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Guidance on REDII forest biomass sustainability criteria

A Eurelectric response paper

April 2021

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:
- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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WG RES & Storage

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Comments on the draft Commission implementing Regulation on establishing operational guidance on the evidence for demonstrating compliance with the sustainability criteria for forest biomass laid down in Article 29 of Directive (EU) 2018/2001 of the European Parliament and of the Council.

General comments

Eurelectric supports the use of forest industry by-products and wood residues for energy production, as the use of sustainable woody biomass can make a meaningful contribution to climate change mitigation. We acknowledge the concerns that an increased EU biomass demand could also have negative impact on carbon sink and biodiversity. Robust and harmonised implementation of the new sustainability criteria for forest biomass by Member States and economic operators is crucial.

However, the now published draft of the guidance goes beyond the regulation on the directive itself. The draft widens the regulation to areas the directive does not handle and should thus be carefully assessed again as a whole. All the parts which do not only specify the directive but takes the regulation further should be removed from the guidance or altered to meet the level of the directive. The possible strengthening of the current criteria should not be matter of secondary legislation but discussed and decided by the co-legislator.

The sustainability criteria (in REDII) for biomass are well taking into consideration national requirements for ensuring the sustainability of forest biomass. This country or harvesting area risk- based approach is highly appropriate and it should be respected. We believe the suggested guidance does not, in practice, allow to use the country-based approach as widely as was meant to originally. This is not a matter of sustainability itself, but a matter of the mechanisms and systems operators can use to demonstrate compliance to national authorities.

Eurelectric is concerned that the draft leaves a heavy weight burden for the operators to prove the sustainability even in cases when it is clear the biomass is produced according to the criteria. We are highly concerned on the effect this will have specially on the small locally operating companies.

Bearing in mind the issues above, we believe that changes to the guidance are needed to improve the document and make the execution of sustainability criteria possible for the operators, in the given time limits.

The guidance should not try to add on regulation on the criteria on country-level (art. 29 6a.) The directive is clear on how the criteria shall be considered in the national legislation. When some of the criteria are noted in the national legislation, it is sufficient (according to the directive). If some of the criteria are not regulated in national laws, it could be concluded that the criteria have not been taken into consideration and that specific criteria must be proved in some other way by the operator.

The adequate required level of monitoring is also regulated in implemented national laws and therefore the operators should not be obligated to assess the level by themselves.

The guidance should be restricted to clarify the criteria on sourcing area-level (art. 29 6b) by giving advice on good practices on how to fulfil the requirements (voluntary certificates, existing reporting systems etc.) and not widen the criteria set in the directive.

Some parts of the guidance are defined contrary to how they are defined in the directive and some of the definitions would also need some fixing to be clear.

Specific comments

- Recital 9: it's unclear how the voluntary certificates would meet the criteria set in the draft. Recital (9) rightly mentions the important role of voluntary national and international certification schemes and their recognition by the European Commission. However, the timeline of the recognition process is now intricate and it should be made clear sufficient tools are available for market operators to demonstrate their compliance.
- Art. 1 and 2: the directive uses the term "forest biomass", and it should be used here (not biomass from forests, including primary or secondary).
- Art 2 (a) "forest biomass" (or "primary biomass from forest") is too widely defined. An appropriate definition should be: "primary biomass from forests means all industrial roundwood felled or otherwise harvested and removed from forest. However wood recovered due to natural mortality, residues from commercial felling and logging such as branches, roots, stumps and burls (where these are harvested), small diameter wood from thinnings and other roundwood or wood fraction, which are not valid for industrial usage are excluded."
- Art. 2 (a): it should include wood harvested from hydro filtration and screening rakes. This would be coherent with the definition in RED II (art. 2 (24) and allow a more sustainable management of specific waste.
- Art. 2 (c) and (d): the term "harvesting criteria" is not used in the directive, and the guidance should not change the term used, but use "sustainability criteria" instead.
- Art. 2 (f) to (i): these definitions are not used in the directive and they should be deleted.
- Art. 2 (x – new): "economic operator" is not defined. The definition should follow the definition in Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market: "economic operator means any natural or legal person that places solid or gaseous biomass fuels on the EU internal market for the first time."

