

BRIEFING

CARBON DIOXIDE EMISSIONS FROM
MARITIME TRANSPORT
AUGUST 2015

- EU-REGULATION ON THE MONITORING, REPORTING AND VERIFICATION OF CARBON DIOXIDE EMISSIONS FROM MARITIME TRANSPORT ENTERED INTO FORCE ON 1 JULY 2015.
- SHIP OWNERS AND OPERATORS FACE WIDE-RANGING REPORTING TASKS
- THE REGULATION APPLIES ONLY TO SHIPS ABOVE 5,000 GROSS TONNAGE
- BY 31 AUGUST 2017 AT THE LATEST, COMPANIES SHALL SUBMIT TO THE VERIFIERS A MONITORING PLAN FOR EACH OF THEIR SHIPS
- EVERY YEAR COMPANIES SHALL SUBMIT TO THE COMMISSION AND TO THE AUTHORITIES OF THE FLAG STATES CONCERNED AN EMISSIONS REPORT



In preparation of EU regulation to come forth, the White Paper of the EU-Commission "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system" of 28.03.2011¹ set the target of cutting the EU carbon dioxide (CO₂) emissions from maritime bunker fuels by 40% (if feasible 50%) by 2050 compared to 2005 levels. Also, the 7th Environment Action Programme (EAP) of 20.11.2013² pointed out that all sectors of the economy have to contribute to tackling climate change and therefore the White Paper on transport needs to be underpinned by strong policy frameworks.

The "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" (the "Regulation") is a first step to include emissions from maritime transport into the general EU commitments to reduce greenhouse gas emissions. The Regulation was adopted by the European Parliament on 28 April 2015 and published in the Official Journal of the European Union on 19 May 2015. It entered into force on 1 July 2015.

PROVISIONS OF THE REGULATION

The purpose of the Regulation is to promote the reduction of CO₂ emissions from maritime transport. Therefore, a system shall be established for the accurate

¹ COM(2011) 144 final.

² Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 "Living well, within the limits of our planet" (OJ L 354, 28.12.2013, p.171).

“THE REGULATION APPLIES TO SHIPS ABOVE 5,000 GROSS TONNAGE, REGARDLESS OF THEIR FLAG OR THE PORT OF REGISTRY.”

“BY 31 AUGUST 2017 AT THE LATEST, COMPANIES ARE TO SUBMIT TO THE VERIFIERS A MONITORING PLAN FOR EACH OF THEIR SHIPS.”

monitoring, reporting and verification of CO₂ emissions and of other relevant information from ships arriving at, within or departing from ports under the jurisdiction of a Member State (MRV system).

Scope

The Regulation applies to ships above 5,000 gross tonnage, regardless of their flag or the port of registry. The monitoring and reporting shall be carried out within all ports of a Member State and for any voyages to or from a port of a Member State. The Regulation does not apply to warships, naval auxiliaries, fish-catching or fish-processing ships, wooden ships of a primitive build, ships not propelled by mechanical means, or government ships used for non-commercial purposes³. The MRV system is to apply to CO₂ emissions as well as “other relevant information”, which means information related to CO₂ emissions from the consumption of fuels, to transport work and to the energy efficiency of ships, which enables the analysis of emission trends and the assessment of ships' performances.

The monitoring plan

By 31 August 2017 at the latest, companies are to submit to the verifiers a monitoring plan for each of their ships⁴. A “company” is defined under the Regulation as “the shipowner or any other organisation or person, such as the manager or the bareboat charterer, which has assumed the responsibility for the operation of the ship from the shipowner”⁵. The monitoring plan must contain several elements which are described in Article 6(3) of the Regulation, e.g. identification and type of the ship, description of the CO₂ emission sources on board (i.e. the ship's main and auxiliary engines, gas turbines, boilers and inert gas generators and the fuel types used), description of the procedures used to monitor the completeness of the list of voyages and the ship's fuel consumption, description of the procedures used for determining activity data per voyage (including the procedures for determining and recording the distance, the cargo carried and the number of passengers, the time spent at sea between the port of departure and the port of arrival, etc.). The monitoring plan must particularly contain a description of the procedures and methodology used for monitoring the fuel consumption of the ship. For the purposes of determining CO₂ emissions the company must calculate actual fuel consumption for each voyage by using one of the four following methods (or, once assessed by the verifier, any combination of them)⁶:

