Possible uses of biomethane quantities and certificates from cross-border trade

1 Overview of possible uses for imported biomethane

Cross-border trade in biomethane volumes and certificates in Europe has increased significantly in recent years and will continue to gain importance in the future. The possibilities of use are diverse, but are subject to specific regulations of the respective laws and regulations.

This document is intended to provide a clear overview of where imported biomethane can be recognised and used in Germany. A distinction is to be made between mass balance deliveries and the import of certificates according to the book&claim principle. For better comparability, Table 1 also compares the possible uses for biomethane fed into the grid in Germany. A detailed explanation of the individual legal requirements can be found in Chapter 2.

Table 1: Overview of possible uses for biomethane

	Biomethane – injected in Germany			Biomethane – injected outside Germany		
	mass balanced	book & claim	sustainability RED	mass balanced	book & claim	sustainability RED
EEG	x	-	(x)[1]	-	-	-
BEHG (nEHS)	x	-	from 2023	x	-	from 2023
TEHG (EU-ETS)	x	-	from 2022	x	-	from 2022
GEG	x	-	-	x	-	-
BEG	x	-	-	x	-	-
EWärmeG BW	x	-	-	x	-	-
BImschG	x	-	x	-	-	-
Voluntary market	x	x	-	x	x	-

With RED II, the sustainability requirements that previously applied to biofuels were extended to other energy uses. Biomethane CHPs with a rated thermal input of 2 MW or more are particularly affected. For biomethane volumes in the ETS, proof of sustainability compliance has been mandatory since 2022, as well as in the Fuel Emissions Trading Act (BEHG) since 2023, if fossil emissions are to be avoided through the use of biomass.

[1] Requirements apply to CHP plants with a minimum size of 2 MW rated thermal input

2 Legal requirements for biomethane from cross-border trade

In the following chapter, the explanations of the individual legal requirements describing the use of biomethane quantities and certificates from cross-border trade will be listed. In addition, the criteria that may have to be fulfilled in order to comply with the legal requirements according to the Criteria Catalogue of the Biogasregister Germany are listed.

2.1 Renewable Energy Act - Erneuerbare-Energie-Gesetz (EEG)

The EEG grants operators of combined heat and power plants (CHP) that take gas from the natural gas grid a subsidy for each kWh of electricity generated if the operator can prove that in the respective calendar year at least as much biomethane was fed into the natural gas grid as was fed out to generate electricity in the CHP. However, Section 44b (5) EEG 2017 specifies that the biomethane must be "fed into the natural gas grid elsewhere in Germany".

Recognition of biomethane volumes and certificates from abroad is therefore **not possible** under the EEG.

More information: Antwort der Clearingstelle EEG | KWKG (only in German available)

Criteria to be fulfilled according to the criteria catalogue of the Biogasregister Germany:

Not applicable

2.2 Fuel Emissions Trading Act - Brennstoffemissionshandelsgesetz (BEHG)

According to the BEHG, biomethane from abroad is explicitly recognised in the national emissions trading system (nEHS) if compliance with the mass balance can be demonstrated. According to the Guidelines on the Scope, Monitoring and Reporting of CO2 Emissions of the DEHSt, the requirements for imports are also defined in Chapter 6.6.2.3 in such a way that according to Section 8 (2) Sentence 5 EBeV 2030, it must be proven by means of evidence from the Nabisy database that the corresponding quantity of biomethane fulfils the sustainability requirements of Sections 4 and 5 of the Biomass Electricity Sustainability Ordinance as well as the greenhouse gas reduction according to Section 8 (2) Sentences 2 to 4 EBeV 2030.

A recognition of biomethane quantities (in terms of mass balance) from abroad is therefore possible in the SESTA.

Criteria to be fulfilled according to the criteria catalogue of the Biogasregister Germany:

Not applicable

Note: DEHSt no longer recognises an extract from the Biogasregister Germany as proof of the above requirements for the biomethane purchased.

