EU-ETS: Compliance 2014 and Beyond

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Agenda

• EU-ETS Current State
  – Applicability
  – Monitoring, Reporting, Verification
  – Carbon Trading Challenges for GA

• EU-ETS EC Proposal (Future State?)
  – Applicability
  – Process
  – Exemptions
Applicable Operators – Exemptions

- Flights of a reigning monarch, heads of state, heads of government and government ministers, of a country other than a Member State
- Military flights performed by military aircraft
- Flights related to search and rescue, firefighting flights, humanitarian flights and medical service flights
- Flights performed exclusively under visual flight rules
- Circular flights (departing and arriving at the same airport without an intermediate stop)
- Training flights
Applicable Operators – Exemptions

• Flights performed exclusively for the purpose of scientific research
• Flights performed by aircraft with a certified maximum take-off mass of less than 5700 kg
• Flights performed in the framework of public service obligations
**Initial registration**

- Identify your assigned Member State from the Prior Compliance List released late June 2013 – [www.eu-ets.aero](http://www.eu-ets.aero)
  - If not listed, you must submit a Fleet List Form to EC and EuroControl
  - Next Operator List to be released in Feb. 2014
  - Latest Prior Compliance (preliminary assignment) released June 2013
- Contact your Member State to establish communication
- Operators are required to submit an Annual Emissions Monitoring plan to register with their Member State.
- All operators should submit a Phase 3 AEM plan.
Small Emitters & Large Emitters

- Vast majority (98%+) of GA operators are Small Emitters
- Current: 243 Flights for 3 consecutive 4-month periods or < 25,000 tonnes/Co2 annually (approx. 17,500,000 lbs. of fuel) on applicable EU legs only. **Note:** Does not change exemption threshold of 10,000 T/co2.
- Program originally designed to include corporate/private aviation, which are seen as “inefficient” in terms of fuel burn/payload
Small & Large Emitters

• Commercial operators under SME thresholds are exempt from EU-ETS. Valid AOC (Air Operator Certificate) and proof of “holding yourself out for hire” are required as evidence

• Note: (Private – Part 91) operators must comply with EU-ETS requirements if they have made 1 or more applicable flights during a Monitoring Year
Applicable Flights

- **EU Member States**: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom, Croatia (EU accession as of July 1, 2013)

- **EFTA (European Free Trade Agreement) Countries**: Iceland, Liechtenstein and Norway
Applicable Flights

• **EU Outlying Territories:** Guadeloupe, French Guiana, Martinique, Reunion, The Azores, Madeira, Saint Martin (French), The Canary Islands, Aland Islands, Akrotiri and Dhekelia

• **Important Notes:**
  – Switzerland does not participate. Currently in negotiation with EC about possible full inclusion.
  – Flights through EU airspace without a stop are not applicable
Annual Emissions Monitoring Plan:

• **Phase 3 AEM plans include:**
  – Company structure
  – Contact information
  – Internal procedures for monitoring
  – Fuel consumption/estimation method (Small Emitters Tool)
  – Management responsibilities
  – AEM Expanded in Phase 3 to include 9 additional procedures
  – Internal Audit, Quality Assurance Procedures, QA Audit
Annual Reporting

- Identify applicable EU-ETS legs
- Use Standard Distances – GCD + 95km converted to NM
- Use latest version approved Fuel Estimator Tool
  - Enter ICAO a/c type / Standard Distance in NM
  - Populate approved AE Report Template for you Member State
  - Detailed breakdown of total T/Co2 emitted during calendar year: Domestic, Inbound, and Outbound Operations and per City-Pair
- NOTE: Small Emitters should avoid programs recording actual fuel consumption
Emissions Calculations

• Small Emitter Tool vs. Method A / B
  – “Robust” Fuel Estimator Tool provided by EuroControl that uses a generic burn profile utilizing ICAO A/C Types and Nautical Miles flown to produce a fuel burn estimate
  – Highly inaccurate in its first release, especially for GA aircraft types
  – **Updated tool (Emission Calculator_2013_502) released Sept. 2013** – Improved accuracy for all GA types.
  – EUROCONTROL has made a formal request for continued submission of fuel burn data from GA aircraft types. Ctc: antonio.astorino@eurocontrol.int
  – Operators are allowed to fall back on the Small Emitter Tool as long as all applicable flights are reported
Verification

• How do I get my report verified?
  – Submission of AE Reports and required documentation to accredited 3rd party verifier.
  
