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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	Presidency compromise proposal on Article 8 of the Hydrogen and Gas Directive

In view of the Working Party on Energy on 7 November, delegations will find in the annex the Presidency compromise proposal on Article 8 of the Hydrogen and Gas Directive.



Compromise proposal on article 8 of the Hydrogen and Gas Directive

Text in **bold** from the General Approach.

Text in ***bold and italics*** from the EP’s mandate.

Text in **bold and yellow** corresponds to new additions.

Article 2, first paragraph, point (10)				
178	(10) ‘low-carbon hydrogen’ means hydrogen the energy content of which is derived from non-renewable sources, which meets a greenhouse gas emission reduction threshold of 70%;	(10) ‘low-carbon hydrogen’ means hydrogen the energy content of which is derived from non-renewable sources <i>and</i> which meets a greenhouse gas emission reduction threshold of <i>70 % and the relevant criteria set out in Article 8</i> ;	(10) ‘low-carbon hydrogen’ means hydrogen the energy content of which is derived from non-renewable sources, which meets <i>at the</i> greenhouse gas emission reduction threshold of 70% <i>compared to the fossil fuel comparator EF(t) set out in Annex V of Directive (EU) 2018/2001</i> ;	(10) ‘low-carbon hydrogen’ means hydrogen the energy content of which is derived from non-renewable sources, which meets <i>the</i> greenhouse gas emission reduction threshold of 70% <i>compared to the fossil fuel comparator EF(t) for renewable fuels of non-biological origin set out in Annex V the methodology adopted according to Article 29a(3) of Directive (EU) 2018/2001</i> ; <i>[Note: addition to keep alignment between the methodologies for renewable and low-carbon gases, using the same fossil fuel comparator].</i>
Article 2, first paragraph, point (11)				

179	(11) ‘low-carbon gas’ means the part of gaseous fuels in recycled carbon fuels as defined in Article 2, point (35) of Directive (EU) 2018/2001, low-carbon hydrogen and synthetic gaseous fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70%;	(11) ‘low-carbon gas’ means the part of gaseous fuels in recycled carbon fuels as defined in Article 2, point (35), of Directive (EU) 2018/2001, low-carbon hydrogen, and synthetic gaseous fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70 % and the relevant criteria set out in Article 8 of this Directive ;	(11) ‘low-carbon gas’ means the part of gaseous fuels in recycled carbon fuels as defined in Article 2, point (35) of Directive (EU) 2018/2001, low-carbon hydrogen and synthetic gaseous fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70% compared to the fossil fuel comparator EF(t) set out in Annex V of Directive (EU) 2018/2001 ;	(11) ‘low-carbon gas’ means the part of gaseous fuels in recycled carbon fuels as defined in Article 2, point (35) of Directive (EU) 2018/2001, low-carbon hydrogen and synthetic gaseous fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70% compared to the fossil fuel comparator EF(t) for renewable fuels of non-biological origin set out in Annex V the methodology adopted according to Article 29a(3) of Directive (EU) 2018/2001 ;
Article 2, first paragraph, point (12)				
180	(12) ‘low-carbon fuels’ means recycled carbon fuels as defined in Article 2 of Directive (EU) 2018/2001, low-carbon hydrogen and synthetic gaseous and liquid fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70%;	(12) ‘low-carbon fuels’ means recycled carbon fuels as defined in Article 2, point (35) , of Directive (EU) 2018/2001, low-carbon hydrogen, and synthetic gaseous and liquid fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70 % and the relevant criteria set out in Article 8 of this Directive ;	(12) ‘low-carbon fuels’ means recycled carbon fuels as defined in Article 2 of Directive (EU) 2018/2001, low-carbon hydrogen and synthetic gaseous and liquid fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70% compared to the fossil fuel comparator EF(t) set out in Annex V of Directive (EU) 2018/2001 ;	(12) ‘low-carbon fuels’ means recycled carbon fuels as defined in Article 2 of Directive (EU) 2018/2001, low-carbon hydrogen and synthetic gaseous and liquid fuels the energy content of which is derived from low-carbon hydrogen, which meet the greenhouse gas emission reduction threshold of 70% compared to the fossil fuel comparator EF(t) for renewable fuels of non-biological origin set out in Annex V the methodology adopted according to Article

