



The use of red diesel and changes from April 2022

1. What is red diesel?

'Red diesel' is a fuel that is currently used in off-road vehicles and machinery. It is used in a number of industries, most prominently construction and agriculture, where users are entitled to a rebate on the tax or duty paid on the fuel purchased.

Red diesel is the same as regular white diesel but with a red dye and chemical markers added to it to prevent its misuse in road vehicles.

2. What is changing in April 2022?

The Government announced in the Budget 2020 that the entitlement to use rebated red diesel would be removed from most sectors, including construction, from **1 April 2022**. This means it will be illegal to put red diesel into the tank of a vehicle or machine that is not entitled to use it after this date.

HMRC has published guidance on the changes to use of red diesel from 1 April 2021.

3. When might traces of red diesel be found in plant and equipment used for construction work?

For a short period of time after the rules change on 1 April 2022, businesses may find that traces of red diesel are still present in the fuel tanks of vehicles or machines on site as the fuel is used up before being replaced with white diesel. How long this will take will depend on the type of vehicle or machine, the size of its fuel tank, its rate of fuel consumption and how frequently it is used.

Businesses that currently use red diesel but will no longer be entitled to after 1 April should plan to run down the fuel in their vehicles and machines and use up existing stocks being held in storage by this date. Companies which have a large volume of rebated diesel already in reserve and are concerned that they will not be able to use or dispose of it before 1 April 2022, should contact oils.policymail@hmrc.gov.uk by **14 January 2022** for advice.

Businesses will **not** be expected to flush out all traces of red diesel from storage tanks but should plan to empty and refill them with white diesel before putting fuel into their vehicles or machines after the rules change.

There is also a possibility that traces of red diesel may be found where plant and equipment is used for both entitled and non-entitled purposes (such as agriculture and construction work).

HMRC is clear that tanks must either be flushed to remove all traces of red diesel when switching from entitled to non-entitled use or fuelled with white diesel for all uses. Hire companies should always complete a post-hire inspection when plant and equipment is returned to them which should note what fuel was in the vehicle.

4. What should a business do if it finds any red diesel in plant and equipment to be used for construction work after 1 April 2022?

Businesses should always check what fuel is in the tank and/or engine before starting operation. If red diesel is found, businesses should not use the plant or equipment until they confirmed whether the red diesel was added before 1 April or after that date. If the red diesel was added after that they, they must flush the tank, refill with the correct fuel and evidence should be kept to prove that this was done (see question 7 below).

If the plant or equipment was hired, businesses should contact the hire company and inform them that the vehicle or machine contained the wrong fuel for the intended use when hired.

5. Who is responsible for ensuring that red diesel is no longer used in plant and equipment for construction work?

Plant owners should read the HMRC guidance to confirm whether their plant and equipment is to be used for an entitled purpose or not. When being used for construction work from 1 April 2022, it will be illegal to use red diesel.

Hire companies should make their customers aware that the fuel they are permitted to use depends on the use of the vehicle or machine. Hire companies should always ask what the vehicle or machine will be used for and, if it is unclear whether it is for an entitled purpose, then it should be fuelled with white diesel.

Contractors should ensure that the plant and equipment they use on site is always filled with the correct fuel – if diesel, then it must be white diesel.

Suppliers who are Registered Dealers in Controlled Oil (RDCOs) should make their customers aware of the rule changes and prevent them from purchasing more red diesel than can be used before then.

6. What action will HMRC take if they find red diesel in plant and equipment being used for construction work?

HMRC officers may carry out checks on any plant and equipment using diesel to confirm the correct fuel is being used.

If they find traces of red diesel in the fuel supply of a vehicle or machine that is not entitled to use it, they may ask the business to provide evidence to demonstrate that any rebated fuel in the vehicle or machine was put in before the rules changed and is still being used up. In this situation, HMRC has confirmed it will take a pragmatic approach to enforcement and consider the steps taken to switch to using fully duty-paid diesel.

Where rebated fuel is used in a vehicle or machine that is not entitled to use it, HMRC can seize the vehicle or machine and issue a fine of £250. HMRC may also apply a penalty up to 100% of the duty that has been evaded depending on the offence.

7. What evidence do businesses need to provide to show that plant and equipment was filled correctly with white diesel?

Businesses should ensure they have the following documents in the event that HMRC has to assess whether plant or equipment was filled with the correct fuel:

- Receipts or invoices for the purchase of fuel
- Contracts for the hire of plant or equipment
- Run plans
- Time sheets of drivers/operators

8. What happens if plant and equipment is running continuously (e.g. power generation) where the tanks cannot be flushed out or a minimum level of fuel must be maintained for safety reasons?

Businesses will need to show that they have been refilling with the correct fuel since the rules changed, e.g. by showing receipts for the purchase of white diesel.

Businesses may use up rebated fuel held in storage tanks for the purposes of emergency back-up power generation (where a generator is used to provide continuity of power in the event of power failure) after the rules change.

9. May a dye or chemical marker be added to fuel?

Companies are permitted to add dye or chemical markers to fuel as long as the dye or chemical markers do not:

- Contain any of the prescribed Government markers listed in Regulation 3 of the Hydrocarbon Oil (Marking) Regulations 2002
- Test positive for any of the prescribed markers
- Affect or impede HMRC's ability to test for the prescribed fuel markers.

Red diesel contains a chemical marker which HMRC will look for when testing diesel. Companies planning to add dye to their fuel, for example to act as a deterrent against theft, should give careful consideration to the colour they intend to use as HMRC officers are likely to test any visibly coloured fuel to determine its contents.

10. What action should businesses take now to prepare for this change from 1 April 2022?

1. Identify all plant and equipment you own, hire, lease or use that currently uses red diesel
2. Assess existing stocks of red diesel and develop a plan for running them down
3. Talk to your diesel supplier to make sure you are not over-ordering red diesel
4. Determine a schedule for moving to white diesel, including flushing out tanks
5. Review existing contracts with both clients and suppliers for any potential price implications from the loss of entitlement
6. Discuss with your clients the cost implications of plant and equipment using white diesel from 1 April 2022.