



Department  
for Transport

# RTFO Guidance Consultation for Year 6: April 2013 to April 2014

Version 2.0, January 2013

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# Executive Summary

Since its launch in 2008, the Renewable Transport Fuel Obligation (RTFO) 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 was amended in 2011 to implement the transport elements of the EU's Renewable Energy Directive (RED). The changes included the introduction of mandatory Carbon & Sustainability criteria and a new approach to the way fuels from wastes, residues and other low-impact feedstocks are incentivised. Updates to the RTFO guidance were introduced in parallel to the legislative changes.

For Year 6 of the Obligation, we anticipate two legislative changes to implement aspects of the transport elements of the EU's Fuel Quality Directive (FQD). Both of these require Parliamentary approval.

The first change is a new greenhouse gas emissions reporting requirement for fuels supplied from 1 January 2013. Although this is distinct from the RTF Order, it will affect suppliers obligated under the RTFO. The new guidance contains a chapter setting out how those who are affected by the new requirement should report.

The second change is an amendment to the RTFO to include gas oil and renewable fuels used in non-road mobile machinery<sup>1</sup> and make a consequential change to the target to ensure that the volume of renewable fuel required under the RTFO remains the same. It would also amend certain aspects of the civil penalty provision.<sup>2</sup>

This consultation asks questions on proposed updates to the RTFO Guidance for Year 6 of the obligation. These address both the new regulations and other updates to reflect experience in operating the RTFO Order since the last changes. The new guidance will come into effect from 15 April 2013 (though suppliers should note that the GHG emissions reporting requirements would apply from 1 January 2013).

This consultation is being conducted in line with the Government's new [consultation principles](#) which place a greater emphasis on how consultations are conducted and provide more flexibility on timescales. The period for written responses under this consultation is 6 weeks, ending on 27 January 2013. The Department held a stakeholder workshop and meeting with suppliers and verifiers on 7 November to outline the timing and subject matter of this consultation, and will hold a further workshop on 9 January to detail the proposed changes.

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<sup>1</sup> The changes include renewable fuel and liquid fuel used in non-road mobile machinery, agricultural and forestry tractors, inland waterway vessel and recreational craft when not at sea. These end uses are collectively termed 'NRMM' in this document and the Guidance.

<sup>2</sup> The civil penalty amendments will take effect from the day after the amendment Order is made by Parliament, however our guidance will not be updated until 15 April 2013. In the interim any affected party should consult the amended RTFO Order.

# How to respond

The consultation period began on 17 December 2012 and will run until 27 January 2013, please ensure that your response reaches us by that date. If you would like further copies of this consultation document it can be found on the [Department's website](#) or you can contact [biofuel-sustainability@dft.gsi.gov.uk](mailto:biofuel-sustainability@dft.gsi.gov.uk) if you would like alternative formats (Braille, audio CD, etc).

Please send consultation responses to:

Email address: [biofuel-sustainability@dft.gsi.gov.uk](mailto:biofuel-sustainability@dft.gsi.gov.uk)

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When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

If you have any suggestions of others who may wish to be involved in this process please contact us.

If you have any queries about this consultation please contact: [biofuel-sustainability@dft.gsi.gov.uk](mailto:biofuel-sustainability@dft.gsi.gov.uk)

There will be a consultation workshop for suppliers and verifiers on 9 January 2013. If you would be interested in attending these events, please contact [biofuel-sustainability@dft.gsi.gov.uk](mailto:biofuel-sustainability@dft.gsi.gov.uk)

# Freedom of Information

The Department intends to publish a summary of response following the consultation. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

# Introduction

- 1.1** The Renewable Transport Fuel Obligation (RTFO) is administered by the RTFO Unit in the Department for Transport. The Unit has developed guidance to help suppliers and verifiers meet the requirements in the RTFO legislation. There are three main parts to the guidance and a number of supporting annexes.
- 1.2** This consultation asks questions on proposed updates to the RTFO Guidance for Year 6 of the obligation. Overall we expect the guidance to remain substantively the same. However, there are some important proposed changes that reflect anticipated regulatory changes, and a new ‘Sustainability Compliance Policy’ section in addition to some general updates. Rather than produce a new draft version of the guidance for consultation, this document focuses only on areas of the guidance where we propose to make changes, including some new sections. The consultation should therefore be read alongside version 5 of the guidance available on our [website](#).
- 1.3** The proposed changes to the guidance for Year 6 are addressed in the order in which they will appear in the new guidance. Where there are entire new sections, the full text is annexed.



# Part One: Process Guidance

## Overview

- 1.4 The majority of the guidance will remain the same for Year 6. Changes proposed are set out below.

## Updating fuels covered to include liquid fuel used for NRMM purposes.

- 1.5 All references to road transport fuel will be updated to include liquid fuel used for NRMM purposes and the relevant HMRC duty codes added.
- 1.6 New text will be added explaining that the amended RTFO Order will contain a presumption that all low sulphur gas oil is used for NRMM purposes.
- 1.7 Text will be added explaining that, as is currently the case with the presumption that fuel owned at the duty point is assumed to be supplied for delivery in the UK, suppliers will be able to demonstrate the contrary.
- 1 Do suppliers have any comments upon the practical mechanism for demonstrating the contrary?

## Amendment to the obligation percentage

- 1.8 Obligating suppliers of fuel for use in NRMM will increase the volume of fuel obligated and thus lead to an increase in the total amount of biofuel supplied to the UK market. However, the Government is unwilling to sanction this increase whilst issues of biofuel sustainability, in particular those relating to indirect land use change, remain a concern.
- 1.9 Therefore from April 2013 onwards the overall RTFO obligation level will be adjusted so that nationally the required volume of biofuel to be supplied under the expanded RTFO is the same as that which would have been supplied had the RTFO not been expanded. Thus the obligation level for 2013/14 will fall from 5.0% to 4.75%, and remain at that level thereafter.
- 1.10 When expressed in terms of an obligation percentage (rather than a certain percentage of overall road fuel supply) the 2013/14 level will fall from 5.2632% to 4.9870%. This will be reflected in the guidance.

## Changes to civil penalty provisions

- 1.11 The *Civil penalties* section will be amended to reflect that express provision has been made that:
- an unpaid civil penalty is recoverable as a civil debt; and

- interest will be charged upon any unpaid civil penalty at 5% above the Bank of England base rate at the date by which the penalty must be paid.

## Changes to the process for RTFC application

- 1.12** The text and flow diagrams for the RTFC application process will be amended to explicitly set out the process discussed in the *Sustainability Compliance Policy*.

# Sustainability Compliance Policy

**1.13** The RTFO sustainability Compliance Policy is a new section of the guidance which describes the Administrator's approach to assessing supplier's compliance with the sustainability criteria. The full policy is included in this document at Annex A.

- 2** Are the policy and process described with sufficient clarity?
- 3** Do you have any comments on the identification of risks?
- 4** Do you have any comments on the assessment of risks?
- 5** Do you have any comments on what is required of the suppliers?
- 6** Do you welcome the option to provide such a description of the chain of custody and the evidence within it as an initial stage of the process?
- 7** Do you have any comments on any practical issues that providing such a list may rise?
- 8** Do you have any comments on the approach to general investigations?

# Part Two: Carbon and Sustainability Guidance

## Overview

- 2.1** The majority of this part of the guidance has not changed; however, we are proposing a number of updates which are set out below. Where significant new additions to the guidance have been made these are included in this document in full as annexes. This includes new chapters: *Demonstrating compliance: evidence requirements* and *Greenhouse Gas Emissions Reporting Regulations (Fuel Quality Directive)*.

## Updates to text referring to the grandfathering provision of the RED

- 2.2** This provision meant that biofuel that had been processed in production installations that were in operation on 23 Jan 2008 did not have to meet the minimum 35% GHG savings threshold until 1 April 2013. Therefore, all biofuel will have to achieve at least 35% GHG savings for Year 6 of the RTFO and biofuel must not be reported as 'grandfathered'.
- 2.3** As a consequence the option to report the fuel level default has been removed. This was only permitted for grandfathered fuel for which no feedstock or process default was available<sup>3</sup>.

## Chapter 4: Update to Defra's list of evidence sources for demonstrating compliance with the land criteria

- 2.4** Chapter 4 on *Demonstrating compliance with the land criteria* refers to a list of evidence sources within the UK that might be used to show that biofuels grown in the UK have been sourced in a manner that is consistent with the sustainability criteria in the Renewable Energy Directive. This was compiled by The Department for Environment, Food and Rural Affairs (Defra) to assist economic operators and is available online. The content has since been updated by Defra and the format changed to that of a flow chart to make it more user-friendly. It is included at Annex A.

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<sup>3</sup> This includes biofuel for which the default could not be reported due to (RED-compliant) changes in carbon stocks or where the biofuel feedstock was cultivated in a non-compliant NUTS2 region.

- 9 Do you agree that the new format of the Defra guidance is more user-friendly?
- 10 Are there any other sources of evidence that could be included?

## Chapter 7: Demonstrating compliance with the mass balance rules

- 2.5 This chapter remains substantially the same with some minor amendments to ensure consistency with the new chapter on evidence requirements and the new Sustainability Compliance Policy. There are some more significant amendments which are described below.
- 2.6 The maximum permitted mass balance period has been reduced from one year to three months. This brings the RTFO into line with the periods being used by voluntary schemes under the RED. This potential change was communicated in the Year 5 C&S Guidance (paragraph 7.22).
  - 11 Does this change present any insurmountable practical difficulties?
- 2.7 The definitions within the chapter have been amended to include the definition of origin and country of origin:
  - Origin: the farm or plantation where the crop was grown or the site/facility which first generated the waste or residue.
  - Country of origin: the country in which the 'origin' is located. This is NOT the country where the biofuel was produced i.e. the biofuel processing plant.
  - 12 Are these definitions sufficiently clear?
- 2.8 An additional paragraph has been added to the section on allocation of carbon and sustainability data. This paragraph is included below.
- 2.9 Once C&S data has been assigned to biofuel that has crossed the duty point, further substitution of the set of C&S data is not permitted<sup>4</sup>. This applies whether or not the application for certificates was successful.
  - 13 Does this cause any practical implementation issues that we should be aware of?

## Chapter 8: Wastes and residues

- 2.10 Chapter 8 of the current guidance provides guidance on the categorisation of certain materials as wastes or residues for the purposes of the RTFO and outlines the particular requirements for C&S reporting on biofuels made from these feedstocks. It refers to tables with lists of materials that have been assessed by the Administrator and sets out a process for the assessment and categorisation of new materials.
- 2.11 We are not proposing changes to this chapter for Year 6. However, as this was a new part of the guidance following RED implementation, we would

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<sup>4</sup> Note, this is distinct from correcting inaccurate data in relation to the same fuel. It refers to mass balancing C&S data to different fuel, which is not allowed after it has been assigned at the duty point.

particularly welcome feedback on how useful the guidance and process have been in practice.

- 2.12** In addition, the guidance stated that the Administrator would keep under review the treatment of double counting materials. It said that the treatment of tallow in particular would be reviewed for April 2013 in relation to legislative changes and to assess the impact on other markets resulting from additional incentives for tallow based biodiesel. An initial review has been conducted and the [report](#) is published alongside this consultation.
- 2.13** The report explored the concern that double counting Category 1 tallow biodiesel might result in a reduction in the production of Category 3 tallow, which has been categorised as a 'product' and has widespread use in the oleochemicals and animal feed sectors. This might be the result if incentives for Category 1 biodiesel production were sufficiently high that it was no longer worth the cost for renderers to separate out Category 3 from Category 1 tallow.
- 2.14** The report concludes that data gathered for the review does not support a hypothesis that double counting of Category 1 tallow biodiesel is having a detrimental effect on the volumes of Category 3 tallow produced. In total, volumes of tallow biodiesel reported under the RTFO appear to be lower in recent years than at the start of the RTFO. We do not, therefore, currently propose to change the approach to double counting on tallow, but will continue to monitor the market.
- 14** Has the system in operation this year for wastes and residues proved helpful? If not, please detail what improvements could be made.
- 15** Do you agree with the data and analysis provided in the Ecofys report on tallow? If not, please detail any alternative evidence.
- 16** Do you agree with the approach outlined in the report to continue monitoring the tallow market? If not, please detail other sources of relevant data that we should take into account.

