

To: Andy Morrall[Andrew.Morrall@ofgem.gov.uk]
Cc: Jerry Orme[Jerry.Orme@ofgem.gov.uk]; Katy Read[Katy.Read@ofgem.gov.uk]; James Robinson[James.Robinson@ofgem.gov.uk]; Omolade Barker[Omolade.Barker@ofgem.gov.uk]; Callum Green[Callum.Green@ofgem.gov.uk]; Sarah Driver[Sarah.Driver@ofgem.gov.uk]
From: Jane Pierce
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Subject: RE: TRIM: RE: NIRHI Draft Amendment Regulations (OFFICIAL)[OFFICIAL]
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Thanks Andy,

I have spoken with Seamus this afternoon and alerted him that we will have further detailed comments. I have also expressed our wider concern that further thought is needed to ensure we avoid unintended consequences and explored whether DETI might have an appetite for holding off until the next set of changes. However, they are keen to close what they see as a loop hole – he cited an example of a factory manufacturing steel products with four small boilers in one boiler room, heating four different zones of the same building. He will, however, double check with colleagues (and is still awaiting feedback from their solicitors on the current draft regulations in any case).

Once other colleagues have had an opportunity to comment, it will be helpful if we can be as clear as possible in our feedback (understanding that we cannot draft the actual regulations) – so that if they go ahead, we can implement them appropriately. It might be helpful to have a brief discussion before we provide our final feedback to DETI.

Many thanks once again and kind regards.

Jane

From: Andy Morrall
Sent: 05 October 2015 16:26
To: Jane Pierce
Cc: Jerry Orme; Katy Read; James Robinson; Omolade Barker; Callum Green; Sarah Driver
Subject: RE: TRIM: RE: NIRHI Draft Amendment Regulations (OFFICIAL)[OFFICIAL]

Jane

Thanks for sending this through, Jerry and I have given this further consideration and still have strong reservations about these changes. Whilst we have some concerns about the construction and terms of the proposed insertions, the main concern lies in the implications on metering and payments. I try to set these out below, but if anything is unclear then let me know and I'll try to clarify:

Comments on proposed wording/construction:

Amendment to regulation 12: *In regulation 12 after paragraph 1(d) insert – “(e) the plant providing heat **for** a given building forms part of a single heating system regardless of whether a particular plant is hydraulically linked to others or is stand alone.”*

- The first occurrence of “plant” needs to be in the plural or have a general determiner *all/any*: “the plant providing... forms” -> “all plants providing... form” or “the plants providing... form” or “any plant providing... forms”.
- Our operational approach to a heating system has never been based on “hydraulics” per se (e.g. heat exchangers in fact serve to hydraulically isolate primary and secondary sides of a circuit that we still consider to be part of the same heating system). You would probably have to use the concept of hydraulic *and thermal* isolation so as not to seriously undermine any existing or future concept of a heating system.

Amendment to regulation 14: *In regulation 14(2)(b) after “system” add “ being used for the same purpose, heating a building or carrying out a process, or both”.*

- The Regulations already contain a definition of an (in)eligible “purpose” so the second half of the above phrase is superfluous (as well as inconsistent with the phrasing of Regulation 3).

More broadly:

- We are still unclear as to why amendments are being made in regulation 12. Regulation 14 still seems like the natural home given it specifies ‘Plants comprised of more than one plant’, and already contains references to ‘heating system’ and ‘component plant’.
- Regulation 14 sets out criteria for the plant for it to be considered ‘component plant’, (in particular, that they are of the ‘same source of energy and technology’), so in the absence of such a criterion we must assume that the reference to ‘plant’ in the amendment to reg 12 includes any plant, whether of an eligible technology/fuel source or otherwise (in accordance with the definition of plant in the Energy Act 2011). The proposed amendment will rope in fossil fuel plants that would otherwise have been ignored. DIP can no longer be considered DIP, plants that are completely thermally, hydraulically etc separate are required to be metered. The use of the phrase ‘same source of energy and technology’ will need to be added somewhere to prevent otherwise irrelevant combustion equipment being included on the ‘heating system’.
- There are some scenarios where the application of the complex metering requirements will result in payments being made that we don’t feel would be in line with policy intent. Whilst I won’t go into the details, these scenarios involve buildings that might be being served by multiple, separate heating circuits, and depending on the configuration of any ineligible plant, external pipework and other ineligible heat uses, total EHO values work out differently when comparing one