# Commission Delegated Regulation (EU) 2016/2072 of 22 September 2016 on the verification activities and accreditation of verifiers pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport (Text with EEA relevance)

## COMMISSION DELEGATED REGULATION (EU) 2016/2072

of 22 September 2016

on the verification activities and accreditation of verifiers pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC[(1)], and in particular Article 15(5) and Article 16(3) thereof,

Whereas:

(1) Article 15(5) and Article 16(3) of Regulation (EU) 2015/757 provide, respectively, for the Commission to adopt delegated acts laying down further rules for verification activities and for the methods for accrediting verifiers. As those activities and methods are substantively linked, both legal bases are used in this Regulation.

(2) The implementation of Article 15(5) of Regulation (EU) 2015/757 requires an overall framework of rules to ensure that the assessment of monitoring plans and the verification of emissions reports established in accordance with that Regulation are carried out in a harmonised manner by verifiers possessing the technical competence to perform the entrusted tasks independently and impartially.

(3) In the implementation of Article 16(3) of Regulation (EU) 2015/757, it is necessary to ensure synergy between the comprehensive framework for accreditation established by Regulation (EC) No 765/2008 of the European Parliament and of the Council[(2)] and the specific features of verification and accreditation activities applying to $CO_2$ emissions from the maritime transport sector. In accordance with Article 16(2) of Regulation (EU) 2015/757, Regulation (EC) No 765/2008 is to apply to aspects of the accreditation of verifiers that are not dealt with by Regulation (EU) 2015/757.

(4) In order to ensure that the reported data are robust and reliable, it is necessary to ensure that verification is carried out by independent and competent verifiers. The system of verification and accreditation should avoid any unnecessary duplication of

procedures and organisations established pursuant to other Union legal instruments as it would result in an increased burden for Member States or economic operators. Therefore, it is appropriate to draw on best practices resulting from the application of harmonised standards adopted by the European Committee for Standardisation on the basis of a remit issued by the Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council[3] (such as those concerning requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition, and concerning general requirements for accreditation bodies accrediting conformity assessment bodies, the references of which have been published in the *Official Journal of the European Union*), Document EA-6/03 and other technical documents developed by European cooperation for Accreditation.

(5) Harmonised rules for the assessment of monitoring plans, the verification of emissions reports and the issuance of documents of compliance by verifiers should clearly define the verifiers' responsibilities and activities.

(6) When assessing a monitoring plan, verifiers should perform a number of activities to evaluate the completeness, relevance and conformity of the information submitted by the company in question as regards the ship's monitoring and reporting process in order to be able to conclude whether the plan is in conformity with Regulation (EU) 2015/757.

(7) Pursuant to Commission Implementing Regulation (EU) 2016/1927[4], when submitting the ship's monitoring plan, companies may refer to information on the ship's existing procedures and controls, as covered by harmonised quality, environmental and energy management standards (such as EN ISO 9001:2015, EN ISO 14001:2015, EN ISO 50001:2011) or under the International Safety Management (ISM) Code[5] or the Ship Energy Efficiency Management Plan (SEEMP)[6]. In order to ensure a streamlined approach, verifiers should be able to consider these to the extent that they are relevant for the monitoring and reporting of data under Regulation (EU) 2015/757 and this Regulation.

(8) The provision of documents and the exchange of relevant information between companies and verifiers are essential for all aspects of the verification process, in particular for the assessment of the monitoring plan, the performance of the risk assessment and verification of the emissions report. It is necessary to establish a set of harmonised requirements governing the provision of information and documents to be made available to the verifier before it starts its verification activities and at other points in the course of the verification.

(9) The verifier should take a risk-based approach in verifying the emissions report, in accordance with paragraphs 1, 2 and 3 of Article 15 of Regulation (EU) 2015/757. Analysis of the susceptibility of reported data to potential material misstatement is an essential part of the verification process and determines how the verifier should carry out its activities.

(10) Every part of the process of verifying emissions reports, including site visits, is closely linked to the outcome of the analysis of the risk of misstatement. The verifier should be obliged to adjust one or more verification activities in the light of the findings and

information obtained during the verification process, in order to meet the requirements of achieving reasonable assurance.

(11) In order to ensure consistency and comparability of monitored data over time in accordance with Article 4(3) of Regulation (EU) 2015/757, the monitoring plan that has been assessed as satisfactory should be the reference point for the verifier when assessing a ship's emissions report. The verifier should assess whether the plan and the requisite procedures have been implemented correctly. It notifies the company of any non-conformities or misstatements that it identifies. The verifier reports uncorrected misstatements or non-conformities leading to material errors in a verification report stating that the emissions report is not in compliance with Regulation (EU) 2015/757 and this Regulation.

(12) All activities in the emissions report's verification process are interconnected and should culminate in the issuance of a verification report containing a statement of the outcome of the verification. The level of assurance should relate to the depth and detail of the verification activities and the wording of the verification statement. Harmonised requirements for the performance of verification activities and the verification reports would ensure that all verifiers apply the same standards.

(13) Verification activities, including the assessment of monitoring plans and the verification of emissions reports, should be carried out by competent verifiers and personnel. In order to ensure that the personnel involved are competent to perform the tasks entrusted to them, verifiers should establish and continuously improve internal processes. The criteria for determining whether a verifier is competent should be the same in all Member States and should be verifiable, objective and transparent.

