

**Act on National
Allowance Trading for Fuel Emissions
Fuel Emission Allowance Trading Act (BEHG)**

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Part 1 General provisions

Section 1 Purpose of the Act

The purpose of the present Act is to create the basis for trading in allowances for emissions from fuels and to ensure pricing of such emissions where these emissions are not covered by EU emissions trading, thus helping to reach national climate targets, including the long-term target of greenhouse gas neutrality by 2050, the mitigation targets in accordance with the EU Effort Sharing Regulation, and to improve energy efficiency. The purpose of the national emissions trading scheme is the pricing of fossil greenhouse gas emissions.

Section 2 Scope

(1) The present Act shall apply to the emission of greenhouse gases from the fuels specified in Annex 1 that are placed on the market in accordance with subsection (2).

(2) Fuels shall be deemed to have been placed on the market once energy duty becomes chargeable in accordance with section 8 subsection (1), section 9 subsection (1), section 9a subsection (4), section 14 subsection (2), section 15 subsection (1) or subsection (2), section 18 subsection (2), section 18a subsection (1), section 19b subsection (1), section 22 subsection (1), section 23 subsections (1) and (1a), section 30 subsection (1), section 32 subsection (1), sections 34, 35, 36 subsection (1), section 37 subsection (2), fifth and sixth sentences, subsection (3), second sentence, subsection (4), first sentence, section 38 subsection (1), section 40 subsection (1), section 41 subsection (1), section 43 subsection (1) or section 44 subsection (4), second sentence, of the Energy Duty Act (*Energiesteuergesetz*). Fuels shall equally be deemed to have been placed on the market if energy duty becoming chargeable is followed by a tax exemption procedure in accordance with section 37 subsection (2) number 3 or number 4 of the Energy Duty Act.

(3) The present Act shall also apply to tasks in connection with measures in accordance with the present Act to compensate for the double counting of emissions in EU emissions trading, and with measures to safeguard international competitiveness and to compensate for unreasonable hardship.

Section 3 Definitions

The following definitions shall apply for the purposes of the present Act:

1. fuel emission:

the volume of carbon dioxide in tonnes that can be released during the combustion of fuels in accordance with Annex 1 and is attributed to the responsible party as a result of placing on the market in accordance with section 2 subsection (2);

2. emission allowance:

an allowance to emit one tonne of greenhouse gases in tonnes of carbon dioxide equivalent during a specified period;

3. responsible party:

the natural or legal person or partnership defined as the tax debtor for the acts in accordance with section 2 subsection (2), even if a tax exemption procedure follows; in cases of section 7 subsection (4), first sentence, of the Energy Duty Act, the third party (depositor) shall be the responsible party in place of the tax warehousekeeper;

4. EU emissions trading:

the EU-wide scheme for recording and limiting greenhouse gas emissions, regulated by the respectively applicable version of 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 of 25 October 2003, p. 32; L 140 of 14 May 2014, p. 177), most recently amended by Directive (EU) 2018/410 (OJ L 76 of 19 March 2018, p. 3);

5. EU Effort Sharing Regulation:

the respectively applicable version of 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 525/2013 (OJ L 156 of 19 June 2018, p. 26);

6. trading period:

the period corresponding to the period specified in the EU Effort Sharing Regulation;

7. Combined Nomenclature:

the goods nomenclature in accordance with Article 1 of Regulation (EEC) No 2658/87 of the Council of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256 of 7 September 1987, p. 1; L 341 of 3 December 1987, p. 38; L 378 of 31 December 1987, p. 120; L 130 of 26 May 1988, p. 42; L 151 of 8 June 2016, p. 22), amended by Implementing Regulation (EU) 2017/1925 (OJ L 282 of 31 October 2017, p. 1), in the version applicable on 1 January 2018;

8. monitoring plan:

an outline of the method used by responsible parties to identify their fuel emissions and to report on said emissions;

9. greenhouse gases:

the greenhouse gases listed in section 3 number 16 of the Greenhouse Gas Emissions Trading Act (*Treibhausgas-Emissionshandelsgesetz*);

