

SUPPORTING STATEMENT
TD 9199 (REG-154000-04)
1545-1418
Diesel Fuel and Kerosene Excise Tax; Dye Injection

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Regulation 48.4082-1(d) amends the Manufacturers and Retailers Excise Taxes Regulations to reflect changes made by the American Jobs Creation Act of 2004, Pub.L. 108-357) relating to the tax imposed under section 4082(a) on diesel fuel and kerosene. Any diesel fuel or kerosene that is destined for a nontaxable use must be indelibly dyed by mechanical injection. The regulations describe the requirements for each mechanical dye injection system in order to make that system tamper resistant. Applications for approval by the Commissioner must meet the standards as prescribed by §§48.4082-1T and 48.4101-1T.

Although § 48.4082-1T(d) requires mechanical injection of dye into diesel and kerosene, this is temporarily suspended by Notice 2005-80. The Notice lifted the requirement for mechanical injection. Section 6 of Notice provides, in part: (1)(i) Any means of dyeing by mechanical injection will be deemed to meet the mechanical injection requirements of § 4082(a) if the dyeing system includes measures to resist tampering that are consistent with customary business security practices. Thus, mechanical injection systems at a terminal are not required to meet the specific requirements of § 48.4082-1T(d) and no penalty will be imposed under § 6715A(a)(2) for a failure to meet those specific requirements. Because of this, there is currently no requirement in the regulations for pre-approval by the IRS to inject dye into exempt fuel. The statutory requirement remains codified until such time they are finalized or removed. The burden has been adjusted accordingly.

2. USE OF DATA

The information will be used by the Service to verify that the proper amount of tax is reported, excluded, refunded, or credited.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

We have been unable to reduce burden specifically for small businesses.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

This notice of proposed rulemaking was published in the **Federal Register** on April 26, 2005 (70 FR 21361), providing an opportunity for public comment on temporary regulations published on the same date at 70 FR 21332 (TD 9199).

We receive no comments during the comment period in response to the **Federal Register** notice dated May 12, 2014 (79 FR 27049).

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and return information are confidential under 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

It is has been estimated that 200 respondents would be required to comply with the temporary rule; requiring 7 hours of reporting and recordkeeping burden per respondent, for a total burden of 1,400 hours. Due to the suspension of these information collection requirements, the IRS is reporting a one hour placeholder until such time the requirements are activated by the IRS.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, **Federal Register** notice May 12, 2014 (79 FR 27049), requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

The information collection requirement prescribed by regulation by §48.4082-1T has been suspended by Notice 2005-80, until such time as prescribed by the IRS. A placeholder of one hour is being requested for this purpose. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS, AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

