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Sandbag's Response:

URN 13D/198 - Amendments to UK greenhouse gas emissions trading scheme and national emissions inventory regulations: a public consultation

Consultation Brief

The purpose of the consultation is to seek views on the draft Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013, which will amend the 2012 and Inventory Regulations to:

- *Clarify the level of civil penalties to be imposed on operators carrying out unauthorised EU ETS activities and the discretion available to regulators to waive or reduce such penalties;*
- *Bring the penalty for under-reporting EU ETS emissions prior to 2013 into line with the penalty from 2013, enabling regulators to impose a lower level of civil penalty, or even waive a penalty entirely, where operators self-report and surrender the requisite number of allowances;*
- *Implement the EU's 2013 Registries Regulation (Commission Regulation (EU) No 389/2013 of 2 May 2013); and*
- *Replace the National Emissions Inventory's system of criminal sanctions with a civil penalty scheme and remove the associated powers of entry.*

Background

From May to July 2012, the government consulted[1] on the transposition into UK law of Directive 2009/29/EC, revising EU Directive 2003/87/EC. No NGOs responded. The laws applying to Phase III were changed, from January 2013 onwards, but the Environment Agency (the ETS regulator in England) has delayed issuing new guidance until the legislation currently being consulted on becomes law. The initial legislation introduced:

- A €20tCO_2 penalty if an Operator initially failed to surrender the correct emissions, but advised the regulator of their mistake and surrendered the correct allowances, before the regulator noted their noncompliance.[2]
- Regulator discretion in imposing some penalties.[3]
- Removed criminal penalties from EU Emissions Trading Scheme transgressions

The new consultation seeks is on the document 'The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013'. In this new legislation, the government seeks to:

- Bring the Phase II regulations into line with the new (2012) Phase III regulations
- Clarify and extend 'regulator discretion'
- Clarify what the level of civil penalties are for non-compliant Phase II and III Operators, and where they can be used
- Remove criminal penalties from the National Emissions Inventory sanctions

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[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66842/Transposition_of_EU_Directive_2009_29_EC_revising_EU_Directive_2003_87_EC.pdf

[2] Point 58 (4) The Greenhouse Gas Emissions Trading Scheme Regulations 2012

[3] Point 54, Ibid

Sandbag's Response: Executive Summary **19th September 2013**

Sandbag outlines below areas in which the draft 2013 Regulations on Greenhouse Gas Emissions Trading Scheme need changes in order to improve the 2012 Regulations, above and beyond the government's proposed changes. As the Regulators have not yet updated Operator guidance, this is an apt time to make these changes and restore the integrity of the emissions trading scheme in the UK.

The €100tCO_2 mandatory penalty regime should be reinstated, to ensure clear financial cost to EU ETS non-compliance, for transgressions in Phase II **and** in Phase III, for Verified **and** Reportable emissions. Sandbag considers Directive 2003/87/EC Article 16 (3) to be explicit[4] in setting out a €100tCO_2 mandatory penalty regime, as does previous Environment Agency guidance.[5] The government has stated "the legal position may in the longer term have to be clarified by the UK courts"[6] in regard to the €20tCO_2 discretionary penalty. Sandbag believes **the Directive is clear; the mandatory €100tCO_2 penalty should be reinstated**.

Discretion on penalties should be removed. **The mandatory penalty helps to avoid the risk of regulatory capture**. Allowing fines to be waived incentivises co-option of the regulator by industry at the expense of citizens.

Criminal penalties should be restored, as they represent a necessary deterrent. Current Regulator guidelines already focus on civil penalties, and criminal penalties have not been unnecessarily used.

The changes in this consultation and the 2012 regulations shift the burden from correct initial reporting by ETS operators, to reliance upon the regulator to correct the reports after the fact. This shift would occur in the context of severe and repeated cuts to the regulator.

Within the general ideology of "a bonfire of regulations",[7] the complex and technical nature of these reforms has undetermined outcomes for compliance. **Sandbag recommends clear evidence is gathered before policy change**.

The EU has led the world on emissions trading. As others, including China, look to the EU for guidance as they begin their own schemes, **now is the wrong time to water-down EU ETS enforcement** without strong evidence of benefit.

