

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gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council (Text with EEA relevance) (repealed)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty of 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<sup>(1)</sup> and in particular Article 14(1) thereof,

Whereas:

- (1) The complete, consistent, transparent and accurate monitoring and reporting of greenhouse gas emissions, in accordance with the harmonised requirements laid down in this Regulation, are fundamental for the effective operation of the greenhouse gas emission allowance trading scheme established pursuant to Directive 2003/87/EC. During the second compliance cycle of the greenhouse gas emissions trading scheme, covering the years 2008 to 2012, industrial operators, aviation operators, verifiers and competent authorities have gained experience with monitoring and reporting pursuant to Commission Decision 2007/589/EC of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council<sup>(2)</sup>. The rules for the third trading period of the Union's greenhouse gas emission allowance trading scheme which begins on 1 January 2013 and for the following trading periods should build on that experience.
- (2) The definition of biomass in this Regulation should be consistent with the definition of the terms 'biomass', 'bioliquids' and 'biofuels' set out in Article 2 of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC<sup>(3)</sup>, in particular since preferential treatment with regard to allowance surrender obligations under the Union's greenhouse gas emission allowance trading scheme pursuant to Directive 2003/87/EC constitutes a 'support scheme' within the meaning of Article 2(k) and consequently financial support within the meaning of Article 17(1)(c) of Directive 2009/28/EC.
- (3) For reasons of consistency, definitions laid down in Commission Decision 2009/450/EC of 8 June 2009 on the detailed interpretation of the aviation activities listed in Annex I to Directive 2003/87/EC of the European Parliament and of the Council<sup>(4)</sup> and

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<sup>(5)</sup> should apply to this Regulation.

- (4) To make the operation of the monitoring and reporting system optimal, the Member States which designate more than one competent authority should ensure that those competent authorities coordinate their work in line with the principles set out in this Regulation.
- (5) The monitoring plan, setting out detailed, complete and transparent documentation concerning the methodology of a specific installation or aircraft operator should be a core element of the system established by this Regulation. Regular updates of the plan should be required, both to respond to the verifier's findings and on the basis of the operator's or aircraft operator's own initiative. The main responsibility for the implementation of the monitoring methodology, parts of which are specified by procedures required by this Regulation, should remain with the operator or the aircraft operator.
- (6) It is necessary to establish basic monitoring methodologies to minimise the burden on operators and aircraft operators and facilitate the effective monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC. Those methodologies should include basic calculation and measurement methodologies. The calculation methodologies should be further differentiated into a standard methodology and a mass balance methodology. Flexibility should be provided to allow a combination of measurement methodologies, standard calculation methodology and mass balance within the same installation, provided the operator ensures that omissions or double counting do not occur.
- (7) To further minimise the burden on operators and aircraft operators, simplification with regard to the uncertainty assessment requirement, without reducing accuracy, should be introduced. Considerably reduced requirements with regard to uncertainty assessment should be applied where measuring instruments are used under type-conform conditions, in particular where measuring instruments are under national legal metrological control.
- (8) It is necessary to define calculation factors which can be either default factors or determined by analysis. Requirements for analysis should retain the preference for use of laboratories accredited in accordance with the harmonised standard General requirements for the competence of testing and calibration laboratories (EN ISO/IEC 17025) for the relevant analytical methods, and introduce more pragmatic requirements for demonstrating robust equivalence in the case of non-accredited laboratories, including in conformity with the harmonised standard Quality management systems – Requirements (EN ISO/IEC 9001) or other relevant certified quality management systems.
- (9) A more transparent and consistent manner of determining unreasonable costs should be laid down.

- (10) The measurement-based methodology should be set on a more equal footing with the calculation-based methodology in order to recognise the increased confidence in continuous emissions monitoring systems and underpinning quality assurance. That requires more proportional requirements concerning cross-checks with calculations as well as the clarification of data handling and other quality assurance requirements.
- (11) Imposing a disproportionate monitoring effort on installations with lower, less consequential annual emissions should be avoided, while ensuring that an acceptable level of accuracy is maintained. In that regard, special conditions for installations considered having low emissions and for aircraft operators considered small emitters should be set out.
- (12) 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.
- (13) To close potential loopholes connected to the transfer of inherent or pure CO<sub>2</sub>, such transfers should only be allowed subject to very specific conditions. Those conditions are that the transfer of inherent CO<sub>2</sub> should only be to other EU-ETS installations and the transfer of pure CO<sub>2</sub> should only occur for the purposes of storage in a geological storage site pursuant to the Union's greenhouse gas emission allowance trading scheme, which is at present the only form of permanent storage of CO<sub>2</sub> accepted under the Union's greenhouse gas emission trading scheme. Those conditions should not, nevertheless, exclude the possibility of future innovations.
- (14) Specific aviation-related provisions on monitoring plans and monitoring of greenhouse gas emissions should be laid down. One provision should be the determination of density by onboard measurement and by fuel invoices as equivalent options. Another provision should be the raising of the threshold for consideration of an aircraft operator as a small emitter from 10 000 tonnes of CO<sub>2</sub> emissions per year to 25 000 tonnes of CO<sub>2</sub> per year.
- (15) The estimation of missing data should be made more consistent, by requiring the use of conservative estimation procedures recognised in the monitoring plan or, where this is not possible, through the approval by the competent authority and the inclusion of an appropriate procedure in the monitoring plan.
- (16) The implementation of the improvement principle requiring operators to regularly review their monitoring methodology for improvement and to consider recommendations made by verifiers as part of the verification process should be strengthened. Where a methodology is used, which is not based on tiers, or where the highest tier methodologies are not met, operators should regularly report on the steps being taken to meet a monitoring methodology based on the tier system and to reach the highest tier required.

- (17) Aircraft operators may, pursuant to Article 3e(1) of Directive 2003/87/EC, apply for an allocation of emission allowances free of charge, in respect of activities listed in Annex I to that Directive, based on verified tonne-kilometre data. However, in the light of the principle of proportionality, where an aircraft operator is objectively unable to provide verified tonne-kilometre data by the relevant deadline because of serious and unforeseeable circumstances outside of its control, that aircraft operator should be able to submit the best tonne-kilometre data available, provided the necessary safeguards are in place.
- (18) The use of information technology, including requirements for data exchange formats and the use of automated systems, should be promoted and the Member States should be therefore allowed to require the economic operators to use such systems. The Member States should be also allowed to elaborate electronic templates and file format specifications which should, however, conform to minimum standards published by the Commission.
- (19) Decision 2007/589/EC should be repealed. However, the effects of its provisions should be maintained for the monitoring, reporting and verification of the emissions and activity data occurring during the first and second trading periods of the Union's greenhouse gas emission allowance trading scheme.
- (20) Member States should be provided sufficient time to adopt the necessary measures and establish the appropriate national institutional framework to ensure the effective application of this Regulation. This Regulation should therefore apply from the date of the beginning of the third trading period.
- (21) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

- (1) OJ L 275, 25.10.2003, p. 32.
- (2) OJ L 229, 31.8.2007, p. 1.
- (3) OJ L 140, 5.6.2009, p. 16.
- (4) OJ L 149, 12.6.2009, p. 69.
- (5) OJ L 140, 5.6.2009, p. 114.