



Lainsäädäntö

Palautteen lähettäjä: Bioenergia ry - the Bioenergy Association of Finland

Palautteen viite

F2663035

Palautteen lähetyspäivä

25 Heinäkuu 2021

Palautteen lähettäjä

The Bioenergy Association of Finland

Käyttäjätyyppi

Yritysten etujärjestö

Organisaatio

Bioenergia ry - the Bioenergy Association of Finland

Organisaation koko

Erittäin pieni (1-9 työntekijää)

Rekisterinumero avoimuusrekisterissä

174042620514-51 (<http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=174042620514-51&locale=fi>).

Maa

Suomi

Aloite

Kestävät biopolttoaineet, bionesteet ja biomassapolttoaineet – vapaaehtoiset järjestelmät (täytäntöönpanosäännöt) ([/info/law/better-regulation/have-your-say/initiatives/12723-Kestavat-biopolttoaineet-bionesteet-ja-biomassapolttoaineet-vapaaehtoiset-jarjestelmat-taytantonpanosaannot-fi](http://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12723-Kestavat-biopolttoaineet-bionesteet-ja-biomassapolttoaineet-vapaaehtoiset-jarjestelmat-taytantonpanosaannot-fi)).

The Bioenergy Association of Finland emphasises that these implementing rules are needed to facilitate functioning biomass markets. Timely implementing rules would have been appreciated, but the draft rules presented here still need another round of refinement.

The draft rules include several diversions from the agreed Renewable Energy Directive text, which we find quite astonishing. The proposed rules could result in excessive administrative burden for market operators and unclarity for member states' national authorities.

In particular, the list of wastes and residues on Annex IV deviates from REDII Annex IX. This must be fixed to accurately follow Annex IX and to be updated following the inclusion of additional feedstocks under evaluation.

Also, in our view the draft rules do not follow the Directive and lack relevant advice when they require the implementing act to "set a time frame by which voluntary schemes are required to implement the standards". We see that a transition period for schemes to implement a standard is needed to tackle the current situation, in which the guidance on biomass criteria and these implementing rules have been delayed.

Therefore, the association recommends the detailed amendments presented in the attachment.

Disclaimer: the comments on mass balance system mainly pertains forest biomass chain.

Palautteen lähettäjä: Bioenergia ry - the Bioenergy Association of Finland

(221.6 KB - PDF - 1 sivu)

Saatavilla lähiaikoina .  

Poista palaute (*javascript:void(0);*)

Kaikki palaute

26.7.2021

Palautteen lähettäjä: Bioenergia ry - the Bioenergy Association of Finland

Tässä esitetyt näkemykset ja mielipiteet ovat kirjoittajan omia. Ne eivät edusta Euroopan komission virallista kantaa. Euroopan komissio ei takaa esitettyjen tietojen täsmällisyyttä. Euroopan komissio tai kukaan sen puolesta toimiva henkilö ei ole vastuussa esitetystä sisällöstä. Palautteen antamista koskevien komission sääntöjen vastaiset näkemykset ja mielipiteet poistetaan sivustolta.

26.7.2021

Feedback: Sustainable biofuels, bioliquids and biomass fuels - voluntary schemes (implementing rules)

First of all, the Bioenergy Association of Finland emphasises that these implementing rules are needed to facilitate functioning biomass markets. Timely implementing rules would have been appreciated, but the draft rules presented here still need another round of refinement.

The draft rules include several diversions from the agreed Renewable Energy Directive text, which we find quite astonishing. The proposed rules could result in excessive administrative burden for market operators and unclarity for member states' national authorities.

In particular, the list of wastes and residues on Annex IV deviates from REDII Annex IX. This must be fixed to accurately follow Annex IX and to be updated following the inclusion of additional feedstocks under evaluation.

Also, in our view the draft rules do not follow the Directive and lack relevant advice when they require the implementing act to "set a time frame by which voluntary schemes are required to implement the standards". We see that a transition period for schemes to implement a standard is needed to tackle the current situation, in which the guidance on biomass criteria and these implementing rules have been delayed.