10. Energy Duty Act:

The Energy Duty Act of 15 July 2006 (Federal Law Gazette [BGBl.] I p. 1534; 2008 I pp. 660 and 1007), most recently amended by section 3 of the Act of 22 June 2019 (Federal Law Gazette I pp. 856 and 908);

Part 2 Budget planning

Section 4 Annual emission budgets

(1) For each calendar year within a trading period, a budget of fuel emissions in Germany shall be determined that, with regard to fuel emissions, ensures compliance with the mitigation requirement on the part of the Federal Republic of Germany in accordance with Article 4 paragraph (1) in conjunction with Annex 1 to the EU Effort Sharing Regulation (annual emission budget). The annual emission budget shall be calculated from the annual emission allocations for the Federal Republic of Germany in accordance with Article 4 paragraph (3) of the EU Effort Sharing Regulation, multiplied by the percentage share of fuel emissions not covered by EU emissions trading in the total greenhouse gas emissions in Germany not covered by EU emissions trading, averaged over the fifth to third years before the start of the respective trading period.

(2) The Federal Government is herewith authorised to determine, by means of a statutory instrument that shall not require the consent of the Bundesrat, the annual emission budgets, subject to the stipulations of subsection (1).

(3) The annual emission budget in accordance with subsection (1) shall be increased, in each case, by the amount of fuel emissions for which emission allowances must be surrendered in accordance with the present Act and for which allowances for direct emissions must be surrendered in accordance with the Greenhouse Gas Emissions Trading Act. Where there are subsequent deviations between the estimated and actual levels of fuel emissions for which emission allowances must be surrendered in accordance with the present Act and for which allowances must be surrendered in accordance with the Greenhouse Gas Emissions Trading Act, this shall be taken into account in the budget increase in the following years.

(4) The Federal Government is herewith authorised to specify, by means of a statutory instrument that shall not require the consent of the Bundesrat, details for calculating the annual increase in accordance with subsection (3).

(5) The competent authority shall determine the annual increase in budget in accordance with the stipulations in subsection (3), as well as in accordance with the stipulations of the statutory instrument in accordance with subsection (4); it shall publish this information in the Federal Gazette (*Bundesanzeiger*).

Section 5 Flexibility instruments in accordance with the EU Effort Sharing Regulation

(1) Where the annual emission budget in accordance with section 4 subsections (1) and (3) for a calendar year within the trading period is exceeded during the introductory phase in accordance with section 10 subsection (2), first and second sentences, and for the duration of the application of a price corridor, and where the annual budgets of the EU Effort Sharing Regulation are not complied with, the demand for emission allowances over and above this shall be covered through the use of flexibility options in accordance with the EU Effort Sharing Regulation, including the purchase of a corresponding quantity of additional emission allocations from other Member States.

(2) The Federal Government is herewith authorised to regulate, by means of a statutory instrument that shall not require the consent of the Bundesrat, details for calculating the additional demand in accordance with subsection (1), in particular to take into account

1. the crediting of possible excesses in emission allocations through mitigations in other sectors,
2. the amount of emission allowances issued but not surrendered in a year, and
3. the actual overlap resulting in accordance with section 4 subsection (3).

Part 3 Basic obligations of the responsible parties

Section 6 Monitoring plan, simplified monitoring plan

(1) The responsible party shall be obliged to submit a monitoring plan for identifying fuel emissions and reporting in accordance with section 7 subsection (1) to the competent authority for each trading period. Where the responsible party identifies the fuel emissions exclusively by applying standard emission factors for the fuels placed on the market, it shall be sufficient

for the responsible party to submit a simplified monitoring plan. The monitoring plan and the simplified monitoring plan shall require approval by the competent authority.

(2) Approval of the monitoring plan shall be granted where the monitoring plan complies with the stipulations of the statutory instrument in accordance with subsection (5). Where a submitted monitoring plan does not comply with said stipulations, the responsible party shall be obliged to remedy the shortcomings identified by the competent authority within a period specified by the competent authority, and to submit the modified monitoring plan. The competent authority may attach conditions to the approval for the monitoring of and reporting on fuel emissions.

