

Consultation on the Draft Order to Implement the Carbon Reduction Commitment – Government Response and Policy Decisions

Overview – (2nd November 2009)

The London Energy Project has developed an overview of some of the clarifications and/or changes to the Carbon Reduction Commitment (CRC), as contained in ‘Consultation on the Draft Order to Implement the Carbon Reduction Commitment: Government Response and Policy Decisions, 7 October 2009, Department of Energy and Climate Change’. **Within the document suggestions for further references are made for page numbers contained within the document, which can be viewed or downloaded.**

www.decc.gov.uk/en/content/cms/consultations/consultations.aspx

New name - CRC Energy Efficiency Scheme, to better reflect the primary objective of the scheme - to increase energy efficiency.

Cash flow – No double sale for April 2011

The first sale of allowances in April 2011 will now only require participants to purchase allowances for the year ahead and no longer for the previous year as well. The first year of the Introductory Phase (2010-11) will therefore become a reporting only period.

Principal Subsidiaries

Large subsidiaries that would qualify in their own right can now be disaggregated from their organisational group and participate independently. This decision will be made by the parent organisation. To reflect these changes, Principal Subsidiaries are now referred to as Significant Group Undertakings. This is a complex issue, therefore it is recommended to review pages 18-21 & 114-118 for more detailed information. (also see footnote 1 at the end of the document)

**LEP EVENT - CRC Update
16th December 2009
Central London**



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Recycling Payments

A revenue recycling payment will be calculated according to the following:

- How much money was collected in the sale/ auction and so is available for recycling
- The Participant's 2010/2011 emissions – the recycling baseline (adjusted as appropriate for any Designated, Relevant Decision or Machinery of Government Changes)
- The bonus or penalty awarded to the Participant due to league table ranking

Compliance Year	Financial Year	Purchase in Year (April)	Surrender in Year (July)	Recycling paid (Oct)	Performance in year	Bonus/Penalty percentage applied
1	2010-11	Reporting Only			N/A	N/A
2	2011-12	2011-12	Reporting	2011-12	2010-11	10%
3	2012-13	2012-13	2012-13	2012-13	2011-12	20%
4	2013-14	2013-14	2013-14	2013-14	2012-13	30%

	Year 1 (Oct 2011)	Year 2 (Oct 2012)	Year 3 (Oct 2013)
Early Action Metric	100%	40%	20%
Absolute Metric	0 %	45%	60%
Growth Metric	0%	15%	20%

Please refer to pages 125-127 for more information.

Early Action Metric

The early action metric will be based on the extent of voluntarily installed AMR and the extent of Carbon Trust Standard Accreditation or accreditation from an equivalent scheme. Therefore, participants which have demonstrated commitment to reducing their emissions either by achieving the **Carbon Trust Standard, or accreditation from an equivalent scheme** can use this to be counted towards the Early Action metric.

The relative weighting of EAM benefit has been changed to 100% in the first year, 40% in the second year and 20% in the third year from 100% in the first year and 20% in the second and third year.

Treatment of Renewables

The approach to reporting and accounting for renewably generated electricity has been simplified. As an energy efficiency mechanism, **CRC will not provide additional incentives for renewable generation.** Information on an organisation's increase in onsite renewable generation will be published alongside, but separate from the performance league table, in order that it can receive a reputational incentive for investment in onsite renewables.

The CRC will treat electricity which receives a Feed In Tariff in the same way as electricity which is issued a Renewable Obligation Certificate. If the FIT or ROC is claimed, the electricity must be reported at grid average. All electricity which is issued ROCs or FIT and exported to the grid or a third party will not be able to claim electricity generating credit but will not have to be reported as a consumed supply.

Public Sector Organisations

The definition of a public sector organisation has been simplified to create better clarity for participants in the CRC. Organisations designated as a public authority in the Freedom of Information Act 2000 and the Freedom of Information Act (Scotland) 2002 will participate in CRC on the basis of their individual FOI/FOI (S) listing, unless they are legally part of another body, in which case they would participate as part of that parent body.

