
STATUTORY INSTRUMENTS

2021 No. 1335

The Green Gas Support Scheme Regulations 2021

PART 3

Ongoing obligations on participants

Ongoing participant obligations: biomethane

9.—(1) A participant may only use biomethane which—

(a) is or was produced from one or more of the following feedstocks—

(i) solid biomass,

(ii) solid waste,

(iii) liquid waste, and

(b) is not gas formed by the digestion of material in a landfill.

(2) Where waste is used as feedstock, the proportion of solid biomass contained in the waste must be a minimum of 10%.

(3) For the purposes of paragraph (2), the proportion of solid biomass is the energy content of the waste used as feedstock in a quarter, less the energy content of any fossil fuel⁽¹⁾ of which that waste is in part composed, expressed as a percentage of the energy content of that waste.

(4) Where solid biomass is used as feedstock, the participant may use solid biomass contaminated with fossil fuel only where the proportion of fossil fuel contamination does not exceed 10%, but such contaminated biomass may not be used unless the fossil fuel is present because—

(a) the solid biomass has been subject to a process, the undertaking of which has caused the fossil fuel to be present in, on, or with the biomass even though that was not the object of the process, or

(b) the fossil fuel is waste and was not added to the solid biomass with a view to its being used as a fuel.

(5) For the purposes of paragraph (4), the proportion of fossil fuel contamination is the energy content of the fossil fuel with which the solid biomass used in a quarter is contaminated, expressed as a percentage of the energy content of all feedstock (contaminated or otherwise) used in that quarter.

(6) A participant may use feedstock partly derived from fossil fuel only where the contribution of that fossil fuel to the energy content of the biogas that is produced from that feedstock does not exceed 10%.

(7) For the purposes of paragraph (6)—

(a) the percentage of the energy content of biogas from the fossil fuel component of the feedstock is to be determined by the Authority for every quarter,

⁽¹⁾ See section 100(3) of the 2008 Act for the definition of “fossil fuel”.

- (b) it is for the participant to provide, in such form as the Authority may require, evidence to demonstrate to the Authority's satisfaction the percentage of the energy content of biogas from feedstock derived from fossil fuel, and
 - (c) the percentage of the energy content of biogas from feedstock derived from fossil fuel is the energy content of the fossil fuel, expressed as a percentage of the energy content of the biogas used in that quarter to produce biomethane.
- (8) Without prejudice to paragraph (7)(b), in determining the percentage of the energy content of biogas from feedstock derived from fossil fuel, the Authority may have regard to any information (whether or not produced to it by the participant) if, in its opinion, that information indicates the contribution of feedstock derived from fossil fuel to the energy content of the biogas.
- (9) Where the Authority so requests, the participant must arrange—
- (a) for samples of the feedstock used (or to be used) to be taken by a person and analysed in a manner specified by the Authority, and
 - (b) for the results of that analysis to be made available to the Authority in such form as the Authority may require.
- (10) A participant must provide measurements in such format as the Authority may request which satisfy the Authority of all of the following—
- (a) the gross calorific value and volume of biomethane injected,
 - (b) the gross calorific value and volume of any propane contained in the biomethane,
 - (c) the kWh of biomethane injected, together with supporting meter readings and calculations,
 - (d) the kWh of heat supplied to every anaerobic digester (other than heat contained in feedstock to produce biogas by anaerobic digestion) which made the biogas used in any quarter to produce biomethane for injection, and
 - (e) any heat supplied to the biomethane production process.
- (11) The measurements referred to in paragraph (10) may be estimated if the Authority has agreed in writing to an estimate being provided and to the way in which those estimates are to be calculated, provided that estimated measurements may only be used by a participant in relation to a maximum of six quarters.
- (12) A participant must keep, and provide to the Authority upon request—
- (a) copies or details of agreements with third parties with whom the participant contracts to carry out any of the processes undertaken to turn the biogas into biomethane and to arrange for its injection, and
 - (b) written evidence including invoices, receipts, contracts and such other information as the Authority may specify in relation to biogas purchased and feedstock used in the production of the biogas used to produce biomethane.
- (13) A participant must ensure, in relation to digestate generated from every anaerobic digester, that they comply with the following requirements—
- (a) they use low emission spreading of digestate as defined in the Code of Good Agricultural Practice (COGAP) for Reducing Ammonia Emissions⁽²⁾, or
 - (b) where the participant contracts with another person to spread the digestate, that person complies with the relevant National Association of Agricultural Contractors standards or equivalent approved standards.

