

ACCELERATING BIOMETHANE PERMITTING

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This is a report by Task Force 2 of the Biomethane Industrial Partnership.

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SUMMARY

Scaling up biomethane production from 3 bcm in 2021 to the 35 bcm by 2030 defined in REPower EU requires a rapid increase in production facilities. Lengthy permitting procedures are an important factor in delaying project development. A survey among BIP members active across Europe showed that **permitting procedures can take 2-3 years on average, with outliers of 5-7 years.**

This report explores barriers to accelerated permitting processes and best practices to overcome them.

Permitting procedures vary among EU Member States, as are the factors influencing the length of the permitting process. An important factor that influences the length of the permitting procedure is the amount of documents to be delivered and evaluated for permit filing and the number of officials involved in evaluating the filed request. In some countries, standardised and centralised procedures are in place, resulting in preparation times for permit-filing of not more than 3 months, whereas authorities in other countries require extensive studies and planning, which significantly extends preparation times.

Other delaying factors identified are unclarity in the required documents for permit filing and the permitting procedure, and limited resources or expertise among the permitting officers. Finally, the appeal process following the granting of the permit can significantly delay the development of new production facilities.

A number of best practices have been identified that simplify the permit granting processes.

An example is the introduction of a **zoning approach**, with pre-identified geographical areas where biomethane production gets prioritised, with sufficient availability of sustainable feedstock and access to gas grid infrastructure. In these areas permitting is expected to be quicker or even automatic.

Other best-practices are the implementation of a **one-stop-shop for biomethane permitting**, appointing a single office responsible for managing the permitting application and communication with the applicant, and the organisation of an **engagement prior to the permit filing** between the project developer and the one-stop-shop officer to create mutual understanding of the required documents and procedures.

Delays caused by appeals against granted permits could be avoided through a rebuttable presumption that sustainable biomethane projects¹ are of **overriding national and public interest**,² are serving public good, and do no significant harm. This would help avoid concerns or conflicts during the permitting procedure and ease decision-making in the appeal process, shortening and easing the permitting of sustainable biomethane projects.

¹ Sustainable biomethane is defined as biomethane produced in full compliance with article 29 of the Renewable Energy Directive. See: [LINK](#), page 48

² A rebuttable presumption that sustainable biomethane projects are of overriding public interest is included in the Council Regulation 2022/2577 and the revised RED, but from experience still lacks in its translation into national legislation.

IDENTIFYING BARRIERS AND GOOD PRACTICES TO ACCELERATE PERMITTING PROCESSES

In September 2022 the Biomethane Industrial Partnership (BIP) was launched; a public-private partnership between the European Commission, EU Member States and the biomethane value chain to jointly work towards achieving 35 bcm sustainable biomethane production by 2030, as defined in the REPower EU plan. Several Task Forces have been created, each working on a specific topic. Task Force 2 works on accelerated project development.

This report is a deliverable of Task Force 2 of the BIP. It aims to identify barriers to and good practices for an effective and accelerated permitting process for biomethane.

Lengthy permitting procedures pose a serious risk to achieving the 35 bcm biomethane target in just 6.5 years time. It takes about 18 months to build a plant and on average it takes 2-3 years to get permits. Given the short time frame for achieving the targets, this is rather lengthy, and in some cases the permitting can take even longer. There are known examples of permit procedures taking up to 5-7 years.

Lengthy permitting procedures delay projects, but also add risks and costs to the development of the project. If project development is too difficult or risky to develop in European markets, developers turn to easier markets potentially located outside of the EU. A good practice in terms of permitting procedure duration (from initial filing to the granting of the permit) in the EU,

according to industrial actors, would be in the range of 6 to 12 months, for new biomethane installations or for the upgrade of existing biogas plants.³

This report first describes the current situation concerning permitting procedures and timelines, then outlines barriers to biomethane permitting and suggestions as well as good practices to overcome these. Finally, building on the analysis of existing good practices in various Member States, the report presents an “ideal” permitting procedure, including content and process requirements.

³ (Permitting procedures for) biomethane installations are covered under Article 15 and 16 of the REDIII proposal and Article 3 of the Council Regulation 2022/2577.



