DEPARTMENT OF ENERGY & CLIMATE CHANGE

# Government Response to the Statutory Consultation on the Renewables Obligation Order 2011

December 2010

# Contents

# Executive Summary

## The consultation on changes to the Renewables Obligation (RO)

1. This document sets out the Government Response to the Consultation on the Renewables Obligation Order 2011 which closed on 19 October. As set out in the Coalition Agreement, the Government is committed to maintaining a banded RO. As part of this commitment we sought views on a number of amendments to the RO, designed to ensure the RO continues to work efficiently and effectively, and to transpose the Renewable Energy Directive 2009/28/EC (RED).

2. Following analysis of the responses received, we have decided to:

   - **Introduce phased support for offshore wind** projects, allowing offshore wind stations to register groups of turbines in phases;

   - Introduce **mandatory reporting** against greenhouse gas and land **sustainability criteria for solid and gaseous biomass**;

   - Introduce **mandatory sustainability criteria for bioliquids** in accordance with the RED. Bioliquids must meet the sustainability criteria in order to be eligible for ROCs.

3. Changes to the RO are being made in the context of the consultation on Electricity Market Reform (EMR) which is published today, part of which is seeking views on options for a new support mechanism for low carbon technologies, to help ensure that we are able to meet our longer term decarbonisation objectives. As part of EMR consultation, we are proposing transition arrangements to a new support mechanism for low carbon, which aim to protect investment decisions made on the basis of RO support.

4. The Consultation on the Renewables Obligation Order 2011 also issued a call for evidence on a number of issues for the longer term:

   - Whether additional RO support should be introduced for stations refurbishing and replacing major components, and for existing co-firing generation converting to dedicated biomass;

   - How to support Combined Heat and Power (CHP) stations in light of the introduction of the Renewable Heat Incentive (RHI); and

   - Whether there was a need to change the mutualisation cap and trigger.

5. As the interest in **refurbishment, replacement and repowering** is likely to become more significant over time, our view is that it will be more appropriate to consider this issue as part of the work on any new support mechanism introduced as part of the EMR. The costs

of stations **converting from co-firing to dedicated biomass** are being considered as part of the banding review, which will be published in Summer 2011.

6. We asked for views on how to **support CHP** in the light of introduction of the RHI. The CHP uplift will be considered as part of the banding review. The interaction between the RHI and the RO will also be considered as part of the work to implement the RHI, further details will be set out in a Policy Document to be published on the RHI.

7. Finally we also issued a call for evidence as to whether the **mutualisation cap and trigger** should be amended. We will not make any change to the mutualisation rules at this time, however, in the longer term we will consider amending the cap and trigger in line with the increasing size of the Obligation as set by the headroom.

**Banding Review**

8. A scheduled banding review of Renewables Obligation support began in October this year. This review will consider whether any changes are needed to the current bands. We recently announced that we are speeding up the review process by 12 months. The new timetable means that we will consult on any changes to the bands in Summer 2011, with the Government response in Autumn 2011. Any changes will take effect from 1 April 2013 for most technologies, and 2014 for offshore wind.

**Responses to the statutory consultation**

9. The consultation closed on 19 October 2010. In total we received 80 responses. 56% were from organisations including generators, suppliers, developers, utilities and private companies; 10% were from other Government Departments, statutory agencies, academia and Local Authorities; and 33% were from consultancies, NGOs and Trade Associations. The remainder of responses were submitted by individuals.

10. A summary of the responses received is available on our website at http://www.decc.gov.uk/en/content/cms/consultations/ro/ro.aspx. We would like to thank all those who responded to the consultation.

**Devolution**

11. Whilst we refer in this document to the 'Renewables Obligation', in practice the system works on the basis of three complimentary Obligations: one covering England and Wales, and one each for Scotland and Northern Ireland. Decisions regarding the operation of the Obligations in Scotland and Northern Ireland are for the Scottish Executive and the Department of Enterprise, Trade and Investment in Northern Ireland respectively. However, the UK Government and the Devolved Administrations understand the benefits of a consistent approach and the importance of this to many within the industry.

12. Both the Scottish Executive and the Department of Enterprise, Trade and Investment in Northern Ireland have carried out their own respective consultations with stakeholders before finalising their policy. Scotland's consultation closed on 1 December 2010 and they are considering their response. Northern Ireland's consultation closed on 21 October 2010,

their response will be published shortly. We are aiming for unified implementation on 1 April 2011.

**Structure of the ROO**

13. Subject to state aid clearance and parliamentary approval, the decisions described above will be implemented through an Order amending the Renewables Obligation Order 2009 (ROO 2009) and the Electricity Act 1989. A draft version of the 2011 Amendment Order is published alongside this response but further changes may be made to improve the drafting of the Order before it is finalised.