More information: Monitoring und Emissionsberichterstattung ab 2023 (only in German available)

2.1 German Greenhouse Gas Emissions Trading Law - Treibhausgas-Emissionshandelsgesetz (TEHG)

According to the TEHG, biomethane from abroad is explicitly recognised in the European Emissions Trading Scheme (EU ETS) if compliance with the mass balance can be demonstrated. According to the Guidance Document on the Preparation of Monitoring Plans and Emission Reports for Stationary Installations in the 4th Trading Period (2021 to 2030), the requirements for imports for material and energy use are differentiated in Chapter 8.5 and additionally defined as follows:

2.1.1 Material use of biomethane

In the case of foreign biomethane quantities, the following conditions must be met in addition to the requirements specified in Chapter 8.5.1 of the DEHSt guidelines:

- in the case of a transfer from a foreign register, a cancellation document from the sending system must be submitted, and
- mass balancing of foreign biomethane quantities must have been confirmed by an independent audit".

Recognition of biomethane quantities for material use (mass balance) from abroad is therefore **possible** under the TEHG.

Criteria according to the criteria catalogue of the Biogas Register Germany to be fulfilled:

To simplify the proof of the above-mentioned requirements for material use, DEHSt explicitly recognises, among other things, an extract from the Biogas Register Germany according to the delivery model (mass balance) for the biomethane purchased. The following criteria must be met:

	Products (no warranty)	**Criteria** 1 Biomass Biomasse iSd BiomasseV	4 Quantity structure is plausible	6 Feed-in quantity into the natural gas network	27 Mass balancing up to the injection into the natural gas network	39 Biowaste (min. 90%)	41 Biomass within the meaning of the EEWärmeG	42 Biomass i.S.d. §7 der 36. BImschV	43 Biomass i.S.d. MVO
TEHG	Exemption from duty (Biomass term within the meaning of the MVO)		**X**	**X**	**X**				**X**
	Exemption from duty (biomass outside MVO)	**(X)**	**X**	**X**	**X**	**(X)**	**(X)**	**(X)**	

2.1.2 Energetic use of Biomethane

According to the Guideline for the Preparation of Monitoring Plans and Emission Reports for Stationary Installations in the 4th Trading Period (2021 to 2030) of the DEHSt, Chapter 8.5.2 defines the requirements for imports for energy use in such a way that a valid proof of sustainability pursuant to Article 3 (1) EHV from the Nabisy database must be submitted.
Recognition of biomethane quantities for energetic use (mass balance) from abroad is therefore **possible** under the TEHG.

Criteria according to the criteria catalogue of the Biogas Register Germany to be fulfilled:

not applicable.

Note: DEHSt no longer recognises an extract from the Biogas Register Germany as proof of the above requirements for the biomethane purchased.

More information: Leitfaden zur Erstellung von Überwachungsplänen und Emissionsberichten für stationäre Anlagen in der 4. Handelsperiode (2021 bis 2030) only (in German available)

2.2 German Energy Act for Buildings - Gebäudeenergiegesetz (GEG)

The GEG is a set of regulations for the energy requirements for new buildings and existing buildings, whereby § 10 para. 2 no. 3 GEG stipulates that the heating and cooling energy demand for new buildings must be covered at least proportionally by the use of renewable energies in accordance with §§ 34 to 45 GEG. In this context, biomethane is of particular interest in blending to reduce the primary energy factors in buildings and heating grids and is recognised for meeting the renewable energy share in heat. For the use of biomethane as renewable energy, the following requirement applies, among others, according to § 40 GEG:

"The amount of biomethane in heat equivalent withdrawn at the end of a calendar year shall be equal to the amount of gas from biomass injected into the gas grid elsewhere". At the same time, mass balance systems must be in place for the entire transport and distribution of the biomethane from its production to its injection into the natural gas grid and its transport to its withdrawal from the natural gas grid.

