



Department
of Energy &
Climate Change



The Scottish
Government



Llywodraeth Cymru
Welsh Government



DOE

Department of
the Environment
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Proposed Amendments to the Greenhouse Gas Emissions Trading Scheme Regulations 2012

Government response to consultation

9 November 2015

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General information

Purpose of this consultation:

This consultation sought views on proposed changes to the implementation of the EU Emissions Trading System (EU ETS) in the UK. These changes are intended to:

- introduce rules for the allocation of free allowances to installations in the UK's small emitters and hospital opt-out scheme that must return to the full EU ETS because they have reached the upper emissions threshold for the opt out scheme; and
- clarify the existing rules on the start date of a permanent cessation of regulated activities by an operator in the EU ETS in the circumstances where a temporary cessation becomes permanent.

About the consultation

This document is the Government response to the public consultation on [Proposed Amendments to the Greenhouse Gas Emissions Trading Scheme Regulations 2012](#). On 17 July 2015 we published the consultation document containing the details of our proposals. Alongside we published a number of supporting documents for information¹.

- The draft consolidated Greenhouse Gas Emissions Trading Scheme Regulations 2012
- The draft Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2015

The consultation sought views from across the UK and on all aspects of our proposals. The consultation closed on 28 August 2015. In total we received 3 responses from a variety of organisations.

We would like to thank all those who responded.

Format of this response

We have carefully considered all the views expressed and have reviewed the policy accordingly. This document sets out the Government's position on the key issues highlighted through the consultation process.

Next steps

Taking these responses into account, we have not revised the Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2015, and these were laid before the Houses of Parliament in early November 2015.

¹ <https://www.gov.uk/government/consultations/eu-ets-consultation-on-amendments-to-greenhouse-gas-regulations-2012>

Contact details

If you have any questions regarding this response please contact:

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Territorial extent:

Policy responsibility for the EU ETS sits with DECC in England, and the Northern Ireland Executive, the Scottish Government and the Welsh Government in their respective countries. References to the Government in this consultation document should be read in that context. The proposed Regulations that are the subject of this consultation will apply throughout the UK.

The EU ETS regulators across the UK are:

- England: the Environment Agency (EA)
- Scotland: the Scottish Environment Protection Agency (SEPA)
- Wales: Natural Resources Wales (NRW)
- Northern Ireland: the Chief Inspector² for Northern Ireland
- Offshore industry: DECC

² “Chief inspector” means the chief inspector constituted under regulation 8(3) of the Pollution Prevention and Control Regulations (Northern Ireland) 2003

Summary of responses and Government responses to these Consultation questions

Consultation Questions	
1.	Do the proposed provisions allow those operators that must move from the opt-out scheme to the full EU ETS to be treated fairly and in a manner consistent with incumbent operators in the full EU ETS?
2.	Do you consider that these proposed penalties and the appeals process are appropriate, proportionate and fair?
3.	Do you agree that proposed paragraph 7 sub-paragraph 4(A) of Schedule 6 clarifies any ambiguity around the start date of permanent cessation of regulated activity where it follows a temporary cessation?

Overall, respondents supported the proposed approach to allow operators to move from the opt-out scheme to the full EU ETS. Respondents felt that, with these proposed amendments, operators would be treated fairly, and in a manner consistent with incumbent operators in the full EU ETS. Respondents also agreed that the proposed penalties and appeals processes were proportionate and fair. However, they were highlighted that civil penalties should be used as a last resort and given the sites in question would likely be proportionately smaller emitters (under 50kT/CO₂), enforcement approaches should be scalable. Finally all responses agreed that the ambiguity in paragraph 7 sub-paragraph 4(A) of Schedule 6 will be clarified with the proposed amendment. One respondent asked for a subsequent clarification of the Small Emitter Opt-out Guidance reflecting the changes to the regulations in order to ease compliance for all operators.

We welcome the support for our proposals and as a consequence do not intend to make any further proposals to amend the draft Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2015 regarding this matter. We also welcome the suggestion and request to amend the Small Emitter Opt-out Guidance to reflect the proposed changes and have amended the guidance accordingly. We will publish the updated guidance when laying the amended regulations.

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