

EU biogas and biomethane inventory of regulatory framework



Number of regulatory act	2014/C 200/01
Name of regulatory act	Guidelines on State aid for environmental protection and energy 2014-2020
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Purpose	These European Commission guidelines are new rules on public support for environmental protection and energy to help renewable sources of energy enter the marketplace. Their aim is to support EU countries in reaching their 2020 climate targets while addressing the market distortions that may result from subsidies granted to renewable energy sources.
Relevance for the biomethane sector	<p>Art 3.2.5.1. For measures supporting integrated projects such as integrated energy-efficiency measures, or biogas projects, the counterfactual scenario can be difficult to establish. Where a counterfactual scenario cannot credibly be established, the Commission is amenable to consider the total costs of a project as an alternative, which may imply lower aid intensities to reflect the different eligible cost calculation. Art 3.3.2.3. Aid for existing biomass plants after plant depreciation (132) Unlike most other renewable sources of energy, biomass requires relatively low investment costs but higher operating costs. Higher operating costs may prevent a biomass *(2) plant from operating even after depreciation of the installation as the operating costs can be higher than the revenues (the market price). On the other hand, an existing biomass plant may operate by using fossil fuel instead of biomass as an input source if the use of fossil fuel as an input is more economically advantageous than the use of biomass. To preserve the use of biomass in both cases, the Commission may find operating aid to be compatible with the internal market even after plant depreciation.</p> <p>(133) The Commission will consider operating aid for biomass after plant depreciation compatible with the internal market if a Member State demonstrates that the operating costs borne by the beneficiary after plant depreciation are still higher than the market price of the energy concerned and provided that the following cumulative conditions are met:</p> <p>(a) the aid is only granted on the basis of the energy produced from renewable sources;</p> <p>(b) the measure is designed such that it compensates the difference in operating costs borne by the beneficiary and the market price; and</p> <p>(c) a monitoring mechanism is in place to verify whether the operating costs borne are still higher than the market price of energy. The monitoring mechanism needs to be based on updated production cost information and take place at least on an annual basis.</p> <p>(134) The Commission will consider operating aid for biomass after plant depreciation compatible with the internal market if a Member State demonstrates that, independent from the market price of the energy concerned, the use of fossil fuels as an input is more economically advantageous than the use of biomass and provided that the following cumulative conditions are met:</p> <p>(a) the aid is only granted on the basis of the energy produced from renewable sources;</p> <p>(b) the measure is designed such that it compensates the difference in operating costs borne by the beneficiary from biomass compared to the alternative fossil fuel input;</p> <p>(c) credible evidence is provided that without the aid a switch from the use of biomass to fossil fuels would take place within the same plant; and</p>
Scope	Art 1.1 These Guidelines apply to State aid granted for environmental protection or energy objectives in all sectors governed by the Treaty in so far as measures are covered by Section 1.2. They therefore also apply to those sectors that are subject to specific Union rules on State aid (transport (10), coal, agriculture, forestry, and fisheries and aquaculture) unless such specific rules provide otherwise.
Targets	<ul style="list-style-type: none"> — greenhouse gas emissions 20 % (or even 30 %, if the conditions are right) lower than 1990 levels; — 20 % of energy from renewables; and — 20 % increase in energy efficiency.
Sustainability Criteria	There is a reference to the sustainable criteria in the Definitions section of the Guideline: ‘sustainable biofuel’ means a biofuel fulfilling the sustainability criteria set out in Article 17 of Directive 2009/28/EC of the European Parliament and of the Council (23) on the promotion of the use of energy from renewable sources and any amendment thereof
Mass-balance	
Support Systems (subsidies, feed in tariffs, etc)	The new guidelines therefore aim to limit State aid support to what is truly necessary. This will be done partly by gradually moving from feed-in tariffs* to competitive bidding processes* for the allocation of public support. A pilot phase in 2015 and 2016 will allow EU countries to test competitive bidding
Non-discriminatory access to the grid	<p>Art 3.1.1</p> <p>(108) These Guidelines apply to the period up to 2020. However, they should prepare the ground for achieving the objectives set in the 2030 Framework. Notably, it is expected that in the period between 2020 and 2030 established renewable energy sources will become grid-competitive, implying that subsidies and exemptions from balancing responsibilities should be phased out in a degressive way. These Guidelines are consistent with that objective and will ensure the transition to a cost-effective delivery through market-based mechanisms. Art 3.8.2</p> <p>(206) The Commission considers that for Projects of Common Interest as defined in Regulation (EC) No 347/2013 (92), for smart grids, and for infrastructure investments in assisted areas, the market failures in terms of positive externalities and coordination problems are such that financing by means of tariffs may not be sufficient and State aid may be granted. Art 3.8.3</p> <p>(209) The Commission considers that tariffs (93) are the appropriate primary means to fund energy infrastructure. However, in the case of Projects of Common Interest, smart grids and infrastructure investments in assisted areas, State aid may be considered an appropriate instrument to partially or wholly finance that infrastructure. In such cases, market failures often prevent the full implementation of, the ‘user pays’ principle, on which tariff regulation is based, for example, because the tariff increase to finance new infrastructure investment would be so substantial as to deter investments or potential customers from using the infrastructure.</p>
Transport sector	<p>Art 1 These Guidelines apply to State aid granted for environmental protection or energy objectives in all sectors governed by the Treaty in so far as measures are covered by Section 1.2. They therefore also apply to those sectors that are subject to specific Union rules on State aid (transport (10), coal, agriculture, forestry, and fisheries and aquaculture) unless such specific rules provide otherwise. These Guidelines do not apply to:</p> <p>(a) the design and manufacture of environmentally friendly products, machines or means of transport with a view to operating with fewer natural resources and action taken within plants or other production units with a view to improving safety or hygiene (14);</p> <p>(b) the financing of environmental protection measures relating to air, road, railway, inland waterway and maritime transport infrastructure;</p>

