COMMISSION DELEGATED REGULATION (EU) 2023/1184

of 10 February 2023

supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a Union methodology setting out detailed rules for the production of renewable liquid and gaseous transport fuels of non-biological origin

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources ([1]), and in particular Article 27(3), seventh subparagraph thereof,

Whereas:

(1) Renewable liquid and gaseous transport fuels of non-biological origin are important for increasing the share of renewable energy in sectors that are expected to rely on gaseous and liquid fuels in the long term, such as maritime and aviation. It is necessary to establish a Union methodology setting out detailed rules on electricity used for liquid and gaseous transport fuels of non-biological origin to be considered fully renewable. To this end and considering the overall environmental objectives in Directive (EU) 2018/2001 it is necessary to lay down clear rules, based on objective and non-discriminatory criteria. As a principle, liquid and gaseous fuels of non-biological origin which are produced from electricity are considered renewable only when the electricity is renewable. This renewable electricity may be supplied by an installation that is directly connected to the installation (typically an electrolyser) that produces renewable liquid and gaseous transport fuels of non-biological origin, or may come directly from the grid.

(2) The energy content of nearly all renewable liquid and gaseous transport fuels of non-biological origin is based on renewable hydrogen produced via electrolysis. The emission intensity of hydrogen produced from fossil-based electricity is substantially higher than the emission intensity of hydrogen produced from natural gas in conventional processes. It is therefore important to ensure that the electricity demand for the production of renewable liquid and gaseous transport fuels of non-biological origin is met by renewable electricity. Following Russia's invasion of Ukraine, the need of the Union for a rapid clean energy transition and the reduction of its dependency on fossil fuel imports has become even clearer and stronger. The Commission outlined in the RepowerEU Communication ([2]) its strategy to become independent from Russian fossil fuels well before the end of the decade. Renewable liquid and gaseous transport fuels of non-biological origin play an important role in this endeavour as well as reducing reliance on fossil fuel imports in general. Therefore, the criteria to be laid down are also important to prevent that electricity demand to produce hydrogen necessary for renewable transport fuels of non-biological origin would lead to increased fossil fuel imports from Russia for the production of the required electricity.

(3) The rules set out in this Regulation should apply regardless of whether the liquid and gaseous transport fuel of non-biological origin is produced inside or outside the territory of the Union. Where reference is made to bidding zone and imbalance settlement period, concepts that exist in the Union but not in all other countries, it is appropriate to allow fuel producers in third countries to rely on equivalent concepts provided the objective of this Regulation is maintained and the provision is implemented based on the most similar concept existing in the third country concerned. In case of bidding zones such concept could be similar market regulations, the physical characteristics of the electricity grid, notably the level of interconnection or as a last resort the country.

([1]) OJ L 328, 21.12.2018, p. 82.
([2]) COM(2022) 108 final.

(4) The nascent nature of the hydrogen industry, its value chain and the market means that planning and construction of installations generating renewable electricity as well as installations producing renewable liquid and gaseous transport fuel of non-biological origin are often subject to significant delays in the permitting processes and other unexpected hurdles, despite being scheduled to enter into operation at the same time. It is therefore appropriate for the reason of practical feasibility to consider a time period of up to 36 months when determining if an installation generating renewable electricity has come into operation after, or at the same time as, the installation producing renewable liquid and gaseous transport fuel of non-biological origin. Sourcing renewable electricity for the production of renewable liquid and gaseous transport fuels of non-biological origin via a direct connection from an installation producing renewable electricity that is not connected to the grid demonstrates that the electricity is produced in this installation. However, if the installation producing renewable electricity and the installation producing hydrogen are not only directly connected but are also connected to the grid, evidence should be provided that the electricity used to produce hydrogen is supplied through the direct connection. The installation supplying electricity for hydrogen production through a direct connection should always supply renewable electricity. If it supplies non-renewable electricity, the resulting hydrogen should not be considered renewable.