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[4] "*Member States shall ensure that any operator who does not surrender sufficient allowances by 30 April of each year to cover its emissions during the preceding year shall be held liable for the payment of an excess emissions penalty. The excess emissions penalty shall be EUR 100 for each tonne of carbon dioxide equivalent emitted by that installation for which the operator has not surrendered allowances."* Directive 2003/87/EC Article 16 (3)

[5] "*The penalty is calculated as the amount in tonnes of carbon dioxide equivalent by which the annual reportable emissions exceeded the number of allowances surrendered multiplied by €100. The penalty is mandatory and is set in the EU ETS Directive, which has been implemented in every Member State in the European Union. There is therefore* ***no discretion whatsoever*** *given to the regulator as to whether or not to impose the penalty*." Guidance to Operators on civil penalties (January 2009) Environment Agency

[6] Page 23, Consultation Summary of Responses: Transposition of EU Directive 2009/29/EC revising EU Directive 2003/87/EC (2012) DECC

[7] Cameron calls for bonfire of EU regulations (2011) The Times

1. Do you agree that the proposed amendments to Regulation 52:
a) provide for a default civil penalty equal to the economic benefit gained from operating without a permit, with an additional percentage determined through Ministerial Direction;
b) make it clear that the Regulator is able to exercise discretion to waive or reduce penalties where they consider it appropriate to do so?

a) Sandbag supports a default penalty which matches the profit made from operating without an EUA, with the suggestion that the additional percentage fine must contain a minimum mandatory provision, liable to be **increased** on Ministerial Direction, but not decreased. We see no reason for reducing this additional fine from the €100 stated in the Directive, particularly in light of Dr Paul Leinster's request (Chief Executive of the Environment Agency) for "higher fines for pollution incidents to provide a greater deterrent".[8] This ensures participants are aware there is a guaranteed minimum cost to illicit operation.

b) Sandbag does not support allowing the Regulator to waive or reduce penalties, particularly without Ministerial oversight. The "default civil penalty equal to the economic benefit gained" is not in reality a penalty, but a claim on costs that the participant had a legal obligation to pay. There is not a conceivable situation where a participant has gained economic benefit through failing to purchase ETS permits, but could morally have this payment reduced or waived. Amendment 3(3), in altering "must" to "may" in Regulation 52,[9] allows the operator penalty to be below the level of economic benefit. The government has offered no explanation for introducing the discretion to allow operators to gain economic benefit from failing to surrender the correct number of allowances.

Furthermore, the Macrory Report, which the government cites in the move away from criminal penalties, specifically notes the behaviour of the Environment Agency concerning the dangers of financial penalties failing to be commensurate with the gain in economic benefit,[10] and Macrory states in his Six Penalties Principles "A sanction should…aim to eliminate any financial gain or benefit from a non-compliance".[11]

The amendments introduce a lack of clarity as to the scope of waiver and discretion, despite that being a key objective of this further regulation. In the 2012 Regulations, discretion was introduced for the regulator in regards to the excess penalty.[12] The amendments suggested in this consultation allow discretion even in the case of 'failing to comply with a notice' and 'failing to comply with an enforcement notice'.[13] These are serious offenses, not simple mistakes, and the use of discretion in these cases would seem to be unduly lenient.

[8] Environment Agency urges bigger fines for polluters (2009) The Guardian

[9] Page 29, Amendment 3(3) Annex 2: Draft Statutory Instrument (2013)

[10] Page 20, Regulatory Justice: Making Sanctions Effective (2006) Richard Macrory

[11] Page 99, ibid

[12] Page 29, Regulation 51 No. 3038 The Greenhouse Gas Emissions Trading Scheme Regulations 2012 (2012) *Discretion in imposing civil penalties. 51.—(1) Where the regulator considers it appropriate to do so, the regulator may (subject to paragraph (2))— (a) refrain from imposing a civil penalty; (b) reduce the amount of a penalty (including the amount of an additional daily penalty); (c) extend the time for payment specified in the penalty notice or additional penalty notice; (d) withdraw a penalty notice or an additional penalty notice; (e) modify the notice by substituting a lower penalty.*

[13] *In regulation 86 (savings and transitional provisions: the 2005 Regulations)— (a) in paragraph (15), after "the following civil penalties apply" insert "(subject to the regulator's discretion under regulation 51 above)"* Amendment 4. (2a) to No. 3038 The Greenhouse Gas Emissions Trading Scheme Regulations 2012 Page 42, Regulation 86, 15b&c

These amendments expanding the scope of regulator discretion, which unfortunately fosters an atmosphere where it is in industry interest to co-opt the regulator, a common process that many UK regulatory bodies have been accused of; for example, the UK Medical Healthcare products Regulatory Agency (MHRA).[14] Indeed, the Environment Agency's own reports note the concern over "actual or perceived regulatory capture" within the organisation.[15]

Regulatory capture diminishes the power of the regulator to make decisions for the benefit of citizens, and allowing civil servants at the regulator to 'give favours' in this way (through waiving penalties) further encourages revolving-door employment and a reduction of the regulator to function effectively.

