

## KZR INiG System/5

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## Land use for raw materials production – biodiversity

by The Oil and Gas Institute - National Research Institute

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## **<u>1. Introduction</u>**

The document describes the KZR INiG System's requirements related to conservation of biodiversity. These requirements provide guidelines on the sustainable way to produce, process, transport and use biofuel, agricultural biomass fuels and bioliquids raw materials and feedstocks.

In accordance with the KZR INIG System, biofuels, bioliquids and biomass fuels produced from agricultural biomass shall not be produced from raw materials cultivated and harvested from land with high biodiversity values (biodiverse forest and other wooded land). Directive (EU) 2018/2001 as amended by Directive (EU) 2023/2413 (RED III) defines as 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 lands;
- b) highly biodiverse forest and other wooded land which is species-rich and not degraded;
- c) areas designated for specific nature protection purposes;
- d) highly biodiverse grasslands.

For nature protection areas an exception is possible, as discussed in section 4.2.

All of these requirements included in this document apply to agricultural producers participating in the KZR INiG System. Agricultural producers that receive direct payments pursuant to Regulation (EC) no. 73/2009 are obliged to meet Cross-Compliance requirements and therefore they must fulfill agricultural and environmental regulations and standards such as soil and water protection, Habitat and Birds Directives, good agricultural practice and management, etc. (for more information see System KZR INiG/6/ *Land for raw materials production – agricultural and environmental requirements and standards*). Whether or not the farmers are covered by the direct support scheme, they are obliged to provide proofs on compliance with the sustainability criteria related to conservation of biodiversity. Farmers within the EU who supply raw materials for biofuels, agricultural biomass fuels or bioliquids production but are not covered by this EU control system must meet all KZR INiG System requirements.

## **<u>2. Normative references</u>**

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

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KZR INiG System /2/ Definitions

- KZR INiG System /3/ Reference with national legislation
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- KZR INiG System /5/ Land use for raw materials production biodiversity
- KZR INiG System /6/ Land use for raw materials production agricultural and environmental requirements and standards
- KZR INiG System /7/ Guidance for proper functioning of mass balance system
- KZR INiG System /8/ Guidelines for the determination of the life cycle per unit values of GHG emissions for biofuels, biomass fuels and bioliquids
- KZR INiG System /9/ Requirements for certification bodies
- KZR INiG System /10/ Guidelines for auditor and conduct of audit
- KZR INiG System /11/ Forest biomass
- KZR INiG System/12/Renewable Fuels of non-biological origin and recycled carbon fuels

## **3. Definitions**

System KZR INiG /2/ Definitions

KZR INiG accepts the definition of "heathlands" defined by national legislation in the country of origin of biomass. If such definition does not exist, the definition defined in the document System KZR INiG/2 shall be applied.

## 4. Description and requirements

The sustainability criteria introduced by RED III contain an exclusion of primary areas and other areas designated for nature protection, and also of highly biodiverse grasslands, from the cultivation of raw materials for biofuels, biomass and bioliquids production. For some of these criteria, RED III allows for exceptions, on the condition of providing certain evidence and meeting relevant requirements. These areas include grasslands and protected areas requiring human intervention, provided that nature protection goals of the area are simultaneously preserved.

A reference date, i.e., January 2008, applies to defined "land statuses" (*KZR INiG System/2/Definitions*). The date is a reference point for proving that a change in land use has

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occurred or not, in consequence of which a change in "land status" defined according to RED III has occurred or not. "Land-use change" should be understood as changes occurring in reference to the status of the area surface. For example, a change of grassland to cropland is a change in land use, as opposed to a transition from cultivation of one plant (such as corn) to another (such as rape).

Croplands also include fallow lands left fallow for up to 5 years only. <u>A change of management</u> activities, tillage practice or manure input practice is not considered land-use change.

### 4.1. Primary forests and other wooded lands

Biofuels, bioliquids and biomass fuels produced from agricultural biomass shall not be made from raw material obtained from land that was primary forest or other wooded land in or after January 2008, whether or not the land continues to have that status. Primary forest (for the definition see the document system KZR INiG/2) and other wooded land defined as 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, and old growth forests (please see the definition in the document KZR INiG System/2) as defined in the country where the forest is located.

