



2023/2441

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COMMISSION IMPLEMENTING REGULATION (EU) 2023/2441

of 31 October 2023

laying down rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards the content and format of climate-neutrality plans needed for granting free allocation of emission allowances

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC ⁽¹⁾, and in particular Article 10a(1), fifth subparagraph and Article 10b(4), fifth subparagraph, thereof,

Whereas:

- (1) Directive 2003/87/EC requires certain operators to establish climate-neutrality plans. Climate-neutrality plans are to be drafted in order to receive the conditional free allocation by operators of installations whose greenhouse gas emission levels are higher than the 80th percentile of emission levels for the relevant product benchmarks. Climate-neutrality plans are also to be drafted by operators of district heating applying for optional additional free allocation for district heating installations in certain Member States.
- (2) In accordance with Article 10a(1), fifth subparagraph, of Directive 2003/87/EC, climate-neutrality plans are to be drafted at installation level and are to contain the elements specified in Article 10b(4) of that Directive. Optionally, it should be possible to provide further details and specific measures at sub-installation level, to significantly reduce greenhouse gas emissions in view of contributing to climate neutrality. For district heating installations in the Member States referred to in Article 10b(4), second subparagraph, of Directive 2003/87/EC, the climate-neutrality plans are to be drafted at company-level or at installation-level in accordance with Article 10b(4), third subparagraph, of that Directive.
- (3) Pursuant to Directive 2003/87/EC, the Commission is to adopt implementing acts to specify the minimal content and format of the climate-neutrality plans while seeking synergies with similar plans as provided for in Union law. In view of generating synergies and reducing the administrative burden for economic operators, elements included in plans under other Union legal acts, in particular those referred to in Directive 2010/75/EU of the European Parliament and of the Council ⁽²⁾, should be considered when drafting the climate-neutrality plans.
- (4) In the context of the climate-neutrality plans, climate neutrality is to be understood as defined by Article 2 of Regulation (EU) 2021/1119 of the European Parliament and of the Council ⁽³⁾.

⁽¹⁾ OJ L 275, 25.10.2003, p. 32.

⁽²⁾ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p. 17).

⁽³⁾ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) No 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).

- (5) To ensure the coherence of Union legislation, the milestones and targets should be defined in accordance with Regulations (EU) 2021/241 ⁽⁴⁾ and (EU) 2023/955 ⁽⁵⁾ of the European Parliament and the Council. To address all relevant aspects of operators' actions towards climate neutrality and to ensure transparency and comparability, a distinction needs to be made in the climate-neutrality plans between the monitoring of progress towards qualitative achievements ('milestones') and the monitoring of progress towards quantitative emissions reduction achievements ('targets'). To ensure consistency with the existing emissions trading system, milestones and targets should be expressed and reported in accordance with the rules set out in Commission Implementing Regulation (EU) 2018/2066 ⁽⁶⁾ and in Commission Delegated Regulation (EU) 2019/331 ⁽⁷⁾.
- (6) In order to be consistent with Delegated Regulation (EU) 2019/331, defining targets specific to the activity levels for product benchmark sub-installations or for fall-back sub-installations should be expressed as tonnes CO₂ equivalents per relevant unit of production. Targets relative to the benchmark values in line with Commission Implementing Regulation (EU) 2021/447 ⁽⁸⁾ should be expressed as percentage reduction. In addition, to allow for more flexibility and to increase the verifiability of the achievement of the targets, it should be possible to also express the targets in absolute terms.
- (7) In order to reduce the administrative burden for operators when collecting data for the climate-neutrality plans, the plans should be integrated into existing procedures for free allocation established by Delegated Regulation (EU) 2019/331. Therefore, the reference period for historical emissions should be consistent with the relevant baseline period as defined in Article 2(14) of that Regulation and the scope of emissions should be consistent with the system boundaries of the relevant sub-installations pursuant to that Regulation. The scope of emissions to be reported should be consistent with the scope of emissions in the greenhouse gas emissions permit of the installation concerned and the requirements for the monitoring and reporting of emissions laid down in Implementing Regulation (EU) 2018/2066.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down the content and format of climate-neutrality plans as referred to in Article 10a(1), fifth subparagraph, and in Article 10b(4) of Directive 2003/87/EC.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- ⁽⁴⁾ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).
- ⁽⁵⁾ Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060 (OJ L 130, 16.5.2023, p. 1).
- ⁽⁶⁾ Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).
- ⁽⁷⁾ Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8).
- ⁽⁸⁾ Commission Implementing Regulation (EU) 2021/447 of 12 March 2021 determining revised benchmark values for free allocation of emission allowances for the period from 2021 to 2025 pursuant to Article 10a(2) of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 87, 15.3.2021, p. 32).

