Proposals and need for action to prevent fraud in biofuel certification

Official registration procedure for placing advanced biofuels on the market in Germany

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Background

The suspicion of fraud in the areas of advanced biodiesel (and UER measures) has led to a loss of trust and acceptance among politicians, customers and the public in recent months. Measures to prevent fraud must therefore ensure the reliability of sustainability certification along the entire supply chain in future. The desired economic incentive to promote new technologies by double-counting biofuels from certain waste and residual materials (positive list) specified in Part A Annex IX of the Renewable Energy Directive 2028/2001 (RED II) also represents an incentive to commit fraud, as fewer biofuels have to be used by those subject to quotas. This finding is confirmed by the biodiesel imports from China, which continue to be suspected of fraud. The reason for this is not only the higher price that can be realised on the market, but also the current regulation. This is because, in contrast to biofuels from cultivated biomass or waste oils and fats in accordance with Part B Annex IX of RED II, there is no volume cap for advanced biofuels once the minimum quota has been met, resulting in a considerable shift of falsely declared raw materials and biodiesel. **Consequently, plants that process waste and residual materials for the purpose of double counting will have to undergo a registration procedure in future.**

As a result of the upcoming implementation of RED III, which formally provides for the option of introducing a GHG obligation for all member states, there is a need for action to fundamentally tighten the requirements and regulatory framework in the interests of fraud prevention and fair competition. This concerns the recording and control of the appropriately declared raw materials in accordance with the waste codes to be checked as well as the verification of the suitability of the plant technologies on site.

In future, the competent authorities at national and European level must be authorised to check the special eligibility of biofuels made from the above-mentioned raw materials (Annex IX Part A) and the process technology or to recognise them on the basis of harmonised test criteria. The focus is on testing the type of raw material and the process technology innovation to prove fulfilment of the legal requirement in accordance with Art. 28 (6) of the Renewable Energy Directive 2018/2001 (RED II): **"Raw materials that can only be processed using advanced technologies shall be included in Annex IX Part A."**

1. Measures

The verification of the plant technologies and consequently the registration of the corresponding manufacturers or companies will in future be the prerequisite for market access in the EU and for double counting towards the national GHG quota obligation. The competent authority for registration and recognition in Germany is the Federal Office for Agriculture and

Food (BLE), as the corresponding proof of sustainability is issued in the "Nabisy" database maintained by the BLE. This certificate provides the quota holder and competent authorities, also in other member states, with additional proof of registration and thus successful certification of the plant and the raw materials used. For this additional certification purpose, voluntary certification schemes are expanding their certification principles for recognition by the EU Commission if these requirements were not previously taken into account.

It should be noted that the proof of sustainability for this advanced biofuel quantity registered in the database does not ensure that the corresponding biofuel quantity with the properties listed in the proof is actually placed on the market. Mass balancing enables the flexible use of raw materials with different properties at all stages, provided that these can be processed into a standard-compliant biofuel in the biofuel manufacturer's plant. In order to prevent fraud, it is extremely important to check correct mass balancing at the production plant stage. It is therefore essential that the relevant documentation is checked on site and not by means of annual desk audits.

Biofuel production companies are the decisive and responsible link in the certification chain for incoming raw materials and outgoing products in the sustainability certification process and for the verification of GHG reduction.

In contrast to Germany, biofuel producers, importers and traders in Austria, for example, must undergo an official registration procedure (compulsory registration) when they produce or market biofuels in Austria for the first time. The competent authority checks the results of the certification by means of an on-site inspection in accordance with the certification body of the voluntary certification system. The requirements explained above are based on these specifications.

Proposal:

> The Federal Government should introduce an official authorisation procedure for all producers and importers who want to produce or import biofuels in Germany or place them on the market**.**

Further requirements and competent authority

Accredited certification bodies (e.g. during their annual sustainability certification) could carry out more extensive (initial) tests as part of a German authorisation procedure.

The inspecting auditors must change at least every two years. The costs of the audit are borne by the applicant. Auditors must have sufficient technical understanding. In case of doubt, experts from the field of process engineering must be consulted.