**Timing to implementation**

14. The next steps towards the implementation of these changes are:

| | |
|---|---|
| State Aid Clearance | January 2011 |
| England and Wales Amendment Order laid | End January 2011 |
| Debates in Houses of Parliament on England and Wales Amendment Order | To be confirmed |
| Subject to parliamentary approval, changes made by the Amendment Order take effect | 1st April 2011 |

**Contact Details**

15. If you have any questions regarding this response, please contact:

RO Team
Office for Renewable Energy Deployment
Department of Energy and Climate Change
4th Floor, Area A
3 Whitehall Place
London SW1A 2AW
Email: rfi@decc.gsi.gov.uk

# Chapter 1: Offshore wind phasing

**Summary**

- Offshore wind generating stations accrediting after 31 March 2011 will be able to register their turbines in phases. Each phase would be eligible for up to 20 years support, subject to the end date for the RO of 31 March 2037
- Generators will be able to register up to five phases of turbines over a maximum period of five years. For generating stations accrediting after 31 March 2011, a minimum number of turbines, equivalent to 20% of the proposed total installed capacity of the station will have to be registered in the first phase. There will be no minimum size for subsequent phases.
- Offshore generating stations will be accredited in the same way as at present. There will be a new requirement for operators of offshore wind generating stations accrediting after 31 March 2011 to register all of their turbines in order to receive ROCs. Offshore wind stations adding additional capacity after that date must also register the turbines forming part of that additional capacity in order to receive ROCs for the electricity those turbines generate.

**Introduction**

16. We sought views on whether offshore wind generating stations should be able to register turbines in phases, due to their having long construction periods. We proposed that generators would be able to register turbines in up to five annual phases over a maximum of five years, receiving up to 20 years support for each phase (subject to the end date of the RO of 2037).

**Main messages from responses**

17. Of those responding to the questions in this chapter there was almost full agreement (approximately 96% of respondents) to the principle of introducing phasing for offshore wind.

<u>Phasing on an annual basis</u>

18. Approximately half of respondents agreed that phasing should be allowed once a year for five years, and considered this to be reasonable to prevent gaming and to minimise the administrative burden. The other half of respondents suggested that limiting phasing to once a year over five years was too restrictive, and implementing phasing more flexibly would not greatly increase administrative burdens, given this policy would apply to only a small number of stations. A number of responses suggested generators be allowed to register in phases over a certain capacity (minimums of 50MW and 30MW were proposed)

for a maximum of five years, but with the frequency of the registration at the generators' discretion.

19. Almost all respondents felt that each phase should be based upon predicted capacity or turbines installed for each year, given that this would most accurately reflect actual generation, and should not be split equally as construction would not be carried out in equal phases. A quarter of respondents suggested that the capacity to be included in each phase should be determined by the generator.

Metering

20. In response to whether phases should be metered separately or pro-rated, respondents were split. Approximately 45% of responses favoured separate metering, 40% favoured a pro-rata approach, with the remaining 15% suggesting there should be a choice. Those in favour of separate metering highlighted that it provided a greater degree of certainty and ensured only ROC eligible generation was rewarded. Those favouring a pro-rata approach considered separate metering to be uneconomic and suggested a number of projects were too advanced in their development to incorporate separate metering at this stage.

Banding

21. Nearly all responses (just over 80%) agreed that the band applied to each phase should be the same as the band applicable at the point of accreditation. It was suggested this would allow investment decisions to be taken with certainty about support levels for the whole windfarm. Were this not applied, generators would be forced to realise 20 years support for the entire, consented capacity from the point of accreditation in advance of a banding review, which would negate the ability to phase support.

22. In the main, responses were in favour of a minimum capacity criteria being applied to phasing, to ensure the policy captures the projects for which it was intended and to minimise administration for Ofgem. Suggestions were made for minimum qualification capacities of 25MW, 50MW and 100MW. A number of responses suggested that as offshore wind stations were likely to be of a substantial size anyway, additional criteria would not be necessary.

Phasing for other technologies

23. A significant proportion (79%) of responses disagreed with the proposal that phasing be limited only to offshore wind stations. Responses suggested that other technologies which take a long time to construct could also benefit from phasing and the policy should not favour offshore wind alone. It was suggested that large onshore wind projects and marine technologies in particular should also be able to benefit from phasing, but other respondents called for any modular project, or any project taking over a year to deploy, should qualify for phasing.

**Proposal for implementation**

A maximum of up to five phases over a maximum of five years.

24. We have decided to allow the option of phased RO support for offshore windfarms that are accredited by Ofgem after 31 March 2011. Once stations have been accredited, generators will be able to register groups of turbines in up to five phases over a maximum period of five years. Each phase would receive up to a maximum of 20 years support from the date the phase is registered, subject to the 2037 end date of the RO.

