

SUPPORTING STATEMENT
REG-155087-05

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 40A(b)(4) of the Internal Revenue Code provides that no biodiesel credit is allowed unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agribiodiesel in the product.

Section 40A(f) treats “renewable diesel” in the same manner as biodiesel throughout the Code.

Section 4081(a)(2)(D) provides a rate of tax for the removal, entry, or sale of diesel-water fuel emulsion if the person liable for tax is registered under section 4101.

Section 4101(a)(1) provides that every person required by the Secretary to register under this section with respect to the tax imposed by § 4041(a)(1) or 4081 and every person producing or importing biodiesel (as defined in § 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A)) shall register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe.

Section 48.4101-1(c)(1)(viii) of the proposed regulations require a person to be registered under § 4101 with respect to the tax on taxable fuel if the person is a producer or importer of alcohol, biodiesel, or renewable diesel.

Section 48.4101-1(d)(2) of the proposed regulations allows a person to be registered under § 4101 as an alternative fueler.

Section 48.4101-1(d)(7) of the proposed regulations allows a person to be registered under § 4101 as a diesel-water emulsion producer.

Section 48.4101-1(e) provides that the application for registration is made in accordance with the instructions for Form 637, Application for Registration.

Section 6426 allows a credit against the tax imposed by § 4081 in the amount that includes the biodiesel mixture credit and provides that no credit shall be allowed unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or

importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agribiodiesel in the product.

Section 6426 allows a credit against the tax imposed by § 4041 in the amount that includes the alternative fuel credit and against the tax imposed by § 4081 in the amount that includes the alternative fuel mixture credit. Neither of these credits are allowed unless the claimant is registered under § 4101.

Section 48.6426-3(e) of the proposed regulation describes the certificate the biodiesel producer must give to the claimant of a biodiesel mixture credit or biodiesel credit.

Section 48.6426-3(f) of the proposed regulation describes the statement a biodiesel reseller must give to the claimant of a biodiesel mixture credit or biodiesel credit.

Section 48.6426-4(e) of the proposed regulation describes the certificate the renewable diesel producer must give to the claimant of a renewable diesel mixture credit or renewable diesel credit.

Section 48.6426-4(f) of the proposed regulation describes the statement a renewable diesel reseller must give to the claimant of a renewable diesel mixture credit or renewable diesel credit.

Section 48.6426-6(c) of the proposed regulation describes the statement given to a seller of liquefied natural gas (LNG) in cases in which the buyer of the LNG gives its right to the alternative fuel credit to the seller.

2. USE OF DATA

The information will be used by the IRS to verify that the proper amount of tax is refunded or credited.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There are no plans to provide electronic filing because electronic filing is not appropriate for the collection of information in this submission since the reporting requirements involve only an exchange of information among taxpayers.

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

Not applicable.

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 INSTRUCTION AND FORMS, AND DATA ELEMENTS

This notice of proposed rulemaking was published in the Federal Register on July, 29, 2008, 73 FR 43890, to provide the public a 90-day period in which to review and provide public comments relating to any aspect of the proposed regulation. A public hearing will be held with respect to this NPRM if requested.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 48.4101-1(c)(1)(viii), (d)(2), and (d)(7) require or allow certain persons to be registered by the IRS. The collection of information for these registrations will be reflected on Form 637, Application for Registration.

Section 48.6426-3(e) of the proposed regulation describes the certificate the biodiesel producer or importer must give to the claimant of a biodiesel mixture credit or biodiesel credit. We estimate that there will be 600 biodiesel producers or importers who will give this certificate 100 times during the year and that the certificate will take .25 hour to complete. The total burden for this requirement is 15,000 hours.

Section 48.6426-3(f) of the proposed regulation describes the statement a biodiesel reseller must give to the claimant of a biodiesel mixture credit or biodiesel credit. We estimate that there will be 100 biodiesel resellers who will give this certificate 100 times during the year and that the certificate will take .25 hour to complete. The total burden for this requirement is 2,500 hours.

Section 48.6426-4(e) of the proposed regulations describes the certificate the renewable diesel producer must give to the claimant of a renewable diesel mixture credit or renewable diesel credit. We estimate that there will be six renewable diesel producers who will give this certificate and 50 times during the year that the certificate will take .25 hour to complete. The total burden for this requirement is 75 hours.

Section 48.6426-4(f) of the proposed regulation describes the statement a renewable diesel reseller must give to the claimant of a renewable diesel mixture credit or renewable diesel credit. We estimate that there will be 10 renewable diesel resellers who will give this certificate 50 times during the year and that the certificate will take .25 hour to complete. The total burden for this requirement is 125 hours.

Section 48.6426-6(c) of the proposed regulation describes the statement given to a seller of liquefied natural gas (LNG) in cases in which the buyer of the LNG gives its right to the alternative fuel credit to the seller. We estimate that there will be 40 buyers who will give this certificate once during the year and that the certificate will take .25 hour to complete. The total burden for this requirement is 10 hours.

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

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

Not applicable.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

This is a new collection.

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 regulations sunset 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 ON OMB FORM 83-I

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.