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Directorate B - European and International Carbon Markets

Frequently Asked Questions

On the Free Allocation Rules for the EU ETS post-2020

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These questions and answers do not represent an official position of the Commission and is not legally binding. However, this Questions document aims to clarify the requirements established in the EU ETS Directive and the Commission Delegated Regulation (EU) 2019/331 (FAR) and is essential to understanding those legally binding rules.

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1 General questions on the allocation methodology (GD1)

1.1 Will there be any changes in the years defining electricity generators?

Article 3(u) of the EU-ETS Directive¹ states: “‘electricity generator’ means an installation that, on or after 1 January 2005, has produced electricity for sale to third parties, and in which no activity listed in Annex I is carried out other than the ‘combustion of fuels’.” No end date is defined. Following the approach applied in phase 3, the relevant date should be the last day of applicable baseline period. As referred to in GD1, the [Guidance Paper to identify Electricity Generators](#) provides guidance on determining whether an installation should be considered an electricity generator.

1.2 Do installations which cannot or choose not to apply for free allocation (e.g. electricity generators, renunciation) need to have their baseline data reports verified?

No, that will not be necessary, as no data other than administrative data needs to be provided.

1.3 In case an incumbent installation misses the deadline for submitting its application for free allowances to the Competent Authority, can it apply as a new entrant?

No, such an installation cannot apply as a new entrant. In line with legislation, in this case an operator will not be entitled to any free allocation and cannot apply until the next data collection exercise.

2 Questions on determining the allocation at installation level (GD2)

2.1 What types of heat are eligible for free allocation under the heat benchmark sub-installation?

Production of heat

All heat that has been produced by a physical unit (e.g. boiler) covered by the GHG permit of the installation and that is not produced from electricity, nitric acid, or any non-ETS installations or entities, provided that any double counting is avoided.

This may in particular include heat produced from biofuels, bioliquids (both sustainable and not), solid biomass, biogas, other renewable sources (e.g. solar thermal, geothermal),

¹ [Directive \(EU\) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision \(EU\) 2015/1814](#)

exothermic heat, heat retrieved using a heat pump or heat exchanger (only the heat produced, any electricity consumed (or produced) for operating the device is not eligible). Heat recovered from an eligible (covered under a product, heat or fuel benchmark or process emission sub-installation) process or physical unit is in principle eligible, except in case of a nitric acid benchmark or a physical unit (e.g. electrical boilers, compressors) that operates on electricity or heat recovered from any other ineligible energy source. If the physical units are not explicitly listed in the GHG permit (e.g. because it is not a combustion unit such as a heat pump), it should be considered as covered by the permit if it is operated by the installation to serve the Annex I activities carried out.

Consumption of heat

Eligibility is determined by the use of the heat for any of the purposes listed in Article 2(3) of the FAR: production of products, production of mechanical energy other than that used for the production of electricity, or (space) heating or cooling.

Examples of heat use that is not eligible under the heat benchmark

- Pre-heating of fuels
- Heat or fuel used for waste water treatment
- Fuels combusted directly for the purpose of flue gas treatment without recovery of measurable heat
- Steam used to obtain smokeless flaring

2.2 Is it necessary to provide proof that heat is exported to district heating?

Yes, the entity to which the heat is exported needs to meet the definition of district heating, as defined in FAR² Article 2(4). Section 3.3 of GD2 provides additional details on the evidence regarding district heating.

2.3 Is heat exported for space heating in non-ETS industrial installations eligible under the district heating sub-installations? Is it considered under production of products or space heating?

Yes, space heating of a non-ETS installation is in principle within the definition of district heating, as defined in FAR² Article 2 (4). However, in the case that the heat is used for both use types, process and space heating, the heat used for the processes usually accounts for the larger share of that non-ETS installation's heat consumption. If that share is at least 95% ('de-minimis' rule), Article 10(3) of the FAR stipulates that all heat may be covered by the

² COMMISSION DELEGATED REGULATION (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonized free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council

heat benchmark sub-installation. Sections 2.2 (on the de-minimis rule) and 3.3 of GD2 provide additional details.

