BIOENERGIA

Contribution to EU Taxonomy Climate Delegated Act Review

Bioenergia ry – the Bioenergy Association of Finland - welcomes the continued recognition of bioenergy in the Draft Climate Delegated Act of the Taxonomy Regulation. The line taken previously and now supported in the draft has been confirmed by two European Court of Justice case rulings.
We support the European Commission's efforts to improve clarity and coherence with existing EU legislation, especially with the revised Renewable Energy Directive (REDIII). However, some elements of the proposed revised Annexes need more careful consideration, as they would impose new substantial restrictions rather than promote sustainable investments:
We strongly oppose the addition of a new circular-economy condition as a do-no-significant-harm (DNSH) requirement in the main bioenergy sections, and the related exclusion of specific woody biomasses, i.e. industrial-grade roundwood, stumps, and roots.
Such elements go beyond a mere clarification and risk imposing a disproportionate cumulative burden on activities already subject to strict sustainability criteria. The new condition would limit the ability of otherwise RED-compliant projects to access Taxonomy-aligned finance and would undermine investor confidence.
Also, while biomass-based energy generation and manufacturing activities are recognised in the text, their installation, maintenance, and repair are omitted from the enabling activities section, thus creating inconsistency.

For these reasons, we call upon the European Commission to consider the following elements:

1. The proposed circular-economy DNSH condition introduces unjustified restrictions on woody biomass and should therefore be removed.
2. Biomass technology services should be consistently recognised in the enabling activities section.
3. DNSH wording on medium combustion plants (MCP) should be revised for legal consistency.

This contribution focuses primarily on Annex I, as this is the central annex for assessing bioenergy as a climate mitigation activity and therefore the most relevant to the sector's role in the Taxonomy framework.

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We note that some of the same issues identified in our contribution, in particular the new circular-economy restriction on woody biomass and certain repeated DNSH formulations, also appear in Annex II. The comments below should therefore be understood as applying equally wherever the same wording is reproduced in the climate adaptation annex.

1. The proposed circular-economy DNSH condition introduces unjustified restrictions on woody biomass and should therefore be removed

The proposal adds a new DNSH condition under "transition to a circular economy" in the key bioenergy sections in Annex I, namely:

- Section 4.8: Electricity generation from bioenergy-only installation
- Section 4.20: Simultaneous production of electricity and heating and cooling in cogeneration of installations using bioliquids, solid biomass fuels, or biogas
- Section 4.24: Production of only heating and cooling from bioliquids, solid biomass fuels and biogas

All these sections now include a new Circular Economy condition under the Technical Screening Criteria, stating that, for the section's relevant activity:

'Woody biomass is used according to its highest economic and environmental added value, while taking into account local conditions and market realities. Saw logs, veneer logs, industrial grade roundwood, stumps and roots cannot be used under this activity.'

As stated in previous consultations, Bioenergy Association of Finland welcomes greater alignment with RED III, in particular with Article 29.

But, the application of Art. 3 within the EU Taxonomy framework is not justified. In the first instance art 3 is directed to member states, not to projects or operators.

The new wording does not simply "align" the Taxonomy with RED III. It changes the function of the Taxonomy by turning a principle developed in a different legal context into a de facto eligibility filter for taxonomy alignment.

A. The Cascading Principle

Cascading is a resource-efficiency principle, not a single, fixed legal rule producing the same outcome in different contexts. It is intended to encourage the efficient use of woody biomass, taking into account feedstock availability, existing industrial structures, local markets, and the material's suitability for different uses. That is precisely why the Commission's own wording refers to the "highest economic and environmental added value" while taking into account local conditions and market realities.

This means the principle is essentially dynamic and context-specific. It cannot be reduced to a rigid hierarchy applied uniformly across all Member States, nor can it be defined in a single-handed manner on specific projects. In practice, such an approach

does not provide a clear or verifiable compliance pathway for operators, auditors or investors.

B. Woody-biomass exclusion

The draft initially states that local conditions and market realities must be considered. Still, it then immediately categorically prohibits the use of saw logs, veneer logs, industrial grade roundwood, stumps, and roots for the activity.

This is particularly problematic for industrial grade roundwood. In RED III Art. 3, the obligations regarding certain feedstocks are linked to the design of support schemes and incentives, rather than to a general prohibition on their use. This reflects a deliberate policy design choice in RED III to limit these provisions to public support, rather than establishing a general restriction.

