

EU ETS Aviation Newsletter

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Proposed Amendments to European Union Emissions Trading System for Aviation

Purpose: This document describes how current proposed changes to the EU ETS Directive may affect aircraft operators who are due to report on emissions for 2013 by March 2014 and to surrender allowances by April 2014. It is based on our current understanding of proposals from the European Commission and will be updated when further information becomes available.

Overview

The European Commission is currently in the process of negotiating a proposed amendment to the Emissions Trading System Directive for aviation. The European Commission's proposal and FAQ are available at <http://ec.europa.eu/clima/policies/transport/aviation/>.

If implemented, the main changes resulting from the amendment would be that reporting and surrender for 2013 would be for intra EEA¹ flights only and would be delayed until 2015. For the period 2014-2020 reporting and surrender would be intra EEA flights plus EU airspace. There would be an exemption for some non commercial operators and some simplification of reporting and verification requirements. More details are given below.

Current UK and EU law remains in force until changed and penalties apply for failure to submit a verified emissions report by 31 March 2014 and to surrender allowances by 30 April 2014. Unless and until changed, reporting and surrender obligations for 2013 are for the full scope of the Directive and include flights to and from the EEA.

We cannot provide any assurance on the amendments and whether they will be made in time to remove the 31 March 2014 and 30 April 2014 reporting and surrender obligations. You may wish to consider proceeding with verification so that you are in a position to either submit a verified emissions report by 31 March 2014 in compliance with the current Directive requirements, or to submit by 31 March 2015 a report compliant with the amended Directive.

If you decide to surrender allowances before the 30 April 2014 deadline, then the surrender must be for the full scope of the current Directive (intra EEA plus flights to and from the EEA).

¹ European Economic Area = the EU28 plus Norway, Iceland, and Lichtenstein; Switzerland would be excluded.

This means that if the Directive is changed to remove reporting and surrender obligations for flights to and from the EEA you may have surrendered more allowances than required. Current EU and UK legislation and the Commission's proposal do not give credit or provide compensation where an aircraft operator has over-surrendered and **do not allow us to refund allowances that have been surrendered.**

You may wish to seek legal advice as to how to proceed.

We expect to have greater clarity as to how the amendment to the EU ETS Directive is proceeding by mid March 2014.

Details of the Proposal

The key elements of the Commission's proposal are:

1. For the 2013 Scheme Year, monitoring, reporting and surrendering would only be required in relation to intra-EEA flights (this excludes flights to and from Switzerland), and reporting and surrender would be deferred until 31 March 2015 and 30 April 2015 respectively.
2. For the 2014 to 2020 Scheme Years aircraft operators operating flights to and from third countries would monitor report and surrender in respect of emissions relating to intra-EEA flights, plus emissions occurring in the airspace of EEA States.

3. Until 2020 non-commercial aircraft operators emitting less than 1000 tonnes of carbon dioxide would be excluded.
4. Flights to/from countries defined as "developing countries" (between 2014 and 2020), over-flights, and flights to and from dependencies and territories of EEA states would be excluded.

The Amending Directive has to be agreed between the European Parliament and the European Council, and it is likely that the proposal will be revised before the final form is agreed. The aim is to ensure the Amending Directive will be agreed before 30 April 2014 to avoid the need for compliance with the reporting and surrender requirements of the existing Directive. Once the Amending Directive is in place we expect that UK Regulations will be amended to give effect to it. However, at this stage there is no certainty as to whether the Directive will be amended by 30 April 2014 or when UK law implementing the Directive will come into force.

In the interim period existing EU and UK law remains in force and this requires the submission of a verified emissions report in respect of all flights specified in Annex 1 of the existing Directive by 31 March 2014 and the surrender of a corresponding number of allowances by 30 April 2014. The "Stop the Clock" limitations for the 2012 scheme year no longer apply and 2013 scheme year reporting and surrender would be for intra and extra-EEA flights, the full scope of the

existing Directive. Current EU and UK legislation and the Commission's proposal do not give credit for, or provide compensation, where an Aircraft Operator has over-surrendered.

You may be able to find some flexibility in how your emissions are verified so you are prepared to report for current requirements and future proposals.

Aircraft Operators are able to comply with existing law by submitting a verified emissions report and surrendering allowances in 2014 for all Annex 1 flights carried out in the 2013 Scheme Year.

Further information

If you have a query regarding EU ETS Aviation please contact the [ET Aviation helpdesk](#).