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Ordinance on the Reduction of CO₂ Emissions (CO₂ Ordinance)

Amendment of 13 November 2019

*The Swiss Federal Council
ordains:*

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The CO₂ Ordinance of 30 November 2012¹ shall be amended as follows:

Replacement of terms

‘Company’ is replaced by ‘installation operator’, with the necessary grammatical changes, throughout the Ordinance with the exception of Article 4.

Art. 2 let. b–d

In this Ordinance:

- b. *repealed*
- c. *rated thermal input* means the maximum possible supply of heating energy per unit of time of an installation;
- d. *total rated thermal input* means the sum of the rated thermal inputs of an installation operator that are taken into account in the emissions trading scheme (ETS);

Art. 5 para. 1 let. c no. 2 and 3

¹ Attestations for emission reductions from domestic projects and programmes are issued if:

¹ SR 641.711

- c. the emission reductions:
 2. are not greenhouse gas emissions that are recorded by the ETS, and
 3. were not achieved by an operator with a reduction obligation under Article 66 paragraph 1 that at the same time is applying for attestations under Article 12; the foregoing does not apply to operators with reduction obligations with an emissions target under Article 67, provided the emission reductions from projects and programmes are not included in the emissions target; and

Art. 10 para. 4

⁴ Emission reductions that are attributable to non-refundable payments from the Confederation, cantons or communes for promoting renewable energies, energy efficiency or climate protection are only attested to the applicant if it proves that the responsible public bodies have not otherwise claimed the emission reductions. Emission reductions that are attributable to funds obtained on the basis of Article 19 in conjunction with Article 21 or of Articles 25, 27, 32 and 73 paragraph 4 of the Energy Act of 30 September 2016² (EnA) are not attested.

Heading before Art. 12

**Section 5a:
Attestations for Installation Operators**

Art. 12 Heading and para. 1

Attestations for operators with reduction obligations

¹ Operators with reduction obligations under Article 66 paragraph 1 to which an emission target under Article 67 applies and which are not carrying out any projects or programmes in accordance with Article 5 or 5a that result in emission reductions covered by the emissions target shall be issued with attestations for domestic emission reductions on application if:

- a. the operator can credibly report that its emissions target will be reached without counting emission-reduction certificates;
- b. the greenhouse gas emissions of the installations in the relevant year have been reduced by more than 5 per cent compared with the reduction course determined in accordance with Article 67; and
- c. for emission-reduction measures, the operator has received no non-refundable payments from the Confederation, cantons or communes for promoting

² SR 730.0

renewable energies, energy efficiency or climate protection or from surcharges obtained in accordance with Article 35 EnA³ for geothermal power, biomass and waste from biomass; excepted from this are operators that had already registered for the receipt of such funds before the coming into force of the amendment of 8 October 2014.

Art. 12a Heading and para. 1

Attestations for installation operators with a target agreement regarding the progression of energy consumption

¹ Installation operators that have agreed with the Confederation on targets for the progression of energy consumption and also have commitments to reduce CO₂ emissions (target agreement with an emissions target), without being exempt from the CO₂ levy for this purpose, are issued attestations for domestic emission reductions on application if:

- a. the target agreement with an emissions target meets the requirements of Article 67 paragraphs 1-3, is validated at the operator's own expense by a FOEN-approved validator and has been assessed by the FOEN as qualified;
- b. the operator submits a monitoring report annually no later than 31 May in accordance with Article 72;
- c. the CO₂ emissions of the installations during the previous three years have in each year fallen short of the agreed reduction course in the target agreement with emissions target by more than 5 per cent; and
- d. for emission-reduction measures, the operator has received no non-refundable payments from the Confederation, cantons or communes for promoting renewable energies, energy efficiency or climate protection or from surcharges obtained in accordance with Article 35 paragraph 1 EnA⁴ for geothermal power, biomass and waste from biomass; excepted from this are operators that had already registered for the receipt of such funds before the amendment of 8 October 2014 came into force.

Art. 13 para. 1

¹ Operators and persons that have applied for the issuance of attestations must at the same time provide the FOEN with the account to which the attestations should be issued. Attestations are issued and administrated in the Emissions Trading Registry in accordance with Articles 57–65.

³ SR 730.0

⁵ SR 730.0

Heading before Art. 40

Chapter 4: Emissions Trading Scheme

Section 1: Installation Operators

Art. 41 Exemption from the obligation to participate

¹ An installation operator may apply each year by 1 June in accordance with Article 40 paragraph 1 to be exempted from the obligation to participate in the ETS with effect from the beginning of the following year if the greenhouse gas emissions of the installations in the previous three years were less than 25,000 tonnes CO₂eq per year.

^{1bis} An installation operator under Article 40 paragraph 2 that credibly reports that the greenhouse gas emissions of the installations are permanently less than 25,000 tonnes CO₂eq per year may apply for the exemption to the obligation to participate in the ETS with immediate effect.

² The installation operator must continue to submit a monitoring plan (Art. 51) and a monitoring report (Art. 52) in accordance with paragraphs 1 and 1^{bis} unless it has made a commitment to reduce greenhouse gas emissions in accordance with Article 31 paragraph 1 of the CO₂ Act.

³ If the greenhouse gas emissions of the installations increase to more than 25,000 tonnes CO₂eq during a year, then their operator must again participate in the ETS from the beginning of the following year.

Art. 42 para. 1, 2, 2^{bis} and 3 let. b and c

¹ An installation operator may participate in the ETS by application if:

- a. it is engaged in an activity listed in Annex 7; and
- b. the total rated thermal input of the installations is at least 10 MW.

² An operator that newly fulfils the participation conditions listed in paragraph 1 must submit the application no later than six months from the date of fulfilment.

^{2bis} An operator that withdraws its application despite meeting the conditions specified in paragraphs 1 or 2 has the opportunity to resubmit an application for participation if the total rated thermal input of the installations has increased by at least 10 per cent since the last application. The application must be submitted no later than six months after the increase.

³ The application must contain information about:

- b. the installed rated thermal inputs of the installations;
- c. the greenhouse gases emitted from the installations in the previous three years.

Art. 43 Heading, para. 1, 2 introductory sentence and 3

Installations not taken into account

¹ In determining whether the conditions of Article 40 paragraph 1 or Article 42 paragraphs 1 or 2^{bis} are met, and in calculating the extent to which the operator must

surrender emission allowances or emission-reduction certificates annually to the Confederation, installations in hospitals are not taken into account.

² The installation operator may request that the following installations are not taken into account:

³ For thermal fuels used in installations that are not taken into account, the CO₂ levy is not refunded.

Art. 43a Withdrawal

An installation operator may, no later than 1 June, apply to withdraw from the ETS with effect from the beginning of the following year if it permanently ceases to meet the conditions of Article 40 paragraph 1 or Article 42 paragraph 1.

Art. 44 Ruling

The FOEN decides by issuing a ruling on the participation of installation operators in the ETS and regarding installations not taken into account in accordance with Article 43.

³ **SR 730.0**

Heading before Article 45

Repealed

Art. 45 Maximum available quantity of emission allowances

¹ The FOEN calculates the maximum available quantity of emission allowances each year for all installation operators in the ETS as a whole in accordance with Annex 8.

² It retains 5 per cent of these emission allowances annually in order to make them accessible to installation operators participating in the ETS for the first time and installation operators already participating in the ETS that significantly increase their capacity in accordance with Article 46c.

Art. 46 Emission allowances to be allocated free of charge

¹ The FOEN calculates the quantity of emission allowances to be allocated free of charge annually to installation operators, based on the benchmarks and adaptation factors described in Annex 9 and taking account of European Union regulations.

² If the total quantity of emission allowances to be allocated free of charge exceeds the maximum quantity available minus the reserve in accordance with Article 45 paragraph 2, then the FOEN reduces the emission allowances allocated to individual operators pro rata.