In deviation from the wording in Article 44b (5) EEG 2017 (cf. chapter 2.1) no geographical restriction is specified here for feed-in in the federal territory, which the Federal Ministry for Economic Affairs and Energy (BMWi) agreed on when asked about the use of biomethane from abroad in the GEG and BEG.

Recognition of biomethane quantities (in terms of mass balance) from abroad is therefore **possible** in the GEG.

More information: B.KWK request to BMWi „use of biomethane in GEG and BEG“ (only in German available)

BMWi confirms: No additional requirements for biomethane for CHP plants in the CHP Act (only in German available)

https://www.bdew.de/service/publikationen/anwendungshilfe-gebaeudeenergiege-setz-geg/ (only in German available)

Criteria according to the criteria catalogue of the Biogas Register Germany to be fulfilled:

	Products (no warranty)	**Criteria** 1 Biomass iSd BiomasseV	6 Feed-in quantity into the grid	7 natural gas quality	9 maximum electricity consumption	10 regenerative process heat	19 Landfill gas exclusively	20 Sewage gas exclusively	27 Mass balancing up to the injection into the natural gas network	38 Maximum methane emissions	41 Biomass i. S. d. EEWärme
GEG	Federal heat utilisation (biomass)	X	X	X	X	X			X	X	
	Federal heat utilisation (biomass outside the Biomass Ordinance)		X	X	X	X			X	X	X
	Federal heat utilisation (landfill gas)		X		X	X	X		X	X	
	Federal heat utilisation (sewage treatment gas)		X		X	X		X	X	X	

2.3 Federal funding for efficient buildings - Bundesförderung für effiziente Gebäude (BEG)

The BEG has replaced the previous funding programmes of KfW 153 "Efficient Construction" and 151/152 "Efficient renovation" as well as the Market Incentive Programme (MAP "BAFA- Förderung"). According to the "Minimum Technical Requirements for the Federal Programme for the Promotion of Efficient Buildings - Residential Buildings", funding is possible, among other things, if biomethane obtained from the natural gas grid is used exclusively in CHP plants to generate heat.

The Federal Ministry of Economics and Climate Action (BMWK) clarifies: "The BEG does not make any statement on the feed-in from abroad in the case of promotion using biomethane for the heating and cooling energy demand in buildings. Therefore, the principles of the GEG apply. (see chapter 2.4)

Recognition of biomethane quantities (in terms of mass balance) from abroad is therefore **possible** in the BEG.

More information: B.KWK request to BMWi „use of biomethane in GEG and BEG“ (only in German available)

BMWi confirms: No additional requirements for biomethane for CHP plants in the CHP Act (only in German available)

Criteria according to the criteria catalogue of the Biogas Register Germany to be fulfilled:

Analogue to GEG, see chapter 2.2

2.4 Law on the exploitation of renewable thermal energy in Baden-Württemberg - Gesetz zur Nutzung erneuerbarer Wärmeenergie in Baden-Württemberg (Erneuerbare-Wärme-Gesetz – EWärmeG)

In the interest of climate and environmental protection, the EWärmeG aims to increase the use of renewable energies for the purpose of heat supply in buildings and the efficient use of energy in Baden-Württemberg.

Biomethane is recognised as fulfilling a maximum of two-thirds of the utilisation obligation if, in buildings with a heating system with a thermal output of up to 50 kW, natural gas with a creditable biomethane share of up to 10 percent is used to fully cover the heat energy demand and the utilisation takes place in a boiler that corresponds to the best available technology.

The characteristics of biomethane are defined in §5 (3) EWärmeG and number 1 letters a to c of Annex 1 to the Renewable Energy Sources Act of 25 October 2008 (Federal Law Gazette I p. 2074), whereby no geographical restrictions are specified for feed-in in Germany.

