



Making a positive difference  
for energy consumers

All interested parties in relation to  
NDRHI biomethane submissions and  
RTFO interaction

Email: [RenewableHeat@ofgem.gov.uk](mailto:RenewableHeat@ofgem.gov.uk)

Date: 17 June 2021

Dear Stakeholder,

**Consultation and draft guidance on proposed further validation of NDRHI/RTFO interaction when submitting biomethane claims to Ofgem**

We are seeking views from industry and the wider sector on a new, independent annual audit requirement that we propose to introduce for all biomethane producers submitting claims under the Non-Domestic Renewable Heat Incentive (NDRHI) scheme. This third-party assurance would clearly evidence and confirm any interaction by producers with the Department for Transport's (DfT's) Renewable Transport Fuel Obligation (RTFO). We are proposing that the information be included as an additional section of the existing Annual Sustainability Audit Report requirement. Stakeholders are invited to provide feedback on the proposed changes by 30 July 2021.

Why have we published this consultation?

The Government's most recent amendments to the Renewable Heat Incentive (RHI) regulations<sup>1</sup>, which came into force on 1 April 2021, included changes allowing biomethane producers to split their quarterly claims for support under the NDRHI scheme and the RTFO<sup>2</sup>. The change was introduced by the Department for Business, Energy and Industrial Strategy (BEIS) to offer producers greater flexibility. Before this, claims could only be made for either NDRHI or RTFO support within any NDRHI periodic data submission quarter.

The amending regulations also introduced a new obligation prohibiting us from issuing payment where the same proportion of eligible biomethane being claimed for under the NDRHI has received support through the RTFO. This brings the NDRHI scheme in line with

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<sup>1</sup> [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>2</sup> The Renewable Transport Fuel Obligations Order 2007 (as amended)

existing RTFO rules, which state that fuel cannot be counted towards another renewable energy obligation or support scheme<sup>3</sup>.

Specifically, new regulation 32A(2) of the NDRHI regulations<sup>4</sup> states that: *"No periodic support payments may be made to the participant in respect of any proportion of biomethane injected in a quarterly period where an RTF certificate has been issued under the Renewable Transport Fuel Obligations Order 2007(a) in respect of that proportion of biomethane."*

When considering this change, we are keen to align our processes with documents currently used by producers and wider industry. The RTFO regulations already specify that the same biomethane must not be claimed for against both the RTFO and other renewable energy support schemes, such as the NDRHI, therefore we expect that producers will already have processes in place to provide assurances against double claims.

### Our Proposal

These changes have impacted our administration of all biomethane submissions to the NDRHI. We have already introduced a new requirement from 1 April 2021 that all producers provide a declaration<sup>5</sup> regarding NDRHI/RTFO interaction with their usual data submissions each quarter. This declaration offers us some assurance that no NDRHI periodic support payments are being made where a Renewable Transport Fuel Certificate (RTFC) has been issued for the same proportion of biomethane under the RTFO<sup>6</sup>.

It is important we receive further independent validation to sufficiently satisfy us that producers are carrying out the necessary activities to comply with their own obligations to avoid dual claims for the same biomethane. As such, we intend to use powers we have to request additional information from participants that contributes to the effective administration of the scheme, to request additional independent assurance from all biomethane producers.

It is also important that this additional assurance is prepared to an adequate standard. We propose that the report be prepared by an independent auditor in accordance with the

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<sup>3</sup> Renewable Transport Fuel Obligations Order 2007 16(2)(a)(ii)  
<https://www.legislation.gov.uk/ukxi/2007/3072/article/16>. (Fuel cannot be counted towards another renewable energy obligation or support scheme.)

<sup>4</sup> The Renewable Heat Incentive Scheme Regulations 2018 (as amended)

<sup>5</sup> Quarterly declaration requirement can be found at NDRHI, Guidance Volume 2, 'Ongoing obligations and payments', Chapter 13, section 13.8. [NDRHI Guidance Vol2. Final Jan 2021 \(ofgem.gov.uk\)](#)

<sup>6</sup> 'Interaction with the Renewable Transport Fuel Obligation', regulation 32A.-(2) [The Domestic Renewable Heat Incentive Scheme and Renewable Heat Incentive Scheme \(Amendment\) Regulations 2021 \(legislation.gov.uk\)](#)

requirements of limited assurance engagements prescribed in ISAE 3000 (revised) or equivalent<sup>7</sup>. The onus is on the auditor to determine and confirm a participant's NDRHI/RTFO interaction, whether they opt for dual participation or not. This additional reporting requirement should therefore provide the extra level of validation we require.

