



EUROPEAN
COMMISSION

Brussels, **XXX**
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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

amending and correcting Implementing Regulation (EU) 2018/2066 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)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

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

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amending and correcting Implementing Regulation (EU) 2018/2066 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)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC¹, and in particular Article 14(1) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2018/2066² lays down rules for the monitoring and reporting of greenhouse gas emissions of installations covered by Directive 2003/87/EC. For the monitoring of emissions from biomass, Implementing Regulation (EU) 2018/2066 contains rules which are consistent with the rules on the use of biomass laid down in Directive 2009/28/EC of the European Parliament and of the Council³. Directive (EU) 2018/2001 of the European Parliament and of the Council⁴ repeals Directive 2009/28/EC with effect from 1 July 2021. It is therefore appropriate to align the provisions regarding the monitoring of biomass of Implementing Regulation (EU) 2018/2066 with Directive (EU) 2018/2001, in particular the relevant definitions and the requirements for sustainability and greenhouse gas savings of biomass fuels.
- (2) Under Commission Delegated Regulation (EU) 2019/331⁵ and Commission Implementing Regulation (EU) 2019/1842⁶, the operator of an installation applying for

¹ OJ L 275, 25.10.2003, p. 32

² Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1).

³ 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 (OJ L 140, 5.6.2009, p. 16).

⁴ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

⁵ Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (OJ L 59, 27.2.2019, p. 8).

⁶ Commission Implementing Regulation (EU) 2019/1842 of 31 October 2019 laying down rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards further arrangements for the adjustments to free allocation of emission allowances due to activity level changes (OJ L 282, 4.11.2019, p. 20).

free allocation in accordance with Article 10a of Directive 2003/87/EC is required to include the relevant monitoring provisions in a monitoring methodology plan, subject to approval of the competent authority. Therefore, no further elements need to be included in the monitoring plans of installations to which free allocation is given. Accordingly, it is no longer necessary to provide for such elements in Implementing Regulation (EU) 2018/2066.

- (3) The definitions of biomass as aligned with Directive (EU) 2018/2001 should apply to all aspects where the different treatment of emissions from biomass and fossil fuels have an impact on the operator's choice of monitoring methodologies, such as in the categorisation of source streams, emission sources and installations.
- (4) With a view of ensuring accurate monitoring of source streams involving biogas injected into a gas grid, the existing rules on determination of the activity data from biogas should be improved. In particular, the determination of the biomass fraction should depend on the actual purchase of biogas by the operator, and any potential double counting of the same biogas by different users should be avoided.
- (5) Due to typical administrative and practical procedures at aerodromes, it is difficult to ascertain to which aircraft a batch of fuel is physically uplifted. Since aviation fuels are uniform in technical specifications, it is appropriate to allow a monitoring approach for biofuel uplifts based on purchase data, provided that the provisions of Directive (EU) 2018/2001 are complied with.
- (6) For consistency reasons, the rounding of data on emissions of greenhouse gases should be aligned with the way verified emissions are rounded in the Union Registry established in accordance with Article 19 of Directive 2003/87/EC.
- (7) In order to provide a basis for competent authorities to confirm whether monitoring plans are in line with the provisions required to align Implementing Regulation (EU) 2018/2066 with Directive (EU) 2018/2001, different written procedures for ensuring the monitoring of biomass emissions should be referenced in the monitoring plan. An amendment of Annex I to Implementing Regulation (EU) 2018/2066 is therefore required.
- (8) In order to reduce administrative burden for operators using certain mixed process materials, the distinction of inorganic carbon, mostly in form of carbonates, and organic carbon should be avoided where possible. In order to align common laboratory practice with the terminology of different source stream types, it is appropriate to include all forms of carbon in the same approach for process emissions. Therefore, the analysis of total carbon of a material instead of separate treatment of total inorganic carbon and total organic carbon should be allowed where possible. For full alignment, the expression "non-carbonate carbon" should be used instead of "organic carbon" to refer to all forms of carbon except carbonates. For this purpose, the requirements given separately in sections 4 and 5 of Annex II to Implementing Regulation (EU) 2018/2066 should be amended and combined in one single section. As a consequence, minor adjustments of the terminology are needed in Annex IV to that Regulation, in order to align sector-specific requirements with the generic rules given in section 4 of Annex II.
- (9) The fifth Assessment Report of the Intergovernmental Panel for Climate Change⁷ provides new values for global warming potentials of greenhouse gases. The global

⁷ Column 'GWP 100-year' in Table 8.A.1 of Appendix 8.A of the report 'Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the

warming potentials of greenhouse gases used in the EU Emission Trading System should be adapted to the latest science and be consistent with other Union acts. Section 3 of Annex VI to Implementing Regulation (EU) 2018/2066 should be amended accordingly.

