



Department
of Energy &
Climate Change

Climate Change Agreements: Target Unit (TU) data publication discussion paper and opportunity to comment.

Government Response

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Executive Summary

1. This document is the Government response to the “*Climate Change Agreements: Target Unit (TU) data publication discussion paper and opportunity to comment*” (the “discussion paper”) which was open from 21 February 2013 to 08 March 2013.
2. The discussion paper set out the Government’s view that publishing the five pieces of data set out below would be the best way to achieve its objective of maximising transparency in the new Climate Change Agreements Scheme (“CCA Scheme”), without being to the detriment of CCA participants. This was set out against the background of the requirements of the Climate Change Agreements (Administration) Regulations 2012 (“the Regulations”) and it was noted that the Environment Agency had no discretion to exempt publication of information on emissions into the environment.
3. The five data sets as set out in the discussion paper were:
 - a) TU¹ target for the reporting period, expressed as a percentage improvement in energy efficiency (for example the percentage by which a target Specific Energy Consumption² (“SEC”) is lower than the SEC achieved in the baseline year).
 - b) A statement of whether a TU has met its target, or has purchased a buy-out.
 - c) Each TU’s performance against its target, expressed as a percentage improvement in energy efficiency i.e. actual performance (for example the percentage by which the actual SEC achieved in the target period was lower than the SEC achieved in the baseline year).
 - d) Each TU’s actual emissions expressed in tonnes CO₂ equivalent (CO₂e) over the reporting period. This is the data as it will be recorded in the IT Register³ held by the Environment Agency.
 - e) Emissions reductions achieved against the baseline year by each TU, expressed in tonnes CO₂e.
4. 21 responses to this consultation were received. Whilst 20 respondents raised concerns about the publication of at least one of the data sets, there was support among this group for some of the data sets to be published. One respondent supported the entire approach.
5. We have considered the evidence and arguments presented, particularly that datasets 1, 3, and 5 may potentially allow commercially sensitive data to be inferred. We have noted the support for publishing information in data set 2, while also noting the concerns about publishing information on use of buy-out.

¹ See Glossary

² See Glossary

³ See Glossary

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6. In the light of these findings, we have decided not to proceed with publication of data set 1 as we accept there are some legitimate concerns that commercially sensitive data could be inferred. We have also decided not to proceed with publication of data sets 3 and 5 as, in combination with 4, this would potentially allow commercially sensitive data to be inferred in some circumstances.
7. We confirm that data set 4 (each TU's actual emissions) and data set 2 (a statement of whether a TU has met its targets, or has purchased a buyout) will be published alongside sector level information stating how the absolute energy consumption and CO₂e emissions for the sector have improved compared with the equivalent base year position for each target period ("TP") and details of whether the sector commitment has been met. This is in line with the Government's transparency agenda and ensures that the data specifically required to be published by the Regulations is published. Publishing emissions data, expressed in tonnes CO₂e is consistent with other industrial energy efficiency schemes.
8. The Environment Agency will prepare and publish guidance in December 2014 on data reporting for CCA participants for data publication in 2015.

Introduction

9. CCAs are voluntary agreements that allow eligible energy intensive sectors to receive a reduction in the Climate Change Levy (the “CCL”) of 90% for electricity and 65% for gas and other fuels if they sign up to stretching energy efficiency targets agreed with Government. A total of 53 industrial sectors across around 9,000 sites have signed up to targets. Targets apply to participating sectors from 2013 to 2020, with the scheme running until 2023.
10. A simplified CCA Scheme was introduced in 2013. The Regulations for this scheme, which came into force on 1 October 2012, require the Environment Agency, as CCA Scheme Administrator, to publish a report setting out TU emissions reductions for each biennial reporting period and details of whether the sector commitment has been achieved.
11. Regulation 9(3) requires that the administrator publish a report setting out energy efficiency improvements and emissions reductions achieved under agreements for the target period, which must specifically include –
 - a) for each sector association, details of whether the sector commitment has been met; and
 - b) for each TU, details of emissions⁴ recorded in the Register and details of whether the target has been met.
12. The Government’s aims for data publication for the new CCA Scheme are underpinned by DECC’s commitment to increase transparency of information about the take-up of cost-effective energy efficiency measures and to reduce administration costs for both industry and Government, compared to releasing data in response to individual queries.
13. Government previously consulted on data publication regulations in the following publications:
 - *Consultation on the simplification of the Climate Change Agreements Scheme* (September 2011).
 - *Climate Change Regulations 2012 and the Scheme Administration Charge: opportunity to comment* (January 2012).

⁴ The emissions referred to relate solely to emissions reported under the CCA scheme. Emissions covered by the CRC Energy Efficiency Scheme and the EU ETS are published elsewhere.

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- *Climate Change Agreements: delivering simplification in the new Scheme* (March 2012).

