

Our Ref: DB.4100.ja

email to: [euets.consultation@defra.gsi.gov.uk](mailto:euets.consultation@defra.gsi.gov.uk) and Post

10<sup>th</sup> November 2003

James Harries  
EU Emissions Trading Scheme  
DEFRA  
Area 3/F3 Ashdown House  
123 Victoria Street  
London  
SW1E 6DE

Dear Mr Harries

**Draft Implementing Regulations of the EU Emissions Trading Scheme (EUETS)**

The Confederation of UK Coal Producers (COALPRO) represents Member companies who produce some 90% of UK coal output, the great majority of which is sold to the electricity generation industry. COALPRO therefore takes a close interest in all matters affecting the market for coal in general, and the market for coal in the electricity generation industry in particular.

Whilst the impact of the EUETS on the coal industry will be indirect, its impact on the electricity generation industry is such that effect on the coal industry will be greater than on any other industry.

Many of the draft Regulations are procedural in nature and will not have direct implications for UK coal production. We are, however, concerned about the following issues.

**Regulation 2**

The draft proposes that certain named organisations will be appointed as “the regulators” for the purposes of the EUETS. Trading is currently outside the remit of these organisations. It is essential, therefore, that they are provided with the necessary resources and training to be able to carry out the functions envisaged for them in a timely and satisfactory manner.

**Regulation 7**

It is COALPRO’s view that all new entrants, including planned installations, should have to purchase allowances from the market, i.e. planned installations should be treated as new entrants with no allocation under the National Allocation Plan (NAP). Permits should only be issued to plants that are operational. To issue allocations to planned installations runs the risk of discriminatory action and could lead to the hoarding of allowances.

Contd./.....

**Regulation 14**

As closure is necessarily a valid abatement option, installations which close should be allowed to keep their allowances for the remainder of that phase of the scheme. To require surrender on closure would be likely to result in perverse incentives, e.g. an uneconomic activity may be kept in operation at a very low level of activity merely to be able to retain, and sell, allowances.

The term "closure" also involves definition problems. For example, how would mothballed generation plant be treated? The ability of generators to mothball and then re-start plant may be important for security of supply.

The Regulation would need to be redrafted if the holders of allowances are permitted to retain them up to the end of that phase of the scheme to avoid these definition problems and the possibility of perverse incentives.

**Regulation 17**

Whilst the draft Regulation does not stipulate the quantity of allowances under the NAP, COALPRO wishes to express the strong view that the size of the overall level of allowances should not go beyond the UK's Kyoto obligations under the Burden Sharing Agreement. This would place many UK businesses at a competitive disadvantage vis-à-vis their European competitors.

If the UK is capable of exceeding these obligations, then UK businesses will have surplus allowances to trade. To limit total allowances unnecessarily will merely result in UK plc giving up money.

**Other Issues**

With respect to insolvency, COALPRO agrees that the permit and allowances should be transferred to the liquidator/administrator. Not to do so could force the unnecessary or premature closure of operations. It is important, however, to clarify the liability of the liquidator/administrator in the event that emissions exceed allowances and penalties are incurred.

Yours faithfully

**David Brewer**  
**Director General**