
STATUTORY INSTRUMENTS

2018 No. 374

**The Renewable Transport Fuels and
Greenhouse Gas Emissions Regulations 2018**

PART 4

GREENHOUSE GAS EMISSIONS AMENDMENTS

Insertion of Part 3A

45. After Part 3 (administration), insert—

“PART 3A

GHG CREDITS

GHG credits: calculation of CO_{2eq} savings

16A.—(1) A supplier, or in the case of a UER, a regulated supplier, may apply to the Administrator for one GHG credit for each whole kgCO_{2eq} saved (the “emissions saving”) by the supplier, or in the case of emissions savings attributable to a UER, by the regulated supplier, during the reporting periods beginning on 1st January 2019 and 1st January 2020.

(2) An application for GHG credits must be made in accordance with regulation 16B.

(3) Except in respect of emissions savings attributable to a UER, the Administrator must calculate the supplier’s emissions savings (“N”) by—

(a) applying the formula in paragraph (4), in respect of—

(i) each energy product supplied by the supplier which has a GHGi which is lower than the unit GHGi threshold for the reporting period concerned;

(ii) electricity supplied by the supplier for use in electric road vehicles; and

(b) adding together the results of the calculations under sub-paragraph (a).

(4) The formula is—

$$N = \frac{(TGHGi - (GHGi \times AF)) \times V \times ED}{1000}$$

where—

N is the amount of kgCO_{2eq} saved;

TGHGi is the unit GHGi threshold for the reporting period concerned;

GHGi is the GHGi of the energy product or of the electricity;

AF is the adjustment factor set out in paragraph (6);

V is the amount of the energy product, or of electricity, supplied, expressed in—

- (a) kilograms for gaseous fuels;
- (b) litres for liquid fuels; or
- (c) kilowatt hours for electricity used in electric road vehicles;

ED is—

- (a) in the case of an energy product, its lower heating value expressed in—
 - (i) MJ per kilogram for gaseous fuels; or
 - (ii) MJ per litre for liquid fuels;
 - (b) in the case of electricity used in electric road vehicles, 3.6 MJ per kilowatt hour.
- (6) The adjustment factor (AF) in the formula in paragraph (4) is—
- (a) if the predominant conversion technology is an internal combustion engine, 1;
 - (b) if the predominant conversion technology is a battery electric powertrain, 0.4; or
 - (c) if the predominant conversion technology is a hydrogen fuel cell electric powertrain, 0.4.

(7) Where the emissions savings are attributable to a UER, the Administrator must ensure that the savings are calculated in accordance with the UER calculation requirements set out in paragraph 19 of the Schedule.

Applications for GHG credits

16B.—(1) An application for GHG credits must be made—

- (a) in electronic form, through a website specified by the Administrator for that purpose; or
- (b) in such other manner as the Administrator determines in a particular case.

(2) The evidence which must be included in the application is—

- (a) a declaration from an individual nominated by the applicant which confirms that the information submitted in the application and, if different, the information referred to in paragraph (3)(b), is accurate;
- (b) a declaration from an individual nominated by the applicant which confirms that the emissions savings claimed have not already been, and will not be, counted under or in relation to—
 - (i) Article 7a of the directive in any other state;
 - (ii) the Kyoto Protocol to the United Nations Framework Convention on Climate Change, signed at Kyoto on 11th December 1997⁽¹⁾; or
 - (iii) a GHG reduction obligation of another supplier;
- (c) the evidence or information required under regulation 13 which relates to the GHG credit applied for;
- (d) such other evidence as the Administrator may reasonably determine is necessary, and in such form as the Administrator may reasonably determine is appropriate, in order to substantiate the information provided by the applicant in relation to the emissions savings claimed.

(3) An applicant for GHG credits must also satisfy the following conditions in order for the applicant to be issued with GHG credits—

- (a) the applicant has an account under regulation 8;

⁽¹⁾ UK Treaty Series No.6 (2005); Cm 6485, also available online at <http://treaties.fco.gov.uk/docs/pdf/2005/TS0006.pdf>.

