



Brussels, XXX  
[...] (2024) XXX draft

**COMMISSION IMPLEMENTING REGULATION (EU) .../...**

**of XXX**

**amending Implementing Regulation (EU) 2018/2067 as regards the verification of data  
and the accreditation of verifiers**

(Text with EEA relevance)

*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.*

# COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

## **amending Implementing Regulation (EU) 2018/2067 as regards the verification of data and the accreditation of verifiers**

(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<sup>1</sup>, and in particular, Article 15, third subparagraph, and Article 30f(1) and (5), second subparagraph, thereof,

Whereas:

- (1) Following the amendment of Directive 2003/87/EC by Directive (EU) 2023/959 of the European Parliament and of the Council<sup>2</sup>, Commission Implementing Regulation (EU) 2018/2067<sup>3</sup> needs to be amended to incorporate rules applying to the verification of greenhouse gas emissions of installations for the incineration of municipal waste with a total rated thermal input exceeding 20 MW. To ensure harmonised approaches across installations carrying out combustion activities, the same requirements should apply to the verification of municipal waste incineration installations as to other combustion installations. Where a Member State has not required the installation for municipal waste incineration to have a greenhouse gas emission permit as referred to in Article 4 of the Directive 2003/87/EC, the verifier should focus its assessment on compliance with the monitoring plan.
- (2) Directive (EU) 2023/959 has extended the scope of activities listed in Annex I to Directive 2003/87/EC for the production of oil, the production of iron, the production of aluminium and alumina, the production of hydrogen and the transport of CO<sub>2</sub> through other means than pipelines. To ensure alignment between Annex I to Directive 2003/87/EC and the scope of activities for which the verifier should be accredited to be able to carry out verification in those sectors, the scope of accreditation in Annex I to Implementing Regulation (EU) 2018/2067 needs to be updated.

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<sup>1</sup> OJ L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/oj>.

<sup>2</sup> Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (OJ L 130, 16.5.2023, p. 134, [ELI: http://data.europa.eu/eli/dir/2023/959/oj](http://data.europa.eu/eli/dir/2023/959/oj)).

<sup>3</sup> 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 amending Commission Regulation (EU) No 600/2012 (OJ L 334, 31.12.2018, p. 94, [ELI: http://data.europa.eu/eli/reg\\_impl/2018/2067/oj](http://data.europa.eu/eli/reg_impl/2018/2067/oj)).

- (3) Following the introduction of an obligation in Article 10a(1), third subparagraph, of Directive 2003/87/EC to make free allocation conditional upon implementation of energy efficiency improvement measures, new rules have been included in Commission Delegated Regulation (EU) 2019/331<sup>4</sup> to set out when recommendations from the energy audit reports or certified energy management systems in accordance with Article 8 of Directive 2012/27/EU of the European Parliament and of the Council<sup>5</sup> are considered implemented. A key prerequisite for demonstrating implementation of those recommendations, is the confirmation by the verifier during the verification of the baseline data report or, where relevant, the annual activity level report, that the implementation of the energy efficiency recommendations is completed. Therefore, it is essential to provide a set of harmonised rules on the checks to be carried out by the verifier to confirm the completion of implementation of energy efficiency recommendations.
- (4) In accordance with Article 22a(3) of Delegated Regulation (EU) 2019/331, the verifier is to check whether an exception to conditionality under Article 22a(1), second subparagraph, of Delegated Regulation (EU) 2019/331 applies if the implementation of energy efficiency recommendations has not been completed. To ensure legal certainty and equal treatment between comparable cases, it is necessary to specify harmonised rules on the verifier's assessment of the application of those exceptions.
- (5) In order for the verifier to carry out the necessary checks on the implementation of energy efficiency recommendations or the application of exceptions to conditionality, the operator should provide the verifier with relevant evidence and information related to the implementation of energy efficiency recommendations and the application of exceptions during the relevant stages of the verification.
- (6) To provide the competent authority with the necessary information to decide whether the conditions for free allocation in accordance with Article 22a of Delegated Regulation (EU) 2019/331 have been met and whether the allocation of emission allowances has to be reduced, specific rules need to be introduced regarding the verifier's reporting of the results of the confirmation checks and any observations obtained during these confirmation checks.
- (7) Article 10a of Directive 2003/87/EC allows operators to cancel the reduction of free allocation after having completed the implementation of energy efficiency recommendations. A prerequisite for that cancellation is the verifier's confirmation as part of the verification of the annual activity level report that the implementation of the energy efficiency recommendations has been completed. To support the establishment of an annual cycle for those purposes, it is important that observations made by the verifier during earlier verifications regarding the implementation of recommendations are followed-up and that this is checked by verifiers in subsequent verifications.
- (8) Articles 4 and 6 of Delegated Regulation (EU) 2019/331 require the monitoring methodology plan to be approved by the competent authority. Provisions related to the

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<sup>4</sup> Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8, [ELI: http://data.europa.eu/eli/reg\\_del/2019/331/oj](http://data.europa.eu/eli/reg_del/2019/331/oj)).

<sup>5</sup> Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1, [ELI: http://data.europa.eu/eli/dir/2012/27/oj](http://data.europa.eu/eli/dir/2012/27/oj)).

verifier's validation of the monitoring methodology in the absence of the competent authority's approval have become obsolete and should therefore be deleted.

- (9) Experience in the application of Regulation (EU) 2018/2067 has shown the need to clarify the requirement of verifier to check compliance with the sustainability and greenhouse gas savings criteria laid down in Article 29(2) to (7) and (10) of Directive (EU) 2018/2001 of the European Parliament and of the Council<sup>6</sup> where biomass fuels are used. In the interests of clarity, a provision should be added to require verifiers to check compliance with those criteria.
- (10) Experience has shown the need to clarify when virtual site visits are carried out, for what reason and when the last physical site visit was carried out. Such information allows competent authorities and national accreditation bodies to monitor compliance with the requirements concerning virtual site visits. In the interest of clarity and transparency, such information should be included in the verification report.
- (11) In the interest of clarity, it is important to align the verifier's approach for identifying improvements related to the operator's performance of monitoring and reporting allocation data with the approach for identifying opportunities for improving the monitoring and reporting of emissions. Recommendations related to allocation data should include improvements to achieve the highest level of accuracy concerning data sources listed in Annex VII to Delegated Regulation (EU) 2019/331.
- (12) Experience with the application of conditions for waiving site visits under Article 32(1) of Regulation (EU) 2018/2067 has shown that category A and B installations using natural gas or one or more de-minimis source streams, whereby natural gas is monitored through fiscal metering and default values are used for calculation factors for the natural gas, result in similar risks compared to situations where calculation factors are determined by the gas transporter without any input or processing from the operator. It is therefore appropriate to allow a waive of site visits also in cases where the calculation factor is determined by the gas transporter using online analysers that are subject to an appropriate legal regime for the control of fiscal analysers without any input from the operator.
- (13) Following the amendment of Directive 2003/87/EC by Directive (EU) 2023/958 of the European Parliament and of the Council<sup>7</sup>, new rules were introduced for the free allocation of allowances to aircraft operators. The allocation will no longer be based on reported tonne-kilometre data. Therefore, all provisions related to the verification of tonne-kilometre data have become obsolete and should be deleted accordingly reducing the administrative burden.
- (14) Following amendments in Directive (EU) 2023/958, Commission Implementing Regulation 2018/2066<sup>8</sup> lays down monitoring and reporting rules regarding the

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<sup>6</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) (OJ L 328, 21.12.2018, p. 82, [ELI: http://data.europa.eu/eli/dir/2018/2001/oj](http://data.europa.eu/eli/dir/2018/2001/oj)).

<sup>7</sup> 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](http://data.europa.eu/eli/dir/2023/958/oj)).

<sup>8</sup> 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 (OJ L 334, 31.12.2018, p. 1, [ELI: http://data.europa.eu/eli/reg\\_impl/2018/2066/oj](http://data.europa.eu/eli/reg_impl/2018/2066/oj)).

attribution of sustainable aviation fuels and their emissions to flights and, where the sustainable aviation fuel cannot be physically attributed to a specific flight, the proportionate attribution of those fuels and their emissions to flights departing from airports. In the interests of legal certainty and environmental integrity, it is appropriate to specify a set of harmonised rules for verifiers to check that the sustainable aviation fuels and their emissions are attributed correctly and the relevant requirements in Implementing Regulation (EU) 2018/2066 have been met.

- (15) Data in the aviation sector is to a large extent processed and recorded in automated systems which makes it possible to access data remotely. This justifies the application of virtual site visits outside force majeure circumstances in the aviation sector. To ensure the robustness of the verification, virtual site visits should only be allowed under strict conditions. National accreditation bodies should monitor the application of those conditions and the performance of verifiers during such site visits as part of the annual surveillance of verifiers.
- (16) Directive 2023/959 has introduced a separate but parallel emissions trading system applicable to fuels released for combustion in the buildings and road transport sectors as well as in additional sectors which correspond to industrial activities not covered by Annex I to Directive 2003/87/EC ('buildings, road transport and additional sectors'). New provisions to the monitoring and reporting of emissions in those sectors have been included in Implementing Regulation (EU) 2018/2066. As a result of those changes, harmonised rules on the verification of emissions in those sectors and the accreditation of verifiers carrying out such verification should be added. Existing rules and provisions on the verification of emissions should be adapted accordingly.
- (17) The verification of greenhouse gas emissions and the accreditation of verifiers in accordance with Articles 15 and 30f of Directive 2003/87/EC and Annex V to that Directive, the definitions in Article 3, the obligation in Article 4 and the application of the requirements in Chapters II and III of Implementing Regulation (EU) 2018/2066 should be extended to cover the verification of regulated entity's reports unless specific characteristics of the emissions trading system applicable to fuels released for combustion in buildings, road transport and additional sectors require other or more tailored rules. Similarly, requirements on the accreditation of verifiers in Chapter V of Implementing Regulation (EU) 2018/2066 and the requirements on cooperation and information exchange between national accreditation bodies and competent authorities in Chapter VI of that Regulation should apply to this separate emissions trading system.
- (18) It is important to delineate the roles and responsibilities of the verifier and the competent authority with respect to verification of regulated entity's reports. In line with the principles of Annex V to Directive 2003/87/EC, the verifier should assess completeness and compliance of information in the regulated entity's reports with the requirements listed in Annexes X and Xb to Implementing Regulation (EU) 2018/2066, opportunities for improvement of the monitoring and reporting process and the accuracy of the emission data. Similarly to the verification of operator's report, the verifier should take the monitoring plan approved by the competent authority as a starting point and assess the regulated entity's conformity with that plan. Where that monitoring plan is not approved, incomplete or has changed significantly without those changes being approved, it is important for the regulated entity to obtain the competent authority's approval. Any non-compliance of the monitoring plan with the requirements laid down in Implementing Regulation (EU) 2018/2066, that has been

identified by the verifier and not corrected by the regulated entity before the verification report is issued, should be reported in the verification report.