25. We have decided not to restrict registration to once a year, or require it to take place on each anniversary of accreditation. In order to manage the administrative burden, we will restrict the number of phases to just five, but these can be registered at any time within the first five years of accreditation or in the case of additional capacity, within five years from the addition of that additional capacity.

26. Generators accredited by Ofgem after 31 March 2011 will be required to register a minimum number of turbines equivalent to at least 20% of the accredited installed capacity of the generating station in the first phase. For registration of subsequent phases there will be no minimum number of turbines specified. This is designed to give generators the flexibility to choose the number of turbines they wish to register in all but the first phase, to ensure the maximum amount of deployment is brought forward as quickly as possible. It will also accommodate variations in levels of deployment for different projects.

27. In order to ensure that turbines do not receive more than the maximum permitted 20 years support, electricity generated by turbines that are eligible for registration will not receive ROCs unless the turbine has been registered.

Metering

28. Separate metering of phases within a single generating station will not be required, given the nature and construction of offshore wind generating stations. There are two main situations in which electricity may be generated by such stations that will not be eligible for RO support. First, where electricity is generated from a combination of registered and unregistered turbines. Unregistered turbines may have been installed but are part of the next phase so not yet eligible for RO support. Second, where one or more phases of a generating station continue to generate electricity but are no longer eligible for RO support, because they have exceeded their lifetime within the RO of up to 20 years support. In these circumstances, generators will measure their RO eligible electricity generation on a pro-rata basis, based on the total installed capacity of the RO eligible turbines as a proportion of the total installed capacity of the generating station.

29. In order to ensure that ROCs are not awarded on the output from wind turbines that have not been registered, operators will be required to make a monthly declaration attesting to the fact that the submissions are based on registered turbines only.

30. We agree with the majority of respondents that separate metering of phases may not always be an economic solution. Whilst separate metering would increase the accuracy of data submitted, the degree of alteration required to metering arrangements could be costly and affect the economics of the windfarm.

Banding

31. We agree with the majority of respondents that the band applicable at the point of accreditation should apply to each phase. This provides greater certainty to investors about levels of support over a period of time and accommodates the long construction periods for offshore wind.

32. It is our policy that the relevant band applicable at the time of accreditation of the generating station shall apply to all subsequent phases of turbines forming part of the proposed total accredited capacity. This applies even if offshore wind has been banded up or down since the date of accreditation, in line with the current grandfathering principles. Each phase will be eligible for a maximum of 20 years support, subject to the 2037 end date of the RO.

Additional capacity

33. Offshore wind generating stations accredited before April 2011 that wish to add additional capacity after 31 March 2011 will also be able to receive phased support for the turbines forming part of that additional capacity. It should be noted that the RO already provides for additional capacity to receive up to 20 years of support from the date it first formed part of the station subject to the 2037 end date of the RO. The band applicable at the time the additional capacity first forms part of the station is the band we intend should apply to every phase of that additional capacity.

Phasing for other technologies

34. In our view the challenges faced in construction of large offshore wind farms, such as issues with seasonality and long construction periods, are quite particular to that technology. Whilst other projects may have long project lead in times, they are less likely to be generating significant amounts of electricity on an ongoing basis before the whole project is completed. We are, therefore, not convinced at this time that there is a strong case for bringing in phased support for technologies other than offshore wind. However, given the expected increase in the size of onshore wind developments and of wave and tidal, in particular, we will keep this decision under review.

**Next Steps**

35. Proposals will be implemented in April 2011. Offshore generating stations that are accredited under the RO after 31 March 2011 (or adding additional capacity after that date) will be able to register these turbines in phases. Ofgem will issue guidance as to how phasing will work in practice, and will be available to discuss the process with offshore wind developers.

# Chapter 2: Sustainability Criteria for Biomass and Biogas

**Summary**

- Solid biomass and biogas electricity will need to have a carbon intensity of 285.12 $kgCO_2$/MWh or lower to be eligible for ROCs from April 2013;
- The direct land use criteria will be consistent with the Renewable Energy Directive (RED). We also intend to consider how any proposals to address indirect land use change (ILUC), currently being considered by the European Commission for biofuels, could apply to biomass and biogas;
- Sustainability reporting will also be required on the mass/volume, type of biomass, its format, whether energy crop or production residue, whether an environmental certification has been met, and if so which one, and country of origin;
- Mandatory reporting against the sustainability criteria will be introduced from April 2011 for all generators above 50kW, based on a standard GHG calculating tool to be launched next year;
- From April 2013, generators of 1MW and above will need to meet the sustainability criteria in order to be eligible for support;
- Waste, biomass wholly derived from waste, landfill gas or sewage gas will not need to meet the sustainability criteria and will not need to report on sustainability;
- An expanded Working Group will support the introduction of the criteria, and the development of a sustainable forest management approach.