Therefore, the association recommends these detailed amendments:

Disclaimer: the comments on mass balance system mainly pertains forest biomass chain.

Draft implementing act reference	Proposed amendment	Justification/ Comment
Art. 2 (11)	<i>'first gathering point' means a storage or processing facility managed directly by an economic operator or other counterpart under</i>	Reference to strictly require <i>management</i> of a site would limit the different market models. Many times an operator may use several traders

	<p><i>agreement and that is sourcing raw material directly from producers of agricultural biomass, forest biomass, and wastes and residues or, in the case of renewable fuels of non-biological origin, the plant producing such fuels;</i></p>	<p>or forest companies which can have individual or shared biomass terminals.</p>
Art. 3(5)	<p>Delete paragraph (5)</p> <p><i>Certification bodies shall not have had any previous business relationship with the economic operator participating in the scheme in the 3 years before the first audit. The governance system of the certification body shall aim at ensuring the highest possible level of independence of the auditors' judgement by applying principles of auditors' rotation or other existing best practices in the area.</i></p>	<p>It is likely that certifying bodies accredited with a variety of certifications (wood products or others) may have had business relations with economic operators participating in the scheme in the 3 years before the first audit. This restriction while not improving the independence in the auditor's judgment at all would restrict the number of eligible certification bodies /auditors. For this reason, this requirement should be waived.</p>
Art. 10(1)	<p><i>"The initial audit of a new scheme participant or a re-certification of existing scheme participant under a revised regulatory framework shall should always be on-site"</i></p>	<p>There are a variety of reasons that an auditor may not be present due to e.g. safety constraints, pandemic or travel restrictions. The voluntary or mandatory confinement due to the current COVID19 pandemic, and other scenarios are</p>

		<p>examples where auditing remotely is beneficial. New information and communication technologies (ICT) have made remote auditing more feasible. ISO has produced in 2020 very detailed guidelines on how remote auditing can be performed.</p>
Art. 11(1)	<p><i>"A certification body ... shall be accredited to ISO 17065 or equivalent and, if it performs audits on actual GHG values, to ISO 14065"</i></p> <p><i>"Accreditation of the certification bodies shall cover the scope of Directive (EU) 2018/2001, or the specific scope of the voluntary scheme, as applicable"</i></p>	<p>Since not all economic operators are obliged to proof a GHG mitigation under article 29 (10), it should be clarified that certification bodies certifying such economic operators should not be obliged to be accredited according to ISO 14065.</p> <p>It should be noted that requiring the accreditation of certification bodies to cover the scope of the Directive (EU) 2018/2001 or the specific scope of the voluntary scheme would add administrative burden and costs. At present, considering the retroactive application of the current implementing act, this requirement will be impracticable for some of the voluntary schemes.</p>
Art. 17 (1)	Remove right of accessing the premises of the economic operators for the European Commission.	While for the system to work monitoring is essential, the right of accessing the premises of

	<p><i>"Voluntary schemes shall require economic operators participating in the scheme as well as certification bodies conducting audits under the scheme to cooperate with the Commission and the competent authorities of the Member States, including granting access to the premises of economic operators for the competent authorities where requested as well as making available to the Commission and the competent authorities of the Member States all information needed to fulfil their tasks under Directive (EU) 2018/2001."</i></p>	<p>economic operators by third parties and especially by the European Commission represents a clear excess of jurisdiction. Voluntary schemes are required to periodically report on their activities and on the non-conformities they trace.</p>
<p>Art 19 (2) C</p>	<p><i>"raw materials or fuels shall only be considered to be part of a mixture if they are physically mixed unless they are physically identical or belong to the same product group. Where raw materials or fuels are physically identical or belong to the same product group, they must be stored in the same processing or logistical facility, transmission and distribution infrastructure</i></p>	<p>For the sake of sensible and cost-efficient logistics the storing and processing should be left more flexible. Requirement to store different raw materials in the same facility could increase the operation cost and/or make some raw materials unprofitable to use; and decreasing raw material base.</p>