2.4 How should the production of cooling be treated?

Pursuant to the last sentence of Annex VII, section 7.1 of the FAR, the cooling process itself shall be considered as the heat consuming process.

Building on that, p. 36 of GD5 provides the following additional guidance: *“Cooling: Heat in general can be used to drive absorption cooling processes, and cooling can be distributed via networks just like heat, including in public district cooling networks. Following the logic of measurable heat to consider it the difference of enthalpy between delivered and returned medium, cooling would have to be considered as negative heat delivery. However, there are many difficulties associated with such an approach. Therefore, the FAR include a clear rule in section 7.1 of Annex VII: “Where heat is used to provide cooling via an absorption cooling process, that cooling process shall be considered as the heat consuming process.” This means that there is no need for further consideration of heat or cooling delivered to consumers downstream of the cooling process.”*

Where the “cool” is used for district cooling, the heat consumed for that cooling should therefore be covered by the district heating sub-installation.

2.5 Is it possible not to apply for the allocation for very small (De-minimis) sub-installations?

The Operator can choose not to apply for allowances for a *De-minimis* sub-installation where the administrative burden outweighs the benefit. For example, if the fuel benchmark sub-installation’s activity level is only made up of fuel consumption in laboratory Bunsen burners or Diesel Fire Pumps etc. the operator can decide not to include the fuel benchmark sub-installation. In such case the fuel consumption and corresponding emissions from such sources should be included in the “Rest” categories in sections E.I.1.(c) line vi. and K.III.2 of the data collection template. This ensures that there are no omissions or double counting of emissions or energy input.

3 Data collection Questions (GD3)

3.1 How should heat imported from an electric boiler or recovered from an electric compressor be reported?

Such heat needs to be reported in the template under sections E.II.c and E.II.d. like any other heat imported from non-ETS sources.

3.2 Regarding method 3 of FAR (annex VII, section 7.2): clarify what “efficiency” is acceptable: is it the combustion efficiency (deducting only the loss in flue gas from the input energy from fuels), the boiler efficiency (deducting loss in flue gas and radiation and convection losses from input energy from fuels), the global efficiency (taking into account, the boiler efficiency and subtracting the heat loss on the distribution heat network) or any other definition of the efficiency?

Since the heat BM sub-installation’s activity level relates to the net amount of heat consumed or net amount exported to non-ETS, the efficiency used has to take into account all losses that occur outside the consumption process / export. It should therefore be the global efficiency taking into account all losses including those for distributing the heat to the consumption process / export.

3.3 How should measurable heat produced and exported by units which are covered by the system boundaries of a product benchmark be taken into account for the attribution of emissions, e.g. in pulp industries?

Any export of measurable heat (e.g. steam) from product benchmark sub-installations should be reported and deducted as exported heat (section F.k.v. in the baseline data collection template), regardless of whether it is used in other (sub-)installations or for the production of electricity. This also applies to any electricity produced from that steam, including from the black liquor combustion in pulp industries. If the emission factor associated with the export of heat from a product benchmark sub-installation is not known or is not clearly defined (e.g. in the case of recovered waste heat), it will be based on the updated heat benchmark value. In that case section F.k.vi. in the baseline data collection template should be left empty. If on the other hand the emission factor is known and clearly defined, the preferred option is that the operator enters the known value in section F.k.vi.

3.4 Should biomass emissions be treated as zero?

Biomass emissions are to be treated in accordance with what is reported under MRR regulation in that given year. For further guidance see the MRR Guidance Document no. 3 on Biomass issues in the EU ETS.

https://ec.europa.eu/clima/sites/clima/files/ets/monitoring/docs/gd3_biomass_issues_en.pdf

4 Questions on Verification of FAR Baseline Data Reports and validation of MMPs (GD4)

4.1 Are site visits mandatory?

Yes.

