The Environment Ministry announced Dec. 23 that the German Emissions Trading Office (DEHSt) had informed all industrial facilities of their carbon dioxide allocations.

The emissions trading office, Germany's administering authority for the scheme, calculated the allowances for 1,849 facilities held by roughly 1,200 operators to emit a total of 495 Mt of carbon dioxide annually, or 1,485 Mt over the 2005-2007 period. The total allocation would be worth €7.4 billion (US$9.24 billion) at an assumed price of €5 per tonne.

Actual emissions allocated were lower than those originally outlined for nearly two-thirds of German facilities since the emissions volume reported by applicants was higher than expected. The total requested volume was 14 Mt, or 2.8 percent, over the budgeted amount, according to the Environment Ministry.

The original plan called for German installations to reduce emissions by an average of 2.91 percent from 2000-2002 levels, but the final plan reduced allowances for some installations to as low as 7.5 percent below previous emissions levels.

Possible Challenges to Allocation Levels. Many firms were unfairly disadvantaged in the final plan and may have legitimate legal grounds to challenge their allocation level in court, according to Peter Ebsen, an attorney specializing in emissions trading for Baker & McKenzie in Frankfurt.

Under the German allocation rules, German operators of facilities in existence before Jan. 1, 2003, could choose either to have their emission allowances calculated on the basis of past emissions or on the basis of a benchmarking allocation procedure.

The benchmarking procedure favored more operators and was more widely used, than the government anticipated, Ebsen told BNA. This was partly responsible for the high volume in requested allocations.

To bring total allocations below Germany's ceiling, determined under the EU burden sharing agreement, the German allocation law called for the use of a multiplying factor, which may have disadvantaged firms that used past emissions in their applications, he said.

These operators, which followed the standard method as it was meant to work, were disadvantaged in two ways, according to Helmut Edelmann, director of utilities for Ernst & Young AG in Dusseldorf. First, they had to plan for reductions while some firms, including big energy producers and iron and steel makers, were able to win exemption from reduction requirements. And second, their emissions allocations were reduced even more when they had to share the burden after many of the big producers were able to successfully claim that their emissions over the benchmark period were in fact lower than normal, Edelmann said.

'Ex Post' Provision Unlikely to Survive. The problem is connected to the fact that Germany intended from the beginning to adjust actual levels later (that is, by making "ex post" adjustment). However, the EU Commission rejected this provision and approved the German plan only on condition that it be removed. Germany, responded by suing for the right to include the provision in the European Court of Justice.

Although it was clear from the outset that the Commission would not accept the provision, the German government assumed that since Germany was the largest national emitter it was too important to have its plan fail, according to Juergen Hacker of UMB Environmental Management Consultancy in Berlin.

The German government is unlikely to win its case, but a settlement of some kind is likely, according to Baker & McKenzie's Ebsen.

One possibility is that the European Commission could allow Germany to issue additional allowances or could require the country to acquire credits on the trading market, Hacker said.

The German government also has said it could give extra allowances in the 2008-2012 period to those companies disadvantaged under the reductions in the recent allocation, though it is not clear whether the EU Commission will approve of such a step or where those extra allowances would come from, he added.

Revised French Plan Wins Approval. France's revised national allocation plan was approved by the European Commission Dec. 20.

The revised plan nearly doubles the number of industrial sites covered from 643 in the initial proposal to nearly 1,300.

The plan calls for a 2.4 percent reduction in carbon dioxide emissions and should cut annual emissions by at least 3 million tonnes, Minister of Ecology and Sustainable Development Serge Lepeltier said Jan. 4.

The plan caps annual carbon dioxide emissions at the facilities covered at 156.5 Mt, while allowing a bit less than 10 Mt of reserve quotas to accommodate new entrants.

The French emission registry will be maintained by state-owned financial institution Caisse des Depots et Consignations (CDC).

Caisse des Depots et Consignations announced in late December that it would offer all concerned French firms free one-day training programs until March 31 on the use of its new SERINGAS software for accessing the emissions allowance registry.

The company said Jan. 6 it also plans to launch in March a pan-European emissions trading platform under a partnership with Euronext and Powernext.

Italian Plan Yet to Win Approval. As of Jan. 24, Italy's national allocation plan had not been approved by the European Commission, making it the largest of the four EU member states without a plan to participate in the emissions trading scheme.

"Italy has recently taken some important steps in the right direction but much further work needs to be done," the Commission said in a statement Jan. 19. "The Commission is sending a final written warning to Italy because its plan is incomplete. Until Italy submits a complete plan and this has been approved by the Commission, Italy's industry will not be issued allowances in the emissions trading scheme."

Italian officials had told BNA their revised plan should be approved early this year, and that once this happened allowances could be distributed to allow companies to begin participating in trading March 1.

"We are a little behind because of the collection of historical data, but we don't see significant problems that will prevent trading starting on March 1," one official said.

Italian businesses, however, have said the delays could cause them problems.

Ennio Fanno, the environmental policy manager for Enel SpA, Europe's fifth largest power company, said, "Our company is eagerly waiting for the new standards,