on Tuesday, February 8, 2000 (65 FR 6001), relating to amendments to the regulations governing certain notices and consents required in connection with distributions from retirement plans.

DATES: This correction is effective February 8, 2000.

FOR FURTHER INFORMATION CONTACT: Catherine Livingston Fernandez at (202) 622–6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under sections 402(f), 411(a)(11) and 3405(e)(10)(B) of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 8873) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8873), which were the subject of FR Doc. 00–1897, is corrected as follows:

1. On page 6004, column 2, line 24 from the top of the column, the language ''I.R.B.) provides that, pending'' is corrected to read ''I.R.B. 413) provides that, pending''.

§ 35.3405–1 [Corrected]

2. On page 6008, column 1, § 35.3405–1 d–35, lines 4 and 5 of A, the language, ''and the annual notice described in d–31) to a payee either on a written paper'' is corrected to read ''of § 35.3405–1T and the annual notice described in d–31 of § 35.3405–1T) to a payee either on a written paper''.

3. On page 6008, column 2, § 35.3405–1 d–36 A., the first line of *Example 5*, the language, ''*Example 5.* (I) Same facts as *Example 1*,'' is corrected to read ''*Example 5.* (i) Same facts as *Example 1*,''.

4. On page 6008, column 2, § 35.3405–1 d–36A., the first line of *Example 5* (ii), the language, ''(ii) In this *Example 5*, Plan A does not'' is corrected to read ''(ii) In this *Example 5*, the plan administrator does not''.

§ 602.101 [Corrected]

5. On page 6008, column 3, instructional Par. 7. and the table in § 602.101(b) are corrected to read as follows:

Par. 7. In § 602.101, paragraph (b) is amended by revising the entries for 1.402(f)–1 and 1.411(a)–11 in the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * *	* *
1.402(f)–1	1545–1341 1545–1632
* * *	* *
1.411(a)–11	1545–1471 1545–1632
* * *	* *

Dale D. Goode,

Federal Register Liaison, Assistant Chief Counsel (Corporate).

[FR Doc. 00–5243 Filed 3–30–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 40, 41, 47, 48, 145, and 602

[TD 8879]

RIN 1545–AV71; RIN 1545–AT18

Kerosene Tax; Aviation Fuel Tax; Taxable Fuel Measurement and Reporting; Tax on Heavy Trucks and Trailers; Highway Vehicle Use Tax

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; conforming amendments to temporary regulations; and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the kerosene and aviation fuel excise taxes, the tax on the use of certain highway vehicles, and the tax on the first retail sale of certain tractors and truck, trailer, and semitrailer chassis and bodies (highway vehicles). The regulations relating to kerosene affect the tax liability of certain refiners, terminal operators, and persons that sell, buy, or use kerosene. The regulations relating to aviation fuel affect certain producers and retailers of aviation fuel. The regulations relating to the taxes on highway vehicles affect vehicle manufacturers, dealers, and owners.

DATES: *Effective Dates:* These regulations are effective March 31, 2000.

Applicability Dates: For dates of applicability of these regulations, see §§ 48.4052–1(c), 48.4081–1(f), 48.4081–2(f), 48.4081–3(j), 48.4082–2(c), 48.4082–4(d), 48.4082–5(h), 48.4082–6(f), 48.4082–7(f), 48.4101–1(l), 48.4101–2(b), 48.6427–8(f), 48.6427–9(g), 48.6427–10(h), and 48.6427–11(g).

FOR FURTHER INFORMATION CONTACT: Frank Boland (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information in these final regulations have been reviewed in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1418.

The collections of information in these regulations are in §§ 48.4052–1, 48.4081–2, 48.4081–3, 48.4081–7, 48.4082–2, 48.4082–6, 48.4082–7, 48.4091–3, 48.4101–1, 48.4101–2, 48.6427–8, 48.6427–9, 48.6427–10, and 48.6427–11. This information is required to support exempt transactions, claims for credits and refunds, and to inform consumers of the type of fuel that is being purchased. The likely respondents are businesses and other for-profit organizations.

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, OP:FS:FP, Washington, DC 20224. Comments on the collections of information should be received by May 30, 2000. Comments are specifically requested concerning:

Whether the collections of information are necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the collections 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 collections 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 service to provide information.

Estimated total annual reporting and/or recordkeeping burden: 97,583 hours.

The estimated annual burden per respondent is 17 minutes.

Estimated number of respondents: 346,080.

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 the collection of information 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 4081 imposes a tax on certain removals, entries, and sales of taxable fuel. Before July 1, 1998, taxable fuel meant gasoline and diesel fuel. As of that date, however, the definition of taxable fuel was expanded by the Taxpayer Relief Act of 1997 (Public Law 105–34, 111 Stat. 788 (the 1997 Act)) to include kerosene.

Temporary regulations (TD 8774) relating to this change were published in the **Federal Register** on July 1, 1998 (63 FR 35799) along with a notice of proposed rulemaking (REG–119227–97) cross-referencing the temporary regulations (63 FR 35893). Written comments responding to these proposed regulations were received and a public hearing was held on November 4, 1998.

Proposed regulations (REG–209753–95; PS–6–95)) were published in the **Federal Register** (61 FR 10490) on March 14, 1996, relating to, among other things, the measurement of taxable fuel. Written comments responding to these proposed regulations were received and a public hearing was held on June 20, 1996.

After consideration of written comments and comments made at the public hearings, the proposed regulations are adopted as revised by this Treasury decision. Comments and revisions are discussed below. Also, a partial withdrawal of the March 14, 1996, proposed regulations is published in the Proposed Rules section of this issue of the **Federal Register**.

Explanation of Provisions

Definition of Kerosene. The temporary regulations define kerosene as the two grades of kerosene (No. 1–K and No. 2–K) described in ASTM specification D 3699 and certain kerosene-type jet fuel. This ASTM specification describes kerosene in terms of several properties including distillation range, sulfur content, and color. For example, No. 1–K kerosene has a sulfur content not greater than 400 parts per million.

Several commentators noted, however, that there are many liquids that are never commercially known or sold as kerosene but that nevertheless might meet the broad specifications of ASTM specification D 3699. These liquids, which are used in the production of products such as paints and coatings, usually cost more to produce than kerosene that is sold for fuel uses. Because of these differences, the commentators concluded that it is highly unlikely that these liquids would be diverted for use in highway vehicles. Thus, the commentators suggested that these liquids should not be treated as kerosene.

The final regulations adopt the suggestion of the commentators by excluding liquids with certain described properties from the definition of kerosene.

Exemption for Aviation-grade Kerosene. The 1997 Act provides that undyed aviation-grade kerosene may be removed from a terminal tax free if the kerosene is received by a person that is registered for purposes of the aviation fuel tax imposed by section 4091. As a transitional rule, the temporary regulations provide that tax does not apply to a removal of aviation-grade kerosene that will be used as a fuel in an aircraft, even if the person receiving the kerosene is not registered.

The IRS Restructuring and Reform Act of 1998 (Public Law 105–206, 112 Stat. 685 (the 1998 Act)), which was enacted after publication of the temporary regulations, revised the exemption for aviation-grade kerosene. Under the 1998 Act, tax is not imposed on aviation-grade kerosene that the Secretary determines is destined for use as a fuel in an aircraft.

Under the final regulations, existing rules relating to tax-free transactions within the bulk transfer/terminal system will continue to apply to aviation-grade kerosene even if the kerosene will be used as a fuel in an aircraft. Thus, a sale of aviation-grade kerosene within a pipeline to an airline for aircraft use may be made tax free only if the airline is a taxable fuel registrant. In this regard, the final regulations also reflect Announcement 99–40 (1999–16 I.R.B. 10), which provides a transitional registration rule for certain throughputters and kerosene terminal operators.

Removals and entries of undyed aviation-grade kerosene may be made tax free under the final regulations if (1) the person otherwise liable for tax (such as the position holder) delivers the kerosene into the fuel supply tank of its own aircraft or (2) the kerosene is sold and the buyer certifies to the person otherwise liable for tax that the kerosene will be used by the buyer as a fuel in an aircraft or resold for such use. Any later sale of the aviation-grade kerosene will be subject to tax unless the subsequent seller receives a similar certificate from its buyer or delivers the kerosene into the fuel supply tank of the buyer's aircraft. In addition, the IRS may withdraw the right of a buyer to provide a certificate in the future if the buyer uses the aviation-grade kerosene other than as a fuel in an aircraft.

A commentator noted that airlines often use a small percentage of their purchases of aviation-grade kerosene as a fuel in airport ground equipment, thus making it impossible for them to certify that all of this fuel will be for aircraft use. The commentator suggested that a buyer should be allowed to certify that only a percentage of its purchases will be used as a fuel in an aircraft. The final regulations adopt this suggestion. Thus, if an airline certifies to a position holder that 99 percent of all of its purchases of aviation-grade kerosene from a certain terminal will be for use as a fuel in an aircraft, then the position holder will be liable for the section 4081 tax on one percent of all its sales to the airline at that terminal.

A commentator suggested that tax should not be imposed on the nonbulk removal of aviation-grade kerosene from an approved terminal if the kerosene is received at another approved terminal or is sold for use in an aircraft outside the United States. Under the final regulations, both removals may be made tax free if the proper certification regarding aircraft use is given by the buyer or the person otherwise liable for tax delivers the aviation-grade kerosene into the fuel supply tank of its own aircraft.

A commentator noted that aviation-grade kerosene is aviation fuel and thus is subject to tax under section 4091 when it is sold by its producer. Section 4092 exempts a sale from the aviation fuel tax if the buyer is a registered producer or certifies that it will use the fuel in a nontaxable use such as use other than as a fuel in an aircraft.

The commentator suggested that if the section 4081 tax is imposed on the removal of any aviation-grade kerosene because the buyer of the kerosene does not certify that it will be used in an aircraft, then an exemption from the section 4091 tax automatically should apply regardless of the status of the buyer. Thus, for example, if the section 4081 tax is imposed on a removal of aviation-grade kerosene at the terminal

rack, the section 4091 tax should not be imposed on any subsequent sale to an unregistered person that buys the kerosene for resale for nonaircraft use, such as in highway vehicles or as heating oil. The commentator contends that this suggestion would ease compliance and administrative burdens by eliminating the need to certify for section 4091 purposes.

The final regulations do not adopt this suggestion because section 4092 allows tax-free sales of aviation fuel only to registered producers and persons buying for their own nontaxable use. This suggestion, in contrast, would allow tax-free sales to resellers that are not producers. The IRS has published guidance regarding the aviation fuel tax imposed by section 4091 in Notice 88–30 (1988–1 C.B. 497), Notice 88-132 (1988–2 C.B. 552), and Notice 89–38 (1989–1 C.B. 678).

Exemption for Feedstock Purpose. Under the 1997 Act and the temporary regulations, tax is not imposed on undyed kerosene that is received from a pipeline or vessel by a registered person for the person's use as a feedstock; that is, use in the manufacture or production of any substance other than gasoline, diesel fuel, or special fuels referred to in section 4041.