(14) To promote high quality in verification activities, harmonised rules should be laid down to determine whether a verifier is competent, independent and impartial and thus qualified to carry out the requisite activities.

(15) An overall framework of rules for the accreditation of legal entities is necessary to ensure that verifiers possess the technical competence to perform the tasks entrusted to them independently, impartially and in conformity with the requirements and principles set out in Regulation (EU) 2015/757, Regulation (EC) No 765/2008 and this Regulation.

(16) In accordance with Article 16(2) of Regulation (EU) 2015/757, Articles 4 to 12 of Regulation (EC) No 765/2008 should apply to general principles and requirements for national accreditation bodies.

(17) In line with the Commission's usual practice of consulting experts when preparing draft delegated acts, a ‘shipping MRV verification and accreditation subgroup’ gathering experts from Member States, industry and other relevant organisations, including civil society, was set up under the umbrella of the European Sustainable Shipping Forum (ESSF). The subgroup recommended that a number of elements be covered by this Regulation. The ESSF plenary endorsed its draft recommendations on those aspects on 28 June 2016,

HAS ADOPTED THIS REGULATION:

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2016/2072. (See end of Document for details)*

## CHAPTER I

## GENERAL PROVISIONS

### *Article 1*

### Subject matter

This Regulation lays down provisions concerning the assessment of monitoring plans and verification of emissions reports. It also lays down requirements in terms of competences and procedures.

This Regulation lays down rules on accreditation and supervision of verifiers by national accreditation bodies pursuant to Regulation (EC) No 765/2008.

### *Article 2*

### Definitions

For the purpose of this Regulation, the following definitions apply:

(1) 'accreditation' means attestation by a national accreditation body that a verifier meets the requirements of harmonised standards within the meaning of point (9) of Article 2 of Regulation (EC) No 765/2008 and the requirements of this Regulation and is thus qualified to carry out the verification activities pursuant to Chapter II;

(2) 'non-conformity' means one of the following:

(a) for the purpose of assessing a monitoring plan, that the plan does not fulfil requirements under Articles 6 and 7 of Regulation (EU) 2015/757 and Implementing Regulation (EU) 2016/1927;

(b) for the purpose of verifying an emissions report, that the $CO_2$ emissions and other relevant information are not reported in line with the monitoring methodology described in a monitoring plan that an accredited verifier has assessed as satisfactory;

(c) for the purpose of accreditation, any act or omission by the verifier that is contrary to requirements under Regulation (EU) 2015/757 and this Regulation;

(3) 'reasonable assurance' means a high but not absolute level of assurance, expressed positively in the verification statement, as to whether the emissions report subject to verification is free of material misstatements;

(4) 'materiality level' means the quantitative threshold or cut-off point above which the verifier considers misstatements, individually or taken together, to be material;

(5) 'inherent risk' means the susceptibility of a parameter in the emissions report to misstatements that could be material, individually or taken together, before taking into consideration the effect of any related control activities;

(6) 'control risk' means the susceptibility of a parameter in the emissions report to misstatements that could be material, individually or when taken together with other

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misstatements, and will not be prevented or detected and corrected on a timely basis by the control system;

(7) 'detection risk' means the risk of a verifier not detecting a material misstatement;

(8) 'verification risk' means the risk (a function of inherent, control and detection risk) of the verifier expressing an inappropriate verification opinion when the emissions report is not free of material misstatements;

(9) 'misstatement' means an omission, misrepresentation or error in the reported data, apart from the uncertainty permissible pursuant to Regulation (EU) 2015/757 and taking into consideration the guidelines developed by the Commission on these matters;

(10) 'material misstatement' means a misstatement that, in the opinion of the verifier, individually or when taken together with other misstatements, exceeds the materiality level or could otherwise, have an impact on the total reported emissions or other relevant information;

(11) 'site', for the purposes of assessing the monitoring plan or verifying the emissions report of a ship, means a location where the monitoring process is defined and managed, including locations where relevant data and information are controlled and stored;

(12) 'internal verification documentation' means all internal documentation that a verifier has compiled to record documentary evidence and justification of activities carried out to assess the monitoring plan or verify an emissions report pursuant to this Regulation;

(13) 'shipping MRV auditor' means an individual member of a verification team responsible for assessing a monitoring plan or verifying an emissions report;

(14) 'independent reviewer' means a person assigned by the verifier specifically to carry out internal review activities, who belongs to the same entity but has not carried out any of the verification activities subject to review;

(15) 'technical expert' means a person who provides detailed knowledge and expertise on a specific matter as required for the performance of verification activities for the purposes of Chapter II and accreditation activities for the purposes of Chapters IV and V;

(16) 'assessor' means a person assigned by a national accreditation body to assess a verifier pursuant to this Regulation, individually or as part of an assessment team;

(17) 'lead assessor' means an assessor who is given overall responsibility for the assessment of a verifier pursuant to this Regulation.

*Article 3*

**Presumption of conformity**

A verifier that demonstrates conformity with the criteria laid down in the relevant harmonised standards, within the meaning of Article 2(9) of Regulation (EC) No 765/2008, or parts thereof, the references of which have been published in the *Official Journal of the European Union*, shall be presumed to comply with the requirements of Chapters II and III of this Regulation in so far as the applicable harmonised standards cover those requirements.