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COMMISSION DELEGATED REGULATION (EU) 2025/723

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supplementing Directive 2003/87/EC of the European Parliament and of the Council by laying down detailed rules for the yearly calculation of price differences between eligible aviation fuels and fossil kerosene and for the EU ETS allocation of allowances for the use of eligible aviation fuels

(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 3c(6), seventh subparagraph, thereof,

Whereas:

(1) Aviation activities are included in the system for greenhouse gas emission allowance trading within the Union ('EU ETS') established by Directive 2003/87/EC.

(2) Directive (EU) 2023/958 of the European Parliament and of the Council ([2]) amended Directive 2003/87/EC to align it with Regulation (EU) 2021/1119 of the European Parliament and of the Council ([3]) setting a target of at least 55 % net emission reductions by 2030 compared to 1990.

(3) To support the transition from the use of fossil fuels and incentivise the decarbonisation of commercial air transport, Directive (EU) 2023/958 introduced an additional ETS support by reserving a maximum of 20 million allowances to be allocated to cover part of the remaining price difference between fossil kerosene and the eligible aviation fuels used by commercial aircraft operators from 1 January 2024 until 31 December 2030.

(4) The reserve of 20 million allowances comes from the total number of allowances to be allocated in respect of aircraft operators, and is to be allocated in a non-discriminatory manner, only for the use of eligible aviation fuels used on flights covered by the EU ETS surrender obligation and on flights covered by Article 3c(8) of Directive 2003/87/EC.

(5) In order to operationalise the allocation of the 20 million allowances reserved for supporting the uplift of eligible aviation fuels the detailed rules for the yearly calculation of the price difference between eligible aviation fuels and fossil kerosene and the detailed rules for allocating these allowances should be laid down.

([1]) OJ L 275, 25.10.2003, p. 32, ELI: http://data.europa.eu/eli/dir/2003/87/oj.

([2]) Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation's contribution to the Union's economy-wide emission reduction target and the appropriate implementation of a global market-based measure (OJ L 130, 16.5.2023, p. 115, ELI: http://data.europa.eu/eli/dir/2023/958/oj).

([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) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/1119/oj).

(6) In order to minimise the administrative efforts required from commercial aircraft operators and competent authorities, commercial aircraft operators should be able to apply for the allocation of allowances by simply reporting the use of eligible aviation fuels in their annual emissions report. To allow for a streamlined process and timely allocation, the application should only be considered valid where the annual emissions report has been submitted by 31 March each year as laid down in Commission Implementing Regulation (EU) 2018/2066 ([4]). In order for commercial aircraft operators to be able to report the use of eligible aviation fuels for transparency or other reasons without applying for allowances, commercial aircraft operators should be allowed to opt out from the support.

(7) Pursuant to Article 13 of Regulation (EU) 2023/2405 of the European Parliament and of the Council ([5]), the European Union Aviation Safety Agency ('EASA') is to report on, amongst others, aviation fuel prices in their annual technical report ('EASA technical report'). That report is published by EASA annually and includes market prices of fossil kerosene and sustainable aviation fuels that are publicly traded and, where the market price is not available, estimated production costs. For legal certainty the Commission should, to the extent possible, ensure the alignment of the aviation fuel prices required to be determined and published under this Regulation with the prices reported under Regulation (EU) 2023/2405.

(8) The alternative aviation fuels market is evolving as the industry strives to decarbonise aviation while fulfilling the upcoming supply mandates for fuel suppliers and voluntary commitments to uplift these fuels by aircraft operators. In order for this Regulation to use the most accurate price differences, the Commission should publish prices for each specific eligible aviation fuel separately where available, as the price of each eligible aviation fuel depends on the feedstock and the fuel production pathway used. The Commission should use representative and transparent prices at which these fuels are publicly traded. However, due to the nascent nature of the market, not all eligible aviation fuels are publicly traded, even if produced and used in small quantities. Consequently, the price of the eligible aviation fuels should be determined either by using market prices published in the EASA technical report for the fuels publicly traded, the actual fuel prices paid by commercial aircraft operators, or a minimum selling price calculated by the Commission. However, as specific prices for all eligible aviation fuels may not be available, a minimum list of eligible aviation fuel subcategories should be established that should encompass all the potential eligible aviation fuels. These subcategories should group specific eligible aviation fuels and be subcategories to the categories laid down in Article 3c(6), third subparagraph of Directive 2003/87/EC.