Art. 46a Heading, para. 1 and 3

Allocating emission allowances free of charge to installation operators participating in the ETS for the first time

¹ An installation operator that participates for the first time in the ETS after 1 January 2013 receives an allocation of emission allowances free of charge from the reserve in accordance with Article 45 paragraph 2 from the start of its participation in the ETS.

³ If an operator's participation in the ETS occurs after the extension of installations or after a significant increase in physical capacity, then it is allocated emission allowances free of charge in accordance with Articles 46 and 46c.

Art. 46b para. 1 and 2 introductory sentence

¹ The quantity of emission allowances to be allocated free of charge annually to an installation operator is reduced from the beginning of the following year if:

- a. a physical change in an installation leads to a reduction of at least 10 per cent in the installed capacity of a unit decisive for emission allowances to be allocated free of charge (sub-installation); physical modifications that serve solely to reduce greenhouse gas emissions are excluded;
- b. the operation of the installations ceases.

² In the case of partial closures, the quantity of emission allowances allocated free of charge annually to an operator is reduced from the beginning of the following year as follows:

Art. 46c para. 1, 3 and 4

¹ The quantity of emission allowances to be allocated free of charge annually to an installation operator is increased if a physical change to an installation or the expansion of a new installation leads to an increase of at least 10 per cent in a sub-installation's installed capacity.

³ If a new sub-installation is created by a physical change to an installation or by the expansion of a new installation, the operator is allocated emission allowances according to the greenhouse gas emissions emitted in the time between the initial physical operation and the start of normal operation and in accordance with the benchmarks specified in Annex 9. No emission allowances are allocated free of charge for the production of electricity.

⁴ If the operation of installations restarts after a partial closure in accordance with Article 46b paragraph 2, the free-of-charge allocation is adjusted accordingly as of the following year.

Heading after Art. 46c

Section 1a.: Aircraft Operators

Art. 46d Aircraft operators with participation obligations

¹ An aircraft operator is obliged to participate in the ETS in accordance with the Annex of the Ordinance on Air Navigation of 14 November 1973⁵ (aircraft operators) if it performs flights in accordance with Annex 13.

² An aircraft operator obliged to participate in the ETS must register immediately with the competent authority in accordance with Annex 14.

³ If the operator cannot be determined, the keeper and, at a subsidiary level, the owner of the aircraft is deemed the aircraft operator.

⁴ The FOEN may request an aircraft operator to designate an address for service in Switzerland.

Art. 46e Maximum quantity of emission allowances available

The FOEN calculates:

- a. the maximum quantity of emission allowances for aviation available annually in accordance with Annex 15 numbers 1 and 2;
- b. the quantity of emission allowances to be withheld for the auction and for new or fast-growing aircraft operators in accordance with Annex 15 number 3 letters b and c and number 5.

Art. 46f Allocation of emission allowances free of charge

¹ The FOEN calculates the quantity of emission allowances available for allocation free of charge for aircraft operators that are obliged to participate in the ETS under Article 46d paragraph 1 and which have submitted a tonne-kilometre monitoring report in accordance with the Ordinance of 2 June 2017⁶ on the acquisition of tonne-kilometre data and the drawing-up of monitoring plans for flight routes, in accordance with Annex 15 number 3 letter a.

² It calculates the quantity of emission allowances to be allocated to an aircraft operator annually free of charge in accordance with Annex 15 number 3.

³ If an aircraft operator that is obliged to participate in the ETS under Article 46d paragraph 1 does not perform any flights in a particular year in accordance with Annex 13, it must surrender the emission allowances allocated free of charge for this year by 31 March of the following year to the competent authority in accordance with Annex 14. The returned emission allowances are cancelled.

⁴ Emission allowances which cannot be allocated free of charge are cancelled.

⁵ SR 748.01

⁶ SR 641.714.11

*Heading before Article 47***Section 2: Auction of Emission Allowances***Art. 47* Eligibility for admission

Installation and aircraft operators participating in the ETS of Switzerland and the European Union and companies from the European Economic Area (EEA) admitted to bid in auctions in the European Union are eligible for admission to the auction of emission allowances provided they have an account in accordance with Article 57.

Art. 48 Conducting the auction

¹ The FOEN regularly auctions:

- a. no more than 10 per cent of the maximum quantity of emission allowances available for installations in the previous year in accordance with Article 45 paragraph 1; if the reserve in accordance with Article 45 paragraph 2 is fully used, the FOEN may auction more allowances;
- b. 15 per cent of the maximum quantity of emission allowances for aircraft available annually in accordance with Annex 15 number 2.

² The FOEN may cancel the auction without accepting a bid if:

- a. it suspects agreements affecting competition or unlawful practices by dominant participants in the auction;
- b. the highest bidding price in the auction period differs significantly from the relevant price on the secondary market in the European Union; or
- c. safety risks or other reasons jeopardise the proper implementation of the auction.

³ The FOEN must report any suspicions under paragraph 2 letter a to the competition authorities.

⁴ If the auction is cancelled for any of the reasons in paragraph 2 or if demand for the quantity of emission allowances assigned to an auction is not fully met, the remaining emission allowances are transferred to a subsequent auction.

⁵ The emission allowances which are not assigned to an auction are cancelled at the end of the obligation period.

⁶ The FOEN may commission private organisations to conduct the auction.

Art. 49 Information to be submitted for participation

¹ Installation and aircraft operators participating in the ETS of Switzerland and the European Union and the other companies from the EEA admitted to bid in auctions in the European Union which are participating in the auction of emission allowances must submit the following information to the FOEN beforehand:

- a. first names, surnames, postal address, personal e-mail address, mobile telephone number, proof of identity and criminal record certificate of at least one, but no more than four, authorised auction agents;
- b. first names, surnames, postal address, personal e-mail address, mobile telephone number, proof of identity and criminal record certificate of at least one, but no more than four, bid validators;
- c. declaration that they and the authorised auction agents and bid validators accept the general conditions of the auction.

² Persons under paragraph 1 are not required to submit a Swiss criminal record certificate if they provide proof by means of notarial certificate that they have not been convicted of any of the criminal offences set out in Article 59a paragraph 1 letter b.

³ Installation and aircraft operators obliged to participate in the ETS in the European Union must provide evidence of an operator account in the EU register and designate an address for service in Switzerland in addition to paragraph 1.

⁴ The companies from the EEA admitted to bid in auctions in the European Union must designate an address for service in Switzerland and submit the following information in addition to paragraph 1:

- a. evidence of direct admission to bid in auctions in the European Union;
- b. information on the categorisation in accordance with European Union regulations;
- c. an affirmation that they are participating in the auction solely on their own account.

⁵ The FOEN may request additional information if it requires it for the participation in the auction.

⁶ The proof of identity and criminal record certificates under paragraph 1 letters a and b and the information under paragraph 5 must be authenticated. Copies of documents issued outside of Switzerland must be apostilled. The date of the documents to be submitted and the authentication or apostille may not be more than three months before the date of application.

⁷ The information is recorded in the Emissions Trading Registry.

Art. 49a Binding nature of the auction bids

¹ Bids for the auction of emission allowances are made in euro and are binding after a bid validator gives consent.

² The invoice for the auctioned emission allowances must be settled in euro and via a bank account in Switzerland or in the EEA. The FOEN may exclude participants from future auctions if they fail to settle the invoice.

Art. 50 Data collection

¹ The FOEN or a FOEN-authorized entity collects the data concerning installation operators required to calculate the maximum quantity of emission allowances to be made available and the quantity of emission allowances to be allocated free of charge.

² The installation operator is required to cooperate. If it violates its obligation to cooperate, then it shall be denied emission allowances free of charge.

