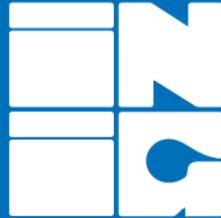


System Certyfikacji

**ZRÓWNOWAŻONY ROZWÓJ
W PRODUKCJI BIOPALIW I BIOPELNYW**



INSTYTUT NAFTY I GAZU
Państwowy Instytut Badawczy

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Land use for raw materials production – agricultural and environmental requirements and standards

by The Oil and Gas Institute

The KZR INiG-PIB System/6

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1. Introduction

The production of biofuels and bioliquids shall comply with all applicable laws and regulations of the country in which the production occurs and with relevant international laws and agreement. This document provides guidelines on the best practices of cultivation and harvesting of raw materials according to agricultural and environmental requirements and standards.

These regulations are defined in provisions referred to under the heading “Environment” and in point 9 of the piece entitled “Public, animal and plant health” of Annex II to Council Regulation No. 73/2009/ECⁱ and in accordance with the minimum requirements for good agricultural and environmental condition in relation to nature protection (art. 6 (1) to Regulation No. 73/2009/WE).

2. Scope

According to the provisions of art. 17 (6) of Directive 2009/28/EC (RED), „*Agricultural raw materials cultivated in the Community and used for the production of biofuels and bioliquids (...) shall be obtained in accordance with the requirements and standards under the provisions referred to under the heading ‘Environment’ in part A and in point 9 of Annex II to Council Regulation (EC) No 73/2009ⁱ (...) and in accordance with the minimum requirements for good agricultural and environmental condition...ⁱⁱⁱ*”.

3. Normative References:

All relevant KZR INiG System documents are valid for the scope of application. The normative references display the documents which contents are linked and have to be considered as common points.

KZR INiG System /1/ Description of INiG System of Sustainability Criteria – general rules

KZR INiG System /2/ Definitions

KZR INiG System /3/ Reference with national legislation

KZR INiG System /4/ Land use for raw materials production – lands with high carbon stock

KZR INiG System /5/ Land use for raw materials production – biodiversity

KZR INiG System /7/ Guidance for proper functioning of mass balance system

KZR INiG System /10/ Guidelines for auditor and conduct of audit

Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.

Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003.

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Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that Regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector.

4. Definitions

KZR INiG System/2/ Definitions

5. Description and requirements

To meet requirements, Member States may rely on their own currently existing control systems for cross compliance, under art. 22 of Regulation No. 73/2009/ECⁱ and rules of good agricultural practice.

The requirements referred to in the above mentioned regulation, are applicable **only** to raw materials coming from European Union, intended for biofuels and bioliquids production.

Based on the cross compliance principle of the KZR INiG System, the agricultural producer who is a beneficiary of the direct support scheme according to Regulation No. 73/2009ⁱ **meets only agricultural and environmental requirements and standards** such as soil and water protection, Habitat and Birds Directives, good agricultural practice and management etc.

Additionally, the sustainability criteria related to highly biodiverse lands (*KZR INiG System/5/Land use for raw materials production – biodiversity*) and high carbon stock lands (*KZR INiG System/4/Land use for raw materials production – lands with high carbon stock*) must be met by farmers whether they are the beneficiaries of the direct support scheme or not.

5.1 Natural environment

Under the scope of the cross-compliance rule, environmental protection includes the following aspects¹:

- birds and natural habitats protection of wild fauna and flora;
- protection of ground waters against dangerous substances;
- handling of sewage sludge in a farm;
- protection of waters against nitrates from agricultural sources.

Table 1 shows compiled requirements of natural environment.

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Table 1 –Natural environment requirements ⁱⁱⁱ

