
DRAFT STATUTORY INSTRUMENTS

2017 No.

The Renewable Heat Incentive Scheme Regulations 2017

PART 4

Ongoing obligations for participants

CHAPTER 1

Ongoing obligations relating to the use of solid biomass to generate heat

Interpretation

36. In this Part—

“allocating authority” has the same meaning as in section 24 of the Waste and Emissions Trading Act 2003(1);

“landfill gas” means gas formed by the digestion of material in a landfill;

“municipal waste” has the same meaning as in section 21 of the Waste and Emissions Trading Act 2003(2);

“standby generation” means the generation of electricity by equipment which is not used frequently or regularly to generate electricity and where all the electricity generated by that equipment is used by the accredited RHI installation;

“waste collection authority” has the same meaning as in section 30(3) of the Environmental Protection Act 1990(3);

“waste disposal authority” has the same meaning as in section 30(2) of the Environmental Protection Act 1990(4).

Participants using solid biomass contained in waste

37.—(1) This regulation applies to participants generating heat in an accredited RHI installation from solid biomass contained in waste.

(2) The proportion of solid biomass contained in the waste must be a minimum of 10%.

(3) For the purposes of paragraph (2)—

(a) the proportion of solid biomass contained in the waste is to be determined by the Authority for every quarterly period;

(b) it is for the participant to provide, in such form as the Authority may require, evidence to demonstrate to the Authority’s satisfaction the proportion of the energy content of the

(1) 2003 c.33; section 24(1) was amended by regulation 3(4) of the Waste and Emissions Trading Act 2003 (Amendment etc.) Regulations 2013 (S.I. 2013/141).

(2) 2003 c.33.

(3) 1990 c.43; section 30(3) was amended by the Local Government (Wales) Act 1994 (c.19), paragraph 17(3) of Schedule 9, and subsection (3)(c) was substituted by the Local Government etc. (Scotland) Act 1994 (c.39), paragraph 167(3) of Schedule 13.

(4) 1990 c.43; section 30(2)(f) was substituted by the Local Government (Wales) Act 1994 (c.19), paragraph 17(2) of Schedule 9, and paragraph (g) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), paragraph 167(3) of Schedule 13.

waste used in any quarterly period which is composed of fossil fuel, to enable the Authority to determine the proportion of solid biomass in accordance with sub-paragraph (c);

- (c) the proportion of solid biomass is the energy content of the waste used in any quarterly period to generate heat less the energy content of any fossil fuel of which that waste is in part composed, expressed as a percentage of the energy content of that waste.

(4) The participant may use fossil fuel (other than fossil fuel mentioned in paragraph (3)(c)) in an accredited RHI installation for the following permitted ancillary purposes only—

- (a) cleansing other fuels from the accredited RHI installation's combustion system prior to using fossil fuel to heat the combustion system to its normal temperature;
- (b) the heating of the accredited RHI installation's combustion system to its normal operating temperature or the maintenance of that temperature;
- (c) the ignition of fuels of low or variable calorific value;
- (d) emission control;
- (e) in relation to accredited RHI installations which are CHP systems, standby generation or the testing of standby generation capacity.

(5) The energy content of the fossil fuel used during any quarterly period for the permitted ancillary purposes specified in paragraph (4) must not exceed 10% of the energy content of all the fuel used by that accredited RHI installation or where the installation is a CHP system, by a combustion unit which supplies energy to that installation from solid biomass contained in waste, to generate heat during that quarterly period.

(6) Without prejudice to paragraph (3)(b), when determining the proportion of solid biomass contained in waste, the Authority may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates what proportion of the energy content of the waste is composed of fossil fuel.

(7) Where the participant produces to the Authority—

- (a) data published by an allocating authority, a waste disposal authority or a waste collection authority, demonstrating that the proportion of municipal waste used by that participant which is composed of fossil fuel is unlikely to exceed 50%; and
- (b) evidence that the municipal waste used has not been subject to any process before being used that is likely to have materially increased that proportion,

the Authority may accept this as sufficient evidence for the purposes of paragraph (3)(b) of the fact that the proportion of the municipal waste used which is composed of fossil fuel is no more than 50%.

