



Council of the
European Union

Brussels, 16 July 2021
(OR. en)

**Interinstitutional File:
2021/0211(COD)**

**10875/21
ADD 1**

**CLIMA 193
ENV 528
ENER 328
TRANS 477
AGRI 356
COMPET 555
ECOFIN 746
CODEC 1099**

PROPOSAL

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 15 July 2021

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: COM(2021) 551 final

Subject: ANNEX to the DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757

Delegations will find attached document COM(2021) 551 final.

Encl.: COM(2021) 551 final



Brussels, 14.7.2021
COM(2021) 551 final

ANNEX

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to the

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union, Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading scheme and Regulation (EU) 2015/757

{SEC(2021) 551 final} - {SWD(2021) 557 final} - {SWD(2021) 601 final} -
{SWD(2021) 602 final}

ANNEX

Annex I to Directive 2003/87/EC is amended as follows:

(a) Points 1 and 2 are replaced by the following:

“1. Installations or parts of installations used for research, development and testing of new products and processes, and installations where emissions from the combustion of biomass that complies with the criteria set out pursuant to Article 14 contribute to more than 95 % of the total greenhouse gas emissions are not covered by this Directive.

2. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the EU ETS, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, shall be added together. These units may include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW shall not be taken into account for the purposes of this calculation.”;

(b) **the table is amended as follows:**

(i) **The second row is replaced by the following:**

Refining of oil, where combustion units with a total rated thermal input exceeding 20 MW are operated	Carbon dioxide" ;
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(ii) **The fifth row is replaced by the following:**

“Production of iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2,5 tonnes per hour	Carbon dioxide" ;
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(iii) **The seventh row is replaced by the following:**

“Production of primary aluminium or alumina	Carbon dioxide" ;
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(c) **The fifteenth row of categories of activities is replaced by the following:**

(2) “Drying or calcination of gypsum or production of plaster boards and other gypsum products, with a production capacity of calcined gypsum or dried secondary gypsum exceeding a total of 20 tonnes per day	(3) Carbon dioxide" ;
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(iv) **The eighteenth row is replaced by the following:**

“Production of carbon black involving the carbonisation of organic substances such as oils, tars, cracker and distillation residues with a production capacity exceeding 50 tonnes per day	Carbon dioxide" ;
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(v) **The twenty-fourth row is replaced by the following:**

“Production of hydrogen (H ₂) and synthesis gas with a production capacity exceeding 25 tonnes per day	Carbon dioxide" ;
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(vi) The twenty-seventh row is replaced by the following:

“Transport of greenhouse gases for geological storage in a storage site permitted under Directive 2009/31/EC, with the exclusion of those emissions covered by another activity under this Directive	Carbon dioxide" ;
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(vii) the following row is added after the last new row, with a separation line in between:

“Maritime transport Maritime transport activities of ships covered by Regulation (EU) 2015/757 of the European Parliament and of the Council performing voyages with the purpose of transporting passengers or cargo for commercial purposes	Greenhouse gases covered by Regulation (EU) 2015/757”;
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(1) Annex IIb to Directive 2003/87/EC is replaced by the following:

“ANNEX IIb

Part A - DISTRIBUTION OF FUNDS FROM THE MODERNISATION FUND CORRESPONDING TO ARTICLE 10(1), THIRD SUBPARAGRAPH

	Share
Bulgaria	5,84 %
Czechia	15,59 %
Estonia	2,78 %
Croatia	3,14 %
Latvia	1,44 %
Lithuania	2,57 %
Hungary	7,12 %
Poland	43,41 %
Romania	11,98 %
Slovakia	6,13 %

Part B - DISTRIBUTION OF FUNDS FROM THE MODERNISATION FUND CORRESPONDING TO ARTICLE 10(1), FOURTH SUBPARAGRAPH

	Share
Bulgaria	5,0 %
Czechia	12,9 %
Estonia	2,2 %

Greece	10,3 %
Croatia	2,3 %
Latvia	1,1 %
Lithuania	1,9 %
Hungary	5,9 %
Poland	34,8 %
Portugal	8,8 %
Romania	9,9 %
Slovakia	4,9 %

