# Directive (EU) 2015/1513 of the European Parliament and of the Council of 9 September 2015 amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources (Text with EEA relevance)

## DIRECTIVE (EU) 2015/1513 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 9 September 2015

amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof, and Article 114 thereof in relation to Article 1(3) to (13) and Article 2(5) to (7) of this Directive,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Pursuant to Article 3(4) of Directive 2009/28/EC of the European Parliament and of the Council,[(3)] each Member State is to ensure that the share of energy from renewable sources in all forms of transport in 2020 is at least 10 % of the final consumption of energy in transport in that Member State. The blending of biofuels is one of the methods available for Member States to meet this target, and is expected to be the main contributor. Directive 2009/28/EC also stresses the need for energy efficiency in the transport sector which is imperative because a mandatory percentage target for energy from renewable sources is likely to become increasingly difficult to achieve sustainably if overall demand for energy for transport continues to rise. Therefore, and due to the importance of energy efficiency also for greenhouse gas emission reduction, Member States and the Commission are encouraged to include more detailed information on energy efficiency measures in the transport sector in their reports to be submitted in accordance with Annex IV to Directive 2012/27/EU of the European Parliament and of the Council[(4)] and other Union legislation with relevance for the promotion of energy efficiency in the transport sector.

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(2) In view of the Union's objective to further reduce greenhouse gas emissions and the significant contribution that road transport fuels make to those emissions, Member States are, pursuant to Article 7a(2) of Directive 98/70/EC of the European Parliament and of the Council[(5)], to require suppliers of fuel or energy to reduce by at least 6 % by 31 December 2020 the life cycle greenhouse gas emissions per unit of energy of fuels used in the Union by road vehicles, non-road mobile machinery, agricultural and forestry tractors and recreational craft when not at sea. The blending of biofuels is one of the methods available for fossil fuel suppliers to reduce the greenhouse gas intensity of the fossil fuels supplied.

(3) Directive 2009/28/EC sets out sustainability criteria with which biofuels and bioliquids need to comply in order to be counted towards the targets in that Directive and to qualify for inclusion in public support schemes. The criteria include requirements on the minimum greenhouse gas emission savings that biofuels and bioliquids need to achieve compared to fossil fuels. Identical sustainability criteria for biofuels are set out in Directive 98/70/EC.

(4) Where pasture or agricultural land previously destined for food and feed markets is diverted to biofuel production, the non-fuel demand will still need to be satisfied either through intensification of current production or by bringing non-agricultural land into production elsewhere. The latter case constitutes indirect land-use change and when it involves the conversion of land with high carbon stock it can lead to significant greenhouse gas emissions. Directives 98/70/EC and 2009/28/EC should therefore be amended to include provisions to address the impact of indirect land-use change given that current biofuels are mainly produced from crops grown on existing agricultural land. Those provisions should take due account of the need to protect investments already made.

(5) Based on forecasts of biofuel demand provided by the Member States and estimates of indirect land-use change emissions for different biofuel feedstocks, it is likely that greenhouse gas emissions linked to indirect land-use change are significant, and could negate some or all of the greenhouse gas emission savings of individual biofuels. This is because almost the entire biofuel production in 2020 is expected to come from crops grown on land that could be used to satisfy food and feed markets. In order to reduce such emissions, it is appropriate to distinguish between crop groups such as oil crops, sugars and cereals and other starch-rich crops accordingly. Furthermore, it is necessary to encourage research in, and development of, new advanced biofuels that are not in competition with food crops, and to further study the impact of different crop groups on both direct and indirect land-use change.

(6) With a view to avoiding the incentivisation of the deliberate increase in production of processing residues at the expense of the main product, the definition of processing residue should exclude residues resulting from a production process which has been deliberately modified for that purpose.

(7) Liquid renewable fuels are likely to be required by the transport sector in order to reduce its greenhouse gas emissions. Advanced biofuels, such as those made from wastes and algae, provide high greenhouse gas emission savings with a low risk of

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causing indirect land-use change, and do not compete directly for agricultural land for the food and feed markets. It is appropriate, therefore, to encourage greater research in, and development and production of, such advanced biofuels as they are currently not commercially available in large quantities, in part due to competition for public subsidies with established food crop-based biofuel technologies.

(8) It would be desirable to reach already by 2020 a significantly higher level of consumption of advanced biofuels in the Union compared to the current trajectories. Each Member State should promote the consumption of advanced biofuels and seek to attain a minimum level of consumption on their territory of advanced biofuels through setting a non-legally binding national target which it endeavours to achieve within the obligation of ensuring that the share of energy from renewable sources in all forms of transport in 2020 is at least 10 % of the final consumption of energy in transport in that Member State. Where available, Member States' plans for achieving their national targets should be published to increase transparency and predictability for the market.

(9) It is also appropriate for Member States to report to the Commission on the levels of consumption on their territory of advanced biofuels when setting their national targets and on their achievements towards such national targets in 2020, a synthesis report of which should be published, in order to assess the effectiveness of the measures introduced by this Directive in reducing the risk of indirect land-use change greenhouse gas emissions through the promotion of advanced biofuels. Advanced biofuels with low indirect land-use change impacts and high overall greenhouse gas emission savings and their promotion are expected to continue to play an important role in the decarbonisation of transport and the development of low-carbon transport technologies beyond 2020.

(10) In its conclusions of 23 and 24 October 2014, the European Council underlined the importance of reducing greenhouse gas emissions and risks related to fossil fuel dependency in the transport sector within the 2030 climate and energy framework, and invited the Commission to further examine instruments and measures for a comprehensive and technology-neutral approach for the promotion of emissions reduction and energy efficiency in transport, for electric transportation and for renewable energy sources in transport also beyond 2020.

