
STATUTORY INSTRUMENTS

2010 No. 1996

**The Aviation Greenhouse Gas Emissions
Trading Scheme Regulations 2010**

PART 2

Application for a free allocation

Application of this Part

8.—(1) This Part sets out the requirements that must be satisfied by a UK operator who wishes to apply for allowances to be issued to it under Article 3e of the EU ETS Directive in a relevant trading period.

(2) For that purpose, “relevant trading period” means any trading period other than—

- (a) 2012; or
- (b) 2013 to 2020.

Application for a benchmarking plan

9.—(1) The UK operator must apply to the regulator for a benchmarking plan by 31st December in the calendar year preceding the benchmarking year.

(2) That application must contain—

- (a) the name, telephone number and—
 - (i) the postal address (including postcode) in the United Kingdom for service; or
 - (ii) the address for service using electronic communication,of the UK operator;
- (b) a proposed plan to monitor tonne-kilometre data from its aviation activity in accordance with the Monitoring and Reporting Decision; and
- (c) a fee in accordance with Schedule 1.

Issue of a benchmarking plan

10.—(1) Where a UK operator has made an application under regulation 9 the regulator must, by notice given to the UK operator—

- (a) issue to the UK operator a plan setting how it must monitor tonne-kilometre data (“a benchmarking plan”); or
- (b) refuse to issue a benchmarking plan where it is not satisfied that the proposed plan to monitor tonne-kilometre data complies with the Monitoring and Reporting Decision or the EU ETS Directive.

(2) A notice under paragraph (1) must be served as soon as is reasonably practicable and in any event within 4 months of the date of the application under regulation 9.

(3) Where the regulator by notice refuses to issue a benchmarking plan under paragraph (1)(b) it must state in that notice what changes must be made to the application under regulation 9.

(4) Where the regulator fails to give notice in accordance with paragraph (2) the application is deemed to be refused.

Monitoring tonne-kilometre data

11. The UK operator must monitor tonne-kilometre data from its aviation activity carried out in the benchmarking year in accordance with a benchmarking plan issued to it under regulation 10(1)(a) and the Monitoring and Reporting Decision.

Reporting tonne-kilometre data

12. The UK operator must—

- (a) prepare a report of its tonne-kilometre data monitored in accordance with regulation 11;
- (b) ensure that report—
 - (i) complies with the Monitoring and Reporting Decision and Annex IV to the EU ETS Directive; and
 - (ii) is verified by an independent verifier in accordance with the Monitoring and Reporting Decision and Annex V to the EU ETS Directive; and
- (c) submit that report to the regulator by 31st March in the year after the benchmarking year.

Submission of the report to the Secretary of State and the European Commission

13.—(1) Where the UK operator has submitted a report under regulation 12(c) the regulator must, by 30th April in the year after the benchmarking year—

- (a) submit that report to the Secretary of State; or
- (b) subject to paragraph (2), refuse to do so where it is not satisfied that the UK operator has complied with the requirements of this Part,

and give notice to the UK operator of the submission or the refusal.

(2) The regulator may submit a report to the Secretary of State under paragraph (1)(a) where a UK operator has otherwise complied with the requirements of this Part but failed to meet the period for compliance in regulation 9(1) or 12(c).

(3) Where the regulator by notice refuses to submit the report under paragraph (1)(b) it must state in that notice its reasons for doing so.

(4) Where the regulator fails to submit or refuse to submit a report in accordance with paragraph (1), the submission of the report is deemed to be refused.

(5) The Secretary of State must submit a report submitted to it under paragraph (1)(a) to the European Commission by 30th June in the year after the benchmarking year.