- (10) Following the publication of Implementing Regulation (EU) 2018/2066, errors of have been detected and need to be corrected. Implementing Regulation (EU) 2018/2066 needs to be corrected, in order to clarify that, during the transition phase between the operator's notification of a monitoring plan update and the competent authority's approval of that update, any gap of monitoring or application of a less accurate methodology should be avoided. It should be clarified that a data collection based on two monitoring plans, the approved and the notified one, is needed in this transition period. In addition, the correct chemical formula 'F_{C2F6}' should be restored, instead of 'F_{CF2F6}'.
- (11) Implementing Regulation (EU) 2018/2066 should therefore be amended and corrected accordingly.
- (12) Member States are to transpose Directive (EU) 2018/2001 by 30 June 2021. As the monitoring and reporting under Implementing Regulation (EU) 2018/2066 takes place on the calendar year basis, the amended provisions of that Regulation referring to Directive (EU) 2018/2001 should start to apply only as of the beginning of the subsequent reporting period, that is from 1 January 2022. Accordingly, despite the repeal of Directive 2009/28/EC with the effect from 1 July 2021, the existing provisions of Implementing Regulation (EU) 2018/2066 on the monitoring and reporting on CO₂ emissions from biomass should continue to apply in accordance with Directive 2009/28/EC until 31 December 2021. The other amendments to Implementing Regulation (EU) 2018/2066 should start to apply on the same day as that Regulation, that is from 1 January 2021.
- (13) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Implementing Regulation (EU) 2018/2066

Implementing Regulation (EU) 2018/2066 is amended as follows:

- (1) Article 3 is amended as follows:
 - (a) point (21) is replaced by the following:

'(21) 'biomass' means the biodegradable fraction of products, waste and residues from biological origin from agriculture, including vegetal and animal substances, from forestry and related industries, including fisheries and aquaculture, as well as the biodegradable fraction of waste, including industrial and municipal waste of biological origin;'
 - (b) the following points are inserted:

'(21a) 'biomass fuels' means gaseous and solid fuels produced from biomass;

Intergovernmental Panel on Climate Change', p. 731; available at <https://www.ipcc.ch/assessment-report/ar5/>.

- (21b) ‘biogas’ means gaseous fuels produced from biomass;’;
- (c) point 23 is replaced by the following:
‘(23) ‘biofuels’ means liquid fuels for transport produced from biomass;’;
- (2) in Article 12, paragraph 3 is deleted;
- (3) in Article 19, the following paragraph is added:
‘6. For the purpose of this Article, ‘fossil CO₂’ or ‘fossil emissions’ means CO₂ stemming from fossil fuels and process materials as well as from biomass which does not comply with Article 38(2) and ‘CO₂ stemming from biomass’ means CO₂ from biomass which complies with Article 38(2).’;
- (4) Article 38 is amended as follows:
(a) paragraph 1 is replaced by the following:
‘1. The operator may determine the activity data of a biomass source stream without using tiers and providing analytical evidence regarding the biomass content, where that source stream consists exclusively of biomass which complies with the first subparagraph of paragraph 2 and the operator can ensure that it is not contaminated with other materials or fuels.’;
- (b) in paragraph 2, the first subparagraph is replaced with the following:
‘The emission factor of biomass shall be zero, provided that the biomass complies with paragraphs 2 to 7 and 10 of Article 29 of Directive (EU) 2018/2001. For this purpose, the biomass shall be assessed in accordance with Articles 30 and 31(1) of that Directive.’;
- (c) paragraph 4 is replaced by the following:
‘4. Where the biomass fraction of mixed fuels or materials complies with the first subparagraph of paragraph 2 and is equal or higher than 97 %, or where, due to the amount of the emissions associated with the fossil fraction of the fuel or material, it qualifies as a *de-minimis* source stream, the competent authority may allow the operator to apply no-tier methodologies, including the energy balance method, for determining activity data and relevant calculation factors.’;
- (5) Article 39 is amended as follows:
(a) paragraph 3 is replaced by the following:
‘3. By way of derogation from paragraphs 1 and 2 and Article 30, the operator shall not use analyses or estimation methods in accordance with paragraph 2 to determine the biomass fraction of natural gas received from a gas grid to which biogas is added.

The operator may determine a certain quantity of natural gas from the gas grid to be biogas by using one of the methodologies set out in paragraphs 4 and 5, which are mutually exclusive. Member States shall publish all relevant information required for the application of those two paragraphs, in particular an indication of which method is applicable to each gas grid to which installations are connected.’;
- (b) the following paragraphs are added:

- ‘4. Where the Member State allows for the application of this paragraph, the operator may determine the biomass fraction using purchase records of biogas of equivalent energy content, provided that the operator provides evidence to the satisfaction of the competent authority that:
- (a) the biogas complies with the first subparagraph of Article 38(2);
 - (b) there is no double counting of the same biogas quantity, in particular that the biogas purchased is not claimed to be used by anyone else, including through a disclosure of a guarantee of origin in the meaning of Article 2(12) of Directive (EU) 2018/2001;
 - (c) the operator and the producer of the biogas are connected to the same gas grid;
 - (d) the market value of that biogas consumption was taken into account appropriately in the relevant support scheme, if support has been granted for the biogas production.

For the purpose of demonstrating compliance with this paragraph, the operator may use the data recorded in a database set up by one or more Member States which enables tracing of transfers of biogas.