The 1997 Act also provides that, to the extent provided in regulations, undyed kerosene may be removed from a terminal tax free if the kerosene is removed for use as a feedstock. The temporary regulations do not implement this latter provision. However, several commentators suggested that, without the application of this provision, small feedstock users that buy kerosene at a terminal rack bear the burden of the tax and then must claim a credit or refund. This puts the small users at a competitive disadvantage compared to larger users that may buy bulk quantities of kerosene tax free for their facilities that are connected to a pipeline.

The final regulations adopt the suggestion of the commentators by generally allowing tax-free removals of kerosene from a terminal if the person receiving the kerosene is registered and certifies that it will use the kerosene for a feedstock purpose. The IRS may revoke this person's registration if the person uses the kerosene other than for a feedstock purpose, such as to power machinery in a factory where paint is produced.

A commentator suggested that the packaging of kerosene into any container that is less than 55 gallons should be treated as a feedstock purpose. This suggestion is not adopted in the final regulations because this activity is not the manufacture or production of a nonfuel substance.

Exemption for Certain Wholesale Distributors. The 1997 Act provides that, to the extent provided in regulations, undyed kerosene may be removed from a terminal tax free if the kerosene is received by a registered wholesale distributor that sells kerosene exclusively to ultimate vendors that sell kerosene from a pump that is not suitable for use in fueling any diesel-powered highway vehicle or train (a blocked pump). The temporary regulations do not provide rules for this provision.

A commentator suggested that the final regulations should implement this provision because it would reduce the number of refund claims that are filed by ultimate vendors and reduce the costs of the fuel for these vendors, many of whom are small businesses. Another commentator suggested, on the other hand, that the provision would increase the availability of untaxed, undyed kerosene and thus increase opportunities for diversion of this fuel for taxable purposes.

The final regulations do not implement this provision because Treasury and the IRS share the concern of the latter commentator. Treasury and the IRS will, however, continue to monitor the matter to determine if it is appropriate to provide rules for the provision at a later date.

Claims Relating to Sales of Kerosene from Blocked Pumps. Under the 1997 Act, a credit or refund is allowed to a registered ultimate vendor that sells taxed, undyed kerosene from a blocked pump. The temporary regulations define a blocked pump as a retail fuel pump at a fixed location that is used to dispense undyed kerosene for use by the buyer in a nontaxable use and cannot be used to dispense kerosene directly into the fuel supply tank of a diesel-powered highway vehicle or train (because, for example, of its distance from a road surface or train track or the length of its delivery hose). In addition, blocked pumps must display a prescribed notice.

Treasury and the IRS received many comments relating to the definition of blocked pump. Several commentators noted that many kerosene pumps are on an island next to gasoline pumps so that vehicular access cannot be restricted. Requiring blocked pumps to be on a separate island would not be practical because many service stations do not have the physical space for such an arrangement. Shortening the delivery hose on these pumps would not be practical because doing so would prevent a container from resting on the ground while it is being filled, as safety rules require.

Several commentators suggested expanding the definition to include pumps that are activated by an on-site attendant before each use and are within the direct line of sight of the attendant authorizing the sale to the customer. Other commentators noted that many people who use kerosene for heating purposes do not buy it from a retail pump. So that these customers could obtain undyed kerosene at a tax-excluded price, these commentators suggested that a credit or refund should be allowed to registered ultimate vendors that make home deliveries of undyed kerosene for heating purposes and that sell kerosene in small containers.

Under the final regulations, a blocked pump is a pump that, because of the pump's physical limitations (for example, a short hose), cannot be used to fuel a vehicle, or a pump that is locked by the vendor after each sale and unlocked by the vendor in response to a request by a buyer for undyed kerosene for use other than as a fuel in a diesel-powered highway vehicle or train. As a condition to making a claim with regard to kerosene sold from this latter type of blocked pump, the vendor must obtain the name and address of anyone who buys more than five gallons of kerosene in a single sale. A vendor's registration may be revoked if it allows anyone to fuel a highway vehicle from a blocked pump.

There is no authority in the Internal Revenue Code (Code) to allow ultimate vendor refunds for kerosene solely because the kerosene is delivered to homes for heating purposes or is sold in small containers. Thus, the final regulations do not contain such a provision.

Claims Relating to Sales of Kerosene for Blending During Periods of Extreme Cold. The 1997 Act provides that, to the extent provided in regulations, a credit or refund is allowed to a registered ultimate vendor that sells kerosene for blending with heating oil to be used during periods of extreme or unseasonable cold. The temporary regulations do not provide rules for this provision.

A commentator suggested that the final regulations should implement this provision and define the phrase ''period of extreme or unseasonable cold'' as including ''all the days in November through February.''

Under the final regulations, if the IRS declares an area to be affected by extremely cold weather conditions, a credit or refund generally will be allowed to a registered ultimate vendor

that sells undyed kerosene for blending with diesel fuel in that affected area if the blended fuel is to be used for heating purposes. It is expected that the periods during which any declaration of extreme cold issued under this provision will be in effect will be limited.

Registration of Heavy Vehicle Manufacturers and Retailers. The tax on the sale of heavy vehicles imposed by section 4051 applies to the first retail sale by the manufacturer, importer, or retailer of a vehicle. The tax is not imposed if a vehicle is sold for resale or for leasing on a long-term basis. Under regulations issued in 1988, this tax-free treatment applied only if both the seller and the buyer were registered by the IRS. The 1997 Act provides, however, that the Secretary shall prescribe regulations so that sales between unregistered parties may be made tax-free if the buyer states under penalties of perjury that the vehicle will be resold. This provision of the 1997 Act is effective January 1, 1998. The temporary regulations implementing the provision are effective on July 1, 1998, the publication date of the temporary regulations.

Several commentators suggested that the final regulations should be effective on January 1, 1998, because the commentators believe that the 1997 Act eliminated the registration requirement as of that date.

The IRS and Treasury are concerned that the suggested change might disqualify sales that would have been tax free under the 1988 regulations. Accordingly, the final regulations retain the July 1, 1998, effective date. They provide, however, that sales (including sales between unregistered parties) that occurred after December 31, 1997, and before July 1, 1998, and otherwise satisfy the requirements of the final regulations may be made tax free.

Measurement of Taxable Fuel. Existing regulations provide that gallons of taxable fuel may be measured on the basis of actual volumetric gallons, gallons adjusted to 60 degrees Fahrenheit, or any other temperature adjustment method approved by the Commissioner.

The March 14, 1996, proposed regulations proposed to modify this rule so that taxable fuel would be measured on the basis of actual volumetric gallons or gallons adjusted to 60 degrees Fahrenheit, whichever is the basis for measurement under the position holder's terminaling agreement with the terminal operator. A commentator suggested that measurement at a particular terminal should be applied consistently on an annual basis.

Under the final regulations, annual consistency is required, on a terminal-by-terminal basis, within each one year period beginning on July 1. Thus, a position holder may use only one of the above described bases of measurement with respect to all taxable fuel removed from any particular terminal during each one year period.

Highway Use Tax. Section 4481 imposes a tax on the use of certain highway vehicles. A State to which an application is made to register a highway vehicle generally must receive from the applicant proof of payment of this tax. Proof of payment consists of a receipted Schedule 1 of Form 2290, ''Heavy Highway Vehicle Use Tax Return,'' that is returned to the taxpayer by the IRS after the taxpayer has paid tax on the vehicle. In most cases, the Schedule 1 must include the vehicle identification number (VIN) of each vehicle for which the taxpayer is reporting tax. However, existing regulations provide that a taxpayer reporting tax on more than 21 vehicles need not list the VIN of any vehicle.

Effective July 1, 2000, the final regulations remove this provision. In addition, the instructions for Form 2290 will be changed to require the listing of the VIN of each vehicle reported. The final regulations also remove several obsolete provisions relating to the highway use tax.

Information Reporting. Section 4101(d) allows the IRS to require information reporting by (1) any person registered under section 4101 and (2) such other persons as the IRS deems necessary to administer the taxes on taxable fuel and aviation fuel.

The IRS is developing an information reporting program (Excise Summary Terminal Activity Reporting System (ExSTARS)) for terminal operators and pipeline and vessel operators. The IRS anticipates that ExSTARS will begin later in 2000.

Under the final regulations, information reports to be required by the IRS under section 4101(d) will cover a one month period and a report will be due by the end of the month following the month to which it relates. As a transitional rule, reports under the new rules relating to any month in 2000 will not be due until February 28, 2001.

Registration of pipeline and vessel operators. Effective April 1, 2001, operators of pipelines and vessels in the bulk transfer/terminal system will be required to be registered by the IRS.

Effect on Other Documents

The following publications are obsolete as of March 31, 2000:

Rev. Rul. 57–259, 1957–1 C.B. 423.

Rev. Rul. 57–499, 1957–2 C.B. 788.

Rev. Rul. 73–292, 1973–2 C.B. 376.

Rev. Rul. 78–218, 1978–1 C.B. 367.

Rev. Rul. 86–62, 1986–1 C.B. 325.

Announcement 99–40, 1999–16 I.R.B. 10.

Special Analyses

It has been determined that this Treasury decision 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.

It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the time required to prepare and submit the exemption certificates described in these regulations (many of which are similar to certificates that are already in use) is minimal and will not have a significant impact on those small entities that choose to provide the certificates. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Code, the notices of proposed rulemaking preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

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

List of Subjects

26 CFR Parts 40, 48, and 145

Excise taxes, Reporting and recordkeeping requirements.

26 CFR Part 41

Excise taxes, Motor vehicles, Reporting and recordkeeping requirements.

26 CFR Part 47

Biologics, Excise taxes, Gasoline, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, and under the authority of 26 U.S.C. 7805, 26 CFR chapter I is amended as follows:

PART 40—EXCISE TAX PROCEDURAL REGULATIONS

Paragraph 1. The authority citation for part 40 continues to read in part as follows:

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

§ 40.6011(a)–1 [Amended]

Par. 2. Section 40.6011(a)–1 is amended as follows:

1. In paragraph (b)(2) introductory text, the language ''Effective January 1, 1994, the'' is removed and ''The'' is added in its place.

2. In paragraph (b)(2)(v), the language ''and kerosene'' is added after ''diesel fuel''.

PART 41—EXCISE TAX ON USE OF CERTAIN HIGHWAY MOTOR VEHICLES

Par. 3. The authority citation for part 41 continues to read in part as follows:

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

Par. 4. Section 41.0–1 is revised to read as follows:

§ 41.0–1 Introduction.

The regulations in this part are designated ''Highway Use Tax Regulations.'' The regulations in this part relate to the tax on the use of certain highway vehicles imposed by section 4481 and to certain associated administrative provisions.

§§ 41.0–2 and 41.0–3 [Removed]

Par. 5. Sections 41.0–2 and 41.0–3 are removed.

Par. 6. Section 41.4481–1 is amended as follows:

1. Paragraphs (a) and (b) are revised.

2. Paragraph (c)(1) introductory text, is amended by removing the language ''taxable periods beginning after June 30, 1984,'' and adding ''a taxable period'' in its place.

3. Paragraph (c)(3) is amended by revising the introductory text.

4. Paragraph (d)(1) is amended by removing from the last sentence the language ''Form 843 (Claim)'' and adding ''Form 8849 (or such other form as the Commissioner may designate)'' in its place.

