

# **Guide regarding the documentary control on the obligation to add biofuels to petrol and diesel used for transportation purposes**

**-2019-**



LE GOUVERNEMENT  
DU GRAND-DUCHÉ DE LUXEMBOURG  
Ministère de l'Environnement, du Climat  
et du Développement durable

Administration de l'environnement

*PLEASE NOTE The Environmental Administration is not responsible/liable if the text is not translated correctly. Therefore, only the original (French) text and the French version of the cited legislation are valid.*

## Application procedure concerning the addition of biofuels

In application of the amended Law of 17 December 2010 establishing the excise duties and assimilated taxes on energy and electricity products, tobacco, alcohol and alcoholic drink products, hereafter referred to as "Excise law"<sup>1</sup>;

In application of the modified Grand Ducal Regulation of 27 February 2011 establishing the sustainability criteria for biofuels and bioliquids<sup>2</sup>.

### I. Audit:

(1) The operators affected by the obligation to use biofuels are the authorised warehouse keepers and the registered operators, hereafter referred to as "operators", responsible for paying excise duties.

Each operator manages a "biofuel balance" which provides information on the quantities and characteristics of the biofuels.

(2) The biofuel registers are expressed in volumes at a temperature of 15 °C. The quantities expressed in mass are to be converted with the help of the densities found in annex II.

The accounting documents relating to the purchase and sale of biofuels, as well as documents which prove the sustainability criteria have been met are kept by the operator as supporting documents for the biofuel register.

(3) The coverage is assessed over a one year, and not per delivery or over periods shorter than the calendar year, running from 1 January to 31 December.

(4) The obligation set out in Article 1 of the excise<sup>3</sup> law (physical biofuel addition of at least **5,85%** calculated based on the fuels' energy content **before** the application of the double counting rule, of which at least, **following application** of the double rule, **35%** must be made of wastes, residues, non-food cellulosic material, and ligno-cellulosic material) applies to the "fuel pool" and not to the fuel categories.

The conversion factors for the different types of fuels are provided in annex I.

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<sup>1</sup> Mem. A - 41 of 2 March 2011, p. 590 [www.legilux.lu](http://www.legilux.lu)

<sup>2</sup> Mem. A - 228 of 21 December 2010, p. 3676 [www.legilux.lu](http://www.legilux.lu)

<sup>3</sup>(1) Operators using petrol and diesel for transportation purposes must prove the use of biofuels in line with the 2009/28/CE directive of the European Parliament and the Council of 23 April 2009 which respect the sustainability criteria set out in it, at a rate of at least 5,85% calculated based on the fuels' energy content before the application of the double counting rule.

Following application of the double counting rule, at least 35% of biofuels used must originate from waste, residue, cellulosic materials from non-food origins and ligno-cellulosic materials. In the event of unavailability respectively due to the excessive pricing of biofuels originating from waste, residue, cellulosic materials from non-food origins and ligno-cellulosic materials, the 35% threshold may be reduced by Grand Ducal Regulation. The threshold reduction is dependent upon economic policy and energy issues, and market availability of waste, residue, cellulosic materials from non-food origins and ligno-cellulosic materials."

(5) An assessment to ensure the coverage has been respected by each operator is carried out in February following the reporting year and taking into account the incoming and outgoing biofuel duties recorded in the balance.

(6) Each operator provides the Environmental Administration<sup>4</sup>, with a 'Released for consumption' file, either via e-mail or by post by 1 March of the following year at the latest.

This file must contain at least the following:

- a copy of the breakdown of 'Released for consumption' declarations (ACC 4) of petrol and diesel for transportation purposes used during the reporting year;
- the biofuel register per product category;
- proof of sustainability and (or if they contain information relating to sustainability criteria) proof of acquisition.

The released for consumption summary and the biofuel register will be taken into consideration when determining the annual rate of addition.

The proof of acquisition will not be taken into account if the date cited is after the aforementioned date.

The Environmental Administration may request any sales or administrative document that it deems necessary<sup>5</sup> to ensure Article 1 of the excise law has been respected, respectively Articles 8 and 9 of the Grand Ducal Regulation of 27 February 2011 *establishing the sustainability criteria for biofuels and bioliquids*.

