

**Q&A from the EU ETS Phase III & CRC seminar held at the Carmelite Hotel,
Aberdeen on Wednesday 26th May 2010**

EU Emissions Trading System (EU ETS) Phase III – Q&A

1 - Currently the threshold for EU ETS stands at 20MW(th). Now there is a new category of < 35MW(th) emitting no more than 25000t/CO₂/annum does this mean installations meeting this qualification may opt out of EU ETS?

The revised EU ETS Directive gives Member States the option to opt out installations from Phase III if the installation falls between 20MW(th) – 35MW(th), emits no more than 25000tCO₂/annum (i.e. small emitters) and is covered by an equivalent measure.

2 - Would those thresholds apply to New Entrants?

The EU ETS team is working with the European Commission on this issue and the indications are that this will be the case, subject to regular monitoring and reporting to ensure they remain below the thresholds.

3 - There could be changes to the criteria for carbon leakage status if there is an International Agreement at Cancun, Mexico in 2011. What would happen were there no such agreement?

The Directive states that the list of those sectors deemed to be at risk of carbon leakage shall be reviewed every five years, therefore if there is no international climate agreement the list will next be reviewed in 2014. The European Commission may at its own initiative or at the request of a Member State add sectors each year if it is shown to meet the criteria set out in the Directive.

4 - There will be no free allocation for electricity generation from Phase III and work is continuing to identify generators to calculate the size of the auction pot. Is that size known and does that mean offshore on-site electricity generation will be taken into consideration when determining the size of the auction pot?

The size of the auctioning pot will be determined by the emissions from those installations who meet the definition of an electricity generator as well as certain criteria set out by the European Commission. These additional criteria mean that it is unlikely that offshore installations will be defined as electricity generators. It should be noted that an installation being defined as an electricity generator will not affect its eligibility for free allocation.

Derek Pullem – CNR

5 - There is some Waste Heat Recovery (WHR) offshore. Could you get credit for that? How would that be calculated?

The heat generated would need to be measurable (e.g. steam) and the measurements verifiable. The heat benchmark would then be applied to the data.

Muhunthan Sathiamoorthy BP comment – This would vary from site to site dependant on metering provisions of the WHR.

Derek Saward Comment – Some operators have included WHR in their returns and some have not. DECC OED will contact operators who have said they have WHR to take this forward.

David Odling OG UK – Benchmarking

6 - Is the figure of 56.1 CO₂/TJ confirmed as this is crucial and would it be affected by carbon leakage?

This is the level the European Commission are currently considering. The final figure will be subject to agreement through the comitology process used to agree the benchmarks. The benchmarks are expected to be agreed by February 2011. Carbon leakage exposure or not will not lead to an adjustment of the level of free allocation to an installation.

7 - How have operators separated electricity from non-electricity generation and is it verifiable?

Muhunthan Sathiamoorthy BP – BP have used back calculations of running hours versus load and manufacturers' efficiency. They then used a sense check against fuel invoice data.

Michelle Kennard DECC comment – DECC understand the data constraints so if operators come up with sensible approaches which can be verified that should be acceptable. The process to be followed where the verifier is considering giving a 'not verified' opinion is:

1. The verifier warns the operator of the prospect of a not verified opinion and the reasons ASAP.
2. The operator advises the regulator ASAP and justifies the position/recommends solutions.
3. The Regulator should seek to accommodate the request, if reasonable, and advise the verifier via the operator that he is prepared to allow the methodology, subject to this allowing more positive verifier opinion and note of the arrangement as a verifier comment.

Muhunthan Sathiamoorthy BP

8 - Can a verifier give approval as there is no set method?

This is covered in the verification guidance (Guidance Note 4)¹.

¹ http://www.environment-agency.gov.uk/static/documents/Business/Guidance_Note_4_-_Guidance_on_baseline_data_verification_Phase_III.pdf

Derek Saward DECC – Waste Heat recovery

9 - If the operator has equipment for heat/steam generation is it correct they cannot default straight to the fuel mix option?

Yes they must follow the allocation hierarchy set out in the Guidance Note accompanying the ETS300². If heat can be measured it must be considered first.

Roy Deddiss Fairfield/PI

10 - If there is no historic data how can waste heat recovery data be compiled?

The best available data should be used and if that is not available, the best estimate. Either way the requirement would be to reassure the verifier that what had been done was well founded.

11 - Would the free allocation for electricity produced from waste gases provisions apply to the upstream oil and gas sector?