- (1) 'district heating company' means a company that operates installations the main economic activities of which are classified according to the NACE codes referred to in Regulation (EC) No 1893/2006 of the European Parliament and of the Council ⁽⁹⁾ as either steam and air conditioning supply, or production of electricity combined with the export of district heating.
- (2) 'milestones' means qualitative indicators of progress towards the achievement of a measure or investment to reach climate neutrality objective by 2050 as described in Article 2 of Regulation (EU) 2021/1119 at installation level or optionally at company level for operators of district heating, pursuant to Article 10a(1), fifth subparagraph and Article 10b(4), third subparagraph of Directive 2003/87/EC, excluding the use of carbon offset credits;
- (3) 'targets' means quantitative indicators of progress towards the achievement of a measure or investment to reach climate neutrality by 2050 as described in Article 2 of Regulation (EU) 2021/1119 at installation level or optionally at company level for operators of district heating, pursuant to Article 10a(1), fifth subparagraph and Article 10b(4), third subparagraph of Directive 2003/87/EC, excluding the use of carbon offset credits;
- (4) 'intermediate targets and milestones' means targets and milestones set for 31 December 2025 and for 31 December of each fifth year thereafter.

Article 3

Content of climate-neutrality plans

1. The climate-neutrality plans shall contain the elements listed in the Annex. Those plans shall be duly reasoned and substantiated.
2. The measures, milestones and targets, including intermediate milestones and targets shall be specific, measurable, achievable, relevant and time-bound.

Article 4

Electronic format of the climate-neutrality plan

1. The Commission shall make available an electronic template or specific file format for providing the information as specified in the Annex.
2. Operators shall use the electronic template or specific file format referred to in paragraph 1 to establish and submit the climate-neutrality plan.
3. By way of derogation from paragraph 2, Member States may require operators to use electronic templates or specific file formats developed by those Member States for establishing and submitting climate-neutrality plans in accordance with delegated acts adopted pursuant to Article 10a(1), first subparagraph, of Directive 2003/87/EC.

Article 5

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

⁽⁹⁾ Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1).

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 31 October 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Content of the climate neutrality plans

