Executive Order 12866

This rule is considered by the Department of Justice to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

Paperwork Reduction Act

This rule requires the revision of several Service forms to ensure that the Service has an accurate address for the alien. The forms being revised are public use forms covered under the Paperwork Reduction Act. Accordingly, these forms will be submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Aliens, Immigration, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

Accordingly, the Department of Justice proposes to amend 8 CFR chapter I as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1229, 1229a, 1252 note, 1252b, 1304, 1305, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166, 8 CFR part 2.

2. Add new paragraph (a)(8) to § 103.2 to read as follows:

§ 103.2 Applications, petitions, and other documents.

(a) * * *

(8) *Acknowledgment of consequences of failure to provide current address information.* (i) Forms published by the Service for use by aliens who are applying for an immigration benefit or work authorization from the Service, as well as Form AR–11 (Alien's Change of Address Card), will contain a mandatory address notification, on the face of the form above the alien's signature, by which the alien acknowledges having received notice that:

(A) He or she is required to provide a valid current address to the Service, including any change of address within 10 days of the change;

(B) The Service will use the most recent address provided by the alien for all purposes, including for purposes of removal proceedings under sections 239 and 240 of the Act should it ever be necessary for the Service to initiate removal proceedings;

(C) If the alien has changed address and failed to provide the new address to the Service, the alien will be held responsible for any communications sent to the most recent address provided by the alien; and

(D) If the alien fails to appear at any scheduled immigration hearing after notice of the hearing was mailed to the most recent address provided by the alien, or as otherwise provided by law, the alien is subject to being ordered removed in absentia.

(ii) An alien who submits an application, petition, appeal, motion, or other document that includes the mandatory address notification in paragraph (a)(8)(i) of this seciton acknowledges that the alien is providing an address to the Service for all purposes, including the service of a Notice to Appear, if such service becomes necessary, under sections 239(a)(1)(F), 239(c), and 240(b)(5) of the Act, and 8 CFR 3.26.

* * * * *

Dated: July 19, 2002.

John Ashcroft,

Attorney General.

[FR Doc. 02–18896 Filed 7–25–02; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 657

[FHWA Docket No. FHWA–97–2219; 93–28]

RIN 2125–AC60

State Certification of Size and Weight Enforcement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Termination of proposed rulemaking.

SUMMARY: This document terminates a rulemaking proceeding to amend the Federal Highway Administration (FHWA) regulation covering State certification of size and weight enforcement of commercial motor vehicles. The agency initiated this action to consider revising the criteria for determining State compliance with existing Federal requirement for an annual certification of State size and weight enforcement. Recently, however, the National Research Council of the Transportation Research Board (TRB) issued a congressionally mandated report that, among other things, recommended revised Federal weight standards and further recommended additional study be undertaken of ways to improve enforcement of truck weight laws. The recommendations of the TRB report provide a basis for a broader review of the Federal and State truck size and weight programs. In light of this situation, we are terminating this rulemaking action and closing the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Davis, Office of Freight Management and Operations (202) 366–2997, or Mr. Raymond Cuprill, Office of the Chief Counsel (202) 366–0791, 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.

Background

Since 1975, States have been required under 23 U.S.C. 141, to certify annually that they are enforcing their laws respecting maximum vehicle size and weight in order to receive their full entitlement of Federal-aid highway funds. Regulatory implementation of section 141 is found at 23 CFR Part 657, Certification of Size and Weight Enforcement. Except for technical corrections necessitated by statutory changes, the current content of part 657 has remained unchanged since

publication in the **Federal Register** on August 7, 1980, at 45 FR 52365.

Since that time the motor carrier industry as well as State enforcement efforts have undergone substantial change. Recognizing these changes, the Federal Highway Administration published an advance notice of proposed rulemaking (ANPRM) [58 FR 65830, December 16, 1993], as the first step in revising and updating the requirements of part 657.

In June 1994, as the FHWA began review and consideration of the comments received, then Federal Highway Administrator Rodney Slater committed the FHWA to a comprehensive review of all aspects of the truck size and weight issue. Since the Agency was now committed to a comprehensive review of truck size and weight issues, it decided to postpone further action on this rulemaking until the comprehensive study could review existing issues. When the study was at the point where it was clear that it would not contain any recommendations in the area of enforcement certification, the Agency resumed work on this effort.

