COMMISSION IMPLEMENTING DECISION (EU) 2022/1657

of 26 September 2022

on the recognition of the Sustainable Biomass Program voluntary scheme for demonstrating compliance with the requirements of Directive (EU) 2018/2001 of the European Parliament and of the Council for biofuels, bioliquids, biomass fuels, renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources ([1]), and in particular Article 30(4) and (5) thereof,

Whereas:

(1) Directive (EU) 2018/2001 lays down requirements for certain fuels, namely biofuels, bioliquids, biomass fuels, renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels to ensure that they can only be counted towards the targets set in that Directive if they have been sustainably produced and save significant greenhouse gas emissions compared to fossil fuels. Article 29 of the Directive lays down sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids, and biomass fuels. Furthermore, Article 26 of the Directive and Commission Delegated Regulation (EU) 2019/807 ([2]) lay down the criteria to determine which feedstock for biofuels, bioliquids or biomass fuels has high indirect land-use change risk, on the one hand, and which high indirect land-use change-risk biofuels, bioliquids or biomass fuels that meet certain conditions can be certified as having low indirect land-use change risk, on the other hand. Article 25(2) of the Directive lays down greenhouse gas emissions saving criteria for renewable liquid and gaseous fuels of non-biological origin and recycled carbon fuels used in transport. Article 28(2) of the Directive requires economic operators to enter information in a Union database on the transactions made and the sustainability characteristics of some renewable fuels (biofuels, biogas and renewable liquid and gaseous fuels of non-biological origin) and recycled carbon fuels used in transport.

(2) Directive (EU) 2018/2001 also lays down rules for the calculation of the contribution of renewable electricity to the transport targets. In particular, Article 27(3) of that Directive lays down the rules on how to calculate this contribution, both when the electricity is directly used to power electric vehicles and when it is used to produce renewable liquid and gaseous fuels of non-biological origin that are used in transport.

(3) Voluntary schemes have played an important role in providing evidence of compliance with the sustainability and greenhouse gas emissions saving criteria for biofuels and bioliquids. Under Directive (EU) 2018/2001, voluntary schemes can be used to certify compliance of all fuels produced from biomass, including gaseous and solid fuels, with the sustainability criteria laid down in that Directive, and provide accurate data on their greenhouse gas emissions savings, as well as to certify compliance of renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels with their greenhouse gas emissions saving criteria and to prove compliance with the provisions of Article 27(3) of that Directive regarding the calculation of the share of renewable electricity in transport. Voluntary schemes can also be used to prove that economic operators enter accurate information into the Union or national database on some renewable fuels and recycled carbon fuels used in transport in accordance

([1]) OJ L 328, 21.12.2018, p. 82.

([2]) Commission Delegated Regulation (EU) 2019/807 of 13 March 2019 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council as regards the determination of high indirect land-use change-risk feedstock for which a significant expansion of the production area into land with high carbon stock is observed and the certification of low indirect land-use change-risk biofuels, bioliquids and biomass fuels (OJ L 133 du 21.5.2019, p. 1).

with Article 28(4) of Directive (EU) 2018/2001. Furthermore, voluntary schemes can be used to certify biofuels, bioliquids and biomass fuels with low indirect land-use change-risk. The Commission may decide that voluntary national or international schemes can serve all or some of these purposes.

(4) Pursuant to Article 30(9) of Directive (EU) 2018/2001, where an economic operator provides proof of or data on compliance with the sustainability and greenhouse gas emissions saving criteria, obtained in accordance with a voluntary scheme that has been recognised by the Commission, to the extent covered by the recognition decision, a Member State is not to require the supplier to provide further evidence.

(5) The Sustainable Biomass Program voluntary scheme ('SBP scheme') submitted a request to the Commission, for recognition pursuant to Article 30(4) of Directive (EU) 2018/2001 on 15 October 2020. The request led to an assessment of that scheme by the Commission, in which some issues requiring modification were identified. The SBP scheme re-submitted its request on 2 December 2021, addressing the issues which had been identified.