Of particular concern is how this discretionary power might be exercised in light of the ongoing debate surrounding the inclusion of international airlines into the EU ETS. The decision to include international airlines in any way has proven controversial and the EU had faced considerable opposition from a number of international airlines and their respective governments.[16] [17] Under pressure the EU took the decision to "Stop the Clock", temporarily suspending intercontinental flights from the scope of the EU ETS. As a leading EU aviation hub 409 airlines fall under UK jurisdiction, out of the 1191 registered in the EU.[18] [19] The EU is now expected to suspend the non-EU element of the EU ETS after an anticipated compromise with the International Civil Aviation Organization (ICAO) on global Market Based Mechanisms (MBMs). However, the option to waive fines could be seen as a way for international airlines to shirk their obligations and receive an exemption from the EU ETS or any obligation to account for emissions which occur in EU air space, possibly setting a precedent that other Member States will be inclined to follow. It must be ensured that all penalties are rigorously imposed against those who deliberately do not comply, and the UK does not lead a race to the bottom in application of regulation.

With the removal of guaranteed punishment for surrendering too few allowances, and the reduction from a criminal to a civil matter, companies may be encouraged to under-surrender allowances, and then correct their submission only if caught. This shifts the burden of effort, from correct initial reporting by ETS operators, to reliance upon the regulator to correct the reports after the fact. In the context of severe and repeated cuts[20] to the regulator (the Environment Agency), Sandbag does not support this change.

To date, the application of penalties has been unusual, for instance, in England and Wales fines total around £2 million to date across nine operators, with no suggestion by the Environment Agency of any fraud, only reporting mistakes.[21] However, the global picture shows transgressions are very common, and are often beyond the scope of simple error. UNEP warns the global market in greenhouse gas emissions has already suffered significant corruption, including being:

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[14] For example Light, Donald. Rapid Response to 'Don't Blame it all on the Bogey' *2007*. British Medical Journal (BMJ). Retrieved 16 August 2013.
[15] Page 3. Effectiveness of Regulation: Literature Review and Analysis Report - SC090028 (2011)
[16] Inclusion of aviation in the EU ETS (2013) European Commission
[17] All carriers that fly in or out of the EU are assigned a country for reporting purposes depending on which EU country they fly most frequently to.
[18] Member States decisions on the allocation of free allowances to each aircraft operator (2013) European Commission
[19] *Air carriers registered in the UK account for over 4% of global passenger numbers.* The World Bank (2012)
[20] *The Environment Agency received a 10% budget cut on top of the 10% cut in the Spending Review 2010.* Spending Review (2013) UK Government
[21] See Appendix One, Environment Agency Data

"*recurrently tainted by cases of fraud and bribery, abuses of power, and other conventional forms of corruption. Corruption in this sector has also taken more original forms, such as the strategic exploitation of 'bad science' and scientific uncertainties for profit, the manipulation of GHG market prices, and anti-systemic speculation.*"[22]

There is no reason to think that the UK system is immune to these problems if legislation is made excessively lenient.

A clear picture emerges; emissions trading is a complex system, and its regulation requires clear deterrents and strong oversight. This may not be the place for over-zealous application of the government's 'bonfire of the regulations'.

2. Do you agree with our proposed approach to extend the €20tCO_2 penalty regime already in place for Phase III to operators that self-rectify under-reporting of emissions in previous years, and that the proposed Regulations as drafted give legal effect to it?

Sandbag supports the maintaining of the fixed strict liability of a €100tCO_2 penalty, and does not support the discretionary penalty regime, for reasons outlined above. €20tCO_2 may not be enough to balance the economic benefit of avoiding allowance purchase in the expectation that the regulator will never identify the under-reporting. It may be argued that even €100tCO_2 is not sufficient for a deterrent; for instance, in Scotland some businesses, such as Rohm & Haas Ltd., have already received repeat penalties.[23] However, further research would be required to decide upon an acceptable penalty level; Sandbag would not suggest the penalty should be changed without evidence.

