



Brussels, **XXX**
[...] (2025) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...
of **XXX**
amending Commission Delegated Regulation (EU) 2019/1122

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 delegated act amends the provisions of the Union Registry Regulation¹ that govern the accounting of transactions under the Effort Sharing Regulation (ESR)².

The ESR sets binding annual greenhouse gas (GHG) emission reduction targets that Member States must achieve by 2030. The ESR provides Member States with a set of ‘flexibilities’ to help them achieve their targets. Subject to conditions and limits, the ESR allows Member States to transfer annual emission allocations (AEAs) to other Member States, reallocate AEAs from one year to another (Article 5 of the ESR), and some Member States can obtain additional AEAs from a safety reserve that will be established if, and to the extent that, the Member States collectively achieve the GHG EU emission reduction target for 2030 in the ESR sectors (Articles 1 and 11 of the ESR).

In addition, Member States may have a limited quantity of net removals, covered by the LULUCF Regulation³, taken into account for the purpose of compliance with their ESR annual limits, and some Member States can obtain additional AEAs through the so called ‘ETS flexibility’ (by cancelling a quantity of EU ETS allowances, issued under the EU ETS Directive⁴, they obtain a corresponding quantity of AEAs). These flexibilities are established by Articles 6 and 7 of the ESR.

In 2023, the ESR was revised to increase the EU’s 2030 target (from -30 % of the 20225 levels, to -40 % of the 2005 levels) and those of most Member States. The amendments included adjustments to the requirement of use of the flexibilities provided by the ESR⁵.

To ensure alignment with the revised ESR, it is necessary to amend the provisions of the Union Registry Regulation that concern transactions affected by the 2023 amendments to the ESR. In addition, the delegated clarifies the requirements applicable to the use of the ETS flexibility.

The legal basis for the delegated act is Article 12 of the ESR, which requires the European Commission to adopt delegated acts to ensure, through a Registry Regulation, that accurate accounts are kept of the transactions allowed by the ESR and that transactions are blocked in case of irregularities.

The Union Registry Regulation is also being amended to include the provisions necessary for the accounting of the transactions to be carried out under the LULUCF Regulation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

At the meeting of Climate Change Expert Group (CCEG) of 13 of December 2024, the Commission’s Directorate-General for Climate Action (DG CLIMA) presented the prospective amendments to the Union Registry Regulation. These amendments were explained in a concept paper distributed to the CCEG on 15 December 2023. On 12 March 2024, DG CLIMA sent to the CCEG a first draft of the delegated regulation. Following the first round of comments from Member States, DG CLIMA provided the CCEG with a second draft on 8 May 2024, a third draft on 7 November 2024 and a fourth draft on 9 December 2024. Member States had the opportunity to provide written comments on the different drafts. Moreover, DG CLIMA presented the drafts of the amending regulation to the CCEG meetings of 13 March of 2024, 2 May 2024, and 11 of December 2024. DG CLIMA took into consideration the written and oral comments and suggestions provided by the members of the expert group into.

The documents for the meetings were also sent to the European Parliament and the Council, in line with the Common Understanding on Delegated Acts annexed to the Interinstitutional Agreement on Better Law Making⁶.

Furthermore, feedback on the text of the delegated regulation was collected through the Better Regulation portal for 4 weeks between [] and [] 2025. [...] contributions were provided – by [...].

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The revised Article 6 of the ESR gives some Member States greater freedom to revise the quantity of cancelled EU ETS allowances they intend to use for ESR compliance. The delegated regulation therefore amends Articles 59a, 59h(c) and 59k of the Union Registry Regulation (relating to the ETS flexibility and the AEAs created through it).

Furthermore, the delegated regulation amends:

Articles 59b, 59i, 59j, 59l and 59m to ensure alignment with the new requirements and limits set in Article 5 of the ESR for borrowing, banking, and transferring AEAs;

Article 59k to reflect the changes to the requirements for the use of the LULUCF flexibility established in Article 7 of the ESR;

Article 59h(d) to clarify the requirements applicable to the use of the ETS flexibility, and

Article 59n to align the safety reserve with the new 2030 target for the EU.

In addition, in various provisions and in Annex I, the delegated regulation replaces ‘Land Mitigation Units’, and ‘LMUs’ by ‘Land Removal Units’ and ‘LRUs’ respectively, bringing the terminology into line with that used in the upcoming LULUCF Chapter of the Regulation.

Finally, the draft of the delegated act updates the legal references that the Union Registry Regulation has to the provisions that were amended in the 2023 revision of the ESR.

