

them as "specialized equipment" under 23 CFR 658 would not be in conflict with existing State laws."

The TSMT suggested that the most efficient way to transport non-compatible explosives to the end user (troops in the field) is through the use of dromedary equipment. It stated that the use of the dromedary equipment requires only one vehicle to transport the non-compatible explosives. Therefore, using a vehicle equipped with a dromedary box reduces the number of vehicles (tractor/trailers) on the nation's highways. The TSMT also indicated that it is a proponent of security, safety, and compliance and views this revision as a way to enhance its operation in these areas.

Landstar System Carrier Group, one of the Nation's largest truckload carriers and one of the principal motor carriers involved with the Department of Defense movements agreed with the proposed changes. Landstar cited delays in the acquisition of permits and inspections of its vehicles at the roadside, while moving critical arms, ammunition and explosives in support of our Nation's fighting forces. It indicated that including, as "specialized equipment," dromedary-equipped truck-tractor-semitrailer combination vehicles when transporting Class 1 explosives for the DOD is, in its opinion, the proper decision.

Extreme Transportation Inc. and Baggett Transportation Company both fully support designating dromedary equipped truck tractors for munitions carriage by DOD carriers as "specialized equipment." Furthermore, both carriers support the notion that the 75 feet length restriction should apply to all dromedary equipped vehicles. The U.S. Department of the Army's (DA) June 22, 2001, petition to the FHWA was very specific. The DA asked to include as "specialized equipment" dromedary-equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives for the DOD. The designation of all dromedary-equipped truck tractor-semitrailers as "specialized equipment" was not included in the DA petition and is outside the scope of this rulemaking.

The ATA commended the FHWA for its comprehensive discourse and framing of the dromedary subject. Furthermore, the ATA indicated that it strongly supports the proposed change, as set forth in the NPRM. However, the ATA did suggest one modification which reads as follows: "The designation would not apply if any other cargo were being carried in either the semitrailer or dromedary unit." The ATA explained that the DOD ships

many items which DOD (or other Federal agencies) deems to be sensitive, but which are not strictly an Arms, Ammunition and Explosives (AA&E) item or, as stated in the language of the NPRM, "\* \* \* and/or any munitions related security material, as specified by DOD in compliance with 49 CFR 177.835." Therefore, the ATA requested that the final rule also specify as excludable "freight deemed sensitive by the United States Government." This would be in keeping with long-standing practices used by both carriers and their DOD customers, and would clarify the definition of permissible cargo shipped via subject vehicles.

The ATA argued that, without this expanded designation, if a dromedary-equipped truck were to include an item containing sensitive technology (such as a computer) on that same vehicle, and the item were not specifically associated with AA&E cargo, the new vehicle designation of "specialized equipment" would not apply, and the benefits noted above would be forfeited. The ATA expressed concern that this situation did not make sense because the computer with sensitive technology and the AA&E item both require DOD-specified protective services, and it would be necessary to order an additional motor carrier service to ship the security sensitive computer. Specifying, "freight deemed sensitive by the United States Government" would protect these shipments from localized arbitrary enforcement activities.

The ATA may be correct in assuming that the expanded designation of the allowable cargo, "freight deemed sensitive by the United States Government" may help accomplish DOD's overarching transportation capacity goals. However, the DOD's petition was quite specific and narrow in scope in requesting that dromedary equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense be defined as "specialized equipment." Unfortunately, the issue of "freight deemed sensitive by the United States Government" was not addressed in the NPRM and we believe it to be outside the scope of this rulemaking. In addition, the term, "freight deemed sensitive by the United States Government" is too broad in scope, would be too difficult to define, and would impose complicated requirements. For these reasons, we have decided not to expand the definition of allowable cargo to include "freight deemed sensitive by the U.S. government." We believe that the

language proposed in the NPRM is sufficient to aid the DOD in the shipment of munitions cargo.

The MTMC submitted to the docket all the historical information relating to this subject matter, as explained briefly in the Background section. The FHWA believes that by including dromedary-equipped truck tractor-semitrailer combination vehicles carrying military munitions, as "specialized equipment" it will help the DOD, specifically the Department of the Army (DA), expedite the movement of munitions for the military, especially in times of national emergency.

### Conclusion

All eight commenters are in favor of amending the FHWA regulation on truck size and weight to include within the definition of "specialized equipment" dromedary equipped truck tractor-semitrailer combination vehicles, when transporting Class 1 explosives and/or any munitions related security material as specified by the U.S. Department of Defense (DOD) in compliance with 49 CFR 177.835. There were several requests to allow all dromedary equipped truck tractor-semitrailer combinations up to an overall length of 75 feet to transport general freight. Several commenters requested that the FHWA limit the length of the semitrailer to 53 feet and remove the overall length requirement of 75 feet. We believe these recommendations to be outside the scope of this rulemaking. Therefore, with the exception of one additional phrase, this final rule will contain the same regulatory language provided in a notice of proposed rulemaking (NPRM) published on October 23, 2002 (67 FR 65056). The phrase "in compliance with 49 CFR 177.835" will appear following "as specified by the U.S. Department of Defense" in part 658.5 Definitions and part 658.13 Length in this final rule. This additional statement makes clear that anything related to the munitions that are required to be segregated from those munitions in compliance with 49 CFR 177.835 will receive the benefit of the "specialized equipment" designation.

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

We have determined that this final rule is a significant regulatory action within the meaning of Executive Order 12866 and the U.S. DOT regulatory policies and procedures. This action comes in response to a request from, and will directly affect activities under the direct control, of the U.S.