Agricultural producers shall prove that the land from which the raw materials for biofuels, agricultural biomass fuels or bioliquids production have been obtained does not have the status of primary forest or other wooded lands (e.g. natural forests). Examples of acceptable evidence (see also section 6.1.) are an excerpt from the land register (containing information about land use purpose) or an aerial photograph of the land showing it to be planted with defined raw materials. To prove that the land was not a primary forest after January 2008, the excerpt from the land register must precede this date.

### 4.2. Highly biodiverse forest and other wooded land

Biofuels, bioliquids and biomass fuels produced from agricultural biomass taken into account for national renewable targets shall not be made from raw material obtained from land with a high biodiversity value. Highly biodiverse forest and other wooded land means a land which in January 2008 had status of 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, whether or not the land continues to have that status. Unless evidence is provided that the production of that raw material did not interfere with those nature protection purposes.

For the definitions "species-rich" and "degraded" please see the KZR INiG System/2.

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#### 4.3. Areas designated for nature protection

Biofuels, bioliquids and biomass fuels produced from agricultural biomass shall not be made from raw materials obtained from land that was a protected area in or after January 2008, whether or not the land continues to have the status of the areas designated as follows:

- by law or by the relevant competent authority for nature protection purposes; or
- for the protection of rare, threatened or endangered ecosystems or species recognized 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 second subparagraph of Article 30(4) of the RED III;

unless evidence is provided that the production of those raw materials did not interfere with those nature protection purposes.

The list of protected areas includes:

- national parks,
- nature reserves,
- landscape parks, as well as protected landscape areas,
- Natura 2000 areas,
- natural monuments,
- documentation sites,
- ecological grounds,
- nature-landscape complexes for protection of plant, animal and fungi species.

It is permitted to cultivate the raw materials on lands that are designated for nature protection as long as evidence is provided that the production of raw materials does not interfere with the nature protection purpose in question.

The KZR INiG System will communicate to economic operators any details of lists of protected areas as soon as they become available from the EC. The standard documentation will be updated accordingly. This is important, for example, in cases of protected areas included in categories V-VI (Table 1) of International Union for Conservation of Nature, where managing of natural resources is consistent with the sustainability criteria.

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## Table 1 – List of protected areas according to International Union for Conservation of Nature

Category	Protected area type
Ia	Strict nature reserve; mostly for scientific purposes
Ib	Natural area;
П	National park; mostly for protection of biotic nature and recreation
III	Natural monument; for protection of individual features of nature
IV	Habitat/species protection area
V	Protected landscape/sea area
VI	Protected area with usable resources; for sustainable utilization of natural ecosystems

### 4.4. Highly Biodiverse Grasslands

Biofuels, bioliquids and biomass fuels produced from agricultural biomass shall not be made from raw materials obtained from land that was highly biodiverse grassland in or after January 2008, whether or not the land continues to have this status.

Grasslands located in the specific geographic ranges of the European Union listed in Article 2 of the Regulation No 1307/2014 shall always be regarded as highly biodiverse grassland, unless evidence is provided that the harvesting of the raw material is necessary to preserve the grassland status. For land that is located outside the areas referred to in the mentioned Regulation, the auditor shall assess whether the grassland maintains, or would have maintained in the absence of human intervention, the natural species composition and ecological characteristics and processes. Where that is the case, the land shall be considered as being, or having been, natural, highly biodiverse grassland. Where grassland has already been converted to arable land and it is not possible to assess the characteristics of the land itself through information available from the national competent authorities or satellite imagery, the auditor shall consider such land as not having been highly biodiverse grassland at the moment of conversion.

Any land that is, or was, non-natural, highly biodiverse grassland in or after January 2008 may be used for biofuel production on condition that harvesting of the raw material is necessary to preserve the status of the grassland as highly biodiverse grassland and that current management practices do not present a risk of causing biodiversity decline of the grassland.

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Economic operators shall provide evidence that the harvesting of the raw material is necessary to preserve the highly biodiverse grassland status and that management practices do not present a risk of causing biodiversity decline of the grassland.

Where economic operators are unable to provide the evidence referred above, they shall provide evidence that they have been granted permission by the relevant competent authority, or designated agency, to harvest the raw material in order to preserve the highly biodiverse grassland status.

The technical assessment of the land shall be conducted by a qualified specialist who is external and independent of the activity being audited and free from conflict of interest, and who may be part of the audit team. The assessment and its result shall be reviewed as part of the audit.