(8) Where the Authority so requests, the participant must arrange for samples of the waste used (or to be used) in the accredited RHI installation, or of any gas or other substance produced as the result of the use of such waste, to be taken by a person (and analysed in a manner) specified by the Authority, and for the results of that analysis to be made available to the Authority in such form as the Authority may require.

Participants using solid biomass in accredited RHI installations with an installation capacity of 1MWth or above

38.—(1) This regulation applies to participants generating heat from solid biomass, not being solid biomass contained in waste, in an accredited RHI installation with an installation capacity of 1MWth or above.

(2) The participant may use solid biomass contaminated with fossil fuel only where the proportion of fossil fuel contamination does not exceed 10%.

(3) Such contaminated biomass may not be used unless the fossil fuel is present because—

- (a) the solid biomass has been subject to a process, the undertaking of which has caused the fossil fuel to be present in, on or with the biomass even though that was not the object of the process; or
 - (b) the fossil fuel is waste and was not added to the solid biomass with a view to its being used as a fuel.
- (4) For the purposes of paragraph (2)—
- (a) the proportion of fossil fuel contamination is to be determined by the Authority for every quarterly period;
 - (b) it is for the participant to provide, in such form as the Authority may require, evidence to demonstrate to the Authority's satisfaction the proportion of fossil fuel contamination; and
 - (c) the proportion of fossil fuel contamination is the energy content of the fossil fuel with which the solid biomass used in any quarterly period is contaminated expressed as a percentage of the energy content of all solid biomass (contaminated or otherwise) used in that quarterly period to generate heat other than fossil fuel used in accordance with paragraphs (5) and (6).
- (5) The participant may use fossil fuel (other than fossil fuel mentioned in paragraph (2)) in an accredited RHI installation for the following permitted ancillary purposes only—
- (a) cleansing other fuels from the accredited RHI installation's combustion system prior to using fossil fuel to heat the combustion system to its normal temperature;
 - (b) the heating of the accredited RHI installation's combustion system to its normal operating temperature or the maintenance of that temperature;
 - (c) the ignition of fuels of low or variable calorific value;
 - (d) emission control;
 - (e) in relation to accredited RHI installations which are CHP systems, standby generation or the testing of standby generation capacity.
- (6) The energy content of the fossil fuel used during a quarterly period for the permitted ancillary purposes specified in paragraph (5) must not exceed 10% of the energy content of all the fuel used by that accredited RHI installation or where the installation is a CHP system, by a combustion unit which supplies energy to that installation from solid biomass, to generate heat during that quarterly period.
- (7) Without prejudice to paragraph (4)(b), in determining the proportion of solid biomass composed of fossil fuel the Authority may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates what proportion of the contaminated solid biomass is composed of fossil fuel.
- (8) Where the Authority so requests, the participant must arrange for samples of the fuel used (or to be used) in the accredited RHI installation, or of any gas or other substance produced as the result of the use of such fuel, to be taken by a person (and analysed in a manner) specified by the Authority, and for the results of that analysis to be made available to the Authority in such form as the Authority may require.

Participants using solid biomass in accredited RHI installations with an installation capacity of between 45kWth and 1MWth

39.—(1) This regulation applies to participants generating heat from solid biomass, not being solid biomass contained in waste, in an accredited RHI installation with an installation capacity of 45kWth and above but below 1MWth.

(2) The participant may use solid biomass contaminated with fossil fuel provided the participant complies with paragraphs (2), (3), (5) and (6) of regulation 38 as well as the requirements of this regulation.

(3) Where solid biomass contaminated with fossil fuel is used in an accredited RHI installation, the participant must keep and provide upon request written evidence including invoices, receipts and such other documentation as the Authority may specify relating to fuel use and fossil fuel used for the permitted ancillary purposes specified in regulation 38(5) and provide this information upon request to the Authority, in such form as the Authority may require, to demonstrate compliance with this regulation.

