'Non-Domestic Renewable Heat Incentive – Ensuring a Sustainable Scheme'
REA Consultation Response

The Association for Renewable Energy & Clean Technologies (REA) is pleased to submit this response to the above consultation. The REA represents a wide variety of organisations, including generators, project developers, fuel and power suppliers, investors, equipment producers and service providers. Members range in size from major multinationals to sole traders. There are over 550 corporate members of the REA, making it the largest renewable energy trade association in the UK. The Wood Heat Association is the members forum within the REA that advocates for the modern wood heating and related biomass heating industry including wood fuel suppliers, biomass boiler and stove installers and distributors, and anyone involved in the supply chain.

Summary of Response

Consultation Question 1 - Do you agree or disagree with the proposal to close the Non-Domestic RHI from midnight on 31st March 2021? Please provide evidence to support your reasoning, for example, around the impact on jobs, deployment, consumer bills and the supply chain.

We strongly oppose the decision not to extend the Non-Domestic RHI in line with the Domestic scheme.

Projects that are not eligible for Tariff Guarantees have not been provided mitigation against COVID-19 delays. The decision also creates a twelve-month gap of no support between the end of the scheme and the start of the proposed Clean Heat Grant Scheme. This is despite underspend within the allocated RHI Budget. Smaller and medium scale non-domestic heat projects now face a cliff edge resulting in viable heat decarbonisation projects being abandoned. This will undermine the potential for growth, damaging the established heat decarbonisation sector ahead of any a new scheme being introduced.

This is having real impact on the sector. Having done a short survey of our members we are aware of 41 separate installations, that together account for over 14 MW of renewable heat capacity which could save an estimated 7000 tonnes of CO2 equivalent per annum. These projects are now unlikely to be completed in time for the end of the scheme in March 2021. The projects all fall below the tariff guarantee threshold, but above that of the domestic scheme, and span across different technologies.

The REA REview 2020[1] identified over 32,000 direct jobs in the heat pump, solar thermal, biomass boiler, biomass CHP and AD sectors combined in 2018. This grows to well over 44,000 jobs when you also include those employed in ancillary services such as the production of biomass for fuel. These are all sectors that are already contracting. The twelve-month gap between the end of the Non-Domestic RHI (ND RHI) and the start of Clean Heat Grant Scheme is expected to see the sector shrink further, resulting in the loss of jobs, skills exit and collapse of supply chains associated with these sectors.

Furthermore, with the focus of the Clean Heat Grant scheme on small-scale projects, the current supply chain is left with no future growth opportunity. As supply chains tighten and it becomes harder to access maintenance services or feedstocks, those already using renewable heat systems are driven back to using fossil fuel alternatives – a trend which has already been observed. This will undermine the existing renewable heat sector, established by the RHI, as well as debilitate the ability of the Clean Heat Grant scheme to succeed.

All renewable heat projects are currently dealing with COVID-19 uncertainty and have experienced difficult progressing deadlines against a backdrop of general economic uncertainty.

We ask that BEIS re-consider this decision so that existing projects can be completed, as well as provide a smooth transition to the future support for low carbon heat which is also currently being consulted on.

Consultation Question 8 - Are there any regulatory changes that have not been addressed by this consultation that would help to future-proof the scheme for existing participants using heat pumps? Please provide evidence.

No

Consultation Question 9 - Should a mechanism be introduced that allows for the transfer of registration for biomethane producers? Yes/No

Yes

Consultation Question 10 - If you answered no to question 9, please expand on your reasoning.

This mechanism is key to avoid stranded assets but must allow transfer of registration when companies are not financially sound

Firstly, we support allowing for a mechanism under the Renewable Heat Incentive Scheme (and under the Green Gas Support Scheme/GGSS) that enables a change of scheme participant as this is key to avoid stranded assets.

Feedback from members is that under the RHI participants are allowed to sell the project company. This is not an issue if the project is financially healthy. However, the problem arises

[1] REA (2020) *REview 2020* https://www.r-e-a.net/resources/review-2020/

when the company is not financially sound (for example, in financial distress or has gone into administration). In that case, no other company would want to buy it.

Thus, what is key is to be able to transfer the RHI/GGSS to a clean new SPV: this addresses the issue and it means the assets can be reused. There have been a number of stranded assets to date as a result of the inability to do this.

In other circumstances, it is less clear that a transfer of the registration is required as the economic ownership of a project can been changed by transferring the shares in the registered producer: where the owner of a biomethane producer wishes to transfer the economic ownership of a project to a third party, typically the most convenient way of doing this is to sell its shares in the biomethane producer to the third party. By selling the shares in the biomethane producer, the assets remain with the registered biomethane producer and no transfer of registration is required. Although the owner of the shares in the registered biomethane producer has changed, the registered biomethane producer continues to own the assets.