No. It is limited to the Iron and Steel sector and the production of carbon black.

12 - Incineration of Waste Gases – does that qualify under the Waste Gas Provisions?

There is guidance on this issue in Guidance Note 3³. The decision on whether incinerators on offshore installations are included in Phase III is dependent on what the primary purpose of that installation/unit combusting the hazardous gas is e.g. is it there for the purpose of incinerating hazardous gas or as part of another process at the installation.

Andy Wright Talisman

13 - Should sour gas flare be included?

Yes any flaring should be included.

Total E&P

14 - Why is there no allocation for flaring for safety reasons? Which part of the Directive stipulates this? Did OGP raise the issue of flaring at the stakeholder meeting?

A final decision has still to be taken on the free allocation of allowances for flaring. As the revised Directive does not explicitly say there should be free allocation for flaring this gives discretion to the European Commission over what allocation rules they propose for flaring. The European Commission do not want to encourage flaring, even on safety grounds, because some Member States flare a lot of gas.

² [http://www.environment-agency.gov.uk/static/documents/Business/Notification identifying production and other relevant data.pdf](http://www.environment-agency.gov.uk/static/documents/Business/Notification_identifying_production_and_other_relevant_data.pdf)

³ [http://www.environment-agency.gov.uk/static/documents/Business/EU ETS Guidance note 3-Phase III.pdf](http://www.environment-agency.gov.uk/static/documents/Business/EU_ETG_Guidance_note_3-Phase_III.pdf)

This point will be covered by the allocation rules. DECC is aware that, if adopted, this provision could result in an all electric installation having virtually no free allowances.

15 - Directed to Industry – Have all operators included flaring?

Yes.

Derek Saward comment. Operators should therefore leave flaring in the data returns and get it verified with a view to a final decision later.

16 - Will all sectors be treated equally in relation to flaring?

Yes.

17 - Who would set the rules for the verification process for Phase III data for the offshore sector?

As stated above, the basic approach is set out in Guidance Note 4. DECC recognises that, as far as the offshore sector is concerned (although this is also the case for other sectors too) some of the data represents a new requirement so it will adopt a pragmatic approach.

Robin Gilliver BHP

18 - Do verifiers need to undertake an Offshore Site Visit as part of the verification process for Phase III data?

The same approach for visits by verifiers during Annual Emissions Reporting verification will be used.

19 - Can DECC OED accept a ‘Verified with Comments’ opinion statement for Phase III Verification?

Yes. A pragmatic approach should be adopted and a dialogue opened up with the operator and the regulator to avoid a ‘Not verified’ opinion statement. (See Q7 above).

20 - How will installation allowances be calculated? Will the best of the four years be taken?

The rules determining which baseline years will be used will be agreed through the EU comitology process. The UK supports using an average of all four years (2005-2008). If there is no data, an alternative methodology could be used subject to the free allocation rules that are eventually adopted. 2009 is an exceptional year due to the recession and the UK has made a case that this year should not be included in the baseline period.

21 - What if there was a significant shut down? How would that affect the average?

There is a comments section where you can note the shut down if it makes a significant difference.

22 - How are increases in capacity addressed for New Entrant purposes?

An increase in installed capacity is a new combustion unit e.g. a new gas turbine, and will qualify for the New Entrant Reserve. It is not an increase in the use of existing capacity.

23 - Should mothballed kit be included in a permit?

If the kit is completely isolated and unable to be turned on then it should not be listed on the permit. If the kit however can be switched on and used at anytime then it should be included on the permit.

Juliana Kerr CNR

24 - How will temporary equipment be treated within Phase III?

As per Phase II. Operators need to notify OED of the type of equipment, how long it will be used for, when it will be removed and if OED agrees it is temporary then it will not need to be included within the permit.

25 - Can Allowances be carried over from Phase II to Phase III?

Yes and they can be used at anytime. Operators will have to notify the EA registry of their intention to carry over allowances. Guidance for doing this will be notified to all operators in due course and before the end of Phase II. It is likely that any allowances would have to be carried over within the first 4 months of Phase III.

Derek Saward DECC

26 - Is there any truth that mobile units over 20MW(th) will be included within Phase III?

No, as they're not a permanent stationary installation.

Ray Hall BP

27 – When will the floor price for carbon be introduced?

As announced in the Budget, HMT and HMRC will publish proposals in the autumn to reform the climate change levy to provide more certainty and support to the carbon price. Subject to consultation, the Government will bring forward relevant legislation in the Finance Bill 2011.

