable formats include: MSWord (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software, from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's Web page at: <http://www.access.gpo.gov/nara>.

Background

On June 22, 2001, the FHWA received a petition from the U.S. Department of the Army (DA), to amend 23 CFR 658.13 to include as "specialized equipment," dromedary equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives¹ for the U.S. Department of Defense (DOD). A

copy of the petition is included in the docket.

The U.S. DOT regulations require Class 1 explosives, such as ammunition shells, to be transported separately from the fuses or detonators (49 CFR 177.848). The most efficient way for Military Traffic Management Command (MTMC) munitions carriers to comply with this regulation is to use dromedary containers to carry ammunition-fuses, with the ammunition in the semitrailer. A dromedary, also known as a "drom," is a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. With drom equipment, a single shipment of fuses and ammunition requires only one vehicle, but without drom equipment, the same shipment requires two vehicles. Shipping these non-compatible explosives in the same vehicle combination reduces the number of vehicles needed to transport munitions, increases military readiness and reduces the number of vehicles on the road.

Under the Surface Transportation Assistance Act of 1982 (STAA) [49 U.S.C. 31111(b)(1)(B), formerly 49 U.S.C. App. 2311(b)] States may not enforce an overall length limit against truck tractor-semitrailer combination vehicles operating on the National Network² or under reasonable access thereto. The same STAA also defined a truck tractor as a noncargo carrying power unit that operates in combination with a semitrailer or trailer. Drom equipped truck tractors are obviously cargo carrying, and, as a result, any combination vehicle that includes one of these units may be subjected to an overall length limit at the discretion of any State. In implementing the STAA during the mid-1980s, the FHWA chose to "grandfather" existing drom equipped units by allowing any such unit that could show that it was in use on December 1, 1982, to be considered a truck tractor for regulatory purposes. The reason for doing this was to allow an existing fleet of equipment to use up its useful life. By now the presumption must be that the vast majority of the units that would have met the 1982 grandfather requirement, are no longer in service, and those few that might

² As defined in 23 CFR 658, the National Network is the composite of the individual network of highways in each State on which vehicles authorized by the provisions of the STAA are allowed to operate. The network in each State includes the Interstate System, exclusive of those portions excepted under § 658.11(f) or deleted under § 658.11(d), and those portions of the Federal-aid Primary System in existence on June 1, 1991, set out by the FHWA in appendix A to this part.

remain, could not begin to satisfy the demands of the Defense Department for moving munitions. More importantly, the improvements in safety features and fuel efficiency of truck tractors over the last 20 years, pragmatically rule out use of older equipment by any carrier in the business today.

The FHWA received a similar petition³ in 1989 from a group representing munitions carriers. While the petition was under consideration, the military action in the Middle East called Operation Desert Storm began. Because of the extreme urgency of moving munitions destined for U.S. military forces in the Persian Gulf, the FHWA issued an emergency rule (56 FR 4164, February 1, 1991) valid for six months, that declared vehicle combinations consisting of truck tractors equipped with dromedary units not exceeding 65 inches in length pulling semitrailers to be specialized equipment when hauling munitions, thus exempting these vehicles from State enforcement of overall length regulations. After the conclusion of Operation Desert Storm, the emergency rule was allowed to expire in August 1991. Subsequently, the FHWA again focused on the merits of the petition and ultimately denied it. The basic reasoning for denial was that since only one or two States were enforcing overall length limits at the time, the FHWA felt it would be inconsistent with the Executive Order on Federalism (E.O. 12612) in effect at the time to preempt State authority for what was considered a local problem, limited in scope. Although denying the petition, the FHWA recognized that even localized enforcement could interrupt this vital Defense Department activity of moving ammunition to where it could support our troops. Shortly after expiration of the emergency rule, the FHWA, through its field offices, asked States to continue to allow dromedary equipped munitions carriers as they had under the provisions of the emergency rule.

According to the current petition, some of the States that voluntarily refrained from imposing fines (after being approached by the FHWA following the Gulf War) have gone back to imposing fines. In addition, even if the States have enacted remedial legislation, it is not always consistent with neighboring States.

The major point of the 2001 petition is that a Federal standard is the only long-term solution to a growing problem

¹ As defined in 49 CFR 173.50. As noted in 49 CFR 173.53, prior to January 1, 1991, Class 1 explosives were known as Class A, B, or C explosives.

³ December 22, 1989, from the North American Transportation Consultants, Inc. A copy of the petition and FHWA action are included in the docket.

that directly affects the manner and efficiency with which the U.S. DOD carries out its mission with respect to supporting our troops and defending the country. The U.S. DOD indicates that there is a constant need to move munitions in support of smaller contingencies (other than the Gulf War/Desert Storm) such as actions in Iraq, Kosovo, Haiti, and Somalia. Taken individually, these do not generate the high visibility public interest that may result in the issuance of emergency rules.

