

RTFO Guidance consultation - summary of responses and Government response

Contents

Foreword	3
General questions and responses.....	4
Letters and responses not related to specific consultation questions	4
General questions.....	5
RTFO Guidance Part One: Process Guidance.....	7
General issues.....	7
Chapter 1: Accounts	8
Chapter 2: Obligation.....	9
Chapter 3: Volumes submission	13
Chapter 4: RTFCs.....	16
RTFO Guidance Part Two: Carbon and Sustainability Guidance.....	23
Chapter 2: Reporting biofuel carbon and sustainability information	23
Chapter 4: Demonstrating compliance with the land criteria	27
Chapter 5: Demonstrating compliance with the greenhouse gas savings criteria	31
Chapter 6: Reporting actual carbon data and assessing the impact of land- use	33
Chapter 7: Demonstrating compliance with the mass balance rules.....	36
Chapter 8: Wastes and residues.....	37
Chapter 9 - Appointing a verifier	45
Annex A: Guidance on recognition of voluntary schemes.....	46
Annex B: RTFO Biofuel Sustainability Standard criteria and indicators	50
Annex C: Known future updates to RTFO C&S reporting	51
Annex D: Example chain of custody records	53
RTFO Guidance Part Three: Guidance for Verifiers.....	55
Organisations that responded to the consultation	60
List of respondents	60
Respondents by organisation type.....	61

Foreword

Since its launch in 2008, the Renewable Transport Fuel Obligation (RTFO) Order has been the UK's primary regulatory mechanism for increasing the volume of biofuels used in road transport and encouraging the sustainability of those fuels.

The RTFO Order has now been amended to implement the transport elements of the EU's Renewable Energy Directive (RED). This means that there have been a number of significant changes to the way that industry must report biofuel volumes supplied to the UK and the carbon and sustainability (C&S) data associated with these fuels. Key changes include the introduction of mandatory C&S criteria and a new approach to the way fuels from wastes, residues and other low-impact feedstocks are incentivised. In addition, C&S data must now be verified before certificates are awarded.

The RED was implemented in the UK on 15 December 2011. The Department for Transport's RTFO Unit has developed comprehensive guidance that covers process, C&S reporting and the required standards for verifying data.

This document sets out a summary of the responses received to the Department for Transport's "Consultation on the Renewable Transport Fuel Obligation (RTFO) Guidance following Renewable Energy Directive (RED) implementation" and the Government's comments on those responses.

The consultation period began on 7 November 2011 and ran until 4 December 2011. The consultation was published on the Department for Transport (DfT) website:

<http://www.dft.gov.uk/consultations/dft-2011-31>

We would like to thank all those who took the time to respond to this consultation. It is crucial that we had this opportunity to understand the concerns of those involved in the biofuels industry, the fossil fuel market, related supply chains and others who responded.

General questions and responses

Letters and responses not related to specific consultation questions

Summary of stakeholder responses

A number of respondents used covering letters to make observations about issues that were not dealt with by questions in the consultation. Most of these related to wider policy issues outside the scope of this consultation and have therefore not been listed here, except where clarification is appropriate.

Common concerns and comments included:

- Concerns regarding the brevity of the consultation period for the guidance and the gap between implementation of the Renewable Energy Directive (RED) and publication of the final guidance.
- Recognition that the RTFO Unit is seeking to give clear and extensive guidance to both the obligated suppliers and the verifiers.
- Calls for harmonisation of waste definitions across the EU.
- Calls for ongoing stakeholder engagement and dialogue post-implementation.
- Observations that the updated verifiers' guidance demonstrates improved understanding of assurance.
- Concerns that mid-year implementation brings increased risks of mis-reporting. There will also be a risk in the future as the European Commission takes a position on currently unresolved issues such as ILUC and highly biodiverse grasslands.
- Requests that it is possible to report 'unknown' on the administrator's IT platform ROS until the information is available. Trying to submit 'unknown' should result in an error message.

Government response

Suppliers' concerns about timing of the publication of the final guidance are recognised by the Administrator. Where there are differences between the draft and the final guidance, a pragmatic approach will be taken in assessing any information affected by the changes between the draft and final guidance.

Instructions were issued to suppliers in December 2011 on how to deal with the key issues that have changed.

On EU harmonisation, the Administrator continues to work with other Member States in fora such as CA-RES and REFUREC to deliver alignment where possible.

Stakeholder engagement on the future development of the RTFO guidance will continue.

On mid-year implementation, the legislation is already in place and there are no plans to delay publication of the guidance.

On ROS functionality, suppliers will be able to save incomplete administrative consignments, but not forward them to verifiers and hence can not submit them to the Administrator.

General questions

Q1. Is the overall structure and format of the guidance helpful?

Yes	No	Neutral or other comments
19	0	0

Summary of stakeholder responses

Those that responded to this question were all positive. Any concerns that were raised related to issues addressed by later questions and are summarised where those questions are discussed. Comments included:

- The guidance was generally considered well-structured and clear
- Dividing the guidance into three distinct sections was popular with most respondents

Government Response

The current structure and format of the guidance has been retained.

Q2. Does it reflect the Government's announced policy on biofuels and RED implementation correctly?

Yes	No	Neutral or other comments
14	2	1

Summary of stakeholder responses

Many commented on the policy here, rather than how the guidance interprets it.

- Several biofuel suppliers expressed concerns over removal of the used cooking oil (UCO) duty differential
- There were also concerns that double counting will mean a drop in value of Renewable Transport Fuel Certificates (RTFCs)
- Several raised the need for ILUC to be addressed at a European level

Government response

- The issues raised are outside the scope of this consultation. Concerns have been passed on to relevant officials within the DfT where appropriate.

Q3. Is there anything missing from the guidance?

Yes	No	Neutral or other comments
13	5	0

Summary of stakeholder responses

Most comments here referred to information missing from the RED rather than the draft guidance. These are outside of the scope of this consultation. Specific examples where respondents thought there were omissions from the guidance included:

- A number of respondents had questions about how gains and losses of fuel volumes and adjustment of the corresponding C&S data should be treated
- A small number stated that the methodology for defining whether a raw material is a waste or a residue should be included in the guidance

Government response

The issues raised are covered in the sections on Process Guidance and Carbon & Sustainability Guidance below.

RTFO Guidance Part One: Process Guidance

General issues

A number of issues were raised by one or more respondents under one or more questions or in general communications attached to the response form. We have summarised these issues here rather than under specific questions.

- Requests were made asking for a 'soft start' to the assessment of sustainability, with specific requests being made to not assess the sustainability of renewable fuels supplied between 15/12/11 and the end of the Obligation Period on 14/04/12.
- That FAME should not be treated as 100% renewable for RTFC issuing or that other partially renewable fuels should be treated as 100% renewable as FAME is.

Government response: Both of these matters were consulted upon in the policy consultation and hence are not a matter for the guidance consultation.

- That HGV fleets that own fuel at the duty point be eligible of the claiming of RTFCs

Government response: Any entity that owns renewable transport fuel at the duty point is eligible to apply for RTFCs.

- That a more robust process of verification be introduced for double counting feedstock.

Government response: The Guidance for Verifiers was amended to include reference to the need for verifiers to be aware of the fraud risks concerning double counting and this is a matter that we will keep under review.

Chapter 1: Accounts

This chapter sets out how RTFO accounts should be opened, managed and, if necessary, closed.

Q4. Is sufficient guidance provided to suppliers on how to open, manage and close RTFO accounts?

Yes	No	Neutral or other comments
14	2	0

Summary of stakeholder responses

14 respondents agreed that Chapter 1 provided sufficient guidance on how to open, manage and close RTFO accounts. Two respondents disagreed.

Specific comments:

- 1) One respondent raised two issues that related to the impact of the new verification requirements upon cash flow.
- 2) One respondent raised concerns that the definition of diesel as all fuels within CN code 2710 19 41 means that any 'synthetic' diesels produced from renewable material will be considered diesel for the purpose of the RTFO.
- 3) Two respondents raised questions concerning whether RTFCs can be rolled over indefinitely, and how this relates to the carry-over provisions and account closure.
- 4) A verifier requested further guidance on the level of information and identification required to for verifiers to open an account on ROS.
- 5) One respondent suggested adding an additional HMRC duty code to the list set out in Chapter 1, to cover both Compressed Natural Gas that can be bio-methane (biogas) and Liquefied Petroleum Gas that can be bio-propane.

Government response

- 1) This is a matter that was considered in the policy consultation and is therefore not a matter for the guidance consultation.
- 2) Whilst 'synthetic' diesels are indeed covered by this CN code, the RTFO Order does not preclude any fuel that is classified as diesel (or petrol) from counting as a renewable fuel. The guidance on this has been clarified.

3) The text relating to closure of accounts has been amended to “An account will not be closed where there are still certificates that can be redeemed against an obligation in the account.” The reference to “surrender” has been removed as the Administrator is only prevented from closing an account when there are RTFCs that may be redeemed against an obligation. In practice this means that accounts containing either the current or the previous year’s RTFCs can not be closed.

The ‘carry over’ provisions for RTFCs are set out in the RTFO Order and are that 25% of an obligation can be met with RTFCs issued in the prior period.

4) In relation to the request for clarification on verifiers’ opening of accounts: verifiers will not be opening accounts under the RTFO. However they will be granted access to suppliers’ accounts on ROS. In order to manage this process and reduce the risks of incorrect access to data, we will be ensuring that all verifiers granted such access have a genuine need to do so. We have added guidance into Chapter 1 to reflect this.

5) The duty code for LPG has been added.

Chapter 2: Obligation

This chapter sets out how the obligation is calculated, including how unsustainable renewable fuels are treated and how partially renewable fuels are treated.

Q5. Is sufficient guidance provided to suppliers on how their obligation will be determined?

Yes	No	Neutral or other comments
13	3	3

Summary of stakeholder responses

Two respondents stated that the chapter did not provide sufficient guidance; however the matters they were seeking further clarification on do not relate to this chapter.

1) A verifier who stated that the chapter did not provide sufficient guidance, suggested a number of minor textual changes to clarify various aspects of this chapter.

2) Two respondents requested clarification in the guidance of the way in which the calculation of the obligation works, in particular how the ‘running calculator’ of obligation on ROS relates to the final determination of the obligation, and whether biofuel will remain classified on ROS as fossil fuel until RED compliance and award of RTFCs.

3) Four respondents suggested that the status of unsustainable renewable fuels in section 2.13 be clarified, to make clear that the renewable volume that does not pass the sustainability criteria will be added to the volume for the calculation of the obligation.

4) Two respondents suggested minor changes to figure 2.1 to clarify its logic.

Government response

1) Where relevant these have been accepted.

