


Slide 1

Revision of ETS Directive and Introduction to Phase
4 Free Allocation Rules

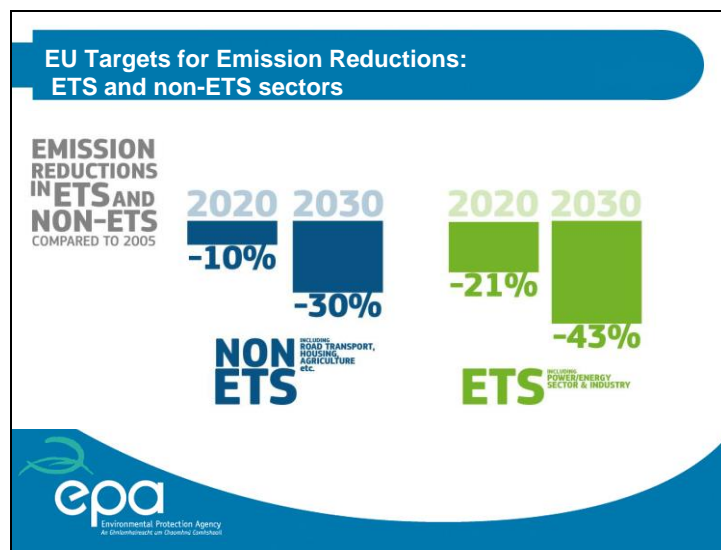


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An Ghníomhaireacht um Chaomhnú Comhshaoil

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27 February 2019

Aim of this seminar and limitations

- Aim – to familiarise you with the knowledge required to apply for free allocation in Phase 4 and update on any changes relevant to current phase.
- Limited to EPA understanding of draft and published legislation on 26 February 2019. Guidance from Commission/changes to EU and National legislation may impact on advice given here.
- Slides have no legal effect, EPA does not assume any liability for their content.
- Links are supplied to the Commission website with official text and guidance.



To achieve the EU's overall greenhouse gas emissions reduction target for 2030, the sectors covered by the EU Emissions Trading System (EU ETS) must reduce their emissions by 43% compared to 2005 levels.

The 2030 climate and energy framework sets three key targets for the year 2030:

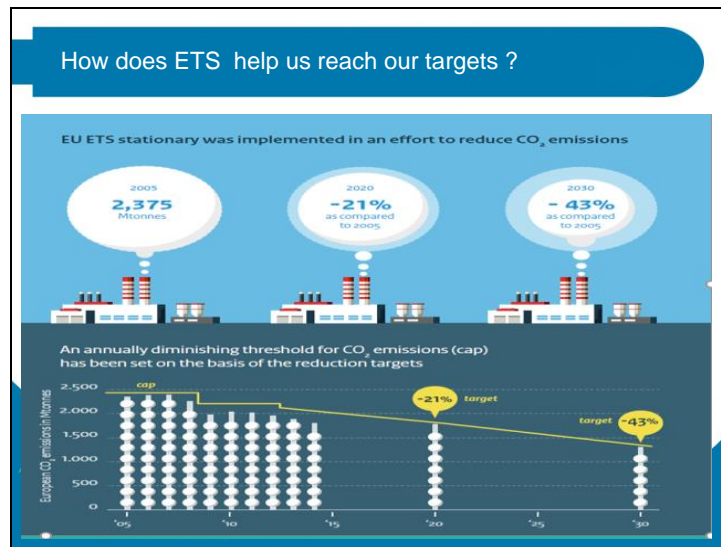
At least 40% cuts in greenhouse gas emissions (from 1990 levels)

At least 27% share for renewable energy

At least 27% improvement in energy efficiency

To achieve the at least 40% target:

EU emissions trading system (ETS) sectors would have to cut emissions by 43% (compared to 2005) – to this end, the ETS has been reformed and strengthened
non-ETS sectors would need to cut emissions by 30% (compared to 2005)



Cap and trade scheme. EU- wide cap. Cap is set to decline linearly since 2013 by 1.79% per annum in order to reach the 2020 target.

