

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

Incorporated and adapted by Ministerial Council Decision 2022/05/MC-EnC of 15 December 2022 amending Annex I to the Treaty establishing the Energy Community and incorporating Implementing Regulation (EU) 2018/2066, Implementing Regulation (EU) 2018/2067 and Directive 2003/87/EC in the Energy Community acquis communautaire.

*The adaptations made by Ministerial Council Decision 2022/05/MC-EnC are highlighted in **bold and blue**.*

CHAPTER I GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down provisions for the verification of reports submitted pursuant to Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** and for the accreditation and supervision of verifiers.

This Regulation also specifies, <...> provisions for the mutual recognition of verifiers and peer evaluation of national accreditation bodies <...>.

Article 2

Scope

This Regulation shall apply to the verification of greenhouse gas emissions and tonne-kilometre data occurring from 1 January **2024**, <...>, and to the verification of data relevant for the update of *ex ante* benchmarks <...>.

Article 3

Definitions

For the purposes of this Regulation, in addition to the definitions laid down in Article 3 of Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** and Article 3 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, the following definitions shall apply:

(1) 'detection risk' means the risk that the verifier does not detect a material misstatement;

- (2) 'accreditation' means attestation by a national accreditation body that a verifier meets the requirements set by harmonised standards, within the meaning of point 9 of Article 2 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 pursuant to this Regulation;
- (3) 'verifier' means a legal person carrying out verification activities pursuant to this Regulation and accredited by a national accreditation body pursuant to Regulation (EC) No 765/2008 and this Regulation <...>, at the time a verification report is issued;
- (4) 'verification' means the activities carried out by a verifier to issue a verification report pursuant to this Regulation;
- (5) 'misstatement' means an omission, misrepresentation or error in the operator's or aircraft operator's reported data, not considering the uncertainty permissible under Article 12(1)(a) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**.
- (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 by the competent authority;
- (6a) 'annual activity level report' means a report submitted by an operator pursuant to Article 3(3) of Commission Implementing Regulation (EU) 2019/1842;
- (7) 'operator's or aircraft operator's report' means the annual emission report to be submitted by the operator or aircraft operator **and the tonne-kilometre report to be submitted by the aircraft operator <...>**;
- (8) 'scope of accreditation' means activities referred to in Annex I for which accreditation is sought or has been granted;
- (9) 'competence' means the ability to apply knowledge and skills to carry out an activity;
- (10) 'materiality level' means the quantitative threshold or cut-off point above which misstatements, individually or when aggregated with other misstatements, are considered material by the verifier;
- (11) 'control system' means the operator's or aircraft operator's risk assessment and entire set of control activities, including the continuous management thereof, that an operator or aircraft operator has established, documented, implemented and maintained pursuant to Article 59 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** 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 or aircraft operator to mitigate inherent risks;
- (13) 'non-conformity' means one of the following:
- (a) for the purposes of verifying an operator's emission report, any act or omission of an act by the operator 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 or tonne-kilometre 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;
- (c) for the purposes of verifying the baseline data report submitted by the operator pursuant to Article

4(2)(a) of 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, any act or omission of an act by the operator that is contrary to the requirements in the monitoring methodology plan;

(d) for the purposes of accreditation pursuant to Chapter IV, any act or omission of an act by the verifier that is contrary to the requirements of this Regulation;

(14) 'site' means, for the purposes of verifying the emission or tonne-kilometre 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;

(15) 'control environment' means the environment in which the internal control system functions and the overall actions of an operator's or aircraft operator'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 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 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 in appropriate verification opinion when the operator's or aircraft operator'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 subject to verification is free from material misstatement;

(20) 'analytical procedures' means the analysis of fluctuations and trends in the data including an analysis of the relationships that are inconsistent with other relevant information or that deviate from predicted amounts;

(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;

(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;

(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 other than the EU ETS lead auditor;

(24) 'technical expert' means a person who provides detailed knowledge and expertise on a specific subject matter needed for the performance of verification activities for the purposes of Chapter III and for the performance of accreditation activities for the purposes of Chapter V;

(25) 'level of assurance' means the degree of assurance the verifier provides on the verification report based on the objective of reducing the verification risk according to the circumstances of the verification engagement;

(26) 'assessor' means a person assigned by a national accreditation body to perform individually or as part of an assessment team an assessment of a verifier pursuant to this Regulation;

(27) 'lead assessor' means an assessor who is given the overall responsibility for assessing a verifier pursuant to this Regulation;

(28) 'baseline data report' means a report submitted by an operator pursuant to Article 4(2) of Delegated Regulation (EU) 2019/331;

(29) 'new entrant data report' means a report submitted by an operator pursuant to Article 5(2) of Delegated Regulation (EU) 2019/331;

(30) 'activity level reporting period' means the applicable period preceding the submission of the annual activity level report pursuant to Article 3(1) of Implementing Regulation (EU) 2019/1842.

Article 4

Presumption of conformity

Where a verifier demonstrates its conformity with the criteria laid down in the relevant harmonised standards as defined in point (9) of Article 2 of Regulation (EC) No 765/2008, or parts thereof, <...> it shall, with the exception of Articles 7(1), 7(4), 22, 27(1), 28, 31 and 32 of this Regulation, be presumed to comply with the requirements set out in Chapters II and III of this Regulation in so far as the applicable harmonised standards cover those requirements.

Article 5

<...>

CHAPTER II VERIFICATION

Article 6

Reliability of verification

A verified emissions report, tonne-kilometre 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.

The process of verifying operator's or aircraft operator's report shall be an effective and reliable tool in support of quality assurance and quality control procedures, providing information upon which an operator or aircraft operator can act to improve performance in monitoring and reporting emissions or data relevant for free allocation.

Article 7

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 operator's or aircraft operator'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 operator's or aircraft operator's report to contain material misstatements.

3. The verifier must carry out verification in the public interest, and be independent of the operator or aircraft operator and the competent authorities responsible for Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**.

4. During the verification, the verifier shall assess whether:

(a) the operator's or aircraft operator's report is complete and meets the requirements laid down in Annex X to Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, in Annex IV to Delegated Regulation (EU) 2019/331 or Article 3(2) of Implementing Regulation (EU) 2019/1842, as appropriate;

(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 or tonne-kilometre report is concerned;

(c) where the verification of an operator's baseline data report, new entrant data report or annual activity level report is concerned, the operator has acted in conformance with the requirements of the monitoring methodology plan pursuant to Article 8 of Delegated Regulation (EU) 2019/331 approved by the competent authority;

(d) the data in the operator's or aircraft operator's report are free from material misstatements;

(e) information can be provided in support of the operator's or aircraft operator's data flow activities, control system and associated procedures to improve the performance of their monitoring and reporting.

By way of derogation from point (c), the verifier shall assess whether the operator's monitoring methodology plan is in compliance with the requirements of Delegated Regulation (EU) 2019/331 where the monitoring methodology plan is not subject to approval of the competent authority prior to submission of the baseline data report.

If the verifier discovers that a monitoring methodology plan does not comply with Delegated Regulation (EU) 2019/331, the operator shall modify the monitoring methodology plan so that it complies with that Regulation.

For the purpose of point (d) of this paragraph, the verifier shall obtain clear and objective evidence from the operator or aircraft operator to support the reported aggregated emissions, tonne-kilometres or data relevant for free allocation taking into account all other information provided in the operator's or aircraft operator's report.

5. If the verifier discovers that an operator or an aircraft operator is not complying with Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or the operator is not complying with, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842, that irregularity shall be included in the verification report even if the monitoring plan or monitoring methodology plan concerned, as appropriate, has been approved by the competent authority.

6. If the monitoring plan has not been approved by the competent authority pursuant to Article 12 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, is incomplete or if significant modifications referred to in Article 15(3) or (4) of that Implementing Regulation have been made during the reporting period which have not been accordingly approved by the competent authority, the verifier shall advise the operator or aircraft operator to obtain the necessary approval from the competent authority.