Purpose and scope of the discussion paper

24. The Government published “*Climate Change Agreements: Target Unit (TU) data publication discussion paper and opportunity to comment*” in February 2013, with the aim of increasing transparency and exploring the risks of going beyond the minimum requirements of the regulations, but without being to the detriment of CCA participants i.e. risks of revealing commercially sensitive information.
25. The discussion paper set out the Government’s view that publishing the five pieces of data below would be the best way to achieve its objective of maximising transparency in the new CCA Scheme, without being to the detriment of CCA participants, and welcomed evidence from CCA participants and other stakeholders on this point. This was set out against the background of the relevant regulatory requirements. It was also noted that the Administrator has discretion not to publish data only to the extent that the information is not information on emissions into the environment.
26. The five data sets as set out in the discussion paper were:
- 1) TU target for the reporting period, expressed as a percentage improvement in energy efficiency (for example the percentage by which a target SEC is lower than the SEC achieved in the baseline year).
 - 2) A statement of whether a TU has met its target, or has purchased a buy-out.
 - 3) Each TU’s performance against its target, expressed as a percentage improvement in energy efficiency i.e. actual performance (for example the percentage by which the actual SEC achieved in the target period was lower than the SEC achieved in the baseline year).
 - 4) Each TU’s actual emissions expressed in tonnes CO₂e over the reporting period. This is the data as it will be recorded in the IT Register.
 - 5) Emissions reductions achieved against the baseline year by each TU, expressed in tonnes CO₂ e.

Summary of responses

27. We received 21 responses to this consultation from organisations outlined in Annex A.

28. Details of the responses on the individual data sets are provided below.

29. **Data set 1** - *TU target for the reporting period, expressed as a percentage improvement in energy efficiency (for example the percentage by which a target SEC is lower than the SEC achieved in the baseline year).*

Publication was supported by 10 of the 21 respondents. However, 9 respondents raised concerns including that publication of the TU target could affect the working relationship between the Sector Association and its participants, dissuading sectors from using “bottom up” targets i.e. where targets are distributed across TUs taking account of their specific circumstances rather than being applied “top down” where all TUs accept the sector level target. They argued that this could also reveal how production has been affected since the baseline year as all targets are calculated the same way. They emphasised that this data set was not one of the pieces of information specified to be published under Regulation 9(3) (a) or (b).

30. **Data set 2** - *A statement of whether a TU has met its target, or has purchased a buy-out.*

19 of the respondents supported the publication of data set 2 with 1 opposed. However, 9 respondents requested that the buy-out information should not be included as it could indicate whether investments had been made to meet the targets and information giving a view on investments could be useful to competitors.

31. **Data set 3** - *Each TU's performance against its target, expressed as a percentage improvement in energy efficiency i.e. actual performance (for example the percentage by which the actual SEC achieved in the target period was lower than the SEC achieved in the baseline year).*

15 of the respondents requested that data set 3 should not be published whilst 2 agreed that it should be. Respondents argued there was a possibility that competitors could estimate through-put when this data is combined with information from the EU ETS registry and could give the impression of a negative improvement for a TU whose target profile over the 4 reporting periods of the scheme is non-linear⁵. Again, respondents noted that this

⁵ See Glossary

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data was not one of the specific pieces of information required to be published under the Regulation 9(3) (a) or (b).

32. Data set 4 - Each TU's actual emissions expressed in tonnes CO₂e over the reporting period. This is the data as it will be recorded in the IT Register.

12 respondents requested that data set 4 should not be published while 5 supported publication. Respondents who requested the data should not be published argued that in some situations, by applying the grid electricity greenhouse gas conversion factor used for the CCA Scheme, electricity consumption could be calculated. This in turn could, in some circumstances, allow information about costs of production to be inferred. This could be done, for example, for single site TUs where the fuel use on site is covered by EU ETS leaving only emissions from the use of electricity covered by the CCA Scheme, or at a single TU site where it was publically known that only grid electricity was used.

33. Data set 5 - Emissions reductions achieved against the baseline year by each TU, expressed in tonnes CO₂ e.

17 respondents requested that data set 5 should not be published, and 2 respondents supported publication. Respondents who requested that this data set should not be published argued that it may be possible for baseline emissions to be inferred and from that the level of energy efficiency investments made. This may also reveal company performance over time.

Analysis of responses

34. In respect of data set 1, the Government has concluded, based on the evidence and arguments provided, that there is some legitimate concern commercially sensitive data could be inferred.

35. We note that 19 respondents supported publication of data set 2. 9 respondents raised concerns that in some circumstances indicating whether buy-out was used could allow inferences to be made about the extent and timing of investments in energy efficiency. However, this data relates to whether or not a TU has met its energy efficiency performance target as purchasing buy-out is not a means of meeting the target, but of staying compliant with the scheme. The purpose of publishing this data set is to act as a reputational driver for improving energy efficiency. Publication of this data is also in line with the Government's agenda for increasing transparency and will ensure that the data specifically required to be published in the Regulations is published.