The situation may be different where a biomethane producer is in financial distress and/or where the biomethane producer is in administration. For companies in administration, often the preferred solution would be to sell the assets of the company to a new company owned by third party, leaving the liabilities (creditors etc) with the original company. A "clean" sale of the assets to the third party ensures a prompt turnaround of the underlying business without the need for the consent of existing creditors. However, the sale of assets of a registered biomethane producer is not currently a viable option in a turnaround situation because, if the assets are sold to a third party without the accompanying biomethane registration, the assets would be left "orphaned". That is, the assets would be owned by a new company that would not be entitled to any RHI tariff payments from Ofgem for the production of biomethane (the original registered biomethane producer would be left with no assets to produce biomethane). As a result, where a registered biomethane producer is in administration, the only viable option is for the administrator to sell the shares in the registered biomethane producer. A share sale in this situation requires the consent of creditors before the sale can proceed, which can be difficult and time-consuming. This results in significant additional delay and costs before the business can exit the administration and the turnaround process can commence.

Consultation Question 11 - Are there any other factors that need to be considered around the transfer of registration for production of biomethane?

No.

Consultation Question 12 - What evidence should be required in order to assess the prospective new registered producer against the same criteria as those who applied for registration previously, to allow for notification of the scheme administrator and begin a formal change of registered producer process?

Authorisation requirements from transferor and transferee are key to the transfer, but we understand from members no other elements of the existing project registration should change.

As noted in the Overview, a mechanism currently exists under the NDRHI regulations for the transfer of ownership of NDRHI accredited installations and their associated payments. This mechanism has been used many times to effect the transfer of ownership of accredited installations. A member noted that similar evidence could be provided as part of a transfer of ownership of registration of a biomethane producers.

Evidence could be confirmation that "all or substantially all" of the assets of a registered biomethane producer have been sold or, subject only to Ofgem approval, are to be sold to the prospective new biomethane producer.

Ideally it should be possible to obtain approval from the scheme administrator promptly and in advance of the transfer of assets to the third party. Approval by the scheme administrator in advance of a prospective asset sale would be beneficial and enable the sales process to proceed with certainty and with the continued uninterrupted payment of the RHI tariff.

A member also suggested that BEIS could set a definition of an installation and include the term 'Gemini Code' which is its unique identity code used to allow a plant to inject into the gas network., similar to the MPAN under FIT. Provided certain unique parameters don't change (post code, Gemini Code) you can then transfer the scheme to new companies.

Consultation Question 13 - Should provisions be introduced on the use of ancillary fossil fuels and fossil fuel contamination in feedstocks for anaerobic digestion like those that exist for other technologies? Yes/No

Yes.

Consultation Question 14 - If you answered yes to question 13, please provide evidence for this view.

Consultation Question 16 - Should the government amend the NDRHI payment calculations for biomethane to allow producers to decide how much biomethane they wish to claim NDRHI payments for within a given quarter? Yes/No

Yes.

Consultation Question 17 - If you answered no to question 16, please expand on why this is the case?

We very much welcome this proposal, as this is something we have been advocating for a long time. We agree with the consultation document's analysis that the current situation restricts the potential for producers to benefit from diversified revenue streams and can disincentivise production from some plant. We anticipate this change will result in significant additional biomethane injection from existing biomethane injection facilities as well as enabling any new projects joining the scheme to optimise their output.

It will also make more biomethane available to the transport sector than has been supplied to date.

Consultation Question 18 - Do you foresee any practical challenges to achieving this change? If so, please expand.

From a practical point of view, a key issue is related to the deductions of propane energy (and potentially heat supplied to biomethane production process). A general/typical figure could be used, but this would not be 100% accurate as propane addition rates vary - both across the country and over time for a given site.

A more suitable way forward could be to ask the producer to submit meter readings for the date they wish to draw the line for biomethane, propane (and external heat) ie everything before that date is RHI/GGSS, everything after is RTFO. This should not be too much of an administrative burden for the operator as they can take regular readings and can choose at point of making GGSS/RHI quarterly returns where they draw the line. This will need to be spelled out in the regulations rather than leaving Ofgem to check.

Finally, we recommend that Government explores the possibility of setting up central registry of green/low carbon gas injection data, based on secure and independent data provided by the existing GEMINI system. Green/Low Carbon gas producers could then access this registry, provide verification of GHG values and allocate volumes of gas to different support schemes. Administrators of the RTFO, RHI, Renewable Gas Obligation Certificates and Guarantees of Origin could all receive information from this registry which would eliminate the risk of double counting. Relevant bodies should discuss who is best placed to operate such a registry and work together with the aim of minimising administration costs across all support schemes as well as the compliance cost to the gas producers. Clear rules will be needed on the interaction of the obligation and any disclosure to customer of GHG levels of gas supplied (which should/must be done via a GoO system).

