

BIOFUELS REGULATORY UPDATE

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What's new

The following main developments have materialized on the regulatory front since July:

1. In France, the Parliament is currently discussing the draft of the 2021 budget law, which article 15 notably includes a cap of soy-based biofuels from 2021 and full ban of it (+ PFAD) from 2022.

2. The German Ministry of Environment has started the process of RED2 transposition with a poorly ambitious draft that would freeze the GHG mandate at 6% until 2026, together with many other drafted changes.

3. In Italy, major changes from 2023 are in the making: the ban of palm and soy oil for biofuels eligibility + the separation of the blending obligation for diesel and gasoline.

4. Spanish authorities have drafted a Royal Decree to increase the biofuels blending obligation to 9.5% and 10% e.c in 2021 and 2022, respectively.

5. The Swedish government announced the increase of GHG mandates would not occur before July 2021, with proposed levels of 26% and 6% reduction for diesel and gasoline, respectively.

6. The first version of the 2021 budget of law in Portugal contains the proposal to exempt advanced biofuels (Annex IX A) from the energy tax.

7. In Luxembourg, the initial draft for the 2021 budget law clearly say that the current 7.7% e.c blending obligation will remain unchanged.

8. A political agreement was reached in Denmark to leave the 7.6% e.c blending obligation unchanged in 2021 (vs a decrease back to 5.75%).

9. In Norway, the blending mandate was increased from July 1 to 22.3% vol. (including 12.2% "advanced"), and the 2021 level was written into law (24.5% incl. 18% "advanced").

10. In the US, the political agenda prevented the Trump Administration from ruling the two main pending issues: the Small Refineries Exemptions (SRE) for 2019/2020 and the proposed Renewable Volume Obligation (RVO) for 2021.

Current situation

The Parliament is currently discussing the draft of the 2021 budget law, which article 15 focuses on changes of the biofuels regulatory framework. The highlight of it is the capping of soy based biofuels in 2021 (at 0.35 or 1% e.c) and their full ban from 2022. At the time of writing, other changes including the increase of the diesel bio substitutes obligation (to 8.1% e.c), the introduction of an advanced sub-target (0.2% for diesel), the introduction of the a biojet obligation (1% e.c) and the increase of the penalty (to EUR 1'040/cum) are drafted for an enforcement in 2022 only. Consequently, the biodiesel obligation should remain unchanged in 2021 at 8% e.c. The vote of the final version will occur during the second half of December.

MANDATE	2019	2020	2021
Biodiesel	7.9% e.c	8% e.c	8% e.c
Ethanol	7.9% e.c	8.2% e.c	8.6% e.c
Road/non-road applicability	Road + 100% non-road	Road + 100% non-road	Road + 100% non-road
RED	x	x	x
FQD	-	No penalty system	-

DOUBLE COUNTING	2019	2020	2021
Enforcement	x	x	x
CAP	0.9% e.c uco + tallow, 0.6% tail oil and (Overall - 7%) for C3/advanced	0.9% e.c uco + tallow, 0.6% tail oil and (Overall - 7%) for C3/advanced	0.9% e.c uco + tallow, 0.6% tail oil and (Overall - 7%) for C3/advanced
UCOME	x	x	x
TME cat. 1	x	x	x
TME cat. 2	x	x	x
TME cat. 3	-	-	-
Fatty acids	-	-	-
POME	x (advanced)	x (advanced)	x (advanced)

QUOTA (EUR /CUM)	2019	2020	2021
Diesel tax, (incl. CO2 Tax)	594	594	594
Biodiesel tax Break	B100: EUR 0.4757/lt	B100: EUR 0.4757/lt	B100: EUR 0.4757/lt

PENALTIES IN CASE OF NON-COMPLIANCE

The TGAP system has been replaced by a simpler system called "taxe incitative relative à l'incorporation des biocarburants". Obligated parties failing to reach the targets must pay EUR 101/hl missing in 2020.

TICKETS SYSTEM

Yes.

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°

This 2021 budget law will include some of the features of the RED2 but there is still no long-term vision available beyond 2022. It includes also the ban of PFAD from 2022, while no news were reported of the PFAD case at the State Council, which must still decide if the product is included or not within the ban of palm products. Also, there is no publicly available information of the expected reinforcement of traceability requirements from 2021.

