

Reforms to the tax treatment of red diesel and other rebated fuels:

Consultation response submission form

Publication date: 9 July 2020

Closing date for comments: 1 October 2020

Consultation

The government is dedicated to meeting its climate change and wider environmental targets, including improving the UK's air quality. At Budget 2020, the government therefore announced that it will remove the entitlement to use red diesel from April 2022, except in agriculture (as well as forestry, horticulture and pisciculture), rail and for non-commercial heating (including domestic heating).

The government has launched a consultation to seek views on whether it has overlooked any exceptional reasons why other sectors should be allowed to continue to use red diesel beyond April 2022. The consultation asks for views on the government's proposals for implementing the changes announced at Budget, and is also seeking further information about the current end uses of other rebated fuels, such as non-aviation kerosene and fuel oil.

The consultation in full can be found on the following GOV.UK page:
<https://www.gov.uk/government/consultations/consultation-on-reforms-to-the-tax-treatment-of-red-diesel-and-other-rebated-fuels>

How to respond

The best way to respond to this consultation is to complete this submission form, and email it to: ETTAnswers@hmtreasury.gov.uk

Alternatively, representations by mail can be sent to:

Red diesel consultation
Energy and Transport Tax team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Any questions about the consultation can also be sent to:

ETTanswers@hmtreasury.gov.uk

Paper copies of this document or copies in Welsh and alternative formats may be obtained free of charge from the above address. This document can also be accessed from GOV.UK.

All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

Where possible, please also provide evidence to support your responses. This consultation will inform future policy development. The government will set out its intentions once it has considered the responses received.

Processing of Personal Data

This notice sets out how HM Treasury will use your personal data for the purposes of this consultation and explains your rights under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

Your data (Data Subject Categories)

The personal information relates to either a member of the public, parliamentarians, and representatives of organisations or companies who respond to this consultation.

The data we collect (Data Categories)

For the purposes of the GDPR, we will process the information that you include in your correspondence, which may include your name, address, email address, phone number, job title, and employer of the correspondent, in addition to your opinions on the consultation. It is possible that respondents may volunteer additional identifying information about themselves or third parties.

Legal basis of processing

The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in HM Treasury. For the purpose of this consultation the task is consulting on departmental policies or proposals or obtaining opinion data in order to develop good effective government policies.

Special categories data

Any of the categories of special category data may be processed if such data is volunteered by the respondent.

Legal basis for processing special category data

Where special category data is volunteered by you (the data subject), the legal basis relied upon for processing it is: the processing is necessary for reasons of substantial public interest for the exercise of a function of the Crown, a Minister of the Crown, or a government department.

This function is consulting on departmental policies or proposals, or obtaining opinion data, to develop good effective policies.

Purpose

The personal information is processed for the purpose of obtaining the opinions of members of the public and representatives of organisations and companies, about departmental policies, proposals, or generally to obtain public opinion data on an issue of public interest.

Who we share your responses with

Information provided in response to a consultation may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004 (EIR).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice

with which public authorities must comply and which deals with, amongst other things, obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Treasury.

Where someone submits special category personal data or personal data about third parties, we will endeavour to delete that data before publication takes place.

Where information about respondents is not published, it may be shared with officials within other public bodies involved in this consultation process to assist us in developing the policies to which it relates. Examples of these public bodies appear at: <https://www.gov.uk/government/organisations>.

As the personal information is stored on our IT infrastructure, it will be accessible to our IT contractor, NTT. NTT will only process this data for our purposes and in fulfilment with the contractual obligations they have with us.

How long we will hold your data (Retention)

Personal information in responses to consultations will generally be published and therefore retained indefinitely as a historic record under the Public Records Act 1958.

Personal information in responses that is not published will be retained for three calendar years after the consultation has concluded.

Your rights

You have the right to request information about how your personal data are processed and to request a copy of that personal data.

You have the right to request that any inaccuracies in your personal data are rectified without delay.

You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.

You have the right, in certain circumstances (for example, where accuracy is contested), to request that the processing of your personal data is restricted.

You have the right to object to the processing of your personal data where it is processed for direct marketing purposes.

You have the right to data portability, which allows your data to be copied or transferred from one IT environment to another.

How to submit a Data Subject Access Request (DSAR)

To request access to personal data that HM Treasury holds about you, contact:

HM Treasury Data Protection Unit

G11 Orange

1 Horse Guards Road

London

SW1A 2HQ

dsar@hmtreasury.gov.uk

Complaints

If you have any concerns about the use of your personal data, please contact us via this mailbox: privacy@hmtreasury.gov.uk.

