

Response to public consultation: Emissions trading system – climate neutrality plan for installations under ETS in response to ETS revision / Fit for 55

INTRODUCTION

The EEB welcomes the opportunity to provide feedback to the draft of Implementing Regulation about climate-neutrality plans (CNP), as established by the reviewed EU ETS Directive. CNPs rightly target the more greenhouse gas (GHG) intensive installations, putting conditions on the release of free allowances according to their drafting and implementation.

As free allowances are a form of public subsidy and CNPs target installations with the greatest climate impact, public health and the environment, such plans must serve the public interest, face public scrutiny and decisively cut CO₂ emissions at source in the shortest possible time.

GENERAL POINTS

Firstly, **methodologically the drafting of CNPs must be guided by the impact of investments on reaching carbon neutrality** (point 7 of the Annex), meaning that the options with the highest GHG emissions reduction potential must be preferred. Instead, judging from the text, it seems that the Commission sees the impact assessment as the final step of the plan, following an *a priori* decision by the operator on the investments to make. Such an impact assessment must be done at the beginning of the CNP, where the operator must take into consideration the options to decarbonize its installation, their impact in the short and long term and the related milestones and targets.

To maximise policy coherence and synergies, the content of the climate neutrality plans shall consider how the plans of the operator are compatible to the wider zero pollution ambition goals set under the EU Green Deal, namely with the Transformation Plans to be provided through the implementation of the reviewed Industrial Emissions Directive (IED, 2010/75/EC)¹ and the Taxonomy technical guidance reference points. That approach is consistent with the provision of Article 10a (1) of the ETS Directive, stating that the guiding principles shall be the circular use-potential of materials and that the benchmarks should compare “production processes that have the same purpose”.

The impact assessment of investments **must always** include the following measures:

- Energy efficiency measures.
- Fuel switch towards electricity or hydrogen produced with renewable sources.
- Optimisation of the use of resources (e.g., introduction of circular practices, reduction of the use of natural resources including water).
- Substitution of the final product / service with another one serving the same purpose and whose production process emits less GHGs, has less or no negative

environmental impacts, allows switching of processes that would not only deliver GHG emission reduction but also a reduction of water consumption, materials, or other air pollutants. The plan should set out how competing solutions of a production process with the same purpose can be compared. The test should refer to technical function of the product/service, assessment of cross-media impacts on wider pollution prevention benefits stated above and potential trade-offs.

When none of the above-mentioned options able to reduce emissions at source can be implemented and the use of other measures is necessary (e.g., biomass, waste, CCS), the operator must detail the reasons and how the alternative option is **consistent with the Do Not Significant Harm principle (DNSH)** and how the plan satisfies the “substantial contribution” tests in regards to the environmental objectives set within the **EU Taxonomy (Regulation (EU) 2020/852)**, where relevant to the activity.

Suggestions:

- **In the Annex, point 7** must be transformed into an “impact assessment” and must be put between point 3 and 4.
- **In point 4** make explicit that milestones and targets must be consistent with the impact assessment.
- **In point 5** include reference to article 17 of the Taxonomy.
- **In points 7 (a) iii 1 and 2** add “renewable”.
- **in point 7 (a) iii 3, point 7 (a) iii 4 and point 7 (a) v and in the Implementing Regulation (article 3 and recital 5)** add references to the following Taxonomy articles: article 9 (environmental objectives), article 10 (contribute to climate mitigation), article 12 (sustainable use and protections of water), article 13 (substantial contribution to circular economy), article 14 (substantial contribution to pollution prevention and control), article 15 (substantial contribution to protection and restoration of biodiversity), article 16 (enabling activities) and article 17 (Do Not Significant Harm to environmental objectives).
- **in point 7 (b)** add reference to the DNSH principle as one of the tests that the operator must perform when assessing the reasons of choosing certain options instead of others.
- Add a requirement to report as to how the CNP is consistent with the objectives of the wider zero pollution ambition objectives and enable the operator to report on data fields needed for the Transformation Plans pursuant to the revised IED.

Secondly, as climate neutrality a matter of public interest, CNPs and related implementation reports must be public and published free of charge on the Internet in a user-friendly manner. In this sense, we welcome the provision obliging operators to provide CNPs in electronic format (article 4). The Commission must make use of such documents to compile a free database of CNPs, ideally to be designed in such a way to be readily used for other purposes, such as standards making (e.g. IED’s Best Available Techniques Reference Documents).

Suggestion:

- **In the Implementing Regulation, add a new article as follows:** *“The Commission shall make available the Climate Neutrality Plans, the related updates and implementation reports on a public portal on the Internet and free of charge. The information shall be provided in electronic format, disaggregated at installation level and easily accessible and comparable in user-friendly manner.”*
- **Require reporting of GHG historical emissions as per Annex, point 2, subpoint (a) also expressed as average annual concentrations of mass per standardised flue gas volume at installation level.**

Thirdly, to help operators drafting CNPs able to get the climate neutrality target by 2050 in a smooth and ordered way, CNPs must also respect the intermediate targets set in EU legislation such 2030 targets (Fit for 55 package) and the yet-to-come 2040 targets. This would allow operators to plan their own actions according to EU targets.

Suggestion:

- **In the Implementing Regulation, in recital 5 and article 2(4)** include references to 2030 and 2040 targets to ensure consistency.
- **In the Annex, in article 5(a)** include a reference to the 2030 and 2040 targets to ensure consistency.

OTHER SPECIFIC POINTS

- **CNPs must be always drafted at installation level.** Whether this is clear for the operators of installations whose GHG levels are higher than the 80th percentile of emission levels, for district heating installations the door is open to draft them at company level or at installation level. Given the fact that free allowances are assigned at the installation level, it does not make sense to accept CNPs at company level. While recognising that the text of the ETS Directive **allows** such an **option**, we suggest the Commission **should** require the operators of district heating plants to always report at installation level and that each CNP must ensure reaching climate neutrality for each single installation. The only exception to report at site/facility level in the meaning of Directive 2010/75/EU should relate to a situation of several installations on a same site which have a technical connection, in that case a single CNP can be drafted, provided it covers all the relevant installations on that site.
- **Express targets in absolute terms to increase verifiability.** As stated by the Commission in recital 6 of the Implementing Regulation, expressing targets in absolute terms and not only in relative terms per unit of product would increase the verifiability of the achievement of targets. Therefore, we strongly suggest absolute emissions targets to be required as part of CNPs.