Consultation Question 19 - What evidence would be appropriate for producers to provide to the scheme administrator for them to correctly apportion the NDRHI eligible gas being produced?

See above.

Consultation Question 20 - Are there any regulatory changes that have not been addressed by this consultation that would help to future-proof the scheme for existing participants using biomass? Please provide evidence.

Change of Ownership and Location Guidance

One area not mentioned in the consultation, but where guidance and the administrative process needs significant improvement, is on RHI reapplications for change of ownership or location on accredited projects.

The required regulation is well covered in Part 6 (54 & 55), of the RHI legislation, however, the REA regularly receive complaints from members regarding the length of time required for such reapplications to be completed and the lack of transparency around the process or evidence required by Ofgem. A twelve-month delay is not uncommon in the cases reported to us, which results in significant loss of RHI revenue.

There seems to be further complications concerning eligible heat uses in these cases. As far as has been reported, there is no agreed standard technical assurance that Ofgem currently

accepts in proving an ongoing heat requirement when the original accredited heat use falls outside of the 2018 RHI eligible heat reforms.

Clear guidance and a transparent process for facilitating change of ownership and location requested is urgently needed before the schemes closure, after which we can expect to see increasing numbers of such requests.

Consultation Question 21 - Should fuel quality be a mandatory criterion for approved feedstock accreditation bodies? Yes/No

Yes.

The industry recognises the need for fuel quality to be included as part of approved feedstock accreditation bodies and that better compliance in this regard will both help air quality and the efficient running of biomass boilers. The REA also support the work that has been done with the BSL to examine the options for delivering the required fuel quality standard.

Overall, we agree with proposed fuel quality standards, namely:

- all wood pellets to meet the EN Plus A1 standard or an equivalent standard
- all other wood fuels (such as chip) to meet fuel quality standard EN15234/SO 9001, and EN17225, or equivalent.
- all wood fuels to provide assurance of their supply chain, and that they meet the standards above, through certification by the Woodsure Certification scheme to test against these standards, or an equivalent scheme..

We also highlight that further work is going to be required by the accreditation bodies and BEIS to ensure that fuel quality standards can be both verified and proven. This will likely involve accreditation bodies considering their testing regimes to ensure the standard is being applied by suppliers. Unannounced audits should be considered as part of this to ensure fuel standards related to what is always being used within systems.

However, the industry is concerned about any additional administrative burden placed on suppliers or consumers. A significant proportion of accredited sites already adhere to the above standards in line with Woodsure or EN Plus certification. This already involves regular self-monitoring and being able to report when required during audit. The process of proving fuel quality to the administrator should be no more complicated then existing monitoring and reporting requirements under the relevant certification schemes. As such, we support the proposal that membership of an accredited quality assurance scheme should be sufficient evidence of a fuel quality standard.

The new fuel quality assurance criteria must also be transparently communicated, with clear guidance provided by Ofgem ahead of the regulation coming into force. Industry must also be given appropriate time to implement the new requirements and provide a reasonable time frame to be able to become compliant.

The new fuel quality standard should also not be implemented retrospectively, with a clear statement reassuring industry that the regulation will only apply from a specified start date. There should be no threat that the scheme administrator will require evidence of fuel quality for RHI payments prior to the regulation start date, or that previous payments may be asked to be repaid. The industry is already weary of such retrospective changes following 'reinterpretation' of legislation that resulted in the required standards for emissions certificates being changed and applied retrospectively to existing accredited sites. This was not done transparently or with adequate consultation leading to serious industry complaints. This should not be repeated in the case of fuel standards.

User awareness is also crucial issue in relation to quality. Customers often have little or no idea about what they are buying, even after running a boiler for some time. Fuel is requested as; Grade A,B,C, Virgin, whole tree, clean recycled and recovered – these are all descriptions used indiscriminately. In addition, while the BSL state that moisture content must be on the delivery note or invoice this is not always done. As such, a fuel quality standard should be accompanied by a renewed education campaign to ensure users are aware of what they should be using and expecting from their supplier. We encourage BEIS and DEFRA to consider doing this in line with the decisions following the 2018 Defra consultation on 'Cleaner Domestic Burning of Solid Fuels and Wood'. The consultation response committed to a greater education and compliance campaign, working with local authorities, to ensure suppliers and consumers are aware of their obligations. This campaign should also now include messaging around the final decision on fuel quality requirements within the RHI, ensuring both industry and consumers are aware of what is required of them.

Due to this, and with regards to businesses with boilers under 1000kW who ensure compliance through the BSL, the main attention should be on what information needs to be provided, with the emphasis being on getting businesses ready for this shift.