³ Aircraft operators are responsible for collecting the data relating to their activities under this Ordinance.

Art. 51 Monitoring plan

¹ Installation operators participating in the ETS of Switzerland shall submit a monitoring plan to the competent authority for approval in accordance with Annex 14 no later than three months after the deadline for notification under Article 40 paragraph 2 or after the submission of an application to participate under Article 42. They use the template provided by the FOEN.

² Aircraft operators participating in the ETS of Switzerland shall submit a monitoring plan to the competent authority for approval in accordance with Annex 14 no later than three months after notification of participation obligations in accordance with Article 46*d* paragraph 2. If the monitoring plan must be submitted to the FOEN, they use the template provided.

³ The monitoring plan must meet the requirements set out in Annex 16.

⁴ Installation or aircraft operators participating in Switzerland's ETS (ETS participants) shall amend the monitoring plan if it no longer meets the requirements of Annex 16 or if an amendment is required due to a change in accordance with Articles 46*b* and 46*c*. They shall submit the amended monitoring plan to the competent authority for approval in accordance with Annex 14.

⁵ The CO₂ monitoring plan in accordance with the Ordinance of 2 June 2017⁷ on the acquisition of tonne-kilometre data and the drawing-up of monitoring plans for flight routes is deemed the monitoring plan.

Art. 52 Monitoring report

¹ ETS participants shall submit a monitoring report to the competent authority in accordance with Annex 14 annually by 31 March of the following year. If the monitoring report must be submitted to the FOEN, participants shall use the template provided.

² The monitoring report must contain the relevant information in accordance with Annex 17. The FOEN may request additional information if required for monitoring.

³ The FOEN may require at any time that the monitoring report of installation operators be verified by a FOEN-approved verifier.

⁷ SR 641.714.11

⁴ Aircraft operators must have their monitoring report verified by a verifier in accordance with Annex 18.

⁵ The monitoring report of aircraft operators with CO₂ emissions that fall below the thresholds set out in Article 28a paragraph 6 of Directive 2003/87/EC⁸ is deemed to be verified if the aircraft operator uses an instrument in accordance with Article 54 paragraph 2 of the Regulation (EU) No 601/2012.⁹

⁶ If an ETS participant submits an incomplete monitoring report or fails to submit it by the deadline, the competent authority shall estimate the relevant emissions in accordance with Annex 14 at the participant's expense.

⁷ If there are doubts about the correctness of the verified monitoring report, the competent authority may adjust the emissions at its own dutiful discretion in accordance with Annex 14.

Art. 53 Obligations to report changes

¹ ETS participants shall inform the competent authority without delay in accordance with Annex 14 about:

- a. changes that could affect the emission allowances to be allocated free of charge;
- b. changes in contact information.

² Aircraft operators which no longer perform flights in accordance with Annex 13 must report this to the competent authority under Annex 14 no later than three months after cessation of the relevant flight activities.

Art. 54 para. 1

¹ The cantons shall verify whether installation operators participating in the ETS have met their information obligations under Article 40 paragraph 2 and Article 53 paragraph 1 and whether the information provided is complete and traceable.

Art. 55 Obligation

¹ Each year installation operators shall surrender to the FOEN emission allowances for installations and, if permitted, emission-reduction certificates. Decisive are the relevant greenhouse gas emissions of the installations that have been taken into account.

² Each year aircraft operators shall surrender to the competent authority under Annex 14 emission allowances for aircraft or for installations and, if permitted,

⁸ 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 Community and amending Council Directive 96/61/EC, OJ L 275 of 25.10.2003, p. 32; last amended by Directive (EU) 2018/410, OJ L 76 of 19.3.2018, p. 3.

⁹ 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, OJ L 181 of 12.7.2012, p. 30; last amended by the Implementing Regulation (EU) 2018/2066, OJ L 334 of 31.12.2018, p. 1.

emission-reduction certificates. Decisive are the aircraft operator's CO₂ emissions in accordance with Article 52.

³ ETS participants shall meet these obligations each year by 30 April for the greenhouse gas emissions of the previous year.

Art. 55a Case of hardship

¹ On application, the FOEN may, in cases where European emission allowances are not recognised in the Swiss ETS in accordance with Article 4 paragraph 1 of the Agreement of 23 November 2017¹⁰ between the Swiss Confederation and the European Union on the linking of their greenhouse gas emissions trading systems (ETS Agreement), count European emission allowances towards meeting the obligation of an ETS participant in accordance with Article 55 if the ETS participant proves that:

- a. it cannot meet its surrender obligation in accordance with Article 55 without these allowances being counted;
- b. it has participated in an auction of emission allowances in accordance with Article 48 and thus has made offers for the required quantity of emission allowances at market prices;
- c. procuring the lacking emission allowances issued by the Confederation in accordance with Article 45 paragraph 1 or Article 46e paragraph 1 outside auctions would significantly impair the ETS participant's competitiveness.

² To assess significant impairment to competitiveness, the FOEN shall also take account in particular of the ETS participant's receipts from the sale of emission allowances issued by the Confederation.

³ The application must be submitted to the FOEN no later than 31 March of the year following the year for which the case of hardship is claimed for the first time. The FOEN decides annually on the quantity of eligible European emission allowances.

⁴ If no linking with the European Emissions Trading Registry exists or is likely to exist in the foreseeable future, the European emission allowances must be transferred annually to a Swiss Confederation account in the European Union Emissions Trading Registry.

Art. 55b Emission-reduction certificates for installation operators

¹ The maximum quantity of emission-reduction certificates that an installation operator participating in the ETS may surrender is calculated as follows:

- a. for installations that were previously taken into account in the ETS in the years 2008–12: 11 per cent of five times the emission allowances allocated annually on average in this period minus the emission-reduction certificates that were taken into account during this period;
- b. for the other installations and greenhouse gas emissions: 4.5 per cent of the greenhouse gas emissions during the years 2013–20.

¹⁰ SR 0.814.011.268

² For installations that were only intermittently taken into account during the period 2013–20, the maximum quantity of emission-reduction certificates is reduced according to this period.

Art. 55c Recalculation of the quantity of emission-reduction certificates for installation operators

¹ The maximum quantity of emission-reduction certificates shall be recalculated with effect from the beginning of the following year if:

- a. a physical change in at least one installation leads to a significant increase or reduction in a sub-installation's installed capacity;
- b. the operation of the installations ceases; or
- c. the operation of the essential parts of the installations is reduced by at least half.

² The maximum quantity of emission-reduction certificates for installations in accordance with Article 55b paragraph 1 letter a shall be reduced to a maximum of 8 per cent of five times the average emission allowances allocated annually in the years 2008–12 minus the emission-reduction certificates taken into account in this period.

Art. 55d Emission-reduction certificates for aircraft operators

The maximum quantity of emission-reduction certificates that an aircraft operator may surrender is 1.5 per cent of its decisive CO₂ emissions in 2020 in accordance with Article 52.

Art. 56 para. 1 and 3

¹ If an ETS participant does not meet its obligations to surrender emission allowances or emission-reduction certificates by the deadline, then the FOEN shall impose a penalty in accordance with Article 21 of the CO₂ Act.

³ If the ETS participant does not surrender emission allowances or emission-reduction certificates by 31 January of the following year, then they shall be offset against the emission allowances allocated to the participant free of charge for that year.

Art. 57 Principles

¹ ETS participants must have an operator account in the Emissions Trading Registry; aircraft operators under the administration of a foreign authority in accordance with Annex 14 are exempted.

² Installation and aircraft operators participating in the ETS of the European Union and the other companies from the EEA admitted to bid in auctions in the European Union that wish to take part in the auction must have a personal account.

³ Operators with reduction obligations under Chapter 5 and importers and manufacturers of fossil motor fuels in accordance with Chapter 7 that hold emission

allowances, emission-reduction certifications or attestations in the Emissions Trading Registry, or that want to trade them, must have an operator or a personal account.

