

The Norwegian Bioenergy Association’s comments on EU Draft 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

The Norwegian Bioenergy Association (Nobio) acknowledges the importance of the guidance to enable robust and harmonised implementation of the new sustainability criteria for forest biomass.

Coherence in the interpretation of the measures and timeliness in transposition and implementation are paramount in preventing the arising of barriers to the internal market. The sector regrets the delay in publication of such draft guidance, that has generated further uncertainty in the operators. The preparedness of the system and tools to certify compliance will be paramount to its functioning. To avoid repeating the negative experience of liquid biofuels, through the shortages and consequent slow-down in 2011, the European Commission should, in cooperation with national authorities, prevent any regulatory gaps between the demand being generated for sustainable biomass, and its (certified) availability on the market.

While looking forward to the European Commission recognition of voluntary schemes and publication of standards, Nobio welcomes the content of the present draft and the opportunity to comment it.

However, Nobio notes that this draft regulation in its current formulation, stretches the boundaries of the criteria as laid down in the Renewable Energy Directive. We recall that the 2021 Joint Research Centre report on woody biomass noted that swift implementation of RED II would be key in managing sustainability risk from biomass sourcing, and we note that many of their recommendations are addressed here. We do not object to their inclusion, but it should be noted by the EU Commission, and other stakeholders, that this Implementing Act is already strengthening criteria on the grounds of the JRC report. We would request that this is taken into account in the ongoing review of the RED II that is being undertaken as part of the ‘Fit for 55’ package.

Nobio believe that the inclusion of the following targeted recommendations would improve the document and ease operationalization of sustainability criteria.

Reference	Proposed amendment	Justification/ Comment
(6)	(6) Where there is no evidence of compliance at the national level with one or more of the harvesting criteria laid down in point (a) of Article 29 (6) of Directive (EU) 2018/2001, (DELETE) forest biomass should be considered high risk. sustainability evidence which should be provided by economic operators through management systems at forest sourcing area level, when compared to that required under the national and sub-national compliance assessment.	<p>The qualification of forest biomass as high-risk is incorrect and misleading.</p> <p>If 29.6(a) does not apply, evidence at sourcing area level will guarantee that the biomass is sourced sustainably and does not pose risks.</p> <p>This is rather a reflection of the fact these issues are governed and regulated at a sub-national level in some jurisdictions.</p>
(9)		The recital rightly mentions the important role of voluntary national and international certification schemes and their recognition by the European Commission. Bioenergy Europe underlines the importance of timeliness in the recognition process,