(9) For eligible aviation fuels, for which no market price is available in the EASA technical report because they are not publicly traded, commercial aircraft operators should be able to report on a voluntary basis to the Commission the actual prices paid for the eligible aviation fuel with a view for the actual prices paid to be taken into account in the determination of the fuel prices. The prices reported by commercial aircraft operators should be accompanied by evidence that covers contracts and uplift for the whole calendar year as well as the complete uplifted volume of the fuel that is reported by that commercial aircraft operator. Moreover, in order to ensure a sufficient level of representativeness, the fuel for which prices are reported should represent at least one quarter of all fuel of that category reported in that year by all commercial aircraft operators for it to be used for the determination of the price for the eligible aviation fuels. The Commission should ensure that such data is reported and handled in full confidentiality. However, where less than three commercial aircraft operators report to the Commission the actual prices paid, statistical confidentiality of the data cannot be ensured. In that case, the commercial aircraft operators should waive the confidentiality requirement, if they wish their prices to be taken into account in the calculation of the fuel prices. In order to facilitate the establishment of appropriate procedures on reporting actual prices, also ensuring appropriate level of confidentiality, the option to report actual prices should become applicable from 2026, for fuels used from 1 January 2025.

([4]) 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 (MRR) (OJ L 334, 31.12.2018, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2018/2066/oj).

([5]) Regulation (EU) 2023/2405 of the European Parliament and of the Council of 18 October 2023 on ensuring a level playing field for sustainable air transport (ReFuelEU Aviation) (OJ L, 2023/2405, 31.10.2023, ELI: http://data.europa.eu/eli/reg/2023/2405/oj).

(10) In order to encourage the reporting of actual prices paid by commercial aircraft operators where market prices are not available in the EASA technical report, the reported prices should be taken into account and the appropriate price difference used when calculating the allocation of allowance to the commercial aircraft operator only if at least one quarter of the volume of all reported fuels have a reported price. However, for those operators that did not report the actual prices paid and used eligible aviation fuel for which the market price is not available in the EASA technical report, the number of allowances should be calculated using the minimum selling price of the eligible aviation fuel subcategory.

(11) The minimum selling price should be determined by applying an appropriate margin to the production cost estimate for the eligible aviation fuel reported in the EASA technical report. The margin should be a conservative value of 10 % based on a hurdle rate of approximately 12-16 %. That hurdle rate is aligned with sector evidence gathered by the Commission, such as the hurdle rates applied in electricity generation. Moreover, the margin used should ensure that the minimum selling price is not overestimated and encourage commercial aircraft operators to report actual prices paid.

(12) In order to ensure appropriate accounting of the number of available allowances, before the Commission adopts a decision on the allocation of allowances for the use of eligible aviation fuels, the Commission should check whether the remaining number of allowances reserved pursuant to Article 3c(6) of Directive 2003/87/EC is sufficient to cover the demand for the allocation of allowances. Where that number is not sufficient, the Commission should calculate an allocation reduction factor to be applied in a uniform manner to all commercial aircraft operators concerned by the allocation for that year.

(13) To acknowledge the contribution of EU ETS revenues to the climate transition, commercial aircraft operators should ensure that the reception of the support is visible in their communication, such as in their annual reports, sustainability statements or passenger tickets.

