

Answers to the seven questions from the Integral assessment framework for policies and regulations (IAK) for the public consultation regarding the draft decree entitled 'Conformity assessment of solid biomass for energy applications'

1. What is the background?

In the framework of European climate policy, the Netherlands will be required to generate 14% of its total energy needs from renewable sources by 2020. The Minister of Economic Affairs plans to use the Sustainable Energy Production Incentive (SDE+) to subsidise the production of various forms of renewable energy.

One form of renewable energy involves the use of biomass for the production of electricity and heat by co-firing in power plants and industrial boilers. This co-firing of biomass will achieve a substantial part of the goal. However, this form of renewable energy must not adversely affect nature, the environment or the climate. One example of the potential adverse effects involved is deforestation, others include reduced soil quality and reduced biodiversity.

For this reason, in the context of the Energy Agreement for sustainable growth, energy companies, environmental groups, and the government have agreed to formulate sustainability criteria for any biomass that is subsidised in connection with co-firing in power plants. These criteria also apply to the subsidised use of biomass in boilers. In May 2015, various NGOs reached an agreement with the energy companies on these sustainability criteria. The draft Decree on the conformity assessment of solid biomass for energy applications (hereinafter referred to as 'the draft decree') provides a basis for these sustainability criteria.

2. Who is involved?

The draft decree was instigated by the Minister of Economic Affairs and the State Secretary for Infrastructure and the Environment. The stakeholders include the parties to the Energy Agreement: environmental groups and energy companies. Environmental groups have an interest in protecting the environment and in preventing any environmental damage that might result from the use of biomass for energy production. The energy companies are involved because the use of biomass gives them access to the SDE+ subsidy. Biomass producers (especially wood pellet producers) and forest owners are also involved because they have an interest in accessing the Dutch market with their products.

Conformity assessment bodies and scheme managers play a part in safeguarding the sustainability criteria.

3. What's the problem?

The SDE+ subsidy for the indirect and direct co-firing of biomass for energy purposes encourages the large-scale use of biomass for energy applications. This biomass must be sustainable in order to be eligible for subsidy. The sustainability of the biomass can be demonstrated using private certificates (e.g. FSC or PEFC) if they meet the sustainability criteria. It is also possible for the biomass's sustainability to be tested without the use of certificates (verification). Certification and verification involve the use of a private system in which private conformity assessment bodies assess the biomass based on the certificate's requirements or on a verification protocol.

Given the substantial financial interests involved in the indirect and direct co-firing of biomass, there is a risk that biomass that has not been sustainably produced will be traded and possibly co-fired as 'sustainable', and that subsidy will be paid for this.

4. What is the goal?

The goal is to ensure that all biomass used for energy applications is sustainable. To this end, there is a need to carry out monitoring and, if necessary, enforcement activities if irregularities are identified within the existing private system.

5. What justifies government intervention?

As the co-firing of biomass can negatively impact sustainability, the government's task is to prevent this by linking sustainability criteria to the subsidy scheme and to intervene where necessary. The level of subsidy involved is substantial. It is expected to amount to €3 billion for co-firing in power plants. Accordingly, it is the government's task to create as robust a system of monitoring and enforcement tools as possible.

6. What is the best tool?

By drawing up the draft Decree on the conformity assessment of solid biomass for energy applications, the Ministry of Infrastructure and the Environment and the Ministry of Economic Affairs have created a legal basis under the Environmental Management Act to provide a foundation for the sustainability requirements and thereby embed a system of monitoring and enforcement for these sustainability criteria.

Legislation is needed to carry out monitoring and enforcement activities. Accordingly, this decree stipulates which bodies are authorised to determine whether the biomass meets the sustainability criteria, and which certification scheme or verification protocol should be used for this purpose.

Further details about the implementation of the sustainability criteria can be found in the letter to parliament (dated 18 March 2016) on this topic:

www.rijksoverheid.nl/documenten/kamerstukken/2016/03/18/kamerbrief-over-implementatie-duurzaamheidscriteria-vaste-biomassa-voor-energietoepassingen.

In short, the implementation system is as follows:

Energy companies that want to be eligible for an SDE+ subsidy must demonstrate that their biomass meets the sustainability criteria set by the government.

Companies can demonstrate this by using a certificate (certification). Certification schemes that have been approved by the Minister of Economic Affairs may be used when issuing certificates. To obtain this approval, the owners of these certificates (e.g. FSC or PEFC) can submit an application to the Minister of Economic Affairs. Their certification schemes will then be reviewed by an advisory committee. This advisory committee is set up by the Minister of Economic Affairs. The bodies that assess the biomass on the basis of this approved certification scheme – and that subsequently issue the certificates – must be accredited by the Minister of Economic Affairs.

In addition to certification, accredited bodies can also carry out verification. Independent experts (verifiers) from an accredited body test (verification) the biomass being used. To this end, the verifier uses a verification protocol designated by the Minister of Economic Affairs. This protocol describes how verifiers should check that the sustainability criteria have been met.

Companies may use a combination of certification and verification. Accordingly, even certificates that do not completely fulfil the sustainability criteria can be used, in combination with additional verification.

An enforcement body will monitor compliance with the legal requirements and, if necessary, carry out enforcement activities.

The competent authority is the Minister of Economic Affairs, who bears system responsibility.

7. What are the implications for members of the public, companies, government, and the environment?

The draft decree consulted here will affect companies, the government and the environment.

The conformity assessment bodies that assess the sustainability of biomass must submit an application for accreditation to the Minister of Economic Affairs.

The scheme managers must have their certification schemes reviewed by the Minister of Economic Affairs.

Forest owners and pellet producers will be indirectly impacted by this, as they will have to get their biomass certified in order to sell their product as sustainable biomass. This will involve additional administrative burdens.

It is expected that the costs involved will be passed on to the energy companies that purchase and burn that sustainable biomass, and receive a subsidy for doing so.

The government (the Ministry of Economic Affairs, the Ministry of Infrastructure and the Environment, and the Netherlands Enterprise Agency) must set up, implement and maintain an effective testing and monitoring system that requires personnel capacity and the deployment of financial resources.

The draft decree will have a beneficial effect on the environment. The implementation of this decree will ensure none of the biomass used for the production of energy will involve a negative impact on the environment.