				29a(3) of Directive (EU) 2018/2001;
Article 8				
296	Article 8 Certification of renewable and low carbon fuels	Article 8 Certification of renewable fuels and low-carbon fuels	Article 8 Certification of renewable and low carbon fuels	Article 8 Certification of renewable and low-carbon fuels
Article 8(1)				
297	1. Renewable gases shall be certified in accordance with Articles 29 and 30 of Directive (EU) 2018/2001.	1. Renewable gas shall be certified in accordance with Articles 29, 29a and 30 of Directive (EU) 2018/2001 [amended RED] .	1. For the purposes of certification of renewable gases and low carbon fuels, Member States shall be certified in accordance with Articles 29 and 30 require economic operators to show that the conditions for renewable gases set out in Article 25(2) and 29 of Directive (EU) 2018/2001 are complied with. Compliance with those sustainability and greenhouse gas saving criteria shall be demonstrated in	(based on Parliament's text) 1. Renewable gas shall be certified in accordance with Articles 29, 29a and 30 of Directive (EU) 2018/2001. Low-carbon fuels shall be certified in accordance with this Article. [Note: addition to clarify that operators that need to demonstrate that gases are renewable under the Gas Directive have to rely for this purpose on the certification framework set out in RED and that they must apply the rules

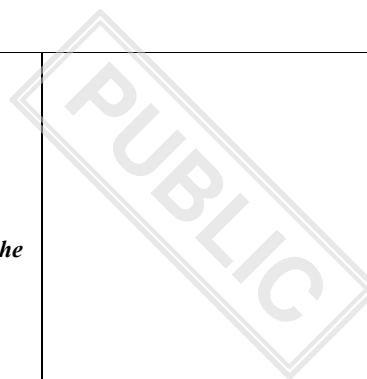
			<p>accordance with Article 30 of that Directive.</p>	<p><i>set out in Article 8 for low carbon fuels. A recital will be needed to clarify how these requirements have to be implemented. Article 25 is not applicable to these fuels]]</i></p>
Article 8(2)				
298	<p>2. In order to ensure that the greenhouse gas emissions savings from the use of low carbon fuels and low carbon hydrogen are at least 70% in accordance with the definitions in Article 2, points (10) and (12), Member States shall require economic operators to show that this threshold and the requirements established in the methodology referred to in paragraph 5 of this Article have been complied with. For those purposes, they shall require economic operators to use a mass balance system in line with Article 30 (1) and (2)</p>	<p>2. In order to ensure that the greenhouse gas emissions savings from the use of low-carbon fuels and low-carbon hydrogen are at least 70% in accordance with the definitions in Article 2, points (10) and (12), Member States shall require economic operators to show that this threshold and the requirements established in the methodology referred to in paragraph 5 of this Article have been complied with. For those purposes, they shall require economic operators to use a mass balance system in line with Article 30(1) and (2)</p>	<p>2. In order to ensure that the greenhouse gas emissions savings from the use of low carbon fuels and low carbon hydrogen are at least 70% in accordance with the definitions in Article 2, points (10) and (12), Member States shall require economic operators to show that this threshold and the requirements established in the methodology referred to in paragraph 5 of this Article have been complied with. For those purposes, they shall require economic operators to use a mass balance system in line with Article 30 (1) and (2)</p>	<p>2. In order to ensure that the greenhouse gas emissions savings from the use of low-carbon fuels and low-carbon hydrogen are at least 70% in accordance with the definitions in Article 2, points (10) and (12), Member States shall require economic operators to show that this threshold and the requirements established in the methodology referred to in paragraph 5 of this Article have been complied with. For those purposes, they shall require economic operators to use a mass balance system in line with Article 30(1) and (2)</p>

