



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
CLIMATE ACTION

Directorate B - European and International Carbon Markets

## **Frequently Asked Questions**

### **On the Free Allocation Rules for the Allocation Level Changes of the EU ETS post-2020**

*Version 3 issued on 24 September 2021*

These questions and answers do not represent an official position of the Commission and are not legally binding. However, this Frequently Asked Questions document aims to clarify the requirements established in the EU ETS Directive and Commission Implementing Regulation (EU) 2019/1842 on adjustments to free allocation of emission allowances due to activity level changes for the EU ETS post-2020 ('the ALC-Regulation' or 'the ALC-R') and is essential to understanding those legally binding rules.

## Table of contents

<b>1</b>	<b>GENERAL ISSUES</b> .....	<b>3</b>
1.1	Should all installations of a group be listed in section A.III.I.iii of the ALC template or only those covered by the EU ETS? How can the installations in groups be clearly identified? .....	3
1.2	If a group comprises more than 10 installations, how should this be reflected in section A.III.I.iii of the ALC template?.....	3
1.3	How should mandatory cells in the ALC template that are not relevant for the installation be treated?.....	3
1.4	How should data be provided in the 'Combined Heat and Power (CHP) Tool' or 'Waste Gas tool' in case there are more than two physical CHP units/?.....	3
1.5	How does the 95% rule in Article 10(3) FAR have to be taken into account in the ALC report and how does it affect the activity levels?.....	4
1.6	How should the fuel emission factor (EF) be determined in section E.I.1.d of the ALC template? .....	4
1.7	How should results under 'BM values in the linked NIMs file are correct' at the end of the summary sheet (value 'NIMs BM val. OK?' in the ALC Tool) be understood? .....	5
<b>2</b>	<b>SPECIAL ISSUES (ARTICLE 6, ANNEXES,...)</b> .....	<b>6</b>
2.1	How should the free CaO and MgO content for lime and dolime be reported in sheet H of the ALC template? How should the operator proceed in case this content is not known? .....	6
2.2	Can the energy efficiency be calculated if part of the heat/fuel is used for purposes other than the 'production of goods' or not 'within the installation'?.....	7
2.3	How can the energy efficiency be calculated if new products are produced at the sub-installation?.....	7
2.4	What measures do not count as energy efficiency improvements? How should this be reflected in the ALC template? .....	7
2.5	How can the energy efficiency be calculated if different units (e.g. tonne, litre) are used for the production of goods within one sub-installation?.....	8
<b>3</b>	<b>MERGERS &amp; SPLITS</b> .....	<b>8</b>
3.1	How should merges or splits be reported?.....	8
3.2	Can two installations merge where one is an electricity generator and the other one is not? And vice versa, can an installation be split into one electricity generator and one non-electricity generator installation? The same question applies for merges between new entrants and incumbents. ....	8
3.3	How can an electricity generator that did not have high-efficiency CHP or district heating in the NIMs receive free allowances when it starts high-efficiency CHP or district heating after June 2019? .....	9



# 1 GENERAL ISSUES

## 1.1 ***Should all installations of a group be listed in section A.III.I.iii of the ALC template or only those covered by the EU ETS? How can the installations in groups be clearly identified?***

Only EU ETS installations should be listed, since Article 3(2) of the ALC-R refers to 'installations' and these are therefore to be understood as only those covered by the EU ETS.

The list should not only cover installations in the same Member State, but cover all EU ETS installations located in the EU and EEA-EFTA states (i.e. whole EU ETS coverage).

The installation can be clearly identified when the Unique ID as listed in the EUTL is used (formatted as e.g. AT-7 or AT000000000000007). This ID allows for the clear identification of all installations and no further information is required under A.III.I.iii.

## 1.2 ***If a group comprises more than 10 installations, how should this be reflected in section A.III.I.iii of the ALC template?***

If more than 10 installations are relevant, the most pragmatic solution would be to combine installations and list them e.g. under number 10 separated by ';', e.g. BE-1234, BE-1235, BE-1236 etc.

