**EXPLANATORY MEMORANDUM TO**

# THE BIOFUEL (LABELLING) (AMENDMENT) REGULATIONS 2009

**2009 No. 3277**

**1.** This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

## 2. Purpose of the instrument

These Regulations amend the Biofuel (Labelling) Regulations 2004 ("the 2004 Regulations"). They amend the form of label which must be applied to fuel pumps dispensing diesel containing between 5% and 7% biodiesel by volume and, from 1st April 2010, disapply the requirement to have any specific label on pumps dispensing such fuels.

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

None.

## 4. Legislative Context

4.1 Article 3(5) of Directive 2003/30/EC requires "specific labelling" on fuel pumps dispensing petrol or diesel containing more than 5% bioethanol or biodiesel by volume. This is transposed in the UK by means of the 2004 Regulations which require retailers to label pumps dispensing such fuels with the following text:

"*Not suitable for all vehicles: consult vehicle manufacturer before use.*"

This text reflects the fact that, until recently, most vehicle manufacturers only warranted their vehicles to run on blends of up to 5% biofuel content.

4.2 Articles 3(3) and 4(1) of Directive 98/70/EC, as amended by Directive 2009/30/EC, require the provision of 'appropriate information' to consumers on the biofuel content of petrol and diesel respectively. Article 26(2) of Directive 2009/28/EC repeals Article 3(5) of Directive 2003/30/EC with effect from 1 April 2010. These regulations transpose these Articles.

4.3 The amendments to the Fuel Quality Directive were debated by the House of Commons European Standing Committee on 20 November 2007. Negotiations within the European Council Working Group continued throughout 2008 and concluded with the adoption of Directive 2009/30/EC by the Justice and Home Affairs Council of Ministers on 4 April 2009.

4.4 The proposed Renewable Energy Directive was debated on the floor of the House of Commons on 3 June 2008. Negotiations within the European Council Working Group continued throughout 2008 and concluded with the adoption of Directive 2009/28/EC by the Justice and Home Affairs Council of Ministers on 6 April 2009.

## 5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

## 6. European Convention on Human Rights

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

## 7. Policy background

- ***What is being done and why***

7.1 The Renewable Transport Fuel Obligation places requirements on fuel suppliers to increase the biofuel content of road fuels. It requires fuel suppliers to supply 5% biofuel by volume by 2013/14 as an average across all fuel supplied. The aim of this is to reduce greenhouse gas emissions from road transport and contribute to UK targets for greenhouse gas emissions reductions. The obligation does not specify how fuel suppliers should meet this obligation in terms of the quantities or types of biofuel that should be blended into road fuels.

7.2 Fuel suppliers are meeting the majority of their current target (3.25% for 2009/10) by supplying up to 5% biodiesel in diesel. This has advantages for them, since the UK is a net importer of fossil diesel and introducing biodiesel reduces the quantity of diesel that has to be imported.

7.3 Until recently, industry fuel standards and advice from vehicle manufacturers (as reflected in Directive 2003/30/EC and the 2004 Regulations) have in practical terms limited the quantity of biodiesel that can be blended into diesel for use in normal vehicles to 5%. This means that to further increase biofuel uptake, as required by the Renewable Transport Fuel Obligation, fuel suppliers would mainly have to increase the bioethanol content of petrol. Since, unlike diesel, the UK is a net exporter of petrol this is less desirable for fuel suppliers.

7.4 On 1st July 2009 an amendment to the British Standard for diesel (BS EN 590) was published increasing the biodiesel content of diesel allowed by the standard to 7% by volume. This was in response to revised advice from the automotive industry on the biodiesel percentage with which normal diesel vehicles are compatible. Directive 2009/30/EC amending the Fuel Quality Directive 98/70/EC also explicitly permits up to 7% biodiesel content in diesel for the same reasons. Further regulations are being prepared to amend the Motor Fuel (Composition and Content) Regulations 1999 to reflect this and other changes to fuel specifications to accord with the amendments to Directive 98/70/EC.