Consultation Question 22 - Should fuel quality be a mandatory criterion for the scheme administrator in its capacity to assess self-reported feedstocks? Yes/No

We are supportive of a fuel quality requirement applying to self-suppliers; however, not enough details are provided in the consultation regarding how this proposal is expected to apply or the administrative burden that it could involve.

Businesses with boilers over 1000kw in size, who currently self-report to the scheme administrator, should be able to prove the fuel they burn is appropriate, in line with the emission certificate and the manufacturer's boiler requirements. This will ensure appropriate quality under the scheme.

This can be proven at the same time as the existing sustainability audit requirements are completed, avoiding an additional audit or burden being placed on companies where fuel supply is not their primary business. Equally, this should be administratively easier for Ofgem to carry out.

As with those who gain compliance through a certification scheme, Ofgem must design a transparent process for self-suppliers to prove fuel quality, with clear guidance provided. This

involves laying out exactly what information is required and the process for its submission. Ofgem must then be able to review submitted information within appropriate time scales so that RHI revenue is not held up. Ofgem, previously, have been very poor at fulfilling this role. Government should set KPIs for Ofgem on time taken to process this information**.**

Overall, we are supportive of fuel quality requirements, but this must be appropriately designed, and clear guidance provided to self-suppliers so that these new requirements do not constitute a significant additional administrative burden.

Consultation Question 23 - Do you agree with the proposal that a membership of an accredited quality assurance scheme should be sufficient evidence of fuel quality standard? Yes/No

Yes.

A significant proportion of accredited sites already adhere to the above standards in line with Woodsure or EN Plus certification. This already involves regular self-monitoring and being able to report when required during audit. The process of proving fuel quality to the administrator should be no more complicated than existing monitoring and reporting requirements under the relevant certification schemes. As such, we support the proposal that membership of an accredited quality assurance scheme should be sufficient evidence of a fuel quality standard,

As elaborated upon in the two previous questions, businesses are aligned with Government on the need for a fuel quality standard and are in favour of better regulation that does not impose bans on the technology.

Particular attention should be on scheme design and ensuring that a fuel quality standard is fit for purpose and makes it easiest for businesses to ensure compliance.

Consultation Question 24 - If you answered no to question 23, what type of fuel quality framework would work?

N/A

Consultation Question 25 - Do you agree with the proposal that only pre-consumer waste wood should qualify for NDRHI payments? Yes/No

No.

Consultation Question 26 - If you answered no to question 25, why not?

The proposal to exclude none pre-consumer waste wood (PCWW) for use in RHI accredited systems is not properly defined within the consultation document, nor is it clear what the full policy impact will be. While we agree with the intention to stop systems using contaminated wood when not in an appropriate boiler, we believe the current proposals to be inadequately stated and likely to have unintended consequences.

It would be inappropriate for such a ban to apply to those RHI accredited systems that have up-to-date Environmental Permits, emission certificate and use an appropriately compliant boiler. Such sites are regulated under Chapter IV of the Industrial Emissions Directive and the Medium Combustion Plant Directive, with strict requirements in place to ensure their emissions are safe. As such, there is no reason why such sites should be restricted from burning pre-consumer waste wood. Such a restriction would be a retrospective change, open to challenge, and greatly damage developer and investor confidence in the RHI or other Government support mechanisms. It should be clarified that such a ban does not apply to those who are appropriately regulated by the Environment Agency, or their Local Authority, to burn such material.

Members of the REA have made us aware of several large-scale projects, with capital expenditures of several million pounds, that could be lost if this proposal is brought in to stop even those with Environmental Permits from burning non PCWW. For example, one member reports currently installing 4 waste wood RHI projects, with a total capacity of 11 MW, that are now at risk due to this proposal. All have, or are in the process of getting, the required environmental permits. Total capital expenditure of this member alone is more than £10 million pounds, with each project already having 30-80% of those costs already invested. Such a sudden change in policy could see the loss of such investment. We are aware of several other companies in similar situations, where it would be a disaster financially if the waste wood rules were to change from what they currently are, with developers and financiers having made their investment decisions in good faith based on current legislation.

We do, however, recognise that the current design of the RHI does not allow Ofgem to ensure that plants are keeping their Environmental Permit up to date. Currently a permit only needs to be shown during accreditation and is not subsequently checked during the ongoing operation of the plant. We would support the requirement that such sites should be obligated to demonstrate to Ofgem that they continue to hold a valid Environmental Permit. This could be as straight forward as annually uploading to E-serve a valid permit to demonstrate ongoing RHI compliance. Ofgem will need to develop a clear and transparent process to allow for the uploading of such a document. It is then the responsibility of the Environment Agency or Local Authority to regulate the site to ensure they are complying with the emission requirements of their permit.

