

# BIOFUELS REGULATORY UPDATE

Issue N°. 17  
October 2018

## 1. Europe

France	p. 1
Germany	p. 2
Italy	p. 3
Spain	p. 4
UK	p. 5
Poland	p. 6
Sweden	p. 7
Portugal	p. 8
Netherlands	p. 9
Belgium	p. 10
Luxembourg	p. 11
Austria	p. 12
Ireland	p. 13
Denmark	p. 14
Finland	p. 15
Czech Republic	p. 16
Slovakia	p. 17
Slovenia	p. 18
Croatia	p. 19
Hungary	p. 20

Bulgaria	p. 21
Romania	p. 22
Latvia	p. 23
Estonia	p. 24
Lithuania	p. 25
Malta	p. 26
Cyprus	p. 27
Greece	p. 28
Norway	p. 29
Switzerland	p. 30

## 2. Americas

US	p. 31
Canada	p. 36

## 3. Asia-Pacific

Indonesia	p. 38
Malaysia	p. 40

# What's new

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## **The following main developments have materialized on the regulatory front since July.**

The summer period is always the most-quiet period of the year in terms of regulatory developments as many ministries take a long break. That explains the low number of developments reported beside.

1. The French government has releases in the 2019 budget draft a proposal to increase the biodiesel mandate to 7.9% and 8% in 2019 and 2020, respectively. Cap of waste-based biodiesel would be increased to 0.9% e.c. The final version will be published by year-end.
2. In Germany, a draft including BioLNG within the list of eligible fuels under the GHG mandate and new rules about obligation carry-over for 2020 circulated.
3. In Italy, a draft for the introduction of the National Certification Scheme has been published. When confirmed into law, it will strengthen the conditions to certify wastes and engage the penal responsibility of the auditor.
4. The Belgian mandate for 2020 has been set at 8.5% e.c by law, including a cap of 7% for crop based biofuels and a 0.6% e.c physical cap for double counted biofuels other than advanced.
5. The Irish Minister for Environment published the law for the increase of the mandate from 8% to 10% vol. in 2019.
6. Ministry sources in Denmark confirmed that the government was working on an increase of the biofuels mandate to 8% e.c in 2020. But the proposal may face opposition in the coming months.
7. The Czech President signed the new "Air Protection Act" in August, officially introducing double counting of UCOME, TME and biofuels "with a low ILUC impact" from September 1, 2018.
8. In Norway, obligations for 2019 (12% vol. incl. 4.5% advanced) and 2020 (20% vol. incl. 8.5% advanced) have been confirmed.
9. In the US, the EPA confirmed it would move soon to reform the RFS and allow E15 year-round.
10. In California, new legal amendments to the Low Carbon Fuel Standard (LCFS) have been published at the end of September. The pace of GHG reductions imposed to fuel distributors and refiners has been revised down to take into account the current legal issues blocking the program.
11. The Canadian government announced the launch of the Clean Fuel Standard would not kick in before 2022, vs 2020 initially expected.

## Current situation

The decree setting up the new list of double counted feedstocks and the ones considered as advanced has finally been published last summer. The list is broadly inspired by the ILUC directive. Another decree about sustainability was released at the same time but failed to mention stricter certification rules for wastes. In its proposal for the 2019 budget, the government has proposed to increase the cap applied to waste based biofuels while increasing the bio-diesel overall obligation to 7.9 and 8% in 20'19 and 2020.

MANDATE	2017	2018	2019
Biodiesel	7.7% e.c	7.7% e.c	7.9% e.c
Advanced biodiesel	-	-	-
Ethanol	7.5% e.c	7.5% e.c	7.7% e.c
Advanced ethanol	-	-	-
Road/non-road applicability	Road + 75% non-road	Road + 100% non-road	Road + 100% non-road
RED	x	x	x
FQD	-	-	-

DOUBLE COUNTING	2017	2018	2019
Enforcement	x	x	x
CAP	0.7% e.c separate mandate, 0.6% e.c for ethanol	0.7% e.c separate mandate, 0.6% e.c for ethanol	0.9% biodiesel, no more specific cap for ethanol above 7%
UCOME	x	x	x
TME cat. 1	x	x	x
TME cat. 2	x	x	x
TME cat. 3	-	-	-
Fatty acids	-	-	-
POME	-	x	x (advanced)

QUOTA (EUR /CUM)	2017	2018	2019
Diesel tax, (incl. CO2 Tax)	530.7	594	594
Biodiesel tax Break	0	0	0

### PENALTIES IN CASE OF NON-COMPLIANCE

The fuel distributor pays a tax called TGAP, calculated each year by the spread between the mandate and the actual blending. For more details, see: <http://www.douane.gouv.fr/informations/bulletins-officiels-des-douanes?da=15-016>

### TICKETS SYSTEM

Yes, details are also available in the link above.