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Waste regulation	<p>Art 3.5.2. Aid to waste management</p> <p>(156) More specifically, and in line with the waste hierarchy principle (referred to in paragraph (118)), the Union's Seventh Environment Action Programme identifies the prevention, re-use and recycling of waste as one of its top priorities. Member States are required to establish waste management plans (72) and should respect this hierarchy and design state aid measures that are coherent with implementation of these plans. Another key concept which inspires Union legislation in the environmental field is the 'polluter pays principle', described in paragraph (44).</p> <p>(157) State aid for the management of waste, in particular for activities aimed at the prevention, re-use and recycling of waste, can make a positive contribution to environmental protection, provided that it does not circumvent the principles referred to in previous paragraph. This includes the re-use or recycling of water or minerals that would otherwise be unused as waste. In particular, in light of the PPP, undertakings generating waste should not be relieved of the costs of its treatment. Moreover, the normal functioning of the secondary materials market should not be negatively impacted.</p> <p>(158) The Commission will consider aid for waste management to serve an objective of common interest in accordance with the principles of waste management set out above if the following cumulative conditions are met:</p> <ul style="list-style-type: none"> (a) the investment is aimed at reducing waste generated by other undertakings and does not extend to waste generated by the beneficiary of the aid; (b) the aid does not indirectly relieve the polluters from a burden that should be borne by them under Union or national law, such a burden should be considered a normal company cost for the polluters; (c) the investment goes beyond the state of the art (73), i.e. prevention, re-use, recycling or recovery or uses conventional technologies in an innovative manner notably to move towards the creation of a circular economy using waste as a resource; (d) the materials treated would otherwise be disposed of, or be treated in a less environmentally friendly manner; and (e) the investment does not merely increase demand for the materials to be recycled without increasing collection of those materials. <p>(159) Aid which, contrary to what is specified in paragraph (158)(a), is intended for the management of the beneficiary's own waste will be assessed on the basis of the general criteria in Section 3.2 applicable to aid for undertakings going beyond Union standards or increasing environmental protection in the absence of Union standards pursuant to paragraph (25)(c).</p>
Emission Regulation	<p>Introduction: (3) The Europe 2020 strategy (1) focuses on creating the conditions for smart, sustainable and inclusive growth. To that end, a number of headline targets have been set, including targets for climate change and energy sustainability: (i) a 20 % reduction in Union greenhouse gas emissions when compared to 1990 levels; (ii) raising the share of Union energy consumption produced from renewable resources to 20 %; and (iii) a 20 % improvement in the EU's energy-efficiency compared to 1990 levels. The first two of these nationally binding targets were implemented by 'The climate and energy package' (2).</p> <p>(4) On 22 January 2014 the Commission proposed the energy and climate objectives to be met by 2030 in a Communication 'A policy Framework for climate and energy in the period from 2020 to 2030' (3) (the 2030 Framework). The pillars of the 2030 Framework are: i) a reduction in greenhouse gas emissions by 40 % relative to the 1990 level; ii) an EU-wide binding target for renewable energy of at least 27 %; iii) renewed ambitions for energy efficiency policies; and iv) a new governance system and a set of new indicators to ensure a competitive and secure energy system.</p> <p>(9) The 2030 Framework calls for an ambitious commitment to reduce greenhouse gas emissions in line with the 2050 roadmap. Delivery of this objective should follow a cost-efficient approach, providing flexibility to Member States to define a low-carbon transition appropriate to their specific circumstances and encourage research and innovation policy to support the post-2020 climate and energy framework. These Guidelines respect those principles and prepare the ground for the 2030 Framework.</p>