EXPLANATORY MEMORANDUM TO

THE BIOFUELS AND OTHER FUEL SUBSTITUTES (PAYMENT OF EXCISE DUTIES ETC) (AMENDMENT) REGULATIONS 2014

2014 No. 471

1. Introduction

This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Statutory Instrument

2,1 These Regulations amend the Biofuels and Other Fuels Substitutes (Payment of Excise Duties etc.) Regulations 2004 (S.I. 2004/2065) ("the principal Regulations") to allow bioethenol for the production of biodiesel to be produced in an excise warehouse or warehoused and to amend the particulars that must be entered in the motor fuels record in the Schedule to the principal Regulations to include particulars of additives and extenders set aside for use or used in fuel for an engine powered by liquefied petroleum gas ("LPG").

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1 The principal Regulations regulate the administration and collection of excise duties charged on biodiesel, bioethanol and other fuel substitutes ("biofuels") by sections 6AA, 6AD and 6A, respectively, of the Hydrocarbon Oil Duties Act 1979.

4.2 Regulation 6 of the principal Regulations provides that the provisions of Part 4, which relate to production premises for biofuels, do not apply in the case of an excise warehouse. Regulation 7 provides for the types of biofuels that may be produced and warehoused in an excise warehouse.

4.3 This instrument amends regulation 7 to provide that biofuel that is bioethanol for the production of biodiesel may be produced in an excise warehouse or warehoused.

4.4 Regulation 13 of the principal Regulations provides that every producer of biofuels, other than an exempt producer, must keep and preserve at production premises a motor fuels record in accordance with the provisions of, and containing the particulars specified in, the Schedule to the principal Regulations. This instrument also amends the motor fuels record to provide that it must include, in the case of fuel substitute that is charged with duty because it

is set aside for use, or used, as an additive or extender in fuel for an engine powered by LPG, a description to that effect.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the 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 most common spirit used in the production of biodiesel is methanol. However, because biodiesel produced with methanol is seen as being indirectly derived from a fossil fuel, generating stations using biodiesel in their generating process are not eligible to claim renewable obligation certificates (ROCs) under the Renewables Obligation. (The Renewables Obligation places an obligation on United Kingdom suppliers of electricity to source an increasing proportion of their electricity from renewable sources and is designed to encourage generation of electricity from such sources). A new type of biodiesel has been developed that is produced with bioethanol (a biomass-derived alcohol) instead of methanol, and generating stations using biodiesel produced with bioethanol are now eligible to claim ROCs.

7.2 In order to facilitate the production of biodiesel with bioethanol, these regulations allow bioethanol for the production of biodiesel to be produced in a warehouse or warehoused.

7.3 Also, amendments made to the Other Fuel Substitutes (Rates of Excise Duty etc) Order 1995 (S.I. 1995/2716) by S.I. 2014/470 provides for the rate of duty when an additive or extender is set aside for use, or used, in fuel for an engine powered by LPG. This instrument amends the particulars that must be contained in the motor fuel record in the Schedule to the principal Regulations to include a description of when an additive or extender is so set aside for use or used.

Consolidation

7.4 There are currently no plans to consolidate the amendments made to the principal Regulations.

8. Consultation Outcome

8.1 The amendment made in relation to the production of biodiesel with bioethanol gives effect to an extra statutory concession

9. Guidance

9.1 The Public Notice 179E (Biofuels and other fuel substitutes), available on www.hmrc.gov.uk, will be updated.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tiins.htm.

11. Regulating Small Business

11.1 The legislation applies to small business. To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to keep to a minimum any new regulatory requirements as part of this change.

12. Monitoring and Review

12.1 Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Indirect Tax Directorate of HMRC.

13. Contact

Ademola Adetosoye at HMRC can answer any queries regarding this instrument

Tel: 03000 586040
E-mail:ademola.adetosoye@hmrc.gsi.gov.uk