

June 27, 2022

The Energy Council is issuing its recommendations for amending the European Commission’s (EC) July 2021 proposed reforms to biomass provisions of the Renewable Energy Directive (RED). The Council takes an already weak proposal from the EC and makes it even weaker.

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Before embarking on the overview, it is important to note that the EC version did include some key aspirational language on nature and climate which, if it were enacted into practical measures, would essentially require member states to stop logging and burning forests for renewable energy. The following version includes the Council’s edits on that EC language:

Recital 4: *There is a growing recognition of the need ~~to align for alignment~~ of bioenergy policies with the cascading principle of biomass use⁹, with a view to ensuring fair access to the biomass raw material market for the development of innovative, high value-added bio-based solutions and a sustainable circular bioeconomy. When developing support schemes for bioenergy, Member States should therefore take into consideration the available sustainable supply of biomass for energy and non-energy uses and the maintenance of the national forest carbon sinks and ecosystems as well as the principles of the circular economy and the biomass cascading use, and the waste hierarchy established in Directive 2008/98/EC of the European Parliament and of the Council¹⁰. For this, **Member States** ~~they~~ **should not grant ~~no~~ support to the production of energy from saw logs, veneer logs, stumps and roots and avoid promoting the use of quality roundwood for energy except in well-defined circumstances. In line with the cascading principle, woody biomass should be used according to its highest economic and environmental added value in the following order of priorities: 1) wood-based products, 2) extending their service life, 3) re-use, 4) recycling, 5) bio-energy and 6) disposal. Where no other use for woody biomass is economically viable or environmentally appropriate, energy recovery helps to reduce energy generation from non-renewable sources. Member States’ support schemes for bioenergy should therefore be directed to such feedstocks for which little market competition exists with the material sectors, and whose sourcing is considered positive for both climate and biodiversity, in order to avoid negative incentives for***

unsustainable bioenergy pathways, as identified in the JRC2021 report of the Joint Research Centre entitled 'The use of woody biomass for energy production in the EU'11

The key part is the last sentence, which states that MS support schemes should be directed to biomass "considered positive for both climate and biodiversity" by the JRC's 2021 report, to avoid unsustainable outcomes.

But as Figure 1 shows, the JRC identified "coarse woody debris" – **which along with logs¹ describes the vast majority of forest biomass burned in the EU** – as "high risk" for forests and climate (Figure 1), increasing CO₂ emissions compared to fossil fuels for decades to centuries, and harming ecosystems, biodiversity, and even forest regeneration with its removal.

EC's Joint Research Centre: Harvesting & burning forestry residues is high risk for climate and ecosystems