CURRENT SITUATION OF PERMITTING PROCEDURES

Permitting procedures vary by country, as well as the requirements and factors influencing the length of the permitting process. To get a better understanding of how the permitting procedures differ across countries and the factors influencing the length of the process, the BIP sent out a questionnaire among its members, mostly targeting biomethane project developers, investors, consultants and national biogas and biomethane associations. The questionnaire aimed to obtain insights on the permitting procedures across the EU, including the required documents, the involved actors, the average length of the process and potential causes for delay. The questionnaire received 62 responses, providing insights on permitting procedures in 16 EU Member States.

While procedures vary per Member State, in general the permitting procedure can be divided into three phases: 1) project developers gathering information, preparing documentation and filing applications, 2) authorities to evaluate application and grant permit, and 3) possible appeal process.

Phase 1: gathering information, preparing documentation and filing application

For phase 1, the process and requirements vary widely across Member States. In some countries, procedures are in place, resulting in preparation times of not more than 3 months. Other authorities require studies and planning (e.g.

flora and faunistic studies) which take a full year or longer as part of the permit filing, significantly extending preparation times.

Table 1 below presents an overview of the required permits and permit filing procedures in five European countries. The overview gives insight into the differences in permitting procedures between countries. In Denmark, plant developers can apply for the local zoning plan and the environmental approval on a conceptual design. If the project development is well underway and all the required information can be provided swiftly, the application period is can take as short as 3 months. The completion of the design is then running in parallel with the evaluation and granting process. The building permit, requiring a detailed design plan, is applied for after the approval of the local zoning plan and granting of the environmental approval.

In other countries, the preparation process is more extensive and longer. For example, in one country, national legislation requires a full year of flora and faunistic study on the project site in preparation to the permit filing, as well as either a full field spreading plan or an emergency spreading plan for the digestate. Identifying and analysing all plots where the digestate will be spread in operation. As a result, the expected preparation time would be significantly longer.

TABLE 1: OVERVIEW OF THE MAIN REQUIRED PERMITS AND PERMIT FILING PROCEDURES, AND THE RESPONSIBLE AUTHORITIES FOR DENMARK, THE NETHERLANDS, FRANCE, ITALY, IRELAND AND GERMANY.

Country	Major permits required to construct and operate a biomethane production facility	Responsible authority
Denmark*	Local zoning plan (including Environmental Impact Assessment (EIA))	Municipal authorities
	Environmental approval (license to operate including EIA and risk acceptance)	Municipal authorities
	Building permit	Municipal authorities
The Netherlands*	Environmental Impact Assessment (EIA))	Provincial authorities
	WnB (Nature Protection Permit)	Provincial authorities
	Construction Permit	Municipal authorities
	WABO (Environmental permit including a seveso ⁴ notification for risk acceptance)	Provincial authorities
	Request Bibob notification (to provide insight into financial records)	Municipal authorities
	Water extraction permit	Water board
	Water discharge permit	Water board
France*	ICPE (License to operate including EIA, Environmental Impact Studies, Sanitary risk analysis, Hazard studies, Filed spreading permit)	Regional authorities (DREAL)
	Building permit	Municipal authorities
Italy	Request of Connection to the gas grid	SNAM (grid operator)
	Permit for the construction and operation of the plant	Municipal authorities
	Permit from the firefighting department	Local fire brigade command
	Customs agency for the License for tax required for the consumption of biomethane onsite	Customs agency
	GSE for the qualification for the financial incentives	GSE
Ireland	Environmental Impact Assessment Study and Report (EIAR), used to validate planning and Environmental Protection Agency (EPA) licensing	EPA
	Application for Full Planning Permission for all aspects of the project including destination of biomethane, CO ₂ handling facilities and digestate processing facilities	Local authority
	Industrial Emissions Licence, covering liquids, gasses and solids	EPA
	Application for connection to the gas network	GIE
Germany	Preparatory and legally binding Land-use Plan	Municipality
	BlmSchG–License: includes all official decisions with a bearing on the installation – except plan approvals, permits for water usage and grid connection. The EIA is part of the BlmSchG licence process. Whether a BlmSchG–License is required depends on the type of installation and their size or capacity. ⁵	Coordinating Authority Emission control agency (country level)
	Permission for water usage, if wastewater is to be discharge or run-off water to be percolated.	Agency for water protection (country level)

* The basis for this listing is a 600.000 ton/year biogas installation based on minimum 80% agricultural residue (manure and deep litter). Production of approximately 20 million Nm³ biomethane per year

⁴ [Seveso – Major accident hazards – Environment – European Commission \(europa.eu\)](https://ec.europa.eu/eia/seveso/)

⁵ The installation types and thresholds upon which a BlmSchG–license is necessary are determined in Annex 1 of the Ordinance on Installations Requiring a Permit – (Verordnung über genehmigungsbedürftige Anlagen – 4. BlmSchV).