(4) Without prejudice to paragraph (3), the Authority may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates what proportion of the contaminated solid biomass is composed of fossil fuel.

(5) Where—

- (a) the Authority is not satisfied that the proportion of fossil fuel contamination (within the meaning of regulation 38(4)(c)) does not exceed 10%; or
- (b) the Authority is not satisfied as to the matters specified in paragraphs (5) and (6) of regulation 38,

the Authority may require the participant to arrange for samples of the fuel used (or to be used) in the accredited RHI installation, or of any gas or other substance produced as the result of the use of such fuel, to be taken by a person (and analysed in a manner) specified by the Authority, and for the results of that analysis to be made available to the Authority in such form as the Authority may require.

CHAPTER 2

Ongoing obligations relating to the use of biogas to generate heat and the production of biomethane for injection

Biogas produced from gasification or pyrolysis

40.—(1) This regulation applies to participants producing biogas using gasification or pyrolysis and generating heat from that biogas in an accredited RHI installation.

(2) The participant may only use solid biomass or waste as feedstock to produce the biogas.

(3) Where the participant uses waste as feedstock—

- (a) paragraphs (2), (3), (6) and (7) of regulation 37 apply to the proportion of solid biomass contained in the waste used for feedstock in the same way as for the proportion of solid biomass contained in waste used to generate heat; and
- (b) paragraphs (4) and (5) of regulation 37 apply.

(4) Where the participant uses solid biomass (not being solid biomass contained in waste) as feedstock—

- (a) paragraphs (2), (3), (4) and (7) of regulation 38 apply to the contamination of solid biomass used for feedstock in the same way as for solid biomass contaminated with fossil fuel used to generate heat; and
- (b) paragraphs (5) and (6) of regulation 38 apply.

(5) Where the Authority so requests, the participant must arrange for samples of the waste or solid biomass used (or to be used) as feedstock in the biogas production plant, or of any gas or other substance produced as a result of the use of such waste or solid biomass, to be taken by a person (and analysed in a manner) specified by the Authority, and for the results of that analysis to be made available to the Authority in such form as the Authority may require.

Participants generating heat from biogas

41.—(1) This regulation applies to participants generating heat from biogas in an accredited RHI installation where regulation 40 does not apply.

(2) Subject to regulation 74, a participant using biogas produced by anaerobic digestion may only use biogas which—

(a) was produced from one or more of the following feedstocks—

(i) solid biomass,

(ii) solid waste,

(iii) liquid waste; and

(b) is not landfill gas.

(3) The participant may use fossil fuel in the accredited RHI installation only in accordance with paragraphs (5) and (6) of regulation 38.

Biomethane producers

42.—(1) This regulation applies to participants producing biomethane for injection.

(2) A participant producing biomethane for injection from biogas made by gasification or pyrolysis may only use biogas made using solid biomass or waste as feedstock.

(3) Where waste is used as feedstock, paragraphs (2) and (3)(c) of regulation 37 apply to the proportion of solid biomass contained in waste used as feedstock in the same way as for the proportion of solid biomass contained in waste used to generate heat.

(4) Where solid biomass is used as feedstock, paragraphs (2), (3), and (4)(c) of regulation 38 apply to the contamination of solid biomass used for feedstock in the same way as for solid biomass contaminated with fossil fuel used by participants to generate heat.

(5) A participant producing biomethane for injection from biogas made by anaerobic digestion must comply with regulation 41(2).

(6) The participant must provide measurements in such format as the Authority may request which satisfy the Authority of all of the following—

(a) the gross calorific value and volume of biomethane injected;

(b) the gross calorific value and volume of any propane contained in the biomethane;

(c) the kWh of biomethane injected together with supporting meter readings and calculations;

(d) the kWhth of heat supplied to the biogas production plant (other than heat contained in feedstock to produce biogas by anaerobic digestion) which made the biogas used in any quarterly period to produce biomethane for injection;

(e) any heat supplied to the biomethane production process.