5. Paragraph (e) introductory text, is amended by adding the language ''section 4481 and'' after ''The application of''.

The revisions read as follows:

§ 41.4481–1 Imposition of tax.

(a) *In general.* Tax is imposed on the use during a taxable period of any registered highway motor vehicle that (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds.

(b) *Rate of tax.* For the rate of tax generally, see section 4481(a). For the rate of tax for certain vehicles used in logging, see section 4483(e). For the rate of tax for certain vehicles base-plated in Canada or Mexico, see section 4483(f). For a special rule for the taxable period in which the tax terminates, see section 4482(d).

(c) * * *

(3) If the taxable gross weight of a vehicle increases during the month in which the vehicle is first used in a taxable period, the tax for the vehicle for the taxable period is computed on the basis of the increased weight. If the taxable gross weight of a vehicle increases after the month in which the vehicle was first used in a taxable period, the additional tax liability, if any, that results from the increased weight is calculated according to the following formula:

* * * * *

§ 41.4481–1T [Removed]

Par. 7. Section 41.4481–1T is removed.

Par. 8. In § 41.4481–2, paragraph (a)(1) is revised to read as follows:

§ 41.4481–2 Persons liable for tax.

(a) * * * (1)(i) A person is liable for the tax imposed by section 4481 with respect to the use of a highway motor vehicle in a taxable period if the vehicle is registered in the person's name—

(A) At the time of the first use of the vehicle in the taxable period;

(B) In the case of a vehicle under a suspension of tax described in § 41.4483–3(a), at the time the use on the public highways during the taxable period exceeds 5,000 miles (7,500 miles for agricultural vehicles);

(C) At the time that an increase in the taxable gross weight of the vehicle results in an additional tax liability (as computed under § 41.4481–1(c)(3)) if the increase occurs after the month in which the vehicle was first used in the taxable period; or

(D) At the time of any use during the taxable period that is after the first use during the period, but only to the extent that the tax or any installment payment of the tax has not previously been paid.

(ii) In any case in which more than one person is liable for the tax for a taxable period, the liability of all persons is satisfied to the extent that the tax is paid by any person liable for the tax.

* * * * *

§ 41.4482(a)–1 [Amended]

Par. 9. Section 41.4482(a)–1 is amended as follows:

1. Paragraph (a)(2) is amended by removing the language ''paragraph (c) of this section'' and adding ''§ 48.4061(a)–1(d) of this chapter'' in its place.

2. Paragraph (c) is removed.

Par. 10. Section 41.4482(b)–1 is amended as follows:

1. Paragraph (a) is revised.

2. Paragraphs (b), (c), and (d) are removed.

3. Paragraph (e) is redesignated as paragraph (b) and amended as follows:

a. The heading is revised.

b. In newly designated paragraph (b)(1), the first sentence is revised and the second sentence is removed.

c. In newly designated paragraph (b)(2), the language ''paragraph (a)'' is removed and ''paragraph (b)(1)'' is added in its place.

4. Paragraph (f) is redesignated as paragraph (c).

5. The undesignated authority citation at the end of the section is removed.

The revisions read as follows:

§ 41.4482(b)–1 Definition of taxable gross weight.

(a) *Actual unloaded weight*—(1) *In general. Actual unloaded weight* means the empty (or tare) weight of the truck, truck-tractor, or bus, fully equipped for service.

(2) *Trucks and truck-tractors.* A truck or truck-tractor fully equipped for service includes the body (whether or not designed and adapted primarily for transporting cargo, as for example, concrete mixers); all accessories; all equipment attached to or carried on such truck or truck-tractor for use in connection with the movement of the vehicle by means of its own motor or for use in the maintenance of the vehicle; and a full complement of lubricants, fuel, and water. It does not include the driver, any equipment (not including the body) attached to or carried on the vehicle for use in handling, protecting, or preserving cargo, or any special equipment (such as an air compressor, crane, specialized oilfield machinery, etc.) mounted on the vehicle for use on construction jobs, in oilfield operations, etc.

(3) *Buses.* A bus fully equipped for service includes the body; all accessories; all equipment attached to or carried on such bus for use in connection with the movement of the

vehicle by means of its own motor, for use in the maintenance of the vehicle, or for the accommodation of passengers or others (such as air conditioning equipment and sanitation facilities, etc.); and a full complement of lubricants, fuel, and water. It does not include the driver.

(b) *Determination of taxable gross weight*—(1) *In general.* The taxable gross weight of a highway motor vehicle is the sum of the actual unloaded weight of the vehicle fully equipped for service, the actual unloaded weight of any semitrailers or trailers fully equipped for service customarily used in combination with the vehicle, and the weight of the maximum load customarily carried on the vehicle and on any semitrailers or trailers customarily used in combination with the vehicle. * * *

* * * * *

§ 41.4482(b)–1T [Removed]

Par. 11. Section 41.4482(b)–1T is removed.

Par. 12. Section 41.4482(c)–1 is amended as follows:

1. The section heading is revised.

2. Paragraphs (a), (b), and (d) are revised.

The revisions read as follows:

§ 41.4482(c)–1 Definition of State, taxable period, use, and customarily used.

(a) *State. State* includes any State, any political subdivision of a State, the District of Columbia, and, to the extent provided by section 7871, any Indian tribal government.

(b) *Taxable period.* For the definition of *taxable period*, see section 4482(c).

* * * * *

(d) *Customarily used.* A semitrailer or trailer is treated as *customarily used* in connection with a highway motor vehicle if the vehicle is equipped to tow the semitrailer or trailer.

Par. 13. Section 41.4483–1 is revised to read as follows:

§ 41.4483–1 State exemption.

Use of a highway motor vehicle by a State is exempt from the tax imposed by section 4481. For this purpose, the term *use by a State* means the operation by a State on the public highways in the United States of any highway motor vehicle, whether or not such highway motor vehicle is owned by the State.

Par. 14. Section 41.4483–2 is amended as follows:

1. Paragraph (a) is amended by removing the language ''section 6421(b)(2), as set forth in''.

2. Paragraph (e) is amended as follows:

a. Paragraph (e) introductory text, is amended by removing the language ''set forth in section 6421(b)(2)''.

b. Paragraph (e)(1) is amended by removing the language ''(rather than any different period prescribed in section 6421(b)(2))''.

c. Paragraph (e)(2), first sentence, is amended by removing the language ''(see section 4263(a))''.

d. Paragraph (e)(2), last sentence, is revised.

3. Paragraph (f) *Example (1)*, penultimate sentence, is amended by removing the language ''(not including any tax on the transportation of persons imposed by section 4261)''.

The revision reads as follows:

§ 41.4483–2 Exemption for certain transit-type buses.

* * * * *

(e) * * *

(2) * * * In determining the total of such passenger fare revenue, revenue from sources such as charter fees, rentals of property, advertising receipts, etc., is not taken into account.

* * * * *

§ 41.4483–3 [Amended]

Par. 15. Section 41.4483–3 is amended as follows:

1. Paragraph (a)(2) is amended by removing the language ''(Federal Heavy Vehicle Use Tax Return)''.

2. Paragraph (b) is amended as follows:

a. The first sentence is amended by removing the language ''shall pay'' and adding ''is liable for'' in its place.

b. The last two sentences are removed.

3. Paragraph (f) is amended as follows:

a. The second sentence is removed.

b. The last sentence is amended by adding the language ''and § 41.6011(a)–1(a)(3) for a requirement that certain transferees described in this paragraph (f) must file a return'' after ''suspension from tax''.

§ 41.4483–5 [Removed]

Par. 16. Section 41.4483–5 is removed.

§ 41.4484–1 [Removed]

Par. 17. Section 41.4484–1 is removed.

§ 41.6001–1 [Amended]

Par. 18. Section 41.6001–1 is amended as follows:

1. Paragraph (a)(6) is amended by removing the language ''for taxable periods after June 30, 1984''.

2. Paragraph (a)(7) is amended as follows:

a. The first sentence is amended by removing the language ''or, for taxable periods after June 30, 1984,'' and adding ''or'' in its place.

b. The last sentence is removed.

3. Paragraph (b) is amended by removing the language ''whether he meets'' and adding ''whether it meets'' in its place.

§ 41.6001–2 [Amended]

Par. 19. Section 41.6001–2 is amended as follows:

1. Paragraph (a), second sentence, is amended by removing the language ''104(b)(5)'' and adding ''104(b)(4)'' in its place.

2. Paragraph (c)(1)(ii) introductory text, is amended by removing the language ''If a receipted'' and adding ''With respect to taxable periods beginning before July 1, 2000, if a receipted'' in its place.

3. Paragraph (c)(1)(iii), first sentence, is amended by removing the language ''If a Schedule 1'' and adding ''With respect to taxable periods beginning before July 1, 2000, if a Schedule 1'' in its place.

4. Paragraph (d) is amended as follows:

a. *Example (1)*, seventh sentence, is amended by removing the language ''§ 41.4482(b)–1(e)'' and adding ''§ 41.4482(b)–1'' in its place.

5. *Example (2)*, second sentence, is amended by removing the language ''§ 41.4482(b)–1(e)'' and adding ''§ 41.4482(b)–1'' in its place.

6. *Example (4)* is removed.

Par. 20. Section 41.6011(a)–1 is revised to read as follows:

§ 41.6011(a)–1 Returns.

(a) *In general.* (1) A person that is liable for tax under § 41.4481–2(a)(1)(i)(A), (B), or (C) must file a return for the taxable period with respect to the tax imposed by section 4481.

(2) A person that is liable for tax under § 41.4481–2(a)(1)(i)(D) must file a return for a taxable period with respect to the tax imposed by section 4481 if the Commissioner notifies the person that the tax for the taxable period has not been paid in full.

(3) A transferee of a vehicle that receives a statement described in the first sentence of § 41.4483–3(f) must file a return with the statement attached.

(b) *Form 2290.* The return required under paragraph (a) of this section is Form 2290, ''Heavy Highway Vehicle Use Tax Return,'' or such other return as the Commissioner may prescribe. The return is made in accordance with the instructions applicable to the form.

Par. 21. Section 41.6071(a)–1 is amended as follows:

1. Paragraph (a) is revised.
2. Paragraph (b) is removed.
3. Paragraph (c) is redesignated as paragraph (b).
4. Newly designated paragraph (b) is amended by removing the language ''(but in no event earlier than the time prescribed in paragraph (a)(1) of this section for filing a return)''.
5. Paragraphs (d), (e), and (f) are removed.

The revision reads as follows.

§ 41.6071(a)–1 Time for filing returns.

(a) *In general.* Except as provided in paragraph (b) of this section, a return described in § 41.6011(a)–1 must be filed by the last day of the month following the month in which—

(1) A person becomes liable for tax under § 41.4481–2(a)(1)(i)(A), (B), or (C);

(2) A person that is liable for tax under § 41.4481–2(a)(1)(i)(D) is notified by the Commissioner that the tax has not been paid in full; or

(3) A transferee described in § 41.4483–3(f) acquires the vehicle.

* * * * *

§ 41.6081(a)–1 [Removed]

Par. 22. Section 41.6081(a)–1 is removed.