If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner, the UK's independent

regulator for data protection. The Information Commissioner can be contacted at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

0303 123 1113

casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact details

The data controller for any personal data collected as part of this consultation is HM Treasury, the contact details for which are:

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

London

020 7270 5000

public.enquiries@hmtreasury.gov.uk

The contact details for HM Treasury's Data Protection Officer (DPO) are:

The Data Protection Officer

Corporate Governance and Risk Assurance Team

Area 2/15

1 Horse Guards Road

London

SW1A 2HQ

London

privacy@hmtreasury.gov.uk

About you

1. What is your name?

Jenny Grant on behalf of the Association for Renewable Energy and Clean Technology (the REA).

2. What is your email address?

jenny@r-e-a.net

3. Which category in the following list best describes you or the business/representative organisation you represent?

- Academic or research
- Agriculture, forestry, horticulture or pisciculture
- Airport operations
- Charity or voluntary organisation
- Chemical production
- Construction, including plant and equipment hire
- Electricity generation and portable generators
- Fuel supplier (if you are a Registered Dealer in Controlled Oil, please note below)
- Groundworks contractor
- Haulage
- Individual (including users of fuel for domestic purposes)
- Logistics and freight
- Manufacturing
- Maritime or inland waterway vessel operator
- Mining and quarrying
- Non-governmental organisation
- Oil and gas
- Property manager or maintainer
- Public entertainment (e.g. funfairs and travelling circuses)
- Public sector
- Rail industry
- Waste oil processors
- Waste or water management
- Other

If other, or if you are a Registered Dealer in Controlled Oil, please provide details here:

If you are replying on behalf of a business or representative organisation, please provide the name of the organisation/sector you represent, where your business(es) is located, and an approximate size/number of staff (where applicable).

The Association for Renewable Energy and Clean Technology (the REA).

The REA is a not-for-profit trade association, representing British renewable energy producers and clean technology and promoting the use of renewable energy in the UK. It has around 550 corporate members, making it the largest renewable energy trade association in the UK. The REA helps its members build commercially and environmentally sustainable businesses whilst increasing the contribution of renewable energy to the UK's electricity, heat, transport and green gas needs.

The REA's Organics and Natural Capital forum and its Biogas forum together comprise 422 members, numerous of which operate commercial composting facilities and commercial scale anaerobic digestion (AD) facilities. The REA also represents the energy from waste sector, with members involved in the delivery of advanced conversion technologies and traditional energy recovery projects.

The REA works with stakeholders with the aim of achieving policy and regulatory frameworks for renewables and organic waste recycling that deliver an increasing contribution to the UK's electricity, heat, recycling and transport needs. More info available at www.r-e-a.net

4. Would you like your response to be confidential and, if so, why?

No

Sectors retaining entitlement to use red diesel – chapter 4

Chapter 4 sets out why the government is not proposing to change the entitlement to use red diesel and rebated biofuels for agriculture (including forestry, horticulture and pisciculture), rail and for non-commercial heating (including domestic heating). It seeks views on whether the continued entitlement to use red diesel and rebated biofuels is justified for any other users.

Questions

5. Will removing the entitlement to use red diesel in your sector create perverse environmental outcomes? If so, please explain how, providing relevant evidence.

Yes

The waste and resources management sector, and specifically organics recycling should retain the entitlement to use red diesel. The removal of the entitlement is unlikely to drive change in practices and achieve the environmental benefits desired but will increase the costs. This is at a time when our members (businesses) are already struggling with the

impact of the pandemic and facing increased operational costs due to changes to the environmental standards that they must comply with.

The increased costs incurred may result in businesses having to cease operations and no longer be able to provide a recycling service. The environmental impacts of the waste recycling not being available and organic waste going for disposal in landfills and the associated greenhouse gas emissions, will have more of an adverse effect than the emissions from the diesel. This is alongside the loss of the valuable products from the process. Organic materials are applied to soils, where composts have been shown to increase soil organic carbon by 50-70kg C per hectare per year and where digestates supply essential plant nutrients, replacing chemical fertilisers. Anaerobic digestion also produces biogas which as a renewable fuel has multiple uses and benefits.

The Government's 25-year Environment Plan requires sustainable management and restoration of soil quality over the coming years and compost, digestates and organic soil improvers will play a pivotal role in achieving this.