Recognition of biomethane quantities (in terms of mass balance) from abroad is therefore **possible** in the EWärmeG.

Criteria according to the criteria catalogue of the Biogas Register Germany to be fulfilled:

	Products (no warranty)	**Criteria** 6 Feed-in quantity into the grid	7 natural gas quality	9 maximum electricity consumption	10 regenerative process heat	27 Mass balancing up to the injection into the natural gas network	38 Maximum methane emissions	41 Biomass i. S. d. EEWärme
EWärmeG 2015	Heat utilisation Baden Wuerttemberg	**X**	**X**	**X**	**X**	**X**	**X**	**X**

More information: Law on the exploitation of renewable thermal energy in Baden-Württemberg (only in German available)

2.5 Federal Pollution Control Act - Bundes-Immissionsschutzgesetz (BImschG)

In its third part, second section, the BImSchG lays down the rules on greenhouse gas reduction for motor fuels and has regulated the relevant requirements in the 38th BImSchV.

Biomethane can be counted towards quota compliance if it has been placed on the market in one of the following forms:

- - if the biomethane meets the requirements for natural gas pursuant to section 8 of the Ordinance on the Characteristics and Distinction of Qualities of Fuels and Combustibles. and is taxable pursuant to section 2(1) no. 7 or (2) no. 1 of the Energy Tax Act,
- liquefied biomethane pursuant to section 12a of the 38th BImSchV, which is taxable pursuant to section 2(1) no. 7 or (2) no. 1 of the Energy Tax Act (EnergieStG) and if its properties at least meet the requirements for natural gas and biogas as fuels pursuant to section 8 of the Ordinance on the Quality and Labelling of Fuels.

Even though there is no explicit regulation on biomethane from abroad, imported biomethane has not yet been recognised as eligible for the quota: The Main Customs Office Frankfurt/Oder, as the implementing biofuel quota office, refers here to paragraphs 70-71 of the provisional version of the Service Regulation on Monitoring Compli-

ance with Greenhouse Gas Reduction pursuant to Section 37a (4) of the Federal Immission Control Act of 6 January 2016 ("DV THG-Quota"), according to which the biomethane must either be fed into the German grid or directly distributed as pure fuel.

However, a recent ruling by the 1st Senate of the Berlin-Brandenburg Fiscal Court of 15 March 2023 states that the provisions of § 37a BImSchG and § 37b BImSchG do not imply any requirement that a purely theoretical allocation (bilanzielle Zuordnung) of biomethane quantities to the fossil or biogenic fuel quantities placed on the market is not possible. Accordingly, eligibility would not be limited to biomethane from Germany only.

The eligibility of biomethane volumes and certificates from abroad for the GHG quota under the BImSchG has therefore **not been conclusively clarified** at present.

Mehr dazu: BMF decree on the crediting of bio-LNG (only in German available)

Customs service regulation for monitoring the GHG reduction quota (provisional version) (only in German available)

Judgement FG Berlin-Brandenburg v. 15.03.2023 - 1 K 1168/20 (only in German available)

Criteria according to the criteria catalogue of the Biogas Register Germany to be fulfilled:

Not applicable

Note: The verification is done via the system of the Federal Agency for Agriculture and Food (BLE) Nabisy

2.6 Voluntary market - Freiwilliger Markt

There can be various requirements for the voluntary use of biomethane, e.g. if an underlying reporting determines it. In principle, foreign certificates can be used for all voluntary applications. The standardised transfer between the European registers ensures the reliability of the information and prevents the double marketing of the quantities or their renewable properties. According to Article 19 (9), guarantees of origin may only not be transferred between member states in justified individual cases.

It is therefore **possible** to use biomethane volumes and certificates from abroad in the voluntary market.

Criteria according to the criteria catalogue of the Biogas Register Germany to be fulfilled:

According to the different specifications, the respective criteria can be verified in the biogas register.

If you are interested or have any queries, please contact:

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