- (19) In accordance with Annex V, part C, points 1 to 5 and point 7 to Directive 2003/87/EC, the verifier is to carry out a site visit to check monitoring boundaries of the regulated entity, to assess the operation of measuring devices, systems and processes that are used by the regulated entities to determine the fuel quantities released for consumption, to conduct interviews and to carry out other activities. To prevent verifiers from having to visit bulk tank or storage facility locations, where the fuel amounts released for consumption are determined, processed and controlled by third parties or where the measured data is not used for determining and processing regulated entity's emission data, a specific definition of site should be included. It is the verifier's risk analysis that determines which locations at the site of the regulated entity should be visited. The verifier's site visit should be waived only under specific conditions.
- (20) Provision of relevant information between the regulated entity and the verifier is essential in all facets of the verification process, in particular in the pre-contractual phase, in the performance of a strategic analysis by the verifier and throughout the verification. It is necessary to establish harmonised requirements that should govern the provision of information between the regulated entity and the verifier at all times.
- (21) To avoid double-counting of emissions covered by the emissions trading system for buildings, road transport and additional sectors and the emissions trading system for stationary installations, aviation and maritime transport in accordance with Article 30f(5) of Directive 2003/87/EC, regulated entities are required in accordance with Implementing Regulation (EU) 2018/2066 to use their monitoring and reporting process by deducting from the total quantity of fuels released for consumption, the fuel quantities that are used in the same reporting year for activities covered by Annex I to Directive 2003/87/EC. Information from operators, aircraft operators and shipping companies on fuels supplied and the supply chain in accordance with Annex Xa to Implementing Regulation (EU) 2018/2066 is essential in order to determine what fuel quantity should be deducted from the total quantity of fuel release. To provide the regulated entity and the verifiers carrying out verification of regulated entity's report with sufficient confidence in the accuracy of information listed to in Annex Xa to Implementing Regulation (EU) 2018/2066, it is appropriate for verifiers of operator's or aircraft operator's reports to assess that information as part of the verification of those reports and confirm that the fuels used from a supplier do not exceed the amount that the operator or aircraft operator has acquired from that supplier while taking into account the amounts stored in stock according to the methodology in the approved monitoring plan.
- (22) To provide full transparency on the accuracy of the information listed in Annex Xa to Implementing Regulation (EU) 2018/2066, it is essential for the verifier carrying out verification of operator's or aircraft operator's reports to report on the results of the assessment of information listed in Annex Xa to Implementing Regulation (EU) 2018/2066 and describe any observations in the verification report, including any identified and uncorrected misstatements, non-conformities, non-compliance with Implementing Regulation (EU) 2018/2066 or recommendations for improvement. Such information should be made available by the operator or aircraft operator to the relevant regulated entity together with information listed in Annex Xa in accordance with Article 75v(2) of Implementing Regulation (EU) 2018/2066.

- (23) Such information allows the verifier carrying out verification of regulated entity's reports to perform consistency checks between the information listed in Annex Xa to Implementing Regulation (EU) 2018/2066 and information on fuels consumed listed in Annex Xb to that Regulation and subsequently determine whether the fuel quantities deducted in accordance with Article 75v(4) of that Regulation are accurate, and the total greenhouse gas emissions reported by the regulated entity are free from material misstatements. Harmonised rules on the checks to be carried out as part of the data verification and assessment of the monitoring methodology and scope factor are necessary.
- (24) In order to plan the verification of regulated entity's report and support the verifier's assessment of whether a misstatement, non-conformity or non-compliance has a material impact on the emission data, an appropriate materiality level should be defined for the verification of the regulated entity's report. To reduce the administrative burden while still ensuring the environmental integrity of the system and robustness of verification, a stricter materiality level only applies to regulated entities with the highest levels of emissions, namely annual emissions above 500 kilotonnes of CO<sub>2</sub>.
- (25) As is the case for the verification of operator's reports, it is the verifier's responsibility to assess not only whether the misstatement, non-conformity or non-compliance with Implementing Regulation 2018/2066, individually or when aggregated, exceeds the applicable materiality level and should therefore be regarded as material. Even if the materiality level is not exceeded, the verifier should determine whether the relevant issue has material impact given the nature, size and particular circumstances of that particular issue.
- (26) To ensure the proper functioning of the monitoring and reporting process, providing recommendations for continuous improvement of the regulated entity's monitoring and reporting should be part of the verification activities performed by the verifier.
- (27) It is important for verifiers to be competent in carrying out verification of regulated entity's reports. In order for the verifier to assess the specific monitoring and reporting boundaries and aspects of the regulated entity related to the emission trading system for buildings, road transport and additional sectors, specific competence criteria should be defined for verifiers carrying out verification of regulated entity's reports. For that purpose, a separate accreditation scope should be created so that the accreditation bodies can evaluate the verifier's competence and performance against these specific criteria and accredit the verifiers against that particular scope.
- (28) To reduce the risk of endangering the impartiality of the verifier, the lead auditor should be rotated after having carried out the verification of the same regulated entity's report for five consecutive years. This requirement should not preclude the verifier from taking additional measures to reduce impartiality risks.
- (29) The monitoring and reporting for the new emissions trading system for buildings, road transport and additional sectors is to start on 1 January 2025. In accordance with Article 30f of Directive 2003/87/EC, the first verified regulated entity's report is to be submitted to the competent authority by 30 April 2026, in relation to the reporting year 2025. Therefore, it is appropriate that the relevant provisions related to the verification of the regulated entity's reports for the new emissions trading system should become applicable to the verification of regulated entity's greenhouse gas emissions occurring from 1 January 2025 onwards. Similarly, the relevant provisions related to the

verification of information listed in Annex Xa to Implementing Regulation (EU) 2018/2066 should also become applicable from the 2025 reporting year onwards.

- (30) The amendments related to the verification of baseline data and the verifier's checks on the implementation of energy efficiency recommendations and the application of exceptions to conditionality should enter into force as a matter of urgency as the verified baseline data reports as part of the application of free allocation needs to be submitted by 30 May 2024 as required by Article 4(1) of Delegated Regulation (EU) 2019/331, therefore this Regulation should enter into force on the day following that of its publication.
- (31) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee.

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Implementing Regulation (EU) 2018/2067 is amended as follows:

- (1) in Article 1, the second subparagraph is replaced by the following:  
'This Regulation also lays down, without prejudice to Regulation (EC) No 765/2008, provisions for the mutual recognition of verifiers and peer evaluation of national accreditation bodies pursuant to Articles 15 and 30f of Directive 2003/87/EC.';

- (2) Article 2 is replaced by the following:

#### *'Article 2*

##### **Scope**

This Regulation applies to the following:

- (a) the verification of greenhouse gas emissions occurring from 1 January 2019, reported pursuant to Article 14 of Directive 2003/87/EC, and to the verification of data relevant for the update of *ex ante* benchmarks and for the determination of free allocation to installations pursuant to Article 10a of that Directive;
- (b) the verification of greenhouse gas emissions occurring from 1 January 2025, reported by the regulated entity pursuant to Article 30f of Directive 2003/87/EC.';
- (3) Article 3 is amended as follows:
- (a) point (2) is replaced by the following:  
'(2) 'accreditation' means attestation by a national accreditation body that a verifier meets the requirements set by harmonised standards, within the meaning of Article 2, point 9, of Regulation (EC) No 765/2008, and requirements set out in this Regulation to carry out the verification of an operator's or aircraft operator's report or regulated entity's report pursuant to this Regulation;';
- (b) points (5) and (6) are replaced by the following:  
'(5) 'misstatement' means an omission, misrepresentation or error in the operator's, aircraft operator's or regulated entity's reported data, not



considering the uncertainty permissible under Article 12(1), point (a), of Implementing Regulation (EU) 2018/2066;

(6) ‘material misstatement’ means a misstatement that, in the opinion of the verifier, individually or when aggregated with other misstatements, exceeds the materiality level or could affect the treatment of the operator's or aircraft operator's report or the regulated entity's report by the competent authority;’;

(c) the following point (6b) is inserted:

‘(6b) ‘regulated entity's report’ means the annual emission report submitted by the regulated entity pursuant to Article 75p of Implementing Regulation (EU) 2018/2066;’;

(d) point (7) is replaced by the following:

‘(7) ‘operator's or aircraft operator's report’ means the annual emission report to be submitted by the operator or aircraft operator pursuant to Article 14(3) of Directive 2003/87/EC, the baseline data report submitted by the operator pursuant to Article 4(2) of Commission Delegated Regulation (EU) 2019/331\*, the new entrant data report submitted by the operator pursuant to Article 5(2) of that Regulation or the annual activity level report’;

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\* Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8, ELI: [http://data.europa.eu/eli/reg\\_del/2019/331/oj](http://data.europa.eu/eli/reg_del/2019/331/oj));

(e) points (11) and (12) are replaced by the following:

‘(11) ‘control system’ means the operator's, aircraft operator's or regulated entity's risk assessment and entire set of control activities, including the continuous management thereof, that an operator, aircraft operator or regulated entity has established, documented, implemented and maintained pursuant to Article 59 or Article 75o of Implementing Regulation (EU) 2018/2066, or pursuant to Article 11 of Delegated Regulation (EU) 2019/331, as appropriate;

(12) ‘control activities’ means any acts carried out or measures implemented by the operator, aircraft operator or regulated entity to mitigate inherent risks;’;

(f) in point (13), points (a) and (b) are replaced by the following:

‘(a) ‘for the purposes of verifying an operator's or regulated entity's emission report, any act or omission of an act by the operator or regulated entity that is contrary to the greenhouse gas emissions permit and the requirements in the monitoring plan approved by the competent authority;

(b) ‘for the purposes of verifying an aircraft operator's emission report, any act or omission of an act by the aircraft operator that is contrary to the requirements in the monitoring plan approved by the competent authority;’;

(g) point (14) is replaced by the following:

‘(14) ‘site’ means:

(a) for the purposes of verifying the emission report of an aircraft operator: the locations where the monitoring process is defined and managed, including the locations where relevant data and information are controlled and stored;

(b) for the purposes of verifying the regulated entity's report: the locations where the monitoring process is defined and managed, including the locations where relevant data and information about fuel amounts released by the regulated entity for consumption in activities listed in Annex III to Directive 2003/87/EC are determined, controlled and stored by the regulated entity;';

(h) points (15) to (19) are replaced by the following:

'(15) 'control environment' means the environment in which the internal control system functions and the overall actions of an operator's, aircraft operator's or regulated entity's management to ensure awareness of this internal control system;