In addition, it is recognised that there is a poor understanding among RHI participants around who can utilise waste wood feedstocks with a valid BSL number. As there is no distinction between a waste wood BSL number and virgin material BSL number, participants could mistakenly use waste wood - believing themselves to be compliant by using a BSL registered fuel. This, however, is relatively straight forward to fix, with it being made clear to consumers which BSL numbers are waste wood materials and that such material can not be burnt in a standard, non-chapter IV compliant, boiler.

Finally, we would also like to stress that it is significant fault of the consultation that it fails to define what is classified as ‘pre-consumer waste wood’. This is not a definition currently included in the legislation or any current guidance. As such the proposal is vague and does

not allow industry or stakeholders the opportunity to appropriately comment on what is being suggested.

Recognising that the RHI should align with the Clean Air Strategy we believe pre consumer waste wood should be banned for sites that do not hold a valid Environmental Permit to use such material. Sites that do hold permits should continue to be allowed to burn waste wood as they are already appropriately regulated to allow such material to be used and their emissions tightly monitored. It is therefore up to the administrator to design a robust methodology to ensure they are satisfied that such sites are keeping their Environmental Permit up to date.

Consultation Question 32 - Do you agree with the current approach to replacement plant outlined in the regulations? Yes/No.

Yes.

Consultation Question 33 - Please provide evidence to support your response to question 32.

We agree that the procedure outlined in the Regulations and in Ofgem's Guidance Volume 2 on Replacement Plants are appropriate.

The understanding that eligible replacement plants will retain the same tariff and scheme lifeline as the original installation are agreed with by the industry, as is the added requirement that solid biomass installations must adhere to the current air quality requirements irrespective of the date of the original installation.

As the Consultation Document notes, the number of replacement plants will increase over the coming years as installations become older. Due to this, it is vital that Ofgem have a workable system in place to process this increase in numbers, one that does not lead to unnecessarily delays or long periods where claimants will not receive RHI funding. The process must be transparent, with good communication channels open between the Ofgem case worker and the applicant.

This is currently not the case. The REA regularly receive complaints concerning the delays and complications caused by registering a replacement plant with Ofgem. The system currently is not fit for purpose and is disincentivising applicants from doing work on their plants to ensure they are working as efficiently as possible.

Ensuring this process is streamlined will be vital and will give businesses confidence that they should proceed with a replacement plant. If the process experiences operational delays as we have seen with other applications to Ofgem, businesses may put off replacing plants, leading to a poorer stock of biomass installations under the scheme.

Consultation Question 36 - Do you agree with the government's approach to removal of the additional biomethane capacity regulations? Yes/No

Yes.

Consultation Question 37 - If you answered no to question 36, please explain your answer.

We understand the need to manage potential for increased future spend by not allowing additional capacity from point of scheme closure, particularly if the Green Gas Support Scheme will be brought in at or around the time the RHI scheme closes.

However, it is paramount that the new Green Gas Support Scheme includes a mechanism to add capacity or biomethane. The reasons for this are set out below.

The ability to expand existing plant is one of the best opportunities available for value for money. Expanding existing plants should present opportunities for improved economies of scale, particularly on the capex. They should also be easier and cheaper to fund since the additional construction required will be relatively modest and the technology and operators will already be demonstrated. Also, having an operational plant with an existing income stream means the need for additional working capital is much reduced.

Expanding existing plant would also be one of the few options available if or when the tariffs degress (assuming they are set at around the levels proposed).

The relatively low uptake of this option under the RHI does not indicate it would not be needed under the GGSS. There are 2 factors that have distorted the picture:

1) the way the regulations 77 is written means biomethane plants can only register additional biomethane if they are already 'producing additional biomethane'. In practice this means that over the course of an entire quarter they must have injected (on average) above the level specified in their original NEA before they can apply for that additional capacity.
2) there are many plants commissioned in 2014 and 2015 that sized the NEA much larger than they needed and gradually expanded. So additional capacity is happening but is not immediately visible.

Important considerations made by members are:

Not allowing additional capacity for biomethane may push developers to book as much capacity in the network as possible at the beginning, and then potentially not use it for years until they are able to expand.

Gas networks are reluctant to allocate capacity that is unlikely to be used in the medium term, and there are a number of measures being looked at that could increase grid capacity in general. There may also be specific changes locally that would enable a plant to inject more than was possible when it first applied to the scheme. In other words, a project could be well sized to local limitations initially but have potential to expand due to changing circumstances subsequently.

We propose that an additional capacity mechanism should be introduced for the GGSS. Rather than the existing RHI requirements, the scheme participant should be able to apply for this without a requirement to have injected at this level for a prolonged period before they can apply. We suggest that a participant should be able to apply by submitting to Ofgem the amended NEA showing the increased level they are allowed to inject at. Ofgem should make every effort to ensure that this change is processed and approved swiftly, on the assumption that no other material changes are made to the participant's project.