## Any conversion of grassland in or after January 2008 is prohibited within the KZR INiG System.

**Grassland** means terrestrial ecosystems dominated by herbaceous or shrub vegetation for at least 5 years continuously. It includes meadows or pasture that is cropped for hay, but excludes land cultivated for other crop production and cropland lying temporarily fallow. Grassland further excludes continuously forested areas as defined in Article 29(3)(d) of Directive (EU) 2018/2001 as amended by Directive (EU) 2023/2413, unless these are agroforestry systems which include land-use systems where trees are managed together with crops or animal production systems in agricultural settings. The dominance of herbaceous or shrub vegetation means that their combined ground cover is larger than the canopy cover of trees.

Human intervention means managed grazing, mowing, cutting, harvesting or burning.

## 4.5. Heathlands

Biofuels, bioliquids and biomass fuels produced from agricultural biomass shall not be made from raw materials obtained from land that was heathland in or after January 2008, whether or not the land continues to have this status.

First it shall be checked whether a definition for Heathland exists in the applicable Member State or third county and apply this definition. In the absence of such a definition, then the following definition shall be applied: Heathland means vegetation with low and closed cover, dominated by bushes, shrubs, dwarf shrubs (heather, briars, broom, gorse, laburnum etc.) and herbaceous plants, forming a climax stage of development (Source: EU Copernicus).

Heathland is a terrestrial ecosystem characterized by specific vegetation, dominated by shrubs, herbs, and herbaceous plants that are adapted to challenging soil conditions, such as poor, acidic, and well-drained soils. Heathlands are primarily found in temperate regions, where cool and damp weather conditions prevail.

Main Characteristics of Heathlands:

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- Vegetation This ecosystem is dominated by low-growing plants such as heather, heaths, blueberries, and various species of mosses, grasses, and herbs. In many cases, shrubs such as buckthorn and willow are also present. These plants are adapted to thrive in poor, acidic soils that are unsuitable for more demanding species.
- Soil Heathlands typically occur on acidic and nutrient-poor soils, which have limited calcium and nitrogen content. These soils support plants that are capable of storing water and tolerating difficult growing conditions.
- Climate Heathlands usually develop in regions with a cool climate, where rainfall is evenly distributed throughout the year. Some areas may experience periods of drought, so the plants must be resistant to water stress.
- Biodiversity Despite the harsh environmental conditions, heathlands are home to a variety of unique plant and animal species, such as wild rabbits, foxes, cranes, and rare species of butterflies and birds. Many of these organisms have adapted to life in the heathland ecosystem.
- Fires In certain areas, heathlands are prone to natural fires, which play a role in regenerating vegetation by removing dead plants and allowing new growth. Fires are often a natural part of the life cycle of these ecosystems.
- Ecological Significance Heathlands are crucial for preventing soil erosion, storing water, and providing habitats for wildlife. They are also important for biodiversity, offering a habitat for species of plants and animals that are not found in other ecosystems.

Heathlands are a sensitive ecosystem, vulnerable to climate change and human activity, particularly soil pollution, land-use changes, and the introduction of invasive species.

# Any conversion of heathland in or after January 2008 is prohibited within the KZR INiG System.

## 5. Calculation method

Not applicable.

## 6. Conformity check

## 6.1. Primary forests and other wooded lands

Based on an initial analysis of results, it is anticipated that three scenarios will prevail in the fulfillment of the sustainability criteria for primary forests and other wooded lands:

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<u>Scenario 1</u> – the farm was created on an area with the current status of cropland, but in or after January 2008 it was converted from land of another status.

In this case, the participant must prove that in/after January 2008 the area did not have primary forest status.

Scenario 2 – the farm was created before January 2008.

In this case it must be proved in a credible way that in January 2008 the area did have the status of cropland, therefore the requirement concerning primary forest will be met.

<u>Scenario 3</u> – the farm was created on an area not having the status of cropland currently.

In this case, the participant may want to gain information about the area located on the farm's geographic boundaries, in order to check whether the area was a primary forest in or after January 2008.

Because RED III does not provide an exception for these areas, participants must prove that the area has not had, and currently does not have, the status of primary forest or other wooded lands.

For example, compliance with the criterion on 'primary forest' could be shown by:

- an aerial photograph of the land, showing it to be planted with the defined raw materials (positive), or
- a map of all the primary forests in the region, showing the land to fall outside them (negative).