(5) In bidding zones where renewable electricity already represents the dominant share, electricity taken from the grid should be considered as fully renewable provided that the number of full load hours of renewable liquid and gaseous transport fuel of non-biological origin production is limited to the share of renewable electricity in the bidding zone and any production exceeding this share is considered non-renewable. Adding additional installations producing renewable electricity is not necessary given that it can be reasonably assumed that producing renewable hydrogen in a bidding zone where the share of renewable energy exceeds 90 % allows meeting the 70 % greenhouse gas saving criterion set out in Article 25(2) of Directive (EU) 2018/2001 and it may create challenges for the operation of electricity system.

(6) Similarly, in bidding zones, where the emission intensity of electricity is below 18 gCO_2eq/MJ, adding further installations producing renewable electricity is not required to achieve the 70 % emissions savings for renewable hydrogen. In such cases, it is appropriate to consider electricity taken from the grid as fully renewable provided that the renewable properties of electricity are demonstrated with renewables power purchase agreements and by applying criteria for temporal and geographic correlation. Lack of compliance with these conditions and criteria would prevent electricity used for the production of renewable liquid and gaseous transport fuels from being considered as fully renewable.

(7) It is further appropriate to consider electricity taken from the grid as fully renewable at times where the production of renewable liquid and gaseous transport fuel of non-biological origin supports the integration of renewable power generation into the electricity system and reduces the need for redispatching of renewable electricity generation.

(8) In all other cases, the production of renewable hydrogen should incentivise the deployment of new renewable electricity generation capacity and take place at times and in places where renewable electricity is available (temporal and geographic correlation) to avoid incentives for more fossil-based electricity generation. Given that planning and construction of installations generating renewable electricity are often subject to significant delays in the permitting processes, it is appropriate to consider an installation generating renewable electricity as new if it has come into operation not earlier than 36 months before the installation producing renewable liquid and gaseous transport fuel of non-biological origin.

(9) Power purchase agreements are a suitable tool to incentivise the deployment of new renewable electricity generation capacity provided the new renewable electricity generation capacity does not receive financial support since the renewable hydrogen is already being supported by being eligible to count towards the obligation on fuel suppliers set out in Article 25 of Directive (EU) 2018/2001. Alternatively, fuel producers could also produce the amount of renewable electricity required for the production of renewable liquid and gaseous transport fuel of non-biological origin in renewable electricity generation capacity they own themselves. The cancellation of the power purchase

agreement should not be detrimental to the possibility for the installation producing renewable electricity to be still considered as a new installation when covered by a new power purchase agreement. Furthermore, any extension of the installation producing renewable hydrogen that increases its production capacity may be considered to come into operation at the same time as the original installation. This would avoid the potential need to conclude power purchase agreements with different installations every time there is an extension, thus reduce administrative burden. Financial support that is repaid or financial support for land or grid connections for the renewable power generation facility should not be considered as operating aid or investment aid.

(10) Due to the fluctuating nature of some sources of renewable energy including wind power and solar power, as well as congestion of the electricity grid, renewable electricity may not be constantly available for the production of renewable hydrogen. It is therefore appropriate to set out rules that ensure that renewable hydrogen is produced at times and in places where renewable electricity is available.

(11) In order to demonstrate that renewable hydrogen is produced when renewable electricity is available, hydrogen producers should show that production of renewable hydrogen takes place in the same calendar month as the production of the renewable electricity, that the electrolyser uses stored renewable electricity, or that the electrolyser uses electricity at times when electricity prices are so low that fossil-based electricity generation is not economically viable and, therefore, additional demand for electricity triggers more renewable electricity production and does not trigger an increase in fossil electricity generation. The criterion for synchronisation should become stricter when markets, infrastructures and technologies allowing for a quick adjustment of hydrogen production and the synchronisation of electricity generation and hydrogen production become available.

(12) Bidding zones are designed to avoid grid congestion within the zone. To ensure that there is no electricity grid congestion between the electrolyser producing renewable hydrogen and the installation generating renewable electricity it is appropriate to require that, both installations should be located in the same bidding zone. Where they are located in interconnected bidding zones, the electricity price in the bidding zone where the installation generating renewable electricity is located should be equal or higher than in the bidding zone where the renewable liquid and gaseous transport fuel of non-biological origin is produced so that it contributes to reducing congestion; or the installation generating renewable electricity under the power purchase agreement should be located in an offshore bidding zone interconnected to the bidding zone where the electrolyser is located.

