

**§ 14.100 List of standing advisory committees.**

\* \* \* \* \*

(a) \* \* \*

**(4) Risk Communication Advisory Committee.**

(i) Date established: June 19, 2007.

(ii) Function: The committee advises the Commissioner and designees on strategies and programs designed to communicate to the public the risks and benefits of FDA-regulated products so as to facilitate optimal use of these products. The committee also reviews and evaluates research relevant to such communication to the public by both FDA and other entities. It also facilitates interactively sharing risk and benefit information with the public to enable people to make informed independent judgments about use of FDA-regulated products.

\* \* \* \* \*

Dated: July 17, 2007.

**Randall W. Lutter,***Deputy Commissioner for Policy.*

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Parts 48 and 602**

[TD 9346]

RIN 1545-BC08

**Entry of Taxable Fuel****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations relating to the tax on the entry of taxable fuel into the United States. The final regulations affect enterers of taxable fuel, other importers of record, and certain sureties.

**DATES:** *Effective Date:* These regulations are effective July 27, 2007.

*Applicability Dates:* For dates of applicability, see §§ 48.4081-1(f) and 48.4081-3(j).

**FOR FURTHER INFORMATION CONTACT:** Celia Gabrysh at (202) 622-3130 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Paperwork Reduction Act**

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork

Reduction Act (44 U.S.C. 3507) under control number 1545-1897. The collection of information in these final regulations is in § 48.4081-3(c)(2)(iii) and (iv). This collection of information allows certain importers of record and sureties to avoid liability for the tax on the entry of taxable fuel into the United States.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

The estimated annual burden per respondent and/or recordkeeper varies from 15 minutes to 2.25 hours, depending on individual circumstances, with an estimated average of 1.25 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224, and the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this 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**

This document amends the Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) to provide rules relating to the tax that section 4081 of the Internal Revenue Code (Code) imposes on the entry of taxable fuel into the United States. On July 30, 2004, a temporary regulation (TD 9145, 69 FR 45587) relating to this topic was published in the **Federal Register**. A notice of proposed rulemaking (REG-120616-03, 69 FR 45631) cross-referencing the temporary regulations was published in the **Federal Register** on the same day. Written and electronic comments were received and a public hearing was held on January 12, 2005. After considering the written comments and the comments made at the public hearing, the proposed regulations are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed.

*The temporary and proposed regulations.* Effective September 28, 2004, the temporary regulations provide that the importer of record (under Customs law) of taxable fuel is jointly

and severally liable with the enterer for the tax imposed on the entry of taxable fuel if the importer of record is not the enterer (that is, the importer of record is a customs broker engaged by the enterer) and the enterer is not a taxable fuel registrant. Under the law in effect before September 28, 2004, an importer of record's Customs bond could have been charged for any unpaid tax imposed on the entry of fuel imported under the bond. The preamble of the temporary regulations stated, however, that the IRS would not charge the Customs bond for the tax imposed on an entry of fuel occurring before September 28, 2004. In addition, the temporary regulations provide that the Customs bond posted with respect to the importation of fuel will not be charged for the tax imposed on an entry of fuel occurring after September 27, 2004, if the enterer is a taxable fuel registrant or the surety believes, based on the enterer's certification, that the enterer is a taxable fuel registrant.

*Public comments.* One commentator that represents an association of road builders supported the proposed and temporary regulations, calling them one of a series of important initiatives necessary to combat fuel tax evasion and finance the Highway Trust Fund.

Several commentators that represent tribal interests in the state of New York opposed the regulations. They maintained that the regulations will cause fuel prices to increase at service stations located on tribal reservations. These higher fuel prices will reduce sales and result in the loss of several hundred tribal jobs. In addition, a reduction in sales at these stations would cause a decrease in receipts from the tribal tax on fuel sold on the reservations. This tax funds general tribal government services, including police, health, and welfare programs.

Many of these commentators also suggested that the Treasury Department and the IRS failed to comply with section 5 of Executive Order 13175 (65 FR 6724) and Executive Order 12866 (58 FR 51735), which generally requires each Federal agency to consult with tribal officials before the promulgation of any regulation that "has tribal implications" or that "imposes substantial direct compliance costs on Indian tribal governments."

*The final regulations.* This Treasury decision adopts the proposed rules as final regulations without substantive change. Because the cross-reference notice of proposed rulemaking referred to the text of temporary rules, the Treasury decision includes the nonsubstantive, clerical changes need to

incorporate the temporary rule text into the final regulations.

The rules in these regulations address the nonpayment of tax on fuel that is entered into the United States. An enterer's failure to pay this tax not only gives it a competitive price advantage over its compliant competitors, but it also deprives the United States Treasury of revenue intended for the Highway Trust Fund. The final regulations do not impose a new tax burden on enterers of taxable fuel. Instead, the regulations simply provide the IRS with an additional enforcement tool to collect the tax that is owed under existing law and give an additional incentive for enterers to be registered.

The imposition of tax on the entry of fuel sold on reservations results not from these regulations but from the statute, which does not provide an exemption from the tax for fuel sold on reservations. The only effect of these regulations is to improve the ability of the IRS to apply the tax consistently and fairly with respect to all taxpayers subject to the tax, without regard to whether or not the fuel is ultimately sold on tribal reservations.