Aim to reduce GHG emissions by using a financial mechanism, by putting a price on carbon so operators are encouraged to reduce their carbon emissions and switch to more energy efficient technologies.


Operators must record their carbon emissions, every year and they must surrender carbon allowances equal to this amount every year. Carbon allowances are known as EUAs can be bought at auctions, bought over the counter from brokers or bought from other companies. Some operators still receive a portion of allowances free of charge (free allocation). So they are financially incentivised to produce less emissions.

EU ETS revision – fixing the regulatory framework for the next decade

- The legislative framework of the EU ETS was revised in 2018 to enable it to achieve the EU's 2030 emission reduction targets in line with the [2030 climate and energy policy framework](#) and as part of the EU's contribution to the 2015 [Paris Agreement](#)
- The revised [EU ETS Directive \(Directive \(EU\) 2018/410\)](#) entered into force on 8 April 2018.

Strengthening the EU ETS for the next decade

- Cap will decline at an annual rate of 2.2% from 2021 onwards, compared to 1.74% currently.
- **Auctioning** to remain at 57% in principle but reduced by up to 3% of the total quantity if Cross Sector Correction Factor (CSCF) applies
- **Carbon leakage (CL)** only for sectors at genuine risk –CL principally assessed at NACE level but 8-digit level (PRODCOM) is possible.
- Free allocation at least until 2030 and will focus on sectors deemed CL exposed - 100% of their allocation for free. For less exposed sectors, free allocation to be phased out after 2026 from a maximum of 30% to 0 by 2030.
- Annual adjustment of installation's allocation. Threshold for adjustments =15% to be assessed on the basis of a rolling average of two years.
- **Market Stability Reserve (MSR)** -withdraws allowances from market. Came into operation in January 2019 -rate of withdrawal will be doubled up to 2023 and from 2023 some cancelling of allowances in MSR is allowed.

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In **phase 4 (2021-2030)**, the cap on emissions will be subject to an annual linear reduction factor of **2.2%** in line with the **2030 targets** – the overall **-40%** emissions reduction target and the EU ETS specific **-43%** emissions reduction target relative to 2005. The increased reduction factor of **-2.2%**, results in an annual reduction of **48,380,081** emission allowances, in the period **2021-30**.

Overall, more than 6 billion allowances are expected to be allocated to industry for free over the period 2021-2030.

MSR - The 900 million allowances that were back-loaded in 2014-2016 will be transferred to the reserve rather than auctioned in 2019-2020.

Simplification/ reduction of admin burden

- Simplification of scope – Art 27a opt-outs:
 - MS may exclude installations emitting less than **2,500 t.p.a.**
 - MS may exclude reserve or back-up units which do not operate more than **300 hours per year** in each of the three years 2016-2018 inclusive
- This is an addition to the existing opt-out under Art 27 for small installations and hospitals
- Simplification of Monitoring and Reporting Regulation
 - To reduce admin burden/clarify definitions/improve readability and enforceability/promote better use of IT/improve internal consistency within the Regulation.
 - Revised Monitoring and Reporting Regulation was published December 2018.

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Article 27a – “micro installations”

Emissions < 2,500 tonnes CO₂ per year for 3 years prior to notification (e.g. 2016-2018 if notified in 2019 –latest date would be 30 September 2019).

On-going monitoring of CO₂ but no equivalent measures need to be notified to Commission Reintroduction if go above threshold of 2,500 tonnes in any one year.

The opt-out is made public.

This opt-out can also be applied to reserve or back-up units operating < 300 hours per year per year for 3 years prior to notification.