2) Text has been added to the relevant paragraphs in Chapter 2 to clarify how the obligation works and how the ROS obligation calculator relates to final determination of the obligation.

3) In relation to the section regarding status of unsustainable renewable fuels, we have clarified that the obligation is not formally calculated until the end of the obligation period and that the informal ‘running total’ on ROS will alter when RTFCs are issued for the fuel in question. Where fuel suppliers have specific queries on this subject they correspond with the RTFO Administrator directly.

4) Minor changes have been made to figure 2.1 as suggested.

Q6. The RED lists bio-tertiary-amyl-ethyl-ether (TAEE) as a partially renewable fuel in Annex III. However it does not provide a percentage for the renewable content by volume derived in the same way as those for MTBE and ETBE in the 2003 Biofuels Directive. What is the correct percentage from renewable sources, on a volume basis, to apply to TAEE produced on the basis of bioethanol? The approach detailed in the section entitled “partially renewable fuels” should be used to derive this figure.

Gave percentage	Didn't give percentage	Neutral, no or other comments
6	0	5

Summary of stakeholder responses

Six respondents responded with a percentage calculated for bio-TAEE.

One biofuel supplier responded that there are a two production pathways for TAEF which can have different amounts (but fixed per pathway) of renewable material in it.

Government response

We have reviewed the submissions made and as:

- The information provided to support the suggested renewable percentage TAEF did not provide sufficient detail
- It is unclear which of the two potential production pathways this suggested percentage renewable relates to

We have been unable to make an assessment on bio-TAEF at this point. We will, as with all partially renewable fuels, keep this matter under review should additional information be supplied to us.

Q7. Are there any additional partially renewable fuels where the renewable element will always be the same percentage of the final fuel that should be included in Table 2.2? If so, what are they and what percentages should be used (please provide supporting evidence using the approach detailed in the section entitled “partially renewable fuels”)?

Suggested additional fuels with percentages	Suggested without percentage	Did not anticipate any additional fuels	No answer
1	2	10	6

Summary of stakeholder responses

One respondent suggested the inclusion of methanol derived from geological sources and biodiesel from a number of different biological sources.

Respondents to this question suggested a number of additions to the guidance relating to partially renewable fuels.

Government Response

Methanol derived from geological sources does not count as a renewable fuel under the RTFO as it is not derived from biological sources. The suggested inclusion of algae, corn oil and free fatty acids as new fuel types confuses the difference between a fuel type and the feedstock from which it is derived.

The following issues have been added or clarified in the guidance either as requested by respondents or following review by the Administrator:

- The fully renewable fuels that the administrator is aware of have been added to the table of renewable fuels. This table has been moved to a separate document within the guidance and will be reviewed as new renewable fuels or production pathways are submitted to the administrator.
- That new fuels or existing fuels from new production pathways that are not included in this table are not precluded from being eligible for RTFCs, however the Administrator must be satisfied as to the percentage renewable element of these fuels or production pathways before RTFCs will be issued.
- That there is no requirement to inform the administrator in advance of supplying a new wholly or partially renewable fuel or an existing one from a new production pathway, but the Administrator will not issue RTFCs for any such fuel until it is satisfied as to the renewability of that fuel.
- The process for providing the Administrator with evidence as to the renewability of a new fuel or production pathway.
- How the fossil methanol derived part of FAME is treated for the purpose of assessing sustainability.

Q8. A) Is the approach detailed in the section entitled “partially renewable fuels” for fuels where the renewable element will form a variable percentage of the final fuel sufficiently flexible to enable the Administrator to deal with any partially renewable fuels that might be provided?

Yes	No	Neutral, or other comments
7	6	0

Summary of stakeholder responses

Four fuel suppliers and their representative organisations requested that the Administrator consider matters such as whether agreements on the percentage renewability of a fuel by another Member State would be regarded as satisfactory within the UK. No specific alternative/ additional approaches were suggested by respondents.

Government Response

Given the potential for different approaches to be taken by different Member States and therefore for fuels produced in the UK to be treated differently to those produced in other Member States, we will deal with any such issues on a case by case basis, either by assessing a new 'generic' percentage of renewable content or through a production plant specific methodology.

Q8. B) Is the C12/C14 ratio methodology the correct methodology to use in this circumstance?

Yes	No	Neutral, or other comments
10	1	0

Summary of stakeholder responses

Comments from many of the respondents indicated a general misunderstanding of the request that suppliers provide six month's notice of a new fuel/production process in order for the Administrator with this being interpreted by industry as a requirement.

Five respondents also asked whether the ASTM D6866 C12/C14 testing procedure would be acceptable.

Government Response

The guidance has been amended to clarify:

- That there is no requirement to inform the Administrator when supplying a new renewable fuel or an existing one from a new production process.
- That the Administrator will not issue RTFCs until it is satisfied of the percentage renewability of a new renewable fuel or an existing one from a new production process.
- A supplier may apply to the Administrator for an assessment of the renewability of a new fuel.

We will consider whether, and if so which, C12/C14 testing methodology is appropriate on a case by case basis.

Chapter 3: Volumes submission

This chapter explains how volumes should be reported to the Administrator.

Q9. In Chapter 3: Volumes submission, is sufficient guidance provided on how to report on volumes of fuels supplied?

Yes	No	Neutral, no or other comments
16	1	0

Summary of stakeholder responses

One fuel supplier asked that the guidance be added to, to cover specific examples of errors in fuel volume calculations or losses.

Government Response

We believe that the approach set out in the guidance, of effectively mirroring HMRC’s approach to reporting on volumes of fuels, provides adequate guidance. The guidance has been added to, to clarify that, for non obligated suppliers, zero volumes to do not need to be reported.

Where suppliers have specific queries about fuel volume calculations, they may raise these directly with Administrator as part of the monthly volume validation process.

Q10. Will there be any unintended consequences to the approach set out in the section entitled “what to submit” regarding how the subsequent movement of fuel back across the duty point (and hence exclusion from the RTFO) in a different obligation period will be dealt with?

Yes	No	Neutral, or other comments
2	10	1

Summary of stakeholder responses

Four respondents questioned how the Administrator will know when fuel is supplied outside of the UK road market and whether RTFCs for biofuel that is subsequently supplied outside of the UK road market need to be revoked.

One respondent requested clear guidance, either in the guidance document or at training workshops, on treatment in this circumstance by terminals, HMRC and suppliers.

Government response

The Administrator works with HMRC to monitor volumes that are moved out of the UK road fuel market after they have originally been dutied for supply to that market. In the unlikely event that a supplier and/or the terminals operating on their behalf is unclear as to how to record such fuel movements for duty purposes, they should seek advice from HMRC.

We are also working with other Member States to develop systems to track movements between relevant Member States. Where a supplier wishes to prove that a volume that was originally supplied to the UK road transport market has been removed from that market and where there is no HMRC collaboration of this, then independent proof must be supplied by the supplier.

Q11. Are there any unintended consequences of the approach for recording denaturant in ethanol and the fossil/renewable elements of partially renewable fuels set out in the section entitled “what to submit”?

Yes	No	Neutral, or other comments
4	9	0

Summary of stakeholder responses

- 1) Eight respondents asked that it be made clear that any fossil denaturant would be considered to be a fossil fuel for the purposes of the RTFO.
- 2) One respondent asked that we ensure that HMRC require fossil denaturant to be recorded as a fossil fuel (presumably to simplify the validation process). Several respondents also requested that more precise information be given as to how to verify the actual denaturant level, and how will this be handled if the quantity is not known.
- 3) Five respondents also requested that renewable denaturant be covered in the guidance. One respondent suggested clarification of the treatment of Bitrex, and the corresponding methanol, as a denaturant.

Government response

- 1) We consider that this section of the guidance already makes it clear that any fossil denaturant would be considered to be a fossil fuel for the purposes of the RTFO. The use of ‘petrol’ as an example does not invalidate the general guidance in this section.

2) We will discuss the recording of fossil denaturant with HMRC to try to ensure consistency, however we have clarified in the guidance that where a supplier is recording the fossil denaturant against a fossil duty type, it does not then need to be recorded separately on ROS. We have clarified that where individual suppliers have 'local arrangements' with their local HMRC office, they should discuss this with the Administrator who will then provide advice on how this should be recorded.

HMRC has confirmed that both types of denaturant allowed in the UK - TSDA 9 (denatonium benzoate and methanol) and TSDA 10 (petrol) - are added at 1%. Therefore we will not require any further proof of denaturant levels if suppliers submit volume information that states that 1% of ethanol denatured in the UK is denaturant.

Other Member States specify different amounts and for them and ethanol denatured outside of the EU we expect suppliers to submit, and provide proof of the actual amount of denaturant used.

The guidance has been updated to make this clear.

3) Text concerning renewable denaturants has been added for clarity. The treatment of Bitrex and methanol as a denaturant will depend upon whether they are fossil or renewable fuels.

Chapter 4: RTFCs

This chapter explains how RTFCs will be issued.

Q12. In Chapter 4 is there sufficient guidance for suppliers to understand how the RTFC issuing process will work?

Yes	No	Neutral, or other comments
8	9	1

Summary of stakeholder responses

1) One respondent raised a concern about dealing with changes between the draft and final versions of the RTFO guidance.

2) Five respondents questioned the following:

- Why the administrator would reject an application for failure to meet 'any' requirement under the RTFO even if it did not relate to RTFCs.

- Why the Administrator has limited the Carry Over capability of RTFCs to the year immediately following the year of award.
- Why the grounds for confirming a revocation should be any different than that given when the Administrator first announced the intent to revoke.
- What the Administrator's role would be if a genuine error has occurred with respect to an RTFC transfer between 2 companies registered under the RTFO
- These respondents also commented that there should be automatic acceptance of a verifier's opinion. One other respondent commented that the basis for the Administrator's assessment of RTFC applications should be clarified.

3) One respondent raised concerns about RTFC prices.

4) One respondent commented that the section on other biofuel support schemes does not deal with double counting in the situation where renewable power that receives ROCs, is also used in a biofuel plant and claimed to reduce the GHG emissions calculated for the plant. The respondent suggested that the guidance in the RED Annex V, part C, clause 11 on this issue should be referred to in the RTFO guidance.

This respondent also raised the issue of renewable heat for which a renewable heat incentive has been claimed, being used to provide heat in a biofuel plant and also claimed to reduce the GHG emissions calculated for the plant. The respondent requested that the RTFO guidance should clarify whether or not it is allowed to claim a renewable heat credit and also lower GHG emissions for this renewable heat in the biofuel GHG calculation.

5) One respondent questioned the use of a volume basis for calculating the obligation and targets, rather than an energy basis.

6) One respondent questioned why no RTFCs will be awarded to an application if the Administrator has cause to believe, from either the verifier's opinion or any other evidence or information, that any portion of the application does not meet the sustainability criteria.