The Treasury Department and IRS determined that these regulations are not subject to Executive Order 13175 (65 FR 67249) which obligates an agency to consult with tribal officials when developing "policies that have tribal implications." This executive order defines "policies that have tribal implications," in part, as regulations that have substantial direct effects on one or more Indian tribes. The regulations do not have tribal implications, as specified in Executive Order 13175, because they do not significantly or uniquely affect the communities of Indian tribal governments, nor do they impose direct compliance costs on them. Any economic effect of the fuel tax on tribal economies is a consequence of the statutory imposition of the tax, not the manner in which the regulations operate to implement the statute. Thus, Executive Order 13175 does not apply to the final or temporary regulations.

### Special Analyses

It has been determined that these regulations are 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 any burden on taxpayers is minimal. Accordingly, 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 notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the regulations on small business.

### Drafting Information

The principal author of these regulations is Celia Gabrysh, Office of Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS, the Treasury Department, and the Bureau of Customs and Border Protection, Department of Homeland Security, participated in their development.

### List of Subjects

#### 26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

#### 26 CFR Part 602

Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 48 and 602 are amended as follows:

### PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 48 continues to read, in part, as follows:

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

■ **Par. 2.** Section 48.4081-1 is amended as follows:

■ 1. Paragraph (b) is amended by revising the definition of *Enterer*.

■ 2. The first sentence of paragraph (f)(2) is revised.

The revisions read as follows:

#### § 48.4081-1 Taxable fuel; definitions.

\* \* \* \* \*

(b) \* \* \*

*Enterer* generally means the importer of record (under customs law) with respect to the taxable fuel, except that—

(1) If the importer of record is a customs broker engaged by the owner of the taxable fuel, the person for whom the broker is acting is the enterer; and

(2) If there is no importer of record for taxable fuel entered into the United States, the owner of the taxable fuel at

the time it is brought into the United States is the enterer.

\* \* \* \* \*

(f) \* \* \*

(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, the definition of *kerosene, excluded liquid, and taxable fuel* are applicable after June 30, 1998, and the definition of *enterer* is applicable to entries of taxable fuel after September 27, 2004. \* \* \*

#### § 48.4081-1T [Removed]

■ **Par. 3.** Section 48.4081-1T is removed.

■ **Par. 4.** Section 48.4081-3 is amended by revising paragraphs (c)(2)(ii) through (iv), and (j) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) *Joint and several liability of the importer of record.* The importer of record with respect to the taxable fuel is jointly and severally liable with the enterer for the tax imposed under paragraph (c)(1) of this section if—

(A) The importer of record is not the enterer of the taxable fuel; and

(B) The enterer is not a taxable fuel registrant.

(iii) *Conditions for avoidance of liability.* The importer of record is not liable for the tax under paragraph (c)(2)(ii) of this section if, at the time of the entry, the importer of record—

(A) Has an unexpired notification certificate (as described in § 48.4081-5) from the enterer; and

(B) Has no reason to believe that any information in the notification certificate is false.

(iv) *Customs bond.* The Customs bond posted with respect to the importation of the fuel will not be charged for the tax imposed on the entry of the fuel if the enterer is a taxable fuel registrant. A Customs bond will not be charged for the tax imposed on the entry of the fuel covered by the bond, if at the time of entry, the surety—

(A) Has an unexpired notification certificate (as described in § 48.4081-5) from the enterer; and

(B) Has no reason to believe that any information in the notification certificate is false.

\* \* \* \* \*

(j) *Effective/applicability date:* This section is applicable January 1, 1994, except that paragraphs (c)(2)(ii) through (iv) of this section are applicable to

entries of taxable fuel after September 27, 2004.

**§ 48.4081-3T [Removed]**

■ **Par. 5.** Section 48.4081-3T is removed.

**§ 48.4081-5 [Amended]**

■ **Par. 6.** Section 48.4081-5 is amended by revising paragraph (a) to read as follows:

(a) *Overview.* This section sets forth requirements for the notification certificate under §§ 48.4081-2(c)(2)(ii), 48.4081-3(c)(2)(iii) and (iv), 48.4081-3(d)(2)(iii), 48.4081-3(e)(2)(iii), 48.4081-3(f)(2)(ii), and 48.4081-4(c) to notify another person of the taxable fuel registrant's registration status.

\* \* \* \* \*

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

■ **Par. 7.** The authority citation for part 602 continues to read as follows:

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

■ **Par. 8.** In § 602.101, paragraph (b) is amended by removing the entry for § 48.4081-3T, and revising the entry for § 48.4081-3 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.
* * * * *	* * * * *
48.4081-3 .....	1545-1270 1545-1418 1545-1897

\* \* \* \* \*

**Kevin M. Brown,**  
*Deputy Commissioner for Services and Enforcement.*

Approved: July 16, 2007.

**Eric Solomon,**  
*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. E7-14491 Filed 7-26-07; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2004-0257; FRL-8127-9]

**Chlorthalonil; Pesticide Tolerance**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for the combined residues of chlorothalonil and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile, in or on pea, edible podded. The Snowpea Commission of Guatemala requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective July 27, 2007. Objections and requests for hearings must be received on or before September 25, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2004-0257. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Tony Kish, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: 703-308-9443; e-mail address: [kish.tony@epa.gov](mailto:kish.tony@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse,

nursery, and floriculture workers; farmers.

- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Access Electronic Copies of this Document?*

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gpo/opptsfrs/home/guidelin.htm>.

*C. Can I File an Objection or Hearing Request?*

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2004-0257 in the subject line on the first page of your submission. All requests must be in writing, and must be