(3) Approval of the simplified monitoring plan shall be granted where the responsible party declares that the fuel emissions are to be identified solely by applying standard emission factors, and where the method to be used by the responsible party to identify the type and amount of fuels placed on the market complies with the stipulations of the statutory instrument in accordance with subsection (5). Subsection (2), second and third sentences, shall apply *mutatis mutandis*. Approval of the simplified monitoring plan shall be deemed to have been granted where the competent authority does not call on the responsible party, within two months of submission of the simplified monitoring plan, to remedy shortcomings that have been identified or to submit additional information.

(4) The responsible party shall be obliged to modify the monitoring plan or the simplified monitoring plan forthwith within a trading period, and to submit it to the competent authority, if

1. the stipulations in the statutory instrument in accordance with subsection (5) change,
2. the responsible party plans to place other types of fuel on the market that necessitate a change to the monitoring method, or
3. a responsible party with a simplified plan decides to no longer identify its fuel emissions in the following year solely by applying standard emission factors.

Subsections (1) to (3) shall apply *mutatis mutandis* to the modified monitoring plan in accordance with the first sentence.

(5) The Federal Government is herewith authorised to set, by a statutory instrument that shall not require the consent of the Bundesrat, deadlines for submission of the monitoring plan or of the simplified monitoring plan, and to specify requirements for the minimum content of the monitoring plan or of the simplified monitoring plan, in particular regarding

1. documentation of the method used to identify fuel emissions and the type and amount of fuels placed on the market by the responsible party, and
2. details of the method used by the responsible party when reporting fuel emissions.

Section 7 Identification of and reporting on fuel emissions

(1) The responsible party shall identify the fuel emissions for the fuels placed on the market in a calendar year on the basis of the monitoring plan, and shall report on the fuel emissions to the competent authority by 31 July of the following year.

(2) The reporting requirement in accordance with subsection (1) shall apply for the first time to the calendar year 2021. For the calendar years 2021 and 2022, the reporting requirement in accordance with subsection (1) shall be limited to fuels in accordance with Annex 2.

(3) The information in the emission report in accordance with subsection (1) must have been verified by a verifier in accordance with section 15.

(4) The Federal Government is herewith authorised to regulate, by means of a statutory instrument that shall not require the consent of the Bundesrat, the requirements for identifying fuel emissions and reporting; in particular it may

1. set stipulations for emission identification, reporting and verification,
2. set default values for fuel emission factors; biogenic fuel emissions, where there is corresponding proof of sustainability, and sewage sludge are to be assigned the emission factor zero,
3. prescribe less stringent requirements for reporting and verification in the case of exclusive identification and reporting in accordance with standard emission factors,
4. order, for the first two reporting years, that the identification of fuel emissions shall exclusively be carried out by applying standard emission factors,
5. regulate details to prevent duplicate recording by means of exemption from the reporting requirement for fuel emissions where it is proven that the emissions have already been the subject of emission reporting.

(5) Two-fold burdens resulting from the use of fuels in an installation that is subject to EU emissions trading shall be avoided from the outset where possible. The Federal Government shall lay down by 31 December 2020, by means of a statutory instrument that shall not require the consent of the Bundesrat, requirements and procedures regarding how the responsible party may deduct a corresponding amount of fuel emissions from the fuel emissions to be reported in accordance with subsection (1), particularly in the case of the direct supply of fuels to a company and the use of said fuels in an installation that is subject to EU emissions trading; this shall apply where the use of these fuels has been documented in the emission report in accordance with section 5 of the Greenhouse Gas Emissions Trading Act.

Section 8 Surrender of emission allowances

The responsible party shall, by 30 September of each year, surrender a number of emission allowances to the competent authority corresponding to the total amount of fuel emissions reported in the previous calendar year in accordance with section 7.

