

bp feedback on the draft delegated act on RED Annex IX feedstocks¹

Reaching the EU's climate goals in 2030 and beyond requires, amongst other things, accelerated support for all transport decarbonisation pathways – including sustainable biofuels – and allowing more feedstocks onto the list is fundamental for accelerating their deployment.

The Commission proposal saw the inclusion of only three additional feedstocks in Part A of Annex IX which we believe does not offer sufficient support for deployment of advanced biofuels in the European market. We would propose:

- Intermediate crops to be included Part A
- Clarity and consistency of definitions
- An increased cap on Part B feedstocks in the context of the RED revision

Intermediate crops should be included in Part A

We welcome the conditional inclusion of intermediate crops but we believe they should be included in Part A rather than Part B.

- Part A of Annex IX is intended to incentivise novel feedstocks with the highest sustainability potential. RED stipulates that only feedstocks that can be processed into biofuels, or biogas for transport, with “advanced technologies” should be added in Part A of Annex IX.
- Considering the objective of Part A, we strongly believe that the concept of “advanced technologies” should also include feedstocks that utilise novel carbon farming practices, such as off-season cover cropping. The innovation in this case is in providing biomass via the demonstrably sustainable incremental use of existing arable land and could provide a significant opportunity for scaling advanced biofuel deployment in the EU.

¹ DRAFT Commission delegated directive amending Annex IX to Directive (EU) 2018/2001 of the European Parliament and of the Council, as regards adding feedstocks for the production of biofuels and biogas

Definition of “intermediate crops”

We would like to suggest an amendment to the proposed definition of “intermediate crops” to not inadvertently restrict the use of sustainably grown intermediate crops.

Commission proposal

Intermediate crops, such as catch crops and cover crops that are grown ***in areas*** where due to a short vegetation period the production of food and feed crops is limited to one harvest and provided their use does not trigger demand for additional land and provided the soil organic matter content is maintained.

Proposed amendment

Intermediate crops, such as catch crops and cover crops that are ***not used for food and feed commodities*** grown ***on land*** where due to a short vegetation period the production of food and feed crops is limited to one harvest and provided their use does not trigger demand for additional land and provided ***all crop residues are returned to the land to maintain*** the soil organic matter content.

- Excluding crops that are not typically supplied to food and feed commodity markets would – together with the other conditions in the proposed definition – address the Commission’s concern that widespread use of intermediate crops in biofuels could have distortive effects on markets and land use (cf. page 104, full feedstock assessment report²).
- Referring to “land” instead of “areas” would help avoid ambiguity and maintain consistency with certification practices. A geographical “area” may be difficult to assess during an audit and, ultimately, unintentionally restrict cover crop cultivation.
- An intermediate crop can increase soil organic matter whilst the following food / feed crop could, in turn, reduce it to the extent that soil organic matter is not maintained. This could potentially imply the need to provide soil testing, which would impact cover crop expansion, both in terms of complexity and costs. The proposed amendment seeks to avoid full harvesting of cover crops – which we

² Assessment of the potential for new feedstocks for the production of advanced biofuels – ENER C1 2019-412 – Final Report

believe is the main issue intended to be addressed by this condition – without implying the need for soil carbon testing.

Definition of “severely degraded land”

The proposed definition is open to interpretation. We suggest that the definition be consistent with that in point 9 of Annex V, part C to Directive (EU) 2018/2001 (‘RED II’), namely:

“‘Severely degraded land’ means land that, for a significant period of time, has either been significantly salinated or presented significantly low organic matter content and has been severely eroded.”

We would welcome further clarification on what would constitute a “significant period of time”, “significantly salinated” and “significantly low organic matter content”.

We also support the inclusion of non-food crops grown on marginal, polluted, unused and abandoned land in Part A. Definitions should be aligned with the Renewable Energy Directive (Annex V) and the Implementing Regulation on rules to verify sustainability and greenhouse gas emissions saving criteria and low indirect land-use change-risk criteria.

Annex IX Part B cap of 1.7%

In the context of the ongoing RED revision, we urge the European Commission to consider raising the 1.7% cap on Part B feedstocks or, as a minimum, maintain the current flexibility for member states to raise the cap.

- Given most feedstocks have been proposed to be added to Annex IX Part B, this would significantly increase the pool of available Part B feedstocks.
- We strongly believe concerns around fraud risk are best addressed through continued efforts to further improve biofuel certification. Leading certification schemes have continued to improve and provide more robust sustainability assurance. In parallel, the biofuels industry continues to undertake efforts to improve the sustainability assurance of these schemes.

An increased Part B cap would be consistent with the views of the co-legislators to (i) raise the Part B cap proportionally when widening the list of eligible feedstocks (Parliament), and (ii) take into account national specificities (Council).