⁴ All other companies and persons that hold emission allowances, emission-reduction certificates or attestations in the Emissions Trading Registry, or that want to trade them, must have a personal account.

⁵ Companies, operators and persons that receive attestations for a project or a programme in accordance with Article 5, for emission reductions in accordance with Article 12, or for emission reductions arising from a target agreement with an emissions target in accordance with Article 12a may have them issued directly to a third party's operator or personal account.

⁶ A personal account holder may keep not more than a million emission allowances in his or her personal accounts.

Art. 58 Opening an account

¹ Companies, operators and persons under Article 57 must apply to the FOEN to open an account.

² The application must include:

- a. for installation or aircraft operators and other companies: an extract from the commercial register and a copy of proof of identity of the person authorised to represent the operator or company;
- b. for natural persons: proof of identity;
- c. first names, surnames, postal and e-mail addresses and proof of identity of the applicant;
- d. first names, surnames, postal address, personal e-mail address, mobile phone number, proof of identity and criminal record certificate of at least one and no more than four authorised representatives for the account;
- e. first names, surnames, postal address, personal e-mail address, mobile phone number, proof of identity and criminal record certificate of at least one and no more than four transaction validators;
- f. a declaration that the applicant accepts the General Terms and Conditions of the Emissions Trading Registry.

³ The submission of a Swiss criminal record certificate is not required if evidence can be provided by means of notarial certificate that the persons concerned have not been convicted of the criminal offences set out in Article 59a paragraph 1 letter b.

⁴ The FOEN may request additional information if required to open the account.

⁵ Companies registered in a state in which no commercial register is maintained shall confirm by another form of supporting document their existence and the authorisation to sign of the person entitled to represent the company.

⁶ Information on commercial register extracts, proof of identity, criminal record certificates and information in accordance with paragraphs 4 and 5 must be authenticated. Copies of documents issued outside of Switzerland must be apostilled.

The date of the documents to be submitted and the authentication or apostille may not be more than three months before the application date.

⁷ The FOEN opens the requested account after reviewing the information and documents and as soon as the applicant has paid the fee.

⁸ Aircraft operators administered by the FOEN must submit an application to open an account in the Emissions Trading Registry within 30 working days after the approval of the aircraft operator's monitoring plan or its transferral to Switzerland. The application must contain the unique aircraft code(s) of the aircraft operated by the applicant which fall under the ETS of Switzerland or the ETS of the European Union.

Art. 59 Address for service and registered office or domicile

¹ Any company or person with a personal account under Article 57 must designate an address for service in Switzerland for the following persons:

- a. for companies, the person entitled to represent the company, or for natural persons, the account holder;
- b. the authorised representatives for the account; and
- c. the transaction validators.

² Any operator or person with an operator or personal account under Article 57 must designate an address for service in Switzerland or in the EEA for the following persons:

- a. the auction agents; and
- b. the bid validators.

³ A company that has an operator account or personal account in accordance with Article 57 must designate a registered office in Switzerland or in the EEA and hold a bank account in Switzerland or in the EEA.

⁴ For an operator account or personal account of persons under Article 57, the account holder must designate a place of domicile in Switzerland or in the EEA and hold a bank account in Switzerland or in the EEA.

⁵ Paragraphs 3 and 4 do not apply to accounts of aircraft operators outside of Switzerland and the EEA.

Art. 59a Rejection of account opening

¹ The FOEN shall reject the account opening or entry of authorised representatives for the account, authorised auction agents, transaction validators and bid validators if:

- a. the transmitted information or documents are incomplete, incorrect or not traceable;
- b. the company, the managing director or one of the persons mentioned in the introductory sentence has been convicted in the previous ten years of money laundering or criminal offences against property or of other criminal offences in connection with emissions trading or the legislation on financial market

infrastructures, the financing of terrorism or other serious offences where the account was misused.

² It shall suspend the account opening or entry if an investigation is pending against the company or a person mentioned in paragraph 1 letter b due to any of the criminal offences mentioned in paragraph 1 letter b.

³ If the FOEN rejects the account opening of an installation or aircraft operator that is obliged to participate in the ETS, then the FOEN shall open a frozen account to which the emission allowances allocated under Article 46 or Article 46f are credited. The account remains frozen until the reasons that led to the rejection of the account opening have been eliminated.

Art. 62 para. 4

⁴ The FOEN shall review whether the information transmitted for the account opening is still complete, current and correct at least once every three years and requires the account holder to report any changes if applicable.

Art. 64 para. 2 and 3

² The FOEN may close accounts:

- a. that do not contain any emission allowances, emission-reduction certificates or attestations and that have not been used for at least a year;
- b. whose holder or registered user has contravened the Emissions Trading Registry regulations for at least a year;
- c. if the annual account management fees have not been paid for over a year.

³ If an account to be closed has a positive balance, the FOEN shall request the account holder to designate another account within 40 working days to which the units are to be transferred. If this request is not met, the FOEN shall cancel the applicable units.

Art. 65 Publication of information and data protection

The FOEN may, subject to preservation of manufacturing and trade secrecy, electronically publish the following data held in the Emissions Trading Registry:

- a. account number;
- b. for the following persons, contact details and data in accordance with proof of identity:
 1. persons in accordance with Article 57 paragraphs 1–4,
 2. bid validators,
 3. authorised auction agents,
 4. authorised representatives for the account,
 5. transaction validators;
- c. emission allowances, emission-reduction certificates and attestations per account;

- c^{bis}. transactions;
- d. for ETS participants: auction bids, installation, aircraft and emissions data, the quantity of emission allowances allocated free of charge, the quantity of emission allowances and emission-reduction certificates delivered to meet their obligation;
- dbis. for aircraft operators that were administered by a foreign authority before the ETS Agreement¹¹ came into force: aircraft and emissions data, the quantity of emission allowances allocated free of charge, the quantity of emission allowances surrendered to meet their obligation, in each case since 2013 at the earliest;
- dter. for companies from the EEA admitted to bid in auctions in the European Union: auction bids;
- e. for domestic emission-reduction projects and programmes: the quantity of attestations issued per monitoring period and account number of the operator or personal accounts to which the attestations for the project or programme have been issued;
- f. for persons with compensation obligations: the amount of the compensation obligation and the quantity of attestations and emission-reduction certificates delivered to meet the obligation;
- g. for operators with reduction obligations under Article 66 paragraph 1: the quantity of emission-reduction certificates delivered to meet the obligation.

Art. 66 para. 1 introductory sentence, 3 and 4

¹ In accordance with Article 31 paragraph 1 of the CO₂ Act, an installation operator may commit to reduce its greenhouse gas emissions (operators with reduction obligation) if it:

³ Two or more installation operators may make a joint commitment to reduce greenhouse gas emissions if:

- a. each of them is engaged in an activity listed in Annex 7;
- b. the source of at least 60 per cent of each of their greenhouse gas emissions is an activity listed in Annex 7; and
- c. together they have emitted more than 100 tonnes CO₂eq of greenhouse gases in one of the previous two years.

⁴ The installation operators referred to in paragraph 3 are deemed a single operator. They must designate a representative.

Art. 67 para. 1, 3 let. a, b and f, 4 and 5

¹ The emissions target is the maximum total amount of greenhouse gases that an installation operator may emit by the end of 2020.

¹¹ SR 0.814.011.268

³ This is based on Article 31 paragraph 3 of the CO₂ Act and:

- a. on the greenhouse gas emissions of the installations in the previous two years;
- b. on the state of the art of the technology used in the installations;
- f. on the portion of produced electricity that, in comparison with 2012, has additionally been used outside the installations;

⁴ An installation operator that was under a reduction obligation in the years 2008–12 and would like to seamlessly continue from 2013 may apply for a simplified determination of the reduction course.

