



STATUTORY INSTRUMENTS.

**S.I. No. 356 of 2010.**



NATIONAL OIL RESERVES AGENCY ACT 2007 (RETURNS AND  
BIOFUEL LEVY) REGULATIONS 2010

**(Prn. A10/1034)**

NATIONAL OIL RESERVES AGENCY ACT 2007 (RETURNS AND  
BIOFUEL LEVY) REGULATIONS 2010

I, EAMON RYAN, Minister for Communications, Energy and Natural Resources, in exercise of the powers conferred on me by sections 44Q, 44T, 44U, 44V and 44W (inserted by the Energy (Biofuel Obligation and Miscellaneous Provisions) Act 2010 (No. 11 of 2010)) of the National Oil Reserves Agency Act 2007 (No. 7 of 2007), hereby make the following regulations:

*Citation and commencement*

1. (1) These Regulations may be cited as the National Oil Reserves Agency Act 2007 (Returns and Biofuel Levy) Regulations 2010.

(2) These Regulations come into operation on 1 July 2010.

*Interpretation*

2. In these Regulations—

“Act of 2007” means National Oil Reserves Agency Act 2007 (No. 7 of 2007);

“Agency” means National Oil Reserves Agency;

“litres” means standard litres, that is the volume that biofuel occupies at a temperature of 15 degrees Celsius;

“Minister” means Minister for Communications, Energy and Natural Resources;

“return” means a return made under Regulation 3 by a biofuel obligation account holder to the Minister relating to a specified month.

*Returns*

3. (1) Each biofuel obligation account holder shall, for the purposes of Part 5A (inserted by the Energy (Biofuel Obligation and Miscellaneous Provisions) Act 2010 (No. 11 of 2010)) of the Act of 2007, make a written return to the Minister—

(a) not later than the 18th day of the month immediately following the month to which the return relates, and

(b) certified by a director or secretary of the biofuel obligation account holder or by such other person authorised in that behalf by the biofuel obligation account holder.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 20th July, 2010.*

- (2) A return made under this Regulation shall contain—
- (a) the following information, expressed in litres, in respect of the month to which the return relates:
    - (i) the stocks of biofuel held by the biofuel obligation account holder at the beginning of that month—
      - (I) at facilities in the State, and
      - (II) in its own storage facilities in the State;
    - (ii) all purchases of biofuel received by the biofuel obligation account holder during that month;
    - (iii) all imports into, and exports from, the State of biofuel made by the biofuel obligation account holder during that month;
    - (iv) the stocks of biofuel held by the biofuel obligation account holder at the end of that month—
      - (I) at facilities in the State, and
      - (II) in its own storage facilities in the State;
    - (v) the total sales of biofuel made by the biofuel obligation account holder during that month, and
    - (vi) the biofuel obligation account holder's consumption of biofuel during that month,

and

    - (b) such other information as the Minister may specify from time to time.

(3) Where a biofuel obligation account holder discovers an error in a return made by it under this Regulation, the biofuel obligation account holder shall, as soon as practicable, give notice in writing to the Minister of the error.

*Rate of biofuel levy*

4. With effect from 1 July 2010, the rate of biofuel levy payable to the Agency by each biofuel obligation account holder shall be €0.02 per litre of relevant disposals of biofuel.

*Keeping of records*

5. Without prejudice to any other requirements under the Act of 2007 or any other Act or any regulations made thereunder in relation to proper books of account, each biofuel obligation account holder shall maintain, for a period of not less than 6 years after the period to which they relate, the following records in respect of matters relating to the biofuel levy:

- (a) copies of any returns made;
- (b) a copy of each invoice or bill of sale issued with regard to the relevant disposal of biofuel by the biofuel obligation account holder;
- (c) a copy of each invoice or bill of sale received with regard to the purchase of biofuel by the biofuel obligation account holder, and
- (d) copies of any supporting documentation relating to any returns made.

*Biofuel levy assessment notice*

6. As soon as practicable after the end of each month, the Agency shall give a biofuel levy assessment notice in the form set out in the Schedule to each biofuel obligation account holder liable to pay the biofuel levy.

*Payment of biofuel levy*

7. (1) Each biofuel obligation account holder shall pay to the Agency the amount of the biofuel levy specified in a biofuel levy assessment notice not later than the 5th working day after the date of issue of the biofuel levy assessment notice.

(2) Payment of the amount of the biofuel levy specified in a biofuel levy assessment notice shall—

- (a) be made in Euro,
  - (b) be made—
    - (i) by cheque, or
    - (ii) by same day direct bank transfer or equivalent instantaneous transfer of funds to the bank account specified by the Agency in the notice,
- and
- (c) be notified in writing to the Agency by the biofuel obligation account holder, such notification to include details of the date and time of payment and the name of the bank effecting payment on behalf of the biofuel obligation account holder.