On September 28, 2000, at 65 FR 58233, the FHWA issued a supplemental advance notice of proposed rulemaking (SANPRM), asking for comments on a number of issues affecting the way in which State size and weight enforcement programs are certified. Most of the issues raised were the same as those discussed in the 1993 ANPRM. The objective was to update information on State programs, provide an opportunity for respondents to the SANPRM to review the validity of the earlier comments, and give interested parties the opportunity to present new ideas, concepts, and information that they believe the FHWA should consider in revising the certification process. The SANPRM posed 11 questions on various topics dealing with State certification of size and weight program activities, including: Possible data system needs; standardization of practices concerning scale tolerances, fees, fines, and staff training; application of technologies; and specific treatment of special vehicle types.

Just as the FHWA was to issue an NPRM, the National Research Council of the Transportation Research Board (TRB) provided to Congress its Special Report 267, ''Regulation of Weights, Lengths, and Widths of Commercial Motor Vehicles.'' [1] This report describes a number of potential actions that public and private sector officials may wish to consider. These include ''organizational arrangements'' that would promote the reforming of Federal size and weight regulations affecting commercial motor vehicles, as well as regulatory and managerial changes intended to both improve the efficiency of truck transportation and reduce the public cost of truck traffic.

Discussion of Comments to the SANPRM

Thirty-four interested parties submitted written comments to the SANPRM: a bi-partisan delegation from the U.S. Congress; 12 State departments of transportation; 6 State enforcement agencies; 2 county sheriff's departments; 1 State law enforcement association; 1 county commissioner; one city council; 3 highway safety advocacy groups [includes the Commercial Vehicle Safety Alliance (CVSA)]; 3 representatives of national and State automobile organizations; 2 representatives of national and State trucking organizations; an interstate truck driver; and 1 trucking equipment manufacturer association.

There was a distinct divergence of positions among the respondents on almost all issues, with the exception being the almost universal consensus that size and weight enforcement is indeed an integral part of commercial vehicle safety programs, in addition to its traditional infrastructure preservation focus, and should be formally recognized and supported as such. As the American Automobile Association (AAA) noted in its response, public safety, as well as infrastructure preservation, must be considered in the regulation of commercial vehicle size and weight. Some respondents supported more aggressive State size and weight enforcement, standardization of enforcement requirements among the States, improved tracking of permit operations and expanded application of data systems to determine wear and tear associated with legal and illegal overweight vehicle operations, elimination of multi-trip permits, greater fines, and greater application of resources to enforcement efforts. Others were somewhat less demanding of change. They suggested one of two choices based on their experience: either the current certification and enforcement process is generally effective in monitoring overweight operations and therefore needs minimal or no alteration, or that it could be improved by increased Federal funding of State operations and greater Federal assistance in providing ''best practices'' to State and local enforcement officials. The specifics of these opinions are detailed below.

General Comments by Respondents

In addition to addressing the 11 questions posed in the SANPRM, respondents also submitted general comments about the current practices and needs of State size and weight enforcement programs. A significant concern, expressed by a number of respondents, is the result of an unintended consequence of Federal laws on truck size and weight. According to respondents, the fact that Federal weight law applies only on Interstate highways,[2] with Federal size laws applying on the National Network (NN),[3] has resulted in an unintended diversion of overweight violators onto non-Interstate and often non-NN State and local highways. These alternative roadways are inherently less safe, are made more so by the violators' passage, and are more vulnerable to structural damage than the major systems being avoided. Greater Federal support of mobile enforcement efforts, including State use of mobile scales and electronic weighing, was therefore advocated to reduce by-pass efforts by overweight operators.

The current FHWA certification program was directly criticized by both members of a bipartisan U.S. House of Representatives group opposed to truck size and weight increases, and by the Advocates for Highway and Auto Safety (AHAS). The congressional group expressed concern about inadequate Federal oversight of State programs. The congressional delegation called for ''new and effective systems for ensuring that State permitting practices are not used as a means of circumventing Federal standards' and thereby permit ''back door'' increases in vehicle weight. The AHAS criticized the rulemaking effort itself as a ''dilatory treatment'' of present day commercial vehicle safety

[1] Transportation Research Board, ''Regulation of Weights, Lengths, and Widths of Commercial Motor Vehicles,'' June 2002, National Research Council, Special Report 267. Available online at *http://www.nationalacademies.org/trb/onlinepubs.nsf.*

[2] Interstate highways are defined in 23 U.S.C. 103, as a series of highways designed to connect America's ''principal metropolitan areas, cities and industrial centers'' and ''serve the national defense.''

