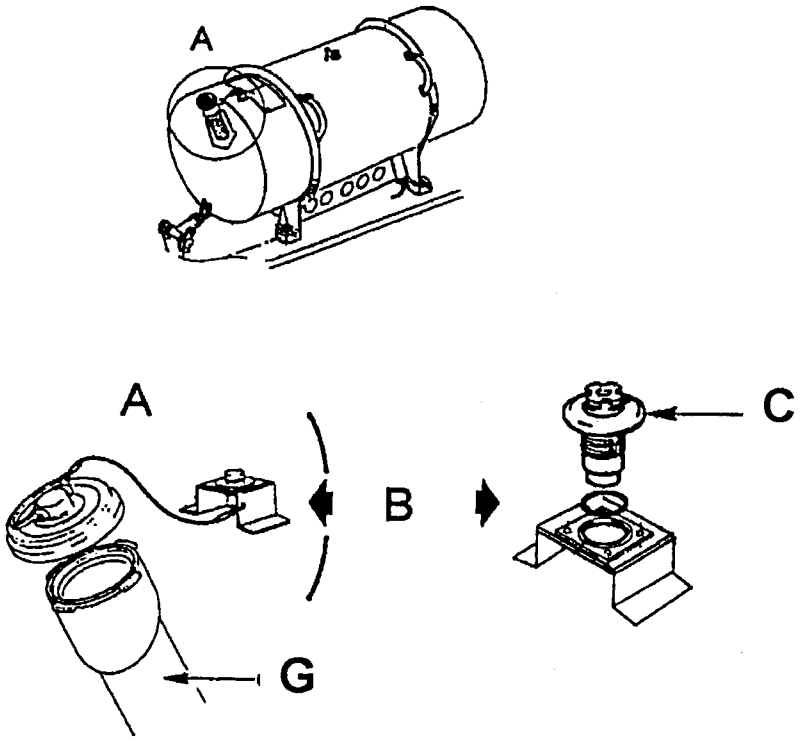

FIGURE 1 FERRY FUEL TANK

Note 2: Eurocopter Telex No. 000112 dated June 6, 2000, pertains to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits will not be issued.

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 2000–302(A), dated July 12, 2000.

Issued in Fort Worth, Texas, on May 8, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–12052 Filed 5–15–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[REG–106457–00]

RIN 1545–AX97

Diesel Fuel; Blended Taxable Fuel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the tax on diesel fuel and the tax on blended taxable fuel. These regulations affect persons that remove, enter, or sell diesel fuel or remove or sell blended taxable fuel.

DATES: Written and electronic comments and requests for a public hearing must be received by August 14, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–106457–00), 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–106457–00), 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.*

FOR FURTHER INFORMATION CONTACT: Concerning submissions, Sonya Cruse, (202) 622–7180; concerning the regulations, Frank Boland, (202) 622–3130 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Definition of Diesel Fuel

Section 4081(a) of the Internal Revenue Code (Code) imposes a tax on certain removals, entries, and sales of taxable fuel. Taxable fuel means gasoline, diesel fuel, and kerosene. Section 4083 defines diesel fuel as any liquid (other than gasoline) that is suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train. Existing regulations follow the Code provisions by providing that (with certain exceptions) diesel fuel is any liquid that, without further processing or blending, is suitable for such use. However, the existing regulations do not define the term *suitable for use.* The proposed regulations add to existing regulations by providing that a liquid is suitable for use as diesel fuel if the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-

powered highway vehicle or diesel-powered train.

Liability for Tax on Sale or Removal of Blended Taxable Fuel

Blended taxable fuel is taxable fuel that is created by mixing a liquid that has not been taxed under section 4081 with previously taxed taxable fuel. Typically, this mixing occurs outside of the bulk transfer/terminal system. Under section 4081(b), tax is imposed on the removal or sale of the mixture (blended taxable fuel) by the blender thereof. Existing regulations provide that the blender is liable for this tax. Generally, the blender is the person that owns the mixture immediately after it is created. If the mixture is not taxable fuel because it is not suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train, tax is imposed only if the mixture is delivered into the fuel supply tank of a diesel-powered highway vehicle or diesel-powered train. See section 4041(a).

The IRS has found that abusive situations exist with regard to the blending of diesel fuel. For example, untaxed liquids are sold as taxed diesel fuel to a retailer and delivered into the retailer's bulk storage tank that contains taxed diesel fuel. Under existing regulations, the retailer would be a blender and liable for tax on its removal or sale of the resulting mixture.