### DEADLINE TO SUBMIT COMPLIANCE FILE

April 10

### CLIMATE CHOICES EN14214:2012

Summer (April 1 to October 30): CFPP max 0°

Winter (November 1 to March 31): CFPP max -5°

The decree TRER1817331A provided a new list of wastes considered as double-counted, advanced and both. UCO and Tallow are DC but not advanced. Tall oil is advanced but not DC. All other feedstocks from the ILUC Directive Annex IX Part A are both.

The release of the government's proposal for the 2019 budget ("Loi de Finance") confirmed that biofuels will receive again more support next year. After the progressive extension of the mandate to non-road diesel during the four last years (100% of non-road has been under the 7.7% mandate since 2018), the government is willing to increase the level of the mandates. The text, still debated at the Parliament, contains a small reform of the way the biodiesel market will be working: instead of having a specific obligation for wastes (0.7% DC currently), two caps should be introduced: one for UCO/Tallow biofuels set at 0.9% DC and one for tall oil biofuels set at 0.6% SC. When the overall mandate shall increase from 7.9% to 8% in 2020, this will create de facto a 0.1% e.c gap that will have to be filled through advanced biofuels only (tall oil SC or POME DC for example).

These rules can still change as the final version of the 2019 budget will be released only in December.

## Current situation

A draft for a new ordinance that would (1) make Bio-LNG accountable under the GHG mandate and (2) prevent 2019 surplus of quota from being carried-over in 2020 was circulated. Like several other Member States, Germany wants to make sure that the FQD and RED targets will be physically met in 2020. The regulatory framework applied to biofuels has not changed in Germany since January 2018, when the “UER-Verordnung” ruling out the use of Upstream Emissions Reductions (UERs) certificates under the GHG mandate in 2020 was published.

MANDATE	2017	2018	2019
Biofuels	4% GHG	4% GHG	4% GHG
Biodiesel	-	-	-
Ethanol	-	-	-
Road/non-road applicability	Applicable to non-road fuels.		
RED	x	x	x
FQD	4% GHG	4% GHG	4% GHG

DOUBLE COUNTING	2017	2018	2019
ENFORCEMENT	No DC anymore.	No DC anymore.	No DC anymore.
CAP			
UCOME			
TME CAT. 1			
TME CAT. 2			
TME CAT. 3			
FATTY ACIDS			
POME			

QUOTA (EUR /CUM)	2017	2018	2019
DIESEL TAX, (INCL. CO <sub>2</sub> TAX)	470.4	470.4	470.4
BIODIESEL TAX BREAK	BIOFUELS ARE NOT ANYMORE EXEMPTED FROM THE ENERGY TAX.		

PENALTIES IN CASE OF NON-COMPLIANCE
EUR 0.47 /kgCO <sub>2</sub> MISSING, REPLACING EUR 600/CUM SINCE JANUARY 1, 2015.

DEADLINE TO SUBMIT COMPLIANCE FILE
APRIL 15

TICKETS SYSTEM
YES

CLIMATE CHOICES EN14214:2012
SPRING (MARCH 1 - APRIL 14): CFPP MAX -10° SUMMER (APRIL 15 - SEPTEMBER 30): MAX 0°
AUTUMN (OCTOBER 1 - NOVEMBER 15): MAX -10° WINTER (NOVEMBER 16 - FEBRUARY 28): MAX -20°

This latest piece of law cap the share of the mandate that will be filled through UERs at 1.2%, so 4.8% of the GHG mandate will be covered by renewable used in transport. Projects of UER finalized under the Clean Development Mechanism (CDM) will be eligible for the German mandate under certain conditions, including the reductions during the year of compliance (i.e 2020 for the year when UERs will be authorized). For other projects, the company wishing to use UERs under any given project must apply for approval to the BLE before the project starts.

Published at the end of 2017, the ordinance 38. BlmSchV transposed the ILUC directive into the national law: from January 1, 2018, the new GHG reference will be 94.1 kgCO<sub>2</sub>eq/MJ, up from 83.8 kgCO<sub>2</sub>eq/MJ. Natural gas, LNG, CNG, and hydrogen and electricity used in cars will count towards the GHG Mandate. Crop-based biofuels can't account for more than 6.5% e.c of the fuel sales and advanced sub-targets are set out from 2020 (see previous issue for more details).

Ordinance 37. BlmSchV that allows co-processing of vegetable oils at refineries from 2018 has been published in May 2017 without major change from the draft.

