



Energy | Biomethane Decree: summary of  
the most relevant provisions introduced

# Published in the Official Gazette the «Biomethane Decree» (Decree No. 240 of Sept. 15, 2022), concerning incentives to produce biomethane to be fed into the natural gas grid in implementation of the PNRR.

## Biomethane Decree: measures overview

The Decree of the Ministry of Ecological Transition (MITE) (No. 240) of September 15, 2022, *«Implementation of Articles 11, paragraph 1, and 14, paragraph 1, letter b of Legislative Decree No. 199 of Nov. 8, 2021, in order to support the production of biomethane fed into the natural gas grid, consistent with Mission 2, Component 2, Investment 1.4, of the PNRR»* («**Biomethane Decree**») was published in the Official Gazette No. 251 of October 26, 2022.

The Biomethane Decree was issued in implementation of the referred articles of Legislative Decree No. 199/2021, transposing the RED II Directive, which provided for the issuance of decrees in implementation of Mission 2, Component 2, Investment 1.4 *«Development of biomethane, according to criteria to promote the circular economy»*.

**The Biomethane Decree came into effect on October 27, 2022 and aims to support the production of biomethane fed into the natural gas grid and produced, in compliance with the sustainability requirements of Directive 2018/2001/EU, from newly built plants fueled by agricultural matrices and organic waste or from plants for the production of electricity from agricultural biogas undergoing conversion (so-called revamping).**

Specifically, through the allocation of incentives (**capital grants and feed-in tariffs**) amounting to a total of **1,730.4 million euros from the PNRR to support biomethane production, the Biomethane Decree:**

- support the conversion and efficiency upgrading of existing agricultural biogas plants toward the total partial production of biomethane destined for both the industrial and residential heating and cooling sectors;
- incentivize the construction of new biomethane production plants;
- will seek to improve the heat use efficiency and the reduction of the emissions of existing small-scale agricultural facilities for which conversion measures cannot be accessed.

The Biomethane Decree opens up the possibility for biomethane to be used for non-transportation purposes as well, but the rules for applying the measures provided therein will have to be regulated in detail through a further decree by the Ministry of the Environment and Energy Security, based on a proposal by the GSE.

The final purpose will be to:

- minimize the effects of the rising of raw material costs;
- support the development of the biomethane market in final uses and the transportation sector;
- implement the investments while complying with the tight timelines imposed by the PNRR, even in light of the current difficulties in sourcing materials and components.

## Biomethane plants: the regulations and new incentives

### Eligibles for the access

Entitled to the incentives will be the above-mentioned plants:

- for which the **works have not been started before the publication of the ranking list** pursuant to Article 5, paragraph 2, second sentence; and
- which **complete the implementation of the works accepted for funding and enter into operation by June 30, 2026.**



In this regard, the Decree specifies that interventions are considered to have started at the time of the **assumption of the first obligation that makes an investment irreversible**, such as, for example, that relating to the ordering of equipment or the start of construction work (and not also the purchase of land and preparatory works such as obtaining permits and carrying out preliminary feasibility studies).

Instead, access to the incentives will be **precluded**:

- (i) to distressed companies as defined in point 20 of European Commission Notice 2014/C 249/01;
- (ii) to submitters for whom one of the causes of exclusion referred to in Article 80 of Legislative Decree No. 50 of 2016 («Public Contracts Code») applies;
- (iii) to entities benefiting from the scheme set forth in the Ministerial Decree of March 2, 2018.

