



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR ENERGY

Directorate C - Renewables, Research and Innovation, Energy Efficiency  
C.1 - Renewables and CCS policy  
The Head of Unit

Brussels, **10 OCT. 2014**  
BK/gS/ener.c.1(2014)3648524

**To the voluntary schemes that  
have been recognised by the  
Commission for demonstrating  
compliance with the sustainability  
criteria for biofuels**

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**NOTE TO THE VOLUNTARY SCHEMES THAT HAVE BEEN RECOGNISED BY THE  
COMMISSION FOR DEMONSTRATING COMPLIANCE WITH THE SUSTAINABILITY CRITERIA  
FOR BIOFUELS**

**Subject: Verification of the chain of custody of biofuels made from waste and processing residues**

Dear Sir or Madam,

The certification scheme you are operating is one of 19 voluntary schemes the Commission has recognised for demonstrating compliance with the sustainability criteria for biofuels. This letter is directly relevant only for the voluntary schemes that are covering wastes and residues<sup>1</sup> but I consider it appropriate to send to all schemes for the purpose of transparency.

The Commission has noticed that the initial focus of the development of the certification procedures of voluntary schemes has been to verify whether biofuels made from agricultural crops comply with the sustainability criteria. The procedures to verify compliance with other types of feedstock such as wastes and residues have not often been described in detail in the scheme documents.

The Renewable Energy Directive, however, includes specific incentives for the promotion of biofuels made from wastes and residues and also lays down specific rules, e.g. for the calculation of greenhouse gas emissions. It is therefore necessary to verify whether these substances are really genuine wastes or residues. For this purpose it is required to trace the feedstock back to its origin, covering the whole chain of custody.

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<sup>1</sup> The letter concerns in particular biofuels made from waste and residues, other than agricultural, aquaculture, fisheries and forestry residues.

If no specific rules for wastes and residues are laid down in the scheme documents, the auditing procedure should be analogous to the procedure applied for biofuels made from agricultural crops. However, the sustainability risks that are related to biofuels from agricultural crops are different from the ones related to wastes and residues. While in the case of agricultural crops the main task at the origin of the feedstock is to verify that the land use criteria are complied with, the main task with regard to waste and residues is to prevent false claims concerning the type of feedstock used. Therefore, it makes sense to develop specific procedures for auditing the chain of custody of waste and residues. I welcome the efforts that have so far been made to develop procedures specifically dedicated to ensure the integrity of the chain of custody of biofuels made from wastes and residues.

The auditing principles that need to be applied for biofuels made from wastes and residues are in principle the same as laid down in the Communication from the Commission on voluntary schemes and default values in the EU biofuels and bioliquids sustainability scheme (2010/C 160/01).

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For wastes and residues, however, I would like to emphasise the following:

- The whole chain of custody needs to be covered starting from its origin, i.e. the economic operator where the waste or residue material arises;
- As a principle all operators need to be audited individually. Only at the origin of the chain of custody can group auditing approaches be considered; and
- Frequency and intensity of the auditing procedure need to reflect the level of risk.

The key is to correctly assess the risk of fraudulent behaviour. Generally, it can be expected that operators would make false claims only if they have an economic incentive to do so. At the early stages of the chain of custody this could be the case for instance if the price that can be achieved for feedstock declared to be a waste or a residue is higher than the price of the virgin product, and if an operator has a reasonable chance that the fraud goes unnoticed. The latter requires that it is relatively easy to sell a product as a waste or residue material and relatively difficult to detect this afterwards.

The chain of custody of used cooking oil (UCO) is one example where there could be a real risk of fraud. Biodiesel made from UCO receives special incentives under the RED and thus is often traded at a higher price than biodiesel from vegetable oil. Further, it is relatively easy to artificially modify vegetable oil to make it indistinguishable from genuine UCO. Therefore, UCO is the perfect example why it is necessary to thoroughly scrutinise the chain of custody and ensure that all sources of the material are plausible and no feedstock enters the chain of custody from unknown sources. However, genuine UCO is a sustainable feedstock for biofuel production and its use should not be discouraged by an unnecessary administrative burden. Therefore, also in the case of UCO, the administrative burden related to the auditing needs to be proportionate. Below, I use UCO as one example how auditing procedures need to be adapted.

A large part of UCO is sourced from restaurants. For small restaurants, UCO typically represents a waste that needs to be disposed of rather than a revenue stream and therefore the risk of fraud committed at the level of restaurants can be considered to be relatively low. The risk will be higher at later stages of the chain of custody, e.g. for collectors of UCO, traders, or large producers where the waste oil is a considerable source of income. This should be reflected in the auditing rules. Several voluntary schemes have developed

approaches where the focus of the auditing effort at the origin is placed on the collectors of UCO. Operators collecting UCO are required to maintain a thorough documentation back to the origin of the raw material (for instance information on their sources of UCO and transactions) and are subject to regular audits, while no regular on-site audits are required in restaurants supplying the UCO. The idea is that the origin of the UCO can be verified during the audit of the collector. This approach seems to take the level of risk for different operators adequately into account. Nevertheless, it needs to be ensured that auditors have the possibility to conduct on-site audits also in restaurants in case they consider this necessary, for instance to verify the claims made by UCO collectors<sup>2</sup>. To ensure access of auditors to the premises of the restaurants, one option is to require the operators of restaurants to sign self-declarations which grant the right of auditors to conduct on-site audits, in addition to including information on e.g. the volumes of UCO contracted to collect.

There are also measures available to mitigate risks downstream in the chain of custody. For instance economic operators occasionally participate in several voluntary schemes in order to meet customers' demand for certain certification labels. This, however, represents a particular challenge for auditors verifying the mass balance as they need to have the complete picture of all relevant transactions. The voluntary schemes therefore need to ensure that operators declare the name of all schemes they participate in and make available to the auditors all relevant information. This includes the full mass balance records for a site and also access to reports from previous audits.

I hope that this letter is useful for you to further develop your scheme. I would like to invite those voluntary schemes that have not yet developed auditing procedures for wastes and residues and want to cover this aspect to notify those procedures to the Commission for scrutiny.

Yours sincerely,



Paula Abreu Marques

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<sup>2</sup> This applies also to other types of feedstock.