## New chapter: Demonstrating compliance: evidence requirements

- 2.15** We propose to include a new chapter discussing the types of evidence that suppliers and verifiers may encounter in the Carbon and Sustainability Guidance. This Chapter is based on the information originally included in *Guidance for Verifiers, Chapter 6 Execution*. The chapter discusses the types of evidence that are required to demonstrate compliance with the sustainability criteria. It has been updated on the basis of learning from investigations into supporting evidence carried out during Years 4 and 5. The full chapter can be found in Annex B.

- 17 Are the evidence requirements sufficiently clear?
- 18 Is the treatment of third party audits within the supply chain sufficiently clear?
- 19 Are there any further types of evidence that should be included in this chapter?

## New chapter: Greenhouse gas emissions reporting regulations (Fuel Quality Directive)

- 2.16 It is anticipated that GHG reporting regulations will introduce the reporting elements of the Fuel Quality Directive (FQD) from 1 January 2013. The policy was set out in the [Government Response](#) to its consultation on article 7a of the FQD published in July. The changes are subject to parliamentary approval of a new Statutory Instrument: 2012 No. 3030 "The Motor Fuel (Road Vehicle and Mobile Machinery) [Greenhouse Gas Emissions Reporting Regulations 2012](#)," which was laid in the House on 6 December.
- 2.17 We propose to include a brief chapter in the carbon and sustainability reporting guidelines explaining how the requirements of the new legislation affect suppliers obligated under the RTFO. This explains that suppliers reporting under the RTFO will have the necessary information to meet the requirements of the GHG Emissions Reporting Regulations. The new chapter is at Annex C of this document.
  - 20 Is the proposed chapter on the GHG emissions reporting regulations clear and helpful?
  - 21 Do you agree with the energy intensities for the fuels included in table C2 that are not part of Annex III of the RED?

## Annex A: Guidance on recognition of voluntary schemes

- 2.18 The RTFO Administrator carried out initial benchmarks of seven existing voluntary schemes against the mandatory RED biodiversity and carbon stock criteria in 2010 - see Table 1. The guidance for Year 4b and Year 5 stated that the RTFO Administrator would recognise the results of these indicative RED benchmarks to demonstrate RED compliance for Year 4 and Year 5 of the RTFO. The guidance also states that 'in the interests of EU harmonisation, as a general rule it is expected that further benchmarking of standards against the RED requirements should now be conducted by the European Commission to achieve harmonisation and to minimise administrative burden'.
- 2.19 Whilst the initial benchmarks carried out by the Administrator enabled the use of some key schemes before they were assessed by the Commission, it was always the intention that biofuel suppliers should move towards use of the EC-recognised voluntary schemes. A number of these schemes have now been assessed by the Commission (RED compliant versions of Red Tractor, RTRS and RSPO) and others are in the process of being assessed by the Commission.

**2.20** Therefore, from Year 6, voluntary schemes that have not been approved by the European Commission can no longer be reported on ROS.

<b>Table 1 RTFO Administrator benchmarked schemes</b>					
<b>Voluntary scheme</b>	<b>Version number</b>	<b>RED sustainability compliance</b>			
		<b>GHG</b>	<b>Biodiversity</b>	<b>Carbon stocks</b>	<b>Audit quality</b>
Forest Stewardship Council (FSC)	1996 (amended 2004)	-	No	No	Yes
Genesis Quality Assurance (Genesis QA)	2008-2009	-	Yes	No	Yes
Linking Environment And Farming Marque (LEAF)	Oct-08 (version 8)	-	No	No	Yes
Red Tractor (pre-RED) (formerly Assured Combinable Crops Scheme, ACCS)	Jul-08 (ACCS standard)	-	Yes	No	Yes
Roundtable on Sustainable Palm Oil (RSPO)	Oct-07	-	Yes	No	Yes
Round Table on Responsible Soy (RTRS)	Jun-09 (Field Testing)	-	No	No	-
Sustainable Agriculture Network/Rainforest Alliance (SAN/RA)	Apr-09	-	Yes	No	Yes

**22** Do you agree that the old indicative benchmarks of voluntary schemes against the RED land criteria should no longer be recognised under the RTFO?

## Reporting biofuel from another Member State's national system (mutual recognition)

**2.21** All Member States are obliged to put in place a 'national system' for parties to use to demonstrate that their biofuels comply with the RED. The RTFO represents the UK's national system for biofuels.

**2.22** Most Member States' national systems, like the UK's RTFO, operate at the duty point. This means that, in effect, fuel assessed as being compliant with



the RED under their national system will not be used in other Member States. However, some Member States have national systems that operate in a similar way to voluntary schemes and checks are carried out that biofuel is RED-compliant prior to the duty point. In this scenario it is feasible the biofuel could then be imported into the UK.

- 2.23** The UK supports the approach of mutual recognition across Europe. We have therefore developed a process to recognise other Member States' assessments of RED compliance where their national systems are relevant to exported fuels. Consignments of biofuel verified as sustainable by other Member States will be treated in the same way as consignments of fuel supplied through voluntary schemes that have been recognised by the European Commission. Biofuel that has been verified to be compliant with another Member State's national system can be reported under the 'voluntary scheme' field in ROS<sup>5</sup>.
- 2.24** We have undertaken a brief review of other Member States' national systems to ascertain which might be used under the RTFO. This is included at Annex E of this document.
- 2.25** We have also prepared a framework which can be used to assess whether and how a Member State's national system can be used under the RTFO to demonstrate compliance with the sustainability criteria of the Renewable Energy Directive (RED), in a similar way that a European Commission-recognised voluntary scheme can. This is included in Annex F of this document.
- 2.26** A new table will be available online which lists those Member States which have national systems which can be used under the RTFO.<sup>6</sup> This will be updated when and if new national schemes have been assessed by the Administrator.
- 23** Do you agree with the proposed process for assessing Member State national systems?
- 24** Do you agree that the proposed framework for assessing Member State national systems covers all relevant topics?
- 25** DfT does not intend to assess other Member State national systems at this time. Are there any Member State national systems that you feel should be a priority for DfT to assess in the short term? If so, please provide an indication of how much biofuel you anticipate will come from that Member State's national system and the timeframe.

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<sup>5</sup> Reporting a Member State's national system in this field will therefore populate the RED sustainability flags in ROS with a green 'yes'. It is still necessary to report the biofuel's carbon intensity.

<sup>6</sup> A limited number of Member States have been assessed to date. Requests can be submitted to assess a particular Member State's national system by following the process set out online.

## Updates to Annex C: Potential future updates to RTFO C&S reporting

- 2.27** Updates will be made to the text on indirect land use change, degraded land, and the definition of highly biodiverse grassland if more information is available prior to release of the new guidance in March 2013.
- 26** Are there any known updates missing from this guidance that would impact on RTFO C&S reporting?

## Updates to Annex D: Example chain of custody records

- 2.28** This annex contains examples of chain of custody records for different economic operators along the supply chain.
- 2.29** Although the new records are not yet available, we propose to update this annex to show some examples of records for a waste feedstock.
- 27** Are there additional examples we should consider providing?

# Part Three: Guidance for Verifiers

- 3.1** The Guidance for Verifiers provides further detail on the particular issues relating to assurance of biofuel sustainability data. The most significant change to this document is the removal of the evidence section from Chapter 5. This section has been updated and incorporated within the C&S Guidance. It is intended to provide a useful reference for suppliers and verifiers.
  - 3.2** Other minor changes have been made where necessary to ensure consistency with other changes to the guidance.
- 28** Do you have any other comments relating to the Guidance for Verifiers?

# General Comments on the Guidance

**4.1** The final questions below provide an opportunity to make general observations on any or all parts of the existing Guidance. It would be helpful if responses could identify whether they are referring to the Process Guidance, Carbon & Sustainability Guidance and/or the Guidance for Verifiers as appropriate.

**29** Is the overall structure and format of the existing guidance (with proposed amendments) helpful?

**30** Are there other areas of the existing guidance that we should clarify?

**31** Do you agree we have captured all the necessary changes?

# What will happen next?

- 5.1** Consultation responses will be considered and any subsequent revisions to the guidance will be made in advance of the 2013/14 RTFO obligation period (Year 6) on 15 April 2013. A summary of responses to the consultation will also be published.

# Consultation Principles

**6.1** The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available on the Better Regulation Executive website at <https://update.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

**6.2** If you have any comments about the consultation process please contact:

Consultation Co-ordinator  
Department for Transport  
Zone 1/14 Great Minster House  
London SW1P 4DR

Email [consultation@dft.gsi.gov.uk](mailto:consultation@dft.gsi.gov.uk)

# Annex A Sustainability Compliance Policy

## Introduction

- A.2** This document sets out the RTFO Administrator's policy on undertaking checks on the accuracy of information provided by suppliers and therefore whether the sustainability criteria have been met.
- A.3** When applying for RTFCs a supplier must provide a declaration that the information submitted with the application is accurate. Suppliers are also required to seek independent assurance (verification) over their information relating to compliance with the sustainability criteria and submit the assurance opinion to the Administrator. The supplier is expected to have its own processes and procedures to ensure that it provides accurate information and can therefore make such a declaration. Verification and the provision of an assurance report are expected to occur in addition to this. Because compliance with some of the sustainability criteria can only be demonstrated through knowing the origin of the feedstock, information and/or evidence must pass along a chain of custody accurately from the origin to the reporting party.
- A.4** The Administrator has had regard to the [Regulators Compliance Code](#) in developing this policy

## Assessing applications for certificates

- A.5** In order to be satisfied that information provided by the supplier is accurate, the RTFO Administrator carries out a number of checks:
- A check that the fuel volume data validates against data submitted to HMRC.
  - A check that the carbon and sustainability (C&S) data is consistent with the requirements in the C&S Guidance for demonstrating compliance with the sustainability criteria.
  - A check that the verifier's statement provides the required assurance that the C&S data has been prepared in accordance with the C&S Guidance.
  - A check, on the accuracy of the reported data. This may involve asking for information and/or evidence to support the data reported on specific consignments of fuel, selected on the basis of a risk assessment.
- A.6** Checks one to three are carried out in relation to all applications for certificates. Further detail on these can be found from section 4.13 of [RTFO Guidance Part One: Process Guidance](#).

- A.7** This document focuses on the accuracy checks carried out on selected consignments (check four) and sets out the risk assessment process which will be used to select individual consignments for checking.
- A.8** If following any of these checks, the Administrator is not satisfied that the sustainability criteria have been met, certificates will not be issued.
- A.9** The following bullets summarise the process that the Administrator will use when checking the accuracy of applications. Each stage is then covered in more detail in the following sections.
- a. The Administrator identifies the risks associated with the applications
  - b. The Administrator assesses the risks to determine what, if any, accuracy checks it should undertake, focusing on those with the highest risk
  - c. The Administrator requests further information and/or evidence from the supplier(s) concerned
  - d. Suppliers respond
  - e. The Administrator assesses the response and determines whether certificates should be awarded or not and whether any further action should be taken
  - f. The Administrator communicates lessons learned to fuel suppliers, verifiers and the wider stakeholder group as appropriate and updates its guidance where necessary.