- (b) where the energy product concerned is biofuel, the applicant has provided the Administrator with a verifier’s assurance report in respect of the information submitted in connection with the application relating to the compliance of the biofuel with the sustainability criteria;
 - (c) the Administrator is satisfied, so far as is reasonably practicable, that the evidence or information provided by the supplier under paragraph (2)(c) fulfils the criteria set out in paragraph (6);
 - (d) any duty of excise payable in relation to the energy product in respect of which the emissions savings are claimed has been paid; and
 - (e) the applicant makes the application for the GHG credit by 12th May immediately following the reporting period during which—
 - (i) the energy product was supplied;
 - (ii) the electricity was supplied for use in electric road vehicles;
 - (iii) the emissions saving was generated by the UER,or such later date as the Administrator may notify to the applicant for the purposes of this sub-paragraph.
- (4) For the purposes of this regulation, “the energy product” is the energy product in respect of which the application for GHG credits has been made.
- (5) A person who makes a declaration for the purposes of this regulation must ensure that the evidence or information submitted in or with the application is accurate.
- (6) The criteria referred to in paragraph (3)(c) are that the evidence or information—
- (a) is accurate; and
 - (b) has been provided—
 - (i) in such form;
 - (ii) using such methodology; and
 - (iii) within such period,as the Administrator notifies for the purposes of regulation 13 or 14, or failing such notification, as the Administrator notifies for the purposes of this paragraph.
- (7) A supplier is not required to submit evidence or information to the Administrator as part of an application for a GHG credit under these Regulations if the supplier has already submitted the same or equivalent evidence or information as part of an application for RTF certificates.
- (8) The Administrator must consider an application for GHG credits in parallel with any application made by the same person at the same time for RTF certificates.

Issue of GHG credits: requirements and supplementary

- 16C.—**(1) The Administrator must issue a supplier with GHG credits for the supplier’s emissions savings if the requirements in paragraphs (2) to (5) are met.
- (2) The requirements in regulation 16B(1) to (3) and (5), which are relevant to the supplier’s emissions savings to which the application for GHG credits relates, must be met.
- (3) In relation to an application for a GHG credit arising from emissions savings which are attributable to an energy product, the energy product must be (or have been)—
- (a) owned by the supplier at the assessment time;
 - (b) supplied by the supplier at, or for delivery to, places in the United Kingdom during a reporting period mentioned in regulation 16A(1); and

(c) for use in aircraft, non-road transports or road vehicles.

(4) In relation to an application for a GHG credit arising from emissions savings which are attributable to electricity for use in electric road vehicles, the electricity must be (or have been) supplied by the electricity supplier at the assessment time.

(5) In relation to an application for a GHG credit arising from emissions savings which are attributable to a UER, the UER must—

(a) meet the UER eligibility requirements; and

(b) be calculated in accordance with the UER calculation requirements,

set out in the Schedule.

(6) A GHG credit must be issued as soon as reasonably practicable after an application for it has been made in accordance with regulation 16B.

(7) For the purposes of these Regulations, the Administrator issues a GHG credit to a supplier by recording the credit in the account of the supplier.

(8) As soon as reasonably practicable after issuing a GHG credit, the Administrator must notify the supplier of the issue of the credit.

(9) If an account holder asks the Administrator for information as to the number of GHG credits held to the credit of the holder's account, the Administrator must provide that information to the account holder as soon as is reasonably practicable after receipt of the request.

Transfers of GHG credits

16D.—(1) A transfer of a GHG credit may be made between any persons who are account holders on such terms and in exchange for such payment as those persons agree.

(2) Such a transfer is not effective unless—

(a) the transferor notifies the Administrator of the following details of the transfer—

(i) the name of the account holder to whom the credit is transferred;

(ii) the date of the transfer (“the notified date”); and

(iii) the reporting period in respect of which the credit was issued;

(b) the transferor so notifies the Administrator—

(i) through a website specified by the Administrator for that purpose; or

(ii) in another manner, in a case where the Administrator determines that it is necessary to allow notification in that manner;

(c) the transferor so notifies the Administrator—

(i) on the date of the transfer; or

(ii) before the date of the transfer, in which case the notification must be within the period of one month ending with the day before the date of the transfer;

(d) the transfer relates to not more than one transferee;

(e) the GHG credit is held to the credit of the transferor's account at the date and time of the transfer; and

(f) the Administrator is satisfied that, at the date of the transfer, the credit is not capable of being revoked under regulation 16E.