The NDRHI Regulations already include a framework for the submission of an Annual Sustainability Audit Report prepared to the same standard. We expect there to be significant crossover in the information the auditor will be required to consider for each report.

**Our preferred option is for this further validation to be submitted by all biomethane producers at the same time as the Annual Sustainability Audit Report, as an additional section to that document.** We have also included in this document proposed guidance on this process (in Appendix 1). We are keen to hear if stakeholders would find such an alignment beneficial and welcome views on the proposed changes.

#### Interim arrangements

Biomethane producers should continue to submit their quarterly biomethane submissions and supporting evidence, including partial quarterly claims, as required since 1 April 2021, along with their quarterly declarations regarding NDRHI/RTFO interaction to [RHI.periodicdata@ofgem.gov.uk](mailto:RHI.periodicdata@ofgem.gov.uk).

Producers should also note that Ofgem and the DfT will be continuing to work together to validate the information provided in order that biomethane does not receive both an NDRHI payment and an RTFC. Please note that the DfT may also take enforcement action where a dual claim is found to have taken place. More information on the DfT's processes is available in its guidance<sup>8</sup>.

#### Stakeholder engagement

We updated our NDRHI Guidance, Volume 2: 'Ongoing Obligations and Payments' on 31 March 2021 to include the new requirement for biomethane producers to submit an NDRHI/RTFO declaration form with all quarterly claims made on or after 1 April 2021.

The update also referenced our plans to consult with industry on further validation<sup>9</sup>. On 1 April 2021, biomethane producers were also informed that they can make a partial claim when submitting their periodic data even where the biomethane being claimed for may

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<sup>7</sup> At the time of writing Ofgem is not aware of any equivalent standards. Should the operator and their auditor wish to make use of one, they should contact Ofgem in advance for confirmation of its acceptability.

<sup>8</sup> [RTFO Guidance Part One](#), Process guidance

<sup>9</sup> NDRHI, Guidance Volume 2, 'Ongoing obligations and payments', Chapter 13, section 13.8 [NDRHI Guidance Vol2. Final Jan 2021 \(ofgem.gov.uk\)](#)

have been injected prior to 1 April 2021.

We also plan to hold a stakeholder webinar on 15 July 2021 to discuss our proposed approach to further validation of NDRHI/RTFO interaction. A link to the event can be found [here](#).

#### Views invited

In Appendix 1 we set out our preferred option in more detail, including draft guidance on the proposal.

We recognise this additional reporting requirement would be a change to how participants have presented evidence to us under the NDRHI scheme in the past. We would therefore welcome your views and suggestions on our preferred option, on the draft guidance itself, and any additional comments you wish to provide to the stakeholder questions we have included throughout the document.

For ease of reference, these questions are also listed in Appendix 2.

#### How to respond

Responses should be marked 'Non-Domestic Renewable Heat Incentive (NDRHI) scheme: Consultation on further validation of NDRHI/RTFO Interaction' and sent to: [RenewableHeat@ofgem.gov.uk](mailto:RenewableHeat@ofgem.gov.uk) by 30 July 2021.

If you would like to discuss the proposals ahead of sending your response, please email: [RenewableHeat@ofgem.gov.uk](mailto:RenewableHeat@ofgem.gov.uk).

Are there any aspects of this document that could be made clearer or improved, or are there any omissions? If so, please provide specific comments and section references. Email your response to [RenewableHeat@ofgem.gov.uk](mailto:RenewableHeat@ofgem.gov.uk).

You can ask us to keep your response, or parts of your response, confidential. We will respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your feedback confidential, please clearly mark this on your response.

Please be aware that this is not a consultation on changes to the legislation underpinning the NDRHI requirements on interaction with the RTFO, but on the further validation process that we propose to use to demonstrate compliance with these requirements. If you have queries

about the policy, please direct these to BEIS. You can find contact details at [www.gov.uk/beis](http://www.gov.uk/beis).

#### Next steps

Once we have considered all responses to this consultation, we will publish a brief decision and make any necessary changes to the “Non-Domestic Renewable Heat Incentive (NDRHI), Guidance: Volume 2: Ongoing obligations and payments”, along with producing any other relevant guidance documents.

Yours faithfully

**Renewable Heat Team**

## **Appendix 1: Proposed guidance and consultation questions on further validation of NDRHI/RTFO interaction**

**June 2021**

This proposed guidance on Ofgem's preferred option for further validation of NDRHI/RTFO interaction outlines how biomethane producers would provide additional independently audited documentation and evidence when submitting their Annual Sustainability Audit Report for Non-Domestic Renewable Heat Incentive (NDRHI) support.