The solution to this problem, as proposed by the U.S. DOD and included in the proposed rule published today, is to provide a specialized equipment designation for the combination vehicle in question. A truck tractor equipped with a dromedary unit operating in combination with a semitrailer is proposed to be designated "specialized equipment," when transporting Class 1 explosives, and/or any munitions related security material, as specified by the U.S. DOD in compliance with 49 CFR part 177. This designation would require States to allow operation of this combination on the National Network (NN), and provide reasonable access between the NN and service facilities and terminals. In order to accommodate the typical equipment in use today for this type of operation, the proposal includes a requirement that all States allow these combinations up to an overall length of 75 feet.

This designation would apply only to combinations directly used in carrying munitions for the U.S. DOD. When operating empty, the designation would continue to apply if the carrier can document that hauling munitions is the company's business, or that the most recent load consisted of a qualifying munitions load. The designation would not apply if any other cargo were being carried in either the semitrailer or dromedary unit. For those instances, the combination would no longer be considered "specialized equipment," and would become subject to State regulations for drom equipped truck-truck-semtrailers.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination using the docket number appearing at the top of this document in the docket room at the above address. We will file comments received after the comment closing date in the docket and will consider late comments to the extent practicable. We may, however, issue a final rule at any time after the

close of the comment period. In addition to late comments, we will also continue to file, in the docket, relevant information becoming available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

We have determined that this proposed action is a significant regulatory action within the meaning of Executive Order 12866 and the U.S. DOT regulatory policies and procedures. This proposed action comes in response to a request from, and would directly affect activities under the direct control, of the U.S. Department of Defense (DOD): supplying munitions to the military. The proposed action will improve the shipment of munitions by standardizing the regulatory control that States apply to the vehicles typically used for this activity. The anticipated result will be an improvement in the efficiency with which munitions are shipped. This potential improvement will aid the national security effort with respect to the armed forces, as well as activities associated with homeland security.

The proposed rule provides, at the Federal level, a regulatory standard that already exists in many States. Although it would preempt restrictions imposed by about 10 States, it would not affect any State's ability to discharge a traditional State government function, *i.e.*, issuing citations to illegally overlength vehicles.

The vehicles covered by this proposal are already operating in most States, and will not have to be modified in any way to achieve compliance. Accordingly, the anticipated annual economic effect of this rulemaking will be negligible. The proposed action will not have an adverse effect on any other governmental agency, any level of government, the industry, or the public, nor will it change any compliance or reporting requirements that already exist. The agency has decided that a 30-day comment period is needed for this proposal because of the critical need to implement the regulation in a timely manner. On going military actions require a continuous supply of munitions. It is critical that this supply stream is not interrupted.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the FHWA has evaluated the effects of this proposed action on small entities and has determined that the action would

not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive order 13132, dated August 4, 1999, and the FHWA has determined that this proposed action has sufficient federalism implications to warrant the preparation of a Federalism summary impact statement.

The proposal would provide a consistent national regulation applying only to vehicles hauling munitions for the Department of Defense in support of military activities. The proposal is based on the authority provided by 49 U.S.C. 31111(g) that allows the Secretary to make the decisions necessary to accommodate specialized equipment. The FHWA has also determined that, while this proposed action would preempt any inconsistent State law or State regulation, it would not affect the State's ability to discharge traditional State government function. The States would continue to be able to enforce length restrictions against these vehicles. What might change, however, depending on existing State law, would be the threshold at which an enforcement action is taken.

By allowing the vehicle described in this proposal to transport munitions, the total number of trucks needed to perform this task would be reduced. This reduction, in turn, improves the safety climate on the highway system and in a small way slows infrastructure wear. Only a small number of States (less than 10) would be affected by this rule, as most States already allow the combination vehicle covered by this proposed rule. However, due to the needs of the military and the nature of the cargo, it is imperative that all States allow the combination vehicle under discussion to operate. Even if only one or two States can prohibit, or deter this vehicle and its cargo, timely support of the military can be severely impacted.

The FHWA has engaged in consultation with States over this issue in past years. In February 1991, as a result of the activities surrounding the Desert Shield/Desert Storm campaign, the FHWA issued an emergency rule allowing the use of dromedary units to transport munitions (56 FR 4164, February 1, 1991) for many of the same reasons used in support of the current petition. That rule was in effect for 6 months, and was not renewed for various reasons deemed important in responding to the conditions at that time. After the emergency rule expired,

in place of a regulatory solution the FHWA urged all States and in particular those where enforcement actions were taking place to recognize the importance of the situation, and to try and accommodate munitions haulers in some manner. According to the U.S. DOD's petitions, this "persuasion" method appeared to work, at least for a few years into the mid-1990's. As this verbal agreement method of handling the issue began to breakdown, a few States again began to enforce length rules on these combinations, causing interruptions in munitions delivery. While inconvenient, these actions did not become critically disruptive until the current activities aimed at terrorist actions around the world became a national priority.

