

EXPLANATORY MEMORANDUM TO
THE FUEL-TESTING PILOT PROJECTS (BIOMIX PROJECT)
REGULATIONS 2007

2007 No. 314

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. **Description**

These Regulations provide a partial relief from excise duty charged on biodiesel mixed with sulphur-free diesel or low sulphur diesel. The mixture is to be used for the purposes of a fuel testing project approved by Her Majesty's Revenue and Customs to evaluate the emission benefits of the mixture.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

4.1 Section 20AB of the Hydrocarbon Oil Duties Act 1979 (HODA) provides that the Commissioners may make regulations allowing reliefs as regards excise duty charged in respect of experimental fuel that is to be used in a fuel testing project approved by the Commissioners. The relief may be in the form of a repayment or rebate of the duty. The relief is subject to any conditions imposed by the Commissioners and directions made by them.

4.2 These Regulations are made under the powers conferred by section 20AB(1) to (3), (5)(a) and (12). They provide for relief by way of a partial rebate of duty charged on a mixture of biodiesel and sulphur-free diesel or biodiesel and low sulphur diesel (called "biomix"). The amount of relief is equivalent to the rebate allowed on sulphur-free diesel and low sulphur diesel by sections 11(1)(b) and 11(1)(ba) of the 1979 Act.

5. **Extent**

These Regulations apply to all of the United Kingdom.

6. **European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy Background

7.1 A rebate is allowed on sulphur-free diesel and low sulphur diesel for use other than in road vehicles by sections 11(1)(b) and 11(1)(ba) of the 1979 Act. This results in an effective duty rate of currently 7.69 pence per litre (ppl). Under section 20AAA, if rebated oil is mixed with biodiesel, then the duty rate on this mixture is that for heavy oil specified in section 6(1A), currently 54.68 ppl. This is to discourage mixing of rebated oil and biodiesel, as rebated oil can interfere with the markers added to rebated oil to prevent misuse as road fuel.

7.2 Interest has been expressed in using 'biomix' as a more environmentally friendly fuel off-road, particularly in the passenger rail sector. However, the high duty rate has acted as a disincentive. On 6th December 2006 in his Pre Budget Report the Chancellor of the Exchequer announced an intention to provide relief. The relief enables 'biomix' to be used off-road at the same effective duty rate as sulphur-free diesel and low sulphur diesel as part of an approved pilot project. The purpose of this pilot project is to provide evidence regarding the commercial viability of using 'biomix', the relative environmental benefits and the risks associated with switching to this fuel, such as the impacts on engine life and on performance and fuel consumption.

7.3 Details of each proposed trial must be supplied to the Commissioners. They will evaluate the proposals of each applicant and, if satisfied that the evidence provided by the trial will be useful in meeting the objectives of the pilot project, give written approval. The evidence gathered during this pilot project will be considered alongside developments in fuel marking and testing in determining whether to grant a more general relief on 'biomix'.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is that HM Revenue and Customs staff, as part of the assurance of the businesses that are liable to pay hydrocarbon oil duty, will monitor compliance with the Regulations.

9. Contact

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