(7) The participant must keep and provide upon request copies or details of agreements with third parties with whom the participant contracts to carry out any of the processes undertaken to turn the biogas into biomethane and to arrange for its injection.

(8) The participant must keep and provide upon request written evidence including invoices, receipts, contracts and such other information as the Authority may specify in relation to biogas purchased and feedstock used in the production of the biogas used to produce biomethane.

CHAPTER 3

Ongoing obligations relating to other matters

Ongoing obligations: general

43. Participants must comply with the following ongoing obligations, as applicable—
- (a) they must keep and provide upon request by the Authority records of type of fuel used and fuel purchased for the duration of their participation in the scheme;
 - (b) where they have used solid biomass which is an approved sustainable fuel at the time when it is received by the participant or in respect of which the Secretary of State had made a declaration under regulation 51(5), they must keep and provide upon request by the Authority the authorisation number or other means of identification allocated to that fuel by the scheme under which that fuel is listed;
 - (c) they must keep and provide upon request by the Authority written records of fossil fuel used for the permitted ancillary purposes specified in Chapters 1 and 2;
 - (d) they must submit an annual declaration as requested by the Authority confirming, as appropriate, that they are using their accredited RHI installations in accordance with the eligibility criteria and are complying with the relevant ongoing obligations;
 - (e) they must notify the Authority if any of the information provided in support of their application for accreditation or registration was incorrect;
 - (f) they must ensure that their accredited RHI installation continues to meet the eligibility criteria;
 - (g) they must comply with any condition attached to their accreditation or registration;
 - (h) they must keep their accredited RHI installation maintained to the Authority's satisfaction and keep evidence of this including service and maintenance documents;
 - (i) participants combusting biogas must not deliver heat by air from their accredited RHI installation to the biogas production plant producing the biogas used for combustion;
 - (j) they must allow the Authority or its authorised agent reasonable access in accordance with regulation 85;
 - (k) participants generating heat from solid biomass or solid biomass contained in waste must comply with the regulation specified by the Authority in accordance with regulation 30(9) (e);
 - (l) they must notify the Authority within 28 days where they have ceased to comply with an ongoing obligation or have become aware that they will not be able so to comply, or where there has been any change in circumstances which may affect their eligibility to receive periodic support payments;
 - (m) they must notify the Authority within 28 days of the addition or removal of a plant supplying heat to a heating system of which their accredited RHI installation forms part;
 - (n) they must notify the Authority within 28 days of a change in ownership of all or part of their accredited RHI installation;
 - (o) they must repay any overpayment in accordance with any notice served under regulation 83;
 - (p) they must, if requested—
 - (i) provide evidence that the heat for which periodic support payments are made is used for an eligible purpose, or

- (ii) where there is heat delivered to a biogas combustion plant, provide evidence to enable the Authority to determine whether the proportion of heat delivered has been correctly calculated;
- (q) they must not generate heat for the predominant purpose of increasing their periodic support payments;
- (r) where a heat loss calculation is used, they must notify the Authority within 28 days where there are any changes in circumstances which may affect the basis of that calculation;
- (s) they must notify the Authority within 28 days where the accredited RHI installation is moved to a new location;
- (t) they must comply with such other administrative requirements that the Authority may specify in relation to the effective administration of the scheme;
- (u) participants generating heat and power in a CHP system to which regulation 13 applies, must notify the Authority within 28 days where CHPQA certification ceases to apply;
- (v) where heat is generated in a combustion unit which forms part of a CHP system and in respect of which periodic support payments are made, participants must—
 - (i) except for solid biomass contaminated with fossil fuel, use only one source of energy in that combustion unit; and
 - (ii) keep and provide upon request to the Authority records of the fuel used in every combustion unit which forms part of that CHP system;
- (w) participants generating heat using a ground source heat pump for which an application for accreditation is made on or after 28th May 2014 and which is capable of heating and cooling, must keep and provide upon request to the Authority, details of the calculation of the design heat load;
- (x) participants to whom regulation 32(12) applies, must ensure that any necessary planning permission continues to be complied with in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is converted into biomethane, and the biomethane is injected;
- (y) where regulation 74 applies, the participant must comply with the following obligations in relation to each payment year (within the meaning of regulation 74)—
 - (i) the participant must provide a declaration to the Authority following the end of each payment year stating the proportion of the total biogas yield for that payment year which is not derived from waste or residue; and
 - (ii) in the case of a biomethane producer or an accredited RHI installation with an installation capacity of 1MWth or above which generates heat from biogas, the annual report submitted by the participant in accordance with regulation 50 must confirm whether the figure provided by the participant under sub-paragraph (i) is correct, together with supporting evidence to show how it is calculated.