Companies with Public Sector Ownership

Any company that is wholly owned or controlled by a Government department, or devolved equivalent, will participate as a group member with their owning department. Any company owned by other classes of public body, e.g. Local Authority or partially owned with a non-controlling influence by a Government department, will participate individually in CRC where it meets the qualifying electricity threshold

Schools

No material change evident. LEP/LGA will respond to suggested changes to the Schools Finance Regulations in respect of the financial impacts of CRC on the LA and schools respectively. A separate briefing is available.

Local Authorities will be able to determine the 90% de minimis at the group level. The individual school will not be responsible for determining their residual sources. The local authority will decide which residual sources to exclude or include to achieve the 90% applicable percentage.

Domestic Housing

All domestic accommodation will be outside the scope of CRC, irrespective of supply arrangements, unless that housing is provided for the purposes of education, employment, religion, recreation and medical care. Examples of accommodation types which will be included within CRC are; halls of residence, police station houses, monasteries, prison, hotels and residential care homes. Accommodation on residential parks and holiday parks, most forms of emergency accommodation will be excluded. Guidance will be provided at a later date.

HH electricity used for domestic accommodation, should be excluded from qualification calculations, subject to an organisation's decision whether to include consumption from communal areas in mixed use buildings.

Where a participant's estate included mixed use buildings, the participant will be required to identify and deduct the emissions associated with domestic accommodation when determining qualification and reporting during the scheme. This will be done through estimation techniques and

sub-metering. Information on appropriate estimation techniques will be provided in guidance. Communal supplies are treated differently. Where communal supply services domestic accommodation only, it must be excluded from the CRC. Where the communal supply services mixed purposes, the organisation has the discretion whether to calculate and remove the energy used (for domestic purposes) in communal areas or to include all the consumption from communal areas.

Where district heating schemes do not solely serve domestic properties, participants will report and purchase allowances for the input fuel that is used to generate the energy provided to their non-domestic customers. Guidance will be provided.

JV or PFI

Few changes, however clarification around JVs and PFI as a standalone undertaking will be determined using Company Act tests. Further information can be found on pages 28-29.

GLA Functional Bodies

TFL, Met Police, LFB and LDA will participate individually where they meet the qualification threshold. Government intends to use discretionary powers to enable the GLA to participate on a mandatory basis.

Colleges and Universities.

All English universities and their independent colleges will qualify for participation as one group. However after qualification they will participate individually unless they choose to aggregate with other colleges of the same university or with the university itself.

NHS

NHS organisations, which are legally distinct entities and that meet the qualification criteria will participate on the basis of their legal identities.

Supply, Indirect and Self Supply

Government has revised the definition of supply, formerly the counterparty to the supply contract rule, to ensure the definition is clearer and

applicable to a wider variety of circumstances. In CRC an organisation receives a direct supply when it has an agreement with an organisation for the supply of energy. This can be a supply of electricity, gas or any other type of fuel. On the basis of the agreement, the Participant receives the supply and pays for the quantity received. In the case of gas and electricity, the supply needs to be measured by a fiscal meter. Whenever an organisation receives a supply under an arrangement that meets the conditions outlined above, that organisation is responsible for the supply of energy in CRC. Organisations that buy energy through a third party provider or as part of a facilities management agreement will retain responsibility for the energy supply they have received.

Clarification is provided to prevent double-accounting of emissions, e.g. where electricity is delivered via a private wire network or measured by a sub-meter, the above conditions are not met and therefore excluded from the CRC. indirect supply, from generating plants e.g. CHP. The input fuel to the plant would be counted within the CRC if the operator qualifies for the scheme

If the plant operator supplies a single CRC participant, the emissions responsibility will fall within the participant organisation and be counted as an indirect supply to that CRC participant. Where more than one organisation is supplied the emissions remain the responsibility of the operator.

This is a complex area to summarise, therefore you are recommended to refer to pages 50 -53 for more detailed information

10% uplift to estimates

No changes to how the 10% uplift applies to electricity and gas. For an annual electricity or gas bill to be treated as accurate, it will be necessary that at least two meter readings are required during any compliance year. However the application of the 10% uplift to the consumption of fuels other than electricity or gas has been amended. , Participants may report consumption of fuels on a use basis rather than on the basis of an entire fuel delivery. Refer to page 89 of the government response.