#### **a) Identification of risks**

- A.10** Identification of risks is a dynamic process based on information gathering. This information may come from publicly available sources, other biofuel regulators, other UK public bodies, specific allegations from within the industry or the analysis of C&S information and evidence provided. The following paragraphs set out some of the types of risk which will be considered.
- A.11** Some risks will be inherent in the nature of the RTFO, such as those raised by increased incentive provided by double counting.
- A.12** The Administrator also considers risks related directly to administrative consignments which have been submitted. For example, the risks associated with inconsistent or unusual C&S data, or limitations or exclusions in the verifier's statement.
- A.13** Risks associated with individual suppliers will be taken into account. For example, those which have demonstrated good compliance with the regulations will be considered lower risk and those which have not demonstrated good compliance will be considered higher risk.
- A.14** The Administrator maintains a list of risks which is reviewed regularly and, where possible, will communicate these risks to suppliers, verifiers and other stakeholders as appropriate. There may be risks relating to specific allegations which cannot be publicly communicated, making it unlikely that the list will be published in its entirety.



## **b) Assessment of risks**

- A.15** The risks identified in the previous stage will be assessed in relation to the impact of supply of biofuel which does not meet the sustainability criteria and the likelihood of that impact occurring in order to determine whether each administrative consignment should be subject to a check on its accuracy.
- A.16** In assessing the impact the Administrator may take a number of factors into account including:
- The cumulative volume of fuel reported by the supplier with the same C&S characteristic(s)
  - The proportion of a supplier's biofuel which is affected by the risk in question
  - The number of certificates per litre which have been applied for
  - The nature of the sustainability information reported and the impact of any risks associated with that information.
- A.17** In assessing the likelihood the Administrator may take a number of factors into account including:
- The severity of any issue with the C&S information or verifier's statement
  - The nature of any external information on risks relating to the C&S information reported
  - The source of the information on the risks (if not directly held by the Administrator)
  - The past record of the supplier in complying with the sustainability criteria in the RTFO and any similar legislation, e.g. the Renewable Obligation or another Member State's biofuels legislation
  - Any knowledge the Administrator may have about the supply chain used and its record of compliance
  - The nature of the sustainability information reported and the likelihood that it may not be accurate
- A.18** The administrative consignments with the highest risk will be selected for further checks. The number of consignments selected in each month may vary.

## **c) Administrator sets out what it requires from the supplier**

- A.19** Where an administrative consignment has been selected for further checking, the lead user at the supplier will be contacted by e-mail clearly setting out what is required of them. This may include an explanation of unusual data, a query about the verification statement or a request for further information and/or evidence to demonstrate the accuracy of the data. The Administrator will ask the supplier to acknowledge receipt of the requirement.
- A.20** The decision on whether to issue certificates to any of the Administrative Consignments in the affected Administrative Consignment group will be held until the decision on the consignment(s) in question has been made.

- A.21** The deadline for a full response allowing the Administrator sufficient time to review the response and to make a decision on certificate issue within the expected month will be provided.
- A.22** Under the RTFO, certificate applications may be made at any time up to 12 August following the end of an Obligation Period. If suppliers wish to use the RTFC for redemption against an Obligation for the period in question, the last scheduled certificate issue date is 15 November. When requiring evidence, the Administrator will provide an end of year deadline for provision of the evidence beyond which further evidence may not be considered.
- A.23** As set out in the [Carbon and Sustainability Guidance](#) Chapter 7, a chain of custody must exist from the origin in order to demonstrate that the C&S data being reported is accurate. Where necessary, the Administrator may require that documentation is provided that demonstrates the entire chain of custody. For example, this may occur where evidence to demonstrate feedstock or reporting items relating to land use is required.
- A.24** When requiring information and/or evidence behind an application, the Administrator may give the supplier an option to provide details of the chain of custody and a list of the evidence which is available for each step before they are asked to provide the evidence in question. This may be part of the evidence pack that was prepared for the verifier in advance of the verification process. The Administrator will review this list to determine whether it is appropriate to select a sample of evidence for review rather than requiring evidence for the entire chain of custody. Whilst it is not a requirement that the supplier holds such a list, it is likely to contribute to a quicker outcome.
- A.25** The Administrator recognises that supply chains may be complex and involve many different entities, especially close to the origin of the feedstock. It is likely that the Administrator will want to see all of the evidence demonstrating the chain of custody for the later stages of the supply chain. However, it is unlikely that all of the evidence relating to every entity close to the origin will be required for review. By providing a list of the suppliers or information and/or evidence involved, the supplier will facilitate the selection of a sample for review by the Administrator.

#### **d) Suppliers respond**

- A.26** The Administrator would prefer to receive all of the information and evidence in one pack, preferably labelled such that it is clear which evidence applies to which steps in the chain of custody. If the supplier intends to supply information and/or evidence in several sections they should indicate this at the outset, and once the final documentation has been provided they must also let the Administrator know so that the review can commence.
- A.27** If the supplier is unwilling or unable to respond to the request, they may withdraw their application; however the Administrator will require the supplier to inform the Administrator if they subsequently seek to apply for RTFCs upon the fuel in question. If the supplier has not responded to the request to the Administrator's satisfaction by the end of year deadline indicated in paragraph A.22, RTFCs may not be issued in time for redemption in the Obligation Period in question.

## **e) Administrator reviews the response**

- A.28** The Administrator will review the supplier's response and any information and/or evidence provided within the time period set out in the original request. If the Administrator finds that it is satisfied that the sustainability criteria have been met, the administrative consignment group will be approved for certificate issue.
- A.29** If the Administrator is not satisfied that the information provided is accurate and therefore that the sustainability criteria have been met, certificates will not be issued. The administrative consignment group(s) concerned will be rejected. The reasons for rejection will be set out in an e-mail to the supplier notifying them that the group has been rejected. A requirement will be placed upon the supplier to inform the Administrator if they subsequently seek to apply for RTFCs upon the fuel in question.
- A.30** If certificates are not issued, the Administrator will consider whether further enforcement action is also necessary such as the imposition of a civil penalty (see Process Guidance section 6). If the Administrator is considering additional enforcement action, this will also be communicated in the e-mail notifying them of the non-issue of certificates. Whilst there may be a link between the rejection of an application for RTFCs and the imposition of Civil Penalties, we may only consider imposing a Civil Penalty where a supplier has failed to take reasonable steps to ensure that the information is accurate.
- A.31** The circumstances in which certain enforcement actions may be taken and the processes involved, including those for appeal are set out in [RTFO Guidance Part One: Process Guidance](#).
- A.32** If the Administrator informs the supplier that the evidence provided is insufficient to substantiate the information, the administrative consignments can be re-submitted at any time up to the final deadline for submission for that obligation period (subject to the requirement to notify the Administrator of this as set out above). Upon re-submission, the Administrator will expect to see additional evidence to that already provided and will assess this as set out above. The re-submitted application will not be processed within the timeframe for the initial application.
- A.33** In accordance with the mass balance rules, if an application for certificates has been rejected, there must be a volume of unsustainable biofuel equivalent to the amount for which certificates were not issued in the supplier's account within the supply period (month or quarter) in question. The Administrator will check that this is the case.
- A.34** The Administrator will consider whether the outcome of any checks on certificate applications has changed the risk profile such that other checks on certificate applications either from the supplier in question, or other suppliers should be initiated. For example, if an issue with a supply chain party was discovered, the Administrator may require that all suppliers declare whether their chain(s) of custody included this party.
- A.35** Where a certificate application has been rejected, the Administrator may, where requested by the supplier, make comment on the likely outcome of any future application for the same or similar fuel.

## **f) Communicating lessons learned**

- A.36** Communication about a specific application for certificates will be directly with the supplier involved. The Administrator is available for discussions with the supplier and the verifier involved.
- A.37** The Administrator will not discuss the specifics of a case directly with a verifier without specific written permission from the supplier concerned; however the Administrator is available for general discussions with individual verifiers
- A.38** The Administrator will use existing communication channels to keep suppliers, verifiers, and the other stakeholders informed of any developments.

## **General investigations**

- A.39** In addition to the checks performed when considering individual applications for certificates set out above, the Administrator may undertake general investigations into the operation of the RTFO and the fuel supplied under it. This may involve requesting information and/or evidence from suppliers in relation to certificates already awarded.
- A.40** If during a general investigation, it becomes apparent that certificates may have been awarded incorrectly, the Administrator will consider the appropriate actions to take, which may include revocation of the certificates.
- A.41** These investigations also allow the Administrator to understand industry practice in greater detail and inform changes to the policy or guidance which may become necessary. They also provide evidence to inform discussion of the effective operation of the RED with other Member States, the European Commission, and voluntary schemes.

# Annex B Demonstrating compliance: evidence requirements

## Introduction

- B.1** As set out in *Chapter 7: Demonstrating compliance with the mass balance rules*, each party in the chain of custody must keep records relating to the feedstock or biofuel that they have received and supplied. In order to ensure that a full chain of custody is in place, records for both the C&S data and the physical product will need to be complete. This information may need to be made available in the following circumstances:
- For the final reporting party to check before submitting an application for RTFCs to the Administrator;
  - For a verifier to review whilst undertaking an assurance engagement on a supplier's application for RTFCs;
  - For the Administrator to review whilst checking the accuracy of information provided with an application for RTFCs or undertaking a general investigation<sup>7</sup>.
- B.2** Various types of evidence will exist depending on the nature of the feedstock, its country of origin, and the supply chain. The following sections discuss the types of evidence which may be available to demonstrate compliance with the sustainability criteria. Different types of documentation are also discussed with guidance on the level of reliance that should be placed on them. The Administrator will reference this guidance when conducting its own checks.

## Evidence requirements for key C&S data

### Evidence of compliance with recognised voluntary schemes

- B.3** The *C&S Guidance* states that reporting biofuel meeting a voluntary scheme which has been recognised as meeting one or more of the RED sustainability criteria, is proof of compliance with those criteria. In this case, a certificate or proof of sustainability generated by the scheme must exist relating to the fuel in question. Additional evidence is not required to substantiate the C&S information included on the certificate. However, the claim of compliance with the scheme and the certificate must be legitimate, the recognised version of the scheme must be used, and the volumes of biofuel must be reported accurately.

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<sup>7</sup> See the separate document: *RTFO Sustainability Compliance Policy* for details

- B.4** Suppliers should ensure that the certificate includes the necessary information in order to apply for an RTFC. Where mandatory or other reported C&S information is not included in the scheme's certificate then other evidence will need to be obtained to cover the missing information. For example, some certificates may not include information on the feedstock type; however it is mandatory to report this on an application for RTFCs under the RTFO. It would therefore be necessary to determine the feedstock and ensure that evidence was available to support this.
- B.5** Each scheme has its own system for tracing registrations and any certificates which may be issued. Some include numbered certificates which can be cross-checked using an online database. Some schemes have strict rules on the claims that can be made, such as a requirement for all parties in the chain of custody, including the reporting party, to be registered and certified in order for a claim to be legitimate. Certificates issued outside of scheme rules are not legitimate and should not be relied upon.
- B.6** A certificate issued under the scheme is the only acceptable form of evidence that the biofuel in question was certified and meets the sustainability criteria. Neither membership of a voluntary scheme or an audit of an individual supplier to scheme requirements provides certification for consignments of biofuel.
- B.7** Voluntary schemes may not cover all of the mandatory criteria of the RED. In this case the scheme can only be accepted as evidence for the criteria for which it has been recognised. Other evidence is required to demonstrate compliance with the criteria of the RED not covered by the scheme.
- B.8** If a voluntary scheme does not include all of the suppliers in the fuel chain, a separate chain of custody must be in place for the stages of the supply chain not covered by the scheme. Evidence must be available to demonstrate this.
- B.9** Where a voluntary scheme has been used but the version differs from the one that was recognised by the EC, this may still provide some evidence, but does not automatically demonstrate compliance. In this case, it should be treated as other third party assurance - see *Third party audits or assurance* below.