## Current situation

After the publication of the key biomethane decree on March 2, 2018 setting new levels of mandate, the government is now working on the National Certification Scheme law. A draft circulated in August but it has yet to be finalized. Certification of wastes will be strengthened again from 2019.

MANDATE	2017	2018	2019
Biofuels	6.5% e.c	7% e.c	8% e.c
Advanced biofuels	–	incl. 0.6% e.c (75% biomethane, 25% other advanced)	incl. 0.8% e.c (75% biomethane, 25% other advanced)
Road/non-road applicability	APPLICABLE TO ALL FUELS.		
RED	x	x	x
FQD	–	–	–

DOUBLE COUNTING	2017	2018	2019
ENFORCEMENT	x	x	x
CAP	–	–	–
UCOME	x	x	x
TME CAT. 1	x	x	x
TME CAT. 2	x	x	x
TME CAT. 3	–	–	–
FATTY ACIDS	x	– PFAD until June 30	Some Fatty Acids still eligible
POME	–	–	–

QUOTA (EUR /CUM)	2017	2018	2019
DIESEL TAX, (INCL. CO <sub>2</sub> TAX)	617.4	617.4	617.4
BIODIESEL TAX BREAK	BIOFUELS ARE NOT ANYMORE EXEMPTED FROM THE ENERGY TAX.		

### PENALTIES IN CASE OF NON-COMPLIANCE

0-25% MISSING: EUR 600/CERTIFICATE (10 GCAL), 25-50%: EUR 700, 50-75%: EUR 800, >75%: EUR 900

### DEADLINE TO SUBMIT COMPLIANCE FILE

JANUARY 31 FOR PHYSICAL BLENDING, MAY 31 FOR CERTIFICATES

### TICKETS SYSTEM

YES

### CLIMATE CHOICES EN14214:2012

SUMMER (MARCH 16 - NOVEMBER 14): CFPP MAX 0°

WINTER (NOVEMBER 15 - MARCH 15): CFPP MAX -10°

The decree released on March 2, 2018 supports biomethane and other advanced producers through a grant of EUR 375 per CIC certificate (generated for each 5 cal. of consumption by the transport sector). New advanced sub-targets have been published, for which biomethane account for 75%, the remaining 25% being covered with biofuels made out of Annex IX Part A feedstocks. The following obligations are now written into law for 2018 (7% e.c global incl. 0.6% advanced physical), 2019 (8% incl. 0.8%), 2020 (9% incl. 0.9%), 2021 (9% incl. 1.5%) and 2022 (9% incl. 1.85%). The new targets are clearly bearish for the market of conventional biofuels. From July 2, advanced biofuels producers can register online to start the application process for their products' recognition.

The new decree currently under debate has one big objective: strengthen the rules under which wastes can be certified as wastes to avoid frauds on this segment. The main change is that the auditor in charge of the certification will have to sign an official document – engaging its own penal responsibility – stating that it verified that checks have been carried out on the traceability of exhausted vegetable oils collected. A period of transition of 1 year is planned by the article 20 but it remains unclear to which operators it will apply.

A decree published in 2017 transposed all the main features of the ILUC directive (7% cap, 0.5% advanced, multiple count for electricity) while imposing new rules for PFAD (no more double counted from June 30, 2018 and no more mass balance applying to it from April 28, 2017).

## Current situation

The long-awaited transposition of the ILUC directive was published on May 1, including the legal enforcement of double counting. The concrete introduction of the DC scheme is, however, still pending with ministry sources saying the final piece of law necessary to finalize it will not be published before year-end, making the first DC certificates available not before Q2.

MANDATE	2017	2018	2019
Biofuels	5% e.c	6% e.c	7% e.c
Road/non-road applicability	APPLICABLE TO TRANSPORT FUELS ONLY.		
RED	x	x	x
FQD	-	-	-
DOUBLE COUNTING	2017	2018	2019
ENFORCEMENT	-	x (legally, not in practice)	x from Q2? Q3?
CAP		-	-
UCOME		x	x
TME CAT. 1		x	x
TME CAT. 2		x	x
TME CAT. 3		-	-
FATTY ACIDS		-	-
POME		x (advanced)	x (advanced)
QUOTA (EUR /CUM)			
DIESEL TAX, (INCL. CO <sub>2</sub> TAX)	331	331	331
BIODIESEL TAX BREAK	TAX EXEMPTION FOR BIOFUELS FINISHED AT THE END OF 2012.		
PENALTIES IN CASE OF NON-COMPLIANCE			
EUR 763/TOE MISSING.			
DEADLINE TO SUBMIT COMPLIANCE FILE			
APRIL 1			
TICKETS SYSTEM			
YES			
CLIMATE CHOICES EN14214:2012			
SUMMER (APRIL 1 - SEPTEMBER 1): CFPP MAX 0°			
WINTER (OCTOBER 1 - MARCH 1): CFPP MAX -10°			

The law confirmed the introduction of 0.1% e.c sub-target for advanced biofuels in 2020, the double counting of Annex IX Part A & B (including UCO and tallow) and the update of the minimum GHG requirements (60% for plants started after October 5, 2015, 50% before). The cap of crop-based biofuels had been previously set by the Royal Decree 1085/2015, published in December 2015, at 7% e.c in 2020.