Whilst the €100tCO_2 penalty is maintained for under-surrendered allowances against **Verified emissions**, perversely the new discretionary penalty of €20tCO_2 applies for under-surrendered allowances against emissions beyond the knowledge of the regulator ("**Reportable emissions**").[24] The penalty for failing to surrender allowances for emissions that **have been reported** to the regulator is far higher than the penalty for failing to surrender allowances that **have not been reported** to the regulator. This may incentivise operators to avoid reporting emissions.

The €100tCO_2 penalty would only apply to Verified emissions; the majority of previous penalties under the scheme are for transgressions against Reportable emissions.[25]These would now be covered by the lower, €20tCO_2, despite DECC's claim that the new penalty would only apply to a "narrow window of cases".[26]

[22] The impact of corruption on climate change: threatening emissions trading mechanisms? (2013) United Nations Environment Programme

[23] See Appendix Two

[24] Conversation with EU ETS team at the Department for Energy and Climate Change(September 2013): "*Operators will be liable for the €100 tCO_2 penalty (excess emissions penalty) when, at the end of April, they fail to surrender allowances against their **verified emissions**. On the other hand, the regulator will be able to apply the reduced €20 tCO_2 penalty in a narrow window of cases where the operator finds out that, after submitting a verified emissions report, there are **reportable emissions** not accounted for.*"

[25] See Appendix One

[26] "the regulator will be able to apply the reduced €20 tCO2 penalty in a narrow window of cases" EU ETS team at DECC (September 2013)

Furthermore, EU Directive 2009/29/EC required a rolling increase in the mandatory penalty, linked to the European Consumer Price Index,[27] strongly suggesting the intention of the European Parliament was not for a weakening or removal of this penalty.

No comment on the legal drafting.

3. Does the proposed drafting clarify that the Regulator has the power to reduce and waive civil penalties for breaches of the 2005 and Aviation Regulations in Phase III?

No comment

4. Do you agree that the powers of entry and inspection are unnecessary and that removing such powers will help to reduce the regulatory burden on businesses?

"These powers were introduced to ensure the Government had legal comeback in cases where a legitimate request relating to the preparation of the national inventory was refused."[28] The removal of these powers removes the regulator's ultimate ability to penalise a transgressive company. The powers of entry and inspection have never been used in England,[29] and so in no way does the presence of this power in the legislation represent an addition to **"**the regulatory burden on businesses". Sandbag recommends it is maintained.

5. Do you agree with our proposed approach to removing criminal penalties and establishing a regime comprising of civil penalties only?

Interpol's Guide to Carbon Trading Crime[30] is clear that illicit behaviour on the carbon markets is in regular occurrence. The European carbon market is worth $148 billion.[31] Fraudulently misrepresenting emissions to save on permit purchases could conceivably be a multi-million pound crime, and so the requirement for criminal penalties is a necessity. We understand that the government has already begun the move away from criminal penalties in relation to emissions trading, and that this new consultation refers to the further removal of criminal penalties from the National Emissions Inventory, but our point remains the same. Maintaining the threat of criminal penalties for extreme situations does not preclude the use of civil penalties, which are already recommended for use except in extreme circumstances.[32] Past examples of ETS under-surrendering of

[27] "The excess emissions penalty relating to allowances issued from 1 January 2013 onwards shall increase in accordance with the European index of consumer prices"
[28] Page 13, Consultation Document
[29] Email from Vicky Hind, Environment Agency EUETS Trading Officer, August 2013
[30] Guide to Carbon Trading Crime (2013) Interpol
[31] World Bank figures (2011)
[32] Guidance to operators on Civil Penalties (2009) Environment Agency (page 4)

Allowances in the UK include a record civil penalty of €3,296,600 for ExxonMobil (though no illicit behaviour was implied),[33] but infringements are currently unusual.[34] Sandbag would suggest there is a likely deterrent effect to maintaining criminal penalties, despite the Environment Agency having never bought a criminal prosecution under the current ETS legislation.[35]

The government's Impact Assessment,[36] conducted when the government began the process of restricting regulator access to criminal penalties in 2012, shows marginal benefits; an estimated £1million gain to business through a reduction in fines, and a corresponding reduction in government revenue; a reduction in costs to government of £0.1million through changes to the judicial process, which charitably includes the savings to government made through not having to impose custodial sentences.[37]