Acts of Union law	Domain of regulation	Scope
Bird Directive – Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds	<p>The aim of the Directive on the conservation of wild birds is the protection of endangered species and their preservation in conditions favoring as much as possible their natural habitats.</p> <p>Practically, it means that:</p> <ul style="list-style-type: none"> - The farmer is obliged to comply with the requirements of protective actions or protection plans for NATURA 2000 areas concerning the protected bird species. 	<p>Affects – farmers whose farms or their parts are located in a NATURA 2000 area.</p> <p>In the case when a part of a farm is located within Natura 2000 area, the requirements are valid for this part.</p>
	<ul style="list-style-type: none"> - The prohibition of intentional capturing and killing of birds under protection is obeyed. <p>The above prohibition does not pertain to a farmer who has a permit issued on the grounds of art. 52 (2) or art. 56 (1) or (2) of the Act on Nature Conservation, for a departure from the prohibition of intentional capturing and killing of protected birds.</p> <ul style="list-style-type: none"> - The prohibition of intentional destruction of nests and eggs or intentional scaring away of protected birds is obeyed. <p>The above prohibition does not pertain to a farmer who has a permit issued on the grounds of art. 52 (2) or art. 56 (1) or (2) of the Act on Nature Conservation, for a departure from the prohibition of intentional destruction of nests and eggs or intentional scaring away of birds under protection.</p> <ul style="list-style-type: none"> - The prohibition of intentional destruction of habitats and refuges of protected birds is obeyed. <p>In refuge protection zones, breeding grounds and regular stay of birds, it is prohibited:</p> <ul style="list-style-type: none"> - to cut trees or bushes, - making changes in water distribution, unless it is connected with the protection needs. <p><i>The prohibition does not pertain to persons having a permit for these operations issued by director of Regional Directorate for Environmental Protection.</i></p>	<p>Affects – farmers in the whole country</p>
Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances	<p>The aim of the Directive is the protection of groundwater against pollution caused by dangerous substances.</p> <p>Practically, it means that:</p> <ul style="list-style-type: none"> - It is prohibited to introduce dangerous substances directly or indirectly to groundwater, e.g.: mercury, persistent mineral oils, petroleum etc. <p>The list of dangerous substances for the above requirement is defined in <u>attachment No. 11 in the list 1</u> to the Regulation of the Minister of Environment of 24.07.2006 <i>on conditions to be fulfilled while releasing wastewater to waters or to the ground, and on substances particularly hazardous for aquatic environment contained in wastewater and in waste.</i></p> <ul style="list-style-type: none"> - It is prohibited to introduce dangerous substances into the ground, e.g.: unstable mineral oils and petroleum hydrocarbons, ammonia, nitrites, cyanides etc. <p>The above prohibition does not pertain to a farmer who has a permit issued on the grounds of art. 140 of Act on Water Law and complies with the conditions included therein.</p>	<p>Affects – all farmers.</p>

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Acts of Union law	Domain of regulation	Scope
	<p>The list of dangerous substances for the above requirement is defined in <u>attachment No. 11 in the list 2</u> to the Regulation of the Minister of Environment of 24.07.2006 <i>on conditions to be fulfilled while releasing wastewater to waters or to the ground, and on substances particularly hazardous for aquatic environment contained in wastewater and in waste.</i></p>	
<p>Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture</p>	<p>Proper utilization of sewage sludge in agriculture requires the farmer to comply with the following requirements:</p> <p><u>List of requirements</u></p> <ul style="list-style-type: none"> - Obligation of compliance with recommended doses of municipal sewage sludge defined in the document submitted by the producer of the municipal sewage sludge. - Prohibition to use sludge that is non-stabilized or unprepared properly for the aims of its utilization (the sludge must undergo proper treatment). - Before using municipal sewage sludge, analysis of the soil for available phosphorus contents, heavy metal contents, and pH should be carried out. 	<p>Affects – farms utilizing municipal sewage sludge.</p>
<p>Nitrate Directive – Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources</p>	<p>Protection of groundwater against pollution caused by nitrates. The aim of the Directive is to protect waters and to reduce their pollution by nitrates originating from agricultural sources.</p> <p>Practically, it means that:</p> <p>The requirements of programs aiming to reduce nitrogen outflow from agricultural sources for designated areas particularly exposed to be polluted by nitrates from agricultural sources are met in the area where the farms or their parts are located.</p> <p><u>List of requirements:</u></p> <ul style="list-style-type: none"> - Storage of livestock manures and silages - Dung is stored in inventory compartments with impermeable bases or on an impermeable plate equipped with installations draining the run-off to liquid manure and manure water tanks. - Capacity of the manure plate ensures gathering and storing of livestock manure in times when it is not used in agriculture (for at least 6 months). - Semi-liquid manure and liquid manure are stored in leakproof tanks. - Capacity of semi-liquid manure and liquid manure tanks is sufficient for their storage in times when they are not used in agriculture (for at least 6 months). - Silages are protected from run-off into the ground. - Dose of livestock manure used during a year does not contain more than 170 kg of nitrogen (N) in a pure component per 1 ha of agricultural land. <p>Required documentation (it may differ depending on specific local program of operations)</p> <ul style="list-style-type: none"> - The farmer has a yearly plan of fertilization of the crops. - The farmer has a contract for sale of livestock manures produced on the farm if it results from too high livestock manure production (above 170 kg N/ha) in relation to area of the agricultural lands owned by the farmer. - The farmer has contracts for tenure or use of agricultural lands other than owned, if it results from too high livestock manure production (above 170 kg N/ha) in relation to area of the agricultural lands owned by the farmer. 	<p>Affects – farmers whose farmstead or their parts are located in an area particularly exposed to be polluted by nitrates from agricultural sources.</p> <p>In the case when a part of the farmstead is located in an area particularly exposed to be polluted by nitrates from agricultural sources, the requirements are valid for this part.</p>

