

## BIOFUEL POLICY UPDATE

### REPORT TO NORTH EAST BIOFUELS

26 MARCH 2010

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##### EU POLICY UPDATE

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##### EVENTS

**Environmental groups sue European Commission over iLUC documents**

A coalition of environmental groups has filed a legal action against the European Commission (EC) for failing to release requested documents investigating the impacts of indirect land-use-change (iLUC) caused by biofuels.

The groups – ClientEarth, Transport & Environment, European Environmental Bureau (EEB), and BirdLife International – are suing the Commission for “violations of European laws designed to promote transparency, democracy, and legitimacy in EU policy-making.” The groups said in their complaint that the Commission was “withholding time-sensitive and critical environmental information necessary for meaningful public participation in biofuel policy-making.”

The requests for information were first made on 15 October 2009. Following intense internal discussions and multiple extensions, the Commission had failed to release the documents by the statutory deadline of 9 February 2010. Instead, the Commission is reported to have written to the coalition informing them of their right to sue. In response, the coalition has taken the rare step of taking the issue to the General Court of the European Union.

The Commission has now published an extensive set of documents on its website. These documents are a combination of studies commissioned by the EC on iLUC, as well as internal calculations and communications. However the legal action still stands as the environmental groups claim that documentation does not fulfil the whole information request.

It is not clear whether the Commission has been making a deliberate attempt to hide information. James Thornton, a lawyer and CEO of ClientEarth, said, “The Commission might not be seeking to hide the truth, but the result of its stance is that crucial information is being withheld until it's no longer relevant. Its own access laws and work to mitigate climate change are being compromised by its inaction. The Commission's delaying tactics are totally against the spirit of the law.”

Pieter de Pous, Senior Policy Officer at the EEB, said, “The papers released so far give the strong impression that the Commission is preparing to present the studies' findings in a way that supports previously taken decisions, rather than assessing the real implications of these decisions and correcting them.”

The coalition's application will be reviewed by the Registrar of the General Court of the European Union, and later served upon the Commission, after which the Commission will have two months to respond. A hearing date has yet to be set.

Further information:

iLUC documents published so far:

[http://ec.europa.eu/energy/renewables/studies/land\\_use\\_change\\_en.htm](http://ec.europa.eu/energy/renewables/studies/land_use_change_en.htm)

Full text of legal filing:

[http://www.transportenvironment.org/Publications/prep\\_hand\\_out/lid/570](http://www.transportenvironment.org/Publications/prep_hand_out/lid/570)

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## European Commission announces non-mandatory sustainability criteria for biomass

The European Commission has published a report making recommendations on sustainability requirements that Member States could introduce for the use of solid biomass and biogas for electricity, heating and cooling. The report stops short of setting mandatory sustainability requirements, as are in place for biofuels for transport.

The report makes recommendations on sustainability criteria that could be used by those Member States wishing to introduce a sustainability scheme at the national level. The recommendations aim to encourage any sustainability requirements being introduced to be harmonised and thus minimise the risk of Member States introducing varied and possibly incompatible criteria, which could lead to barriers to trade within the EU.

The report states that at least 90% of biomass consumed in the EU for electricity and heat currently comes from European forest residues and by-products of other industries, and therefore more detailed legislation is not necessary at this stage. The impact assessment which accompanies the report suggests that binding criteria would impose substantial costs on European economic actors.

The recommended criteria, generally in line with the mandatory criteria for biofuels, relate to:

1. A general prohibition on the use of biomass from land converted from forest, other high carbon stock areas and highly biodiverse areas;
2. A common greenhouse gas calculation methodology which could be used to ensure that minimum greenhouse gas savings from biomass are at least 35% (rising to 50% in 2017 and 60% in 2018 for new installations) compared to the EU's fossil energy mix;
3. The differentiation of national support schemes in favour of installations that achieve high energy conversion efficiencies; and
4. Monitoring of the origin of biomass.