(3) Where—

(a) a transfer relates to some (but not all) of the GHG credits held by a transferor on the date of the transfer; and

- (b) the GHG credits held by the transferor on that date were not all issued at the same date and time,

it is to be presumed, unless the transferor notifies the Administrator otherwise at the same time as notifying the Administrator of the details of the transfer in accordance with paragraph (2)(a), that the transfer relates to the credits which were issued at the earlier dates and times.

(4) In the event of there being an insufficient number of credits held in a transferor's account on the notified date to transfer credits to more than one transferee, the Administrator must give priority to the transfer which was first notified to the Administrator.

(5) For the purposes of these Regulations, the Administrator transfers a GHG credit from one account holder to another account holder by recording a debit of a GHG credit in the transferor's account and a credit of a GHG credit in the transferee's account.

Revocation of GHG credits

16E.—(1) Subject to the following paragraphs, the Administrator may revoke a GHG credit where the Administrator is satisfied that—

- (a) the declaration provided in relation to that credit pursuant to regulation 16B(2) (a) is, or was, false;
- (b) the credit was issued as a consequence of any fraudulent behaviour, statement or undertaking on the part of the supplier to which it was issued, any connected person or any person who has produced the verifier's assurance report;
- (c) the information provided to the Administrator in relation to the credit pursuant to regulation 13(2) was materially inaccurate;
- (d) the evidence provided in relation to the information referred to in sub-paragraph (c) was insufficient to substantiate it; or
- (e) a verifier's assurance report in relation to that credit was materially inaccurate.

(2) Before revoking a GHG credit, the Administrator must give notice in writing to the supplier to which the credit was issued and, where the credit has been transferred to another person, to whose credit the GHG credit is held, to that other person.

(3) The notice must state—

- (a) that the Administrator is proposing to revoke the GHG credit;
- (b) the grounds for the proposed revocation;
- (c) that the supplier and any transferee may make representations in writing to the Administrator in relation to the proposed revocation; and
- (d) that any such representations must be made within such period as the Administrator specifies, being a period of not less than 14 days beginning on the date of receipt of the notice.

(4) The Administrator—

- (a) must consider representations made under paragraph (3);
- (b) must decide whether to revoke the GHG credit; but
- (c) may not revoke the credit—
 - (i) before the end of the period of 28 days beginning on the date of the notice;and

- (ii) later than 16th July (or the next working day after 16th July, if 16th July is not a working day) immediately following the reporting period during which the GHG credit was issued.
- (5) Where the Administrator revokes a GHG credit, the Administrator must, within the period of 7 days beginning on the date of revocation—
- (a) give notice (the “revocation notice”) in writing of such revocation to the supplier to which the credit was issued, and to any transferee; and
 - (b) state in the revocation notice—
 - (i) the grounds for the revocation;
 - (ii) that the supplier or any transferee (or both) may apply to the Administrator by notice (the “reconsideration notice”), in writing, to reconsider the revocation; and
 - (iii) the requirements about the reconsideration notice which are set out in paragraph (7).
- (6) Where the Administrator revokes a GHG credit, the supplier to which the credit was issued or any transferee (or both) may apply to the Administrator to reconsider the revocation by way of a reconsideration notice.
- (7) A reconsideration notice must—
- (a) be given to the Administrator within the period of 14 days beginning on the date of receipt of the revocation notice;
 - (b) set out the grounds for reconsidering the revocation; and
 - (c) contain any representations which the supplier or transferee wishes to make in relation to the reconsideration of the revocation.
- (8) Where a reconsideration notice is given, the Administrator must—
- (a) consider any representations which the supplier or transferee has made under paragraph (7); and
 - (b) reconsider the revocation within the period of 10 days beginning on the date of receipt of the reconsideration notice.
- (9) On reconsidering the revocation, the Administrator must—
- (a) reinstate the GHG credit; or
 - (b) confirm the revocation of the credit on the grounds referred to in paragraph (5) (b)(i) or on other grounds.
- (10) The Administrator must give notice in writing of the Administrator’s decision and, in the case of a confirmation of a revocation of a GHG credit, of the grounds for that revocation, to the supplier to which the credit was issued, and to any transferee.
- (11) Where—
- (a) the Administrator does not reconsider the revocation by the date referred to in paragraph (8); or
 - (b) a GHG credit is revoked but is subsequently reinstated,
- the credit is deemed to have been reinstated immediately before the end of the reporting period to which the credit relates.
- (12) The Administrator may hold an oral hearing before making a decision on a proposed revocation or on a reconsideration of a revocation.

