

Pursuant to Article 123, Item 3 of the Constitution of the Republic of Serbia and Article 340, Paragraph 2, and pertaining to Article 2, Item. 5) - 7) of the Law on Energy (“Official Gazette of the RS”, Nos. 145/14 and 95/18-other law) and Article 6 of the Treaty on the Establishment of the Energy Community between the European Community and the Republic of Albania, the Republic of Bulgaria, Bosnia and Herzegovina, the Republic of Croatia, the Former Yugoslav Republic of Macedonia, the Republic of Montenegro, Romania, the Republic of Serbia and the United Nations Interim Mission in Kosovo in accordance with United Nations` Security Council Resolution 1244 (“Official Gazette of the RS”, No. 62/06),

The Government has passed the following

## REGULATION ON THE BIOFUEL SUSTAINABILITY CRITERIA

### I. INTRODUCTORY PROVISIONS

#### Article 1

This regulation shall prescribe more thoroughly the biofuel sustainability criteria, the manner and procedure for verifying the fulfillment of the biofuel sustainability criteria, the reporting of the biofuel sustainability criteria and other elements related to the biofuel sustainability.

The rules of this regulation on the biofuel sustainability criteria and the obligation of raw material suppliers, biofuel producers and participants in the trade in biofuel shall apply *mutatis mutandis* to biofuel, biofuel producers and biofuel traders.

#### Article 2

Some of the terms used in this regulation shall have the following meaning:

1) the supplier of raw materials shall be a producer of raw materials (biomass), a trader of raw materials, as well as any other participant in the chain of production and trade of raw materials which are grown, produced, procured and delivered for the purpose of biofuel production;

2) verification scheme shall be any method by which it is established and verified that biofuels meet the sustainability criteria and which, among other things, can be used in the European Union to verify the sustainability criteria of biofuels,

3) participant in the trade of biofuels shall be a licenced energy entity for the energy activity of trade in oil, oil derivatives, biofuels and compressed natural gas, which participates in the chain of trade of biofuels, i.e. fuels with blended biofuels for their delivery to the warehouse of obligors of the biofuels marketing system regardless of whether the biofuels traded were produced in the territory of the Republic of Serbia or originate from imports,

4) the verifier shall be a person who is authorised under the verification scheme to issue a certificate to participants in the life cycle of biofuels and as an independent body to verify the sustainability criteria of biofuels in accordance with the rules of the verification scheme;

5) import of biofuels shall represent the introduction, supply or delivery of biofuels in the territory of the Republic of Serbia from another country or customs territory by an energy entity licensed to carry out the energy activity of trade in oil, oil derivatives, biofuels and compressed natural gas, regardless of whether biofuels shall be imported as blended or for blending,

6) biofuel producer shall be a licensed energy entity for the energy activity of biofuel production,

7) the obligor of the biofuels marketing system shall be an energy entity within the meaning of the regulations governing the obligors of the biofuels marketing system;

8) the product statement shall be a document issued in accordance with this Regulation for each shipment of biofuels that certifies that the biofuels covered by the shipment meet the biofuel sustainability criteria,

9) the real value shall be the greenhouse gas emission savings at some or all stages of the biofuel production process, calculated in accordance with the methodology given in Annex 1 - Methodology for calculating greenhouse gas emission savings (hereinafter: the Methodology); printed under this Regulation and forming an integral part thereof,

10) the certificate shall be a document issued by a verifier to a participant in the biofuels life cycle and it shall be the confirmation that the participant in the biofuels life cycle is certified to apply a verification scheme in accordance with the biofuel sustainability criteria;

11) typical value shall be an estimate of the representative greenhouse gas emission savings of a particular biofuel in accordance with the Methodology,

12) the set value shall be the value obtained from the typical value through the application of predefined factors and which, in the cases prescribed by this regulation, may be used instead of the actual value;

13) severely degraded soil shall be the soil that has, for a long period of time, been either significantly salinated or currently has a significantly low content of organic matter and has severely been damaged by erosion,

14) heavily contaminated soil shall be the land that is not suitable for growing food due to soil contamination,