7.5 Now that fuel standards have been amended it is appropriate to amend the 2004 Regulations in so far as they apply to diesel containing up to 7% biodiesel for consistency and to remove barriers to the marketing of such fuels. However, as noted in paragraphs 4.1 and 4.2 above, Directive 2003/30/EC requires these fuels to continue to be labelled until Article 3(5) of the Directive is repealed on 1st April 2010. Fuel suppliers are, however, keen to have the flexibility to market these fuels before this date without having to label fuel pumps in a manner which would be off-putting and confusing to consumers. Consequently these regulations introduce a new, more neutral text (reading "*Contains up to 7% biodiesel"*) for labelling such fuels in advance of 1st April 2010 and then disapply labelling requirements for such fuels after this date.

7.6 For consumer protection purposes and for consistency it is not proposed to disapply the labelling requirements for the period April to December 2010, despite there being no express European obligation to retain such labelling during that period.

7.7 The existing label in the 2004 Regulations (see paragraph 4.1 above) is retained for petrol containing more than 5% bioethanol and diesel containing more than 7% biodiesel by volume. The Department is of the view that the existing label remains 'appropriate information' for these fuels, as required by Articles 3(3) and 4(1) of Directive 98/70/EC as amended, since they are not suitable for all vehicles in the current vehicle fleet. Fuels with 5% biofuel content or less remain free of any labelling requirement.

- ***Consolidation***

7.8 The fuel industry has requested an urgent amendment be made to the 2004 Regulations to reduce barriers to the marketing of diesel containing up to 7% biodiesel content. In order to put such an amendment in place as rapidly as possible, and bearing in mind that the 2004 Regulations are relatively short, straightforward and that there are no previous amending regulations, the regulations have not been consolidated.

## 8. Consultation outcome

These regulations have been prepared as a matter of urgency, as requested by the oil industry. In order to meet the timescale requested by industry a formal consultation exercise has not been conducted. However, informal discussions over the content and effect of the regulations have been held with stakeholders including the oil industry, fuel suppliers, fuel retailers and the automotive industry. Stakeholders have welcomed the regulations.

## 9. Guidance

Associations representing oil companies, fuel distributors and fuel retailers have been involved in discussions on the regulations and will disseminate the requirements of the regulations to their members. No additional guidance is required.

## 10. Impact

10.1 There is no impact on charities or voluntary bodies. The regulations will have a positive impact on businesses within the fuel supply sector since they amend the text of the label required on pumps selling diesel with 5-7% biodiesel content to a form which will be less off-putting to consumers. They also disapply the requirement to label this fuel from 1st April 2010. These steps will assist fuel suppliers in marketing diesel blends with up to 7% biodiesel content giving greater flexibility over the biofuel blends they can successfully market in order to comply with their obligations under the Renewable Transport Fuel Obligation.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is attached to this memorandum.

## 11. Regulating small business

The legislation applies to small business, in particular small fuel retailers. As noted in paragraph 10.1 above, however, the impact is a positive one.

## 12. Monitoring & review

The impact of the regulations will be monitored through regular discussions with stakeholders in the fuel supply sector. It is anticipated that the 2004 regulations will need to be further amended in the coming years as the UK vehicle fleet as a whole becomes compatible with higher biofuel content petrol and diesel.

## 13. Contact

Dwight Lobban at the Department for Transport Tel: 020 7944 2097 or email: dwight.lobban@dft.gsi.gov.uk can answer any queries regarding this instrument.

