Commission Regulation (EU) No 600/2012 of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION REGULATION (EU) No 600/2012

of 21 June 2012

on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC[(1)], and in particular the fourth paragraph of Article 15 thereof,

Whereas:

(1) An overall framework of rules for the accreditation of verifiers is necessary to ensure that the verification of operator's or aircraft operator's reports in the framework of the Union's greenhouse gas emission allowance trading scheme, to be submitted in accordance with Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council[(2)], is carried out by verifiers that possess the technical competence to perform the entrusted task in an independent and impartial manner and in conformity with the requirements and principles set out in this Regulation.

(2) Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market[(3)] established a general framework to facilitate the free movement of services and service providers in the Union while maintaining a high quality of service. Union harmonisation of the rules for accreditation and verification relating to the Union's emissions trading scheme should contribute to a competitive market for verifiers while ensuring transparency and information for operators and aircraft operators.

(3) When implementing Article 15 of Directive 2003/87/EC, it is necessary to ensure a synergy between the comprehensive framework for accreditation established by Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93[(4)] and related

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provisions of Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC[(5)] on one hand, and the specific features of the Union's greenhouse gas emission trading scheme and requirements that are essential for the effective implementation of Directive 2003/87/EC on the other hand. Regulation (EC) No 765/2008 should continue to apply to those aspects of accreditation of verifiers which are not dealt with by this Regulation. In particular, it should be ensured that where, due to the internal practices of a Member State, an alternative procedure to accreditation, namely, the certification of verifiers that are natural persons, is carried out by a national authority appointed by that Member State in accordance with Regulation (EC) No 765/2008, the Member State concerned shall provide documentary evidence that such authority meets a level of credibility similar to national accreditation bodies that have successfully undergone peer evaluation organised by the body recognised under Article 14 of that Regulation.

(4) Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC[(6)] provides for an independent and neutral accreditation or licensing system for environmental verifiers. For reasons of coherence and to reduce the administrative burden imposed on the Member States and economic operators, it is appropriate to take account of synergies between that and this Regulation.

(5) The system of verification and accreditation should avoid any unnecessary duplication of procedures and organisations established pursuant to other Union legal instruments that would result in an increased burden for Member States or economic operators. Therefore, it is appropriate to draw on best practices resulting from the application of harmonised standards adopted by the European Committee for Standardisation on the basis of a remit issued by the Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services[(7)], such as the harmonised standard concerning general requirements for accreditation bodies accrediting conformity assessment bodies, and the harmonised standard concerning requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition, the references of which have been published in the *Official Journal of the European Union*, as well as Document EA-6/03 and other technical documents developed by the European co-operation for Accreditation or by other bodies.

(6) When establishing harmonised rules for the verification of operator's or aircraft operator's reports and the accreditation of verifiers, it is necessary to ensure that the burden imposed on operators emitting a lower amount of carbon dioxide (CO_2) per year, on aircraft operators considered small emitters within the meaning of Regulation (EU) No 601/2012, as well as on the available resources of the Member States is not disproportionate to the aims pursued.

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(7) Article 27 of Directive 2003/87/EC allows Member States to exclude small installations, subject to equivalent measures, from the Union's greenhouse gas emission allowance trading scheme provided that the conditions contained in that Article are met. This Regulation should not apply directly to those installations excluded pursuant to Article 27 of Directive 2003/87/EC unless the Member State decides that this Regulation should apply.

(8) In accordance with the principles of Annex V of Directive 2003/87/EC, the verifier should apply a risk-based approach with the aim of reaching a verification opinion providing reasonable assurance that the total emissions or tonne-kilometres are not materially misstated and the report can be verified as satisfactory. The level of assurance should relate to the depth and detail of verification activities carried out during the verification and the wording of the verification opinion statement. The verifier should be obliged, in the light of the findings and information obtained during the verification process, to adjust one or more activities in the verification process to meet the requirements for achieving reasonable assurance.

(9) To avoid entanglement between the role of the competent authority and the verifier, the responsibilities of a verifier when carrying out verification should be clearly defined. The verifier should take the monitoring plan approved by the competent authority as a reference point and assess whether this plan and the procedures described in this plan have been implemented correctly. Where the verifier identifies non-compliance with Regulation (EU) No 601/2012, it should be the responsibility of the verifier to report this non-compliance issue in the verification report.