(13) In order to address national specificities of their bidding zones and to support the integrated planning of electricity and hydrogen networks, Member States should be allowed to set out additional criteria concerning the location of electrolysers within bidding zones.

(14) Fuel producers could combine different options for counting electricity that is used for the production of renewable liquid and gaseous transport fuels of non-biological origin in a flexible way provided only one option is applied for each unit of electricity input. In order to verify whether the rules have been followed correctly it is appropriate to request fuels suppliers to thoroughly document which options were applied to source renewable electricity that is used for the production of renewable liquid and gaseous transport fuels of non-biological origin. Voluntary schemes and national schemes are expected to play an important role in the implementation and certification of the rules in third countries as Member States are required to accept the evidence obtained from recognised voluntary schemes.

(15) Articles 7 and 19 of Directive (EU) 2018/2001 provide sufficient assurances that the renewable properties of electricity used for the production of renewable hydrogen are claimed only once and only in one end-use sector. Article 7 of that Directive ensures that, when calculating the overall share of renewables in gross final energy consumption, renewable liquid and gaseous transport fuels of non-biological origin are not accounted because the renewable electricity used to produce them has already been accounted for. Article 19 of that Directive should avoid that both the producer of the renewable electricity and the producer of the renewable liquid and gaseous transport fuels of non-biological origin produced from that electricity can receive guarantees of origin by ensuring that the guarantees of origin issued to the producer of renewable electricity are cancelled.

(16) Implementation of temporal correlation is hampered in the short term by technological barriers to measure hourly matching, the challenging implications for electrolyser designs, as well as the lack of hydrogen infrastructure enabling storage and transportation of renewable hydrogen to end users in need of constant hydrogen supply. In order to enable the ramp-up of the production of renewable liquid and gaseous transport fuels of non-biological origin, the criteria on temporal correlation should therefore be more flexible in the initial phase, allowing market players to put in place the necessary technological solutions.

(17) Due to the time needed for the planning and construction of installations generating renewable electricity and the lack of new installations generating renewable electricity that do not receive support, the requirements set out in Article 5, points (a) and (b) of this Regulation should apply only at a later stage.

(18) The reliance on fossil fuels for electricity generation should decline over time with the implementation of the European Green Deal and the share of energy from renewable sources should increase. The Commission should monitor this development closely and assess the impact of the requirements set out in this Regulation, notably the gradual strengthening of the requirements on temporal correlation, regarding production costs, greenhouse gas emission savings and the energy system, and submit at the latest by 1 July 2028 a report to the European Parliament and the Council,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down detailed rules for determining when electricity used for the production of renewable liquid and gaseous transport fuels of non-biological origin can be considered fully renewable. These rules shall apply to the production of renewable liquid and gaseous transport fuels of non-biological origin via electrolysis and analogously for less common production pathways.

They shall apply regardless of whether the liquid and gaseous transport fuel of non-biological origin is produced inside or outside the territory of the Union.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'bidding zone' means bidding zone as defined in Article 2, point (65), of Regulation (EU) 2019/943 of the European Parliament and of the Council ([3]) for Member States, or an equivalent concept for third countries;

(2) 'direct line' means direct line as defined in Article 2, point (41), of Directive (EU) 2019/944 of the European Parliament and of the Council ([4]);

(3) 'installation generating renewable electricity' means individual units, or groups of units, producing electricity in one or several locations from the same or from different renewable sources, as defined in Article 2, point (1) of Directive (EU) 2018/2001, excluding units producing electricity from biomass and storage units;

([3]) Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

([4]) Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

(4) 'fuel producer' means an economic operator that produces renewable liquid and gaseous transport fuel of non-biological origin;

(5) 'come into operation' means starting production of renewable liquid and gaseous transport fuels of non-biological origin or renewable electricity for the first time or following a repowering as defined under Article 2, point (10) of Directive (EU) 2018/2001 requiring investments exceeding 30 % of the investment that would be needed to build a similar new installation;

(6) 'smart metering system' means smart metering system as defined in Article 2, point (23) of Directive (EU) 2019/944;

(7) 'imbalance settlement period' means imbalance settlement period as defined in Article 2, point (15) of Regulation (EU) 2019/943 within the Union, or an equivalent concept for third countries.

