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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Green Gas Support Scheme Regulations 2021**

**PART 2**

**Registration of participants and tariff guarantees**

**Application for tariff guarantee and budget allocation**

4.—(1) Subject to paragraph (2), a person who produces, or proposes to produce, biomethane for injection by anaerobic digestion may make an application for a tariff guarantee in respect of the production of that biomethane, in accordance with this regulation.

(2) A person may not make an application for a tariff guarantee under paragraph (1) in respect of the production of biomethane—

- (a) if the date on which they expect the injection of that biomethane to commence is later than 30th November 2025, or
- (b) using equipment used to produce biomethane—
  - (i) where a person is, or has been, registered under regulation 25 of the Renewable Heat Incentive Scheme Regulations 2011(1) or regulation 32 of the Renewable Heat Incentive Scheme Regulations 2018(2) (“RHI registration”) in respect of the production of biomethane using that equipment,
  - (ii) where a person has made an application for RHI registration in respect of the production of biomethane using that equipment, and the application has not yet been determined,
  - (iii) where a person has made an application for a tariff guarantee under regulation 35(1) of the Renewable Heat Incentive Scheme Regulations 2018 in respect of the production of biomethane using that equipment, and the application was withdrawn after the coming into force of these Regulations,
  - (iv) which has been used to produce biomethane for injection by a participant who has withdrawn from the Scheme in accordance with regulation 16,
  - (v) which has been used to produce biogas or biomethane, or both, before the coming into force of these Regulations, where paragraphs (i) to (iv) do not apply.
- (3) An applicant may not—
  - (a) amend an application made under paragraph (1) without the agreement of the Authority,

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(1) [S.I. 2011/2860](#), as amended by [S.I. 2013/1033](#), [2410](#) and [3179](#), [2014/1413](#), [2015/197](#) and [477](#), [2016/718](#) and [1197](#), and [2017/727](#) and [857](#).

(2) [S.I. 2018/611](#), as amended by [S.I. 2021/76](#). There are other amendments not relevant to this instrument. Regulation 32 provides for a producer of biomethane for injection to be registered as a participant in the Renewable Heat Incentive Scheme, and to receive periodic support payments in relation to that production of biomethane. That scheme closed to new applications, with some exceptions, on 31st March 2021 (see regulations 3A and 3B of those Regulations inserted by [S.I. 2021/76](#)).

- (b) make a further application under paragraph (1) in respect of the production of biomethane using the same equipment used to produce biomethane to which the original application relates without first withdrawing the original application.
- (4) An application must be in writing, in such form as the Authority may require, and must include the following information—
- (a) the date on which the injection of biomethane commenced, or on which the applicant expects the injection of biomethane to commence (as the case may be),
  - (b) the expected maximum initial capacity,
  - (c) the location of the plant where the biogas is or will be produced, and of the injection point where biomethane is or will be injected in accordance with the network entry agreement applicable to that biomethane,
  - (d) a description of the equipment used to produce biomethane to which the application relates,
  - (e) evidence that the applicant has entered into a connection agreement,
  - (f) the applicant's—
    - (i) name,
    - (ii) email address, and
    - (iii) registered office (where applicable), or principal place of activity,
  - (g) the volume expressed in cubic metres of eligible biomethane which the applicant intends to inject each year,
  - (h) a statement from the applicant as to whether planning permission is necessary in respect of the processes by which the biogas which is used to produce the biomethane is produced, the biogas is upgraded to biomethane, or the biomethane is injected and, where such planning permission is necessary, evidence from the relevant planning authority that it has been granted, and
  - (i) any further information which the Authority may require.
- (5) Subject to paragraphs (15) and (16), where the application has, in the Authority's opinion, been properly made, the Authority must give a notice (a "provisional tariff guarantee notice") to the applicant stating—
- (a) that a tariff guarantee will be granted if the Authority is satisfied that financial close has been reached,
  - (b) the evidence which is required for the purposes of sub-paragraph (a),
  - (c) the date, which must be no later than three weeks after the date on which the provisional tariff guarantee notice is given, by which all such evidence must be provided,
  - (d) the date on which the properly made application was received by the Authority, and
  - (e) the guaranteed tariff which will apply if the applicant becomes registered under regulation 6.
- (6) Where the Authority is satisfied that the applicant has provided the evidence specified in the provisional tariff guarantee notice by the date specified in the notice under paragraph (5)(c), the Authority must grant a tariff guarantee by notice to the applicant stating—
- (a) the guaranteed tariff which will apply if the applicant becomes registered under regulation 6, but subject to paragraph (7),
  - (b) the date by which, for the purposes of the tariff guarantee, the injection of biomethane must commence (if injection of biomethane has not already commenced),
  - (c) a description of the equipment used to produce biomethane to which the tariff guarantee applies,

- (d) the information which the applicant must supply to the Authority during the period of the tariff guarantee, and the frequency with which that information must be supplied, and
- (e) any further conditions which the Authority considers necessary in relation to the tariff guarantee.