### **Evidence of the biofuel feedstock**

- B.10** Evidence from the origin is the only form of acceptable evidence to prove feedstock type and any C&S data relating to the land on which a crop was grown. Evidence from the origin will also prove country of origin, although this may be determined in other ways. As with all evidence, evidence from the origin is subject to checks on its credibility, for example, that the entity carries out a business that is expected to produce an appropriate volume of the feedstock whether it is a crop or a waste or residue.
- B.11** Evidence from the origin is expected to include, as a minimum, the entity's name and address, the date of transfer, and the quantity and nature of the material transferred. See Annex D (of the RTFO C&S Guidance) for example chain of custody records.
- B.12** Formal documents are preferred and are required where they may normally be expected to be available. The availability of formal documents may depend

on the country of origin. For example, a formal waste transfer note (WTN) should exist for waste products within the UK, and any registered business is required to produce sales invoices.

### **Evidence of feedstock type in claims for double counted feedstocks**

- B.13** Considering the financial incentive that double counting of certain feedstocks presents, it will be particularly important to examine evidence of feedstock type for these claims. Evidence will be required that the fuel is indeed made from the feedstock that has been claimed and this evidence must come from the origin. Evidence will vary with feedstock type and source. For example, in the case of used cooking oil, evidence of the original collection of the oil from restaurants or other catering establishments would be required.
- B.14** Whether a feedstock is counted as a waste or residue under the RTFO is determined by the Administrator. A list of wastes and residues is available on [the Government's website](#).

### **Evidence supporting carbon intensity data**

- B.15** Where a default value for the carbon intensity is used, it is necessary to ensure that the feedstock (and process if applicable) is correct and that the correct default value has been applied. For all crop-based feedstocks it is also necessary to determine that no change in (RED-compliant) carbon stocks took place. In the case of EU crop-based feedstocks, this also includes a requirement to check that the reporting of a default was appropriate for the region where the feedstock was cultivated (i.e. that the feedstock was from a compliant NUTS2<sup>8</sup> region).
- B.16** Where actual carbon emissions data is provided part way along the chain of custody including through a voluntary scheme e.g. for cultivation and/or processing, reporting parties and verifiers should check that the calculation includes any additional carbon emissions which may have occurred between the parts of the supply chain that include actual GHG data and the UK duty point.
- B.17** Where a reporting party has reported an actual value for the carbon intensity, and where this value has not been provided through a voluntary scheme, records and evidence relating to the calculation must be kept and be available for review.

### **Evidence for previous land use**

- B.18** Guidance is given at the end of *Chapter 4: Demonstrating compliance with the land criteria* of types of evidence which may be available to demonstrate compliance with the land use criteria.

## **Evidence from audits within the supply chain**

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<sup>8</sup> Nomenclature of territorial units for statistics, level 2 defines regions within countries

## Third party audits or assurance

**B.19** Evidence of third party audits may be provided in a number of circumstances. These include:

- where a supplier has used a voluntary scheme which has not been recognised by either the Commission;
- where a member of the supply chain has arranged independent verification of the data to that point in the fuel chain;
- as proof of compliance with the RTFO Biofuel Sustainability Standard;
- as evidence for the use of actual carbon data.

**B.20** For third party assurance to be credible enough to be relied upon exclusively, the following conditions must be met:

- The subject matter (i.e. the data that is being assured) must cover the data that is being reported to the Administrator;
- The assurance must be provided by a suitably competent and independent person;
- The assurance provider must be working to a standard appropriate to the data they are verifying;
- The assurance provider must have used appropriate assurance criteria and specify these in the assurance statement;
- Testing procedures must be undertaken to an appropriate methodology and sufficient sample size to be relied upon. For example, the assurance provider should have tested, using an appropriate sample size, that the C&S information is traceable back to the party or parties that generated the original information through an appropriate chain of custody;
- The assurance conclusions must be sufficient to mitigate the need for further testing;
- The assurance report must convey the above information clearly or be accompanied by other referenced documentation which provides the information required.

**B.21** If the above conditions have not been met, suppliers should ensure that there is additional evidence available to substantiate the C&S data. When conducting its own investigations, the Administrator may also require evidence that has already been reviewed by an independent auditor.

**B.22** In the case of actual carbon emission data, additional technical expertise is required when auditing the calculations and results. Suitable indicators of the competency of an auditor to provide assurance over carbon data may include:

- The auditor is accredited to issue annual GHG emission opinions under the EU Emissions Trading Scheme;
- The auditor meets the requirements for organisations that validate or verify GHG emission assertions or claims, as set out in ISO 14065;



- The auditor has experience of issuing public assurance statements on an organisation's GHG emissions in accordance with a recognised assurance methodology standard (e.g. ISAE 3000).

**B.23** Audits on individual suppliers within the supply chain that do not include auditing of parties earlier in the supply chain may form part of a body of evidence, and may provide conclusive evidence about the operation of mass balance systems within the supplier which has been subject to audit. However, it should be noted that such reports are not considered to be evidence of a complete chain of custody and therefore do not of themselves provide conclusive evidence of meeting the sustainability criteria.

**B.24** Where proof of compliance with the RTFO Biofuel Sustainability Standard is being presented, there must be evidence that a positive field audit was undertaken and that the auditor(s) met the norm for audit quality. No assessment of the content of audit reports is necessary, as the audit norm serves as a proxy for audit quality.

### **Second party audits**

**B.25** Second party audits are those undertaken on behalf of a supplier but which are not 'independent'. For example, where a reporting party has hired experts to undertake checks on the supply chain, but has not engaged them under an assurance framework which requires independence such as ISAE 3000.

**B.26** Second party audits may be used as evidence subject to the same requirements as for third party audits, with the exception of the requirement for independence. Where second party audits are used, the relationship between the individual or organisation undertaking the checks and the supplier must be considered. The level of independence required for undertaking credible checks will vary based on risk, including the complexity of information being checked.

## **Transport evidence and contracts**

**B.27** It is necessary to be able to demonstrate a chain of custody for both the sustainability data and the physical shipments. For feedstocks and other material prior to the conversion to biofuel, the C&S data and physical material must stay together. It would therefore be expected that any C&S data included in the shipping documentation would be consistent with the C&S data transferred.

**B.28** Once the feedstock has been processed into biofuel, physical shipments do not have to contain the same information as the C&S data under a mass balance system, but a physical quantity must have been shipped between the two entities in order to comply with the rules. For example it may be legitimate to have a physical shipment of rape methyl ester (RME) which has sustainability data for used cooking oil ME.

## Transport documentation

- B.29** Transport documentation should be available from the origin of the material to final supply. This can be expected to include vehicle and shipping documentation, weighbridge and lab reports.
- B.30** Prior to conversion of the feedstock into biofuel, the mass balance rules prevent allocation of C&S data to another feedstock. Chain of custody must therefore show shipping and other transportation documents and data transfers which relate directly to each other.
- B.31** A bill of lading is a document issued by a carrier, such as a shipping company, confirming that specified goods have been received as cargo for transportation. In addition, a bill of lading should state the particular vessel on which the goods have been placed, their destination and the intended recipient.
- B.32** Bills of lading should be available for all biofuels or feedstocks that have been shipped into the UK. Feedstocks produced within the UK may not have bills of lading, but there should be equivalent transportation documentation that provides evidence of product type, quantity, delivery route and date of delivery. Biofuel volume data from bills of lading should be consistent with the data in the application for RTFCs.

## Contracts

- B.33** Reporting parties should be able to provide contract documentation (including any amendments) that describes the biofuel that the supplier was contracted to supply, and which links to the invoices and bill(s) of lading that demonstrate that the specified biofuel was supplied.
- B.34** Contract documentation may also set out requirements on the supplier to provide data, results of analytical testing, assurance to a particular standard or access to evidence.
- B.35** Contracts do not however provide conclusive evidence that a product was supplied to the specified requirements, and therefore additional evidence will be required to demonstrate compliance.

## Waste Transfer Notes

- B.36** In the UK, a Waste Transfer Note (WTN) is a document which is required, by law, to be completed when waste is transferred from one entity to another. There is a list of information which must be included in the document and there are penalties for falsifying the documents. Information on UK WTNs can be found on the UK [Government website](#).
- B.37** Documents describing themselves as WTNs relating to transactions in countries other than the UK may not be subject to the same levels of regulation, and therefore are not considered to provide the same level of evidence unless there is a similar regulatory system in place in the country in question. If a document claiming to be a waste transfer note is not subject to regulation, it is considered to be a self-declaration from the supplier concerned.

## Fraudulent documents

**B.38** Some shipping companies and other organisations host 'black lists' of examples of fraudulent documents on their web sites<sup>9</sup> which may give some indication of the types of fraudulent document that exist. None of these lists can be considered official and therefore the nature of the hosting organisation must be taken into account when considering the validity of any evidence provided.

## Other evidence

### Technical testing

**B.39** On receipt of deliveries, reporting parties may perform tests of the feedstocks or biofuel for conformity with required physical and chemical properties. At this time, the RTFO Administrator does not consider that any chemical test is definitive for the identification of a feedstock or a resulting biofuel as used cooking oil. However, these test results may provide supporting evidence about the type of feedstock and the percentage split for mixed feedstocks.

### Supplier self-declarations

**B.40** Declarations from upstream suppliers on the C&S characteristics of a biofuel feedstock, supported by contractual obligations upon suppliers to provide such information, are a means of obtaining and maintaining control over C&S information that are used by many reporting parties.

**B.41** Whilst self declarations are a form of evidence, they must be credible and they must form part of a complete chain of custody to the origin of a material.

**B.42** Other forms of evidence

**B.43** First-hand evidence, such as interviewing personnel, observing processes and controls and, potentially, physical inspections, are all important sources of evidence. Interviews and observations of processes and controls may form part of the evidence gathered for every RTFO by suppliers or verifiers. Physical inspections may be required for certain information where documented evidence has not been passed up the chain of custody; an example might be examining local land use records and speaking to local community members to verify the previous land use of an area.

**B.44** Other forms of evidence may be available. For example, these could include research reports produced by independent third parties that support a claim being made by a reporting party. For example this might relate to an assertion that a biofuel feedstock was sourced from an area with no land-use change.

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<sup>9</sup> For example see <http://www.rosneft.com/Investors/beware/examples/>

# Annex C Greenhouse Gas Emissions Reporting Regulations Guidance (Fuel Quality Directive)

## Chapter summary

This chapter sets out new reporting requirements for suppliers introduced through the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012. It explains that for suppliers already obligated under the RTFO the majority of information required is the same as that reported under the RTFO. Suppliers are required to submit a first report by 29 November 2014 in respect of fuels supplied between January and December 2013 and to submit further reports at yearly intervals thereafter.