5. Where the Member State allows for the application of this paragraph, the operator may determine the quantity of biogas based on an average emission factor and biomass fraction published by the competent authority for a specific gas grid provided that:
- (a) the emission factor and the biomass fraction are based on a mass balance which takes into account all biogas fed to that gas grid which complies with the first subparagraph of Article 38(2) as well as natural gas, biogas which does not comply with the first subparagraph of Article 38(2) and other combustible gases fed to that gas grid;
 - (b) there is no double counting of the same biogas quantity, in particular that the biogas purchased is not claimed to be used by anyone else, including through a disclosure of a guarantee of origin in the meaning of Article 2(12) of Directive (EU) 2018/2001;
 - (c) the market value of that biogas consumption was taken into account appropriately in the relevant support scheme, if support has been granted for the biogas production.’.

(6) In Article 47, paragraph 2 is replaced by the following:

- ‘2. For the purposes of the first subparagraph of paragraph 1, an installation shall be considered an installation with low emissions where at least one of the following conditions is met:
- (a) the average annual emissions of that installation reported in the verified emissions reports during the trading period immediately preceding the current trading period, with the exclusion of CO₂ stemming from biomass which complies with the first subparagraph of Article 38(2) and before subtraction of transferred CO₂, were less than 25 000 tonnes of CO_{2(e)} per year;

- (b) the average annual emissions referred to in point (a) are not available or are no longer applicable because of changes to the installation's boundaries or changes to the operating conditions of the installation, but the annual emissions of that installation for the next five years, with the exclusion of CO₂ stemming from biomass which complies with the first subparagraph of Article 38(2) and before subtraction of transferred CO₂, will be, based on a conservative estimation method, less than 25 000 tonnes of CO_{2(e)} per year.';

(7) Article 54 is replaced by the following:

Article 54

Specific provisions for biofuels

1. For mixed fuels, the aircraft operator may either assume the absence of biofuel and apply a default fossil fraction of 100 %, or determine a biofuel fraction in accordance with paragraph 2.
2. Where biofuels are physically mixed with fossil fuels and delivered to the aircraft in physically identifiable batches, the aircraft operator may use analyses in accordance with Articles 32 to 35 to determine the biomass fraction, on the basis of a relevant standard and the analytical methods set out ~~in those Articlestherein~~, provided that the use of that standard and those analytical methods is approved by the competent authority. Where the aircraft operator provides evidence to the competent authority that such analyses would incur unreasonable costs or are technically not feasible, the aircraft operator may base the estimation of the biofuel content on a mass balance of fossil fuels and biofuels purchased.
3. Where purchased biofuel batches cannot be delivered physically to a specific aircraft, the aircraft operator shall not use analyses to determine the biomass fraction of the fuels used.

The aircraft operator may determine the biomass fraction using purchase records of biofuel of equivalent energy content, provided that the aircraft operator provides evidence to the satisfaction of the competent authority that:

- (a) there is no double counting of the same biofuel quantity, in particular that the biofuel purchased is not claimed to be used by anyone else;
- (b) the market value of that biofuel consumption was taken into account appropriately in the relevant support scheme, if support has been granted for the biofuel production.

The required evidence may be provided by the use of a database set up in accordance with Article 28(2) of Directive (EU) 2018/2001.

4. The emission factor of biofuel shall be zero, provided that the biofuel complies with paragraphs 2 to 7 and 10 of Article 29 of Directive (EU) 2018/2001. For this purpose, the biomass shall be assessed in accordance with Articles 30 and 31(1) of that Directive.';

(8) in Article 72(1), the first subparagraph is replaced by the following:

'Total annual emissions of each of the greenhouse gases CO₂, N₂O and PFCs shall be reported as rounded tonnes of CO₂ or CO_{2(e)}. The total annual emissions of the installation shall be calculated as the sum of these three rounded values.'

- (9) The following Article 77a is inserted:

‘Article 77a

Transitional provisions

For the purpose of monitoring and reporting on emissions occurring in 2021, Article 39(3) and the fifth subparagraph of Article 54 of this Regulation shall continue to apply in accordance with Directive 2009/28/EC.’

- (10) Annexes I and X are amended in accordance with Annex I to this Regulation;
(11) Annexes II, IV and VI are amended in accordance with Annex II to this Regulation.

Article 2

Corrections to Implementing Regulation (EU) 2018/2066

Implementing Regulation (EU) 2018/2066 is corrected as follows:

- (1) in Article 16(1), the second subparagraph is replaced by the following:
‘In case of doubt, the operator or aircraft operator shall use in parallel both the modified and the original monitoring plan to carry out all monitoring and reporting, according to both plans, and shall keep the results of both monitoring results in their documentation.’;
- (2) Annex IV is corrected in accordance with Annex III to this Regulation

Article 3

Entry into force and application

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

Points (2), (8), (9) and (11) of Article 1 and Article 2 shall apply from 1 January 2021.

Points (1), (3), (4), (5), (6), (7), and (10) of Article 1 shall apply from 1 January 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Ursula von der Leyen