(2) The Code can be viewed at: <https://www.gov.uk/government/publications/code-of-good-agricultural-practice-for-reducing-ammonia-emissions/code-of-good-agricultural-practice-cogap-for-reducing-ammonia-emissions>. It is not available in hard copy.

(14) Where the Secretary of State is satisfied that the standards of a scheme or body in relation to the low emission spreading of digestate are equivalent to the relevant National Association of Agricultural Contractors standards mentioned in paragraph (13)(b), the Secretary of State may approve those standards for the purposes of paragraph (13)(b), and “equivalent approved standards” means standards so approved.

(15) A participant must—

- (a) keep, and provide to the Authority upon request, copies or details of arrangements made to spread digestate, and
- (b) annually, and within 3 months after each anniversary of the date on which they were first registered as a participant, provide the Authority with a declaration which states that the participant has complied with the obligations in paragraph (13).

Ongoing participant obligations: general

10.—(1) A participant must comply with the following ongoing participant obligations, as applicable—

- (a) they must keep and provide upon request by the Authority records of the type of feedstock used and fuel purchased while they are a participant,
- (b) where they have used solid biomass which was an approved sustainable fuel at the time when it was received by the participant or in respect of which the Secretary of State had made a declaration under paragraph 5 of Schedule 2 (approval of schemes for listing sustainable fuels), they must keep and provide upon request by the Authority the authorisation number or other means of identification allocated to that fuel by the scheme under which that fuel is listed,
- (c) they must submit an annual declaration as requested by the Authority confirming that they are complying with the relevant ongoing participant obligations,
- (d) they must notify the Authority if any of the information provided in support of their application for registration was incorrect,
- (e) they must comply with any condition attached to their registration,
- (f) they must allow the Authority or its authorised agent reasonable access in accordance with regulation 36 (power to inspect equipment),
- (g) they must notify the Authority as soon as reasonably practicable and within no more than 28 days after ceasing to comply with an ongoing participant obligation or becoming aware that they will not be able so to comply, or where there has been any change in circumstances which may affect their eligibility to receive periodic support payments,
- (h) they must repay any overpayment in accordance with any notice served under regulation 34 (overpayment notices and offsetting),
- (i) they must comply with such other requirements as the Authority may specify in relation to the effective administration of the Scheme,
- (j) they must ensure, in respect of the processes by which the biogas used to produce the biomethane is produced, the biogas is upgraded to biomethane, and the biomethane is injected—
 - (i) that any necessary planning permission required under regulation 6(5)(c) continues to be complied with,
 - (ii) that, unless regulation 6(5)(d)(ii) applies, any necessary environmental permit granted in accordance with the Environmental Permitting (England and Wales) Regulations 2016 or the Pollution Prevention and Control (Scotland) Regulations 2012, and any necessary waste management licence granted in accordance with

the Waste Management Licensing (Scotland) Regulations 2011, continues to be complied with, and

- (iii) that all local and national laws including those relating to the protection of the environment continue to be complied with,
- (k) where regulation 28 (reconciliation payments) applies, the participant must comply with the following obligations in relation to each payment year (within the meaning of that regulation)—
 - (i) the participant must provide a declaration to the Authority following the end of each payment year stating the proportion of the total biogas yield for that payment year which is not derived from waste or residue, and
 - (ii) the annual report submitted by the participant in accordance with regulation 13 (obligation to submit sustainability audit reports) must confirm whether the figure provided by the participant under paragraph (i) is correct, together with supporting evidence to show how it is calculated, and
- (l) they must notify the Authority within 28 days of a change of ownership of all or part of the equipment used to produce biomethane.
- (2) A participant must keep all meters required to be used in accordance with these Regulations—
 - (a) continuously operating,
 - (b) properly maintained and periodically checked for errors,
 - (c) re-calibrated every 10 years, or within such period of time as may be specified in accordance with manufacturers' instructions where available, whichever is the sooner, and
 - (d) located, maintained, and serviced in accordance with any conditions specified in the manufacturers' instructions,
 and must retain evidence of this while they are a participant.