		to make sure sufficient tools are available for market operators to demonstrate their compliance.
Article 1 (2) (a)	(a) primary biomass from forests, from which solid biomass fuels have been produced that are used in installations producing electricity, heating and cooling or fuels with a total biomass rated thermal input below 20 MW;	Red II and its sustainability criteria apply to biomass, the threshold should therefore only apply to unit using biomass and avoid covering other possible backup installations.
Article 2 (b)	'secondary biomass from forests' means residues from forest-based industry, including - but non-limited to - bark, sawdust and wood shavings that result from sawmilling or wood milling, and recovered post-consumer wood;	The list does not include sawn timber cuttings and other more robust secondary biomass from forest industry.
Article 2 (c)	'harvesting sustainability criteria at national or sub-national level' means the criteria laid down in point (a) of Article 29 (6) of Directive (EU) 2018/2001;	Article 29 title refers to sustainability. The present guidance apply a wording consistent to the Directive.
Article 2 (d)	'harvesting sustainability criteria at sourcing area level' means the criteria laid down in point (b) of Article 29 (6) of Directive (EU) 2018/2001;	
Article 2 (j)	'deadwood' means all non-living woody biomass not contained in the litter, either standing, lying on the ground, or in the soil, including wood lying on the surface, coarse debris, dead roots, and large stumps or any other definition used in by the country concerned larger than or equal to 10 cm in diameter or any other diameter used by the country concerned;	<p>The definition of deadwood includes an impractical diameter related requirement. While diameter is not a prescription for its end use, the introduction of this restriction will complicate compliance and have in return no impact on forest sustainability. This should be deleted leaving to the Member State to decide based on local sustainable forest management practices.</p> <p>We refer to a joint letter that was sent the 26. of April to vice-president Timmermans and to Commissioners for Energy, Agriculture and Environment with some key points on the current discussion on bioenergy and forestry and the use of whole trees in different sizes in a sustainable way.</p>
Article 2 (s)	'first gathering point' means a storage or processing facility managed by an economic operator or other counterpart under agreement and that is sourcing raw materials directly from primary producers of forest biomass;	Demand to <i>manage</i> a site would be too restrictive as many times operator may use several traders or forest companies.
Article 3.1 (b) iii	the effective protection of areas designated by international or national law, or by the relevant competent authority, for nature protection purposes, including areas being defined as in wetlands and peatlands;	Article 29 (6) (a) (iii) refers to areas designated by international or national law or by the relevant competent authority for nature protection purposes, including IN wetlands and peatlands. This means areas that are part of wetlands and peatlands rather than all wetlands and peatlands.
Article 3 (b) (iv)	that forest harvesting is carried out in a way that minimizes negative impacts on soil quality and biodiversity, by demonstrating that the applicable laws or management systems ensure, during the harvesting operations, the protection of soils, species and habitats, and regulate ensures the removal of	In several EU member states (including forest rich countries) removal of stumps is not regulated by national authorities, rather is ensured by certification which are in these cases covering more than 90% of the forest area.

	stumps, roots, deadwood, and where appropriate, needles or leaves;	
Article 4.1(b)(ii)	(ii) forest regeneration is carried out in a manner that at least maintains the quality and quantity of the harvested forest areas, including by ensuring that the forest is allowed a regeneration period of at least five years after the harvesting operation; and there is no biodiversity degradation in the regenerated forest area, including that primary forests and natural or semi-natural forests are not degraded to or replaced with plantation forests as a consequence of management activities carried out for the bioenergy sector.	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. The deleted paragraph proposes new measures and goes being REDII.
	Article 4.1 (b) (iv) (iv) forest harvesting is carried out in a way that aims at least at preventing negative impacts on soil quality and biodiversity. To that end, the relevant risks associated with forest biomass harvesting shall be identified in advance. Unless otherwise duly justified by national, sub-national or local forest management guidelines, best management practices, or demonstrated to not be a direct result of bioenergy production the following appropriate mitigation actions shall be implemented, including no harvesting of stumps and roots; no harvesting on vulnerable soils; harvesting is carried out through logging systems minimizing impacts on soils quality, including avoiding soil compaction; harvesting is carried out in a way that minimizes impacts on biodiversity features and habitats, including plants and animals protected under international or national legislation; and where appropriate a locally appropriate quantity and assortments of deadwood is left in the forest; clearcuts are minimized; and harvesting avoids extraction of needles and leaves; taking into account biotic and abiotic risks . Those mitigation actions shall be proven by providing, inter-alia, international and national databases, official maps and satellite imaging, forest management plans, operational protocols, and harvesting protocols, results of relevant compliance audits and inspections.	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. Removal of residues and debris could be motivated by the need to avoid wildfire or biotic risk.
Article 4.1(b)(v)	the harvest maintains or improves the forest's long-term production capacity. 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, or ensuring that harvest levels are justified by forest inventory and growth data , unless different amounts are duly justified in	This addition is necessary for regions that do not have a formal national or regional net annual increment as defined by the EU. REDII should apply equally among all regions, inside and outside the EU.

	order to enhance the future production capacity of the forest; or because of documented forest pests, storms or other natural disturbance. That shall be proven by using, inter-alia, public or private forest inventory data.	
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The Norwegian Bioenergy Association (Nobio) is the interest organization for the Norwegian bioenergy industry. We work for increased sustainable use and profitable utilization of bioenergy in Norway. Our organization has more than 100 members who operate throughout the value chain from the forest with the production of biofuels, to the supply of heat and fuel.