If the monitoring methodology plan is subject to the approval of the competent authority prior to submission of the baseline data report pursuant to Article 8(4) of Delegated Regulation (EU) 2019/331 and the monitoring methodology plan has not been approved or is incomplete, or where significant modifications referred to in Article 9(5) of that Regulation have been made which have not been approved by the competent authority, the verifier shall advise the operator to obtain the necessary approval from 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.

Article 8

Pre-contractual obligations

1. Before accepting a verification engagement, a verifier shall obtain a proper understanding of the operator or aircraft operator 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 operator's or aircraft operator's report in accordance with this Regulation;

(b) undertake a review of the information supplied by the operator or aircraft operator 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 installation or the aircraft operator'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 operator or aircraft operator;

(f) determine, for each verification engagement requested, the time allocation needed to properly carry out the verification.

2. The operator or aircraft operator shall provide the verifier with all relevant information that enables the verifier to carry out the activities referred to in paragraph 1.

Article 9

Time allocation

1. When determining the time allocation for a verification engagement referred to in Article 8(1)(f), the verifier shall at least take into account:

- (a) the complexity of the installation or the aircraft operator's activities and fleet;
- (b) the level of information and the complexity of the monitoring plan approved by the competent authority or the monitoring methodology plan, as appropriate;
- (c) the required materiality level;
- (d) the complexity and completeness of the data flow activities and the control system of the operator or aircraft operator;
- (e) the location of information and data related to greenhouse gas emissions, tonne-kilometre data or data relevant for free allocation.

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 operator or aircraft operator 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 10

Information from an operator or aircraft operator

1. Before the strategic analysis and at other points of time during the verification, the operator or aircraft operator shall provide the verifier with all of the following:

- (a) the operator's greenhouse gas emissions permit, if this concerns the verification of an operator's emission report;
- (b) the latest version of the operator's or aircraft operator's monitoring plan as well as any other relevant versions of the monitoring plan approved by the competent authority, including evidence of the approval;
- (c) the latest version of the operator's monitoring methodology plan as well as any other relevant versions

- of the monitoring methodology plan, including, where applicable, evidence of the approval;
- (d) a description of the operator's or aircraft operator's data flow activities;
- (e) the operator's or aircraft operator's risk assessment referred to in Article 59(2)(a) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or Article 11(1) of Delegated Regulation (EU) 2019/331, as appropriate, and an outline of the overall control system;
- (f) where applicable, the simplified uncertainty assessment referred to in Article 7(2)(c) of Delegated Regulation (EU) 2019/331;
- (g) the procedures mentioned in the monitoring plan as approved by the competent authority or the monitoring methodology plan, including procedures for data flow activities and control activities;
- (h) the operator's or aircraft operator's annual emission, tonne-kilometre report, baseline data report, new entrant data report or annual activity level report, as appropriate;
- (i) the baseline data reports of previous allocation periods for earlier allocation phases and annual activity level reports of the previous years submitted to the competent authority for the purpose of Article 10a(21) of Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, if applicable;
- (j) where applicable, the operator's sampling plan referred to in Article 33 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** as approved by the competent authority;
- (k) if the monitoring plan was modified during the reporting period, a record of all those modifications in accordance with Article 16(3) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**;
- (ka) if the monitoring methodology plan was modified, a record of all modifications in accordance with Article 9 of Delegated Regulation (EU) 2019/331;
- (l) where applicable, the reports referred to in Article 69(1) and 69(4) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**;
- (la) where applicable, information on how the operator has corrected non-conformities or addressed recommendations of improvements that were reported in the verification report concerning an annual activity level report from the previous year or a relevant baseline data report;
- (m) the verification report from the previous year or the previous baseline period, as appropriate, if the verifier did not carry out the verification for that particular operator or aircraft operator the previous year or baseline period, as appropriate;
- (n) all relevant correspondence with the competent authority, in particular information related to the notification of modifications of the monitoring plan or monitoring methodology plan as well as corrections of reported data, as appropriate;
- (o) information on databases and data sources used for monitoring and reporting purposes, including those from Eurocontrol or another relevant organisation;
- (p) where the verification concerns the emission report of an installation carrying out the geological storage of greenhouse gases in a storage site <...>, the monitoring plan <...> and the reports <...>, covering at least the reporting period of the emissions report to be verified;

- (q) where applicable, the approval of the competent authority for not carrying out site visits for installations pursuant to Article 31(1);
 - (r) the operator's evidence demonstrating compliance with the uncertainty thresholds for the tiers laid down in the monitoring plan;
 - (s) any other relevant information necessary for planning and carrying out the verification.
2. Before the verifier issues the verification report, the operator or aircraft operator shall provide it with the final authorised and internally validated operator's or aircraft operator's report.

Article 11

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 installation or the aircraft operator.

2. For the purposes of understanding the activities carried out by the installation or the aircraft operator, 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 10(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 operator or aircraft operator.

3. When reviewing the information referred to in paragraph 2, the verifier shall at least assess the following:

- (a) for the purposes of the verification of the operator's emission report, the category of the installation referred to in Article 19 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** and the activities carried out at that installation;
- (b) for the purposes of the verification of the aircraft operator's emission or tonne- kilometre 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 approved by the competent authority or monitoring methodology plan, as appropriate, 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, tonne-kilometre data 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;
- (e) the data flow activities, the control system and the control environment.

4. When carrying out the strategic analysis, the verifier shall check the following:

- (a) whether the monitoring plan or monitoring methodology plan, as appropriate, 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;
- (ba) whether there have been any modifications to the monitoring methodology plan during the baseline period or the activity level reporting period, as appropriate;
- (c) where applicable, whether the modifications referred to in point (b) have been notified to the competent authority pursuant to Article 15(1) or Article 23 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or approved by the competent authority in accordance with Article 15(2) of that Implementing Regulation.
- (d) where applicable, whether the modifications referred to in point (ba) have been notified to the competent authority pursuant to Article 9(3) of Delegated Regulation (EU) 2019/331 or approved by the competent authority in accordance with Article 9(4) of that Regulation.

Article 12

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, the verifier shall at least consider:
 - (a) the findings from the strategic analysis referred to in Article 11(1);
 - (b) the information referred to in Article 10(1) and Article 11(2)(c);
 - (c) the materiality level referred to in Article 11(2)(b).
3. If the verifier determines that the operator or aircraft operator has failed to identify the relevant inherent risks and control risks in its risk assessment, the verifier shall inform the operator or aircraft operator 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 13

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 operator or aircraft operator's emission report, the aggregated tonne-kilometre data in the aircraft operator's tonne-kilometre 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.

2. The verifier shall set up the test plan referred to in point (b) of paragraph 1 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 mentioned in Article 7(4)(b), (c), (d) or the second subparagraph of Article 7(4).

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 point (c) of paragraph 1, 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 operator's or aircraft operator'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 14

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 or monitoring methodology plan, as appropriate.

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 operator or aircraft operator are appropriately documented, implemented, maintained and effective to mitigate the inherent risks;
- (c) whether the procedures listed in the monitoring plan or monitoring methodology plan, as appropriate, 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 operator's or aircraft operator's report.

