

Implementing act on free allocation adjustments due to activity level changes

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Introduction

The revised EU ETS Directive[1] establishes that free allocation to industry will continue after 2020 as long as no comparable efforts are undertaken in other major economies.

Free allocation[2] is thus a transitional measure foreseen to address the risk of carbon leakage which is defined as the risk of an increase in global emissions following relocation of industry due to climate policies to third countries with no or limited carbon constraints.

In order to implement free allocation for the 4th trading period of the EU ETS from 2021 to 2030, the Commission needs to develop a series of regulatory acts. One of these acts will focus on the rules for adjusting free allocation due to activity level changes.

While the revised EU ETS Directive establishes the main rules for adjusting free allocation to activity level changes, more detailed implementation requirements need to be determined. The Directive establishes that the level of free allocation will be adjusted, as appropriate, if activity levels change by more than 15% evaluated on a rolling average of two years.

The Directive adds, that in order to implement this provision, the Commission may adopt implementing acts defining further provisions for the adjustments of the level of free allocations given to installations whose operations have increased or decreased. In particular, the Commission should be able to consider further measures to be put in place, such as the use of absolute thresholds regarding the changes to allocations, or with respect to the deadline that applies to the notification of changes in production. Furthermore, manipulation or abuse of the system should be prevented and any undue administrative burden should be avoided.

In this context, this consultation seeks the views of the stakeholders on the issues that remain to be decided before the Commission can determine the rules to be applied to adjustments to free allocation due to activity level changes for the period 2021 to 2030. The results of this consultation will be analysed, published and incorporated in the Staff Working Document that will accompany the implementing act on allocation changes due to activity level changes.

Wherever possible, it would be useful if stakeholders provide references to concrete evidence and facts in support of their answers.

[1] Directive (EU) 2018/410 of the European Parliament and of the Council amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments. OJ L 76, 19.3.2018, p. 3.

[2] https://ec.europa.eu/clima/policies/ets/allowances_en

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Questions

This section includes general questions related to the adjustments to free allocation due to activity level changes.

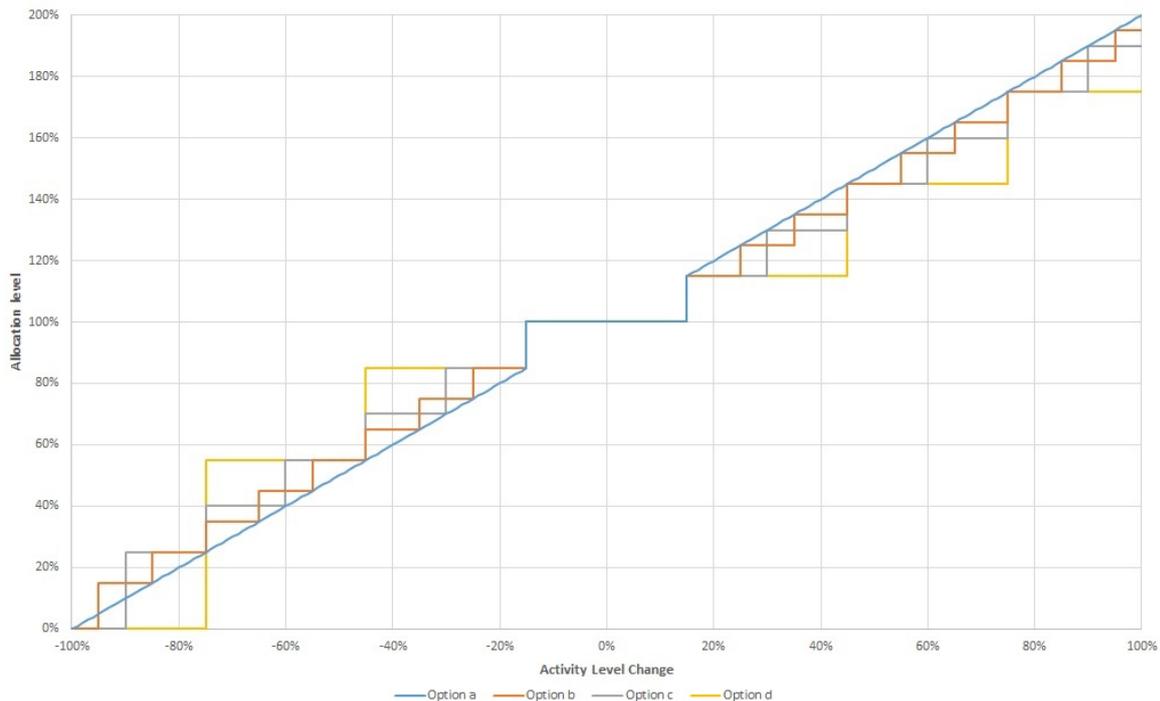
Article 10a of the revised ETS Directive establishes that the level of free allocations given to installations shall be adjusted in case the operations have increased or decreased by more than 15 % compared to the level initially used to determine the free allocation assessed on the basis of a rolling average of two years. In addition, other elements of the allocation adjustments need to be determined.