When the Congress enacted the present fuel tax regime, it noted that the Treasury Department is permitted ''to prescribe rules and administrative procedures for determining liability for payment of tax.'' H.R. Conf. Rep. No. 101–964, at 1052 (1990). Thus, the Treasury Department may impose liability on persons other than the blender if that is necessary to prevent abuses and assure that the tax is, in fact, paid to the government.

Under these proposed regulations, a person would be jointly and severally liable for the section 4081(b) tax if the person sells a previously untaxed liquid as a taxed taxable fuel and that liquid becomes a part of a mixture that is blended taxable fuel.

Definition of Refinery

The proposed regulations clarify that the term *refinery* generally includes any facility that produces taxable fuel.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Frank Boland, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 48 is proposed to be amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 48.4081–1 is amended as follows:

1. Paragraph (b) is amended by removing the language ''from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons'' in the first sentence of the definition of *Refinery.*

2. Paragraph (c)(2)(i) is amended by adding a sentence to the end.

The addition reads as follows:

§ 48.4081–1 Taxable fuel; definitions.

* * * * *

(c) * * *

(2) * * * (i) * * * A liquid is suitable for this use if the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle or diesel-powered train.

* * * * *

Par. 3. Section 48.4081–3 is amended by revising paragraphs (g)(2) and (g)(3) to read as follows:

§ 48.4081–3 Taxable fuel; taxable events other than removal at the terminal rack.

* * * * *

(g) * * *

(2) *Liability for tax*—(i) *Liability of the blender.* The blender is liable for the tax imposed under paragraph (g)(1) of this section.

(ii) *Liability of seller of untaxed liquid.* On and after the date of publication of these regulations as final regulations in the **Federal Register**, a person that sells any liquid that is used to produce blended taxable fuel is jointly and severally liable for the tax imposed under paragraph (g)(1) of this section on the removal or sale of that blended taxable fuel if the liquid—

(A) Is described in § 48.4081–1(c)(1)(i)(B) (relating to liquids on which tax has not been imposed under section 4081); and

(B) Is sold by that person as gasoline, diesel fuel, or kerosene that has been taxed under section 4081.

(3) *Examples.* The following examples illustrate the provisions of this paragraph (g) and the definitions of *blended taxable fuel* and *diesel fuel* in § 48.4081–1(c):

Example 1. (i) *Facts.* W is a wholesale distributor of petroleum products and R is a retailer of petroleum products. W sold to R 1,000 gallons of an untaxed liquid (a liquid described in § 48.4081–1(c)(1)(i)(B)) and delivered the liquid into a storage tank (tank) at R's retail facility. However, W's invoice to R stated that the liquid is undyed diesel fuel. At the time of the delivery, the tank contained 4,000 gallons of undyed diesel fuel, a taxable fuel that has been taxed under section 4081. The resulting 5,000 gallon mixture is suitable for use as a fuel in a diesel-powered highway vehicle because it has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. The mixture does not satisfy the dyeing requirements of § 48.4082–1. R sold the mixture from the tank to a construction company for off-highway business use.

(ii) *Analysis*—(A) *Production of blended taxable fuel.* R is a blender within the meaning of § 48.4081–1 because R has produced blended taxable fuel, as defined in

§ 48.4081–1, by mixing 4,000 gallons of diesel fuel that has been taxed under section 4081 with 1,000 gallons of a liquid that has not been taxed under section 4081. The mixing occurred outside of the bulk transfer/terminal system and the resulting product is diesel fuel because it is suitable for use as a fuel in a diesel-powered highway vehicle.

(B) *Imposition of tax.* Under paragraph (g)(1) of this section, tax is imposed on R's sale of the 5,000 gallons of blended taxable fuel to the construction company. Even though the blended taxable fuel is sold for off-highway business use, which is a nontaxable use as defined in section 4082(b), the sale is not exempt from tax because the blended taxable fuel does not satisfy the dyeing requirements of § 48.4082–1. Tax is computed on 1,000 gallons, which is the difference between the number of gallons of blended taxable fuel sold by R (5,000) and the number of gallons of previously taxed taxable fuel used to produce the blended taxable fuel (4,000).

(C) *Liability for tax.* R, as the blender, is liable for this tax under paragraph (g)(2)(i) of this section. W is jointly and severally liable for this tax under paragraph (g)(2)(ii) of this section because the blended taxable fuel was produced using an untaxed liquid that W sold as undyed diesel fuel (that is, as diesel fuel that was taxed under section 4081).