Today, however, Spanish operators don't have the material means to make double counted biofuels count under the CNMC system. As we have previously reported, the CNMC must deal with a chronic lack of experienced staff and is still consulting stakeholders to figure out how the new verification system will be built. Local operators expect the concrete introduction of the scheme by Q2-Q3 2019 only.

The transposition of the RED entered into force on January 1, 2016. With the publication of the new obligations levels in December 2015 (5% e.c in 2017, 6% e.c in 2018, 7% e.c in 2019 and 8.5% e.c in 2020), the Spanish biofuels policy was put back on track.

## Current situation

Nothing concrete occurred since the Renewable Transport Fuels and Greenhouse Gas Emissions Regulations 2018 has been cleared by the Parliament and signed by the Minister. The new RTFO entered into force on April 15, 2018. The next step will be the introduction of E10, to be drafted soon by the government.

MANDATE	2017	2018	2019
Biofuels	4.737% vol.	7.25% vol. from April 15	8.5% vol. from January 1
Advanced ("development")	–	–	0.1% vol.
Road/non-road applicability	APPLICABLE TO NON-ROAD FUELS SINCE APRIL 2013.		
RED	x	x	x
FQD	–	–	–

  

DOUBLE COUNTING	2017	2018	2019
ENFORCEMENT	x	x	x
CAP	–	–	–
UCOME	x	x	x
TME CAT. 1	x	x	x
TME CAT. 2	x	x	x
TME CAT. 3	–	–	–
FATTY ACIDS	–	–	–
POME	x	x (advanced)	x (advanced)

  

QUOTA (EUR /CUM)			
DIESEL TAX, (INCL. CO <sub>2</sub> TAX)	663	671	671
BIODIESEL TAX BREAK	TAX EXEMPTION FOR UCOME STOPPED IN APRIL 2012.		

  

**PENALTIES IN CASE OF NON-COMPLIANCE**

POSSIBILITY TO BUY-OUT MISSING CERTIFICATES (GBP 30/LITRE) OR CIVIL PENALTIES APPLY.  
[HTTPS://WWW.GOV.UK/GOVERNMENT/PUBLICATIONS/RENEWABLE-TRANSPORT-FUEL-OBLIGATION-RTFO-GUIDANCE-YEAR-11](https://www.gov.uk/government/publications/renewable-transport-fuel-obligation-rtfo-guidance-year-11)

  

**DEADLINE TO SUBMIT COMPLIANCE FILE**

AUGUST 12

  

**TICKETS SYSTEM**

YES

  

**CLIMATE CHOICES EN14214:2012**

SUMMER (MARCH 16 - NOVEMBER 15): CFPP MAX -5°  
 WINTER (NOVEMBER 16 - MARCH 15): CFPP MAX -15°

The law included a steep increase of the mandate to 7.25% vol. from April 15, 2018, 8.5% in 2019 (when the RTFO year will switch to the calendar year) and 9.75% in 2020. In parallel, a cap for crop based biofuels will be set at 4% vol. from 2018 to 2020. A sub-target for “development fuel”, the term chosen by the DfT for advanced fuels, will be introduced in 2019 at 0.1% (DC) and increased to 0.15% in 2020. In parallel of the mandate, a GHG mandate of 4% will be introduced in 2019 and increased to 6% in 2020.

Interestingly, renewable aviation fuels, natural gas, hydrogen and fuels that can be blended at rates of at least 25% whilst meeting EN590 or EN228 will generate RTFCs when they have been made from eligible feedstocks. Finally, the level of the buy-out for the development fuels will be of 80 pence per certificate while the buy-out level for regular certificate will remain at 30 pence.

The law also includes an increase of the overall mandate from 2021 to reach 12.4% vol. in 2032. However, the increase will be met exclusively through the increase of the “development fuel” sub-target so the mandate for 1G fuels (including UCOME and TME) will remain at 9.6%. In parallel, the cap for crop based biofuels will decrease very progressively from 4% in 2020 to 2% in 2032.