



EUROPEAN
COMMISSION

Brussels, XXX
[...] (2024) XXX draft

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

of XXX

amending Implementing Regulation (EU) 2020/1208 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999 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 Implementing Regulation (EU) 2020/1208 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999 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 Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council¹, and in particular Articles 19(5), 26(7) and 38(3) thereof,

Whereas:

- (1) Article 38 of Regulation (EU) 2018/1999 has been amended in order to require the Commission to carry out a comprehensive review of the national inventory data on greenhouse gases in 2025, in addition to the comprehensive reviews to be carried out in 2027 and 2032. It is therefore necessary to amend Articles 30 and 32 of Commission Implementing Regulation (EU) 2020/1208², as well as Annex XXII to that Implementing Regulation, which establish the procedure and the schedule of the comprehensive reviews to be carried out under Article 38 of Regulation (EU) 2018/1999.
- (2) In accordance with Article 19(2) of Regulation (EU) 2018/1999, Member States are to report information on the use of revenues generated by auctioning allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council³. The formats for the reporting of that information are set out in Annex II to Implementing Regulation (EU) 2020/1208.

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¹ OJ L 328, 21.12.2018, p. 1. ELI: <http://data.europa.eu/eli/reg/2018/1999/oj>.

² Commission Implementing Regulation (EU) 2020/1208 of 7 August 2020 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999 of the European Parliament and of the Council and repealing Commission Implementing Regulation (EU) No 749/2014 (OJ L 278, 26.8.2020, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2020/1208/oj).

³ 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 (OJ L 275, 25.10.2003, p. 32, ELI: <http://data.europa.eu/eli/dir/2003/87/2023-06-05>).

- (3) Directive 2003/87/EC has been amended by Directive (EU) 2023/959 and several changes on the use of auction revenues have been introduced. Those changes need to be reflected in the formats set out in Annex II to Implementing Regulation (EU) 2020/1208.
- (4) Article 10(3), first subparagraph of Directive 2003/87/EC⁴ now provides that all auction revenues that are not attributed to the Union budget in the form of own resources, or the equivalent financial value of such auction revenues, are to be used for the climate-related purposes listed in that Article, with the exception of the revenues used for the compensation of indirect carbon costs. This includes increased Member States' auctioning revenues as a result of the inclusion of maritime transport in the EU ETS, because of which Member States are encouraged to increase their use to contribute to the protection, restoration and better management of marine-based ecosystems, in particular marine protected areas. To track the progress made towards the mandatory target of spending all revenues for the purposes of Article 10(3), first subparagraph, a new table 2 should be introduced in Annex II to Implementing Regulation (EU) 2020/1208 for reporting on the cumulative disbursement of the revenues pertaining to each year.
- (5) Article 10(3), fifth subparagraph of Directive 2003/87/EC now requires that the reporting on auction revenues be sufficiently detailed to enable the Commission to assess the Member States' compliance with the requirement set out in the first subparagraph of that Article. The Commission should therefore require Member States to resubmit the information on the use of revenues if it considers such information insufficiently detailed for assessing the Member States' compliance, and Member States should be required to address those insufficiencies within a reasonable time.
- (6) The list of climate-related purposes in Article 10(3) of Directive 2003/87/EC has been expanded so that it covers additional purposes with a positive environmental impact. In addition, Member States are now required, pursuant to Article 10(3), fourth subparagraph, to report annually on the use of auctioning revenues, specifying, where relevant and as appropriate, which revenues are used and the actions that are taken to implement their integrated national energy and climate plans and their territorial just transition plans. Member States are also required to take into account the need to continue scaling up international climate finance in vulnerable third countries when determining the use of revenues generated from the auctioning of the allowances. The table for reporting on the use of revenues from auctioning of allowances for domestic and Union purposes pursuant to Articles 3d and 10 of Directive 2003/87/EC should be adapted in order to reflect those new requirements and purposes, as a new table 3. To gain a more detailed understanding of the spending of auction revenues within the broader purposes of the list of Article 10(3), in this table Member States should indicate the precise category of the spending, including international purposes and international climate finance.
- (7) Article 30m(3) of Directive 2003/87/EC requires that Member States endeavour to ensure the visibility of the source of the funding of actions or projects funded from the auctioning revenues of which they determine the use in accordance with Article 3d(4),

⁴ Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (OJ L 130, 16.5.2023, p. 134–202, ELI: <http://data.europa.eu/eli/dir/2023/959/oj>).