	<i>or site, but it is not required that they are physically mixed to be considered as being part of a mixture;</i>	
Art 19 (2) m	<i>"(m) the appropriate period of time for achieving the mass balance shall be 12 months for producers of agricultural biomass and forest biomass and first gathering points sourcing only agricultural biomass and forest biomass, and 3 months for all other economic operators.</i>	Time to achieve mass balance should be one year for all economic operators to sustain objectivity. 3 months is a difficult timeline given physical practicalities of biomass procurement and business operations. The reason for such a short time frame is not justified either.
Art 21 (3 and 4), Annex IV	<p>The Annex IV must not represent an exhaustive positive list of waste and residues. It is of utmost importance to be able to define other wastes and residues according to the definitions in the Directive (EU) 2018/2001.</p> <p>Annex IV list must for instance include residues from forestry and forest industry.</p> <p>Remove or substantially modify the Decision tree in Annex IV, including local demand conditions.</p>	<p>Waste and residues from forestry and forest industry have been left out from the list of waste and residues. This would hinder and limit the use of sustainable biomass from the forest value chains, and impede the take-off of sustainable advanced biofuels.</p> <p>in the draft it is stated that the list of waste and residues will be updated by adding new feedstock based on the final results of the Assessment of the potential for new feedstock for the production of advanced biofuels (contract ENER C1 2019-412), and that the annex IV is based on the substances/materials included in the revised list in Annex IX to</p>

		<p>Directive (EU) 2018/2001.</p> <p>The decision tree in Annex IV significantly diverges from the requirements of the directive, fails to consider important dynamics such as local demand and prices. Its rigid application would result in a shortage of sustainable raw material from secondary wood</p>
<p>Art 21 (5)</p>	<p>Change the content to respect the view that auditor cannot be the authority deciding waste or residue status of certain feedstock. In the end this should be done by member state authority.</p>	<p>The determination of waste or residue status of a feedstock would be subject to the subjective interpretation of an individual auditor and the outcome of the feedstock's status could vary depending on the auditor. This could result in a non-coherent and unequal decision-making. The individual auditor would have an unproportionally important impact on the Member States' fulfillment of the transport target as by defining the waste and residue status they could decide what is counted towards the target.</p> <p>Moreover, if an individual auditor is given the authority to decide the status of the feedstock it could result in favouring certain auditors depending on their decisions of the feedstock status. If the auditor gives a negative decision, the auditee could be tempted to change the auditor</p>

		next time. Putting additional pressure on the auditor not to lose clients could jeopardize objective decision-making
Art 28	Update the date of application of the document to avoid retroactive application.	A transitional period should be put in place by the European Commission acknowledging the delays in the adoption of secondary legislation key to demonstrate compliance.
Annexes V, VI, VII and VII in generally.	Such detailed methodology and reference values as presented in Annexes V, VI, VII and VIII should be communicated in a guidance document rather than in directly applicable and binding regulation.	The cultivation of low ILUC risk feedstocks for biofuels is still in its early stages and the methodology to measure and demonstrate the sustainability benefits is under heavy development. Several pilots are still ongoing and the results lead the way for developing the concepts and methodologies to prove their sustainability further. Accurate methodology is much needed, but setting it to regulation in such a detailed level does not leave room for updated scientific information to improve the methodology in future. This may do harm to the development of the sustainable measures for low ILUC risk feedstock cultivation and their feasibility.
Annex IV 7.	Intermediate cropping and silvopastoral crops should be included in the list.	Regulatory support is crucial in order to ensure the biofuel industry's long term interest to develop the low ILUC risk feedstocks and their value chains. Development of

		"Intermediate cropping" and "silvopastoral crops" to fulfil the sustainability requirements according to Directive (EU) 2018/2001 is enabled by implementing the concept in the frame of Directive (EU) 2018/2001 Annex IX.
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