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COMMISSION

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COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a minimum threshold for greenhouse gas emissions savings of recycled carbon fuels and by specifying a methodology for assessing greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The recast Renewable Energy Directive¹ (“the “Directive”) introduces new provisions for promoting the use of renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels. While the Directive establishes a minimum threshold for greenhouse gas emissions savings for renewable liquid and gaseous transport fuels of non-biological origin, the Directive does not establish a minimum threshold for greenhouse gas emissions savings of recycled carbon fuels and does not specify the methodology by which to assess the greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels. However, the Directive includes an empowerment of the European Commission to establish those in delegated acts.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Being of technical nature, this proposal did not need be supported by an impact assessment nor an open public consultation, which are usually required only for major initiatives.

The proposal draws on the results of several consultation exercises undertaken by the Commission in the context of the implementation of Article 25(2) and Article 28(5) of the Directive, including *inter alia*, [xx] meetings of the expert group on renewable fuels and [xx] stakeholder workshops.

The draft proposal was published for public feedback on the Better Regulation Portal from [...] to [...] 2020 [*wording on feedback and any follow-up to be included subsequently*].

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The proposal is made pursuant to Article 25(2) and Article 28(5) of the Directive, which empowers the Commission to adopt delegated acts establishing appropriate minimum thresholds for greenhouse gas emissions savings of recycled carbon fuels and specifying the methodology by which to assess the greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels. Due to the substantive link between both matters, the empowerments should be bundled in a single legislative act.

¹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.

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THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources², and in particular Article 25(2) and Article 28(5) thereof,

Whereas:

- (1) In order to ensure that renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels contribute effectively to reducing greenhouse gas emissions in the Union, Directive (EU) 2018/2001 requires the Commission to adopt a delegated act establishing appropriate minimum thresholds for greenhouse gas emissions savings for recycled carbon fuels
- (2) Taking into account the need to substantially reduce greenhouse gas emissions in the transport sector and the possibility for each fuel to make significant greenhouse gas emissions savings by applying carbon capture and storage techniques, among other measures, and considering the greenhouse gas saving requirements set for other fuels in Directive (EU) 2018/2001, a minimum greenhouse gas emission saving threshold of 70% should be set for all types of recycled carbon fuels.
- (3) Clear rules need to be set, based on objective and non-discriminatory criteria, for calculating greenhouse gas emissions savings for renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels and their fossil fuel comparators.
- (4) The greenhouse gas emissions accounting methodology should take into account the full life-cycle emissions from producing renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels and be based on objective and non-discriminatory criteria.
- (5) Credits should not be granted for capturing CO₂, which has already been taken into account under other provisions of law. To this end, this kind of captured CO₂ should not be considered as being avoided when determining the emissions from the inputs' existing use or fate.
- (6) Where emissions from an activity listed in Annex I of Directive 2003/87/EC, namely from industrial processes or from the combustion of non-sustainable fuels are captured

² OJ L 328, 21.12.2018, p. 82.

and used to produce renewable fuels of non-biological origin or recycled carbon fuels, but are not taken into account upstream through effective carbon pricing, overall emissions are not reduced. Therefore, those emissions should not be considered as being avoided.

- (7) The origin of carbon used for the production of renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels is not relevant for determining emission savings of such fuels in the short to medium term, as plenty of carbon sources are available and can be captured without hindering the progress of decarbonisation. In the long-term, the use of these renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels produced using non-sustainable carbon is not compatible with climate neutrality as the use of carbon from non-sustainable processes entails a continued use of non-sustainable fuels and the related emissions. Capturing of emissions from non-sustainable sources should therefore only be considered as avoiding emissions until 2035.
- (8) Renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels can be produced in various processes, which may yield a mixture of different types of fuels. The methodology to assess the greenhouse gas emissions savings should therefore be able to derive the actual emission savings from those processes, including processes that yield both renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels. If a mixture of renewable liquid and gaseous transport fuels of non-biological origin, recycled carbon fuels and other fuels with the same physical characteristics is stemming from the same process, they should be considered having the same greenhouse gas emission intensity.
- (9) The fossil fuel comparator for renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels should be set at 94 gCO₂eq/MJ in line with the value set out for biofuels and bioliquids in Directive (EU) 2018/2001.
- (10) The main objective of promoting recycled carbon fuels is to reduce greenhouse gas emissions by improving the efficiency of use of eligible feedstock compared to present uses. Given that feedstock that can be used to produce recycled carbon fuels may already have been in use to produce energy, it is appropriate to take the greenhouse gas emissions resulting from the diversion of the use of those rigid inputs from its current use into account when calculating greenhouse gas emissions. The same should apply for rigid inputs obtained from incorporated processes and used to produce renewable liquid and gaseous transport fuels of non-biological origin.
- (11) If the electricity used to produce renewable liquid and gaseous transport fuels of non-biological origin is taken from the electricity grid and is not considered as fully renewable, the average carbon intensity of electricity consumed in the Member State where the fuel is produced should be applied, given that that best describes the greenhouse gas intensity of the whole process. Alternatively, electricity taken from the electricity grid that is used in the production process of renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels that does not qualify as fully renewable according to Article 27(3) of Directive 2018/2001, may be attributed greenhouse gas emissions values depending on the number of full load hours the installation producing renewable liquid and gaseous transport fuels of non-biological origin and recycled carbon fuels is operating. If the electricity used to produce renewable liquid and gaseous transport fuels of non-biological origin is considered fully renewable according to the rules set out in Article 27 of Directive (EU) 2018/2001, a carbon intensity of zero should be applied to this electricity supply.

- (12) The carbon intensity of the electricity mix is expected to gradually decrease due to higher proportions of renewable and low-carbon electricity. That effect should be taken into account in the greenhouse gas emission methodology by applying an improvement factor that is derived from energy statistics,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation establishes a minimum threshold for greenhouse gas emissions savings of recycled carbon fuels and specifies the methodology to calculate the greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels.

Article 2

The greenhouse gas emissions savings from the use of recycled carbon fuels shall be at least 70 %.

Article 3

The greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels shall be determined in accordance with the methodology set out in Annex I.

Article 4

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

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

Done at Brussels,

For the Commission

The President

[\[...\]](#)