Article 15

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 operator's or aircraft operator'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 14 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 operator or aircraft operator 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 16

Data verification

1. The verifier shall verify the data in the operator's or aircraft operator'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. As part of the data verification referred to in paragraph 1 and taking into account the approved monitoring plan or monitoring methodology plan, as appropriate, including the procedures described in that plan, the verifier shall check:

(a) for the purposes of verifying an operator's emission report, the boundaries of an installation;

(b) for the purposes of verifying an operator's baseline data report, new entrant data report or annual activity level report, the boundaries of an installation and its sub-installations;

(c) for the purposes of verifying an operator's emission report, baseline data report, new entrant data report or annual activity level report, the completeness of source streams and emission sources as described in the monitoring plan approved by the competent authority or monitoring methodology plan, as appropriate;

(d) for the purposes of verifying an aircraft operator's emission report and tonne-kilometre report, the completeness of flights covered by an aviation activity listed in Annex I to Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** for which the aircraft operator is responsible as well as the completeness of emission data and tonne-kilometre data respectively;

(e) for the purposes of verifying an aircraft operator's emission report and tonne-kilometre report, the consistency between reported data and mass and balance documentation;

(f) for the purposes of verifying an aircraft operator's emission report, the consistency between aggregated fuel consumption and data on fuel purchased or otherwise supplied to the aircraft performing the aviation activity;

(fa) for the purposes of verifying an annual activity level report, the accuracy of the parameters listed in Articles 16(5), 19, 20, 21 or 22 of Delegated Regulation (EU) 2019/331 as well as data required under paragraphs 1, 2 and 4 of Article 6 of Implementing Regulation (EU) 2019/1842;

(g) the consistency of the aggregated reported data in an operator's or aircraft operator's report with primary source data;

(h) where an operator applies a measurement-based methodology referred to in Article 21(1) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, the measured values using the results of the calculations performed by the operator in accordance with Article 46 of that Implementing Regulation;

(i) the reliability and accuracy of the data.

3. For the purposes of checking the completeness of flights referred to in point (d) of paragraph 2, the verifier shall use an aircraft operator's air traffic data, including data collected from Eurocontrol or other relevant organisations which can process air traffic information such as that available to Eurocontrol.

Article 17

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 operator's emission report, the verifier shall check the correct application and implementation of the sampling plan referred to in Article 33 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, as approved by the competent authority.

3. For the purposes of verifying the operator's baseline data report, new entrant data report or annual activity level report, the verifier shall check whether the methodology for collecting and monitoring data defined in the monitoring methodology plan is applied in the correct way, including:

(a) whether all data on emissions, inputs, outputs and energy flows are attributed correctly to the sub-installations in line with the system boundaries as referred to in Annex I to Delegated Regulation (EU) 2019/331;

(b) whether data are complete and whether data gaps or double counting have occurred;

(c) whether activity levels for product benchmarks are based on a correct application of the product definitions listed in Annex I to Delegated Regulation (EU) 2019/331;

(d) whether activity levels for the heat benchmark sub-installations, the district heating sub-installation, the fuel benchmark sub-installations and the process emissions sub-installations have been correctly attributed according to the products produced <...>;

(e) whether the energy consumption has been correctly attributed to each sub-installation where applicable;

(f) whether the value of the parameters listed in Articles 16(5), 19, 20, 21 or 22 of Delegated Regulation (EU) 2019/331 is based on a correct application of that Regulation;

(g) for the purposes of verifying an annual activity level report and a new entrant data report, the date of start of normal operation as referred to in Article 5(2) of Delegated Regulation (EU) 2019/331;

(h) for the purposes of verifying an annual activity level report, whether the parameters listed in points 2.3 to 2.7 of Annex IV to Delegated Regulation (EU) 2019/331, as appropriate to the installation, have been monitored and reported in the correct way in accordance with the monitoring methodology plan.

4. Where transferred CO₂ is subtracted in accordance with Article 49 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or transferred N₂O is not counted as emitted in accordance with Article 50 of that Regulation, and the CO₂ or N₂O transferred is measured by both the transferring and receiving installation, the verifier shall check whether differences between the measured values at both installations can be explained by the uncertainty of the measurement systems and whether the correct arithmetic average of the measured values has been used in the emission reports of both installations.

Where the differences between the measured values at both installations cannot be explained by the uncertainty of the measurement systems, the verifier shall check whether adjustments were made to align the differences between the measured values, whether those adjustments were conservative and whether the competent authority has granted approval for those adjustments.

Article 18

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 Article 66 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, the verifier shall check whether the methods used were appropriate for the specific situation and whether they have been applied correctly.

If the operator or aircraft operator has obtained an approval by the competent authority to use other methods than those referred to in the first subparagraph in accordance with Article 66 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, the verifier shall check whether the approved approach has been applied correctly and appropriately documented.

Where an operator or an aircraft operator is not able to obtain such approval in time, the verifier shall check whether the approach used by the operator or aircraft operator 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 Article 66 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** from occurring.

3. Where data gaps in baseline data reports, new entrant data reports or annual activity level reports have occurred, the verifier shall check whether methods are laid down in the monitoring methodology plan to deal with data gaps pursuant to Article 12 of Delegated Regulation (EU) 2019/331, whether those methods were appropriate for the specific situation and whether they have been applied correctly.

Where no applicable data gap method is laid down in the monitoring methodology plan, the verifier shall check whether the approach used by the operator to compensate for the missing data is based on reasonable evidence and ensures that the data required by Annex IV to Delegated Regulation (EU) 2019/331 or Article 3(2) of Implementing Regulation (EU) 2019/1842 are not underestimated or overestimated.

Article 19

Uncertainty assessment

1. Where Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** requires the operator 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.

2. Where an operator applies a monitoring methodology not based on tiers, as referred to in Article 22 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, the verifier shall check the following:

(a) whether an assessment and quantification of the uncertainty has been carried out by the operator demonstrating that the required overall uncertainty threshold for the annual level of greenhouse gas

emissions pursuant to point (c) of Article 22 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** has been met;

(b) the validity of the information used for the assessment and quantification of the uncertainty;

(c) whether the overall approach used for the assessment and the quantification of the uncertainty is in accordance with point (b) of Article 22 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**;

(d) whether evidence is provided that the conditions for the monitoring methodology referred to in point (a) of Article 22 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** have been met.

3. Where Delegated Regulation (EU) 2019/331 requires the operator to carry out a simplified uncertainty assessment, the verifier shall confirm the validity of the information used for that assessment.

Article 20

Sampling

1. When checking the conformance of control activities and procedures referred to in points (b) and (c) of Article 14 or when performing the checks referred to in Articles 15 and 16, the verifier may use sampling methods specific to an installation or aircraft operator 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 operator or aircraft operator 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 operator or aircraft operator.

3. The verifier shall document the outcome of the checks referred to in Articles 14 to 17, including the details of additional samples, in the internal verification documentation.

Article 21

Site visits

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 operator's or aircraft operator's report is free from material misstatements.

2. The operator or aircraft operator shall provide the verifier access to its sites.

3. For the purposes of verifying the operator's emission report, the verifier shall also use a site visit to assess the boundaries of the installation as well as the completeness of source streams and emission sources.

4. For the purposes of verifying the operator's baseline data report, new entrant data report and annual

activity level report, the verifier shall also use a site visit to assess the boundaries of the installation and its sub-installations as well as the completeness of source streams, emission sources and technical connections.

5. For the purposes of verifying the operator's emission report, baseline data report, new entrant data report or annual activity level 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.

Article 22

Addressing misstatements, non-conformities and non-compliance

1. If the verifier identifies misstatements, non-conformities or non-compliance with Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842 as appropriate, during the verification, it shall inform the operator or aircraft operator thereof on a timely basis and request relevant corrections.

The operator or aircraft operator shall correct any communicated misstatements or non-conformities.

Where a non-compliance with Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842 has been identified, the operator or aircraft operator 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 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842 that have been corrected by the operator or aircraft operator during the verification.

3. If the operator or aircraft operator 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 operator or aircraft operator 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, tonne-kilometre data 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.

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 operator or aircraft operator does not correct the non-compliance with Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842 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 23, where such consideration is justified by the size and nature of the misstatements and the particular circumstances of their occurrence.

Article 23

Materiality level

1. For the purposes of verifying emission reports, the materiality level shall be 5 % of the total reported emissions in the reporting period which is subject to verification, for any of the following:

(a) category A installations referred to in Article 19(2)(a) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** and category B installations referred to in Article 19(2)(b) of that Implementing Regulation;

(b) aircraft operators with annual emissions equal to or less than 500 kilotonnes of fossil CO₂.

2. For the purposes of verifying emissions reports the materiality level shall be 2 % of the total reported emissions in the reporting period which is subject to verification, for any of the following:

(a) category C installations referred to in Article 19(2)(c) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**;

(b) aircraft operators with annual emissions of more than 500 kilo tonnes of fossil CO₂.

