

## bp feedback on the draft Delegated Act establishing a GHG methodology for RFNBOs and RCFs<sup>1</sup>

We strongly welcome the European Commission's efforts to establish a standard methodology for calculating the greenhouse gas (GHG) emissions savings for Renewable Fuels of Non-Biological Origin (RFNBOs) and Recycled Carbon Fuels (RCFs), as these are key to achieving the EU's ambitious GHG reduction targets.

We encourage the European Commission to draft the text in such a way that avoids ambiguity and multiple interpretations. It is essential that clear guidance is provided for specific cases, e.g. the status of the non-biogenic part of Municipal Solid Waste (MSW) as a feedstock for RCFs. Any uncertainty will likely result in multiple and possibly contradictory approaches across the EU marketplace. Given the highly capital-intensive nature of these fuels, such uncertainty will likely delay or deter investment and will undermine the potential of RFNBOs and RCFs to support the EU's ambitious GHG reduction targets.

### **1. Carbon sources (Annex, point 11a)**

The draft DA states that "*[t]he CO<sub>2</sub> has been captured from an activity listed under Annex I of Directive 2003/87/EC and has been taken into account upstream in an effective carbon pricing and is incorporated in the chemical composition of the fuel before 2036*".

We would encourage the European Commission to introduce a so-called "grandfathering clause" for RFNBO/RCF producing facilities built prior to 2036 to ensure regulatory stability for early movers, allowing a transition period for these plants to switch to non-fossil CO<sub>2</sub> sources by 2045. Fossil carbon sources are expected to remain well into the 2040s. As long as this is the case and provided there is no unintended incentive to increase or prolong such carbon emissions, there is no reason why such carbon sources should not be used for the production of RFNBOs or RCFs, especially considering their use in hard-to-abate sectors like transport.

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<sup>1</sup> Delegated Act supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a Union methodology setting out detailed rules for assessing greenhouse gas emission savings for certain fuels

We acknowledge the need to take into account “effective carbon pricing”. However, clear and unambiguous criteria for what constitutes “effective carbon pricing” are needed to not risk deterring investment.

Regarding on-purpose production of CO<sub>2</sub>, the draft DA states that *“with the exception of captured CO<sub>2</sub> stemming from a fuel that is deliberately combusted for the specific purpose of producing the CO<sub>2</sub> and CO<sub>2</sub>, the capture of which has received an emissions credit under other provisions of the law.”*

We would propose the following minor addition to improve clarity: *“...with the exception of captured CO<sub>2</sub> stemming from a fuel that is deliberately combusted for the specific **and sole** purpose of producing the CO<sub>2</sub> and CO<sub>2</sub>, the capture of which has received an emissions credit under other provisions of the law.”*

## **2. Status of non-bio part of MSW as an RFNBO / RCF feedstock**

RCFs are clearly defined in Directive 2018/2001 (RED II) as *“liquid and gaseous fuels that are produced from liquid or solid waste streams of non-renewable origin which are not suitable for material recovery in accordance with Article 4 of Directive 2008/98/EC, or from waste processing gas and exhaust gas of non-renewable origin which are produced as an unavoidable and unintentional consequence of the production process in industrial installations”*. We would argue that the non-biogenic part of municipal solid waste – provided it follows the requirements laid out in RED – clearly meets this definition. However, point 11a in the Annex of the draft DA would exclude carbon sources from activities that are not listed in Annex I of Directive 2003/87/EC (ETS Directive), which in turn specifically excludes MSW incineration.

In our view, the draft DA risks undermining the intent of the primary legislation (RED II). This is further underpinned by the fact that the European Commission’s Joint Research Centre has previously mentioned MSW-to-fuel as an example of RCFs.

Contrary to industrial fossil carbon sources, MSW is expected to remain in the long-term and its non-biogenic share should thus be allowed as a feedstock for the production of RFNBOs and RCFs.

## **3. Multiple co-products / energy-based approach to allocate GHG emissions to co-products**

To recognise the multi-feedstock nature of future fuel production units and differentiate the GHG emissions from the different fractions, the Delegated Act should use energy allocation as the main criterion to allocate process emissions

as well as to determine the RFNBO and RCF fraction of the final fuel corresponding to each individual feedstock jointly processed, by:

- Avoiding a single carbon intensity value for different mix of feedstocks in order to incentivise both RFNBO and RCF production if jointly co-processed.
- Allocation of GHG emissions associated with each input on an energy content basis for each feedstock.
- As multiple feedstocks would be processed in the same units, clear rules need to be defined to avoid overlapping with another upcoming Delegated Act on co-processing.

#### **4. Accounting of fully renewable electricity and consistency with the DA on additionality**

We would encourage the European Commission to provide an explicit reference to the fact that electricity complying with the criteria set out in Article 27 (3) of Directive 2018/2001 and the corresponding delegated act is considered as fully renewable and therefore its emissions are deemed zero.

#### **5. RFNBO hydrogen as an intermediate product for the production of transport fuels**

When hydrogen is used as an intermediate product for transport fuel production, clear rules on the allocation of process emissions need to be defined.

##### **Key points:**

1. Introduce a “grandfathering clause” for RFNBO/RCF producing facilities built prior to 2036 allowing a “transition period” to switch to non-fossil CO<sub>2</sub> sources by 2045.
2. Include the non-biogenic part of MSW as feedstock to produce RFNBOs and RCFs.
3. Recognise the multi-feedstock nature of future fuel production units and use energy allocation as the main criterion to allocate GHG emissions to co-products
4. Provide an explicit reference to REDII and the Delegated Act on the sourcing of electricity for the production of renewable hydrogen
5. Define rules on the allocation of process emissions for hydrogen as an intermediate product