



Brussels, **XXX**
[...] (2022) **XXX** draft

COMMISSION DELEGATED DIRECTIVE (EU) .../...

of **XXX**

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

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Sustainable biofuels and biogases are important to increase the share of renewable energy in sectors that are expected to rely on liquid fuels in the long term. The recast Renewable Energy Directive¹ (“the “Directive”) introduces new provisions for promoting the use of biofuels and biogases produced from feedstock listed in Annex IX to the Directive. The Commission is requested to regularly review the list of feedstock set out in Parts A and B of Annex IX with a view to adding feedstock to the Annex provided they meet the criteria set out in the third subparagraph of Article 28(6).

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Being of technical nature, this proposal did not need to be supported by an impact assessment nor an open public consultation which are usually required only for major initiatives.

The proposal draws on the results of several consultation exercises undertaken by the Commission in the context of the implementation of Article 28(6) of the Directive, including *inter alia*, [xx] meetings of the expert group on renewable fuels and [xx] stakeholder workshops.

The draft proposal was published for public feedback on the Better Regulation Portal from [...] to [...] 2020 [*wording on feedback and any follow-up to be included subsequently*].

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The proposal is made pursuant to the second subparagraph of Article 28(6) of the Directive, which empowers the Commission to adopt delegated acts to amend the list of feedstock set out in Parts A and B of Annex IX by adding, but not removing, feedstock.

¹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

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THE EUROPEAN COMMISSION,

Having regard to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources², and in particular Article 28(6) thereof,

Whereas:

- (1) Sustainable biofuels and biogases are important to increase the share of renewable energy in sectors that are expected to rely on liquid fuels in the long term. Directive (EU) 2018/2001 introduced new provisions for promoting the use of biofuels and biogases produced from feedstock listed in Annex IX to the Directive.
- (2) The analysis of certain raw materials in accordance with the principles set out in Article 28(6), third subparagraph of Directive (EU) 2018/2001 showed that they have potential as feedstock for biofuels and biogas production. Therefore, those raw materials should be added in Annex IX to Directive (EU) 2018/2001.
- (3) Feedstock that can be processed into biofuels, or biogas for transport, only with advanced technologies should be added in Part A of Annex IX to Directive (EU) 2018/2001, while feedstock that can be processed with mature technologies should be added in Part B of Annex IX to that Directive.
- (4) Feedstocks that are fit for use in the food or feed chain should not be added in Annex IX to Directive (EU) 2018/2001, as their use may cause market distortions and additional demand for land. However, the suitability of a feedstock category as food or feed may depend on the detailed characteristics as well as local circumstances. It is therefore appropriate to include a qualification in the description of the feedstock that reflects this complexity and requires a case-by-case assessment determining whether a feedstock is fit for use in the food and feed chain. Such assessment should be based on indicators such as the nutritional value of the feedstock compared to other alternatives as well as existing demand for such feedstock in the local food and feed chain.
- (5) Directive (EU) 2018/2001 should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex IX to Directive (EU) 2018/2001 is amended in accordance with the Annex to this Directive.'

² OJ L 328, 21.12.2018, p. 82.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [18 month after adoption *PO: Please insert the date.*] at the latest. They shall immediately inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

*For the Commission
The President
Ursula von der Leyen*