Art 27 - Small installations:

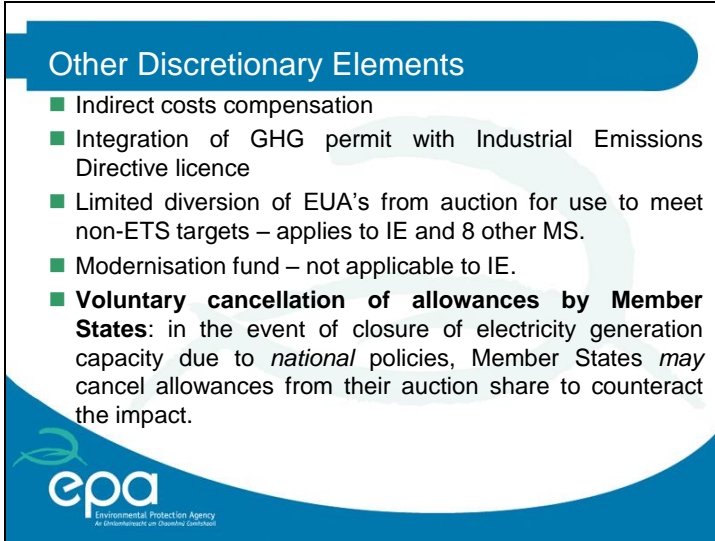
< 35 MW thermal input and < 25,000 CO₂ over preceding 3 years (e.g. 2016-2018).

Subject to equivalent measures and on-going monitoring of CO₂

reintroduction if go above threshold of 25,000 tonnes in any one year (or install additional capacity to bring them above 35MW).


Hospitals can also be excluded subject to equivalent measures

Must be notified before 30 September 2019 and CION has 9 months to object



Other Discretionary Elements


- Indirect costs compensation
- Integration of GHG permit with Industrial Emissions Directive licence
- Limited diversion of EUA's from auction for use to meet non-ETS targets – applies to IE and 8 other MS.
- Modernisation fund – not applicable to IE.
- **Voluntary cancellation of allowances by Member States:** in the event of closure of electricity generation capacity due to *national* policies, Member States *may* cancel allowances from their auction share to counteract the impact.

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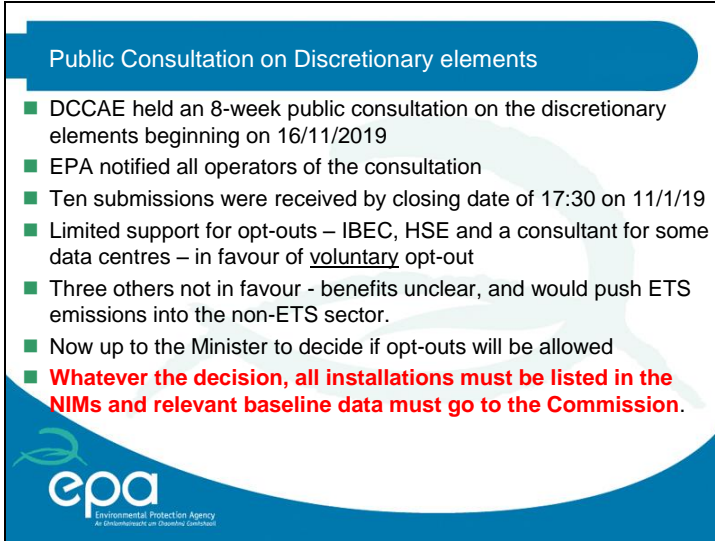
EUA = EU Allowance 1 EUA covers one tonne of CO₂ released from a stationary installation or an aircraft under EU ETS.

Pros and Cons of Opt-outs

Advantages	Disadvantages
<ul style="list-style-type: none">■ Reduce admin burden on operators and EPA■ Possible cost savings in terms of verification costs and allowance costs	<ul style="list-style-type: none">■ Full carbon tax on fuel ★■ Increased emissions included in non-ETS sector for Ireland.■ For those close to threshold or designed for emergency use could 'flip-flop' in and out of the EU ETS depending on emissions or hours of use.■ Will need to continue CO₂ monitoring (except hospitals)

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* Climate Change Advisory Council have advocated a tax of €80/tonne by 2030 and Citizen's Assembly backed this. All Government Climate Plan will address this.



The slide features a blue header with the title 'Public Consultation on Discretionary elements'. Below the header is a list of seven bullet points. The last bullet point is highlighted in red. At the bottom left of the slide is the EPA logo, which includes the letters 'epa' in a stylized font and the full name 'Environmental Protection Agency' with its German equivalent 'Umweltbundesamt an der Bundesregierung' below it.

