

Biofuels in the Renewable Energy Directive

12 February 2008

Article 3

Targets for the use of energy from renewable sources

3. Each Member State shall ensure that the share of energy from renewable sources in transport in 2020 is at least 10% of final consumption of energy in transport in that Member State.

In calculating total energy consumed in transport for the purposes of the first subparagraph, petroleum products other than petrol and diesel shall not be taken into account.

Member States are set 10% biofuels target

Target to be based on petrol and diesel

Article 4
National action plans

1. Each Member State shall adopt a national action plan.

The national action plans shall set out Member States' targets for the shares of energy from renewable sources in transport, electricity and heating and cooling in 2020, and adequate measures to be taken to achieve these targets, including national policies to develop existing biomass resources and mobilise new biomass resources for different uses, and the measures to be taken to fulfil the requirements of Articles 12 to 17.

**Member States
must produce
national action
plan for
renewable energy**

Article 4

National action plans

2. Member States shall notify their national action plans to the Commission by 31 March 2010 at the latest.

3. A Member State whose share of energy from renewable sources fell below the indicative trajectory in Part B of Annex 1 in the immediately preceding two-year period shall submit a new national action plan to the Commission by 30 June of the following year at the latest, setting out adequate measures to ensure that in future the share of energy from renewable sources equals or exceeds the indicative trajectory in Part B of Annex I.

**Renewables plan
must be revised if
progress too
slow**

Article 5

Calculation of the share of energy from renewable sources

1. The final consumption of energy from renewable sources in each Member State shall be calculated as the sum of:

(a) final consumption of electricity from renewable energy sources;

(b) final consumption of energy from renewable sources for heating and cooling;

and

(c) final energy from renewable sources consumed in transport.

Gas, electricity and hydrogen from renewable energy sources shall only be considered once in either 1(a), 1(b) or 1(c) for calculating the share of final consumption of energy from renewable sources.

**Renewables
target to cover
electricity, heat
and transport
No double-
counting towards
target**

Article 5

Calculation of the share of energy from renewable sources

Biofuels and other bioliquids that do not fulfil the environmental sustainability criteria in Article 15 shall not be taken into account.

**Unsustainable
biofuels won't
count towards
target**

Article 5

Calculation of the share of energy from renewable sources

3. Where a Member State considers that, due to *force majeure*, it is under an impossibility to meet the share of energy from renewable sources in final consumption of energy in 2020 set out in the third column of the table in Annex 1, it shall inform the Commission as soon as possible. The Commission shall adopt a decision on whether *force majeure* has been demonstrated, in which case it shall decide what adjustment shall be made to the Member State's final consumption of energy from renewable sources for the year 2020.

**Get-out clause
for renewables
target – but
Commission will
decide**

Article 5

Calculation of the share of energy from renewable sources

6. The energy content of the transport fuels listed in Annex III shall be taken to be as set out in that Annex. Annex III may be adapted to technical and scientific progress.

Such a measure designed to amend non-essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).

**Directive
includes
energy content
figures for
transport fuels**

Article 12

Administrative procedures, regulations and codes

1. Member States shall ensure that any national rules concerning the authorisation, certification and licensing procedures that are applied to plants for the production of electricity, heating or cooling from renewable sources, and to the process of transformation of biomass into biofuels or other energy products, are proportionate and necessary.

Member States to ensure national rules are “proportionate and necessary”

Article 13
Information and training

1. Member States shall ensure that information on support measures is made available to consumers, builders, installers, architects and suppliers of heating, cooling and electricity equipment and systems and of vehicles compatible with the use of high biofuel blends or pure biofuels.

**Biofuels -
Member States
must make
information
available**

Article 15

Environmental sustainability criteria for biofuels and other bioliquids

1. Biofuels and other bioliquids shall be taken into account for the purposes listed under letters (a), (b) and (c) below only if they fulfil the criteria set out in paragraphs 2 to 5:

- (a) measuring compliance with the requirements of this Directive concerning national targets;
- (b) measuring compliance with renewable energy obligations;
- (c) eligibility for financial support for the consumption of biofuels and other bioliquids.