15) waste shall be any substance or object that the holder discards, intends to discard, or is required to discard, but on the other hand, matter or objects that are intentionally altered or contaminated in order to be included in this definition shall not be considered waste;

16) residues from agriculture, fishing, forestry and aquaculture shall be residues that are directly produced within the scope of activities of agriculture, aquaculture, fishing and forestry and shall not include residues from related industries and processing residues;

17) processing residues shall be products that are not final products and the immediate aim of the production process, products that are not the primary purpose of the production process, provided that these processing residues are not produced in the process that has been intentionally altered for the purpose of their production;

18) the life cycle of biofuels shall include the time period for which the greenhouse gas emissions are calculated and it shall include: production and collection of raw materials from which biofuels are obtained, transportation of raw materials to biofuel producers, production of biofuels and transport of biofuels to the warehouse of obligors` market,

19) Entities participating in the life cycle of biofuels shall be the raw material supplier, biofuel producer, participant in the trade in biofuels and the obligor of the biofuels marketing system.

Other terms used in this regulation, which are not defined in Paragraph 1 of this Article, shall have the meaning set out in the Energy Law.

## II. BIOFUEL SUSTAINABILITY CRITERIA

### Article 3

The biofuel sustainability criteria laid down in this Regulation shall ensure that biofuels that meet the requirements for saving greenhouse gas emissions and reduce the negative impact of raw material and biofuel production on biodiversity, water, soil and air are placed on the market.

### Article 4

The sustainability criteria for biofuels shall include:

- 1) saving greenhouse gas emissions,
- 2) manner of using land important for the conservation of biological diversity,
- 3) manner of use of high carbon land,
- 4) manner of use of peat.

### Article 5

The saving of greenhouse gas emissions achieved by using biofuel shall have to be at least 60% for biofuels produced in plants commissioned after 5<sup>th</sup> October, 2015.

A plant referred to in Paragraph 1 of this Article shall be considered to have commenced operation if it has started the physical production of biofuels.

Biofuels from plants that started operations no later than 5<sup>th</sup> October, 2015 can only be placed on the market if they have been produced after 1<sup>st</sup> January, 2018 and their greenhouse gas emission saving is at least 50%.

The greenhouse gas emission saving from the use of biofuels shall be calculated in accordance with the Methodology.

### Article 6

Raw materials for the production of biofuels cannot be cultivated on land important for the conservation of biological diversity, that is, land that in January 2008 or later had one of the following statuses:

1) rainforests and other forest land, and in particular forests and other forest land with indigenous species, in which there are no clearly visible signs of human activity and in which environmental processes are not significantly endangered,

2) areas designated as:

(1) protected by nature protection regulations,

(2) significant for the conservation of rare and/or endangered species or ecosystems established under international agreements or acts of the International Union for the Conservation of Nature, in accordance with environmental regulations, unless it is demonstrated that the production of the raw material does not endanger nature protection,

3) grassland (pasture and meadow) with high biological diversity value or grassland (pasture and meadow) of great importance for biological diversity, namely:

(1) natural grassland (pasture and meadow) that would remain natural grassland (pasture and meadow) and without human impact, and in which the composition of natural species and ecological characteristics and processes is maintained,

(2) artificial grassland (pasture and meadow) that would cease to be a grassland (pasture and meadow) without human impact and rich in species and not degraded unless there is evidence that vegetation removal is necessary to maintain the status of the grassland (pasture and meadow).

#### Article 7

Raw materials for the production of biofuels cannot be grown on land with a high carbon content, that is, land that had one of the following statuses in January 2008 and later lost that status:

1) reeds, swamps or land covered with water, permanently or for most of the year,  
2) a continuous forest area, that is, land extending over more than one hectare with trees higher than five meters and canopy covering more than 30% of the area or trees that can meet these criteria in their natural habitat;

3) land larger than one hectare with trees higher than five meters and canopy covering 10-30% of the area, or trees that can meet these criteria in their natural habitat, unless it is proven that the carbon content in the area before and after conversion, is such that, when applying the Methodology, the conditions of Article 5 of this Regulation are fulfilled.

The provisions of this Article shall not apply to the period in which the raw material for biofuel production was produced, if the land had the same status as in January 2008.

