

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 (Text with EEA relevance)

Article 19

Calculation of the greenhouse gas impact of biofuels and bioliquids

1 For the purposes of Article 17(2), the greenhouse gas emission saving from the use of biofuel and bioliquids shall be calculated as follows:

- a where a default value for greenhouse gas emission saving for the production pathway is laid down in part A or B of Annex V and where the e_l value for those biofuels or bioliquids calculated in accordance with point 7 of part C of Annex V is equal to or less than zero, by using that default value;
- b by using an actual value calculated in accordance with the methodology laid down in part C of Annex V; or
- c by using a value calculated as the sum of the factors of the formula referred to in point 1 of part C of Annex V, where disaggregated default values in part D or E of Annex V may be used for some factors, and actual values, calculated in accordance with the methodology laid down in part C of Annex V, for all other factors.

2 By 31 March 2010, Member States shall submit to the Commission a report including a list of those areas on their territory classified as level 2 in the nomenclature of territorial units for statistics (NUTS) or as a more disaggregated NUTS level in accordance with Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS)⁽¹⁾ where the typical greenhouse gas emissions from cultivation of agricultural raw materials can be expected to be lower than or equal to the emissions reported under the heading 'Disaggregated default values for cultivation' in part D of Annex V to this Directive, accompanied by a description of the method and data used to establish that list. That method shall take into account soil characteristics, climate and expected raw material yields.

3 The default values in part A of Annex V for biofuels, and the disaggregated default values for cultivation in part D of Annex V for biofuels and bioliquids, may be used only when their raw materials are:

- a cultivated outside the Community;
- b cultivated in the Community in areas included in the lists referred to in paragraph 2; or
- c waste or residues other than agricultural, aquaculture and fisheries residues.

For biofuels and bioliquids not falling under points (a), (b) or (c), actual values for cultivation shall be used.

4 By 31 March 2010, the Commission shall submit a report to the European Parliament and to the Council on the feasibility of drawing up lists of areas in third countries where the typical greenhouse gas emissions from cultivation of agricultural raw materials can be expected to be lower than or equal to the emissions reported under the heading 'cultivation' in part D of Annex V, accompanied if possible by such lists and a description of the method and data used to establish them. The report shall, if appropriate, be accompanied by relevant proposals.

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5 The Commission shall report by 31 December 2012, and every two years thereafter, on the estimated typical and default values in parts B and E of Annex V, paying particular attention to emissions from transport and processing, and may, where necessary, decide to correct the values. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(4).

6 The Commission shall, by 31 December 2010, submit a report to the European Parliament and to the Council reviewing the impact of indirect land-use change on greenhouse gas emissions and addressing ways to minimise that impact. The report shall, if appropriate, be accompanied, by a proposal, based on the best available scientific evidence, containing a concrete methodology for emissions from carbon stock changes caused by indirect land-use changes, ensuring compliance with this Directive, in particular Article 17(2).

Such a proposal shall include the necessary safeguards to provide certainty for investment undertaken before that methodology is applied. With respect to installations that produced biofuels before the end of 2013, the application of the measures referred to in the first subparagraph shall not, until 31 December 2017, lead to biofuels produced by those installations being deemed to have failed to comply with the sustainability requirements of this Directive if they would otherwise have done so, provided that those biofuels achieve a greenhouse gas emission saving of at least 45 %. This shall apply to the capacities of the installations of biofuels at the end of 2012.

The European Parliament and the Council shall endeavour to decide, by 31 December 2012, on any such proposals submitted by the Commission.

7 Annex V may be adapted to technical and scientific progress, including by the addition of values for further biofuel production pathways for the same or for other raw materials and by modifying the methodology laid down in part C. Those measures, designed to amend non-essential elements of this Directive, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(4).

Regarding the default values and methodology laid down in Annex V, particular consideration shall be given to:

- the method of accounting for wastes and residues,
- the method of accounting for co-products,
- the method of accounting for cogeneration, and
- the status given to agricultural crop residues as co-products.

The default values for waste vegetable or animal oil biodiesel shall be reviewed as soon as possible.

Any adaptation of or addition to the list of default values in Annex V shall comply with the following:

- (a) where the contribution of a factor to overall emissions is small, or where there is limited variation, or where the cost or difficulty of establishing actual values is high, default values must be typical of normal production processes;
- (b) in all other cases default values must be conservative compared to normal production processes.

8 Detailed definitions, including technical specifications required for the categories set out in point 9 of part C of Annex V shall be established. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(4).

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- (1) [OJ L 154, 21.6.2003, p. 1.](#)