Par. 23. Section 41.6091–1 is revised to read as follows:

§ 41.6091–1 Place for filing returns.

(a) *In general.* Except as provided in paragraph (b) of this section, returns must be filed in accordance with the instructions applicable to the form on which the return is made.

(b) *Hand-carried returns*—(1) *Persons other than corporations.* Returns of persons other than corporations that are filed by hand carrying must be filed with the Commissioner in the internal revenue district in which is located the principal place of business or legal residence of the person.

(2) *Corporations.* Returns of corporations that are filed by hand carrying must be filed with the Commissioner in the internal revenue district in which is located the principal place of business or principal office or agency of the corporation.

Par. 24. Section 41.6101–1 is revised to read as follows:

§ 41.6101–1 Period covered by returns.

Each return is for a taxable period as defined in section 4482.

Par. 25. Section 41.6109–1 is revised to read as follows:

§ 41.6109–1 Identifying numbers.

Every person required under § 41.6011(a)–1 to make a return must provide the identifying number required by the instructions to the form on which the return is made.

Par. 26. Section 41.6151(a)–1 is revised to read as follows:

§ 41.6151(a)–1 Time and place for paying tax.

The tax must be paid at the time prescribed in § 41.6071(a)–1 for filing the return and at the place prescribed in § 41.6091–1 for filing the return.

§§ 41.6161(a)(1)–1, 41.6302(b)–1, and 41.7805–1 [Removed]

Par. 27. Sections 41.6161(a)(1)–1, 41.6302(b)–1, and 41.7805–1 are removed.

PART 47—[REMOVED]

Par. 28. Part 47 is removed.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Par. 29. The authority citation for part 48 is amended by removing the entries for Sections 48.4081–7 and 48.4081–9(e); 48.4082–6T, 48.4082–7T, and 4082–8T; 48.4101–2; 48.4101–3T; 48.6427–8; 48.6427–9; and 48.6427–10T and 48.6427–11T and adding entries in numerical order to read in part as follows:

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

Section 48.4052–1 also issued under 26 U.S.C. 4052(g). * * *

Section 48.4081–7 also issued under 26 U.S.C. 4081(e). * * *

Section 48.4082–6 also issued under 26 U.S.C. 4082(d).

Section 48.4082–7 also issued under 26 U.S.C. 4082(d). * * *

Section 48.4101–2 also issued under 26 U.S.C. 6071(a). * * *

Section 48.6427–8 also issued under 26 U.S.C. 6427(m).

Section 48.6427–9 also issued under 26 U.S.C. 6427(m).

Section 48.6427–10 also issued under 26 U.S.C. 6427(m).

Section 48.6427–11 also issued under 26 U.S.C. 6427(m).

Par. 30. The undesignated editorial note and its authority citation at the end of the authority citation are removed.

§ 48.0–2 [Amended]

Par. 31. In § 48.0–2, paragraph (a)(2) is removed and reserved.

§ 48.4041–21 [Amended]

Par. 32. Section 48.4041–21, paragraph (c)(1), first sentence, is amended by removing the language ''§ 48.4082–4(c)(1) through (c)(4)(i) or (c)(5) through (c)(10).'' and adding ''section 4041(a)(3)(B), (b)(1), (f), (g), or (h).'' in its place.

Par. 33. In Subpart H, § 48.4052–1 is added under the undesignated centerheading ''Motor Vehicles'' to read as follows:

§ 48.4052–1 Heavy trucks and trailers; certification requirement.

(a) *In general.* Tax is not imposed by section 4051 on the sale of an article for resale or leasing in a long-term lease if, by the time of sale, the seller has in good faith accepted from the buyer a statement that the buyer executed in good faith and that is in substantially the same form, and subject to the same conditions, as the certificate described in § 145.4052–1(a)(6) of this chapter, except that the certificate must be signed under penalties of perjury and need not refer to Form 637 or include a registration number.

(b) *References to § 145.4052–1(a)(2) of this chapter.* References to § 145.4052–1(a)(2) of this chapter appearing in § 145.4052–1 of this chapter apply also to paragraph (a) of this section.

(c) *Effective date.* This section is applicable after June 30, 1998. In addition, tax is not imposed on a sale occurring after December 31, 1997, and before July 1, 1998, if the conditions of paragraph (a) of this section are satisfied.

Par. 34. Section 48.4081–1 is amended as follows:

1. Paragraph (b) is amended by:

a. Revising the definition of Aviation gasoline.

b. Removing the definition of Diesel-powered boat.

c. Adding the definition of Excluded liquid in alphabetical order.

d. Adding the definition of Kerosene in alphabetical order.

e. Revising the definition of Rack.

f. Removing the language ''(as defined in § 48.4041–8(f))'' in the definition of Removal, first sentence.

g. Removing the language ''subject to the limitations of section 7871, any Indian tribal government.'' and adding ''to the extent provided by section 7871, any Indian tribal government.'' in its place in the definition of State.

h. Revising the definition of Taxable fuel.

i. Adding the language ''as such'' after ''is registered'' in the definition of Taxable fuel registrant.

j. Removing the language ''operated by a taxable fuel registrant if all of the finished gasoline and diesel fuel (other than diesel fuel dyed in accordance with § 48.4082–1(b))'' and adding ''where finished gasoline, undyed diesel fuel, or undyed kerosene is stored if the facility is operated by a taxable fuel registrant and all such taxable fuel'' in its place in the definition of Terminal, last sentence.

2. Paragraph (c)(1)(i) introductory text, is amended by removing the

language ''and (c)(iii)'' and adding ''and (c)(1)(iii)'' in its place.

3. Paragraph (c)(1)(i)(A) is amended by adding the language ''(other than taxable fuel for which a credit or payment has been allowed)'' after ''4081(a)''.

4. Paragraphs (c)(2) and (d) are revised.

5. Paragraphs (e) and (f) are added.

The revisions and additions read as follows:

§ 48.4081–1 Taxable fuel; definitions.

* * * * *

(b) * * *

Aviation gasoline means all special grades of gasoline that are suitable for use in aviation reciprocating engines and covered by ASTM specification D 910 or military specification MIL–G–5572. For availability of ASTM and military specifications, see paragraph (d) of this section.

* * * * *

Excluded liquid means any liquid that—

(1) Contains less than four percent normal paraffins; or

(2) Has a—

(i) Distillation range of 125° F. or less;

(ii) Sulfur content of 10 ppm or less; and

(iii) Minimum color of +27 Saybolt.

* * * * *

Kerosene means any liquid that meets the specifications for kerosene or would meet those specifications but for the presence in the liquid of a dye of the type described in § 48.4082–1(b). A liquid meets the specifications for kerosene if it is one of the two grades of kerosene (No. 1–K and No. 2–K) covered by ASTM specification D 3699, or kerosene-type jet fuel covered by ASTM specification D 1655 or military specification MIL–DTL–5624T (Grade JP–5) or MIL–DTL–83133E (Grade JP–8). For availability of ASTM and military specifications, see paragraph (d) of this section. However, the term does not include *excluded liquid.*

* * * * *

Rack means a mechanism capable of delivering taxable fuel into a means of transport other than a pipeline or vessel.

* * * * *

Taxable fuel means gasoline, diesel fuel, and kerosene.

* * * * *

(c) * * *

(2) *Diesel fuel*—(i) *In general.* Except as provided in paragraph (c)(2)(ii) of this section, *diesel fuel* means any liquid that, without further processing or blending, is suitable for use as a fuel in a diesel-powered highway vehicle or diesel-powered train.

(ii) *Exclusion. Diesel fuel* does not include gasoline, kerosene, excluded liquid, No. 5 and No. 6 fuel oils covered by ASTM specification D 396, or F–76 (Fuel Naval Distillate) covered by military specification MIL–F–16884. For availability of ASTM and military specifications, see paragraph (d) of this section.

* * * * *

(d) *ASTM and military specifications.* ASTM specifications may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428. Military specifications may be obtained from the Standardization Document Order Desk, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111.

(e) *Other definitions.* For other definitions relating to taxable fuel, see §§ 48.4081–6(b), 48.4082–5(b), 48.4082–6(b), 48.4082–7(b), 48.4101–1(b), 48.6427–9(b), 48.6427–10(b), and 48.6427–11(b).

(f) *Effective date.* (1) Except as provided in paragraph (f)(2) of this section, this section is applicable after December 31, 1993.

(2) In paragraph (b) of this section, the definition of aviation gasoline and the third sentence in the definition of terminal are applicable after January 1, 1998, and the definitions of kerosene, excluded liquid, and taxable fuel are applicable after June 30, 1998. Paragraph (c)(2) of this section is applicable after December 31, 1997.

§ 48.4081–1T [Removed]

Par. 35. Section 48.4081–1T is removed.

Par. 36. Section 48.4081–2 is amended as follows:

1. Paragraph (b) is amended by removing the language ''Except as provided in § 48.4081–4 (relating to gasoline blendstocks) and § 48.4082–1 (relating to dyed diesel fuel), tax'' and adding ''Tax'' in its place.

2. Paragraph (c)(3) is amended by adding the language ''or kerosene'' after ''diesel fuel'' each place it appears.

3. Paragraph (e) is revised.

4. Paragraph (f) is added.

The addition and revision read as follows:

§ 48.4081–2 Taxable fuel; tax on removal at a terminal rack.

* * * * *

(e) *Exemptions.* For exemptions from the tax imposed under this section, see §§ 48.4081–4 (relating to gasoline blendstocks), 48.4082–1 (relating to dyed diesel fuel and dyed kerosene), 48.4082–5 (relating to diesel fuel and kerosene used in Alaska), 48.4082–6 (relating to aviation-grade kerosene), and 48.4082–7 (relating to kerosene used for a feedstock purpose).

(f) *Effective date.* This section is applicable after December 31, 1993.

Par. 37. Section 48.4081–3 is amended as follows:

1. Paragraph (a) is amended by removing the last sentence.

2. Paragraph (b)(1) is amended as follows:

a. In the introductory text, the language ''Except as provided in paragraph (b)(2) of this section (relating to an exemption for certain refineries), § 48.4081–4 (relating to gasoline blendstocks), and § 48.4082–1 (relating to dyed diesel fuel), tax'' is removed and ''Tax'' is added in its place.

b. In paragraph (b)(1)(i), the language ''of taxable fuel'' is added after ''A removal''.

c. In paragraph (b)(1)(ii), the language ''of taxable fuel'' is added after ''A removal''.

d. In paragraph (b)(1)(iii), third sentence, the language ''§ 40.6302(c)-1(e)(4)'' is removed and ''§ 40.6302(c)-1(f)(4)'' is added in its place.

3. In paragraph (c)(1) introductory text, the language ''Except as provided in § 48.4081–4 (relating to gasoline blendstocks) and § 48.4082–1 (relating to dyed diesel fuel), a tax'' is removed and ''Tax'' is added in its place.

4. In paragraph (d)(1), the language ''A tax is imposed'' is removed and ''Tax is imposed'' is added in its place.

5. In paragraph (e)(1) introductory text, the language ''Except as provided in § 48.4081–4 (relating to gasoline blendstocks) and § 48.4082–1 (relating to dyed diesel fuel), a tax'' is removed and ''Tax'' is added in its place.

