
STATUTORY INSTRUMENTS

2010 No. 1996

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

PART 3

Application to the special reserve

Application of this Part

14. This Part sets out the requirements that must be satisfied by an eligible UK operator who wishes to apply for allowances to be issued to it from the special reserve under Article 3f of the EU ETS Directive in any trading period other than 2012.

Eligible UK operator

15.—(1) Subject to paragraph (2), an eligible UK operator in a trading period is—

- (a) a person who becomes an aircraft operator, for the first time, after the benchmarking year for that trading period; or
- (b) an aircraft operator whose tonne-kilometre data in the second calendar year in the trading period exceeds by more than 93.9% its tonne-kilometre data in the benchmarking year for that trading period.

(2) A person within paragraph (1)(a), or an aircraft operator within paragraph (1)(b), who would otherwise qualify as an eligible UK operator under paragraph (1) by virtue of performing an aviation activity does not so qualify where that aviation activity is in whole or part a continuation of an activity previously performed by a person who is or has been a person falling within the definition of “aircraft operator” in Article 3(o) of the EU ETS Directive.

Application to the regulator

16.—(1) The eligible UK operator must apply to the regulator by 30th June in the third year of a trading period.

(2) That application must—

- (a) contain evidence of eligibility under regulation 15;
- (b) contain tonne-kilometre data for the second year of that trading period that—
 - (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;
- (c) where the applicant is eligible under regulation 15(1)(b), state—
 - (i) the percentage increase in its tonne-kilometres from the benchmarking year to the second calendar year in the trading period;

- (ii) the increase in its tonne-kilometres from the benchmarking year to the second calendar year in the trading period; and
- (iii) the amount in tonne-kilometres by which the aircraft operator exceeds the percentage in regulation 15(1)(b) in the second calendar year in the trading period; and
- (d) contain a fee in accordance with Schedule 1.

Submission of an application to the Secretary of State and the European Commission

17.—(1) Where the eligible UK operator has submitted an application under regulation 16(1) the regulator must, within 4 months of the deadline for submitting that application—

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

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

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

(3) Where the regulator fails to submit or refuse to submit the application under paragraph (1) within the period specified in that paragraph the application is deemed to be refused.

(4) The Secretary of State must submit an application submitted to it under paragraph (1)(a) to the European Commission within 6 months of the deadline for an eligible UK operator to submit an application under regulation 16(1).