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Acts of Union law	Domain of regulation	Scope
Habitat Directive – Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora	<p>The aim of the Directive on the conservation of natural habitats and of wild fauna and flora is to protect the nature on the area of the European Union, requiring Member States to establish special habitat protection areas, where the habitats will be preserved in a state not worse than the present one.</p> <p><u>List of requirements:</u></p> <ul style="list-style-type: none"> - The farmer is obliged to comply with the requirements resulting from protective actions plan or protection plans for NATURA 2000 areas concerning the natural habitat types, plant species or animal species. - it is prohibited to undertake actions that may, separately or in connection with other actions, significantly adversely affect the protection aims of a Natura 2000 area. <p>The above prohibition does not pertain to a farmer who has a permit issued on the grounds of art. 34 (1) of the <i>Act on Nature Conservation</i></p> <ul style="list-style-type: none"> - Actions which may significantly affect a Natura 2000 area, may be realized if a proper administrative decision was issued. - The prohibition of intentional picking, destruction and damaging, and harvest of plants under protection. 	<p>Affects – farmers whose farmstead or their parts are located in a NATURA 2000 area.</p> <p>In the case when a part of a farmstead is located in Natura 2000 area, the requirements are valid for this part.</p>
		<p>Affects – farmers realizing actions which may significantly affect or significantly adversely affect the protection aims of a Natura 2000 area or the Natura 2000 area itself</p>
		<p>Affects – all farmers</p>

5.2 Public, animal and plant health (sec. 9)

One of the most important ways of preventing risk to people, animals and environment, is the proper use of plant protection products according to Council Directive 91/414/EEC^{viii}. Table 2 shows requirements' list of the scope of natural environment .

Table 2 – Guidelines for the use of plant protection productsⁱⁱⁱ

Acts of Union law	Domain of regulation	Scope of the binding force
Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market.	<p>The aim of this Directive is to oblige Member States to establish rules concerning the placing of plant protection products on the market.</p> <p><u>List of requirements:</u></p> <ul style="list-style-type: none"> - use exclusively, plant protection products that are allowed on the market; - use plant protection products only in accordance with their label – instruction for use, strictly adhering to its recommendations, to prevent dangers to human or animal health, or to the environment; - storage of plant protection products according to recommendations provided on their label – instruction for use; - keeping a record of actions carried out using plant protection products, - ensuring that a person carrying out actions using plant protection products in agricultural production has valid certificate of training on the use of plant protection products In the Republic of Poland, or has completed, not earlier than 5 years before carrying out actions using plant protection products training in the scope of use of plant protection products in another Member State, in a member state of European Free Trade Association (EFTA) – party of the treaty on European Economic Area, or a state which signed a treaty regulating freedom of enterprise with European Community and its Member States, based on regulations valid in that state, and has a certificate of completion of such training; - use of plant protection products with technically operable equipment which, when used as intended, will not pose a danger to human and animal health or the environment 	<p>Affects – farmers using plant protection products</p>

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5.3 Good agricultural and environmental condition

In the European Union agricultural producers are obliged to follow good agricultural and environmental practices that are applicable **solely** for the cultivation of sustainable agricultural raw materials for biofuels or bioliquids production.

In the European Union’s area, the cultivation of raw materials shall comply with the environmental protection guidelines, included in relevant documents and guidelines applicable in Member States. For instance, agricultural land use in Poland should be handled according to provisions of Regulation of the Minister of Agriculture and Rural Development of 11 March 2010 on minimum standards ^v.