(16) 'inherent risk' means the susceptibility of a parameter in the operator's or aircraft operator's report or regulated entity's report to misstatements that could be material, individually or when aggregated with other misstatements, before taking into consideration the effect of any related control activities;

(17) 'control risk' means the susceptibility of a parameter in the operator's or aircraft operator's report or regulated entity's report to misstatements that could be material, individually or when aggregated with other misstatements, and that will not be prevented or detected and corrected on a timely basis by the control system;

(18) 'verification risk' means the risk, being a function of inherent risk, control risk and detection risk, that the verifier expresses an inappropriate verification opinion when the operator's or aircraft operator's report or regulated entity's report is not free of material misstatements;

(19) 'reasonable assurance' means a high but not absolute level of assurance, expressed positively in the verification opinion, as to whether the operator's or aircraft operator's report or regulated entity's report subject to verification is free from material misstatement;';

(i) points (21), (22) and (23) are replaced by the following:

'(21) 'internal verification documentation' means all internal documentation that a verifier has compiled to record all documentary evidence and justification of activities that are carried out for the verification of an operator's or aircraft operator's report or regulated entity's report;

(22) 'EU ETS lead auditor' means an EU ETS auditor in charge of directing and supervising the verification team, who is responsible for performing and reporting on the verification of an operator's or aircraft operator's report or regulated entity's report;

(23) 'EU ETS auditor' means an individual member of a verification team responsible for conducting a verification of an operator's or aircraft operator's report or regulated entity's report other than the EU ETS lead auditor;';

(4) Article 4 is replaced by the following:

### **Presumption of conformity**

Where a verifier demonstrates its conformity with the criteria laid down in the relevant harmonised standards as defined in Article 2, point 9, of Regulation (EC) No 765/2008, or parts thereof, the references of which have been published in the *Official Journal of the European Union*, it shall, with the exception of Articles 7(1) and (4), Article 22, Article 27(1), Articles 28, 31, 32, Article 43b(4), Articles 43v and 43w of this Regulation, be presumed to comply with the requirements set out in Chapters II, III and IIIa of this Regulation in so far as the applicable harmonised standards cover those requirements.’;

- (5) The title of Chapter II is replaced by the following:

#### **‘CHAPTER II**

#### **VERIFICATION OF OPERATOR’S OR AIRCRAFT OPERATOR’S REPORTS’;**

- (6) in Article 6, the first paragraph is replaced by the following:

‘A verified emission report, baseline data report, new entrant data report or annual activity level report shall be reliable for users. It shall represent faithfully that, which it either purports to represent or may reasonably be expected to represent.’;

- (7) in Article 7, paragraph 4 is amended as follows:

- (a) the first subparagraph is amended as follows:

- (i) the following point (aa) is inserted:

‘(aa) the information in the operator’s or aircraft operator’s report pertaining to Annex Xa to Implementing Regulation (EU) 2018/2066 is complete and meets the requirements laid down in that Annex;’;

- (ii) point (b) is replaced by the following:

‘(b) the operator or aircraft operator has acted in compliance with the requirements of the greenhouse gas emissions permit and the monitoring plan approved by the competent authority, where the verification of an operator's emission report is concerned, and with the requirements of the monitoring plan approved by the competent authority, where the verification of an aircraft operator's emission report is concerned;’;

- (b) the second and third subparagraphs are replaced by the following:

‘By way of derogation from point (b), the verifier shall assess whether the operator of an installation for the incineration of municipal waste as referred to in Annex I to Directive 2003/87/EC has acted in compliance with the monitoring plan where Member States have not required that installation to have a greenhouse gas emission permit as referred to in Article 4 of Directive 2003/87/EC.

For the purpose of point (d), the verifier shall obtain clear and objective evidence from the operator or aircraft operator to support the reported

aggregated emissions or data relevant for free allocation taking into account all other information provided in the operator's or aircraft operator's report.';

(8) in Article 9(1), point (e) is replaced by the following:

'(e) the location of information and data related to greenhouse gas emissions or data relevant for free allocation.';

(9) Article 10(1) is amended as follows:

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

'(c) the latest version of the operator's monitoring methodology plan as well as any other relevant versions of the monitoring methodology plan approved by the competent authority, including evidence of the approval;';

(b) points (g) and (h) are replaced by the following:

'(g) the procedures mentioned in the monitoring plan as approved by the competent authority or the monitoring methodology plan as approved by the competent authority, including procedures for data flow activities and control activities;

(h) the operator's or aircraft operator's annual emission, baseline data report, new entrant data report or annual activity level report, as appropriate;';

(c) the following points (lb), (lc) and (ld) are inserted:

'(lb) where applicable, the reports from energy audits or certified energy management systems as referred to in Article 22a(1) of Delegated Regulation (EU) 2019/331 containing the recommendations from those audits or management systems;

(lc) where applicable, relevant evidence demonstrating implementation of the recommendations from energy audits or certified energy management systems as referred to in Article 22a(1), first subparagraph of Delegated Regulation (EU) 2019/331 including the procedure for implementing those recommendations referred to in Article 22a(2) of that Regulation;

(ld) relevant evidence that one of the conditions in Article 22a(1), second subparagraph, of Delegated Regulation (EU) 2019/331 applies;';

(10) Article 11 is amended as follows:

(a) in paragraph 3, points (b), (c) and (d) are replaced by the following:

'(b) for the purposes of the verification of the aircraft operator's emission's report, the size and nature of the aircraft operator, the distribution of information in different locations as well as the number and type of flights;

(c) the monitoring plan or monitoring methodology plan approved by the competent authority as well as the specifics of the monitoring methodology laid down in that monitoring plan or the monitoring methodology plan as appropriate;

(d) the nature, scale and complexity of emission sources and source streams as well as the equipment and processes that have resulted in emissions or data relevant for free allocation, including the measurement equipment described in the monitoring plan or monitoring methodology plan as appropriate, the origin and application of calculation factors and other primary data sources;';

- (b) in paragraph 4, point (a) is replaced by the following:  
‘(a) whether the monitoring plan or monitoring methodology plan presented to it is the most recent version and approved by the competent authority;’;
- (11) in Article 13(1), point (c) is replaced by the following:  
‘(c) a data sampling plan setting out the scope and methods of data sampling related to data points underlying the aggregated emissions in the operator or aircraft operator’s emission report, or the aggregated data relevant for free allocation in the operator’s baseline data report, new entrant data report or annual activity level report.’;
- (12) Article 16(2) is amended as follows:
- (a) point (d) is replaced by the following:  
‘(d) for the purposes of verifying an aircraft operator's emission report, the completeness of flights covered by an aviation activity listed in Annex I to Directive 2003/87/EC for which the aircraft operator is responsible as well as the completeness of emission data.’;
- (b) point (e) is replaced by the following:  
‘(e) for the purposes of verifying an aircraft operator's emission report, the consistency between reported data and mass and balance documentation;’;
- (c) point (fa) is replaced by the following:  
‘(fa) for the purposes of verifying an annual activity level report, the accuracy of the parameters listed in Article 16(5), Articles 19, 20 or 21 of Delegated Regulation (EU) 2019/331 as well as data required under Article 6(1), (2) and (4) of Implementing Regulation (EU) 2019/1842;’;
- (d) the following point (ha) is inserted:  
‘(ha) for the purpose of assessing the information in the operator’s or aircraft operator’s report pursuant to Annex Xa to Implementing Regulation (EU) 2018/2066, the consistency between that information and the operator’s or aircraft operator’s evidence, including fuel invoices, delivery notes and fuel supplier contracts;’;
- (13) Article 17 is amended as follows:
- (a) in paragraph 3, point (f) is replaced by the following:  
‘(f) whether the value of the parameters listed in Article 16(5), Articles 19, 20 or 21 of Delegated Regulation (EU) 2019/331 is based on a correct application of that Regulation;’;
- (b) the following paragraph 5, is added:  
‘5. For the purpose of verifying the operator’s emission report, the verifier shall, as part of the check referred to in paragraph 1, check the operator’s evidence demonstrating compliance with the sustainability and greenhouse gas savings criteria laid down in Article 29(2) to (7) and (10) of Directive (EU) 2018/2001.’;
- (c) the following paragraph 6 is added:  
‘6. Where the biofuel or eligible aviation fuel can be physically attributed to a flight listed in Annex I to Directive 2003/87/EC, the verifier shall check whether the biofuel

or eligible aviation fuel quantity is correctly attributed to the flight directly following the uplift of the fuel.

If several subsequent flights are carried out without fuel uplift between those subsequent flights, the verifier shall check whether the biofuel or eligible aviation fuel quantity is proportionally assigned to these flights according to the approach listed in the monitoring plan approved by the competent authority and the written procedure that the aircraft operator has implemented to ensure the proper attribution of flights.

Where the biofuel or eligible aviation fuel cannot be physically attributed at an aerodrome to a specific flight, the verifier shall check whether:

- (a) the biofuel or eligible aviation fuel is correctly assigned to aerodrome pairs in the aircraft operator's emission report;
- (b) the total amount of the biofuel or eligible aviation fuel does not exceed the total fuel reported of that aircraft operator for flights for which allowances have to be surrendered in accordance with Article 12(3) of Directive 2003/87/EC, originating from the aerodrome at which the biofuel or eligible aviation fuel is supplied;
- (c) the total amount of biofuel or eligible aviation fuel for which allowances have to be surrendered in accordance with Article 12(3) of Directive 2003/87/EC does not exceed the total quantity of biofuel or eligible aviation fuel purchased from which the total quantity of biofuel or eligible aviation fuel sold to third parties is subtracted;
- (d) the fraction of biomass in the biofuel or eligible aviation fuel attributed to flights aggregated per aerodrome pair does not exceed the maximum blending limit for that biofuel or eligible aviation fuel as certified according to a recognised international standard, if such limitation applies;
- (e) the aggregated biomass fraction in the biofuel or eligible aviation fuel does not exceed the amount of biomass for which proof for meeting the sustainability and greenhouse gas savings criteria laid down in Article 29(2) to (7) and (10) of Directive (EU) 2018/2001 is provided;
- (f) the same amounts of biofuel or eligible aviation fuel have not been accounted for in an earlier report, another system or anyone else, except where flights are covered by more than one such system.';

(d) (d) the following paragraph 7 is added:

'7. For the purposes of assessing the information in the operator's or aircraft operator's report pursuant to Annex Xa to Implementing Regulation (EU) 2018/2066 the verifier shall assess and confirm:

- (a) where fuels are not used in the same reporting year, whether the methodology in the approved monitoring plan on how to allocate amounts of fuel between the different suppliers has been applied correctly;
- (b) whether the amount of fuel from a supplier that are used by the operator or aircraft operator do not exceed the amount acquired from that supplier while taking into account the amounts stored in stock calculated in accordance with the methodology in the approved monitoring plan.';

(14) the following Articles 17a and 17b are inserted:

*Article 17a*

**Checks on energy efficiency recommendations**

1. To assess compliance with conditionality requirements under Article 22a of Delegated Regulation (EU) 2019/331, the verifier shall check the implementation of recommendations from energy audits or certified energy management systems as referred to in Article 22a(3) of Delegated Regulation (EU) 2019/331 and confirm that the implementation of those recommendations is completed.
2. For the purposes of confirming the completion of implementation of recommendations referred to in paragraph 1, the verifier shall check whether:
  - (a) the procedure for implementing recommendations referred to in Article 22a(2) of Delegated Regulation 2019/331 has been followed, sufficiently documented and properly maintained;
  - (b) the operator has taken concrete measures to implement the recommendations;
  - (c) there is evidence of completion of implementation, including whether these recommendations have been marked as completed in the procedure referred to in point (a) of this paragraph.

