

Joint statement of the EU industry: Pragmatic regulatory framework necessary for hydrogen market

The signatories of this letter welcome the publication of the drafts for the outstanding RED II Delegated Acts on Article 27.3 ('Additionality' Delegated Act) and Article 28.5 (Greenhouse Gas Reduction Methodology) and appreciate the European Commission's call for feedback.

For meeting the climate neutrality targets set by the European Green Deal, our sectors crucially depend on the large-scale availability of renewable fuels of non-biological origin (RFNBOs), supplied cost-competitively and securely across Europe. The signatories strongly support avoiding the double counting of renewable electricity or emitted greenhouse gases through appropriate certification mechanisms and the establishment of viable sustainability criteria through the RED II Delegated Acts. These shall ensure a clear and certain framework for investments.

Achieving the Commission's increased ambition levels such as RFNBOs sub-quotas as outlined in the REPowerEU Plan, European Hydrogen Strategy, revision of the Renewable Energy Directive, ReFuelEU Aviation or discussed in FuelEU Maritime require a safe investment environment and sufficient planning certainty for the rapid scale-up of renewable fuels of non-biological origin, hydrogen derivatives such as synthetic fuels, and underlying technologies such as Carbon Capture and Utilisation (CCU).

Overly restrictive requirements, the absence of clear guarantees on the availability of renewable electricity and relevant dedicated infrastructure have the opposite effect of curtailing investments in production capacity and imposing undue administrative burdens. The signatories therefore propose the following changes to the draft acts, which are necessary to enable the market ramp-up and fast decarbonisation.

The signatories recommend the European Commission to:

Art. 27.3 – 'Additionality' Delegated Act:

1. Prolong the proposed transitional period and grandfathering to at least 2030.
2. Extend the geographical correlation beyond the proposed concept, provided there is sufficient or potential interconnection capacity between bidding zones.
3. Set at least the proposed monthly temporal correlation as a default. A change to a more granular correlation should be subject to a corresponding Impact Assessment by the Commission.

Art. 28.5 – GHG methodology/threshold for RFNBO/RCF Delegated Act:

1. Reconsider restrictions on industrial CO₂ use.
2. Broaden the definition of possible CO₂ sources limited by carbon pricing requirements.
3. Allow RCFs producer to use PPA's and other measures to replace the electricity displaced by the production of an RCF (and RFNBO) instead of national average grid GHG factors.

Explanatory remarks:

Art. 27.3 – 'Additionality' Delegated Act

1. **Additionality:** Considering the lead time for development of renewable electricity generation installations (RE) (e.g. offshore wind – up to 7 years) does not coincide with the time needed to construct an electrolyser and considering the extremely high RE demand by energy intensive industries, this requirement represents a significant hurdle for the uptake of RFNBO production. **We therefore recommend extending the proposed transitional period and grandfathering to at least 2030.** The exemption for member states with high shares of renewable electricity generation should be revised. We call for a lower threshold than the proposed 90%.
2. **Geographical correlation:** This is crucial as not all regions have the same access to sufficient RE sources and as industrial sites may be located far from suitable RE production areas, without being able to relocate for economic and structural reasons. As bidding zone sizes can be adjusted in the future, the current rule does not provide a secure investment basis for future installations. Considering different bidding zone systems within the EU, a narrow geographic correlation leads to an added administrative burden and limited access to RE in countries with multiple bidding zones and to curtailments of

electricity trading, e.g. Sweden and Italy. ***This requirement should therefore be extended beyond what is currently proposed, provided there is sufficient or potential interconnection capacity between bidding zones.*** In addition, such criteria compromise the internal trade of electricity by limiting the sourcing of electrons only for electrolyzers located within the same market area.

3. **Temporal correlation:** Most industrial production processes require continuous energy input, regardless of weather conditions. Moreover, the majority of industrial sectors lack storage options to offset the risks of an intermittent energy supply. Thus, we seriously doubt that an hourly correlation – even as of 2027 – would be suitable to match the stable demand required by industrial consumers to operate 24/7. An hourly correlation would lead to significant inefficiencies that would further hinder the expansion of the renewable hydrogen market¹. According to studies, the hydrogen price increases by 12.2% for a daily instead of monthly correlation for new installed, unsubsidized RE sources in Germany². Thus, ***we call on the Commission to adopt the proposed monthly time correlation as the minimum default rule for hydrogen and derivatives production.*** Should this correlation be deemed to be made more granular, it should be subject to a corresponding Impact Assessment by the Commission, considering the availability of renewable electricity, storage capacity and adequate technical possibilities to comply with the target.

Art. 28.5 – GHG methodology/threshold for RFNBO/RCF Delegated Act:

1. The proposed sunset date (2035) for the **use of industrial CO₂ sources** would immediately lead to a halt in CCU investments today. CO₂ emissions from fossil sources are set to be reduced gradually by multiple regulatory files, including the Renewable Energy and Energy Efficiency Directives and the EU Emission Trading System, leaving only process-related and thus unavoidable hard-to-abate or not-to-abate emissions. CCU is an effective solution to capture those remaining emissions and convert them into valuable transport fuels by using CO₂ emissions that would have been otherwise emitted to the atmosphere. Storage options for captured carbon may not be accessible or even allowed in certain locations. This unjustified time limitation would have significant profitability implications as an operating lifetime of max. 13 years is not sufficient to recoup the investment costs for CCU and would therefore discourage investments that enable meaningful recycling and reuse of CO₂ emissions. ***Therefore, we recommend reconsidering the approach proposed, in view of exploiting the significant CO₂ usage potential of industrial processes.***
2. The production of RFNBOs and replacement of fossil fuels should not be artificially limited to industrial CO₂ sources listed under the EU ETS. We recommend considering all CO₂ sources from process-related and thus unavoidable, hard-to-abate, or not-to-abate emissions and including further anthropogenic CO₂ (e.g. waste-to-energy) **regardless of their country of origin** subject to the provision that no double-counting in terms of CO₂ avoidance credits have already been granted in any other mechanism at international level. Such an approach would also facilitate the import of RFNBOs from third countries, that have no comparable carbon pricing scheme in place. We support the Commission in its endeavor to significantly scale-up of Direct Air Capture (DAC).
3. Based on the criteria proposed in para. 10(a) of the Annex, the GHG footprint of Recycled Carbon Fuels (RCFs) produced from industrial CCU applications (e.g., steel) using rigid inputs depends highly on the GHG intensity of the electricity grid. Currently, only industrial RCFs produced in Member States with a very high RE share in their electricity grid can meet the 70% GHG emissions reduction threshold. To exploit the GHG reduction potential and the roll out of RCFs, fuel producers falling under draft para. 10(a) shall be able to use renewable PPA to replace the electricity lost due to the diversion of the rigid inputs from the original use.

¹ Reducing the exposure to intermittency, and hence lower running hours, would require over-purchasing PPAs or the over-deployment of storage capacity, reducing overall investment capacity and increasing the cost of hydrogen.

² [RED II Green Power Criteria](#) - Impact on costs and availability of green hydrogen in Germany - (July 2021).

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