Phase 2: evaluation of application and granting permit

Similarly to phase 1, typical duration for phase 2 varies widely across Member States. Questionnaire results show that it can take from 6 months (e.g. Belgium, Austria) up to four years (e.g. the Netherlands, Finland, Ireland). Lengthy timelines (above 2 years) can endanger the pace of investments required to meet the 35 bcm biomethane target. The duration is strongly affected by the number of documents filed and actors required for the permitting procedure, including the need for an environmental study, the grid connection procedure and sustainability and GHG emission (saving) calculations. The phase also involves one or multiple hearings where stakeholders can comment and raise concerns before a permit is granted.

Several Member States have time limits on the evaluation of applications in place. However, these maximum time periods often start after the permitting officer has confirmed that the application documentation is complete. Often, requests for additional information are sent to applicants, which may 'stop the clock' so that the maximum time limits are respected but the actual procedure duration is longer.

Phase 3: possible appeal process

During phase 3, stakeholders can object against a granted permit. The permit approval procedure also involves periods in which objections can be made, but appeals take place after a permit is granted and before the permit comes into force. It is hard to specify typical durations for phase 3. It could take a couple of weeks, if no appeals are raised, but can also take several years. In the appeal process, stakeholders address their concerns on and opposition against the granted permit, potentially resulting in a required change to the proposed project, the permit or a complete withdrawal of the permit. Typical reasons for appeals are concerns from local communities about odour, noise, traffic and a decrease in the value of near-by houses.



BARRIERS TO BIOMETHANE PERMITTING

The questionnaire among industrial actors that are a member of the BIP and the analysis of permitting procedures in different EU Member States described above, contributed to identifying barriers to efficient and accelerated permitting. The main roadblocks identified are summarised below (in random order):

1. Subjective evaluation of permit applications

Answers from the questionnaire indicated that the personal relationship to the officer or the personal attitude of the officer can play a role in the length and success of the permitting process. It seems that sometimes permitting officers are biased against biomethane or may favour some (local) companies over others. The Renewable Energy Directive requires that permitting should be based on objective and quantifiable criteria.⁶

2. Unclear permitting process

Article 16 of the Renewable Energy Directive 2018/2001 states that a manual of permitting procedures for renewable energy production projects should be available online for developers.⁷ In a large number of Member States, however, a clear description of the permitting procedure and the required documents is not available in digital form. This leaves a lot of room for interpretation of regulation and requirements for both the permitting officer and the project

developer. As a consequence, the permitting process may vary significantly between provinces, states or municipalities.

3. Excessive documentation and impractical planning

Often a very large quantity of documentation is required when applying for a permit. Some request for information come too early. For example, authorities may ask for nearly completed project designs in the permit application. The comprehensive application requirements early in the development process often lead to extra cost or significant delays because the permit must be adjusted in a later stage, e.g. if the composition of feedstock changes during the project. The same is true for the detailed technical design of the plant. Also, some environmental assessments require at least one year (one full vegetation cycle).

4. Limited resources among permitting authorities

The human resources at permitting authorities are limited and are not always able to keep up with the increase in RES applications. This leads to significant delays even though there are clear legal timeframes for the permitting process.

⁶ [Renewable Energy Directive](#), article 15: "Member States shall, in particular, take the appropriate steps to ensure that (...) rules concerning authorisation, certification and licensing are objective, transparent and proportionate, do not discriminate between applicants and take fully into account the particularities of individual renewable energy technologies; (...)"

⁷ Renewable Energy Directive, article 16: "The contact point shall make available a manual of procedures for developers of renewable energy production projects and shall provide that information also online, addressing distinctly also small-scale projects and renewables self-consumers projects. (...)"

5. Permitting officers do not always have the necessary expertise

There can be a lack of knowledge of biomethane production processes within the authorities especially in markets with only limited experience with biomethane and only a few existing sites or due to frequent job rotations among permitting officers (experienced staff leaves, being replaced by less experienced staff) or changes in the permitting process.