It is also recommended not to apply sustainability criteria to wastes, as these must already fulfil environmental rules in accordance with waste legislation at national and at European level, and that the sustainability requirements should apply only to larger energy producers of 1 MW thermal or 1MW electrical capacity or above.

The EC will review the situation again in 18 months to see if it needs to be modified, including the possibility of introducing mandatory standards.

Further information:

EC Supporting documents:

[http://ec.europa.eu/energy/renewables/bioenergy/sustainability\\_criteria\\_en.htm](http://ec.europa.eu/energy/renewables/bioenergy/sustainability_criteria_en.htm)

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## UK POLICY UPDATE

### RFA consults on "RED-ready" C&S guidelines

The Renewable Fuels Agency (RFA) has concluded a formal stakeholder consultation on their approach to making the Renewable Transport Fuel Obligation (RTFO)

Carbon and Sustainability (C&S) guidelines "RED-ready" from April 2010. In other words, making the RTFO as consistent as possible with the EU Renewable Energy Directive (RED) requirements from year three of the RTFO.

The RFA consulted on proposed revisions to the Technical Guidance during February. The RFA is aiming to help the UK biofuels industry prepare for the mandatory C&S requirements that the RED will bring by adapting the RTFO's carbon and sustainability reporting system to be as consistent as possible with the RED from the start of the third year of the RTFO on 15 April 2010.

This is intended to enable a period of reporting against indicative "RED-ready" criteria before the introduction of mandatory C&S requirements when the UK Government implements the RED. Member States are due to implement the RED by December 2009, although the Department for Transport has now indicated that this is likely to be delayed in the UK until March 2011.

Key changes proposed include adapting the way lifecycle greenhouse gas (GHG) savings for biofuels are calculated to use the RED methodology, making minor changes to the RTFO sustainability meta-standard to be fully consistent with the RED mandatory criteria on biodiversity, carbon stock and land-use change, and adding options for parties to report the NUTS-2 level region<sup>1</sup> that their feedstock was cultivated in and whether their biofuel is eligible for the grandfathering clause<sup>2</sup>.

The EC is yet to publish a number of key details and definitions that will be required to fully implement the RED, such as how the RED will define biofuels from wastes and residues. The RFA's intention is to make final changes to the RTFO from the next obligation year, likely in April 2011, at which point the RED carbon and sustainability requirements will become mandatory.

The RFA is currently analysing responses to the consultation and is due to publish the final revised version of the Technical Guidance in the coming week.

Further information:

RFA consultation documents:

<http://www.renewablefuelsagency.gov.uk/reportsandpublications/carbonandsustainabilityconsultations/consultation2010-11.cfm>

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## **Biofuel duty relief ends 1 April**

The current 20 pence per litre (ppl) fuel duty differential for biodiesel and bioethanol will cease from 1 April 2010.

From 1 April duty on biodiesel and bioethanol will be charged at the same rate as fossil road fuels, and will also be subject to the fuel duty increases as announced by the government in this month's budget.

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<sup>1</sup> For biofuels from EU feedstocks, parties are only allowed to use the RED GHG default values if their feedstock is from a region where the typical GHG emissions from cultivation of agricultural raw materials can be expected to be *lower than or equal to* the emissions in the default value. Regions are defined at the "NUTS 2" level (Nomenclature of territorial units for statistics, level-2) and are roughly equivalent to the size of a county. The UK government is currently working on the list of eligible regions in the UK.

<sup>2</sup> The so-called 'grandfathering clause' implies that biofuels from installations that were already operational on 23 January 2008 will not have to meet the 35% GHG saving threshold until 1 April 2013.

The exception to this is biodiesel produced from used cooking oil, which will remain eligible for the duty reduction for a further two years.

The change in legislation comes just as the UK is due to be ramping up biofuel production and use. Under the new EU Renewable Energy Directive, renewable fuels will have to contribute a minimum of 10% of all road transport fuel by 2020.

The RTFO places an obligation on fuel suppliers to supply an increasing percentage of renewable fuel. The obligation has been in place alongside the duty reduction since the RTFO started in 2008, but the government is now removing the duty incentive to support biofuels via the obligation alone.