3. For the purposes of verifying tonne-kilometre reports of aircraft operators, the materiality level shall be 5 % of the total reported tonne-kilometre data in the reporting period which is subject to verification.

4. For the purposes of verifying baseline data report, new entrant data reports or annual activity level reports, the materiality level shall be 5 % of the total reported value of the following:

(a) the installation's total emissions, where the data relate to emissions;

(b) the sum of imports and production of net measurable heat, if relevant, where the data relate to measurable heat data;

(c) the sum of the amounts of waste gases imported and produced within the installation, if relevant;

(d) the activity level of each relevant product benchmark sub-installation individually.

Article 24

Concluding on the findings of verification

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

(a) check the final data from the operator or aircraft operator, including data that have been adjusted based upon information obtained during the verification;

(b) review the operator's or aircraft operator'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 or monitoring methodology plan, as appropriate, 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.

Article 25

Independent review

1. The verifier shall submit the internal verification documentation and the verification report to an independent reviewer prior to the issuance of the verification report.

2. The independent reviewer shall not have carried out any verification activities that are subject to their review.

3. The scope of the independent review shall encompass the complete verification process described in this Chapter and recorded in the internal verification documentation.

The independent reviewer shall perform the review so as to ensure that the verification process is conducted in accordance with this Regulation, that the procedures for verification activities referred to in Article 41 have been correctly carried out, and that due professional care and judgment has been applied.

The independent reviewer shall also assess whether the evidence gathered is sufficient to enable the verifier to issue a verification report with reasonable assurance.

4. Where circumstances occur which may cause changes in the verification report after the review, the independent reviewer shall also review those changes and the evidence thereof.

5. The verifier shall properly authorize a person to authenticate the verification report based upon the conclusions of the independent reviewer and the evidence in the internal verification documentation.

Article 26

Internal verification documentation

1. 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, tonne-kilometre data or data relevant for free allocation.

2. The internal verification documentation referred to in paragraph 1 shall be drafted in such a manner that the independent reviewer referred to in Article 25 and the national accreditation body can assess whether the verification has been performed in accordance with this Regulation.

After authentication of the verification report pursuant to Article 25(5), the verifier shall include results of the independent review in the internal verification documentation.

3. The verifier shall, upon request, provide the competent authority access to the internal verification documentation and other relevant information to facilitate an evaluation of the verification by the competent authority.

The competent authority can set a timeframe within which the verifier must provide access to that documentation.

Article 27

Verification report

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, tonne-kilometre report, baseline data report, new entrant data report or annual activity level report that was subject to verification.

(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;

(e) where the monitoring methodology plan is not subject to the approval of the competent authority, non-compliance with Delegated Regulation (EU) 2019/331 provide insufficient clarity and prevent the verifier from stating with reasonable assurance that the baseline data report or new entrant data report is free from material misstatements.

For the purposes of point (a) of the first subparagraph, 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.

2. The operator or aircraft operator shall submit the verification report to the competent authority together with the operator's or aircraft operator's report concerned.

3. The verification report shall at least contain the following elements:

(a) the name of the operator or aircraft operator that was subject to verification;

(b) the objectives of the verification;

(c) the scope of the verification;

- (d) a reference to the operator's or aircraft operator's report that has been verified;
- (e) the criteria used to verify the operator's or aircraft operator's report, including the permit, where applicable, and versions of the monitoring plan approved by the competent authority or monitoring methodology plan, as appropriate, as well as the period of validity for each plan;
- (f) <...>
- (g) where it concerns the verification of the operator's or aircraft operator's emission report, aggregated emissions or tonne-kilometres per activity referred to in Annex I to Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** and per installation or aircraft operator;
- (h) where it concerns the verification of the baseline data report or new entrant data report, aggregated annual verified data for each year in the baseline period for each sub-installation for the annual activity level and the emissions attributed to the sub-installation;
- (ha) where it concerns the verification of the annual activity level report, aggregated annual verified data for each year in the activity level reporting period for each sub-installation for its annual activity level;
- (i) the reporting period, the baseline period or the activity level reporting period subject to verification;
- (j) the responsibilities of the operator or aircraft operator, the competent authority and the verifier;
- (k) the verification opinion statement;
- (l) a description of any identified misstatements and non-conformities that were not corrected before the issuance of the verification report;
- (m) the dates on which site visits were carried out and by whom;
- (n) information on whether any site visits were waived as well as the reasons for waiving these site visits;
- (o) any issues of non-compliance with Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842 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 data gap pursuant to the last subparagraph of Article 18(1), a confirmation whether the method used is conservative and whether it does or does not lead to material misstatements;
- (q) a statement if the method used to complete any data gap pursuant to Article 12 of Delegated Regulation (EU) 2019/331 leads to material misstatements;
- (ra) where the verifier has observed relevant changes to the parameters listed in Articles 16(5), 19, 20, 21 or 22 of Delegated Regulation (EU) 2019/331 or changes in the energy efficiency pursuant to paragraphs 1, 2 and 3 of Article 6 of Implementing Regulation 2019/1842, a description of those changes and related remarks;
- (rb) where applicable, confirmation that the date of start of normal operation as referred to in Article 5(2) of Delegated Regulation (EU) 2019/331 has been checked;
- (s) recommendations for improvements, where applicable;
- (t) 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 operator's or aircraft operator's report;

(u) the date and signature by an authorised 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 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842 in sufficient detail in the verification report to allow the operator or aircraft operator 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 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842;

(b) why the misstatement has material effect, or not;

(c) to which element of the operator's or aircraft operator's report the misstatement refers, or to what element of the monitoring plan or the monitoring methodology plan the non-conformity refers;

(d) to which Article in Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 or Implementing Regulation (EU) 2019/1842 the non-compliance relates.

5. For the purposes of verifying emission reports or tonne-kilometre reports, if a **Contracting Party** requires the verifier to submit information on the verification process in addition to the elements described 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.

Article 28

Limitation of scope

The verifier may conclude that the scope of the verification referred to in Article 27(1)(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 or monitoring methodology plan, as appropriate, does not provide sufficient scope or clarity to conclude on the verification;

(d) the operator or aircraft operator has failed to make sufficient information available to enable the verifier to carry out the verification;

(e) where Delegated Regulation (EU) 2019/331 or the **Contracting Party** required approval of the monitoring methodology plan by the competent authority prior to submission of the baseline data report and that plan has not been approved by the competent authority before the start of verification.

Article 29

Addressing outstanding non-material non-conformities

1. The verifier shall assess whether the operator or aircraft operator has corrected the non-conformities indicated in the verification report related to the previous monitoring period according to the requirements on the operator referred to in Article 69(4) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, where relevant.

If the operator or aircraft operator has not corrected those non-conformities pursuant to Article 69(4) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, 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 operator or aircraft operator.

1a. For the purposes of the verification of the annual activity level report, the verifier shall assess whether the operator has corrected the non-conformities indicated in the verification report related to the corresponding baseline data report, the new entrant data report or the annual activity level report from the previous activity level reporting period.

If the operator has not corrected those non-conformities, 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 operator.

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

Article 30

Improvement of the monitoring and reporting process

1. Where the verifier has identified areas for improvement in the operator's or aircraft operator's performance related to points (a) to (e) of this paragraph, it shall include in the verification report recommendations for improvement related to the operator's or aircraft operator's performance on those points:

(a) the operator's or aircraft operator'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 an operator or aircraft operator has to establish pursuant to Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or Article 11(2) of Delegated Regulation (EU) 2019/331;

(d) the monitoring and reporting of emissions or tonne kilometres, 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.

2. During verification following a year in which recommendations for improvement were made in a verification report, the verifier shall check whether the operator or aircraft operator has implemented those recommendations for improvement and the manner in which this has been done.

Where the operator or aircraft operator 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 31

Simplified verification for installations

1. By way of derogation from Article 21(1), the verifier may decide, subject to the approval by a competent authority in accordance with the second subparagraph of this Article, not to carry out site visits to installations.

