

Phase III EU ETS -New Entrants, Significant Capacity Decrease, Closure and Partial Cessation of Activity

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Annette Prendergast

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Introduction

- Commission Decision of the 27.04.2011 determining transitional Union-wide rules for the harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC (CIMS) establishes a new allocation methodology for Phase III of the EU ETS (2013-2020).
- Chapter IV (Articles 17-24) of the CIMS contains the rules for New Entrants and Closures.
- The European Communities (Greenhouse Gas Emissions Trading) (Amendment) Regulations 2011 S.I. No. 127 of 2011 designate the EPA as the Competent Authority for the implementation of the CIMS.

Introduction

- The rules for New Entrants and Closures only apply to incumbent installations that are included in Annex I of Irelands National Implementation Measures for Phase III and to New Entrant applicants for free allocation of emission allowances for Phase III.
- The rules for New Entrants and closures do not apply to Electricity Generators that are not entitled to free allocation.

Operator Requirements

- In Accordance with Art. 24.(1) of the CIMS the Operator is required to submit all relevant information about any planned or effective changes to the capacity, activity level and operation of an installation to the EPA by 31 December each year, starting 31 December 2012.
- The EU developed data collection template “Application Form for Amending Amounts Allocated Free of Charge” available on EPA website is required to be submitted by all Operators where there are planned or effective changes to the capacity, activity level and operation of the installation as detailed in the baseline data collection template submitted by Operators in June 2011.

Operator Requirements

- Operators should indicate to the EPA in early October where there may be a partial cessation of activity at the installation for 2012.
- The completed application form should be submitted by 31 December to allow the EPA adequate time to submit all relevant information to the Commission including the revised preliminary total annual amount of emission allowances allocated free of charge. Only when the EPA receives Commission agreement on this figure can the Registry be notified to allocate to the installation. Any delays will delay the allocation to the installation.
- Partial cessation application does not require verification.

Operator Requirements

- From 01 February 2013 general allowances transferred daily to relevant Operator accounts in accordance with National Allocation Table (Registry Regulation).
- For New Entrants completed application form and any relevant additional information must be verified by an accredited verifier and submitted with Verification report within one year following the start of normal operation of the installation or sub-installation concerned.
- Access to NER based on “first come first served” based on notification date of complete verified data to Commission. Incomplete, inaccurate applications rejected.

Operator Requirements

- For significant capacity decreases the completed application form and any relevant additional information verified and submitted with the verification opinion statement to EPA as soon as the change takes place to avoid any delay in the issuing of any subsequent years reduced allowances.
- All Operators should become familiar with Chapter IV of the CIMS and Guidance Document No. 7 on New Entrants and Closures and the data and information requirements of the template.
- Engage an appropriately accredited Verifier early in the process.

New Entrants Definition

- Any installation carrying out Schedule I activities and obtained first greenhouse gas emissions permit after 30 June 2011.
- Any installation carrying out activity included in the Scheme pursuant to Article 24(1) or (2) of the ETS Directive for the first time or
- Any installation which has a significant capacity extension after 30 June 2011, in so far as extension concerned. Physical change can take place prior to 30 June 2011 but after 01 January 2005 provided it was not already included as a significant capacity extension.

New Entrants -new installations ("greenfields")

Start of normal operation

- Normal allocation rules apply from this date and allowances can only be determined once the installation has started normal operation. Application to be submitted within a year of the start of normal operation. No direct impact on number of allowances.
- First day of the earliest continuous 90 operational day period activity level of first sub-installation at least 40% design capacity.
- Design capacity based on guaranteed performance values by supplier to be justified. Must be verified by Verifier.

Greenfield- determination of Preliminary Allocation

Phase before start of normal operation

- Only applies from 2013. Determine independently verified emissions prior to start of normal operations and subtract verified emissions due to production of electricity. Emissions then multiplied by CLEF, based on the first sub-installation to start normal operation.

Phase after start of normal Operation

- Define sub-installations (Similar to baseline GD 2)
- Determine initial capacity (IC) of each sub-installation. 2 highest monthly activity levels in continuous 90 day period after start of normal operation (Art. 17 (4) CIMS) averaged and multiplied by 12.