*Article 17b*

**Checking the application of derogations listed in Article 22a(1), second subparagraph, of Delegated Regulation (EU) 2019/331**

1. Where the implementation of recommendations referred to in Article 17a of this Regulation has not been completed, the verifier shall assess the operator's evidence and check whether:
  - (a) the energy efficiency recommendations referred to in Article 22a(1), second subparagraph, point (f), of Delegated Regulation (EU) 2019/331 were not issued in the first four years of the baseline period;
  - (b) recommendations would not lead to energy savings within the system boundaries of the industrial process carried out at the installation;
  - (c) the pay-back time referred to in Article 22a(1), second subparagraph, point (a), of Delegated Regulation (EU) 2019/331 exceeds three years;
  - (d) the installation specific operating conditions, including planned or unplanned periods of maintenance, upon which the pay-back period was determined have not yet occurred;
  - (e) the investment costs of the recommendations exceed the thresholds listed in Article 22a(1), second subparagraph, point (b) of Delegated Regulation (EU) 2019/331;
  - (f) other measures have been implemented during or after the relevant baseline period which led to greenhouse gas emission reductions

equivalent to those recommended by the energy audit report or a certified energy management system for the installation.

2. Where the pay-back time referred to in Article 22a(1), second subparagraph, point (a), of Delegated Regulation (EU) 2019/331 is not specified in the energy audit report, the certified energy management system or a sworn declaration from the energy auditor, the verifier shall check:
    - (a) the validity of the information used to determine the pay-back time;
    - (b) the correct application of the method used to determine the pay-back time.
  3. For the purpose of assessing implementation of measures referred to in paragraph 1, point (f), the verifier shall check and confirm whether:
    - (a) the operator has implemented the alternative measures and whether the implementation of those measures has been completed;
    - (b) equivalent greenhouse gas emission reductions referred to in paragraph 1, point (f), have been achieved.’;
- (15) in Article 22(3), the second subparagraph is replaced by the following:  
‘The verifier shall determine whether the uncorrected misstatements, individually or when aggregated with other misstatements, have a material effect on the total reported emissions or data relevant for free allocation. In assessing the materiality of misstatements the verifier shall consider the size and nature of the misstatement as well as the particular circumstances of their occurrence.’;
- (16) in Article 23, paragraph 3 is deleted;
- (17) in Article 26(1), point (c) is replaced by the following:  
‘(c) sufficient information to support the verification opinion, including justifications for judgments made on whether or not the misstatements identified have material effect on the reported emissions or data relevant for free allocation.’;
- (18) Article 27 is amended as follows:
  - (a) paragraph 1 is replaced by the following:

‘1. Based on the information collected during the verification, the verifier shall issue a verification report to the operator or aircraft operator on each emission report, baseline data report, new entrant data report or annual activity level report that was subject to verification, consisting of any of the following opinion statements:

    - (a) the report is verified as satisfactory;
    - (b) the operator's or aircraft operator's report contains material misstatements that were not corrected before issuing the verification report;
    - (c) the scope of verification is too limited pursuant to Article 28 and the verifier could not obtain sufficient evidence to issue a verification opinion with reasonable assurance that the report is free from material misstatements;
    - (d) non-conformities, individually or combined with other non-conformities, provide insufficient clarity and prevent the verifier from stating with reasonable assurance that the operator's or aircraft operator's report is free from material misstatements.



For the purposes of the first subparagraph, point (a), the operator's or aircraft operator's report may be verified as satisfactory only where the operator's or aircraft operator's report is free from material misstatements.';

(b) the following paragraph 2a is inserted:

'2a. Where the operator or aircraft operator makes available relevant information listed in Annex Xa to Implementing Regulation (EU) 2018/2066 to the regulated entity in accordance with Article 75v(2) of that Regulation, the operator or aircraft operator also shall make available to the regulated entity the relevant information referred to in paragraph 3, points (l), (o), (re) and (s) of this Article.';

(c) paragraph 3 is amended as follows:

(i) point (f) is deleted;

(ii) point (g) is replaced by the following:

'(g) where it concerns the verification of the operator's or aircraft operator's emission report, aggregated emissions per activity referred to in Annex I to Directive 2003/87/EC and per installation or aircraft operator;';

(iii) point (m) is replaced by the following:

'(m) the dates on which site visits were carried out and by whom, including dates of virtual site visits and, where Articles 34a and 34b of this Regulation are applied, dates of the last physical site visit;';

(iv) the following point (na) is inserted:

'(na) information on whether a virtual site visit was carried out as well as the reasons for carrying out virtual site visits and, where applicable, the date of approval of the competent authority;';

(v) point (ra) is replaced by the following:

'(ra) where the verifier has observed relevant changes to the parameters listed in Article 16(5), Articles 19, 20 or 21 of Delegated Regulation (EU) 2019/331 or changes in the energy efficiency pursuant to Article 6(1), (2) and (3) of Implementing Regulation 2019/1842, a description of those changes and related remarks;';

(vi) the following points (rc) and (rd) are inserted:

'(rc) confirmation that the verifier has checked the implementation of energy efficiency recommendations referred to in Article 17a of this Regulation and that implementation of those recommendations has been completed, including, where relevant, a description of any findings and observation;

(rd) confirmation that the verifier has carried out the checks referred to in Article 17b of this Regulation and confirmation whether one of the conditions referred to in Article 22a(1) of Delegated Regulation (EU) 2019/331 applies, including, where relevant, a description of any findings and observations;';

(vii) the following point (re) is inserted

‘(re) confirmation that the verifier has carried out the checks referred to in Article 16(2), point (ha) and Article 17(7) of this Regulation and that the amounts of the fuels used from a supplier do not exceed the amount that the operator or aircraft operator has acquired from that supplier while taking into account the amounts stored in stock calculated in accordance with the methodology in the approved monitoring plan, including a description of any other findings or observations;’;

(d) paragraph 5 is replaced by the following:

‘5. For the purposes of verifying emission reports, if a Member State requires the verifier to submit information on the verification process in addition to the elements listed in paragraph 3 and that information is not necessary to understand the verification opinion, the operator or aircraft operator may, for efficiency reasons, submit that additional information to the competent authority separately from the verification report at an alternative date, but no later than 15 May of the same year.’;

(19) in Article 28, point (e) is replaced by the following:

‘(e) the monitoring methodology plan has not been approved by the competent authority.’;

(20) in Article 30(1), points (d) and (e) are replaced by the following:

‘(d) the monitoring and reporting of emissions, including in relation to achieving higher tiers, reducing risks and enhancing efficiency in the monitoring and reporting;

(e) the monitoring and reporting of data for baseline data reports, new entrant data reports and annual activity level reports, including in relation to achieving the highest level of accuracy concerning data sources listed in Annex VII to Delegated Regulation (EU) 2019/331, reducing risks and enhancing efficiency in monitoring and reporting.’;

(21) the following Article 30a is inserted:

*‘Article 30a*

#### **Addressing observations on implementation of energy efficiency recommendations**

Where observations or findings were reported in the verification report referred to in Article 27(3), point (rc), the verifier shall check during the verification of the annual activity level report in the following year what action the operator has taken as a result of those observations and whether this impacts the verifier’s confirmation that the implementation of outstanding recommendations for the purposes of applying Article 22a(1) of Delegated Regulation (EU) 2019/331 have been completed.’;

(22) in Article 32(1), point (c) is replaced by the following:

‘(c) default values for the calculation factors of natural gas are applied or whereby the calculation factors of natural gas are determined directly by an external gas transporter without any processing from the operator using online analysers that are subject to an appropriate legal regime for the control of fiscal analysers;’;

(23) in Article 33, paragraph 1 is replaced by the following:

‘1. By way of derogation from Article 21(1) of this Regulation, a verifier may decide not to carry out a site visit of an aircraft operator using the simplified tools referred to in Article 55(2) of Implementing Regulation (EU) 2018/2066 if the

verifier has concluded, based on its risk analysis, that all relevant data can be remotely accessed by the verifier.’;

- (24) in Article 34a, the title is replaced by the following:

*‘Article 34a*

**Virtual site visits for the verification of operator’s or aircraft operator’s report’;**

- (25) the following Article 34b is inserted:

*‘Article 34b*

**Virtual site visits for the verification of aircraft operator’s emission reports**

1. By way of derogation from Article 21(1), the verifier may decide to carry out a virtual site visit for the purpose of verifying an aircraft operator’s report in other cases than those covered by Article 34a. The verifier’s decision to carry out a virtual site visit shall be based on the outcome of the risk analysis and after determining that all relevant data can be remotely accessed by the verifier. The verifier shall inform the aircraft operator of its decision to carry out a virtual site visit without undue delay.
2. The verifier shall take measures to reduce the verification risk to an acceptable level to obtain reasonable assurance that the aircraft operator’s report is free from material misstatements.
3. In other cases than those covered by Article 34a, the verifier shall always carry out a physical site visit in any of the following situations:
  - (a) when the aircraft operator’s emission report is verified for the first time by the verifier;
  - (b) if a verifier has not carried out a physical site visit in two reporting periods immediately preceding the current reporting period;
  - (c) if, during the reporting period, there have been significant modifications to the monitoring plan including those referred to in Article 15(4) of Implementing Regulation (EU) 2018/2066;
  - (d) if, for the previous reporting period, the compliance status figure in the Union Registry referred to in table XIV-1 of Annex XIII to Commission Delegated Regulation (EU) 2019/1122\* is other than the symbol A.
4. Paragraph 3, point (d), shall not apply where the aircraft operator is applying simplified verification in accordance with Article 33(2).’;

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\* 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](http://data.europa.eu/eli/reg_del/2019/1122/oj)).’;

- (26) in Article 36(6), the second subparagraph is replaced by the following:

‘The competent evaluator shall monitor those auditors during the verification of the operator's or aircraft operator's report or regulated entity’s report on the site of the installation, aircraft operator or regulated entity as appropriate, to determine whether they meet the competence criteria.’;

(27) in Article 37(5), the first subparagraph is replaced by the following:

‘5. The verification team shall include at least one person with the technical competence and understanding required to assess the specific technical monitoring and reporting aspects related to the activities referred to in Annex I that are carried out by the installation, the aircraft operator or the regulated entity. The verification team shall also include one person who is able to communicate in the language required for the verification of an operator's or aircraft operator's report in the Member State where the verifier is carrying out that verification.’;

(28) in Article 38(1), point (c) is replaced by the following:

‘(c) the ability to perform the activities related to the verification of an operator's or aircraft operator's report or regulated entity's report as required by Chapter II;’;

(29) the following Chapter IIIa is inserted:

### ‘CHAPTER IIIa

## **VERIFICATION OF REGULATED ENTITY'S REPORTS**

### *Article 43a*

#### **Reliability of verification of regulated entity's reports**

- (1) A verified regulated entity's report shall be reliable for users. It shall represent faithfully that, which it either purports to represent or may reasonably be expected to represent.
- (2) The process of verifying a regulated entity's report shall be an effective and reliable tool in support of quality assurance and quality control procedures, providing information upon which a regulated entity can act to improve performance in monitoring and reporting emissions.

