

Justification

Definitions:

In addition to the definitions that have already been mentioned as such in article 3 of the original proposal for a revision of the MRR that was published for consultation furthermore the definitions for “residue” and “agricultural, aquaculture, fisheries and forestry residues” need to be incorporated. They include important clarifications towards exemptions for residues from related industries or processing in context of the proposed changes to article 38 of the MRR.

Exemptions from the sustainability and the greenhouse gas emissions saving criteria:

When it comes to the sustainability and the greenhouse gas emissions saving criteria, the provisions in article 29 of Directive (EU) 2018/2001 specifically exclude certain waste and residues from the scope of paragraphs 2 to 7 and 10 within that article. Important examples for exemptions are municipal waste fuels, waste and residues that are first processed into a product before being further processed into biomass fuels, as well as waste and residues including agricultural, aquaculture, fisheries and forestry residues from related industries or processing. The reason for this exemption is that in case of wastes and residues there is no information available in order to determine sustainability and greenhouse gas savings according to Art. 30 and 31 (1) of Directive (EU) 2018/2001.

In addition, article 29 of Directive (EU) 2018/2001 clarifies in paragraph 10 that installations which have started the physical production of heating from biomass fuels before 1 January 2021 do not need to comply with the greenhouse gas emissions savings criteria. This exemption must also be extended to changes to as well as replacements of existing installations. The reason is that industrial plants might need to retrofit or even replace entire production installations in order to install the breakthrough technologies needed to significantly reduce CO₂ emissions. When doing so these retrofitted or new installations should not have a disadvantage in comparison to existing ones.

2. Carbon Capture and Use

The recently published Innovation Fund call¹ stipulates that environmentally safe carbon capture and utilisation (CCU) is part of the technologies that can substantially contribute to mitigating climate change. It also stipulates that CCU can be funded if the capture of CO₂ occurs within one of the activities under the ETS directive, or if the utilisation of CO₂ results in products substituting carbon intensive ones from the ETS sectors, even if carbon is captured outside the activities of Annex I.

Such projects require large-scale industrial cooperation to develop the necessary business case in order for such projects to emerge and scale-up. The “[WestKüste100](#)” project in Germany or ‘Carbon2ProductAustria’ (C2PAT) project in Austria are examples of such cross-industry cooperation on carbon capture and use that would enable decarbonisation on a large industrial and regional scale.

The business case of large-scale CCU projects relies on the ability of the plant that captures the CO₂ to account for it, regardless of the downstream use of the carbon (incl. for permanent geological storage, for mineralization (such as precipitated calcium carbonate) as well as other uses (e.g. production of chemical products or e-fuels). The investments and operational costs of such capture technology (that are a key enabler of the hydrogen economy) are born at the industrial site capturing the CO₂ and must be accounted for at the same site.

¹ Regulation (EU) 2018/2066 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC

² Innovation Fund Large-scale Projects, InnovFund-LSC-2020-two-stage, Version 1.0, 3 July 2020