**Introduction**

36. The ROO 2011 Consultation set out our proposal to introduce mandatory sustainability criteria for solid biomass and biogas. We sought views on the following:

    - A minimum 60% Greenhouse Gas ("GHG") emission saving for electricity generation using solid biomass or biogas relative to the EU fossil fuel comparator (a carbon intensity target of 285.12 $kgCO_2$/MWh or lower).
    - Land use criteria in line with the EU Renewable Directive approach to biofuels and bioliquids.

- Continuation of the current factual reporting requirements on biomass feedstock consignments introduced in April 2009.

- Generators below 1MW will not need to comply with the sustainability criteria, but will need to factually report against these.

- Following a transition phase of mandatory reporting against the sustainability criteria, eligibility to receive support under the RO for solid biomass and biogas will be linked to meeting the sustainability criteria from April 2013.

- The sustainability criteria will not apply to the use of biomass or biogas made from waste, landfill gas or sewage gas.

37. There was significant interest in the biomass sustainability criteria and we received approximately 40 responses per question, from a wide range of stakeholders.

**Main messages from responses:**

Minimum 60% GHG Threshold

38. Responses on whether the minimum GHG emission target should be set at 60% were mixed. Approximately half of respondents, including those from industry, NGOs and trade associations, agreed that a minimum 60% level was appropriate. They felt that 60% was a challenging but achievable threshold that would remove unsustainable feedstock from the market, and improve the wider public image of the bioenergy sector.

39. Respondents that did not agree a minimum 60% target was appropriate formed two distinct groups, around half felt the minimum was too ambitious and half felt it was not ambitious enough:

**a. Not Ambitious Enough:**

This group consisted of a variety of stakeholders including NGOs, individuals and a few generators. The NGOs argued that a 60% GHG target was, in practice, only slightly better than Gas CCGT. They also felt that the EU's default GHG values were too generous to generators, and that more stringent defaults were needed.

There was also a wider concern that the 60% GHG target did not take into account carbon debt: where during combustion, carbon is released very rapidly and the corresponding replenishment through regrowth and replanting occurs over several years or decades (depending on the feedstock concerned).

**b. Too Ambitious:**

This group was formed primarily of generators, who argued that a 60% threshold would put the UK at a competitive disadvantage due to the costs of meeting a higher GHG target. There were some fears that Government going for a 60% threshold instead of the EU's 35% recommendation was gold-plating.

Concerns were also raised about a potential loss of new investment in biomass to markets abroad. Respondents suggested that the competition for capital was global and more stringent sustainability criteria in the UK risks making the UK market less attractive to investors.

Renewable Energy Directive (RED) Consistent Land Use Criteria

40. The majority of respondents (over 75%) agreed that the sustainability criteria restricting the types of land used should be consistent with the criteria imposed on bioliquids by the RED.

41. Most respondents felt that having different sets of land use restrictions would be complex and add to the administration burden for both Government and industry. Industry respondents who used both bioliquids and solid biomass in generation were particularly concerned, arguing that complying with separate land use restrictions would be difficult and expensive. Some respondents requested greater clarification on the term 'highly bio-diverse grasslands'.

42. Those that did not agree were mainly NGOs, who considered that the RED land use criteria are not robust enough. Of particular concern, was the lack of indirect land use change (ILUC) criteria and in some instances social criteria. However, respondents acknowledged that the Commission is currently working on ILUC, and this is likely to inform future policy on the matter. There was also concern from both NGOs and industry on the ability to ensure sustainability outside of the EU and need for sustainable forest management in the UK.

Reporting Requirements

43. The majority of respondents (over 80%) agreed that generators over 50kW should be required to report against the sustainability criteria from April 2011.

44. There was an acknowledgement that the Government needed to be aware what types and amounts of feedstock were being used across the biomass sector.

45. There was also general, but not total, agreement that obliging sub-50kW generators to report could be costly, and may discourage small scale or domestic power generation. Some respondents, primarily trade associations, disagreed. Typically, they felt that the 50kW minimum reporting requirement was too low, and this would oblige many small scale users to report at significant administrative cost. Therefore, these respondents suggested a higher minimum threshold (between 200kW - 1MW).

Phased Introduction

46. The vast majority of respondents (over 90%) agreed with our proposals that for biomass generators of 1MW and above there should be a transition period of mandatory reporting against the sustainability criteria from April 2011, before compliance is linked to the receipt of ROCs from April 2013.

47. Respondents suggested that this would allow enough time to develop robust guidance and iron out any issues that may arise before criteria are linked to ROCs. More specifically, generators believed that this would give them enough time to familiarise themselves with the GHG calculation methodology, default values and the calculation tool.