## Introduction

- C.1** This chapter explains the new requirements introduced by the Motor Fuel (Road Vehicle and Mobile Machinery) Greenhouse Gas Emissions Reporting Regulations 2012 No. 3030.
- C.2** This guidance is provided for use by parties already obligated under the Renewable Transport Fuel Obligation, as well as suppliers of low sulphur gas oil used in non-road mobile machinery (including inland waterway vessels which do not normally operate at sea), tractors and recreational craft which do not normally operate at sea<sup>10</sup>, who will become obligated under the RTFO from April 2013, verifiers acting on the behalf of suppliers, relevant trade associations and other interested parties.
- C.3** Separate guidance will be made available to those who exclusively supply fossil fuel gases for use in road transport and NRMM. These parties will not be obligated under the RTFO, but will be affected by the Greenhouse Gas Emissions Reporting Regulations.

## Context

- C.4** Article 7a of the European Union's Fuel Quality Directive (FQD) imposes an obligation on fuel suppliers for road transport and non-road mobile machinery in all Member States to achieve at least a six percent reduction in life cycle greenhouse gas (GHG) emissions from the fuel they supply in 2020 against a 2010 baseline (set by reference to the average GHG intensity of fossil fuel). In

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<sup>10</sup> This group of end-uses will be collectively referred to as non-road mobile machinery, or 'NRMM', from this point onwards.

the meantime they must also reduce the GHG intensity of those fuels as gradually as possible towards the six percent reduction. It also introduces annual reporting requirements for affected fuel suppliers.

- C.5** The Directive contains the same mandatory sustainability criteria for biofuels as are contained in the Renewable Energy Directive (RED), including the requirements for independent verification. Meeting these criteria is a precondition of being entitled to claim GHG intensity reductions in respect of any consignments of biofuel supplied.
- C.6** The requirement for suppliers of fuel for relevant use to reduce the greenhouse gas intensity of their fuels is to be met, for the period to April 2014, through the progressive increase in sustainable biofuel supply already required by the RTFO. The GHG emissions reporting regulations implement the requirement of the FQD that suppliers report annually on the greenhouse gas intensity of their fuels.

## GHG emissions reporting regulations

- C.7** The GHG emissions reporting regulations implement the annual GHG reporting requirements of article 7a of the FQD. They affect suppliers supplying over 450,000 litres of fuel used for road transport and non road mobile machinery.
- C.8** The regulations require suppliers to:
- register with the Administrator and open an account;
  - report annually, by 29 November, on the amount (volume or weight), energy content and GHG emissions of relevant fuels supplied in the previous calendar year; and to
  - have independently verified the information they report relating to the sustainability of any renewable transport fuel (biofuel) supplied within that period.

### Requirement to register with the administrator

- C.9** The administrator will consider that suppliers already registered under the RTFO have already complied with the requirement to register with the Administrator and to open an account. RTFO registered suppliers will therefore automatically fulfil this requirement and no further action on this is required.
- C.10** Suppliers who are not currently covered by the RTFO but who will be when it is expanded to include gas oil and renewable fuel used for NRMM purposes should register following the procedures set out in the RTFO Process Guidance. This will ensure that the registration process follows the more extensive requirements of the RTFO and hence one registration will cover both regulations.

## Which fuels must be reported on?

- C.11** The reporting regulations apply to all fuels used in road transport, and those used for:
- non-road mobile machinery (including inland waterway vessels which do not normally operate at sea),
  - agricultural and forestry tractors, and
  - recreational craft which do not normally operate at sea.
- C.12** From April 2013, with the exception of fuel fossil gases, these are the same fuels as are obligated under the RTFO, as set out in the [Process Guidance](#). Information on relevant uses for fuels is also set out in the Process Guidance.
- C.13** The annual reporting period under the GHG emissions regulations runs from 1 January to 31 December each year, which differs from the RTFO. For the period 1 January to 14 April 2013, before the RTFO has been extended to include NRMM fuels, suppliers will need to report on the amount of gas oil and fossil fuel gases supplied for a relevant use in this period in addition to fuel reported under the RTFO.

## What information should be reported?

- C.14** The greenhouse gas regulations place a duty on the Administrator to require suppliers to provide information on:
- the amount of fuel (volume in litres, or for gaseous fuel in kilograms);
  - the amount of energy supplied;
  - whether the fuel is fossil, renewable or partially renewable;
  - the proportions of renewable fuels that are sustainable;
  - the greenhouse gas intensity of each type of fuel; and
  - the additional sustainability information in respect of each type of biofuel.
- C.15** In general, suppliers can use the same information reported under the RTFO to meet the requirements of the GHG emissions reporting regulations. The information common to both schemes includes the amount of fuel, whether the fuel is fossil, renewable or partially renewable, the greenhouse gas intensity of the renewable fuel, whether the renewable fuels meet the sustainability criteria and the additional sustainability information in respect of each type of biofuel. GHG emissions should be reported as a weighted average for each type of fuel.
- C.16** The additional information required is the amount of energy supplied for all fuels<sup>11</sup> and the greenhouse gas intensity of the fossil fuels. Suppliers should use the energy intensities and GHG default values contained in Table 2 to meet this requirement. Note that the GHG default values may be subject to

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<sup>11</sup> This is distinct from the requirement under the RTFO to inform the Administrator of the energy content of material where it is not included in Annex III of the RED.

change before the requirement to report arises in November 2014. Suppliers will be informed of any such change.

- C.17** The full range of information for fossil fuel gases for relevant uses also needs to be reported as they are not covered by the RTFO.
- C.18** The same applies to any gas oil for relevant uses supplied between 1 January and 14 April 2013.

### **Verification and additional evidence**

- C.19** The GHG regulations require that suppliers submit an independent verifier's assurance report in respect of renewable fuels, and state that the Administrator may impose a requirement for suppliers to submit an independent verifiers' assurance report in respect of the amount of other fuels.
- C.20** As the sustainability and verification requirements for renewable fuels are the same in the GHG emissions reporting regulations as in the RTFO, suppliers originally awarded RTFCs can use this information to satisfy the Administrator that the renewable fuel they supply meets the relevant sustainability criteria, without further verification.
- C.21** In most cases the Administrator anticipates that the award of RTF certificates and reliance on HMRC fuel duty returns will provide sufficient assurance on the information provided by suppliers and that further assurance will not be required. In the case that further evidence is required for fossil fuels, the Administrator will contact the supplier setting out its requirements. This may include an independent verifier's assurance report meeting the requirements of ISAE 3000 limited assurance, or other evidence as the Administrator considers necessary to substantiate the relevant information.

### **Calculating the energy content and GHG intensity of energy products**

- C.22** The table below sets out the energy content of fossil and renewable fuels in accordance with Annex III of the RED (where figures are available),<sup>12</sup> and the GHG emissions of fossil fuels. For Gas Oil, CNG and for LPG, the administrator has identified energy densities from published sources.<sup>13</sup>
- C.23** Note that, as is the case with the RTFO, renewable fuels that do not meet the sustainability criteria count as fossil fuels. These should be reported as having the same GHG emissions as fossil fuels, or a higher value where the actual value is known.

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<sup>12</sup> This Annex is directly referred to in the GHG Emissions Reporting Regulations,

<sup>13</sup> If suppliers wish to use alternative figures for fuels not contained in Annex III please contact the Administrator.

**Table C1 - Energy content and GHG emissions**

Fuel Type	HMRC Duty tax code	Energy (MJ) (per litre/per kg for gases)	Emissions per unit of energy*
<b>Light and Heavy Oils</b>			
Unleaded Petrol	522	32	88.3
Light oil (other than unleaded petrol)	520	32	88.3
Diesel (heavy oil)	541	36	88.3
Marked Gas Oil	556	36	88.3
Kerosene (off road or exempted vehicle)	542	36	88.3
<b>Road Fuel Gases</b>			
CNG (other than biogas)	591	50	88.3
LPG (other than biogas)	592	46	88.3
Biogas	591	50	
<b>Biofuels (excluding biogas)</b>			
Bioethanol	595	21	
Biomethanol	595	16	
Biobutanol	595	27	
Biodiesel	589	33	
PPO, HVO, FT diesel		34	
<b>Partial renewables</b>			
BioETBE	595	27 (of which 37% is renewable)	
Bio-MTBE	595	26 (of which 22% is renewable)	
BioTAEE	595	29 (of which 29% is renewable)	

**C.24** The fuel baseline standard in the GHG emissions reporting regulations is currently set at 88.3 grams of carbon equivalent per megajoule (gCO<sub>2</sub>e/MJ), though this may change. The Fuel Quality Directive sets a 6% reduction target for 2020 in relation to the baseline. Although the target has not yet been set in UK legislation, for illustrative purposes, suppliers may wish to note



that to achieve a 6% reduction in GHG emissions in relation to the baseline of 88.3 gCO<sub>2</sub>e/MJ suppliers would need to ensure that in aggregate, the per unit emissions of their energy products supplied in 2020 is 83gCO<sub>2</sub>e/MJ or lower.

## Reporting periods & timetable

- C.25** Reporting periods run from 1 January to 31 December each year. As this differs from the RTFO, suppliers should calculate supply on a pro rata basis for January and December where HMRC reporting periods (the 15th of each month) do not tally.
- C.26** The first report is required by 29 November 2014 in respect of fuels supplied between 1 January and 31 December 2013.

## Publication of information

- C.27** The Administrator publishes data on fuel supply under the RTFO and will also do so for information provided under the GHG emissions reporting regulations. This information will exclude data on individual supplier fuel volumes. It will include the proportions of the different types of fuel supplied and the average carbon intensity for each fuel supplier.

## Potential future changes

- C.28** The GHG Emissions Reporting Regulations include a 2010 baseline emissions figure of 88.3 grams of carbon equivalent per megajoule. This baseline is required to calculate the 2020 target requirement, but the European Commission has yet to confirm this as the final baseline figure.<sup>14</sup> The UK will amend the baseline in the GHG Emissions Reporting Regulations, if necessary, in line with EU legislation.
- C.29** There are additional aspects of article 7a of the FQD that have not been included in the regulations at this time. These are:
- a GHG emission reduction target of 6% in 2020 against a 2010 baseline
  - a requirement to report on the origin of fuels and where they were purchased.
  - an accounting methodology for fossil fuels
- C.30** The Government is awaiting clarification at a European level on the final 2010 baseline figure and the accounting methodology for fossil fuels before seeking to implement the 2020 GHG reduction target. Further details of the Government's implementation of the FQD can be found in the [Government's Response](#) to consultation.
- C.31** European committee-based negotiation procedures may lead to further changes to the FQD, which may in turn require future changes to the GHG Emissions Reporting Regulations. These future changes are yet to be agreed upon, but may include:

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<sup>14</sup> 88.3gCO<sub>2</sub>e/MJ was the figure included in a draft proposal.

- requiring suppliers to report GHG emissions per unit of energy for specific fossil fuels on the basis of their origin or method of production (in the current regulations, all fossil based fuels are reported as having emissions equal to the fuel baseline standard, currently 88.3gCO<sub>2</sub>e/MJ);
- a methodology to calculate the contribution of electric road vehicles to GHG emissions reductions.

**C.32** The fossil fuel comparator value (83.8 gCO<sub>2</sub>e/MJ), which is used to calculate the GHG savings of biofuels, may be updated by way of a report from the European Commission. This would result in an alteration to the reported GHG saving values of biofuels. Such a change would be reflected in updates to this guidance.

## Civil Penalties

**C.33** The Regulations make provision for the imposition of Civil Penalties should a supplier fail to register under them or fail to report. Non-regulated suppliers (of energy products) can also be subject to civil penalties if they fail to respond to a request for information from the Administrator.

**C.34** The Civil Penalty provisions are aligned with the RTFO, being a maximum of £50,000 or 10% of turn over, which ever is the lesser. The Administrator will take into account whether a Civil Penalty liability has arisen under these regulations and the RTFO due to the same action (or inaction) by the supplier, and may choose to only impose one Civil Penalty under one regime where this is appropriate.