Article 10(3) and Article 30d(6) of that Directive, taking into account national circumstances. The new table 3 should allow Member States to report on how they endeavoured to ensure such visibility.

- (8) Member States with responsibility for a high ratio of shipping companies compared to their population are attributed a share of allowances and should use the revenues generated from the auctioning of that share of allowances for the purposes referred to in Article 10(3) of Directive 2003/87/EC, first subparagraph, point (g), with regard to the maritime sector, and points (f) and (i) of that subparagraph. The new table 3 should allow the relevant Member States to report on the use of such additional revenues for maritime purposes.
- (9) Since 1 January 2021, both operators of installations and aircraft operators may surrender general and aviation allowances pursuant to Article 12 of Directive 2003/87/EC. In addition, in Commission Delegated Regulation (EU) 2019/1122⁵, the definition of general allowances has been amended to include after 1 January 2025 all allowances issued pursuant to Chapter III of Directive 2003/87/EC, all allowances created for maritime transport activities pursuant to Article 3ga of that Directive and all allowances created for aviation activities pursuant to Article 3c and Article 3d of that Directive. Those allowances are to be jointly auctioned in the same bidding windows from 1 January 2025. As a result, any distinction between the reporting on aviation and non-aviation revenues in Annex II to Implementing Regulation (EU) 2020/1208 should be eliminated.
- (10) Reporting of auction revenues under Implementing Regulation (EU) 2020/1208 should be streamlined based on the experience gathered from the reporting under it. Firstly, tables 1a and 1b should be combined to simplify the reporting, in a new table 1 that provides the overview of the revenues generated and their use in the reporting year. Secondly, tables 3, 4, 5 and 6 in Annex II to that Implementing Regulation have proven too detailed to be properly reported on and thus used for comparative purposes. Therefore, tables 3, 4 and 5 should be replaced by a single table, combining all revenues from auctioning of allowances for international purposes into a single overview as new table 4, and table 6 should be deleted.
- (11) Implementing Regulation (EU) 2020/1208 establishes the format of the reports that Member States are to submit to the Commission, pursuant to Article 26(3) Regulation 2018/1999. Such reports concern, among others, greenhouse gas emissions covered by Regulation (EU) 2018/842 of the European Parliament and of the Council⁶.
- (12) The scope of Regulation (EU) 2018/842 is defined by reference to Annex I to Directive 2003/87/EC listing the activities covered by Directive 2003/87/EC.
- (13) Annex I to Directive 2003/87/EC was amended with the addition of the activity ‘maritime transport’ as well as, from 1 January 2024, for the purposes of Articles 14 and 15 of that Directive, the activity ‘combustion of fuels in installations for the incineration of municipal waste with a total rated thermal input exceeding 20 MW’.

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⁵ Commission Delegated Regulation (EU) 2019/1122 of 12 March 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry (OJ L 177, 2.7.2019, p. 3, ELI: http://data.europa.eu/eli/reg_del/2019/1122/oj).

⁶ Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26, ELI: <http://data.europa.eu/eli/reg/2018/842/oj>).

Article 2(1) of Regulation (EU) 2018/842 was amended to ensure that such amendment of Annex I to Directive 2003/87/EC does not change the scope of Regulation (EU) 2018/842