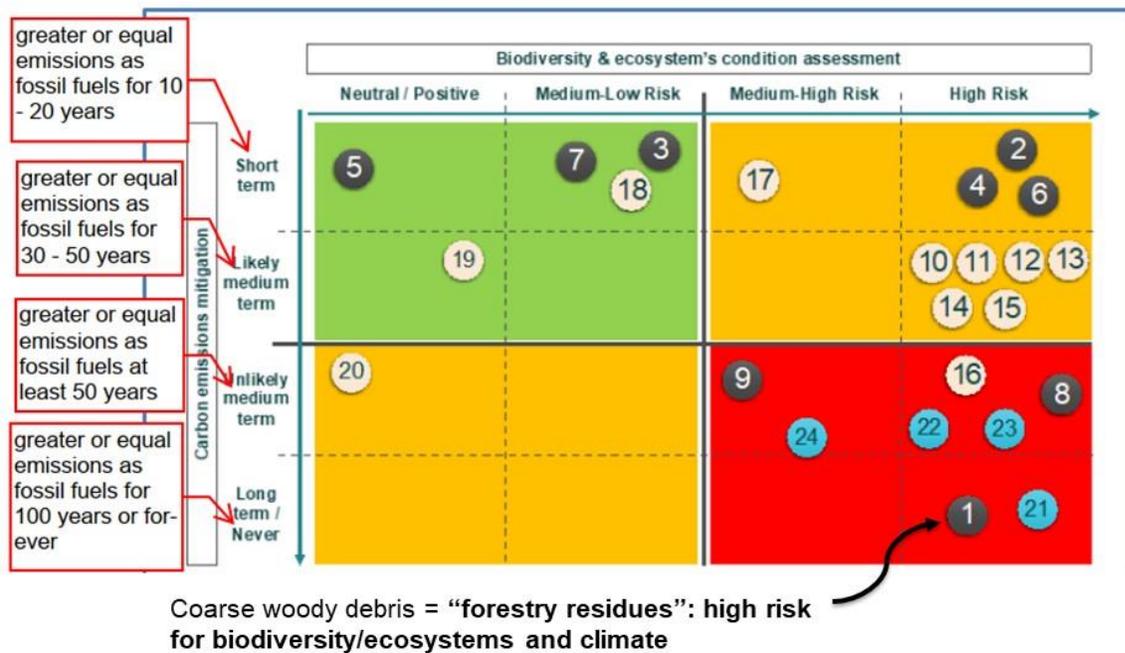


Figure 1. Annotated version of JRC overview of bioenergy "pathways" and the risk they pose to ecosystems and climate. Scenario 1, coarse woody debris, is considered high risk for both categories.²

The absurdity of counting biomass as renewable energy is further highlighted by recital 32, which states, as amended by the Council, that "Renewable electricity should be considered to have zero **greenhouse gas** emissions, meaning it saves 100% of **greenhouse gas** emissions compared to electricity produced from fossil fuels."

¹ https://forestdefenders.eu/wp-content/uploads/2022/04/FDA-Future-on-Fire-April-5-2022_final.pdf

² https://forestdefenders.eu/wp-content/uploads/2021/03/JRC-study-biomass-study-overview_final.pdf

Scientists have repeatedly warned that burning forest biomass increases emissions compared to fossil fuels for decades to centuries – a warning repeated by the JRC’s 2021 report. The EC (and Council) have stated that Member States should support biomass “*whose sourcing is considered positive for both climate and biodiversity*” – a condition that is clearly not met by coarse woody debris (forestry residues) and logs. In reality, to protect forests and climate, policymakers need to stop counting forest biomass toward renewable energy targets, and end the billions in renewable energy subsidies that burning forest biomass currently receives. Yet the EC and Council proposals both continue to promote logging and burning forests for fuel.

What does the Council proposal do?

The following overview presents the major changes the Council is advocating to the EC proposal. It is not comprehensive. This review is based on latest version that was available as of June 24.

The Council proposal:

Reduces protections for old growth, primary, and biodiverse/carbon rich forests

The 2021 EC proposal³ recognized that clearcutting and forest destruction can continue under the biomass criteria included in the REDII. Accordingly, the EC proposed greater protections for old growth forests, carbon-rich forests, primary forests (meaning as-yet unlogged) and biodiverse forests. Intact natural forests comprise a tiny fraction of forests in the EU, only 3 – 4 percent. To be clear, the only way the RED can “protect” forests from biomass harvesting is to say that fuels coming from those forests will not qualify as “renewable” under the RED (and thus will not count toward renewable energy targets and not be eligible for subsidies). The EC proposal thus essentially provided that since these very rare and special forests are off-limits for being logged and replaced with energy crops for qualifying liquid biofuels, then they should *also* be off-limits for logging for qualifying solid biomass fuels.

The Council version weakens this, allowing these areas to continue to be logged. They did this by diluting the EC language in recital 36 of the EC proposal (edits as proposed in the Council version are included):

*“To achieve an enhanced protection of especially biodiverse and carbon-rich habitats, such as primary forests, highly biodiverse forests, grasslands and peat lands, exclusions and limitations to source forest biomass from those areas should be introduced **within the risk-based approach, in-line-with inspired by the approach for biofuels, bioliquids and biomass fuels produced from agricultural biomass.**”*

“Inspired by”?

The Council has then added a new recital that weakens the EC proposal further, requiring that areas off-limits for harvesting forest biomass be designated as such by the authorities:

“The concept of “highly biodiverse forest and other wooded land which is species-rich and not degraded” shall ensure adequate protection of those areas while not creating a general obstacle to the use of forest biomass for the production of biofuels, bioliquids and biomass fuels. To this end, for the application of this concept to the case of forest biomass, and exclusively forest biomass, only forests and wooded land that have been identified scientifically or administratively by the competent authorities as being very rich in biodiversity will be subject to exclusions and limitations to forest biomass production.”