# Summary: Intervention & Options

| Department /Agency: | Title: | |
|---|---|---|
| **Department for Transport** | **Impact Assessment of the Biofuel (Labelling) (Amendment) Regulations 2009** | |
| **Stage:** Final | **Version:** 1 | **Date:** 16 September **2009** |
| **Related Publications:** Directive 2009/28/EC, Directive 2009/30/EC, BS EN 590:2009, SI 2007 No.3072 The Renewable Transport Fuel Obligations Order 2007 as amended | | |

**Available to view or download at:**

http://www.dft.gov.uk/consultations/aboutia/fria/

**Contact for enquiries:** Chris Parkin **Telephone:** 020 7944 2958

**What is the problem under consideration? Why is government intervention necessary?**

Biofuel labelling regulations currently require all pumps dispensing transport fuels containing more than 5% biofuel to be labelled "Not suitable for all vehicles: consult vehicle manufacturer before use". A consensus has now emerged that diesel containing up to 7% biodiesel content is suitable for use in normal diesel vehicles and this is reflected in recently adopted EU legislation (Directive 2009/30/EC) and industry fuel standards jointly developed by the fuel and automotive industries (BS EN 590:2009). The Biofuel labelling regulations require amending to reflect this.

**What are the policy objectives and the intended effects?**

The objective is to relax labelling requirements for diesel blends of up to 7% biodiesel content in order to remove barriers to the marketing of such fuels.

**What policy options have been considered? Please justify any preferred option.**

Two options were considered:

Option 1: Repeal labelling requirements for diesel containing up to 7% biodiesel from 1st April 2010 (the earliest permissible according to EU legislation).

Option 2: Amend label text for diesel containing up to 7% biodiesel immediately to a less dissuasive form of words and disapply labelling requirement for these fuels from 1st April 2010.

Option 2 is the Department's preferred option, as it results in earlier reduction of barriers to the marketing of diesel containing up to 7% biodiesel.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?** The policy with respect to labelling of biofuels will be reviewed as the biofuel market develops. Further amendments to the regulations are anticipated in 2010 and in the 2010-2020 period.

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible Minister:

Sadiq Khan .....Date: 10th December 2009

# Summary: Analysis & Evidence

| Policy Option: 1 | Description: **Repeal Labelling Requirement for Diesel Containing up to 7% Biodiesel Content From 1st April 2010** |
|---|---|

**COSTS**

| ANNUAL COSTS | Description and scale of key monetised costs by 'main affected groups' None |
|---|---|
| **One-off** (Transition) **Yrs** | |
| **£ 0** | |
| **Average Annual Cost** (excluding one-off) | |
| **£ 0** | **Total Cost** (PV) **£ 0** |

**Other key non-monetised costs by 'main affected groups'** Leaving current labelling requirements in place for diesel containing up to 7% biodiesel content until 1st April 2010 would present a barrier to the marketing of this fuel and reduce fuel companies flexibility as to how they meet their Renewable Transport Fuel Obligations.

**BENEFITS**

| ANNUAL BENEFITS | Description and scale of key monetised benefits by 'main affected groups' None |
|---|---|
| **One-off** **Yrs** | |
| **£ 0** | |
| **Average Annual Benefit** (excluding one-off) | |
| **£ 0** | **Total Benefit** (PV) **£ 0** |

**Other key non-monetised benefits by 'main affected groups'** Enables fuel suppliers to effectively market diesel containing up to 7% biodiesel content from 1st April 2010 to consumers. This would give fuel suppliers flexibility from that date to supply these fuels as one element of their strategy for meeting their Renewable Transport Fuel Obligations.

**Key Assumptions/Sensitivities/Risks** It is assumed, based on advice from industry that fuel suppliers will not market diesel containing up to 7% biodiesel content whilst the current labelling requirements are in place.

| Price Base Year 2009 | Time Period Years | **Net Benefit Range** (NPV) **£ 0** | **NET BENEFIT** (NPV Best estimate) **£ 0** |
|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| What is the geographic coverage of the policy/option? | | | UK | |
| On what date will the policy be implemented? | | | January 2010 | |
| Which organisation(s) will enforce the policy? | | | Local Authorities | |
| What is the total annual cost of enforcement for these organisations? | | | £ negligible | |
| Does enforcement comply with Hampton principles? | | | Yes | |
| Will implementation go beyond minimum EU requirements? | | | No | |
| What is the value of the proposed offsetting measure per year? | | | £ n/a | |
| What is the value of changes in greenhouse gas emissions? | | | £ 0 | |
| Will the proposal have a significant impact on competition? | | | No | |
| Annual cost (£-£) per organisation (excluding one-off) | Micro | Small | Medium | Large |
| Are any of these organisations exempt? | No | No | N/A | N/A |