#### Article 8

Raw materials for the production of biofuels cannot be used from land that had peat status in January 2008, unless it is proven that cultivation and harvesting of the raw material does not lead to the desiccation of previously uncultivated land.

#### Article 9

Biofuels imported from the European Union or produced from agricultural raw materials originating in the European Union, in addition to the sustainability criteria of biofuels referred to in Article 4 of this Regulation, must be produced in accordance with the support measures for farmers and the minimum requirements for good agricultural and environmental conditions applied in the European Union.

#### Article 10

Biofuels imported from non-member countries of the European Union or produced from agricultural raw materials originating in non-member countries of the European Union, in addition to the sustainability criteria of biofuels referred to in Article 4 of this Regulation, must also meet the criterion of minimum environmental and social conditions, provided in Annex 2 - Minimum environmental and social conditions for biofuels imported from non-EU countries or produced from agricultural raw materials originating in non-EU countries, printed with this Regulation and comprising an integral part thereof.

#### Article 11

Regardless of whether the raw materials for the production of biofuels originate in the Republic of Serbia or other countries, only on condition that they meet the sustainability criteria laid down in this Regulation, biofuels can:

1) be placed on the market,

2) be taken into account for the purpose of calculating the planned share of renewable energy in the gross energy consumed in all forms of transport,

3) be subject to financial incentives for biofuels consumption.

Biofuels produced from waste and residues should only meet the biofuel sustainability criterion for greenhouse gas emission savings.

Paragraph 2 of this Article shall not apply to biofuels produced from residues from agriculture, fisheries, forestry and aquaculture.

The provisions of Paragraph 1, Items 1) - 3) of this Article shall apply to biofuels that meet the sustainability criteria laid down in this Regulation, and if they do not meet the additional sustainability requirements.

If a biofuel participant imports biofuels produced in a non-EU country that can be used in the European Union as biofuels that meet the sustainability criteria without providing additional evidence, the biofuel trade participant shall only be requested to prove that they imported such biofuels and they shall not be required to provide additional evidence that such biofuels meet the sustainability criteria.

### III. MANNER AND PROCEDURE FOR VERIFYING THE BIOFUEL SUSTAINABILITY CRITERIA COMPLIANCE

#### Article 12

The verification of compliance with the biofuel sustainability criteria prescribed by this Regulation shall be carried out by applying a verification scheme and verifying the fulfillment of the obligations of biofuels life cycle entities in accordance with this Regulation.

A person who simultaneously holds the capacity of two or more entities participating in the life cycle of biofuels referred to in Paragraph 1 of this Article shall be obliged to fulfill the obligations prescribed for all those entities.

#### Article 13

The biofuel producer shall be obliged to:

1) own a certificate and proof that the certificate was obtained from an authorised verifier under the verification scheme, such as a contract or other legal grounds under which the verifier is authorised under the verification scheme to be able to issue a certificate held by the biofuel producer;

2) issue a product statement for each shipment of biofuels it places on the market,

3) apply the mass balance system referred to in Article 17 of this Regulation,

4) obtain from the supplier of the raw material information on the type and quantity of raw material, the place of origin of raw material, the land from which the raw material was obtained, the name of all previous intermediaries in the chain of trade with information on the date and place of purchase (purchase) of raw material from previous intermediaries, as well as all other information relevant for the implementation of the verification scheme,

5) obtain the translation into Serbian of the documentation referred to in Items 1) and 4) of this Paragraph in a foreign language, by an authorised court interpreter and thus provide the competent authorities with the insight into its contents in accordance with the law,

6) keep the records on:

- (1) the date and place of purchase, the quantity, type and origin of all the raw materials and the intermediaries in the chain of trade for each shipment of raw materials purchased for the production of biofuels,
- (2) all certificates issued to them under the verification scheme,
- (3) greenhouse gas emission savings for all biofuels produced,
- (4) issued product statements.

