

# **RFA consultation on the C&S Technical Guidance for RTFO Year Four**

Summary of responses and RFA  
response

March 2011



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# Executive Summary

## Context

In February to March 2011, the RFA ran a written consultation on the C&S Technical Guidance for Year Four of the RTFO, 2011/12. The main focus of this consultation was whether the guidance should be amended to be more consistent with the carbon and sustainability requirements of the Renewable Energy Directive (RED) which is expected to become a legal requirement in the UK by the end of 2011.

The Department for Transport (DfT) is currently consulting on changes to the RTFO Order. The RTFO Administrator will consult on any further changes to the C&S requirements before full RED implementation.

## 'RED-Ready' reporting

With the aim of helping UK industry best prepare for the RED, Year Three of the RTFO was adapted to become 'RED-ready', with as many of the RTFO C&S requirements as possible being updated to reflect the RED's forthcoming requirements. However, at the time it was not possible to make the RTFO entirely RED-compliant, as certain details of the RED requirements were yet to be published by the European Commission (EC). The approach was therefore taken to only implement changes to the RTFO that would run a low risk of having to be reversed as further details become available from the EC throughout the year.

Year Three of the RTFO saw a number of publications from the EC, which provide further guidance on implementing the sustainability criteria of the Directive and therefore enable the RTFO to take a step closer to full RED implementation.

The same approach was therefore proposed in the consultation for the Year Four C&S Technical Guidance – to align further with RED by taking into account this more recent information, whilst only implementing changes with a low risk of being changed at RED implementation. The consultation also included additional guidance on the content of verification assurance opinions; included a number of changes and clarifications, which are based on the experiences of the RFA and companies; and identified a number of outstanding issues that may have an impact on the C&S guidelines.



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## Consultation responses

Consultation responses were received from 19 stakeholders<sup>1</sup> including obligated suppliers, biofuel producers, trade bodies and other industry involved in the biofuel supply chain.

Stakeholders were broadly in agreement with the proposed changes to align further with the RED. Many were concerned about the delayed implementation of the RED and supported actions that RFA and DfT can take to bring the RTFO in line with RED and EC guidance as soon as possible. However, there was concern that some proposals – especially on mass balance and allocation of sustainability data - were too strict and at odds with Commission guidance, putting higher costs on UK business.

Each chapter and question of the consultation is considered below. For each question, a tabulated summary of the number of responses in each category is provided with a general summary of the comments made. The RFA response is then given indicating any resulting changes to the Technical Guidance.

The RFA would like to thank respondents for the extensive feedback provided through the consultation.

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<sup>1</sup> Consultation responses were received from AIC, BP, British Sugar, BureauVeritas, Conoco Phillips, Ensus, Esso, Greenergy, Ineos, Mabanaft, Murco, Neste Oil, NFU, REA, SCOPA, UK PIA, Vireol and Vivergo.

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# Chapter 2: Carbon reporting

## Q1. Do you agree with the proposal to implement the new definition of installation for RTFO Year Four?

Agree	Disagree	Other comments
16	0	0

### Responses from stakeholders:

All respondents agreed with this proposal with one requesting clarification on the evidence required to demonstrate that facilities were not intentionally added to the production stage in order to qualify for 'grandfathering'.

### RFA response:

This change has been implemented and guidance on evidence required added to the Technical Guidelines.

## Q2. Do you agree it makes sense to continue using the RFA developed default values up until RED implementation?

Agree	Disagree	Other comments
12	4	0

### Responses from stakeholders:

Twelve respondents agreed that the RFA developed defaults should continue to be used until RED implementation with two requesting that those defaults which will not be valid from RED implementation

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are made clear e.g. to users of the Carbon Calculator. Two respondents stated that the RFA defaults should be removed as soon as possible with one of these commenting that this would aid harmonisation across the EU. A further two commented that this should happen immediately and the RED implemented.

### RFA response:

To clarify, RFA developed defaults are only available for those feedstocks for which no carbon default is available in the RED, for example, barley, non-EC corn and category 3 tallow. All other feedstock defaults are aligned with those in RED Annex V. In the first half of Year Three of the RTFO (Apr-Oct 2010) biofuels sourced from feedstocks not listed in Annex V of the RED comprised approximately 10% of the total biofuel.

It is a requirement of suppliers claiming RTFCs under the current RTFO to report the carbon intensity of their biofuel. If RFA-derived feedstock defaults are removed suppliers would still need to report a carbon number: under current guidelines this would be the conservative fuel-level default. Alternatively the carbon intensity would need to be calculated using actual data for the entire fuel chain, and this is the only option available under the RED.

The timing of RED implementation is a matter for DfT.

The RFA will continue to use RFA defaults for those feedstocks not available in the RED whilst highlighting to stakeholders that these will not be valid from RED implementation both in the Guidance and the Carbon Calculator.

**Q3. Do you agree it makes sense to update the default value calculations in the RTFO technical guidance with the input data produced by the Biograce project and published by the EU transparency platform, only where the BioGrace project has managed to replicate the EU default values?**

Agree	Disagree	Other comments
9	1	6

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## Responses from stakeholders:

The majority of stakeholders expressed support for the BioGrace project including four who wanted clarity on formal recognition of the project by the Commission and three wanting transparency about how the defaults were calculated from the Commission. None of the stakeholders were opposed to RFA defaults being updated with the BioGrace input data although five of these requested updates to RFA defaults should be delayed until RED implementation and one stakeholder stated that the values should be updated immediately.