Public Consultation on Discretionary elements

- DCCAE held an 8-week public consultation on the discretionary elements beginning on 16/11/2019
- EPA notified all operators of the consultation
- Ten submissions were received by closing date of 17:30 on 11/1/19
- Limited support for opt-outs – IBEC, HSE and a consultant for some data centres – in favour of voluntary opt-out
- Three others not in favour - benefits unclear, and would push ETS emissions into the non-ETS sector.
- Now up to the Minister to decide if opt-outs will be allowed
- **Whatever the decision, all installations must be listed in the NIMs and relevant baseline data must go to the Commission.**

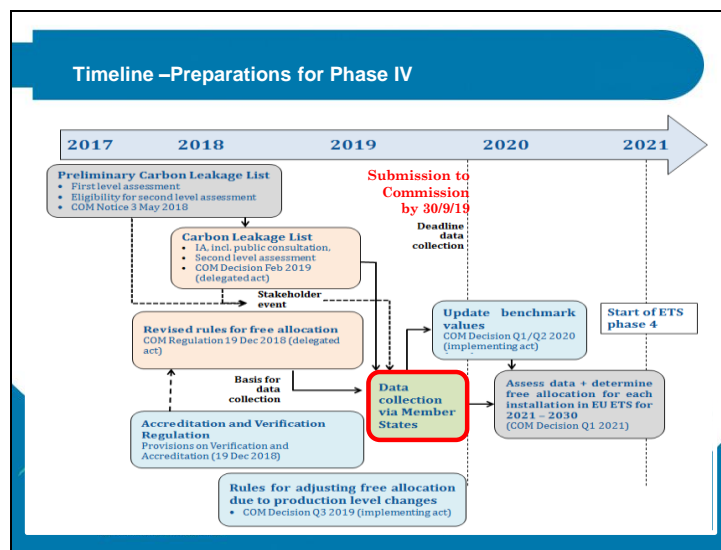

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DCCAE = Department of Communications, Climate Action and Environment

Minister = Minister for DCCAE

Ultimately the Commission decides if the opt-out is to be approved.

NIMs = National Implementation Measures




Amendment of two existing implementing regulations under the EU ETS Directive : Monitoring and Reporting Regulation (MRR) and the Accreditation and Verification Regulation (AVR). Revisions of both Regulations were published on 19 Dec 2018: **MRR** = Commission Implementing Regulation (EU) 2018/2066 and **AVR** = Commission Implementing Regulation (EU) 2018/2067

The existing MRR (Commission Regulation (EU) No. 601/2012) applies until 1 January 2021, **except** for Article 76 of Regulation 2018/2066 which applies from 1 January 2019. Article 76 some amended rules on transfer of CO₂ for stationary installations and rules specific to aviation.

The new AVR applies from 1 Jan 2019, **except** for verification of emissions arising before 1 Jan 2019 i.e. 2018 emissions. Article 78 of Regulation 2018/2067 repeals the existing AVR (Commission Regulation (EU) No. 600/2012)

Timeline - next steps


- **Carbon Leakage List** – adopted 15 February 2019. Two-month scrutiny by EP and Council currently on-going.
- **Free Allocation Rules Regulation** – adopted on 19 December 2018. Two-month scrutiny by Council and EP is over. Publication is imminent.
- **Activity Level Changes Regulation** – 12-week public consultation on-going until 22 February.



The slide features a blue header with the title 'Timeline - next steps'. Below the header is a list of three items, each preceded by a green square bullet point. The background of the slide is white with a faint, light blue graphic of a bird in flight. At the bottom left, there is the EPA logo, which consists of a stylized green leaf and the letters 'epa' in a bold, lowercase font. Below the logo, the text 'Environmental Protection Agency' and 'An tAonreasacht an tEorpach' is written in a smaller font.