Ongoing participant obligations: the provision of information

11.—(1) A participant must provide to the Authority on request any information which the participant holds and which the Authority requires in order to discharge its functions under these Regulations.

- (2) A participant must retain a copy of—
 - (a) any information relied on when making any application for registration or, if the participant did not make that application, given to the participant by the person who made the application, and
 - (b) any other evidence which verifies that the participant is continuing to comply with the ongoing participant obligations.
- (3) Information requested under paragraph (1) must be provided within such time as the Authority specifies.

Ongoing participant obligations: sustainability

12.—(1) A participant must only produce for injection sustainable biomethane.

- (2) A participant must—
 - (a) in relation to each consignment of biomethane produced, provide the Authority with a declaration in accordance with paragraphs (3) and (4), and
 - (b) provide any declarations and information required under paragraph (8).
- (3) A declaration must state whether or not—

- (a) any solid biomass used to produce the biomethane was waste or wholly derived from waste,
 - (b) the biomethane produced was made from feedstock which was waste,
 - (c) the biomethane produced met the greenhouse gas criteria, and
 - (d) the biomethane produced was made from feedstock which was solid biomass which met the land criteria.
- (4) Where a participant declares in accordance with paragraph (3)(c) that biomethane met the greenhouse gas criteria, the declaration must specify the lifecycle greenhouse gas emissions for that biomethane.
- (5) Except where the Authority specifies otherwise, participants must provide declarations and information in accordance with this regulation in respect of the biomethane produced in every quarter, within 28 days of the end of each such quarter.
- (6) Where in a quarter a participant produces biomethane for injection, the participant must provide the following information in relation to the solid biomass used—
- (a) the material from which the solid biomass was composed,
 - (b) the form of the solid biomass,
 - (c) its mass,
 - (d) whether the solid biomass was a by-product of a process,
 - (e) whether the solid biomass was derived from waste,
 - (f) where the solid biomass was plant matter or derived from plant matter, the country where the plant matter was grown,
 - (g) where the information specified in sub-paragraph (f) is not known or the solid biomass was not plant matter or derived from plant matter, the country from which the participant obtained the solid biomass,
 - (h) whether any of the solid biomass used was an energy crop or derived from an energy crop and if so—
 - (i) the proportion of the consignment which was or was derived from the energy crop, and
 - (ii) the type of that energy crop,
 - (i) whether the solid biomass or any matter from which it was derived was certified under an environmental quality assurance scheme and, if so, the name of the scheme,
 - (j) where the solid biomass was plant matter or derived from plant matter, the use to which the land on which the plant matter was grown has been put since 30th November 2005, if known.
- (7) The information provided under paragraph (6) must be collated by reference to the following places of origin—
- (a) the United Kingdom,
 - (b) other.
- (8) In addition to the declaration in accordance with paragraphs (3) and (4) and information in accordance with paragraphs (6) and (7), the Authority may from time to time require such further declarations or information from a participant in relation to sustainable biomethane as the Authority considers necessary.
- (9) Nothing in paragraph (5) or (6) requires a participant to provide a declaration or information in relation to any part of a quarter during which they were not a participant.
- (10) For the purposes of this regulation—

