Guidehouse

Low ILUC-risk pilots FAQ

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FAQs

Next steps for certification of Low ILUC-risk biomass and biofuels

When can certification of Low ILUC-risk biomass and biofuels start? Economic operators can contact voluntary schemes to apply to be certified now! Four voluntary schemes are currently recognised by the European Commission to certify low ILUC. Those schemes can use the final Low ILUC Certification Guidance and templates provided through this project and start to audit interested economic operators.

Which voluntary schemes are currently recognised to certify Low ILUC-risk biomass and biofuels? Better Biomass, Bonsucro EU, ISCC EU and RSB EU RED are currently recognised for the scope of low ILUC and can certify economic operators today without any further approval steps from the Commission. Other schemes interested to certify low ILUC-risk biomass and biofuels should contact the European Commission as they will first need to extend the scope of their recognition to include it.

What are the next steps for the European Commission? The European Commission plans to update Implementing Regulation 2022/996 to provide an update to Annex VIII on Low ILUC-risk certification and provide further guidance in the context of certifying the 'advanced' feedstocks that are included in REDII Annex IX. Findings and recommendations from this project will feed into that update. The plan is to update the Implementing Regulation in 2024 and the text will be subject to public consultation.

The Low ILUC pilot project report makes some recommendations that are different to Implementing Regulation 2022/996 Annex VIII. What is the legal status of those recommendations and of Implementing Regulation 2022/996 Annex VIII? This project provides a framework upon which updates to the Implementing Regulation can draw on. The published Low ILUC certification guidance can be used today for low ILUC certification. If the Commission updates the legal basis for low ILUC certification in Annex VIII, voluntary schemes will need to take on board those updates.

Several Member States have banned biofuels from palm and soy. Will low ILUC certified palm or soy be allowed in those Member States? This depends on the Member State's specific rules.

FAQs

Relationship between High ILUC-risk feedstocks and low ILUC-risk certification

What is the relationship between the low ILUC-risk methodology and the high ILUC-risk methodology? Delegated Regulation 2019/807 defines the high ILUC-risk concept at the *feedstock level, globally*. Whereas the low ILUC-risk concept gives an opportunity for an *individual feedstock producer* to certify that they are producing 'additional biomass' above a business-as-usual baseline. Low ILUC-risk certification is not mandatory for high ILUC-risk feedstocks, but fuels produced from high ILUC-risk feedstocks are capped at the 2019 consumption level and will be phased out for biofuels in the EU by 2030, unless they are certified as low ILUC-risk. Currently the only feedstock that meets the high ILUC-risk definition is oil palm. Therefore the low ILUC-risk certification concept is mainly useful today for palm, but the certification methodology has been developed such that it could be applied to any feedstock.

Do you expect changes to the high ILUC-risk definition and feedstocks? The formula to define high ILUC-risk feedstocks is defined in Delegated Regulation 2019/807. It relies on data on global cropland expansion. A parallel project is reviewing the latest cropland expansion data. It is possible that in future additional feedstocks could meet the threshold to be classed as high ILUC-risk. Updates on the high ILUC project can be found on the project website (https://iluc.guidehouse.com/lot-1).

Is there any other practical consequence for low ILUC-risk certification, in addition to serving as an exemption for the restrictions imposed on high ILUC-risk feedstocks? The main purpose for low ILUC-risk certification is to give high ILUC-risk feedstocks an option to avoid the phase out of high ILUC-risk feedstocks. Non-high ILUC-risk feedstocks that are certified as low ILUC-risk currently have no different status under the REDII. However, materials from this project will feed into the Commission's update of Implementing Regulation 2022/996 which will set out, amongst others, further guidance to certify intermediate crops and crops grown on severely degraded land that are now part of REDII Annex IX.

Does low ILUC-risk certified palm oil count within the food and feed cap? Low ILUC-risk certification is independent from the food and feed cap. If the feedstock meets the definition of food or feed in Article 2(40) of the REDII, the fuel will count towards the food and feed cap.