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amending Commission Delegated Regulation (EU) 2019/1122

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013¹, and in particular Article 12(1) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2019/1122² lays down rules for the functioning of the Union Registry, established under Directive 2003/87/EC of the European Parliament and of the Council³.
- (2) Regulation (EU) 2018/842 lays down obligations for Member States with respect to their minimum contributions towards the Union's 2030 target for reducing its greenhouse gas emissions.
- (3) In accordance with Article 12 of Regulation (EU) 2018/842, the Union Registry is to ensure the accurate accounting of transactions under that Regulation.
- (4) Regulation (EU) 2018/842 has been amended by Regulation (EU) 2023/857 of the European Parliament and of the Council⁴ to increase the Union's 2030 target for reducing greenhouse gas emissions (from a 30 % reduction to a 40 % reduction compared to 2005 levels) and to adjust some of the requirements applicable to the use of the flexibilities provided to Member States by that Regulation.
- (5) Regulation (EU) 2018/842 provides some Member States with the possibility of notifying the Commission, in 2023, of their intention to make use or further use of a limited cancellation of EU ETS allowances for the purpose of compliance with their obligations under that regulation ('the ETS flexibility') and of revising their notified intentions in 2024 and 2027, not only downwards, as it was originally the case, but also upwards. Therefore, it is appropriate to amend the provisions of Regulation (EU)

¹ OJ L 111, 26.4.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/842/2023-05-16>.

² Commission Delegated Regulation (EU) 2019/1122 of 12 March 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry (OJ L 177, 2.7.2019, p. 3, ELI: http://data.europa.eu/eli/reg_del/2019/1122/oj).

³ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/oj>).

⁴ Regulation (EU) 2023/857 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement, and Regulation (EU) 2018/1999 (OJ L 111, 26.4.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2023/857/oj>).

2019/1122 on the creation of annual emission allocations (AEAs) in the EU Annex II AEA Total Quantity Account. Additionally, in the absence of an actual definition of the term ‘excess emissions’ for the purpose of the Member States’ use of the ETS flexibility, it is appropriate to replace that term by the formula that is to be used in the determination of whether, and to what extent, a Member State can use the ETS flexibility to ensure compliance in a given year.

- (6) Regulation (EU) 2018/842 requires Member States to inform the Climate Change Committee before transferring AEAs to other Member States. Therefore, it is appropriate to reflect the amendments to the conditions regarding the transferability of the AEAs.
- (7) For clarity and consistency across the different chapters of Delegated Regulation (EU) 2019/1122, it is appropriate to replace the term ‘land mitigation units’ and its abbreviation ‘LMUs’ by ‘land removal units’ and ‘LRUs’, respectively.
- (8) Furthermore, Regulation (EU) 2018/842 was amended as regards the ceilings on borrowing and banking of AEAs, on *ex ante* transfers of AEAs to other Member States and on the use of net removals from the land use, land use change and forestry (‘LULUCF’) sector. Therefore, it is necessary to reflect those changes in Delegated Regulation (EU) 2019/1122.
- (9) The establishment of the safety reserve is subject to the fulfilment of the Union’s 2030 target on the reduction greenhouse gas emission in the sectors covered by Regulation (EU) 2018/842. Therefore, the Union’s new target on greenhouse gas emissions covered by Regulation (EU) 2018/842 should be reflected in the requirements for the creation of AEAs in the EU ESR Safety Reserve Account. .
- (10) Delegated Regulation (EU) 2019/1122 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/1122 is amended as follows:

(1) Article 59a is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. At the beginning of the compliance period, the central administrator shall create in the EU ESR AEA Total Quantity Account a quantity of AEAs equal to the sum of the annual emission allocations for all Member States for all the years of the compliance period as set out in Article 10(2) of Regulation (EU) 2018/842 and in the Decisions adopted pursuant to Article 4(3), and Article 10, of Regulation (EU) 2018/842.’;

(b) the following paragraph is inserted:

‘1a. The central administrator shall create in the EU Annex II AEA Total Quantity Account a quantity of AEAs equal to the sum of all annual emission allocations for all eligible Member States for all the years of the compliance period as set out in the Decisions adopted pursuant to Article 4(3) and (4) of Regulation (EU) 2018/842 based on the percentages notified by Member States under Article 6(3), (3a) and (3b) of that Regulation.’;

(2) Article 59b is replaced by the following:

‘Article 59b

Annual emission allocation units

AEAs shall be valid for the purpose of meeting the Member States’ greenhouse gas emissions limitation requirements pursuant to Article 4 of Regulation (EU) 2018/842 and their commitments and targets under Article 4 of Regulation (EU) 2018/841. They shall be transferable only pursuant to conditions laid down in Article 5(1) to (5a), Article 6, Article 9(2) and Article 11, of Regulation (EU) 2018/842, and Article 12(1) of Regulation (EU) 2018/841.’;

(3) in Article 59f(1) and (2), the abbreviation ‘LMUs’ is replaced by ‘LRUs’;

(4) in Article 59h, points (c) and (d) are replaced by the following:

‘(c) the requested amount exceeds the total remaining balance of the Annex II to Regulation (EU) 2018/842 amount available for that Member State as set out in the Decisions adopted pursuant to Article 4(3) and (4) of Regulation (EU) 2018/842, taking into account any revision of the amount pursuant to Article 6(3), second subparagraph, of that Regulation, and taking into account any notifications sent to the Commission under Article 6(3a) and (3b) of that Regulation;

