
STATUTORY INSTRUMENTS

2023 No. 850

The Greenhouse Gas Emissions Trading
Scheme (Amendment) Order 2023

PART 5

Other

Free allocation for 2024 and 2025 scheme years: lime and malt extract

20.—(1) For the purpose of calculating the preliminary annual number of allowances for the 2024 and 2025 scheme years under Article 18 of the Free Allocation Regulation or Article 3a of the Activity Level Changes Regulation, the Free Allocation Regulation applies as if—

- (a) the product benchmark for lime were 0.798 (and not 0.725⁽¹⁾);
- (b) the manufacture of malt extract⁽²⁾ were included in the list of sectors and subsectors set out in the Annex to [Commission Delegated Decision \(EU\) 2019/708](#)⁽³⁾.

(2) This paragraph applies to an installation that is an FA installation for the 2021-2025 allocation period on 1st January 2024 if it appears from the most recent activity level report submitted under Article 3(3) of the Activity Level Changes Regulation that lime or malt extract is produced at the installation.

(3) As soon as reasonably practicable after this article comes into force and the operator complies with any request under paragraph (4), the regulator must send to the UK ETS authority a recalculation of the preliminary and final annual number of allowances to be allocated in respect of each installation to which paragraph (2) applies, and of each sub-installation (within the meaning of the Free Allocation Regulation) of the installation, for the 2024 and 2025 scheme years, calculated as if the Free Allocation Regulation had applied as set out in paragraph (1)(a) and (b).

(4) The regulator may request the operator to provide any information that the regulator requires to carry out the regulator's functions under paragraph (3); and the information must be verified as satisfactory in accordance with the Verification Regulation 2018 as if it were contained in an activity level report submitted under Article 3(3) of the Activity Level Changes Regulation.

(5) On receipt of the recalculation, the UK ETS authority must as soon as reasonably practicable—

- (a) approve the final annual number of allowances to be allocated in respect of the installation, making any corrections to the calculation that the UK ETS authority considers appropriate;
- (b) inform the regulator accordingly.

(1) The product benchmark for lime is set out in Annex 8 to the Free Allocation Regulation, inserted by article 15 of this Order.
(2) PRODCOM code 10.89.19.25.
(3) [Commission Delegated Decision \(EU\) 2019/708](#) of 15 February 2019 supplementing [Directive 2003/87/EC](#) of the European Parliament and of the Council concerning the determination of sectors and subsectors deemed at risk of carbon leakage for the period 2021 to 2030, O.J. L 120, 8.5.2019, p. 20. For sectors and subsectors deemed at risk of carbon leakage set out in the Annex to the Decision, free allocation is not reduced by the factors set out in Annex 5 to the Free Allocation Regulation.

(6) The regulator must give notice to the operator of the final annual number of allowances approved under paragraph (5).

(7) For the purposes of Article 5 of the Activity Level Changes Regulation, the reference in paragraph 3 of that Article to the initial allocation must be read as including a reference to the initial allocation that would have been approved if the Free Allocation Regulation had applied as set out in paragraph (1)(a) and (b).

(8) For the purposes of the Greenhouse Gas Emissions Trading Scheme Order 2020—

- (a) the reference in article 34H(2)(a) of that Order to an error in an application for free allocation must be read as including a reference to an error in any information provided under paragraph (4) of this article;
- (b) a reference in that Order to functions under that Order must be read as including a reference to functions under this article.

(9) This article must be interpreted as if it were part of the Greenhouse Gas Emissions Trading Scheme Order 2020.