FAR Regulation vs current Decision 2011/278/EU


- **Main differences**
- FAR Regulation requires the operators to comply directly with the rules - Decision requires MS to comply with certain rules ensuring the complete and right implementation
- MRVA rules in MRR and AVR did not cover all the activities in phase 4 – MRVA rules were added in FAR regulation and revised AVR

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While the revised EU ETS Directive determines the main criteria for establishing the free CO₂ allowances, allocation rules and rules for adjusting free allocation to production changes, more detailed implementation requirements need to be determined. These elements include the addition or deletion of definitions, possible modifications to the monitoring rules regarding the data collected by Member States and the production level data and the determination of historical activity levels.

The revised EU ETS Directive establishes that the Commission is empowered to adopt a delegated act concerning the Union-wide and fully harmonised rules for the allocation of free allowances. This is the FAR Regulation adapted on the 19 December 2018.

Phase 4 changes under Directive 2018/410 and the FAR Regulation	
Phase 3 (2013-2020)	Phase 4 (2021-2030)
one 8-year allocation period	two 5-year allocation periods
cap reduced by 1.74% per year	cap reduced by 2.2% per year
new entrants include significant capacity extensions	new entrants are only greenfield installations




The EPA logo is located at the bottom left of the slide. It features the letters 'epa' in a stylized, lowercase font, with a green leaf-like graphic above the 'e'. Below the logo, the text 'Environmental Protection Agency' and 'An tAonreasacht an tSaoithe' is visible.

Phase 4 changes under Directive 2018/410 and the FAR Regulation


Phase 3 (2013-2020)	Phase 4 (2021-2030)
allocation changes due to SCI/SCR* and partial cessation	allocation changes due to activity level changes

*Significant Capacity Increase/
Significant Capacity Reduction



The slide features a blue header with the title 'Phase 4 changes under Directive 2018/410 and the FAR Regulation'. Below the header is a table with two columns: 'Phase 3 (2013-2020)' and 'Phase 4 (2021-2030)'. The first column contains the text 'allocation changes due to SCI/SCR* and partial cessation', and the second column contains 'allocation changes due to activity level changes'. An arrow points from the text '*Significant Capacity Increase/ Significant Capacity Reduction' below the table to the 'SCI/SCR*' part of the first column. The EPA logo is located in the bottom left corner of the slide.


Phase 4 changes under Directive 2018/410 and the FAR Regulation	
Phase 3 (2013-2020)	Phase 4 (2021-2030)
175 sectors and subsectors	66 sectors and subsectors
CL status is determined by criteria for carbon cost and/or trade intensity	CL status is determined by trade intensity multiplied by the emission intensity
Transitional free allocation decreasing from 80% of calculated allocation to 30% in 2020	Transitional free allocation decreasing from 30% of calculated allocation to 0% after 2026 for sectors not exposed to CL



The EPA logo is located at the bottom left of the slide. It features a stylized green leaf icon to the left of the lowercase letters 'epa' in a bold, sans-serif font. Below 'epa' is the text 'Environmental Protection Agency' in a smaller font, followed by the German text 'An Umweltbundesamt am Deutschen Bundestag' in an even smaller font.

General provisions of the FAR regulation

- Definitions
 - incumbent installations
 - heat benchmark sub-installation to exclude district heating
 - district heating and district heating sub-installation
 - waste gas definition was added
 - significant capacity changes and related articles were removed

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‘incumbent installation’ means any installation carrying out one or more activities listed in Annex I to Directive 2003/87/EC or an activity included in the European Union Emissions Trading System (EU ETS) for the first time in accordance with Article 24 of that Directive, which obtained a greenhouse gas emission permit before or on:


- (a) 30 June 2019 for the period 2021-2025,
- (b) 30 June 2024 for the period 2026-2030;

‘district heating’ means the distribution of measurable heat for the purpose of heating or cooling of space or of production of domestic hot water, through a network, to buildings or sites not covered by EU ETS with the exception of measurable heat used for the production of products and related activities or the production of electricity;

‘waste gas’ means a gas containing incompletely oxidised carbon in a gaseous state under standard conditions which is a result of any of the processes listed in point (10), where ‘standard conditions’ means temperature of 273,15 K and pressure conditions of 101 325 Pa defining normal cubic metres (Nm³) according to Article 3(50) of Commission Regulation (EU) No 601/2012⁸;

