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To: [ECSA - Committee Safety & Environment](#); [ECSA - National Associations](#)
Cc: [ECSA - Secretariat](#)
Subject: ECSA C-13296 For information - EU ETS: publication of the implementing act on the responsible entity and administering authorities
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Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)

To ECSA - Committee Safety & Environment
ECSA - National Associations
ECSA - Secretariat

Ref. ECSA C-13296

23-11-23

For information - EU ETS: publication of the implementing act on the responsible entity and administering authorities

Dear Members,

For your information, the following implementing acts were published in the Official Journal:

- The act on **templates** for monitoring plans, reports & other documents for shipping emissions was [published](#) on the 7 November. The ECSA secretariat did not answer to the [consultation](#) which was opened until 1st of September (Ref: C-13173 of 07/08/2023).
- The act on the rules for the **administration of shipping companies** by administering authorities under the EU Emissions Trading System was [published](#) on 23 November (Ref: C-13215 of 26-09-23). The [consultation](#) and ECSA's contribution can be found [here](#).

Implementing acts enter into force on the third day following that of their publication.

Content of the implementing act on the administration of shipping companies

As explained below, some aspects of the implementing act has been slightly changed compared to the draft version (ref: C-13191 of 01-09-23).

The implementing act defines the entity responsible to surrender the EU ETS allowances. The Commission has decided to "*depart, for the purpose of the EU ETS, from the meaning of the notion of 'shipping company' in general maritime law in order to allow the parties to agree contractually among them on the identity of the entity that is entrusted with the obligations following from the EU ETS*".

The responsible entity is the shipowner. The shipowner can contractually mandate the ISM company to assume responsibility for the EU ETS obligations and to surrender the EU ETS allowances. In this case, the ISM company should provide its administering authority with information on ships under its responsibility (article 1).

The Commission has added a new recital 6 to clarify that: "*the entities responsible for compliance with the obligations under Regulation (EU) 2015/7574 and with the obligations under Directive 2003/87/EC 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*".

In recital 7 and article 3, the Commission also modified the act to provide that the information recorded in Thetis MRV should be used to attribute companies to Member States and not the IMO Unique Company and Registered Owner Identification Number Scheme.

The administering authority is defined as follows:

- The EU Member State where the shipping company is registered, as recorded in Thetis MRV (article 3).
- The EU Member States where the company registered outside the EU had the most port call, on the basis of data stored in the Union maritime information and exchange system (SafeSeaNet) (article 3).
- If this is the 1st voyage between two Member States of a ship of a shipping company which is not registered in a Member State, the Member State where that voyage started (article 4).
- If the shipping company, which is not registered in a Member State, has its greatest number of port calls in two or more Member States, the Member State where the shipping company had its first port call among the voyages that started or ended in those Member States with an equal number of port calls (article 5).

Delegated and implementing acts recently adopted

Several delegated acts have been recently adopted by the Commission (ref: C-13252 of 20/10/23 and C-13259 of 26/10/23):

- The delegated act on the **rules on monitoring and reporting of shipping emissions** was [adopted](#) on 12 October. The ECSA secretariat did not answer to the [consultation](#) which was opened until 30 August (Ref: C-13171 of 04/08/2023). The delegated act now includes the reference to FuelEU Maritime when covering the possibility for companies to diverge from the default values for the emission factors listed in the table at page 3, but also when covering the possibility to use certified values. The values for e-methanol were modified in the table.
- The delegated act on the **rules for reporting and submission of the aggregated emissions data at company level** was [adopted](#) on 12 October. The ECSA secretariat did not answer to the [consultation](#) which was opened until 31 August (Ref: C-13171 of 04/08/2023). Recitals were added on the responsible entity and on the consistency of zero-rating of biomass with other EU policies.
- The delegated act on the **operation of the Innovation Fund** was [adopted](#) by the Commission on 15 September. The [consultation](#) and ECSA's contribution can be found [here](#) (Ref: C-13168 of 01/08/2023).
- The delegated act on the **update of emission allowances auctioning rules** was [adopted](#) by the Commission on 17 October. The ECSA secretariat did not answer to the [consultation](#) which was opened until 25 August (Ref: C-13169 of 02/08/2023).
- The delegated act on the **functioning of the Union Registry** was [adopted](#) on 25 October. The ECSA secretariat did not answer to the [consultation](#) which was opened until 28 August (Ref: C-13169 of 02/08/2023).

The publications of the delegated acts open a scrutiny period of two months, during which the Parliament or the Council can oppose its entry into force or request an extension of the scrutiny period. Once adopted, they will be published in the EU Official Journal and will enter into force shortly afterwards.

In addition, the following implementing act was published in the Official Journal

and entered into force on the third day following that of its publication:

- The implementing act on the identification of **neighbouring container transshipment ports** was [published](#) in the official journal. The ECSA secretariat did not answer to the [consultation](#) which was opened until 18 September (Ref: C-13180 of 22/08/2023). The annex of this implementing was not modified after the consultation. East Port Said in Egypt and Tanger Med in Morocco are the two ports defined as neighbouring container transshipment ports.

Upcoming publications

During the summer, the Commission opened several consultations on the delegated and implementing act related to the EU ETS (ref: C-13191 of 01/09/23). Only one delegated act has not been published by the Commission yet:

- The delegated act on rules on approval and verification activities and accreditation of verifiers in relation to maritime transport emissions. The ECSA secretariat did not answer to the [consultation](#) which was opened until 1st of September COB (Ref: C-13173 of 07/08/2023).

Next steps

The revised EU ETS and EU MRV legislation will apply from 1st January 2024.

I remain at your disposal if you have questions.

Best regards,

Fanny

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