



Council of the  
European Union

Brussels, 15 March 2024  
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FORETS 91  
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#### COVER NOTE

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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 14 March 2024

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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No. Cion doc.: C(2024) 1585 final

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Subject: COMMISSION DELEGATED DIRECTIVE (EU) .../... of 14.3.2024 amending Annex IX to Directive (EU) 2018/2001 of the European Parliament and of the Council as regards adding feedstock for the production of biofuels and biogas

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Delegations will find attached document C(2024) 1585 final.

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Encl.: C(2024) 1585 final



Brussels, 14.3.2024  
C(2024) 1585 final

**COMMISSION DELEGATED DIRECTIVE (EU) .../...**

**of 14.3.2024**

**amending Annex IX to Directive (EU) 2018/2001 of the European Parliament and of the Council as regards adding feedstock for the production of biofuels and biogas**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Sustainable biofuels and biogases play an important role in increasing the share of renewable energy in sectors that are expected to rely on liquid fuels in the long term. The recast Renewable Energy Directive<sup>1</sup> ('the Directive') introduces new provisions for promoting the use of biofuels and biogases produced from feedstock listed in Parts A and B of Annex IX to the Directive. The Commission is requested to regularly review the list with a view to adding feedstock to the Annex provided it meets the criteria set out in the third subparagraph of Article 28(6).

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

Being of a technical nature, this delegated act did not require an impact assessment or an open public consultation. These are usually required only for major initiatives.

The delegated act draws on the results of several consultation exercises conducted by the Commission in connection with the implementation of Article 28(6) of the Directive, including two meetings of the expert group on renewable fuels.

The draft delegated act was published for public feedback on the Better Regulation Portal from 05 December 2022 to 02 January 2023. The feedback was taken into account in the revised text.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The delegated act is made pursuant to the second subparagraph of Article 28(6) of the Directive. It empowers the Commission to adopt delegated acts to amend the list of feedstock set out in Parts A and B of Annex IX by adding, but not removing, feedstock.

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<sup>1</sup> 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.

**COMMISSION DELEGATED DIRECTIVE (EU) .../...**

**of 14.3.2024**

**amending Annex IX to Directive (EU) 2018/2001 of the European Parliament and of the Council as regards adding feedstock for the production of biofuels and biogas**

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<sup>2</sup>, and in particular Article 28(6), second subparagraph, thereof,

Whereas:

- (1) Sustainable biofuels and biogases play an important role in increasing the share of renewable energy in sectors that are expected to rely on liquid fuels in the long term. Directive (EU) 2018/2001 introduced new provisions for promoting the use of biofuels and biogases produced from feedstock listed in Annex IX to that Directive.
- (2) The analysis of certain raw materials in accordance with the principles set out in Article 28(6), third subparagraph, of Directive (EU) 2018/2001 showed that they have potential as feedstock for biofuels and biogas production. Those raw materials should therefore be added in Annex IX to Directive (EU) 2018/2001.
- (3) The criterion determining whether a feedstock is added to Part A or Part B of Annex IX is whether the feedstock can be processed only with advanced technologies or it can be processed into biofuels or biogases with mature technologies. In absence of a definition of advanced and mature technologies in Directive (EU) 2018/2001, it is appropriate to consider a number of factors when adding feedstocks to Annex IX Part A or to Annex IX Part B. This includes next to indicators for the readiness of technology and the commercial readiness also the level of deployment of technologies. Further, the level of maturity of technology differs between the type of fuels that are produced. With regards to intermediate crops and crops grown on severely degraded land, the technologies needed to process those feedstock into biofuels used in aviation are not yet commercially deployed at scale while mature technologies are already available and deployed at scale to process the same feedstock into other types of biofuels that are used in other transport sectors such as biodiesel, bioethanol and biogas. Therefore, it is appropriate to add those feedstocks, exclusively when used for the production of biofuels for the aviation sector, to Annex IX Part A to the Directive, and to Annex IX Part B to the Directive if the feedstock is used for the production of other types of biofuels that are used in other transport sectors.
- (4) The Commission should regularly assess whether the raw materials included as feedstock for the production of biofuels and biogas for transport continue to meet the criteria and principles set out in Article 28(6) of RED, notably sustainability, as well as to ensure that investments in the most advanced processing technologies, including

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<sup>2</sup> OJ L 328, 21.12.2018, p. 82, ELI: <http://data.europa.eu/eli/dir/2018/2001/oj>.

those required to produce renewable fuels of non-biological origin, are not being deterred and that the relevant targets set out in Directive (EU) 2018/2001 can be met.

(5) Directive (EU) 2018/2001 should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

Annex IX to Directive (EU) 2018/2001 is amended in accordance with the Annex to this Directive.

#### *Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [18 month after adoption *PO: Please insert the date.*] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 3*

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

#### *Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 14.3.2024

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*