Commission Implementing Decision (EU) 2018/1854 of 27 November 2018 on recognition of the 'Better Biomass' voluntary scheme for demonstrating compliance with the sustainability criteria under Directives 98/70/EC and 2009/28/EC of the European Parliament and of the Council

COMMISSION IMPLEMENTING DECISION (EU) 2018/1854

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THE EUROPEAN COMMISSION,

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

Having regard to Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC[(1)], and in particular the second subparagraph of Article 7c(4) thereof,

Having regard to Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC[(2)], and in particular the second subparagraph of Article 18(4) thereof,

Whereas:

(1) Articles 7b and 7c of, and Annex IV to, Directive 98/70/EC and Articles 17 and 18 of, and Annex V to, Directive 2009/28/EC lay down similar sustainability criteria for biofuels and bioliquids, and similar procedures for verifying that biofuels and bioliquids comply with those criteria.

(2) Where biofuels and bioliquids are to be taken into account for the purposes referred to in Article 17(1)(a), (b) and (c) of Directive 2009/28/EC, Member States should require economic operators to show that biofuels and bioliquids comply with the sustainability criteria set out in Article 17(2) to (5) of that Directive.

(3) The Commission may decide that voluntary national or international schemes setting standards for the production of biomass products contain accurate data for the purposes of Article 17(2) of Directive 2009/28/EC, and/or demonstrate that consignments of biofuel or bioliquid comply with the sustainability criteria set out in Article 17(3), (4) and (5), and/or that no materials have been intentionally modified or discarded so that the consignment or part thereof would fall under Annex IX. Where an economic operator provides proof or data 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 should not require the supplier to provide further evidence of compliance with the sustainability criteria.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2018/1854. (See end of Document for details)*

(4) The request for recognition that the 'Better Biomass' voluntary scheme demonstrates that consignments of biofuel comply with the sustainability criteria set out in Directives 98/70/EC and 2009/28/EC was submitted to the Commission on 20 February 2018. The scheme that is based in Vlinderweg 6, NL-2623 AX Delft, The Netherlands, covers a wide range of feedstocks including wastes and residues and the entire chain of custody. The recognised scheme documents should be made available at the transparency platform established under Directive 2009/28/EC.

(5) In assessing the 'Better Biomass' voluntary scheme, the Commission found that it covers adequately the sustainability criteria set out in Directives 98/70/EC and 2009/28/EC, as well as applies a mass balance methodology in accordance with the requirements of Article 7c(1) of Directive 98/70/EC and Article 18(1) of Directive 2009/28/EC.

(6) The assessment of the 'Better Biomass' voluntary scheme found that it meets adequate standards of reliability, transparency and independent auditing and also complies with the methodological requirements set out in Annex IV to Directive 98/70/EC and in Annex V to Directive 2009/28/EC.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee on the Sustainability of Biofuels and Bioliquids,

HAS ADOPTED THIS DECISION:

Article 1

The 'Better Biomass' voluntary scheme ('the scheme'), submitted for recognition to the Commission on 20 February 2018, demonstrates that consignments of biofuels and bioliquids produced in accordance with the standards for the production of biofuels and bioliquids set in the scheme comply with the sustainability criteria laid down in Article 7b(3), (4) and (5) of Directive 98/70/EC and Article 17(3), (4) and (5) of Directive 2009/28/EC.

The scheme also contains accurate data for the purposes of Article 17(2) of Directive 2009/28/EC and Article 7b(2) of Directive 98/70/EC.

Article 2

In the event that the contents of the scheme, as submitted for recognition to the Commission on 20 February 2018, 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 3

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

(a) if it has been clearly demonstrated that the scheme has not implemented elements considered to be decisive for this Decision or if severe and structural breach of those elements has taken place;

(b) if the scheme fails to submit annual reports to the Commission pursuant to Article 7c(6) of Directive 98/70/EC and Article 18(6) of Directive 2009/28/EC;