This decision shall be based on the outcome of the risk analysis and after determining that all relevant data can be remotely accessed by the verifier and that the conditions for not carrying out site visits are met.

The verifier shall inform the operator thereof without undue delay.

The operator 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.

On an application submitted by the operator concerned, the competent authority shall decide whether to approve the verifier's decision not to carry out the site visit, taking into consideration all of the following elements:

- (a) the information provided by the verifier on the outcome of the risk analysis;
- (b) information that the relevant data can be remotely accessed;
- (c) evidence that the requirements laid down in paragraph 3 are not applicable to the installation;
- (d) evidence that the conditions for not carrying out the site visits are met.

2. The approval of the competent authority referred to in paragraph 1 of this Article is not required for not carrying out site visits of installations with low emissions referred to in Article 47(2) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**.

3. The verifier shall always carry out site visits in the following situations:

- (a) when an operator's emission report or annual activity level report is verified for the first time by the verifier;
- (b) for the purposes of verifying the operator's emission report, if a verifier has not carried out a site visit in two reporting periods immediately preceding the current reporting period;
- (ba) for the purposes of verifying the operator's annual activity level report, if a verifier has not carried out a site visit during the verification of an annual activity level report or a baseline data report in the two activity level reporting periods immediately preceding the current activity level reporting period;

(c) if, during the reporting period, there have been significant modifications of the monitoring plan including those referred to in Article 15(3) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**;

(ca) if, during the activity level reporting period, there have been significant changes to the installation or its sub-installations which require significant modifications to the monitoring methodology plan, including those changes referred to in Article 9(5) of Delegated Regulation (EU) 2019/331;

(d) if an operator's baseline data report or new entrant data report is verified.

4. Points (c) and (ca) of paragraph 3 are not applicable where, during the reporting period, there have been only modifications of the default value as referred to in Article 15(3)(h) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or Article 9(5)(c) of Delegated Regulation (EU) 2019/331.

Article 32

Conditions for not carrying out site visits

The conditions for not carrying out site visits referred to in Article 31(1) are any of the following: (1) the verification of an operator's emission report concerns a category A installation referred to in Article 19(2)(a) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or a category B installation referred to in Article 19(2)(b) of that Implementing Regulation whereby:

(a) the installation has only one source stream as referred to in Article 19(3)(c) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** which is natural gas, or one or more *de minimis* source streams which aggregated do not exceed the threshold for *de minimis* source streams laid down in Article 19 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**;

(b) the natural gas is monitored through fiscal metering which is subject to an appropriate legal regime for the control of fiscal meters and meets the required uncertainty levels related to the applicable tier;

(c) only default values for the calculation factors of natural gas are applied;

(2) the verification of an operator's emission report concerns a category A installation referred to in Article 19(2)(a) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or a category B installation referred to in Article 19(2)(b) of that Implementing Regulation whereby:

(a) the installation has only one source stream which is a fuel without process emissions, and that fuel is either a solid fuel directly combusted in the installation without intermediate storage, or a liquid or gaseous fuel for which there may be intermediate storage;

(b) the activity data related to the source stream is monitored by using one of the following methods:

(i) fiscal metering method which is subject to an appropriate legal regime for the control of fiscal meters and meets the required uncertainty levels related to the applicable tier;

(ii) method based solely on invoice data taking into account stock changes if relevant;

(c) only default values for calculation factors are applied;

(d) the competent authority has allowed the installation to use a simplified monitoring plan in accordance with Article 13 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**;

(3) the verification of an operator's emission report concerns an installation with low emissions as referred to in Article 47(2) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** and paragraphs (a) to (c) of point (2) are applicable;

(3a) the verification of an operator's annual activity level report concerns an installation as referred to in point 1, 2 or 3 whereby:

(a) that installation has no other sub-installation than one sub-installation to which a product benchmark pursuant to Article 10(2) of Delegated Regulation (EU) 2019/331 is applicable; and

(b) the production data relevant for the product benchmark has been evaluated as part of an audit for financial accounting purposes and the operator provides evidence thereof;

(3b) the verification of an operator's annual activity level report concerns an installation as referred to in point 1, 2 or 3 whereby:

(a) the installation has a maximum of two sub-installations;

(b) the second sub-installation contributes less than 5 % to the installation's total final allocation of allowances; and

(c) the verifier has sufficient data available to assess the split of sub-installations if relevant;

(3c) the verification of an operator's annual activity level report concerns an installation as referred to in point 1, 2 or 3 whereby:

(a) the installation has only heat benchmark or district heating sub-installations; and

(b) the verifier has sufficient data available to assess the split of sub-installations if relevant;

(4) the verification of the operator's emission report or annual activity level report concerns an installation located on an unmanned site whereby:

(a) telemetered data from the unmanned site is sent directly to another location where all data is processed, managed and stored;

(b) the same person is responsible for all data management and recording for the site;

(c) the meters have already been inspected on site by the operator or a laboratory in accordance with Article 60 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or Article 11 of Delegated Regulation (EU) 2019/331 and a signed document or date-stamped photographic evidence provided by the operator demonstrates that no metering or operational changes have occurred at the installation since that inspection;

(5) the verification of the operator's emission report or annual activity level report concerns an installation located on a remote or inaccessible site, in particular an off-shore installation, whereby:

(a) there is a high level of centralisation of data collected from that site and transmitted directly to another location where all the data is processed, managed and stored with good quality assurance; and

(b) the meters have already been inspected on site by the operator or a laboratory in accordance with Article 60 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** or Article 11 of Delegated Regulation (EU) 2019/331 and a signed

document or date-stamped photographic evidence provided by the operator demonstrates that no metering or operational changes have occurred at the installation since that inspection.

Point (2) may also be applied if, in addition to the source stream as referred to in point (a) of that point, the installation uses one or more *de minimis* source streams which aggregated do not exceed the threshold for *de minimis* source streams laid down in Article 19 of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**.

Point (3a)(b) must be applied if the sub-installation contributing 95 % or more to the installation's total final allocation of allowances as referred to in point (3b)(b) is a sub-installation to which a product benchmark pursuant to Article 10(2) of Delegated Regulation (EU) 2019/331 is applicable.

Article 33

Simplified verification for aircraft operators

1. By way of derogation from Article 21(1) of this Regulation, a verifier may decide not to carry out a site visit of a small emitter referred to in Article 55(1) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** if the verifier has concluded, based on its risk analysis, that all relevant data can be remotely accessed by the verifier.

2. Where an aircraft operator uses the simplified tools referred to in Article 55(2) of Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** to determine the fuel consumption and the reported data has been generated using those tools independently from any input from the aircraft operator, the verifier may, based on its risk analysis, decide not to carry out the checks referred to in Articles 14 and 16, Article 17(1) and (2) and Article 18 of this Regulation.

Article 34

Simplified verification plans

Where a verifier uses a simplified verification plan, the verifier shall keep a record of justifications for using such plans in the internal verification documentation, including evidence that the conditions for using simplified verification plans have been met.

Article 34a

Virtual site visits

1. By way of derogation from Article 21(1), where serious, extra ordinary and unforeseeable circumstances, outside the control of the operator or aircraft operator, prevent the verifier from carrying out a physical site visit and where these circumstances cannot, after using all reasonable efforts, be overcome, the verifier may decide, subject to the approval of the competent authority in accordance with paragraph 3 of this Article, to carry out a virtual site visit.

The verifier shall take measures to reduce the verification risk to an acceptable level to obtain reasonable

assurance that the operator's or aircraft operator's report is free from material misstatements.

A physical visit to the site of the installation or aircraft operator shall be carried out without undue delay.

The decision to carry out a virtual site visit shall be based on the outcome of the risk analysis and after determining that the conditions for carrying out a virtual site visit are met.

The verifier shall inform the operator or aircraft operator thereof without undue delay.

2. The operator or aircraft operator shall submit an application to the competent authority requesting the competent authority to approve the verifier's decision to carry out a virtual site visit.