(7) The balances and supporting documents are to be provided in response to the first request made by the Environmental Administration.

(8) The Environmental Administration verifies, based on the 'Released for consumption' file for petrol and diesel for transportation purposes of the reporting year, the quantities that can be taken into consideration to prove that the obligation set out in Article 1 of the excise law has been respected<sup>3</sup>.

The following rules apply:

- The volume of fossil fuels released for consumption during the reporting year corresponds to the quantities of fuel declared to be released for consumption in the country with reduced quantities of biofuels corresponding to biofuel duties acquired during the same period, in accordance with the balance;
- The total energy value is the sum of the energy values for fossil and the renewable energy;
- In order for the biofuels to be considered as contributing to the coverage, it must be demonstrated that the sustainability criteria have been respected.
- The biofuels objective must account for at least **5,85%** based on the energy content of the fuel and **before application of the double counting rule**;

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<sup>4</sup> Article 1, paragraph 5, first sub-paragraph of the excise law.

<sup>5</sup> Article 9, paragraph 6 of the Grand Ducal Regulation of 27 February 2011 establishing the sustainability criteria for biofuels and bioliquids.

- **Following application of the double counting rule** (see point 10), at least **35%** of biofuels used must originate from waste, residue, cellulosic materials from non-food origins and ligno-cellulosic materials. In the event of unavailability respectively due to the excessive pricing of biofuels originating from waste, residue, cellulosic materials from non-food origins and ligno-cellulosic materials, the 35% threshold may be reduced by Grand Ducal Regulation. The threshold reduction is dependent upon economic policy and energy issues, and market availability of waste, residue, cellulosic materials from non-food origins and ligno-cellulosic materials.

(9) The excise law establishes a minimum obligation for the addition of biofuels to petrol and diesels for transportation purposes released for consumption without there being any reduction in the tax rate for the mixture.

It follows that biofuels, in their purest form, released for consumption in countries with partial or total exoneration due to their nature, cannot be taken into consideration to satisfy the need to include it in the biofuel balance.

(10) The contribution provided by the biofuels produced from waste, residue, cellulosic materials of a non-food origin and ligno-cellulosic materials is considered to be equivalent to twice that of other biofuels.

The provision of proof of sustainability, issued by a voluntary scheme recognised by the Commission and indicating that the biofuel is indeed produced from waste or residue, is mandatory.

(10bis) Carrying over an excess of biofuels from one year to another may be authorised for 2018 to 2019 as long as the following conditions are met:

- The excess to be carried over must meet the sustainability criteria for the year to which it is being transferred, as set out in the modified Grand Ducal Regulation of 27 February 2011, which determines the sustainability criteria for biofuels and bioliquids;
- Only the excess in relation to the obligation set out in Article 1 of the excise law may be carried over to the following year;
- The excess carried over must not exceed **4,5%** of the obligation for the reporting year;
- The excess carried over is taken into account in the obligation audit, provided for in Article 1 of the excise law, of the year to which it is transferred, but cannot be carried over a second time.

The excess is attested to by the Environmental Administration and is given a reference number. It is calculated and expressed in MJ.

The biofuel balance on 1 January each year will show the excess carried over with its reference number in the "Incoming" section.

- Transferring the excess over to an operator from Luxembourg or abroad is not permitted.
- The carry over option outlined in this paragraph may be revoked at any time should the European Commission change their position on this matter. This revocation does not entitle the operator to any compensation for costs relating to such a ban on transfers.

The decision will be communicated to the operators.

Carrying over an excess of biofuels from 2019 to 2020 is not authorised.

## **II. Shortage:**

(11) Given the temperature, the inaccuracy of measuring devices, the conversion factors, etc. allowances may be made if the total percentage of the biofuel additions reaches at least 5,82% during the reporting year. At this point, the total energy value for the year which follows the reporting year will be increased by the total energy value which was not covered (0.03% at the most) during the previous year.

No allowance will be applicable if the rate of addition does not reach at least 5,82 %.

(12) The coverage deficit determined and expressed in energy is converted into a FAME volume to calculate the pollution tax due.