- Art. 3:
    - The guidance should not try to add on regulation on the criteria on country-level (Art. 29 6a.) The directive is clear on how the criteria shall be considered on the national legislation. When some of the criteria is noted on the national legislation, it is sufficient (according to the directive).
    - The adequate required level of monitoring is also regulated in national laws and therefore the operator should not be obligated to assess the level by themselves. The assessment should be carried out in cooperation with national authorities.
- Art. 3.1 (b) point (ii):
    - The text must be clarified. Due to cold weather, in northern Europe the establishment may take longer time even if the rejuvenation is normally started three years after the harvesting.
    - On “no biodiversity degradation”. This sentence should be revised to acknowledge that forest biomass production is most often not the primary management objective of the forest, e.g. “a biodiversity impact that is relevant to the management objectives of the forest”.

- Art. 4: the guidance should be restricted to clarify the criteria on sourcing area-level (art. 29 6 b) by giving advice on good practices on how to fulfill the requirements (voluntary certificates, existing reporting systems etc.) and not widen the criteria set in the directive. If a specific Member State does not present measures and solutions applied in the form of national schemes, it is the responsibility and obligation of economic operators to use international voluntary schemes. They are also to provide a robust audited documentation regarding forest biomass. We would like to highlight that abovementioned issues lead to taking a very high risk for economic operators since they are dependent on measures taken by external actors. At the same time, multiple assessment schemes of the sourcing areas threaten the compliance certainty and stability.
- Art. 4.1 (b) point (iv):
    - Forest management activities are not driven by the bioenergy sector. For this reason, it is important to specify that the possible negative impacts on biodiversity or soil quality should not be provoked directly by the sector that is regulated by the REDII and present guidance. Biotic and abiotic risks must be considered. Removal of residues could be motivated by the need to avoid wildfire or biotic risk. In addition to facilitate the regeneration of forest. The removal of forest residues is often a prerequisite for subsequent soil preparation and planting to be carried out in a good way. Remaining forest residues make it difficult to prepare soil and to find enough good planting points.
    - "clear-cuts are minimised” : the implementing act provides for a general obligation to minimise "clear-cuts", which should be made more specific in order to ensure uniform enforcement in the European Union.
- Art. 4.1 (b) point (v): "*This includes ensuring that annual felled timber amounts do not exceed net annual increment in the relevant sourcing area on average within the five-year period prior to the harvesting intervention [...]*" should be amended with "or ensuring that harvest levels are justified by forest inventory and growth data [...]" to make it clear that even if net annual increments are not reported (like FIA data) you can calculate it through annual inventory and growth data.

- Art. 5 and 6: the criteria set here are not based on the directive, instead they stretch the boundaries of the criteria. The guidance should help to interpret the criteria and help the economic operator to show the authorities in Member States that the criteria are met. The guidance does the opposite as it obliges economic operators to provide additional evidence of the existence of management systems at the sourcing area level where compliance with the LULUCF criteria cannot be demonstrated. It would give very burdensome and almost impossible tasks to economic operators.
- Art. 7 point (c): it's our reading that in case there is compliance at national / sub-national level with LULUCF and harvesting criteria, only first and second party auditing are required whereas in case this is not available an independent third-party auditing is required - as the sentence structure is a bit hard to read, propose to reformulate and clarify.
- Art. 8: a transitional arrangement is needed that gives forest biomass users sufficient time to adjust supply contracts and makes it possible to still use the stockpiles and residual quantities in storage facilities and plants for which retroactive certification under the new provisions is not possible as sustainable forest biomass within the meaning of the RED.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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