Example 2. (i) *Facts.* W, a wholesale distributor of petroleum products, bought 7,000 gallons of diesel fuel at a terminal rack. The diesel fuel was delivered into a tank trailer. Tax was imposed on the diesel fuel under § 48.4081–2 when the diesel fuel was removed at the rack. W then went to another location where X, the operator of a chemical plant, sold W 1,000 gallons of an untaxed liquid (a liquid described in § 48.4081–1(c)(1)(i)(B)). However, X's invoice to W stated that the liquid is undyed diesel fuel. This liquid was delivered into the tank trailer already containing the 7,000 gallons of diesel fuel. The resulting 8,000 gallon mixture is suitable for use as a fuel in a diesel-powered highway vehicle because it has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. The mixture does not satisfy the dyeing requirements of § 48.4082–1. W sold the mixture to R, a retailer of petroleum products, and delivered the mixture into a storage tank at R's retail facility. R sold the mixture to its customers.

(ii) *Analysis*—(A) *Production of blended taxable fuel.* W is a blender within the meaning of § 48.4081–1 because W produced blended taxable fuel, as defined in § 48.4081–1, by mixing 7,000 gallons of diesel fuel that was taxed under section 4081 with 1,000 gallons of a liquid that was not taxed under section 4081. The mixing occurred outside of the bulk transfer/terminal system and the resulting product is diesel fuel because it is suitable for use as a fuel in a diesel-powered highway vehicle. Thus, R bought blended taxable fuel.

(B) *Imposition of tax.* Under paragraph (g)(1) of this section, tax is imposed on W's sale of the 8,000 gallons of blended taxable fuel to R. Tax is computed on 1,000 gallons, which is the difference between the number of gallons of blended taxable fuel sold by W (8,000) and the number of gallons of previously taxed taxable fuel used to produce the blended taxable fuel (7,000). No tax is imposed on R's subsequent sale of the blended taxable fuel because tax is imposed only with respect to a removal or sale by the blender.

(C) *Liability for tax.* W, as the blender, is liable for this tax under paragraph (g)(2)(i) of this section. X is jointly and severally liable for this tax under paragraph (g)(2)(ii) of this section because the blended taxable fuel sold by W was produced using a previously untaxed liquid X sold to W as undyed diesel fuel, a taxed taxable fuel. R has no liability for tax because R is not a blender and did not sell any untaxed liquid as a taxed taxable fuel. R only sells previously taxed taxable fuel, the blended taxable fuel bought from W.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 02–12308 Filed 5–15–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AI95

Eligibility for Burial of Adult Children; Eligibility for Burial of Minor Children; Eligibility for Burial of Certain Filipino Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: We propose to amend our regulations to provide a list of those individuals who are eligible for burial in a national cemetery. Under the Department of Veterans Affairs (VA) statutory authority to determine which unmarried adult children of eligible persons may be buried in national cemeteries with available space, we propose to limit such burials to the remains of those adult children of any age who became permanently incapable of self-support because of a physical or mental disability incurred before their reaching the age of 21 years. We also propose to specify that the burial of minor children of eligible persons is limited to those under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution. Additionally, this proposed amendment recognizes the eligibility for burial of certain Philippine Commonwealth Army veterans in national cemeteries.

DATES: Comments must be received on or before July 15, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AI95.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Karen Barber, Program Analyst, Communications and Regulatory Division (402B1), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; Telephone: (202) 273–5183 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The provisions of 38 U.S.C. 2402 set forth eligibility requirements for burying the remains of persons in any national cemetery with available space under the jurisdiction of the National Cemetery Administration. We propose to amend 38 CFR 1.620 to state in the regulation a list of those individuals who are eligible for burial in a national cemetery pursuant to VA's statutory authority.

VA has discretion under 38 U.S.C. 2402(5) to determine which unmarried adult children of persons listed in paragraphs (1) through (4) and (7) are eligible to be buried in such cemeteries. The provisions of 38 CFR 1.620(c) currently specify only that an unmarried adult child of an eligible person must have been physically or mentally disabled and incapable of self-support to be eligible for burial. We propose to amend § 1.620 to specify that, to be eligible, an unmarried adult child of any age must have become permanently incapable of self-support because of a physical or mental disability that the child incurred before reaching the age of 21 years. We believe that eligibility for burial of unmarried adult children under 38 U.S.C. 2402(5) should be limited to persons likely to have been continuously dependent on the person upon whom their eligibility is based.

We also propose to amend § 1.620 to clarify that, to be eligible, a minor child of an eligible person must be under 21 years of age, or under 23 years of age if pursuing a full-time course of instruction at an approved educational institution.

Additionally, we propose to amend § 1.620 by adding a new paragraph to recognize the eligibility for burial of certain Philippine Commonwealth