	of Directive (EU) 2018/2001.	of Directive (EU) 2018/2001.	of Directive (EU) 2018/2001.	of Directive (EU) 2018/2001.
Article 8(3)				
299	<p>3. Member States shall ensure that economic operators submit reliable information regarding the compliance with the 70% greenhouse gas emissions savings threshold set in paragraph 2 and with the greenhouse gas emissions saving methodology referred to in paragraph 5, and that economic operators make available to the relevant Member State, upon request, the data that were used to develop the information. Member States shall require economic operators to put in place an adequate standard of independent auditing of the information submitted, and to provide evidence that this has been done. The auditing shall verify that the systems used by economic operators are</p>	<p>3. Member States shall ensure that economic operators submit reliable information regarding the compliance with the 70 % greenhouse gas emissions savings threshold set in paragraph 2 and with the greenhouse gas emissions saving methodology referred to in paragraph 5, and that economic operators make available to the relevant Member State, upon request, the data that were used to develop the information. Member States shall require economic operators to put in place an adequate standard of independent auditing of the information submitted, and to provide evidence that this has been done. The auditing shall verify that the systems used by economic operators are</p>	<p>3. Member States shall ensure that economic operators submit reliable information regarding the compliance with the 70% greenhouse gas emissions savings threshold set in paragraph 2 and with the greenhouse gas emissions saving methodology referred to in paragraph 5, and that economic operators make available to the relevant Member State, upon request, the data that were used to develop the information. Member States shall require economic operators to put in place an adequate standard of independent auditing of the information submitted, and to provide evidence that this has been done. The auditing shall verify that the systems used by economic operators are</p>	[text identical]

	accurate, reliable and protected against fraud.	accurate, reliable and protected against fraud.	accurate, reliable and protected against fraud.	
Article 8(4)				
300	<p>4. The obligations laid down in paragraph 2 shall apply regardless of whether low carbon fuels are produced within the Union or are imported. Information about the geographic origin and feedstock type of low carbon fuels or low carbon hydrogen per fuel supplier shall be made available to consumers on the websites of operators, suppliers or the relevant competent authorities and shall be updated on an annual basis.</p>	<p>4. The obligations laid down in paragraph 2 shall apply regardless of whether low-carbon fuels are produced within the Union or are imported. Information about the geographic origin, recognition that the energy content is derived from non-renewable sources, the level of the GHG emissions reduction achieved and feedstock type of low-carbon fuels or low-carbon hydrogen per fuel supplier shall be made available to consumers on the websites of operators, suppliers or the relevant competent authorities and shall be updated on an annual basis.</p>	<p>4. The obligations laid down in paragraph 2 shall apply regardless of whether low carbon fuels are produced within the Union or are imported. Information about the geographic origin and feedstock type of low carbon fuels or low carbon hydrogen per fuel supplier shall be made available to consumers on the websites of operators, suppliers or the relevant competent authorities and shall be updated on an annual basis.</p>	<p>4. The obligations laid down in paragraph 2 shall apply regardless of whether low-carbon fuels are produced within the Union or are imported. Information about the geographic origin and feedstock type of low-carbon fuels or low-carbon hydrogen per fuel supplier shall be made available to consumers on the websites of operators, suppliers or the relevant competent authorities and shall be updated on an annual basis.</p>
Article 8(5)				
301				