Recently, the FHWA solicited comment on the Federalism implications of this proposed rule from the National Governors' Association (NGA) as representatives for the State officials. On May 9, 2002, the FHWA sent a letter seeking comment on the Federalism implications of this proposed rule to the NGA⁴. To date, the FHWA has received no response or indication of concerns about the Federalism implications of this rulemaking from the NGA. The FHWA will continue to adhere to Executive Order 13132 when issuing a final rule in this proceeding. Comment is solicited specifically on the Federalism implications of this proposal.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Programs Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the

Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1532). What is being proposed in each issue of this proposed rule would reduce the regulatory requirements that must be complied with. This proposed rule does not add any regulatory requirement that would require any expenditure by any private sector party, or governmental agency.

Executive Order 12988 (Civil Justice Reform)

This proposed action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this proposal under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not economically significant and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The Agency has analyzed this proposal for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposal under Executive Order 13175, dated November 6, 2000, and believes that the proposed action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs in Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this section with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grants Program—transportation, Highways and roads, Motor carrier—size and weight.

Issued on: October 17, 2002.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend 23 CFR part 658 as follows:

PART 658—TRUCK SIZE AND WEIGHT; ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS

1. The authority citation for part 658 continues to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111–31114; 49 CFR 1.48(b).

2. Amend § 658.5 by adding the term "dromedary unit", and amending the definition of "tractor or truck tractor", placing them in alphabetical order, to read as follows:

§ 658.5 Definitions.

* * * * *

Dromedary unit. A box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination.

* * * * *

Tractor or Truck Tractor. The noncargo carrying power unit that operates in combination with a semitrailer or trailer, except that a truck tractor and semitrailer engaged in the transportation of automobiles may

⁴ A copy of this letter is included in the docket.

transport motor vehicles on part of the power unit, and a truck tractor equipped with a dromedary unit operating in combination with a semitrailer hauling munitions for the U.S. Department of Defense may use the dromedary unit to carry a portion of the cargo.

3. Add § 658.13(e)(6) to read as follows:

§ 658.13 Length.

* * * * *

(e) *Specialized equipment*— * * *

(6) *Munitions carriers using dromedary equipment.* A truck tractor equipped with a dromedary unit operating in combination with a semitrailer is considered to be specialized equipment, providing the combination is transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense. No State shall impose an overall length limitation of less than 75 feet on the combination while in operation.

[FR Doc. 02-27040 Filed 10-22-02; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-131478-02]

RIN 1545-BB25

Guidance Under Section 1502; Suspension of Losses on Certain Stock Dispositions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that redetermine the basis of stock of a subsidiary member of a consolidated group immediately prior to certain dispositions and deconsolidations of such stock. In addition, this document contains proposed regulations that suspend certain losses recognized on the disposition of such stock. The regulations apply to corporations filing consolidated returns. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by January 21, 2003. Outlines of topics to be discussed at the public hearing scheduled for January 15, 2003, at 10 a.m. must be received by December 27, 2002.

ADDRESSES: Send submissions to CC:ITA:RU (REG-131478-02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:ITA:RU (REG-131478-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at www.irs.gov/regs. The public hearing will be held in room 6718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Aimee K. Meacham, (202) 622-7530; concerning submissions, the hearing, and/or to be placed on the building access list to attend the hearing, Sonya M. Cruse, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by December 23, 2002. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in these proposed regulations is in § 1.1502-35(c) and § 1.1502-35(f). This information is required by the IRS to verify compliance with section 1502. This information will be used to determine whether the amount of tax has been calculated correctly. The collection of information is required to properly determine the amount permitted to be taken into account as a loss. The respondents are corporations filing consolidated returns. The collection of information is required to obtain a benefit.

Estimated total annual reporting and/or recordkeeping burden: 10,500 hours.

Estimated average annual burden per respondent: 2 hours.

Estimated number of respondents: 5,250.

Estimated annual frequency of responses: on occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 1502 of the Internal Revenue Code (Code) states that—

[t]he Secretary shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the income-tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability.

The legislative history regarding that grant of authority states that “[a]mong the regulations which it is expected that the commissioner will prescribe are [regulations addressing the] extent to which gain or loss shall be recognized upon the sale by a member of the affiliated group of stock issued by any other member of the affiliated group [and] the basis of property * * * acquired, during the period of affiliation, by a member of the affiliated group, including the basis of such property after such period of affiliation.” S. Rep. No. 960, 70th Cong., 1st Sess. 15 (1928).