**Only sustainable
biofuels will
count, says
Commission**

Article 15

Environmental sustainability criteria for biofuels and other bioliquids

2. The greenhouse gas emission saving from the use of biofuels and other bioliquids taken into account for the purposes referred to in paragraph 1 shall be at least 35%.

In the case of biofuels and other bioliquids produced by installations that were in operation in January 2008, the first subparagraph shall apply from 1 April 2013.

**Biofuels must
give 35% carbon
saving –
temporary
reprieve for
existing
production**

Article 15

Environmental sustainability criteria for biofuels and other bioliquids

3. Biofuels and other bioliquids taken into account for the purposes referred to in

paragraph 1 shall not be made from raw material obtained from land with recognised high biodiversity value, that is to say land that had one of the following statuses in or after January 2008, whether or not the land still has this status:

(a) forest undisturbed by significant human activity, that is to say, forest where there has been no known significant human intervention or where the last significant human intervention was sufficiently long ago to have allowed the natural species composition and processes to have become re-established:

**Biofuels must
preserve
biodiversity –
natural forest
ruled out**

Article 15

Environmental sustainability criteria for biofuels and other bioliquids

(b) areas designated for nature protection purposes, unless evidence is provided that the production of that raw material did not interfere with those purposes;
(c) highly biodiverse grassland, that is to say grassland that is species-rich, not fertilised and not degraded.

The Commission shall establish the criteria and geographic ranges to determine which grassland shall be covered by point (c). Such a measure designed to amend non-essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).

Nature protection rules out biofuels

Commission to decide on exclusion of grassland for biofuels

Article 15

Environmental sustainability criteria for biofuels and other bioliquids

4. Biofuels and other bioliquids taken into account for the purposes referred to in

paragraph 1 shall not be made from raw material obtained from land with high

carbon stock, that is to say land that had one of the following statuses in January

2008 and no longer has this status:

(a) wetlands, that is to say land that is covered with or saturated by water permanently or for a significant part of the year, including pristine peatland;

(b) continuously forested areas, that is to say land spanning more than 1 hectare

with trees higher than 5 metres and a canopy cover of more than 30%, or

**More land
protected against
biofuels**

Article 15

Environmental sustainability criteria for biofuels and other bioliquids

The provisions in this paragraph shall not apply if at the time the raw material was obtained, the land had the same status as it had in January 2008.

**Biofuels land
change rules to
start from
January 2008**

Article 15

Environmental sustainability criteria for biofuels and other bioliquids

5. Agricultural raw materials cultivated in the Community and used for the production of biofuels and other bioliquids taken into account for the purposes referred to in paragraph 1, shall be obtained in accordance with the requirements and standards under the provisions listed in point A of Annex III to Council Regulation (EC) No 1782/2003 under the heading "Environment" and in accordance with the minimum requirements for good agricultural and environmental condition defined pursuant to Article 5(1) of that Regulation.

**Biofuels
production must
comply with
Community
legislation on
management of
agricultural land**

Article 15

Environmental sustainability criteria for biofuels and other bioliquids

6. Member States shall not refuse to take into account, for the purposes referred to in paragraph 1, biofuel and other bioliquids obtained in compliance with this Article, on other grounds of sustainability.

**Sustainability will
be EU-wide**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

1. Where biofuels and other bioliquids are to be taken into account for the purposes referred to in Article 15(1), Member States shall require economic operators to show that the environmental sustainability criteria set out in Article 15 have been fulfilled.