If application documents are not yet available in German or English, they must be fully translated into German or English for examination purposes prior to registration.

The Federal Office for Agriculture and Food (BLE) acts as the supervisory and implementing authority (on-site inspection). Initial inspections should always be accompanied by a BLE auditor or sworn expert.

The BLE sets up a public register that lists all authorised companies with their name, authorisation number, production site, capacity and authorisation period. This register must be updated regularly (at least once a month).

The period for which the registration is recognised is two years and can be renewed on application. (Note: Austria initial registration, subsequent on-site inspection by UBA, costs borne by the company).

Applications for registration must be submitted to the BLE in digital form in German or English. The documents to be submitted include the scope of testing listed under point 4 (see table) and the confirmation of a commissioned voluntary certification system authorised by the EU Commission. It should be checked whether certification bodies and systems should be liable for the correctness of the specified scope of testing. The processing period for an application by the BLE should not exceed three (3) months.

If a company has several production sites, a separate application must be submitted for each site.

2. Detailed scope of testing

Application documents	Initial audit	Quarterly auditing	Semi-annual audit	Annual audit
Applicant (legal entity in Germany)	**On site**	**Remote**	**On site**	**On site**
Address				
Managing Director	Interview			Interview
Contact details	check			check
Tax ID, VAT ID	check			check
Extract from the commercial register				
Shareholder	check			check
Published annual report for year x-1	check			check
Production site				
Address				
Geo data	check			
Operations manager	Interview			Interview
Controlling (responsible person)	Interview			Interview
Sustainability (responsible person)	Interview			Interview
Contact details	check			check
Operating licence	check			check
Authorised production capacity	check			check
REACH authorisation	check			
Commissioning date	check			
Production volumes years x-1 and x-2	check			check
Engineering Report	check			check
Mass balance years x-1 and x-2	check			
Mass balance ongoing		check	check	check

Application documents	Initial audit	Quarterly auditing	Semi-annual audit	Annual audit
Incoming and outgoing material flows (raw materials, auxiliary materials and finished products)		check	check	check
Energy consumption years x-1 and x-2	check			
Energy consumption ongoing		check	check	check
Merchandise management system	check	check	check	check
Accounting/Controlling	check	check	check	check
System technology/process	Contract			check
Plant manufacturer (Managing Director)	Interview			
Sustainability certificate and test reports years x-1 and x-2	check			
Sustainability certification history (certification system, auditors, raw materials, etc.)	check			
Customs authorisation	check			check
Other certifications (ISO etc.)	check			check
Storage capacity of raw materials	Inspection			Inspection
Storage capacity for finished products	Inspection			Inspection
Type of weight/volume determination	Inspection			Inspection
Calibration certificates for measuring equipment	check			check
UDB registration and use	check			check
Fuel				
Delivered quantity/delivery notes		check	check	check
Indication of the authorisation number on the delivery note	check	check	check	check
Designation (common name)	check			
GHG savings	check			check
Testing for conformity to standards (certificate of analysis) / sample	check			check
Relevant fuel standard	check			
Biomass/waste code ex Nabisy list	check			
Starting material(s)				
Designation				
Delivered quantity/delivery notes		check	check	check
Total quantity	plausibilised.			plausibilised.
Typical product properties (certificate of analysis)	check			
Assignment Annex IX A or B	check			
Country/countries of origin	check			
Supply chain visualisation	check			check
List of raw material collection points	Samples			
Processing				
Description of the processing procedure (flow chart)	Check/ Inspection			Check/ Inspection
Yield margin	check	check	check	check

Application documents	Initial audit	Quarterly auditing	Semi-annual audit	Annual audit
Quantity of auxiliary materials used	check	check	check	check
Quantity of co-products	check	check	check	check
Quantity of product/waste by-products	check	check	check	check
Quantity of additives	check	check	check	check

3. Additional requirements for applicants and compliance during certification and on-site inspection

- Deliveries of raw materials and finished products by ship:
  Relevant analyses must be carried out by an independent laboratory after sampling by an independent inspector. When analysing raw material deliveries, the focus must be on possible mixtures with palm oil.