The criteria refer to the status of the land in January 2008. The use of earlier evidence is not ruled out. For example, if it is shown that the land was cropland a little before 2008, e.g., in 2005, this may suffice to show compliance with some or all of the land-related criteria.

Figure 1 shows diagrammatically the evaluation for primary forests and other wooded lands.

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## Figure 1 – Evaluation diagram for primary forests and other wooded lands



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### 6.2. Highly biodiverse forest and other wooded land

To ensure compliance with the highly biodiverse forest and other wooded land criteria, operators are required to provide evidence that the biofuels, bioliquids and biomass fuels produced from agricultural biomass are not produced from raw materials from land with high biodiversity value in or after January 2008, as per Article 29.3(b) of the RED III.

The definitions of 'degraded' and 'species-rich' included in Commission Regulation (EU) No 1307/2014 shall be applied in the context of this criterion.

Definitions of high biodiverse forest are placed in document System KZR INiG/2.

The following three steps are recommended in order to confirm compliance with highly biodiverse criterion:

1. Identifying whether a harvesting area has been forest or other wooded land in or after 2008 (decision tree in figure 2).



#### Figure 2 Decision tree to identify forest and other wooded land

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2. Determining whether a harvesting area has been highly biodiverse forest or other wooded land in or after 2008 (decision tree in figure 3).

### Figure 3. Decision tree to determine highly biodiverse forests and other wooded land



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3. Showing evidence that that the production of raw material did not interfere with the protection of the high biodiversity value of highly biodiverse forests and other wooded land (decision tree in figure 4).

## Figure 4. Decision tree to provide evidence that the production of raw material did not interfere with the protection of the high biodiversity value of highly biodiverse forests and other wooded land



### **6.3.** Areas designated for nature protection

The process for verifying the impact of raw materials production starts with the identification of the nature protection purpose (purposes), including criteria and indicators relevant for this purpose (or purposes).

### **Biodiversity criteria**

In cases where an ecosystem, together with its species, is designated for nature protection, the biodiversity criteria and indicators should be taken into consideration.

This is one of the criteria that should be examined to verify whether the integrity of the relevant ecosystem and habitat of rare, threatened, and endangered species in this area has been maintained. Other examples of the biodiversity criteria are: cessation of activities during

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critical seasons for the ecosystem (e.g. during the breeding season); and establishment of management plans for the specific area, indicating the existence of ecological corridors, species habitat or critical components of indicator species, and maintained protection of certain species populations. Moreover, the harvest and removal of invasive species, or use and control of genetically modified organisms (GMO), are allowed unless they conflict with nature protection. Additionally, land-use change (afforestation, deforestation, etc.) should be evaluated to determine whether it violates nature protection.

### <u>Environmental criteria</u>

In cases where the nature protection pertains to soil, together with its nutrients and water, environmental criteria and indicators should be taken into consideration for evaluation. It should be demonstrated that raw materials production does not cause changes of protected land (e.g., soil erosion, change in soil structure or soil compaction). To assess whether agricultural activity (raw materials production, transportation, protection of plants, etc.) violates nature protection rules, a soil management plan can be implemented. Another aspect to be considered is whether raw materials production from the area will lead to disturbance of the nutrient balance or affect the soil buffering capacity<sup>1</sup>. Nutrient loss (such as through raw materials harvest or residue collection or leaching) should be balanced by nutrient input (e.g. weathering, fertilization, etc).

To determine whether agricultural activity will cause a significant negative change in water quality and/or supply, a water management plan can be implemented, including measures for riparian buffer zones to prevent nutrient accumulation or eutrophication.

Figure 5 shows diagrammatically the evaluation pathway for areas designated for nature protection.

<sup>&</sup>lt;sup>1</sup> Low soil buffering capacity increases soil susceptibility to degradation by acid rain or fertilizers.

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## Figure 5– Evaluation procedure for areas designated for nature protection



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#### 6.4. Non-natural highly biodiverse grasslands and heathlands

According to the KZR INiG System's requirements, any conversion of grasslands and heathlands in or after January 2008 is prohibited.

