

Introduction

The Climate Change Agreement (Administration) Regulations 2012 sets out when the Environment Agency may issue penalties to companies with CCAs for failing to comply with the scheme rules.

There are two types of penalty that can be issued:

1. 10% of the Climate Change Levy discount that could have been claimed during the base year.
 - This penalty will be applied if scheme rules are not complied with.
2. £12 per tonne of CO₂ that a target period 1, 2, 3 or 4 result is incorrect.
 - This penalty applies when a correction is made to base year or target periods 1 - 4 data and hence the target period result changes.
3. £18 per tonne of CO₂ that a target period 5 result is incorrect.
 - This penalty applies when a correction is made to base year or target period 5 data and hence the target period result changes.

The minimum penalty amount under (1), (2) and (3) above is £250.

This guidance note describes the different circumstances when a non compliance may occur and the Environment Agency's stated position on whether they would issue a penalty. The Environment Agency can apply discretion when deciding to issue a penalty, however, they do not have discretion over the penalty amount as that is specified within the Regulations.

Non compliances and the Environment Agency's approach

The table overleaf summaries the scenarios when a company does not comply with the CCA Rules and how the Environment Agency will respond.

If a company does discover a non compliance then our advice is to:

- a) Report it to us as soon as possible.
- b) Find out why the non compliance occurred.
- c) Provide us with the information needed to address the non compliance together with a short narrative on why the non compliance occurred and the measures taken since to prevent further non-compliances.

We will share (c) with the Environment Agency so they can take the background into account when deciding whether to issue a penalty.

Non compliance: Failure to...	When the Environment Agency usually WON'T issue a penalty	When the Environment Agency usually WILL issue a penalty
.. submit target period data by the due date	<ul style="list-style-type: none"> • If it's a first offence. • If the data is submitted within 10 working days of the deadline. 	<ul style="list-style-type: none"> • If the data is submitted 10 working days after the deadline.
.. provide information when requested.		<ul style="list-style-type: none"> • If the information is provided after the deadline.
.. withdraw a facility/site before the deadline of 20 working days of when it is no longer eligible.	<ul style="list-style-type: none"> • If the action is taken within 10 working days of the original deadline and it's the first or second offence. • If the action is taken after 10 working days of the original deadline and it's the first or second offence but there are mitigating circumstances. 	<ul style="list-style-type: none"> • If the action is taken after 10 working days of the original deadline and there are no mitigating circumstances.
.. submit correct base year data when the Agreement was assented to hence the data needs correcting.	<ul style="list-style-type: none"> • If the correction leads to historic target period results being better (i.e. now passes by a greater amount or fails by a smaller amount) hence the company did not benefit from the original mistake. 	<ul style="list-style-type: none"> • If the correction leads to historic target period results being worse (i.e. now passes by a smaller amount or fails by a greater amount) hence the company did benefit from the original mistake.
.. submit correct target period data.	<ul style="list-style-type: none"> • If the correction leads to the most recent historic target period results being better (i.e. now passes by a greater amount or fails by a smaller amount) hence the company did not benefit from the original mistake. 	<ul style="list-style-type: none"> • If the correction leads to the most recent target period results being worse (i.e. now passes by a smaller amount or fails by a greater amount) hence the company did benefit from the original mistake. • If the correction leads to a change in target period results prior to the most recent one (i.e. correcting TP1 data during 2019 when TP2 and TP3 have been reported since).

For further information please contact SLR’s FDF CCA helpdesk:

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fdcca@slrconsulting.com

or visit <https://www.fdf.org.uk/fdf/what-we-do/environmental-sustainability/climate-change-agreements/>

The full suite of FDF CCA Guidance Notes are listed below and can be accessed via contacting the helpdesk or visiting the website.

Guidance Note	Title
1	What is a CCA
2	Transferring Ownership of a CCA
3	FDF CCA Administration Charges
4	Completing HMRC PP10 and PP11 Forms
5	Timetable of FDF CCA Activities
6	Obligations under your CCA including audits
7	Reporting data at each Target Period
8	How CCAs interact with other schemes
9	Glossary and Abbreviations
10	What happens if...
11	NOVEM targets
12	NOVEM Calculation Spreadsheet
13	State Aid Transparency reporting
14	Penalties for non compliance
15	Application Documentation