## RFA response:

BioGrace is leading the work on replicating the fuel chain calculations for RED defaults and making those transparent through publication on their website ([www.biograce.net](http://www.biograce.net)) with the aim of harmonisation across the EU. The BioGrace data is linked from the EC Transparency Platform and the BioGrace tool will soon be submitted to the Commission for formal recognition as a voluntary scheme.

The RFA has been working with BioGrace; both parties have faced difficulties in exactly replicating the RED default calculations in a number of cases. For Year Four, the RFA has updated the default calculations (which are based on the RED defaults) with the BioGrace input data - this makes no difference to overall default values but improves the replication of the calculation of these defaults. For the small number of suppliers using actual data in their GHG calculations this will improve the alignment of these calculations with the RED LCA methodology. For those suppliers using defaults it will make no difference to the carbon number reported to the RFA.

## **Q4. Do you agree with the proposal to incorporate any new default values published by the Commission as soon as they are published and any updates of existing default values from RED implementation?**

Agree	Disagree	Other comments
11	5	0



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## Responses from stakeholders:

Most stakeholders supported this with some proposing that updates to defaults should be made with six months notice or annually to provide stability (with one stating that where the defaults resulted in better GHG savings this should be implemented immediately). Three respondents thought that updates should apply straightaway so that the same defaults could be used at the same time across Member States whilst one wanted to wait until RED implementation. A number of stakeholders requested information on the process for including in the guidance and for informing stakeholders.

## RFA response:

In line with the approach over the first three years the RFA will not make changes to existing fuel chain defaults mid-obligation year (prior to RED implementation) but any new fuel chains published by the Commission will be added so that suppliers can report a more realistic carbon default than the conservative fuel level default.

The RFA recommends that any updates to existing fuel chains or new fuel chains together with the date from which these should be used are published on the website of the RTFO Administrator to alert stakeholders to any changes, and incorporated into the Technical Guidance and the Carbon Calculator. These, and other changes to the guidelines, should be communicated to stakeholders through meetings and via emails or newsletters etc as appropriate.

## Q5. Do you agree that given the guidance from the Commission, it does not make sense for the RFA to continue developing its own default values?

Agree	Disagree	Other comments
16	0	0

## Responses from stakeholders:

All stakeholders supported this with many commenting that the RTFO Administrator should push the Commission for new defaults to be developed for new fuels.

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RFA response:

In light of guidance from the Commission and support from stakeholders the RFA will not develop any more default values.

**Q6. Do you agree with the RFA's proposal to request new default values from the Commission when the volume of supply is expected to be greater than one million litres per quarter?**

Agree	Disagree	Other comments
10	6	0

Responses from stakeholders:

The majority of stakeholders agreed with this proposal and those that disagreed felt that requests to the Commission for new default values should come from the industry/biofuel producers. Four stakeholders commented that the cut-off should be based on EU wide data.

RFA response:

The RFA acknowledges that industry can put forward requests to the Commission and would encourage this. The RTFO Administrator is also well placed to do so as it will have data available on volumes of new feedstocks into the UK across the whole of the RTFO. The RFA therefore recommends that the RTFO Administrator passes requests to the Commission where new fuel chains are greater than 1 million litres a quarter. Should the Commission propose a different cut-off for inclusion of new feedstocks the RTFO Administrator should follow the Commission's guidance.

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**Q7. Do you agree with the RFA’s proposal to keep the existing requirement that all sources of emissions of 1% or more should be included in the calculation of the carbon intensity of the fuel?**

Agree	Disagree	Other comments
7	4	5

**Responses from stakeholders:**

Seven of the 16 respondents agreed with the proposal to keep the one percent cut-off for inclusion of sources of emissions in the GHG calculation. Two stakeholders pointed out that this penalises biofuels with low emissions of GHGs. Those that disagreed referred to the Commission’s Communication on The practical implementation of the EU biofuels and bioliquids sustainability scheme and on counting rules for biofuels as providing more flexibility: ‘GHG figures for Greenhouse Gas savings are rounded to the nearest percentage point’. One stakeholder also quoted text from the Communication which states that ‘it would not be necessary to include in the calculation inputs which will have little or no effect on the result, such as chemicals used in low amounts in processing’. Those with other comments proposed that the methodology should be in line with RED methodology.

**RFA response:**

The text on rounding in the Communication quoted above is a footnote which notes that calculated GHG savings are rounded to the nearest percentage, for example, the GHG savings number that an economic operator passes down the supply chain. The second quote on inclusion of calculation inputs does not define ‘little or no effect’ or ‘low amounts’. In the absence of clear guidance from the Commission on how this should apply in the RED LCA methodology this rule needs to be defined to ensure consistency in the GHG calculation and against which verifiers can assess whether a GHG calculation has been carried out adequately.

The one percent cut-off approach is in line with PAS 2050 (BSI standard for assessments of LCA GHGs): Section 6.3 on Material contribution and threshold states that “all sources of emissions

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having the potential to make a material contribution to the lifecycle GHG emissions of the functional unit” should be included. The definition of material contribution is given as “contribution from any one source of GHG emissions of more than 1% of the anticipated lifecycle GHG emissions associated with a product”.

Within the PAS 2050 terms and definitions section anticipated lifecycle GHG emissions are defined as an ‘initial estimate of GHG emissions for a product that is calculated using secondary data or a combination of primary and secondary data for all processes used in the lifecycle of the product’. This is interpreted as meaning that you can use a proxy to work out the likely magnitude of the GHG emissions of a particular input in the first instance if you have not yet calculated the emissions associated with it.