6. Will removing the entitlement to use red diesel in your sector have an impact on the price of goods and services households and/or voluntary organisations use or pay for over the long-term? If so, please provide relevant evidence.

Yes

Organics recycling sites often process household waste on behalf of local authorities. This will mean that increased operational costs from the removal of the entitlement will ultimately be passed back to the local authorities who will have to pay a higher gate fee for the recycling of their waste and this will be reflected back to householders who will see an increase in their council tax or direct charges for garden waste (for those authorities who charge for this service). The increased revenue for Treasury will be offset by the increased costs for local authorities.

7. How will removing the entitlement to use red diesel in your sector impact your organisation? Please provide details on:

- a. **Your organisation/sector's current red diesel consumption and costs, including as a proportion of total costs, and broken down by different uses (i.e. what types of vehicles and machinery)**
- b. **The operational and financial capacity of your organisation/sector to shift to alternatives to red diesel (specifying what these alternatives are)**
- c. **The capacity of your organisation/sector to pass through costs down the supply chain**
- d. **The capacity of your organisation/sector to absorb extra costs**

The organics recycling sector uses red diesel extensively on sites. This is in vehicles such as loading shovels and telehandlers to move materials and wastes from place to place and also

in processing machinery such as shredders, screeners, separators and depackaging equipment.

We have had some figures provided by members on their current spending and the cost implications of the proposals. In all cases there is a significant increase in costs. We have included some detailed examples below.

Site A: A small scale compost site, processing 7500 tonnes per annum of garden waste. They currently spend £17,640 per annum on approximately 42,000 litres of red diesel. The removal of the entitlement will mean that their diesel costs will increase to somewhere around £38,000, an increase of £20,000. The cost per tonne (for the diesel used) of material processed will go from £2.35 per tonne to £5.06 per tonne.

Site B: A large scale composting site processing 180,000 tonnes of organic waste per year. They currently use 500,000 litres per annum of diesel costing £205,000. Removal of the entitlement to use red diesel will mean that the fuel costs increase to £445,000. The cost per tonne (for diesel used) of material processed will increase from £1.14 per tonne to £2.47 per tonne.

Site C: A company operating a medium scale anaerobic digestion and a large scale composting facility. They estimate that the removal of the entitlement to use red diesel will add an extra £1 per tonne to their operating costs. This is based on a current operating cost of £15 per tonne.

Site D: A large scale composting site processing 107,000 tonnes of food and garden waste per year. They currently spend approximately £140,000 per year and removal of the entitlement to use red diesel would increase this spend to £270,000.

Site E: A composting site who will see an additional cost of £173,280 on 240,000 litres of diesel should the entitlement to use red diesel be removed. This is an increase of 157% and will add an additional £1.89 per tonne of material processed to their operating costs. This will be almost impossible to recoup from customers in the short term and will put the business in a very precarious position.

The above examples show that there is a significant increase in costs for all sizes of sites with the smaller scale sites anticipating the greater increase.

Currently there are not vehicles, machinery and equipment with alternative fuel sources to replace all the different machinery and technologies used on organics recycling sites. Electrically-powered options for some of the machinery used in the sector are still being developed and alternatives to diesel are not available for all machinery. In addition, the state of the grid doesn't support the use of electric alternatives in all cases, particularly in more rural areas (where organics recycling facilities are often located). They may not have suitable grid connections or capacity to run the machinery and equipment that is needed.

Organics recycling facilities often have contracts for processing materials with fixed prices over several years, especially those processing waste on behalf of local authorities. This

means that sites may be unable to pass the increased costs on to their feedstock suppliers in the short term and therefore the full impact of the increased costs will fall on the businesses and this may not be sustainable. If the Government decides to go ahead with the removal of the ability to use red diesel, then a phased introduction of the removal of the entitlement will allow the increased costs to be accounted for as contracts are re-negotiated.

Our members are currently facing increasing operational costs as the environmental standards they need to comply with are changed, in line with European Best Available Technical Reference document and UK regulators implementing new conditions and requirements on sites. This means many are already operating on narrow margins and will not be able to absorb the additional costs if the entitlement to use red diesel is removed.

8. What impact do you expect the removal of red diesel entitlements from most sectors will have on the environment and on air quality? Please provide any evidence you deem relevant.

Organics Recycling facilities mostly operate under Environmental Permits and as such the emissions from facilities are already tightly controlled. Removal of the entitlement to use red diesel is unlikely to have much impact on the environment and air quality. There is a far greater potential negative impact if organics recycling is no longer a viable business and the waste cannot be recycled and must go for disposal.