(14) The application for the support for the uplift of eligible aviation fuels is to be reported by commercial aircraft operators together with reporting of emissions for 2024. In order to ensure the timely application of the rules laid down in this Regulation before the deadline of reporting those emissions, it should enter into force without delay,

HAS ADOPTED THIS REGULATION:

Article 1

Subject-matter and scope

1. This Regulation lays down rules for the yearly calculation of the price differences between eligible aviation fuels and fossil kerosene and for the allocation of allowances pursuant to Article 3c(6) of Directive 2003/87/EC for the use of eligible aviation fuels by commercial aircraft operators from 1 January 2024 until 31 December 2030.

2. Commercial aircraft operators may apply for allocation in respect of eligible aviation fuels reported in accordance with Article 54a of Implementing Regulation (EU) 2018/2066 and used on the following subsonic flights:

(a) flights for which allowances have to be surrendered in accordance with Article 12(3) of Directive 2003/87/EC;

(b) flights covered by Article 3c(8) of Directive 2003/87/EC.

Article 2

Definitions

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

(1) 'commercial aircraft operator' means commercial air transport operator as defined in Article 3, point (p) of the Directive 2003/87/EC;

(2) 'eligible aviation fuel' means fuel types eligible for the support under Article 3c(6) of Directive 2003/87/EC;

(3) 'harmonised minimum levels of taxation' means the minimum levels of taxation applicable to fossil kerosene and eligible aviation fuels set out in Council Directive 2003/96/EC ([6]);

(4) 'EASA technical report' means the technical report published by the European Union Aviation Safety Agency referred to in Article 13 of Regulation (EU) 2023/2405.

Article 3

Application for allowances for the use of eligible aviation fuels by commercial aircraft operators

1. Commercial aircraft operators shall apply for allocation of allowances for the use of eligible aviation fuels by reporting the verified amounts of eligible aviation fuels used in the preceding reporting year in their annual emissions report, in accordance with Article 54a of Implementing Regulation (EU) 2018/2066.

2. Where commercial aircraft operators decide not to apply for allocation of allowances for the use of eligible aviation fuels, they shall indicate that decision in the annual emissions report.

3. The application shall be valid provided that the annual emissions report is submitted to the competent authority by 31 March of the subsequent year after the reporting period pursuant to Article 68(1) of Implementing Regulation (EU) 2018/2066.

Article 4

Yearly calculation of the average price differences between eligible aviation fuels and fossil kerosene

1. The average price difference between eligible aviation fuel and fossil kerosene for a given year shall be calculated as follows:

Price difference(y) = price of eligible aviation fuel(y) – (price of fossil kerosene + ETS price + difference in taxation(y))

where:

Price of eligible aviation fuel(y)	=	price of eligible aviation fuel *y* or eligible aviation fuel subcategory *y* listed in the Annex determined in accordance with paragraph 2, in EUR per tonne;
Price of fossil kerosene	=	price of fossil kerosene Jet A1 determined in accordance with paragraph 4, in EUR per tonne;
ETS price	=	the price of using fossil kerosene pursuant to Directive 2003/87/EC determined in accordance with paragraph 5, in EUR per tonne;
Difference in taxation(y)	=	difference between the harmonised minimum levels of taxation on fossil kerosene and the eligible aviation fuel y, in EUR per tonne.

2. The price of eligible aviation fuels shall be determined for specific eligible aviation fuels where available, and as a minimum for the eligible aviation fuel subcategories listed in the Annex as follows:

(a) where the market price is available in the EASA technical report, the price shall be the market price published in that report;

([6]) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51, ELI: http://data.europa.eu/eli/dir/2003/96/oj).

(b) where the market price is not available in the EASA technical report, the price shall be determined as follows:

(i) where prices reported in accordance with Article 5 that cover at a minimum 25 % of the total amount of that eligible aviation fuel or the subcategory reported by all commercial aircraft operators in that reporting period are available, the price shall be the weighted average price of the reported prices for the operators who reported the prices in accordance with Article 5; for operators that did not report the prices in accordance with Article 5, the price shall be the minimum selling price determined in accordance with paragraph 3 of this Article;

(ii) where prices reported in accordance with Article 5 that cover at a minimum 25 % of the total amount of that eligible aviation fuel or the subcategory reported by all commercial aircraft operators in that reporting period are not available, the price shall be the minimum selling price determined in accordance with paragraph 3 of this Article.