The RFA acknowledges that the one percent cut off may penalise lower GHG-emitting biofuels and recommends to the RTFO Administrator that this issue is re-visited before RED implementation, for example, an absolute value of e.g. 0.5 gCO<sub>2</sub>/MJ may be appropriate. However, as an appropriate absolute value (or other potential options) have not been consulted on or proposed by stakeholders; the one percent rule has been operating without issue for three years of the RTFO; and the proposal is in line with LCA good practice the RFA will keep the current rule.

## **Q8. Do you agree it makes sense to align our emission factors with those published by the BioGrace project on the EU Transparency platform from reporting year 2011/12?**

<b>Agree</b>	<b>Disagree</b>	<b>Other comments</b>
10	2	4

### Responses from stakeholders:

Fourteen of the 16 agreed that RFA should align emission factors with those published by the BioGrace project though four of these stated that this should wait until RED implementation. Of the two that disagreed, one did not provide any reasons and one did not want any changes before RED implementation. One stakeholder questioned what the approach would be if the BioGrace project has not provided

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a specific emission factor by the time of RED implementation in the UK. The same stakeholder also questioned consistency with the approach in question 4 whereby new fuel chain defaults would be included immediately but updates to existing defaults would apply from RED implementation.

### RFA response:

In line with the RFA's approach outlined in question 3 where the RFA has updated the input data in the fuel chain default calculations with BioGrace input data, the RFA has also updated the standard emission factors with those produced by BioGrace for Year Four. In line with the RFA's approach in question 4 any new standard emission factors published by BioGrace following the start of year Four and before RED implementation will be included as soon as they are available, but changes to existing standard emission factors will be included from RED implementation (or the next obligation period going forward).

Where no standard emission factor is available from BioGrace by the time of RED implementation suppliers should follow the process laid out in Section 2.5.4 of the consultation document i.e. that suppliers can make a request for a value to be published by the Commission<sup>2</sup>. However in the absence of the Commission publishing a value, suppliers will have to find these in published literature such as peer reviewed scientific articles. They will also need to be able to prove that the value they use for their calculations is in line with the following requirements as set out in the RED<sup>3</sup>.

- 1) The standard emission factor should be obtained from independent, scientifically expert sources.
- 2) The standard emission factor should be updated as those sources progress their work

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<sup>2</sup> As for default carbon intensities, the supplier may make a request to the RTFO Administrator for an emission factor for a particular substance. If the Administrator receives several requests for the same substance, it will request that the European Commission and/or the JRC publish a new standard emission factor. However, the Commission is also likely to have its own thresholds for deciding that a substance is sufficiently commonly used in a biofuel production process, before publishing an emission factors for it. Therefore, the RTFO Administrator cannot guarantee the timeline in which the European Commission or the JRC will produce a new standard emission factor, if at all.

<sup>3</sup> These criteria are set out in paragraph 83 of the introduction to the RED.

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**Q9. Do you agree that the RFA should no longer publish new emission factors in the reporting year 2011/12 and that suppliers should use peer reviewed literature in the absence of required default values, as recommended by the Commission?**

<b>Agree</b>	<b>Disagree</b>	<b>Other comments</b>
15	0	0

Responses from stakeholders:

All stakeholders agreed with this proposal. Three respondents requested that peer reviewed data should be made publically available and another proposed that the existing values were retained as a source of peer reviewed literature.

RFA response:

New emission factors will no longer be published. The RFA will not have access to the peer reviewed literature used by economic operators in their fuel chain calculations and these should be checked as part of the independent verification process. The RFA does not intend to start compiling such a list as this is outside the scope of the RTFO Administrator’s remit to endorse such data through publication.

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**Q10. Do you agree with the proposal to permit the use of NUTS2 cultivation emissions as regional averages in place of actual data?**

Agree	Disagree	Other comments
16	0	0

**Responses from stakeholders:**

All 16 stakeholders who responded to this question agreed that NUTS2 cultivation emissions data can be used as regional averages in place of actual data. Four also commented that any updates to NUTS2 cultivation data should not be introduced mid-obligation year whilst conversely one stakeholder wanted to see an immediate application of updates. Some stakeholders asked that updates to NUTS2 data are done in consultation with stakeholders.

**RFA response:**

The RFA has implemented this change and suppliers will be able to report NUTS2 cultivation data as regional averages, where this data has been made available. In line with our approach to other data updates (fuel chain defaults, fuel chain input data, standard emission factors etc), updates to existing NUTS2 cultivation data will not happen mid-obligation year (or prior to RED implementation). However, if NUTS2 cultivation data is published for regions where no data existed previously, this will be available for use immediately (as with new fuel chains, new emission factors etc). Changes to existing data and new data will be communicated to stakeholders, including the dates from which these are applicable.

With regards to updating NUTS2 data in consultation with stakeholders – this is a matter for the respective Member State Governments. DfT is responsible for the UK NUTS2 cultivation data.

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**Q11. Do you agree with the proposal to continue to permit the combination of actual data and default data within a module and across different modules?**

Agree	Disagree	Other comments
16	0	0

Responses from stakeholders:

All 16 respondents supported the use of actual data in combination with default data within a fuel chain module and across different modules. Three commented that this will promote the use of actual data where actual data was not available for an entire module.

RFA response:

The RFA is continuing to allow the combination of default and actual data as outlined in the proposal.

**Q12. Do you agree with the proposal to make stricter the criteria for the removal of the conservative factor (i.e. that for the factor to be removed, conversion efficiency, fuel consumption, electricity consumption and chemical consumption should all be provided)?**

Agree	Disagree	Other comments
8	2	5

Responses from stakeholders:

Just over half of the respondents supported this proposal. One who disagreed felt that collecting actual data for all process steps was a



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new issue for producers and that it would take time for this to happen. All of those with other comments did not want any changes now and four of these stated that post RED implementation the approach should be in line with EC guidance.

