



**KZR INiG System /6**

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

by The Oil and Gas Institute-National Research Institute

The KZR INiG 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 agreements. 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 section entitled “Public, animal and plant health” of Annex II to Council Regulation No. 73/2009/EC<sup>i</sup> and in accordance with the minimum requirements for good agricultural and environmental conditions in relation to nature protection (art. 6 (1) of 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 73/2009<sup>i</sup> (...) and in accordance with the minimum requirements for good agricultural and environmental condition... ”<sup>ii</sup>.*

## **3. Normative references**

The normative references, covering all aspects of the KZR INiG System, are the following linked documents, which should be read in conjunction.

*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*

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*schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003.*

*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/EC<sup>i</sup>, and rules for 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. Producers outside the EU are obliged to apply the guidelines contained in the documents of the KZR INiG System.

Based on the cross-compliance principle of the KZR INiG System, the agricultural producer who is a beneficiary of the direct support scheme in accordance with Regulation No. 73/2009<sup>i</sup> needs to **meet only agricultural and environmental requirements and standards** such as soil and water protection, Habitat and Birds Directives, good agricultural practices 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 or not they are the beneficiaries of the direct support scheme.

##### **5.1 Natural environment**

Under the scope of the cross-compliance rule, environmental protection includes the following aspects<sup>1</sup>:

- birds and natural habitats
- protection of wild fauna and flora;
- protection of ground waters against dangerous substances;

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- handling of sewage sludge on a farm;
- protection of waters against nitrates from agricultural sources.

Table 1 shows a compilation of the natural environment requirements.

**Table 1 – Natural environment requirements** <sup>iii</sup>

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

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Acts of Union law	Domain of regulation	Scope
	<p>cyanides, etc.</p> <p>The above prohibition does not pertain to a farmer who has a permit issued on the grounds of art. 140 of the Act on Water Law and complies with the conditions included therein.</p> <p>The list of dangerous substances for the above requirement is defined <u>in attachment No. 11 in list 2</u> of the Regulation of the Minister of Environment of 24.07.2006, specifying <i>the conditions to be fulfilled while releasing wastewater to waters or to the ground, and on substances contained in wastewater and in waste that are particularly hazardous for aquatic environments.</i></p>	
<p><b>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</b></p>	<p>Proper utilization of sewage sludge in agriculture requires the farmer to comply with the following regulations:</p> <p><u>List of requirements</u></p> <ul style="list-style-type: none"> <li>- Obligation of compliance with recommended doses of municipal sewage sludge defined in the document submitted by the producer of the municipal sewage sludge.</li> <li>- Prohibition to use sludge that is non-stabilized or not properly prepared for the aims of its utilization (the sludge must undergo proper treatment).</li> <li>- Before using municipal sewage sludge, the soil should be analysed for available phosphorus content, heavy metal contents, and pH.</li> </ul>	<p><b>Affects</b> – EU farms utilizing municipal sewage sludge.</p>
<p><b>Nitrate Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources</b></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 programmes aimed at reducing nitrogen outflow from agricultural sources must be met on farms, or parts thereof, that are located in designated areas particularly susceptible to pollution by nitrates from agricultural sources.</p> <p><u>List of requirements:</u></p> <p>Storage of livestock manures and silages</p> <ul style="list-style-type: none"> <li>- Dung is stored in inventory compartments with impermeable bases or on an impermeable plate equipped with installations draining the runoff to liquid manure and manure water tanks.</li> <li>- 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).</li> <li>- Semi-liquid manure and liquid manure are stored in leakproof tanks.</li> <li>- 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).</li> <li>- Silages are protected from runoff into the ground.</li> <li>- Dose of livestock manure used during a year does not contain more than 170 kg of nitrogen (N) as a pure component per hectare of agricultural land.</li> </ul> <p><b>Required documentation (may differ depending on specific local programme of operations)</b></p> <ul style="list-style-type: none"> <li>- Proof that the farmer has a yearly plan of fertilization of the crops.</li> <li>- Proof that the farmer has a contract for sale of livestock manures produced on the farm if livestock manure production is excessive (above 170 kg N/ha) in relation to area of the agricultural lands owned by the farmer.</li> <li>- Proof that the farmer has contracts for tenure or use of agricultural lands other than those he owns.</li> </ul>	<p><b>Affects</b> – farmers whose farmstead, or parts thereof, are located in areas particularly prone to pollution by nitrates from agricultural sources.</p>