48. However, industry respondents requested rapid clarification on the GHG calculation methodology and default values. They also requested a single standardised centrally-owned GHG calculation tool used by all generators for simplicity and parity.

Waste

49. There was almost unanimous agreement that waste, landfill and sewage gas should be excluded from the sustainability criteria. Respondents agreed that using waste in electricity generation was more productive than sending it to landfill or not using it all, and this is in accordance with the EU Waste Hierarchy. Only one respondent disagreed.

Other Issues:

Changing comparator

50. There was concern over the EU's recommended comparator figure for EU-wide fossil fuel electricity (712.8 kg$CO_2$/MWh). If the composition of fossil fuel generation on the EU grid changes this figure could fall, and therefore clarity was sought on whether standards would be made higher in the future.

Sustainable Forest Management

51. There were also important issues raised concerning the risk of large-scale imports of woodfuel resulting in deforestation in developing countries and other unintended social and environmental consequences. Several respondents called for a requirement for all wood used for energy to be certified by the Forestry Stewardship Council (FSC) or its equivalent. However, this was counterbalanced by those who considered the cost and complexity of the current standards was a primary driver for around 40% of the UK's forests and woodlands, by area, not being under an active management, and the missed economic, social and environmental opportunity this represented.

**Proposals for implementation:**

52. Based on the responses received we will introduce the solid biomass and biogas sustainability criteria as proposed.

53. On balance, we have decided to **keep the target at 60% of current EU fossil fuel comparator**, which represents a maximum carbon intensity of **285.12 kg $CO_2$ per MWh**. We recognise that other EU Member States may choose to set less stringent targets, at least initially. However, in the new National Policy Statement for Renewable Energy (EN-3) we set out that our chosen approach to ensure biomass sustainability is through a credible national scheme linked to financial incentives. This means we need to set an ambitious but

achievable target in order to demonstrate that new and existing bio-electricity generation will deliver real $CO_2$ benefits.

54. Regarding proposals to set a higher target, we would want to emphasise that 285.12 kg $CO_2$ per MWh is a maximum. We would expect that plants will compete to outperform this target as further evidence of their commitment to deliver on their social and environmental responsibilities, as well as delivering healthy financial returns to their investors.

55. We are also aware of concerns regarding the potential change of the EU's fossil fuel electricity comparator as the grid decarbonises. **To avoid this uncertainty, the target will be set as a specific carbon intensity figure (285.12 kg$CO_2$/MWh or lower)** rather than based on a comparator that could change over time.

56. In response to requests for a single GHG calculation tool, DECC, Ofgem and the Environment Agency will jointly develop an easy to use **lifecycle tool**, to calculate GHG savings associated with bioenergy generation from the cultivation of the feedstock to processing and transportation. Alternative tools may be used subject to Ofgem's discretion as the administrator of the sustainability criteria.

57. We believe that a freely available tool, designed to be as simple to use as possible, will mean we can keep the **minimum reporting level at 50kW capacity**. This would be a continuation of their current reporting requirement with the addition of a GHG estimate and provision of the available information on land use.

58. We understand that some other Member States also intend to introduce sustainability criteria. We will work closely with these countries to share the UK's experience.

59. Stakeholders were in broad agreement of the importance of providing timely clarification on various technical issues such as the GHG calculation methodology and the definitions of land with high biodiversity value or having a high carbon stock. This will be provided through **Ofgem guidance,** supported by the GHG tool, to be developed and launched in 2011.

60. Finally, one of the most important aspects will be ensuring our biomass sustainability criteria include good forestry management for imported and domestic woodfuels, without which there is the potential for serious environmental degradation of forests. The detail of this requirement needs to be developed further in close conjunction with the Forestry Commission; however this will be based on our established risk-based approach, build on existing standards wherever feasible, and balance the burden for managers of small woodlands with adequate protection for the environment.

**Next Steps:**

61. Further work will be informed by a **Biomass & Biogas Sustainability Criteria Implementation Group**, bringing together industry representatives responsible for successfully introducing criteria within their companies, together with representatives of

Ofgem, Government Officials, NGOs, local government and the devolved administrations. This group will provide advice on outstanding technical and scientific issues.

62. This Group will be based on the existing biomass & biogas stakeholder working group, but expanded to include additional industry representatives who are responsible for the practical implementation of criteria within their organisation.

63. In particular the Group will be tasked with:

- contributing to the successful development of guidance on sustainability criteria and the GHG lifecycle tool;
- supporting the development of a sustainable forest management approach which will robustly protect global forests and enable small UK woodlands to brought under active management, delivering important biodiversity benefits and new opportunities in our rural areas; and
- feeding into Government's considerations of how best to take forward the EU's forthcoming report on indirect land use change and biofuels, with respect to its implications for biomass and biogas.