1. based on the Bunker Fuel Delivery Note (BDN) and periodic stocktakes of fuel tanks;
2. based on fuel tank readings for all fuel tanks on-board;
3. by using flow meters for applicable combustion processes; and
4. by carrying out a direct CO₂ emissions measurement.

Furthermore, the ship's monitoring plan has to be checked by the company at least annually, to determine whether it still reflects the nature and functioning of the ship and whether the monitoring methodology can be improved. The monitoring plan might need to be modified e.g. where a change of company occurs or new kinds of fuel are used⁷. The verifier shall assess the conformity of the monitoring plan (and

³ Article 2(2) of the Regulation

⁴ Article 6 of the Regulation

⁵ Article 3(d) of the Regulation

⁶ Article 6(3) and Annex I of the Regulation

⁷ Article 7 of the Regulation

“FROM 1 JANUARY 2018, COMPANIES SHALL, BASED ON THE MONITORING PLAN ASSESSED BY THE VERIFIER, MONITOR CO₂ EMISSIONS FOR EACH SHIP ON A PER-VOYAGE AND AN ANNUAL BASIS.”

“FROM 2019, BY 30 APRIL OF EACH YEAR, COMPANIES ARE TO SUBMIT TO THE COMMISSION AND TO THE AUTHORITIES OF THE FLAG STATES CONCERNED, AN EMISSIONS REPORT CONCERNING THE CO₂ EMISSIONS AND OTHER RELEVANT INFORMATION.”

any modifications of such plan) with the requirements of the Regulation⁸. Where the verifier identifies non-conformities with those requirements, the company concerned must revise its monitoring plan accordingly and submit the revised plan for a final assessment by the verifier.

Monitoring and Reporting

From 1 January 2018, companies shall, based on the monitoring plan assessed by the verifier, monitor CO₂ emissions for each ship on a per-voyage and an annual basis⁹. The monitoring on a per-voyage basis requires that for each ship arriving in or departing from, and for each voyage to or from a port of a Member State, the companies shall monitor ports of departure and arrival including date and hour of departure and arrival, amount and emission factor for each type of fuel consumed in total, CO₂ emitted, distance travelled, time spent at sea, cargo carried and transport work. Companies shall be exempt from the obligation to monitor the above information on a per-voyage basis in respect of a specified ship, if all of the ship's voyages during the reporting period either start from or end at a port under the jurisdiction of a Member State and the ship, according to its schedule, performs more than 300 voyages during the reporting period¹⁰. In addition to the parameters monitored on a per-voyage basis, the company concerned shall also monitor, for each ship and for each calendar year, various parameters, including the average energy efficiency and the aggregated CO₂ emissions from all voyages between ports of a Member State, from all voyages which departed from ports of a Member State and from all voyages to ports of a Member State¹¹.

From 2019, by 30 April of each year, companies are to submit to the Commission and to the authorities of the flag States concerned, an emissions report concerning the CO₂ emissions and other relevant information for the entire reporting period for each ship under their responsibility, which has been declared satisfactory by a verifier in accordance with Article 13 of the Regulation. The emissions report shall include data to identify the ship and the relevant company, the identity of the verifier who assessed the emissions report, information on the monitoring method used and the level of uncertainty associated with that method and the annual monitoring results¹².