(7) The Authority—

- (a) may, at any time before the applicant is notified in accordance with regulation 6(4) that they are a participant, revoke a tariff guarantee, if—
  - (i) there has been a material change in circumstances such that, had the application for the tariff guarantee been made after the change in circumstances, it would have been refused,
  - (ii) the applicant fails to comply with conditions imposed in accordance with paragraph (6)(b), (d) or (e),
  - (iii) the Authority considers that the information on which the decision to grant the tariff guarantee was based was incorrect in a material particular, or
  - (iv) the Authority considers that the production and injection of biomethane is materially different from the production and injection of biomethane which was proposed under paragraph (4), and
- (b) must revoke a tariff guarantee where the tariff start date in relation to a producer of biomethane is—
  - (i) 183 or more days after the date given in accordance with paragraph (4)(a), or
  - (ii) after 30th November 2025,

whichever is the earlier.

(8) For the purposes of paragraph (7)(a)(iv)—

- (a) the Authority may take into account such matters as are, in the Authority’s opinion, relevant, including —
  - (i) the location of the injection point where biomethane is injected,
  - (ii) the maximum initial capacity of biomethane, and
  - (iii) the source of energy and technology or design of the plant, and
- (b) the maximum initial capacity of biomethane is materially different where it is at least 10% greater or smaller than the expected maximum initial capacity proposed under paragraph (4)(b).

(9) Subject to paragraphs (10) and (11), where a producer of biomethane in respect of which a tariff guarantee has been granted becomes registered under regulation 6, the tariff applicable at the tariff start date is the initial tariff which would have applied in accordance with regulation 22 (calculation of initial tariffs and tariff review) had the tariff start date been the date referred to in paragraph (5)(d), adjusted by any percentage increase or decrease in the consumer prices index since the date referred to in paragraph (5)(d) (the “guaranteed tariff”).

(10) Where in any 12 month period beginning with the tariff start date, or the anniversary of the tariff start date, the biomethane injected by a producer of biomethane exceeds 250GWh, the guaranteed tariff will apply to the first 250GWh of such biomethane only.

(11) The guaranteed tariff does not apply—

- (a) if the tariff start date is earlier than the date given in accordance with paragraph (4)(a), until that date, or
- (b) where the tariff guarantee has been revoked.

(12) Where the Authority revokes a tariff guarantee, it must give a notice to the applicant specifying—

- (a) the reason for the revocation, and
- (b) details of the applicant’s right of review under regulation 62.

(13) The Secretary of State—

- (a) must determine and publish the budget allocation for tariff guarantees and registration in respect of additional biomethane (the “budget allocation”) for each of the relevant financial years,
- (b) must publish—
  - (i) estimates of inflation for each of the relevant financial years, and
  - (ii) quarterly biomethane production factors,
- (c) may review the budget allocation for a current or future relevant financial year, and
- (d) may, as a result of such a review, increase or decrease a budget allocation, provided that such increase or decrease may only take effect on 1st January, 1st April, 1st July or 1st October in a relevant financial year.

(14) The Authority must publish the following information once in every quarter—

- (a) current information in aggregate form as to—
  - (i) the number of tariff guarantee applications made,
  - (ii) the number of provisional tariff guarantee notices given,
  - (iii) the number of tariff guarantees granted,
  - (iv) the number of applications for registration in respect of additional biomethane made under regulation 8,
  - (v) the number of participants registered in respect of additional biomethane,
  - (vi) the feedstocks, maximum initial capacity and any additional capacity, of the plants in respect of which tariff guarantees have been granted, and
- (b) the estimated total budget commitment for each of the relevant financial years.