**RFA response:**

This is not a significant change from the Year Three Technical Guidance and in the absence of guidelines on this from the Commission this seems the most sensible approach. This approach means that the conservative factor is only removed where there is sufficient data to ensure the GHG emissions reported for the process stage are representative. It is not necessary to collect data for all process steps in a fuel chain to remove the 40% conservative factor – the 40% conservative factor will be removed for each of the process steps for which this data is provided, but will still apply for other process steps that do not have this data.

**Q13. Do you agree with the RFA’s interpretation of the RED relating to batch aggregation, that it is not possible to combine batches of fuels that would not meet the minimum GHG emission threshold to lower their average carbon intensity and then to meet the threshold?**

Agree	Disagree	Other comments
12	3	1

**Responses from stakeholders:**

The majority of stakeholders supported this proposal though four noted that this could be difficult to verify in practice. Those that disagreed commented that fuel suppliers can aggregate batches where non-carbon sustainability characteristics are not identical. Five stakeholders requested that there is a ‘deminimus’ level of non-qualifying stock that is permitted. One stakeholder requested further clarification on this issue.

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Others noted that a new Well to Wheel study puts the fossil reference carbon default at 88 gCO<sub>2</sub>/MJ rather than 83.8 gCO<sub>2</sub>/MJ as listed in the RED and asked if it would be updated. Other comments included that anything that is blended but does not have enough documentation to indicate the individual components meeting the GHG value should not be accepted for example a B99 cargo coming in from the US and that they would prefer a minimum level to be set so as not to hinder trading activity where residual levels of product may remain in transfer tanks or vessels.

### RFA response:

The RFA has implemented this proposal but acknowledges that it may be difficult to assess whether a batch is on track to meet the GHG saving threshold at earlier stages of the supply chain; however, suppliers and verifiers should use the disaggregated defaults as a guideline. So, in general, where GHG savings from a single step or up to a point in the fuel chain combined with defaults for the rest of the fuel chain would not meet the threshold it is not permitted to combine with batches of biofuel with a lower carbon intensity (i.e. that would meet the threshold) and report a single weighted carbon intensity.

Regarding batch aggregation there seems to have been a misunderstanding here and in question 14 regarding administrative versus physical batches of biofuel. It is correct that physical batches of fuel can be mixed on a site or in a tank, but administrative batches or 'sets of sustainability characteristics' must be recorded separately. For example, you cannot take the land-use data from palm oil and mix with the GHG data of oilseed rape, though the palm and oilseed rape derived oils or FAME can be held in the same tank/site. See also the RFA response to question 14. Similarly, how to account for 'residual stock' is a data handling issue, and the physical presence of residual stock in a tank/vessel should not hinder trading.

The RED is also clear that all biofuels should meet the mandatory sustainability criteria to count towards MS national targets and therefore does not allow for a 'deminimus' level of non-qualifying biofuel. Any non-qualifying biofuel physically mixed with compliant biofuel would not render the whole stock non-compliant as this should be recorded as a separate administrative batch. In the RED-ready period all biofuels will continue to receive RTFCs.

Regarding the comment on biofuel blended without sufficient data on the individual components – the components of the biofuel that do have sufficient data can be counted as RED-ready (or RED-compliant). It would be a purchasing decision of the supplier as to

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whether they wanted to accept a biofuel containing non-compliant components.

If the Commission updates the fossil reference value the RTFO Administrator will update the GHG savings of the biofuel feedstocks (though note this will not affect the carbon defaults of the biofuel feedstocks). The RFA is not aware of any pending updates.

## Q14. Do you agree with the proposed approach to calculate a weighted average for batches compliant with the aggregation rules?

Agree	Disagree	Other comments
9	7	0

### Responses from stakeholders:

Just over half of the stakeholders who responded supported this proposal. Two of those who disagreed felt that where biofuels (or biofuel feedstocks) are mixed that meet all of the RED sustainability criteria, then that supplier or economic operator should be allowed to aggregate the GHG emission data across the mixture for all the different biofuel characteristics. One stakeholder proposed that grandfathered fuel automatically qualifies for the threshold saving of 35% and that this value should be used when averaging GHG data across grandfathered and non-grandfathered fuel. Five stakeholders did not want a change from the current rules.

### RFA response:

The RED does not allow sets of sustainability criteria to be split up: the Communication on mass balance<sup>4</sup> allows 'sustainable and other raw materials to be mixed....as long as the combination of all consignments taken out of the mixture has the same sizes for each of the sets of sustainability characteristics that were in the mixture'. The key phrase here is 'sets of sustainability characteristics'. The GHG emissions data is part of that set of sustainability characteristics (together with previous land-use, feedstock, NUTS2 region and so

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<sup>4</sup> Report on the operation of the mass balance verification method for the biofuels and bioliquids sustainability scheme in accordance with Article 18(2) of Directive 2009/28/EC

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forth). It is therefore not permitted to average GHG values across biofuels with different sustainability characteristics. See also the RFA's response to question 13.

The RED applies an exemption on grandfathered fuel to meeting the GHG saving threshold (Article 17(2)), it does not state that it automatically meets the threshold. Therefore the RFA will apply the proposal that the carbon default (or calculated CI) should apply in the case of grandfathered fuel and the grandfathered fuel can therefore only be aggregated with non-grandfathered fuel for the purposes of batch aggregation if all CIs meet the minimum GHG saving threshold and the sustainability characteristics are identical.

