

EU biogas and biomethane inventory of regulatory framework



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Purpose	This Communication sets out how Member States and economic operators can implement the sustainability criteria and the Renewable Energy Directive's counting rules for biofuels in practice. This Communication has no binding character. It is designed to assist Member States and to facilitate a consistent implementation of the sustainability criteria. It is accompanied by a Communication on voluntary schemes and default values and by Commission guidelines for the calculation of land carbon stocks.
Relevance for the biomethane sector	As laid down in the Directive, 'biofuels' means liquid or gaseous fuel for transport produced from biomass. 'Bioliquids' means liquid fuel produced from biomass for energy purposes other than transport (29). The latter includes only liquid fuels. This means that the sustainability criteria apply to biogas for transport and not to biogas used for heating or electricity. Although many types of biofuel are mentioned in the Directive (30), these listings are to facilitate the implementation of the Directive and are not exhaustive. Biofuels and bioliquids that are not listed can also count towards the Directive's targets. It is considered that the term 'bioliquids' includes viscous liquids such as waste cooking oil, animal fats, palm oil, crude tall oil and tall oil pitch. For biofuels/bioliquids produced from waste, and from residues other than agricultural, aquaculture, fisheries and forestry residues, only the sustainability criterion relating to greenhouse gas savings applies (31). What constitutes a waste or residue is addressed in Section 5. Agricultural, aquaculture, fisheries and forestry residues are residues that are directly produced by agriculture, fisheries, aquaculture and forestry; they do not include residues from related industries or processing.
Scope	With the EU's new renewable energy policy the EU has introduced the most comprehensive and advanced binding sustainability scheme of its kind anywhere in the world. It will apply equally to domestically produced and imported biofuels and bioliquids. These sustainability criteria are set out in the Renewable Energy Directive, adopted in 2009 (1). For biofuels, corresponding criteria are set out in the Fuel Quality Directive (2).
Targets	The Directive contains sustainability criteria related to greenhouse gas savings (13), land with high biodiversity value (14), land with high carbon stock (15) and agro-environmental practices (16). These sustainability criteria have to be met for the purposes listed in Section 1. This means that the criteria do not apply to all biofuels/bioliquids, only those covered by these purposes — although currently this includes the vast majority.
Sustainability Criteria	Art 2.1 Member States must require economic operators to show that the biofuels and bioliquids concerned comply with the sustainability criteria related to greenhouse gas savings and land (17). Economic operators have three methods to do this: 1. by providing the relevant national authority with data, in compliance with requirements that the Member State has laid down (a 'national system'; all Member States must provide one) (18); 2. by using a 'voluntary scheme' that the Commission has recognised for the purpose (19); 3. in accordance with the terms of a bilateral or multilateral agreement concluded by the Union and which the Commission has recognised for the purpose (20). Different methods can be used to show compliance with different criteria. Member States need to define which economic operators need to submit the information concerned. Most transport fuels are subject to excise duty, which is payable on release for consumption (21). The obvious choice is to place the responsibility for submitting information on biofuels on the economic operator who pays the duty. At this point information with regard to the sustainability criteria along the entire fuel chain should be available (22). For bioliquids and for certain biofuels, e.g. those used in captive fleets or aviation, separate provisions to identify the responsible economic operator may be needed. Member States have to require that economic operators arrange for an adequate standard of independent auditing of the information submitted (23). Where economic operators use a voluntary scheme or bilateral/multilateral agreement recognised by the Commission to show compliance with the sustainability criteria, this is already arranged for by the recognition. Where economic operators follow a procedure laid down in national legislation, Member States are invited to draw on the requirements in relation to the adequate standard of independent auditing and the mass balance system (24) in Section 2.2 of the Communication on voluntary schemes and default values (25).
Mass-balance	Member States are invited to draw on the requirements in relation to the adequate standard of independent auditing and the mass balance system (24) in Section 2.2 of the Communication on voluntary schemes and default values (25).
Support Systems (subsidies, feed in tariffs, etc)	Art 1.1 Receive financial support for their consumption (5) from Article 17(1)(c) of RED. Typically as part of a national support scheme.; receive investment and/or operating aid in accordance with the Community guidelines on State aid for environmental protection (biofuels only) (7);
Non-discriminatory access to the grid	
Transport sector	Art 2.3 As laid down in the Directive, 'biofuels' means liquid or gaseous fuel for transport produced from biomass. 'Bioliquids' means liquid fuel produced from biomass for energy purposes other than transport (29). The latter includes only liquid fuels. This means that the sustainability criteria apply to biogas for transport and not to biogas used for heating or electricity.
Waste regulation	Art 2.3 It is considered that the term 'bioliquids' includes viscous liquids such as waste cooking oil, animal fats, palm oil, crude tall oil and tall oil pitch. For biofuels/bioliquids produced from waste, and from residues other than agricultural, aquaculture, fisheries and forestry residues, only the sustainability criterion relating to greenhouse gas savings applies (31). What constitutes a waste or residue is addressed in Section 5. Agricultural, aquaculture, fisheries and forestry residues are residues that are directly produced by agriculture, fisheries, aquaculture and forestry; they do not include residues from related industries or processing. Art 5.2 The biofuels that count double include those from wastes and residues.
Emission Regulation	Art 3.3 For the calculation of emissions from 'cultivation', the method allows for the use of averages (for a particular geographical area) as an alternative to actual values (44). This could be particularly useful for feedstocks where no default value exists and for EU regions where the use of default values is not permitted for some feedstocks (45). Member States can draw up lists of such average values; they could also be incorporated in voluntary schemes that address greenhouse gas emission impact. Art 5.2 for the greenhouse gas methodology: no emissions are allocated to co-products which production did not aim for, such as straw in the case of wheat production. Please Read Annex II.