- (14) The reporting templates established in Annexes XII and XV to Implementing Regulation (EU) 2020/1208 include cells where Member States are to indicate the quantity of emissions falling under Directive 2003/87/EC. It is necessary to establish, by adding a footnote 5 to Annex XII and by amending a footnote 7 to Annex XV, that the emissions caused by the activity ‘maritime transport’ as well as the emissions from activities listed in Annex I to Directive 2003/87/EC for the purposes of Articles 14 and 15 of that Directive, are not to be included in the quantities that Member States are to indicate in such cells.
- (15) Implementing Regulation (EU) 2018/2066⁷ which lays down rules for the monitoring and reporting of greenhouse gas emissions from the activities subject to Directive 2003/87/EC, has been amended to align it with Directive (EU) 2018/2001 of the European Parliament and of the Council⁸ which regulates the promotion of the use of energy from renewable sources. As a result, from 1 January 2023 (year of the emissions) not all emissions from the combustion of biomass are to be reported as zero-rated under Implementing Regulation (EU) 2018/2066, but only those where the used biomass complies with the sustainability criteria set out in Article 29(2) to (7) and (10) of Directive (EU) 2018/2001. That amendment has an effect on the calculation of the emissions under Regulation (EU) 2018/842, as the emissions from the combustion of biomass that are not to be reported as zero-rated under Implementing Regulation (EU) 2018/2066 would trigger an increase of the emissions under Directive 2003/87/EC to be counted for the purposes of Regulation (EU) 2018/842 and an equal decrease in calculated emissions under Regulation (EU) 2018/842. It should therefore be clarified in Annexes XII and XV to Implementing Regulation (EU) 2020/1208 that CO₂ emissions from the use of biomass in stationary installations as listed in Annex I to Directive 2003/87/EC will be accounted for as zero for the purposes of Annexes XII and XV to that Implementing Regulation.
- (16) In 2021, the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) decided that from 2024 onwards, for the purpose of the Paris Agreement, the greenhouse gas emissions captured from biomass combustion and permanently stored are to be deducted from the total emissions of each Party.
- (17) Recital 17 of Regulation (EU) 2023/857 recognised the importance of a Union scheme for the certification of safely and permanently stored carbon removals obtained through technological solutions to be put in place, offering clarity for Member States and market operators to enhance such carbon removals. When such a certification scheme is in force, an analysis can be made about accounting for such carbon removals under Union law.
- (18) The communication of the Commission of 6 February 2024 ‘Towards an ambitious Industrial Carbon Management for the EU’ emphasises that industrial carbon removals

⁷ 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, ELI: http://data.europa.eu/eli/reg_impl/2018/2066/oj).

⁸ 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, ELI: <http://data.europa.eu/eli/dir/2018/2001/oj>).

value chains are key to achieving the climate neutrality objective enshrined in Regulation (EU) 2021/1119 of the European Parliament and of the Council⁹. However, it also notes that industrial carbon removals are not currently covered by Directive 2003/87/EC, Regulation (EU) 2018/842 or Regulation (EU) 2018/841 of the European Parliament and of the Council¹⁰ and highlights the importance of assessing how best to provide incentives for industrial carbon removals in existing EU legislation or through new instruments.

- (19) In order to ensure the correct accounting of the greenhouse gas emissions under Regulation (EU) 2018/842, which does not provide for their deduction, negative emissions reported to the UNFCCC should not be taken into account when calculating the emissions that fall under the scope of Regulation (EU) 2018/842.
- (20) In order to ensure transparency and legal certainty, it is appropriate to indicate in Annex XV to Implementing Regulation (EU) 2020/1208 the dates on which Member States are to extract the data concerning the total verified emissions from stationary installations under Directive 2003/87/EC for the purpose of determining the emissions that fall under Regulation (EU) 2018/842.
- (21) Pursuant to Article 29(5) of Regulation (EU) 2018/1999, the Commission is to annually assess whether the Member States have made sufficient progress towards meeting the obligations set out in Article 4 of Regulation (EU) 2018/841 of the European Parliament and of the Council. While the information to be provided by Member States on greenhouse gas emissions and removals prepared for their LULUCF accounts pursuant to Article 26(5) of Regulation (EU) 2018/1999 is only due in the years 2027 and 2032, the annual reporting of such data would enable the Commission to properly assess Member States' progress towards meeting their obligations set out in Article 4 of Regulation (EU) 2018/841. It is therefore appropriate to note, in Annex XX, that Member States are encouraged to report the data referred to therein on a yearly basis.
- (22) A majority of the information required in Table 1a of Annex XX to Implementing Regulation (EU) 2020/1208 can be automatically derived from the CRT tables submitted for the greenhouse gas inventory reporting provided that the drop-down menus enabling the selection of sub-categories in those tables are used. In order to streamline the reporting requirements, Member States should have the option to refer to their greenhouse gas inventory reports for the purpose of reporting certain information requested in Table 1a of Annex XX provided that they use the drop-down menus. Member States should however still be required to report information on managed forest land and afforested land, and the excluded emissions/removals from natural disturbances on those land categories, as that information cannot be retrieved by the EEA or the Commission based on the greenhouse gas inventory reports. In Annex XXV to Implementing Regulation (EU) 2020/1208, table 1b will no longer be required as of 2027, since the information required in that table can be retrieved from the greenhouse gas emissions inventories. The corresponding summary table 5a will