Article 3

Rules for counting electricity obtained from direct connection to an installation generating renewable electricity as fully renewable

For the purpose of demonstrating compliance with the criteria set out in Article 27(3), fifth subparagraph of Directive (EU) 2018/2001 for counting electricity obtained from direct connection to an installation generating renewable electricity as fully renewable, the fuel producer shall provide evidence on the following:

(a) the installations generating renewable electricity are connected to the installation producing renewable liquid and gaseous transport fuel of non-biological origin via a direct line, or the renewable electricity production and production of renewable liquid and gaseous transport fuel of non-biological origin take place within the same installation;

(b) the installations generating renewable electricity came into operation not earlier than 36 months before the installation producing renewable liquid and gaseous transport fuel of non-biological origin; where additional production capacity is added to an existing installation producing renewable liquid and gaseous transport fuel of non-biological origin, the added capacity shall be considered to be part of the existing installation, provided that the capacity is added at the same site and the addition takes place no later than 36 months after the initial installation came into operation;

(c) the installation producing electricity is not connected to the grid, or the installation producing electricity is connected to the grid but a smart metering system that measures all electricity flows from the grid shows that no electricity has been taken from the grid to produce renewable liquid and gaseous transport fuel of non-biological origin.

If the fuel producer also uses electricity from the grid, it may count it as fully renewable if it complies with the rules set out in Article 4.

Article 4

General rules for counting electricity taken from the grid as fully renewable

1. Fuel producers may count electricity taken from the grid as fully renewable if the installation producing the renewable liquid and gaseous transport fuel of non-biological origin is located in a bidding zone where the average proportion of renewable electricity exceeded 90 % in the previous calendar year and the production of renewable liquid and gaseous transport fuel of non-biological origin does not exceed a maximum number of hours set in relation to the proportion of renewable electricity in the bidding zone.

This maximum number of hours shall be calculated by multiplying the total number of hours in each calendar year by the share of renewable electricity reported for the bidding zone where the renewable liquid and gaseous transport fuel of non-biological origin is produced. The average share of renewable electricity shall be determined by dividing the gross final consumption of electricity from renewable sources in the bidding zone calculated by analogy to the rules set out in Article 7(2) of Directive (EU) 2018/2001 by the gross electricity production from all energy sources as defined in Annex B

to Regulation (EC) No 1099/2008 of the European Parliament and of the Council ([5]), except from water previously pumped uphill, plus imports minus exports of electricity to the bidding zone. Once the average share of renewable electricity exceeds 90 % in a calendar year, it shall be continued to be considered to be higher than 90 % for the subsequent five calendar years.

2. Where the conditions set out under paragraph 1 are not met, fuel producers may count electricity taken from the grid as fully renewable if the installation producing the renewable liquid and gaseous transport fuel of non-biological origin is located in a bidding zone where the emission intensity of electricity is lower than 18 gCO_2eq/MJ, provided that the following criteria are met:

(a) the fuel producers have concluded directly, or via intermediaries, one or more renewables power purchase agreements with economic operators producing renewable electricity in one or more installations generating renewable electricity for an amount that is at least equivalent to the amount of electricity that is claimed as fully renewable and the electricity claimed is effectively produced in this or these installations;

(b) the conditions on temporal and geographical correlation in accordance with Articles 6 and 7 are met.

The emission intensity of electricity shall be determined following the approach for calculating the average carbon intensity of grid electricity in the methodology for determining the greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels set out in the delegated act adopted pursuant to Article 28(5) of Directive (EU) 2018/2001 based on latest available data.

Once the emission intensity of electricity is lower than 18 gCO_2eq/MJ in a calendar year, the average emission intensity of electricity shall be continued to be considered to be lower than 18 gCO_2eq/MJ for the subsequent five calendar years.