The RFA has implemented this proposal as, in addition to further aligning with the RED, the RFA will not be able to identify to suppliers in ROS and the Carbon Calculator whether their fuel is RED-ready.

## **Q15. Do you agree with the proposal to update land use change emission calculations to be in line with the Decision?**

<b>Agree</b>	<b>Disagree</b>	<b>Other comments</b>
10	0	6

### Responses from stakeholders:

All of the stakeholders agreed that the RFA should bring land use change emission calculations in line with RED, but a third proposed that this should wait until RED implementation.

### RFA response:

The RFA has implemented this change as it further aligns with RED and also notes that no biofuel has been reported with any land use change to date under the RTFO so this change will have no or minimal effect on economic operators.

**Q16. Do you agree with the proposal that land classified as settlements should be considered to have no carbon stock and that if degraded land is to be claimed, the carbon stock of this land would need to be measured for the purposes of this calculation?**

	<b>Agree</b>	<b>Disagree</b>	<b>Other comments</b>
Degraded land	14	1	1
Settlements	4	5	6

**Responses from stakeholders:**

The majority of stakeholders were in support of calculating the carbon stock of degraded land. The response on settlements was mixed. Some stakeholders questioned the origins of this as a land-type and requested a definition. Three noted that a perverse incentive might be created to clear settlements for crop growing if the carbon stock is assumed to be zero.

**RFA response:**

The RFA has implemented the proposal on degraded land.

The land type ‘settlements’ was referred to in the Commission’s Communication on the practical implementation of the biofuels sustainability scheme<sup>5</sup>, and is an IPCC land type classification. The RFA acknowledges that settlements will have a carbon stock, and although in practice biofuels are unlikely to be sourced from land that was previously a settlement, assuming zero carbon stock may create a perverse incentive. Therefore, suppliers sourcing biofuel from settlements will have to measure the carbon stock change.

<sup>5</sup> Commission’s Communication on the practical implementation of the EU biofuels and bioliquids sustainability scheme and on counting rules for biofuels (Annex II, point on land use change)

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## Q17. Do you agree with the proposed changes to the accuracy levels?

Agree	Disagree	Other comments
11	3	2

### Responses from stakeholders:

Whilst most stakeholders agreed with the proposed new accuracy levels, four of these questioned the need for them post RED-implementation. Two of those who disagreed with the proposal felt they were a burden on industry and so should be scrapped for Year Four, whilst one felt that the existing accuracy levels were adequate. Further guidance was requested as the options are not mutually exclusive. Others commented that the data may be unavailable, for example, if the GHG was reported under a voluntary scheme.

### RFA response:

The accuracy levels are needed to help determine whether the biofuel is RED-ready in ROS which is something suppliers previously indicated they found useful. The RFA recommends these are reviewed for RED implementation.

The RFA has added further guidance on how to apply the accuracy levels i.e. that the highest accuracy level should always be claimed. To facilitate this, the RFA has changed the order slightly so that 'other actual data e.g. transport' is Accuracy level 3 rather than 6 (as it is more important to identify if cultivation data was used than transport data in order to identify RED-readiness).

Regarding voluntary schemes and availability of data – no voluntary schemes are currently operational for GHG calculations, although a number are under development. It is likely that it would be apparent from the scheme the type of data (e.g. whether cultivation only or entire fuel chain) was used in the calculation.

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# Chapter 3: Sustainability reporting

## Q18. Do you agree with the proposed approach to including EC Decisions for voluntary schemes in the RTFO?

Agree	Disagree	Other comments
16	0	0

### Responses from stakeholders:

Stakeholders unanimously agreed that EC decisions on voluntary schemes would automatically be included in the RTFO. A number emphasised that were there to be any conflict between the rules of an approved voluntary scheme and RTFO rules, for example, on the operation of the mass balance system, the EC approved scheme would need to be accepted.

### RFA response:

The RFA agrees that EC approved schemes should be accepted to the full extent for which they have been approved.

## Q19. Do you agree with the proposal not to automatically accept assessments by other EU Member States?

Agree	Disagree	Other comments
10	6	0

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## Responses from stakeholders:

The majority of respondents agreed that voluntary schemes accepted by other Member States, but not yet assessed by the Commission, should not automatically be accepted for the RTFO. There was some concern that accepting schemes based purely on an individual Member State assessment could cause a 'race to the bottom.'

A significant number of respondents 'strongly disagreed'. These made the case that any scheme recognised in one MS should automatically be accepted in another. This was largely on the basis that fuel suppliers operated in European markets and fuel recognised as meeting a qualifying standard in one Member State ought to be accepted throughout the EU.

## RFA response:

The RFA understands that suppliers want consistent rules and standards across the EU to aid RED implementation and single market trading. It notes that the RED has an explicit provision in Article 18 (4) for the EC to decide that certain voluntary national or international schemes contain accurate data for the purposes of the RED sustainability criteria (Article 17(2)). The EC has set up a process for making such determinations as outlined in its Communication on voluntary schemes issued in June 2010. This clarifies that it will assess a scheme regardless of its origin, for example whether developed by government or private organisation.

The RFA therefore considers that voluntary schemes should, in most circumstances, be assessed by the EC via this process, rather than by Member States, and schemes receiving a positive assessment will automatically be recognised in the RTFO.

The RFA did not consult on whether it should automatically recognise a fuel which had met the requirements of another Member State's national scheme. However, the RFA would expect that any scheme wishing automatic acceptance by MSs throughout the EU to be submitted to the EC for assessment under article 18(4).



**Q20. Do you think there is value in the RTFO Administrator conducting its own assessments of voluntary schemes against the RED criteria?**

Yes	No	Other comments
3	13	1

Responses from stakeholders:

The majority of respondents felt that the assessment of voluntary schemes under the RED was now an EC competence and should be left exclusively to the EC.