**Impact on Admin Burdens Baseline** (2005 Prices) (Increase - Decrease)

Increase of £ 0 Decrease of £ 0 **Net Impact** **£** 0

Key: **Annual costs and benefits: (Net) Present**

# Summary: Analysis & Evidence

| Policy Option: 2 | Description: **Amend Text of Label for Diesel Containing Up To 7% Biodiesel Immediately and Disapply Labelling** |
|---|---|

**COSTS**

| ANNUAL COSTS | Description and scale of key monetised costs by 'main affected groups' |
|---|---|
| **One-off** (Transition) **Yrs** | None |
| **£ 0** | |
| **Average Annual Cost** (excluding one-off) | |
| **£ 0** | **Total Cost** (PV) **£ 0** |

**Other key non-monetised costs by 'main affected groups'**

**BENEFITS**

| ANNUAL BENEFITS | Description and scale of key monetised benefits by 'main affected groups' |
|---|---|
| **One-off** **Yrs** | |
| **£ 0** | |
| **Average Annual Benefit** (excluding one-off) | |
| **£ 0** | **Total Benefit** (PV) **£ 0** |

**Other key non-monetised benefits by 'main affected groups'**

**Key Assumptions/Sensitivities/Risks** It is assumed, based on advice from industry that fuel suppliers will not market diesel containing up to 7% biodiesel content whilst the current labelling requirements are in place

| Price Base Year 2009 | Time Period Years | **Net Benefit Range** (NPV) **£ 0** | **NET BENEFIT** (NPV Best estimate) **£ 0** |
|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| What is the geographic coverage of the policy/option? | | | UK | |
| On what date will the policy be implemented? | | | January 2010 | |
| Which organisation(s) will enforce the policy? | | | Local Authorities | |
| What is the total annual cost of enforcement for these organisations? | | | £ minimal | |
| Does enforcement comply with Hampton principles? | | | Yes | |
| Will implementation go beyond minimum EU requirements? | | | No | |
| What is the value of the proposed offsetting measure per year? | | | £ n/a | |
| What is the value of changes in greenhouse gas emissions? | | | £ 0 | |
| Will the proposal have a significant impact on competition? | | | No | |
| Annual cost (£-£) per organisation (excluding one-off) | Micro | Small | Medium | Large |
| Are any of these organisations exempt? | No | No | N/A | N/A |

**Impact on Admin Burdens Baseline** (2005 Prices) (Increase - Decrease)

Increase of £ 0 Decrease of £ 0 **Net Impact** **£** 0

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

## 1 Title

Impact Assessment for the Biofuel (Labelling) (Amendment) Regulations 2009.

## 2 Purpose and Intended Effect

The regulations amend the Biofuel (Labelling) Regulations 2004 to relax labelling requirements for diesel containing up to 7% biodiesel by volume in order to remove barriers to the marketing of this fuel and give fuel suppliers more flexibility in the fuels they can supply to meet their obligations under the Renewable Transport Fuel Obligations.

## 3 Background

### 3.1 Renewable Transport Fuel Obligations

The Renewable Transport Fuel Obligation (RTFO) came into effect on 15 April 2008, and requires fossil fuel suppliers who supply in excess 450,000 litres of fuel per year to supply a specified percentage of their road transport fuels in the UK from renewable sources. The Renewable Fuels Agency (RFA) administers the scheme, and the percentage obligation level increases annually. The RTFO is the UK's means of complying with EU Biofuels Directive 2003/30/EC which requires EU Member States to set targets for the uptake of renewable fuels in transport. The objective of the RTFO is to reduce the lifecycle greenhouse gas emissions produced by road transport.

The RTFO percentage obligation levels are, 3.25% of total fuel supplied in 2009/10, 3.5% in 2010/11, 4.0% in 2011/12, 4.5% in 2012/13 and 5% in 2013/14.