7) A respondent raised a concern that where a supplier may alter their application by "obtaining a different verifier's opinion" this may be an indicator that the supplier is unhappy with the findings of the initial verifier's procedures and is trying a different verifier to see if they can get a more favourable outcome, which should be treated as a risk factor.

8) A number of comments were received regarding the timing of the monthly process and the provision of proof that pre-RED year 2011/12 RTFCs can be carried through to 2012/13.

9) A respondent raised concerns that the revocation of RTFCs supplied by a biofuel only supplier could result in that supplier becoming an obligated party.

Government response:

1) We have issued guidance to suppliers (separate to the process guidance) on how to verify before the issuing of the final guidance.

2)

- We have amended the relevant section of Chapter 4 to make it clear that RTFCs will only be withheld for reasons not to do with that application where either there are issues concerning the volumes of fuel submitted for months covered by that application or significant account management issues. It has also been clarified that this is not a 'rejection' of an application, rather it is that approval will be withheld until these issues are resolved.
- The eligibility for carry over of different vintages and GHG categories of RTFCs is a policy matter and is set in the RTFO and is therefore not a matter for the Guidance.
- The Administrator may confirm a revocation on different grounds to the original intent to revoke where new evidence or information has come to light that constitutes grounds for revocation, during the appeal against the intent to revoke.
- The Guidance has been updated to state that the Administrator will correct any erroneous RTFC transfers where its systems or actions have caused the error. Where a supplier transfers RTFCs to the wrong account, this is a matter that must be resolved between the suppliers in question. If both suppliers are in agreement they may make a transaction in the opposite direction at their discretion without the Administrator's involvement. Where the suppliers are not in agreement it is not the Administrator's role to adjudicate. Should a court be asked to make a decision upon this matter and order the Administrator to make a particular transaction, we will comply with that ruling.
- The Administrator will not automatically issue RTFCs upon receipt of a verifier's opinion. Additions have been made to this section of the Process Guidance to clarify the Administrator's assessment of RTFC applications.

3) The development of any mechanism to ensure a minimum price for an RTFC is a policy matter and is therefore not a matter for the Guidance.

4) Government Response: A list of other support schemes has not been added as we believe the guidance is sufficiently clear that support must not be claimed under any other scheme for the renewable fuel that is submitted for support under the RTFO. The Renewable Heat Incentive (RHI) has been added to the example, though it does not currently include bioliquids.

The C&S Guidance gives guidance on the GHG calculation rules set out in the RED and is clear that "The life cycle analysis methodology set out in the RED (described in detail in Part C of Annex V of the RED) must be used for all GHG calculations carried out for reporting under the RTFO". The guidance does not repeat every rule set out in the RED (so does not explicitly refer to the rule in clause 11) as it aims to only clarify those where further guidance is needed.

5) That the RTFO is based on volume rather than energy is a matter of policy and is therefore not a matter for the Guidance.

6) The guidance has been amended to make clear that applications are made at the 'Administrative Consignment Group' level and hence will be approved or rejected at that level.

7) This is a risk that we are aware of and will be one of the risk factors we take into account when determining what assessment work to undertake on an application for RTFCs.

8) Government Response: We believe that the guidance clearly sets out the timing of the application process. We will continue to work with suppliers on how they can provide proof that pre-RED 2011/2012 RTFCs can be carried through to 2012/13.

9) We have clarified in the guidance that the revocation of an RTFC results in the fuel in question being regarded as unsustainable and so serving to increase the level of the obligation.

Q13. Is the approach to how RTFCs will be revoked if they have been traded as set out in the section "revocation of RTFCs - which RTFCs" in Chapter 4 a pragmatic one? If not, what alternative approach should be taken?

Yes	No	Neutral or other comments
8	7	2

Summary of stakeholder responses

1) Four respondents requested that any revocation of RTFCs be dealt with via commercial contract.

2) Two respondents expressed concern about the grounds for revocation and its impact on the industry, and asked that the phrase 'insufficient evidence' in the section on grounds for revocation be further explained and for an explanation of how revocation interacts with the provision of a verifiers audit report. One respondent made similar comments in response to Question 3.

3) One respondent asked that the Administrator revoke RTFCs from a future period rather than the current period in preference to revoking RTFCs from a transferee.

4) One supplier asked that RTFCs should not be revoked more than 6 months after issue.

5) One respondent asked that the 'account freezing' criteria be further explained.

Government response

1) We do not consider that RTFCs could be revoked via commercial contract as only the Administrator has the powers to revoke RTFCs. As such the Administrator must have a process in place to identify who holds the RTFCs that are to be revoked. If suppliers wish to incorporate the consequences of the Administrator following this process as a matter of commercial contract, that is a matter for the counter parties to that contract.

2) We are unable to provide further clarity on the phrase 'insufficient evidence' as this will be determined on a case by case basis. However, respondents should be aware that RTFCs will only be issued after the Administrator has undertaken checks upon any matters that it is necessary to check, so it is unlikely that RTFCs will routinely be revoked. As such initial evidence will only be subject to examination after RTFC issue should circumstances warrant this, e.g. if any issues come to light (for example from another supplier or another Member State) that bring the initial evidence into question on a way that was not apparent at the time of initial RTFC issue.

3) We are unable to revoke RTFCs from a future period in preference to those from the current period.

4) The timescales for RTFC revocation are set in the Order and can not be amended by the Administrator.

5) We have added to the guidance some further explanation of the likely circumstances in which an account will be 'frozen', namely the use of this facility to ensure that RTFCs that the administrator has ground to consider for revocation are not transferred out whilst that consideration is occurring.

Q14. In Chapter 5: Meeting the obligation, is sufficient guidance provided to suppliers on how to do this?

Yes	No	Neutral, or other comments
14	2	0

Summary of stakeholder responses

One respondent asked that there be a confirmed date by which suppliers will be informed of their obligation. One respondent proposed that the buy-out fund be recycled by 31st of March of each calendar year.

Government response

We will continue to provide suppliers with an ‘end of year’ timeline detailing the dates for the end of year processes such as determining obligation. We will continue to recycle the buy-out fund as soon as practicable after the monies in question have been received by the Administrator.

Q15. In Chapter 6: Civil Penalties, is sufficient guidance given?

Yes	No	Neutral or other comments
13	2	0

Summary of stakeholder responses

Five respondents asked that ‘a review is made at senior level within DfT before resorting to legal challenge’.

A respondent asked that the guidance be clarified regarding which Civil Penalties relate to the gaining or attempt to gain RTFCs and hence the Civil Penalty may be higher than £50,000.

Government response

It is unclear what the respondents means by ‘legal challenge by DfT’ however, we have in place a robust internal decision making process over both the revocation of RTFCs and the imposition of Civil Penalties. These internal DfT processes are not a matter for the Guidance.

If this is a reference to the ability for appeal against RTFCs or Civil Penalties we believe that the Guidance sets these out clearly.

The guidance is correct at the moment in stating that a Civil Penalty may be issued on each of the five grounds listed in 6.1 and that where those grounds

RTFO Guidance consultation response

have resulted in the attempt to or the gaining of an RTFC, the Civil Penalty may be up to two times the buy-out price per RTFC.

RTFO Guidance Part Two: Carbon and Sustainability Guidance

Chapter 2: Reporting biofuel carbon and sustainability information

This chapter sets out the requirements for carbon and sustainability (C&S) reporting by fuel suppliers to the RTFO Administrator in order to demonstrate compliance with the RED sustainability criteria and gain RTFCs. It includes who needs to report, what information should be reported and when reports should be submitted. It also covers verification requirements.

Q16. Is sufficient guidance provided for suppliers on how to report their C&S data when applying for RTFCs?

Yes	No	Neutral or other comments
9	8	1

Summary of stakeholder responses

While half of the stakeholders stated they agreed there was sufficient guidance on how to report their C&S data, those that disagreed asked for small clarifications. Comments/questions (with number of stakeholders in brackets) included:

- Concerns over timing – ‘soft start’ proposed (6)
- Is reporting on previous land-use of tallow required for those categories that are not designated as wastes/non agricultural residues for double counting purposes? (1)
- If tallow met a voluntary scheme e.g. ISCC then further reporting of land use and NUTS2 should not be required. (1)
- Can 'unknown' be reported for the country of origin as it is not a requirement under the RED / should country of origin be a reporting requirement? (4)
- In the table of voluntary schemes, are only the current versions of each scheme acceptable? What is the process that will be adopted

when the version number changes in the future and an obligated supplier has stocks of biofuel meeting the old version? (4)

- If an obligated supplier is not certified under a voluntary scheme such that there is a gap in the chain of custody between the last certified member of the voluntary scheme and the UK duty point (e.g. terminal or refinery rack) can the voluntary scheme be reported? (6)
- More guidance was requested on reporting accuracy levels (1)
- Can suppliers apply for RTFCs at any time? Can biofuel from pre-RED period be verified as RED compliant? Will RTFCs be awarded within 1 month? (5)
- Can potential applicants for RTFCs hold data over to make an application in another RTFO Year? (2)
- Concerns from an NDPB that obligated suppliers were still permitted to supply unsustainable biofuel (1)

Government response

Concerns over timing are addressed in the Government response to the 'General' questions.

As outlined in the response to questions on wastes the land criteria are automatically met for tallow as it was not obtained from land and it is therefore permitted to report accordingly for the previous land use for this feedstock (ROS will default to 'not applicable' in the relevant column).

In a change from the consultation version of the guidance, as previous land use is not always included in certificates/sustainability declarations for biofuel certified under a voluntary scheme, as long as that voluntary scheme has been recognised as meeting the land criteria then it is possible to report 'Voluntary scheme - met land criteria' in the previous land use field (rather than 'cropland - protection status unknown'). Where the land use is known or where the biofuel did not meet a voluntary scheme that is recognised as meeting the land criteria then the previous land use must always be reported.

Country of origin information is important in determining compliance with the GHG criteria as it determines whether the RED default can be applied in a number of cases:

- corn only has an EU default so this default should not be applied to corn from outside the EU;
- only feedstock from NUTS2¹ compliant regions² can use the defaults;

¹ Nomenclature of territorial units for statistics, level-2:

http://epp.eurostat.ec.europa.eu/portal/page/portal/nuts_nomenclature/introduction

² Member State reports on emissions from cultivation as required by Article 19(2):

http://ec.europa.eu/energy/renewables/transparency_platform/emissions_en.htm

- tallow should only be reported as 'uncategorised' if it is from outside the EU and the carbon default can be applied in this case.

In addition, suppliers will need to know the country of origin to be able to determine the NUTS2 compliance status for EU feedstocks and previous land use. Note that country of origin is also likely to be required information under the FQD. This information was available for 97%³ of biofuel reported in Year 3 of the RTFO.