9. Do you have any comments on the government's intention to maintain the entitlement to use red diesel for agriculture (as well as forestry, horticulture and pisciculture), rail and for non-commercial heating (including domestic heating) from April 2022?

We understand the intention to continue to allow agriculture and other named sectors to use red diesel and we urge the government to extend this entitlement to the waste management sector.

Many organics recycling facilities are based in rural locations and there are many sites based on farms. At these facilities, there is often sharing of equipment between the farm activities and the organics recycling activities and restrictions on the use of red diesel may mean that recording and accounting (in financial terms) for sharing of equipment is difficult. Removal of the entitlement to use red diesel would lead to either the need for more equipment and therefore the potential for more emissions, or greatly increased fuel costs as the whole operation may not be able to use red diesel. As much of the outputs from organics recycling are used in agriculture, it will be difficult to define at what point an operation moves from organic recycling into agriculture. Some sites also have planning restrictions that dictate that the resulting compost has to be applied to the farm's own land and cannot be exported or sold. There will be confusion if this is classed as agriculture or not.

If the Government decides to go ahead with the removal of the ability to use red diesel, we would support a phased introduction of the removal of the entitlement to use red diesel to allow for developments with alternative fuel machinery to be fully realised. Organics

recycling facilities often have contracts for processing materials with fixed prices over several years. This means that sites may be unable to pass the increased costs on to their feedstock suppliers in the short term and therefore the full impact of the increased costs will fall on the businesses and in some cases this is not sustainable. A phased introduction of the removal of the entitlement will allow the increased costs to be accounted for as contracts are re-negotiated. In applications where electrically powered or other renewably-derived fuel powered machinery, vehicles and equipment are not available then the entitlement to use red diesel needs to continue.

In addition, given the high capex costs of some of the machinery, vehicles and equipment used in the waste management sector, when a machine, vehicle or equipment type first becomes available as an electrically-powered or other renewably-derived fuel powered item, the associated transition period needs to be long enough to allow a reasonable write-off period for the existing item(s) used on the site, as its/their capex write off will already be in the company's business plan and the sums involved are significant.

Incentives are needed to enable investment in machinery with other fuel sources. Business financing for existing machinery often writes off machinery over a certain number of years and any policy designed to reduce consumption of fossil-derived diesel needs time for the investment in existing machinery to be recovered before sites are able to invest in new machinery. When farmers were required to upgrade their slurry stores there were capital grant incentives for doing so. A similar support scheme would help with the costs associated with improvements to the grid to enable electric powered alternatives and also for substituting diesel generators with gas ones.

10. The government is interested in gathering further information about the use of red diesel for heating. Please provide relevant evidence of your use of red diesel for this purpose, including on: i) the quantity and cost of the fuel; ii) where in the country the fuel is used (including whether you are on or off the gas grid); and iii) whether you consider that there are any viable alternative energy sources available to you.

No comment

11. Do the announced changes to the tax treatment of red diesel raise any concerns about the application of existing fuel duty reliefs? If so, please provide details on the relief and the issue that you believe will arise.

- Yes
- No
- Don't know

Implementation and ensuring compliance – chapter 5

Chapter 5 outlines the government's proposals for implementing the changes announced at Budget. It seeks views on proposals to introduce the tax changes, and whether to mandate that fuel suppliers and end users of red diesel must flush out their tanks, pumps and fuel supplies. It also seeks views on whether the government's suggested approach to ensuring compliance is proportionate and appropriate, as well as setting out the specific implications for private pleasure craft.

Questions

Introduction of changes

12. Are there any circumstances where, despite nearly two years' notice, users of red diesel that will be losing their entitlement will have already purchased fuel that they do not expect to have used up by April 2022? If so, please provide evidence to explain why you do not expect to be able to manage your supplies so that you have used up all your red diesel by April 2022.

- Yes
- No
- Don't know

Ensuring compliance: fuel suppliers

13. Do you agree with the government's suggested approach of mandating RDCOs that switch a fuel tank from red to white diesel in anticipation of the introduction of the tax changes to flush the tank and pump until no trace of marked rebated fuel remains? If you do not, please explain why.

- Yes
- No
- Don't know

14. If you are a fuel supplier, do you foresee any significant difficulties with the proposed arrangements for implementing the changes to the tax treatment of red diesel? If so, please explain why.