The participant in the biofuel trade shall be obliged to:

1) own a certificate and proof that the certificate was obtained from an authorised verifier under the verification scheme, such as a contract or other legal grounds under which the verifier is authorised under the verification scheme to be able to issue a certificate held by the biofuel producer;

2) issue a product statement for each shipment of biofuels or shipment of fuel with blended biofuel it places on the market,

3) before issuing the product statement referred to in Item 2) of this Paragraph, obtain all documents on the fulfillment of the biofuel sustainability criteria from the entities participating in the life cycle of the biofuels from which it has procured the shipment of biofuels,

4) obtain all certificates of the previous entities participating in the life cycle of biofuels, which shall be the basis for issuing the documents referred to in Item 3) of this Paragraph,

5) obtain the translation into Serbian of the documentation referred to in Items 1), 3) and 4) of this Paragraph in a foreign language, by an authorised court interpreter and thus provide the competent authorities with the insight into its contents in accordance with the law,

6) keep records of the documents from Items 1) - 4) of this Paragraph and information on the date and place of purchase of shipment, quantity, type of biofuels, i.e. fuels with blended biofuels,

7) inform the ministry responsible for energy (hereinafter: the Ministry) to trade in biofuels for the purpose of entry in the records referred to in Article 18 of this Regulation.

The biofuel producer or participant in the biofuel trade shall keep records for at least five years.

#### Article 14

The product statement issued by the biofuel producer shall include:

1) information on the biofuel producer,

2) the name of the authorised verifier,

3) the name of the verification scheme on the grounds of which it had been determined whether biofuels met the sustainability criteria,

4) information on the certificate under which they have been authorised to apply the verification scheme,

5) information on the sender of biofuels containing: type of biofuels, technology of raw material processing and quantity of biofuels,

6) information on the type of raw material, the producer of the raw material, the energy value of the raw material, the quantity of raw material, the country of origin of the raw material, the total greenhouse gas emissions, the date and number of the raw material purchase agreement,

7) information on the total greenhouse gas emissions of the shipment of biofuels, indicating the method used to calculate the greenhouse gas emissions referred to in Item 4 of the Methodology,

8) information on the compliance of the shipment of biofuels with the sustainability criteria in case of application of the additional bonus (eB) referred to in Item 8 of the Methodology, if the formula referred to in Item 1 of the Methodology is used in the calculation of the impact of the shipment on greenhouse gas emissions, not stating this information if the shipment refers to biofuels produced from waste and residues,

9) information on determining compliance of the shipment of biofuels with the sustainability criteria if, when using the formula referred to in Item 1 of the Methodology, the carbon savings in soil using the advanced agricultural management ( $e_{sca}$ ) referred to in Item 1 of the Methodology have been calculated, whereby this information shall not be stated if the shipment refers to biofuels produced from waste and residues,

10) a list of enclosed documents accompanying the product statement,

11) a note on classified information contained in a product statement,

12) signature of the responsible person of the biofuel producer.

The product statement shall be enclosed in Annex 3, which shall be annexed to this Regulation forming an integral part thereof.

The product statement shall be issued in paper form and/or in electronic form with the qualified electronic signature of the biofuel producer and shall accompany the shipment of biofuels in transit.

#### Article 15

The product statement issued by a participant in the biofuel trade shall include:

1) information on the participant in the trade in biofuels,

2) the name of the certified verifier,

3) the name of the verification scheme on the basis of which it is established that biofuels meet the sustainability criteria,

4) information on the certificate under which he is authorized to apply the verification scheme,

5) information on quantity and type of biofuels, method and location of biofuel blending, number and date of dispatch or customs declaration,

6) a list of attached documents accompanying the product statement,

7) a note on classified information from the product statement,

8) signature of the responsible person of the participants in the trade in biofuels.

The product statement is given in Annex 4, which is annexed to this Regulation and forms an integral part thereof.

The product statement is issued in paper form and / or in electronic form with the qualified electronic signature of participants in the trade in biofuels, and must accompany the consignment of biofuels in transit.

1) information on the biofuel trade participant,

2) the name of the authorised verifier,

3) the name of the verification scheme on the grounds of which it had been determined whether biofuels met the sustainability criteria,

4) information on the certificate under which they have been authorised to apply the verification scheme,

5) information on the quantity and type of biofuels, manner and location of biofuel blending, number and date of a dispatch note or customs declaration;

6) a list of enclosed documents accompanying the product statement,

- 7) a note on classified information contained in a product statement,
- 8) signature of the responsible person of the biofuel trade participant.