3. Electricity taken from the grid that is used to produce renewable liquid and gaseous transport fuel of non-biological origin may also be counted as fully renewable if the electricity used to produce renewable liquid and gaseous transport fuel of non-biological origin is consumed during an imbalance settlement period during which the fuel producer can demonstrate, based on evidence from the national transmission system operator, that:

(a) power-generating installations using renewable energy sources were redispatched downwards in accordance with Article 13 of Regulation (EU) 2019/943;

(b) the electricity consumed for the production of renewable liquid and gaseous transport fuel of non-biological origin reduced the need for redispatching by a corresponding amount.

4. Where the conditions in paragraphs 1, 2 and 3 are not met, fuel producers may count electricity taken from the grid as fully renewable if it complies with the conditions on additionality, temporal correlation and geographic correlation in accordance with Articles 5, 6 and 7.

Article 5

Additionality

The additionality condition referred to in Article 4(4), first subparagraph shall be considered complied with if fuel producers produce an amount of renewable electricity in their own installations that is at least equivalent to the amount of electricity claimed as fully renewable, or have concluded directly, or via intermediaries, one or more renewables power purchase agreements with economic operators producing renewable electricity in one or more installations for an amount of renewable electricity that is at least equivalent to the amount of electricity that is claimed as fully renewable and the electricity claimed is effectively produced in this or these installations, provided that the following criteria are met:

([5]) Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics (OJ L 304, 14.11.2008, p. 1).

(a) The installation generating renewable electricity came into operation not earlier than 36 months before the installation producing the renewable liquid and gaseous transport fuel of non-biological origin.

Where an installation generating renewable electricity complied with the requirements set out in the first subparagraph of this paragraph under a renewables power purchase agreement with a fuel producer that has ended, it shall be considered to have come into operation at the same time as the installation producing the renewable liquid and gaseous transport fuel of non-biological origin under a new renewables power purchase agreement.

Where additional production capacity is added to an existing installation producing renewable liquid and gaseous transport fuel of non-biological origin, the added capacity shall be considered to have come into operation at the same time as the initial installation, provided that the capacity is added at the same site and the addition takes place no later than 36 months after the initial installation came into operation.

(b) The installation generating renewable electricity has not received support in the form of operating aid or investment aid, excluding support received by installations before their repowering, financial support for land or for grid connections, support that does not constitute net support, such as support that is fully repaid and support for installations generating renewable electricity that are supplying installations producing renewable liquid and gaseous transport fuel of non-biological origin used for research, testing and demonstration.

Article 6

Temporal correlation

Until 31 December 2029 the temporal correlation condition referred to in Article 4(2) and (4), shall be considered complied with if the renewable liquid and gaseous transport fuel of non-biological origin is produced during the same calendar month as the renewable electricity produced under the renewables power purchase agreement or from renewable electricity from a new storage asset that is located behind the same network connection point as the electrolyser or the installation generating renewable electricity, that has been charged during the same calendar month in which the electricity under the renewables power purchase agreement has been produced.

From 1 January 2030, the temporal correlation condition shall be considered complied with if the renewable liquid and gaseous transport fuel of non-biological origin is produced during the same one-hour period as the renewable electricity produced under the renewables power purchase agreement or from renewable electricity from a new storage asset that is located behind the same network connection point as the electrolyser or the installation generating renewable electricity, that has been charged during the same one-hour period in which the electricity under the renewables power purchase agreement has been produced. Following a notification to the Commission, Member States may apply the rules set out in this paragraph from 1 July 2027 for renewable liquid and gaseous transport fuel of non-biological origin produced in their territory.

The temporal correlation condition shall always be considered complied with if the renewable liquid and gaseous transport fuel of non-biological origin is produced during a one-hour period where the clearing price of electricity resulting from single day-ahead market coupling in the bidding zone, as referred to in Article 39(2), point (a) of Commission Regulation (EU) 2015/1222 ([6]), is lower or equal to EUR 20 per MWh or lower than 0,36 times the price of an allowance to emit 1 tonne of carbon dioxide equivalent during the relevant period for the purpose of meeting the requirements of Directive 2003/87/EC of the European Parliament and of the Council ([7]).