(13) The operator will be notified of the amount of pollution tax due, as will the Customs and Excise Administration.

The Customs and Excise Administration is responsible for the collection of pollution tax based on the order issued by the Environmental Administration.<sup>6</sup> The operator must provide the adjustment declaration within the 3 weeks following notification by the Environmental Administration and pay the pollution tax to the Customs and Excise Administration. The payment deadlines are the same as those generally applied to petrol and diesel for transportation purposes.

## **III. Proof of Acquisition and Sustainability**

(14) The monitoring and control of the release onto the market of biofuels is conducted based on the administrative and commercial documents demonstrating acquisition in the supply countries. The quantities transferred to Luxembourg are removed from the biofuel balance, if applicable, from the mass balance which is under the control of the authorities of the country of origin or any other equivalent recognised control.

Administrative transfers to Luxembourg are not admissible.

(15) The respect of the sustainability criteria is to be demonstrated by a proof of sustainability issued by a voluntary scheme recognised by the Commission, or issued in accordance with the applicable rules as far as the country of acquisition is concerned, and containing, at a minimum, the information listed in annex III.

(16) Proof of acquisition of the biofuel duties, as well as proof of sustainability, may vary depending on the acquiring Member State.

At this time, the Environmental Administration considers proof established in accordance with the following instructions to be sufficient.

If applicable, and following consultation with the Environmental Administration, other proof may be accepted.

Proof must to be written in French, German or English.

### **Germany:**

The Luxembourg operator provides a "Nachhaltigkeitsnachweis" proof of sustainability or a "Nachhaltigkeits-Teilnachweis" proof of partial sustainability issued by the Nabisy

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<sup>6</sup> Article 1, paragraph 5, second sub-paragraph of the excise law.

system indicating the nature of the biofuel and average monthly rate of imported biofuels, or indicating, for each consignment, the quantity of biofuel contained in the fuel provided.

In the "Recipient/Empfänger" section, the operator enters the account for Luxembourg, which has the following reference number:

**DE-B-BLE-BM-09-Lfr-99999352.**

#### Belgium:

A product declaration issued by the Belgian-Luxembourgish database. This declaration contains the following information<sup>7</sup>:

- the names, addresses and place of business of both parties;
- the issue date and the place of signature for each party;
- a description of the product transferred;
- the quantity of biofuel transferred expressed in litres at a temperature of 15 °C;
- the energy content of the biofuel in MJ;
- produced from waste or residue (yes/no);
- greenhouse gas reduction rate compared to fossil fuels as a reference and expressed in % (the value must be greater than 50% at least) as determined in annex I, part C, §4 and calculated in accordance with Article 7 of the Belgian Royal Decree of 26 November 2011, *outlining the product norms for biofuels*;
- the voluntary scheme used (recognised by the Commission).

The provision of these documents is not obligatory. The reference numbers appear on the biofuel register statement as established by the register. This allows the Administration to search for them and inspect them directly online.

#### Netherlands:

The operator supplies a "Duurzaamheidsverklaring" proof of sustainability for the imported biofuels issued by the Dutch supplier indicating the nature of the biofuel and average monthly rate of imported biofuels, or indicating for each consignment the quantity of biofuel contained in the fuel provided.

This proof is issued in accordance with the provisions in annex III B of the "Regeling hernieuwbare energie vervoer" Act and must contain the following information<sup>8</sup>:

- type of biofuel;
- quantity expressed in litres at 15°C;
- factor applicable to the biofuel (single accounting or double accounting);
- energy content;
- CN code of the raw materials;
- country of origin of the raw materials;
- voluntary scheme;
- potential for the reduction of greenhouse gases in relation to 83.8g CO<sub>2eq</sub>/MJ in %;
- quantities of greenhouse gases over the whole life cycle in t CO<sub>2eq</sub>.

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<sup>7</sup> Article 5 of the Royal Decree of 26 November 2011, outlining the product norms for biofuels.

<sup>8</sup> Annexe III B Regeling hernieuwbare energie vervoer, 2 May 2011.