Part 4 Emission allowances, sale and registry

Section 9 Emission allowances

(1) Allocation to a trading period, and to a calendar year within this trading period, shall be made clearly recognisable on the emission allowances. The emission allowances for fuel emissions shall be valid from the first year of the respective trading period onwards. In derogation from the first and second sentences, emission allowances sold during the introductory phase in accordance with section 10 subsection (2), second sentence, shall only be valid for the calendar year made clearly recognisable on the emission allowance to cover fuel emissions of the calendar year in question, or of the previous year. The Federal Government is herewith authorised to limit, by means of a statutory instrument that shall not require the consent of the Bundesrat, the validity of the emission allowances, in deviation from the second sentence, for the duration of the application of the price corridor in accordance with section 10 subsection

(2), fourth sentence. The holder of emission allowances may forgo them at any time and require that they be cancelled.

(2) Emission allowances shall be transferable. The transfer of emission allowances shall take place through agreement and entry in the account of the purchaser in the national emissions trading registry in accordance with section 12. The entry shall be made at the request of the seller to the competent authority to transfer emission allowances from the seller's account to the account of the purchaser.

(3) Where an emission allowance has been entered in a party's account in the national emissions trading registry, the content of the emissions trading registry shall be deemed correct. This shall not apply where the recipient of emission allowances is aware that emission allowances are incorrect when the transfer is made, at the time of the transfer.

Section 10 Sale of emission allowances

(1) The budget of emission allowances specified in accordance with section 4 subsections (1) and (3), and the additional amounts that may emerge in the introductory phase in accordance with subsection (2), shall be sold by the competent authority. The emission allowances shall be sold for a fixed price and, from 2026 onwards, shall be auctioned. In the case of auctioning, the emission budget available in a calendar year shall be tendered at regular intervals and in equal sub-quantities. The competent authority shall ensure that the auctioning dates in accordance with subsection (3) shall be announced two months in advance at the latest.

(2) During the introductory phase, the emission allowances shall initially be sold for a fixed price. For the duration of the sale, the fixed price per emission allowance shall be

1. in the period from 1 January 2021 to 31 December 2021: 25 euros,
2. in the period from 1 January 2022 to 31 December 2022: 30 euros,
3. in the period from 1 January 2023 to 31 December 2023: 35 euros,
4. in the period from 1 January 2024 to 31 December 2024: 45 euros,
5. in the period from 1 January 2025 to 31 December 2025: 55 euros.

Responsible parties may purchase up to 10 percent of the emission allowances purchased in one of the years 2021 to 2025, by 30 September of the respective following year, in order to comply with the surrender requirement in accordance with section 8 for the previous year at the fixed price for said year. A price corridor with a minimum price of 55 euros per emission allowance, and a maximum price of 65 euros per emission allowance, shall be set for 2026.

(3) The Federal Government is herewith authorised to regulate, by means of a statutory instrument that shall not require the consent of the Bundesrat, the auction procedure and the details regarding the sale for a fixed price. The statutory instrument shall, in particular,

1. specify the competent body, and
2. specify the regulations for the implementation of the auction procedure; these must be objective, comprehensible and non-discriminatory, and must contain precautionary measures against pricing being influenced by the behaviour of individual bidders.

In the case of sale for the fixed price, the statutory instrument may provide for the commissioning of another body by the competent authority.

(4) The Federation shall be entitled to the revenues from the sale. The costs incurred by the Federation as a result of carrying out the tasks assigned to it by the present Act, including the expenditure in accordance with section 11, and that are not covered by fees in accordance with

section 16, shall be covered by the revenues referred to in the first sentence, with the exception of the costs in accordance with section 5.

Section 11 Compensating for indirect burdens

(1) Where the introduction of fuel emissions trading in accordance with the present Act leads to unreasonable hardship for a company that is affected and a company associated with said company that must stand as guarantor with its capital for the risks of the operation of the affected company on trade law or commercial law grounds, the competent authority shall, upon application, grant financial compensation in the amount required to prevent the unreasonable hardship in question. This shall not apply to responsible parties within the meaning of section 3 subsection (1) number 3. An unreasonable hardship shall not generally be assumed to exist where the fuel costs of a company, also taking account of the direct and indirect additional costs resulting from the introduction of fuel emissions trading, total no more than 20 percent of the total operational costs, or where the share of additional costs resulting from the introduction of fuel emissions trading totals no more than 20 percent of gross value added. The Federal Government is herewith authorised

1. to regulate the details of the application process and of the proof and documentation to be provided, and
2. to adjust the threshold values referred to in the second and third sentences

by means of a statutory instrument that shall not require the consent of the Bundesrat.