6. In paragraph (f)(1), the language ''Except as provided in paragraph (f)(2) of this section and § 48.4082–1 (relating to dyed diesel fuel), a tax'' is removed and ''Tax'' is added in its place.

7. Paragraph (i) is revised.

8. Paragraph (j) is added.

The revision and addition read as follows:

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

* * * * *

(i) *Exemptions.* For exemptions from the taxes imposed under this section, see §§ 48.4081–4 (relating to gasoline blendstocks), 48.4082–1 (relating to dyed diesel fuel and dyed kerosene), 48.4082–5 (relating to diesel fuel and kerosene used in Alaska), 48.4082–6 (relating to aviation-grade kerosene), and 48.4082–7 (relating to kerosene used for a feedstock purpose).

(j) *Effective date.* This section is applicable January 1, 1994.

Par. 38. In § 48.4081–6, paragraph (b)(3) is revised to read as follows:

§ 48.4081–6 Gasoline; gasohol.

* * * * *

(b) * * *

(3) *Gasohol blender.* Gasohol blender means any person that regularly produces gasohol outside of the bulk transfer/terminal system for sale or use in its trade or business.

* * * * *

§ 48.4081–7 [Amended]

Par. 39. Section 48.4081–7 is amended as follows:

1. In paragraph (c)(2), First Taxpayer's Report, the following language is removed:

''7._____

Location of IRS service center where this report is filed''

2. In paragraph (c)(4)(v), the language ''gasoline'' is removed each place it appears and ''taxable fuel'' is added in its place.

3. In paragraph (f) *Example 1*, the language ''gasoline registrant'' is removed and ''taxable fuel registrant'' is added in its place in the following locations:

a. Paragraph (i), first sentence.

b. Paragraph (i), second sentence.

c. Paragraph (ii), first sentence.

Par. 40. In § 48.4081–8, paragraph (a) is revised to read as follows:

§ 48.4081–8 Taxable fuel; measurement.

(a) *In general.* Volumes of taxable fuel may be measured on the basis of actual volumetric gallons or gallons adjusted to 60 degrees Fahrenheit. However, beginning July 1, 2000, for each period from July 1 through the following June 30—

(1) A person liable for the tax on removal may use only one of the two bases of measurement with respect to all taxable fuel removed during the period from any particular terminal, refinery, or blending facility;

(2) A person liable for the tax on entry may use only one of the two bases of measurement with respect to all taxable fuel entered into the United States during the period at any particular point of entry; and

(3) A person liable for the tax on sale may use only one of the two bases of measurement with respect to all taxable fuel sold during the period to any particular buyer.

* * * * *

§ 48.4081–9 [Removed]

Par. 41. Section 48.4081–9 is removed.

Par. 42. Section 48.4082–1 is amended as follows:

1. The section heading is revised.

2. In paragraph (a) introductory text, the language ''or kerosene'' is added after ''diesel fuel''.

3. In paragraph (a)(3), the language ''or kerosene'' is added after ''diesel fuel''.

4. In paragraph (b), the introductory text is revised.

5. In paragraph (b)(1), the language ''or kerosene'' is added after ''diesel fuel''.

The revisions read as follows:

§ 48.4082–1 Diesel fuel and kerosene; exemption for dyed fuel.

* * * * *

(b) * * * Diesel fuel or kerosene satisfies the dyeing requirement of this paragraph (b) only if the diesel fuel or kerosene contains—

* * * * *

Par. 43. Sections 48.4082–2 and 48.4082–3 are revised to read as follows:

§ 48.4082–2 Diesel fuel and kerosene; notice required for dyed fuel.

(a) *In general.* A legible and conspicuous notice stating *''DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE''* must be posted by a seller on any retail pump or other delivery facility where it sells dyed diesel fuel for use by its buyer. A legible and conspicuous notice stating *''DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE''* must be posted by a seller on any retail pump or other delivery facility where it sells dyed kerosene for use by its buyer. Any seller that fails to post the required notice on any retail pump or other delivery facility where it sells dyed fuel is, for purposes of the penalty imposed by section 6715, presumed to know that the fuel will not be used for a nontaxable use.

(b) *Cross reference; terminal operators.* For the requirement that terminal operators provide a notice with respect to dyed fuel, see § 48.4101–1(h)(3) (relating to terms and conditions of registration for terminal operators).

(c) *Effective date.* This section is applicable with respect to diesel fuel after December 31, 1993, and with respect to kerosene after June 30, 1998.

§ 48.4082–3 Diesel fuel and kerosene; visual inspection devices. [Reserved]

Par. 44. Section 48.4082–4 is amended as follows:

1. The section heading is revised.

2. Paragraph (a)(1) is revised.

3. Paragraph (a)(2)(i) is amended by removing the language ''or boat''.

4. Paragraphs (b) heading and (b)(1) are revised.

5. Paragraph (c) is amended by:

a. Removing paragraphs (c)(4) and (c)(10);

b. Redesignating paragraphs (c)(5), (c)(6), (c)(7), (c)(8), and (c)(9) as paragraphs (c)(4), (c)(5), (c)(6), (c)(7), and (c)(8), respectively.

c. Adding the language ''or'' at the end of newly designated paragraph (c)(7).

d. Removing the language ''highway; or'' at the end of newly designated paragraph (c)(8) and adding ''highway.'' in its place.

6. Paragraph (d) is revised.

The revisions read as follows:

§ 48.4082–4 Diesel fuel and kerosene; back-up tax.

(a) *Imposition of tax*—(1) *In general.* Tax is imposed by section 4041 on the delivery into the fuel supply tank of the propulsion engine of a diesel-powered highway vehicle (other than a diesel-powered bus) of—

(i) Any diesel fuel or kerosene on which tax has not been imposed by section 4081;

(ii) Any diesel fuel or kerosene for which a credit or payment has been allowed under section 6427; or

(iii) Any liquid (other than taxable fuel) for use as fuel.

* * * * *

(b) *Tax on diesel fuel and kerosene; buses and trains*—(1) *In general.* Tax is imposed by section 4041 on the delivery into the fuel supply tank of the propulsion engine of a diesel-powered bus or a diesel-powered train of—

(i) Any diesel fuel or kerosene on which tax has not been imposed by section 4081;

(ii) Any diesel fuel or kerosene for which a credit or payment has been allowed under section 6427; or

(iii) Any liquid (other than taxable fuel) for use as fuel.

* * * * *

(d) *Effective date.* This section is applicable after December 31, 1993, except that references to kerosene are applicable after June 30, 1998.

Par. 45. Section 48.4082–5 is amended as follows:

1. The section heading is revised.

2. Paragraph (a) is amended by adding ''or kerosene'' after ''diesel fuel''.

3. Paragraph (b), definition of Exempt area of Alaska, is amended by removing the language ''Clear'' and adding ''Clean'' in its place.

4. Paragraphs (b), (c), (d), and (g) are amended by adding ''or kerosene'' after ''diesel fuel'' in the following locations:

a. Paragraph (b), definition of Qualified dealer, paragraph (1).

b. Paragraph (c) introductory text.

c. Paragraph (c)(3).

d. Paragraph (d)(1) introductory text.
e. Paragraph (d)(2).
f. Paragraph (g).
5. Paragraph (h), first sentence, is revised.

The revisions read as follows:

§ 48.4082–5 Diesel fuel and kerosene; Alaska.

* * * * *

(h) *Effective date.* This section is applicable with respect to diesel fuel removed or entered after December 31, 1996, and with respect to kerosene removed or entered after June 30, 1998.

* * *

Par. 46. Sections 48.4082–6 and 48.4082–7 are added to read as follows:

§ 48.4082–6 Kerosene; exemption for aviation-grade kerosene.

(a) *Overview.* This section prescribes the conditions under which tax does not apply to the removal or entry of aviation-grade kerosene that is destined for use as a fuel in an aircraft.

(b) *Definition.* For purposes of this section, *aviation-grade kerosene* means kerosene-type jet fuel covered by ASTM specification D 1655 or military specification MIL–DTL–5624T (Grade JP–5) or MIL–DTL–83133E (Grade JP–8). For availability of ASTM and military specifications, see § 48.4081–1(d).

(c) *Exemption for certain removals and entries.* Tax is not imposed under § 48.4081–2(b), 48.4081–3(b)(1)(ii), or 48.4081–3(c)(1)(ii) on the removal or entry of aviation-grade kerosene if—

(1) The person otherwise liable for tax is a taxable fuel registrant;

(2) In the case of a removal from a terminal, the terminal is an approved terminal; and

(3)(i) The person otherwise liable for tax delivers the kerosene into the fuel supply tank of an aircraft and this delivery is not in connection with a sale; or

(ii) The kerosene is sold for use as a fuel in an aircraft and, at the time of the sale, the person otherwise liable for tax has an unexpired certificate (described in paragraph (e) of this section) from the buyer and has no reason to believe any information in the certificate is false.

(d) *Certain later sales*—(1) *In general.* Paragraph (c) of this section does not apply with respect to kerosene that is sold as described in paragraph (c)(3)(ii) of this section if there is a later disqualifying sale of the kerosene. A later disqualifying sale is any later sale other than a later sale—

(i) By a person that, at the time of the sale, has an unexpired certificate (described in paragraph (e) of this section) from the buyer and has no reason to believe that any information in the certificate is false; or

(ii) In connection with the delivery of the kerosene into the fuel supply tank of an aircraft.

(2) *Imposition of tax; liability for tax.* Notwithstanding §§ 48.4081–2 and 48.4081–3, in any case in which paragraph (d)(1) of this section applies, tax is imposed with respect to that kerosene at the time of the first later disqualifying sale and the seller in that sale is liable for the tax.

(3) *Rate of tax.* For the rate of tax, see section 4081.

(e) *Certificate*—(1) *In general.* The certificate described in this paragraph (e) is a statement by a buyer that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (e)(3) of this section, and contains all information necessary to complete the model certificate. A new certificate or notice that the current certificate is invalid must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates:

(i) The date one year after the effective date of the certificate (which may be no earlier than the date it is signed).

(ii) The date the buyer provides the seller a new certificate or notice that the current certificate is invalid.

(iii) The date the Internal Revenue Service or the buyer notifies the seller that the buyer's right to provide a certificate has been withdrawn.

(2) *Withdrawal of the right to provide a certificate.* The Internal Revenue Service may withdraw the right of a buyer of aviation-grade kerosene to provide a certificate under this section if the buyer uses the aviation-grade kerosene to which a certificate relates other than as a fuel in an aircraft or sells the kerosene without first obtaining a certificate from its buyer. The Internal Revenue Service may notify any seller to whom the buyer has provided a certificate that the buyer's right to provide a certificate has been withdrawn.

(3) *Model certificate.*

CERTIFICATE OF PERSON BUYING AVIATION-GRADE KEROSENE FOR USE AS A FUEL IN AN AIRCRAFT

(To support tax-free removals and entries of aviation-grade kerosene under section 4082 of the Internal Revenue Code.)

Name of Buyer _____ (Buyer) certifies the following under penalties of perjury:

The aviation-grade kerosene to which this certificate applies will be used by Buyer as a fuel in an aircraft or resold by Buyer for that use.