Published before the summer 2020, the final version of the multiannual programming of energy (PPE) law revised sharply down ambitions initially suggested (1% in 2018 and 2.3% in 2023): 0.4% and 2.8% e.c advanced sub-targets in 2023 and 2028, respectively. The concrete enforcement of these targets will be done through the revision of the mandate levels in the coming years.

The DGEC, in charge of building the regulatory framework applied to biofuels in France, is currently working on strengthening the requirements for DC eligibility, a process that could materialize in the form of a decree with an uncertain timeline. The process for sustainably checking should be eased in the coming years through the DGEC project of "CarbuRe", an equivalent of the German Nabisy, possibly entering into function in 2021.

Current situation

The Ministry of Environment has started the process of RED2 transposition with a poorly ambitious draft that would freeze the GHG mandate at 6% until 2026, when it would increase to 7.25%. Other drafted elements include a cap of 1.9% e.c Annex IX B (which would include animal fats C1/C2, without enforcement date proposed), increase of the advanced sub-target until 1.75% e.c in 2030, decrease of the crop cap (3.2% in 2022, 3% in 2024 and 2.7% in 2026) and a very aggressive phasing out of high ILUC biofuels (cap 0.5% in 2022, 0.3% in 2024 and 0% in 2026).

MANDATE	2019	2020	2021
Biofuels	4% GHG	6% GHG	6% GHG
Cap UERs	–	1.2% GHG	1.2% GHG
Advanced sub-target	–	0.05% e.c (no DC)	0.1% e.c (no DC)
Road/non-road applicability	Applicable to non-road fuels.		
RED	x	x	x
FQD	4% GHG	6% GHG	6% GHG

DOUBLE COUNTING	2019	2020	2021
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)	2019	2020	2021
DIESEL TAX, (INCL. CO ₂ 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 ₂ 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°

Other elements of the RED2 transposition draft (which will be done through the update of two legal texts: a law on the further development of the THG quota and an ordinance laying down further provisions for the ruling of the THG quota) include.

- Approval of green hydrogen used at refineries with 2-fold credits
- E-mobility 4-fold crediting of renewable electricity
- Penalty increase to EUR 600/mtCO₂eq

- Introduction of a "e-fuel" quota for the aviation sector, that would exclude biojet as known today (from the hydrogenation process): 0.5% e.c in 2026, 1% in 2028 and 2% in 2030.

The final decisions and votes about the two legal texts are scheduled to occur by the Spring 2021. The rules for 2021 should remain exactly the same as for 2020.

The UER-Verordnung was released in January 2018 and introduced a cap of the share of the 2020 mandate that will be filed 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 BMU before the project starts.

Current situation

It was confirmed by Ministry Sources that the National Energy & Climate Plan contained a sentence establishing the principle of separation of the biofuels blending obligation for diesel and gasoline from 2023. This will be addressed by the process of RED2 transposition, which is poorly transparent at this stage. In another news, the Senate voted to exclude palm and soy oil from 2023 within the “European delegation law”. This vote must be now confirmed at the lower Chamber of the Parliament.

MANDATE	2019	2020	2021
Biofuels	8% e.c	9% e.c	9% e.c
Advanced sub-target	incl. 0.8% e.c (75% biomethane, 25% other advanced)	incl. 0.9% e.c (75% biomethane, 25% other advanced)	incl. 1.5% e.c (75% biomethane, 25% other advanced)
Road/non-road applicability	APPLICABLE TO ALL FUELS.		
RED	x	x	x
FQD	-	6% GHG	Not confirmed

DOUBLE COUNTING	2019	2020	2021
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	Some Fatty Acids still eligible	Some Fatty Acids still eligible	Some Fatty Acids still eligible
POME	x (advanced)	x (advanced)	x (advanced)

QUOTA (EUR /CUM)	2019	2020	2021
DIESEL TAX, (INCL. CO ₂ 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

EUR 750/CERTIFICATE MISSING

DEADLINE TO SUBMIT COMPLIANCE FILE

JANUARY 31 FOR PHYSICAL BLENDING, MAY 31 FOR CERTIFICATES

TICKETS SYSTEM

YES

CLIMATE CHOICES ENI4214:2012

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

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

The transition period mentioned by the Decree n° 19A07378 installing a National System of sustainability certification for biofuels, will end November 28, 2020. From then, all operators (this term excluding UCO collectors) selling incentivized (i.e DC) biofuels to the Italian market will be obliged to certify their product under the National Scheme. Before the deadline, operators already active in Italy will have to establish a “conformity certificate” based on the check of their internal management system of sustainability certification. The responsibility of the auditors will be engaged through the self-declarations 445/2000, who will have to make sure the root square of UCO outlets supplying a collector have been closely checked.