However, in recognition of the fact that this information is not currently included on ISCC sustainability declarations (though all other voluntary schemes we contacted do provide this information) 'unknown' has now been added as an option in the 'country of origin' field. Note, however, that this should only be reported where this information is unavailable AND the supplier has other evidence with regards to GHG and land criteria compliance e.g. the biofuel met ISCC or the land use is known to be cropland and actual data was used for the GHG calculation.

As per the consultation version of the guidance only the voluntary schemes recognised by the European Commission and the Administrator can be used to demonstrate compliance with the RED sustainability criteria. Verifiers may, however, consider other voluntary schemes as part of the evidence (note that these will not be available for reporting on ROS). The process for inclusion of new schemes or downgrading of decisions of schemes is outlined in Annex A. The Administrator will carry out informal consultation with fuel suppliers and stakeholders before taking a decision to downgrade a voluntary scheme.

Regarding gaps in the chain of custody and making claims with respect to meeting voluntary schemes: it may only be claimed that a biofuel met a voluntary scheme where the chain of custody rules of the voluntary scheme have been complied with. The supplier should either be certified under the voluntary scheme or, where it is not certified, check with the voluntary scheme before a claim is made. Gaps within a chain of custody are generally not permitted whilst some schemes may allow the final party reporting to the Administrator to make a claim where they have sourced directly from a certified supplier. Some additional text to clarify this has been added to the guidance.

As per the consultation document and guidance set out in Chapters 2 and 6 the concept of Accuracy Level has been replaced with 'type of GHG data'. For compliance purposes it is only necessary (and only in certain circumstances) for the Administrator to know that actual data for cultivation or for the entire fuel chain has been used e.g. when biofuel has come from feedstock grown in a non-compliant NUTS2 region or when there was no default in the RED for that feedstock, respectively.

³ Provisional data for Year 3 of the RTFO.

As per the consultation version of the guidance suppliers can submit applications for RTFCs at any time which will be considered on a monthly cycle with the aim of awarding RTFCs one month after the deadline for that monthly reporting cycle. This may take longer in the early months and is subject to the C&S data and verifier's statements complying with the guidance. More detail, including timelines, is contained in the Process Guidance.

The principles of site-based mass balance allow for C&S data to be held that is equivalent to (or less than) the volume of biofuel at a particular supplier's site. It has been clarified in the guidance that at the end of each periodic mass balance inventory, the closing balance of C&S data must not be more than the volume of biofuel on the site at the end of a balancing up period. This C&S data would be the opening balance for the next period as specified in the section in the guidance on Periodic inventory of C&S data.

Any unsustainable biofuel counts as fossil fuel for the purposes of calculating a supplier's obligation, is not awarded RTFCs and does not count towards the RED targets. This is set out in the legislation.

Q17. Do you agree with the assessment of which ROS fields are elective and compulsory to demonstrate compliance with the RED? If not, which should change and why?

Yes	No	Neutral or other comments
16	1	0

Summary of stakeholder responses

Sixteen of the 17 respondents agreed with this proposal but comments were provided to question 16 on whether country of origin should be required. One stakeholder questioned whether previous land use or NUTS2 data should be compulsory if the biofuel met a voluntary scheme. The stakeholder who disagreed had concerns regarding what to report for the land use of tallow where it is not designated as a waste/non-agricultural residue.

Six stakeholders raised concerns about what should be reported where all the information is not yet available.

Government response

As set out in the Government response to question 16 it is possible to report 'unknown' against country of origin in certain circumstances. NUTS2 compliance status is compulsory but unknown can be reported where compliance with the GHG criteria can be demonstrated in other ways e.g. through a voluntary scheme, through provision of actual data for cultivation or by grandfathering the biofuel. Previous land use remains a compulsory field but

an option has been added to permit reporting of 'Voluntary scheme - met land criteria' where no land use information is available but a voluntary scheme was met that is recognised as meeting the land criteria.

How to report the previous land use of tallow is addressed in the Government response to Q16.

Note that suppliers can save incomplete administrative consignments in ROS (i.e. where all the information is not yet available) but will not be able submit these as part of the application for RTFCs until they are complete.

Chapter 4: Demonstrating compliance with the land criteria

This chapter sets out the land criteria of the RED and how suppliers can demonstrate compliance with those requirements. The land criteria cover both preservation of biodiversity and preservation of carbon stocks (including peatlands). There are also requirements in the RED related to cross compliance although suppliers do not currently have to demonstrate compliance with this.

Q18. Do you agree that the guidance identifies the appropriate land use categories for demonstrating compliance with the RED land criteria?

Yes	No	Neutral or other comments
13	4	2

Summary of stakeholder responses

Thirteen stakeholders agreed that the guidance identifies the appropriate land use categories. Comments from the four that disagreed included:

- concerns over timing were repeated;
- concerns over reporting land use of tallow were also repeated;
- Should consider iLUC (especially GHG effect of tallow);
- Should include option to report Red Tractor plus cropland;
- More guidance was requested on conservation or conversion of land use categories;
- Concerns over land categories designated in a country's land registry not reflecting actual land cover/type which should be addressed through appropriate safeguards at the independent verification stage;
- Should exclude all biofuels grown on grassland until there is a definition of highly biodiverse grassland.

Government response

Indirect land use change is outside the scope of this guidance.

It is possible to report Red Tractor (or other voluntary schemes that demonstrate compliance with the biodiversity criteria) plus cropland to demonstrate compliance with the land criteria. This has been made more explicit in the guidance.

As only one stakeholder requested further guidance on conversion of land use categories and it was unclear what guidance is needed none has been added; however, this will be kept under review.

The guidance already highlights to suppliers that a country's land registry may not reflect actual land cover/type and that the actual land cover should always be reported. Verifiers will check adherence to the C&S Guidance which sets out the criteria for the assurance process before RTFCs are issued.

As the European Commission has not yet published guidance on highly biodiverse grassland, reporting grassland does not automatically comply with the biodiversity criteria - suppliers will need to collect additional evidence such as meeting a voluntary scheme. In addition, any biofuel grown on grassland will need to have any change in carbon stocks accounted for which may preclude the biofuel if the GHG emissions including any carbon stock changes do not meet the 35% emissions saving threshold. No biofuels derived from grassland have been reported in the first three years of the RTFO (54% of biofuels were cultivated on cropland, 35% came from byproduct, with the previous land use being unknown for the remaining 11% in the provisional data for Year 3).

Q19. Do you agree that the RTFO Biofuel Sustainability Standard should be retained as an optional tool to demonstrate compliance with the RED land criteria?

Following responses from previous consultations it was proposed that no further benchmarks are carried out against the RTFO Biofuel Sustainability Meta Standard and that the concept of the meta standard is removed. However, the principles and criteria of the Standard have been retained as an optional tool to demonstrate compliance with the RED land criteria.

Yes	No	Neutral or other comments
12	4	0

Summary of stakeholder responses

Three quarters of stakeholders agreed that the RTFO Biofuel Sustainability Standard should be retained. Many commented (including both those that agreed and disagreed) that there should be no penalties for failing to meet it.

Of those that disagreed one commented that compliance with the RED should be based on benchmarks by the European Commission and expressed concern over the level of resource required to maintain it. Another commented that suppliers would have to provide the evidence for land use status at 1 January 2008 anyway.

Of those that agreed one commented that it provides a strong basis to direct auditors toward credible indicators of land use conservation and RED compliant land use; and another commented that the standard has value in its own right, particularly as it includes social considerations, and should be promoted for use even where voluntary schemes are available. An NDPB commended the treatment of peatlands in the standard.

One NDPB suggested that DfT could provide information as to the relative merits (effectiveness) of the different voluntary sustainability schemes with an aim to encourage maximum “best practise”.

Government response

As there was broad support for retaining the RTFO Biofuel Sustainability Standard it will be maintained with no penalties for failing to meet it. Maintenance of the standard has no cost/resource implications as DfT will not be benchmarking any schemes against its principles and criteria.

As DfT will not be benchmarking standards, it will not be providing information on the relative merits of the voluntary schemes. DfT continues to work with voluntary scheme providers to encourage best practice.

Q20. Are there any other resources or guidance of relevance to the land criteria that would be helpful for suppliers?

Further resources/guidance on demonstrating compliance with the land criteria are included at the end of the chapter - namely from CEN, the Commission and Defra.

Yes	No	Neutral or other comments
3	7	0

Summary of stakeholder responses

One of the ten stakeholders who responded suggested some further resources that could be included. One stakeholder offered information on tallow stating that it should not be permitted as a biofuel feedstock. A third stakeholder commented that other Member States have guidance. There were no requests for additional guidance.

Government response

Further resources have been included as appropriate to the guidance. DfT does not intend to exclude specific feedstocks from being used for biofuels - the treatment of tallow is dealt with in the section on wastes and residues in this document. The Administrator notes that other Member States have not implemented the RED in exactly the same way as the UK and therefore suppliers should use the UK guidance.

Q21. The Defra guidance is still being developed. Is the table found online on types and sources of information that might be used to help demonstrate compliance with the land criteria helpful and in a user-friendly format?

Yes	No	Neutral or other comments
10	3	0

Summary of stakeholder responses

Ten of the 13 respondents found this guidance useful with five requesting that it be included in the formal guidance. Those who disagreed commented that it only applied to UK feedstocks; that it was unclear whether these were alternative or complementary sources of information and that a flow diagram may help; and the other respondent did not explain their reasons.

Government response

The Defra guidance is currently referred to in the guidance as a suitable resource; however, it is preferable to keep it separate as this is a live document that can be updated from time to time through liaison with Defra and statutory bodies, for example.

Q22. The Defra table of information is not meant to be exhaustive but are you aware of any other types or sources of information that might be added?

Yes	No	Neutral or other comments
2	10	0

Summary of stakeholder responses

Two of the twelve respondents provided helpful sources of other information.

Government response

These will be considered in conjunction with Defra and will be incorporated into the table where appropriate.

Chapter 5: Demonstrating compliance with the greenhouse gas savings criteria

This chapter sets out the greenhouse gas (GHG) requirements of the RED and how suppliers can demonstrate compliance with those requirements. Guidance is provided on how to assess the carbon intensity of biofuel consignments through the use of defaults.

Q23. Do you agree with the approach set out for demonstrating compliance with the GHG criteria?