4.2 Guidance Document 4 Section 6.1.6 explains whether a further on-site site visit is necessary if the same verifier has already verified all data related to the baseline period during annual emission verification. Does this apply if the verifier was not yet accredited for scope 98 at the time of the annual emission report verification?

This provision is applicable even if the verifier did not have the scope 98 accreditation at the time of the verification but only the one for the specific sector. The conditions in Guidance document 4 section 6.1.6 apply.

4.3 Will accreditation at scope 98 EC Regulation No. 600/2012 be sufficient, or do verifiers need accreditation based on EC Implementing Regulation 2018/2067 (applicable since 01/01/2019)?

Scope 98 accreditation based on EC Regulation No. 600/2012 is sufficient, where applicable in combination with the scope of the relevant technical sector(s), see GD No. 4, section 5.1.

4.4 Will applications verified by verifiers who have not yet been accredited under scope 98 be rejected?

Yes. The verifier needs to be accredited by the date when the report is issued.

5 Questions on Monitoring and Reporting in Relation to the Free Allocation Rules (GD5)

5.1 Guidance Document 5 states that where heat is imported, the actual emission factor of that heat needs to be reported (and used) if available, and that for heat export the attributed emissions in the context of the benchmark update are always determined based on the (updated) heat benchmark. What explains this difference?

The wording in GD5 refers specifically to heat recovered from product BM sub-installations (e.g. waste heat recovery, heat recovered from exothermic processes). In such cases the EF is not exactly defined and should therefore be based on the heat BM.

5.2 Are there cases where “better” data for a specific data set (e.g. activity data, NCV, EF) can be used than the one used in the MP under the MRR?

Pursuant to sections 4.4 to 4.6 of Annex VII of the FAR methods and approaches consistent with the MP are generally considered “best”, unless the operator can demonstrate that other data is “better” based on a simplified uncertainty assessment. However, as the improvement principle required by Articles 9 and 69 of the MRR obliges the operator to regularly look for opportunities to improve the monitoring methodology, any “better” methodology should have already been applied in the MP in the first place. Therefore, any type of data used for the baseline data collection should be consistent with the MP, whenever applicable.

6 Questions on Cross-Boundary Heat Flows (GD6)

No FAQs related to GD6 at the time of writing

7 Questions on changes in installations

(linked to the future GD7, not published yet at the time of writing)

7.1 How should installations that have stopped operating but still have a valid GHG permit be handled?

If an installation has a valid GHG permit it should be treated as an incumbent installation. Therefore, it must be listed in the NIMs and should receive allocation following the forthcoming ALC rules. If it has been operating during at least one of the baseline years, it should submit a verified NIMs template and MMP. The operator can also choose not to apply for any possible free allocation if it is certain that the permit will be withdrawn.

7.2 How should installations that have received a permit by 30 June 2019 but will not start operating by then be handled?

These meet the definition of an incumbent. The HAL will be based on the first full calendar year of operation.

8 Questions on waste gases and process emissions sub-installation (GD8)

8.1 Is the treatment of an off gas, not originating from one of the processes (a) to (f) listed in Article 2(10) of the FAR, that is burnt in an afterburner such as a RTO

(Regenerative Thermal Oxidizer) – possibly with injection of another fuel such as natural gas – eligible for free allocation based on fuel benchmark?

Fuel and heat consumption for the treatment of off-gases, not originating from one of the processes according to FAR, Article 2 (10) (a) to (f) are not eligible for free allocation, with the exception of safety flaring which is covered by a fuel benchmark sub-installation. This also includes any start-up or auxiliary fuel used in the process.

Any recovered measurable heat from off-gases is however eligible for free allocation. The recovered heat can therefore be covered by a product benchmark sub-installation, or a heat benchmark sub-installation, depending on the types of processes in which that heat is used taking into account the rules explained in chapter 2 of Guidance Document 2.

8.2 How should a waste gas (originating from one of the processes (a) to (f) listed in Article 2(10) of the FAR, and containing incompletely oxidised carbon at a minimum of 1 weight %) that is burned in an afterburner without energy recovery be treated?