### *Article 43b*

#### **General obligations of the verifier**

- (1) The verifier shall carry out the verification and the activities required by this Chapter with the aim of providing a verification report that concludes with reasonable assurance that the regulated entity's report is free from material misstatements.
- (2) The verifier shall plan and perform the verification with an attitude of professional scepticism, recognising that circumstances may exist that cause the information in the regulated entity's report to contain material misstatements.
  1. The verifier must carry out verification in the public interest, and be independent of the regulated entity and the competent authorities responsible for Directive 2003/87/EC.
  2. During the verification, the verifier shall assess whether:
    - (a) the regulated entity's report is complete and meets the requirements laid down in Annexes X and Xb to Implementing Regulation (EU) 2018/2066;

- (b) the regulated entity has acted in compliance with the requirements of the greenhouse gas emissions permit and the monitoring plan approved by the competent authority;
- (c) the data in the regulated entity's report is free from material misstatements;
- (d) information can be provided in support of the regulated entity's data flow, control system and associated procedures to improve the performance of the regulated entity's monitoring and reporting.

For the purpose of point (c) of the first subparagraph, the verifier shall obtain clear and objective evidence from the regulated entity to support the reported aggregated emissions taking into account all other information provided in the regulated entity's report.

3. The verifier shall advise the regulated entity to obtain the necessary approval from the competent authority where:
  - (a) the monitoring plan has not been approved by the competent authority pursuant to Article 75b(2) of Implementing Regulation (EU) 2018/2066;
  - (b) the monitoring plan is incomplete;
  - (c) significant modifications in accordance with Article 75b(3) of Implementing Regulation (EU) 2018/2066 have been made during the reporting period and have not been accordingly approved by the competent authority.

Following the approval by the competent authority, the verifier shall continue, repeat or adapt the verification activities accordingly. If the approval has not been obtained before the issue of the verification report, the verifier shall report this in the verification report.

4. If the verifier discovers that a regulated entity is not complying with Implementing Regulation (EU) 2018/2066, that irregularity shall be included in the verification report even if the monitoring plan concerned has been approved by the competent authority.

#### *Article 43c*

##### **Pre-contractual obligations**

1. Before accepting a verification engagement, a verifier shall obtain a proper understanding of the regulated entity and assess whether it can undertake the verification. For this purpose, the verifier shall at least:
  - (a) evaluate the risks involved to undertake the verification of the regulated entity's report in accordance with this Regulation;
  - (b) undertake a review of the information supplied by the regulated entity to determine the scope of the verification;
  - (c) assess whether the engagement falls within the scope of its accreditation;
  - (d) assess whether it has the competence, personnel and resources required to select a verification team capable of dealing with the complexity of the regulated entity's activities and fleet as well as whether it is capable of

- successfully completing the verification activities within the timeframe required;
- (e) assess whether it is capable of ensuring that the potential verification team at its disposal holds all the competence, and persons required to carry out verification activities for that specific regulated entity;
  - (f) determine, for each verification engagement requested, the time allocation needed to properly carry out the verification.
2. The regulated entity shall provide the verifier with all relevant information that enables the verifier to carry out the activities referred to in paragraph

#### *Article 43d*

##### **Time allocation**

1. When determining the time allocation for a verification engagement referred to in Article 43c(1), point (f), the verifier shall at least take into account:
  - (a) the complexity of the regulated entity;
  - (b) the level of information and the complexity of the monitoring plan approved by the competent authority;
  - (c) the required materiality level;
  - (d) the complexity and completeness of the data flow activities and the control system of the regulated entity;
  - (e) the location of information and data related to greenhouse gas emissions.
2. The verifier shall ensure that the verification contract provides for the possibility for time to be charged in addition to the time agreed in the contract, where such additional time is found to be needed for the strategic analysis, risk analysis or other verification activities. The situations where the additional time may be needed shall include at least the following:
  - (a) during the verification where the data flow activities, control activities or logistics of the regulated entity seem to be more complex than initially anticipated;
  - (b) where misstatements, non-conformities, insufficient data or errors in the data sets are identified by the verifier during the verification.
3. The verifier shall record the time allocated in the internal verification documentation.

#### *Article 43e*

##### **Information from the regulated entity**

1. Before the strategic analysis and at other points of time during the verification, the regulated entity shall provide the verifier with all of the following information:
  - (a) the regulated entity's greenhouse gas emissions permit;

- (b) the latest version of the regulated entity's monitoring plan as well as any other relevant versions of the monitoring plan approved by the competent authority, including evidence of that approval;
- (c) a description of the regulated entity's data flow activities;
- (d) the regulated entity's risk assessment, in accordance with Article 59(2), point (a), and Article 75o of Implementing Regulation (EU) 2018/2066, and an outline of the overall control system;
- (e) the procedures mentioned in the monitoring plan as approved by the competent authority, including the procedures for data flow activities and control activities;
- (f) the regulated entity's report, including reported information listed in Annex Xb to Implementing Regulation (EU) 2018/2066;
- (g) information listed in Annex Xa to Implementing Regulation (EU) 2018/2066, where the regulated entity has received the information in the operator's, aircraft operator's or shipping company's report, in accordance with Article 75v(2) of that Implementing Regulation;
- (h) where the regulated entity has received the information in the operator's, aircraft operator's or shipping company's report pursuant to Annex Xa to Implementing Regulation (EU) 2018/2066, any observations or findings related to that regulated entity that were reported in the verification report by the verifier verifying the operator's, aircraft operator's or shipping company's report in accordance with Article 27(3), points (l), (o), (re) and (s), of this Regulation;
- (i) where applicable, the regulated entity's sampling plan, referred to in Article 33 and Article 75k(1) of Implementing Regulation (EU) 2018/2066, as approved by the competent authority;
- (j) where the monitoring plan was modified during the reporting period, a record of all those modifications in accordance with Article 16(3) and Article 75b(1) of Implementing Regulation (EU) 2018/2066;
- (k) where applicable, the reports referred to in Article 75q of Implementing Regulation (EU) 2018/2066;
- (l) where the verifier did not carry out the verification for the regulated entity the previous year, the verification report from that previous year;
- (m) all relevant correspondence with the competent authority, in particular information related to the notification of modifications of the monitoring plan as well as corrections of reported data;
- (n) where applicable, the approval of the competent authority for not carrying out site visits pursuant to Articles 43v and 43w of this Regulation;
- (o) the regulated entity's evidence demonstrating compliance with the uncertainty thresholds for the tiers laid down in the monitoring plan;
- (p) any other relevant information necessary for planning and carrying out the verification.

2. Before the verifier issues the verification report, the regulated entity shall provide it with the final authorised and internally validated regulated entity's report.

#### *Article 43f*

#### **Strategic analysis**

1. At the beginning of the verification the verifier shall assess the likely nature, scale and complexity of the verification tasks by carrying out a strategic analysis of all activities relevant to the regulated entity.
  2. For the purpose of understanding the activities carried out by the regulated entity, the verifier shall collect and review the information needed to assess that the verification team is sufficiently competent to carry out the verification, to determine that the time allocation indicated in the contract has been set correctly and to ensure that it is able to conduct the necessary risk analysis. The information shall include at least:
    - (a) the information referred to in Article 43e(1);
    - (b) the required materiality level;
    - (c) the information obtained from the verification in previous years, if the verifier is carrying out the verification for the same regulated entity.
  3. When reviewing the information referred to in paragraph 1, the verifier shall at least assess the following:
    - (a) the category of the regulated entity as well as the sector activities to which the regulated entity releases the fuels for consumption;
    - (b) the complexity of the fuel supply chain as well as the number and type of fuel consumers;
    - (c) the monitoring plan approved by the competent authority as well as the specifics of the monitoring methodology and scope factor laid down in that monitoring plan, pursuant to Chapter VIIa of Implementing Regulation (EU) 2018/2066;
    - (d) the nature, scale and complexity of the fuel streams as well as the equipment, data sources and processes used to determine the released fuel amounts, the origin and application of calculation factors and other primary data sources;
    - (e) the data flow activities, the control system and the control environment.
- (1) When carrying out the strategic analysis, the verifier shall check the following:
- (a) whether the monitoring plan presented to it is the most recent version and, where required, approved by the competent authority;
  - (b) whether there have been any modifications to the monitoring plan during the reporting period;
  - (c) where applicable, whether the modifications referred to in point (b) of this paragraph have been notified to the competent authority pursuant to Articles 15(1) and 75b(1) or Article 75g of Implementing Regulation (EU) 2018/2066 or approved by the competent authority in accordance with Articles 15(2) and 75b(1) of Implementing Regulation (EU) 2018/2066.



### *Article 43g*

#### **Risk analysis**

1. The verifier shall identify and analyse the following elements to design, plan and implement an effective verification:
  - (a) the inherent risks;
  - (b) the control activities;
  - (c) where control activities referred to in point (b) have been implemented, the control risks concerning the effectiveness of those control activities.
2. When identifying and analysing the elements referred to in paragraph 1 of this Article, the verifier shall at least consider:
  - (a) the findings from the strategic analysis referred to in Article 43f(1);
  - (b) the information referred to in Article 43e and Article 43f(2), point (c);
  - (c) the materiality level referred to in Article 43f(2), point (b).
3. If the verifier determines that the regulated entity has failed to identify the relevant inherent risks and control risks in its risk assessment, the verifier shall inform the regulated entity thereof.
4. Where appropriate according to the information obtained during the verification, the verifier shall revise the risk analysis and modify or repeat the verification activities to be performed.