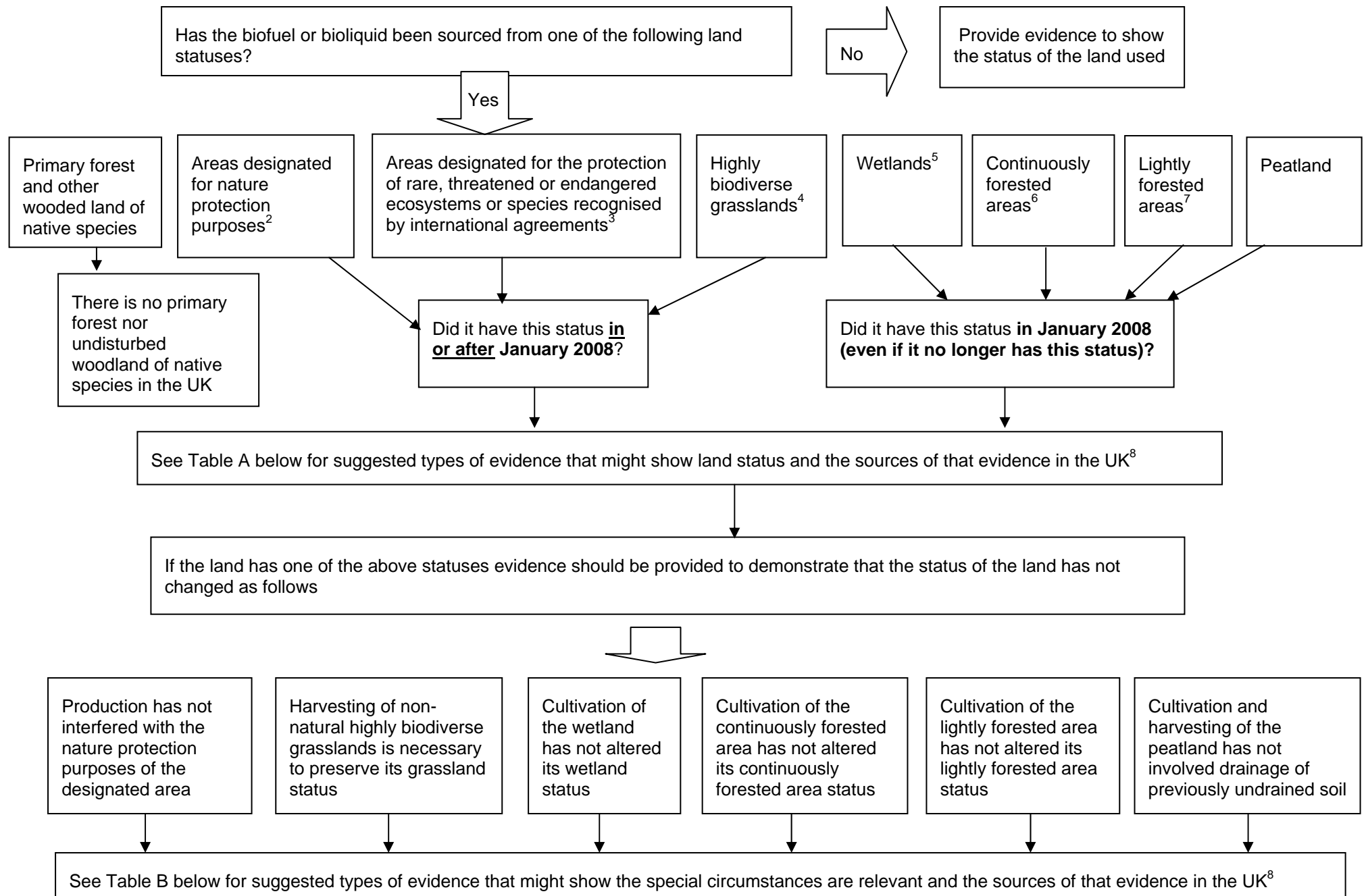
# Annex D Land criteria evidence sources for UK grown biofuels<sup>15</sup> and bioliquids<sup>16</sup>

- D.1** The following table, compiled by Defra, aims to supplement the guidance that has been prepared by the European Committee for Standardisation (CEN) and assist economic operators with the types and sources of evidence that might be used to show that the biofuels or bioliquids from the UK have been sourced in a manner that is consistent with the land-related sustainability criteria in the Directive.
- D.2** It is important to note that the evidence suggestions in the table have not been designed specifically to show compliance with the sustainability criteria nor are they meant to be an exhaustive list. The table also attaches no priority to the evidence options. It is for the economic operator (and their verifier) to ensure that the evidence provided is sufficient to demonstrate that their biofuel or bioliquid meets all the relevant sustainability criteria in the Directive.
- D.3** In some cases one piece of evidence could be considered sufficient and in others several pieces might be necessary; it will depend on individual circumstances. In many cases, Local Record Centres will be a useful source of information and evidence. The statutory nature conservation bodies and the Forestry Commission / Northern Ireland Forestry Service (for woodland-related evidence) will be able to help in some instances and there are a number of web-based sources which could provide information, particularly on land cover in 2008. Please note that some suppliers may levy a charge for their information.
- D.4** It is important to note that the suggestions in the table below are for biofuels and bioliquids sourced in the UK. Also, it is important to note that the suggestions are not meant to demonstrate compliance with other relevant laws, whether they be environmental or otherwise. The economic operator will need to ensure that their biofuel or bioliquid does not contravene any relevant laws.
- Annex a: Useful websites
  - Annex b: Areas designated for the purposes of nature conservation
  - Annex c: Advisory thresholds that show the harvesting of non-natural highly biodiverse grasslands is necessary to preserve its grassland status

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<sup>15</sup> Biofuels means a liquid or gaseous fuel for transport produced from biomass

<sup>16</sup> Bioliquid means liquid fuel for energy purposes other than for transport, including electricity and heating and cooling produced from biomass



**Table A: Suggested types of evidence that might show land status and the sources of that evidence in the UK**

Sustainability criteria	Suggested types of evidence that might show the land status	Sources of evidence in the UK (see Annex A)
<p>Areas designated for nature protection purposes</p> <p>Areas designated for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements</p>	<p>Maps of designated areas with details of designation date</p>	<p>Local Record Centres</p> <p>Nature Conservation bodies</p> <p>National Biodiversity Network Gateway</p> <p>Other websites</p>
<p>Highly biodiverse grasslands, wetlands, continuously forested areas, lightly forested areas and peatlands</p>	<p>Farm and other records (e.g. aerial photos, satellite images, land use/cover maps) showing land status</p> <p>Farm or other records showing land has been cultivated in accordance with the Environmental Impact Assessment (Agriculture) Regulations</p> <p>Habitat inventories for conservation priority habitats</p>	<p>Farm records</p> <p>Local Record Centres</p> <p>Centre for Ecology and Hydrology (land cover map)</p> <p>National Biodiversity Network Gateway</p> <p>Nature Conservation bodies</p>
<p>Continuously forested areas and lightly forested areas</p>	<p>Woodland and forest inventories</p>	<p>Local Record Centres</p> <p>Forestry Commission</p> <p>Northern Ireland Forest Service</p> <p>Other websites</p>

**Table B: Suggested types of evidence that might demonstrate that the status of the land has not changed and the sources of that evidence in the UK**

Sustainability criteria	Suggested types of evidence that might show the special circumstances are relevant	Sources of Information in the UK (see Annex A)
<p>Areas designated for nature protection purposes</p> <p>Areas designated for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements</p>	<p>Statement from an expert that the cultivation has not interfered with the nature protection purposes of the designated area</p> <p>Farm or other records (e.g. aerial photos, satellite images) showing the land in the designated area has been cultivated in accordance with the Environmental Impact Assessment (Agriculture) Regulations</p> <p>Forestry Commission-approved forest plan, Forestry Commission-approved woodland management plan, felling licence, woodland grant scheme showing cultivation is in accordance with UK Forestry Standards</p>	<p>Certified expert – The Institute of Ecology and Environmental Management has details of experts.</p> <p>Farm records</p> <p>Local Record Centres</p> <p>Forestry Commission</p>
<p>Highly biodiverse grasslands</p>	<p>Farm or other records showing that the harvesting of the grassland is consistent with the management prescriptions for the agri-environment scheme associated with the site or a comparable site</p> <p>Farm or other records showing that the harvesting of the grassland is consistent with a restoration plan recognised by a nature conservation body for the site or a comparable site</p> <p>Farm or other records showing that the harvesting of the grassland is in line with the advice at Annex c</p> <p>Harvesting practices for the grassland are consistent with published research for comparable sites that clearly shows that the harvesting is necessary to preserve the grassland status</p>	<p>Farm records, including agri-environment agreements</p> <p>Farm records</p> <p>Farm records</p> <p>Farm records</p>
<p>Highly biodiverse grasslands, wetlands, continuously forested areas, lightly forested areas and peatlands</p>	<p>Land use/cover maps showing the current status of the land (could be used for wetlands, grasslands, woodlands and peatlands)</p> <p>Dated satellite images (could be used for wetlands, grasslands, woodlands, peatlands)</p>	<p>Local Record Centres</p> <p>Centre for Ecology and Hydrology (for land cover map)</p> <p>Nature Conservation bodies</p> <p>Water authorities - Environment Agency, Scottish</p>

	Dated aerial photos (could be used for wetlands, grasslands, woodlands, peatlands) Woodland and forest inventories	Environment Protection Agency Other websites Forestry Commission Northern Ireland Forest Service
Peatlands	Statement from a certified expert that the undrained soil in the peatland has not been drained	Certified expert – The Chartered Institute of Water and Environmental Management and/or the Institute of Ecology and Environmental Management have details of experts.

Primary forest and other wooded land of native species with no clearly visible indication of human activity and ecological processes not significantly disturbed (Art. 17(3)(a) of the RED)

<sup>2</sup> Areas designated by law or competent authority for nature protection purposes (Art. 17(3)(b)(i) of the RED) – see also Annex b

<sup>3</sup> Areas designated for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or drawn up in intergovernmental organisations and IUCN lists (Art. 17(3)(b)(ii) of the RED) – Note: the European Commission has formally to recognise these designated areas. No areas have been recognised to date – please check Commission website [http://ec.europa.eu/energy/renewables/transparency\\_platform/transparency\\_platform\\_en.htm](http://ec.europa.eu/energy/renewables/transparency_platform/transparency_platform_en.htm)

<sup>4</sup> Highly biodiverse grassland - natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes; or non-natural, namely grassland that would cease to be grassland in the absence of human intervention and which is species-rich and not degraded (Art. 17(3)(c)(i) and(ii) of the RED) – Note: the European Commission has to agree criteria and geographic ranges for the grasslands captured by this definition and this criteria has yet to be agreed – please check Commission website above.

