separated from the gasohol is liable for the tax imposed under paragraph

(f)(1)(i) of this section.

(iii) Rate of tax. The rate of tax imposed under paragraph (f)(1)(i) of this section is the difference between the rate of tax applicable to gasoline not described in this section and the applicable gasohol production tax rate.

- (2) Failure to blend—(i) Imposition of tax. Tax is imposed on the entry, removal, or sale of gasoline (including excess liquid described in paragraph (b)(2) of this section) with respect to which tax was imposed at a gasohol production tax rate if-
- (A) The gasoline was not blended into gasohol; or
- (B) The gasoline was blended into gasohol but the gasohol production tax rate applicable to the type of gasohol produced is greater than the rate of tax originally imposed on the gasoline.
- (ii) *Liability for tax.* (A) In the case of gasoline with respect to which tax was imposed at the gasohol production tax rate under paragraph (c)(1)(i) of this section, the person liable for the tax imposed by paragraph (f)(2)(i) of this section is the person that was liable for tax on the entry or removal.
- (B) In the case of gasoline with respect to which tax was imposed at the gasohol production tax rate under paragraph (c)(1)(ii) of this section, the person that bought the gasoline in connection with the entry or removal is liable for the tax imposed under paragraph (f)(2)(i) of this section.
- (iii) Rate of tax. The rate of tax imposed on gasoline described in paragraph (f)(2)(i)(A) of this section is the difference between the rate of tax applicable to gasoline not described in this section and the rate of tax previously imposed on the gasoline. The rate of tax imposed on gasoline described in paragraph (f)(2)(i)(B) of this section is the difference between the gasohol production tax rate applicable to the type of gasohol produced and the rate of tax previously imposed on the gasoline.
- (iv) Example. The following example illustrates this paragraph (f)(2):
- Example. (i) A registered gasohol blender bought gasoline in connection with a removal described in paragraph (c)(1)(ii) of this section. Based on the blender's certification (described in paragraph (c)(2) of this section) that the blender would produce 10 percent gasohol with the gasoline, tax at the gasohol production tax rate applicable to 10 percent gasohol was imposed on the removal.
- (ii) The blender then produced a mixture by splash blending in a tank holding approximately 8000 gallons of mixture. The applicable delivery tickets show that the mixture was blended by first pumping 7220 metered gallons of gasoline into the empty

- tank, and then pumping 780 metered gallons of alcohol into the tank. Because the mixture contains 9.75 percent alcohol (as determined based on the delivery tickets provided to the blender) the entire mixture qualifies as 7.7 percent gasohol, rather than 10 percent gasohol.
- (iii) Because the 7220 gallons of gasoline were taxed at the gasohol production tax rate applicable to 10 percent gasohol but the gasoline was blended into 7.7 percent gasohol, a failure to blend has occurred with respect to the gasoline. As the person that bought the gasoline in connection with the taxable removal, the blender is liable for the tax imposed under paragraph (f)(2)(i) of this section. The amount of tax imposed is the difference between-
- (A) 7220 gallons times the gasohol production tax rate applicable to 7.7 percent gasohol; and
- (B) 7220 gallons times the gasohol production tax rate applicable to 10 percent gasohol.
- (iv) Because the gasohol does not contain exactly 7.7 percent alcohol, the benefit of the gasohol production tax rate with respect to the alcohol is less than the amount of the alcohol mixture credit under section 40(b) (determined before the application of section 40(c)). Accordingly, the blender may be entitled to claim an alcohol mixture credit for the alcohol used in the gasohol. Under section 40(c), however, the amount of the alcohol mixture credit must be reduced to take into account the benefit provided with respect to the alcohol by the gasohol production tax rate.
- (g) Effective date. This section is effective August 7, 1995.
- **Par. 10.** Section 48.4081–7 is amended as follows:
- 1. The heading for § 48.4081–7 is
- 2. In paragraphs (a) and (b), the language "gasoline" is removed each place it appears and "taxable fuel" is added in its place.
- 3. Paragraphs (b)(4) and (c)(1) are
- 4. In paragraph (c)(2), the language 'gasoline" is removed each place it appears and "taxable fuel" is added in its place.
 - 5. Paragraph (c)(3) is revised.
- 6. In paragraphs (c)(4)(i)(A) and (B), (ii)(A) and (B), and (iii), the language "gasoline" is removed each place it appears and "taxable fuel" is added in its place.
- 7. In paragraph (c)(4)(iv)(A), the language "(or such other model statement as the Commissioner may prescribe)" is added immediately after paragraph (c)(4)(iv)(B) of this section".
 - 8. In paragraph (c)(4)(iv)(B):
- a. The description of line 4 is revised to read: "Volume and type of taxable
- b. In the first paragraph following line 4 the language "gasoline" is removed and "taxable fuel" is added in its place.

- 9. Paragraph (c)(5) is removed.
- 10. Paragraph (d) is revised.
- 11. Paragraph (f), Example 1, paragraph (i), is amended by:
- a. Removing the language "1993" in the first and fourth sentences and adding "1996" in its place.
- b. Removing the language "paragraph (c)(2)" and adding "paragraph (c)" in its place.
- 12. Paragraph (f), Example 1, paragraph (ii), is amended by removing the language "1993" in the first and second sentences and adding "1996" in
 - 13. Paragraph (g) is revised. The revisions read as follows:

§ 48.4081-7 Taxable fuel; conditions for refunds of taxable fuel tax under section 4081(e).

(b) * * *

- (4) The person that paid the first tax to the government has met the reporting requirements of paragraph (c) of this section.
- (c) * * * (1) Reporting by persons paying the first tax. Except as provided in paragraph (c)(3) of this section, the person that paid the first tax under § 48.4081–3 (the first taxpayer) must file a report that is in substantially the same form as the model report provided in paragraph (c)(2) of this section (or such other model report as the Commissioner may prescribe) and contains all information necessary to complete such model report (the first taxpayer's report). A first taxpayer's report must be filed with the return to which the report relates (or at such other time, or in such other manner, as prescribed by the Commissioner).
- (3) Optional reporting for certain taxable events. Paragraph (c)(1) of this section does not apply with respect to a tax imposed under § 48.4081-2 (removal at a terminal rack), § 48.4081-3(c)(1)(ii) (nonbulk entries into the United States), or § 48.4081-3(g) (removals or sales by blenders). However, if the person liable for the tax expects that another tax will be imposed under section 4081 with respect to the taxable fuel, that person should (but is not required to) file a first taxpayer's report.
- (d) Form and content of claim—(1) In general. The following rules apply to claims for refund under section 4081(e):
- (i) The claim must be made by the person that paid the second tax to the government and must include all the information described in paragraph (d)(2) of this section.