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 on March 2, 2018, 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 targets are clearly bearish for the market of conventional biofuels.

Current situation

Spanish authorities have released a draft of Royal Decree (RD) to modify the RD 1085/2015 setting the blending obligations. It includes increases to 9.5% e.c in 2021 and to 10% in 2022. A major feature of the changes is the proposed cap for Annex IX B at 1.7% e.c from 2021. The advanced sub-target would become mandatory from 2022 (0.2% e.c). Ministry sources expect a publication at the Official Journal by the government (no vote needed at the Parliament) before year-end, without significant changes. In parallel, a CNMC Circular updated the list with feedstocks' statutes (SC/DC/advanced).

MANDATE	2019	2020	2021
Biofuels	7% e.c	8.5% e.c	9.5% e.c
Advanced sub-target	-	0.1% e.c (indic)	0.1% e.c (indic)
Road/non-road applicability	APPLICABLE TO TRANSPORT FUELS ONLY.		
RED	x	x	x
FQD	-	-	-
DOUBLE COUNTING	2019	2020	2021
ENFORCEMENT	From Jan 1	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 (advanced)	x (advanced)	x (advanced)
QUOTA (EUR /CUM)			
DIESEL TAX, (INCL. CO ₂ TAX)	379	379	379
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°			

A CNMC circular released in June specified a surprising 7.2% e.c cap for crop-based biofuels in 2020, challenging the ILUC Directive at the very last moment. The draft of RD published in September confirmed this level from 2021.

The Orden TEC/1420/2018 was published at the Official Journal on December 29, 2018. It updated the way the National System for Verification of Sustainability will work, enabling in theory the generation of two certificates for the use of UCOME and TME cat. 1&2. The Circular 1/2019 that specify the conditions under which biofuels are certified, including those eligible to the DC scheme, was published on March 20, 2019. Retroactively to January 2019, the rules allow operators to double count all waste-based biofuels.

The regulatory framework established in 2015 for the 2015-2020 period, culminating with the 8.5% e.c blending mandate in force in 2020 will be soon extended for the 2021-2022 period. The RED transposition process will deal with the 2023-2030 period, at an undefined date.

Current situation

The Department for Transport (DfT) published the results of the consultation about the increase of the RTFO buy-out price, confirming its intention to increase it to GBP 50p/lt from 2021. The legislative process is underway and should lead to the enforcement of the increase on time.

MANDATE	2019	2020	2021
Biofuels	8.5% vol. from January 1	9.25% vol.	10.1% vol.
Advanced ("development")	0.1% vol.	0.15% vol.	0.5% vol.
Road/non-road applicability	APPLICABLE TO NON-ROAD FUELS SINCE APRIL 2013.		
RED	x	x	x
FQD	4% GHG	6% (UERs no cap)	NDY
DOUBLE COUNTING	2019	2020	2021
ENFORCEMENT	x	x	x
CAP	-	-	-
UCOME	x	x	x
TME CAT. 1	x	x	x
TME CAT. 2	-	-	-
TME CAT. 3	-	-	-
FATTY ACIDS	x	x	x
POME	x (advanced)	x (advanced)	x (advanced)
QUOTA (EUR /CUM)	2019	2020	2021
DIESEL TAX, (INCL. CO ₂ TAX)	650	650	650
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			
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 DfT confirmed that the 6% GHG obligation would not be imposed anymore from 2021. Documents suggest changes to the 2020-2032 framework for the main obligation might be brought forward in the near future, but no details are available at this stage. The E10 project is still on but the feedback to the public consultation held until May 2020 has yet to be released. It is not likely anymore that E10 will be introduced from 2021.

The new RTFO entered into force on April 15, 2018. The mandate jumped to 9.75% vol. in 2020, including a sub-target for "development fuel", the term chosen by the DfT for advanced fuels, at 0.15% vol. in 2020. In parallel of the blending mandate, a GHG mandate of 6% reduction is enforced in 2020.

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.