

**From:** [John Gilliland](#)  
**To:** [Johnston, Chris;](#)  
**Subject:** Ref. New Emission standards stall Phase Two of RHI in GB  
**Date:** 27 September 2013 20:23:05

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Chris

Please see email chain below?

Did you sit in on the DOE/DARD/DETI meeting where this was discussed? Was OFGEM there to?

Do you thing your discussions caused this delay and rethink?

Many thanks

John G

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**From:** Eddie Meenan [mailto:emeenan@originalheating.com]  
**Sent:** 27 September 2013 14:13  
**To:** John Gilliland  
**Subject:** FW: emmissions

John

See email below from Chris Mather's for your information.

Regards

Eddie Meenan  
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**From:** Chris Mather [mailto:chris@mathersltd.co.uk]  
**Sent:** 27 September 2013 14:08  
**To:** Eddie Meenan  
**Subject:** emmissions

Eddie,

This is the email I have been sent today regarding the new regulations

Chris

Please find some information below that we have been alerted to in relation to the new regulations that came into effect yesterday. The section below is guidance from REA and DECC's response

The problems outlined will be corrected at the earliest opportunity, however, this will not be possible until December! Consequently, it is likely that you will have some customers out there who will be confused about what this means and what the process is for correction, thus please read the REA advice below.

It is important to stress that it's business as usual, and accreditation (thus RHI income) will be delayed by a maximum of 2 months. As per the REA advice, we are confident that RHI tariffs will be secured with full applications (i.e. prior to accreditation in this instance) and as depression is likely to start (based on the latest RHI deployment figures) from 1st January 2014 please urge your customers not to delay as it could be costly.

If the information below is not clear or you require further clarification please do not hesitate to ask.

Kind regards  
Gordon

### ***Dear members with an interest in biomass heat,***

We have been alerted today that there is a serious error in the drafting of the RHI regulations, which came into force today.

From today, all installations making an application for accreditation will need to meet the air quality requirements – meaning they will have to provide an RHI emission certificate unless they have an environmental permit. These requirements also do not apply to installations granted preliminary accreditation before today.

The main requirements are set out in [Schedule A1](#). The short version of the misdrafting is that the regulations now mean that practically all biomass installations up to 500kWth are not now eligible for the RHI. A more detailed explanation is given later in this email.

DECC intend to correct the regulations as soon as possible – although given that Parliament is not currently sitting, this means some time in December.

This does not affect the other changes that also come into force, including simplified metering arrangements.

### What happens in the meanwhile?

I have had a series of conversations with both DECC and Ofgem today. Ofgem intend to continue to take applications for accreditation and work through the remainder of the process of deciding whether or not to accredit – but they will not be able to accredit until the changes come into force.

Apart from the delay and implications for competence/confidence in the scheme, a key question is whether applications in the meanwhile will definitely be protected from possible future changes to the scheme – including degeneration. DECC's policy intention is that they would be, but neither they nor Ofgem are able to give a clear statement on this at present. Lawyers are involved.

For some applications, it may come down to whether an application can be regarded as 'fully made' and therefore with a likely tariff start date of the date the application was submitted. We are pressing DECC and Ofgem hard on this and will provide further updates when we have them. In the meantime, members involved in applications should check directly with Ofgem on whether/how they should complete the section on air quality.

### Chapter and verse on the problem

*(With the all-important disclaimer that the following does not constitute legal advice and is provided for information only):*

- Schedule A1 lists the required content of an RHI emission certificate
- Paragraph 7 sets out that plant up to 500kWth that falls within EN303-5, must be tested to the version of that standard that was current at the time of testing
- Paragraph 8 sets out requirements for plant above 500kWth and plant up to 500kWth that does not fall within EN303-5
- Paragraph 9 sets out further BS EN standards that tests must be done to. The policy intent is that these requirements apply only to plants falling within paragraph 8 [in other words that 9 a) and b) should really be 8 c) and d)]
- Instead, paragraph 9 is a stand-alone paragraph. That means it applies to the testing requirements of all emissions certificates. We understand that it is well-nigh impossible to test sub-500kWth plant to the BS EN standards listed in paragraph 9 – and these plant are therefore effectively ineligible for RHI from today

DECC published text

The following text was added to [DECC's RHI home page](#) in the last hour:

*New applicants to the scheme should be aware that the regulations as*

*drafted require certain standards to be applied to all biomass boilers and CHP. In practice it is not possible for every type of boiler to meet the standard specified and in these instances a certificate cannot be issued even if the boiler does meet the minimum requirements for air quality set out in the policy.*

*Although the draft regulations have been in the public domain for over six months and available for scrutiny this issue was not identified in time to be corrected before the regulations came into force on 24 September 2013. We intend to lay amended regulations before Parliament as soon as possible and subject to parliamentary process are aiming for them to come into force by the end of the year.*

*Applications to the scheme can still be submitted to Ofgem who will process them as far as possible. However, final accreditation will not be given until the amended regulations come into force.*

**Paul Thompson**  
*Head of Policy*