#### Figure 6 – Evaluation path for grasslands/heathlands



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#### NOTE

Proofs of compliance with land-related criteria are demonstrated in many different ways, including aerial photographs, satellite images, maps, land register entries/database, site surveys, or other reliable documents. The evidence can be 'positive' or 'negative'. Geospatial and/or non-geospatial data may not always be sufficient to allow a firm conclusion on the status of the land for the RED III. In those cases, on-site assessments (interviews with local experts or communities) could provide the necessary additional information. Further guidelines concerning verification of land status are given in the document KZR System/9.

## 7. Checklist

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

Date	Section	Previous requirement	Current requirement
05.05.2025	Whole	Directive 2018/2001	Directive (EU) 2018/2001. as amended by
	document		Directive (EU) 2023/2413
05.05.2025	Whole	RED II	RED III
	document		
05.05.2025	Whole	primary wooded lands	wooded lands
	document		
05.05.2025	2.	-	Added:
			KZR INiG System/12/Renewable Fuels of non-
			biological origin and recycled carbon fuels
05.05.2025	3.	-	Added:
			KZR INiG accepts the definition of "heathlands"
			defined by national legislation in the country of
			origin of biomass. If such definition does not
			exist, the definition defined in the document
			System KZR INiG/2 shall be applied.
05.05.2025	4.1.	4.1. Primary forests and other primary wooded	4.1. Primary forests and other wooded lands
		lands	Biofuels, []. Primary forest (for the definition
		Biofuels, []. Primary forest and other wooded land are	see the document system KZR INiG/2) and other
		defined as forest and other wooded land of native	wooded land defined as forest and other wooded
		species, where there is no clearly visible indication of	land of native species, where there is no clearly
		human activity, and the ecological processes are not	visible indication of human activity, and the
		significantly disturbed.	ecological processes are not significantly
			disturbed, and old growth forests (please see the
			definition in the document KZR INiG System/2)
			as defined in the country where the forest is
			located.
05.05.2025	4.5.	-	Added:
			4.5. Heathlands
			Distuals bioliguids and biomass fuels [
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05.05.2025	6.1.	Scenario 1 – the farm was created on an area with the	Scenario 1 – the farm was created on an area with
03.03.2023	6.1.	Scenario 1 – the farm was created on an area with the current status of cropland, but on or after January 2008	Scenario 1 – the farm was created on an area with the current status of cropland, but in or after
00.00.2020	6.1.	Scenario 1 – the farm was created on an area with the current status of cropland, but on or after January 2008 it was converted from land of another status.	Scenario 1 – the farm was created on an area with the current status of cropland, but in or after January 2008 it was converted from land of
05.05.2025	6.1.	Scenario 1 – the farm was created on an area with the current status of cropland, but on or after January 2008 it was converted from land of another status.	Scenario 1 – the farm was created on an area with the current status of cropland, but in or after January 2008 it was converted from land of another status.
05.05.2025	6.1. 6.4.	Scenario 1 – the farm was created on an area with the current status of cropland, but on or after January 2008 it was converted from land of another status. 6.4. Non-natural highly biodiverse grasslands	Scenario 1 – the farm was created on an area with the current status of cropland, but in or after January 2008 it was converted from land of another status. 6.4. Non-natural highly biodiverse grasslands
05.05.2025	6.1. 6.4.	Scenario 1 – the farm was created on an area with the current status of cropland, but on or after January 2008 it was converted from land of another status. 6.4. Non-natural highly biodiverse grasslands	Scenario 1 – the farm was created on an area with the current status of cropland, but in or after January 2008 it was converted from land of another status. 6.4. Non-natural highly biodiverse grasslands and heathlands

## 8. Changes compared to the previous edition

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## 9. References

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Convention on Biological Diversity, developed in Rio de Janeiro on 05.06.1992, ratified by Poland in 1996 (J. of Laws 2002, No. 184, item 1532).

Act on Nature Conservation of 16.04.2004 (J. of Laws 2004, No. 92, item 880 as amended).

Act on Forests of 28.09.1991 (J. of Laws 1991, No. 101, item 444 as amended).

Commission regulation (EU) No 1307/2014 of 8 December 2014 on defining the criteria and geographic ranges of highly biodiverse grassland for the purposes of Article 7b(3)(c) of Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels and Article 29(3) of Directive (EU) 2018/2001 as amended by Directive (EU) 2023/2413 of the European Parliament and of the Council on the promotion of the use of energy from renewable sources.