The buy-out price under the RTFO – the price paid by obligated suppliers for every litre that they are short on their biofuel obligation – will therefore increase from the current 15 ppl to 30 ppl. This change will come into effect from the start of year three of the RTFO, from 15 April 2010.

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### **Morrisons announces closure of high-blend biofuel pumps**

UK supermarket chain Morrisons, the UK's biggest supplier of retail biofuels, has announced the closure of its high blend biofuel B30 (30% biodiesel, 70% standard diesel) pumps from April 1.

Morrisons is also said to be considering the removal of its line of high blend bioethanol, E85 (85% ethanol, 15% standard petrol).

Morrisons has been a pioneer in the UK by trialling the sale of high blends of biofuel, particularly in the north east region. However the supermarket chain's announcement follows the forthcoming removal of the 20 pence per litre duty reduction for biofuel sold in the UK from 1 April, which was announced in the last Pre-Budget Report last year. The duty differential will remain in place for biofuels made from used cooking oil for a further 2 years.

Morrisons says it will withdraw pumps at 144 filling stations that dispense B30. According to a report in The Times, the fuel is used by about 5,000 vehicles. All the vehicles will, however, still be able to run on standard diesel.

Further information:

LowCVP News Release 10 February 2010:

<http://www.lowcvp.org.uk/news/1352/bulletin/>

Guardian News Article 10 February 2010:

<http://www.guardian.co.uk/environment/2010/feb/10/should-we-mourn-biofuels>

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### **Bristol palm oil power plant refused planning permission**

An application to build a biofuel power plant at Avonmouth has been refused by city councillors. The plant was planned to be fuelled initially by palm oil, and was attacked by critics who blamed the demand for palm oil for rainforest destruction.

More than 1,100 written objections to the plant had been received before the meeting to make the final decision. The councillors told the hearing that the decision to turn down planning permission had to be made according to material planning considerations, not emotions. Councillors voted against official advice from planners and voted 6-2 against the plan.

Councillors will have to justify their reasons if the company behind the application, W4B, decides to appeal.

The Avonmouth decision is being watched closely as it is one of several similar plants around the UK under consideration; one in Weymouth has already been approved.

BBC business correspondent Dave Harvey said, "If Bristol's decision stands then local councillors have every right to consider the international environmental issues and not just the immediate local planning questions."

Further information:

BBC News Article 24 February 2010:

<http://news.bbc.co.uk/1/hi/england/bristol/8532017.stm>

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## EVENTS

### **UK Aware 2010, 16 April 2010, London**

Green consumer show, UK AWARE on April 16-17 will showcase the 'Green Machines Expo' which claims to be the biggest collection of electric and low carbon vehicles to be displayed in the UK.

<http://www.lowcvp.org.uk/events/817/uk-aware-2010/www.ukaware.com>

### **RFA Quarterly Stakeholder meeting, 21 April, London**

The RFA's next stakeholder workshop will cover updates from the RFA, likely to include the revised Carbon and Sustainability Technical Guidance for year three of the RTFO. For further information and registration details:

<http://www.renewablefuelsagency.gov.uk/meetings>

### **Ecofys workshop for NEPIC members, 30 April 2010, Wilton Centre**

This event will provide an overview of the implementation of the EU Renewable Energy Directive (RED) with respect to biofuels. The workshop will primarily focus on the carbon and sustainability requirements of the RED, as well as its impact on the Renewable Transport Fuel Obligation and to the UK biofuel industry.

### **Sustainabilitylive! including LowCVP Green Transport Seminar and Exhibition 2010, 20 - 22 April 2010, Birmingham**

The LowCVP is to run a one-day programme of seminars on 20 April at the 2010 Sustainabilitylive! The low carbon road transport seminar programme will take place on the first day of the event in a purpose-built seminar theatre adjacent to the low carbon vehicles and technology display area within the ET event. The seminars will each last around 30 minutes and are free to delegates.

<http://www.lowcvp.org.uk/events/817/uk-aware-2010/www.ukaware.com>