At the time of writing fuel suppliers are supplying around 2.7% biodiesel in diesel and just over 1% bioethanol in petrol on average.

### 3.2 Vehicle Compatibility and Fuel Standards

Bioethanol and biodiesel have different properties from petrol and diesel and these can limit the percentage of biofuel that can be added to petrol and diesel if the resultant blend is to be compatible with existing vehicles in the vehicle fleet. Industry fuel standards are developed jointly by the fuel and automotive industries to ensure compatibility of vehicles and fuels. The European industry standards for petrol and diesel are EN 228 and EN 590 respectively. For some years these have permitted up to 5% bioethanol and 5% biodiesel content, by volume, in petrol and diesel.

The EU Biofuels Directive 2003/30/EC reflects these constraints in its Article 3(5) which requires Member States to ensure that a specific label is applied to pumps dispensing fuels containing more than 5% biofuel by volume.

However, recently industry have reviewed the percentage of biodiesel with which diesel vehicles are compatible concluding that a 7% blend level is acceptable for normal diesel vehicles (a few car and van manufacturers warrant vehicles to run on up to 30% blends and some heavy duty vehicle manufacturers produce vehicles capable of running on pure biodiesel).

The key limiting factor is the introduction of Diesel Particulate Filters (DPF) on new diesel vehicles. This technology is being introduced in response to the stringent 'Euro 5' emissions standards that are being phased in for new cars and vans between 1st September 2009 and 1st January 2012, although a small number of earlier vehicles are also fitted with this technology. A DPF physically filters out soot particles from the vehicle's

exhaust; periodically, stored soot has to be burnt off the DPF (a process known as 'regeneration') in order to prevent the DPF blocking and bringing the vehicle to a halt. Most vehicles regenerate DPFs by injecting a small amount of additional fuel into the engine very late in the combustion cycle (a process known as 'post-injection') in order to raise exhaust temperatures to a level where the soot stored in the DPF burns. Post-injection inevitably results in some fuel getting past the piston rings and into the engine's sump, diluting the lubricating oil. The boiling point of fossil diesel is low enough that it boils off, out of the lubricating oil during normal engine operation, preventing significant dilution of the oil's lubricating properties. Biodiesel has a higher boiling point and hence tends to accumulate in lubricating oil resulting in accelerated engine wear unless oil change frequency is increased. Vehicle manufacturers have identified a 7% biodiesel content as the level beyond which 'oil dilution' becomes a significant issue.

As a result of the above, in discussions on amending the industry diesel fuel standard (EN 590) to permit a higher biodiesel content vehicle manufacturers agreed to permitting up to 7% biodiesel content, but no more, in diesel. EN 590:2009, permitting up to 7% biodiesel content in diesel, was agreed by the European Committee for Standardisation (CEN) on 12th March 2009.

### 3.3 The Biofuel (Labelling) Regulations 2004

The Biofuel (Labelling) Regulations 2004 transposed Article 3(5) of the EU Biofuels Directive (2003/30/EC) in the UK. They require that pumps dispensing any fuel of more than 5% bioethanol or biodiesel content (or a combination of the two) be labelled as follows;

"*Not suitable for all vehicles: consult vehicle manufacturer before use.*"

### 3.4 EU Renewable Energy Directive 2009/28/EC

The recently adopted EU Renewable Energy Directive defines targets for the uptake of renewable energy across a number of sectors. In respect of transport it requires Member States to ensure a 10% uptake of renewable energy (primarily biofuels, but also encompassing, for example, renewable electricity) by 2020. In addition it repeals Article 3(5) of Directive 2003/30/EC with effect from 1st April 2010.

### 3.5 EU Fuel Quality Directive 2009/30/EC

The recently adopted Directive amending the EU Fuel Quality Directive requires fuel suppliers to deliver a 6% reduction in lifecycle greenhouse gas emissions of petrol, diesel and off-road gas oil (aka 'red' diesel) between 2011 and 2020. This is expected to be delivered largely through the uptake of biofuels, although some small savings may be delivered through improvements in the extraction and refining of fossil fuels, and is intended to be aligned with the Renewable Energy Directive 10% renewable energy target.