³ https://eur-lex.europa.eu/resource.html?uri=cellar:dbb7eb9c-e575-11eb-a1a5-01aa75ed71a1.0001.02/DOC_1&format=PDF

That's just recital language – it's the changes to the articles that explains the actual proposal. However, the Council's changes to Article 29, where the EC's protections reside, are pure gobbledy-gook.

The situation currently (in the REDII) is that "agricultural" biomass (crops, liquid biofuels made from crops) cannot qualify under the RED if sourcing that biomass involves harvesting certain rare types of forests and planting those areas to crops. However, it is still perfectly legal clearcut those same forests to burn that wood in a power plant, as long as there is no conversion to cropland. The Commission proposed the following protections would also apply to materials sourced from forest biomass "with the exception of point c, which would not apply to forest biomass. Text bolded for emphasis:

*3. Biofuels, bioliquids and biomass fuels produced from agricultural biomass taken into account for the purposes referred to in points (a), (b) and (c) of the first subparagraph of paragraph 1 shall not be made from raw material **obtained from land with a high biodiversity value**, namely land that had one of the following statuses in or after January 2008, whether or not the land continues to have that status:*

*(a) **primary forest and other wooded land**, namely forest and other wooded land of native species, **where there is no clearly visible indication of human activity and the ecological processes are not significantly disturbed**;*

*(b) **highly biodiverse forest and other wooded land which is species-rich and not degraded**, or has been identified as being highly biodiverse by the relevant competent authority, unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;*

*(c) areas designated: **(this is the bit that does not apply to forest biomass)***

(i) by law or by the relevant competent authority for nature protection purposes; or

(ii) for the protection of rare, threatened or endangered ecosystems or species recognised by international agreements or included in lists drawn up by intergovernmental organisations or the International Union for the Conservation of Nature, subject to their recognition in accordance with the first subparagraph of Article 30(4), unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes;

The way the EC expanded these protections to forest biomass was simply with this addition:

(c) in paragraph 4, the following subparagraph is added:

'The first subparagraph, with the exception of points (b) and (c), and the second subparagraph also apply to biofuels, bioliquids and biomass fuels produced from forest biomass.'

Now comes the Council proposal which deletes that simple addition from the EC, and replaces it with this nearly uninterpretable text, the main intent of which is clearly to weaken the EC proposal:

in paragraph 6, first subparagraph, point (a), the following point (vi) is inserted :

« (vi) that forests in which the abovementioned forest biomass is harvested do not stem from the lands that have the statuses mentioned in paragraph 3 point (a), paragraph 3 point (b), paragraph 3 point (d), paragraph 4 point (a), and paragraph 5, respectively under the same conditions of determination of the status of land specified in these paragraphs. For the purposes of paragraph 3 point (b), only the lands

that have been identified as being highly biodiverse by the relevant competent authority are considered”;³²

It's important to note that the wood pellet industry and the forest industry in general have melted down over even the most minimal protections for these irreplaceable forest ecosystems. In fact the US Industrial Pellet Association even wrote their own legislative language for the RED⁴ to remove the protections for rare forests, in great part because the pellet industry in Canada and the US is busy mowing down ancient, rare, highly carbon-rich and biodiverse forests to make wood pellets that they export to the UK and EU, and they don't want anything to interfere with that business model. Evidently, the pellet industry has friends on the Energy Council. If there were ever evidence for the absolute unsustainability of burning trees for renewable energy, this is it – this industry thinks it can't survive without logging literally the last precious remnants of some of the world's rarest forests.⁵

Allows continued drainage of peatlands for forest biomass

Wetland and peatland soils are almost pure carbon. Draining these soils dries them out and leads to a “carbon bomb” effect as soils decompose and emit CO₂. Wetland drainage is responsible for at least 220 million tonnes of CO₂ loss per year in the EU.⁶

The REDII prohibits sourcing agricultural biomass from drained peatlands. The EC had proposed to add “forest biomass” to the list of fuels that are not allowed to be sourced from peatlands. The Council version **deletes the EC's provision completely**, thus allowing continued drainage of forested peatlands.