⁵ A simplified determination of the reduction course is based on the greenhouse gas emissions of the installations in 2010 and 2011 and Article 3 of the CO₂ Act. Insofar as installation operators have achieved additional reductions that exceed their commitments in the years 2008–12, this will be taken into account in determining the reduction course, except for additional reductions achieved as the result of using waste fuels.

Art. 68 para. 1, 2, 3 let. a and d

¹ An operator whose installations normally emit no more than 1500 tonnes CO₂eq per year may request that the extent of its reduction be determined by means of a measures target.

² The measures target includes the total amount of greenhouse gas emissions that the installation operator must reduce by the end of 2020 by means of measures.

³ The measures target is determined based on Article 31 paragraph 3 of the CO₂ Act and:

- a. on the state of the art of the technology used in the installations;
- d. on the portion of produced electricity that, in comparison with 2012, has additionally been used outside the installations;

Art. 69 para. 3 let. a and 4

³ The FOEN may request additional information if required for the determination of reduction obligations, particularly about:

- a. the state of the art of the technology used in the installations;

⁴ It may request the installation operator to submit a monitoring plan in accordance with Article 51.

Art. 73 para. 1 Introductory sentence

¹ The FOEN shall amend the emissions target if the greenhouse gas emissions of the installations exceed or fall short of the reduction course due to a significant or permanent change in the production amount or product mix or due to the procurement of heating or cooling from a third party:

Art. 74 para. 1

¹ The FOEN shall amend the measures target if the greenhouse gas emissions of the installations change significantly due to a change in production amount or product mix or due to the procurement of heating or cooling from a third party.

Art. 74a Deducting attestations from the emissions target

Emission reductions resulting in the issuance of attestations in accordance with Article 12 paragraph 2 and emission reductions achieved under projects or programmes in accordance with Article 5 or 5a shall be considered to be the applicant's greenhouse gas emissions with a view to meeting its emissions target.

Art. 74b Heading and para. 1

Adjustment of the reduction obligation of CHP plant operators

¹ On request, the FOEN shall adjust the reduction obligation of CHP plant operators that apply for a refund of the CO₂ levy in accordance with Article 96a.

Art. 75 Counting emission-reduction certificates

¹ An installation operator that has not reached its emissions target or measures target and has not been issued attestations in accordance with Article 12 may have emission-reduction certificates taken into account towards meeting its reduction obligations to the following extent:

- a. for installation operators that were already subject to a reduction obligation in the years 2008–12: 8 per cent of five times the average allowed emissions annually in this period, minus the emission-reduction certificates that were taken into account in this period but that were not required for meeting the operator's 2008–12 reduction obligations;
- b. for the remaining installation operators and greenhouse gas emissions: 4.5 per cent of the greenhouse gas emissions of the years 2013–20.

² The extent to which emission-reduction certificates are taken into account in accordance with paragraph 1 is as follows:

- a. for an installation operator that was only intermittently subject to a reduction obligation in the years 2013–20: correspondingly reduced for this time period;
- b. for an installation operator that, in comparison with 2012, produces additional electricity that is used outside of the installations: increased by 50 per cent of the required increase in additional reduction performance;
- c. for an installation operator under paragraph 1 letter a, the emissions or measures target of which has been amended: increased or reduced in accordance with the amendment; the quantity of eligible emission-reduction certificates are thereby reduced to a maximum of 8 per cent of five times the average allowed emissions annually in the years 2008–12, minus the emission-reduction certificates that were taken into account in the period.

Art. 76 para. 1 and 1^{bis}

¹ If an operator fails to meet its reduction obligation, then the FOEN shall impose a penalty in accordance with Article 32 of the CO₂ Act.

^{1bis} If a CHP plant operator fails to meet the investment obligation in accordance with Article 96a paragraph 2 or Article 98a paragraph 2, the FOEN shall order the repayment of 40 per cent of the refund paid for fuels used for electricity production in accordance with Article 32a of the CO₂ Act.

Art. 78 Heading and introductory sentence

Obligation to report changes

The installation operator shall inform the FOEN without delay about:

Art. 79 Publication of information

The FOEN may, subject to the preservation of manufacturing and trade secrecy, publish:

- a. the names of installation operators with reduction obligations or the CHP plant operators;
- b. the emissions targets or measures targets;
- c. the greenhouse gas emissions of each installation;
- d. the extent to which emission reductions were taken into account in meeting each installation operator's reduction obligation in accordance with Article 71;
- e. the quantity of emission-reduction certificates that each installation operator surrenders;
- f. the quantity of credits that have been taken into account towards meeting each installation operator's reduction obligations in accordance with Article 138 paragraph 1 letter b;
- g. the quantity of attestations that have been issued to each installation operator in accordance with Article 12;
- h. the extent of the investment made in accordance with Article 96a paragraph 2 or Article 98a paragraph 2.

Chapter 6 (Art. 80–85)

Repealed

Art. 91 para. 1

¹ A person with a compensation obligation is required to meet that obligation by 31 December of the following year.

Art. 96 para. 1 introductory sentence and 2

¹ The following installation operators and persons may apply for a refund of the CO₂ levy:

² The following are exempt from the CO₂ levy:

- a. installation operators participating in the ETS (Art. 17 CO₂ Act);
- b. *repealed*
- c. installation operators with reduction obligations (Art. 31 and 31a CO₂ Act).

Art. 96a heading, para. 1 introductory sentence and let. c, 2 introductory sentence and let. c

Refund for CHP plant operators with a reduction obligation

¹ On request, a CHP plant operator with a reduction obligation shall be refunded 60 per cent of the CO₂ levy on fuel used for electricity production in accordance with Article 32a of the CO₂ Act if:

- c. the additional electricity produced was used outside the plants.

² It is entitled to the refund of the remaining 40 per cent of the CO₂ levy on the fuels used for electricity production in accordance with Article 32a of the CO₂ Act if:

- c. it does not implement the measures in another plant whose operator is subject to a reduction obligation or is participating in the ETS;

Art. 96b Refund for operators of fossil-thermal power plants

¹ On request, an operator of fossil-thermal power plants shall be refunded the difference between the CO₂ levy on thermal fuels paid and the minimum price in accordance with Article 17 of the CO₂ Act.

² Fossil-thermal power plants are installations that produce either solely electricity or also heat simultaneously from fossil energy sources:

- a. that are participating in the ETS for the first time after the amendment of... comes into force;
- b. that have a total output of at least one MW and an overall efficiency of less than 80 per cent;
- c. that sell electricity to third parties;
- d. that are operated at a location for at least two years or for more than 50 hours per year;
- e. that are not used exclusively for the research, development and testing of new products and processes; and

- f. that are not used primarily for the disposal of municipal or hazardous waste in accordance with Article 3 letters a and c respectively ADWO.¹²

³ In the evaluation of external costs in accordance with Article 17 of the CO₂ Act the FOEN takes into account the current state of scientific knowledge in particular.

⁴ Operators of fossil-thermal power plants shall submit the refund application to the FOEN by 30 June for the attention of the implementation authorities. The application must contain the prices for the purchase of emission allowances of the previous twelve months. The relevant documents must be attached.

⁵ If the operator does not submit any verifiable information on the amounts paid, the FOEN shall estimate this at its own dutiful discretion. It shall take account of the origin of the emission allowances, the highest bidding prices and the publicly published secondary market prices.

Art. 97 Heading

Application for refund

Art. 98 Heading

Periodicity of the refund

Art. 98a Refund for CHP plant operators that are neither participating in the ETS nor are subject to a reduction obligation

¹ On request, an installation operator that is neither a participant in the ETS nor subject to a reduction obligation and which operates CHP plants in accordance with Article 32a paragraph 1 of the CO₂ Act shall be refunded 60 per cent of the CO₂ levy on the fuels used for electricity production for each CHP plant which has a rated thermal input of at least 0.5 MW and no more than 20 MW.