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Acts of Union law	Domain of regulation	Scope
<b>Habitat Directive</b> – <b>Council Directive</b> <b>92/43/EEC of 21 May</b> <b>1992 on the</b> <b>conservation of natural</b> <b>habitats and of wild</b> <b>fauna and flora</b>	<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 EU, requiring member states to establish special habitat protection areas, where the habitats will be preserved in a state no worse than the present one.</p> <p><u>List of requirements:</u></p> <ul style="list-style-type: none"> <li>- The farmer is obliged to comply with the requirements of protective action plans or protection plans for NATURA 2000 areas concerning the natural habitat types, plant species or animal species.</li> <li>- 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.</li> </ul> <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"> <li>- Actions which may significantly affect a Natura 2000 area may be permitted if a proper administrative decision and permit were issued.</li> <li>- Intentional picking, destruction, damaging, and harvesting of plants under protection are prohibited.</li> </ul>	<p><b>Affects</b> – farmers whose farm, or parts thereof, are located in a NATURA 2000 area.</p> <p><b>Affects</b> – farmers undertaking actions which may significantly affect, adversely, the protection aims for a Natura 2000 area, or the Natura 2000 area itself</p> <p><b>Affects</b> – all farmers</p>

## 5.2 Public, animal and plant health

One of the most important ways of preventing risk to people, animals and environment, is the proper use of plant protection products in accordance with Council Directive 91/414/EEC<sup>viii</sup>. Table 2 shows guidelines for the use of plant protection products. .

**Table 2 – Guidelines for the use of plant protection products<sup>iii</sup>**

Acts of Union law	Domain of regulation	Scope of the binding force
<b>Council Directive</b> <b>91/414/EEC of</b> <b>15 July 1991</b> <b>concerning the</b> <b>placing of plant</b> <b>protection</b> <b>products on the</b> <b>market.</b>	<p>The aim of this Directive is to oblige EU 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"> <li>- use exclusively plant protection products that are allowed on the market;</li> <li>- use plant protection products only in accordance with their labels (instructions for use), strictly adhering to its recommendations, to prevent dangers to human or animal health, or to the environment;</li> <li>- store plant protection products according to recommendations provided on their labels (instructions for use);</li> <li>- keep a record of actions carried out using plant protection products,</li> <li>- ensure that persons carrying out actions using plant protection products in agricultural production have a valid certificate of training on the use of plant protection products in Poland, or has completed, not earlier than 5 years before carrying out actions using plant protection products, training in the use of plant protection products in another EU member state, or in a member state of the European Free Trade Association (EFTA) party to the treaty on the European Economic Area, or a state which signed a treaty regulating freedom of enterprise with the European Community and its member states, based on regulations valid in that state, and has a certificate of completion of such training;</li> <li>- use plant protection products exclusively with technically operable equipment which, when used as intended, will not pose a danger to human and animal health or the environment.</li> </ul>	<p><b>Affects</b> – farmers using plant protection products</p>

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### **5.3 Good agricultural and environmental conditions**

In the EU, 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 EU 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, as a minimum, agricultural land use in Poland should be in accordance with provisions of the Regulation of the Minister of Agriculture and Rural Development of 11th March 2010 <sup>v</sup>.

A farmer cultivating raw materials outside the EU must comply with the requirements and standards laid down in the provisions referred to in the "Environment" section of part A and in point 9 of Annex II to 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 OJ L 30, 31.1.2009; and act in accordance with the minimum requirements for good agricultural and environmental conditions within the meaning of art. 6 paragraph 1 of the Ordinance.

