

Guidance/best practices document for situations where the accreditation is suspended or withdrawn close to the planned issuing date of the Document of Compliance (DOC) pursuant to Regulation (EU) 2015/757

This document is part of a series of documents prepared by experts gathered under two subgroups established under the umbrella of the "European Sustainable Shipping Forum (ESSF)": the MRV subgroup on monitoring and reporting and the MRV subgroup on verification and accreditation. These two MRV subgroups gathered for the period June 2015 to May 2017 in order to provide technical expertise relevant for the implementation of Regulation (EU) 2015/757 (the MRV shipping Regulation).

As indicated in their terms of reference, the two MRV shipping subgroups were mandated to identify best practices in relevant areas. The substance of this guidance/best practices document was unanimously endorsed by the representatives of the ESSF Plenary by written procedure ending on 30th of June 2017.

Apart from the present document, guidance/best practices documents have been established in the following areas:

- Preparation of Monitoring Plans by companies;
- Monitoring and reporting of fuel consumption, CO₂ emissions and other relevant parameters;
- Assessment of monitoring plans by verifiers;
- Backward assessment of monitoring plans;
- Use of external ship tracking data by verifiers;
- Materiality and sampling;
- Verification of emissions reports by verifiers;
- Recommendations for improvements issued by verifiers;
- Assessment of verifiers by National Accreditation Bodies in order to issue an accreditation certificate;

All best practice documents and other relevant documents can be downloaded from the Commission's website at the following address:

https://ec.europa.eu/clima/policies/transport/shipping_en#tab-0-1

1. INTRODUCTION

This document has been prepared by a Task Force under the MRV subgroup on verification and accreditation, co-ordinated by Mr Niels Christian Dalstrup (from European Accreditation). This Guidance Document is to provide guidance on situations where administrative measures must be adopted by a National Accreditation Body (NAB) against a verifier and these measures affect the validity of the Document of Compliance (DoC) issued by verifiers following the assessment of monitoring plans and verification of emissions reports from maritime transport according to Regulation (EU) 2015/757 and Commission Delegated Regulation (EU) 2016/2072.

It has been written to support the MRV Regulation by explaining its requirements in a non-legislative language. However, it should always be remembered that the legal requirement as set by EU Regulations are the primary requirements.

Based on surveillance, re-assessment or an extraordinary assessment of the verifier's accreditation, a NAB may conclude that the accredited verifier does no longer comply with the requirements for accreditation for the Regulation (EU) 2015/757. If the verifier does not resolve nonconformities sufficiently within a requested timeframe, the NAB may need to suspend or withdraw the verifiers' accreditation. Neither Regulation (EU) 2015/757 nor Commission Delegated Regulation (EU) 2016/2072 do specify the consequences for acceptance confirmations for monitoring plans, verification reports and Documents of Compliance (DOCs) already issued or close to planned issuance by the verifier when the decision to suspend or withdraw the accreditation is taken by the NAB.

According to EN ISO /IEC 17011, the NAB shall establish procedures for suspension, or withdrawal of accreditation. When deciding on suspension or withdrawal of accreditation, the NAB shall consider the impact on activities carried out before the decision. These considerations shall be based on the nature of the non-compliance identified to cause the NAB to make a decision.

The decision will typically include a statement about previous activities and conditions for lifting the suspension or being granted accreditation after withdrawal

During the suspension period or after withdrawal of accreditation, the verifier is not allowed to perform verification activities under the concerned scope of accreditation.

Depending on the timing and period of suspension or withdrawal, companies may need to engage with another accredited verifier that is accredited to assess the monitoring plan and verify the emissions reports.

2. GUIDANCE

The Regulation (EU) 2016/2072, Article 41, define the situations in which the National Accreditation Body (NAB) may suspend or withdraw an accreditation.

The possibility of suspension or withdrawal is an administrative measure which is a part of the conditions for being accredited, however it should be understood that it is not a

measure that is taken often, only when the verifier no longer complies with the requirements for accreditation.

It must be understood that it is the MRV Company who is responsible to have to have its emissions report timely verified by an accredited verifier and submitted to the Commission (ref. Regulation (EU) 2015/757, Article 11(1)).

If the accreditation of the verifier that was contracted by the company is suspended or withdrawn before the emissions report is verified and the Document of Compliance is issued to the ship concerned, the company must contract with another accredited verifier to have its emissions report (re)verified. If the new verifier's risk analysis allows this, this verifier may use information from the previous verifier.

The same approach will apply if the accreditation of the Verifier contracted to assess the monitoring plan is suspended or withdrawn before assessment of the monitoring plan is finalised.

The NAB is recommended to ensure that the accredited verifier includes in its procedures, that concerned MRV Companies are informed without delay when the accreditation is suspended or withdrawn.

Already issued acceptance confirmations for monitoring plans, verification reports and Documents of Compliance will normally not be affected, however this will depend on the nature of the noncompliance leading to decision to suspension or withdrawal. The impact will be considered by the NAB, Article 41(8) according to (EU) 2016/2072 and informed to the verifier.

It is recommended that companies engaging a verifier get confirmation before engaging the verifier that, as far as the verifier is aware, there is no significant risk of the verifier's accreditation being suspended or withdrawn.

It is recommended that companies engaging a verifier consider including in its purchase order to the verifier, that the verifier has to:

- Promptly inform the client if its own accreditation has been suspended or withdrawn;
- In case of accreditation being suspended or withdrawn will provide the client with relevant verification paperwork, e.g. notes, programme, assessment data and records etc.

This is because the verifier's internal verification documentation is not normally made available to companies or to other verifiers, the company will need to agree with its first verifier that the company receives relevant information on what verification activities have been carried out so far and on issues identified during the first verification. The company may then make this information available to the new verifier. This could avoid a complete re-verification.

To facilitate disclosure of internal verification work papers in such a situation, companies are recommended to include appropriate disclosure clauses in their terms and conditions of contract when contracting with a verifier. Verifiers are also recommended to include the issues as part of their general terms and conditions for this activity.

Companies' attention is drawn to the fact that in case there is a need for a second verifier that verifier cannot simply accept the verification plan and documentation of the first

verifier. The second verifier must still perform its own risk analysis and carry out its own verification activities based upon that risk analysis. The second verifier's risk analysis may include an assessment of whether elements of the first verifier's plan are sufficient and demonstrate that the second verifier can reasonably place reliance upon some of the first verifier's organisation of work and collected evidence.