64. We are very grateful for the valuable work this stakeholder group has already done to help develop the proposals set out in this chapter.

# Chapter 3: Bioliquids Sustainability

**Summary**

- Eligibility for receipt of ROCs for electricity generated from bioliquids will be dependent upon demonstrating that the sustainability criteria have been met from 1 April 2011
- Generators will be required to have an independent audit to verify that their data and systems for demonstrating compliance with the sustainability criteria are accurate, reliable and protected against fraud. ISAE 3000 or equivalent is regarded as an adequate standard for the independent audit
- Where an audit report has not been provided by 31 May following the Obligation period, Ofgem must postpone up to an equivalent number of ROCs until the report is provided
- Biodiesel partially derived from fossil fuel will be included in the RO. ROCs will only be rewarded on the biomass proportion of its energy content
- Generators using bioliquids will be required to continue to report the information under Article 54 to ensure consistency with solid and gaseous biomass reporting requirements set out in Chapter 2.

**Introduction**

65. The Renewable Energy Directive (RED) requires that bioliquids used to generate electricity must meet the sustainability criteria it sets out in order to be eligible for financial support or to count towards compliance with renewable energy obligations. Therefore, we intend to introduce a requirement that electricity generated using bioliquids must use bioliquids that meet the sustainability criteria in order to be eligible for ROCs. This requirement will take effect in the next Obligation period, starting April 2011.

66. In order to achieve this we consulted on a number of implementation issues. We further proposed that Ofgem would administer these changes.

**Main messages from responses**

67. The vast majority of respondents agreed with all of our proposals and understood the strong drivers behind the RED requirement. We are grateful for the additional suggestions received, particularly on what standard independent verifiers must demonstrate, and where appropriate we are pursuing these. We are also grateful for those companies, trade associations and NGOs who have continued to work with us looking at these issues

through the bioliquids sustainability group. We will continue to keep in touch with interested parties regarding the work of this group.

Sustainability criteria

68. Most respondents (79%) agreed with our proposals that the Renewable Fuels Agency (RFA) calculator should be able to be used to demonstrate GHG savings, though they pointed to the fact that not all bioliquids were included in it.

Demonstrating Compliance

69. Nearly all respondents (86%) agreed that ISAE 3000 was an adequate standard for independent auditors to demonstrate, though some suggested that there were others which could meet this requirement including ISO 16064 and some international standards.

70. Most respondents (81%) agreed that Ofgem would need an enforcement power to revoke or withhold ROCs where information was not provided or was incorrect, though generally withholding ROCs was favoured over revoking.

71. No respondents identified any other reasons than sustainability why any bioliquids should remain excluded from the RO. A number welcomed the inclusion of biodiesel.

Article 54 Sustainability Reporting

72. The need to retain the reporting requirements under Article 54 – for that information not included in the RED so as to ensure consistency with solid and gaseous biomass reporting requirements under the RO - was recognised and agreed with by most respondents (84%), though some were concerned that this should not lead to double reporting.

Other Issues

73. Ofgem requested that the independent audit reports be provided by 31 May following the Obligation period rather than, as suggested in the consultation document, the 31 December. The reason for this is that it allows Ofgem time to check that the sustainability information provided in respect of generation in the relevant Obligation period is correct prior to issuing any further ROCs on generation with such fuels for that Obligation period.

**Proposals for implementation**

74. On the basis of the responses we are not, therefore, minded to make any significant changes to our proposals.

Sustainability criteria

75. With regards the means of demonstrating GHG savings we will encourage the use of the RFA calculator where suitable, however this does not preclude generators providing figures calculated through other tools so long as they can be verified by the independent audit.

Demonstrating Compliance

76. We will deem ISAE 3000 or equivalent to be an adequate standard for the audit report. We are currently considering if there are any other standards which would also be appropriate. We are mindful that it is imperative that verifiers are able to work to a standard which is consistent across the RO and RTFO.

77. Following a request from Ofgem, we have decided to move the date for the audit report to be provided to 31 May following the Obligation period from 31 December as previously proposed. The first audit reports, therefore, will be required by 31 May 2012 at the latest.

78. This change is to allow Ofgem time to check that the sustainability information provided in respect of generation in the relevant obligation period is correct prior to issuing any further ROCs on generation with such fuels. In addition, it provides comfort to the ROC market in that the likelihood of ROCs issued on unsustainable fuels being redeemed by suppliers is reduced.

79. This will mean that Ofgem will be able to carry out lighter touch monitoring of the GHG and land use information.

80. In the event that a generator fails to provide the audit report by 31 May, Ofgem must postpone the issue of an equivalent number of ROCs until such time as the audit report is provided.

