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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2023) 6748 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 12.10.2023 supplementing Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the rules for reporting and submission of the aggregated emissions data at company level

Delegations will find attached document C(2023) 6748 final.

Encl.: C(2023) 6748 final



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COMMISSION DELEGATED REGULATION (EU) .../...

of 12.10.2023

supplementing Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the rules for reporting and submission of the aggregated emissions data at company level

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2023/957 amending Regulation (EU) 2015/757 on the monitoring, reporting and verification of greenhouse gas emissions from maritime transport, and amending Directive 2009/16/EC, was published in the Official Journal of the European Union on 16 May 2023 and entered into force twenty days thereafter.

The aim of Regulation (EU) 2023/957 is to amend Regulation (EU) 2015/757 in order to provide for the inclusion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission established the Expert Group on Climate Change Policy on 27 March 2018. For the preparation of this Delegated Regulation, meetings of the Expert Group on Climate Change Policy were held on 17 April, 4 May and 31 May 2023. The Commission also consulted the European Sustainable Shipping Forum through joint meetings with the Expert Group on Climate Change Policy held on 4 May and 31 May 2023.

The documents relevant to the meetings have been transmitted simultaneously to the European Parliament and the Council, as foreseen in the Common Understanding on Delegated Acts annexed to the Interinstitutional Agreement on Better Law Making¹. The observations expressed by the expert groups were taken into account when preparing the draft Delegated Regulation.

Furthermore, online feedback on the text of the Delegated Regulation was collected on the Better Regulation Portal for four weeks between 03/08/2023 and 31/08/2023. 6 contributions were submitted, 2 from citizens, 2 from business associations, 1 from non-governmental organisations, and 1 from the other category.

Several business associations active in the maritime sector expressed concerns about the expected administrative burden and potential duplication of verification activities resulting from the obligation for companies to submit verified aggregated emissions data at company level. In this respect, one business association suggested to add a derogation from such an obligation for companies with a single ship in their fleet. The Commission has not implemented this suggestion as the reporting of aggregated emissions data at company level is an obligation stemming from Article 11a of Regulation (EU) 2015/757 as amended by Regulation (EU) 2023/957. In more general terms, there should be no duplication of verification activities. Indeed, in respect of the verification of aggregated emissions data at company level, Article 15(6) of Regulation (EU) 2015/757 as amended by Regulation (EU) 2023/957 already clarifies that the verifier should not verify the emissions reports of each ship under the responsibility of the company. Lastly, the Commission, with the support of the European Maritime Safety Agency, intends to further develop the THETIS-MRV IT environment in order to support companies and users of the system in their reporting obligations to the best extent possible, which should contribute to limiting the administrative burden.

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¹ Interinstitutional Agreement Between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p.1).

One non-governmental organisation overall welcomed this Delegated Regulation as a step toward more accountability and emissions reduction in the maritime transport sector, while making several comments in relation to data clarity, accuracy, privacy and verification, to the alignment with international standards, to the correction of emissions data and to capacity building. The Commission underlines that most elements raised in this context, in particular related to data monitoring, publication and verification, are addressed in Regulation (EU) 2015/757 and related implementing and delegated acts. In relation to capacity building, the Commission, with the support of the European Maritime Safety Agency, will organize webinars and share online material in order to raise awareness and assist all stakeholders involved in the implementation of Regulation (EU) 2015/757.

Several comments received consisted in feedback in relation to the methods for the calculation of greenhouse gas emissions. Those comments did not directly relate to the content of this Delegated Regulation; therefore, the Commission has not implemented those suggestions.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Regulation (EU) 2023/957 amended Regulation (EU) 2015/757 in order to provide for the inclusion of maritime transport activities in the EU Emissions Trading System and for the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types. Article 11a(4) of the revised Regulation (EU) 2015/757 empowers the Commission to adopt delegated acts to supplement that Regulation with the rules for the monitoring and reporting of the aggregated emissions data at company level and the submission of the aggregated emissions data at company level to the administering authority responsible. This Delegated Regulation therefore aims at spelling out these rules.

COMMISSION DELEGATED REGULATION (EU) .../...

of 12.10.2023

supplementing Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the rules for reporting and submission of the aggregated emissions data at company level

(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 greenhouse gas emissions from maritime transport, and amending Directive 2009/16/EC², and in particular Article 11a(4) thereof,

Whereas:

- (1) Rules should be laid down for the reporting of the aggregated emissions data at company level in maritime transport, as well as for the submission of the aggregated emissions data at company level to the administering authority responsible.
- (2) Rules should also be laid down for the determination of aggregated emissions data at company level by the administering authority responsible in specific situations, such as where no aggregated emissions data at company level have been submitted by the company to the administering authority responsible by the deadline.
- (3) The entities responsible for compliance with Regulation (EU) 2015/757 and with Directive 2003/87/EC of the European Parliament and of the Council³ must be clearly identified at all times. To this end, and with a view to ensuring coherence in administration and enforcement, Regulation (EU) 2015/757 provides that the same entity must be responsible for both. Notwithstanding this, within the context of the review of Regulation (EU) 2015/757, consistency of such approach with other EU policies and international practice should be assessed and, where appropriate, the Commission should make a legislative proposal to revise Regulation (EU) 2015/757.
- (4) The Commission should also assess the consistency of zero-rating of biomass, in particular food and feed-crop based biomass, in Directive 2003/87/EC with other EU policies, and, where appropriate, the Commission should make a proposal to revise the relevant legislation.