FAQs

Relationship between Low ILUC-risk certification and Annex IX feedstocks

What is the relationship between Low ILUC-risk certification and Annex IX feedstocks? Low ILUC-risk certification is not a requirement in REDII Annex IX. However, related recommendations from this project will feed into the Commission's update to Implementing Regulation 2022/996 which will, amongst others, provide further guidance to certify intermediate crops and crops grown on severely degraded land that are now part of REDII Annex IX.

How can we certify…

… intermediate crops? This project has provided recommendations to the Commission on how these crops can be certified, especially related to demonstrating that intermediate crops do 'not trigger demand for additional land'. Intermediate crops in Annex IX do not have to meet the low ILUC additionality criteria but do have to meet other criteria (e.g. proving soil organic matter content is maintained). The Commission will develop guidance to clarify the approach to determining intermediate crops in an updated Implementing Regulation. Materials from this project will feed into that.

… severely degraded land? This project has provided recommendations on how this can be certified. The low ILUC certification guidance is published and can be used today. The guidance proposes thresholds for severely degraded land and that a dynamic yield baseline should be used in case of any existing yield on that land. This is more conservative than the current approach in Implementing Regulation 2022/996, so any additional biomass claimed using the current guidance should be conservative. The Commission will provide more guidance in the context of Annex IX in an updated Implementing Regulation. Materials from this project will feed into that. In the meantime, the current low ILUC certification guidance approach can be used to certify severely degraded land. Note that crops grown on severely degraded land counting towards Annex IX targets will also have to meet additional criteria (e.g. not food and feed crops).

FAQs

Low ILUC-risk pilot project process and scope

How were the pilot projects selected? The projects were selected to cover a range of feedstocks, geographies, and additionality measures (yield increase, abandoned and severely degraded land).

Did you analyse the potential of low ILUC-risk biomass in terms of feedstock volumes? That was not within the scope of this specific study.

FAQs

Practical implementation

Can the whole yield from a low ILUC-risk certified farm be claimed as low ILUC-risk, or only the additional biomass? Just the additional biomass above the dynamic yield baseline can be claimed as low ILUC-risk.

Do other downstream operators (e.g. storage / biofuel producers) need to be low ILUC-risk certified? No, low ILUC is certified at the feedstock production stage. Therefore feedstock producers, or groups of feedstock producers need to be certified to the low ILUC-risk add-on module, but downstream operators only need to be certified to the normal EC-recognised voluntary scheme.

How will the low-ILUC certification claim be passed along the supply chain? The low ILUC-risk claim is included as one of the sustainability characteristics on the sustainability declaration (or Proof of Sustainability or similar documentation, and included in the Union Database) and is passed along the supply chain as one of the sustainability characteristics using the mass balance approach.

Does the economic operator need to hold an EU-RED certificate prior to low ILUC-risk certification, or could those be obtained at the same time (in one audit process)? The low ILUC-risk certification is designed as an add-on module to existing EC-recognised voluntary schemes, but the certification could be obtained in one audit process for a new economic operator.

How will the certification work for low ILUC-risk feedstock that is pressed in a mill together with high ILUC-risk feedstock? Economic operators can use a mass balance chain of custody system, as specified in REDII Article 30(1), which allows for physical mixing. The low ILUC-risk claim will be one of the sustainability characteristics passed down the chain.

Would it be possible to certify separate blocks on a farm undergoing different additionality measures; and to certify with different GHG values? It is possible to certify either a whole farm or specific plots within a farm. In the case of specific plots, all calculations should be done with the specific plot data to ensure the valid additional biomass claim coming from those plots.

FAQs

Practical implementation

How should an economic operator deal with the challenge of fragmented low ILUC volumes spread over multiple plots? This could be a challenge if additional biomass volumes are small. The low ILUC-risk claim should be passed down the chain as one of the “sustainability characteristics” and operators should use a mass balance chain of custody system.

Can the mechanism be used to certify measures that have already been taken? Economic operators can apply for low ILUC-risk certification for measures taken up to 10 years in the past. However, low ILUC-risk claims can only be made for 10 years from when the additionality measure is implemented. Furthermore, economic operators may find it more challenging to pass the additionality test if measures have already been taken a long time ago.