(6) The SBP scheme covers the following types of feedstock(s): (a) ligno-cellulosic material derived from forest and non-forest land; (b) processing residues from forest and agriculture related industries (outside forest and agricultural land). Agricultural residues from agricultural land are excluded. The SBP scheme covers biomass fuels (pellets and wood chips) produced from forest and non-forest ligno-cellulosic material and forest and agriculture related industry processing residues for heat and electricity production. 'Bioliquids', 'biofuels', 'biogas', 'renewable liquid and gaseous transport fuels of non-biological origin' and 'recycled carbon fuels' are outside of the scope of the SBP scheme. The SBP scheme has a global geographic coverage and encompasses the entire chain of custody.

(7) In assessing the SBP scheme, the Commission found that it covers adequately the sustainability criteria laid down in Article 29(6) to (7) of Directive (EU) 2018/2001, contains accurate data on greenhouse gas emission savings for the purposes of Article 29(10) of that Directive and applies a mass balance methodology in accordance with the requirements of Article 30(1) and (2) of that Directive. This assessment does not take into account the forthcoming implementing acts, to be adopted in accordance with Article 29(8) and Article 30(8) of Directive (EU) 2018/2001, on providing guidance for demonstrating compliance with the sustainability criteria laid down in Article 29(6) and (7) of that Directive and on rules to verify sustainability and greenhouse gas emissions saving criteria and low indirect land-use change-risk criteria. The SBP scheme will therefore be re-assessed when such implementing acts will be adopted

(8) The assessment of the SBP scheme found that it meets adequate standards of reliability, transparency and independent auditing and complies with the methodological requirements set out in Annex VI to Directive (EU) 2018/2001.

(9) The recognised SBP scheme should be made available in the section devoted to voluntary schemes on the Commission's Europa website.

(10) In order to allow for prompt application of the measures provided for in this Decision, this Decision should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(11) The measures provided for in this Decision are in accordance with the opinion of the Committee on the Sustainability of Biofuels, Bioliquids and Biomass fuels established by Article 34(2) of Directive (EU) 2018/2001.

HAS ADOPTED THIS DECISION:

Article 1

The Sustainable Biomass Program voluntary scheme, submitted for recognition to the Commission on 2 December 2021, demonstrates, for the fuels audited under the scheme, the following elements:

(a) compliance of the consignments of biomass fuels with the sustainability criteria laid down in Article 29(6) to (7) and (10) of Directive (EU) 2018/2001.

The Sustainable Biomass Program voluntary scheme also contains accurate data on greenhouse gas emission savings for the purpose of Article 29(10) of Directive (EU) 2018/2001 in as far as it ensures that all relevant information from economic operators upstream the chain of custody is transferred to the economic operators downstream the chain of custody.

Where the contents of the Sustainable Biomass Program voluntary scheme, as submitted for recognition to the Commission on 2 December 2021, change in a way that might affect the basis of this Decision, such changes shall be notified to the Commission without delay. The Commission shall assess the notified changes with a view to establishing whether the scheme still adequately covers the sustainability criteria for which it is recognised.

Article 2

The Decision shall apply until 28 September 2027.

Article 3

The Commission may repeal this Decision, inter alia, under the following circumstances:

(a) if it has been clearly demonstrated that the Sustainable Biomass Program voluntary scheme has not implemented elements considered to be important for this Decision or if a severe and structural breach of those elements has occurred;

(b) if the Sustainable Biomass Program voluntary scheme fails to submit annual reports to the Commission pursuant to Article 30(5) of Directive (EU) 2018/2001;

(c) if the Sustainable Biomass Program voluntary scheme fails to implement standards of independent auditing and other requirements specified in implementing acts referred to in Article 29(8) or Article 30(8) of Directive (EU) 2018/2001 or improvements to other elements of the scheme considered to be important for a continued recognition.

Article 4

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels, 26 September 2022.

For the Commission
The President
Ursula VON DER LEYEN