Yes	No	Neutral or other comments
8	9	0

Summary of stakeholder responses

Stakeholders were split in their response to this question. However most comments were not relevant to the guidance provided in this chapter or were outside the scope of the Administrator. Comments included:

- Tallow categories 1 & 2, and uncategorised tallow should be excluded from the carbon default (1);
- Concerns over fraud regarding tallow categories (1);
- The fossil fuel default should be aligned between the RED and FQD (5);
- ILUC should be addressed (5);
- Minor correction to GHG saving equation needed (1);
- Palm default for methane capture should be included in the ‘feedstock defaults’ table (1);

Government response

Tallow and concerns over fraud are dealt with in the section on wastes. Category 3 tallow is excluded from the default for waste animal oil as set out in RED Annex V however it is implicit from this that the default applies to other tallow categories.

The default values set out in the RED and FQD are determined by the Commission and do align for biofuels and the fossil fuel comparator.

Indirect land use change is currently outside of the scope of this guidance and the legislation.

The GHG saving equation has been corrected.

Table 5.4 lists those defaults that do not have a process associated with them - the default for palm with methane capture is listed in the following process default table.

Q24. Do you agree with the fuel level default approach?

Yes	No	Neutral or other comments
9	8	0

Summary of stakeholder responses

Just over half of respondents agreed with this approach. Five of those that disagreed (plus one that agreed) commented that default values should align between RED and FQD.

Two of those that disagreed had comments relating to tallow. The first stating that all categories (including uncategorised) tallow should be excluded from the 'waste animal oil' default. The second had concerns over double counting of uncategorised tallow and potential fraud.

One stakeholder repeated their comments on the palm default for methane capture.

Government response

The fuel level default approach referred to the fact that grandfathered fuel should report the fuel level default of (currently 83.8 gCO₂/MJ), except where a feedstock or process default can be applied. In other words, zero carbon savings can be claimed. As no comments were raised regarding this the approach has been implemented.

The default values set out in the RED and FQD are determined by the Commission and do align for biofuels and the fossil fuel comparator.

Comments relating to tallow and the palm default are addressed in Q23.

Chapter 6: Reporting actual carbon data and assessing the impact of land-use

This chapter provides guidance on using actual data to determine the GHG savings of biofuels. It also outlines how to assess the impact of any changes in land use on the carbon intensity of an administrative consignment of biofuel. The impact of land use change is not applicable to biofuels derived from wastes and residues (save for agricultural, aquaculture, fisheries and forestry residues).

The concept of the Accuracy Level has been removed. However, it is still necessary to capture information on the type of GHG data that has been reported in order to demonstrate compliance with the RED in some cases.

Q25. Do you agree with the revised approach i.e. reporting the type of GHG data and whether there was any soil carbon accumulation due to improved agricultural practice?

Yes	No	Neutral or other comments
8	7	1

Summary of stakeholder responses

The response to this was split with half of the respondents supporting the revised approach of replacing 'Accuracy Level' with reporting on the type of GHG data and soil carbon accumulation due to improved agricultural practice. Five of those that disagreed felt it was difficult to track this data on the scale required for the supply chain. Others commented that there should be the option to report soil carbon accumulation not just for land the use of which has been changed.

Other comments received (whether stakeholders stated they agreed or disagreed) were not relevant to this issue and were general comments on the chapter including:

- tallow should be excluded from the 'waste animal oil' default as it is a product;
- A request that regional averages for cultivation can be used;
- DfT should clarify what is sufficient evidence for actual data;
- There should be an absolute threshold for inclusion of data e.g. 2 gCO₂/MJ.

Government response

Most of those who disagreed felt that it was difficult to track this data; however, in certain circumstances it will be necessary to have actual data for compliance with the RED GHG criteria. Where this is the case it will have to be tracked and verified in order to comply and gain RTFCs. If this has not been tracked then defaults may be reported (providing there is no land use change and the biofuel comes from a NUTS2 compliant region OR from outside the EU OR from a waste or non agricultural residue). No changes have therefore been made to the proposed approach.

The following text addresses the other comments made by suppliers.

The guidance is already clear that soil carbon accumulation can be reported whether or not the land use has been changed.

Category 3 tallow is excluded from the default for waste animal oil as set out in RED Annex V however it is implicit from this that the default applies to other tallow categories.

As set out in this chapter, regional averages for cultivation emissions are permitted. NUTS2 data are just one example of regional actual data but other sources of regional cultivation emissions data may also be used.

Suppliers should engage with their verifiers to ensure they have sufficient evidence for actual data used in GHG calculations.

The Administrator consulted in 2011 (as the RFA) on what should be the cut off for inclusion in GHG calculations. Consideration was given to an absolute value (BioGrace use 0.1 g/CO₂ for example), but as the one percent cut-off approach is in line with PAS 2050 (BSI standard for assessments of LCA GHGs) it was decided to adopt this. No change has therefore been made but this will be kept under review.

Q26. Is sufficient guidance provided on calculating actual GHG emissions?

Yes	No	Neutral or other comments
12	6	0

Summary of stakeholder responses

Two thirds agreed that sufficient guidance was provided on calculating actual GHG emissions. Comments included:

- Emissions from palm oil should be included in the tallow default (due to replacement of tallow with palm oil in the oleochemical industry);

- It is inconsistent that crop residues are not taken into account in carbon intensity calculations but they are for the purposes for electricity generated in a CHP plant;
- There is insufficient guidance in the RED;
- It is unclear whether the LCA methodology in the RED or the Carbon Calculator takes precedent;
- Full GHG data is needed for UCO GHG calculations;
- Emission factors from Member States NUTS2 reports should be permitted in GHG calculations.

Government response

The greenhouse gas calculation methodology is set by the European Commission in the RED. The rules do not allow for substitution effects to be included (such as the tallow example). The rules also set out how residues should be treated.

Whilst the RED sets out the GHG LCA methodology the Administrator agrees that further guidance is necessary in order to implement the rules in practice, which is what this chapter in the guidance set out to achieve. The Carbon Calculator is also consistent with the RED Methodology, for example the input data and standard values are consistent with those used in the RED. Users of the Carbon Calculator must ensure they are following the rules set out in the RED and in the C&S Guidance when performing their calculations - this has been made explicit in the guidance.

The Administrator, working with BioGrace has successfully replicated all of the fuel chains with the exception of that for used cooking oil. We anticipate revised defaults from JRC and the Commission and will continue to work with BioGrace, JRC and the Commission to replicate any new or revised fuel chains in the Carbon Calculator.

As per the guidance suppliers should use emission factors and other standard values supplied by the Administrator and/or BioGrace where they are available. The RED does allow for other emission factors to be used; however, suppliers should ensure that the emission factors used for their calculations are in line with the following requirements as set out in the RED⁴.

- The standard value should be obtained from independent, scientifically expert sources;
- The standard value should be updated as those sources progress their work.

Suppliers should ensure the values used are appropriate for the fuel chain.

⁴ These criteria are set out in recital 83 of the RED.

As most stakeholders found this chapter helpful only minor clarifications have been made.

Chapter 7: Demonstrating compliance with the mass balance rules

It is necessary to be able to track C&S data back to its original source in order to ensure that it can be verified. This chapter outlines acceptable chain of custody systems and provides guidance on setting up a chain of custody where none exists. It is substantively unchanged from earlier versions of the RTFO guidance, with the exception that book and claim systems are no longer accepted.

Q27. Do you agree with our approach to aggregating consignments?

Yes	No	Neutral/other comments
8	7	0

Summary of stakeholder responses

Although nearly half of respondents disagreed with our approach to aggregating consignments, the majority of these related to the identification of a typographical error in paragraph 7.2.

Other comments included:

- General support for the flexible consignment allocation proposed and the allowance of a one year time frame for mass balance.
- One respondent suggested that site based mass balance was overly burdensome.
- There were a few requests for more detailed guidance on particular aspects. One supplier suggested that further clarification was required on how to treat materials that are mixed as part of the biofuel production process. Another suggested that verifiers should be provided with additional guidance or training on how to verify appropriate mass balance systems.
- One respondent raised a number of concerns about the additional complexity for assurance activities where aggregation of multiple consignments with different characteristics is permitted.

Government response

The typographical error in paragraph 7.2 has been corrected. Other elements of the chapter have been maintained in line with the majority of responses.

Site-based mass balance is the approach endorsed by the European Commission.

We will consider the options for increasing training and engagement with verifiers.

The Administrator acknowledges that aggregation of consignments can lead to additional complexities for verification. However, it is permitted by the RED and enables greater efficiency in transferring data through the supply chain. We also note that, where consignments are aggregated, the new consignment must generally take on the most conservative characteristics of those aggregated. For example where grandfathered material is aggregated with non-grandfathered material, grandfathering cannot be reported and default or actual values must be used.

Chapter 8: Wastes and residues

Wastes and residues are important concepts under the RED but are not defined in the RED nor in the amended RTFO Order. Previously, the RTFO did not use these terms and therefore this is an entirely new chapter of the guidance. The guidance has been designed to help business to apply these terms consistently and in line with the purpose of the Directive.

Q28. Do you agree with the approach we have adopted to assess materials?

Yes	No	Neutral/other comments
10	7	3

Summary of stakeholder responses

The approach outlined in the guidance to assess materials elicited extensive responses. Many of these concerned the categorisation of tallow which has been addressed in question 29. Comments on the overall approach to assess materials included the following:

- The approach of listing materials was helpful in providing clarity on double counting / product status.
- A number of respondents requested that a process for adding new materials be included in the guidance.
- Some suppliers were concerned that the process outlined in the guidance for assessing new materials included the possibility of public consultation and this could undermine commercial confidentiality which might be relevant to new supply streams. One supplier suggested that a tight definition and independent verification could address this.

- It was suggested that a more detailed definition and basis for the economic assessment described as a criterion in the Guidance should be clearly explained so that suppliers could use market information to make their own assessments.
- Some respondents suggested that using £/tonne as an indicator of economic significance, as had been discussed in stakeholder meetings, was not appropriate. This is because the measure does not include the proportion of output from a processing facility and thus the relative importance of the material to the producer. One respondent did not think economic significance was a relevant measure of whether a material was a waste/residue.
- Some respondents raised concerns about waste transfer notes (WTNs) suggesting that the system was not sufficiently robust to demonstrate waste status.

Government response

Further details have been added to the guidance on the process and criteria for assessing materials. Key aspects include:

- Confirmation that economic significance will be included in the assessment process, particularly to distinguish unclear cases (for example where there are multiple co-products). Materials typically trading for around 15% or more of the main product in £/tonne is an indicator of economic significance, but other factors may be taken into account, including the amount of the material and its other uses.
- As the assessment is complex and may involve fine judgment, whilst suppliers and their verifiers may take a view on an appropriate classification, materials will only be accepted as wastes/residues where the Administrator has categorised them as such.
- A form will be developed for suppliers to apply for new materials to be considered for categorisation.
- To protect commercial confidentiality, public consultation will be limited to unclear cases. However, where there is a question over the status of a material, it may be necessary to gather information from external sources and consult a wider group even though this may conflict with commercial confidentiality concerns. The Administrator will discuss the process to be followed with individual suppliers before making information public.
- Once a material has been assessed and a decision made, it will be included in the list of materials and suppliers will be informed.
- A definitive time period for assessing individual materials cannot be provided given that the Administrator has no control over information that may be required from external sources. However, the

Administrator expects that most materials will be assessed within eight weeks.