Biodiesel

81. Biodiesel partially derived from fossil fuel will be included in the RO from 1 April 2011.

Article 54 Sustainability Reporting

82. We will retain those reporting requirements under Article 54. This is to ensure there is consistent reporting between bioliquids and solid and gaseous biomass.

Other Issues

83. Under the RED, wastes and certain residues are exempted from having to comply with the land use sustainability criteria. The definition of both wastes and residues has been a matter of some interest for generators. We have defined wastes by reference to the Waste Framework Directive which we believe is robust and ensures consistency with other Government policies on waste. However, there is no comprehensive definition of residues. We are working with the EA, DFT, DEFRA and Ofgem to determine whether it is possible to give clearer guidance on those residues which are not wastes and we will ensure the results of this are reflected in Guidance as appropriate.

84. Some of the detail of the RED sustainability criteria has been left to EU Commission decisions. This includes the definition of highly biodiverse grasslands. In the absence of Commission decisions we will not be able to include provision for them in the ROO for April

2011. We will seek to introduce amendments to implement the Commission decisions as soon as practical, once they have been made.

**Next Steps**

85. We will continue to work with the bioliquids sustainability working group to ensure that as many issues are resolved as possible and dealt with in Guidance or other routes as appropriate.

# Chapter 4: Refurbishment and Replacement

**Introduction**

86. We asked for views on whether we should introduce additional RO support for accredited stations where the main generating components are refurbished or replaced, given that this is likely to extend the lifetime of the station beyond the original expectation, at a lower resource and carbon cost than building new capacity.

87. Given the potential for such conversions to increase the amount of deployed renewable energy, we also sought views on whether the RO should support generators converting existing co-firing generation to dedicated biomass. We requested views from respondents as to the correct level of support for such projects.

**Main messages from responses**

Refurbishment, replacement and re-powering

88. Responses to the proposal in principle were largely positive, with over 80% of responses to this question agreeing to additional support being provided. However some respondents felt that generators already received sufficient RO support or felt that this was not an issue that needed to be considered at present.

89. There was broad agreement (again around 80% of responses) that only major refurbishment or replacement should receive support, although concerns were raised regarding how this could be defined. Whilst most responses suggested that this would need to differ by technology, little substantial evidence came forward as to how these terms could be defined in practice. A number of respondents (predominantly generators) suggested that the costs of repowering a windfarm are not substantially different to the costs of new build, given the need for new planning consents, new infrastructure and new grid reinforcements. It was therefore suggested that repowering should be treated differently to other forms of major replacement or refurbishment and was likely to need similar levels of support to new stations.

90. Approximately 80% of respondents agreed that stations undergoing major replacement or refurbishment should receive less support than new build (with the exception of wind repowering). However there was no general consensus as to whether less support should come in the form of a lower banding level, a shorter duration of support or a combination of the two. Approximately 38% of responses preferred the proposal for a shorter duration of support, 23% suggested a lower level of support would be more appropriate, 14% thought there should be a combination of the two and a further 14% felt that further evidence was needed before a decision could be taken. Concern was raised with regards to a need to ensure that stations receiving additional RO support were not more competitive than new stations when purchasing fuel. Around 10% of responses suggested a shorter duration of

support should be introduced for all technologies other than those that would need to purchase fuel.

Co-firing stations converting to dedicated biomass

91. 89% of respondents on this question agreed that we should support conversion of existing co-firing generation to dedicated biomass under the RO.

92. There were some suggestions that the level of support should be the same as that available to new generation accrediting under the RO. There was some concern that if additional support was provided this would represent poor value for money as the majority of the costs of coal fired generation in the UK would have already been recovered.

**Next Steps**

Refurbishment, replacement and re-powering

93. Given the general support for this proposal and the potential to maximise resources, creating value for money for the consumer, we believe this is an issue that needs to continue to be considered.

94. DECC are currently consulting on options for a new support mechanism for low carbon technologies as part of the work on Electricity Market Reform (EMR). As the interest in refurbishment, replacement and repowering is likely to become more significant over time, our view is that it will be more appropriate to consider this issue as part of the work on any new support mechanism introduced as part of the EMR.

Co-firing stations converting to dedicated biomass

95. We remain of the opinion that conversion of co-firing generation to dedicated biomass generation has a great deal of potential to help us meet our renewables targets. We are aware of a number of potential projects which could significantly change the generation landscape, bringing forward large amounts of dedicated biomass generation to very short timetables and for less cost to consumer than new build generation. We therefore remain committed to looking at this in more detail.

96. As set out in the consultation document, we have included the conversion of co-firing generation to dedicated biomass generation in the RO banding review. The costs and deployment work is currently underway and is expected to report in Spring 2011. This will inform decisions regarding the appropriate level of support for this technology, which we will consult on in Summer 2011.