(15) The Authority must consider applications for a tariff guarantee and applications for registration in respect of additional biomethane under regulation 8 in the order in which they are received by it, and must not—

- (a) give a provisional tariff guarantee notice, or register a participant in respect of additional biomethane, where the estimated total budget commitment for a relevant financial year would exceed the budget allocation for that year if the tariff guarantee were granted or if the participant were registered in respect of that additional biomethane (as the case may be), or
- (b) give a provisional tariff guarantee notice, or register a participant in respect of additional biomethane, in respect of any subsequent application for consideration except where granting a tariff guarantee or registering the participant in respect of additional biomethane (as the case may be) would not cause the budget allocation for a relevant financial year to be exceeded.

(16) Following an increase or decrease in budget allocation pursuant to paragraph (13)(d), or any decrease in the estimated total budget commitment resulting from the withdrawal or rejection of a tariff guarantee application or an application for registration in respect of additional biomethane under regulation 8, the Authority must consider outstanding applications for a tariff guarantee and for registration in respect of additional biomethane under regulation 8 in the order in which they were received.

(17) In this regulation—

“connection agreement” means an agreement, between a person who proposes to inject biomethane into a pipe-line system and the operator of the pipe-line system, which provides for the design and construction of a connection by which the biomethane may be injected into the pipe-line system;

“estimated annual payment”, in relation to an application for a tariff guarantee or an application for registration in respect of additional biomethane, means—

(a) in the first financial year—

$$V \times F \times P \times T \times \frac{D}{Y}$$

(b) in any subsequent financial year—

$$V \times F \times P \times T \times I$$

where—

“first financial year” means the financial year in which—

- (i) in the case of an application for a tariff guarantee, the equipment used to produce biomethane was commissioned, or the applicant expects the equipment used to produce biomethane to be commissioned (as the case may be), and
- (ii) in the case of an application for registration in respect of additional biomethane, the injection of additional biomethane commenced, or the participant expects the injection of additional biomethane to commence (as the case may be),

D is the number of days in the financial year beginning with the date on which the injection of original biomethane commenced, the injection of additional biomethane commenced, the applicant expects the injection of original biomethane to commence, or the participant expects the injection of additional biomethane to commence (as the case may be),

F is 9.1(3),

I is the estimate of inflation for that financial year, published by the Secretary of State,

P is the average of the quarterly biomethane production factors for all applicable quarters of the relevant financial year, beginning with the date on which the injection of original biomethane commenced, the injection of additional biomethane commenced, the applicant expects the injection of original biomethane to commence, or the participant expects the injection of additional biomethane to commence (as the case may be), expressed as a decimal and rounded to four decimal places,

T is the guaranteed tariff which will apply if the producer of biomethane becomes registered under regulation 6, or the tariff which will apply if the participant is registered in respect of additional biomethane under that regulation (as the case may be),

V is the maximum volume expressed in cubic metres of eligible biomethane which—

- (i) in the case of an application for a tariff guarantee, the applicant can inject each year, based on data from the relevant connection agreement,
- (ii) in the case of an application for registration in respect of additional biomethane, the participant can inject each year, based on data from the relevant network entry agreement, and

Y is the number of days in the financial year;

(3) This is a factor to account for the calorific value per cubic metre of biomethane (10 kWh/m<sup>3</sup>) and proportion of eligible biomethane per unit of biomethane injected (0.91).

“estimated total budget commitment”, in relation to a relevant financial year, means the sum of—

- (a) the estimated annual payments in relation to every application for a tariff guarantee—
  - (i) for which a provisional tariff guarantee notice has been given, and
  - (ii) which has not been withdrawn by the applicant or rejected by the Authority, and
- (b) the estimated annual payments in relation to every application for registration in respect of additional biomethane where the participant has been registered in respect of that additional biomethane;

“financial close” means the date on which the applicant has entered into all financing agreements in relation to all the funding required for the production and injection of biomethane;

“maximum initial capacity” means the maximum volume of biomethane, expressed in cubic metres per year, which a participant is entitled to supply for injection under the network entry agreement applicable to the biomethane in relation to which an application for registration under regulation 5 is made;

“quarterly biomethane production factors” means the percentage of their maximum initial capacity or their maximum additional capacity (as the case may be) that a participant is expected to supply for injection in each quarter, beginning with the first quarter in which they are registered as a participant or in which they are registered in respect of the additional biomethane (as the case may be);

“relevant financial year” means any of the financial years 2021/2022, 2022/2023, 2023/2024, 2024/2025, and 2025/2026.