- In addition, because it is anticipated that materials may be added on a relatively frequent basis during an obligation year, the tables containing lists of materials have been removed from the main body of the guidance and are made available in a stand alone document on the DfT website.

The Administrator regards waste transfer notes (WTNs) as one piece of evidence available to help demonstrate the origin of particular materials. However, other aspects, including a robust chain of custody through the supply chain are also key requirements. Independent verifiers must use their professional judgement to assess individual pieces of evidence. The guidance does not indicate that WTNs are necessarily definitive and has been revised to make this point more clearly.

Q29. Do you agree with our assessment of materials in Tables 8.2 to 8.5? If you disagree with any particular classification, please explain why and what categorisation you believe to be correct?

Yes	No	Neutral/other comments
8	16	0

Summary of stakeholder responses

Although a majority of respondents disagreed with our assessment of materials, most of these concerned the classification of just one material: tallow. A few respondents questioned the classifications or definitions of yellow grease, palm fatty acid distillate and in one case corn oil. Key points included the following:

- The majority of those disagreeing with the classification of tallow argued that all grades of tallow should be counted as a waste/residue. Some respondents however argued that all grades of tallow should be considered products. Letters from the European Commission to the European Fats Processors and Renderers Association were referred to in support of both positions.

Responses from those favouring classification of all (or additional) grades of tallow as a waste/residue included the following points:

- All categories of tallow are residues of the meat production process and have insignificant value in relation to the primary product.
- As category 1 is included we cannot see why category 2 should not also qualify as a residue. Whilst category three is expensive we believe this should also be included as an option. As the UK has no chemicals industry which would compete for these volumes the rationale as to why this was not included is unclear.

- Categories 2 and 3 tallow should be included in wastes or residues table since this has been clearly indicated by the European Commission in letters presented to the DFT and is consistent with their inclusion in the Renewables Obligation, Waste Framework Directive and Environment Agency Biodiesel Protocol. The Environment Agency require all tallow feedstock for biodiesel to be treated as a waste until it has been reclassified by an End of Wastes test.
- Animal fat category 2 should be categorised as residue because unlike for category 3, there is very limited use for this material. Also paragraph 6.46 footnote 69 [of the consultation document] implies that category 2 animal fat is considered “waste animal”.
- Tallow should classify as waste as it will be difficult to challenge its category classification.

Responses from those favouring classification of tallow as a product included the following points:

- Tallow is a product of the meat rendering process. The rendering process is set up to deliberately produce tallow and tallow is a primary product that the rendering process seeks to produce. Tallow is therefore not a residue.
- Tallow has substantial use in several other industries than biofuel, especially the oleochemicals and feed industries.
- It is a valuable chemical raw material produced in an energy intensive process.
- The value of tallow is comparable to vegetable oils, such as palm oil.
- Palm oil is a direct substitution for tallow, so if tallow were used for energy, it would need to be replaced in current applications by palm oil which will incur substantial direct and indirect GHG emissions.
- Whilst 'crude animal fat' from slaughterhouses may be considered a 'residue' under EU Regulation 1069/2009, rendered fat is a so-called 'derived product' processed from animal by-products under Reg. 1069/2009.
- Category 1 tallow will be generally legally permitted soon as a feedstock for oleochemicals. Already now its use is not generally limited to energy generation. Some EU member states have already allowed its use in industrial applications for a long time.
- The UK and the EU would not be able to put in place any safeguards in order to ensure that biofuel producers would not substitute other tallow [i.e. category 2 and 3 tallow] and should therefore eliminate all categories of any origin from biofuels.

There were a number of other concerns raised about the categorisation of tallow materials as follows:

- Some respondents were concerned that the differing approaches to categories of tallow increased the risk of fraud, for example by mixing different categories to 'downgrade' them all.
- There were differing views on how tallow from outside the EU should be treated; some agreeing with the proposal to treat it as category 1; some suggesting it should all be treated as category 3, and others suggesting that only tallow that had to be disposed of in the originating country should qualify for double counting.
- One supplier was concerned that the categorisation of tallow as non wastes/residue would effectively exclude the use of this feedstock because proving the land criteria was not possible.

There were the following comments about other materials:

- Three suppliers disagreed with the categorisation of PFAD, arguing that it should be categorised as a waste/residue on the basis that it is a minor output of the palm oil production process.
- Five suppliers questioned the inclusion and/or definition of yellow grease in the list of waste/residues. It was suggested that the term is used more widely than simply as a substitute for 'used cooking oil' and could effectively include tallow. This was a concern to some respondents who considered that tallow of foreign origin should not be eligible for double counting if some EU tallow was not.
- One supplier considered that corn oil is a residue. It was considered that, although a virgin oil, it was a by-product of the ethanol production process removed from distillers grains and solubles.

Government response

The case of tallow illustrates how problematic it can be in certain instances to determine appropriate categorisations of materials for the purposes of the RED. Whereas the parts of animals used to make tallow are widely considered to be wastes/residues, it is also the case that tallow is a deliberate output of the rendering process. In such circumstances, we believe it is appropriate to take into account the value of the material and the productive uses for which it is used. On this basis, higher grades of tallow, which have both a high economic value and a variety of productive uses, are appropriately considered to be products. Although category 1 tallow has a high economic value it is primarily used for energy and for the purposes of the RED may therefore appropriately be considered a waste/residue. The final guidance has therefore maintained the categorisations of tallow in the version for consultation.

We have noted the concerns about possible fraud related to different categorisations of tallow and the possible market effects, for example to mix different categories to downgrade them all. The RTFO Administrator takes the view that deliberate downgrading of materials to achieve waste status for the purpose of claiming double RTFCs, at any point in the supply chain, amounts to fraud. The Administrator takes fraud very seriously and will take appropriate action where it occurs.

As stated in the guidelines, the status of category 1 tallow as a double counting material will be kept under consideration and will be reviewed for the obligation year beginning in April 2013 to assess the impact on other markets resulting from additional incentives for tallow based biodiesel.

With regard to demonstrating the land criteria for category 2 and 3 tallow, as these materials are not obtained directly from land, suppliers are not required to further demonstrate the land criteria. The guidance has been amended to clarify this point.

Although palm fatty acid distillate is a relatively minor output of the palm refining process (around 4%), it is nevertheless produced in significant quantities and is a valuable raw material with a variety of productive uses in the oleochemical industry. It was also treated as a co-product in the GHG calculations for the RED palm default. The categorisation of PFAD as a product in the consultation version of the guidelines has therefore been maintained.

Given that yellow grease can be used for a wider range of materials than simply used cooking oil, including tallow for which particular requirements apply, we have removed the term from the list. Suppliers will be expected to report under the RTFO in a way consistent with the requirements for UCO and tallow.

Corn oil is not explicitly included in the lists of materials in the current guidelines, although all 'virgin oils' are included as products. The Administrator considers that corn oil would probably fall into the category of a virgin oil, and therefore count as a product, but suppliers may make use of the application process to have materials assessed for waste/residue status under the RTFO.

Q30. Are there any materials not included in the list that should be included at this time? If 'yes' please specify the materials and explain why and under which category they should be included.

Yes	No	Neutral/other comments
2	10	0

Summary of stakeholder responses

The majority of stakeholders agreed that the list of materials was sufficiently comprehensive at this time. The following comments were made:

RTFO Guidance consultation response

- A number of respondents reiterated that there needed to be a sufficiently detailed process for adding new materials to the list.
- Some suppliers stated that further materials should be added:
 - - Palm oil mill effluent
 - - Free fatty acids
 - - Spent bleached earth
 - - Crude petroleum off gas from biofuel

Government response

Palm oil mill effluent (POME) and spent bleached earth are waste materials arising as part of the palm oil production process and have been added to the list of waste/residue materials. The Administrator considers that free fatty acids cover too wide a range of materials to be categorised; however, we have updated the guidance to confirm that fatty acids produced from materials that are wastes/residues for the purposes of the RTFO, such as UCO, also have that status.

Suppliers are invited to apply to the Administrator to have other materials considered using the process outlined in the new guidelines.

Q31. Is further guidance on non-food cellulosic and ligno-cellulosic material required? Do you have any specific suggestions?

Yes	No	Neutral/other comments
2	11	0

Summary of stakeholder responses

The majority of stakeholders who responded on this issue considered that no further guidance was necessary at this time, but again made the point that a clear process was required for materials to be added. The following comments were made.

- There should be a statement in the chapter that qualifying materials will be recognised on a case by case basis.
- The approach of defining non-food cellulosic or ligno-cellulosic material in terms of the crop or composite material as proposed in the technical guidance is not considered viable and the approach should be to define component materials in the feeds that are used to produce biofuel. An example provided to highlight some of the issues around the definition of non-food cellulosic or ligno-cellulosic material was provided:

Whole or green maize is used to generate biogas in Germany. However in biogas processes little of the cellulosic material is processed. Should green maize be regarded as non-food cellulosic or ligno-cellulosic material?

Government response

A statement has been added confirming that qualifying materials (and as necessary constituent components) will be recognised on a case by case basis. We will keep under review the need for further work in this area.

Q32. Do you agree that tallow that is not categorised (i.e. from outside the EU) should be treated as category 1, including that the RED default for tallow biodiesel can be used?

Yes	No	Neutral or other comments
10	7	0

Summary of stakeholder responses

- The majority of stakeholders who responded agreed with this approach, though almost as many disagreed.
- The key concerns were around fraudulent applications, and that the categorisation could distort and impinge unfairly on the European market. Some stakeholders argued that tallow outside the EU should be treated the same as tallow within the EU or verified by a different method.
- There were a number of suggestions that tallow from outside the EU should only be double counted if it were demonstrated by the producer that the source of tallow was from a facility where the material was not allowed to go into food and pharmaceutical products (i.e. more consistent with category 1 tallow materials). This would be more consistent with the conservative approach for reporting adopted elsewhere in the RTFO.
- A large number wished for further clarity on the process for updating the list to allow sufficient time for suppliers to make changes to their supply chains.
- Several also suggested that this should be kept under review to ensure that no fraud occurs.

Government response

The Administrator accepts that double counting materials from outside the EU that would not be double-counted within it would create an inconsistency of approach within the guidelines. We have therefore made a revision from the consultation version of the guidelines such that tallow from outside the EU will not be considered a waste/residue unless it can be demonstrated that it could not be used for food or pharmaceutical uses. It can however be used without further demonstrating land use criteria and the EU default may be used. The Administrator will review arrangements for non-EU tallow alongside the review of tallow scheduled for 2013.