36. In considering publication of the remaining data sets, we have concluded from the evidence submitted that any combination of data sets 3 and 5 do potentially allow for the inference of

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commercially sensitive data. Data sets 1, 3 and 5 are also not specifically required to be published by the Regulations.

37. Data sets 2 and 4 are required to be published by the Regulations. It may be possible, in some instances, for the publication of dataset 4 to allow inferences to be made about electricity use for those TUs for which there is a basis for estimating fuel split. In such instances it may be possible to derive an estimate of costs of electricity uses, and consequently a part of the cost of production for these TUs. However, we estimate the number of sites where commercially sensitive data could potentially be deduced to be relatively low and the benefits of publishing outweigh the risks and, as we stated in the consultation in 2011, the Environmental Information Regulations 2004 require the disclosure of information relating to emissions in response to a request regardless of whether it is commercially confidential or not. This is explained further below in paragraph 41.

Conclusions

38. In the light of these findings, we have decided not to proceed with publication of data set 1 as we accept there are some legitimate concerns that commercially sensitive data could be inferred. We have also decided not to proceed with publication of data sets 3 and 5 as, in combination with 4, these data sets could allow for the inference of commercially sensitive data in some circumstances.
39. We confirm that data set 4 and data set 2 will be published, including information on whether a buy-out was used. This will ensure that the data specifically required to be published by the Regulations is published. As set out in the discussion paper, publishing emissions data, expressed in tonnes CO₂e is consistent with other schemes. This data is published in both the CRC Energy Efficiency Scheme (CRC) and EU ETS.
40. The Government believes there are also additional benefits to be gained from the publication of these data sets. Specifically, in the context of improving energy efficiency, the publication of data sets 2 and 4 will, in turn, support the Government's aim to increase transparency of information about the take-up of cost-effective energy efficiency measures by those with CCAs and about their energy efficiency performance. This should act as a reputational driver for energy efficiency and provide information on the impact of the scheme, which provides significant discounts from the Climate Change Levy.
41. More broadly, Government believes that the release of emissions data will have lower administrative overheads than responding to individual requests for such information. This should help to promote trust between public bodies, stakeholders and the wider public. For this reason provisions allowing certain information not to be published were included in the Regulations to ensure the same outcome as would occur if a request for the same information were made under EIR. This means that while there is a discretion to withhold publication of information in certain cases the Regulations do not give any discretion to exempt publication of information on emissions regardless of whether it is commercially confidential or not. Data sets 2 and 4 concern emissions and publication is therefore required under the Regulations.
42. To ensure the obligation to publish certain data under the Regulations is met, data sets 2 and 4 will be published alongside sector level information stating how the absolute energy consumption and CO₂e emissions for the sector have improved compared with the equivalent base year position for each target period ("TP") and details of whether the sector commitment has been met.

Next Steps

43. The Environment Agency will be publishing guidance on data publication in December 2014 to enable CCA participants to meet the reporting schedule for the TP in 2015.

Annex A List of Respondents

Agricultural Industries Confederation

British Calcium Carbonate Federation

British Ceramic Confederation

British Glass Manufacturers' Confederation

British Poultry Council

Confederation of Paper Industries

EURISOL

Food and Drink Federation

Food Storage and Distribution Federation

Ibstock Brick Ltd

Manufacturers' Climate Change Group (MCCG)

Mineral Products Association

Metal Packaging Manufacturers Association

Non-Ferrous Alliance

SKM Enviros

Surface Engineering Association

The Society of Motor Manufacturers and Traders Limited

The Spirits Energy Efficiency Company

TARGET 2010

Tata Steel

Wood Panel Industries Federation

Glossary

Buy-out

Buy-out is a fee a target unit may be required to pay to retain certification in the CCA scheme. This will be payable at the end of a target period where the target unit has failed to meet the target stated in its underlying agreement or to rectify an error identified at any other time in the reporting period.

Non-Linear Target

A sector target that is not equally distributed across the four CCA target periods. The target profile consists of varying target unit amounts; the sum total is the sector commitment.

Register

Online system set up by the Environment Agency as Administrator to carry out the administration of climate change agreements.

Sector

The collection of facilities satisfying the definition of eligibility set out in that sector association's umbrella agreement.

Sector commitment

The commitment agreed between DECC and the sector association as set out in Schedule 5 of an umbrella agreement is a commitment to meet agreed sector-level energy efficiency targets by 2020.

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Specific energy consumption (SEC) The amount of energy consumed per unit of activity.

Target unit A Target Unit is an industrial facility or group of facilities that join together for the purposes of CCA target setting and reporting, signing an underlying agreement to become eligible.

Throughput The measure of production (or a factor related to production) that has been selected and agreed with the Administrator, and is used in determining the relationship between the amount of energy used by the target unit and the facility's levels of activity.

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