These benefits, small as they are, are based on flawed assumptions:

- ***"The civil penalty would be expected to have the same deterrent effect as a criminal penalty."***
- The Impact Assessment, along with both consultations, offers no evidence that removing the ability of the regulator to use criminal penalties in extreme cases will not affect compliance. As noted by Watson, 2005, for example: "*The 'expressive' functions of the criminal law must also be recognized. Conviction of an offence – becoming a 'convict' – involves moral condemnation. Civil penalties – no matter how severe – may be seen as a form of taxation*."[38] The removal of criminal penalties, though never used so far, removes a deterrent and risks a reduction in compliance. Any increase in noncompliance will immediately remove the marginal expected savings to government, whilst diminishing the position of the EU ETS as the flagship climate policy in Europe.

- ***"The key change in costs …is the possible reduction in legal and administrative costs to government of enforcement through criminal courts, and the reduced costs to operators from defending themselves in such a system."***
- No criminal penalties have ever been used by the Environment Agency under the ETS, and so the new regulations would not have made any savings had they been applied throughout the scheme (the High Scenario Impact Assessment figures, and savings to government, assume one custodial case a year).

The Macrory Report, which the government cites on matters of regulations and sanctions, and specifically in support of this change, encourages a reduction in reliance on criminal penalties by regulators, but recognises their continued use in many circumstances.[39]

For the success of the ETS, or other emissions market, "the expected punitive consequences for a noncompliant actor must be credible and sufficiently severe".[40] The government should restore these

[33] Oil company fined a record £2.8m by SEPA over emissions failings (2012) Pinset Masons
[34] See Appendix One, Environment Agency Data
[35] Phone calls and emails with ETS team at the Environment Agency
[36] Impact Assessment: Review of the 2005 UK Greenhouse Gas Regulations IA No: DECC0079
[37] Page 15, ibid. "In addition to legal costs, enforcement through a criminal system could result in a custodial sentence; imposition of the maximum 2 year sentence is likely to cost the Government £40,000"
[38] Watson, Michael (2005) The enforcement of environmental law: civil or criminal penalties? Environmental Law and Management, 17 (1). pp. 3-6.
[39] For example Page 102, Regulatory Justice: Making Sanctions Effective (2006) Richard Macrory
[40] *"A compliance enforcement system's potency depends on: (1) its ability to detect noncompliant behaviour, (2) the severity of the threatened punishment for noncompliance, and (3) the credibility of the threatened punishment, i.e., the extent to which a noncompliant*

necessary regulatory powers for the Environment Agency, in the absence of evidence indicating they are not working.

6. Do you consider that the First-tier Tribunal is the appropriate body to hear and determine appeals against decisions to issue a civil penalty for failure to provide inventory information?
7. Do you consider that the General Regulatory Chamber Rules of the First-tier Tribunal will suit the handling of these appeals against decisions by the Secretary of State? If not, why not?

No comment

Conclusion

Sandbag believes there may be scope for discretion in cases where the Operator self-reports noncompliance (only if it includes Ministerial oversight to reduce risk of regulatory capture), but that the Greenhouse Gas Emissions Trading Scheme Regulations 2012 and 2013 Amendments, as drafted, go far beyond this, allowing a reduced or waived penalty in many circumstances, some serious. For this reason, discretion and the €20tCO_2 penalty should be removed from the legislation, but also because the Directive is clear; the €100tCO_2 penalty is mandatory for emissions for which Allowances have not been surrendered.

Whilst benefits through reduced costs and reduced bureaucracy are either unclear or nonexistent, there are clear risks to increased compliance through the removal of the possibility of criminal sanctions. Civil penalties should remain the first step in most cases, but criminal penalties should be restored to the regulations.

These changes diminish the position and strength of the EU ETS as Europe's flagship climate policy, just as the world looks to Europe for guidance on building their own emission trading schemes. The government should look again at these reforms, and use this chance to make changes to retain the strength of the scheme in the UK, before the regulators have drawn up their updated guidance for operators.[41]

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participant can escape this punishment" Emissions Trading: Participation Enforcement determines the need for Compliance Enforcement" (2010) Stine Aakre and Jon Hovi

[40] Regulatory Justice: Making Sanctions Effective (2006) Richard Macrory

[41] Email from the EU ETS team at DECC (September 2013)

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Under Directive 2003/87/EC Article 16 (2), Member States must ensure publication of the names of operators who are in breach of requirements to surrender sufficient allowances. This part of the Directive has not been followed. Appendix One represents the first comprehensive publication of Phase II ETS non-compliance in England.