([6]) Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

([7]) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

Article 7

Geographical correlation

1. The geographical correlation condition referred to in Article 4(2) and (4) shall be considered complied with if at least one of the following criteria relating to the location of the electrolyser is fulfilled:

(a) the installation generating renewable electricity under the renewables power purchase agreement is located, or was located at the time when it came into operation, in the same bidding zone as the electrolyser;

(b) the installation generating renewable electricity is located in an interconnected bidding zone, including in another Member State, and electricity prices in the relevant time period on the day-ahead market referred to in Article 6 in the interconnected bidding zone is equal or higher than in the bidding zone where the renewable liquid and gaseous transport fuel of non-biological origin is produced;

(c) the installation generating renewable electricity under the renewables power purchase agreement is located in an offshore bidding zone that is interconnected with the bidding zone where the electrolyser is located.

2. Without prejudice to Articles 14 and 15 of Regulation (EU) 2019/943, Member States may introduce additional criteria concerning the location of electrolysers and the installation producing renewable electricity to the criteria set out in paragraph 1, in order to ensure compatibility of capacity additions with the national planning of the hydrogen and electricity grid. Any additional criteria shall have no negative impact on the functioning of the internal electricity market.

Article 8

Common rules

Fuel producers shall provide reliable information demonstrating that all requirements set out in Articles 3 to 7 are complied with, including for each hour as relevant:

(a) the amount of electricity used to produce renewable liquid and gaseous transport fuel of non-biological origin, further detailed as follows:

  (i) the amount of electricity sourced from the grid that does not count as fully renewable as well as the proportion of renewable electricity;

  (ii) the amount of electricity that counts as fully renewable because it has been obtained from a direct connection to an installation generating renewable electricity as set out in Article 3;

  (iii) the amount of electricity sourced from the grid that counts as fully renewable in accordance with the criteria set out in Article 4(1);

  (iv) the amount of electricity that counts as fully renewable in accordance with the criteria set out in Article 4(2);

  (v) the amount of electricity that counts as fully renewable in accordance with the criteria set out in Article 4(3);

  (vi) the amount of electricity that counts as fully renewable in accordance with the criteria set out in Article 4(4);

(b) the amount of renewable electricity generated by the installations generating renewable electricity, regardless of whether they are directly connected to an electrolyser and regardless of whether the renewable electricity is used for the production of the renewable liquid and gaseous transport fuel of non-biological origin or for other purposes;

(c) the amounts of renewable and non-renewable liquid and gaseous transport fuel of non-biological origin produced by the fuel producer.

Article 9

Certification of compliance

Regardless of whether the renewable liquid and gaseous transport fuel of non-biological origin is produced inside or outside the territory of the Union, fuel producers may make use of national schemes or international voluntary schemes recognised by the Commission pursuant to Article 30(4) of Directive (EU) 2018/2001 to demonstrate compliance with the criteria set out in Articles 3 to 7 of this Regulation, in line with Article 8, as relevant.

Where a fuel producer provides evidence or data obtained in accordance with a scheme that has been the subject of a decision in accordance with Article 30(4) of Directive (EU) 2018/2001, to the extent that such decision covers the demonstrating of compliance of the scheme with Article 27(3), fifth and sixth subparagraphs of that Directive, a Member State shall not require the suppliers of renewable liquid and gaseous transport fuels of non-biological origin to provide further evidence of compliance with the criteria set out in this Regulation.

Article 10

Reporting

By 1 July 2028, the Commission shall submit a report to the European Parliament and the Council assessing the impact of the requirements set out in this Regulation, including the impact of temporal correlation, on production costs, greenhouse gas emission savings and the energy system.

Article 11

Transitional phase

Article 5, points (a) and (b) shall not apply until 1 January 2038 to installations producing renewable liquid and gaseous transport fuel of non-biological origin that come into operation before 1 January 2028. This exemption shall not apply to capacity added after 1 January 2028 for the production of renewable liquid and gaseous transport fuel of non-biological origin.

Article 12

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 February 2023.

For the Commission
The President
Ursula VON DER LEYEN