(d) paragraph 5 is replaced by the following:

~~‘5. Biofuels, bioliquids and biomass fuels produced from agricultural or forest biomass taken into account for the purposes referred to in paragraph 1, first subparagraph, points (a), (b) and (c), shall not be made from raw material obtained from land that was peatland in January 2008, unless evidence is provided that the cultivation and harvesting of that raw material does not involve drainage of previously undrained soil.’;~~

Allows biomass to bypass protections in the Birds, Habitats, and Water Directives

The Council has added a new sub-article allowing member states to circumvent nature protection legislation in order to get new renewable energy projects built. An entirely new recital is added:

(10a) Some of the most common issues faced by renewable energy projects relate to delays in the permit-granting procedures established at national level. In order to reduce greenhouse gas emissions and contribute to the attainment of climate neutrality, Member States should presume the planning, construction and operation of plants for the production of energy from renewable sources, their connection to the grid and the related grid itself and storage assets as being in the interest of public health and safety and carried out for imperative reasons of overriding public interest in the planning and permit-granting process when balancing legal interests in the individual cases. All the other conditions set out in the 92/43/EEC, 2009/147/EC and 2000/60/EC Directives should be fulfilled.

⁴ <https://forestdefenders.eu/wp-content/uploads/2022/04/analysis-of-USIPA-positions.pdf>

⁵ E.g, see <https://www.youtube.com/watch?v=WRkNmQqyMIs>

⁶ <https://www.eurosite.org/wp-content/uploads/CAP-Policy-Brief-Peatlands-in-the-new-European-Union-Version-4.8.pdf>

The Council adds a new sub-article carrying this out in detail. It cites to provisions to the Habitats, Birds, and Water Directives that allow bypassing of environmental protections in the “interests of public health and safety,” granting a generic exemption from these protections for renewable energy projects. In contrast to the Commission’s RePowerEU plan, there is no exemption for forest biomass in the Council’s new amendment. Thus, for instance, with regard to the Birds Directive,⁷ Articles 5 – 8 of that document, which prohibit killing birds, disturbing them during the breeding season, and destroying their nests, and sets protections for migratory birds, would all be **automatically waived** “in the interest of public health and safety” so that biomass plants can harvest trees to burn.

8b. For the purposes of Article 6(4) and 16(1)(c) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, Article 9(1)(a) of Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, and Article 4(7) of Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy, Member States shall ensure that the planning, construction and operation of plants for the production of energy from renewable sources, their connection to the grid and the related grid itself and storage assets are presumed as being in the interest of public health and safety, and as being carried out for imperative reasons of overriding public interest, in the planning and permit-granting process when balancing legal interests in the individual cases. Member States may restrict the application of these provisions to certain parts of their territory as well as to certain types of technologies or to projects with certain technical characteristics in accordance with the priorities set in their national integrated energy and climate plans.

The Directives and their relevant articles allowing bypassing of protections are as follows:

[Birds directive](#)⁸

Article 9(1)(a)

[Habitats directive](#)⁹

Article 6(4)

Article 16(1)(c)

[Water directive](#)¹⁰

Article 4(7)

[Reduces number of biomass plants covered by sustainability and emissions rules](#)

(Recital 35 and Article 29, point 18)

The EC version requires that sustainability and fossil fuel emissions rules for forest biomass be applied to facilities 5 MW heat input and above (from current level of 20 MW); the Council weakens this to 10 MW, thereby exempting a hundreds of facilities from meeting *any* requirements as to the biomass they burn.