Greenfield- determination of Preliminary Allocation

- Determine activity level (AL) for each sub-installation.
- For product benchmark sub-installation $AL = IC \times SCUF$
- For heat, fuel benchmark and process emissions sub-installations: $AL = IC \times RCUF$
- Standard capacity utilisation factors (SCUF) calculated by Commission based on NIMS data from Member States.

Relevant capacity utilisation factors

- Determined by CA based on suggested value and verified data submitted by Operator on installations intended normal operation, maintenance, common production cycle and energy efficient techniques that may be implemented.

Greenfield- determination of Preliminary Allocation

- Determine preliminary allocation to each sub-installation as follows: $\text{Benchmark} \times \text{AL} \times \text{CLEF}$
- Add all preliminary allocations for each sub-installation to determine total preliminary allocation to installation after start of normal operation.
- Add total preliminary allocation prior to start and total preliminary allocation to installation after start this is then multiplied by linear reduction factor (LRF) to determine final total allocation to installation in a year in accordance with Art. 19(5) of the CIMS.
- LRF reduces linearly from 1 in 2013 to 0.8782 in 2020.

Significant Capacity Extension

- One or more **physical changes** led to an increase in capacity at least 10% or led to an increase in allocation to sub-installation > 50,000 allowances per year and at least 5% of preliminary annual number of allowances allocated to sub-installation before the change. (See Guidance Document 2 for more detailed information)
- Section 4.1 Guidance Document No. 7 explains in detail significant capacity change.
- Detailed guidance also contained in Guidance Document No. 2 section 6.4.

Physical change

- In the context of the definition of significant capacity extensions/reductions, physical changes must be understood as modifications of production processes and the equipment required for this (e.g. new or decommissioned boiler or production line) , which increases or decreases capacity.
- Heat benchmark sub-installations can have a significant extension in capacity if for example:
- after one or more physical changes at the heat consuming facilities (within the installation), the increased consumption of heat allows the heat benchmark sub-installation concerned to match one of the two quantitative criteria (i.e. 10% or >50,000 allowances and at least 5% of preliminary annual number of allowances)

Assessing significant changes

Start of Changed Operation

First day of the earliest continuous 90 operational day period activity level of added capacity at least 40% added design capacity. Daily activity level of added capacity required. Date must be verified

- $C_{\text{new}}/C_{\text{initial}} \geq 1.10$. C_{initial} is the installed capacity after the previous significant capacity change or average of 2 highest monthly activity levels between 01 January 2005 to 31 December 2008. Installations that operated less than 2 calendar years to 30 June 2011 initial capacity used to determine historical activity level used.
- C_{new} based on 2 highest monthly activity levels within 6 calendar months of start changed operation. Values are averaged and multiplied by 12.

Determine Allocation Significant Capacity Change

- Determine added capacity of sub-installation. $C_{\text{added}} = C_{\text{new}} - C_{\text{initial}}$.
- Determine AL of added capacity by multiplying added capacity by SCUF (product benchmarks) or RCUF.
- Determine preliminary allocation to added capacity of the sub-installation as follows: $\text{Benchmark} \times \text{AL} \times \text{CLEF}$
- Determine final allocation of added capacity by multiplying preliminary allocation by linear reduction factor.
- All capacities must be independently verified, never determined on experimental verification except for cases force majeure.

Determine Allocation Significant Capacity Change

- New total final allocation is sum of initial final allocation and additional final allocation.
- Template performs all calculations. Operator and Verifier must ensure correct data entered and cross check template calculations. It is the responsibility of the Operator to ensure correct data reported to the EPA.
- For capacity extensions there will be no allocation for the period before the start of changed operation.

Significant Capacity Reduction

- Same as the definition for significant capacity increase except there is either a decrease in capacity of at least 10% or decrease in allocation.

Start of changed Operation Defined as the earliest continuous 90 day period during which the activity level related to the remaining capacity aggregated over 90 days is at least 40% of the design capacity of the remaining capacity.