It also includes consultation questions on the proposed process for providing this third-party assurance.

The document is consulting on proposed guidance only. It is not intended to provide comprehensive legal advice on how the legislation should be interpreted.

At all times, the onus is on the biomethane producer to ensure they are aware of the requirements of the NDRHI legislation (as amended) and their ongoing obligations under the NDRHI scheme.

Ofgem E-Serve administers the NDRHI scheme on behalf of the UK Government's Business, Energy and Industrial Strategy Department (BEIS).

You can contact the Renewable Heat Team using the details below.

Email address: [RenewableHeat@ofgem.gov.uk](mailto:RenewableHeat@ofgem.gov.uk)

## 1. Introduction

### Purpose of document

- 1.1. This proposed guidance note describes the proposed process to be used by biomethane producers claiming quarterly NDRHI support and their auditors when presenting additional evidence of NDRHI/RTFO interaction as a section of their Annual Sustainability Audit Report.

### Legislation

- 1.2. You should read this document alongside Volume 2: 'Ongoing Obligations and Payments', of our NDRHI guidance<sup>10</sup>, and our Renewable Heat Incentive: Sustainability Audit Guidance for Participants and Auditors<sup>11</sup>, which contain more details on the applicable legislation and obligations in this area.
- 1.3. Biomethane producers claiming for quarterly support under the NDRHI must comply with all relevant requirements and ongoing obligations specified in the NDRHI Regulations<sup>12</sup>. Ongoing obligations are outlined in Volume 2 of Ofgem's 'Ongoing Obligations and Payments' guidance for NDRHI participants.
- 1.4. These obligations state (at Chapter 13, sections 13.6 to 13.10), that whilst dual participation on the RTFO scheme and the NDRHI scheme is supported under the NDRHI Regulations, Ofgem may not make a periodic support payment in respect of any proportion of biomethane injected in a quarterly period where a Renewable Transport Fuel Certificate (RTFC) has been issued under the Renewable Transport Fuel Obligations (RTFO) Order 2007<sup>13</sup> for that proportion of biomethane.
- 1.5. The RTFO order, administered by the Department for Transport, also states that fuel claimed under its scheme cannot be counted towards another renewable energy obligation or support scheme<sup>14</sup>.

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<sup>10</sup> [NDRHI Guidance Vol2. Final Jan 2021 \(ofgem.gov.uk\)](#)

<sup>11</sup> [Renewable Heat Incentive: Sustainability Audit Guidance for Participants and Auditors \(ofgem.gov.uk\)](#)

<sup>12</sup> The Renewable Heat Incentive Scheme Regulations 2018 (as amended)

<sup>13</sup> The Renewable Transport Fuel Obligations Order 2007 (as amended)

<sup>14</sup> Renewable Transport Fuel Obligations Order 2007, article 16(2)(a)(ii)

<https://www.legislation.gov.uk/ukxi/2007/3072/article/16>.

- 1.6. If a producer receives a payment via the NDRHI for biomethane that has already received RTFO support, the relevant amount must be recovered or offset against future payments by Ofgem. If any subsequent non-compliance with NDRHI obligations is found, Ofgem may also take enforcement action.

#### Process Overview

- 1.7. Currently, biomethane producers must have their NDRHI feedstock information validated by an independent auditor via an Annual Sustainability Audit Report. It is the responsibility of the auditor to perform the assurance engagement and complete a written report.
- 1.8. The objective of the proposed further validation requirement is for claimants to demonstrate, via an independent auditor, that they are complying with their legislative and regulatory obligations to prevent dual claims for their biomethane, as referenced above at sections 1.3 to 1.6.
- 1.9. This evidence (see 2.12 – 2.18, below) should be submitted as a separate section of the Annual Sustainability Audit Report and the auditor should provide assurance as to the accuracy, reliability, and robustness of NDRHI/RTFO interaction by producers.
- 1.10. Producers will therefore submit their quarterly NDRHI claims and declaration<sup>15</sup> form on NDRHI/RTFO interaction to Ofgem as usual. The Annual Sustainability Audit Report, including the additional NDRHI/RTFO section and supporting evidence, should be submitted to Ofgem by the usual submission process on the RHI Register.
- 1.11. The onus is on the producer to comply with the relevant regulatory requirements and scheme obligations concerning NDRHI/RTFO interaction and the additional audit information will give Ofgem assurance that the supplier is both carrying out the necessary activities and has suitably robust processes in place.
- 1.12. The producer must retain the evidence referred to in the audit for the duration of their accreditation to the NDRHI.

