

Analysis of Order TED/1026/2022, of 28 October, approving the management procedure for the system of guarantees of origin of gas from renewable sources



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On October 31, 2022, Order TED/1026/2022, of October 28, 2022, approving the management procedure of the system of guarantees of origin of gas from renewable sources ("**Order 1026/2022**"), was published in the Official State Gazette (BOE). This regulation is issued under art. 19.6 of Royal Decree 376/2022, of May 17, which regulates the criteria of sustainability and reduction of greenhouse gas emissions from biofuels, bioliquids and biomass fuels, as well as the system of guarantees of origin of renewable gases (the "**RD 376/2022**").

Order 1026/2022 includes the procedure to be followed by renewable gas production facilities to obtain the certificate of guarantee of origin, in order to encourage and favor its deployment, thus granting legal certainty to those who look forward to participating in the system of guarantees of origin.

In this Legal Update we make a summary of the main novelties that have been approved.

Introduction

RD 376/2022 establishes the system of guarantees of origin of gas from renewable sources the implementation of which was already foreseen in the Hydrogen and Biogas Roadmaps, in addition to measure 1.8 of the Integrated National Energy and Climate Plan (PNIEC) 2021-2030 and in art. 12 of Law 7/2021, of May 20, of climate change and energy transition.

Order 1026/2022 regulates the Management Procedure of the system of guarantees of origin of renewable gases, complying with the previous forecasts, allowing the system of guarantees of origin to be fully implemented and for the final consumer to know the amount of energy consumed from renewable sources.

This regulation provides legal certainty to those looking forward to participating in the system of guarantees of origin of gases from renewable sources. It is therefore essential for the commercialization of green hydrogen and biogas, as well as for the deployment of these technologies.

Scope, definition and processes

Guarantees of origin apply to all renewable gases, this is, all fuel gas from renewable sources, such as renewable hydrogen and biogas, regardless of how it is produced and consumed. Therefore, the system of guarantees of origin includes (i) renewable gases injected into the gas system, (ii) renewable gases injected into isolated pipelines to the gas system, (iii) renewable gases with off-grid logistics and (iv) renewable gases self-consumed in the production facility.

A guarantee of origin corresponds to the net production of 1 MWh of renewable gases, and it is an unalterable electronic document with a unique identification number. Each guarantee of origin consists of three modifiable parameters for its management (holder, status and transaction codes) and of a series of fields related to the characteristics of the guarantee of origin that will not be alterable.

Guarantees of origin should allow the traceability of renewable gas production processes: renewables gases can be produced directly (on site) or by conversion. In the latter case, the production derives from the consumption of another renewable energy source, and may be total or partial if only part of the energy used for the production is obtained by conversion.

Players of the System of Guarantees of Origin

The **Responsible Entity** for the system of guarantees of origin is, on a temporary basis, the Technical Manager of the Gas System. The Ministry for the Ecological Transition and the Demographic Challenge ("**MITECO**") may assume these functions at any time, as soon as it considers that it has the necessary means for its performance.

The **holders of guarantees of origin** are those entities that have signed a contract of participation in the system of guarantees of origin. Within this category, we find the following:

- ▶ Producers of renewable gas, understood as both operators of renewable gas production facilities and third parties operating an installation under a contract.
- ▶ Suppliers of renewable gas, which are those holders that perform functions of commercialization of renewable gases.
- ▶ Consumers of renewable gases, understood as those who directly manage their guarantees of origin, without the intermediation of a trader.
- ▶ Intermediaries of guarantees of origin, which will be those holders that are not included in the previous cases and whose functionalities will be limited to the transfer, import and export of guarantees of origin.

The **measuring entity** is the legal entity responsible for collecting and determining the production and consumption values that apply in each case. Measuring entities must be approved by the Responsible Entity.

Finally, the **auditing entity** is that legal person, designated by the producer and confirmed by the Responsible Entity, whose function is to guarantee the veracity and accuracy of the information provided by the holders of renewable gases.

Registry in the System of Guarantees of Origin

In the case of holders, they will request registration by means of a holder registration form through the Guarantee of Origin Platform. Within one month of receipt of the initial request or correction, where appropriate, the Responsible Entity will establish an annotation account in the name of the applicant and provide the credentials to access the Platform as primary user. After that, the holder will be able to complete the registration as:

- ▶ **Producer of renewable gases:** to register in the system as a producer, a production facility must have been previously registered in the Register of gas production facilities from renewable sources. In turn, to register the production facility you must be registered as a holder and be the owner of the same or a third party that operates the installation through a contract with its owner, although it is not indispensable that the installation has the start-up certificate.
- ▶ **Supplier of renewable gases:** must be registered as a trader in the gas system.
- ▶ **Consumer of renewable gases:** must be the owner of a point of consumption, either of the gas system, or outside or not connected to it. In the latter case, it will be necessary to register the point of consumption outside the gas system.
- ▶ **Intermediary of guarantees of origin:** there is no additional requirement.

These roles are not incompatible with each other.

Supervision of production facilities

The Responsible Entity is in charge of the supervision of renewable gas production facilities, which must maintain compliance with minimum requirements to be registered in the Register of gas production facilities from renewable sources.

Order 1026/2022 establishes the obligation to submit the facilities to periodic audits of the production activity by a company that must have been registered in the Register of auditing companies, for which it will have to comply with the requirements established by the Responsible Entity.

The Responsible Entity may carry out ex officio supervision with a minimum notice of 48 hours.

Status, revocation and expiration of guarantees of origin

Guarantees of origin may be in different situations of validity. Thus, a distinction is made between:

- ▶ Valid for transfer, redemption and export.
- ▶ Valid for redemption.
- ▶ Exported.
- ▶ Redeemed.
- ▶ Revoked.
- ▶ Expired.

The revocation of a guarantee of origin may result from the detection of an error or from the imposition as a remedy because of a claim.

On the other hand, the expiration is automatic and occurs over time, causing the status of the guarantee of origin to change. After 12 months from the production of the energy that gave rise to the guarantee of origin, the partial expiration will occur (passing the guarantee to the status of "valid for redemption"), and after 18 months, the expiration.

Changes in the status of guarantees of origin shall be notified to holders.

Committee of Players of the System of Guarantees of Origin

The Responsible Entity will constitute a Committee of Players of the System of Guarantees of Origin ("**CSSGO**") for gas from renewable sources. The CSSGO must be informed at all times of the operation and management of the system of guarantees of origin and may prepare and channel proposals for improving management processes to MITECO.

It will be composed of (i) a representative of MITECO, (ii) a representative of the CNMC, (iii) a representative of the Technical Manager of the Gas System, (iv) users

registered in the system of guarantees of origin, (v) natural gas transmission and distribution companies with at least one renewable gas injection point in their network and (vi) operators of the organized market trading platforms that are connected to the Guarantee of Origin Platform.

In addition, any agent of the gas system may participate, although they will not have the right to vote.

Entry into force

This regulation entered into force on November 1, 2022.

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