- (2) The following Annexes are inserted as Annexes III, IIIa and IIIb to Directive 2003/87/EC:

“ANNEX III

ACTIVITY COVERED BY CHAPTER IVa

<p>Activity:</p> <p>1. Release for consumption of fuels which are used for combustion in the sectors of buildings and road transport.</p> <p>This activity shall not include:</p> <p>(a) the release for consumption of fuels used in the activities set out in Annex I to this Directive, except if used for combustion in the activities of transport of greenhouse gases for geological storage (activity row twenty seven);</p> <p>(b) the release for consumption of fuels for which the emission factor is zero.</p> <p>2. The sectors of buildings and road transport shall correspond to the following sources of emissions, defined in 2006 IPCC Guidelines for National Greenhouse Gas Inventories, with the necessary modifications to those definitions as follows:</p> <p>(a) Combined Heat and Power Generation (CHP) (source category code 1A1a ii) and Heat Plants (source category code 1A1a iii), insofar as they produce heat for categories under (c) and (d) of this point, either directly or through district heating networks;</p> <p>(b) Road Transportation (source category code 1A3b), excluding the use of agricultural vehicles on paved roads;</p> <p>(c) Commercial / Institutional (source category code 1A4a);</p> <p>(d) Residential (source category code 1A4b).</p>	<p>Greenhouse gases</p> <p>Carbon dioxide (CO₂)</p>
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ANNEX IIIa

ADJUSTMENT OF LINEAR REDUCTION FACTOR IN ACCORDANCE WITH ARTICLE 30c(2)

1. If the average emissions reported under Chapter IVa for the years 2024 to 2026 are more than 2% higher compared to the value of the 2025 quantity defined in accordance with Article 30c(1), and if these differences are not due to the difference of less than 5% between the emissions reported under Chapter IVa and the inventory data of 2025 Union greenhouse gas emissions from UNFCCC source categories for the sectors covered under Chapter IVa, the linear reduction factor shall be calculated by adjusting the linear reduction factor referred to in Article 30c(1).

2. The adjusted linear reduction factor in accordance with point 1 shall be determined as follows:

$[LRF_{adj} = 100\% * ((MRV_{[2024-2026]} - (MRV_{[2024-2026]} + (ESR_{[2024]} - 6 * LRF_{[2024]} * ESR_{[2024]}) - MRV_{[2024-2026]}) / 5)) / MRV_{[2024-2026]}]$, where,

LRF_{adj} is the adjusted linear reduction factor;

$MRV_{[2024-2026]}$ is the average of verified emissions under Chapter IVa for the years 2024 to 2026;

$ESR_{[2024]}$ is the value of 2024 emissions defined in accordance with Article 30c(1) for the sectors covered under Chapter IVa;

$LRF_{[2024]}$ is the linear reduction factor referred to in Article 30c(1).]

(3) Annex IV to Directive 2003/87/EC is amended as follows:

in Part A, the section “Calculation” is amended as follows:

(i) in the fourth subparagraph, the last sentence “The emission factor for biomass shall be zero.” is replaced by the following:

“The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, as set out in the implementing acts referred to in Article 14, shall be zero.”;

(ii) the sixth subparagraph is replaced by the following:

“Default oxidation factors developed pursuant to Directive 2010/75/EU shall be used, unless the operator can demonstrate that activity-specific factors are more accurate.”;

(b) in Part B, section “Monitoring of carbon dioxide emissions”, fourth subparagraph, the last sentence “The emission factor for biomass shall be zero.” is replaced by the following:

“The emission factor for biomass that complies with the sustainability criteria and greenhouse gas emission saving criteria for the use of biomass established by Directive (EU) 2018/2001, with any necessary adjustments for application under this Directive, as set out in the implementing acts referred to in Article 14, shall be zero.”;

(a) the following Part C is added:

“PART C — Monitoring and reporting of emissions corresponding to the activity referred to in Annex III

Monitoring of emissions

Emissions shall be monitored by calculation.

Calculation

Emissions shall be calculated using the following formula:

Fuel released for consumption × emission factor

Fuel released for consumption shall include the quantity of fuel released for consumption by the regulated entity.