1. General information of the installation
 - (a) name and address of the installation;
 - (b) installation identifier used in the Union Registry;
 - (c) permit identifier and issue date of the first greenhouse gas emissions permit that was issued to the installation pursuant to Article 6 of Directive 2003/87/EC;
 - (d) permit identifier and date of the most recent greenhouse gas emissions permit issued to the installation pursuant to Article 6 of Directive 2003/87/EC;
 - (e) name and address of the operator, contact information of an authorised representative and of a primary contact person, if different;
 - (f) where the climate-neutrality plan is submitted at company level by the district heating company, the information referred to in points (a) to (e) for each installation linked to and operated by that company and covered by the climate-neutrality plan, including a description of the links with the district heating company.
2. Historical emissions, including:
 - (a) historical specific emissions for each year of the relevant baseline period as defined in Article 2(14) of Delegated Regulation (EU) 2019/331, including the following data:
 - (i) historical emissions specific to the activity levels of each year of each product benchmark sub-installation or for fall-back sub-installations, relative to other levels of production, expressed as t CO₂eq per relevant unit of production of each sub-installation, or any other unit of production, where more appropriate;
 - (ii) where applicable, historical emissions specific to the benchmark values as laid down in the Annex to Implementing Regulation (EU) 2021/447 for each relevant sub-installations which apply for the relevant baseline period.
 - (b) Optionally historical absolute emissions, expressed as t CO₂eq, for each year of the relevant baseline period as defined in Article 2(14) of Delegated Regulation (EU) 2019/331.
3. The historical emissions referred to in point 2 and emissions levels related to targets referred to in point 4(b), shall meet the following conditions:
 - (a) the system boundaries and types of greenhouse gases covered by those historical emissions and emissions levels shall be consistent with the greenhouse gas emissions permit of the installation concerned and the requirements laid down in Implementing Regulation (EU) 2018/2066 and in Delegated Regulation (EU) 2019/331;
 - (b) the scope of emissions shall not include any carbon removals or emission reductions outside the system boundaries of the installation concerned and acquired via carbon offset credits;
 - (c) the emissions shall be expressed relative to the activity levels of each year of all sub-installations or, if not feasible, relative to the other production levels of the installation concerned.
4. Milestones and targets, including intermediate milestones and targets:
 - (a) detailed description of the milestones for 2025 and for each 5-year period thereafter, commensurate to the targets as referred to in points (b) and (c);
 - (b) specific emission targets for 2025 and for each 5-year period thereafter, including the following data:
 - (i) targets specific to the activity levels of each year of each product benchmark sub-installation or for fall-back sub-installations, relative to the other levels of production of the sub-installation, expressed as t CO₂eq per relevant unit of production of each sub-installation, or any other unit of production, where more appropriate and percentage of reduction;

- (ii) where applicable, targets relative to the benchmark values as laid down in the Annex to Implementing Regulation (EU) 2021/447 for each relevant sub-installations which apply for the relevant baseline period as defined in Article 2(14) of Delegated Regulation (EU) 2019/331, expressed as percentage of reduction;
 - (c) optionally, absolute emission targets for 2025 and for each 5-year period thereafter, ensuring consistency with the historical emissions referred to in point 2 and the milestones referred to in point (a) of this point.
5. Milestones and targets, including intermediate milestones and targets, shall meet the following conditions:
- (a) they shall be consistent with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119;
 - (b) they shall be expressed and defined in accordance with rules and system boundaries set out in Implementing Regulation (EU) 2018/2066 and in Delegated Regulation (EU) 2019/331.
6. Measures and investments:
- (a) a detailed description of all measures planned during each 5-year period in order to reach the milestones and targets described in point 4, and in order to reach climate neutrality by 2050;
 - (b) a detailed description and quantification of the investments related to the measures, expressed as euro invested in a certain year, as well as annualised euro per year for each 5-year period;
 - (c) a detailed description of enabling conditions and infrastructure needs for the measures and investments described under points (a) and (b);
 - (d) optionally, a list of measures and investments already implemented prior to the submission of the climate-neutrality plan.
7. Estimated impacts of measures and investments:
- (a) a quantitative and qualitative assessment of the estimated impacts on the greenhouse gas emissions reduction of each measure and investment referred to in point 6 for each of the 5-year periods, referred to in Article 10b(4), fourth subparagraph of Directive 2003/87/EC, including, to the extent feasible, a split of the overall impacts into the following categories:
 - (i) switch to low- or zero-emission technologies;
 - (ii) energy efficiency and energy savings;
 - (iii) switch from fossil fuels to:
 - (1) hydrogen;
 - (2) electricity;
 - (3) biomass fulfilling the sustainability and greenhouse gas savings criteria referred to in Article 38(5) of Implementing Regulation (EU) 2018/2066;
 - (4) alternative fuels from waste streams;
 - (5) other sources of renewable energy;
 - (iv) resource efficiency, including reduced consumption of materials and recycling;
 - (v) carbon capture utilisation and storage.
 - (b) a description of the reasons why the measures described in point 6 were chosen rather than other potential measures for decarbonisation, with regards to their estimated impacts on the greenhouse gas emissions reduction.
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