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Jean A. Webb,
Secretary of the Commission.
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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[REG-247678-96]

RIN 1545-AU53

Gasoline and Diesel Fuel Excise Tax; Special Rules for Alaska; Definition of Aviation Gasoline and Kerosene

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed rule and notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the Federal Register, the IRS is issuing temporary regulations relating to the application of the diesel fuel excise tax to fuel used in Alaska. The text of those temporary regulations also serves as a portion of the text of these proposed regulations. This document also contains other proposed regulations relating to gasoline and diesel fuel excise taxes. The proposed regulations implement certain changes made by the Omnibus Budget Reconciliation Act of 1993 and the Small Business Job Protection Act of 1996 and affect certain enterers, refiners, retailers, terminal operators, throughputters, and users.

DATES: Written comments and requests for a public hearing must be received by March 17, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-247678-96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-247678-96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments/html.

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

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations published in the Rules and Regulations section of this issue of the Federal Register provide rules relating to diesel fuel that is removed, entered, or sold in the state of Alaska. The text of those temporary regulations also serves as the text of these proposed regulations relating to Alaska. The preamble to the temporary regulations explains the temporary rules.

In addition, this document proposes definitions of *aviation gasoline*, for purposes of the tax on aviation gasoline as added by the Small Business Job Protection Act of 1996, and *kerosene*, for purposes of the tax on diesel fuel. These definitions are based on definitions used by the Department of Energy. This document also proposes changes to the effective date of proposed regulations relating to gasoline and diesel fuel that were published in the Federal Register on March 14, 1996 (61 FR 10490).

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 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 and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, a notice of the date, time, and place for the hearing will be published in the Federal Register.

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 in 26 CFR Part 48

Excise taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 48 is proposed to be amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Paragraph 1. The authority citation for part 48 is amended by adding an entry in numerical order to read in part as follows:

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

Section 48.4082-5 also issued under 26 U.S.C. 4082. * * *

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

1. Paragraph (b) is amended by adding new definitions in alphabetical order.

2. The second sentence of paragraph (c)(2)(i) is amended by adding the language "aviation fuel (as defined in section 4093(a)), " after "does not include".

3. Paragraph (d) is revised.

The additions and revision 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, as described in ASTM Specification D 910 and Military Specification MIL-G-5572 (For availability see paragraph (c)(2)(i) of this section.).

* * * * *

Kerosene means No. 1-K and No. 2-K kerosene described in ASTM Specification D 3699 (the specification), applied without regard to any agreement permitted by the specification (For availability see paragraph (c)(2)(i) of this section.). Any other fuel is not kerosene even if an agreement permitted by the specification modifies the applicable requirements and the fuel is treated as kerosene under the agreement.

* * * * *

(d) *Effective date.* This section is effective January 1, 1994, except that in paragraph (b) of this section the

definitions of *aviation gasoline* and *kerosene* are effective on the date the final regulations are published in the Federal Register.

Par. 3. In § 48.4081-8(c) (as proposed to be added in the Federal Register for March 14, 1996 (61 FR 10491)), the language "October 1, 1996." is removed and "the date that is 60 days after the date that the final regulations are published in the Federal Register." is added in its place.

Par. 4. In § 48.4082-1(d)(7) (as proposed in the Federal Register for March 14, 1996 (61 FR 10491)), the language "April 1, 1997." is removed and "the date that is 180 days after the date that the final regulations are published in the Federal Register." is added in its place.

Par. 5. Section 48.4082-5 is added to read as follows:

§ 48.4082-5 Diesel fuel; Alaska.

[The text of this proposed section is the same as the text of § 48.4082-5T published elsewhere in this issue of the Federal Register].

Par. 6. Section 48.6715-2 is added to read as follows:

§ 48.6715-2 Application of section 6715(a)(3) to Alaska.

[The text of this proposed section is the same as the text of § 48.6715-2T published elsewhere in this issue of the Federal Register].

Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 96-31856 Filed 12-16-96; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4007

RIN 1212-AA66

Disclosure of Premium-Related Information

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation proposes to amend its premium payment regulation to provide for the submission to the PBGC of information contained in records relating to premium filings.

DATES: Comments must be received on or before February 18, 1997.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC

20005-4026, or delivered to Suite 340 at the above address. Comments also may be sent by Internet e-mail to reg.comments@pbgc.gov. Comments will be available for inspection at the PBGC's Communications and Public Affairs Department in Suite 240 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Harold J. Ashner, Assistant General Counsel, or Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024 (202-326-4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: The PBGC's premium payment regulation (29 CFR Part 4007) requires plan administrators to make available to the PBGC for audit those plan records that are necessary to support premium filings, but does not explicitly require that the records be submitted to the PBGC on request. The PBGC proposes to amend the regulation to provide for such submission within a specified time period.

This change will allow PBGC auditors to review plan documents at their desks in their own offices. In some cases, this will eliminate the need for "on-site" audits at plans' offices. These "desk" audits will be an efficient way to assure premium payment requirements are met. Desk audits will help to ensure the integrity of the premium collection program and be less disruptive of pension plan operations than on-site audits.

The rule requires respondents to provide the information within 30 days of receipt of the PBGC's request, or by a different time specified therein. The PBGC will require compliance within less than 30 days only if it determines that the payment of premiums (or any associated interest or penalties) would otherwise be jeopardized, *e.g.*, because a statutory limitations period is about to expire.

The PBGC welcomes public comment on the impact and burden on plans of desk audits versus on-site audits, and on the time allowed for responding to the PBGC's requests for information.

Paperwork Reduction Act

This proposed rule modifies the PBGC's collection of information requirements relating to premiums (29 CFR Part 4007). The premium requirements, which have been approved by the Office of Management and Budget under control number 1212-0009, relate primarily to the obligation to file annual premium forms with the

PBGC. The same approval also covers certifications of compliance (and related correspondence) with participant notice requirements (29 CFR Part 4011). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC has submitted the premium and participant notice collection of information, as amended by this proposed rule, to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995, and has requested extension of OMB's existing approval for a 3-year period. The PBGC needs the information plan administrators submit under the premium and participant notice collection of information in order to enforce compliance with the premium payment and participant notice requirements.

The PBGC expects to receive approximately 60,500 PBGC Form 1 or Form 1-ES filings each year. In addition, the PBGC expects to receive, during the requested 3-year approval period, an average of 400 responses per year to surveys relating to the participant notice requirements of Part 4011. The estimated annual reporting and recordkeeping burden is 3,804 hours and \$10,553,550.

Comments on the paperwork provisions of the premium and participant notice collection of information should be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, Washington, DC 20503. Comments may address (among other things)—

- whether the collection of information is needed for the proper performance of the PBGC's functions and will have practical utility;
- the accuracy of the PBGC's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- enhancement of the quality, utility, and clarity of the information to be collected; and
- minimizing the burden of the collection of information on respondents through the use of automated collection techniques (or other forms of information technology) or in other ways.

E.O. 12866 and the Regulatory Flexibility Act

The PBGC has determined that this proposed rule is not a "significant