## Luxembourg

The administrative transfer of biofuels between operators established in Luxembourg is permitted. The transfer is recorded by means of an invoice indicating the nature and quantity of the biofuels transferred.

(17) The documents produced by the operators will allow the Luxembourg authorities to verify, together with the authorities in the countries of origin, if the foreign biofuel registers have been debited from the quantities concerned, so that these quantities may be added to the Grand Duchy's credit.

## **IV. Information regarding the use of the Belgian-Luxembourgish Biofuel Register**

(18) To facilitate the task of providing documentary proof of the respect of sustainability criteria, Belgium's *Federal Public Service for Health, Food Chain and Environment* and the *Luxembourg Environmental Administration* have made a biofuel register available to the operators. The site is accessible from the website's virtual desk <https://environnement.public.lu/fr/emweltprozeduren/registres/Biocarburants.html>.

## Belgium and Luxembourg

(19) Biofuels exchanged between Belgian and Luxembourg operators are transferred directly, together with all information regarding the sustainability criteria, to the operator's account.

Before approval, the recipient ensures that, in the details of the batch received, the option "*I certify that this consignment has been produced in compliance with....*" is ticked (see below).

The screenshot shows a web form titled "Sustainability Criteria". A checkbox labeled "I certify that this consignment has been produced in compliance with the Grand-ducal ordinance of February 27th, 2011 determining the sustainability criteria for biofuels and bioalcohols." is checked and circled in red. Below this, the form includes the following fields:

- Legislation: DIRECTIVE 2009/28/EC
- Stage: 2009/28/EC art 17, 2\*
- \*Reduction of GHG's Emissions: 38%
- \*Calculation Method: Default GHG emission saving (dropdown menu)
- \*Certification: ISCC\_EU (dropdown menu)
- Control Organism: Select Control Organism (dropdown menu)

## Biofuel originating from another country

(20) In the case of import from another State, such as Germany or the Netherlands to Luxembourg, the operator uses the "*New consignment*" feature and enters, wherever possible, the unique number of the foreign authority, for example DE-B-BLE...

Logged in as: TESTOIL1@AEVETAT.LU - Application: BIOFUEL

My Account **Consignments** Pending Consignments

Go Actions **New Consignment**

Reference Nr.	Registration Dt	Stage
BE-2012-00001-LUX-2012-00007-BE-2012-00006-LUX-2012-00009	05-10-2012	2009/28/EC art 2*
BE-2012-00001-LUX-2012-00007-BE-2012-00006-LUX-2012-00011	05-10-2012	2009/28/EC art 2*

Consignment

\*Company Name Testoil1

\*Consignment Number LUX-2012-00012

Consignment Number Other Authority DE-B-BLE-BM-1234

\*Date of Registration 05-10-2012

Sustainability Criteria

### Biofuel Register

(21) The account in the register constitutes the operator's biofuel balance. The register can be used to export a statement of the register and send it via e-mail to the Administration.

The submission deadline is the one that appears in point (6) of this document. Proof of foreign sustainability is to be kept as supporting documents for the biofuel register and should only be provided upon request by the Administration.

My Account **Consignments** Pending Consignments

Go Actions **New Consignment**

**Filter**

Filter Type  Column  Row

Column	Operator	Expression
Registration Dt	between	01-01-2012 31-12-2012

Cancel Apply

Reference Nr.	Registration Dt	Stage	Origin
BE-2012-00001-LUX-2012-00007-BE-2012-00006-LUX-2012-00009	05-10-2012	2009/28/EC art 17, 2*	Imported
BE-2012-00001-LUX-2012-00007-BE-2012-00006-LUX-2012-00011	05-10-2012	2009/28/EC art 17, 2*	Imported
BE-2012-00002-LUX-2012-00006	04-10-2012	2009/28/EC art 17, 2*	Imported

My Account **Consignments** Pending Consignments

Go Actions

**Download**

Choose report download format:

HTML XLS PDF

Cancel

Registration Dt between 01-01-2012 and 31-12-2012

Reference Nr	Re
BE-2012-00001-LUX-2012-00007-BE-2012-00006-LUX-2012-00009	05
BE-2012-00001-LUX-2012-00007-BE-2012-00006-LUX-2012-00011	05