*Interest on unpaid amount of biofuel levy*

8. The rate of interest, expressed as per cent per annum, on any amount of biofuel levy not paid on or before the date specified in the biofuel assessment notice concerned as the date on which the amount becomes due (in this Regulation referred to as the “due date”) shall be calculated in accordance with the following formula:

$$\text{EURIBOR} + \text{CB} + \text{CA}$$

where—

EURIBOR is the prevailing Euro Interbank Offered Rate of interest (expressed as per cent per annum) in force on the due date for one month's funds in Euro on an amount equal to the unpaid amount of biofuel levy,

CB is such additional rate of interest (expressed as per cent per annum) as the Central Bank and Financial Services Authority of Ireland shall certify would be necessary to compensate them (without taking into account any deductibility of that cost for purposes of corporation tax), calculated by reference to circumstances existing on the due date, of making or maintaining one month's funds of an amount equal to the overdue biofuel levy, by reason of the then liquidity reserve ratios, special deposits or similar requirements (or other reserve requirements having the same or similar purposes) of the Central Bank and Financial Services Authority of Ireland, and

CA is an additional rate of interest of 2 per cent to take into account the cost of recovering unpaid biofuel levy, including any bank charges the Agency may incur in maintaining a bank overdraft to cover a shortfall in funds arising out of unpaid biofuel levy.

*Review of biofuel levy assessment notice*

9. (1) A biofuel obligation account holder may, in accordance with this Regulation, request the Minister to review a biofuel levy assessment notice given to it where the biofuel obligation account holder considers that the notice is erroneous.

(2) A request for a review of a biofuel levy assessment notice shall—

- (a) be in writing,
- (b) state the name and address of the biofuel obligation account holder,
- (c) be made within 5 days of the date of issue of the biofuel levy assessment notice concerned,
- (d) include a statement of the principal grounds for the request and the arguments supporting those grounds, and
- (e) be accompanied by such information, particulars or other supporting documentation (including information stored by electronic means) which, in the opinion of the biofuel obligation account holder concerned, is relevant to the request for a review.

(3) The documentation referred to in paragraph (2)(e) shall include the return pursuant to which the biofuel levy assessment notice was given.

(4) (a) The Minister may request a biofuel obligation account holder making a request for a review of a biofuel levy assessment notice to give to the Minister such additional information, particulars and documentation as he or she reasonably requires for the purposes of a review.

(b) A request by the Minister under subparagraph (a) shall be in writing and shall specify a period of not less than 5 days from the date of the request within which such information, particulars and documentation shall be given to the Minister.

(5) If, following consideration of a request for a review of a biofuel levy assessment notice, the Minister is satisfied that the amount of biofuel levy specified in the biofuel levy assessment notice the subject of the review is erroneous, the Minister shall—

(a) instruct the Agency, without prejudice to any liability in respect of interest, to cancel the biofuel levy assessment notice, and

(b) direct the Agency to—

(i) give a revised biofuel levy assessment notice to the biofuel obligation account holder for the month concerned, and

(ii) give notice in writing to the Minister of the amount of biofuel levy payable by the biofuel obligation account holder as specified in the revised biofuel levy assessment notice,

and, for the purposes of the revised biofuel levy assessment notice, it may specify the amount of any interest payable.

(6) (a) This paragraph applies where—

(i) a biofuel obligation account holder gives notice to the Minister pursuant to Regulation 3 that any return made by it contains any error in respect of any amount of biofuel concerned, and

(ii) on the date of the notice referred to in clause (i), there is no amount outstanding and overdue from the biofuel obligation account holder in respect of any biofuel levy assessment notice given to it by the Agency as a result of the return so made.

(b) Where, as a consequence of any error of which notice is given to the Minister pursuant to Regulation 3, a biofuel obligation account holder is liable to pay interest on any outstanding amount, the Agency may, at its discretion, waive in whole or in part the interest due having regard to—

(i) the nature of the error,

(ii) the amount of interest accrued, and

(iii) such other matters that the Agency considers appropriate in the circumstances.

(7) Paragraphs (1) to (6) do not apply to a request for a review of a biofuel levy assessment notice where—

- (a) the request or any information, particulars or other documentation given pursuant to paragraph (4) is, in the opinion of the Minister, vexatious or frivolous or without substance or foundation, or
- (b) the biofuel obligation account holder concerned—
  - (i) failed to make a return in respect of a period and the biofuel levy assessment notice relates to such period, or
  - (ii) has made a return which is, in the opinion of the Minister, inaccurate or incomplete in a material respect.

## SCHEDULE

## FORM OF BIOFUEL LEVY ASSESSMENT NOTICE

**National Oil Reserves Agency**  
**An Ghníomhaireacht Chúltaca Ola Náisiúnta**

[insert address]

**Biofuel Levy Assessment Notice**

**For the attention of:** *(insert name of biofuel obligation account holder)*

Biofuel levy assessment notice pursuant to section 44Q of the National Oil Reserves Agency Act 2007 for *[insert month and year]*

Invoice number: \_\_\_\_\_

Invoice date: \_\_\_\_\_

Account number: \_\_\_\_\_

Relevant disposals of road transport fuel for <i>[insert month and year]</i>	Quantity (in litres)	Rate of biofuel levy (€/litre)	Total (€)
Biofuel blended with motor spirit		€0.02	
Biofuel blended with motor diesel (DERV)		€0.02	
Other biofuel		€0.02	
<b>Amount Due</b>			

Payment due date:

*[Insert details of bank account to which payment to be made]*

The Minister for Finance consents to the making of these Regulations in so far as they relate to the rate of the biofuel levy.





GIVEN under the Official Seal of the Minister for Finance,  
30 June 2010.

BRIAN LENIHAN,  
Minister for Finance.



GIVEN under my Official Seal,  
30 June 2010.

EAMON RYAN,  
Minister for Communications, Energy and Natural Resources.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
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