For this purpose they shall require economic operators to use a mass balance system providing the following:

(a) consignments of raw material or biofuel with differing sustainability characteristics can be mixed;

**Biofuels –
sustainability to
be based on
mass balance**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

(b) information about the sustainability characteristics and sizes of the consignments referred to in point (a) remains assigned to the mixture; and (c) it is ensured that the sum of all consignments withdrawn from the mixture is described as having the same sustainability characteristics, in the same quantities, as the sum of all consignments added to the mixture.

**Biofuels –
sustainability to
be based on
mass balance**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

2. The Commission shall report to the European Parliament and the Council in 2010 and 2012 on the operation of the mass balance verification method described in paragraph 1 and on the potential to allow for other verification methods in relation to some or all types of raw material or biofuel. In its assessment the Commission shall consider those verification methods in which information about sustainability characteristics need not remain physically assigned to particular consignments or mixtures.

**Commission to
report on other
verification
methods**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

The assessment shall take into account the need to maintain the integrity and effectiveness of the verification system while avoiding imposing an unreasonable burden on industry. The report shall be accompanied, where appropriate, by proposals on allowing other verification methods, to the European Parliament and the Council.

Commission to report on other verification methods

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

3. Member States shall require economic operators to submit reliable information and to make available to the Member State, on request, the data that were used to develop the information. Member States shall require economic operators to arrange for an adequate standard of independent auditing of the information they submit, and to provide evidence that this has been done. The auditing shall verify that the systems used by economic operators are accurate, reliable and fraud-resistant. It shall evaluate the frequency and methodology of sampling and the robustness of the data.

**Operators must
have verification
systems audited**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

4. The Commission may decide that bilateral and multilateral agreements between the Community and third countries demonstrate that biofuels and other bioliquids produced from raw materials cultivated in those countries comply with the environmental sustainability criteria in paragraphs 3 or 4 of Article 15.

**Commission to
decide if third
country
agreements meet
sustainability
criteria**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

The Commission may decide that voluntary national or international schemes setting standards for the production of biomass products contain accurate data for the purposes of Article 15(2) or demonstrate that consignments of biofuel comply with the environmental sustainability criteria in paragraphs 3 or 4 of Article 15.

The Commission may decide that national, multinational or international schemes to measure greenhouse gas savings contain accurate data for the purposes of Article 15(2).

**Voluntary
schemes could
count – if
Commission says
so**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

5. The Commission shall only adopt decisions pursuant to in paragraph 4 if the agreement or scheme in question meets adequate standards of reliability, transparency and independent auditing. In the case of schemes to measure greenhouse gas savings, such schemes shall also comply with the methodological requirements in Annex VII.
6. Decisions pursuant to paragraph 4 shall be adopted in accordance with the procedure referred to in Article 21(2). Such decisions shall be valid for a period of no more than 5 years.

**Approval to last
no more than five
years**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

7. When an economic operator proffers proof or data obtained in accordance with an agreement or scheme that has been the subject of a decision pursuant to paragraph 4, a Member State shall not require the supplier to provide further evidence of compliance with the corresponding environmental sustainability criterion.

**Approval to last
no more than five
years**

Article 16

Verification of compliance with the environmental sustainability criteria for biofuels and other bioliquids

8. At the request of a Member State or on its own initiative the Commission shall examine the application of Article 15 in relation to a source of biofuel or other bioliquid and, within six months of receipt of a request and in accordance with the procedure referred to in Article 21(2), decide whether the Member State concerned may take biofuel or bioliquid from that source into account for the purposes listed in Article 15(1).

**Commission
given power to
review
sustainability
claims**

Article 17

Calculation of the greenhouse gas impact of biofuels and other bioliquids

1. The greenhouse gas emission saving from the use of biofuel and other bioliquids for the purposes of Article 15(2) shall be calculated as follows:
 - (a) for biofuels, where a default value for greenhouse gas emission savings for the biofuel production pathway is laid down in Part A or B of Annex VII, by using that default value;
 - (b) by using an actual value calculated in accordance with the methodology laid down in Part C of Annex VII; or

**GHG
methodology
proposed**

Article 17

Calculation of the greenhouse gas impact of biofuels and other bioliquids

(c) by using a value calculated in accordance with the methodology laid down in Part C of Annex VII as the sum of actual values for some of the steps of the production process and the disaggregated default values in Part D or E of Annex VII for the other steps of the production process.