(d) the requested amount exceeds the quantity of the emissions for the given year plus the quantity of AEAs transferred from Member State's ESR Compliance Account for that given year to its LULUCF Compliance Account pursuant to Article 59x(3), 59x(4) or 59zd(2) of this Regulation, minus the quantity of AEAs for that given year as set in the Decisions adopted pursuant to Article 4(3) and Article 10 of Regulation (EU) 2018/842;

(5) in Article 59i, point (b), the percentage ‘10’ is replaced by 7,5’;

(6) Article 59j is amended as follows:

(a) point (b) is replaced by the following:

‘(b) in respect of the year 2021, the requested amount exceeds the positive balance of the account as calculated pursuant to Article 59e or 75 % of that Member State’s annual emission allocations in 2021, as determined pursuant to Article 4(3) and Article 10 of Regulation (EU) 2018/842;’;

(b) in point (c), the percentage ‘30 %’ is replaced by ‘25 %’;

(7) Article 59k is replaced by the following:

‘Article 59k

Use of Land Removal Units (‘LRUs’)

The central administrator shall ensure that, upon request of a Member State, the Union Registry carries out a transfer of LRUs from that Member State’s LULUCF Compliance Account to that Member State’s ESR Compliance Account. Such transfer shall not be carried out in any of the following cases:

- (a) the requested amount exceeds the available quantity of LRUs eligible for transfer into the ESR Compliance Account pursuant to Article 59x(1) or the remaining amount;
- (b) the request concerns a transfer:
 - (i) to an ESR Compliance Account of a year within the period 2021 to 2025 and the requested amount exceeds half of the maximum amount of total net removals set out in Annex III to Regulation (EU) 2018/842, or the amount remaining in the period 2021 to 2025;
 - (ii) to an ESR Compliance Account of a year within the period 2026 to 2030 and the requested amount exceeds half of the maximum amount of total net removals set out in Annex III to Regulation (EU) 2018/842, or the amount remaining in the period 2026 to 2030;
- (c) the requested amount exceeds the quantity of emissions for the given year less the quantity of AEAs for the given year as set out in Article 10(2) of Regulation (EU) 2018/842 and the Decisions adopted pursuant to Article 4(3) and Article 10 of that Regulation, and less the sum of all the AEAs banked from previous years to the current or any following year pursuant to Article 59j of this Regulation;
- (d) that Member State has not reported on its intention to make use of the flexibility set out in Article 7 of Regulation (EU) 2018/842, as required in point (n)(iii) of Annex V to Regulation (EU) 2018/1999*;
- (e) that Member State has not complied with Regulation (EU) 2018/841;
- (f) the Member State's request is submitted before the calculation of the balance of the LULUCF Compliance Account of that Member State or after the determination of the compliance status figure for the given compliance period pursuant to Articles 59u and 59zd;
- (g) the Member State's request is submitted after three months have passed since the calculation of the balance of the LULUCF Compliance Account of that Member State for the given period;
- (h) the Member State's request is submitted before the calculation of the balance of the ESR Compliance Account of that Member State or after the determination of the compliance status figure for the given year.

* Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1, ELI: <http://data.europa.eu/eli/reg/2018/1999/oj>);

(8) Article 59l is amended as follows:

- (a) in point (a), the term ‘five per cent’ is replaced by ‘10 per cent’;
- (b) in point (b), the term ‘ten per cent’ is replaced by ‘15 per cent’;
- (c) the following point (e) is added:
 - ‘(e) the Member State has not informed the Climate Change Committee established by Regulation (EU) 2018/1999 of its intention to transfer part of its annual emission

allocation for any given year, as required by Article 5(5a) of Regulation (EU) 2018/842.’;

(9) in Article 59m, the following point (d) is added:

‘(d) the Member State has not informed the Climate Change Committee established by Regulation (EU) 2018/1999 of its intention to transfer part of its annual emission allocation for any given year, as required by Article 5(5a) of Regulation (EU) 2018/842.’;

(10) in Article 59n, the percentage ‘70 %’ is replaced by ‘60 %’;

(11) in Article 59o(1), point (g)(v), the abbreviation ‘LMUs’ is replaced by ‘LRUs’;

(12) in Article 59q, the following paragraph is added:

‘4. Where a Member State notifies an upward change of the percentage under Article 6(3), second subparagraph, of Regulation (EU) 2018/842 and following the correspondent amendment of the amounts specified in the Decision adopted pursuant to Article 4(3) of Regulation (EU) 2018/842, the central administrator shall create the corresponding quantity of AEAs in the EU Annex II AEA Total Quantity Account.’;

(13) in Annex I, Table I-II (‘Accounts for the purpose of accounting transactions pursuant to Title IIA’), first row, the abbreviation ‘LMU’ is replaced by ‘LRU’.’

Article 2

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
Ursula VON DER LEYEN