² The CHP plant operator is entitled to a refund of the remaining 40 per cent of the CO₂ levy on the fuels used to produce electricity if:

- a. it allocates this amount to the measures set out in Article 32b paragraph 2 of the CO₂ Act;
- b. the measure effectively serves to increase energy efficiency;
- c. it does not implement the measures in a plant whose operator is subject to a reduction obligation or is participating in the ETS;
- d. it does not claim the effect of the measures elsewhere; and
- e. it implements the measures within three subsequent years.

³ The FOEN may, on request, extend the period referred to in paragraph 2 letter e by two years.

¹² SR 814.600

Art. 98b heading, para. 1 introductory sentence

Application for a refund for CHP plant operators that are neither participating in the ETS nor subject to a reduction obligation

¹ CHP plant operators that are neither participating in the ETS nor subject to a reduction obligation shall submit the application for a refund to the FOEN for the attention of the enforcement authority by 30 June. In particular, it must contain:

Art. 98c Heading

Periodicity of refunds for CHP plant operators that are neither participating in the ETS nor subject to a reduction obligation

Art. 104 para. 2 let. a

² It shall not grant global financial assistance in particular for measures:

- a. that are implemented in plants whose operator is subject to a reduction obligation under the CO₂ Act or that is participating in the ETS;

Art. 117 para. 5

⁵ The administrative office invoices guarantee holders for fees for the evaluation of guarantee requests and carrying out controls on guarantee holders for the term of the guarantee. The fee for the evaluation of the guarantee request is calculated using a flat rate and is based on number 9 of the Annex to the Ordinance on the Fees charged by the Federal Office for the Environment of 3 June 2005¹³ (FeeO-FOEN). The annual guarantee fee is calculated according to costs (Art. 4 FeeO-FOEN); it amounts to no more than 0.9 per cent of the guarantee amount per year.

Art. 130 para. 1 and 7

¹ The FOEN shall implement this Ordinance. Paragraphs 2–7 and Annex 14 number 2.1 remain reserved.

⁷ The Federal Office of Civil Aviation (FOCA) shall support the FOEN in implementing the provisions on emissions trading for aircraft operators.

Art. 131 para. 2–4

² Based on the greenhouse gas inventory, it calculates whether the reduction target under Article 3 of the CO₂ Act has been met. The emission allowances surrendered by installation operators participating in the ETS from the European Union are taken into account if:

- a. the emissions of these installations as recorded in the Swiss ETS are higher than the total quantity of Swiss emission allowances for installations in the Swiss ETS; and

¹³ SR 814.014

- b. the total emissions of Switzerland exceed the reduction target under Article 3 paragraph 1 of the CO₂ Act.

³ These emission allowances are taken into account in the domestic target to the extent of the additional emissions caused in accordance with paragraph 2 after deducting the emission-reduction certificates surrendered. The FOEN discloses this in the reporting on target achievement.

⁴ The total quantity of Swiss emission allowances is calculated as the sum of the available quantity of emission allowances for installations in accordance with Article 18 paragraph 1 of the CO₂ Act and the emission allowances transferred in accordance with Article 48 paragraph 1 of the CO₂ Act minus the cancelled emission allowances in accordance with Article 19 paragraph 5 of the CO₂ Act.

Art. 133 para. 1

¹ Implementation authorities may at any time carry out controls without prior notification, particularly of ETS participants, installation operators with reduction obligations, CHP plant operators, companies and persons obliged to pay the CO₂ levy and persons that have applied for a refund of the CO₂ levy.

Art. 134 para. 1 let. d and e and para. 3

¹ The data collected for implementation of this Ordinance shall be available to the implementation authorities concerned if required for implementation. In particular:

- d. the FOEN transmits to the FCA the data required for the refund of the CO₂ levy;
- e. the FOCA transmits to the FOEN the data required for the assessment of:
 - 1. participation obligations (Art. 46d),
 - 2. monitoring plans (Art. 51), and
 - 3. monitoring reports (Art. 52).

³ The FOEN passes on personal data that it no longer permanently requires to the Swiss Federal Archives for storage in accordance with the Archiving Act of 26 June 1998.¹⁴ Data deemed not worthy of archiving by the Swiss Federal Archives is destroyed.

Art. 134a Coordination with the European Union

The FOEN shall support the European Commission in accordance with Article 11 of the ETS Agreement.¹⁵ In particular it shall transmit to it the information required for this purpose.

Art. 135 let. e^{ter} and f

The DETEC shall amend:

¹⁴ SR 152.1

¹⁵ SR 0.814.011.268

- c.^{ter} Annex 6: if the installation categories change based on comparable international regulations;
- f. Annex 14: if Regulation (EC) No 748/2009¹⁶ changes.

Art. 135a Approval of decisions of minor importance

DETEC may approve technical and administrative decisions of minor importance of the ETS Agreement's¹⁷ Joint Committee.

Art. 138 Conversion of unused emission allowances

¹ Emission allowances that have not been used in the years 2008–12 shall be converted on 30 June 2014:

- a. for installation operators participating in the ETS: into emission allowances in accordance with this Ordinance;
- b. for installation operators with reduction obligations: into credits to compensate a failure to meet their emissions target or measures target;
- c. for remaining companies and persons: into attestations for domestic emission reductions.

² Installation operators with reduction obligations may apply at any time to have their credits converted into attestations in accordance with paragraph 1 letter b.

Art. 139 para. 1 and 4

¹ Installation operators participating in the ETS or operators with reduction obligations may apply to the FOEN to carry-over a maximum of as many unused emission-reduction certificates from the 2008–12 period into the 2013–20 period as it is anticipated they will be permitted to surrender to meet their obligations under this Ordinance.

⁴ Installation operators participating in the ETS and operators with reduction obligations are given priority for the carry-over.

Art. 142a Deadline for reporting a registered office or domicile for personal accounts

¹ Holders of personal accounts with a registered office or domicile outside of Switzerland or the EEA must designate a registered office or domicile in Switzerland or in the EEA within 12 months of the amendment of ... coming into force. After this deadline has expired, the FOEN may close the accounts concerned in accordance with Article 64.

¹⁶ Commission Regulation (EC) No 748/2009 of 5 August 2009 on the list of aircraft operators which performed an aviation activity listed in Annex I to Directive 2003/87/EC on or after 1 January 2006 specifying the administering Member State for each aircraft operator, OJ L 219 of 22.8.2009, p. 1; last amended by Regulation (EU) 2018/336, OJ L 70 of 13.3.2018, p. 1.

¹⁷ SR **0.814.011.268**

*Art. 145**Rescinded*

II

¹ Annexes 3a, 6 and 9 of the CO₂ Ordinance shall be amended in accordance with the Appendix.

² Annex 8 shall be replaced with the new version in accordance with the Appendix.

³ This Ordinance shall now contain the Annexes 13–18 in accordance with the Appendix.

III

The Ordinance of 3 June 2005¹⁸ on the Fees charged by the FOEN shall be amended as follows:

Annex

(Art. 4 para. 1 let. a and b)

Annex no. 9

| | | |
|----|------------------------------------------------------------------------------------------------------------------------|-------|
| | | CHF |
| 9. | Assessment of the guarantee request in accordance with the CO ₂ Ordinance of 30 November 2012 ¹⁹ | 3 000 |

IV

This Ordinance shall come into force on 1 January 2020.

...

In the name of the Swiss Federal Council

¹⁸ SR 814.014

¹⁹ SR 641.711

President of the Swiss Confederation: Ueli
Maurer
Federal Chancellor: Walter Thurnherr

Annex 3a
(Art. 6 para. 2^{bis})

No. 3.4

(...)

$$RE_{existing,y} = \sum_k W_{existing,k,y} * EF_{existing} * RF_y * 1 / (1 - WVN) \quad (3)$$

(...)