Quantities of low ILUC-risk biomass will only be known after crop harvest – probably after one year of growing and comparing the actual harvest with the baseline. How can an economic operator base his sales on that backward looking? Yes, the amount of low ILUC-risk biomass that can be claimed is the difference between the actual observed yield after implementation of the additionality measure and the baseline. The volume that can be claimed will therefore be different each year. Pilot companies said the uncertainty in future volumes could be a challenge for contracting.

How is the physical volume of the additional yield verified (e.g. weigh bridge slips)? The economic operator needs to demonstrate to the auditor that the additional biomass claimed can be linked back to the delineated plot on which the additionality measure was applied. This can be, for example, based on weigh bridge slips. The auditor needs to scrutinise records to be sufficiently confident that the biomass has been produced on the plot in question.

Is there a minimum yield increase or a minimum of additional biomass produced, to be considered low ILUC-risk biomass? No, there is no specific minimum increase in yield or additional biomass that can be certified.

FAQs

Additionality test

What is the additionality test? A project is additional if it either passes the financial attractiveness test (negative Net Present Value) or by passing the barrier analysis. This is verified by a local auditor with knowledge of the region and crop.

Does the negative NPV mean that you can not have a profit from the additional production? The theory behind the financial attractiveness test is to ensure that this mechanism incentivises yield increase measures that would not have happened without the value signal from the low ILUC mechanism. So, it is possible for farmers to make a profit, but the measure should be not be financially attractive without the low ILUC certification (or it should face barriers that are solved by low ILUC certification).

Is there going to be a low ILUC premium? It remains to be seen how the market will develop in this respect. The financial attractiveness test can be met by achieving a negative NPV of the envisaged additionality measure without any premium. Thereby showing that the investment is not economically viable without the additional value signal which should come from being low ILUC certified. In the pilot projects, it was difficult to meet the financial attractiveness test. However, if there is demand in the market for such certified feedstocks, then a value signal should develop.

Did the pilot projects pass the additionality test? The pilot projects did not pass the financial attractiveness test, although it must be noted that the pilots were selected on the basis of having good data availability to allow the calculation methodologies to be developed, and because they had taken an additionality measure which could lead to additional biomass being produced within the project timeframe. Therefore, we would also expect those measures to be financially viable for the economic operators. The phase 2 pilot projects focused on testing the barrier analysis. Plausible barriers were described, although the barriers were not necessarily faced by all the pilot companies.

For the financial barrier test, is the question "is the investment profitable" at the farm gate or at the fuel producer? The economic operator being low ILUC-risk certified is the feedstock producer, so the financial attractiveness test is conducted at the farm gate, or feedstock extraction place (e.g. vegetable oil crushers).

FAQs

Dynamic yield baseline

How do you set a dynamic yield baseline that ensures that global yield development is relevant to the specific farm, as we know weather and land conditions are different in each location and impact yield? The starting point of the dynamic yield baseline is based on plot-specific historic crop yield data and the slope of the baseline is based on the historic global yield trend for that feedstock, taken from FAOSTAT (and included in the certification guidance). The combination of plot-specific and global data is designed to give a baseline relevant to the situation of the specific economic operator applying to be certified.

Smallholders do not achieve the average yield of larger plantations, so how will they achieve additional biomass? The dynamic yield baseline calculation is specific to the feedstock producer being certified. So, if that feedstock producer has historically lower yields, their dynamic yield baseline will be lower. The methodology has been tested with feedstock producers with different starting yield levels.

When replanting occurs for an oil palm plantation, could the feedstock producer count any subsequent increase in yield? There is no set rule. The economic operator needs to demonstrate that they are taking a step to increase yields above business as usual. So, for example this could be considered if the young palms are newly developed varieties used for the first time in the region for example (going beyond business as usual). However, using a different variety to the one previously planted but that is already widely planted in the market may not be enough. Any additional biomass will have to be calculated on top of the dynamic yield baseline, which sets a baseline yield for each age of the oil palm trees.