Verification and penalties

Verifiers are legal entities which are accredited for activities under the scope of the Regulation by a national accreditation body¹³. Presumably, the classification societies of the International Association of Classification Societies (IACS) will try to get accreditation for activities under the scope of this Regulation. But also other verifiers, e.g. specialised carbon emissions verification bodies, may obtain accreditation for activities under the Regulation and therefore companies will also have the opportunity to transmit the monitoring plan and the emissions report to these verifiers to finally obtain the document of compliance required under the Regulation. The verifiers are to assess whether the monitoring plan and the emissions report fulfil the requirements of the Regulation. Therefore, to carry out such verification they are to assess the reliability, credibility and accuracy of the monitoring systems and of the

⁸ Article 13 of the Regulation

⁹ Article 8 of the Regulation

¹⁰ Article 9 of the Regulation

¹¹ Article 10 of the Regulation

¹² Article 11 of the Regulation

¹³ Article 16 of the Regulation

“THE REGULATION REQUIRES THE MEMBER STATES TO SET UP A SYSTEM OF PENALTIES FOR FAILURE TO COMPLY WITH THE MONITORING AND REPORTING OBLIGATIONS SET OUT IN THE REGULATION.”

reported data and information relating to CO₂ emissions¹⁴. The verification procedures to be carried out by the verifier include, amongst others, identifying potential risks related to the monitoring and reporting process by comparing the reported CO₂ emissions with estimated data based on ship tracking data and characteristics such as the installed engine power. Where significant deviations are found, the verifier shall carry out further analyses¹⁵. Where the emissions report fulfils the requirements of the Regulation, the verifier shall issue a document of compliance for the ship concerned which shall be valid for a period of 18 months after the end of the reporting period and shall be carried on board all the time¹⁶. This document of compliance shall be kept on board together with the certificates and documents required to be kept on board in accordance with applicable maritime laws and regulations of the ship’s flag state and international conventions relating to safety, security and prevention of pollution and shall be presented by request of the port authority.

The Regulation requires the Member States to set up a system of penalties for failure to comply with the monitoring and reporting obligations set out in the Regulation. In case of a ship’s failure to comply for two or more consecutive reporting periods, the competent authority of the Member State of the port of entry may issue an expulsion order in respect of that ship. As a result, all Member States are to refuse the entry of the ship concerned into any of their ports until the relevant company fulfils its monitoring and reporting obligations in accordance with the Regulation (Article 20 of the Regulation).

“ALL MEMBER STATES ARE TO REFUSE THE ENTRY OF THE SHIP CONCERNED INTO ANY OF THEIR PORTS UNTIL THE RELEVANT COMPANY FULFILS ITS MONITORING AND REPORTING OBLIGATIONS...”

Publication of information

The Commission is to make publicly available each year the information reported on CO₂ emissions under the Regulation as well as additional information, such as the ship’s annual CO₂ emissions, annual total fuel consumption for voyages, annual average fuel consumption and CO₂ emissions per distance travelled, annual total time spent at sea in voyages, technical efficiency of the ship, etc.

SUMMARY

The Regulation will increase administrative expenses for ship owners and operators considerably.

They have to set up and submit the monitoring plan to the verifiers by 31 August 2017.

Based on the monitoring plan assessed by the verifier, companies must start monitoring CO₂ emissions for each ship on a per-voyage and an annual basis from 1 January 2018.

After the first reporting period, the results of the monitoring shall be submitted as an emissions report to the Commission and to the authorities of the flag States concerned by 30 April 2019.

Fulfilling the obligations set out in the Regulation in relation to the emissions report might be facilitated by using automated systems and data exchange formats,

¹⁴ Article 14 of the Regulation

¹⁵ Article 15 of the Regulation

¹⁶ Article 17 of the Regulation

including electronic templates based on technical rules which will be determined by the Commission. Also, with regard the monitoring plan, companies are to use standardised monitoring plans based on templates which will be determined by the Commission.

FOR MORE INFORMATION

Should you like to discuss any of the matters raised in this Briefing, please speak with one of the authors - Ivana Mikešić, Christian Finnern and Sandy Apostolatos - a member of our maritime team below, or your regular contact at Watson Farley & Williams.

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