The application shall include the following elements:

(a) evidence that it is not possible to carry out a physical site visit because of the serious, extraordinary and unforeseeable circumstances, outside the control of the operator or aircraft operator;

(b) information on how the virtual site visit will be carried out;

(c) the information on the outcome of the risk analysis by the verifier;

(d) evidence of the measures taken by the verifier to reduce the verification risk to an acceptable level to obtain reasonable assurance that the operator's or aircraft operator's report is free from material misstatements.

3. On an application submitted by the operator or aircraft operator concerned, the competent authority shall decide whether to approve the verifier's decision to carry out a virtual site visit, taking into consideration the elements specified in paragraph 2.

4. By way of derogation from paragraph 3, where a large number of installations or aircraft operators are affected by the similar serious, extraordinary and unforeseeable circumstances, outside the control of the operator or aircraft operator, and immediate action is needed because of legally imposed national health reasons, the competent authority may authorise verifiers to carry out virtual site visits without a need for an individual approval referred to in paragraph 3 provided that:

(a) the competent authority has established that there are serious extra ordinary and unforeseeable circumstances, outside the control of the operator or aircraft operator and immediate action is needed because of legally imposed national health reasons;

(b) the operator or aircraft operator informs the competent authority about the verifier's decision to carry out a virtual site visit, including the elements specified in paragraph 2.

The competent authority shall review the information provided by the operator or aircraft operator in accordance with point (b) during the assessment of the operator's or aircraft operator's report and inform the national accreditation body about the outcome of the assessment.

CHAPTER III

REQUIREMENTS FOR VERIFIERS

Article 35

Sectoral scopes of accreditation

The verifier shall only issue a verification report to an operator or aircraft operator that performs an activity that is covered by the scope of the activity referred to in Annex I for which the verifier has been granted accreditation according to the provisions of <...> this Regulation.

Article 36

Continued competence process

1. The verifier shall establish, document, implement and maintain a competence process to ensure that all personnel entrusted with verification activities are competent for the tasks that are allocated to them.

2. As part of the competence process referred to in paragraph 1, the verifier shall at least determine, document, implement and maintain the following:

- (a) general competence criteria for all personnel undertaking verification activities;
- (b) specific competence criteria for each function within the verifier undertaking verification activities, in particular for the EU ETS auditor, EU ETS lead auditor, independent reviewer and technical expert;
- (c) a method to ensure the continued competence and regular evaluation of the performance of all personnel that undertake verification activities;
- (d) a process for ensuring ongoing training of the personnel undertaking verification activities;
- (e) a process for assessing whether the verification engagement falls within the scope of the verifier's accreditation, and whether the verifier has the competence, personnel and resources required to select the verification team and successfully complete the verification activities within the timeframe required.

The competence criteria referred to in point (b) of the first subparagraph shall be specific for each scope of accreditation in which these persons are carrying out verification activities.

In evaluating the competence of the personnel pursuant to point (c) of the first subparagraph, the verifier shall assess that competence against the competence criteria referred to in points (a) and (b).

The process referred to in point (e) of the first subparagraph shall also include a process for assessing whether the verification team holds all the competence and persons required to carry out verification activities for a specific operator or aircraft operator.

The verifier shall develop general and specific competence criteria which are in conformity with the criteria laid down in Article 37(4) and Articles 38, 39 and 40.

3. The verifier shall regularly monitor the performance of all personnel that undertake verification activities to confirm the continued competence of that personnel.

4. The verifier shall regularly review the competence process referred to in paragraph 1 to ensure that:

(a) the competence criteria referred to in points (a) and (b) of the first subparagraph of paragraph 2 are developed in accordance with the competence requirements under this Regulation;

(b) all issues that may be identified related to the setting of the general and specific competence criteria pursuant to points (a) and (b) of the first subparagraph of paragraph 2 are addressed;

(c) all the requirements in the competence process are updated and maintained as appropriate.

5. The verifier shall have a system for recording the results of the activities carried out in the competence process referred to in paragraph 1.

6. A sufficiently competent evaluator shall assess the competence and performance of an EU ETS auditor and EU ETS lead auditor.

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

7. If a member of personnel fails to demonstrate that the competence criteria for a specific task allocated to that member have been fully met, the verifier shall identify and organise additional training or supervised work experience.

The verifier shall monitor that member until the member demonstrates to the verifier that the member meets the competence criteria.

Article 37

Verification teams

1. For each particular verification engagement, the verifier shall assemble a verification team capable of performing the verification activities referred to in Chapter II.

2. The verification team shall at least consist of an EU ETS lead auditor, and, where the verifier's conclusions during the assessment referred to in Article 8(1)(e) and the strategic analysis so require, a suitable number of EU ETS auditors and technical experts.

3. For the independent review of the verification activities related to a particular verification engagement, the verifier shall appoint an independent reviewer who shall not be part of the verification team.

4. Each team member shall:

(a) have a clear understanding of their individual role in the verification process;

(b) be able to communicate effectively in the language necessary to perform their specific tasks.

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 or aircraft operator.

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 **or Contracting Party** where the verifier is carrying out that verification.

Where the verifier is carrying out verification of baseline data reports, new entrant data reports or annual activity level reports the verification team shall include in addition at least one person with the technical

competence and understanding required to assess the specific technical aspects regarding the collection, monitoring and reporting of data relevant for free allocation.

6. Where the verification team consists of one person, this person shall meet all the competence requirements for the EU ETS auditor and EU ETS lead auditor and meet the requirements laid down in paragraphs 4 and 5.

Article 38

Competence requirements for EU ETS auditors and EU ETS lead auditors

1. The provisions of this Article will be applicable from 24 months from the deadline for transposing this Regulation in national legislation.

An EU ETS auditor shall have the competence to perform the verification.

To this end, the EU ETS auditor shall have at least:

(a) knowledge of Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Implementing Regulation (EU) 2018/2066 **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**, Delegated Regulation (EU) 2019/331 and Implementing Regulation (EU) 2019/1842 in the case of verification of the baseline data report, new entrant data report or annual activity level report, this Regulation, relevant standards, and other relevant legislation, applicable guidelines, as well as relevant guidelines and legislation issued by the Member State **or Contracting Party** in which the verifier is carrying out a verification;

(b) knowledge and experience of data and information auditing, including:

- (i) data and information auditing methodologies, including the application of the materiality level and assessing the materiality of misstatements;
- (ii) analysing inherent risks and control risks;
- (iii) sampling techniques in relation to data sampling and checking the control activities;
- (iv) assessing data and information systems, IT systems, data flow activities, control activities, control systems and procedures for control activities.

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

(d) knowledge of and experience in the sector specific technical monitoring and reporting aspects that are relevant for the scope of activities referred to in Annex I in which the EU ETS auditor is carrying out verification.

2. An EU ETS lead auditor shall meet the competence requirements for an EU ETS auditor and shall have demonstrated competence to lead a verification team and to be responsible for carrying out the verification activities in accordance with this Regulation.

Article 39

Competence requirements for independent reviewers

1. The independent reviewer shall have the appropriate authority to review the draft verification report and internal verification documentation pursuant to Article 25.
2. The independent reviewer shall meet the competence requirements of an EU ETS lead auditor referred to in Article 38(2).
3. The independent reviewer shall have the necessary competence to analyse the information provided to confirm the completeness and integrity of the information, to challenge missing or contradictory information as well as to check data trails for the purposes of assessing whether the internal verification documentation is complete and provides sufficient information to support the draft verification report.

Article 40

Use of technical experts

1. When carrying out verification activities, a verifier may use technical experts to provide detailed knowledge and expertise on a specific subject matter needed to support the EU ETS auditor and EU ETS lead auditor in carrying out their verification activities.
 2. Where the independent reviewer does not have the competence to assess a particular issue in the review process, the verifier shall request the support of a technical expert.
 3. The technical expert shall have the competence and expertise required to support the EU ETS auditor and EU ETS lead auditor, or the **verification team or the** independent reviewer, where necessary, effectively on the subject matter for which their knowledge and expertise is requested.
- In addition, the technical expert shall have a sufficient understanding of the issues described in points (a), (b) and (c) of Article 38(1).
4. The technical expert shall undertake specified tasks under the direction and full responsibility of the EU ETS lead auditor of the verification team in which the technical expert is operating or the independent reviewer.