3. The Commission shall determine the minimum selling price based on the best data available and taking into account relevant information available in the EASA technical report on production cost estimates and shall apply an additional margin of 10 %.

4. The price of fossil kerosene shall be the price published or to be published in the EASA technical report. If the prices are not available in the EASA technical report published or to be published by the time the Commission publishes the price differences in accordance with paragraph 7, the price of fossil kerosene shall be based on the best data available to the Commission.

5. The ETS price shall be calculated to two decimal places using the following formula:

ETS price = fossil kerosene emissions factor × price of ETS emission allowance

where:

Fossil kerosene emissions factor	=	emission factor of jet kerosene as set out in Table 1 of Annex III to Implementing Regulation (EU) 2018/2066;
Price of ETS emission allowance	=	the average price of emission allowances determined as the weighted average price of auctions carried out in accordance with delegated acts adopted pursuant to Article 10(4) of Directive 2003/87/EC during the previous calendar year as published on the common auction platform, in EUR per allowance;

The ETS price shall be zero where the eligible aviation fuel is not zero-rated in accordance with Article 54c of Implementing Regulation (EU) 2018/2066 and where the eligible aviation fuel is reported on flights under point (b) of Article 1(2).

6. Where prices are not available in euro, the yearly average of the exchange rates published by the European Central Bank shall be used for the currency exchange.

7. Each year by 31 May, the Commission shall publish in *the Official Journal of the European Union* the price difference for the previous calendar year calculated in accordance with this Article, and the values of all the elements of the formula set out in paragraph 1.

Article 5

Reporting of actual prices paid by commercial aircraft operators

1. For eligible aviation fuels used from 1 January 2025, by 28 February of each year starting in 2026, a commercial aircraft operator may report to the Commission the actual prices paid for the fuel used in the previous calendar year. Where an operator chooses to report actual prices, the operator shall provide the following together with the report:

(a) sufficient documentation, including contracts and invoices, linking the eligible aviation fuel to the commercial aircraft operator and indicating all the airports where the eligible aviation fuel was delivered and reported;

(b) evidence that the full amount of the reported eligible aviation fuel is covered by the contracts and invoices provided, at all locations where the eligible aviation fuel concerned is uplifted.

The Commission may conclude not to consider reported prices for determining the eligible aviation fuel price in accordance with Article 4(2) from a commercial aircraft operator where the submitted evidence is insufficient or lacks credibility.

2. The Commission shall ensure that the data and evidence submitted in accordance with paragraph 1 is treated in a confidential manner.

3. By way of derogation from paragraph 2, where only one or two commercial aircraft operators report the actual prices paid for an eligible aviation fuel, the Commission shall take the reported prices into account only if the commercial aircraft operators waive confidentiality requirements.

The Commission shall inform the commercial aircraft operators concerned as soon as possible after the reporting deadline when only one or two commercial aircraft operators reported the actual prices paid for an eligible aviation fuel and shall request a written waiver of confidentiality. Where the concerned commercial aircraft operators do not provide the requested waiver within 15 working days from the request, the reported prices shall not be taken into account in the calculation of the price difference in accordance with Article 4.

4. By 30 April each year the Commission shall inform the Member States which commercial aircraft operators have submitted the reported prices.

5. The provisions in this Delegated Regulation shall be without prejudice to the application of Union competition law.

Article 6

Calculation of the amount of allowances to be allocated to commercial aircraft operators

1. Competent authorities shall determine the demand for allowances for each commercial aircraft operator they administer. The demand shall be calculated as the sum of the demand for each eligible aviation fuel or eligible aviation fuel subcategory listed in the Annex, for which price was determined pursuant to Article 4(2), determined in accordance with paragraph 2 or paragraph 3, as applicable, and rounded down to the nearest integer.