  • Sample Supporting Docs:
    – AE Report
    – Phase 3 AEM Plan
    – AEM Approval
    – Data Flow Diagram
    – Fleet List
    – Organizational Chart
    – Internal Audit
    – QA Procedures
Sample Supporting Documents cont’d:

• QA Assessment
• Risk Assessment
• EuroControl Data or Original Flight Logs
  • Copies of EuroControl Nav-Fee Invoice
  • ETS SUPPORT FACILITY ACCESS
• Verifier provides a Verification Opinion Statement (VOS)
Reporting / Deadlines

• Submit Verification Opinion Statement (VOS) to Member State Competent Authority (CA) prior to deadline
  – Feb. 28th – Spain
  – Mar. 15th – Czech Republic
  – March 31st – All other Member States

• Additional steps are required for some Member States that have their own online Portals to enter data from the AE Reports
  – Germany (FMS)
  – UK, Ireland, and Iceland (ETSWAP)

• If concerned about missing deadlines contact your Member State and set a timeline for compliance. Acting in good faith should be well received by the Competent Authority
Pre-Trading/Trading Periods

• Since Jan. 1, 2010, assigned operators have been required to monitor their emissions and submit an annual verified report to their assigned Member State.

• 2010-2011 (Pre-Trading Periods) – AE Reporting, Verification, and submission required. Administrative Fees.

• Administrative Fees for a variety of Member States still required – UK, Ireland, Denmark, Iceland, Portugal.

• 2012 is the began the 1st Trading Period.

• Operators were required to submit Carbon Allowances to offset their 2012 emissions by April 30, 2013.
Carbon Trading – Challenges for GA

• Challenges for GA Operators
  • Only 2nd year of trading for Aviation Activities
  • Unfamiliar for responsible parties (Not core function for flight department personnel)
  • Access to the Carbon Credit Marketplace
    • Carbon Traders, Brokers, or Carbon Auctions
  • Access to Competitive Pricing
Carbon Trading – Challenges for GA

• Challenges for GA Operators (cont’d)
  • Compliance need vs. Speculative opportunity
  • Coordination between Flight Department and Parent Company
  • Company structure of Aircraft Operator
  • Buy-in from officers of Company
  • Buy-in and disclosure from Private Owners
  • Differing Registry Account requirements
Registry Accounts

• Mechanism to bank, trade, and surrender Carbon Credits & Allowances
• There are no reduced requirements for Small Emitters in regard to a Registry account. All operators taking part in EU-ETS must open a registry account or engage a third party to open one on their behalf.
• Compliance with EU-ETS is impossible without a Registry Account.
• Engage other resources in your organization outside of the Flight Department for help with application process (Legal Dept., Human Resources, etc.)
• Don’t be overly concerned with the deadlines. They are a “Call to Action,” but have no direct penalties or controls at this time.
Registry Accounts

• Free Allowances earned through TKM/Benchmarking cannot be withheld due to any delay in the opening of a Registry Account
• The type of documentation and certification process can be outside of the flight dept.’s normal scope:
• 3 Part Application Process: Legal Entity, Transfer of Authority, Authorized Representatives
• Defining Legal Entity
  – Certificate of Incorporation / LLC Certificate
  – Articles of Association / By Laws
  – Statement of Beneficial Owners / Shareholders (>25%)
  – List of Directors
  – Financial Statements
Registry Accounts

• Letter of Authority – Power of Attorney/Declaration
• Defining Individuals – KYC Info
  • Authorized Representatives (2 – 3 required)
    – Create Transaction / Approve Transaction
  • Additional Authorized Rep (Trading)
  • Personal information for designated Authorized Individuals
    – Background Check (Federal check FBI within last 60-90 days)
    – Proof of Residence (Electric Bill, Mortgage, Rent Notice, etc.)
    – Travel Documents (Valid Passport)
• Notarization, or Legalization (Apostille) required for ALL Documentation provided
Carbon Trading – Registry Accounts

• BREAKING NEWS!!!

