

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)

CHAPTER III

**REQUIREMENTS FOR VERIFIERS**

*Article 34*

**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 an accreditation according to the provisions of Regulation (EC) No 765/2008 and this Regulation.

*Article 35*

**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 criteria laid down in Article 36(4) and Articles 37, 38 and 39.

3 The verifier shall, at regular intervals, monitor the performance of all personnel that undertakes verification activities for the purposes of confirming the continued competence of those personnel.

4 The verifier shall at regular intervals 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.

For that purpose, 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 Where a member of personnel fails to demonstrate that the competence criteria for a specific task allocated to him or her have been fully met, the verifier shall identify and organise additional training or supervised work experience as well as monitor that individual until he or she demonstrates to the satisfaction of the verifier that he or she meets the competence criteria.

### *Article 36*

#### **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 require this, 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 his or her individual role in the verification process;

- b be able to communicate effectively in the language necessary to perform his or her 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, and one person who is able to communicate in the language required for the verification of an operator's or aircraft operator's report in the Member State where the verifier is carrying out that verification.

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 37*

### **Competence requirements for EU ETS auditors and EU ETS lead auditors**

1 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, Regulation (EU) No 601/2012, this Regulation, relevant standards, and other relevant legislation, applicable guidelines, as well as relevant guidelines and legislation issued by the Member State 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 38*

### **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 37(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 39*

### **Use of technical experts**

1 When carrying out verification activities, a verifier may make use of 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 independent reviewer, where necessary, effectively on the subject matter for which his or her knowledge and expertise is requested. In addition the technical expert shall have a sufficient understanding of the issues required pursuant to points (a), (b) and (c) of Article 37(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 40*

### **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 in accordance with the harmonised standard referred to in Annex II.

2 A verifier shall design, document, implement and maintain a quality management system to ensure consistent development, implementation, improvement and review of the procedures and processes referred to in paragraph 1 in accordance with the harmonised standard referred to in Annex II.

#### *Article 41*

### **Records and communication**

1 A verifier shall keep records, including records on 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 42*

### **Impartiality and independence**

1 A verifier shall be independent from an operator or aircraft operator and impartial in carrying out its verification activities.

For that purpose, 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 are trading emission allowances under the greenhouse gas emission allowances trading scheme established pursuant to Article 19 of Directive 2003/87/EC.

2 A verifier shall be organised in such a manner as to safeguard its objectivity, independence and impartiality. For the purposes of this Regulation, the relevant requirements 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.

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 either of the following cases, amongst others:

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

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 either of the following cases, amongst others:

- 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 consultancy referred to in point (a) of paragraph 3 or technical assistance referred to in point (b) of that paragraph by 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 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 where the verifier, when contracting those persons, meets the relevant requirements in the harmonised standard referred to in Annex II.

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.