2. The demand for allowances allocated for the use of each eligible aviation fuel or eligible aviation fuel subcategory listed in the Annex, for which price was determined pursuant to Article 4(2), which were uplifted at airports identified in Article 3c(6), third subparagraph, point (c), of Directive 2003/87/EC shall be determined for each commercial aircraft operator using the following formula:

$$\text{Allocation (y)} = \frac{\text{fuel used(y)} \times \text{price difference(y)}}{\text{allowance price}}$$

where:

Fuel used(y)	=	amount of neat eligible aviation fuel *y* or eligible aviation fuel subcategory *y* listed in the Annex as reported in the annual emissions report, in tonnes;
Price difference(y)	=	price difference between the eligible aviation fuel *y* or eligible aviation fuel subcategory *y* listed in the Annex and fossil fuel, as determined in accordance with Article 4(1), in EUR per tonne;
Allowance price	=	the average price of allowances as determined in accordance with Article 4(5), in EUR per allowance.

3. The demand for allowances allocated for the use of each eligible aviation fuel or eligible aviation fuel subcategory listed in the Annex, for which price was determined pursuant to Article 4(2), which were uplifted at airports other than the airports identified in Article 3c(6), third subparagraph, point (c), of Directive 2003/87/EC shall be determined for each commercial aircraft operator using the following formula:

$$\text{Allocation (y)} = \frac{\text{fuel used(y)} \times \text{price difference(y)} \times \text{level of EU ETS support(y)}}{\text{allowance price}}$$

where:

Fuel used(y)	=	amount of neat eligible aviation fuel *y* or eligible aviation fuel subcategory *y* listed in the Annex as reported in the annual emissions report, in tonnes;
Price difference(y)	=	price difference between the eligible aviation fuel category *y* or eligible aviation fuel subcategory *y* listed in the Annex and fossil fuel, as determined in accordance with Article 4(2), in EUR per tonne;
Allowance price	=	the average price of allowances as determined in accordance with Article 4(5), in EUR per allowance;
Level of EU ETS support(y)	=	share of the price difference to be covered for eligible aviation fuel category *y* as specified in Article 3c(6), third subparagraph, of Directive 2003/87/EC.

4. By 15 June each year competent authorities shall notify to the Commission the following information for each commercial aircraft operator that has applied for the allocation:

(a) name and ETS ID of the commercial aircraft operator;

(b) the amount of eligible aviation fuel per category covered by the application, in tonnes;

(c) the demand for allocation of allowances calculated in accordance with paragraphs 1, 2 and 3.

5. The Commission shall aggregate the total demand for allocation of allowances and shall assess whether the demand in a particular year is not higher than the amount of allowances remaining from the amount reserved for this purpose in accordance with Article 3c(6) of Directive 2003/87/EC.

Where the total demand for allocation of allowances in a particular year is higher than the availability of allowances, the Commission shall calculate an allocation reduction factor. That factor shall be applied in a uniform manner to all commercial aircraft operators concerned by the allocation for that year to determine the final allocation of allowances for each commercial aircraft operator. The allocation reduction factor shall be calculated using the following formula:

$$\text{Allocation reduction factor} = \frac{\text{remaining reserved allowances in year y}}{\text{total demand for allowances in year y}}$$

The Commission shall inform the competent authorities when the application of an allocation reduction factor is necessary and shall indicate the value of the calculated reduction factor. Based on that information, the competent authorities shall recalculate the final allocation per commercial aircraft operator and notify it to the Commission.

The final allocation per commercial aircraft operator shall be rounded down to the nearest integer.