Article 41

Procedures for verification activities

1. A verifier shall establish, document, implement and maintain one or more procedures for verification activities as described in Chapter II, and the procedures and processes required by Annex II.
When establishing and implementing these procedures and processes the verifier shall carry out the activities listed in Annex II of this Regulation in accordance with the harmonised standard referred to in that Annex.
2. A verifier shall design, document, implement and maintain a management system in accordance with the harmonised standard referred to in Annex II to ensure consistent development, implementation, improvement and review of the procedures and processes referred to in paragraph 1.

The management system shall include at least the following:

- (a) policies and responsibilities;
- (b) management review;
- (c) internal audits;
- (d) corrective action;
- (e) actions to address risk and opportunities and to take preventive action;
- (f) control of documented information.

Article 42

Records and communication

1. A verifier shall maintain and manage records, including records on the competence and impartiality of personnel, to demonstrate compliance with this Regulation.
2. A verifier shall on a regular basis make information available to the operator or aircraft operator and other relevant parties in accordance with the harmonised standard referred to in Annex II.
3. A verifier shall safeguard the confidentiality of information obtained during the verification in accordance with the harmonised standard referred to in Annex II.

Article 43

Impartiality and independence

1. A verifier shall be independent from an operator or aircraft operator 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 an operator or aircraft operator, the owner of an operator or aircraft operator or owned by them, nor shall the verifier have relations with the operator or aircraft operator that could affect its independence and impartiality.

The verifier shall also be independent from bodies that trade emission allowances under **any greenhouse gas emission allowances trading system <...>**.

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 an operator or aircraft operator 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 an operator's or aircraft operator'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 or in the monitoring methodology plan, as applicable, including the development of the monitoring methodology, the drafting of the operator's or aircraft operator's report and the drafting of the monitoring plan or monitoring methodology 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, tonne-kilometre data or data relevant for free allocation.

4. A conflict of interest for a verifier in the relations between it and an operator or an aircraft operator shall be considered to have arisen in particular in either of the following cases:

(a) where the relationship between the verifier and the operator or aircraft operator is based on common ownership, common governance, common management or personnel, shared resources, common finances and common contracts or marketing;

(b) where the operator or aircraft operator 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 operator or aircraft operator 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 operator or aircraft operator as in the previous year, the verifier shall consider the risk to impartiality and take measures to reduce the risk to impartiality.

7. If the EU ETS lead auditor undertakes six annual verifications for a given aircraft operator, then the EU ETS lead auditor shall take a three consecutive year break from providing verification services to that same aircraft operator.

The six years maximum period includes any greenhouse gas verifications performed for the aircraft operator starting after the entry into force of this regulation.

8. If the EU ETS lead auditor undertakes annual verifications for a period of five consecutive years for a given installation, then the EU ETS lead auditor shall take a three consecutive year break from providing verification services to that same installation.

The five years maximum period includes EU ETS verifications of emissions or allocation data performed for the installation starting after 1 January 2021.

CHAPTER IV ACCREDITATION

***Article 44* Accreditation**

A verifier issuing a verification report to an operator or an aircraft operator 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.

For the purpose of verifying baseline data reports, new entrant data reports or annual activity level reports, a verifier issuing a verification report to an operator shall in addition be accredited for activity group No 98 referred to in Annex I.

***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 in accordance with this Regulation;
- (b) are performing the verification of operator's or aircraft operator's reports in accordance with this Regulation;
- (c) meet the requirements referred to in Chapter III.

Article 46

Request for accreditation

1. Any legal person established under national law of a Member State **or Contracting Party** may request accreditation pursuant to <...> the provisions of this Chapter.

The request shall contain the information required on the basis of the harmonised standard referred to in Annex III.

2. In addition to the information referred to in paragraph 1 of this Article, an applicant shall also, prior to the commencement of the assessment pursuant to Article 45, make available to the national accreditation body the following:

- (a) all information requested by the national accreditation body;
- (b) procedures and information concerning processes referred to in Article 41(1) and the information on the quality management system referred to in Article 41(2);
- (c) the competence criteria referred to in Article 36(2)(a) and (b), the results of the competence process referred to in Article 36 as well as other relevant documentation on the competence of all personnel involved in verification activities;
- (d) information on the process for ensuring continuous impartiality and independence referred to in Article 43(6), including relevant records on the impartiality and independence of the applicant and its personnel;
- (e) information on the technical experts and key personnel involved in the verification of operator's or aircraft operator's reports;
- (f) the system and process for ensuring appropriate internal verification documentation;
- (g) other relevant records referred to in Article 42(1).

Article 47

Preparation for assessment

1. When preparing the assessment referred to in Article 45, each national accreditation body shall take into account the complexity of the scope for which the applicant requests accreditation as well as the complexity of the quality management system referred to in Article 41(2), the procedures and information on processes referred to in Article 41(1) and the geographical areas in which the applicant is carrying out or planning to carry out verification.

2. For the purposes of this Regulation, the national accreditation body shall meet the minimum requirements set out in the harmonised standard referred to in Annex III.

Article 48

Assessment

1. The assessment team referred to in Article 58 – **as soon as it becomes applicable in the Energy**

Community – shall carry out at least the following activities for the purposes of making the assessment referred to in Article 45:

- (a) a review of all relevant documents and records referred to in Article 46;
- (b) a visit of the premises of the applicant to review a representative sample of the internal verification documentation and to assess the implementation of the applicant's quality management system and the procedures or processes referred to in Article 41;
- (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 to ensure that the staff are operating in accordance with this Regulation.

In carrying out those activities, the assessment team shall meet the requirements set out in the harmonised standard referred to in Annex III.

2. The assessment team shall report the findings and non-conformities to the applicant in accordance with the requirements set out in the harmonised standard referred to in Annex III and shall request the applicant to respond to the reported findings and non-conformities in accordance with those provisions.

3. An applicant shall take corrective action to address any non-conformities reported pursuant to paragraph 2 and indicate in applicant's response to the reported findings and non-conformities of the assessment team what actions are taken or are planned to be taken within a time set by the national accreditation body to resolve any identified non-conformities.

4. The national accreditation body shall review the responses of the applicant to the findings and non-conformities submitted pursuant to paragraph 3.

Where the national accreditation body finds the response of the applicant to be insufficient or ineffective, it shall request further information or action from the applicant.

The national accreditation body may also request evidence of the effective implementation of actions taken or carry out a follow-up assessment to assess the effective implementation of the corrective actions.

Article 49

Decision on accreditation and accreditation certificate

1. The national accreditation body shall take into account the requirements laid down in the harmonised standard referred to in Annex III when preparing and taking the decision on whether to grant, extend or renew the accreditation of an applicant.

2. Where the national accreditation body has decided to grant, extend or renew the accreditation of an applicant, it shall issue an accreditation certificate to that effect.

The accreditation certificate shall at least contain the information required on the basis of the harmonised standard referred to in Annex III.

The accreditation certificate shall be valid for a period not exceeding five years after the date on which the national accreditation body has issued that certificate.

Article 50

Surveillance

1. The national accreditation body shall carry out an annual surveillance of each verifier to which it has issued an accreditation certificate.

The surveillance shall at least comprise the following:

(a) a visit to the premises of the verifier with a view to carrying out the activities referred to Article 48(1)(b);
(b) witnessing the performance and competence of a representative number of the verifier's staff in accordance with Article 48(1)(c).

2. The national accreditation body shall carry out the first surveillance of a verifier in accordance with paragraph 1 no later than 12 months after the date on which the accreditation certificate has been issued to that verifier.

3. The national accreditation body shall prepare its plan for the surveillance of each verifier in a manner that allows for representative samples of the scope of accreditation to be assessed, in accordance with the requirements laid down in the harmonised standard referred to in Annex III.