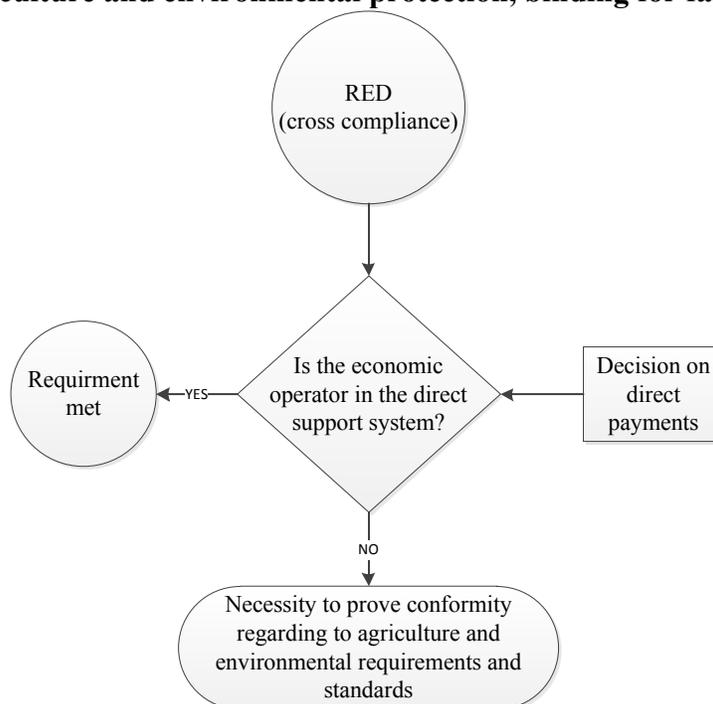
6. Calculations

Not applicable.

7. Conformity check

In order to prove conformity, one should proceed according to the following diagram (Figure 1).

Figure 1 – Exemplary procedure for the verification of requirements and standards of agriculture and environmental protection, binding for farmers



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7.1 Cross compliance

To verify this criterion, the use of audit results carried out by the Agency for Restructuring and Modernisation of Agriculture, which is as an accredited paying agency and control body, is allowed according to the KZR INiG System that recognizes these results as reliable sources of data.

Furthermore, an agricultural producer that cultivates raw materials for biofuels or bioliquids production, is obliged to sign the *Self-declaration for agricultural producer* (Annex 2 to *KZR INiG System/I*).

Nevertheless if the agricultural producer that cultivates raw materials for biofuels and bioliquids production participates in the direct financial support scheme and control system, or does not, he/she is obliged to prove compliance with the sustainability criteria concerning highly biodiverse areas (see document *KZR INiG System/5/Land use for raw materials production – biodiversity*) and lands with high carbon stock (see document *KZR INiG System/4/Land use for raw materials production – lands with high carbon stock*). If the agricultural producer that cultivates raw materials for biofuels and bioliquids production, does not participate in the direct financial support scheme and control system or is beyond the EU he/she is obliged to meet additional requirements according to good agricultural and environmental conditions.

7.2 Good agricultural and environmental condition

When the agricultural producer does participate in the direct support scheme within the framework of cross-compliance, he/she meets requirements for the implementation of agricultural and environmental condition. For the purposes of conformity verification, an agricultural producer evaluated within the framework of the direct support scheme, and in consequence subjected to control by competent control bodies, within the framework of cross-compliance, is obliged to sign the *Self-declaration for agricultural producer* (Annex 2 to *KZR INiG System/I*).

When the agricultural producer does not participate in the direct support scheme, but cultivates raw materials for biofuels and bioliquids production, nevertheless this agricultural producers is obliged to prove this compliance and also compliance with the sustainability criteria of highly biodiverse areas (see document *KZR INiG System/5/Land use for raw materials production – biodiversity*) and lands with high carbon stock (see document *KZR INiG System/4/Land use for raw materials production – lands with high carbon stock*).

8. Checklist

The verification list with guidelines for an auditor is published in the document entitled *KZR INiG System/I0/ Guidelines to auditor and conduct of audit*.

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9. References

- i Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (J. of Laws L 30 of 31-01-2009).
- ii Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.
- iii *Cross-compliance – Minimum standards, Domain A and Domain B valid from 2011*, information brochure of Agency for Restructuring and Modernisation of Agriculture, November 2010
- iv Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market (J. of Laws WE L 230 of 19-08-1991)
- v Decree of the Minister of Agriculture and Rural Development of 11-03-2010 on minimum standards (J. of Laws No. 39, item 211).