
STATUTORY INSTRUMENTS

2011 No. 2860

The Renewable Heat Incentive Scheme Regulations 2011

PART 4

Ongoing obligations for participants

CHAPTER 1

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

Interpretation

27. In this Part—

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

“energy content” means the energy contained within a substance (whether measured by a calorimeter or determined in some other way) expressed in terms of the substance’s gross calorific value within the meaning of British Standard BS 7420:1991 (Guide for determination of calorific values of solid, liquid and gaseous fuels (including definitions) published by the British Standards Institute on 28th June 1991⁽²⁾);

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

“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” has the same meaning as in section 75(2) of the Environmental Protection Act 1990⁽³⁾;

“waste collection authority” has the same meaning as in section 30(3) of the Environmental Protection Act 1990⁽⁴⁾;

“waste disposal authority” has the same meaning as in section 30(2) of the Environmental Protection Act 1990⁽⁵⁾.

Participants using solid biomass contained in municipal waste

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

(1) 2003 c.33. Section 24 was amended by section 209(1)(a) and (b) of the Local Government and Public Involvement in Health Act 2007 (c.28).

(2) ISBN 0580194825. Copies can be obtained from the British Standards Institution: www.bsi-global.com/en/.

(3) 1990 c.43. Section 75(2) was substituted by section 120(1) of and paragraph 88(1) and (2) of Schedule 22 to the Environment Act 1995 (c.25) and a Schedule 2B (Categories of Waste) was inserted by paragraph 95 of that Schedule.

(4) Section 30(3) was amended by the Local Government (Wales) Act 1994 (c.19), section 66(8), paragraph 17(3) of Schedule 9 and Schedule 18 and subsection (3)(c) was substituted by section 180(1) of and paragraph 167(3) of Schedule 13 to the Local Government etc (Scotland) Act 1994 (c.39).

(5) Paragraph (f) of section 30(2) was substituted by paragraph 17(2) of Schedule 9 to the Local Government (Wales) Act 1994 (c.19) and paragraph (g) was amended by section 180(1) of and paragraph 167(3) of Schedule 13 to the Local Government etc (Scotland) Act 1994 (c.39).

(2) The proportion of solid biomass contained in the municipal waste must be a minimum of 50 per cent.

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

- (a) the proportion of solid biomass contained in the municipal 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 municipal 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 subparagraph (c);
- (c) the proportion of solid biomass is the energy content of the municipal waste used in any quarterly period to generate heat less the energy content of any fossil fuel of which that municipal waste is in part composed, expressed as a percentage of the energy content of that municipal 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 per cent of the energy content of all the fuel used by that accredited RHI installation to generate heat during that quarterly period.

(6) Without prejudice to paragraph (3)(b), when determining the proportion of solid biomass contained in municipal 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 municipal waste is composed of fossil fuel.

(7) Subject to paragraph (8), 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 per cent, 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 per cent.

(8) Where the Authority so requests, the participant must arrange for samples of the municipal 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 municipal 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.

(9) The participant may not generate heat using solid biomass contained in any waste other than municipal waste.

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

29.—(1) This regulation applies to participants generating heat from solid biomass, not being solid biomass contained in municipal 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 per cent.

(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 per cent of the energy content of all the fuel used by that accredited RHI installation 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.

(9) The participant must provide sustainability information in accordance with Schedule 2.

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

30.—(1) This regulation applies to participants generating heat from solid biomass, not being solid biomass contained in municipal waste, in an accredited RHI installation with an installation capacity of between 45kWth and 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 29 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 29(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 29(4)(c)) does not exceed 10 per cent; or
- (b) the Authority is not satisfied as to the matters specified in paragraphs (5) and (6) of regulation 29,

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.