4. Based on the results of the surveillance referred to in paragraph 1, the national accreditation body shall decide whether to confirm the continuation of accreditation.

5. Where a verifier carries out a verification in another Member State **of the European Union or Contracting Party**, the national accreditation body that has accredited the verifier may request the national accreditation body of the Member State **of the European Union or Contracting Party**, where the verification is performed to carry out surveillance activities on its behalf and under its responsibility.

Article 51

Reassessment

1. Before the expiry of the accreditation certificate, the national accreditation body shall carry out a reassessment of the verifier to which the national accreditation body has issued an accreditation certificate to determine whether the validity of that accreditation certificate may be extended.

2. The national accreditation body shall prepare its plan for the reassessment of each verifier in a manner that allows representative samples of the scope of accreditation to be assessed.

In planning and carrying out the reassessment, the national accreditation body shall meet the requirements laid down in the harmonised standard referred to in Annex III.

Article 52

Extraordinary assessment

1. The national accreditation body may conduct an extraordinary assessment of the verifier at any time to ensure that the verifier meets the requirements of this Regulation.

2. For the purposes of enabling the national accreditation body to assess the need for an extraordinary assessment, the verifier shall inform the national accreditation body forthwith of any significant changes relevant to its accreditation concerning any aspect of its status or operation.

Significant changes shall include those changes mentioned in the harmonised standard referred to in Annex III.

Article 53

Extension of scope

The national accreditation body shall, in response to an application by a verifier for an extension of the scope of a granted accreditation, undertake the necessary activities to determine whether the verifier meets the requirements of Article 45 for the requested extension of the scope of its accreditation.

Article 54

Administrative measures

1. The national accreditation body may suspend, withdraw or reduce an accreditation of a verifier if the verifier does not meet the requirements of this Regulation.

The national accreditation body shall suspend, withdraw or reduce an accreditation of a verifier if the verifier so requests.

The national accreditation body shall establish, document, implement and maintain a procedure for the suspension of the accreditation, the withdrawal of the accreditation and the reduction of the scope of accreditation.

2. The national accreditation body shall suspend an accreditation, or restrict the scope of an accreditation in any of the following cases:

- (a) the verifier has committed a serious breach of the requirements of this Regulation;
- (b) the verifier has persistently and repeatedly failed to meet the requirements of this Regulation;
- (c) the verifier has breached other specific terms and conditions of the national accreditation body.

3. The national accreditation body shall withdraw the accreditation in the following cases:

- (a) the verifier has failed to remedy the grounds for a decision to suspend the accreditation certificate;
- (b) a member of the top management of the verifier or a verifier's staff involved in verification activities under this Regulation has been found guilty of fraud;
- (c) the verifier has intentionally provided false information or concealed information.

4. The decision of a national accreditation body to suspend, withdraw or reduce the scope of the accreditation in accordance with paragraphs 2 and 3 shall be subject to appeal.

Contracting Parties shall establish procedures for the resolution of those appeals.

5. The decision of a national accreditation body to suspend, withdraw or reduce the scope of the accreditation shall take effect upon its notification to the verifier.

The national accreditation body shall terminate the suspension of an accreditation certificate where it has received satisfactory information and is confident that the verifier meets the requirements of this Regulation.

CHAPTER V

REQUIREMENTS CONCERNING ACCREDITATION BODIES FOR THE ACCREDITATION OF ETS VERIFIERS

Article 55

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Article 56

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Article 57

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Article 58

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Article 59

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**CHAPTER VI
INFORMATION EXCHANGE**

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**CHAPTER VII
FINAL PROVISIONS**

Article 78

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Article 79

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ANNEX I

Scope of accreditation for verifiers

The scope of accreditation of verifiers shall be indicated in the accreditation certificate using the following groups of activities pursuant to Annex I to Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC** and other activities pursuant to Articles 10a and 24 of Directive 2003/87/EC **as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC**.

Those provisions shall equally apply to verifiers certified by a national authority in accordance with Article 55(2) of this Regulation.

Activity Group No.	Scopes of Accreditation
1a	Combustion of fuels in installations, where only commercial standard fuels as defined in Commission Implementing Regulation (EU) 2018/2066 as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC are used, or where natural gas is used in category A or B installations.
1b	Combustion of fuels in installations, without restrictions
2	Refining of mineral oil
3	Production of coke — Metal ore (including sulphide ore) roasting or sintering, including pelletisation — Production of pig iron or steel (primary or secondary fusion) including continuous casting
4	Production or processing of ferrous metals (including ferro-alloys) — Production of secondary aluminium — Production or processing of non-ferrous metals, including production of alloys
5	Production of primary aluminium (CO ₂ and PFC emissions)
6	Production of cement clinker — Production of lime or calcination of dolomite or magnesite — Manufacture of glass including glass fibre — Manufacture of ceramic products by firing — Manufacture of mineral wool insulation material — Drying or calcination of gypsum or production of plaster boards and other gypsum products
7	Production of pulp from timber or other fibrous materials — Production of paper or cardboard
8	Production of carbon black — Production of ammonia — Production of bulk organic chemicals by cracking, reforming, partial or full oxidation or by similar processes — Production of hydrogen (H ₂) and synthesis gas by reforming or partial oxidation — Production of soda ash (Na ₂ CO ₃) and sodium bicarbonate (NaHCO ₃)
9	Production of nitric acid (CO ₂ and N ₂ O emissions) — Production of adipic acid (CO ₂ and N ₂ O emissions) — Production of glyoxal and glyoxylic acid (CO ₂ and N ₂ O emissions)

10	Capture of greenhouse gases from installations covered by Directive 2003/87/EC as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC for the purpose of transport and geological storage in a storage site permitted under Directive 2009/31/EC — Transport of greenhouse gases by pipelines for geological storage in a storage site permitted under Directive 2009/31/EC
11	Geological storage of greenhouse gases in a storage site permitted under Directive 2009/31/EC
12	Aviation activities (emissions and tonne-kilometre data)
98	Other activities pursuant to Article 10a of Directive 2003/87/EC as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC
99	Other activities, included by a Contracting Party pursuant to Article 24 of Directive 2003/87/EC as adapted and adopted by the Ministerial Council Decision 2022/05/MC-EnC , to be specified in detail in the accreditation certificate

ANNEX II

Requirements on verifiers

With respect to the requirements on verifiers, the harmonised standard pursuant to Regulation (EC) No 765/2008 concerning requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition, shall apply.

In addition, the following procedures, processes and arrangements referred to in Article 41(1), shall apply:

- (a) a process and policy for communication with the operator or aircraft operator and other relevant parties;
- (b) adequate arrangements to safeguard the confidentiality of information obtained;
- (c) a process for dealing with appeals;
- (d) a process for dealing with complaints (including indicative timescale);
- (e) a process for issuing a revised verification report where an error in the verification report or operator's or aircraft operator's report has been identified after the verifier has submitted the verification report to the operator or aircraft operator for onwards submission to the competent authority;
- (f) a procedure or process for outsourcing verification activities to other organisations;
- (g) a procedure or process to ensure that the verifier takes full responsibility for verification activities performed by contracted individuals;
- (h) processes ensuring the proper functioning of the management system as referred to in Article 41(2), including:
 - i. processes for the review of management system at least once a year, not exceeding 15 months between management reviews;
 - ii. processes for conducting internal audits at least once a year, not exceeding 15 months between internal audits;
 - iii. processes for identifying and managing non-conformities in the verifier's activities and taking corrective action to address those non-conformities;
 - iv. processes for identifying risks and opportunities in verifier's activities and taking preventive actions to mitigate those risks;
 - v. processes for the control of documented information.

ANNEX III

Minimum requirements of the accreditation process and requirements on accreditation bodies

With respect to the minimum requirements for accreditation, and the requirements for accreditation bodies, the harmonised standard pursuant to Regulation (EC) No 765/2008 concerning general requirements for accreditation bodies accrediting conformity assessment bodies shall apply.

ANNEX IV

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