The product statement shall be enclosed in Annex 4, which shall be printed along with this Regulation forming an integral part thereof.

The product statement shall be issued in paper form and/or in electronic form with the qualified electronic signature of the biofuel trade participant and shall accompany the shipment of biofuels in transit.

#### Article 16

The obligor of the biofuels marketing system of biofuel placing on the market shall be obliged, when purchasing a shipment of biofuels or biofuels containing biofuels, for delivery to their own warehouse, to obtain a statement of the product accompanying the shipment and to check whether the statement of the product which he obtained was issued during the validity period of the certificate by an approved verifier under a recognised verification scheme.

The person liable to place biofuels on the market shall demonstrate that they have placed on the market biofuels that meet the sustainability criteria only by a product statement issued during the validity of a certificate issued by an authorised verifier under the verification scheme and if they procured biofuels from a person entered in the records referred to in Article 18 of this Article.

The obligor of the biofuels marketing system shall keep records of the product declarations obtained and of the persons from whom the biofuels have been procured and keep it for at least five years.

#### Article 17

Biofuel producers and participants in the trade in biofuels shall be required to apply a mass balance system when recording shipments of biofuels that:

- 1) allows shipments of raw materials or biofuels with different sustainability characteristics to be mixed,
- 2) envisages that data on sustainability characteristics and quantities relating to shipments referred to in Item 1 of this Paragraph shall also be attributed to the mixture,
- 3) ensures that the set of all shipments extracted from the mixture referred to in Item 1 of this Paragraph shall be described with the same data on the sustainability characteristics and quantities that were applicable to that set of shipments when added to the mixture.

The mass balance shall be managed and calculated in accordance with the rules of the verification scheme applied by the biofuel producer or the participant in the trade in biofuels.

#### Article 18

The Ministry shall keep the records of biofuel producers and participants in the biofuel trade, containing:

- 1) registration number, name, identification number, tax identification number, head offices and scope of activities with the line of business code of the biofuel producer and participants in the trade in biofuels,
- 2) information on the certificate and verification scheme of the biofuel producer and / or participants in the biofuel trade,
- 3) reports of biofuel producers and participants in the trade of biofuels referred to in Article 19 of this Regulation.



Records of biofuel producers and participants in the trade in biofuels shall be kept in electronic form and shall be publicly available on the Ministry's website.

#### IV. REPORTING ON THE BIOFUEL SUSTAINABILITY CRITERIA COMPLIANCE

##### Article 19

The biofuel producer or participant in the biofuel trade shall be obliged to submit to the Ministry, by the end of February of the current year, a regular annual report on the the biofuel sustainability criteria compliance in the previous year (hereinafter: the Annual Report), which shall contain:

- 1) the total quantity and energy value of all types of biofuels delivered to the market during the reporting period with data on the place of supply and origin,
- 2) average greenhouse gas emissions over the life cycle of biofuels for each type of biofuels delivered per unit of energy,
- 3) the list of product statements referred to in Art. 14 and 15 of this Regulation relating to biofuels in the reporting period with the date of their issuance,
- 4) a list of names of all verification schemes with data on their validity, pertaining to the delivered biofuels in the reporting period,
- 5) a list of all certificates on the grounds of which product statements related to biofuels were issued in the reporting period with information on their validity.

In addition to the report referred to in Paragraph 1 of this Article, the biofuel producer or participant in the biofuel trade shall also submit:

- 1) a certified translation of a valid certificate into Serbian by an authorised court translator, issued by the verifier to the biofuel producer, or to a participant in the biofuel trade, to apply the verification scheme, provided that the certificate is issued in a foreign language;
- 2) a certified copy of a certified translation into Serbian of a valid contract or other act under which the verifier has been authorised, under the verification scheme, to issue a certificate to the biofuel producer or participant in the trade in biofuels on behalf of the verification scheme.