The Directive also amends mandatory petrol and diesel specifications, including limiting the permissible biodiesel content of diesel to 7% by volume. In addition Articles 3(3) and 4(1) of Directive 98/70/EC as amended require Member States to ensure the provision of 'appropriate information' to consumers concerning the bioethanol content of petrol and biodiesel content of diesel, in particular which fuels are suitable for which vehicles.

Since the labelling requirements in Directive 2003/30/EC are repealed from 1st April 2010, and Directive 2009/30/EC does not have to be transposed into national legislation until 31st December 2010, there are in practice no EU obligations to provide consumers with information on the biofuel content of fuels in the period from April to December 2010. However, to protect consumers from inadvertently using biofuels which are not compatible with their vehicles, with resultant damage to their vehicles, it is appropriate to maintain

labelling requirements in UK regulations in this period. This is the approach taken by the proposed regulations.

## 4 Options Analysis

Two options were considered;

Option 1: Repeal the labelling requirement entirely in respect of diesel containing up to 7% biodiesel. However, since Article 3(5) of Directive 2003/30/EC, which requires labelling for all fuels containing more than 5% biofuel by volume, is not repealed (by Article 26(2) of Directive 2009/28/EC) until 1st April 2010, this requirement could not be repealed any earlier than this date.

Option 2: Amend the text of the label for diesel containing up to 7% biodiesel to a less dissuasive form of words, which better reflects the consensus on the suitability of this fuel for use in normal diesel vehicles, as soon as possible. This labelling requirement would then be disapplied from 1st April 2010 in line with Option 1.

Both of these options would transpose Article 26(2) of the Renewable Energy Directive in so far as it repeals Article 3(5) of the Biofuels Directive, whilst maintaining requirements which effectively implement Articles 3(3) and 4(1) of the amended Fuel Quality Directive in respect of the provision of 'appropriate information' to consumers on whether biofuel blends are suitable for use in normal vehicles.

## 5 Consultation

In view of the urgency with which industry has requested that the Biofuel (Labelling) Regulations be amended, a formal public consultation has not been undertaken. Nevertheless stakeholders have been informally consulted in the Fuel Quality Stakeholder Group meetings on 20th July and 4th September 2009 and by letter dated 7th August 2009.

The UK Petroleum Industry Association and the Association of UK Oil Independents strongly supported the proposed amendment. They expressed a strong preference for a label that simply read "B7" (B to indicate biodiesel, 7 to indicate up to 7% content), in line with emerging views in the European Standardisation Committee (CEN) regarding EU wide labelling recommendations for biofuel blends. The Department's view is that the aim of Article 3(5) of Directive 2003/30/EC is to inform the public on the biofuel content of fuel and its compatibility with vehicles. To meet this aim, information provided on pump labels must be in a form which is readily comprehensible to the general public without specialist knowledge. The Department's view is that "B7" would not be readily understood by the general public in the timeframe in which the labelling requirement for diesel containing up to 7% biodiesel would apply, i.e. from entry into force of the regulations until 1st April 2010. For this reason the regulations require these fuels to be labelled "Contains up to 7% biodiesel", rather than "B7".

The Petrol Retailers Association expressed concerns about the complete repeal of labelling for diesel containing up to 7% biodiesel. They noted that many warranties for vehicles in the fleet were issued on the basis that the diesel used would contain no more than 5% biodiesel and that, indeed, some vehicles had labels to this effect on fuel filler caps. In particular they were concerned regarding liability in the event that use of these fuels resulted in damage to vehicles. The Department's understanding is that the recent amendment to the industry standard for diesel (EN 590) to allow up to 7% biodiesel content was agreed unanimously by CEN. This agreement was based on consensus amongst technical experts within oil and automotive industries of the suitability of diesel containing 7% biodiesel for use in normal diesel vehicles. In the stakeholder meeting of the 4th September 2009 the Society of Motor Manufacturers & Traders agreed to issue a statement on their website on the compatibility of existing vehicles with this fuel. This statement was posted on the SMMT's website on 4th December 2009. There should