Microsoft Excel - consignments.xls [Read-Only]

	A	B	C	D	E	F	G	H	I	J	K	L
	Reference Nr	Registration Dt	Stage	Origin	Product	Release For Consumption	Total Qty	Remainna Qty	Pending Qty	# Partitions		
1	BE-2012-00001-LUX-2012-00007-BE-2012-	05/10/2012	2009/28/EC art 17, 2*	Imported	Bioethanol	<img	5 m³	5 m³	0 m³	0	Create Partition	
2	BE-2012-00001-LUX-2012-00007-BE-2012-	05/10/2012	2009/28/EC art 17, 2*	Imported	Bioethanol	<img	17 m³	17 m³	0 m³	0	Create Partition	
3	BE-2012-00002-LUX-2012-00006	04/10/2012	2009/28/EC art 17, 2*	Imported	Bioethanol	<img	51 m³	0 m³	0 m³	1		
4	BE-2012-00003-LUX-2012-00008	04/10/2012	2009/28/EC art 17, 2*	Imported	FAME (Biodiesel)	<img	20 t	0 t	0 t	1		
5	LUX-2012-00003	28/09/2012	2009/28/EC art 17, 2*	Imported	Bio-ETBE	<img	1500 m³	1500 m³	0 m³	0	Create Partition	
6	LUX-2012-00001-LU30045955	28/09/2012	2009/28/EC art 17, 2*	Produced	FAME (Biodiesel)	<img	5000 m³	5000 m³	0 m³	0	Create Partition	
7												
8												
9												
10												
11												
12												

## V. Annexes

### Annex I: Conversion Factors

Energy content of fuel intended for transport	
Fuel	Energy content by volume [MJ/L]
<b>Bioethanol</b> (ethanol produced from biomass)	21
<b>Bio-ETBE</b> (of which 37% from renewable sources) (ethyl-tertio-butyl-ether produced from bioethanol)	27
<b>Biomethanol</b> (methanol produced from biomass, used as biofuel)	16
<b>Bio-MTBE</b> (of which 22 % from renewable sources) (methyl-tertio-butyl-ether produced from biomethanol)	26
<b>Bio-DME</b> (dimethylether produced from biomass, used as biofuel)	19
<b>Bio-TAEE</b> (tertioamylether produced from bioethanol)	29
<b>Biobutanol</b> (butanol produced from biomass and used as a fuel)	27
<b>Biodiesel</b> (FAME)	33
<b>Fischer-Tropsch Diesel</b> (a synthetic hydrocarbon or mixture of synthetic hydrocarbons produced from biomass)	34
<b>Hydrotreated Vegetable Oil</b>	34
<b>Pure Vegetable Oil</b> (without chemical modification, in the case where its use is compatible with engine type and the corresponding requirements in terms of emissions)	34
<b>Petrol</b>	32
<b>Diesel</b>	36

## Annex II: Densities

<b>Density of certain biofuels intended for transport</b>	
<b>Fuel</b>	<b>Density [kg/m<sup>3</sup>]</b>
<b>Bioethanol</b> (ethanol produced from biomass)	794
<b>Bio-ETBE</b> (of which 37% from renewable sources) (ethyl-tertio-butyl-ether produced from bioethanol)	750
<b>Biomethanol</b> (methanol produced from biomass, used as biofuel)	793
<b>Bio-MTBE</b> (of which 22 % from renewable sources) (methyl-tertio-butyl-ether produced from biomethanol)	745
<b>Biodiesel</b> (FAME)	890
<b>Hydrotreated Vegetable Oil</b>	780
<b>crude vegetable oil</b> (without chemical modification, in the case where its use is compatible with engine type and the corresponding requirements in terms of emissions)	920

### **Annex III: Minimum content of proof of sustainability**

- quantity and type of biofuel
- produced from waste or residue (yes/no)
- energy content in MJ
- greenhouse gas emissions (g CO<sub>2</sub>eq/MJ)
- potential reduction of greenhouse gas (> 50% required)
- the country of origin of the raw material
- vendor's name and address
- customer's name and address
- acquisition date
- unique reference number
- name of voluntary scheme