This certificate applies to _____ percent of Buyer's purchases from _____ (name, address, and employer identification number of seller) as follows (complete as applicable):

1. A single purchase on invoice or delivery ticket number _____.

2. All purchases between _____ (effective date) and _____ (expiration date) (period not to exceed one year after the effective date) under account or order number(s) _____. If this certificate applies only to Buyer's purchases for certain locations, check here _____ and list the locations.

_____
_____
_____

Buyer is buying the kerosene for (check either or both as applicable): ____ Buyer's use as a fuel in an aircraft. ____ Resale for use as a fuel in an aircraft.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

If Buyer sells the aviation-grade kerosene to which this certificate relates and does not deliver it into the fuel supply tank of an aircraft, Buyer will be liable for tax unless Buyer obtains a certificate from its buyer stating that the aviation-grade kerosene will be used as a fuel in an aircraft.

If Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

The fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____
Printed or typed name of person signing

_____
Title of person signing

_____
Employer identification number

_____
Address of Buyer

_____
Signature and date signed

(f) *Effective date.* This section is applicable after March 30, 2000, except that paragraph (d) of this section is applicable after June 30, 2000.

§ 48.4082–7 Kerosene; exemption for feedstock purposes.

(a) *Overview.* This section prescribes the conditions under which tax does not apply to the removal or entry of kerosene for use for a feedstock purpose.

(b) *Definitions.* The following definitions apply to this section:

Feedstock purpose means the use of kerosene for nonfuel purposes in the manufacture or production of any substance other than gasoline, diesel fuel, or special fuels referred to in section 4041. Thus, for example,

kerosene is used for a feedstock purpose when it is used as an ingredient in the production of paint and is not used for a feedstock purpose when it is used to power machinery at a factory where paint is produced.

Feedstock user means a person that uses kerosene for a feedstock purpose.

Registered feedstock user means a feedstock user that is—

(1) Registered under section 4101 as a feedstock user; or

(2) With respect to removals and entries before October 1, 2000, a taxable fuel registrant.

(c) *Exemption for removals and entries.* Tax is not imposed on the removal or entry of kerosene if—

(1) The person otherwise liable for tax is a taxable fuel registrant;

(2) In the case of a removal from a terminal, the terminal is an approved terminal; and

(3)(i) The person otherwise liable for tax uses the kerosene for a feedstock purpose; or

(ii) The kerosene is sold for use by the buyer for a feedstock purpose and, at the time of the sale, the person otherwise liable for tax has an unexpired certificate (described in paragraph (e) of this section) from the buyer and has no reason to believe any information in the certificate is false.

(d) *Later sale*—(1) *In general.* Paragraph (c) of this section does not apply with respect to kerosene that is sold as described in paragraph (c)(3)(ii) of this section if the buyer in that sale (the certifying buyer) sells the kerosene.

(2) *Imposition of tax; liability for tax.* Notwithstanding §§ 48.4081–2 and 48.4081–3, in any case in which paragraph (d)(1) of this section applies, tax with respect to that kerosene is imposed at the time of the sale by the certifying buyer and the certifying buyer is liable for the tax.

(3) *Rate of tax.* For the rate of tax, see section 4081.

(e) *Certificate*—(1) *In general.* The certificate described in this paragraph (e) is a statement by a buyer that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (e)(2) of this section, and contains all information necessary to complete the model certificate. A new certificate or notice that the current certificate is invalid must be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates:

(i) The date one year after the effective date of the certificate (which may be no earlier than the date it is signed).

(ii) The date the buyer provides the seller a new certificate or notice that the current certificate is invalid.

(iii) The date the seller is notified by the Internal Revenue Service or the buyer that the buyer's registration has been revoked or suspended.

(2) *Model certificate.*

CERTIFICATE OF REGISTERED FEEDSTOCK USER

(To support tax-free removals and entries of kerosene under section 4082 of the Internal Revenue Code.)

_____(Buyer) certifies the following under penalties of perjury:

Name of Buyer _____

Buyer is a registered feedstock user with registration number _____. Buyer's registration has not been revoked or suspended.

The kerosene to which this certificate applies will be used by Buyer for a feedstock purpose.

This certificate applies to _____ percent of Buyer's purchases from _____ (name, address, and employer identification number of seller as follows (complete as applicable):

1. A single purchase on invoice or delivery ticket number _____.

2. All purchases between _____ (effective date) and _____ (expiration date) (period not to exceed one year after the effective date) under account or order number(s) _____. If this certificate applies only to Buyer's purchases for certain locations, check here _____ and list the locations.

_____

_____

_____

If Buyer sells the kerosene to which this certificate relates, Buyer will be liable for tax on that sale.

Buyer will provide a new certificate to the seller if any information in this certificate changes.

If Buyer violates the terms of this certificate, the Internal Revenue Service may revoke Buyer's registration.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making any fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

_____

(f) *Effective date.* This section is applicable after March 30, 2000, except that paragraph (d) of this section is applicable after June 30, 2000.

§§ 48.4082–6T, 48.4082–7T, 48.4082–8T, 48.4082–9T, and 48.4082–10T [Removed]

Par. 47. Sections 48.4082–6T, 48.4082–7T, 48.4082–8T, 48.4082–9T, and 48.4082–10T are removed.

Par. 48. Section 48.4083–1 is amended as follows:

1. In paragraph (c)(2), first sentence, the language ''vehicle, train, or boat'' is removed and ''vehicle or train'' is added in its place.

2. Paragraph (d) is revised.

The revision reads as follows:

§ 48.4083–1 Taxable fuel; administrative authority.

* * * * *

(d) *Refusal to submit to inspection.* For the penalty for any refusal to permit an entry or inspection authorized by this section, see section 4083(c)(3). This penalty is in addition to any tax that may be imposed by section 4041 or 4081 and any penalty that may be imposed by section 6715.

* * * * *

§ 48.4091–3T [Redesignated as § 48.4091–3]

§ 48.4091–3 [Amended]

Par. 49. Section 48.4091–3T is redesignated as § 48.4091–3 and the language ''(temporary)'' is removed from the section heading.

Par. 50. Section 48.4101–1 is amended as follows:

1. The section heading is revised.

2. Paragraph (a)(1) is amended by removing the language ''registered ultimate vendors of diesel fuel'' and adding ''certain ultimate vendors of diesel fuel and kerosene'' in its place.

3. Paragraph (a)(2) is amended by adding a sentence to the end of the paragraph.

4. Paragraph (a)(6) is added.

5. Paragraphs (b)(7), (b)(8), and (b)(9) are added.

6. Paragraph (c)(1) is revised.

7. Paragraph (d) is revised.

8. Paragraph (f)(1)(i) heading is revised.

9. Paragraph (f)(1)(ii) heading and introductory text are revised.

10. Paragraph (h)(1)(iii) is amended by removing the language ''and § 48.4101–2''.

11. Paragraph (h)(2)(iii) is revised.

12. Paragraph (h)(2)(iv) is added.

13. Paragraph (h)(3)(i) is revised.

14. Paragraph (h)(3)(ii) is amended by adding ''or kerosene'' after ''diesel fuel'' in the heading and the introductory text.

15. Paragraph (h)(3)(v) is amended by adding ''or kerosene'' after ''diesel fuel'' each place it appears.

16. Paragraphs (i)(2)(ii) and (i)(2)(iii) are amended by removing the language

''vendor'' and adding ''vendor or an ultimate vendor (blocked pump)'' in its place.

17. Paragraph (k) is amended by adding a sentence to the end of the paragraph.

18. Paragraph (l)(2) is amended by adding the language '', except that paragraphs (c)(1)(iii) and (c)(1)(vi) of this section are applicable after March 31, 2001'' after ''January 1, 1995''.

19. Paragraph (l)(4) is added.

The revisions and additions read as follows:

§ 48.4101–1 Taxable fuel; registration.

(a) * * *

(2) * * * However, the United States is treated as registered under section 4101.

* * * * *

(6)(i) A person is treated as a taxable fuel registrant if on June 30, 1998, the person—

(A) Is an enterer, refiner, terminal operator, or throughputter with respect to kerosene and is registered under section 4101 as a producer or importer of aviation fuel;

(B) Operates one or more terminals that store kerosene (and no other type of taxable fuel); or

(C) Is a commercial airline, an operator of aircraft in noncommercial aviation, or a fixed base operator and is also a position holder with respect to kerosene.

(ii) A person treated as registered under paragraph (a)(6)(i) of this section is treated as registered from July 1, 1998, until the earlier of—

(A) The date of a subsequent denial of an application for registration under paragraph (g)(2) of this section;

(B) The effective date of a subsequent registration issued under paragraph (g)(3) of this section;

(C) The effective date of a subsequent revocation or suspension of registration under paragraph (i) of this section; or

(D) July 1, 1999.

(b) * * *

(7) *Pipeline operator.* A *pipeline operator* is any person that operates a pipeline within the bulk transfer/terminal system.

(8) *Vessel operator.* A *vessel operator* is any person that operates a vessel within the bulk transfer/terminal system. However, for purposes of this definition, *vessel* does not include a deep draft ocean-going vessel (as defined in § 48.4042–3(a)).

(9) *Other definitions.* For other definitions relating to taxable fuel, see §§ 48.4081–1, 48.4081–6(b), 48.4082–5(b), 48.4082–6(b), 48.4082–7(b), 48.6427–9(b), 48.6427–10(b), and 48.6427–11(b).

(c) * * * (1) *In general.* A person is required to be registered under section 4101 if the person is—

(i) A blender;

(ii) An enterer;

(iii) A pipeline operator;

(iv) A position holder;

(v) A terminal operator; or

(vi) A vessel operator.

* * * * *

(d) *Persons that may, but are not required to, be registered.* A person may, but is not required to, be registered under section 4101 if the person is—

(1) A feedstock user;

(2) A gasohol blender;

(3) An industrial user;

(4) A throughputter that is not a position holder;

(5) An ultimate vendor; or

(6) An ultimate vendor (blocked pump).

* * * * *

(f) * * *

(1) * * *

(i) *Persons other than ultimate vendors, pipeline operators, and vessel operators.* * * *

* * * * *

(ii) *Ultimate vendors, pipeline operators, and vessel operators.* The district director will register an applicant as an ultimate vendor, ultimate vendor (blocked pump), pipeline operator, or vessel operator only if the district director—

* * * * *

(h) * * *

(2) * * *

(iii) Make any false statement on, or violate the terms of, any certificate given to another person to support an exemption from, or a reduced rate of, the tax imposed by section 4081; or

(iv) In the case of an ultimate vendor (blocked pump), deliver kerosene (or allow kerosene to be delivered) into the fuel supply tank of a diesel-powered highway vehicle or diesel-powered train from a blocked pump.

(3) * * * (i) *Notice required with respect to dyed diesel fuel and dyed kerosene.* A legible and conspicuous notice stating ''*DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE*'' must be provided by each terminal operator to any person that receives dyed diesel fuel at a terminal rack of that operator. A legible and conspicuous notice stating ''*DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE*'' must be provided by each terminal operator to any person that receives dyed kerosene at a terminal rack of that operator. These notices must be provided by the time of the removal and must appear on all shipping papers, bills of lading, and similar documents that are provided by the terminal operator to accompany the removal of the fuel.