### *Article 43h*

#### **Verification plan**

1. The verifier shall draft a verification plan commensurate with the information obtained and the risks identified during the strategic analysis and the risk analysis, and including at least:
  - (a) a verification programme describing the nature and scope of the verification activities as well as the time and manner in which these activities are to be carried out;
  - (b) a test plan setting out the scope and methods of testing the control activities as well as the procedures for control activities;
  - (c) a data sampling plan setting out the scope and methods of data sampling related to data points underlying the aggregated emissions in the regulated entity's report.
2. The verifier shall set up the test plan referred to in paragraph 1, point (b), of this Article in a manner that allows it to determine the extent to which the relevant control activities may be relied on for the purposes of assessing compliance with the requirements set out in Article 43b(4) points (b) and (c).

When determining the sampling size and sampling activities for testing the control activities, the verifier shall consider the following elements:

  - (a) the inherent risks;

- (b) the control environment;
  - (c) the relevant control activities;
  - (d) the requirement to deliver a verification opinion with reasonable assurance.
3. When determining the sampling size and sampling activities for sampling the data referred to in paragraph 1, point (c), the verifier shall consider the following elements:
- (a) the inherent risks and control risks;
  - (b) the results of the analytical procedures;
  - (c) the requirement to deliver a verification opinion with reasonable assurance;
  - (d) the materiality level;
  - (e) the materiality of the contribution of an individual data element for the overall data set.
4. The verifier shall set up and implement the verification plan such that the verification risk is reduced to an acceptable level to obtain reasonable assurance that the regulated entity's report is free from material misstatements.
5. The verifier shall update the risk analysis and the verification plan, and adapt the verification activities during the verification when it finds additional risks that need to be reduced or when there is less actual risk than initially expected.

#### *Article 43i*

##### **Verification activities**

The verifier shall implement the verification plan and, based on the risk analysis, the verifier shall check the implementation of the monitoring plan as approved by the competent authority.

To that end, the verifier shall at least carry out substantive testing consisting of analytical procedures, data verification and checking the monitoring methodology and check the following:

- (a) the data flow activities and the systems used in the data flow, including information technology systems;
- (b) whether the control activities of the regulated entity are appropriately documented, implemented, maintained and effective to mitigate the inherent risks;
- (c) whether the procedures listed in the monitoring plan are effective to mitigate the inherent risks and control risks and whether the procedures are implemented, sufficiently documented and properly maintained.

For the purposes of point (a) of the second paragraph, the verifier shall track the data flow following the sequence and interaction of the data flow activities from primary source data to the compilation of the regulated entity's report.

#### *Article 43j*

### **Analytical procedures**

1. The verifier shall use analytical procedures to assess the plausibility and completeness of data where the inherent risk, the control risk and the aptness of the regulated entity's control activities show the need for such analytical procedures.
2. In carrying out the analytical procedures referred to in paragraph 1, the verifier shall assess reported data to identify potential risk areas and to subsequently validate and tailor the planned verification activities. The verifier shall at least:
  - (a) assess the plausibility of fluctuations and trends over time or between comparable items;
  - (b) identify immediate outliers, unexpected data and data gaps.
3. In applying the analytical procedures referred to in paragraph 1, the verifier shall perform the following procedures:
  - (a) preliminary analytical procedures on aggregated data before carrying out the activities referred to in Article 43i in order to understand the nature, complexity and relevance of the reported data;
  - (b) substantive analytical procedures on the aggregated data and the data points underlying these data for the purposes of identifying potential structural errors and immediate outliers;
  - (c) final analytical procedures on the aggregated data to ensure that all errors identified during the verification process have been resolved correctly.
4. Where the verifier identifies outliers, fluctuations, trends, data gaps or data that are inconsistent with other relevant information or that differ significantly from expected amounts or ratios, the verifier shall obtain explanations from the regulated entity supported by additional relevant evidence.

Based on the explanations and additional evidence provided, the verifier shall assess the impact on the verification plan and the verification activities to be performed.

### *Article 43k*

#### **Data verification**

1. The verifier shall verify the data in the regulated entity's report by applying detailed testing of the data, including by tracing the data back to the primary data source, cross-checking data with external data sources, performing reconciliations, checking thresholds regarding appropriate data and carrying out recalculations.
2. When verifying the data referred to in paragraph 1 and taking into account the approved monitoring plan, including the procedures described in that plan, the verifier shall check the following:
  - (a) the monitoring boundaries of the regulated entity, including the locations from which fuel is released to the consumer;

- (b) the completeness of released fuel streams as described in the monitoring plan approved by the competent authority as well as the associated fuel quantities and emissions data;
- (c) the consistency between aggregated released fuel quantities and data on fuel purchased or otherwise supplied to the regulated entity;
- (d) the consistency of the aggregated reported data in a regulated entity's report with primary source data;
- (e) the reliability and accuracy of the data.

#### *Article 43l*

#### **Verification of the correct application of the monitoring methodology**

1. The verifier shall check the correct application and implementation of the monitoring methodology as approved by the competent authority in the monitoring plan including specific details of that monitoring methodology.
2. For the purposes of verifying the regulated entity's emission report, the verifier shall check the correct application and implementation of the sampling plan referred to in Articles 33 and 75k of Implementing Regulation (EU) 2018/2066, as approved by the competent authority.
3. Where Implementing Regulation (EU) 2018/2066 requires the regulated entity to demonstrate compliance with the uncertainty thresholds for activity data and calculation factors, the verifier shall confirm the validity of the information used to calculate the uncertainty levels as set out in the approved monitoring plan.
4. When checking the monitoring methodology referred to in paragraph 1 of this Article, the verifier shall check the correct application and implementation of the method to determine the scope factor as laid down in the monitoring plan approved by the competent authority, pursuant to Chapter VIIa of Implementing Regulation (EU) 2018/2066.
5. The verifier shall check the regulated entity's evidence demonstrating whether the fuel was released for consumption in sectors covered by Chapter III of Directive 2003/87/EC. For the purposes of assessing whether the fuels released for combustion in sectors covered by Chapter III of Directive 2003/87/EC are used in the same reporting year and can be deducted in accordance with Article 75v(4) of Implementing Regulation (EU) 2018/2066, the verifier shall check the consistency between the information referred to Article 43e(1), point (g), of this Regulation with the information in the regulated entity's report pertaining to Annex Xb to Implementing Regulation (EU) 2018/2066.

#### *Article 43m*

#### **Verification of methods applied for missing data**

1. Where methods laid down in the monitoring plan as approved by the competent authority have been used to complete missing data pursuant to Articles 66 and 75o of Implementing Regulation (EU) 2018/2066, the verifier shall check

whether the methods used were appropriate for the specific situation and whether they have been applied correctly.

If the regulated entity has obtained an approval by the competent authority to use other methods than those referred to in the first subparagraph of this paragraph in accordance with Articles 66 and 75o of Implementing Regulation (EU) 2018/2066, the verifier shall check whether the approved approach has been applied correctly and appropriately documented.

Where a regulated entity is not able to obtain such approval in time, the verifier shall check whether the approach used by the regulated entity to complete the missing data ensures that the emissions are not underestimated and that this approach does not lead to material misstatements.

2. The verifier shall check the effectiveness of the control activities implemented by the operator or aircraft operator to prevent missing data referred to in Articles 66 and 75o of Implementing Regulation (EU) 2018/2066 from occurring.

#### *Article 43n*

##### **Sampling**

1. When checking the conformance of control activities and procedures referred to in Article 43i, points (b) and (c), or when performing the checks referred to in Articles 43j and 43k, the verifier may use sampling methods specific to a regulated entity provided that, based on the risk analysis, sampling is justified.
2. Where the verifier identifies a non-conformity or a misstatement in the course of sampling, it shall request the regulated entity to explain the main causes of the non-conformity or the misstatement in order to assess the impact of the non-conformity or misstatement on the reported data. Based on the outcome of that assessment, the verifier shall determine whether additional verification activities are needed, whether the sampling size needs to be increased, and which part of the data population has to be corrected by the regulated entity.
3. The verifier shall document the outcome of the checks referred to in Articles 43i to 43l, including the details of additional samples, in the internal verification documentation.

#### *Article 43o*

##### **Addressing misstatements, non-conformities and non-compliance**

1. If the verifier identifies misstatements, non-conformities or non-compliance with Implementing Regulation (EU) 2018/2066, during the verification, it shall inform the regulated entity thereof on a timely basis and request relevant corrections. The regulated entity shall correct any communicated misstatements or non-conformities.

Where a non-compliance with Implementing Regulation (EU) 2018/2066 has been identified, the regulated entity shall notify the competent authority and correct the non-compliance as appropriate without undue delay.

2. The verifier shall document and mark as resolved in the internal verification documentation all misstatements, non-conformities or non-compliance with Implementing Regulation (EU) 2018/2066 that have been corrected by the regulated entity during the verification.
3. If the regulated entity does not correct the misstatements or non-conformities communicated to them by the verifier in accordance with paragraph 1 before the verifier issues the verification report, the verifier shall request the regulated entity to explain the main causes of the non-conformity or misstatement in order to assess the impact of the non-conformities or misstatements on the reported data.

The verifier shall determine whether the uncorrected misstatements, individually or when aggregated with other misstatements, have a material effect on the total reported emissions. In assessing the materiality of misstatements the verifier shall consider the size and nature of the misstatement as well as the particular circumstances of their occurrence.

The verifier shall assess whether the uncorrected non-conformity, individually or when combined with other non-conformities, has an impact on the reported data and whether this leads to material misstatement.

If the regulated entity does not correct the non-compliance with Implementing Regulation (EU) 2018/2066 in accordance with paragraph 1 before the verifier issues the verification report, the verifier shall assess whether the uncorrected non-compliance has an impact on the reported data and whether this leads to material misstatement.

The verifier may consider misstatements as material even if those misstatements, individually or when aggregated with other misstatements, are below the materiality level set out in Article 43p, where such consideration is justified by the size and nature of the misstatements and the particular circumstances of their occurrence.

#### *Article 43p*

#### **Materiality level**

1. For regulated entities with annual emissions associated with fuels released for consumption of equal to or less than 500 000 tonnes of CO<sub>2e</sub>, the materiality level, for the purposes of verifying regulated entity's reports, shall be 5% of the total reported emissions in the reporting period that is subject to verification.
2. For regulated entities with annual emissions associated with fuels released for consumption of more than 500 000 tonnes of CO<sub>2e</sub>, the materiality level, for the purposes of verifying regulated entity's reports, shall be 2% of the total reported emissions in the reporting period that is subject to verification.