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⁹ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1)

¹⁰ Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (OJ L 156, 19.6.2018, p. 1).

also become redundant as of that year. It is therefore appropriate to delete tables 1a and 5b of Annex XXV to Implementing Regulation (EU) 2020/1208 with effect from 1 January 2028.

- (23) Following the revision of Regulation (EU) 2018/841 by Regulation (EU) 2023/839 of the European Parliament and of the Council¹¹, Member States compliance in the first compliance period 2021-2025 is to be assessed based on the accounted greenhouse gas emissions and removals, whereas for the second compliance period (2026-2030), Member States compliance is to be assessed based on the reported greenhouse gas emissions and removals. The transition from accounted to reported values will allow for further streamlining of reporting obligations between Regulation (EU) 2018/841 and Regulation (EU) 2018/1999. The revised scope and structure of the second compliance period also requires limited changes to Table 1a and Table 5b in Annex XXV of Implementing Regulation (EU) 2020/1208.
- (24) Implementing Regulation (EU) 2020/1208 should therefore be amended accordingly.
- (25) In accordance with Article 19(2) of Regulation (EU) 2018/1999, Member States must report every year by 31 July on the use of revenues generated by the Member State by auctioning allowances. To ensure that Member States comply with this deadline using the reporting templates as amended in Implementing Regulation (EU) 2020/1208, this Regulation should apply as from 14 May 2024.
- (26) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2020/1208 is amended as follows:

- (1) in Article 5, the following subparagraph is added:

‘If the Commission considers that the information referred to in the first subparagraph is not sufficiently detailed for an assessment of compliance with Article 10(3) of Directive 2003/87/EC, the Commission shall request that the relevant Member State resubmit the report with sufficiently detailed information. Such resubmission shall be made within two months from the receipt of the request.’;
- (2) in Article 30, paragraph 1 is replaced by the following:
 1. When conducting the comprehensive reviews referred to in Article 38(1) and (1a) of Regulation (EU) 2018/1999, the Commission and the European Environment Agency shall be assisted by a technical experts review team and follow the procedure set out in Annex XXII.’;
- (3) Article 32 is replaced by the following:

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¹¹ Regulation (EU) 2023/839 of the European Parliament and of the Council of 19 April 2023 amending Regulation (EU) 2018/841 as regards the scope, simplifying the reporting and compliance rules, and setting out the targets of the Member States for 2030, and Regulation (EU) 2018/1999 as regards improvement in monitoring, reporting, tracking of progress and review (OJ L 107, 21.4.2023, p. 1, ELI:).

Article 32

Final review reports

The Commission shall inform the Member State concerned of the end of the comprehensive review and provide the Member State with a final review report by 30 August 2025, 30 August 2027 and 30 August 2032 respectively’;

- (4) Annex II is replaced by the text in Annex I to this Regulation;
- (5) Annex XII is replaced by the text in Annex II to this Regulation;
- (6) Annex XV is replaced by the text in Annex III to this Regulation;
- (7) Annex XX is amended as set out in Annex IV to this Regulation;
- (8) Annex XXII is amended as set out in Annex V to this Regulation;
- (9) Annex XXV is replaced by the text in Annex VI to this Regulation.
- (10) Tables 1b and 5a of Annex XXV are deleted.

Article 2

Entry into force

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

It shall apply from 14 May 2024.

However, Article 1, point (10), shall apply from 1 January 2028.

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