(13) A person who provides information or produces evidence to the Administrator in respect of a proposed revocation or a reconsideration of a revocation must ensure that that information or evidence is accurate.

Payments

16F.—(1) As soon as reasonably practicable after the end of each reporting period mentioned in regulation 16A(1), the Administrator must notify a regulated supplier of the following—

- (a) the emissions savings needed in order for that supplier to meet its GHG reduction obligation in relation to that period; and
- (b) the number of GHG credits being held to the credit of the supplier’s account which may be used as evidence for the purposes of meeting the supplier’s GHG reduction obligation in relation to that period.

(2) A credit may be produced as evidence by the supplier pursuant to these Regulations—

- (a) by means of an electronic submission transmitted to a website specified by the Administrator for that purpose, which identifies the credit of a GHG credit in the supplier’s account; or
- (b) by other means, in a case where the Administrator determines that it is necessary to allow production of a GHG credit by those means.

(3) A regulated supplier must notify the Administrator of the number of GHG credits held in the supplier’s account which are to be counted towards the discharge of the supplier’s GHG reduction obligation for the reporting period in question, and which are to be debited accordingly from the account.

(4) That notification must be given to the Administrator by no later than 15th September (or the next working day after 15th September, if 15th September is not a working day) immediately following the reporting period to which the GHG credit relates.

(5) Where a regulated supplier fails to notify the Administrator of the number of GHG credits to be counted by the date mentioned in paragraph (4), the Administrator must deem the number to be nil.

(6) A regulated supplier which does not, by virtue of paragraph (3), wholly discharge its GHG reduction obligation for a reporting period by the date specified in paragraph (4) must pay to the Administrator a sum (the “buy-out amount”) determined in accordance with paragraph (7).

(7) The buy-out amount is determined as follows—

$$\text{Buy-out amount (pence)} = (N - \text{GHG credits redeemed}) \times 7.4$$

where—

“N” is the amount of the supplier’s GHG reduction obligation for the reporting period concerned, expressed in kgCO_{2eq} and rounded up or down to the nearest kilogram, calculated in accordance with regulation 6C;

“GHG credits redeemed” is the number of GHG credits redeemed by the supplier, within the reporting period, for credit against the supplier’s GHG reduction obligation.

(8) The period within which the buy-out amount must be paid to the Administrator (the “buy-out payment period”) is the period beginning on 1st January immediately following the reporting period in question and ending on 26th October of that year.

(9) Where a supplier does not pay all of the buy-out amount to the Administrator before the end of the buy-out payment period—

- (a) the unpaid buy-out amount carries interest at the rate specified in paragraph (10), and is to be calculated in accordance with paragraph (11); and
- (b) the unpaid buy-out amount, and any unpaid interest, is a debt due from the supplier to the Administrator until it has been paid in full.

(10) The rate for the purpose of paragraph (9)(a) is 5 percentage points above the base rate of the Bank of England as at the day immediately after the last day of the buy-out payment period in question.

(11) The interest is to be calculated on a daily basis for the period beginning on the day immediately after the last day of the buy-out payment period in question, and ending on the date on which payment is received by the Administrator.”.