No. 3.5

(...)

$$PE_y = EF_{2_{heating\ oil}} * M_{heating\ oil,y} + EF_{2_{gas}} * M_{gas,y} + EF_{el} * M_{el,y} \quad (4)$$

(...)

No. 4.1

2. In the case of new buildings, the address must also be provided.

4. The emissions in accordance with number 3 letter b are calculated as follows:

$$RE_{company,new,m,y} = W_{company,new,m,y} * EF_{WV}$$

in which:

$W_{company,new,m,y}$ is the heat supply from the new local heating network to the company exempted from the CO₂ levy m in year y [MWh].

EF_{WV} is the standard emission factor for the local heating network = 0.22 tCO₂eq/MWh.

$$RE_{company,existing,n,y} = W_{company,existing,n,y} * EF_{existing} * RF_y * 1 / (1 - WVN)$$

in which:

(...)

Annex 6
(Art. 40 para. 1)

Title

Installation operators obliged to participate in the ETS

Introductory sentence and no. 1

An installation operator that engages in at least one of the following activities must participate in the ETS:

1. combustion of fossil-fuel or partial fossil-fuel fuels with a total rated thermal input of over 20 MW; excluded is the combustion of fossil-fuel or partial fossil-fuel fuels in installations whose main function is the disposal of municipal waste in accordance with Article 3 letter a ADWO;²⁰

²⁰ SR 814.600

Annex 8
(Art. 45 para. 1)

Calculation of the maximum available quantity of emission allowances for installation operators participating in the ETS

The maximum total quantity of emission allowances available each year to all ETS installation operators as a whole is calculated as follows:

$$\text{Cap}_i = [\sum \text{ØFZ} + \sum \text{Øemissions}] * [1 - (i-2010) * 0.0174]$$

| | |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cap _i | Emissions cap for the year i |
| $\sum \text{ØFZ}$: | Sum of the average emission allowances allocated annually in the 2008–12 period to installations that were already taken into account in the ETS in the 2008–12 period and will again be taken into account in the ETS starting in 2013 |
| $\sum \text{Øemissions}$: | Sum of the average greenhouse gases emitted annually in the 2009–11 period by installations and the greenhouse gas emissions that will be newly taken into account in the ETS starting in 2013 |

Annex 9

(Art. 46 para. 1 and 46c para. 3)

*Title***Calculation of emission allowances to be allocated free of charge for installation operators in the ETS***No. 1.5*

- 1.5 For the use of gases that come from processes and contain a high proportion of partially oxidised carbon (residual gas), there is an additional free-of-charge allocation to compensate for higher CO₂ emissions and lower efficiency in the use of residual gases in comparison with natural gas. This allocation is only made if the residual gas is created outside of a sub-installation with product benchmark and is used within the installation in the ETS to generate measurable or non-measurable heat or for the production of electricity.

No. 3.2

- 3.2 If an installation operator delivers heat to a third party, then the customer's adaptation factor is decisive.

No. 4.1

- 4.1 No emission allowances are allocated free of charge for indirect emissions from the use of electricity. For benchmarks of production processes that can be operated with either thermal fuels or electricity, 0.465 t CO₂ per MWh will be deducted for the indirect emissions from electricity used.

The quantity of emission allowances to be allocated free of charge annually is calculated in these cases as follows:

$$Allocation_i = (E_{direct} / (E_{direct} + E_{indirect})) * BM * AR * AF_i * SKF_i$$

| | |
|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Allocation _i | Allocation in year i |
| E _{direct} | Direct emissions from within the corresponding sub-installation with product benchmark in the selected reference period. These include emissions from heat consumed within the sub-installation that was obtained directly from other ETS operators. |
| E _{indirect} | Indirect emissions from heat consumed with the corresponding sub-installation with product benchmark that was obtained from a third party outside the ETS, as well as the electricity consumed within the sub-installation in the selected reference period. |

| | |
|------------------|-------------------------------------------------------------|
| BM | Benchmark |
| AR | Activity rate (referring to the relevant benchmark) |
| AF _i | Adaptation factor in year i in accordance with Annex 9 no 3 |
| SKF _i | Cross-sectoral correction factor in year i |

Annex 13
(Art. 46d)**Aircraft operators obliged to participate in the ETS**

1. Aircraft operators are obliged to participate in the ETS if they perform the following flights:
 - a. domestic flights in Switzerland;
 - b. flights from Switzerland to member states of the EEA.
2. The following flights are exempted:
 - a. flights performed exclusively for the transport on official mission of a reigning monarch and his/her immediate family, heads of state, heads of government and government ministers, where this is substantiated by an appropriate status indicator in the flight plan;
 - b. military, customs and police flights;
 - c. flights relating to search and rescue, fire-fighting flights, humanitarian flights and emergency medical service flights;
 - d. flights performed exclusively under visual flight rules as defined in Annex 2 of the Convention of 7 December 1944²¹ on International Civil Aviation;
 - e. flights terminating at the aerodrome from which the aircraft has taken off and during which no planned intermediate landing has been made;
 - f. training flights performed exclusively in order to acquire or maintain a licence, or a rating in the case of cockpit flight crew, where this is substantiated by an appropriate remark in the flight plan provided that the flights are not for the transport of passengers and/or cargo or for the positioning or ferrying of aircraft;
 - g. flights performed exclusively for the purpose of scientific research;
 - h. flights performed exclusively for the purpose of checking, testing or certifying aircraft or airborne or ground-based equipment;
 - i. flights performed by aircraft with a certified maximum take-off mass of less than 5,700 kilograms;
 - j. flights performed by commercial operators in each of three consecutive four-month periods if they perform fewer than 243 flights in accordance with number 1 or if their total annual emissions of CO₂ are below 10,000 tonnes;
 - k. flights performed by non-commercial operators if the total annual emissions of CO₂ from the flights performed by these operators in accordance with number 1 are below 1,000 tonnes;

²¹ SR 0.748.0

1. flights from Switzerland to an aerodrome in the following territories:
 1. Guadeloupe,
 2. French Guiana,
 3. Martinique,
 4. Mayotte,
 5. Réunion,
 6. Saint Martin,
 7. Azores,
 8. Madeira,
 9. Canary Islands.
3. The exemptions cited in number 2 letters j and k do not apply to aircraft operators subject to the European ETS.
4. For the allocation of flights to the four-month periods cited in number 2 letter j, it is the local take-off time of each flight that is of relevance.

Annex 14

(Art. 46d para. 1 and 2, 51 para. 1, 2 and 4, Art. 52 para. 1, 6 and 7, Art. 53 para. 1 and 2, Art. 55 para. 2 and Art. 130 para. 1)

Competent authority for ETS participants

1 Installation operators

For installation operators participating in the ETS, the FOEN is the competent authority.

2 Aircraft operators

2.1 For aircraft operators obliged to participate in the ETS, the state competent for their administration is determined in accordance with the Regulation (EC) No 748/2009.²²

2.2 Decisive for the administration of aircraft operators is:

- a. which state issued the operating licence; or
- b. the highest attributed estimated value for CO₂ emissions of the respective aircraft operator in comparison with the other states.

2.3 In the case of administration by Switzerland, the FOEN is the competent authority.

²² See footnote to Art. 135 let. f.