- (a) biomethane produced from biogas meets the greenhouse gas criteria if the lifecycle greenhouse gas emissions associated with that biomethane are less than or equal to 24g of CO_{2 eq} per megajoule of biomethane injected, where lifecycle greenhouse gas emissions, expressed in grammes of CO_{2eq} per megajoule from the production of the biomethane, are calculated using the actual value method or the default value method published by the Secretary of State,
- (b) “energy crop” means—
- (i) a perennial crop planted at high density, the stems of which are harvested above ground level at intervals of less than 20 years and which is one of the following—
 - (aa) *Acer pseudoplatanus* (also known as sycamore),
 - (bb) *Alnus* (also known as alder),
 - (cc) *Betula* (also known as birch),
 - (dd) *Castanea sativa* (also known as sweet chestnut),
 - (ee) *Corylus avellana* (also known as hazel),
 - (ff) *Fraxinus excelsior* (also known as ash),
 - (gg) *Populus* (also known as poplar),
 - (hh) *Salix* (also known as willow),
 - (ii) *Tilia cordata* (also known as small-leaved lime), or
 - (ii) a perennial crop which is one of the following—
 - (aa) *Arundo donax* (also known as giant reed),
 - (bb) *Bambuseae*, where the crop was planted after 31st December 1989 and is grown primarily for the purpose of being used as fuel,
 - (cc) *Miscanthus*,
 - (dd) *Panicum*,
 - (ee) *Pennisetum*, other than *Pennisetum setaceum* (also known as fountain grass), *Pennisetum clandestinum* (also known as kikuyu grass) and *Pennisetum villosum* (also known as feathertop grass),
 - (ff) *Phalaris*,
- (c) “environmental quality assurance scheme” means a voluntary scheme which establishes environmental or social standards in relation to the production of biomass or matter from which biomass is derived,
- (d) “land criteria” means—
- (i) the criteria set out in Part 2 of Schedule 3 (land criteria) in relation to solid biomass which is wood or wholly derived from wood, except energy crops, or
 - (ii) the criteria set out in Part 3 of Schedule 3 in relation to other solid biomass including energy crops,
- (e) “sustainable biomethane” means biomethane which, save for ingredients which are added as part of the biomethane production process—
- (i) is made wholly from feedstock which is waste,
 - (ii) meets the greenhouse gas criteria and is made wholly from feedstock which is solid biomass which meets the land criteria, or
 - (iii) consists of a combination of any of the biomethane listed in paragraphs (i) and (ii).

(11) For the purposes of paragraph (10)(a), the Secretary of State must publish a document setting out the actual value method and the default value method of calculating the lifecycle greenhouse gas emissions associated with biomethane produced from biogas.

Ongoing participant obligations: sustainability audit reports

13.—(1) A participant must submit a report which is prepared in accordance with the requirements in paragraph (2).

(2) The requirements in this paragraph are that the report must—

(a) be prepared by a person who is not—

- (i) the participant, or
- (ii) a connected person,

(b) be prepared in accordance with the International Standard on Assurance Engagements (UK) 3000 (July 2020): Assurance engagements other than audits or reviews of historical financial information⁽³⁾ or an equivalent standard,

(c) state whether anything has come to the attention of the person preparing the report to indicate that the sustainability information is not accurate, and

(d) consider, in relation to each consignment of biomethane produced for injection—

- (i) whether the systems used to produce the sustainability information are likely to produce information which is reasonably accurate and reliable,
- (ii) whether there are controls in place to help protect the sustainability information against material misstatements due to fraud or error,
- (iii) the frequency and methodology of any sampling carried out for the purpose of obtaining or checking the data on which the participant relied in preparing the sustainability information, and
- (iv) the robustness of the data on which the participant relied in preparing the sustainability information.

(3) In this regulation, “sustainability information” means the information provided pursuant to regulation 12(3) and (4).

(4) Subject to paragraph (5), a participant must submit reports under this regulation annually and within 3 months after each anniversary of the date on which that participant was first registered as a producer of biomethane.

(5) The report must consider and report on each consignment of biomethane produced, within the 12 month period preceding each anniversary of the date on which that participant was first registered as a producer of that biomethane.

(3) International Standard on Assurance Engagements (UK) 3000 (July 2020): Assurance engagements other than audits or reviews of historical financial information, published by the Financial Reporting Council in July 2020. Copies are available at www.frc.org.uk, and hard copies can be obtained from the Financial Reporting Council, 8th Floor, 125 London Wall, London, EC2Y 5AS.