

Feedback on the consultation regarding Emissions trading system (ETS) – permanent emissions storage through carbon capture and utilization

Bioenergia ry – The Bioenergy Association of Finland supports the Commission’s initiative to clarify the conditions and applications under which permanent carbon storage can happen via carbon capture and utilization. As the aim is to place both solutions, carbon capture and storage (CCS) and carbon capture and utilization (CCU), on an equal footing in the context of EU ETS, it is essential to ensure and clearly define the conditions under which emissions can be considered permanently stored in a product. In this regard, it is vital to ensure that the climate benefits of the solutions are equal as well.

First, even though the proposed text indicates that this regulation only applies to CO₂ streams resulting from the activities within the scope of Directive 2003/87/EC, the proposed regulation also has direct implications on the activities within the scope of the EU Carbon Removals and Carbon Farming Certification Framework (CRCF) in which the CO₂ results from biogenic or atmospheric sources. In the CRCF regulation, the storage and liability measures of permanent carbon removals are directly linked to the definitions made under the CCS Directive and the EU ETS Directive. As the CRCF regulation recognizes biochar carbon removal (BCR) as one of the solutions enabling long-term carbon storage in products, it also needs to be recognized within this regulation to maintain regulatory coherence. Thus, biochar carbon removal should be included in the list of products enabling permanent carbon storage, considering that a methodology for permanent storage of CO₂ in biochar will be implemented.

It is widely accepted that in the case of qualified (on specific terms, see e.g. [Biochar Permanence Report \(biochar-industry.com\)](https://biochar-industry.com)) biochar carbon removal (BCR) carbon is permanently chemically bound in the product and does not enter the atmosphere for a period of at least several centuries and that this will remain the case under normal use and the likely end-of-life treatment of the respective products. In addition, qualified biochar production collects mostly all the sidestreams of pyrolysis (distillate and gas), thus it’s not comparable to waste incineration. Biochar carbon removal can be used in several applications, including construction materials. The permanent storage status should not only apply to biochar used in construction materials but to all relevant applications, in line with the methodology developed under the CRCF regulation.

It should also be noted that biogenic and atmospheric CO₂ permanently bound in products should be recognised as a form of carbon removal as these solutions permanently reduce atmospheric CO₂ levels. These removals should be appropriately recognized and incentivized in the upcoming legislative proposal in 2026 and not treated as exemptions within the ETS like the solutions permanently storing fossil CO₂.

The proposed regulation does not mention liability in case of reversal regarding the products permanently storing CO₂. In the case of CCS, the liability aspects are covered under the CCS Directive and thus there should also be legal clarity in this regulation regarding the parties liable in the event of reversal of CO₂ into the atmosphere from the products.

We strongly support the Commission's initiative to regularly review and update the list of products considered to meet the criteria taking into account the evolving field of carbon storage in products, development of reporting and verification and the experience in implementing the regulation. Retroactive changes should however not be implemented to guarantee sufficient legal certainty for investors.