Appendix One:
Environment Agency (England & Wales) EU Emissions Trading Scheme Phase II Misreported Allowance Penalties to date (August 2013)[42]

Date penalty issued	Amount £	Operator	Reason for the Civil Penalty
Dec-06	£564,559.93	Alphasteel	Alphasteel, a steel recycling company from Newport in south Wales, were issued a civil penalty for failing to surrender any allowances for 2005 by the 30 April 2006 deadline.
Dec-06	£122,099.74	Daniel Platt	Daniel Platt, ceramic tile company from Stoke-on-Trent, were issued a civil penalty for failing to surrender any allowances to account for 4,537 tonnes of verified emissions by the 30 April 2006 deadline.
Dec-06	£52,532.22	Mars (UK) (trading as Masterfoods)	Mars (UK) (trading as Masterfoods), a foodstuffs company from Peterborough, were issued a civil penalty for failing to surrender allowances for 2005 by the surrender notice deadline. Mars UK verified emissions for 2005 were 1,952 tonnes.
Dec-06	£19,618.84	Scandstick	Scandstick, an adhesive products company in Cambridgeshire, were issued a civil penalty for failing to surrender sufficient allowances to account for 729 tonnes of verified emissions for 2005. Scandstick only surrendered 1,219 allowances but had verified emissions of 1948 tonnes.
Oct-11	£844,765.32	Esso Petroleum Company	An incorrect factor was mistakenly applied by Esso in calculating their emissions for 2008 which has

[42] Freedom of Information request to the Environment Agency, EU ETS Compliance Regulator in England

		Limited	led to under reporting of about 10,000 tonnes of CO2.
Oct-11	£21,184.07	Sellafield Ltd	A number of emission sources were mistakenly excluded from reportable emissions This has resulted in an underreporting of about 260 tonnes of CO2 for 2008.
Oct-11	£1,379.81	Astra Zeneca	Fuel used in two boilers was not included in the permit or in the reported emissions for 2008. This has resulted in an underreporting of about 17 tonnes of CO2 for 2008.
Oct-11	£1,136.31	York Hospital NHS Trust	Emissions from two boilers were overlooked leading to under reporting of about 14 tonnes of CO2 for 2008.
Oct-11	£274,716.80	Skanska Rashleigh Weatherfoil Ltd	Gas meter readings were misread taken to incorrect number of figures resulting in an under reporting of emissions of about 3000 tonnes of CO2 for 2009.

Appendix Two:

Scottish Environment Protection Agency EU ETS Phase II Misreported Allowance Penalties (2012)[43]

Company	**Non-Compliance**	**Fine** (€/£)
FMC Biopolymer UK Ltd	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions under the scheme Year 2010, within the correct timescale.	€13,700 (£12,076.55)
Rohm & Haas (Scotland) Limited	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions in respect of the scheme year 2008, within the correct timescale.	€11,100 (£9,009.32)
(3 fines issued)	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions in respect of the scheme year 2009, within the correct timescale	€11,100 (£9,782.99)
	Failure to surrender sufficient allowances by 30 April 2011 to cover the missing emissions from scheme years 2008 and 2009, which triggered a third liability to a civil penalty for the scheme year 2010.	€22,200 (£18,310.56)
Allied Domecq Spirits & Wine Ltd.	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions in respect of the scheme year 2008, within the correct timescale	€2,600 (£2,110.29)
(2 fines issued)	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions in respect of the scheme year 2009, within the correct timescale	€2,300 (£2,027.11)
Tennent Caledonian Breweries UK Ltd.	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions in respect of the scheme year 2008, within the correct timescale	€19,200 (£15,583.68)
(2 fines issued)	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions in respect of the scheme year 2009, within the correct timescale	€16,800 (£14,806.68)
Adagh Glass Ltd.	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions in respect of the scheme year 2008, within the correct timescale	€500 (£405.83)
(2 fines issued)	Failure to surrender allowances equal to the annual reportable carbon dioxide emissions in respect of the scheme year 2009, within the correct timescale.	€500 (£440.68)

[43] Page 24, SEPA enforcement report 2011-2012 http://www.sepa.org.uk/pdf/130304%20-%20Enforcement%20Report%20-%20FINAL1.PDF SEPA