**GHG
methodology
proposed**

Article 17

Calculation of the greenhouse gas impact of biofuels and other bioliquids

2. By 31 March 2010 at the latest, Member States shall submit to the Commission a report including a list of those entities of their territory classified as NUTS 2 level in Regulation (EC) No 1059/2003 of the European Parliament and of the Council where the typical greenhouse gas emissions from cultivation of agricultural raw materials can be expected to be lower than or equal to the emissions reported under the heading "cultivation" in part D of Annex VII to this Directive, accompanied by a description of the method and data used to establish that list. The method shall take into account soil characteristics, climate and expected raw material yields.

**GHG
methodology
proposed**

Article 17

Calculation of the greenhouse gas impact of biofuels and other bioliquids

3. The default values in Part A of Annex VII for biofuels, and the disaggregated default values for cultivation in Part D of Annex VII for biofuels and other bioliquids, shall apply only when their raw materials are cultivated:

- (a) outside the Community; or
- (b) in the Community in regions included in the lists referred to in paragraph 2.

For biofuels and other bioliquids falling under neither of the preceding subparagraphs actual values for cultivation shall be used.

**GHG
methodology
proposed**

Article 17

Calculation of the greenhouse gas impact of biofuels and other bioliquids

4. The Commission shall report by 31 December 2012 at the latest on the estimated typical and default values in Annex VII Part B and Part E, paying special attention to emissions from transport and processing, and may, where necessary, decide to correct the values. Such a measure designed to amend non-essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).

**GHG
methodology
proposed**

Article 17

Calculation of the greenhouse gas impact of biofuels and other bioliquids

5. Annex VII may be adapted to technical and scientific progress. Such a measure designed to amend non-essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3). Any adaptation of or addition to the list of default values in Annex VII shall respect the following rules:

(a) where the contribution of a factor to overall emissions is small, or where there is limited variation, or where the cost or difficulty of establishing actual values is high, default values shall be typical of normal production processes:

**GHG
methodology
proposed**

Article 18

Specific provisions related to biofuels

1. Member States shall ensure that information is given to the public on the availability of biofuels and other renewable transport fuels. For percentages of biofuels, blended in mineral oil derivatives, exceeding the limit value of 10% by volume, Member States shall require this to be indicated at the sales points.

**Biofuels
information to be
published -
official
Higher biofuel
blends to be
marked at pumps**

Article 18

Specific provisions related to biofuels

2. Member States shall ensure that diesel fuel complying with the specifications set out in Annex V is made available by 31 December 2010 at the latest in filling stations with more than two pumps that sell diesel fuel.

**Filling stations
must sell B7 after
2010**

3. Member States shall ensure that diesel fuel complying with the specifications set out in Annex VI, or other diesel fuel with at least 5% biofuel content by volume, is made available by 31 December 2014 at the latest in filling stations with more than two pumps that sell diesel fuel.

**Filling stations
must sell B10
after 2014**

Article 18

Specific provisions related to biofuels

4. For the purposes of demonstrating compliance with national renewable energy obligations placed on operators, the contribution made by biofuels produced from wastes, residues, non-food cellulosic material, and ligno-cellulosic material shall be considered to be twice that made by other biofuels.

**Non-food
feedstocks count
double**

Article 19

Reporting by the Member States

1. Member States shall submit a report to the Commission on progress in the promotion and use of energy from renewable sources by 30 June 2011 at the latest, and every 2 years thereafter.

