

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<sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure<sup>(2)</sup>,

Whereas:

- (1) Pursuant to Article 3(4) of Directive 2009/28/EC of the European Parliament and of the Council,<sup>(3)</sup> 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<sup>(4)</sup> 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<sup>(5)</sup>, 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<sup>(6)</sup> 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

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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

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2009/28/EC. Biofuels made from feedstocks that do not lead to additional demand for land, such as those from waste feedstocks, should be assigned a zero emissions factor.

- (22) Indirect land-use change risks can occur if dedicated non-food crops, grown primarily for energy purposes, are grown on existing agricultural land which is used for the production of food and feed. Nonetheless, compared to food and feed crops, such dedicated crops grown primarily for energy purposes can have higher yields and the potential to contribute to the restoration of severely degraded and heavily contaminated land. However, information on the production of biofuels and bioliquids from such dedicated crops and their actual land-use change impact is limited. Therefore, the Commission should also monitor and regularly report on the state of production and consumption in the Union of biofuels and bioliquids produced from such dedicated crops as well as monitor and report on the associated impacts. Existing projects in the Union should be identified and used for improvement of the information basis for a more in-depth analysis of both risks and benefits related to environmental sustainability.
- (23) Yield increases in agricultural sectors through intensified research, technological development and knowledge transfer beyond levels which would have prevailed in the absence of productivity-promoting schemes for food and feed crop-based biofuels, as well as the cultivation of a second annual crop on areas which were previously not used for growing a second annual crop, can contribute to mitigating indirect land-use change. To the extent that the resulting indirect land-use change mitigation effect at national or project level can be quantified, measures introduced by this Directive could reflect such productivity improvements both in terms of reduced estimated indirect land-use change emission values and the contribution of food and feed crop-based biofuels towards the share of energy from renewable sources in transport to be achieved in 2020.
- (24) Voluntary schemes play an increasingly important role in providing evidence of compliance with the sustainability requirements laid down in Directives 98/70/EC and 2009/28/EC. It is therefore appropriate to mandate the Commission to require voluntary schemes, including those already recognised by the Commission in accordance with Article 7c(6) of Directive 98/70/EC and Article 18(6) of Directive 2009/28/EC, to report regularly on their activity. Such reports should be made public in order to increase transparency and to improve oversight by the Commission. Furthermore, such reporting would provide the necessary information for the Commission to report on the operation of the voluntary schemes with a view to identifying best practice and submitting, if appropriate, a proposal to further promote such best practice.
- (25) In order to facilitate the smooth functioning of the internal market, it is appropriate to clarify the conditions under which the mutual recognition principle applies as between all schemes for verification of compliance with the sustainability criteria for biofuels and bioliquids established in accordance with Directives 98/70/EC and 2009/28/EC.
- (26) Good governance and a rights-based approach, encompassing all human rights, in addressing food and nutrition security, at all levels, are essential, and coherence between different policies should be pursued in cases of negative effects on food and nutrition security. In this context, the governance and security of land tenure and land-use rights are of particular importance. Therefore, Member States should respect the Principles for

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- Responsible Investment in Agriculture and Food Systems, approved by the Food and Agricultural Organisation Committee on World Food Security (CFS) in October 2014. Member States are also encouraged to support the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, adopted by the CFS in October 2013.
- (27) Although food and feed crop-based biofuels are generally associated with indirect land-use change risks, there are also exceptions. Member States and the Commission should encourage the development and use of schemes which can reliably prove that a given amount of biofuel feedstock produced in a given project did not displace production for other purposes. This may be the case, for example, where the biofuel production equals the amount of additional production achieved through investments in improved productivity above levels which would have otherwise been achieved, in the absence of such productivity-promoting schemes, or where biofuel production takes place on land where direct land-use change occurred without significant negative impacts on pre-existing ecosystem services delivered by that land, including protection of carbon stocks and biodiversity. Member States and the Commission should explore the possibility of setting out criteria for the identification and certification of such schemes which can reliably prove that a given amount of biofuel feedstock produced in a given project did not displace production for purposes other than for making biofuels and that such biofuel feedstock was produced in accordance with the Union sustainability criteria for biofuels. Only the amount of feedstock which corresponds to the actual reduction in displacement achieved through the scheme may be considered.
- (28) It is appropriate to align the rules for using default values to ensure equal treatment for producers regardless of where the production takes place. While third countries are allowed to use default values, Union producers are required to use actual values where they are higher than the default values, or a report has not been submitted by the Member State, thereby increasing their administrative burden. Therefore, current rules should be simplified so that the use of default values is not limited to areas within the Union included in the lists referred to in Article 19(2) of Directive 2009/28/EC and Article 7d(2) of Directive 98/70/EC.
- (29) As a consequence of the entry into force of the TFEU, the powers conferred under Directives 2009/28/EC and 98/70/EC upon the Commission need to be aligned to Articles 290 and 291 TFEU.
- (30) In order to ensure uniform conditions for the implementation of Directives 98/70/EC and 2009/28/EC, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>(7)</sup>.
- (31) In order to permit adaptation to the technical and scientific progress of Directive 98/70/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the addition of estimated typical and default values for biofuel pathways and the adaptation of the permitted analytical methods, relating to the fuel specifications, and of the vapour pressure waiver permitted for petrol containing bioethanol, as well as the establishment of greenhouse gas emission default values,

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as regards renewable liquid and gaseous transport fuels of non-biological origin and carbon capture and utilisation for transport purposes.

- (32) In order to permit adaptation to the technical and scientific progress of Directive 2009/28/EC, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of possible additions to the list of biofuel feedstocks and fuels, the contribution of which towards the target in Article 3(4) of that Directive should be considered to be twice their energy content, and also in respect of the addition of estimated typical and default values for biofuel and bioliquid pathways, as well as the adaptation of the energy content of transport fuels, as set out in Annex III to Directive 2009/28/EC, to scientific and technical progress.
- (33) It is of particular importance that the Commission in the application of Directives 98/70/EC and 2009/28/EC carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (34) The Commission should review the effectiveness of the measures introduced by this Directive, based on the best and latest available scientific evidence, in limiting the impact of indirect land-use change greenhouse gas emissions and addressing ways to further minimise that impact.
- (35) It is important that the Commission present without delay a comprehensive proposal for a cost-effective and technology-neutral post-2020 policy, in order to create a long-term perspective for investment in sustainable biofuels with a low risk of causing indirect land-use change and in other means of decarbonising the transport sector.
- (36) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011<sup>(8)</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.
- (37) Since the objectives of this Directive, namely to ensure a single market for fuel for road transport and non-road mobile machinery and ensure respect for minimum levels of environmental protection in the use of that fuel, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (38) Directives 98/70/EC and 2009/28/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:



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- (1) [OJ C 198, 10.7.2013, p. 56.](#)
- (2) Position of the European Parliament of 11 September 2013 (not yet published in the Official Journal) and Position of the Council at first reading of 9 December 2014 ([OJ C 50, 12.2.2015, p. 1.](#)) Position of the European Parliament of 28 April 2015 (not yet published in the Official Journal) and decision of the Council of 13 July 2015.
- (3) 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 energy sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC ([OJ L 140, 5.6.2009, p. 16.](#))
- (4) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC ([OJ L 315, 14.11.2012, p. 1.](#))
- (5) 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 ([OJ L 350, 28.12.1998, p. 58.](#))
- (6) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives ([OJ L 312, 22.11.2008, p. 3.](#))
- (7) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ([OJ L 55, 28.2.2011, p. 13.](#))
- (8) [OJ C 369, 17.12.2011, p. 14.](#)