* * * * *

(k) * * * For rules relating to claims by registered ultimate vendors (blocked pump), see § 48.6427–10.

(l) * * *

(4) References in this section to kerosene are applicable after June 30, 1998.

Par. 51. Section 48.4101–2 is revised to read as follows:

§ 48.4101–2 Information reporting.

(a) *In general.* Each information report under section 4101(d) must be—

(1) Made in the form required by the Commissioner;

(2) Made for a period of one calendar month; and

(3) Filed by the last day of the first month following the month for which the report is made, except that a report relating to any month during 2000 must be filed by February 28, 2001.

(b) *Effective date.* This section is applicable after March 30, 2000.

§§ 48.4102–2T and 48.4101–3T [Removed]

Par. 52. Sections 48.4102–2T and 48.4101–3T are removed.

§ 48.4221–1 [Amended]

Par. 53. In § 48.4221–1, paragraph (a)(2)(ii) is amended by removing the language ''(gasoline and diesel fuel tax)'' and adding ''(taxable fuel tax)'' in its place.

§ 48.4222(b)–1 [Amended]

Par. 54. In § 48.4222(b)–1, paragraph (c), first sentence, is amended by removing the language ''paragraph (f)'' and adding ''paragraph (b)'' in its place.

§ 48.6416(b)(2)–1 [Amended]

Par. 55. Section 48.6416(b)(2)–1 is amended by removing the third sentence.

Par. 56. In § 48.6416(b)(2)–2, paragraph (a) is revised to read as follows:

§ 48.6416(b)(2)–2 Exportations, uses, sales, and resales included.

(a) *In general.* The tax paid under chapter 32 (or under section 4041(a) or (d) in respect of sales or under section 4051) with respect to any article is considered to be an overpayment in the case of any exportation, use, sale, or resale described in this section. This section applies only in those cases in which the exportation, use, sale, or resale (or any combination thereof) referred to in this section occurs before any other use. In addition, the following

restrictions must be taken into account in applying the regulations under section 6416(b)(2):

(1) Sections 6416(b)(2)(C) and (D) do not apply to any tax paid under section 4064 (gas guzzler tax).

(2) Sections 6416(b)(2)(B), (C), and (D) do not apply to any tax paid under section 4131 (vaccine tax) and section 6416(b)(2)(A) applies only to the extent prescribed in paragraph (b)(2) of this section.

(3) Section 6416(b)(2) does not apply to any tax paid under section 4041(a)(1) or 4081 on diesel fuel or kerosene, section 4091 (aviation fuel tax), or section 4121 (coal tax).

* * * * *

§ 48.6420–7 [Removed]

Par. 57. Section 48.6420–7 is removed.

§ 48.6420(c)–2 [Removed]

Par. 58. Section 48.6420(c)–2 is removed.

§ 48.6421–2 [Amended]

Par. 59. In § 48.6421–2, paragraph (a) is amended by removing the last sentence.

Par. 60. Section 48.6427–8 is amended as follows:

1. The section heading and paragraphs (a) and (b)(1) are revised.

2. Paragraph (b)(2) *Example 1,* paragraph (i) is amended as follows:

a. In the first and second sentences, the language ''1996'' is removed and ''2000'' is added in its place.

b. In the fourth sentence, the language ''§ 48.4081–1(h)'' is removed and ''§ 48.4081–1(b)'' is added in its place.

3. Paragraph (b)(2) *Example 1,* paragraph (ii) is amended by removing the language ''(b)(1)(vi)(C)'' and adding ''(b)(1)(vii)(C)'' in its place.

4. Paragraph (b)(2) *Example 2,* paragraph (i) is amended as follows:

a. In the first sentence, the language ''1996'' is removed and ''2000'' is added in its place.

b. In the third sentence, the language ''or diesel-powered boat'' is removed.

5. Paragraph (d) is amended as follows:

a. By removing from paragraph (d)(1) the language ''covered by the claim''

b. By revising paragraphs (d)(2) and (d)(3).

c. By adding the language ''or kerosene'' after ''diesel fuel'' in paragraphs (d)(4) and (d)(5).

6. Paragraph (f) is revised.

The revisions read as follows:

§ 48.6427–8 Diesel fuel and kerosene; claims by ultimate purchasers.

(a) *Overview.* This section provides rules under which ultimate purchasers of taxed diesel fuel and kerosene may claim the income tax credits or payments allowed by section 6427(l). Generally, these claims relate to diesel fuel and kerosene used in nontaxable uses. Claims relating to diesel fuel and kerosene sold for use on a farm for farming purposes and by a State are made by registered ultimate vendors under § 48.6427–9; claims relating to kerosene sold from a blocked pump are made by registered ultimate vendors (blocked pump) under § 48.6427–10; and claims relating to kerosene sold during certain periods of extreme cold for blending with diesel fuel to be used for heating purposes are made by registered ultimate vendors (blending) under § 48.6427–11.

(b) *Conditions to allowance of credit or payment*—(1) *In general.* Except as provided in section 6427(l)(5), a claim for an income tax credit or payment with respect to diesel fuel or kerosene is allowed under section 6427(l) only if—

(i) Tax was imposed by section 4081 on the diesel fuel or kerosene to which the claim relates;

(ii) The claimant produced or bought the diesel fuel or kerosene and did not sell it in the United States;

(iii) The claimant has filed a timely claim for a credit or payment that contains the information required under paragraph (d) of this section;

(iv) The diesel fuel or kerosene was not bought under a certificate described in § 48.6427–9(e)(2) (relating to Certificate of Farming Use or State Use);

(v) The diesel fuel or kerosene was not used on a farm for farming purposes (as defined in § 48.6420–4) or by a State;

(vi) With respect to kerosene, the kerosene was not sold from a blocked pump or sold for blending with diesel fuel under the conditions described in § 48.6427–11; and

(vii) The diesel fuel or kerosene was either—

(A) Used in a use described in § 48.4082–4(c)(3) through (c)(8);

(B) Exported;

(C) Used other than as a fuel in a propulsion engine of a diesel-powered highway vehicle; or

(D) Used as a fuel in the propulsion engine of a diesel-powered bus if the bus was engaged in a use described in section 6427(b)(1) (after the application of section 6427(b)(3)).

* * * * *

(d) * * *

(2) A statement by the claimant that—

(i) The diesel fuel or kerosene did not contain visible evidence of dye; or

(ii) In the case of diesel fuel or kerosene that contains visible evidence of dye, explains the circumstances under which tax was imposed on that fuel.

(3) The use made of the diesel fuel or kerosene covered by the claim described by reference to specific categories listed in paragraph (b)(1)(vii) of this section (such as use in a qualified local bus or the exclusive use of a nonprofit educational organization).

* * * * *

(f) *Effective date.* This section is applicable with respect to diesel fuel after December 31, 1993, except for paragraph (b)(1)(iv) of this section, which is applicable to diesel fuel bought by ultimate purchasers after June 30, 1994. This section is applicable with respect to kerosene after June 30, 1998.

Par. 61. Section 48.6427–9 is amended as follows:

1. The section heading and paragraph (a) are revised.

2. Paragraph (b) is amended by:

a. Adding the language ''or undyed kerosene'' after ''diesel fuel'' in the introductory text.

b. Revising paragraph (b)(2).

3. Paragraph (c) is amended by revising the introductory text, paragraph (c)(1), and paragraph (c)(2) introductory text.

4. Paragraph (e) is amended by adding ''or kerosene'' after ''diesel fuel'' in the following locations:

a. Paragraph (e)(1) introductory text.

b. Paragraph (e)(1)(iv).

c. Paragraph (e)(1)(v)(A).

5. Paragraphs (e)(1)(i) and (e)(1)(ii) are revised.

6. Paragraph (e)(1)(vi) is amended by removing the language ''For claims relating to sales by the claimant after March 31, 1994, a statement'' and adding ''A statement'' in its place.

7. Paragraph (e)(1)(vii) is removed.

8. Paragraph (e)(2)(ii), Certificate of Farming Use or State Use, is amended by adding or ''or kerosene'' after ''diesel fuel'' each place it appears.

9. Paragraph (g) is revised.

The revisions read as follows:

§ 48.6427–9 Diesel fuel and kerosene; claims by registered ultimate vendors (farming and State use).

(a) *Overview.* This section provides rules under which certain registered ultimate vendors of taxed diesel fuel and kerosene may claim the income tax credits or payments allowed by section 6427(l)(5)(A). These claims relate to diesel fuel and kerosene sold for use on a farm for farming purposes and by a State. Claims relating to diesel fuel and kerosene used for other nontaxable purposes are made by ultimate purchasers under § 48.6427–8; claims relating to kerosene sold from a blocked

pump are made by registered ultimate vendors (blocked pump) under § 48.6427–10; and claims relating to kerosene sold during certain periods of extreme cold for blending with diesel fuel to be used for heating purposes are made by registered ultimate vendors (blending) under § 48.6427–11.

(b) * * *

(2) A *registered ultimate vendor* is an ultimate vendor that is registered under section 4101 as an ultimate vendor.

(c) * * * A claim for an income tax credit or payment with respect to diesel fuel or kerosene is allowed by section 6427(l)(5)(A) only if—

(1) Tax was imposed by section 4081 on the diesel fuel or kerosene to which the claim relates;

(2) The claimant sold the diesel fuel or kerosene to—

* * * * *

(e) * * * (1) * * *

(i) The total number of gallons.

(ii) A statement by the claimant that—

(A) The diesel fuel or kerosene did not contain visible evidence of dye; or

(B) In the case of diesel fuel or kerosene that contains visible evidence of dye, explains the circumstances under which tax was imposed on that fuel.

* * * * *

(g) *Effective date.* This section is applicable with respect to diesel fuel after December 31, 1993, and with respect to kerosene after June 30, 1998.

Par. 62. Sections 48.6427–10 and 48.6427–11 are added to read as follows:

§ 48.6427–10 Kerosene; claims by registered ultimate vendors (blocked pumps).

(a) *Overview.* This section provides rules under which certain registered ultimate vendors of taxed kerosene may claim the income tax credits or payments allowed by section 6427(l)(5)(B)(i). These claims relate to kerosene sold from a blocked pump. Claims relating to kerosene sold for use on a farm for farming purposes and by a State are made by registered ultimate vendors under § 48.6427–9; claims relating to kerosene sold during certain periods of extreme cold for blending with diesel fuel to be used for heating purposes are made by registered ultimate vendors (blending) under § 48.6427–11; and claims relating to kerosene used for nontaxable purposes are made by ultimate purchasers under § 48.6427–8.

(b) *Definitions.* The following definitions apply to this section:

(1) A *blocked pump* is a fuel pump that—

(i) Is used to dispense undyed kerosene that is sold at retail for use by the buyer in any nontaxable use;

(ii) Is at a fixed location;

(iii) Is identified with a legible and conspicuous notice stating ''UNDYED UNTAXED KEROSENE, NONTAXABLE USE ONLY''; and

(iv)(A) Cannot reasonably be used to dispense fuel directly into the fuel supply tank of a diesel-powered highway vehicle or diesel-powered train (because, for example, of its distance from a road surface or train track or the length of its delivery hose); or

(B) Is locked by the vendor after each sale and unlocked by the vendor only in response to a request by a buyer for undyed kerosene for use other than as a fuel in a diesel-powered highway vehicle or diesel-powered train.