97. Our consultation document set out a number of options:

    (i) allowing converted stations to re-accredit under the new technology band at the same level and for the same duration as new stations (i.e. an additional 20 years, subjects to the 2037 end date); or

(ii) allowing converted stations to re-accredit under the new technology band at a lower level/for a reduced amount of time (as we are proposing for other forms of major refurbishment or replacement.)

98. We are still considering these options, but our preferred option would be to allow converted stations to re-accredit under the new technology band at a lower banding level, as we believe this will more accurately reflect the costs of the conversion and ensure that we do not overcompensate these projects.

99. An alternative, or additional, option might be to change the levels of support for co-firing depending on the proportion of generation from biomass. This would allow fossil generators to convert one or more boilers to biomass, biogas or bioliquid, whilst maintaining fossil generation in their remaining boiler(s). This could work by having differing levels of support for e.g. up to 3% biomass generation; 3-10%; 10-20%, 20-50% and 50% plus. As co-firing is not grandfathered we would be minded to apply any such new band to all new and existing co-firers.

100. We will look at these options and consult as part of the banding review in Summer 2011.

# Chapter 5: Renewable Heat Support

**Introduction**

101. Following the close of this consultation the CSR announcement on 20 October 2010 made clear that a Renewable Heat Incentive (RHI) would be introduced in 2011. A Policy Document setting out the detail on the RHI as well as draft RHI legislation will be published shortly.

102. Owing to the importance of decisions under the RHI we will leave the RHI Policy Document to address how the transition will work. Our intention remains that existing stations will continue to be supported under the RO, while new stations as of 2013 will be eligible for support under both support mechanisms receiving ROCs for their electricity and RHI support for their heat. This is to ensure that projects are not over-compensated as a result of receiving support under the RO and the RHI.

**Main messages from responses**

103. The vast majority of responses agreed with our proposals and commented that they were consistent with those proposed by the RHI consultation previously. A number of respondents to this section requested greater clarity on the RHI implementation.

104. However, the majority of respondents (60%) disagreed with our suggestion to remove the CHP uplift for stations accrediting after 31 March 2013. From comments made this was mainly due to uncertainty about when the RHI might be available.

105. On the questions whether to retain the CHPQA requirement for stations retaining the CHP uplift under the RO the vast majority agreed with this proposal (92% and 91% for EfW with CHP).

**Next Steps**

106. The Banding Review – currently underway – is looking at what the appropriate level of support for CHP (the CHP uplift) might be in the future, in conjunction with ongoing work to develop the RHI approach to CHP.

# Chapter 6: Mutualisation

**Introduction**

107. We issued a call for evidence as to whether the mutualisation cap and trigger should be amended, given the move to setting the Obligation size through the headroom mechanism.

**Main messages of responses**

108. Views were generally split regarding whether there was a need to change the mutualisation trigger. Just over 40% of respondents felt the trigger should be maintained as it is, given that under headroom the recycle level will reduce and therefore the impact of a shortfall will also be reduced. Just under 40% of responses suggested a need for the trigger to be changed and to be set annually in proportion to the size of the obligation. Several respondents suggested that changes for 2016/17 should be considered closer to the time. Around 60% of respondents suggested a need for the mutualisation cap to be changed so that there was a link between the cap and the size of the obligation.

109. Of those responses that felt the mutualisation trigger should be changed, nearly all suggested the trigger should be set in proportion to the Obligation. For example, if the Obligation was set at 0.124ROCs/MWh, the trigger would be £12.4million. One response suggested the trigger should be set as 1% of the actual obligation and then adjusted by the same Retail Price Index factor used to adjust the buyout fund.

110. Around 80% of respondents agreed that mutualisation payments should be capped, and adjusted as they are now in line with inflation, to provide certainty by ensuring that liability is known. Those who disagreed argued that the impact of a supplier defaulting was the same whatever the level of the obligation and the shortfall amount needs to be recovered in full. It was also suggested that there could be a cap in relation to size for small generators.

111. Approximately 64% of responses did not consider that small suppliers would be disproportionately affected by significant increases in mutualisation fund payments given that the impact would be relative to the size of their supply. It was suggested that in the event of a very large shortfall small suppliers could spread payments over more than one year, particularly as a large increase in mutualisation fund payments could have significant cash flow implications for smaller suppliers.

**Next steps**

112. We will not make any change to the mutualisation rules at this time. However, in the longer term we will consider amending the cap and trigger in line with the increasing size of the Obligation as set by the headroom.

Department of Energy & Climate Change

3 Whitehall Place

London SW1A 2AW

www.decc.gov.uk **URN : 10D/1017**