• All operators taking part in EU-ETS must open a registry account OR Authorize a 3rd Party to fully/partially represent on their behalf

• Currently all EU Member States are now accepting full legal representation in the Registry by a 3rd Party except France + Portugal
Future of EU-ETS – Legal Challenges

• European Court of Justice has ruled twice on legality
• EU-ETS not a "Clear violation of International Law“ as commonly stated.
• The Advocate General in the EU recently released an opinion, citing EU-U.S. Open Skies legislation of 2009, which allows for this type of unilateral Environmental legislation as long as it meets "fair and equal opportunity" criteria.
• "Fair and equal opportunity" is established in the EC's Initial Directive 2008/101/EC where it allows operators of any country to be exempted from EU-ETS if their country of registration adopts a program "which have an environmental effect at least equivalent to that of this Directive, to reduce the climate impact of flights."
Future of EU-ETS – ICAO

• Many propose a global solution should be implemented by ICAO and adopted by ICAO Member States
• Global solution to climate change had been on ICAO’s agenda dating back to the early 1990’s
• ICAO asked for regional legislative bodies to enact programs to pressure the global community. (European Commission)
• Operators must continue to comply with EU-ETS requirements until there is formal change in the governing legislation to avoid possible monetary and operational penalties
Future of EU-ETS – Political

• 30+ Nations met in 2012 to oppose ETS in Moscow
  • U.S., China, Russia, Brazil, India, Australia all in attendance

• U.S. Congress passed - Prohibition Act
  – U.S. using legislation to attempt to open negotiation with European Union, European Commission, Member States to remove “unilateral” requirements

• India & China taking similar prohibitive steps with their operators
  – China threatening Economic sanctions, i.e. cancelation of Airbus orders
  – India Proclamation in Parliament
Future of EU-ETS – ICAO

• 2013 ICAO Triennial Assembly (24Sept. – 04Oct. 2013)
• Decision on global Market Based Measure in 2016
• Implementation of global MBM in 2020
• ICAO goal is “Carbon Neutral Growth” at 2020 levels
• EU to submit reservations regarding:
  – Low ambition levels of ICAO goals
  – Language directed at national and regional MBM’s ie. EU-ETS
  – Reference of “common but differentiated responsibilities and respective capabilities” – inequality of application
• Operators must comply with EU-ETS requirements until formal legislative or policy change
Future of EU-ETS – EC’s “Stop the Clock”

• The formal derogation (temporary policy change) to Directive 2003/87/EC has been officially submitted.
• The “Stop the Clock” derogation removes International legs from 2012 AE Reports.
• International Legs are all flights directly to or from applicable EU Member States or EFTA Countries (Norway, Iceland, Liechtenstein).
• All Non Intra-EU legs, i.e. (KTEB-EGGW) (EINN-KBGR)(OMDB-LFPB)(EHAM-ZBAA) are exempt and excluded from 2012 AE Reports
• ALL Intra-EU legs, i.e. (EGGW-LFPB)(EINN-EEDD)(LETO-LIML)(EDDM-EHRD) are applicable and must be included in 2012 AE Reports
• Carbon Credits must be purchased and surrendered to offset T/CO2 emissions from 2012 Intra-EU flights
Overview - European Regional Airspace Approach (ERAA)

• NEW Euro Commission PROPOSAL – Frequently Asked Questions
Coverage within European Regional Airspace for 3rd country flights
## Emissions coverage in 2013

<table>
<thead>
<tr>
<th>To aerodromes in/from aerodromes in</th>
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<th>Outermost regions of EEA Member countries</th>
<th>Third countries with a share of more than 1% in international aviation</th>
<th>High- and upper-middle-income countries with a share of less than 1% in international aviation</th>
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Contact information

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THANK YOU!

Adam Hartley