

regulations and are therefore preempted under the "dual compliance" standard at § 5125(a)(1). In addition, the applicability of the NC fee, inspection and labeling requirements exclusively to propane, or even to other hazardous materials, runs contrary to section 5125(b), which reserves "the designation, description, and classification of hazardous materials" to US DOT. By singling out propane for special or exclusive treatment, NC has impinged on the jurisdiction of the US DOT, reserved to it by Congress.

Labeling

NC uses permits to meet its goal of vehicle registration and the display of a numbered permit "on exterior of vehicle" as evidence of compliance. (Exhibit #4). Information provided by NC Fire Marshall directs vehicle owners to display the registration permit number on the windshield of vehicles. While this is merely a consequence of the registration requirement for which preemption is sought, it is a separate labeling requirement of a hazardous material and should be preempted, per se, as a covered subject under section 5125 and 49 CFR 107.202(a)(2).

Section 6.8 (A) Through (L)

Section 6.8(A) requires a certificate of fitness issued by the NC Fire Marshall be secured by "[a]ny person filling containers at a location where Liquefied Petroleum Gas is sold and/or transferred from one vessel into another." [Emphasis added]. After application (§ 6.8(B)), proof of qualifications (§ 6.8(C)), investigation and examination (§ 6.8(D)), etc., § 6.8(I) "Certificate of Fitness Issued" requires said certificate "of any person performing the following activities: 2. [s]elling Liquefied Petroleum Gas or Transferring Liquefied Petroleum Gas from one vessel to another." Section 6.8(K), 1 through 6 specifies the contents of the certificate of fitness and section (L) the requirement of the holder to display or produce same upon request "to anyone for whom he seeks to render his services or to the Fire Marshall."

By custom and practice no driver of a vehicle used to deliver propane is exempt from these requirements, since he necessarily engages in "transferring Liquefied Petroleum Gas from one vessel to another." The two activities are inextricably linked. Under the NC ordinance, drivers of propane vehicles without certificates of fitness would be barred from delivering propane, since section 6.0 (C) states "[t]he provisions of this Article shall apply to all uses of Liquefied Petroleum Gas and installation of all apparatus, piping, and equipment pertinent to systems for such uses." [Emphasis added]. (See exhibit #1)). Even more compelling, NC's "Application for Certificate of Fitness," (exhibit #7) specifying categories of licenses including, among others, "Flammable Gas Bulk Transport (1)" and "Flammable/Compressed Gas Transport/Handling (3)," clearly demonstrates the intent and purpose of the ordinance to license hazardous materials transport drivers delivering to points within NC no matter where domiciled.

Certificate of Fitness

This requirement of the ordinance has several discreet steps the applicants must take in order to secure certification. The application (exhibit #7), the NC letter to Certificate of Fitness holders (exhibit #8) and the Information for Liquefied Petroleum Gas Certificate of Fitness instructions (exhibit #9) clearly represent a protocol designed to regulate the qualifications of hazardous material transportation drivers: applicant must, "be employed by company with valid permits, (i.e., meet the requirements of section 6.7); must possess valid medical certification; must file a complete notarized application; must pass written examination by N.C.F.D.; must pass practical examination by N.C.F.D." Further, "[a]ll applications must be accompanied by: two (2) color (Passport Type) photos of applicant; one-hundred and fifty dollars (\$150) check, etc.," and all tests are by appointment only. Recent telephonic communications from NC to applicants instruct that photographs must now be taken at NC offices and only by appointment. (Exhibit #5) Any driver entering or delivering propane within NC, no matter where domiciled, needs such certification, as do, presumably, domiciled drivers, though section 6.8, unlike section 6.7, makes no distinction.

The HMTA and its regulations require that hazardous materials transportation employees receive training, and allow that "a State may impose more stringent training requirements only if those requirements—(a) [d]o not conflict with the training requirements in this subpart and in 177 of this subchapter; and (b) [a]pply only to drivers domiciled in that state." (49 CFR 172.701). NC is a political subdivision of New York State and has no jurisdiction over licensing requirements, and even state jurisdiction over such requirements applies only to domiciled drivers, and only if those requirements are imposed under New York State Department of Motor Vehicle law.

The NC ordinance certification requirement is preempted since it cannot meet the "dual compliance" and "obstacle" standards because "[t]o the extent the HMRs recognize the CDL with its hazardous materials and/or cargo tank endorsements as 'certification' of federal training requirements, a driver cannot comply with the requirement that 'no person who operates a commercial motor vehicle * * * have more than one drivers license'" (See FR/Vol. 58, No. 95 / Wednesday, May 19, 1993). Since persons engaged in the transportation and off-loading of propane within the County of Nassau are required to demonstrate evidence of certification to the Fire Marshall, the requirement is duplicative of the CDL.

The **Federal Register** of May 19, 1993 makes it clear that proliferation of such training and licensing requirements by other jurisdictions (states) would make it "burdensome for non-domiciled drivers who must preregister for tests at specified times and locations * * *". By parity of reasoning, counties or other political subdivisions would cause "obstacles" to transportation that are at least as great, if not greater.

For the foregoing reasons, petitioner seeks preemption of those portions of the Nassau

County Fire Prevention ordinance as described.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[EE-175-86]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, EE-175-86 (TD 8357), Certain Cash or Deferred Arrangements and Employee and Matching Contributions Under Employee Plans (§§ 1.401(k)-1, 1.401(m)-1, and 54.4979-1).

DATES: Written comments should be received on or before August 11, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Cash or Deferred Arrangements and Employee and Matching Contributions Under Employee Plans.

OMB Number: 1545-1069.

Regulation Project Number: EE-175-86.

Abstract: This regulation provides the public with the guidance needed to

comply with sections 401(k), 401(m), and 4979 of the Internal Revenue Code. The regulation affects sponsors of plans that contain cash or deferred arrangements or employee or matching contributions, and employees who are entitled to make elections under these plans.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

Estimated Number of Respondents: 355,500.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 1,060,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. 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.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97-15157 Filed 6-9-97; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI-255-82]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking and temporary regulations, FI-255-82 (TD 7852), Registration Requirements With Respect to Debt Obligations (§ 1.149-1(c)(4)).

DATES: Written comments should be received on or before August 11, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Registration Requirements With Respect to Debt. Obligations.

OMB Number: 1545-0945.

Regulation Project Number: FI-255-82.

Abstract: These regulations require an issuer of a registration-required obligation and any person holding the obligation as a nominee or custodian on behalf of another to maintain ownership records in a manner which will permit examination by the Internal Revenue Service in connection with enforcement of the Internal Revenue laws.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations and, state, local or tribal governments.

Estimated Number of Recordkeepers: 50,000.

Estimated Time Per Recordkeeper: 1 hour.

Estimated Total Annual Burden Hours: 50,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

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.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97-34

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and