(2) The Federal Government is herewith authorised to regulate, by means of a statutory instrument that shall not require the consent of the Bundesrat, the details concerning the full financial compensation for installation operators within the meaning of section 3 number 2 of the Greenhouse Gas Emissions Trading Act that use the fuels in accordance with Annex 1 for which emission allowances have been surrendered in accordance with the present Act and for which, due to their use in an installation subject to emissions trading, allowances must also be surrendered in accordance with the Greenhouse Gas Emissions Trading Act. The statutory instrument shall require the consent of the Bundestag. If the Bundestag has not considered the statutory instrument by the time three sitting weeks have elapsed since the date of receipt, it shall be deemed to have given its consent to the unamended statutory instrument.

(3) The Federal Government is herewith authorised to regulate, by means of a statutory instrument that shall not require the consent of the Bundesrat, the necessary measures to prevent carbon leakage and safeguard the transboundary competitiveness of the affected companies. These measures are primarily to be carried out by means of financial support for climate-friendly investments. The statutory instrument shall require the consent of the Bundestag. If the Bundestag has not considered the statutory instrument by the time six sitting weeks have elapsed since the date of receipt, it shall be deemed to have given its consent to the unamended statutory instrument.

Section 12 The national emissions trading registry

(1) The competent authority shall maintain a national emissions trading registry in the form of an electronic database. The emissions trading registry shall contain accounts for emission allowances and indicate availability restrictions. It shall contain a record of the reported and verified fuel emissions of the responsible parties. Measures that are in line with the best

available technology shall be taken when establishing and operating the emissions trading registry in order to ensure data protection and data security.

(2) Each responsible party shall be given an account in which the issue, holding, transfer, cancellation and surrender of emission allowances are recorded. Surrendered emission allowances shall be cancelled by the competent authority. Each person shall receive, upon application, an account in which the holding, cancellation and transfer of emission allowances are recorded.

(3) All account holders shall have free access to the information saved in their accounts.

(4) The data available in the emissions trading registry on the reported and verified fuel emissions of the responsible parties, and on the amount of emission allowances surrendered by the responsible parties in order to comply with the surrender requirement in accordance with section 8, shall be made publicly accessible by the competent authority. The competent authority shall make the data on the transfers of emission allowances carried out by the responsible parties publicly accessible on expiry of five years after such transfer.

(5) The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety is herewith authorised to regulate, by means of a statutory instrument that shall not require the consent of the Bundesrat, the details concerning the establishment, operation and maintenance of the emissions trading registry.

Part 5 Common provisions

Section 13 Competences

(1) The competent authority shall be the Federal Environment Agency.

(2) Where recourse may be had to administrative courts for disputes in accordance with the present Act, the administrative court in the district in which the German Emissions Trading Authority (DEHSt) at the Federal Environment Agency has its headquarters shall have local jurisdiction for legal proceedings launched against an act or failure to act on the part of the Federal Environment Agency.

Section 14 Monitoring, data transfer

(1) The competent authority shall monitor enforcement of the present Act and of the statutory instruments issued on the basis thereof.

(2) The responsible parties shall forthwith permit staff of the competent authority and parties commissioned thereby

1. access to their premises or sites during business hours,
2. to perform inspections during business hours, and
3. upon request, shall provide information and present the documentation required for compliance with their tasks.

As part of the requirements in accordance with the first sentence, the responsible parties shall provide personnel and resources.

(3) Section 55 of the Code of Criminal Procedure (*Strafprozessordnung*) shall apply mutatis mutandis to the person obliged to provide information.