Assessing Significant Changes

- The new capacity divided by the initial capacity must be less than or equal to 90%. (New capacity based on 2 highest monthly activity levels within six months start changed operation)

Determine preliminary Allocation

- Template performs all calculations. Operator and Verifier ensure correct data entered and cross check calculations.
- Determine reduced capacity of sub-installation which is initial capacity minus new capacity.
- Determine activity level of reduced capacity by multiplying reduced capacity by SCUF or RCUF.
- Determine preliminary allocation to reduced capacity of the sub-installation as follows: $\text{Benchmark} \times \text{AL} \times \text{CLEF}$
- Determine new preliminary allocation by subtracting the preliminary allocation relating to reduced capacity from the initial preliminary allocation.

Determine Final Allocation

- The new preliminary total annual allocation to the installation is the sum of the preliminary allocation to each sub installation.
- For installations **not classed as “electricity generator”** the new total final amount of allocation per year is determined by multiplying the total preliminary allocation by the cross-sectoral correction factor for that year.
- For installations classed as **“electricity generator”** the new total final amount of allocation per year is determined by multiplying the total preliminary allocation by the linear reduction factor.

Cessation of operations (Closure)

Installation deemed to have **ceased operations** where any of the conditions in Article 22 of CIMS are met such as:

- GHG permit expired or withdrawn,
- Operation at the installation technically impossible,
- Installation not operating but had been, technically impossible to resume operation,
- Installation not operating but has been and the operator cannot prove operation can resume within 6 months or up to 18 months in unforeseen circumstances such as natural disasters vandalism etc.

Closure

- Where an installation closes the Operator is required to notify the EPA within one month and complete and submit the relevant sections of application form for amending amounts allocated free of charge.
- The application does not have to be verified.
- Where an installation has ceased operation no emission allowances shall be issued as of the year following cessation.
- Member States may suspend the issuance of emission allowances as long as it is not established that operations will resume (Art. 23(4) of the CIMS)

Partial Cessation of Operations

- One sub-installation , contributes at least 30% of final allocation or more than 50,000 allowances/year reduces activity level in calendar year by at least 50% compared to activity level of the sub-installation used to calculate allocation (Sheet K IV of baseline data report and application for amending amounts)
- Changes to carbon leakage status are not regarded as partial cessations as activity levels not affected.
- Verifiers shall assess whether the reporting requirement has been implemented correctly. Where they observe changes to activity levels which may impact allocation, not reported, this should be reported in the Verification Report

Determination of Allocation

- Operator completes and submits relevant sections of application for amending allocation no verification required
- If remaining activity level $>25\% \leq 50\%$ allocation to the sub-installation reduced to 50% initial allocation to sub-installation.
- If remaining activity level $>10\% \leq 25\%$ allocation to the sub-installation reduced to 25% of initial allocation
- If remaining activity level $\leq 10\%$ allocation to the sub-installation is zero.

Recovery from partial cessation

- The initial preliminary allocation for the sub-installation is multiplied by either a cross sectoral correction factor or linear reduction factor for electricity generators and then by the adjustment factor (0.5, 0.25 or 0).
- The adjustment takes place the year after the calendar year of partial cessation.
- Where the activity level recovers the allocation can be adjusted upwards (>50% full allocation restored, >25% receives 50% of allocation) the year following the calendar year of recovery.
- The Operator submits the application for recovery of partial cessation.

Information Sources

- http://ec.europa.eu/clima/policies/ets/benchmarking/documentation_en.htm (Link to the CIMS and Guidance Documents)
- <http://www.epa.ie/whatwedo/climate/emissionstrading/etscheme/phase/> (Link to Phase III section of EPA website contains guidance and a link to the application form for amending amounts allocated free of charge)
- Relevant Commission guidance documents include:
- Guidance Document (GD) No. 7 New Entrants and Closures.
- GD 1 General, GD 2 allocation methodologies, GD 3 data collection, GD 4 Verification, GD 5 Carbon Leakage, GD 9 sector specific.