What if you don’t have existing yield data? As described in the certification guidance, If historical data for the three most recent years of crop yields is not available, whether inaccessible or not representative as per the auditor’s judgement, or if crop yield data is of insufficient quality, additional data may be obtained for earlier years or data from a neighbouring field growing the same crop under the same management plan. In case no historical data is available, the best available data shall be used to determine the starting point. This can be statistical data (local, regional or country-wide) data, information from experts, neighbours or local farmers as well as data published in peer-reviewed papers.

FAQs

Yield increase additionality measures

How is it decided whether an additionality measure can be eligible for low ILUC-risk certification? The list of additionality measures in the certification guidance is broadly defined and not exhaustive. Ultimately it is up to the economic operator to describe the *specific* measure they will take and up to the auditor to judge that the measure is legal and sustainable and likely to be effective.

How do you prove the causal relationship between the measures taken and the yield increase? How will it be possible to separate the effect of the additionality measure from other external factors that impact crop yield, such as weather? The pilots have shown that this can be a challenge, especially in circumstances where the volume of additional biomass is small and/or the impact of weather on yield is high. The economic operator will have to document prior to certification the additionality measure and the expected impact on yield. The annual audit will check the plan is being correctly applied and the yield increase is within the expected range. The guidance also outlines approaches to be followed in case of yield outliers and extreme weather events. The volume of low ILUC-risk biomass that can be claimed remains the difference between the actual observed yield after implementation of the additionality measure and the baseline.

What should an economic operator do if they apply multiple additionality measures at the same time (a package of measures)? The management plan needs to describe the measure(s) to be taken. If a package of measures is taken at the same time, the additionality of the package is judged and the total additional biomass is measured against the baseline. If a new additionality measure is taken after certification, the economic operator can choose whether to keep their original baseline and 10-year baseline validity, or to update the additionality test and baseline (the new baseline would now be higher) and apply to have a new 10-year baseline validity.

FAQs

Sequential cropping / intermediate crops

What is the definition of sequential cropping? For the pilot projects, we defined sequential cropping as a second crop grown on the same plot of land before or after a main crop. The Commission has now included ‘intermediate crops’ in REDII Annex IX, and will provide further guidance to certify intermediate crops in an update to Implementing Regulation 2022/996. Intermediate crops are considered to be very similar to the sequential cropping approaches tested in the low ILUC pilots, but note that Annex IX includes further criteria that would have to be met.

Does sequential cropping need to pass the additionality test (i.e. financial attractiveness or barrier analysis test)? Sequential cropping needs to demonstrate additionality to be certified as low ILUC. However, intermediate crops counted outside the REDII food and feed cap or included in REDII Annex IX do not have to pass the additionality test (but note there are further criteria that need to be met for Annex IX).

Can additional biomass from sequential cropping count outside the food and feed cap? Yes. From the definition of food and feed crops in REDII Article 2(40), any crop that can demonstrate it is not the “main crop” and “does not trigger demand for additional land” can be outside the food and feed cap (even if it is an edible crop). From the pilot experience, we recommend that a robust definition of "main crop" is needed to implement this. It is also worth noting that in the Uruguay pilot, soy was the main crop, so any soy from that farm used to produce biofuel would be within the cap. In the French pilot, the main crop changed depending on the crop rotation.

Could the same type of crop be considered a main crop in some situations and a sequential crop in others? Yes, the type of crop does not define whether or not something is a sequential crop, rather this depends on the crop rotation and setting. Furthermore, it is possible that the introduction of different policy incentives could change the economics for a farmer, for example by increasing the value of a winter crop. We recommend that the Commission provides clear definitions of main crop, intermediate crops (including ley and cover crops) and sequential crops, and that these are subject to consultation.