The report shall detail in particular:

(a) the sectoral and overall shares of energy from renewable sources in the preceding two calendar years and the measures taken or planned at national level to promote the growth of renewable energy taking into account the indicative trajectory in Part B of Annex 1;

**Member States
must report
renewables
progress to
Commission**

Article 19

Reporting by the Member States

(b) the introduction and functioning of support schemes and other measures to

promote energy from renewable sources, and any developments in the measures used with respect to those set out in the Member State's national action plan;

(c) how, where applicable, Member States have structured their support schemes to take into account renewable energy applications that give additional benefits in relation to other, comparable applications, but may also have higher costs, including biofuels made from wastes, residues, non-food cellulosic material, and ligno-cellulosic material;

**Member States
must report
renewables
progress to
Commission**

Article 19
Reporting by the Member States

- (e) progress made in evaluating and improving administrative procedures to remove regulatory and non-regulatory barriers to the development of energy from renewable sources;
- (g) developments in the availability and use of biomass resources for energy purposes;
- (h) commodity price and land use changes within the Member State associated with its increased use of biomass and other forms of energy from renewable sources;
- (i) the development and share of biofuels made from wastes, residues, non-food cellulosic material, and ligno-cellulosic material:

**Member States
must report
renewables
progress to
Commission**

Article 19
Reporting by the Member States

(j) the estimated impact of biofuel production on biodiversity, water resources, water quality and soil quality; and
(k) the estimated net greenhouse gas savings due to the use of energy from renewable sources.

**Member States
must report
renewables
progress to
Commission**

Article 19
Reporting by the Member States

2. In estimating net greenhouse gas savings from the use of biofuels, Member States may, for the purpose of the reports referred to in paragraph 1, use the typical values given in Annex VII, part A and part B.

**Member States
must report
renewables
progress to
Commission**

Article 20

Monitoring and reporting by the Commission

1. The Commission shall monitor the origin of biofuels and other bioliquids consumed in the Community and the impacts of their production on land use in the Community and the main third countries of supply. Monitoring shall be based on Member States' reports, submitted pursuant to Article 19(1) and those of relevant third countries, intergovernmental organisations, scientific studies and any other relevant pieces of information. The Commission shall also monitor the commodity price changes associated with the use of biomass for energy and any associated positive and negative effects on food security.

**Commission to
report progress –
will monitor food
prices**

Article 20

Monitoring and reporting by the Commission

2. The Commission shall maintain a dialogue and exchange information with third countries and biofuel producer and consumer organisations concerning the general implementation of the measures in this Directive relating to biofuels and other bioliquids.

**Commission -
information on
biofuels**

Article 20

Monitoring and reporting by the Commission

3. On the basis of the reports submitted by Member States pursuant to Article 19(1) and the monitoring and analysis referred to in paragraph 1 of this Article, the Commission shall report every two years to the European Parliament and the Council. The first report shall be submitted in 2012.

**Commission to
report to EP and
Council**

Article 20

Monitoring and reporting by the Commission

4. In reporting on greenhouse gas savings from the use of biofuels, the Commission shall use the values reported by Member States and shall evaluate whether and how the estimate would change if co-products were accounted for using the substitution approach.

**Commission to
review
accounting for
co-products –
could
substitution be
substituted?**

Article 20

Monitoring and reporting by the Commission

5. In its reports, the Commission shall analyse:

(a) the relative environmental benefits and costs of different biofuels, the effects of the Community's import policies thereon, the security of supply implications and the ways of achieving a balanced approach between domestic production and imports;

(b) the impact of increased demand for biofuel on sustainability in the Community and in third countries;

(c) the impact of EU biofuel policy on the availability of foodstuffs in exporting

countries, the ability of people in developing countries to afford these foodstuffs, and wider development

**Commission will
review impact of
biofuels**

Article 20

Monitoring and reporting by the Commission

(d) the impact of increased demand for biomass on biomass using sectors.

It shall, if appropriate, propose corrective action.

**Commission may
propose
“corrective
action”**