Consultation Question 38 – Do you agree that the Government should reduce the strictness of the requirements for installation meters in circumstances where NDRHI payments are unaffected? Yes/No

Yes.

Owing to the installation meters not being used to calculate payments and plants will likely have a standard meter – it is an unnecessary expense for installation meters to be replaced when they breakdown.

It would be a welcome step to reduce the strictness of this requirement.

Consultation Question 39 - Are there any specific types of changes in obligations which you would like to see introduced to the scheme to account for future technological change? Yes/No

We have not identified any specific obligations that should be introduced. However, we highlight that the difficulty and time required to make changes to an accredited site, due to Ofgem's processes, is currently a significant disincentive for innovation. It is, of course, correct that Ofgem are assured of compliance to the scheme, however, they could consider establishing a 'sand-pit' method, where innovative projects could apply to Ofgem and collaboratively explore how they could operate compliantly within the RHI.

BEIS Should consider what is required once heat meter calibration certificates lapse

Heat meters are key to the existing scheme, however currently there is little provision in the RHI for when heat calibration certificates on a meter's lapses, which may see its measurements become inaccurate.

Given by the time a certificate lapses there will be good data base on previous performance, the simplest solution would be for past performance to be used to maintain on-going RHI payments rather than see payments withheld due to metering anomalies where systems have developed problems but worked satisfactorily previously.

Allow appropriate Flexibility to Enable Geothermal projects to Access the RHI before Scheme Closure

It is disappointing that in neither the Stakeholder Note or consultation on the Future of Heat recognise the potential for Geothermal technologies in the UK. BEIS should be aware of several

Geothermal projects currently in development. Geothermal Engineering and Eden Geothermal have raised circa £30 million of public funds with £10 million match funding for two projects set to commission in 2021 and 2023 respectively. Similarly, GT Energy has been working with Stoke on Trent to deliver £20mn investment in a heat network powered by Geothermal technology. While the Geothermal sector is in its infancy in the UK, examples from Germany, where the sector is worth over €10 bn, demonstrates the potential for what could be delivered in the UK. Uncertainty over the RHI and a lack of any mention of Geothermal in the Future Heat consultation has greatly unsettled financiers of such projects.

BEIS should seek to make clear their intentions around the technology and establish how the sector can continue to be supported, either through longer commissioning times or stipulating where support for such projects can be expected to come from.

Given the limited number of projects currently in development BEIS and Ofgem should commit to working directly with such developers if they believe they might be able to commission within the revised tariff guarantee deadlines. This might involve providing further guidance, or utilise the 'sand pit' approach identified above, in order to see at least one Geothermal project delivered under the ND RHI before its closure.

Consultation Question 40 - If you answered yes to question 39, please be specific and provide examples of such changes and evidence to support your answer.

Consultation Question 41 - Are there any other further changes that you would like us to make to the Non-Domestic RHI regulations at this time? Yes/No

Yes.

Heat supplied to the biogas production plant should not be deducted twice
We would like to draw BEIS's attention to an issue related to the interaction between the RHI payment formula for eligible heat, set out in regulation 64(2) of the Renewable Heat Incentive Scheme Regulations 2018 and the ineligible uses of heat brought in as part of the May 2018 RHI reforms. **We strongly recommend that this issue is resolved in the RHI closure regulations.**

In a nutshell, heat used for processing waste is not eligible under the RHI, in line with changes brought in within the Renewable Heat Incentive Scheme Regulations 2018. It follows that any heat supplied to the biogas production plants (ie digester/s) is not eligible <u>if waste materials are being treated in the digester/s</u>. This is relatively straightforward, however, the RHI payment formula set out in regulation 64(2) should be amended accordingly to reflect this, as currently the **heat must also be deducted from the payment of the eligible use of heat.**

This is shown in the payment formula set out in regulation 64(2) (C is the heat provided to the biogas production plant that needs to be deducted).

Periodic support payments for accredited RHI installations in simple systems in respect of which an application for accreditation was made before 24th September 2013

(2) Subject to regulations 71 and 72, periodic support payments in respect of each quarterly period must be calculated in accordance with one of the following formulae, as applicable—
a) A x B
; or

where the installation is generating heat from the combustion of biogas,,

where—

A x (B-C)

A is the tariff determined in accordance with regulation 59;

B is the heat in kWhth generated by the installation during the relevant quarterly period; and

C is—

the heat in kWhth delivered in the relevant quarterly period to the biogas production plant which produced the biogas which is combusted (other than heat contained in any feedstock used to produce that biogas); or

such proportion (as may be chosen by the participant and agreed by the Authority) of that heat, provided that the proportion is no less than—
x/y

where—

aa) x is the heat produced by that biogas which is used for eligible purposes; and
bb) y is the energy content of all the biogas produced by that biogas production plant.