- Yes
- No
- Don't know

Ensuring compliance: red diesel users

15. Do you agree with the government's suggested approach of not mandating users of red diesel that will lose their entitlement to flush out the fuel supplies of their vehicles and machinery? If you do not, please explain why.

- Yes
- No
- Don't know

16. If you are in a sector that will lose entitlement to use red diesel from April 2022, do you foresee any difficulties with the proposed arrangements for implementing the changes to the tax treatment of red diesel? If so, please explain why.

- Yes
- No
- Don't know

Ensuring compliance: HMRC enforcement powers and penalties

17. Is the government's suggested approach to compliance proportionate and appropriate? If not, please explain why and outline any scenarios that you anticipate may require bespoke compliance powers or penalties.

- Yes
- No
- Don't know

Private pleasure craft

18. Do you agree with the government's suggested approach of introducing a new relief scheme where the fuel supplier would deduct from the sale price the duty difference on the proportion of white diesel purchased by private pleasure craft users for non-propulsion use? If you do not, please explain why and give details of an alternative that you believe would be better.

- Yes
- No
- Don't know

19. Do you consider that 60% for propulsion and 40% for non-propulsion use still reflects most crafts' typical fuel use? If not, and you are a private pleasure craft user, please provide evidence on your own use. If you are a fuel supplier, please provide evidence on the number of craft users that claim they use more than 40% of their fuel for non-propulsion use.

- Yes
- No
- Don't know

20. If the government decides to introduce a new relief scheme, do you consider that the relief should be set as a fixed percentage to reflect most crafts' use or capped at a maximum percentage, meaning that craft users that use less than the maximum for non-propulsion would claim back less? Please explain the reasons for your view.

- Set as a fixed percentage
- Capped at a maximum percentage
- Don't know

21. If you are a fuel supplier selling fuel to private pleasure craft, do you foresee any difficulties with implementing the new relief scheme outlined above if the government decides to introduce it? If so, please explain why and whether the government could adapt the scheme to mitigate these difficulties.

- Yes
- No
- Don't know

22. Do you agree with the suggested approach for private pleasure craft with two fuel tanks (one for propulsion and a separate one for non-propulsion) to be allowed to continue to use red diesel in the non-propulsion tank where it can obtain it?

- Yes
- No
- Don't know

Assessment of other impacts – chapter 6

Chapter 6 sets out the government's current assessment of what impacts the changes to the tax treatment of red diesel and rebated biofuels are expected to generate. It seeks views on whether these changes will generate any unintended impacts that have not been outlined in this consultation.

Questions

23. Is there anything you have not already included in your response that you would like us to note about the impact of the changes to the tax treatment of red diesel, especially any potentially adverse impacts on groups with protected characteristics?

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Tax treatment of other rebated fuels, call for evidence – chapter 7

Chapter 7 sets out that the government is considering whether to revisit the tax treatment of other rebated fuels, such as non-aviation kerosene and fuel oil, to support its environment and air quality objectives. It seeks further information about the current end uses of these fuels.

Questions

24. The government is interested in gathering further information about the end use of non-aviation kerosene, fuel oil, other heavy oils, LPG and natural gas. Please provide relevant evidence on usage of these fuels, particularly in relation to:
- the purpose and type of use, such as business, public sector or domestic.
Where the fuel is used as motor fuel, it would be useful to know what types of

machinery, including excepted vehicles, it is used to power and what they are used for

- b. the quantity and cost of the fuel used**
- c. where in the country these fuels are used (including whether they are on or off the gas grid)**
- d. whether you consider that there are any viable alternative fuels available to you to power such machinery, including excepted vehicles, or equipment.**

If you know your Standard Industrial Classification code, please also provide this.

You are invited to provide any evidence you deem relevant to this call for evidence, not limited to the information requested.

- 25. Is there any other information that you wish to highlight to help the government reach a decision on whether to reconsider the tax treatment of these other rebated fuels?**

- 26. If you believe the tax treatment of these other rebated fuels should be reconsidered, do you have any suggestions for how it could be reformed and implemented? Please provide any evidence you deem relevant and consider how this would interact with the changes to the tax treatment to red diesel, both in terms of which sectors the changes would affect (Chapter 4) and how the changes would be implemented (Chapter 5).**

HM Treasury contacts

This document can be downloaded from www.gov.uk

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

Correspondence Team
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tel: 020 7270 5000

Email: public.enquiries@hmtreasury.gov.uk