Chapter 9 - Appointing a verifier

This chapter provides information on appointing a verifier; the roles and responsibilities of suppliers, verifiers and the Administrator in respect of this process; and a brief outline of the steps a verifier will undertake.

Q33. Do you agree with the approach to appointing a verifier outlined in Chapter 9?

Yes	No	Neutral or other comments
9	6	0

Summary of stakeholder responses

Six respondents expressed concern that the draft Guidance implied that verifiers of data for smaller suppliers may need to be less skilled or experienced than those for larger companies.

Six respondents requested that DfT hold a list of approved verifiers and provide accreditation for verifiers to be included in the list.

One verifier suggested a number of modifications and additions to the Guidance.

Government response

The Guidance has been clarified to separate the requirements for verifiers to be competent in the use of ISAE 3000 from the requirement that they understand the C&S data which is being assured. The requirement to be competent in the use of ISAE 3000 is a universal requirement regardless of the type of information which is being assured. The level of understanding of C&S data must be appropriate to the data being assured and therefore may vary.

DfT does not intend to hold a list of approved verifiers or to provide accreditation. This ensures that there is no restriction on new verifiers undertaking assurance under the RTFO. Verifiers wishing to register for access to the RTFO Operating System (ROS) will be required to prove their identity for IT security purposes, but will not otherwise be subject to checks.

The suggested additions and modifications have been acted on as appropriate.

Annex A: Guidance on recognition of voluntary schemes

This annex describes the process for recognition of voluntary schemes to demonstrate RED compliance under the RTFO. The current list of voluntary schemes recognised to demonstrate RED compliance under the RTFO was included as a consultation document for reference (table of voluntary schemes).

Q34. Do you agree with the proposed process for inclusion of voluntary schemes?

Yes	No	Neutral or other comments
7	6	2

Summary of stakeholder responses

Seven respondents commented that in the event of the European Commission deciding positively on a voluntary scheme, this should be included in the RTFO with immediate effect, not after 20 days.

Three respondents commented that in the sections on voluntary schemes it should be made clear in the text which versions of the voluntary schemes have been accepted by the European Commission. There was also one comment that the European Commission required in its voluntary schemes approval process that references to schemes must refer to the version of the scheme.

In response to Question 36, one respondent commented that the Annex on voluntary schemes should clarify that only the ISCC EU scheme, and not the ISCC DE scheme, has been accepted by the Commission, and that some schemes benchmarked by the RTFO Administrator have been rewritten and reissued as a different version in order to be recognised as RED compliant.

One respondent commented that verifiers may need to check voluntary scheme versions where supplier declarations and chain of custody documentation do not refer to the specific version of a scheme, particularly where schemes have been amended to be accepted by the Commission. The respondent also commented that they have come across circumstances where not all parties in the chain of custody are certified as scheme members, meaning that additional checks may be required on those parties.

Government response

On the basis of the responses received, we have made some minor text changes in the sections on voluntary schemes within the guidance and Annex A, to emphasise the need for suppliers and verifiers to check and make clear which version of a voluntary scheme has been followed, and whether the reporting party has met the requirements of that version of the scheme, including some specific text on ISCC. We have also included a new statement emphasising that if not all parties in a chain of custody are covered as required by the particular voluntary scheme, the scheme cannot be reported on ROS to demonstrate compliance with RED criteria, but scheme documentation can nevertheless be used as partial evidence in a verifier's assessment.

In relation to the request for schemes that have been approved by the European Commission to be included in the RTFO with immediate effect: the 20-day period referred to in the consultation version of the guidance is in fact a European Commission legislative norm, not an additional timescale imposed by the RTFO Unit. Therefore we have not made any change to this point, but have clarified the fact it is a legislative requirement in the guidance. We have, however, clarified in the guidance that if fuel is supplied within the 20 day period following publication in the Official Journal, verifiers will be able to use the scheme as clear evidence of meeting the RED criteria, which the RTFO Unit can use in assessing the application for RTFCs.

Q35. Do you agree that the RTFO Administrator should recognise those voluntary schemes that were benchmarked for indicative RED compliance with the land criteria?

Yes	No	Neutral or other comments
14	0	1

Summary of stakeholder responses

Six respondents commented that if voluntary schemes have been benchmarked by the European Commission as being compliant with the RED land criteria then they should be automatically accepted by the RTFO Administrator.

Government response

As per the guidance, all voluntary schemes recognised by the Commission are automatically accepted by the RTFO Administrator. On the basis of these responses, we have not made any change to this proposal in the RTFO guidance.

Q36. Do you agree that this should be kept under review with the initial period for recognition being until the end of Year 5 (April 2013)?

Yes	No	Neutral or other comments
12	0	2

Summary of stakeholder responses

Six respondents commented that 'biofuels policy should continuously adapt as new information on their impact becomes available. The C&S Guidance should next be formally updated in time for the Year 5 obligation year with a suppliers consultation'. These respondents requested that more time is given to respond to the next consultation and that it is issued no later than 31 December 2012.

Five respondents also commented that there should be a process for making maintenance changes to the guidance, e.g. to update lists of wastes and residues, adding new European Commission approved voluntary schemes etc and that the Administrator should provide sufficient lead time for suppliers to implement any new changes.

Two respondents commented that some text in the guidance should be updated to refer to the indicative RED benchmarks as being 'kept under review'.

Government response

The majority of respondents indicated agreement. The final guidance therefore retains this approach.

The process for making 'maintenance' changes to the guidance e.g. lists of wastes and residues or voluntary schemes, will be as follows: the sections of the guidance that may require more regular changes such as these lists, have been published as separate annexes to the main guidance. The Administrator may hold informal consultations on changes to these annexes where it is considered necessary, and will publish updated versions of these annexes whenever appropriate. Obligated suppliers and other stakeholders will be informed of any such updates, and the published version will always show what was in previous versions and what has been changed.

The main guidance will next be formally updated in time for the Year 6 obligation year (April 2013-April 2014).

Q37. Do you agree that the RTFO Administrator will only carry out benchmarks of schemes against the RED criteria where there is a strong business case?

Yes	No	Neutral or other comments
7	6	1

Summary of stakeholder responses

Six respondents commented that it is likely that new schemes will apply for European Commission approved voluntary status and therefore be automatically accepted by the RTFO. Of these, five also commented that there is unlikely to be an undue volume of these requests in any case.

Four respondents requested clarification of the definition for 'strong business case'.

Two respondents commented 'we do not believe it is the role of the Administrator under RED to be providing independent benchmarking services. ... Only through central EC voluntary approval processes can we expect to achieve harmonisation ... across the EU.'

One respondent commented that 'where a scheme presents new tools for objective compliance the benefit should be assessed by the DFT DFT can proactively support adoption of voluntary schemes rather than passively respond to an industry preference'.

Government response

The majority of respondents who disagreed, indicated that they believed either that the RTFO Unit should not be carrying out any benchmarking, or that there is unlikely to be a need for it.

The intention in the sections on voluntary schemes in the consultation version of the guidance was to convey that benchmarking of schemes by the RTFO Unit would only be carried out in exceptional circumstances, where not to do so would hinder the effective administration of the RTFO or would cause significant commercial problems for a significant number of fuel suppliers. In general, the DfT supports moving to a position where schemes are approved at EU level to achieve harmonisation and to minimise administrative burden. This has been clarified in the sections on voluntary schemes.

Q38. Do you agree with the proposed process for downgrading schemes?

Yes	No	Neutral or other comments

6	5	2
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Summary of stakeholder responses

Five respondents commented that they 'agree with the European Commission process, however if this applies to a UK voluntary scheme then there needs to be a right of appeal against such downgrades from an independent body'.

Two respondents requested clarification as to whether it is intended that the Administrator would be able to unilaterally downgrade a decision on recognition of an EU-approved voluntary scheme. This respondent also felt that an appeal process should be available in the event of a downgrade.

A verifier raised a concern that, 'should a particular version of a standard be downgraded, or not recognised in the first place, as suggested in paragraph A.21 then the integrity of the scheme and hence the chain of custody of the fuel being considered may fall into question'.

One respondent requested clarification of the 20 day timescale for inclusion of voluntary scheme approvals by the Commission in the RTFO.

Government response

To clarify, the DfT does not intend to downgrade versions of voluntary schemes that have been approved by the European Commission. In the event that the DfT were to decide to downgrade a version of a voluntary scheme that is not approved by the Commission but has up to that point been accepted by DfT under the RTFO, the Administrator would carry out informal consultation with fuel suppliers and stakeholders before taking such a decision, but there is no formal appeals process. In the event that the RTFO Administrator no longer accepted that scheme, it would be open to the scheme to apply for European Commission approval, and if approved it would then be automatically accepted under the RTFO.

In response to the request for clarification of the 20-day timescale, as set out in response to Question 34, this timescale reflects the legislative norms of the European Union. Annex A explains that all biofuel reported as crossing the UK duty point from 20 days after publication of a European Commission decision to downgrade a voluntary scheme, cannot use that voluntary scheme to demonstrate RED-compliance.

Annex B: RTFO Biofuel Sustainability Standard criteria and indicators

This annex describes the criteria of the RTFO Biofuel Sustainability Standard and the RTFO norm for audit quality. The sustainability criteria and the audit guidelines should be used by suppliers wishing to conduct their own independent field audits of cultivated feedstocks against the RTFO Biofuel Sustainability Standard.

The norm for audit quality has been updated to bring it in line with the European Commission's 'Communication on voluntary schemes'⁵: Criterion 2 on management of the audit is upgraded from a 'minor must' to a 'major must'; and criterion 8 on documentation management has been added.

Q39. In Annex B: RTFO Biofuel Sustainability Standard criteria and indicators do you agree with updating the norm for audit quality to bring the norm in line with the European Commission’s requirements for voluntary schemes?

Yes	No	Neutral or other comments
9	0	2

Summary of stakeholder responses

There was general agreement that the audit criteria should be in line with the European Commission's requirements. Two respondents asked that the publication of reports from the Administrator be confined to assessments against the mandatory sustainability criteria in the RED.

Government response

We will follow the approach proposed in the consultation version of the guidance. The Administrator has no plans to publish reports assessing performance of individual suppliers against the RTFO Biofuel Sustainability Standard.

Annex C: Known future updates to RTFO C&S reporting

This annex sets out known updates to the RTFO carbon and sustainability reporting scheme that are likely to be required in the future as further information relevant to RED implementation is published. Updates to the *C&S Guidance* may arise from the Comitology process; or from information published by the Commission or the RTFO Administrator.