For some members this has meant that **the same heat is deducted by Ofgem twice**: **once by not counting the heat to the digester (as it is ineligible as 'processing of waste'), and secondly by deducting heat to the digester in line with the payment formula.** This means these members have been penalised twice, in addition to being totally discouraged to take any waste materials to avoid this issue, which is against what the policy is trying to achieve (ie more use of wastes).

The formula should therefore be amended so that in cases where the heat (C) is ineligible, this is not deducted again from the payment.

This may also be one of the reasons why the uptake in biogas heat installations under the RHI has been very low to date. This error in the calculation of payments has certainly acted as a disincentive for companies to apply on the scheme for biogas heat.

Constraints on liquid feedstocks must be lifted

Similarly, to what we highlight in our response to the BEIS consultation on future support for low heat (re the new Green Gas Support Scheme), **there should be no constraints under the RHI on processing liquid feedstocks that are not waste.**

The RHI currently places a constraint on the acceptance of any liquid feedstocks that are not classified as wastes (Regulation 41). The following is an excerpt from the regulations:

'A participant use biogas produced by AD may only use biogas that is made from one or more of the following feedstocks:

- Solid biomass
- Solid waste
- Liquid waste'

This renders ineligible any liquid waste that is not classed as waste. This text has significantly constrained the use of liquid feedstocks at AD plants that are clearly sustainable and should be encouraged. Examples of liquid feedstocks that have been constrained are: glycerol from virgin oils, which is classed as a product; crude glycerol from waste oil, which is classed a processing residue and other similar liquids such as pot ale syrup, proflo etc.

Our understanding is that this was introduced due to the original RED. Under that, 'bioliquids' used in power or heat must be subject to the same sustainability criteria imposed on transport biofuels, and member states may not deviate from them. These controls were introduced into the Renewables Obligation (RO) as liquids were used for power generation. This involves significant complexity, not least because the RED definition of biomass differs from that used in the rest of the RO (and RHI).

Given the relatively low opportunities for the use of renewable liquids in heating (and that the department was not wholly convinced of the quantity and value for money that these would represent) it was decided not to introduce support for liquids in the RHI at all.

Given the UK's exit from the EU the UK is free to make a decision on this on its own merits rather than to avoid having a administrative burden caused by RED.

REA and other trade associations, as well as Ofgem, have raised this regulatory matter to BEIS on several occasions. In addition, there are discrepancies between different schemes, as this constraint applied under the RHI scheme, but not under the RO and the RTFO schemes.

The Fuel Measurement and Sampling (FMS) procedures needs significant improvements

Under the current regulations and protocols, Ofgem requires biomethane plant operators (and other eligible technologies) to implement Fuel Measurement and Sampling (FMS) procedures to determine the renewable output eligible for RHI periodic support payments. These procedures detail the agreement with applicants of suitable procedures for the measurement and sampling of their fuels.

FMS procedures must be agreed at the point of application for accreditation and may need to be amended where a new fuel or consignment is used or where a material change has been made on site affecting the agreed procedures.

Ofgem can only make RHI payments on heat (or biomethane) from renewable sources, so they would not make a payment until they have reviewed and approved the revised FMS procedures. However, this is a lengthy process that can take several months and is not working for the industry, especially when they wish to take a consignment of a new feedstock and this is going to be measured and sampled in line with existing procedures. This is actively discouraging participants to use alternative or novel feedstocks.

What is working?

A member with significant expertise on FMS protocols and procedures have highlighted that the protocol works well in terms of measurement of feedstocks, i.e. it provides an accurate way to measure feedstock use accurately and is also implemented consistently across all Ofgem schemes.

What is not working?

Feedstocks which could prove valuable and productive for AD cannot be taken because they are not part of the existing FMS and have not been approved by Ofgem.

New or alternative feedstocks are being found through supply chains where there is a temporary over supply, such as the animal feed sector and specifically residues, such as Trafford Gold, wheat husks, syrups, and other suspended solids or liquid feeds.

Wastes and residues are often available only for short periods so the AD sector needs to be dynamic if it is to maximise the use of these more sustainable feedstocks.

These feedstocks are also subject to spot market pricing changes and it is extremely important that AD plants are able to secure these feedstocks when they are available.

There needs to be a more streamlined and consistent approach to allow for more flexibility in an ever increasingly complex supply chain and feedstock market. Ultimately, if the policy wants more use of waste and residue and transition away from more intensive feedstocks then the approval system for FMS needs to be transparent and efficient.