#### *Article 43q*

#### **Concluding on verification, independent review and recording**

1. When completing the verification and considering the information obtained during the verification, the verifier shall:

- (a) check the final data from the regulated entity, including data that have been adjusted based upon information obtained during the verification;
  - (b) review the regulated entity's reasons for any differences between the final data and data previously provided;
  - (c) review the outcome of the assessment to determine whether the monitoring plan approved by the competent authority, including the procedures described in that plan, has been implemented correctly;
  - (d) assess whether the verification risk is at an acceptably low level to obtain reasonable assurance;
  - (e) ensure that sufficient evidence has been gathered to be able to give a verification opinion with reasonable assurance that the report is free from material misstatements;
  - (f) ensure that the verification process is fully documented in the internal verification documentation and that a final judgment in the verification report can be given.
2. The verifier shall carry out an independent review in accordance with Article 25.
  3. The verifier shall prepare and compile internal verification documentation containing at least:
    - (a) the results of the verification activities performed;
    - (b) the strategic analysis, risk analysis and verification plan;
    - (c) sufficient information to support the verification opinion, including justifications for judgments made on whether or not the misstatements identified have material effect on the reported emissions.

Article 26(2) and (3) shall apply for the purposes of verifying regulated entity's reports.

#### *Article 43r*

#### **Verification report**

1. Based on the information collected during the verification, the verifier shall issue a verification report to the regulated entity on each emission report that was subject to verification. The verification report shall set out whether:
  - (a) the report is verified as satisfactory;
  - (b) the regulated entity's report contains material misstatements that were not corrected before issuing the verification report;
  - (c) the scope of verification is too limited pursuant to Article 43s and the verifier could not obtain sufficient evidence to issue a verification opinion with reasonable assurance that the report is free from material misstatements;
  - (d) non-conformities, individually or combined with other non-conformities, provide insufficient clarity and prevent the verifier from stating with

reasonable assurance that the regulated entity's report is free from material misstatements.

- (e) For the purposes of first subparagraph, point (a), the regulated entity's report may be verified as satisfactory only where the regulated entity's report is free from material misstatements.
2. The regulated entity shall submit the verification report to the competent authority together with the regulated entity's report concerned.
  3. The verification report shall at least contain the following elements:
    - (a) the name of the regulated entity;
    - (b) the objectives of the verification;
    - (c) the scope of verification;
    - (d) a reference to the regulated entity's report that has been verified;
    - (e) the criteria used to verify the regulated entity's report, including the permit and versions of the monitoring plan approved by the competent authority as well as the period of validity for each plan;
    - (f) aggregated emissions associated with the fuel released for consumption to activity referred to in Annex III to Directive 2003/87/EC and per regulated entity;
    - (g) the reporting period subject to verification;
    - (h) the responsibilities of the regulated entity, the competent authority and the verifier;
    - (i) the verification opinion statement;
    - (j) a description of any identified misstatements and non-conformities that were not corrected before the issuance of the verification report;
    - (k) the dates on which site visits were carried out and by whom, including dates of virtual site visits;
    - (l) information on whether any site visits were waived as well as the reasons for waiving these site visits;
    - (m) information on whether a virtual site visit was carried out as well as the reasons for carrying out virtual site visits and the date of approval of the competent authority;
    - (n) confirmation that the verifier has carried out the checks pursuant to Article 43l(6) of this Regulation and that the information referred to in Article 43e(1), point (g), of this Regulation is consistent with the information in the regulated entity's report pertaining to Annex Xb to Implementing Regulation (EU) 2018/2066;
    - (o) any issues of non-compliance with Implementing Regulation (EU) 2018/2066 which have become apparent during the verification;
    - (p) if approval by the competent authority cannot be obtained in time for the method used to complete the missing data pursuant to Article 43m(1)), third subparagraph, of this Regulation a confirmation whether the method



used is conservative and whether it does or does not lead to material misstatements;

- (q) recommendations for improvements, where applicable;
  - (r) the names of the EU ETS lead auditor, the independent reviewer and, where applicable, the EU ETS auditor and the technical expert that were involved in the verification of the regulated entity's report;
  - (s) the date and signature by an authorized person on behalf of the verifier, including his name.
4. The verifier shall describe the misstatements, non-conformities and non-compliance with Implementing Regulation (EU) 2018/2066 in sufficient detail in the verification report to allow the regulated entity as well as the competent authority to understand the following:
- (a) the size and nature of the misstatement, non-conformity or non-compliance with Implementing Regulation (EU) 2018/2066;
  - (b) why the misstatement has material effect, or not;
  - (c) to which element of the regulated entity's report the misstatement refers, or to what element of the monitoring plan the non-conformity refers;
  - (d) to which Article in Implementing Regulation (EU) 2018/2066 the non-compliance relates.

#### *Article 43s*

#### **Limitation of scope**

The verifier may conclude that the scope of the verification referred to in Article 43r(1), point (c) is too limited in any of the following situations:

- (a) data are missing that prevent a verifier from obtaining the evidence required to reduce the verification risk to the level needed to obtain reasonable level of assurance;
- (b) the monitoring plan is not approved by the competent authority;
- (c) the monitoring plan does not provide sufficient scope or clarity to conclude on the verification;
- (d) the regulated entity has failed to make sufficient information available to enable the verifier to carry out the verification.

#### *Article 43t*

#### **Addressing outstanding non-material non-conformities**

1. The verifier shall assess whether the regulated entity has corrected the non-conformities indicated in the verification report related to the previous monitoring period according to the requirements on the regulated entity referred to in Article 75q(4) of Implementing Regulation (EU) 2018/2066, where relevant.

If the regulated entity has not corrected those non-conformities pursuant to Article 75q(4) of Implementing Regulation (EU) 2018/2066, the verifier shall consider whether the omission increases or may increase the risk of misstatements.

The verifier shall report in the verification report whether those non-conformities have been resolved by the regulated entity.

2. The verifier shall record in the internal verification documentation details of when and how identified non-conformities are resolved by the regulated entity during the verification.

#### *Article 43u*

#### **Improvement of the monitoring and reporting process**

1. Where the verifier has identified areas for improvement in the regulated entity's performance related to points (a) to (d) of this paragraph, it shall include in the verification report recommendations for improvement related to the regulated entity's performance on those points:
  - (a) the regulated entity's risk assessment;
  - (b) the development, documentation, implementation and maintenance of data flow activities and control activities as well as the evaluation of the control system;
  - (c) the development, documentation, implementation and maintenance of procedures for data flow activities and control activities as well as other procedures that a regulated entity has to establish pursuant to Implementing Regulation (EU) 2018/2066;
  - (d) the monitoring and reporting of emissions, including in relation to achieving higher tiers, reducing risks and enhancing efficiency in the monitoring and reporting.
2. During verification following a year in which recommendations for improvement were made in a verification report, the verifier shall check whether the regulated entity has implemented those recommendations for improvement and the manner in which this has been done.

Where the regulated entity has not implemented those recommendations or has not implemented them correctly, the verifier shall assess the impact this has on the risk of misstatements and non-conformities.

#### *Article 43v*

#### **Site visits and simplified verification**

1. At one or more appropriate times during the verification process, the verifier shall conduct a site visit in order to assess the operation of measuring devices and monitoring systems, to conduct interviews, to carry out the activities required by this Chapter as well as to gather sufficient information and evidence enabling it to conclude whether the regulated entity's report is free from material misstatements.

When carrying out site visits in accordance with the first subparagraph, the verifier shall also assess the completeness of released fuel streams and released fuel amounts.

2. The regulated entity shall provide the verifier access to its sites.
3. For the purposes of verifying the regulated entity's emission report, the verifier shall decide, based on the risk analysis, whether visits to additional locations are needed, including where relevant parts of data flow activities and control activities are carried out in other locations such as company headquarters and other off-site offices.
4. By way of derogation from paragraph 1, the verifier may decide not to carry out site visits to regulated entities. This decision shall be based on the following criteria:
  - (a) the outcome of the risk analysis;
  - (b) the confirmation that all relevant data can be remotely accessed by the verifier;
  - (c) the confirmation that the relevant conditions for not carrying out the site visits, pursuant to Article 43w of this Regulation are met;
  - (d) the confirmation that the mandatory site visits, pursuant to paragraph 7 of this Article, are not applicable to that regulated entity.

The verifier shall inform the regulated entity of its decision without undue delay.

5. The regulated entity shall submit an application to the competent authority requesting the competent authority to approve the verifier's decision not to carry out the site visit. The application shall at least consist of the following information:
  - (a) the outcome of the risk analysis;
  - (b) evidence that the relevant data can be remotely accessed;
  - (c) evidence that the relevant conditions for not carrying out the site visits, pursuant to Article 43w of this Regulation, are met;
  - (d) evidence that the mandatory site visits, pursuant to paragraph 7 of this Article, are not applicable to that regulated entity.

The approval of the competent authority shall not be required for regulated entities with low emissions, as specified in Article 75n(1) of Implementing Regulation (EU) 2018/2066.

6. Taking into account the information referred to in paragraph 5, points (a) to (d), the competent authority shall decide whether or not to approve the verifier's decision not to carry out the site visit.

Where the competent authority has not replied to the application from the regulated entity, in accordance with paragraph 5 within two months upon its receipt, the verifier's decision is considered approved.

7. The verifier shall always carry out site visits in the following situations:
  - (a) a regulated entity's report is verified for the first time by the verifier;

- (b) no site visit has been carried out by a verifier in the two reporting periods immediately preceding the current reporting period;
- (c) significant modifications of the monitoring plan, in accordance with Article 75b(3) of Implementing Regulation (EU) 2018/2066, were made during the reporting period.

*Article 43w*

**Conditions for not carrying out site visits**

The conditions for not carrying out site visits shall be any of the following:

- (1) the verification of a regulated entity's report concerns a category A entity, as specified in Article 75e(2), point (a), of Implementing Regulation (EU) 2018/2066, whereby:
  - (a) the fuel streams released for consumption by the regulated entity are commercial standard fuels;
  - (b) default values are applied for the calculation factors;
  - (c) a scope factor of 1 applies for each fuel stream pursuant to Article 75l(1) of Implementing Regulation (EU) 2018/2066;
- (2) the verification of a regulated entity's report concerns a regulated entity with low emissions, as defined in Article 75n(1) of Implementing Regulation (EU) 2018/2066;
- (3) the verification of a regulated entity's report concerns a category A entity, as specified in Article 75e(2), point (a), of Implementing Regulation (EU) 2018/2066, or a category B entity as specified in Article 75e(2), point (b), of that Implementing Regulation whereby:
  - (a) the regulated entity covered corresponds to an entity with reporting obligations under national legislation transposing Council Directives 2003/96/EC\* and (EU) 2020/262\*\*, on the basis of the measurement methods used for the purposes of those acts when those methods are based on national metrological control;
  - (b) the fuel streams covered correspond to energy products subject to national legislation transposing Directives 2003/96/EC and (EU) 2020/262, on the basis of the measurement methods used for the purposes of those acts when those methods are based on national metrological control;
  - (c) default values are applied for the calculation factors;
  - (d) a scope factor of 1 applies for each fuel stream pursuant to Article 75l(1) of Implementing Regulation (EU) 2018/2066.