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² OJ L 123, 19.5.2015, p. 55.

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).

- (5) To ensure the effective functioning of the EU Emissions Trading System, which is to include maritime transport greenhouse gas emissions from the reporting period starting on 1 January 2024, this Regulation should apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Reporting rules for aggregated emissions data at company level

1. Companies shall submit to the administering authority responsible the aggregated emissions data at company level calculated in accordance with the monitoring rules referred to in Part C of Annex II to Regulation (EU) 2015/757.
2. Companies shall include in the aggregated emissions data at company level the following information:
 - (a) data identifying the company and the ships under the company's responsibility, as follows:
 - (i) name and nature of the company;
 - (ii) IMO unique company and registered owner identification number;
 - (iii) country of registration of the company, as recorded under the IMO Unique Company and Registered Owner Identification Number Scheme;
 - (iv) address of the company;
 - (v) name, job title, business address, telephone and e-mail details of a contact person;
 - (vi) administering authority responsible;
 - (vii) list of ships, whose greenhouse gas emissions fall within the scope of Directive 2003/87/EC, that are under the company's responsibility during the reporting period, including, for each ship, the IMO ship identification number and the IMO unique company and registered owner identification number of the registered owner, as well as the period during which the ship was under the company's responsibility;
 - (b) data related to the verification, as follows:
 - (i) name of the verifier;
 - (ii) address of the verifier;
 - (iii) accreditation number of the verifier;
 - (iv) national accreditation body that has accredited the verifier;
 - (v) verifier's statement;
 - (c) the sum of all ships' total aggregated emissions of greenhouse gases to be reported under Directive 2003/87/EC as determined at ship level in accordance with Part C, points 1.1 to 1.7, of Annex II to Regulation (EU) 2015/757, expressed in tonnes CO₂ equivalent and disaggregated by greenhouse gas;
 - (d) the sums of all ships' total aggregated emissions of greenhouse gases to be reported under Directive 2003/87/EC as determined at ship level in accordance with Part C of Annex II to Regulation (EU) 2015/757, as calculated in accordance with:

- (i) Part C, point 1.1, of that Annex,
 - (ii) Part C, points 1.1 and 1.2, of that Annex,
 - (iii) Part C, points 1.1, 1.2 and 1.3, of that Annex
 - (iv) Part C, points 1.1 to 1.4, of that Annex,
 - (v) Part C, points 1.1 to 1.5, of that Annex,
 - (vi) Part C, points 1.1 to 1.6, of that Annex;
- (e) all relevant information related to the methodology used to aggregate emissions data at company level, including changes in the methodology compared to the previous reporting period.

Article 2

Determination of emissions by the administering authority responsible

1. The administering authority responsible shall make a conservative estimate of the aggregated emissions data at company level in any of the following situations:
 - (a) no aggregated emissions data at company level have been submitted by the company by the deadline referred to in Article 11a of Regulation (EU) 2015/757;
 - (b) the verified aggregated emissions data at company level referred to in Article 11a of Regulation (EU) 2015/757 are found to be not in compliance with that Regulation;
 - (c) the aggregated emissions data at company level have not been verified as satisfactory in accordance with Commission Delegated Regulation (EU) 2016/2072⁴.
2. Where a verifier has concluded, in the verification report pursuant to Article 13(5) of Regulation (EU) 2015/757, that non-material misstatements exist and have not been corrected by the company before issuing the verification statement, the administering authority responsible shall assess those misstatements, and where the misstatements are found to be material, shall make a conservative estimate of the aggregated emissions data at company level.
3. Where the administering authority responsible makes a conservative estimate of the aggregated emissions data at company level, it shall inform the company whether and which corrections are required. The company shall make that information available to the verifier.
4. Member States shall establish an efficient exchange of information between the competent authorities responsible for approval of monitoring plans and the competent authorities receiving aggregated emissions data at company level, where those authorities are not the same.

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⁴ 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 (OJ L 320, 26.11.2016, p. 5).

Article 3
Entry into force

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

It shall apply from 1 January 2024.

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

Done at Brussels, 12.10.2023

For the Commission
The President
Ursula VON DER LEYEN