6. Risk of limited local support and easy appeal process

A lack of local support for or local resistance to a project may cause reluctance among local politicians to grant a permit. Also, resistance can lead to appeals, delaying the introduction of new production facilities. These appeals block processes, and the financing banks may hold back on pay-outs on the loan until the appeal cases are settled completely. The appeals may come at very low cost for the submitter and do not require the submitter to be a stakeholder in the process. It is often rather easy to appeal against a granted permit.



GOOD PRACTICES IN BIOMETHANE PERMITTING

In this chapter, good practices and solutions that can help to overcome the barriers identified in the previous chapter are explored. Many of the good practices and solutions described in this chapter are already part of the European Commission's policy recommendation for speeding up permit-grating procedures for RES and facilitating PPA's, as part of the REPowerEU plan of May 18, 2022. In addition, good practices by project developers easing the permitting process include thorough site due diligence, early involvement of local stakeholders and early information sharing with local communities.

1. Zoning approach for biomethane

Permitting processes for biomethane can be improved by the creation of the zoning areas for sustainable biomethane, where quicker or automatic permitting applies. These areas with sufficient sustainable feedstock availability and potential, and gas grid infrastructure (i.e. injection via physical or virtual pipeline will be technically and economically viable), can be prioritized for the accelerated sustainable biomethane development. The access of

biomethane to the grid should be facilitated in these areas.

2. Rebuttable presumption that sustainable biomethane projects are of overriding public interest

The process for permitting sustainable biomethane production can be improved by the introduction of a rebuttable presumption that sustainable biomethane projects are of overriding national and public interest, are serving public good, and do no significant harm. Overriding public interest is a legal concept included in Article 3 of the Council Regulation on laying down a framework to accelerate the deployment of renewable energy,⁸ as well as Article 16 of the provisionally agreed revised Renewable Energy Directive.⁹ Projects recognised as being of overriding public interest are given priority when balancing legal interests in the individual case in the planning, permit-granting, construction, and operation process.^{10,11} Acknowledging that sustainable biomethane projects are of overriding public interest allows new projects to benefit from a simplified assessment for specific derogations foreseen in the relevant European Union environmental

⁸ European Commission (2022). [Questions and Answers on emergency measures to accelerate the deployment of renewable energy](#).

⁹ Final compromise text on the Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources, Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency, COM/2022/222 final, available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CONSIL:ST_10794_2023_INIT

¹⁰ Council Regulation, 22 December 2022, [Laying down a framework to accelerate the deployment of renewable energy](#). Article 3.

¹¹ An earlier example of overriding public interest is the LNG Acceleration Act in Germany (June 1, 2022), providing accelerated procurement procedures and forgoing the environmental impact assessment to build the necessary import infrastructure. The act intends to counter Germany's reliance on Russian Gas. See: [LNG: securing national energy supplies | Federal Government \(bundesregierung.de\)](#)

legislation. In addition, industry actors suggests that a best practice is to limit the appeal process of a project of overriding public interest to a maximum of 3 months.

3. Close interaction with local communities

It helps to avoid concerns or conflicts during the permitting procedure and ease decision making in the appeal process, shortening and easing the permitting of sustainable biomethane projects. Herein, a good practice example would be for the project developers to be in close contact with the local community. An example could be to organise informative sessions on the project plans with the local community, being transparent on the project's impact, costs and benefits. By organising informative sessions, local resistance towards the project is likely to decrease. In dialogue, local concerns can be discussed and jointly ways can be found to reduce or overcome them. This will decrease the probability of local resistance, avoid an appeal process and thus accelerate project development.

4. Time limit with implications in case not met

Providing for implications where excessive delays are caused by insufficient resources or expertise of permitting bodies (e.g. after a period of 6–12 months) can help accelerate procedures. This good practice is linked to barriers 4 'limited resources among permitting bodies', and 5 'limited expertise'. The nature of these "implications" limit is a topic for further research and discussion.

5. 'One-stop-shop' for biomethane permitting

A one-stop-shop for biomethane links to barriers 2 'a unclear permitting process' and 4 'limited resources among permitting bodies', and means that the permitting procedure will be managed by one office.¹² This office is the single point of contact for the developers, and responsible for involving the other competent offices and adhering to the time schedule. This can ease and clarify the process for the project developer, and avoid unnecessary or overlapping contacts and consultations between the project developer and permitting bodies.