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<sup>15</sup> NDRHI, Guidance Volume 2, 'Ongoing obligations and payments', Chapter 13, section 13.8 [NDRHI Guidance Vol2. Final Jan 2021 \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/publications-and-reports/nldrhi-guidance-vol2-final-jan-2021)



**Question one:**

What are your views on our proposal to require annual, independently assured, audit information as further validation of NDRHI/RTFO interaction by biomethane producers? Please give your reasons and indicate whether you claim, or intend to claim, on both the NDRHI and the RTFO schemes, and/or whether you supply anyone with biomethane that claims on the RTFO.

**Question two:**

What are your views on submitting annual, independently assured, audit information on NDRHI/RTFO interaction as a section of the existing Annual Sustainability Audit? Do you think this should be provided as a standalone report instead? Please provide reasons for your answer/s.

**2. Annual Sustainability Audit Report: additional reporting on NDRHI/RTFO interaction**

- 2.1. As with the current Annual Sustainability Audit Report, we are proposing that biomethane producers should have the additional information prepared by an independent auditor in accordance with the requirements of limited assurance engagements prescribed in ISAE 3000 (revised) or equivalent<sup>16</sup>.
- 2.2. The producer will be responsible for appointing an auditor and agreeing an appropriate scope of work. Producers need to engage fully with their auditors and have a robust process in place to provide the additional validation of NDRHI/RTFO interaction required to be supplied with the Annual Sustainability Audit Report.
- 2.3. The Annual Sustainability Audit Report, complete with this additional section, will then be sent to Ofgem by the producer, with the relevant supporting evidence.
- 2.4. Ofgem reserves the right to request further evidence relating to the additional information on NDRHI/RTFO interaction provided as part of the Annual Sustainability Audit Report.
- 2.5. The proposed NDRHI/RTFO audit section should include the following:

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<sup>16</sup> At the time of writing Ofgem is not aware of any equivalent standards. Should the operator and their auditor wish to make use of one, they should contact Ofgem in advance for confirmation of its acceptability.

- a) NDRHI/RTFO audit section title
- b) Auditor's details and qualifications (if different from Sustainability Audit Report)
- c) Scope of work and methodology
- d) Assurance rating
- e) Evidence summary
- f) Supporting evidence / documents
- g) Details of fraud or error prevention measures

2.6. The proposed new section should be added to the existing Annual Sustainability Audit Report and submitted as usual to Ofgem within three months after each anniversary of the date on which the participant was first registered as a producer of biomethane.

2.7. The assurance provided in the NDRHI/RTFO section by the independent auditor should adequately demonstrate to Ofgem that:

- a) dual claims for the same biomethane are not taking place on the NDRHI
- b) the claims can be validated

#### Auditor's details

2.8. Details should be provided of who has performed the NDRHI/RTFO interaction auditing process, including the assurance standard to which the agreed upon procedures were performed to.

#### Scope of work and methodology

2.9. The proposed report should include a review of the systems and controls the producer has in place to ensure the biomethane they claim against the NDRHI does not go on to be claimed against the RTFO. It should also give an overview of how likely it is that the information they produce is accurate and reliable.

2.10. The auditor should describe what methodologies were used to select sample sizes and what standards these methodologies conform to.

#### Assurance rating

2.11. As part of the proposed new section, the auditor should give their assurance rating for the NDRHI/RTFO interaction.

## Evidence summary

- 2.12. Producers are required to hold evidence both about the biomethane claimed for under the NDRHI, and/or gas supplied to a shipper, trader or supplier. This should be provided to the auditor for their report and show annual volume figures for NDRHI and RTFO claims.
- 2.13. Ofgem expects that biomethane which has been claimed for against the NDRHI would be sold with appropriate documentation provided to the buyer which confirms this. The documentation would provide detailed information on provenance, feedstocks and proportions claimed against NDRHI, and be retained through the chain of custody of the biomethane, from production to end use. This is in line with the information required by the DfT for participation on the RTFO.
- 2.14. We propose the auditor must also supply and verify the accuracy, reliability and robustness of any supporting evidence submitted as proof of a 'contractual supply chain' for injected biomethane purchased from a producer by a shipper, trader or supplier.
- 2.15. This documentation could include, but is not limited to, any combination of the following:
- a) Contracts between the producer and any suppliers/traders/shippers
  - b) Additional agreements between the producer and any suppliers/traders/shippers
  - c) Supporting documentation supplied to any suppliers/traders/shippers by the producer with the sale
  - d) Certification from a voluntary green-gas accreditation scheme which demonstrates the proportions claimed against each scheme
  - e) Documentation or correspondence from the Department for Transport (DfT) pertaining directly to the RTFO scheme
  - f) Screenshots from the RTFO online system
- 2.16. We recognise that different market structures and potential trading arrangements apply. As such, we are not currently able to comprehensively list all the specific types of documentary evidence that are or will be acceptable. However, evidence of a clear contractual chain linking the biomethane producer with all the relevant parties, be they the shipper, trader or supplier, will be required in any case.