	<p>5. By 31 December 2024, the Commission shall adopt delegated acts in accordance with Article 83 to supplement this Directive by specifying the methodology for assessing greenhouse gas emissions savings from low carbon fuels. The methodology shall ensure that credit for avoided emissions is not given for carbon dioxide the capture of which has already received an emission credit under other provisions of law.</p>	<p>5. By ... <i>[six months after the date of entry into force of this Directive]</i>, the Commission shall adopt delegated acts in accordance with Article 83 to supplement this Directive by specifying the methodology for assessing greenhouse gas emissions savings from <i>low-carbon fuels, except for recycled carbon fuels as defined in Article 2, second subparagraph, point (35) of Directive (EU) 2018/2001 [amended RED]. The GHG emission savings from the use of low-carbon fuels shall be at least 70 % relative to a fossil fuel comparator with a threshold of 94 gCO₂eq/MJ and based on their life-cycle emissions taking into account the methodology used to determine the GHG emissions savings in accordance with Article 25(2) and Article 28(5) of Directive (EU) 2018/2001. To ensure comparable</i></p>	<p>5. By 31 December 2024 Within 12 months of entry into force of this Directive, the Commission shall adopt delegated acts in accordance with Article 83 to supplement this Directive by specifying the methodology for assessing greenhouse gas emissions savings from low carbon fuels. The methodology shall ensure that credit for avoided emissions is not given for carbon dioxide the capture of which has already received an emission credit under other provisions of law and shall be consistent with the methodology for assessing greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels.</p>	<p>5. By 31 December 2024 Within 12 months of entry into force of this Directive, the Commission shall adopt delegated acts in accordance with Article 83 to supplement this Directive by specifying the methodology for assessing greenhouse gas emissions savings from low-carbon fuels. The methodology shall ensure that credit for avoided emissions is not given for carbon dioxide from fossil sources the capture of which has already received an emission credit under other provisions of law, shall cover the life-cycle greenhouse gas emissions and consider indirect emissions resulting from the diversion of rigid inputs and shall be consistent with the methodology for assessing greenhouse gas emissions savings from renewable liquid and gaseous transport fuels</p>
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		<p><i>GHG emission savings across sectors, the Commission may, after conducting an impact assessment, differentiate between fossil fuel comparators in order to distinguish between end-use sectors. The methodology shall define clear, credible, science-based and realistic minimum carbon capture rates and upstream methane emissions performance standards that are in line with the relevant provisions referred to in Regulation (EU) of the European Parliament and the Council²⁸⁺ and take into account best available performance standards and industry initiatives which aim to eliminate its methane footprint and how low-carbon fuels shall comply with them. The methodology shall ensure that credit for avoided emissions is not given for carbon dioxide the capture</i></p>	<p>of non-biological origin and from recycled carbon fuels.</p> <p><i>[Note: additions in yellow for better alignment with RED].</i></p> <p><i>[recital explaining that life-cycle emissions include also upstream methane emissions and referring to the obligations under the Methane Regulation.]</i></p>
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		<p>of which has already received an emission credit under other provisions of law.</p> <p><i>28. Regulation (EU) .../... of the European Parliament and of the Council of ... on methane emissions reduction in the energy sector and amending Regulation (EU) 2019/942 (OJ L ...).</i></p> <p><i>+ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS .../... (2021/0423(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.</i></p>		
Article 8(5a)				
301a		<p><i>5a. The Commission is empowered to adopt delegated acts in accordance with Article 83 to amend this Directive by adapting the threshold referred to in paragraph 5 of this Article for low-carbon fuels produced in installations starting operations from 1 January 2031. The Commission shall avoid</i></p>		

		<i>the double counting of recycled carbon fuels.</i>		
Article 8(5b)				
301b		<p><i>5b. By ... [six months after the date of entry into force of this Directive], the Commission shall submit a report to the European Parliament and to the Council that evaluates hydrogen leakage, including environmental and climate risks, technical specificities and adequate maximum hydrogen leakage rates. On the basis of that report, the Commission shall, if appropriate, submit a legislative proposal to introduce measures to minimise possible risks of hydrogen leakage, set maximum hydrogen leakage rates and compliance mechanisms. Relevant maximum hydrogen leakage rates shall be included in the methodology referred to in paragraph 5.</i></p>		