Street Lighting

Pseudo HH meters are now referred to as dynamic supply – (i) a set of equipment fixed to land that performs a common function (for example, street lighting), (ii) one element of the set of equipment is metered (for example a lamp post) and (iii) the existing meter point is used as a benchmark to determine the overall supply to the entire set of equipment in a given period.

- Inventory based dynamic HH supply, traded on the HH settled market counts towards qualification
- Inventory based non-HH supply, traded on non-HH market does not count towards qualification.

The dynamic supply definition covers consumption calculated with the use of both PECU Arrays and Central Management Systems and will count towards qualification and the early action metric. Eastern Region London authorities, please note: LEP is seeking clarification on those supplies that are HH traded in the Eastern Region, where EON is the meter administrator. (It would appear that although the system used Lailoken is traditionally deployed with PECU Arrays, it also has a non-dynamic mode, which if deployed is not counted as dynamic for the purposes of CRC).

AMR Electric New definition

- The meter needs to be capable of capturing consumption data on at least a half hourly basis
- The meter must be the main fiscal meter for that supply and not a clip-on or sub metering device.
- The meter is read remotely
- The electricity consumption data needs to be made available to the customer

AMR Gas

- The meter together with an ancillary device is capable of capturing consumption data on at least an hourly basis
- The meter is the main fiscal meter and not a sub-metering device
- The meter has been read remotely
- The gas consumption data is made available to the customer

Definition of profile 5-8 is replaced

This core source is defined as non-domestic meters that are capable of measuring the maximum demand of a non-domestic site.

Growth Metric

Revenue expenditure is clarified as a total expenditure figure from an organisation's audited accounts that does not include any capital expenditure and which is consistently applied each year. Further information on this will be provided in Guidance.

Transport Exemption

The proposed Transport Exemption will be replaced by a requirement, where applicable, to deduct transport consumption from HHM electricity before determining qualification. (Pages 61-62)

Transport Definition

Transport will still be excluded from CRC. However Government has adopted a new definition to cover more clearly the four forms of transport it wishes to exclude. See page 62 for further information.

CCA Exemption

The CCA exemptions will now be granted at time of registration.

Information Disclosure

Additional voluntary tick box questions allow organisations to answer questions on carbon management within their organisation if they wish, including a fourth tick box, to recognise Participants which actively engage employees to reduce energy use. Pages 78-79 give more information. The term Director is replaced by a 'person with management control', this is a person of equivalent status to a director.

Registration

If an organisation has met the qualification threshold of 6,000mwh it will be required to declare this. However, the participant may choose to estimate the total consumption, but should be satisfied that the estimated amount is within 20% of the actual amount and maintain records to this effect.

Fuels List

There are a few additions to the CRC fuels list including peat, BOS gas, and different grades of coal. Participants will be required to declare fuels used that are not listed in the table, but this will now only be required in the Footprint year. (see page 123 for emissions factors of all fuels) Renewable fuels and biomass will be zero rated. Further details can be found on pages 83-85. .

Retention of Data

Organisations will be required to keep records for at least seven years after the phase to which they relate. In the case of the records which support data for a Participant's baseline year (2010/11 if participating from the Introductory Phase), these must be kept for the entirety of an organisation's participation in the scheme.

Penalties

Changes which have been made to the penalties are detailed below. Full details of the penalties for non-compliance can be found on page 106.

Failure to register - Rather than the daily rate fine accumulating until the next reporting deadline it will now accumulate for 80 working days, which is an equivalent timescale to the next reporting deadline.

An additional element to the registration penalty has been made. For each settled HHM for which an organisation is responsible but fails to declare in its meter list at registration, the civil penalty will be a fixed financial penalty of £500 per settled HHM not declared. Local Authorities should be aware, that they must obtain the relevant information from schools.