A few indicated that assessments by the RTFO administrator could be useful to give suppliers an indication of whether a scheme would be likely to meet the RED criteria. One respondent asked whether the RFA would benchmark schemes for use only in the UK.

RFA response:

The RFA agrees that the assessment of voluntary schemes for the purposes of RED compliance is now an EU competence and recommends that scheme owners liaise directly with the EC. The RTFO Administrator may wish to consider benchmarking an individual scheme on a case by case basis if there is a strong business case for doing so.

**Q21. Are there any voluntary schemes not already assessed by the RFA?**

Yes	No	Other comments
2	14	0

Responses from stakeholders:

The majority of respondents reiterated that voluntary schemes should only be conducted by the EC. One respondent noted a number of

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schemes not yet assessed by the RFA, including 2BSV, REDCert and CARBIO.

**RFA response:**

The RFA notes the schemes mentioned above that it has not yet formally benchmarked. It further notes that Ofgem are conducting an indicative assessment of REDCert which may provide a useful indication to suppliers on whether that scheme is likely to contain reliable data for the purposes of meeting the RED sustainability criteria. This assessment will be available on the RTFO Administrator’s website when completed.

However, in line with the approach to assessing voluntary standards outlined above, the RFA does not in general intend to carry out further benchmarks and will await EC decisions.

## **Q22. Do you agree that the RTFO Administrator should continue to benchmark schemes against the RTFO Sustainable Biofuel Meta-Standard?**

<b>Agree</b>	<b>Disagree</b>	<b>Other comments</b>
1	12	2

**Responses from stakeholders:**

A majority of respondents felt that the Meta-Standard had been superseded by the RED sustainability requirements. It was not yet clear whether reports against the Meta-Standard would necessarily help the UK in reporting on the broader environmental and social impacts of biofuels referred to in the RED.

Some stakeholders considered that the Meta-Standard had a role at least until RED implementation. A few suggest putting the Meta-Standard as a voluntary scheme to the Commission for formal assessment.

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### RFA response:

The RFA intends continuing use of the Meta-Standard approach during the final 'reporting' pre-RED phase of the RTFO given the current lack of an alternative (at the time of writing the EC has not issued decisions on voluntary schemes). The role of the Meta-Standard post RED implementation will be reviewed following EC guidance on reporting.

Given that the future role of the Meta-Standard beyond RED implementation is unclear, the RFA does not intend formally benchmarking further schemes for Year Four of the RTFO unless failing to do so would undermine the operability of the current system (e.g. an existing scheme makes significant changes likely to affect its status).

## **Q23. Do you agree with the approach to maintain the current norm for audit quality for the start of Year Four and to update the norm in time for full RED implementation?**

<b>Agree</b>	<b>Disagree</b>	<b>Other comments</b>
12	2	2

### Responses from stakeholders:

The majority of respondents were content with the proposed approach. A large number considered that 'when the RED commences the EC text should be used.' Some thought that it should be amended for the Technical Guidance this year.

### RFA response:

The RFA has maintained the current norm for audit quality for Year Four.

The rationale for the RTFO maintaining a norm for audit quality going forward is dependent upon the maintenance of the Meta-Standard and/or benchmarking activities at RTFO Administrator level. The RFA recommends that DfT reviews the need for the norm for audit quality when it consults on guidelines for implementing the RED. Any updates would be in line with RED requirements.

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## Q24. Do you agree with the results of the new benchmarks?

Agree	Disagree	Other comments
5	0	8

### Responses from stakeholders:

Several respondents agreed with the benchmarks. The majority of responses said that benchmarking should be conducted at EU level.

### RFA response:

The results of the benchmarks are included in the Year Four Technical Guidance. As indicated elsewhere, any future benchmarking will depend on the future role of the Meta-Standard.

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# Chapter 4: Chain of Custody

**Q25. Do you agree with the proposal to allow companies to operate their mass balance on a periodic inventory basis, with a maximum time frame of one month?**

Agree	Disagree	Other comments
3	11	2

Responses from stakeholders:

The majority of respondents disagreed with the proposal. A number felt that it was acceptable at the downstream end of the supply chain, such as the biofuel supplier, but that a one-month period was especially problematic at the agricultural end of the supply chain. One crop year was recommended as an appropriate time period for farms/plantations.

The Commission guidance on voluntary schemes (2010/C 160/01) was said to provide for flexibility in this area: *'the balance could be achieved over an appropriate period of time and regularly verified.'* Some pointed out that an EC approved voluntary scheme might have an allowed period of more than one month. It was noted that the CEN draft standard prEN16214 refers to three months.

It was also noted that a recent letter from the EC to the European Biodiesel Board relating to the first transition year of the RED, and specifically to the 2010 harvest, allows Member State national systems to set one year as the maximum timeframe.

RFA response:

The RFA accepts that the RED and accompanying Communications set no definitive timetable for managing periodic inventories for mass balance, with the exception of the first transition year of the obligation for agricultural product. The RFA notes that greater clarity may be forthcoming when the Commission approves the first voluntary schemes, and standards such as CEN are finalised. The RFA

has determined therefore that, for Year Four of the RTFO starting in April 2011, 'appropriate time periods' should be no more than a year in the RTFO Technical Guidance. However, the RFA *recommends* that suppliers should manage inventories on a monthly basis. At the farm end of the supply chain, the Commission has already indicated that a year is acceptable for national systems for the 2010 harvest. The RFA recommends that the RTFO administrator consults on this issue again ahead of UK RED implementation.