(4) As part of the review carried out by the competent authority of the data submitted by the responsible parties in accordance with section 7, the Central Customs Authority (*Generalzolldirektion*) shall, upon request of the competent authority, make available to the authority the data provided by the responsible parties as part of the taxation procedure in accordance with the Energy Duty Act, where this data and information are pertinent for the verification of emission reporting of the responsible parties. The Federal Government is herewith authorised to regulate, by means of a statutory instrument that shall not require the consent of the Bundesrat, details on data transfer, in particular regarding the scale and form of the data required, specifications of the frequency of information provision and the deadline for processing, and the requirement for the data transfer procedure, including the type and method of data transfer. In the case of an automated retrieval procedure or of an automated request and information provision procedure, the parties involved shall ensure that measures in line with the best available technology are taken to ensure data protection and data security that in particular safeguard the confidentiality and integrity of the data; encryption procedures in accordance with the best available technology shall be applied in the case of the use of generally accessible networks.

Section 15 Verifiers

(1) The following shall be authorised to verify emission reports in accordance with section 7 subsection (1):

1. in their respective scope of activity, verifiers accredited for the activity groups in accordance with numbers 1a to 2 of Annex I to Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 334 of 31 December 2018, p. 94), with regard to reports on fuel emissions,
2. environmental verifiers, accredited in accordance with the respective version of the Environmental Audit Act (*Umweltauditgesetz*) in the version promulgated on 4 September 2002 (Federal Law Gazette I p. 3490), most recently amended by article 13 of the Act of 27 June 2017 (Federal Law Gazette I p. 1966), for reports on fuel emissions by responsible parties in the field for which the environmental verifiers are accredited, and
3. further verifiers subject to the stipulations of a statutory instrument in accordance with subsection (2).

The verifier shall carry out the tasks assigned to it in the public interest only.

(2) The Federal Government is herewith authorised to grant, by means of a statutory instrument that shall not require the consent of the Bundesrat, to further expert bodies or occupational groups the authorisation to verify emission reports in accordance with subsection (1). Said authorisation may be granted in the statutory instrument independently of prior notification by the competent authority; in such case, the instrument shall also regulate the prerequisites and the procedure for accreditation review, as well as the prerequisites and procedure for the notification of verifiers.

Section 16 Fees for individually attributable public services

(1) The competent authority shall charge the account holder a fee of 170 euros to open an account for a person or trader in the national emissions trading registry; it shall charge a fee of 600 euros per trading period to administer an account for a person or trader; the competent

authority shall charge a fee of 60 euros in each case to effect a change to the name of an account, or a change to an authorised account representative.

(2) Where an objection to decisions in accordance with the present Act is wholly or partly rejected, the fee shall be between 50 and 4,000 euros, depending on the level of administrative expenditure incurred. This shall not apply where the objection is only unsuccessful because the breach of a procedural or form stipulation in accordance with section 45 of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz*) is insignificant. Should the objection be withdrawn after the processing of the application has begun, but before it is concluded, the fee shall be reduced by at least 25 percent.

Section 17 Electronic communication

(1) The competent authority may prescribe the use of the written or electronic form for monitoring plans, reports and applications, for the notification of decisions, and for other communication. Where the electronic form of communication is prescribed, the competent authority may prescribe a specific encryption and the opening of access for the submission of electronic documents. The competent authority may also prescribe that responsible parties or verifiers shall only use the electronic form templates made available on its website for drawing up monitoring plans or reports, or for submitting applications, and that the completed form templates are to be submitted in electronic form and using a qualified signature. Where the use of electronic form templates is prescribed, the submission of additional documents to supplement the form templates shall be possible, taking account of the form stipulations in the third sentence. Orders in accordance with the first to third sentences shall be announced in the Federal Gazette.

(2) Subsection (1) shall apply *mutatis mutandis* to procedures for measures within the meaning of section 2 subsection (3).

Section 18 Change to the identity or legal form of the responsible party

(1) Should the identity or legal form of a responsible party change, the new responsible party shall notify this to the competent authority forthwith following the change. The new responsible party shall assume the obligations not yet complied with by the original responsible party in accordance with sections 6 to 8.

(2) Where insolvency proceedings are opened regarding the assets of a responsible party, the insolvency administrator shall notify the competent authority thereof forthwith. All obligations incumbent on the responsible party under the present Act shall remain effective during the insolvency proceedings. The insolvency administrator shall notify the competent authority of the natural persons who are authorised, during the insolvency proceedings, to carry out transfers in accordance with section 9 subsection (2). The first to third sentences shall apply *mutatis mutandis* to the provisional insolvency administrator with the right to dispose over the assets of the responsible party, and to the responsible party as a debtor in possession.