Failure to provide an annual report - penalty is altered so that the variable element of the fine is now £500 per working day of delay. If a participant fails to submit an Annual Report after the forty day variable fine period, the total fine accumulated will be doubled and the participant would be placed at the bottom of the league table alongside the worst performer, and total emissions for the year would be doubled.

Incorrect Reporting - remains at £40 per tonne with an allowable margin of error of 5%. A Participant will only be fined per tCO₂ incorrectly reported beyond that margin. Therefore if a Participant underreports by 5.1%, the fine will be calculated per tCO₂ for that extra 0.1% above the allowable margin of error.

New penalties for incorrect reporting - Failure to accurately report notification of designated changes, declaration of the emissions totals of SGUs and Early Action and Growth metric data. Where the information does not impact on performance in the league table the financial penalty will be a fixed fine of £5,000. Where the information does result in improved position in the league table, the fine will be £5,000 plus double the amount of any financial gain achieved from that higher position.

Failure to surrender sufficient allowances at the deadline - The revised CRC Order will require Participants to purchase the shortfall of allowances as soon as possible. Where they have not done this by the end of the current compliance year, the shortfall will be added to their performance commitment total to be surrendered by the next July deadline.

The recycling payment of Participants which have not surrendered sufficient allowances will be withheld, until those allowances are surrendered. If a Participant has failed to do so by the end of the compliance year following the deadline, the recycling payment would be withheld permanently.

Where the failure to comply is discovered as reporting errors as a result of the audit process because, the Participant will instead be subject to a penalty for latent failure to comply. In this case the penalty for the latent failure to comply and will have the shortfall of allowances added to their performance commitment requirement for the current compliance year. They will also incur the penalty of publication. Where an organisation is no longer a Participant the penalty will be a fine equal to the value of the shortfall of allowances determined by the price in the most recent sale or auction.

Failure to keep adequate records has been changed from £5/tCO₂ to £40/tCO₂ of the CRC emissions recorded in the Participant's most recent report. The scheme administrator has discretion to reduce the penalty dependent on the type and scale of non-compliance (see page 104 of the government response). Failure to comply with the notice served to outline what elements of the evidence pack requires rectification, and a deadline for remedying the situation will no longer incur a criminal offence.

Finalised CRC charging regime

Activity	£
Participant registration(including CCA holders)	950
Participant annual subsistence fee	1,290
Fixed price sale fee	10
Safety valve charge (per transaction)	300
Non-participant registration (third parties)	285
Non-participant subsistence fee	390
ID check charge	70

The time allowed to pay civil penalties has been adjusted 60 days.

The time allowed to lodge an appeal has been extended from 20 to 40 days. See table 2 on page 106 for revised civil penalties

The London Energy Project would like to thank the Department of Energy and Climate Change, for their support in the production of this guide.



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ANNEXE

1. Once a participant has fully completed its registration it can select SGUs to participate separately. As part of this nomination process they have to provide contact details for an individual in each SGU who has superiority to decide whether that SGU wishes to participate separately. In practice this nomination will physically be made by someone within the primary member who has the appropriate registry access, but the decision has to be taken by whoever is the appropriate person with the parent. Once the nominations have been made each named contact will be contacted and invited to register. At this stage the SGU can choose to register or not. If it has not registered by the 31st September then they will participate with their parent grouping. This process requires both parties to consent to disaggregation, otherwise the default of participating in one group applies.

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This Guide has been produced by the London Energy Project (LEP). Its purpose is to provide assistance to and raise awareness within Local Authorities in respect of the CRC. It was prepared in good faith and is not a comprehensive summary of all aspects of the CRC but is intended to highlight some important aspects, based on the current form of the Government's proposals. Whilst reasonable steps have been taken to ensure the information contained within the Guide and associated tools are correct, you should be aware that the information contained in it may be incomplete, or may have become out of date. In addition although every effort has been made to establish and follow a robust reporting method, the accuracy of the information provided cannot be guaranteed.

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When any Local Authority or other person is considering the specific implications of the CRC for them or what action they should take in respect of any initiative, proposal or other involvement with any public private partnership, they should take specific legal, financial, technical and/or other relevant professional advice, as appropriate.