The RFA notes that longer balancing up periods may also bring larger risks for obligated parties as their biofuel may not meet the RED criteria if the ex-post verification finds that their suppliers, or their suppliers, did not hold sufficient stocks of RED compliant fuels in the relevant period.

## Q26. Do you agree with the RFA analysis of the pros and cons of the two options for feedstock allocation as detailed in Annex A?

Agree	Disagree	Other comments
1	11	2

### Responses from stakeholders:

The majority of respondents disagreed with the analysis. A number felt that it mixed two separate questions covering the cold flow properties and C&S of the biofuel. The case was made that feedstock to each plant had to meet the 35% GHG rule and sustainability criteria, and therefore the product however split would reduce GHG emissions whether the allocation was proportionate or flexible.

A number of respondents referred to the EC guidance issued in June 2010 which states that:

*"If a mixture is split up, any consignment taken out of it can be assigned any of the sets of sustainability characteristics (accompanied with sizes) as long as the combination of all consignments taken out of the mixture has the same sizes for each of the sets of sustainability characteristics that were in the mixture."*

The case was made that this part of the Communication allows non-proportionate reporting, and therefore voluntary schemes that adopt this approach could be approved by the EC. The UK would have to accept fuels that met EC approved voluntary standards.

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One respondent considered that the RED (article 18.1) appeared to require proportionate reporting and suggested legal analysis.

**RFA response:**

The RFA accepts that where cargoes of biofuels are destined for use within the European market, how feedstocks are allocated within individual consignments may have no material effect on the sustainability of feedstock types driven by the EU biofuels market. However, it notes that in the case where fuels are either imported into or exported out of the EU market non-proportionate allocation may result in a disconnect between the types of feedstocks allocated to the EU and those actually used in the market as a whole.<sup>6</sup>

**Q27. Which option for feedstock allocation (A or B) do you believe should be implemented under the RTFO? (Please give specific reasons and also detail if you believe one of the options should or could not be implemented.)**

Option A	Option B	Other comments
14	3	0

**Responses from stakeholders:**

The majority of stakeholders wanted to allocate sets of sustainability characteristics independently of actual fuel supplied at the level of a site, i.e. Option A, non-proportionate feedstock reporting.

Amongst those making the case for proportionate allocation, it was argued that that any future application of feedstock specific iLUC factors could be problematic in a non-proportionate system.

There was specific support for the premise in both options that proportionate allocation of virgin biofuel feedstocks should be required where there may be the likelihood that feedstocks deemed

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<sup>6</sup> Biodiesel blends imported into the EU made up 14% in 2007, 25% in 2008 and 17% in 2009 as a proportion of the EU biodiesel market as a whole. EU ethanol imports were 35% in 2007, 29% in 2008 and 17% in 2009. EU biofuel exports are currently <1%.

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less desirable would be allocated to other markets (e.g. in vegetable oil terminals for food).

**RFA response:**

The RFA has noted the strong response from the majority of stakeholders in favour of a switch in the RTFO to a non-proportionate allocation system. It further notes that the EC Communication published in June last year appears to permit this approach.

The RFA has therefore amended the guidance to allow for greater flexibility in allocation. The new guidance is intended to enable flexible allocation of feedstocks for finished fuels – i.e. within biofuel production facilities and for fuel suppliers.

The new guidance does not allow C&S feedstock data to be used for consignments of virgin oils that are not consistent with the actual physical consignment – i.e. soy oil data cannot be used for a physical consignment consisting only of rape oil. In the RFA's view 'mislabelling' virgin oils appears inconsistent with the intention of the mass balance reporting requirements in the Directive for mixtures of biofuels, and could lead to a large disconnect between the type of feedstock data allocated as being used to meet the Directive and the types of feedstock actually used for biofuels in the EU market.

From RED implementation, Article 18(1) on double counting of wastes and residues may not allow for the non-proportionate feedstock mass balance rules to apply. That is, fuels qualifying for double counting may need to have physical characteristics that are consistent with the sustainability data.

**Q28. Do you agree that with the information currently available it is the right decision to continue to allow all chain of custody systems to be used in the RTFO until full implementation of the RED, at which point only mass balance (or more stringent) will be permitted?**

Agree	Disagree	Other comments
14	1	1



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## Responses from stakeholders:

The majority of stakeholders agreed. One stakeholder wanted to disallow non-RED compliant systems immediately (from Year Four).

## RFA response:

The RFA will continue to allow the use of book and claim systems, notably Greenpalm RSPO certificates and EU equivalence trading, for Year Four ahead of RED implementation.

Note that fuels reported under these systems must be identified and will not have 'RED ready' status. According to the Department for Transport consultation document, the implications are that:

- 1) After RED implementation, fuels using these systems would not earn an RTFC;
- 2) However, RTFCs already issued before RED implementation could be used to meet the Year Four obligation; and
- 3) RTFCs issued in respect of these fuels may not be 'carried over' for use in Year Five (from April 2012).

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# Chapter 5: By-products

## Q29. Do you agree that the RFA should continue with the current by-product approach, in the absence of further clarity of which feedstocks will count as wastes and residues under the RED?

Agree	Disagree	Other comments
12	1	2

### Responses from stakeholders:

The majority of respondents agreed to this approach, but many emphasised the need for clarity on the issue of ‘wastes and residues’ for RED implementation, and for consistency both within the different renewable energy markets in the UK and across the EU. A number noted that the double counting rules in the RED for renewable transport fuels made from wastes and residues would affect investment decisions so it would be particularly important that the definitions and decision-making processes were clear. There was also concern that there was a risk of ‘perverse outcomes’ in this area.