Article 8(6)				
302	<p>6. The Commission may decide that voluntary national or international schemes setting standards for the production of low carbon fuels or low carbon hydrogen provide accurate data on greenhouse gas emission savings for the purposes of this Article and demonstrate compliance with the methodology referred to in paragraph 5 of this Article.</p>	<p>6. The Commission may decide that voluntary national or international schemes setting standards for the production of low-carbon fuels or low-carbon hydrogen provide accurate data on greenhouse gas emission savings for the purposes of this Article and demonstrate compliance with the methodology referred to in paragraph 5 of this Article.</p>	<p>6. The Commission may decide that voluntary national or international schemes setting standards for the production of low carbon fuels or low carbon hydrogen provide accurate data on greenhouse gas emission savings for the purposes of this Article and demonstrate compliance with the methodology referred to in paragraph 5. The Commission shall adopt decisions only if the scheme in question meets adequate standards of reliability, transparency and independent auditing in line with the requirements set out in Regulation (EU) 2022/996 for the certification of renewable fuels of this Article.</p>	<p>6. The Commission may decide that voluntary national or international schemes setting standards for the production of low-carbon fuels or low-carbon hydrogen provide accurate data on greenhouse gas emission savings for the purposes of this Article and demonstrate compliance with the methodology referred to in paragraph 5. The Commission shall adopt decisions only if the scheme in question meets adequate standards of reliability, transparency and independent auditing in line with the requirements set out in Implementing Regulation (EU) 2022/996 for the certification of renewable fuels of this Article.</p> <p><i>[Note: Possibility to further clarify which</i></p>

				<i>articles are relevant for low carbon fuels in the implementing act, in this line or in a recital].</i>
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Article 8(7)

G	303	7. Where an economic operator provides evidence or data obtained in accordance with a scheme that has been the subject of a recognition pursuant to paragraph 6, a Member State shall not require the economic operator to provide further evidence of compliance with the criteria for which the scheme has been recognised by the Commission.	7. Where an economic operator provides evidence or data obtained in accordance with a scheme that has been the subject of a recognition pursuant to paragraph 6, a Member State shall not require the economic operator to provide further evidence of compliance with the criteria for which the scheme has been recognised by the Commission.	7. Where an economic operator provides evidence or data obtained in accordance with a scheme that has been the subject of a recognition pursuant to paragraph 6, a Member State shall not require the economic operator to provide further evidence of compliance with the criteria for which the scheme has been recognised by the Commission.	G
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Article 8(8)

G	304	8. Competent authorities of the Member States shall supervise the operation of certification bodies that are conducting independent auditing under a voluntary scheme. Certification bodies shall submit, upon the request	8. Competent authorities of the Member States shall supervise the operation of certification bodies that are conducting independent auditing under a voluntary scheme. Certification bodies shall submit, upon the request	8. Competent authorities of the Member States shall supervise the operation of certification bodies that are conducting independent auditing under a voluntary scheme. Certification bodies shall submit, upon the request	G
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	of competent authorities, all relevant information necessary to supervise the auditing, including the exact date, time and location of audits. Where Member States find issues of non-conformity, they shall inform the voluntary scheme without delay.	of competent authorities, all relevant information necessary to supervise the auditing, including the exact date, time and location of audits. Where Member States find issues of non-conformity, they shall inform the voluntary scheme without delay.	of competent authorities, all relevant information necessary to supervise the auditing, including the exact date, time and location of audits. Where Member States find issues of non-conformity, they shall inform the voluntary scheme without delay.	
Article 8(9)				
305	<p>9. At the request of a Member State, which may be based on the request of an economic operator, the Commission shall, on the basis of all available evidence, examine whether the greenhouse gas emissions saving criteria laid down in this Article, the methodology developed in line with paragraph 5 of this Article, and the greenhouse gas emissions savings thresholds set in Article 2, points (9) and (10) have been met. Within six months of receipt of such a request, the Commission shall</p>	<p>9. At the request of a Member State, which may be based on the request of an economic operator, the Commission shall, on the basis of all available evidence, examine whether the greenhouse gas emissions saving criteria laid down in this Article, the methodology developed in line with paragraph 5 of this Article, and the greenhouse gas emissions savings thresholds set in Article 2, points (9) and (10) have been met. Within six months of receipt of such a request, the Commission shall decide whether the</p>	<p>9. At the request of a Member State, which may be based on the request of an economic operator, the Commission shall, on the basis of all available evidence, examine whether the greenhouse gas emissions saving criteria laid down in this Article, the methodology developed in line with paragraph 5 of this Article, and the greenhouse gas emissions savings thresholds set in Article 2, points (9)(10), (11) and (10)(12), have been met. Within six months of receipt of such a request, the Commission shall</p>	<p>9. At the request of a Member State, which may be based on the request of an economic operator, the Commission shall, on the basis of all available evidence, examine whether the greenhouse gas emissions saving criteria laid down in this Article, the methodology developed in line with paragraph 5 of this Article, and the greenhouse gas emissions savings thresholds set in Article 2, points (10), (11) and (12), have been met. Within six months of receipt of such a request, the Commission shall decide whether the</p>