Section 19 Exclusion of a delaying effect

Objections to and court actions against decisions in accordance with section 6 subsection (2), third sentence, section 20, first sentence, or section 21 subsection (2), first sentence, shall not have any delaying effect.

Section 20 Enforcement of the reporting requirement

Where a responsible party does not comply with its reporting requirement in accordance with section 7 subsection (1) following the end of the introductory phase in accordance with section 10 subsection (2), first and second sentences, the competent authority shall order the suspension of the responsible party's account in the national emissions trading registry. Suspension shall be rescinded as soon as the responsible party submits an emission report to the competent authority and the competent authority recognises that this report adequately satisfies the requirements in accordance with section 7, or an estimate of the emissions in accordance with section 21 subsection (2), first sentence, is carried out.

Section 21 Enforcement of the surrender requirement

(1) Where a responsible party does not comply with its surrender requirement in accordance with section 8, the competent authority shall set a payment requirement for each tonne of carbon dioxide equivalent for which the responsible party has not surrendered an emission allowance. The payment to be made shall total,

1. in the introductory phase in accordance with section 10 subsection (2), first and second sentences, for the years with a sale for a fixed price, double the respective fixed price for each emission allowance not surrendered;
2. in all other cases, the amount of the payment requirement to be set for the respective year in accordance with section 30 subsection (1), first and second sentences, of the Greenhouse Gas Emissions Trading Act.

A notification of payment in accordance with the first sentence may be waived if the responsible party was not able to meet its surrender requirement in accordance with section 8 due to force majeure. Where the responsible party has reported on fuel emissions in accordance with section 7, it shall only be permissible to determine the payment requirement where the amount of emission allowances surrendered is lower than the amount of verified fuel emissions in the emission report.

(2) Where a responsible party has not reported on fuel emissions properly, the competent authority shall estimate the fuel emissions that are attributable to the responsible party. The estimate shall serve as the basis for the surrender requirement in accordance with section 8. The estimate shall not be carried out if the responsible party properly meets its reporting requirement in the framework of the hearing on the notification of payment in accordance with subsection (1).

(3) Notwithstanding payments effected in accordance with subsection (1), the responsible party shall remain obliged to surrender the outstanding emission allowances by 30 September of the year following the violation of the surrender or reporting requirement; where fuel emissions have been estimated in accordance with subsection (2), the emission allowances shall be surrendered subject to the estimate made.

Section 22 Provisions governing regulatory fines

(1) A regulatory offence shall be deemed to have been committed by whomsoever fails to present a report, or to do so correctly, or completely, or on time, in contravention of section 7 subsection (1).

(2) A regulatory offence shall be deemed to have been committed by whomsoever negligently carries out an action described in subsection (1).

(3) A regulatory offence shall be deemed to have been committed by whomsoever, wilfully or negligently,

1. fails to submit a monitoring plan, or to do so correctly, or completely, or on time, in contravention of section 6 subsection (1), first sentence, or of subsection (4), first sentence,
2. fails to permit an action listed in section 14 subsection (2), fails to provide information, or to do so correctly, or completely, or on time, fails to submit a document, or to do so correctly, or on time, or fails to make available an employee or a resource, or to do so on time, in contravention of section 14 subsection (2),
3. contravenes a statutory instrument in accordance with section 11 subsection (1), third sentence, or an enforceable order based on such statutory instrument, where the statutory instrument makes reference to this provision governing regulatory fines with respect to a specific offence,
4. fails to notify, or to do so correctly, or completely, or on time, in contravention of section 18 subsection (1), first sentence.

(4) The regulatory offence in cases falling under subsection (1) may be sanctioned with a fine of up to five hundred thousand euros, and in cases falling under subsections (2) and (3) with a fine of up to fifty thousand euros.

