

More detailed requirements for the principles for calculating the share of renewable energy produced from biomass fuel and for demonstrating compliance with the requirements and criteria for biomass sustainability

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The regulation is established on the basis of subsection 32^{3 (13)} of the Energy Management Act .

§ 1. Scope of the Regulation

(1) The regulation establishes more specific requirements:

- 1) on the principles for calculating the share of energy produced from biomass fuel and on the verification of compliance with the requirements and criteria for the sustainability of biomass;
- 2) on the provision of information on the geographical origin and feedstock of biomass fuel.

(2) The Regulation applies to installations of an undertaking producing electricity, heat and cooling energy or fuel, the total rated thermal capacity of which is at least 20 MW for solid biomass fuels and at least 2 MW for gaseous biomass fuels.

(3) The Regulation does not apply to the calculation of the share of renewable energy produced from biofuels and bioliquids and to the verification of compliance with the sustainability requirements and criteria for these fuels.

(4) The Regulation, with the exception of subsections 5(6), (7) and (8) and § 6, shall not apply to the use of a voluntary scheme recognised by the European Commission to demonstrate compliance with the requirements and criteria for the sustainability of biomass.

§ 2. Terms

In this regulation, the following terms are used:

- 1) mass balance system is a monitoring system to collect information on the quantity, origin, category and other aspects of biomass fuel in the supply chain and energy production, and which allows for the mixing of biomass shipments;
- 2) origin information is data that ensures the traceability of biomass fuel raw materials to the point of cultivation, harvesting, felling, arrival or collection;
- 3) audit is a set of activities that meets the conditions of generally accepted accreditation to ensure the objectivity of the company's activities and compliance with the criteria and requirements set out in § 32³ of the Energy Management Act ;
- 4) undertaking is a producer of electricity, heat and cooling energy or fuel that uses biomass as a source;
- 5) secondary wood biomass is residues and waste from a wood industry company.

§ 3. Verification of compliance with the principles for calculating the share of renewable energy produced from biomass fuel and the requirements and criteria for biomass sustainability

(1) If an undertaking has not used the plans specified in subsection 11 of section 32³ of the Energy Management Act to demonstrate compliance with the sustainability requirements and criteria for biomass fuel , it must establish an appropriate control system that:

- 1) includes methods and activities that ensure that the mass balance system operates with a high level of reliability;
- 2) is designed based on the undertaking's risk-based assessment;
- 3) allows for verification of the documentation used to demonstrate compliance with the sustainability requirements and criteria for biomass fuel.

(2) The risk-based assessment specified in clause 2 of subsection 1 of this section shall be carried out to reduce the risk of using forest and field biomass that does not meet the requirements and criteria for sustainable harvesting set out in § 32³ of the Energy Management Act . The undertaking may use risk-based assessments prepared for the country by representatives of voluntary schemes or certification schemes or by the state.

(3) In order to demonstrate compliance with the requirements and criteria for the sustainability of biomass, the undertaking shall collect information on the origin of the different categories of biomass fuels produced from the procured biomass specified in § 4 of this Regulation, which enables the verification of origin. The information on origin shall be attached to the consignment of biomass fuels or be available during the audit.

(4) The origin of biomass fuel material must be traceable:

- 1) to the level of the cadastral unit and, if possible, the level of the forest reserve in the case of materials specified in subsections 4(2) and 8 of this Regulation;
- 2) to the level of the cadastral unit in the case of materials specified in subsections 4(4) and 6 of this Regulation;
- 3) to the location of the producer in the case of materials specified in subsection 4(5) of this Regulation;
- 4) to the waste storage or collection point in the case of materials specified in subsection 4(7) of this Regulation.