⁵ Communication from the Commission on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme (COM 2010/C 160/01).

Q40. Do you agree with the proposed processes for inclusion of the known future updates in the RTFO C&S reporting scheme, as outlined in Annex C: Known future updates to RTFO C&S reporting?

Yes	No	Neutral or other comments
12	0	1

Summary of stakeholder responses

There was general agreement with the proposed approach. Several respondents said it was necessary to give suppliers adequate lead time before any substantive changes be made and three asked that these should only be made at the start of a new RTFO reporting year.

Government response

We have followed the approach outlined in the consultation version of the guidance. We will provide as much notice of future changes as possible, but stakeholders should be aware that the timetable for many of these changes is dependent on decisions at a European level including legislative changes where there is no flexibility on timing. Mid-year introduction of some changes is therefore likely to be unavoidable in some cases and may be needed to ensure that we continue to meet the requirements of European Law. It should also be noted that in some cases, for example the addition of new materials to the list of wastes, prompt updates will be beneficial and desirable to suppliers.

Q41. Are there any known updates missing from Annex D that would impact on RTFO C&S reporting?

Yes	No	Neutral or other comments
3	8	1

Summary of stakeholder responses

Most respondents were content with the known updates identified in the consultation version of the guidance. Three requested that the list should include any changes agreed in the fossil fuel comparator and to the conservative factor for the default values.

Government response

We are not aware of any plans to change the conservative factor for the default values but, were these to be made, they would be treated in the same way as updates to the default values themselves. We have added our planned approach to any changes to the fossil fuel comparator as requested. Depending on the timings, any changes may have to be introduced mid-year implementation.

Annex D: Example chain of custody records

This annex contains examples of chain of custody records for different economic operators along the supply chain.

Q42. Are the examples in Annex D: Example chain of custody records useful?

Yes	No	Neutral or other comments
10	1	0

Summary of stakeholder responses

Most respondents found the examples useful. Two said that examples of evidence, such as relevant documents, would be a useful addition to this Annex. Several called for the Administrator to take a flexible approach for the initial part of RED implementation. These respondents asked for pragmatic approach to the application of the changes in chain of custody rules in the initial months following the amendment, to give industry time to adapt.

Government response

We have followed the approach outlined in the consultation version of the guidance. The Guidance for Verifiers covers types of evidence that may be considered sufficient in more detail. This must be considered on a case-by-case basis. The flexible approach on timing requested by some suppliers is not possible as we do not believe this approach is compatible with the requirements of the RED.

Q43. Should there be any additional categories on the record sheets in Annex D?

Yes	No	Neutral or other comments
0	8	2

RTFO Guidance consultation response

Summary of stakeholder responses

No respondents identified additional categories that should be added to the record sheets, though several said that a need for new categories may become apparent after the system has been running for some time.

Government response

We have followed the approach outlined in the consultation version of the guidance.

RTFO Guidance Part Three: Guidance for Verifiers

The Guidance for Verifiers provides further detail on the particular issues relating to assurance of biofuel sustainability data.

Q44. Are the roles and responsibilities for verifiers, reporting parties and the RTFO Administrator correctly and completely described?

Yes	No	Neutral or other comments
9	6	0

Summary of stakeholder responses

Five respondents re-iterated their request for DfT to provide accreditation of verifiers.

A verifier requested that suppliers are required to provide a formal sign off to the RTFC claims in order to indicate their ownership of the data and to support the division of responsibilities.

Government response

It has been clarified that whilst the reporting party is required to make a formal 'signoff' of the data to the Administrator, this necessarily occurs after verification. Where the verifier requires an assertion and a signoff of the data from the reporting party, this must be arranged between the two parties as part of their agreement.

Q45. Are there any alternative assurance standards that we should consider naming in the guidance at this stage? If yes, please give details

Yes	No	Neutral or other comments
0	14	0

RTFO Guidance consultation response

Summary of stakeholder responses

No respondents suggested any alternative standards, with 14 indicating that they were not aware of any at this stage.

One respondent mentioned the updates to ISAE 3000 which are expected within the next year.

Government response

The Guidance has remained as it was in draft form asking suppliers of verifiers to contact the Administrator if they are planning to use an alternative standard to ISAE 3000.

A short paragraph has been added to the C&S Guidance and Guidance for Verifiers stating that the Administrator will review the updates to ISAE 3000 once they are published and will update the RTFO Guidance if necessary.

Q46. Do you agree with the approach set out in Chapter 3 regarding independence, competence and quality assurance?

Yes	No	Neutral or other comments
14	2	0

Summary of stakeholder responses

One respondent who agreed with the approach set out in Chapter 3 reiterated the request for the Administrator to provide accreditation of verifiers.

One respondent who disagreed provided some suggested minor modifications to the text.

One respondent who disagreed with the approach suggested that analytical testing should form a fundamental part of the required evidence to support certain claims.

Government response

The minor modifications to the text have been considered and changes made as appropriate.

The Guidance for Verifiers Chapter 6 reflects the contribution that analytical testing may make to the overall evidence package. It is for the verifier to determine sufficiency and appropriateness of evidence.

Q47. Do you agree with the approach to risk, materiality and criteria set out in Chapter 4: Planning and risk assessment?

Yes	No	Neutral or other comments
10	4	0

Summary of stakeholder responses

Two respondents who agreed with the approach set out in Chapter 4 reiterated the request for the Administrator to provide accreditation of verifiers.

Three respondents who did not agree with the approach expressed concern that the RTFO does not include a direct audit system allowing biofuels plants to be audited and certified preventing the need for further verification.

One respondent requested that DfT set out its view of the sufficiency of evidence to prevent discrepancies between the Administrators' view of sufficient evidence and that of the verifier, leading to potential revocation of certificates.

One respondent was concerned by the tone of the paragraph relating to the assessment of risk of feedstocks from wastes and residues.

One respondent made some detailed observations on a number of statements contained within Chapter 4.

Government response

A number of voluntary schemes provide auditing and certification services. Where a voluntary scheme is recognised by the European Commission and therefore by the Administrator, further verification of the data that has already been certified is not necessary under the RTFO.

It is for the verifier to determine the sufficiency of evidence. The Administrator has powers to investigate and request additional evidence; these will be used if the Administrator has concerns that the data submitted by a reporting party may not be accurate.

The potential financial benefits of fraudulent reporting are high, particularly in the case of feedstocks classified as wastes or residues. It is therefore important that this issue is highlighted to verifiers. This sentence has not been removed from the Guidance.

The detailed comments have been considered and acted upon as appropriate.

Q48. Has sufficient guidance been given on verification of feedstocks categorised as wastes or residues? If no, what further guidance is needed?

Yes	No	Neutral or other comments
7	9	0

Summary of stakeholder responses

Two respondents expressed concern over the categorisation of tallow as a waste.

Four respondents requested the harmonisation of guidance on verification of wastes across the EU.

Five respondents highlighted the increased risk of fraudulent activity created by the double counting of biofuel from feedstocks categorised as wastes. The responses called for a robust verification regime to mitigate this risk.

Government response

Issues regarding the categorisation of feedstocks as wastes or residues have been considered under the response to Chapter 8 of the C&S Guidance.

DfT continues to work with its counterparts in other EU member states on many aspects of RED implementation, seeking to harmonise our approach where possible.

The draft Guidance for Verifiers highlighted the risks associated with claims that a feedstock was a waste or residue. The guidance has been further clarified on this matter including the addition of a discussion relating to the evidence provided by Waste Transfer Notes.

Q49. Do you have any other comments relating to verification?

Comments	No comments
13	17

Summary of stakeholder responses

Two verifiers provided some detailed comments on a number of aspects of the guidance.

One respondent highlighted the role of the Government Chemist in dispute resolution between traders and regulators.

One respondent raised further concerns over the verification of double-counting feedstocks, making some suggestions as to how checks on traceability could be increased and requesting that fraudulent reporting is not tolerated.

RTFO Guidance consultation response

One respondent highlighted concerns over the new process for award of certificates and the impact that this will have on cash flows, particularly for small and medium enterprises (SMEs).

Six respondents requested a 'soft start' approach to the new requirements.

Four respondents requested that 'additional sustainability information' is defined.

Government response

Where appropriate minor changes to the wording of the Guidance for Verifiers have been made to reflect the comments raised.

The requirement for suppliers to have their C&S data verified before certificates are issued comes from the RED. The concern over impact on cash flow for SMEs was considered in the Impact Assessment and consultation on the policy.

In response to the question about the verification of double-counting feedstocks, additional guidance has been provided on the evidence for these feedstocks. Fraudulent claims of any description are not and will not be tolerated by the RTFO Administrator.

The RTFO legislation implementing the RED requirements came into effect on 15 December and does not allow for a 'soft start.' The administrator notes that the voluntary reporting system which has been in operation under the RTFO since 2008 provided a significant learning period for reporting parties and their supply chains in the provision and verification of C&S data.

The requirement to supply 'additional sustainability information' is set out in Chapter 3 of the C&S Guidance and the phrase is specifically defined in Article 2 of the RTFO Order (as amended).

Organisations that responded to the consultation

List of respondents

Organisation name	Type of organisation
1. Aeternum Capital	SME
2. Agri Energy	Large Company
3. The European Oleochemicals & Allied Products Group (APAG)	Representative Organisation
4. Argent Energy	Large Company
5. British Association for Chemical Specialities (BACS)	Representative Organisation
6. BP	Large Company
7. British Sugar	Large Company
8. Downstream Fuels Association (DFA)	Representative Organisation
9. Ensus	Large Company
10. Ernst & Young	Large Company
11. Esso	Large Company
12. Foodchain & Biomass Renewables Association (FABRA)	Representative Organisation
13. Greenergy	Large Company
14. Harvest	Large Company
15. Honeywell	Large Company
16. Ineos	Large Company

17. Joint Nature Conservation Committee (JNCC)	Other - executive non-departmental public body
18. Government Chemist	Central Government
19. Neste Oil	Large Company
20. PricewaterhouseCoopers	Other - assurance provider
21. Renewable Energy Association (REA)	Representative Organisation
22. Seed Crushers & Oil Processors Association (SCOPA)	Representative Organisation
23. Shell	Large Company
24. UK Cleaning Products Industry Association (UKCPI)	Representative Organisation
25. UK Petroleum Industry Association (UKPIA)	Representative Organisation
26. UK Renderers' Association (UKRA)	Representative Organisation
27. UK Sustainable Biodiesel Alliance (UKSBA)	Representative Organisation
28. Valero	Large Company
29. Vireol	Large Company

Respondents by organisation type

Type of organisation	Number of responses in this category
Small to Medium Enterprise (up to 50 employees)	1
Large Company	15
Representative Organisation	10
Central Government	1
Other	2