Proposed solutions

We would recommend a combination of the following approaches:

- **Clearer guidance issued from the regulator on the classification of feedstocks**
- **Ofgem should have a full list or register of all the approved feedstocks (e.g. similar to the BSL list but for feedstocks): this should be made publicly available. Although we recognise there may be some degree of variation amongst the same feedstocks across different sources, an AD operator should not go through an approval process if the same feedstock has already been approved**
- **FMS approval procedures should be expedited – there should be a clear timeframe for Ofgem approvals which takes into account of the commercial realities of AD plants**
- **Ofgem approval process could be entirely replaced by an assessment from an independent auditor (e.g. a person not connected to the company. It could be the same person as the sustainability auditor). For example, an amendment to the FMS (e.g. for a new feedstock) could be signed off by an auditor.**
- **Ofgem should allow participants to have a much wider choice of feedstocks on the FMS (even though they may not use them immediately). We would recommend the**

'review period' is removed for Ofgem and that a predefined list of feedstock categories is introduced. As an example, there have been cases where Ofgem have rejected an FMS because a user added many feedstocks. So Ofgem have been actively managing this to ensure only feedstock that definitely will be used are added to the FMS. This is an unnecessary restriction.

- **There should be alternative rules for new feedstocks in low quantities (i.e. not requiring an FMSQ if the output is less than 2 - 5% of total energy output).**

Change of Ownership and Location Guidance

One area not mentioned in the consultation, but where guidance and the administrative process needs significant improvement, is on RHI reapplications for change of ownership or location on accredited projects.

The required regulation is well covered in Part 6 (54 & 55), of the RHI legislation, however, the REA regularly receive complaints from members regarding the length of time required for such reapplications to be completed and the lack of transparency around the process or evidence required by Ofgem. A twelve-month delay is not uncommon in the cases reported to us, which results in significant loss of RHI revenue.

There seems to be further complications concerning eligible heat uses in these cases. As far as has been reported, there is no agreed standard technical assurance that Ofgem currently accepts in proving an ongoing heat requirement when the original accredited heat use falls outside of the 2018 RHI eligible heat reforms.

Clear guidance and a transparent process for facilitating change of ownership and location requested is urgently needed before the schemes closure, after which we can expect to see increasing numbers of such requests.

BEIS Should consider what is required once heat meter calibration certificates lapse

Heat meters are key to the existing scheme, however currently there is little provision in the RHI for when heat calibration certificates on a meter's lapses, which may see its measurements become inaccurate.

Given by the time a certificate lapses there will be good data base on previous performance, the simplest solution would be for past performance to be used to maintain on-going RHI payments rather than see payments withheld due to metering anomalies where systems have developed problems but worked satisfactorily previously.

43. Do you agree with the government's approach to remove quarterly and monthly NDRHI degression publications? Yes/No

No

44. If you answered No to question 43 please expand.

As stated in answer to Q1, we believe the ND RHI should be extended for 12 months. This is due to the impact of Covid-19 meaning there are shovel ready projects, too small to qualify for a Tariff Guarantees, that are now no longer able to deploy by March 2021. If an extension is granted, then degression publications should continue to be published.

If BEIS ultimately stick by their decision not to extend the ND RHI, which we believe to be a very significant error, then publications of degression publications can stop**.**

45. Do you agree with the government's new approach to NDRHI publications set out above? Yes/No

No

46. If you answered No to question 45, please expand

While the current reports may not be required, BEIS should consider what reports are appropriate in the name of public transparency following scheme closure.

As such, a six monthly or annual update of live accreditations would still be beneficial in monitoring the number of RHI sites receiving payments. It would help identify what number of sites drop off the scheme before the end of their contract, possibly due to having payments stopped for noncompliance, verses being able to monitor spending as sites come to the natural end of their contract

47. Is there any additional data you think should be made available publicly as part of this publication? Yes/No

Yes

48. If you answered Yes to question 47, please expand.

It would be useful to continue to get updates on overall number of accredited sites continuing to receive payments and the number that stop receiving payments prior to the end of their contract, either due to noncompliance or another issue.

Total expenditure and being able to see year on year commitments decrease will also be useful information to be publicly available.

49. Do you agree with the decision to no longer mandate the scheme administrator to publish quarterly and annual reports for the NDRHI? Yes/No

No

50. If you answered No to question 49, please expand

While quarterly reports on deployment will not be necessary, it would still be useful for the administrator to make publicly available the following information in regard to the ND RHI, perhaps on a six-monthly basis.

- Number of accredited applications that have payments stopped for non-compliance

- Number of accredited applications that stop receiving payments for reasons other than non-compliance
- Cumulative number of sites that come to the end of their RHI payments
- Number of accredited applications that apply for a change of ownership, change of location or replacement plant.
- Average waiting times for applications of change of ownership, location or replacements.
- Size of the application queue.
- Data on Feedstocks being used, and number of requests for a change in feedstock.

BEIS should also be using this data to monitor Ofgem's delivery against their KPI's, by making it publicly available the industry is also able to help keep the administrator accountable.

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If you have any questions relating to this consultation and the REA's response please contact heat@r-e-a.net