§ 4. List of relevant evidence by biomass fuel category

- (1) The categories of biomass fuels are:
 - 1) wood biomass from forest land;
 - 2) wood biomass from non-forest land, including land under power lines, roadsides, ditches, landscaping, etc.;
 - 3) secondary wood biomass;
 - 4) agricultural biomass, such as straw, hay, etc. produced on non-forest land;
 - 5) other wood waste;
 - 6) biomass produced during deforestation;
 - 7) unsustainable biomass.
- (2) Relevant evidence of the origin and quantity of wood biomass originating from forest land is:
 - 1) cadastral unit identifier;
 - 2) forest notification;
 - 3) consignment note;
 - 4) contract or deed of transfer of felling rights and timber and provision of timber for processing or storage;
 - 5) deed of transfer-receipt of timber;
 - 6) other document certifying the origin of the timber.
- (3) Relevant evidence of the origin and quantity of wood biomass from non-forest land is:
 - 1) a document of transfer and acceptance of the material;
 - 2) a cadastral unit identifier;
 - 3) another document certifying the ownership, origin or legality of the acquisition of the material.
- (4) In the case of wood biomass originating from non-forest land, the company must collect and the supplier must provide the cadastral unit identifier as origin information.
- (5) In the case of secondary wood biomass, the entrepreneur must collect and the supplier must provide:
 - 1) the name of the secondary biomass producer;
 - 2) a copy of the secondary biomass purchase contract, which contains information on the quantity and description of the goods to be supplied;
 - 3) sales invoice numbers and copies of the payment order.
- (6) In the case of deliveries of biomass of agricultural origin, each shipment must be accompanied by information on the origin and quantity, which would clarify from which cadastral unit, including arable land, the biomass was collected.
- (7) Relevant evidence of the origin and quantity of wood waste is:
 - 1) a document of delivery and acceptance of the material;
 - 2) a document concerning the ownership of the material;
 - 3) a document of cessation of waste status;
 - 4) another document proving the legality of the acquisition of the material.
- (8) Relevant evidence of the origin and quantity of wood biomass produced during deforestation is:
 - 1) cadastral unit identifier;
 - 2) a valid project, maintenance plan or other document arising from legislation that is the basis for the use of land for purposes other than forest management;
 - 3) a forest notification.
- (9) If the information proving the origin accompanying a sales transaction is already part of another sales contract, the same information need not be provided a second time. The provision of information for the purpose of transaction verification does not need to include price information.
- (10) If the origin of biomass cannot be identified and proven, it is considered unsustainable biomass.

§ 5. Auditing requirements

- (1) The audit firm must be independent of the undertakings participating in the supply chain and the activity being audited and must be accredited by a recognised International Accreditation Forum (IAF) or the European Accreditation Cooperation (EA).
- (2) The audit firm must be accredited in accordance with the International Organization for Standardization (ISO) standard 17065 and the auditor must conduct audits in accordance with the conditions required by that standard or in accordance with the requirements of a voluntary scheme.
- (3) The audit shall follow good auditing practice and assess the frequency and methodology of data collection used by the undertaking. The auditor shall verify whether the following requirements are met for the data collection system used:
 - 1) the existence of origin data on the supply chain is ensured to the extent required by § 3, subsections 3 and 4 and § 4, subsections 2–8 of this Regulation;
 - 2) the data collection system ensures the accuracy and reliability of the data.
- (4) The audit report shall contain at least the following information:
 - 1) the name and brief description of the audited undertaking;
 - 2) the audit criteria and principles followed during the audit;
 - 3) the method used to demonstrate compliance with the sustainability criteria and requirements and its correct reflection in the report;
 - 4) the result of the follow-up audit of the supply chain, if follow-up audit was necessary;
 - 5) a summary;
 - 6) a conclusion.
- (5) The audited undertaking must have documentation that proves the competence and independence of the audit firm and the auditor. The audit commissioned by the undertaking must meet the required standards of reliability, transparency and independence of the audit.

(6) The undertaking shall submit a digitally signed audit report to the Environmental Board through the environmental decision information system once a year no later than 25 February of the year following the year being audited.

(7) Group audits may be carried out under the conditions laid down in Article 11(3)(c) and Article 12 of Commission Implementing Regulation (EU) 2022/996 on rules for the verification of the sustainability criteria and the greenhouse gas emission saving and low-risk indirect land-use change criteria (OJ L 168, 27.6.2022, pp. 1-62) in order to help alleviate the administrative burden, in particular for small businesses.

(8) Upon request by the Environmental Board, the audit firm shall provide all relevant information necessary for the performance of supervision, including the exact date, time and place of audits.

§ 6. Publication of information on fuels used

(1) The undertaking shall publish on its website information on the geographical origin of the biomass fuel at national level and the feedstocks of the fuels, such as biomass, gas, in tonnes or megawatt-hours. The amount of electricity and heat produced from the feedstocks shall be published in megawatt-hours and the energy content of the fuels shall be published in megajoules.

(2) The undertaking shall submit information on the website for the previous calendar year no later than 1 May of the following calendar year.

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