<sup>5</sup> Wetlands – land that is covered with, or saturated by, water permanently or for a significant part of the year (Art. 17(4)(a) of the RED)

<sup>6</sup> Continuously forested areas – land spanning more than one hectare with trees higher than five metres and canopy cover of more than 30%, or trees able to reach those thresholds in situ (Art. 17(4)(b) of the RED)

<sup>7</sup> Lightly forested areas – land spanning more than one hectare with trees higher than five metres and a canopy cover of 10-30%, or trees able to reach those thresholds in situ (Art. 17(4)(c) of the RED)

<sup>8</sup> It is important to check a number of sources of data to capture as much information as possible

### **Annex (C)a: Useful websites**

- Local Records Centres <http://www.nbn-nfbr.org.uk/nbn.php>

### **Certified experts**

- The Institute of Ecology and Environmental Management - <http://www.ieem.net/>
- The Chartered Institution of Water and Environmental Management - <http://www.ciwem.org.uk/>

### **Statutory nature conservation bodies (and their data/information website links)**

- Countryside Council for Wales <http://www.ccw.gov.uk/>
- (GIS downloads via: <http://www.ccw.gov.uk/landscape--wildlife/protecting-our-landscape/gis-download---welcome.aspx>)
- Natural England <http://www.naturalengland.org.uk/>
- Nature on the Map <http://www.natureonthemap.org.uk/>
- Northern Ireland Environment Agency <http://www.ni-environment.gov.uk/>
- Back on the Map <http://www.backonthemap.org.uk/>
- Scottish Natural Heritage <http://www.snh.org.uk>
- Scottish Natural Heritage Information Service (SNHi) <http://www.snh.org.uk/snhi/>
- Joint Nature Conservation Committee <http://www.jncc.gov.uk/>

### **Other data/information websites**

- MAGIC <http://www.magic.gov.uk/>
- National Biodiversity Network Gateway <http://data.nbn.org.uk/>
- Scotland's Environment Web <http://www.environment.scotland.gov.uk/>
- UK Biodiversity Action Plan <http://www.ukbap.org.uk/>

### **Other bodies**

- Centre for Ecology and Hydrology <http://www.ceh.ac.uk/>
- Environment Agency <http://www.environment-agency.gov.uk/>
- Forestry Commission <http://www.forestry.gov.uk/>
- Northern Ireland Forest Service <http://www.dardni.gov.uk/forests-service/>
- Scottish Environment Protection Agency <http://www.sepa.org.uk/>



## **Annex C(b): Area types designated for nature protection purposes**

- Sites of Special Scientific Interest (SSSIs)
- Areas of Special Scientific Interest (ASSIs) – Northern Ireland only
- National Nature Reserves
- Local Nature Reserves
- Areas of Special Protection (for Birds) – England and Wales only
- Forest Nature Reserves
- Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance
- Special Protection Areas and potential Special Protection Areas
- Ramsar Sites
- Local Sites
- Areas of Outstanding Natural Beauty – England, Northern Ireland and Wales only
- National Parks – England, Scotland and Wales only
- The Broads – England only
- Heritage Coasts – England and Wales only

## **Annex C(c): Advisory thresholds and information to show that the harvesting of non-natural grassland is required to maintain the grassland status**

*For neutral grasslands and fen meadows:*

- Neutral grassland and fen meadows will normally be subject to a single summer hay cut between late June and late July. However, a later cut in late August or September, one year in five, may be required to allow seed production of late flowering species. Cutting dates are weather dependent and may be later in the north of Scotland.
- The growth should be cut back to a height of approximately 5cm and the cut grass, weather permitting, should be dried on site and baled within seven days of cutting.
- Sustained early cutting in May to mid-June is known to reduce species richness, harm breeding birds and insects. Persistent late cutting can cause rank, less diverse vegetation.
- Cutting for silage is generally viewed as harmful to these grasslands as it is associated with more intensive farm management practices, such as fertilisation to increase production and enable two or three cuts to be taken. The first cut typically takes place in late May before farmland birds have had their chicks and before meadow species have flowered and set seed. This reduces the quantity of seed that is returned to the soil. However, an occasional silage cut at hay time (see first bullet) is unlikely to change the plant species composition.

*For calcareous or acid grasslands:*

- Calcareous or acid grasslands are typically less productive than neutral grasslands and are usually managed as pasture, being grazed as livestock with no hay cut. Where a cutting regime is implemented (e.g. in the absence of grazing), between one and three cuts would normally be taken per year depending on geographic location. Generally, fewer cuts are necessary at higher latitudes in order to maintain sward composition and condition, and therefore closely replicating usual local livestock grazing regimes.
- Precise timings of cutting would be influenced by the composition of the sward, rare species present, the prevailing weather conditions in any given year as well as geographic location, where cutting dates tend to be later at higher latitudes. Cuts in May, June and July to a height of 5cm with the grass removed within three days should help to maintain the conservation interest, although cutting dates may be later than this, for example, in the north of Scotland. Regional differences should always be taken into account.

*Summary of grassland types*

- Neutral grasslands include upland hay meadows, and lowland meadows.
- Fen meadows are components of purple moor grass and rush pastures.

- Calcareous grasslands include lowland calcareous grasslands and upland calcareous grasslands.
- Acid grasslands include lowland dry acid grasslands and upland acid grasslands.

Descriptions of these grasslands can be found on the JNCC website at:  
<http://jncc.defra.gov.uk/page-5155> and <http://jncc.defra.gov.uk/page-2>.

# Annex E Initial review of EU Member State national systems for biofuels

- E.1** DfT asked Ecofys to review the national systems for demonstrating the compliance of biofuels with the RED sustainability criteria in other EU Member States to consider their potential application for fuels supplied into the UK. The purpose is to understand which Member States might have national systems in place that had the potential for demonstrating the sustainability criteria had been met for fuels supplied to the UK in the same way that voluntary schemes do.
- E.2** This initial review can be used to assess which Member States might have systems which verify consignments of biofuel to be RED-compliant for supply in other countries. The national systems of these Member States could be analysed in more detail.
- E.3** This initial version of the overview (dated June 2012) contains a categorisation of other EU Member States and a proposed short list of those which could be most relevant for DfT to obtain further information on.

## **1. Categorisation of Member State biofuel compliance mechanisms**

- E.4** Most EU Member States have implemented the biofuel sustainability provisions of the EU Renewable Energy and Fuel Quality Directives. Some have chosen to develop a national system, whereas others have implemented a system which relies on voluntary schemes.
- E.5** We define a national system as a bespoke system developed by a Member State to enable economic operators to demonstrate compliance with the RED. We define a voluntary scheme based system as a system in which only voluntary schemes can be used to demonstrate compliance with the RED. These voluntary schemes are generally developed by private parties. Note that under this definition, a national system can include the use of voluntary schemes. Voluntary schemes recognised by the European Commission can be used in all national systems.
- E.6** The following categorisation of Member State compliance mechanisms can be made:

**32** Member States that only allow the use of voluntary schemes (EC-recognised or Member State recognised) to demonstrate compliance with the RED requirements;

1a. Voluntary scheme based systems in which economic operators report information to the authorities and compliance is achieved as biofuels pass the duty point.

1b. Voluntary scheme based systems where economic operators report information into an electronic database, which is checked by Member State authorities prior to passing of the duty point.

**33** Member States that allow the use of voluntary schemes and have developed a 'national system' for economic operators to demonstrate compliance with the RED requirements;

2a. National systems based on ex-post verification of actual data provided by economic operators.

2b. National systems that link compliance with the RED requirements to the Common Agricultural Policy requirements or introduced land zoning based on RED-compliant areas and non-RED compliant areas.

**E.7** Member States in category 1a recognise consignments of biofuels as being RED-compliant at or after the duty point. After this point exports to the UK are considered highly unlikely, as the fuel supplier would have to pay duty in more than one Member State. Therefore national systems in these Member States would not be considered useful for DfT to analyse. Note that with respect to 1a Member States, economic operators could still ask DfT to accept the same voluntary schemes as that Member State does. DfT already has a process in place for economic operators to request the assessment of voluntary schemes, so we do not consider this further here.

**E.8** Member States in categories 1b and 2b recognise consignments of biofuels as being RED-compliant prior to passing the duty point. This means biofuels from these Member States could in theory be exported to the UK labelled as 'RED-compliant' in another Member State. These national systems could be useful for DfT to analyse.

**E.9** Member States in category 2a could have different bespoke designs for their national systems, which are not further categorised at this stage, but all seem to include the verification of actual data provided by economic operators. Therefore any Member State in category 2a could be considered for further investigation.

## **2. Overview of Member State biofuel compliance mechanisms**

**E.10** The table below classifies the 26 EU Member States outside the UK according to the above-mentioned categories. Member States who have not yet implemented<sup>17</sup> the RED sustainability provisions are labelled 'unable to assess since implementation not finalised'. Member States for whom no data are available are labelled 'information not available'. The classification in the table is based on our best current understanding of Member State RED implementation.

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<sup>17</sup> At the time of writing, June 2012.

Classification of EU Member State RED-compliance mechanisms				
Member State	1a: VS based, duty point compliance	1b: VS based, pre-duty point compliance	2a: NS, ex-post verification based compliance	2b: NS, CAP/zoning based compliance
AT				
BE				
BG	Unable to assess since implementation not finalised			
CY	Unable to assess since implementation not finalised			
CZ				
DE				
DK				
EE				
ES	Unable to assess since implementation not finalised			
FI	Unable to assess since implementation not finalised			
FR				
GR	Unable to assess since implementation not finalised			
HU				
IE				
IT				
LV				
LI				
LU	No information available			
MT				
NL				
PL	No information available			
PT				
RO				
SK				

Classification of EU Member State RED-compliance mechanisms				
Member State	1a: VS based, duty point compliance	1b: VS based, pre-duty point compliance	2a: NS, ex-post verification based compliance	2b: NS, CAP/zoning based compliance
SI	No information available			
SE				

NS = National Scheme

### 3. Which Member State compliance mechanisms should DfT focus on understanding further?

Based on the reasoning in section 1 and the table above, we have short-listed 10 Member States that could be analysed in more detail by DfT, listed below.

*Member States classified as '1a':*

- the Netherlands

*Member States classified as '1b':*

- Germany

*Member States classified as '2a' and particularly relevant for the UK biofuels market:*

- France
- Ireland
- Sweden

*Member States classified as '2b':*

- Austria
- Czech Republic
- Hungary (analysed by DfT in May 2012)
- Latvia
- Slovakia

We have included all Member States classified as 1b or 2b. Of those Member States classified as 2a, France and Sweden are proposed because they are active parties in EU biofuel policy and have a significant biofuel sector and market. Ireland is included due to its proximity to the UK market. In addition to these, Portugal, Romania and Italy (all classified as '2a') could also be useful to analyse, however, we do not expect large volumes of biofuels from these Member State to reach the UK and hence these Member States are not shortlisted at this time.

We have included the Netherlands in the short-list, even though it is currently classified as 1a. The Netherlands is currently developing an electronic registry, scheduled to be operational in 2015, in which obligated parties would include proof of sustainability prior to the excise duty point, which would mean that the Netherlands would shift from category 1a to 1b. The Netherlands is also close to the UK and has a large volume of biofuels trade with the UK.



# Annex F Assessment framework for Member State national systems

- F.1** The Department for Transport (DfT) has asked Ecofys to prepare a framework which can be used to assess whether and how a Member State's national system can be used under the RTFO to demonstrate compliance with the sustainability criteria of the Renewable Energy Directive (RED)<sup>18</sup>, in a similar way that a European Commission-recognised voluntary scheme can.
- F.2** The framework first sets out the process to be followed when assessing a Member State national system. The actual assessment will consist of a general description of the national system and its main features, as well as consideration of the relevant RED requirements.
- F.3** This framework follows a quick-scan (June 2012) (Annex B) which Ecofys prepared for DfT of the ways EU Member States have implemented the sustainability requirements of the RED, which aims to categorise national systems to understand which national systems would be most useful for DfT to consider for possible use under the RTFO in the same way that voluntary schemes are used.