(2) A *registered ultimate vendor (blocked pump)* is a person that is registered under section 4101 as an ultimate vendor (blocked pump).

(3) An *ultimate vendor (blocked pump)* is a person that sells undyed kerosene from a blocked pump.

(c) *Conditions to allowance of credit or payment.* A claim for an income tax credit or payment with respect to undyed kerosene is allowed by section 6427(l)(5)(B)(i) only if—

(1) Tax was imposed by section 4081 on the kerosene to which the claim relates;

(2) The claimant sold the kerosene from a blocked pump for its buyer's use other than as a fuel in a diesel-powered highway vehicle or diesel-powered train and the claimant has no reason to believe that the kerosene will not be so used;

(3) The claimant is a registered ultimate vendor (blocked pump);

(4) With respect to each sale of more than five gallons of kerosene from a blocked pump that does not meet the conditions of paragraph (b)(1)(iv)(A) of this section, the claimant has in its possession the date of the sale, name and address of the buyer, and the number of gallons sold to the buyer; and

(5) The claimant has filed a timely claim for a credit or payment that contains the information required under paragraph (e) of this section.

(d) *Form of claim.* Each claim for an income tax credit under this section must be made on Form 4136 (or such other form as the Commissioner may designate) in accordance with the instructions for that form. Each claim for a payment under this section must be made on Form 8849 (or such other form as the Commissioner may designate) in accordance with the instructions for that form.

(e) *Content of claim.* Each claim for a credit or payment under this section must contain the following information with respect to all of the kerosene covered by the claim:

(1) The claimant's ultimate vendor (blocked pump) registration number.

(2) The total number of gallons.

(3) A statement by the claimant that—

(i) The kerosene did not contain visible evidence of dye; or

(ii) In the case of kerosene that contains visible evidence of dye, explains the circumstances under which tax was imposed on that kerosene.

(4) With respect to each sale of more than five gallons of kerosene from a blocked pump that does not meet the conditions of paragraph (b)(1)(iv)(A) of this section, a statement by the claimant that it has in its possession the date of the sale, name and address of the buyer, and the number of gallons sold to the buyer.

(5) A statement by the claimant that it—

(i) Has not included the amount of the tax in its sales price of the kerosene and has not collected the amount of the tax from its buyer;

(ii) Has repaid the amount of the tax to its buyer; or

(iii) Has obtained the written consent of its buyer to the allowance of the claim.

(f) *Time and place for filing claim.* For rules relating to the time for filing a claim under section 6427, see section 6427(i). A claim under this section is not filed unless it contains all the information required by paragraph (e) of this section and is filed at the place required by the form.

(g) *Cross reference.* For a rule prohibiting a registered ultimate vendor (blocked pump) from delivering kerosene from a blocked pump into the fuel supply tank of a diesel-powered highway vehicle or diesel-powered train, see § 48.4101–1(h)(2)(iv).

(h) *Effective date.* This section is applicable after March 30, 2000.

§ 48.6427–11 Kerosene; claims by registered ultimate vendors (blending).

(a) *Overview.* This section provides rules under which certain registered ultimate vendors of taxed kerosene may claim the income tax credits or payments allowed by section 6427(l)(5)(B)(ii). These claims relate to kerosene sold during certain periods of extreme cold for blending with diesel fuel to be used for heating purposes. Claims relating to kerosene sold for use on a farm for farming purposes and by a State are made by registered ultimate vendors under § 48.6427–9; claims relating to kerosene sold from a blocked

pump for nontaxable uses are made by registered ultimate vendors (blocked pump) under § 48.6427–10; and other claims relating to kerosene used for nontaxable purposes are made by ultimate purchasers under § 48.6427–8.

(b) *Definitions.* The following definitions apply to this section:

(1) A *declaration of extreme cold* is a declaration by the Commissioner that a specific geographic area (such as a state or a county within a state) is affected by extremely or unseasonably cold weather conditions. A declaration will be in effect during the period determined by the Commissioner.

(2) A *cold weather blend* is a blend of kerosene and diesel fuel that is produced in an area described in a declaration of extreme cold and that is sold for use or used for heating purposes.

(3) A *registered ultimate vendor (blending)* is a taxable fuel registrant, a registered ultimate vendor, or a registered ultimate vendor (blocked pump).

(c) *Conditions to allowance of credit or payment.* A claim for an income tax credit or payment with respect to kerosene is allowed by section 6427(l)(5)(B)(ii) only if—

(1) Tax was imposed by section 4081 on the kerosene to which the claim relates;

(2) The claimant sold the kerosene in an area described in a declaration of extreme cold for the production of a cold weather blend;

(3) The claimant is a registered ultimate vendor (blending); and

(4) The claimant has filed a timely claim for an income tax credit or payment that contains the information required under paragraph (e) of this section.

(d) *Form of claim.* Each claim for an income tax credit under this section must be made on Form 4136 (or such other form as the Commissioner may designate) in accordance with the instructions for that form. Each claim for a payment under this section must be made on Form 8849 (or such other form as the Commissioner may designate) in accordance with the instructions for that form.

(e) *Content of claim*—(1) *In general.* Each claim for credit or payment under this section must contain the following information with respect to all of the kerosene covered by the claim:

(i) The claimant's registration number.

(ii) The total number of gallons.

(iii) A statement by the claimant that—

(A) The kerosene did not contain visible evidence of dye; or

(B) In the case of kerosene that contains visible evidence of dye, explains the circumstances under which tax was imposed on that kerosene.

(iv) A statement by the claimant that it—

(A) Has not included the amount of the tax in its sales price of the kerosene and has not collected the amount of the tax from its buyer;

(B) Has repaid the amount of the tax to its buyer; or

(C) Has obtained the written consent of its buyer to the allowance of the claim.

(v) A statement that the claimant has in its possession an unexpired certificate described in paragraph (e)(2) of this section and the claimant has no reason to believe any information in the certificate is false.

(2) *Certificate*—(i) *In general.* The certificate described in this paragraph (e) is a statement by a buyer that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (e)(2)(iii) of this section, and contains all information necessary to complete the model certificate. A certificate must be given for each purchase of kerosene. The certificate may be included as part of any business records normally used to document a sale.

(ii) *Withdrawal of the right to provide a certificate.* The Internal Revenue Service may withdraw the right of a buyer of kerosene to provide a certificate under this section if the buyer uses the kerosene to which a certificate relates other than for producing a cold weather blend. The Internal Revenue Service may notify any seller to whom the buyer has provided a certificate that the buyer's right to provide a certificate has been withdrawn.

(iii) *Model certificate.*

CERTIFICATE OF BUYER FOR PRODUCTION OF A COLD WEATHER BLEND

(To support vendor's claim for a credit or payment under section 6427 of the Internal Revenue Code.) Name of Buyer _____ (Buyer) certifies the following under penalties of perjury:

The kerosene to which this certificate applies will be used by Buyer to produce a blend of kerosene and diesel fuel in an area described in a declaration of extreme cold and the blend will be sold for use or used for heating purposes.

This certificate applies to _____ percent of Buyer's purchases from _____ (name, address, and employer identification number of seller) as follows (complete as applicable):

1. A single purchase on invoice or delivery ticket number _____.

2. All purchases between _____ (effective date) and _____ (expiration date) (period not to exceed one year after the effective date) under account or order number(s) _____. If this certificate applies only to Buyer's purchases for certain locations, check here _____ and list the locations.

_____

_____

_____

If Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

_____

Printed or typed name of person signing

_____

Title of person signing

_____

Name of Buyer

_____

Employer identification number

_____

Address of Buyer

_____

Signature and date signed

(f) *Time and place for filing claim.* For rules relating to the time for filing a claim under section 6427, see section 6427(i). A claim under this section is not filed unless it contains all the information required by paragraph (e) of this section and is filed at the place required by the form.

(g) *Effective date.* This section is applicable after March 30, 2000.

§§ 48.6427–10T and 48.6427–11T [Removed]

Par. 63. Sections 48.6427–10T and 48.6427–11T are removed.

§ 48.6715–1 [Amended]

Par. 64. Section 48.6715–1 is amended as follows:

1. The section heading is amended by removing the language ''diesel''.

2. Paragraph (a) is amended by adding ''or kerosene'' after ''diesel fuel'' in the following locations:

a. Paragraph (a)(1).

b. Paragraph (a)(2), each place it appears.

c. Paragraph (a)(4), each place it appears.

3. Paragraph (a)(4) is amended by removing the language ''§ 48.6427–8(b)(vi)(C), (D), or (E)'' and adding ''§ 48.6427–8(b)(1)(vii)(C) or (D)'' in its place.

PART 145—TEMPORARY EXCISE TAX REGULATIONS UNDER THE HIGHWAY REVENUE ACT OF 1982 (PUB. L. 97–424)

Par. 65. The authority citation for part 145 continues to read in part as follows:

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

§ 145.4051–1 [Amended]

Par. 66. In § 145.4051–1, paragraph (f), the first sentence is removed.

Par. 67. Section 145.4052–1 is amended as follows:

1. Paragraph (a)(2)(ii) is revised.

2. Paragraph (a)(7) is removed.

The revision reads as follows:

§ 145.4052–1 Special rules and definitions.

(a) * * *

(2) * * *

(ii) [Reserved]. For sales after June 30, 1998, see § 48.4052–1 of this chapter.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 68. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 69. In § 602.101, paragraph (b) is amended by:

1. Removing the following entries from the table:

41.4481–1T
41.4482(b)–1T
48.4081–2(c)(3)
48.4081–3(d)(2)(iii)
48.4081–3(e)(2)(ii)
48.4081–3(f)(2)(ii)
48.4081–9
48.4082–7T
48.4082–8T
48.4091–3T
48.4101–2T
48.4101–3T
48.6420(c)–2
48.6420–7
48.6427–11T

2. Revising the entries for 48.4081–7 and 145.4052–1 and adding entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
48.4052–1	1545–1418
* * * * *	
48.4081–2	1545–1270 1545–1418
48.4081–3	1545–1270 1545–1418
* * * * *	
48.4081–7	1545–1270 1545–1418
* * * * *	
48.4082–6	1545–1418
48.4082–7	1545–1418
48.4091–3	1545–1418
* * * * *	
48.6427–10	1545–1418
48.6427–11	1545–1418
145.4052–1	1545–0120 1545–0745 1545–1076
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: March 15, 2000.

Jonathan Talisman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 00–7351 Filed 3–30–00; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 099–1099; FRL–6568–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Missouri State Implementation Plan (SIP). This action approves a revision to Missouri's fugitive dust rule. This action also responds to comments submitted during the public comment period for the proposed approval action published on May 28, 1999. This action makes the state rule Federally enforceable.

DATES: This rule is effective on May 1, 2000.

ADDRESSES: Copies of the state submittals are available at the following address for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we, us, or our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this action?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

I. Background

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated