Department of Energy & Climate Change

Climate Change Agreements: Statutory Guidance

Version 1.0

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Climate Change Agreements: Statutory Guidance

Contents

Purpose

1. This guidance is given to the Environment Agency as administrator of the climate change agreements scheme (the "Administrator"), appointed under regulation 3 of the Climate Change Agreements (Administration) Regulations 2012 (as amended by the Climate Change Agreements (Administration) (Miscellaneous Amendments) Regulations 2013) (the "Administration Regulations") for the purposes of paragraph 52A(1) of Schedule 6 to the Finance Act 2000.
2. This document is guidance to the Administrator on how it is to carry out its administrative functions, in accordance with the powers of the Secretary of State conferred by paragraph 52D(6) of Schedule 6 to the Finance Act 2000.
3. The climate change agreements scheme is a voluntary scheme, under which eligible energy-intensive industrial facilities may qualify for a reduction in the climate change levy, in return for meeting energy efficiency or carbon saving targets.
4. In order to deliver the climate change agreements scheme, the Environment Agency, as the UK-wide Administrator, must carry out the functions set out in the Administration Regulations.

Scheme Eligibility

5. As set out in regulation 10(2) of the Administration Regulations, the Administrator may only enter into an underlying agreement after it has taken reasonable steps to satisfy itself:

   i) of the identity of the operator;

   ii) that the facility to which the agreement applies is a facility within the meaning of paragraph 50 of schedule 6 to the Finance Act 2000; and

   iii) that the activities undertaken by the facility fall within the umbrella agreement, if any.

6. As set out in Regulation 3(1)(a) of the Climate Change Agreements (Eligible Facilities) Regulations 2012 (as amended by the Climate Change Agreements (Eligible Facilities) (Miscellaneous Amendments) Regulations 2013) (the "Eligible Facilities Regulations"), an installation or site is to be taken to be a facility which is eligible to be covered by an agreement only if at least 70% of the reckonable energy supplied to the installation or to the site is intended to be used in the installation, installations or parts of installations on the site.
7. As set out in Regulation 3(2) of the Eligible Facilities Regulations, except i) until 31st May 2013 if the facility has insufficient data, or ii) in relation to a greenfield site until the later of 31st May 2014 or the day which is one year following the date of an underlying agreement, for the purposes of demonstrating intended supply or use of reckonable energy to the installation, installations or parts of installations on the site in the following 12 month period, supply or use of reckonable energy during the previous 12 month period must be used. The Administrator should apply the following principles in assessing supply or use of reckonable energy in the previous 12 month period:

i) If the operator makes a reasonable estimation that at least 70% of the reckonable energy supplied to the site is used in the installation, installations or parts of installations on the site, then no permanent sub-metering of the facility is required. The only fixed meters required are the main site meters.

ii) If the operator makes a reasonable estimation that less than 70% of the reckonable energy supplied to the site is used in the installation, installation or parts of installation on the site, then permanent sub-metering of the installation is required. In practice, regulation 3(1)(a) allows for additional activities consuming no more than 3/7th of the reckonable energy consumed by the installation, installations, or parts of installations on the site to be included within the facility in addition to the reckonable energy consumed by the installation. If an operator does wish to include additional activities consuming no more than $3/7^{th}$ of the reckonable energy consumed by the installation, installations or parts of installations on the site in the facility, those additional activities should also be permanently sub-metered.

8. Except in exceptional circumstances, the Administrator should apply the following rules in determining the sector association to which a facility should belong:

i) Facilities which carry out activities which fall under a number of different umbrella agreements should join the sector association which covers the activities for which the highest percentage of the facility's energy use is used.

ii) If the Administrator finds that the activities undertaken by a facility do not fall within the umbrella agreement of the sector association of which the facility is a member, but the facility does carry out activities which fall within the umbrella agreement of another sector association, then the Administrator should invite the facility to undertake a voluntary termination (with the assistance of the current sector association) and re-join as a new entrant in the correct sector association. In setting the target for the target unit, the Administrator should apply the sector commitment of the new, correct sector.

iii) Except in the circumstances set out in sub-paragraph (ii) above, facilities should remain in the sector through which they joined the scheme and through which they have been issued an underlying agreement.

New Entrants

9. In setting a target for a target unit the Administrator should apply the relevant sector or sub-sector commitment, where this applies, as a target for a target unit where –

i) the facility joining is entirely new to the scheme;

ii) the facility is re-joining the scheme and there has been a change in operator;

iii) the facility is re-joining the scheme following a termination of the underlying agreement by the Administrator; or

iv) a facility which was formerly covered by the umbrella agreement of a different sector association is moved into a new sector association.

10. In all other circumstances the Administrator should vary the target of the target unit in accordance with the technical annex to the underlying agreement.

11. Where a facility re-joins the scheme having previously left voluntarily and there has been no change in operator, the Administrator should set the target unit a percentage improvement target that is the greater of the original target unit target or the relevant sector or sub-sector commitment.

12. In respect of new entrants that have 2008 as a base year, the Administrator should set the target for the target unit in accordance with the sector commitment agreed for the sector association in relation to each target period. For example, if a sector association has a sector commitment of 3% by 2014, 7% by 2016, 11% by 2018 and 15% by 2020, if a target unit joins the scheme in 2017 with a 2008 baseline, the target unit would still be required to achieve a target of 11% by 2018 and 15% by 2020.

13. In respect of new entrants that do not have 2008 as a base year, the administrator should agree an alternative base year with the new entrant. This alternative base year should be the next 12 month period closest to, but after, 2008 for which data are available. The Administrator should then set the new entrant target improvements for each future target period, in accordance with the sector commitments agreed with the sector association. The Administrator will have to take into account the reduced time between the later base year and each future target period. For example, if the new entrant's baseline was 2015, the Administrator should assume that the savings required from 2008 had been achieved. The Administrator will then need to calculate the remaining targets by linear interpolation based on this position.

14. The 2016 review will provide an opportunity for sector commitments to be adjusted. Should the sector commitment change, the target unit targets will be revised accordingly.

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