(11) It is also important that the Renewable Energy Roadmap for the post-2020 period, to be presented by the Commission in 2018 in accordance with Article 23(9) of Directive 2009/28/EC, including for the transport sector, be developed as part of a broader Union energy and climate-related technology and innovation strategy that is to be developed in line with the European Council conclusions of 20 March 2015. Therefore, it is appropriate to review the effectiveness of the incentives for development and deployment of advanced biofuel technologies in due time to ensure that the conclusions of that review are fully taken into account in developing the post-2020 Roadmap.

(12) Distinctions in estimated indirect land-use change emissions arise from the different data inputs and key assumptions on agricultural developments such as trends in agricultural yields and productivity, co-product allocation and observed global land-use change and deforestation rates, which are not under the control of biofuel producers. While most biofuel feedstocks are produced in the Union, the estimated indirect land-

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use change emissions are mostly expected to take place outside the Union, in areas where the additional production is likely to be realised at the lowest cost. In particular, assumptions with regard to the conversion of tropical forests and peat land drainage outside the Union strongly influence the estimated indirect land-use change emissions associated with biodiesel production from oil crops, and as such it is most important to ensure that such data and assumptions are reviewed in line with the latest available information on land conversion and deforestation, including capturing any progress made in those areas through ongoing international programmes. The Commission should therefore submit a report to the European Parliament and to the Council in which it reviews, based on the best available scientific evidence, the effectiveness of the measures introduced by this Directive in limiting indirect land-use change greenhouse gas emissions associated with the production of biofuels and bioliquids, and reviews the possibilities for introducing adjusted estimated indirect land-use change emissions factors into the appropriate sustainability criteria.

(13) In order to ensure the long-term competitiveness of bio-based industrial sectors, and in line with the Commission Communication of 13 February 2012 entitled 'Innovating for Sustainable growth: A Bioeconomy for Europe' and the Commission Communication of 20 September 2011 entitled 'Roadmap to a Resource Efficient Europe', promoting integrated and diversified biorefineries across Europe, enhanced incentives under Directive 2009/28/EC should be set in a way that gives preference to the use of biomass feedstocks that do not have a high economic value for uses other than biofuels.

(14) A greater use of electricity from renewable sources is a means of addressing many of the challenges in the transport sector as well as in other energy sectors. It is therefore appropriate to provide additional incentives to stimulate the use of electricity from renewable sources in the transport sector and to increase the multiplication factors for the calculation of the contribution from electricity from renewable sources consumed by electrified rail transport and electric road vehicles so as to enhance their deployment and market penetration. Furthermore, it is appropriate to consider further measures to encourage energy efficiency and energy savings in the transport sector.

(15) Directive 2008/98/EC of the European Parliament and of the Council[(6)] helps move the Union closer to becoming a 'recycling society', by seeking to avoid waste generation and to use waste as a resource. The waste hierarchy generally lays down a priority order of what constitutes the best overall environmental option in relation to waste legislation and policy. Member States should support the use of recyclates in line with the waste hierarchy and with the aim of becoming a recycling society, and whenever possible not support the landfilling or incineration of such recyclates. Some of the feedstocks that pose low indirect land-use change risks can be considered to be wastes. However, they may still be used for other purposes that would represent a higher priority than energy recovery in the waste hierarchy as established in Article 4 of Directive 2008/98/EC. It is therefore appropriate for Member States to have due regard to the waste hierarchy principle in any incentive measures for the promotion of low indirect land-use change risk biofuels or any measures to minimise incentives for fraud in relation to the production of such biofuels, so that incentives to use such biofuel feedstocks do not counter efforts to reduce waste or increase recycling and the efficient and sustainable

use of available resources. Member States may include measures they are taking in that respect in their reporting under Directive 2009/28/EC.

(16) The minimum greenhouse gas emission savings threshold for biofuels and bioliquids produced in new installations should be increased in order to improve their overall greenhouse gas balance as well as to discourage further investments in installations with a low greenhouse gas emission savings performance. This increase provides investment safeguards for biofuels and bioliquids production capacities in conformity with the second subparagraph of Article 19(6) of Directive 2009/28/EC.

(17) To prepare for the transition towards advanced biofuels and minimise the overall indirect land-use change impacts, it is appropriate to limit the amount of biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land that can be counted towards targets set out in Directive 2009/28/EC, without restricting the overall use of such biofuels and bioliquids. In accordance with Article 193 of the Treaty on the Functioning of the European Union (TFEU), the establishment of a limit at Union level is without prejudice to the possibility for Member States to provide for lower limits on the amount of biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land that can be counted at national level towards targets set out in Directive 2009/28/EC.

(18) Member States should have the possibility of choosing to apply this limit on the amount of biofuels produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land that can be counted towards achieving the target set out in Article 7a of Directive 98/70/EC.

(19) In line with the need to limit the amount of biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land, Member States should aim to phase out support for consumption of such biofuels and bioliquids at levels which exceed that limit.

(20) Limiting the amount of biofuels and bioliquids produced from cereal and other starch-rich crops, sugars and oil crops and from crops grown as main crops primarily for energy purposes on agricultural land that can be counted towards targets set out in Directive 2009/28/EC does not affect the Member States' freedom to arrange their own trajectory as to compliance with the prescribed share of conventional biofuels within the overall 10 % target. As a consequence, the access to the market of the biofuels produced by the installations in operation before the end of 2013 remains fully open. Therefore this Directive does not affect the legitimate expectations of the operators of such installations.

(21) The provisional mean values of estimated indirect land-use change emissions should be included in the reporting by fuel suppliers and the Commission of greenhouse gas emissions from biofuels under Directive 98/70/EC, as well as in the reporting by the Commission of greenhouse gas emissions from biofuels and bioliquids under Directive