There was some commentary cross-referring to the Ofgem consultation on addressing this issue in the Renewables Obligation. Ofgem have proposed using the Environment Agency Waste Panel which makes determinations on materials for the purposes of the Waste Framework Directive (WFD).

Some stakeholders argued that RED determinations on wastes should be aligned with the WFD. Others considered that the suitability of the WDF needed to be assessed carefully and that it was essential that the process used followed the intent of the RED.

There was some support for the work of CEN TC 383 which has developed a process for determining the status of materials and produced a ‘positive’ list of residues.

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RFA response:

The RFA will continue to use 'by-products' ahead of RED implementation. We recommend that DfT work with Ofgem and other UK bodies, as well as CEN and other EU bodies, to develop a clear and consistent approach for taking the matter forward.

**Q30. Do you agree with the proposal that suppliers should gather the evidence required to determine if a feedstock is a by-product and that this should be verified and included in supplier Annual Reports to the RFA?**

Agree	Disagree	Other comments
13	2	0

Responses from stakeholders:

The majority of stakeholders agreed that new 'by-products' which were not on the current RFA list contained in the TG should be assessed by suppliers and confirmed through the verification process.

A number of respondents reiterated frustration with the lack of clarity on the issue of how materials were categorised as wastes and residues under RED.

RFA response:

The RFA will implement this approach.

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**Q31. Do you agree that any new by-products (before RED implementation) should be able to report the most conservative current default value for a by-product?**

<b>Agree</b>	<b>Disagree</b>	<b>Other comments</b>
14	0	0

Responses from stakeholders:

All of the stakeholders agreed. Comments included: 'By products should be encouraged and should not be unnecessarily penalised because full default chains have not yet been developed.'

RFA response:

The RFA will implement this approach. This means that for by-products without a default specified in the Annex V of the RED (or for which the RFA has already calculated a carbon default) may report a carbon default of 61 gCO<sub>2</sub>/MJ in Year Four.

It should be noted however, that the RED does not provide for the RFA to develop defaults for fuels not covered by the RED. Therefore, unless the Commission publish defaults for such fuels, suppliers will need to report actual values once the RED is implemented.

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# Chapter 6: Verifier opinion

## Q32. Do you agree with the RFA’s intended approach to introduce additional guidance to assurance practitioners providing verification?

Agree	Disagree	Other comments
10	0	7

### Responses from stakeholders:

Some stakeholders welcomed the proposed additional guidance on verification.

Several noted that the RFA would be consulting with verifiers and were interested in the outcome of that process. Verifier acceptance was considered important.

A number considered that the guidance was retrospective (because it would apply to Year Three), and were concerned that this might undermine prior work already conducted for Year Three fuels.

Some disagreed with the proposed requirement in the audit statement to confirm that the audit had been conducted ‘in accordance with’ ISAE3000, rather than simply ‘with reference to’.

A number of stakeholders used the opportunity to question the ‘ex post’ verification approach required by the RTFO and requested a move to ex ante verification under RED. This related to concerns about cost and risk.

### RFA response:

The RFA held a meeting with verifiers on the proposed guidance on 11 January 2011. There was general agreement to the proposals. Verifiers did not consider the proposals to have a problematic retrospective effect, as the guidance provides further clarification/standardisation of the existing framework rather than more

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fundamental changes. Organisations who undertake verification have not responded to the written consultation.

The requirement for verification to be 'in accordance with' ISAE 3000 is not new as it is already part of the TG and verifiers' guidelines. The requirement for auditors to make a statement that the audit had been conducted 'in accordance with' ISAE 3000 is a response to some statements in the first two years of the obligation containing the weaker formulation 'with reference to.'

Since the outset of the RTFO, the Technical Guidelines have recognised standards that meet minimum sustainability requirements and have sufficiently robust auditing systems in place. In that sense, the RTFO C&S verification rules allow ex ante systems where these are part of approved certification schemes. As more certification schemes develop in response to the RED, including approved chain of custody systems, the level of activity required for ex post verification should diminish.

The Department for Transport are currently consulting on how verification might operate following RED implementation.

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# Chapter 7: Known unknowns

## Q33. Do you agree with the approaches proposed for each of the known unknowns listed in this chapter?

Agree	Disagree	Other comments
6	2	7

### Responses from stakeholders:

There was general agreement from stakeholders on the RFA approach to aligning the RTFO with EC rulings and UK Government decisions as the remaining issues in the RED are clarified.

There was some question of what the RFA meant by 'substantial' in the consultation document where we stated "*Where changes are substantial, the issues will be subject to formal consultation*".

A number of stakeholders questioned the value of re-benchmarking schemes for highly biodiverse grassland (HBG) given that the Commission would be doing so. It was further questioned whether there was any merit in adapting the Meta-Standard to be consistent with HBG. Some stakeholders also questioned the role of the Meta-Standard for the reporting items in the Directive, indicating that it was premature to determine this as the appropriate approach.

### RFA response:

The RFA recommends to the RTFO Administrator that these issues are consulted on when developing guidelines for C&S reporting under the RED.

We recommend that the RTFO Administrator considers the value of incorporating the definition of HBG when available in the Meta-Standard and any subsequent re-benchmarking of standards when the RED is implemented.

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**Q34. Are there any other known unknowns that you believe have not been addressed in this document?**

Yes	No	Other comments
0	14	0

Responses from stakeholders:

No other 'known unknowns' were identified.

RFA response:

The RFA recommends to the RTFO Administrator that these issues are monitored and addressed in the consultation on revised guidelines for sustainability reporting under the RED as appropriate.