If waste gases are burnt without heat recovery, and if the corresponding CO₂ emissions occur as a result of the processes listed in points (a) to (f) of Article 2(10), 75% of the carbon shall be considered as CO₂ to be covered by the process emissions sub-installation as referred in Article 10(5)(i). Where the waste gas is collected and transferred to a separate combustion unit where it is burnt under controlled conditions, the resulting CO₂ emissions cannot be considered a result of processes listed in points (a) to (f) of Article 2(10).

8.3 When a waste gas is burnt in an RTO, and the heat from the RTO is recovered to support the incineration process (e.g. by pre-heating the gas stream into the RTO), could this be considered as measurable heat consumed within the installation's boundaries for the production of products, for the production of mechanical energy other than used for the production of electricity, for heating or cooling with the exception of the consumption for the production of electricity (Art. 2(3a) FAR)?

In principle, such recovered heat would be eligible if the heat is measurable and used for any of the processes listed in Article 2(3). However, in the specific case, if used for pre-heating the gas stream, i.e. a fuel, it does not serve any of the purposes listed in Article 2(3) of the FAR (see Q 2.1) and would hence not be eligible, as it would lead to double counting of the energy content of the combustion process.

9 Sector-specific Questions (GD9)

9.1 How should by-pass dust in cement clinker production be taken into account?

Any material that meets the specifications of cement clinker should be taken into account for the determination of the activity level. Therefore, any by-pass dust that meets those criteria and is or can be processed further into cement shall be taken into account. Any by-pass dust that does not meet those criteria and is e.g. considered waste and disposed should not be taken into account for the activity level.

However, all associated emissions have to be attributed to the clinker sub-installation because the by-pass dust constitutes a process directly or indirectly linked to the clinker production, regardless of its latter use.

9.2 The steam cracking process needs utilities like demineralized water, cooling water, instrument air, quench water treatment, caustic regeneration. The question is which of these utilities are included within the boundary of the product benchmark perimeter sub-installation and which utilities are not in the product benchmark and as a consequence to be included in a fall-back sub-installation.

Quenching is explicitly mentioned in GD9 as included in the product benchmark. Furthermore, all other utilities listed carry out processes directly or indirectly linked to HVC production (just like heating of onsite offices and pre-treatment of gaseous feedstocks). Such processes therefore have to be considered as included in the system boundaries of the product benchmark. Similarly, all associated emissions have to be attributed to the product benchmark sub-installation.

9.3 Accounting rules for CO₂ transfers to PCC manufacturing (purified calcium carbonate, relevant in lime industry) have changed when the revised Article 49 of the MRR entered into force in 2019. How should such transfers be treated in the baseline template?

It is important that emissions data in the baseline data reports are consistent with the emissions reported for each year in the baseline period. Adjustments to reported emissions should only be considered if preceded by adjustment to the annual emission reports in any year. CO₂ should be listed as exported from the sub-installation (section F.j of the baseline data collection template) for those baseline years for which the CO₂ was accounted for as transferred from the installation in the same year's annual emissions report.

9.4 Does an installation have to report a pulp sub-installation even if none of that pulp is put on the market, only to provide input for the update of the relevant pulp benchmark?

If any product that meets any of the product benchmark specification is produced, a corresponding sub-installation should be reported. This would also apply for pulp production, even though Article 16(6) stipulates that only pulp put on the market counts towards the sub-installation's activity level.

Therefore, also installations that put none of the pulp produced on the market should report the corresponding pulp sub-installation, even when activity levels are zero. Furthermore, the actual amount of total pulp produced and attributable emissions will need to be reported for the update of the pulp benchmark value.

10 Questions on mergers and splits

(linked to the future GD10, not published yet at the time of writing)

10.1 How do we deal with installations that merged or split during the baseline period?

The data should be entered considering the legal situation at the time the baseline data report is submitted, i.e. as if the merger or split had taken place at the start of the baseline period or in the first year of operation.