As part of implementing an one-stop-shop for biomethane permitting, one or multiple meetings with the project developers, the relevant authorities and the permitting officer(s) at the start of the application process is a good practice. Even with the existence of a one-stop-shop for biomethane permitting, multiple offices will be involved. A pre-permitting engagement with the project developer, relevant authorities and the permitting officer helps align the expectations, reduce the risk of misinterpretations and help optimise the permit filing and evaluation processes. Also, it helps project developers understand the permitting application requirements and procedures, and draw a detailed permit filing plan, clarifying the required analyses and documents and their timing. This good practice links to barriers 2 'unclear permitting process', 3 'excessive documentation needed' and to a certain extent to barrier 5 'limited expertise'.

¹² The RED 2001/2018, Article 16, requires Member States to establish one-stop-shops for permit granting for renewable energy sources. "Member States shall set up or designate one or more contact points. Those contact points shall, upon

request by the applicant, guide through and facilitate the entire administrative permit application and granting process. The applicant shall not be required to contact more than one contact point for the entire process."

6. Specialised training to permitting bodies

A training programme at national level on the necessary documentation, and technical understanding of biomethane production, can help to overcome barrier 5 'limited expertise'. The European Commission has recommended Member States to train staff on permit-granting procedures and on environmental assessments.¹³

7. Clear communication, guidelines and standard operating procedures for permitting

Clear communication, guidelines and standard operating procedures for permitting links to barriers 2 'unclear permitting process' and 3 'Excessive documentation required'. The BIP could further develop a document compiling the best practices on biomethane permitting identified in close collaboration with all relevant stakeholders, including national authorities.

At national level, having standard operating procedures for the permitting process can improve clarity on the permitting procedures for both project developers and the permit officers. The procedure should describe the process steps, define timelines and list required documents and studies. If possible, this procedure should be applicable to a whole country. It could also make sure that political or legal principles are respected, e.g., overriding public interest of RES defined by central government but local officers do not always know how to transfer this in their daily work.

In addition, industry associations could establish a help desk to support companies in permit filing. This is already the case in Austria and Italy and works well.

¹³ Commission recommendation 18 May 2022. Document code: [52022SC0149](#)

AN IDEAL PERMITTING PROCEDURE

From the sections above it is clear that the current permitting procedures can create uncertainties for investors in many of the EU Member States. Building on the analysis of existing good practices in various Member States and the analysis of main challenges experienced by project developers, the BIP has identified an 'ideal' standard filing procedure for permitting. A standardised permitting procedure based on a nationally developed conceptual design can drastically reduce risks and costs for project developers.

The ideal filing procedure starts-off with a meeting between local authorities to align views and understanding (legal, financial, environmental including renewable energy policy). Following this meeting a decision is taken by local authorities on whether an application for a project on a specific site may be developed and submitted. This includes the commitment to a defined timeline for finalisation of a filing evaluation. If the timeline is at risk of not being met, permitting authorities recruit environmental consultants to help complete the work.

The ideal filing procedure includes early interaction with local stakeholders and politicians. The project developer and local authorities together present the project idea to local stakeholders at a very early stage, enabling local communities to give input and address their concerns to the project.

Next, an environmental impact assessment is prepared between project developer and local authorities. There could be significant time savings here if certain elements of the EIA (e.g. the evaluation of how biomethane projects affect local biodiversity) are standardised, simplified or

removed for biogas/biomethane projects. Also, the draft zoning plan and environmental approval is prepared and filed by the permitting authority. In some markets, the re-zoning of agricultural land is an obstacle. Biomethane installations should get priority in spatial planning, one way in which this could potentially be organised is by including them in agricultural zoning plans. The permitting filing includes one round of reviews by local authorities, with a fixed timeline. The documents that are to be reviewed by local authorities are selected on a national level and the same for all regions.

After the finalisation of the permit filing, a public hearing will take place, for the environmental impact assessment, zoning plan and environmental approval together. If no concerns or issues are raised in this hearing, a decision is made by the local authorities on the approval of the project.

The appeal procedure following the granting of the permit (phase 3) is restricted to procedural and legal matters, and the procedure time for the evaluation of appeals is reduced. Also, project developers are allowed to start construction at their own risk during the appeal evaluation phase.

BIOMETHANE INDUSTRIAL PARTNERSHIP