Ongoing obligations: emissions from biomass

44. Participants generating heat from solid biomass in an accredited RHI installation in respect of which an RHI emission certificate is required must—

- (a) use fuel of a type specified in the RHI emission certificate;
- (b) use fuel with a moisture content which is no greater than the maximum moisture content specified in the RHI emission certificate; and
- (c) operate the accredited RHI installation in accordance with the manufacturer's instructions for that plant in relation to the control of emissions of PM and NOx.

Ongoing obligations in relation to metering

45.—(1) Participants must keep all meters and steam measuring equipment required to be used in accordance with these Regulations—

- (a) continuously operating;
- (b) properly maintained and periodically checked for errors;
- (c) re-calibrated every 10 years or within such period of time as may be specified in accordance with manufacturers' instructions where available, whichever is the sooner; and
- (d) located in accordance with any conditions attached to their accreditation,

and must retain evidence of this, including service and maintenance invoices, receipts or certificates for the duration of their participation in the scheme.

(2) The Authority may, by the date (if any) specified by it, or at such regular intervals as it may require, to enable it to carry out its functions under these Regulations or to gather data to assess the performance of technologies in the scheme, require participants to provide the following information—

- (a) meter readings and other data collected in accordance with these Regulations from all steam measuring equipment, class 2 heat meters, and any other meters used in accordance with these Regulations in such format as the Authority may reasonably require;
- (b) in relation to participants using steam measuring equipment, a kWhth figure of both the heat generated and the heat used for eligible purposes together with supporting data and calculations; and
- (c) the evidence and service and maintenance documentation specified in paragraph (1).

(3) Participants using heat pumps to provide both heating and cooling must ensure that their meters for those pumps enable them to—

- (a) measure heat used for eligible purposes only, and
- (b) where appropriate, measure (in order to discount) any cooling generated by the reverse operation of the heat pump,

and must provide upon request an explanation of how their metering arrangements have enabled the cooling in sub-paragraph (b) to be discounted.

(4) The data referred to in paragraph (2)(a) and (b) may be estimated in exceptional circumstances if the Authority has agreed in writing to an estimate being provided and to the way in which those estimates are to be calculated.

(5) Nothing in this regulation prevents the Authority from accepting further data from a participant, if the Authority considers it appropriate to do so.

Ongoing obligations in relation to the provision of information

46.—(1) A participant must provide to the Authority on request any information which the participant holds and which the Authority requires in order to discharge its functions under these Regulations.

(2) A participant must retain a copy of—

- (a) any information relied on when making any application for accreditation or registration or, if the participant did not make that application, given to the participant by the person who made the application; and
- (b) any other evidence which verifies that the accreditation or registration meets the eligibility criteria and that the participant is continuing to comply with the ongoing obligations.

(3) Information requested under paragraph (1) must be provided within 7 days of the request or such later date as the Authority may specify.

(4) Information provided to the Authority under these Regulations must be—

(a) accurate to the best of the participant’s knowledge and belief; and

(b) provided in such manner and form as the Authority may reasonably request.

(5) The costs of providing information under these Regulations are to be borne by the applicant.