therefore be no vehicle damage issues caused by the introduction of these fuels and indeed it is the responsibility of fuel suppliers to ensure that any fuels they supply are fit for purpose. Whilst explicit labelling of the biodiesel content of these fuels will remain a requirement up until 1st April 2010, in line with our EU obligations, the Department does not see any justification for perpetuating a labelling obligation beyond this date, bearing in mind that industry experts have agreed that these fuels are suitable for normal diesel vehicles.

## 6 Costs and Benefits

The regulations do not introduce any new requirement to label fuel that is not already subject to labelling requirements within the existing legislation. Therefore they do not strictly impose additional costs on industry. The primary benefit of the regulations is to reduce the extent to which the existing regulations impose a barrier to the marketing of diesel containing up to 7% biodiesel.

Option 1: This option repeals the obligation to label pumps dispensing diesel containing between 5% and 7% biodiesel from 1st April 2010. We do not have detailed information on the costs of labelling, however an indicative estimate can be produced. The UK has around 9000 fuel filling stations, the vast majority of which have pumps dispensing diesel. Assuming an average of 4 pumps per filling station, that all diesel is switched to diesel blends containing up to 7% biodiesel and a nominal cost of printing and distributing labels of 10p per label then the current labelling requirement would impose a one-off cost of £3,600. The repeal of the labelling requirement for diesel containing up to 7% biodiesel has the benefit of avoiding this cost providing that this fuel is not introduced before the 1st April 2010. However a more significant impact on industry of the existing regulations is the dissuasive effect of the current label text on the purchase of this fuel. This effectively presents a barrier to the introduction of these fuels and reduces industry's flexibility over the fuels they can supply to meet their Renewable Transport Fuel Obligations. Option 1 removes this barrier, effectively enabling the marketing of diesel containing up to 7% biodiesel, but not until 1st April 2010.

Option 2: Has the same benefits as Option 1 from 1st April 2010, since it also repeals the labelling requirement for diesel containing between 5% and 7% biodiesel from this date. However Option 2 also has the added benefit of removing the effective barrier to the marketing of these fuels in advance of 1st April 2010 by amending the text of the label to a form which is not dissuasive in respect of consumers purchasing the fuel.

## 7 Small Firms Impact Test

The regulations apply to anyone selling fuel, including small independent filling stations. However as discussed above the effect of the regulations is a reduction of existing burdens. The regulations are not expected to have a disproportionate impact on small businesses.

## 8 Competition Assessment

The regulations do not have any direct or indirect impact on the number of suppliers in the fuels market. They do not directly impact on competition between fuel suppliers. Indirectly the regulations may increase competition amongst biofuel suppliers by removing barriers to the marketing of biodiesel blends.

## 9 Gender, Race & Disability Equality Impact Assessment

An equality screening proforma has been completed. No race, gender or disability specific impacts of the regulations have been identified.

## 10 Enforcement, Sanctions and Monitoring

Enforcement of the Biofuel (Labelling) Regulations is the responsibility of local weights and measures authorities. The amendment to the regulations does not impact on either the level of enforcement activity required or the enforcement responsibility.

These regulations will be kept under review as a matter of course. Further revisions of the regulations are expected in the coming years as the proportion of the vehicle fleet which is compatible with higher biofuel percentages increases.

# Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

| **Type of testing undertaken** | ***Results in Evidence Base?*** | ***Results annexed?*** |
|---|---|---|
| Competition Assessment | Yes | No |
| Small Firms Impact Test | Yes | No |
| Legal Aid | No | No |
| Sustainable Development | No | No |
| Carbon Assessment | No | No |
| Other Environment | No | No |
| Health Impact Assessment | No | No |
| Race Equality | Yes | No |
| Disability Equality | Yes | No |
| Gender Equality | Yes | No |
| Human Rights | No | No |
| Rural Proofing | No | No |

## TRANSPOSITION NOTE

This Transposition Note is produced to accompany the Biofuel (Labelling) (Amendment) Regulations 2009 and shows how the Department has transposed:

1. Article 26(2) of Directive 2009/28/EC in so far as it repeals Article 3(5) of Directive 2003/30/EC; and

2. Article 3(3) and Article 4(1) of Directive 98/70/EC as amended by Directive 2009/30/EC in so far as they require the provision of information to consumers in relation to biofuel blends.

For the purpose of this note:-

"Directive 98/70/EC" means Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC

"Directive 2003/30/EC" means Directive 2003/30/EC of the European Parliament and of the Council of 8 May 2003 on the promotion of the use of biofuels or other renewable fuels for transport

"Directive 2009/28/EC" means Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

"Directive 2009/30/EC" means Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC

These Regulations do what is necessary to implement one aspect of Article 26(2) of Directive 2009/28/EC and elements of Articles 3(3) and Article 4(1) of Directive 98/70/EC as amended by Directive 2009/30/EC.

| Directive 2009/28/EC | | | |
|---|---|---|---|
| **Article** | **Objectives** | **Implementation** | **Responsibility** |
| Article 26(2) | This paragraph repeals certain Articles of Directive 2003/30/EC, including the labelling requirements imposed by Article 3(5), from 1st April 2010. | This repeal is implemented by regulation 3 of the Biofuel (Labelling) (Amendment) Regulations 2009 ("the 2009 Regulations").<br><br>Regulations 3(2) and 3(3) of the 2009 Regulations amend regulation 3(1) of the Biofuel (Labelling) Regulations 2004 ("the 2004 Regulations") which requires that pumps dispensing fuels with more than 5% bioethanol, biodiesel or a combination of both be labelled in accordance with regulation 3(2). The amendments remove diesel containing 5-7% biodiesel from regulation 3(1) thus removing the obligation for these fuels to be labelled in accordance with regulation 3(2) of the 2004 Regulations.<br><br>Regulation 3(5) of the 2009 Regulations introduces a new labelling requirement specifically for diesel containing 5-7% biodiesel. This requirement only applies until 1st April 2010. From this date onwards diesel containing 5-7% biodiesel is exempt from any labelling requirement. | The Secretary of State |

| Directive 98/70/EC as amended by 2009/30/EC | | | |
|---|---|---|---|
| **Article** | **Objectives** | **Implementation** | **Responsibility** |
| Article 3(3) | The final sentence of this paragraph requires 'appropriate information' on the biofuel content of petrol, and the appropriate use of different blends of petrol, to be provided to consumers. | This provision is implemented by regulations 3(1) and 3(2) of the 2004 Regulations as amended by the 2009 Regulations. These perpetuate the requirement for blends of petrol containing more than 5% bioethanol to be labelled as not suitable for all vehicles. This reflects the fact that older vehicles and a limited number of recent "direct injection" petrol engine vehicles are not compatible with petrol with higher ethanol content. This is why the 2009 Regulations do not repeal the labelling requirement for these fuels.<br><br>Further, non-legislative, measures to provide consumers with additional information about the introduction of higher percentage blends of biofuels will be developed with stakeholders as required. | The Secretary of State |
| Article 4(1) | The final sentence of this paragraph requires 'appropriate information' on the biofuel content of diesel to be provided to consumers. | This provision is implemented by regulations 3(1) and 3(2) of the 2004 Regulations as amended by the 2009 Regulations. These require blends of diesel containing more than 7% biodiesel to be labelled as not suitable for all vehicles. This reflects the fact that normal diesel vehicles are not compatible with diesel of higher biodiesel content. This is why the 2009 Regulations do not repeal the labelling requirement in so far as it applies to these higher blend fuels.<br><br>Further, non-legislative, measures to provide consumers with additional information about the introduction of higher percentage blends of biofuels will be developed with stakeholders as required. | The Secretary of State |