## Requirements

For access to the competitive procedures set forth in the Biomethane Decree, plants will have to fulfill the following requirements:

- a) possession of a **permit for the construction and operation of the plant**;
- b) in the case of facilities to be connected to gas transmission and distribution networks with the obligation to connect third parties, **connection quotation issued by the competent network operator and accepted by the submitters**;

c) **compliance of the biomethane produced with the criteria set out in Directive 2018/2001/EU** for the purpose of fulfilling the «do no significant harm» principle, the relevant requirements set out in Annex VI, note 8, of Regulation 2021/241/EU, as well as at least one of the following sustainability requirements:

**1. the facility produces biomethane intended for the transport sector from the raw materials that can be used for the production of advanced biofuels** referred to in Annex VIII to Legislative Decree no. 199 of 2021, and achieves a reduction of at least **65% of greenhouse gas emissions through the use of biomass**;

**2. the facility produces biomethane intended for other uses** and achieves a reduction of at least **80%** of greenhouse gas emissions through the use of biomass (compliance with this requirement allows access to the procedures until the maximum amount of producibility allocated to the transportation sector of 1.1 billion annually and pursuant to the Ministerial Decree of August 5, 2022, which is then subject to update);



d) in the case of **reconversions**, the intervention is carried out on **existing agricultural facilities**;

e) in the case of **facilities located in areas affected by community violation procedures** for the purpose of improvement of air quality and countering air pollution, biomethane productions from biomass shall comply with the emission limits stipulated therein, in accordance with the contents of the respective *«Plans for Countering Air Quality Limit Exceedances»*.

f) in the case of submitters carrying out industrial activities, covered by the categories set out in Annex 1 to Directive 2010/75/EU, depending also on the capacity values, where biomethane production takes place on an industrial scale through chemical or biological transformation processes of substances or groups of substances of organic chemical manufacturing and, in particular, simple hydrocarbons (category 4.1.a), **compliance with Directive 2010/75/EU must be ensured**, as found in the authorization documents in Part II of Legislative Decree No. 152 of 2006 and, for industrial activities, in Title I, Part V of the latter decree;

g) in the case of **agricultural facilities located in nitrate-vulnerable zones with nitrogen loads of livestock origin exceeding 120 kg/ha** as defined by Regional Action Plans in compliance with Directive 91/676/EEC, at least **40%** by weight of livestock manure must be used in the overall feeding plan;

h) projects must provide for **plant digestate storage tanks**, with a volume equal to the production of at least 30 days, which must **be covered gas-tight and equipped with systems for capturing and recovering gas to be reused for the production of electricity, heat or biomethane**. This requirement is not necessary if the digestate is not stored but sent directly to the composting process.



## The incentives

Biomethane production plants that fulfill the above requirements will be granted with an incentive consisting of:

- o a **capital grant** («*contributo in conto capitale*») on the eligible expenses of the investment incurred, within the limits of the maximum eligible investment cost and according to the percentages indicated in Annex 1 of the Biomethane Decree and reported below:

Type of biomethane production plants	Biomethane production capacity (Cp)	Maximum specific investment cost [€/Smc/h]	Maximum specific investment cost [€/Smc/h]	Percentage of capital grant contribution [%]
		New plants	Reconversions	
Agricultural plants	Cp ≤ 100 Smc/h	33.000	12.600	40%
	100 Smc/h < Cp ≤ 500 Smc/h	29.000	12.600	40%
	Cp > 500 Smc/h	13.000	11.600	40%
Plants fueled by organic waste	Any	50.000		40%

- o a **feed-in tariff** («*tariffa incentivante*») applied to the net production of biomethane for a duration of 15 years and delivered from the date of entry into operation of the plant, calculated in accordance with the methods set out in Article 7 and Annex 2 of the Biomethane Decree and reported below:

Type of biomethane production plants	Biomethane production capacity (Cp)	Reference tariff Both new agricultural plants and new plants fueled by organic waste – Reconversions only for agricultural plants
Small-scale agricultural plants	Cp ≤ 100 Smc/h	115
Others agricultural plants	>100 Smc/h	110
Plants fueled by organic waste	Any	62

## Incentive access procedures and capacity quotas

Access to the incentives will take place following the award of public competitive procedures in which production **capacity quotas** (expressed in standard cubic meters/hour of biomethane for a total of 257,000 Smc/h) listed below will be made available periodically:

- year 2022: 67.000 Smc/h;
- year 2023: 95.000 Smc/h;
- year 2024: 95.000 Smc/h.