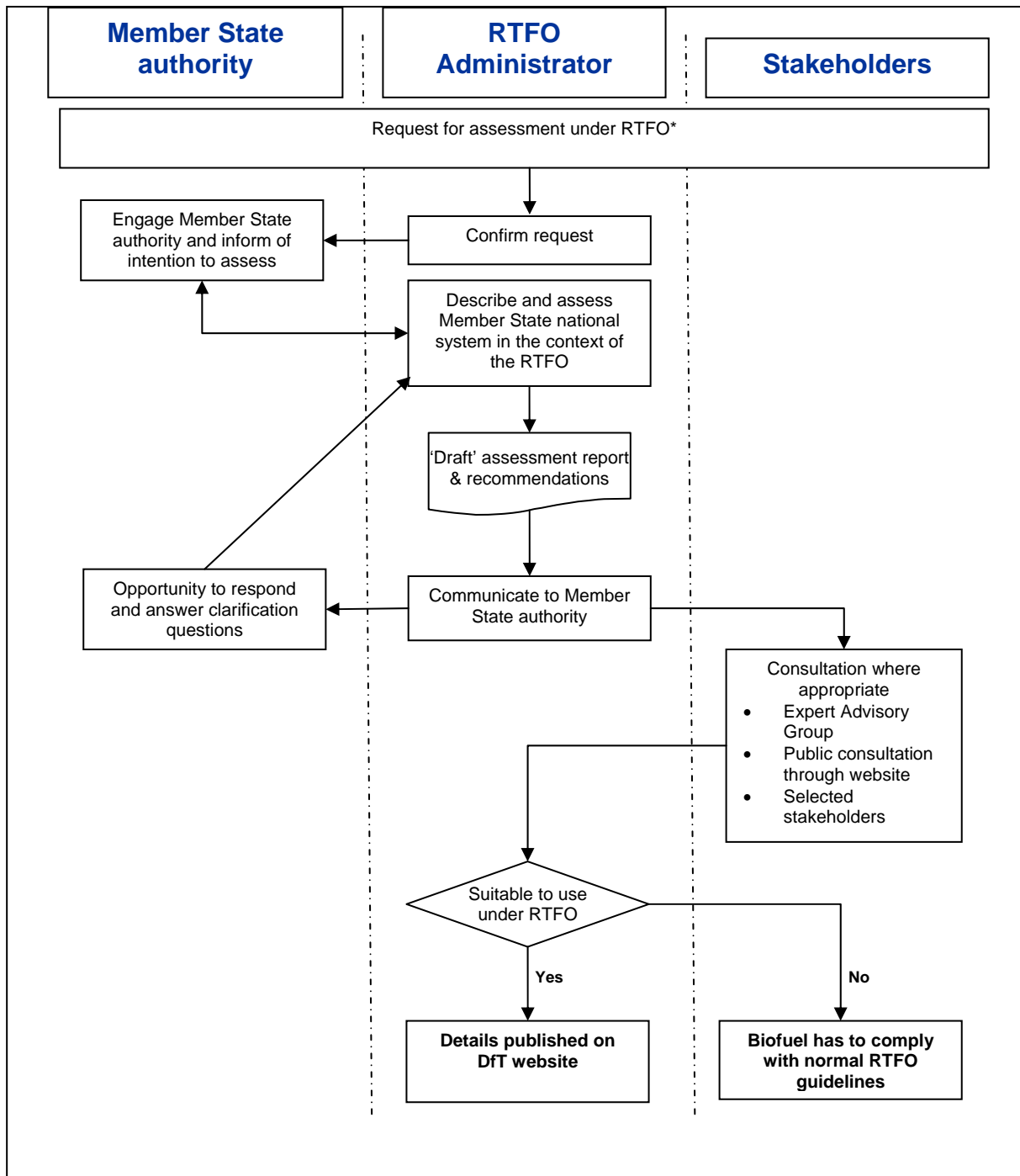
## Process description

- F.4** The proposed procedure for assessing Member State national systems for use under the RTFO is shown in Figure 1. Note that requests to the RTFO Administrator to assess a national system could be made by the Member State authority itself, or by any other stakeholder. The decision to assess a Member State national system could also be taken by DfT before a formal request is made. Regardless of the route, an important first step will be to obtain an English language translation of relevant implementing legislation from Member State authorities. If no translation is available the data input for the assessment will be drawn from interaction with Member State policy makers. In this event the ability to assess the national system will depend on the level of cooperation from the Member State authorities.<sup>19</sup>

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<sup>18</sup> Note we currently only consider the sustainability requirements of the RED. This assessment could be extended, as necessary, to cover specific sustainability requirements of the Fuel Quality Directive (FQD).

<sup>19</sup> Note that an assessment of a national system may take several months. The timeframe will depend on the availability of relevant documentation in English and the speed of reaction from the Member State in question.



\* Note that requests to assess a national system could come from the Member State themselves, from stakeholders, or the RTFO Administrator may decide to proactively assess national systems.

## Assessment framework

- F.5** The Assessment framework is divided into three sections:
- Section A – General features of the Member State national system;
  - Section B – Information reported per consignment of biofuel , covering the information economic operators are asked to report per consignment of biofuel; and
  - Section C – Detailed description of key characteristics of the Member State national system, including the approach to wastes and residues, the mass balance system and the verification system.
- F.6** Sections A and B are designed to be filled in by the Member State, if appropriate, whereas Section C is designed to be filled in by DfT (or DfT's consultant) with input from the Member State.

### A. General features of the Member State national system

Q1	Name(s) of key legislation implementing RED sustainability requirements for biofuels	
Q2	Date legislation came into force / status of implementation if in development	
Q3	Are all Articles 17(2)-(5) fully implemented?	
Q4	Categorisation of Member State national system (see quick-scan)	[Choose one] 1A: Voluntary scheme based, duty point compliance 1B: Voluntary scheme based, pre-duty point compliance 2A: National system, ex-post verification based compliance 2B: National system, CAP/zoning based compliance
Q5	Are the requirements and options to demonstrate compliance the same for domestic versus imported feedstock or biofuels? (if different, please give details and specify differences in the following questions)	
Q6	Does the system allow the use of EC-recognised voluntary schemes?	
Q7	Does the system allow the use of bi- or multilateral agreements?	
Q8	Does the system allow the use of voluntary schemes recognised by that Member State? (if yes, add details)	

Q9	Does the system allow the use of voluntary schemes recognised by other Member States? (if yes, add details)	
Q10	Does the system accept national systems of other Member States? (if yes, add details)	
Q11	Are there other ways economic operators can demonstrate compliance with the sustainability criteria of Articles 17(2)-(5) not already mentioned above? (if yes, add details)	
Q12	Which type(s) of economic operator is/are required to report to Member State authorities? (specifying at which point in the fuel chain those parties sit)	
Q13	Which Member State authority/authorities do economic operators report to and with what frequency?	
Q14	Describe how the sustainability data is verified? Is it to ISAE 3000? What level of assurance must be provided e.g. limited or reasonable? What data is verified and when?	
Q15	Describe the inspection and penalty system in place for cases of non-compliance with the sustainability criteria	
Q16	What documentation (if any) is issued by the Member State authorities which might accompany biofuel exported to another Member State?	

## B. Information reported per consignment of biofuel

**F.7** The following table shows the information that economic operators are required to report for all biofuel under the RTFO, and whether that information is mandatory or optional to report. For this national system specify, for each type of information, whether it is required to report that information to the Member State and, if applicable, whether that information would be included on any documentation that might accompany biofuel exported to another Member State (question 16).

Q17. Which of the following types of information are economic operators required to report?			
Type of information in RTFO	Status under RTFO (mandatory/optional)	Status in national system (mandatory/optional)	Included on documentation?
Biofuel type	Mandatory		
Quantity of fuel	Mandatory		
Biofuel feedstock	Mandatory (including specifying the feedstock for wastes and residues e.g. UCO)		
Country of origin	Mandatory		

Q17. Which of the following types of information are economic operators required to report?			
Type of information in RTFO	Status under RTFO (mandatory/optional)	Status in national system (mandatory/optional)	Included on documentation?
Land use on 1 Jan 2008	Mandatory (unless voluntary scheme used or the feedstock is exempt)		
Carbon intensity	Mandatory		
NUTS2 region compliance	Mandatory (EU crop-based feedstocks only)		
Biofuel production process	Optional		
Voluntary scheme	Optional (if used the name of the voluntary scheme should be reported)		
Type of greenhouse gas data	Optional (if actual GHG data is used, this field indicates whether actual GHG data has been used for the cultivation stage or the entire fuel chain)		
Soil carbon accumulation (due to improved agricultural practice)	Optional (note if not reported, we assume no soil carbon accumulation factor used)		
Other (add all other types of information Member States have to report and whether they are mandatory or optional)	-		

## C. Detailed description of key characteristics of the Member State national system

**F.8** This section aims to describe more detailed characteristics of the national system, such as the approach to wastes and residues, the mass balance system and verification system. These aspects are important for DfT to understand to be able to give clear guidelines on how the national system in question can be used by economic operators reporting under the RTFO.

Q18. How does the Member State national system address the following RED requirements?			
RED Article	Criteria	Guidance	Questions to discuss with Member State
Article 17(1)	Biofuels and bioliquids produced from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues, need only fulfil the sustainability criteria set out in Article 17(2)	National system should contain definition of waste and residues  Processing residues are exempted from the land-related sustainability criteria	Does the national system include a definition of wastes and residues?  Does the national system include a positive or negative list of wastes and residues that are exempt from the land criteria?
Article 17(2)	The greenhouse gas emission saving from the use of biofuels and bioliquids shall be at least 35%	In the case of biofuels produced by any installation <sup>20</sup> that was in operation on 23 January 2008, the 35% greenhouse gas saving threshold needs to apply from 1 April 2013, and may also apply before that date.  Greenhouse gas emissions from any land-use change that has occurred since 1 January 2008 shall be taken into	What are the GHG saving targets set for economic operators?

<sup>20</sup> The term "installation" includes any processing installation used in the production process, as long as it has not been intentionally added to the production chain only to qualify for the exemption.

Q18. How does the Member State national system address the following RED requirements?			
RED Article	Criteria	Guidance	Questions to discuss with Member State
		account in the greenhouse gas calculation, according to the methodology in the RED Annex V.	
Article 17(2)	Application of the greenhouse gas methodology	[See RED Annex V]	Does the Member State provide further guidance on GHG calculations (beyond Annex V)?  Does the Member State provide a greenhouse gas calculator?
Article 18(1)	Mass balance system should be used to pass on sustainability information through the supply chain	National system should require the use of a mass balance system and should refer to the RED definition of the mass balance system.  Mass balance should be operated at site level or installation level.  Maximum time period during which mass balance should be kept should be defined.	Does the Member State give specific guidance on mass balance?  Does any guidance always have to be used, or only, for example, in the absence of a voluntary scheme?
Article 18(3)	Require an independent audit and provide adequate standard of independent audit	National system should require an independent audit of evidence related to sustainability claims, at least on an annual basis.  National system should require economic operators to have an adequate document management system in place.  Evidence should be kept for at least 5	(Building on question 14) Does the Member State give specific guidance on verification?

Q18. How does the Member State national system address the following RED requirements?			
RED Article	Criteria	Guidance	Questions to discuss with Member State
		<p>years.</p> <p>National system should include requirements for the competence of auditors, they must be independent, free from conflict of interest and competent. National systems could require auditors to be accredited, or to use ISAE 3000.</p>	
Article 21(2)	Biofuels produced from wastes, residues, lignocellulose material and non-food cellulose count twice towards the target	<p>National system should contain definition of waste and residues.</p> <p>National system should ideally include a positive list of double counting materials or rules/criteria on what materials can count twice.</p>	<p>Does the national system include a definition of wastes and residues?</p> <p>Does the national system include a positive or negative list of wastes and residues that can be double counted?</p> <p>Is any distinction made between wastes and residues for the purposes of double counting and wastes and residues for the purposes of exemptions from sustainability criteria?</p>