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\* 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>).

\*\* Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4, [ELI: http://data.europa.eu/eli/dir/2020/262/oj](http://data.europa.eu/eli/dir/2020/262/oj)');

#### *Article 43x*

### **Simplified verification plan and virtual site visits**

Articles 34 and 34a shall apply to the verification of regulated entity's emissions covered by Chapter IVa of Directive 2003/87/EC. For that purpose any reference to operator, installation and aircraft operator shall be read as if it were a reference to the regulated entity.

#### *Article 43y*

### **Scope of accreditation**

The verifier shall only issue a verification report to a regulated entity that performs an activity that is covered by activity group No 1c in Annex I to this Regulation for which the verifier has been granted accreditation in accordance with Regulation (EC) No 765/2008 and this Regulation.

#### *Article 43z*

### **Verifier's procedures and documentation**

- (1) A verifier shall establish, document, implement and maintain one or more procedures for verification activities as provided for in Chapters IIIa, and the procedures and processes required by Annex II to this Regulation. When establishing and implementing these procedures and processes the verifier shall carry out the activities listed in Annex II to this Regulation in accordance with the harmonised standard referred to in that Annex.
- (2) Articles 41(2) and 42(1) of this Regulation shall apply to the verification of regulated entity's emissions covered by Chapter IVa of Directive 2003/87/EC.
- (3) A verifier shall on a regular basis make information available to the regulated entity and other relevant parties in accordance with the harmonised standard referred to in Annex II to this Regulation.

#### *Article 43za*

### **Impartiality and independence**

1. A verifier shall be independent from a regulated entity and impartial in carrying out its verification activities.

To ensure independence and impartiality, the verifier and any part of the same legal entity shall not be a regulated entity, the owner of a regulated entity or owned by it nor shall the verifier have relations with the regulated entity that could affect its independence and impartiality. The verifier shall also be independent from bodies that trade emission allowances under the greenhouse gas emission allowances trading system established pursuant to Article 19 of Directive 2003/87/EC.

2. A verifier shall be organised in a manner that safeguards its objectivity, independence and impartiality. For the purposes of this Regulation, the relevant requirements on the structure and organisation of the verifier laid down in the harmonised standard referred to in Annex II shall apply.
3. A verifier shall not carry out verification activities for a regulated entity that poses an unacceptable risk to its impartiality or that creates a conflict of interest for it. The verifier shall not use personnel or contracted persons in the verification of a regulated entity's report that involves an actual or potential conflict of interest. The verifier shall also ensure that the activities of personnel or organisations do not affect the confidentiality, objectivity, independence and impartiality of the verification. For this purpose, the verifier shall monitor the risks to impartiality and take appropriate action to address those risks.

An unacceptable risk to impartiality or a conflict of interest referred to in the first sentence of the first subparagraph shall be considered to have arisen in particular in either of the following cases:

- (a) where a verifier or any part of the same legal entity provides consulting services to develop part of the monitoring and reporting process that is described in the monitoring plan approved by the competent authority, including the development of the monitoring methodology, the drafting of a regulated entity's report and the drafting of the monitoring plan;
- (b) where a verifier or any part of the same legal entity provides technical assistance to develop or maintain the system implemented to monitor and report emissions.

4. A conflict of interest for a verifier in the relations between it and a regulated entity shall be considered to have arisen in particular in either of the following cases:
  - (a) where the relationship between the verifier and the regulated entity is based on common ownership, common governance, common management or personnel, shared resources, common finances and common contracts or marketing;
  - (b) where the regulated entity has received consulting services referred to in point (a) of paragraph 3 or technical assistance referred to in point (b) of that paragraph from a consultancy body, technical assistance body or another organisation having relations with the verifier and threatening the impartiality of the verifier.

For the purposes of point (b) of the first subparagraph, the verifier's impartiality shall be considered compromised where the relations between the verifier and the consultancy body, technical assistance body or the other organisation is based on common ownership, common

governance, common management or personnel, shared resources, common finances, common contracts or marketing and common payment of sales commission or other inducement for the referral of new clients.

5. A verifier shall not outsource the closing of the agreement between the regulated entity and the verifier, the independent review or the issuance of the verification report. For the purposes of this Regulation, when outsourcing other verification activities, the verifier shall meet the relevant requirements laid down in the harmonised standard referred to in Annex II.

However, contracting individuals to carry out verification activities shall not constitute outsourcing for the purposes of the first subparagraph if the verifier, when contracting those persons, takes full responsibility for the verification activities performed by contracted personnel. When contracting individuals for carrying out verification activities the verifier shall require these individuals to sign a written agreement that they comply with the procedures of the verifier and that there is no conflict of interest in carrying out these verification activities.

6. A verifier shall establish, document, implement and maintain a process to ensure continuous impartiality and independence of the verifier, parts of the same legal entity as the verifier, other organisations referred to in paragraph 4, and of all personnel and contracted persons involved in the verification. That process shall include a mechanism to safeguard the impartiality and independence of the verifier and shall meet the relevant requirements laid down in the harmonised standard referred to in Annex II.

- 6a. When verifying the same regulated entity as in the previous year, the verifier shall consider the risk to impartiality and take measures to reduce the risk to impartiality.

7. As of 2026, where the EU ETS lead auditor undertakes annual verification of emissions covered by Chapter IVa of Directive 2003/87/EC for a period of five consecutive years for a given regulated entity, it shall then take a three consecutive years break from providing verification services to the same regulated entity.’;

- (4) in Article 44, the first subparagraph is replaced by the following:

‘A verifier issuing a verification report to an operator, an aircraft operator or regulated entity shall be accredited for the scope of activities referred to in Annex I for which the verifier is carrying out the verification of an operator's or aircraft operator's report or regulated entity's report.’;

- (5) Article 45 is replaced by the following:

*Article 45*

### **Objectives of accreditation**

During the accreditation process and the monitoring of accredited verifiers, each national accreditation body shall assess whether the verifier and its personnel undertaking verification activities:

- (a) have the competence to carry out the verification of operator's or aircraft operator's reports or regulated entity's reports in accordance with this Regulation;

- (b) are performing the verification of operator's or aircraft operator's reports or regulated entity's report in accordance with this Regulation;
- (c) meet the requirements referred to in Chapter III and, for the purpose of verifying regulated entity's report, Articles 43y to 43za.';
- (6) in Article 48(1), point (c) is replaced the following:
- '(c) witnessing of a representative part of the requested scope for accreditation and the performance and competence of a representative number of the applicant's staff involved in the verification of the operator's or aircraft operator's report or regulated entity's report to ensure that the staff are operating in accordance with this Regulation.';
- (7) in Article 56, the first subparagraph is replaced by the following:
- 'Where a Member State considers that it is economically not meaningful or sustainable to appoint a national accreditation body or to provide accreditation services within the meaning of Articles 15 or 30f of Directive 2003/87/EC, that Member State shall have recourse to a national accreditation body of another Member State.';
- (8) in Article 58(2), the second subparagraph is replaced by the following:
- 'The assessment team shall include at least one person with the knowledge of the monitoring and reporting of greenhouse gas emissions pursuant to Implementing Regulation (EU) 2018/2066 that are relevant for the scope of accreditation and the competence and understanding required to assess the verification activities within the installation, aircraft operator or regulated entity for that scope, and at least one person with the knowledge of relevant national legislation and guidance.';
- (9) in Article 62, the introductory sentence is replaced by the following:
- 'Where the national accreditation body has received a complaint concerning the verifier from the competent authority, the operator aircraft operator, regulated entity or other interested parties, the national accreditation body shall, within a reasonable time but no later than three months from the date of its receipt.';
- (10) Article 69 is replaced by the following:

*Article 69*

**Electronic data exchange and use of automated systems**

1. Member States may require verifiers to use electronic templates or specific file formats for verification reports in accordance with Article 74(1) or Article 75u of Implementing Regulation (EU) 2018/2066 or in accordance with Article 13 of Delegated Regulation (EU) 2019/331.
  2. Standardised electronic templates or file format specifications may be made available for further types of communication between the operator, aircraft operator, regulated entity, verifier, competent authority and national accreditation body in accordance with Article 74(2) or Article 75u of Implementing Regulation (EU) 2018/2066.';
- (11) in Article 71(1), point (a) is replaced by the following:
- '(a) the anticipated time and place of the verification, including whether a physical or virtual site visit will be carried out;';



- (12) in Article 73(1), points (a) and (b) are replaced by the following:
- ‘(a) relevant results from checking the operator's and aircraft operator's report or regulated entity's report and the corresponding verification reports, in particular of any identified non-compliance of that verifier with this Regulation;
  - (b) results from the inspection of the operator, aircraft operator or regulated entity where those results are relevant for the national accreditation body concerning the verifier's accreditation and surveillance or where those results include any identified non-compliance of that verifier with this Regulation;’;
- (13) in Article 76, paragraph 1 is replaced by the following:
- ‘1. National accreditation bodies, or where applicable national authorities referred to in Article 55(2), shall set up and manage a database and allow access to that database to other national accreditation bodies, national authorities, verifiers, operators, aircraft operators, regulated entities and competent authorities.
- The body recognised under Article 14 of Regulation (EC) No 765/2008 shall facilitate and harmonise access to the databases to enable efficient and cost-effective communication between national accreditation bodies, national authorities, verifiers, operators, aircraft operators, regulated entities and competent authorities, and may reconcile those databases into a single and centralised database.’;
- (14) Article 77(1) is amended as follows:
- (a) points (a) and (b) are replaced by the following:
    - ‘(a) the planned time and place of the verifications that the verifier is scheduled to perform, including whether a physical or virtual site visit will be carried out;
    - (b) the address and contact details of the operators or aircraft operators whose emissions, baseline data reports, new entrant data reports or annual activity level reports are subject to its verification;’;
  - (b) the following point (ba) is inserted:
    - ‘(ba) the address and contact details of the regulated entities whose emission reports are subject to verification;’;
  - (c) point (c) is replaced by the following:
    - ‘(c) the names of the members of the verification team and the scope of the accreditation under which the operator's, aircraft operator's or regulated entity's activity falls.’;
- (15) Annexes I and II to Implementing Regulation (EU) 2018/2067 are amended in accordance with the Annex to this Regulation.

## *Article 2*

### **Entry into force and application**

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

Article 1, points (4), (7)(a)(i), (12)(d), (13)(d), (18)(b), (18)(c)(vii), (26) to (29), (38), (40)(b) and (c) and point 2(a) of the Annex shall apply from 1 January 2025.

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*

DRAFT