1. Which of the following options do you consider preferable for an adjustment to allocation due to activity level changes per sub-installation?

- a. For changes in activity level of more than 15%, the allocation should be adjusted proportionally to the actual change; i.e. an increase/decrease of activity by 19% would lead to an adjustment of 19% of allocation;
- b. A first allocation adjustment should be applied for a 15% increase or decrease in activity level. Subsequent allocation adjustments will be made within intervals of an amplitude of 10%; i.e. an increase/decrease of activity by 19% would lead to an adjustment of 15% of allocation; an increase/decrease in activity of 38% would lead to an adjustment of 35% of allocation; an increase of activity of 98% would lead to a 95% adjustment in allocation;
- c. A first allocation adjustment should be applied for a 15% increase or decrease in activity level. Subsequent allocation adjustments will be made within intervals of an amplitude of 15%; i.e. an increase/decrease of activity by 19% would lead to an adjustment of 15% of allocation, an increase/decrease of activity of 38% would lead to an adjustment of 30% of allocation; an increase of activity of 98% would lead to a 90% adjustment in allocation;

- d. A first allocation adjustment should be applied for a 15% increase or decrease in activity level. Subsequent allocation adjustments will be made within intervals of an amplitude of 30%; i.e. an increase/decrease of activity by 19% would lead to an adjustment of 15% of allocation, an increase/decrease of activity of 38% would lead to an adjustment of 15% of allocation; an increase of activity of 98% would lead to a 75% adjustment in allocation;
- e. No preference / Don't know.

Adjustments in options b, c and d are made at the level of the threshold already reached. The figure below illustrates the steps.



2. With the aim to reduce the administrative burden, do you consider that a minimum quantitative threshold should be introduced to determine whether the level of free allocation shall be adjusted? An adjustment would then take place only if the change would lead to an increase/decrease by a minimum of X EUAs.

- a. Yes, a minimum threshold of 100 allowances;
- b. Yes, a minimum threshold of 500 allowances;
- c. No quantitative minimum threshold shall be established;
- d. No preference / Don't know;
- e. Yes, a minimum threshold shall be established but another value shall be used.

If your answer to question 2 is e, please specify the value preferred below and give a justification:

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3. In your opinion, when should activity level data start to be collected and when do you consider that allocation adjustments shall begin in the first allocation period 2021-2025:

- a. Allocation changes shall start in 2023 based on the activity level data collected from the years 2022 and 2021;
- b. Allocation changes shall start in 2022 based on the activity level data collected from the years 2021 and 2020;
- c. Allocation changes shall start in 2021 based on the activity level data collected from the years 2020 and 2019;
- d. No preference / Don't know.

4. In phase 4 of the EU ETS, activity level data will be collected for each installation at sub-installation level on an annual basis. This data will need to be verified and reported. In your opinion, how can the administrative burden be minimised while the robustness of collected data is ensured?

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5. If, in your opinion, there are other aspects which should be considered when developing detailed rules on free allocation adjustments due to production level changes, please describe them:

3000 character(s) maximum

6. Do you see a need for further safeguards to prevent manipulation or abuse of the system?

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