	decide whether the Member State concerned may:	Member State concerned may:	decide whether the Member State concerned may:	Member State concerned may:
Article 8(9), point (a)				
306	(a) accept the evidence already provided to show compliance with the greenhouse gas emissions saving criteria for low carbon fuels; or	(a) accept the evidence already provided to show compliance with the greenhouse gas emissions saving criteria for low-carbon fuels; or	(a) accept the evidence already provided to show compliance with the greenhouse gas emissions saving criteria for low carbon fuels; or	(a) accept the evidence already provided to show compliance with the greenhouse gas emissions saving criteria for low-carbon fuels; or
Article 8(9), point (b)				
307	(b) by way of derogation from paragraph 7, require suppliers of the source of low carbon fuels to provide further evidence of their compliance with the greenhouse gas emissions saving criteria and the 70% greenhouse gas emissions savings threshold.	(b) by way of derogation from paragraph 7, require suppliers of the source of low-carbon fuels to provide further evidence of their compliance with the greenhouse gas emissions saving criteria and the 70% greenhouse gas emissions savings threshold.	(b) by way of derogation from paragraph 7, require suppliers of the source of low carbon fuels to provide further evidence of their compliance with the greenhouse gas emissions saving criteria and the 70% greenhouse gas emissions savings threshold.	(b) by way of derogation from paragraph 7, require suppliers of the source of low-carbon fuels to provide further evidence of their compliance with the greenhouse gas emissions saving criteria and the 70% greenhouse gas emissions savings threshold.
Article 8(10)				
308	10. Member States shall also require the relevant economic operators to	10. Member States shall require the relevant economic operators to	10. Member States shall also require the relevant economic operators to	10. Member States shall also require the relevant economic operators to

	<p>enter into the Union database information on the transactions made and the sustainability characteristics of low carbon fuels in line with the requirements established in Article 28 of Directive (EU) 2018/2001.</p>	<p>enter into the Union database information on the transactions made and the sustainability characteristics of <i>low-carbon</i> in line with the requirements <i>laid down in Articles 28 and 31a</i> of Directive (EU) 2018/2001 <i>[amended RED]. The interconnected gas system shall be considered to be a single mass balance system. Information about injection and withdrawal shall be provided in the Union database for gaseous fuels. The Union database shall be implemented as soon as possible and in any event by ... [the date of entry into force of this Directive].</i></p>	<p>enter into the Union database, or national databases that are linked to the Union database, information on the transactions made and the sustainability characteristics of renewable gases and low carbon fuels in line with the requirements for renewable fuels established in [Article 28 of Directive (EU) 2018/2001]. Where guarantees of origin have been issued for the production of a consignment of low carbon gases, these shall be subject to the same rules as those set out in [Article 28 of Directive (EU) 2018/2001] for guarantees of origin issued for the production of renewable gases.</p>	<p>enter into the Union database regulated in Article 31a of Directive (EU) 2018/2001, or into national databases that are linked to the Union database, as allowed in Article 31a (2), information on the transactions made and the sustainability characteristics of renewable gases and low-carbon fuels in line with the requirements for renewable fuels established in Article 28 31a of Directive (EU) 2018/2001. Where guarantees of origin have been issued for the production of a consignment of low-carbon gases, these shall be subject to the same rules as those set out in in Article 28 31a of Directive (EU) 2018/2001 for guarantees of origin issued for the production of renewable gases.</p>
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				<i>[Note: additions in yellow for better alignment with RED].</i>
Article 8(10a)				
308a			<p>11. The Commission shall adopt decisions under paragraph 6 of this Article by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84(3). Such decisions shall be valid for a period of no more than five years.</p>	<p>11. The Commission shall adopt decisions under paragraph 6 of this Article by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 84(3). Such decisions shall be valid for a period of no more than five years.</p>