



**The supply of rebated fuel (red diesel) after 1<sup>st</sup> April 2022 to plant owners/contractors who carry out works in entitled sectors specifically forestry and forestry road building.**

## **JOINT STATEMENT**

Dear members and wider industry, I am making this statement today on behalf of the Scottish Plant Owners Association (SPOA) and the UK & Ireland Fuel Distributors Association (UKIFDA).

From the 1<sup>st</sup> of April 2022, many sectors have lost entitlement to rebated fuels; construction is one of them. However, there are many plant owners/contractors around Scotland, Northern Ireland, Wales and England who are engaged in contracting works in sectors where the entitlement is still allowed, such as agriculture, forestry and fish farming.

The SPOA has published guidance on the use of red diesel. This guidance, [Transitioning From Red Diesel](#), was approved by HMRC and is therefore accurate.

To facilitate a better understanding of these issues, the SPOA and UKIFDA have produced this joint statement which confirms the obligations and standing of both fuel suppliers and plant owners/contractors. Affected contractors can use this letter to confirm their entitlement to their fuel supplier.

### **Fuel Suppliers responsibilities:**

It is important to note the role of the fuel distributor as a registered dealer in controlled oils (RDCO) has not changed:

- They need to take all necessary precautions to make sure that they supply rebated fuel only to people who will use it as permitted.
- They will need to be able to demonstrate they have taken reasonable care to supply rebated fuel only to customers still allowed to use it.

### **Fuel buyers (plant contractors) should expect to be asked by RDCOs (fuel suppliers):**

- What type of fuel is going to be used?
- Which sector will the fuel be used in?
- What type of equipment will the fuel be used for?
- How is the equipment going to be used?

### **The entitlement to use rebated fuel by plant owners/contractors for building forest roads:**

Per Excise Notice 75, Forestry is:

The upkeep and management of forests including the growing and harvesting of timber and other forestry products. Using a vehicle for purposes relating to forestry includes using it to:

- travel to and from a place where it will be used for forestry
- transport trailed or mounted forestry implements and machinery to and from the place they will be used for forestry
- move timber that you (or your co-worker) have harvested from where it was harvested to the place where it is to be stored, sold or processed

**SPOA** sought clarification in February as to whether forestry road creation is an entitled use, HMRC confirmed as follows:

“You can use red diesel for creating and managing forest roads and stacking areas, these are key to the management of a successful commercial forest.”

“This will be dependent on who is doing the work and what that work entails. If, for example, the forester (or contractor working for them) does this work as part of their forestry operation, that would be an accepted forestry activity.”

“If a roadbuilding/civils business does this work to create the road **before** any forestry takes place, that would be considered construction work which is a non-forestry activity.”

**UKIFDA** sought clarification on the matter in March and received the following response from HMRC on 1<sup>st</sup> April 2022:

“A forester clearing land to create a forest track or trail (**unsealed roads**) to access the growing timber and to extract it, is a purpose relating to forestry. It is incidental to the forestry operation they are engaged in. It’s worth noting that the same would apply to a farmer creating a farm track on their land (e.g. for animals to walk from a field to another) – these tracks and trails would not be considered as structures and would be a purpose related to agriculture.”

“A forester may use agricultural vehicles for other work on land where they are kept and used for purposes related to agriculture, horticulture, aquatic farming and forestry. They may also use other machines and appliances which are used for purposes related to agriculture etc, for other uses. However, this permission does not apply to special vehicles or unlicensed vehicles which can only be used for accepted agricultural etc, uses.”

“Activities not accepted as falling within the definition of forestry include construction of buildings or other structures used for purposes relating to forestry. Road building would not be considered an accepted forestry use as this would be construction. This means creating sealed roads which are formed and constructed road surfaces, made with materials such as tar, bitumen, or concrete are structures – this is not a forestry activity, regardless of whether there is or isn’t an ongoing forestry operation. A person building roads is engaged in construction, not forestry.”

**Summary:**

Given that nearly all in-forest roads are constructed using site won material and remain unsealed for their working life, the above confirms that plant owners/contractors are permitted to purchase and use rebated fuel (red diesel, red GTL, red HVO) for the purposes of forest road creation.

We hope this clarifies the situation, restores confidence, and importantly, allows contractors in entitled sectors to purchase rebated fuel to enable them to carry on work without further delay.



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