

### LAND USED TO PRODUCE CROPS FOR BIOFUELS, BIOLIQUIDS AND BIOMASS

#### Summary of Requirements

Producers who may supply crops into the biofuel, bioliquid and biomass supply chains must not produce from areas of land with high biodiversity or of high carbon stock or peatland (unless evidence is provided that the cultivation and harvesting does not involve drainage of previously undrained soil. This is a requirement under the recast Renewable Energy Directive (EU) 2018/2001; articles 29(3), 29(4), 29(5)<sup>1</sup>.

Producers will be assessed for compliance against these requirements, as per standard EI.3.

#### Definitions

**Biofuels** - means liquid or gaseous fuel for transport produced from biomass

**Bioliqids** - means liquid fuel for energy purposes other than for transport, including electricity and heating or cooling, produced from biomass

**Biomass** – means the biodegradable fraction of products, waste and residues from biological origin from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as the biodegradable fraction of industrial and municipal waste.

#### Requirements of recast Renewable Energy Directive (EU) 2018/2001 Article 29(3)

##### Conservation of biodiversity

Biofuels and bioliqids shall not be made from raw material obtained from land with a high biodiversity value that is land that had one of the following statuses in or after January 2008 whether or not the land continues to have that status

- **Land that was primary forest or other wooded land**

Primary forest and other wooded land is defined as forest and other wooded land of native species, where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed

- **Land that was highly biodiverse forest**

Highly biodiverse forest and other wooded land is defined forest and other wooded land which is species-rich and not degraded, or has been identified as being highly biodiverse by the relevant competent authority, unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes

- **Areas designated:**

- by law or by the relevant competent authority for nature protection purposes; or
- for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature, subject to their recognition in accordance with the second subparagraph of Article 18(4) of the Renewable Energy Directive

An exception is possible if evidence is provided that the production of that raw material did not interfere with those nature protection purposes

- **Land that was highly biodiverse grassland**

(a) Highly biodiverse grassland is defined as:

- natural, namely grassland that would remain grassland in the absence of human intervention and which maintains the natural species composition and ecological characteristics and processes or
- non-natural, namely grassland that would cease to be grassland in the absence of human intervention and that is species-rich and not degraded and has been identified as being highly biodiverse by the relevant competent authority, unless evidence is provided that the harvesting of the raw material is necessary to preserve its status as highly biodiverse grassland

<sup>1</sup> DIRECTIVE (EU) 2018/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2018 on the promotion of the use of energy from renewable sources (recast): <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L2001&from=EN>

### LAND USED TO PRODUCE CROPS FOR BIOFUELS, BIOLIQUIDS AND BIOMASS

Retained EU legislation Commission Regulation (EU) No1307/2014<sup>1</sup> establishes the following definitions:

- 'grassland' means terrestrial ecosystems dominated by herbaceous or shrub vegetation for at least 5 years continuously. It includes meadows or pasture that is cropped for hay but excludes land cultivated for other crop production and cropland lying temporarily fallow. It further excludes continuously forested areas as defined in Article 17(4)(b) of Directive 2009/28/EC (now replaced by Article 29(4)(b) of the recast Renewable Energy Directive (EU) 2018/2001) unless these are agroforestry systems which include land-use systems where trees are managed together with crops or animal production systems in agricultural settings. The dominance of herbaceous or shrub vegetation means that their combined ground cover is larger than the canopy cover of trees;
- 'human intervention' means managed grazing, mowing, cutting, harvesting or burning;
- 'degraded' means not characterised by long-term loss of biodiversity due to for instance overgrazing, mechanical damage to the vegetation, soil erosion or loss of soil quality
- 'species rich' means a habitat of significant importance to critically endangered, endangered or vulnerable species as classified by the International Union for the Conservation of Nature Red List of Threatened Species or other lists with a similar purpose for species or habitats laid down in national legislation or recognised by a competent national authority in the country of origin of the raw material; or
  - i. a habitat of significant importance to endemic or restricted-range species; or
  - ii a habitat of significant importance to intra-species genetic diversity; or
  - iii a habitat of significant importance to globally significant concentrations of migratory species or congregatory species; or
  - iv a regionally or nationally significant or highly threatened or unique ecosystem

The definitions of 'degraded' and 'species rich' apply to Land that was highly biodiverse forest and Land that was highly biodiverse grassland.

Retained EU legislation Commission Regulation (EU) No1307/2014 also clarifies that grasslands in the following geographic ranges of the EU shall always be regarded as highly biodiverse grassland:

- habitats listed in Annex I to Council Directive 92/43/EEC
- habitats of significant importance for animal and plant species of Union interest listed in Annexes II and IV to Directive 92/43/EEC
- habitats of significant importance for wild bird species listed in Annex I to Directive 2009/147/EC (also retained EU legislation: <https://www.legislation.gov.uk/eudr/2009/147/contents>)

<sup>1</sup> Retained EU legislation Commission Regulation (EU) No1307/2014 <https://www.legislation.gov.uk/eur/2014/1307/data.pdf>

### LAND USED TO PRODUCE CROPS FOR BIOFUELS, BIOLIQUIDS AND BIOMASS

#### Requirements of recast Renewable Energy Directive (EU) 2018/2001 Article 29(4)

##### Conservation of carbon stocks

Biofuels and bioliquids shall not be made from raw material obtained from land with high carbon stock that is, land that had one of the following statuses in January 2008 and no longer has that status

- **Land that was wetland**

A wetland is land that is covered with or saturated by water permanently or for a significant part of the year

- **Land that was continuously forested**

Continuously forested areas are defined as land spanning more than one hectare with trees higher than 5m and a canopy cover of more than 30% or trees able to reach those thresholds in situ

Continuously forested areas do not include land that is predominantly under agricultural or urban land use. Agricultural land use refers to tree stands in agricultural production systems, such as fruit tree plantations, oil palm plantations and agroforestry systems when crops are grown under tree cover

- **Forested land with 10-30% canopy cover**

Forested areas with 10–30% canopy cover are defined as land spanning more than one hectare with trees higher than 5m and a canopy cover of between 10% and 30%, or trees able to reach those thresholds in situ, unless evidence is provided that the carbon stock of the area before and after conversion is such that, when the methodology laid down in part C of Annex V is applied, the greenhouse gas threshold set out in the Directive would still be fulfilled.

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

#### Requirements of recast Renewable Energy Directive (Directive 2018/2001) Article 29(5)

##### Conservation of peatlands

Biofuels and bioliquids shall not be made from raw material obtained from land that was peatland in January 2008

- An exception is possible if evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil
- For peatland that was partially drained in January 2008 a subsequent deeper drainage, affecting soil that was not fully drained, would constitute a breach of the criterion

#### Recast Renewable Energy Directive (Directive 2018/2001) Documentation Requirements

Documents for verification of previous land status must be retained for 5 years and made available for inspection by the assessor. Such documents may include Single Farm Payment documentation, maps or other of official records showing field location and classification/use.

For the purposes of the recast Renewable Energy Directive (Directive 2018/2001), mass balance records must be kept at a site level, as outlined in standard EI.2.

For combinable crops, producers must sign the related declaration on sustainability on the Post-Harvest Declaration (grain passport) for crop loads produced on recast Renewable Energy Directive (Directive 2018/2001) eligible land.

For sugar beet, in addition to keeping traceability records (as required by standard TI.a), a Grower Identification Card must accompany each load.

Documentation relating to wetlands must reflect seasonal changes within a year.