The biofuel producer or participant in the trade in biofuels shall be obliged to submit an extraordinary report to the Ministry without delay in case of termination or obstruction of activity, termination of the certificate validity, termination of validity of the verification scheme, annulment or withdrawal of the product declaration.

In the case referred to in Paragraph 3 of this Article, the extraordinary report shall contain:

- 1) a description of all the circumstances that led to the cessation or impediment of the activity of the biofuel producer or the participant in the trade of biofuels, termination of the certificate, termination of the validation scheme, revocation or withdrawal of the product declaration,
- 2) a list of all biofuels from the annual reports submitted by the person referred to in Paragraph 3 of this Article prior to the extraordinary report, by type and quantity, if for those biofuels product declarations were cancelled or withdrawn after the annual report had been submitted;
- 3) the market value of biofuels referred to in Item 2) of this Paragraph, expressed in euros and dinars,
- 4) information on the measures taken by the person referred to in Paragraph 3 of this Article to notify obligors of biofuels marketing system of the cancelled and withdrawn biofuel product declarations referred to in Item 2) of this Paragraph.

## Article 20

The biofuel producer or the participant in the trade in biofuels shall submit electronically to the Ministry the reports referred to in Article 19 of this Regulation.

If the biofuel producer or participant in the biofuel trade does not submit the annual report within the prescribed deadline, or submits the annual report or the extraordinary report which is incomplete, unclear, contradictory, unsigned, or which contains some other deficiency, the Ministry shall notify the biofuel producer or participant in trade in biofuels, to remedy identified deficiencies.

The deadline for correcting deficiencies in case the reports referred to in Article 19 of this Regulation are incomplete, unclear, contradictory or unsigned cannot be less than eight days or longer than 30 days.

The Ministry shall be obliged to enable the biofuel producer and the participant in the trade of biofuels to submit the reports referred to in Paragraph 1 of this Article electronically and to publish on its website a notice on the electronic submission method and the report form.

Based on the reports referred to in Paragraph 1 of this Article, the Ministry shall monitor the fulfillment of the sustainability criteria for biofuels placed on the market in the Republic of Serbia.

## V. PENAL PROVISIONS

### Article 21

A fine ranging from 1,500,000 dinars to 3,000,000 dinars shall be imposed for an economic offence of a biofuel producer or a participant in the trade in biofuels if they:

- 1) fail to submit a report in accordance with Article 20 of this Regulation,
- 2) fail to fulfill the obligations referred to in Article 13 of this Regulation.

The responsible person of the biofuel producer or the participant in the trade of biofuels shall be fined for the economic offence referred to in Paragraph 1 of this Article with a fine ranging from 100,000 to 200,000 dinars.

For an economic offence referred to in Paragraph 1 of this Article, a legal entity may be imposed a protective measure prohibiting it from engaging in a particular economic activity for a period ranging from six months to three years, if the legal entity has been fined for the same economic offence in the last two years.

### Article 22

A fine ranging from 1,500,000 dinars to 3,000,000 dinars shall be imposed on an obligor of the biofuels marketing system for an economic offence if they:

- 1) fail to obtain a statement of the product accompanying the shipment in accordance with Article 16, Paragraph 1 of this Regulation when purchasing a shipment of biofuels or fuels containing blended biofuels for their delivery to their own warehouse;
- 2) do not fulfill the obligation referred to in Article 16, Paragraph 3 of this Regulation.

The responsible person of the obligor of biofuels marketing system shall be fined for the economic offence referred to in Paragraph 1 of this Article with a fine ranging from 100,000 to 200,000 dinars.

For an economic offence referred to in Paragraph 1 of this Article, a legal entity may be imposed a protective measure prohibiting it from engaging in a particular economic activity for a period ranging from six months to three years, if the legal entity has been fined for the same economic offence in the last two years.

## VI. FINAL PROVISIONS

### Article 23

This Regulation shall enter into force on the eighth day after its publication in the “Official Gazette of the Republic of Serbia” and shall apply from 1<sup>st</sup> January, 2021.

05 Number: 110-12393 / 2019  
In Belgrade, 12<sup>th</sup> December, 2019

GOVERNMENT

PRESIDENT

Ana Brnabić, duly signed