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0147&from=EN>

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0147&from=EN>

⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31992L0043&from=EN>

¹⁰ https://eur-lex.europa.eu/resource.html?uri=cellar:5c835afb-2ec6-4577-bdf8-756d3d694eeb.0004.02/DOC_1&format=PDF

Weakens cascading principle

The Council document retains language about the importance of using biomass in accordance with the cascading principle., but removes the EC's call for a delegated act:

*No later than one year after [the entry into force of this amending Directive], the Commission shall adopt a delegated act in accordance with Article 35 on how to apply **As of the entry into force of this amending Directive, Member States shall take measures to ensure the application of the cascading principle for biomass, in particular on how to minimise the use of quality roundwood for energy production, with a focus on support schemes and with due regard to national specificities.***

They then add language to define the cascading principle (page 38):

"With a view to ensuring that woody biomass is used according to its highest economic and environmental added value in the following order of priorities: 1) wood-based products, 2) extending their service life, 3) re-use, 4) recycling, 5) bio-energy and 6) disposal, support schemes for bioenergy shall be designed in such a way as to avoid incentivising unsustainable bioenergy pathways and distorting competition with the material sectors.,,"

But then they have also added such a long list of exemptions as to when member states do not have to apply the cascading principle, that it has become practically worthless.

Delays reporting on forest impacts of biomass harvesting

We already have plenty of evidence for how biomass harvesting is degrading forests and the carbon sink – see for instance how biomass harvesting in two heavy biomass-using countries, Finland and Estonia, [has turned the land carbon sink into a net source of carbon](#).¹¹ Biomass harvesting has been implicated as a key driver in increased logging overall and increased clearcutting.¹²

Nonetheless, the Council proposal extends by a year the timeframe for reexamining the impact that biomass harvesting is having on forests and markets (p. 39).

*By ~~2026~~ **2027** the Commission shall present a report on the impact of the Member States' support schemes for biomass, including on biodiversity and possible market distortions, and **shall will** assess the possibility for further limitations regarding support schemes to forest biomass.;*

Increases the amount of fossil fuel CO₂ emitted from biomass fuels

Burning fossil fuels during harvesting, processing, and transporting (HPT) woody biomass (especially wood pellets) emits a lot of CO₂. The EC proposed to widen the universe of facilities where fossil fuel HPT emissions are slightly constrained, requiring it for facilities 5 MW thermal input and above. The Council weakens this to 10 MW and above, thereby exempting hundreds of plants from any restrictions on fossil fuel HPT emissions.

¹¹ <https://forestdefenders.eu/wp-content/uploads/2022/06/June-13-biomass-webinar-PFPI-slides.pdf>

¹² Ceccherini, G., et al. 2020. Abrupt increase in harvested forest area over Europe after 2015. *Nature* 583(7814): 72-77.

https://www.researchgate.net/publication/342615330_Abrupt_increase_in_harvested_forest_area_over_Europe_after_2015.

Modifies EC's proposal restricting subsidies for electricity-only plants

The EC proposed to end subsidies for electricity-only plants burning forest biomass. These plants are extraordinarily inefficient,¹³ literally emitting more CO₂ per megawatt-hour of electricity than coal plants. The Council edits appear to slightly tighten the EC proposal by ensuring that neither new nor existing plants will be eligible for support. Unfortunately, large swathes of the EU – the so-called “transition” regions¹⁴ – are exempted, and support is allowed for facilities intending to use carbon capture and storage (CCS) with biomass:

*(b) **By the entry into force of this amending Directive From 31 December 2026, and without prejudice to the obligations in the first sub-paragraph, Member States shall grant no new support, nor renew any support, to the production of electricity from forest biomass in electricity-only-installations, unless such electricity meets at least one of the following conditions:***

(i) ~~it is produced in a region identified in a territorial just transition plan approved by the European Commission, in accordance with Regulation (EU) 2021/... of the European Parliament and the Council establishing the Just Transition Fund due to its reliance on solid fossil fuels, and meets the relevant requirements set in Article 29(11) of this Directive..;~~

(ii) ~~it is produced applying Biomass CO2 Capture and Storage and meets the requirements set in Article 29(11), second subparagraph of this Directive.~~

This provision is without prejudice to supports to electricity only installations that started operation before the entry into force of this directive provided that these installations meet the requirements set in Article 29(11), second subparagraph, and that the support is specifically geared to the equipment of Biomass CO2 Capture and Storage.

¹³ <https://forestdefenders.eu/wp-content/uploads/2022/06/FDA-biomass-efficiency-factsheet.pdf>

¹⁴ https://ec.europa.eu/regional_policy/en/funding/jtf/just-transition-platform/