(3) The diesel fuel or kerosene satisfies the dyeing and marking requirements of paragraphs (b), (c), and (d) of this section.

(b) Dyeing requirements. Diesel fuel or kerosene satisfies the dyeing requirement of this paragraph (b) only if the diesel fuel or kerosene contains—

(1) The dye Solvent Red 164 (and no other dye) at a concentration spectrally equivalent to at least 3.9 pounds of the solid dye standard Solvent Red 26 per thousand barrels of diesel fuel or kerosene; or

(2) Any dye of a type and in a concentration that has been approved by the Commissioner.

(c) Marking requirements. [Reserved]

(d) [Reserved]. For further guidance, see §48.4082–1T(d).

(e) Effective date—(1) Except as provided in paragraph (e)(2) of this section, this section is applicable March 14, 1996.

(2) [Reserved] For further guidance, see §48.4082–1T(e)(2).


§48.4082–1T Diesel fuel and kerosene; exemption for dyed fuel (temporary).

(a) through (c) [Reserved]. For further guidance, see §48.4082–1(a) through (c).

(d) Time and method for adding dye—

(1) In general. Except as provided by paragraph (d)(6) of this section, diesel fuel or kerosene satisfies the dyeing requirements of this paragraph (d) only if the dye required by §48.4082–1(b) is combined with the diesel fuel or kerosene by means of a mechanical injection system that is approved by the Commissioner for use at the facility where the dyeing occurs. Application for approval must be made in the form and manner required by the Commissioner. Rules similar to the rules of §48.4101–1(g) apply to the Commissioner's action on the applications.

(2) Mechanical injection system; requirements. The Commissioner will approve a mechanical injection system only if—

(i) The system has features that automatically inject an amount of dye that satisfies the concentration requirements of §48.4082–1(b) into diesel fuel or kerosene as the diesel fuel or kerosene is delivered from the bulk transfer/terminal system into the transport compartment of a truck, trailer, railroad car, or other means of nonbulk transfer;

(ii) The system has calibrated devices that accurately measure and record the amount of dye and the amount of diesel fuel and kerosene that is dispensed for each removal;

(iii) The system has automatic shut-off devices that prevent the removal of more than 100 gallons of undyed diesel fuel or kerosene in the case of a system malfunction;

(iv) The system is secured by either—

(A) Unbroken seals that are issued, installed, and maintained by the terminal operator and secure the measurement devices, shut-off devices, and other access points to the injection system;

(B) A secured container that controls access to the measurement devices, shut-off devices, and other access points and is secured by an unbroken seal issued, installed, and maintained by the terminal operator;

(v) Each seal securing the system bears a unique identifying number or code and is produced in a manner that provides adequate assurance against duplication; and

(vi) The operator of the facility has written procedures in place for complying with its duty, described in paragraph (d)(4) of this section, to maintain the system’s security standards.

(3) Mechanical injection system; basis for approval. In determining whether to approve a mechanical injection system, the Commissioner will take into account the individual circumstances of each facility, including local fire and safety codes, to ensure that the cost of acquiring and maintaining the appropriate levels of security are reasonable for that facility.

(4) Mechanical injection system; duty of the operator of a mechanical injection system to maintain the system’s security standards. Each operator of a mechanical injection system must—

(i) Maintain a record for each seal, including its identifying number or code, the location of the seal, the date(s) on which the seal was issued
§ 48.4082–2 Diesel fuel and kerosene; notice required for dyed fuel.

(a) In general. A legible and conspicuous notice stating “DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE” must be posted by a seller on any retail pump or other delivery facility where it sells dyed diesel fuel for use by its buyer. A legible and conspicuous notice stating “DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE” must be posted by a seller on any retail pump or other delivery facility where it sells dyed kerosene for use by its buyer. Any seller that fails to post the required notice on any retail pump or other delivery facility where it sells dyed fuel is, for purposes of the penalty imposed by section 6715, presumed to know that the fuel will not be used for a nontaxable use.

(b) Cross reference; terminal operators. For the requirement that terminal operators provide a notice with respect to dyed fuel, see §48.4101–1(h)(3) (relating to terms and conditions of registration for terminal operators).

(c) Effective date. This section is applicable with respect to diesel fuel and kerosene, such fuel satisfies the dyeing requirements of this paragraph (d) only if the dye required by §48.4082–1(b) is combined with the fuel before the sale or entry and the seller or enterer has in its records evidence (such as a certificate from the terminal operator providing the fuel) establishing that the dye was combined with the fuel by means of a mechanical injection system. Thus, for example, diesel fuel or kerosene that is entered into the United States by means of nonbulk transfer (such as a railroad car) does not satisfy the requirements of this paragraph (d) if the required dye and marker are combined with diesel fuel or kerosene after the diesel fuel or kerosene has been entered into the United States.

(7) Cross reference. For the penalty relating to mechanical dye injection systems, see section 6715A.

(e) and (e)(1) [Reserved]. For further guidance, see §48.4082–1(e) and (e)(1).

(2) This section is applicable on October 24, 2005.

[T.D. 9199, 70 FR 21333, Apr. 26, 2005]