## Implementation of interventions and disbursement of incentives

Once the ranking list has been drawn up, **agricultural biomethane production plants** shall come into operation no later than **eighteen months** from the date of its publication, while those fueled by **organic waste** shall come into operation no later than **twenty-four months**, failing which the feed-in tariff shall be reduced.

Owners of agricultural facilities are required to notify the GSE of the date of start-up within 30 days after the start of operation (under penalty of losing the incentive period between the date of start-up and the first day of the month following the notification).

Plants with a **production capacity of 250 Smc/h or less** that feed biomethane into the grids with a third-party connection obligation may apply for the disbursement of the due tariff in the form of an all-inclusive tariff.

Plants with a **production capacity of more than 250 Smc/h**, as well as for **all production facilities that feed biomethane into natural gas networks other than networks with a third-party connection obligation**, the tariff payable shall be disbursed in the form of a premium tariff calculated in the manner set forth in Article 2, paragraph 1, letter v), and in this case the guarantees of origin shall be assigned to the producer.

The GSE, upon signing a contract with the entitled party, recognizes incentives on a monthly basis according to the measurement data of biomethane fed into the natural gas grid, as collected and transmitted to the GSE by the relevant grid operators. The GSE shall disburse the incentives due for a period of **15 years from the date of entry into commercial operation** communicated by the owner subject (including after any start-up and testing phase of the plant).

## Capital grant disbursement

Together with the notice of entry into operation, the owners of plants placed in a useful position in the ranking list will have to enclose the evidence of expenses incurred and receipted for the implementation of the intervention. The GSE will analyze the documentation received to assess the eligible expenses and verify whether they match the maximum eligible costs (as per Annex 1 above).

For the purpose of disbursement of the capital grant, are considered eligible expenses the:

- costs for the construction and efficiency of the plant such as the infrastructure and machinery required for the management of biomass and the anaerobic digestion process, digestate storage, the construction of the biogas purification plant, the processing, compression and storage of biomethane and CO<sub>2</sub>, and the construction of the facilities and equipment for the company's own consumption of biomethane;
- biomethane and flue gas monitoring and oxidation equipment and fugitive emission monitoring equipment;
- costs for connection to the natural gas grid;
- costs for the purchase or acquisition of computer programs functional to the management of the plants

- costs of design, construction management, testing, consultancy, feasibility studies, purchase of patents and licenses, related to the implementation of the above-mentioned investments, to the maximum total extent of 12% of the total eligible expenditure;

## Other provisions

There is no mention of the other provisions of the Biomethane Decree, such as how biomethane fed into the natural gas grid and the possibility of participation in competitive procedures for biomethane plants located in other member states. With regard to possible verification and control activities by the GSE on biomethane production plants and the related feed-in to the natural gas grid, it is only worth highlighting the provision that controls may be carried out even before the plant starts operation and without prior notice.

## Final considerations

The Biomethane Decree introduced significant innovations for the promotion and development of the sector in line with the objectives of the PNRR, providing, in addition to a feed-in tariff, a capital grant of 40% on the eligible expenses of the investment incurred (within the maximum cost limits of the eligible investment), as reported in the previous paragraph.

The introduction of a grant contribution is a new element compared to the previous incentive scheme under the Ministerial Decree of March 2, 2018 («Promotion of the use of biomethane and other advanced biofuels in the transport sector»), which regard plants that enter into operation by December 31, 2022 (deadline extended to December 31, 2023 by the Ministerial Decree of August 5, 2022).

For the dates of the procedures of the Biomethane Decree and how they will be carried out, now we only have to wait for the Implementing Rules by the end of November.

Then, by the end of the year, the first competitive procedure of the Biomethane Decree, scheduled for this 2022, will be published.





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