28 - Should there be full auctioning for Phase III?

The Coalition's programme includes the commitment to persuade the EU to move towards **full auctioning of permits under the EU ETS**. A significant increase in auctioning levels will ensure that the cost of carbon is better integrated into business decisions and will reduce windfall profits from free allocation.

Carbon Reduction Commitment Energy Efficiency Scheme (CRC) – Q&A

David Keating GDF

1 - If there are a number of UK subsidiaries owned out with the UK are all the subsidiaries classed as one entity?

Yes – the default position is that all the undertakings are grouped with the overseas parent for qualification purposes. Therefore one of the UK subsidiaries must be chosen to lead – called the primary member – and with whom the Environment Agency will address any correspondence relating to the group's participation.

The group may disaggregate any undertakings designated as Significant Group Undertakings (SGUs) if they so wish.

2 – What approach should be adopted for Joint Ventures (JVs)?

JVs should be considered on a case-by-case basis with a view to determining whether they are stand-alone or part of a higher 'parent' structure. Where there is no parent relationship as detailed in the Companies Act tests, then the JV should assess CRC qualification in its own right. (The first test for a JV would be whether it had any settled Half Hourly Meters (HHMs) and the second whether it consumed >6000MWh of HH metered electricity in 2008).

David Keating GDF

3 – There are lots of JVs in the North Sea, no one operator has full decision making power due to the Joint Operator Agreement (JOA) eg a > 50% share would not necessarily mean dominant influence. Therefore who is responsible? Equity isn't the main test, it is the voting rights, and offshore unanimity is needed so there is no overall controlling interest.

It would need to be decided whether any company had a dominant influence under the Companies Act tests. If no dominant influence is exerted over the JV it should assess qualification as an entity in its own right.

Derek Saward DECC

4 - If a solicitor does not think that a JV is to be included in CRC and does not register it, how will anyone know if it should be registered or not?

Companies are legally required to register where they qualify and if they do not enforcement action may be taken. The EA will undertake audits on structures that are registered, and those that do not appear to have registered.

Muhunthan Sathiamoorthy BP

5 - If the JV was unincorporated there would be no company number. How would such a JV be registered under CRC given the system does not allow registration without it?

Not having a company registration number will not prevent the UK parent company from registering a JV as an SGU.

When the parent company selects 'Add a SGU', it should then select 'Unincorporated association' from the drop-down list 'type of organisation'. This does not require a company registration number.

The Registry then prompts you to enter the name of the organisation and its postcode - the system will search for the address (if the correct address is not displayed, you can enter the address manually). The next steps are to select the UK country where the entity is located, and the total of qualifying electricity supplies.

Andy Wright Talisman

6 - In 2008, qualification year, what happens if assets were sold?

The group is responsible for the qualifying supplies to that asset for the period that it owned the asset in 2008.

Further information is available via Environment Agency guidance –
<http://publications.environment-agency.gov.uk/pdf/GEHO0410BSGK-e-e.pdf>

7 - If a Duty Holder is the Contract Holder but not the Owner of an installation who is responsible for registering the installation?

The party responsible for the energy supplies under the CRC's supply criteria is responsible for registering as a participant where it so qualifies.

8 - Legal Entity and Assets, can Assets be stand alone?

The CRC is focused at the organisation level rather than site level. It is the corporate structure that is important. The groups within a corporation should be reviewed and registration would either be at the corporate or group level as appropriate. Individual assets would be the responsibility of the controlling corporation or group .

Robin Gilliver BHP

9 - What has to be done by the end of June?

The registration window is open between April and end of September.

Those organisations wishing to disaggregate SGUs must register and indicate their intent to disaggregate **by the end of July (Environment Agency extension)**.

10 – Does CRC have capacity for review?

Yes. All aspects of CRC will be reviewed over the next three years based especially on savings resulting from energy efficiency.

Website Links:

<https://www.oq.decc.gov.uk/>

[http://www.decc.gov.uk/en/content/cms/what we do/change energy/tackling clima/emissions/eu ets/phase iii/phase iii.aspx](http://www.decc.gov.uk/en/content/cms/what_we_do/change_energy/tackling_clima/emissions/eu_ets/phase_iii/phase_iii.aspx)

[http://www.decc.gov.uk/en/content/cms/what we do/lc uk/crc/crc.aspx](http://www.decc.gov.uk/en/content/cms/what_we_do/lc_uk/crc/crc.aspx)

<http://www.environment-agency.gov.uk/crc>