Annex 15
(Art.°46e and 46f)

Calculation of the maximum available quantity of emission allowances and the quantity of emission allowances to be allocated free of charge for aircraft

1. The quantity of emission allowances is based on the following benchmark:
0.000642186914222035 emission allowances per tonne-kilometre
2. The maximum quantity of emission allowances for aircraft available as a whole in 2020 is calculated as follows:

$$\text{Cap}_{2020} = \sum \text{tkm}_{\text{CH-ETS}} * \text{BM} * 100 / 82$$

| | |
|-----------------------------------|--------------------------------------------------|
| Cap_{2020} | Emissions cap for 2020 |
| $\sum \text{tkm}_{\text{CH-ETS}}$ | Sum of tonne-kilometres in 2018 in the Swiss ETS |
| BM | Benchmark |

3. This quantity of emission allowances is used as follows:
 - a. 82 per cent is allocated to aircraft operators free of charge;
 - b. 15 per cent is withheld for the auction;
 - c. 3 per cent is withheld for new or fast-growing aircraft operators.
4. The free-of-charge allocation is calculated per aircraft operator for 2020 according to the following formula:

$$\text{Allocation} = \sum \text{tkm}_{\text{operator}} * \text{BM}$$

| | |
|-------------------------------------|----------------------------------------------------------------------|
| $\sum \text{tkm}_{\text{operator}}$ | Sum of the tonne-kilometres in 2018 of the operator in the Swiss ETS |
| BM | Benchmark |

5. In 2020, the quantity of emission allowances withheld for this year in accordance with number 3 letter c will be cancelled.

Requirements for the monitoring plan

1 Monitoring plan for installation operators

The monitoring plan must specify how the installation operator ensures that:

- a. standardised or other established procedures are used for the measurement or calculation of greenhouse gas emissions;
- b. the greenhouse gas emissions are as completely, consistently and accurately recorded as is technically and operationally possible and economically feasible;
- c. the measurement, calculation and documentation of greenhouse gas emissions are traceable and transparent.

2 Monitoring plan for aircraft operators

- 2.1 The monitoring plan must guarantee that all flights for which CO₂ emission data have to be collected are included and that the CO₂ emissions for each flight are calculated accurately. The emissions are calculated in accordance with no. 3.
- 2.2 The monitoring plan must include the following information:
 - a. the details required to identify the aircraft operator;
 - b. the details required to identify the aircraft operated and fuel type assigned to each type of aircraft;
 - c. a description of the methodology for ensuring the complete acquisition of data for all aircraft for which data have to be recorded;
 - d. a description of the methodology for ensuring the complete recording of all flights for which data have to be recorded;
 - e. a description of the methodology for calculating the CO₂ emissions for each flight.
- 2.3 In the case of aircraft operators that generate CO₂ emissions of more than 25,000 tonnes per year, the monitoring plan must also include the following information:
 - a. a procedure for recording the fuel consumption of each aircraft;
 - b. a methodology for eliminating data gaps.
- 2.4 In the event of a change in the status of the aircraft operator in accordance with Article 52 paragraph 5 (qualification as a small emitter) the monitoring plan must be resubmitted to the FOEN for evaluation.

3 Calculation of the CO₂ emissions of aircraft

- 3.1 The CO₂ emissions in tonnes are calculated according to the following formula:
CO₂ emissions [f CO₂] = fuel consumed [f fuel] x emission factor [f CO₂/f fuel].
- 3.2 The following emission factors [f CO₂/f fuel] apply to the following fuels:
- | | |
|------------------------------|------|
| Kerosene (jet A-1 or jet A): | 3.15 |
| Jet B: | 3.10 |
| Aviation gasoline (AvGas): | 3.10 |
- 3.3 The emission factor of biomass fuels is zero provided the biomass used meets the sustainability criteria in accordance with Article 17 of the Directive 2009/28/EC²³.

²³ 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 of 5.6.2009, p. 16; last amended by Directive (EU) 2015/1513, OJ L 239 of 15.9.2015, p. 1.

Requirements for the monitoring report

1 Monitoring report for installation operators

- 1.1 The monitoring report must contain:
 - a. information about the progression of greenhouse gas emissions;
 - b. information about the progression of production volumes;
 - c. an accounting of thermal fuels;
 - d. information about any changes in installed capacities.
- 1.2 The data must be shown in a summary table with comparative data of the previous years. The FOEN issues guidelines on the form of the monitoring report.

2 Monitoring report for aircraft operators

- 2.1 The monitoring report must contain:
 - a. the information required to identify the aircraft operator;
 - b. the information required to identify the verifier responsible for verifying the monitoring report unless the aircraft operator is exempted from the verification obligation as a small emitter;
 - c. a reference to the approved monitoring plan and a description and substantiation of any deviations from the underlying monitoring plan;
 - d. the information required to identify the aircraft used;
 - e. the total number of flights recorded;
 - f. the emission factor and fuel consumption for each fuel type for which the CO₂ emissions are calculated;
 - g. the total of all CO₂ emissions for flights for which data have to be recorded and which were performed by the operator in the calendar year, broken down by state of departure and state of arrival and broken down by Swiss ETS and European Union ETS;
 - h. in the event of data gaps, a description of the reasons for the data gaps, the method used to estimate the substitute data and the emissions calculated on the basis of it;
 - i. for each aerodrome pair, the ICAO aerodrome designation and the number of flights for which the data have to be recorded and the respective annual emissions.

- 2.2 Small emitters under Article 54 paragraph 1 of Regulation (EU) No 601/2012²⁴ may estimate their fuel consumption using an instrument for small emitters in accordance with Article 54 paragraph 2 of Regulation (EU) No 601/2012.

²⁴ See footnote on Art. 52 para. 5.

Verification of the monitoring reports of aircraft operators and requirements to be met by the verifier

1 Duties of the verifier and the aircraft operator

- 1.1 The verifier shall verify the reliability, credibility and accuracy of the monitoring systems, the submitted data and other information as specified in Annex 18 number 2. In particular it shall ensure that the data permit the calculation of the CO₂ emissions.
- 1.2 The aircraft operator shall grant the verifier access to all data and documentation that are required for the verification procedure. In particular, the aircraft operator shall obtain from Eurocontrol the necessary flight operator data or equivalent data and make them available to the verifier.

2 Specific requirements concerning verification

- 2.1 The verifier shall ensure that all flights have been taken into account:
 - a. for which the aircraft operator is responsible;
 - b. that have in fact been performed;
 - c. for which data have to be recorded in accordance with this Ordinance.
- 2.2 For this purpose the verifier shall use the flight plan data and the data obtained by the aircraft operator from Eurocontrol or other sources.

3 Verification steps

The verification of monitoring reports shall be carried out as follows:

- 3.1 Analysis of all activities carried out by the aircraft operator (strategic analysis);
- 3.2 Performance of random checks in order to determine the reliability of the submitted data and other information (process analysis);
- 3.3 Analysis of error risk relating to the utilised data, and examination of the procedures for limiting error risk (risk analysis);
- 3.4 Preparation of a verification report in which it is stated whether the monitoring report meets the requirements of this Ordinance. The verification report shall list all relevant aspects of the activities carried out within the scope of the verification procedure.

4 Requirements to be met by the verifier

- 4.1 The verifier must be accredited for the mandated verification activity in accordance with:
 - a. the Accreditation and Designation Ordinance of 17 June 1996;²⁵ or
 - b. Regulation (EC) No 765/2008²⁶ and Implementing Regulation (EU) 2018/2067.²⁷
- 4.2 The verifier must be independent of the aircraft operator and perform its duties professionally and objectively.
- 4.3 The verifier must be able to demonstrate that it possesses the required competence to verify CO₂ emission data in the civil aviation sector and is familiar with the way in which all information for the monitoring report is produced, in particular with respect to the acquisition, calculation and transmission of data.
- 4.4 The verifier must be familiar with all the relevant provisions and applicable legal and administrative regulations.

²⁵ SR **946.512**

²⁶ 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 of the Council, OJ L 218 of 13.8.2008, p. 30.

²⁷ Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council, OJ L 334 of 31.12.2018, p. 94.