(10) Full understanding of the activities of an operator or an aircraft operator is necessary for the performance of an effective verification of an operator's or aircraft operator's report. A verifier should only perform the requested verification activities after it has ascertained following a preliminary assessment that it is competent to do so. In the pursuit of a high-quality level of verification activities, harmonised rules should be developed for a preliminary assessment to determine whether a verifier is competent, independent and impartial to carry out the requested verification activities in accordance with the rules and principles set out in this Regulation.

(11) Provision of relevant information between the operator or the aircraft operator and the verifier is essential in all facets of the verification process, in particular in the pre-contractual phase, in the performance of a strategic analysis by the verifier and throughout the verification. It is necessary to establish a set of harmonised requirements that should govern this provision of information between the operator or aircraft operator and the verifier at all times.

(12) All verification activities in the verification process are interconnected and should be concluded with the issuance of a verification report by the verifier containing a verification statement that is commensurate with the outcome of the verification assessment. Harmonised requirements for the verification reports and the performance of the verification activities should be established to ensure that verification reports and verification activities in the Member States meet the same standards.

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(13) Analysing the susceptibility of reported data to misstatements that could be material is an essential part of the verification process and determines how the verification activities should be carried out by the verifier. Every element in the verification process is therefore strongly linked to the outcome of the analysis of these risks of misstatements.

(14) Specific provision should be made for the verification of the report of aircraft operators and that of operators of sites which are subject to Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006[(8)].

(15) Correct and effective reporting of greenhouse gas emissions by the operator or the aircraft operator is essential for the implementation of Directive 2003/87/EC. To ensure the proper functioning of the monitoring and reporting process, continuous improvement of the operator or aircraft operator's performance should be part of the verification activities performed by the verifier.

(16) Verification activities and the issuance of verification reports should only be carried out by verifiers and their personnel that are competent. Verifiers should establish and continuously improve internal processes that ensure that all personnel involved in the verification activities are competent to perform the tasks entrusted to them. The criteria for determining whether a verifier is competent should be the same in all Member States and should be verifiable, objective and transparent.

(17) The national accreditation body established pursuant to Regulation (EC) No 765/2008 should be empowered to accredit and issue an authoritative statement concerning the competence of a verifier to perform the verification activities pursuant to this Regulation, adopt administrative measures and carry out the surveillance of verifiers.

(18) A Member State that does not consider it economically meaningful or sustainable to establish a national accreditation body or to carry out accreditation activities should have recourse to the national accreditation body of another Member State. Only national accreditation bodies that have undergone a successful peer evaluation organised by the body recognised under Article 14 of Regulation (EC) No 765/2008 should be permitted to perform the accreditation activities pursuant to this Regulation.

(19) National accreditation bodies that demonstrate conformity with this Regulation and that have already successfully undergone peer evaluation organised by the body recognised under Article 14 of Regulation (EU) No 765/2008 should be presumed to fulfil the procedural requirements imposed on national accreditation bodies such as requirements on the structure of a national accreditation body, setting up a competence process, setting up the necessary procedures and management system and arrangements to safeguard the confidentiality of information obtained and should be exempted from undergoing a new peer evaluation following the entry into force of this Regulation. In accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council

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Directive 90/313/EEC[9], environmental information contained in verified operator's or aircraft operator's reports held by the public authorities should be made public to ensure transparency, subject to certain confidentiality requirements.

(20) Effective cooperation between national accreditation bodies, or where applicable, other national authorities, and competent authorities is essential for the proper functioning of the greenhouse gas emission allowance scheme and the supervision on the quality of verification. For reasons of transparency, it is necessary to ensure that the national accreditation bodies, or where applicable, other national authorities, and competent authorities establish effective means of information exchange. Information exchanges between competent authorities and between competent authorities and national accreditation bodies or other national authorities should be governed by the strictest guarantees of confidentiality and professional secrecy and be handled in accordance with applicable national and Union law.

(21) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

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 and for the accreditation and supervision of verifiers.

This Regulation also specifies, without prejudice to Regulation (EC) No 765/2008, provisions for the mutual recognition of verifiers and peer evaluation of national accreditation bodies pursuant to Article 15 of Directive 2003/87/EC.

Article 2

Scope

This Regulation shall apply to the verification of greenhouse gas emissions and tonne-kilometre data occurring from 1 January 2013, reported pursuant to Article 14 of Directive 2003/87/EC.