- 2.17. The auditor must check that specific evidence exists to demonstrate this. Contracts that show intent to supply are not sufficient. Contracts and invoices that evidence specific transactions after the fact are examples of acceptable evidence.
- 2.18. The contractual chain should provide details of the specific biomethane transactions made and should include clear evidence of quantities of gas having been traded from the point of production.

**Question three:**

Are you aware of any reason why an auditor could not assess the proposed additional requirements, and do you think both the current sustainability reporting requirement and the proposed RTFO interaction section could be provided by the same auditor? Please provide reasons for your answer/s.

**Question four:**

What documentation and/or evidence would you be able to provide to an independent auditor to demonstrate that dual claiming for the same biomethane is not taking place?

Fraud or error prevention measures

- 2.19. The auditor should confirm that fraud prevention measures have been considered by the biomethane producer and summarise what the company does to prevent fraud.
- 2.20. The auditor should check the producer has suitably robust controls in place to reduce or prevent errors in their processes.

### **3. Ofgem validation**

- 3.1. Once the proposed NDRHI/RTFO interaction section is submitted to Ofgem as part of the Annual Sustainability Audit Report, if there are any queries at this stage, either regarding validation against dual claiming or otherwise, we will email the producer asking for further information.
- 3.2. Once our review of the proposed section is complete, we will then communicate with the biomethane producer within the usual timeframe.

- 3.3. Where Ofgem determines that a participant has received periodic support payments for the production of biomethane for which an RTF certificate has also been issued, it will have the power to require the participant to repay those payments or to take the actions set out below on overpayment notices and offsetting.
- 3.4. Where a participant who is required to repay a specified sum fails to make payment in full by the date specified, Ofgem may recover any outstanding sum by offsetting it against future payments to be made to the producer, accepting a repayment from the participant, or recovering the amount as a civil debt. Repeated non-compliance may result in further enforcement action being taken.
- 3.5. However, if an overpayment to a participant has resulted from an error by Ofgem, we will seek to agree with the participant an appropriate schedule for repayment of the sum due, which may include the ability to repay the amount by instalments or through offsetting against future payments over a more extended period.
- 3.6. Where a participant considers that repayment of a previous overpayment is likely to result in significant hardship, they should contact Ofgem to discuss the position as soon as possible after receiving a notice to repay.

**Question five:**

Can you suggest any different approaches that could be taken to evidence NDRHI/RTFO interaction by biomethane producers? Please provide reasons for your answer/s.

**Question six:**

Do you have any additional comments you would like to add?

## **Appendix 2: List of consultation questions**

### **Question one:**

What are your views on our proposal to require annual, independently assured, audit information as further validation of NDRHI/RTFO interaction by biomethane producers? Please give your reasons and indicate whether you claim, or intend to claim, on both the NDRHI and the RTFO schemes, and/or whether you supply anyone with biomethane that claims on the RTFO.

### **Question two:**

What are your views on submitting annual, independently assured, audit information on NDRHI/RTFO interaction as a section of the existing Annual Sustainability Audit? Do you think this should be provided as a standalone report instead? Please provide reasons for your answer/s.

### **Question three:**

Are you aware of any reason why an auditor could not assess the proposed additional requirements, and do you think both the current sustainability reporting requirement and the proposed RTFO interaction section could be provided by the same auditor? Please provide reasons for your answer/s.

### **Question four:**

What documentation and/or evidence would you be able to provide to an independent auditor to demonstrate that dual claiming for the same biomethane is not taking place?

### **Question five:**

Can you suggest any different approaches that could be taken to evidence NDRHI/RTFO interaction by biomethane producers? Please provide reasons for your answer/s.

### **Question six:**

Do you have any additional comments you would like to add?