[3] The National Network is defined under 23 CFR Part 658, ''Truck Size and Weight, Route Designations ''Length, Width and Weight Limitations,'' as the composite of the individual network of highways from each State on which vehicles authorized by the provisions of the Surface Transportation Assistance Act of 1982 are allowed to operate. The network in each State includes the Interstate System, exclusive of those portions excepted under Section 658.11(f) or deleted under Section 653.11(d), and those portions of the Federal-aid Primary System in existence on June 1, 1991, as set out by the FHWA in Appendix A of Part 658.

issues, calling it another delay in response to repeated congressional calls for reliable information about the effects of commercial vehicles on road safety and infrastructure.

Other respondents posed differing comments, typically addressing general policy concerns, as the following: (1) The overall need to strengthen certification requirements; (2) the appropriateness of current road tax structures, calling overweight vehicles' failure to pay their fair share for the damage they do ''fundamentally unfair'; (3) the need for Federal funds to support ''best practices,'' new technologies, and new data systems for State usage in monitoring overweight vehicle operations; (4) the need for flexibility in enforcement plans, in order to help States develop workable strategies that best meet individual State's needs; (5) the necessity of weighing all vehicles, including those vehicles now using technologies that allow by-passing of way stations; and (6) perhaps conversely, the need for procedures that help identify and capture the true violator without requiring that every commercial vehicle be stopped and weighed.

In June 2002, the TRB provided to Congress its mandated report on commercial vehicle truck size and weight, ''Special Report 267, Regulation of Weights, Lengths, and Widths of Commercial Motor Vehicles.'' In it, the TRB called on the Congress to create an independent public organization to lead a broad-ranging program of research and assessment of current truck size and weight regulation; facilitate and support extensive evaluations of changes effected through State-conducted, federally supervised pilot programs and permit initiatives; and recommend regulatory changes to the Secretary of Transportation. The FHWA believes that the significant scope of the program changes proposed in the report and their possible ramifications overshadows the need for publication of the NPRM at this time. The FHWA may address the issue of revising truck size and weight enforcement regulations at a later date once the TRB report has been reviewed and acted upon.

Conclusion

For the reasons stated above, the FHWA is terminating this rulemaking and closing the docket.

Authority: Sec. 123, Pub. L. 95–599, 92 Stat. 2689; 23 U.S.C. 127, 141, and 315; 49 U.S.C. 31111–31114; sec. 1023, Pub. L. 102–240, l05 Stat. 1914; and 49 CFR 1.48 (b) (19), (b) (23), (c) (1), and (c) (19).

Issued on: July 22, 2002.

Mary E. Peters,

Federal Highway Administrator.

[FR Doc. 02–18907 Filed 7–25–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–106876–00]

RIN 1545–AY24

Revision of Income Tax Regulations Under Sections 897, 1445, and 6109 To Require Use of Taxpayer Identifying Numbers on Submissions Under the Section 897 and 1445 Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations to require the use of taxpayer identifying numbers on submissions under sections 897 and 1445. The proposed regulations are necessary to properly identify foreign taxpayers for which submissions are made for the reduction or elimination of tax under sections 897 and 1445. The proposed regulations also address miscellaneous items, such as the amendment to section 1445(e)(3) under the Small Business Job Protection Act of 1996. This document also provides notice of a public hearing on these proposed regulations.

DATES: Electronic or written comments and requests to speak (with outlines of oral comments) at the public hearing scheduled for November 13, 2002, must be submitted by October 23, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–106876–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–106876–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically 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, Robert W. Lorence, (202) 622–3860; concerning submissions, the hearing, and/or to be placed on the building access list to attend the hearing, Treena Garrett, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have 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 collections 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 collections of information should be received by September 24, 2002.

The collections of information in this proposed regulation are in §§ 1.1445–2(d)(2) and 1.1445–3. The collections of information relate to the requirement that notices of nonrecognition or applications for withholding certificates be filed with the IRS with respect to (1) dispositions of U.S. real property interests that have been used by foreign persons as a principal residence within the prior 5 years and excluded from gross income under section 121 and (2) dispositions of U.S. real property interests by foreign persons in deferred like kind exchanges that qualify for nonrecognition under section 1031. This collection of information is necessary for the proper performance of the functions of the IRS because it notifies the IRS of dispositions of U.S. real property interests by foreign persons that otherwise are subject to taxation under section 897 and the collection of a withholding tax under section 1445 except as provided in these provisions. The likely respondents will be individuals and business or other for-profit institutions.

Estimated total annual reporting burden: 600 hours.

The estimated annual burden per respondent varies from 3 hours to 5 hours, depending on individual circumstances, with an estimated average of 4 hours.

Estimated number of respondents: 150.

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