Part 7 Evaluation

Section 23 Progress report

(1) The Federal Government shall evaluate the present Act, and shall submit a progress report to the Bundestag by 30 November 2022 and by 30 November 2024 respectively, and thereafter every four years. It shall report therein in particular on the status of implementation and on the effectiveness of the national emissions trading scheme, the impacts of the fixed prices and price corridors in accordance with section 10 subsection (2), and shall, on this basis, make proposals where required on legal amendments in order to adapt and refine the emissions trading scheme. In doing so, it shall take account of the annual climate action reports in accordance with section 10 of the Federal Climate Change Act (*Bundes-Klimaschutzgesetz*). This shall be without prejudice to the option of legal adjustment of the fixed prices and price corridors. Where the Federal Government deems it expedient and necessary to continue the auction price corridor on the basis of the report to be submitted by 30 November 2024, it shall present a proposal for legal implementation in 2025.

(2) The Federal Environment Agency shall support the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety in drawing up the progress report. The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety shall consult the federal ministries involved at an early stage; they shall support the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety in drafting the progress report.

Part 8 Concluding provisions

Section 24 Entry into force

(1) Subject to the provision in subsection (2) below, the present Act shall enter into force on the day after its promulgation.

(2) Section 11 subsections (1) and (2) shall enter into force

1. on the first day of the month following the day on which the European Commission has issued the approval required under state aid law regarding section 11 subsections (1) and (2),
2. however not before the day after promulgation of the present Act.

The date of the entry into force shall be publicly and separately announced in the Federal Law Gazette by the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety.

Fuels

Fuels within the meaning of the present Act shall be deemed to be constituted by the following:

1. goods falling under headings 1507 to 1518 of the Combined Nomenclature that are intended for use as a power or heating fuel,
2. goods falling under headings 2701, 2702 and 2704 to 2715 of the Combined Nomenclature,
3. goods falling under headings 2901 and 2902 of the Combined Nomenclature,
4. goods falling under subheading 2905 11 00 of the Combined Nomenclature that are non-synthetic and are intended for use as a power or heating fuel,
5. goods falling under headings 3403, 3811 and 3817 of the Combined Nomenclature,
6. goods falling under subheadings
 - a) 3824 99 86 and 3824 99 93,
 - b) 3824 99 92 and 3824 99 96 (in each case other than anti-rust preparations containing amines as active elements and inorganic composite solvents and thinners for varnishes and similar products),
 - c) 3826 00 10 and 3826 00 90 of the Combined Nomenclature

that are intended for use as a power or heating fuel.

Fuels within the meaning of the present Act shall be deemed to also be constituted by the following, with the exception of peat and goods falling under headings 4401 and 4402 of the Combined Nomenclature,

1. goods other than those listed in subsection (1) that are intended for use, offered for sale or used as a power fuel or as an additive or extender in power fuels,
2. goods other than those listed in subsection (1) consisting wholly or partly of hydrocarbons that are intended for use, offered for sale or used as a heating fuel.

The first sentence shall not apply to goods that are covered by an excise duty suspension procedure in accordance with the provisions of the Alcohol Duty Act (*Alkoholsteuergesetz*).

Fuels for emission reporting in 2021 and 2022

For emission reporting for the calendar years 2021 and 2022, fuels within the meaning of the present Act shall be deemed to be constituted by the following:

1. petrol falling under subheadings 2710 12 41, 2710 12 45 and 2710 12 49 and subheadings 2710 12 31, 2710 12 51 and 2710 12 59 of the Combined Nomenclature;
2. gas oils falling under subheadings 2710 19 43 to 2710 19 48 and 2710 20 11 to 2710 20 19 of the Combined Nomenclature;
3. fuel oils falling under subheadings 2710 19 62 to 2710 19 68 and 2710 20 31 to 2710 20 39 of the Combined Nomenclature;
4. natural gas: goods falling under subheadings 2711 11 (liquefied natural gas) and 2711 21 of the Combined Nomenclature and gaseous energy products that are collected during coal mining, excluding gaseous biofuels for motors and heating;
5. liquefied gases: goods falling under subheadings 2711 12 to 2711 19 of the Combined Nomenclature.