### **6. Calculations**

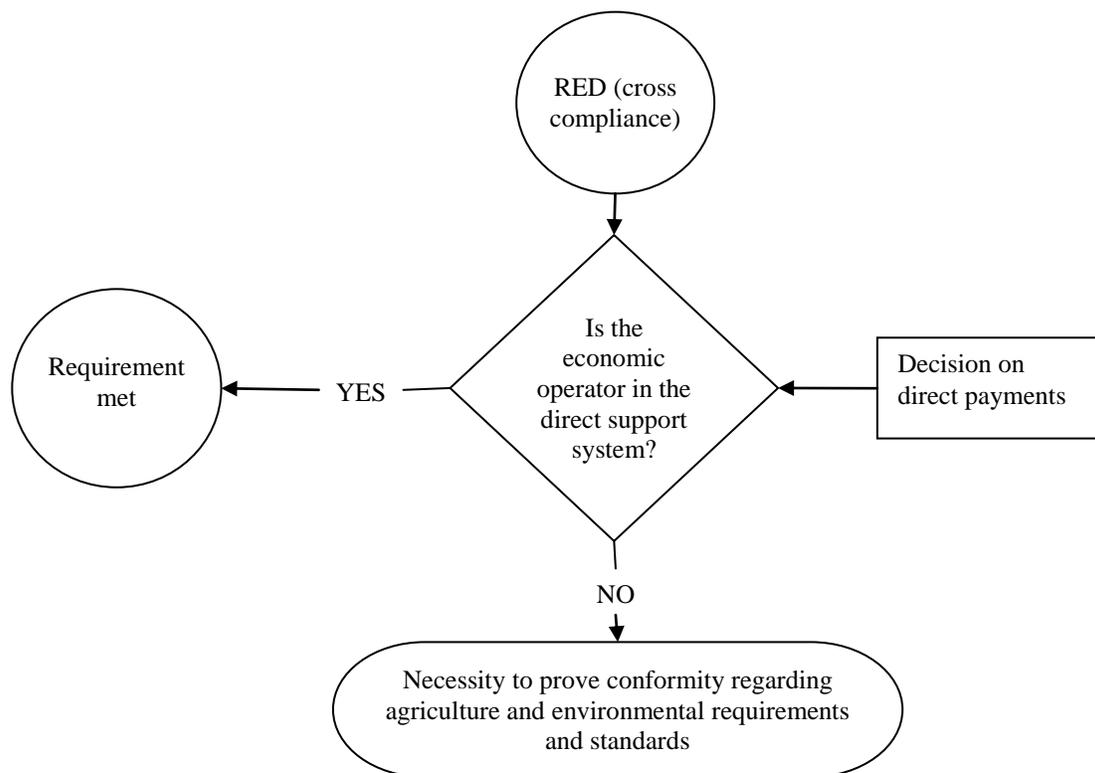
Not applicable.

### **7. Conformity check**

The procedure for proving conformity is shown diagrammatically in Figure 1.

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**Figure 1 – Example procedure for the verification of requirements and standards of agriculture and environmental protection, binding for farmers within the EU**



### **7.1 Cross-compliance**

To verify this criterion, the use of results of audits carried out by the Agency for Restructuring and Modernisation of Agriculture (in Poland) or equivalent agency (within EU), an accredited control and support-payment body, is allowed by the KZR INiG System, which recognizes these results as reliable sources of data.

Furthermore, an agricultural producer who 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, whether or not an agricultural producer who cultivates raw materials for biofuels and bioliquids production participates in the direct financial support scheme and control system, 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 –*

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*lands with high carbon stock*). If an agricultural producer who 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 concerning good agricultural and environmental conditions (see next section).

## **7.2 Good agricultural and environmental conditions**

When an agricultural producer does participate in the direct support scheme within the framework of cross-compliance, he/she meets the requirements for the implementation of agricultural and environmental conditions. For the purposes of verifying conformity, 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/1*).

When an agricultural producer does not participate in the direct support scheme, but cultivates raw materials for biofuels and bioliquids production, including agricultural producers in countries outside the EU, he/she is nevertheless obliged to prove this compliance and also compliance with the sustainability criteria for highly biodiverse areas (see document *KZR INiG System/5/Land use for raw materials production – biodiversity*) and for 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 auditors is provided in the document *KZR INiG System/10/ Guidelines to auditor and conduct of audit*.

## **9. References**

- <sup>i</sup> 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).
- <sup>ii</sup> 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.
- <sup>iii</sup> *Cross-compliance – Minimum standards, Domain A and Domain B valid from 2011*, information brochure of Agency for Restructuring and Modernisation of Agriculture, November 2010.
- <sup>iv</sup> 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).
- <sup>v</sup> Decree of the Minister of Agriculture and Rural Development of 11-03-2010 on minimum standards (J. of Laws No. 39, item 211).