General provisions of the FAR regulation

- **Definitions**
 - **start of normal operation**
 - means the first day of operations;
 - **allocation period**
 - means the five-year period starting from 1 January 2021 and each subsequent period of five years;
 - **baseline periods**
 - 2014-2018 [and 2019-2023 for next allocation period]
 - **mergers and splits**


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'merger' means a fusion of two or more installations already holding greenhouse gas permits provided that they are technically connected, operate on the same site and the resulting installation is covered by one greenhouse gas permit;


'split' means a division of an installation into two or more installations that are covered by separate greenhouse gas permits and are run by different operators.

Data reporting and monitoring rules

- Application for free allocation by operators of incumbent installations – 30 May 2019 [and again by 30 May 2024]

Must be accompanied by:


- a. baseline data report - verified as satisfactory
- b. monitoring methodology plan
- c. verification report assessing both the baseline data report and the MMP



The slide features a blue header bar with the title 'Data reporting and monitoring rules'. Below the header, a green square bullet point indicates the application deadline for free allocation. A sub-section titled 'Must be accompanied by:' lists three requirements: a verified baseline data report, a monitoring methodology plan, and a verification report. The slide concludes with the EPA logo and the text 'Environmental Protection Agency' and 'An t-Uachtaránas an t-Éireann'.

Data reporting and monitoring rules


- Application for free allocation by new entrants must be accompanied by:
 - a. new entrants data report - verified as satisfactory
 - b. monitoring methodology plan
 - c. verification report on the new entrants data report



The slide features a blue header bar with the title "Data reporting and monitoring rules". Below the header, a list item is preceded by a green square bullet point. The list item contains three sub-points labeled a, b, and c. In the bottom left corner, the EPA logo is displayed, consisting of a stylized green leaf icon above the lowercase letters "epa", with the full name "Environmental Protection Agency" and the German text "An Umweltbundesamt am Deutschen Bundestag" in smaller font below it. A large, faint, light blue graphic of a bird or wing is visible in the background of the slide content area.

Allocation rules

- The NIMs list will include **electricity generators**, and installations included or excluded pursuant to **Art. 24, 27, 27a**
- Historical Activity Level (HAL) for incumbent sub-installations is based on the **arithmetic mean** of the annual activity levels in the baseline period
- Calculation of the allocation in line with the current rules.
 - Change: from 2026, the preliminary allocation will be reduced by the annual *historical emissions stemming from waste gases flared, with the exception of safety flaring, and not used for the purpose of the production of measurable heat, non-measurable heat or electricity*




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NIMs- National Implementation Measures

Allocation rules

- HAL for new entrants will be the activity level of the **first calendar year** after the start of normal operation
- ★ Change: major simplification, no capacity is needed to calculate the HAL
- renunciation of free allocation of allowances
- mergers and splits: more data must be submitted compared to the current phase
- cessation of operations of an installation: simplified rules



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Historical Activity Level (HAL)

From the fourth phase onwards, operators may choose to renounce their free allocation (e.g. if they consider efforts for monitoring, reporting and verification of relevant data related to free allocation exceeding the benefit of receiving free allocation). Installations which do not provide the data requested by Article 11(1) of the Directive before 30 May 2019 or the deadline set by the Member State cannot be granted free allocation


Sources of Information

- FAR Regulation
- https://eur-lex.europa.eu/resource.html?uri=cellar:86d7e8c2-03a3-11e9-adde-01aa75ed71a1.0008.02/DOC_1&format=PDF
- https://eur-lex.europa.eu/resource.html?uri=cellar:86d7e8c2-03a3-11e9-adde-01aa75ed71a1.0008.02/DOC_2&format=PDF
- Commission Website
- https://ec.europa.eu/clima/policies/ets/revision_en
- Commission Guidance Documents (Under Documentation Phase IV section)
https://ec.europa.eu/clima/policies/ets/allowances_en



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Questions? Feedback?



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