highway vehicle or diesel-powered train, see § 48.4101–1(h)(2)(iv).

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

[T.D. 8879, 65 FR 17162, Mar. 31, 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—(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 substantially the same form as the model certificate provided in paragraph (e)(2)(iii) of this section,
§48.6715–1 Penalty for misuse of dyed fuel. 

(a) In general. If any person willfully alters, or attempts to alter, the strength or composition of any dye or marking done pursuant to §48.4082–1 in any dyed fuel, then section 6715(a)(3) provides that such person shall pay a penalty in addition to any tax. The penalty imposed by section 6715(a)(3) will not apply in the following cases:

(1) Diesel fuel or kerosene that satisfies the dyeing and marking requirements of §48.4082–1 (b) and (c) is blended with any undyed liquid and the resulting product satisfies the dyeing and marking requirements of §48.4082–1 (b) and (c).

(2) Diesel fuel or kerosene that satisfies the dyeing and marking requirements of §48.4082–1 (b) and (c) is blended with any other liquid (other than diesel fuel or kerosene) that contains the type and amount of dye and marker required for diesel fuel or kerosene dyed and marked in accordance with §48.4082–1 (b) and (c).

(3) The alteration or attempted alteration occurs in an exempt area of Alaska after September 30, 1996.

(4) Diesel fuel or kerosene that does not satisfy the dyeing and marking requirements of §48.4082–1 (b) and (c) is blended with diesel fuel or kerosene that satisfies the dyeing and marking requirements of §48.4082–1 (b) and (c) and the blending occurs as part of a use described in §48.4082–4(c) or §48.6427–8(b)(1)(vii)(C) or (D).

(b) Effective date. This section is effective January 1, 1994. 