Default IPCC emission factors, taken from the 2006 IPCC Inventory Guidelines or subsequent updates of these Guidelines, shall be used unless fuel-specific emission factors identified by independent accredited laboratories using accepted analytical methods are more accurate.

A separate calculation shall be made for each regulated entity, and for each fuel.

Reporting of emissions

Each regulated entity shall include the following information in its report:

A. Data identifying the regulated entity, including:

- name of the regulated entity;
- its address, including postcode and country;
- type of the fuels it releases for consumption and its activities through which it releases the fuels for consumption, including the technology used;
- address, telephone, fax and email details for a contact person; and
- name of the owner of the regulated entity, and of any parent company.

B. For each type of fuel released for consumption and which is used for combustion in the buildings and road transport sectors as defined in Annex III, for which emissions are calculated:

- quantity of fuel released for consumption;
- emission factors;
- total emissions;
- end use(s) of the fuel released for consumption; and
- uncertainty.

Member States shall take measures to coordinate reporting requirements with any existing reporting requirements in order to minimise the reporting burden on businesses.”;

(4) in Annex V to Directive 2003/87/EC, the following Part C is added:

“PART C — Verification of emissions corresponding to the activity referred to in Annex III

General Principles

1. Emissions corresponding to the activity referred to in Annex III shall be subject to verification.

2. The verification process shall include consideration of the report pursuant to Article 14(3) and of monitoring during the preceding year. It shall address the reliability, credibility and accuracy of monitoring systems and the reported data and information relating to emissions, and in particular:

- (a) the reported fuels released for consumption and related calculations;
- (b) the choice and the employment of emission factors;
- (c) the calculations leading to the determination of the overall emissions.

3. Reported emissions may only be validated if reliable and credible data and information allow the emissions to be determined with a high degree of certainty. A high degree of certainty requires the regulated entity to show that:

- (a) the reported data is free of inconsistencies;
- (b) the collection of the data has been carried out in accordance with the applicable scientific standards; and
- (c) the relevant records of the regulated entity are complete and consistent.

4. The verifier shall be given access to all sites and information in relation to the subject of the verification.

5. The verifier shall take into account whether the regulated entity is registered under the Union Eco-Management and Audit Scheme (EMAS).

Methodology

Strategic analysis

6. The verification shall be based on a strategic analysis of all the quantities of fuels released for consumption by the regulated entity. This requires the verifier to have an overview of all the activities through which the regulated entity is releasing the fuels for consumption and their significance for emissions.

Process analysis

7. The verification of the information submitted shall, where appropriate, be carried out on the site of the regulated entity. The verifier shall use spot-checks to determine the reliability of the reported data and information.

Risk analysis

8. The verifier shall submit all the means through which the fuels are released for consumption by the regulated entity to an evaluation with regard to the reliability of the data on the overall emissions of the regulated entity.

9. On the basis of this analysis the verifier shall explicitly identify any element with a high risk of error and other aspects of the monitoring and reporting procedure which are likely to contribute to errors in the determination of the overall emissions. This especially involves the calculations necessary to determine the level of the emissions from individual sources. Particular attention shall be given to those elements with a high risk of error and the abovementioned aspects of the monitoring procedure.

10. The verifier shall take into consideration any effective risk control methods applied by the regulated entity with a view to minimising the degree of uncertainty.

Report

11. The verifier shall prepare a report on the validation process stating whether the report pursuant to Article 14(3) is satisfactory. This report shall specify all issues relevant to the work carried out. A statement that the report pursuant to Article 14(3) is satisfactory may be made if, in the opinion of the verifier, the total emissions are not materially misstated.

Minimum competency requirement for the verifier

12. The verifier shall be independent of the regulated entity, carry out his or her activities in a sound and objective professional manner, and understand:

- (a) the provisions of this Directive, as well as relevant standards and guidance adopted by the Commission pursuant to Article 14(1);
- (b) the legislative, regulatory, and administrative requirements relevant to the activities being verified; and
- (c) the generation of all information related to all the means through which the fuels are released for consumption by the regulated entity, in particular, relating to the collection, measurement, calculation and reporting of data.”.