FAQs

Sequential cropping / intermediate crops

How do you determine the dynamic yield baseline and the additional biomass in the case of sequential cropping, knowing that the main and second crops may be different and so are not directly comparable? In the draft guidance tested in the pilots, we suggested that the dynamic yield baseline should be is set based on historic yield data for the main crop. Then, the baseline would be compared to the *total* yield of both the main and the second crop to determine the volume of additional biomass. This would automatically take into account any loss of main crop yield that might be observed by introducing the second crop. However several complications were found with this approach. Furthermore, certification of intermediate crops will mostly be in the context of Annex IX, which includes different criteria compared to the low ILUC-risk approach. Intermediate crops in Annex IX need to show (amongst others) that they do “not trigger demand for additional land”. Taking this into account and following the results of the pilots, we recommend to revise the approach to in principle count *all the second crop as additional biomass*, if the additional criteria in Annex IX are met. To assess whether the crop triggers demand for additional land, main crop specific baselines may be needed. This is **not** currently included in the published version of the low ILUC-rick certification guidance. The Commission will develop guidance for this, to be included in the updated Implementing Regulation 2022/996.

FAQs

Unused, abandoned land or severely degraded land

What is the dynamic yield baseline for unused, abandoned or severely degraded land? The baseline for abandoned and unused land is no cultivation, so all certified feedstock from unused or abandoned land can be claimed as low ILUC-risk, since all feedstock is considered additional biomass. For severely degraded land, the low ILUC pilot project recommends to set a dynamic yield baseline in case there is existing cultivation prior to certification.

Does certification of unused, abandoned or severely degraded land have the same 10 year 'baseline validity' time frame as yield increase measures? Yes, it does, as described in Delegated Regulation 2019/807.

Can production on unused land be low-ILUC risk certified? Unused lands are not included in Article 5 of the Delegated Regulation 2019/807 (abandoned and severely degraded lands are included). Unused land is defined in Article 2(2) and is included in the definition of additionality measure in Article 2(5), so measures on unused land can qualify. Article 5 concerns the fact that abandoned land and severely degraded land are exempt from the additionality test (financial attractiveness or barrier analysis). Unused land has to pass the additionality test to be eligible for low ILUC-risk certification.

Which additionality measures can you take on unused, abandoned or severely degraded land? New cultivation on unused, abandoned or severely degraded land is in itself considered an additionality measure. It is not necessary to also take a yield increase measure on those lands. To be certified, an economic operator needs to demonstrate the status of the land.

How can you certify severely degraded land? Severely degraded land is land which, for a significant period of time, has been either severely salinated or has been both significantly low in organic matter and severely eroded. All of these characteristics are matters of physical fact and may be established from a site inspection. An agronomist's report is likely to be required to show that it has the necessary physical-chemical characteristics. For organic matter and erosion they should use a combination of the soil sampling protocol published as an annex in the low ILUC-risk certification guidance and visual inspection. For salination, a test of electro-conductivity is used.

FAQs

Unused, abandoned land or severely degraded land

Where do the thresholds for severely degraded land come from and are they the same regardless of the climate/location conditions? For simplicity and consistency, a single set of thresholds are proposed regardless of the region or climate. The thresholds are based on research and discussions with experts. The final low ILUC-risk pilot report sets out more details on the literature review and proposed thresholds. The final low ILUC certification guidance proposes thresholds which are less severe than those originally included in the draft guidance, following feedback that the original thresholds may lead to little to no biomass being able to be grown on such lands. To compensate for that, the guidance proposes that a dynamic yield baseline should be set in case of any existing yield on the land. The Commission will provide more guidance in the context of Annex IX in an updated Implementing Regulation. Materials from this project will feed into that. In the meantime, the current low ILUC certification guidance approach can be used to certify severely degraded land.

How does the project address biodiversity or vegetation regrowth on abandoned land, especially in tropical countries? Any new cultivation on unused, abandoned or severely degraded land will have to meet the core REDII sustainability criteria in Article 29 (i.e. no conversion of highly biodiverse, high carbon stock land or peatland). Furthermore, any GHG emissions associated with a permitted *direct* land use change need to be included in the GHG saving calculation of any biofuel produced.

Abandoned land in tropical climates will be fully covered by vegetation after 5 years and therefore could be categorised as grassland or forest in the EU definition. Will there be a different definition of abandoned land for tropical and sub-tropical climate regions? The core REDII sustainability criteria apply wherever the biomass is sourced from and the same definitions of unused, abandoned and severely degraded land (Delegated Regulation 2019/807 Article 2(2)-(4)) also apply in all cases.

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Thank You