EXPLANATORY MEMORANDUM TO

THE DRAFT CLIMATE CHANGE LEVY (FUEL USE AND RECYCLING PROCESSES) (AMENDMENT) REGULATIONS 2014

2014 No. [XXXX]

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

2. Purpose of the instrument

2.1 This instrument introduces a new exemption from the climate change levy (CCL) for solid fuels used in certain energy from waste technology, and comes into force on 1st April 2014.

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

3.1 None.

4. Legislative context

4.1 The primary legislation containing provisions for CCL is contained in Schedule 6 to the Finance Act 2000 ("Schedule 6"). Paragraph 18 of Schedule 6 provides for an exemption from the CCL for taxable commodities not used as fuel including mixed uses of taxable commodities. A mixed use is where a taxable commodity is being used partly as a fuel and partly for other purposes.

4.2 Schedule 1 to the Climate Change Levy (Fuel Use and Recycling Processes) Regulations 2005 ("the principal Regulations"), SI 2005/1715, specifies the permitted non-fuel uses (whether wholly non-fuel uses or mixed uses). Schedule 1 Part A to those Regulations lists wholly non-fuel uses and Schedule 1 Part B lists mixed uses. This instrument adds a new mixed use to Part B of the Schedule.

5. Territorial extent and application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Nicky Morgan MP, Economic Secretary to the Treasury, has made the following statement regarding Human Rights:

In my view the provisions of the Climate Change Levy (Fuel Use and Recycling Processes) (Amendment) Regulations 2014 are compatible with the Convention rights.

7. Policy background

• ***What is being done and why***

7.1 Utilising industrial and municipal waste to produce synthetic gas ("syngas"), which consists mainly of hydrogen, is a developing technology that makes use of waste material that would otherwise go to landfill or incineration. This syngas can be burned to generate electricity or put to industrial uses. One form of this technology utilises the structural properties of solid fuels, in supporting the weight of the waste material in the gasification chamber and enabling the residue (slag) to drain out from the bottom of the chamber.

7.2 The Government considers it appropriate on environmental grounds to exempt solid fuels used in this way from the CCL by adding this use of solid fuels to the exempt mixed uses specified in the principal Regulations.

• ***Consolidation***

7.3 No consolidation of the principal Regulations is planned at this time.

8. Consultation outcome

8.1 This legislative amendment has been introduced following representations from those developing the technology concerned.

9. Guidance

9.1 The small number of businesses affected will be contacted directly in relation to this amendment, and HMRC Notice CCL 1/3 will be updated in due course.

10. Impact

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

10.2 The impact on the public sector is negligible.

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.

11.2 This instrument will not have an adverse impact on firms employing up to 20 people.

11.3 No special action with regard to small business is deemed necessary.

12. Monitoring & review

12.1 The impact of this measure will be monitored and evaluated as part of the normal Budget process.

13. Contact

Andy Jameson at HM Revenue and Customs Tel: 03000 586 082 or email: andy.jameson@hmrc.gsi.gov can answer any queries regarding the instrument.