6. By 31 August each year, the Commission shall adopt a Decision indicating the allocation of allowances per commercial aircraft operator based on the notifications received, shall inform the relevant competent authorities and shall introduce the changes, where appropriate, into the Union Registry set up pursuant to Article 19 of Directive 2003/87/EC and the transaction log, referred to in Article 20 of that Directive.

Article 7

Correction procedure

1. Where corrections to the amount of allowances included in the Decision pursuant to Article 6(6) of this Regulation are necessary, such corrections shall be carried out by using allowances from, or by returning allowances to, the amount of allowances reserved in accordance with Article 3c(6) of Directive 2003/87/EC.

2. Where, in accordance with paragraph 1 of this Article, allowances need to be used from the amount of allowances reserved in accordance with Article 3c(6) of Directive 2003/87/EC and there are no such allowances remaining, the correction requiring additional allowances shall not be carried out.

Article 8

Visibility

Commercial aircraft operators receiving support under this Regulation shall be subject to the following obligations:

(a) shall acknowledge the origin of the support and ensure the visibility of the Union support, in particular when promoting the use of alternative fuels and the results from this use, by providing coherent, effective and targeted information to various audiences, including to passengers, the media and the public, and in the commercial aircraft operator's sustainability statements and annual reports;

(b) shall use, for all communication and knowledge-sharing activities, including on passenger tickets, and on notice boards at strategic places visible to the public, the label that reads '(co-)funded by the EU Emissions Trading System', as well as the emblem of the Union and the amount of support.

Article 9

Entry into force

This Regulation shall enter into force on the third 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, 6 February 2025.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

ELIGIBLE AVIATION FUEL SUBCATEGORIES

	Eligible aviation fuel subcategory	Level of direct EU ETS support laid down in Article 3c(6), third subparagraph, of Directive 2003/87/EC [1]	Details
1	Renewable fuels of non-biological origin	95 %	Drop-in renewable fuels of non-biological origin as defined in Article 2, point (36), of Directive (EU) 2018/2001 and that are certified in compliance with Article 30 of that Directive
2	Co-processed renewable fuels of non-biological origin	95 %	Co-products in a conventional refinery that are drop-in renewable fuels of non-biological origin as defined in Article 2, point (36), of Directive (EU) 2018/2001 and that are certified in compliance with Article 30 of that Directive
3	Advanced aviation biofuels	70 %	Biofuels produced from the feedstock listed in Part A of Annex IX to Directive (EU) 2018/2001 and that are certified in compliance with Article 30 of that Directive
4	Advanced co-processed fuels	70 %	Co-products in a conventional refinery produced from the feedstock listed in Part A of Annex IX to Directive (EU) 2018/2001 and that are certified in compliance with Article 30 of that Directive
5	Renewable hydrogen for aviation	70 %	Renewable hydrogen for aviation as defined in Article 3, point (16), of Regulation (EU) 2023/2405
6	Aviation biofuels	50 %	Biofuels produced from feedstock listed in Part B of Annex IX to Directive (EU) 2018/2001 and that are certified in compliance with Article 30 of that Directive
7	Other aviation biofuels	50 %	Biofuels produced from the feedstock not listed in Annex IX to Directive (EU) 2018/2001 and not produced from food and feed crops, and that are certified in compliance with Article 30 of that Directive
8	Non-fossil low-carbon hydrogen for aviation	50 %	Low-carbon hydrogen for aviation as defined in Article 3, point (15), of Regulation (EU) 2023/2405 that is not derived from fossil fuels
9	Non-fossil synthetic low-carbon aviation fuels	50 %	Synthetic low-carbon aviation fuels as defined in Article 3, point (13), of Regulation (EU) 2023/2405 that is not derived from fossil fuels
10	Co-processed fuels	50 %	Co-products in a conventional refinery other than advanced co-processed fuels and that are certified in compliance with Article 30 of Directive (EU) 2018/2001

[1] Level of support except where the fuel is uplifted at an airport identified in Article 3c(6), third subparagraph, point (c), of Directive 2003/87/EC, where the level of support is 100 %.