Instead, in the Taxonomy, the same logic would amount to a de facto ban on the use of certain types of woody biomass, with consequences for sustainable finance classification, investor attitudes, and access to capital. That is a much stronger, more stringent and unnecessary effect than the RED III framework envisaged.

This amendment goes beyond clarification. It introduces a new substantive restriction that is legally vague and insufficiently aligned with RED III and with the actual functioning of Europe's forest-based value chains.

The Bioenergy Association of Finland urges the Commission to remove this amendment, as it would neither improve usability nor broaden the conditions under which sustainable bioenergy can remain taxonomy-aligned.

Lastly, it is important to note that when referencing RED III, this should be done through a dynamic legal reference to the relevant RED provisions, rather than by reproducing specific wording into the Taxonomy annexes. From a legal drafting perspective, this matters for clarity, consistency and legal certainty.

2. Bioenergy technology services should be consistently recognised in the enabling activities section

The draft amendment to Section 7.6, "Installation, maintenance and repair of renewable energy technologies," should be revised to include bioenergy technologies alongside other renewables.

The Taxonomy already recognises the role of renewable biomass-based energy pathways for the purpose of climate mitigation. Additionally, Section 3.1 on the manufacturing of renewable energy technologies defines renewable energy as set out in Article 2(1) of the RED. Therefore, the manufacturing of renewable energy technologies is already recognised and treated as a Taxonomy-aligned enabling activity.

By contrast, the draft amendment in Section 7.6 lists only a limited number of on-site technical building systems (e.g., solar systems, heat pumps, wind turbines), excluding biomass technologies.
The Taxonomy framework cannot recognise manufacturing while omitting the corresponding service chain for biomass technologies, as this risks underestimating the sector's real structure and creating an unjustified gap in enabling activities. The Taxonomy framework needs to be technology-neutral as recently also underlined in the context of the updated EU Climate Law. The production of solid biomass, such as pellets, must be clearly recognised and included along with biofuels and bioliquids in the scope of the Taxonomy.
We call on the Commission to explicitly recognise bioenergy technologies within Section 7.6. where they are installed on-site as technical building systems and meet the applicable requirements. The scope in Section 7.6. should be expanded to cover:

(h) renewable energy technologies where energy is defined in Article 2(1) of Directive (EU) 2018/2001

(i) "other renewable energy technologies" as set out in Annex to Regulation (EU) 2024/1735

3. DNSH wording on medium combustion plants (MCP) should be revised for legal consistency.
In the relevant bioenergy sections (4.8, 4.20 and 4.24 of Annex I and the relevant corresponding wording in Annex II), the draft refers to combustion plants with thermal input above 1 MW but below the thresholds for the BAT conclusions for large combustion plants. These sections require emissions to be below the limit values set out in Annex II, Part 2 of Directive (EU) 2015/2193, the Medium Combustion Plants (MCP) Directive.
However, this wording appears too narrow: it does not clearly reflect the full compliance framework under the MCP Directive, including the distinction between existing and new plants and the possibility of lawful derogations or exemptions where applicable.
The issue is therefore not of environmental ambition, but of correct legal drafting. The Taxonomy should not, through an overly narrow reference, unintentionally exclude plants that are fully compliant under the applicable MCP rules.
The Bioenergy Association of Finland, therefore, calls on the European Commission to revise the wording of the DNSH to capture the full MCP compliance framework and to avoid unintended restrictions arising from an incomplete legal reference.

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A possible rephrasing would be: “For combustion plants with thermal input greater than 1 MW but below the thresholds for the BAT conclusions for large combustion plants to apply, emissions comply with the applicable emission limit values and other relevant requirements set out in Directive (EU) 2015/2193, as applicable to the plant concerned.”
It is also worth noting that the title of Section 4.20 can be refined for clarity. The proposed title “Simultaneous production of electricity and heating and cooling in cogeneration installations using bioliquids, solid biomass fuels, or biogas” may create ambiguity, as it could imply that electricity, heating and cooling must all be produced at the same time in every case, which is not how such systems necessarily operate. A clearer and simpler reference to combined heat and power (CHP) or cogeneration would be more accurate and easier to apply.