## 1.3 ***How should mandatory cells in the ALC template that are not relevant for the installation be treated?***

If mandatory cells are not relevant, '0' should be entered, whenever appropriate (e.g. when there is no fuel used for electricity production). However, '0' is not preferred in all cases and should certainly be avoided where this would be misleading, e.g. '0' for a non-relevant emission factor which would erroneously indicate e.g. pure biomass. In such cases as well as in cases where whole sub-sections are not relevant (e.g. only one type of waste gas is relevant at the installation and therefore the second waste gas tool is not relevant), cells can be left empty. Alternatively 'n.a.' could be entered.

Note that the red indicator in the header is only indicating that a mandatory (yellow) cell was left blank. Therefore, the abovementioned instructions apply. If leaving the cells empty (e.g. the second waste gas tool is not relevant), it is no problem that the header will remain red.

## 1.4 ***How should data be provided in the 'Combined Heat and Power (CHP) Tool' or 'Waste Gas tool' in case there are more than two physical CHP units/?***

The preferred option is to combine CHPs or waste gases and group them into a maximum number of two (as provided for in the template). In such case for the CHP weighted averages should be used for the reference efficiencies and the efficiencies of the CHP units (weighted by relative fuel input into CHP). For the waste gas weighted averages for the net calorific value should be used (weighted by the amount of waste gas per year), as this would lead to the same results anyway.

**1.5 How does the 95% rule in Article 10(3) FAR have to be taken into account in the ALC report and how does it affect the activity levels?**

Changes in the 95% rule can lead to changes in the allocation and the sub-installation split, as Article 4 of the ALC-R requires the AL-report to be in accordance with the requirements of Articles 7 to 12 of the Commission Delegated Regulation (EU) 2019/331 (the 'Free Allocation Rules Regulation' or 'FAR')). This ensures the equal treatment between incumbents and new entrants/sub-installations.

Example:

In the baseline data report (BDR), an installation consumed 98% of the heat produced for the production of goods covered by the carbon leakage (CL) list. Therefore, the installation only had one sub-installation (heat, CL) in the NIMs. In 2019 and 2020, there was a shift in production and the average activity level of those two years lead to only 93% of the heat being used for CL products.

In this case, the 95% threshold in Article 10(3) of the FAR is no longer reached and the corresponding heat consumption can no longer contribute towards the CL sub-installation. However, the 7% heat for non-CL products are eligible under a non-CL sub-installation which will be treated as a new sub-installation. Note that if the activity level of the CL sub-installation decreases by more than 15% and 100 EUA (preliminary allocation) at the same time, an allocation level change would apply for the heat, CL sub-installation as well.

**1.6 How should the fuel emission factor (EF) be determined in section E.I.1.d of the ALC template?**

In section E.I.1.d the (weighted) EF of the relevant fuel should be stated, of the total fuel input (i.), of the fuels for measurable heat production (ii.), and of the fuels for electricity production (iii.).

Example:

An installation has a total fuel input of 1 000 TJ, thereof 900 TJ natural gas (EF: 56 t CO<sub>2</sub>/TJ) into a CHP and 100 TJ heavy fuel oil (EF: 78 t CO<sub>2</sub>/TJ) in a standalone steam boiler. From the CHP, 600 TJ of steam and 150 TJ of electricity are produced. In that case, the following EFs should be entered:

- Fuel EF for total fuel input (E.I.1.d.i): 58,2 t CO<sub>2</sub>/TJ  $(=(56 \times 900+78 \times 100)/1\ 000)$
- Fuel EF for measurable heat (E.I.1.d.ii): 59,0 t CO<sub>2</sub>/TJ  $(=(56 \times 630+78 \times 100) / (630+100))$ . Note that the 630 TJ come from the CHP tool 'fuel input for heat' calculated under D.III.1.i for reference efficiencies for heat/electricity of 90%/52.5%.
- Fuel EF for electricity (E.I.1.d.iii): 56 t CO<sub>2</sub>/TJ (only produced from natural gas as fuel)

The EF values provided here do not have any direct impact on further calculation steps. However, they are helpful to cross-check fuel, heat and emissions balances, in particular where CHPs and standalone heat production, or process emissions are relevant.

**1.7 How should results under ‘BM values in the linked NIMs file are correct’ at the end of the summary sheet (value ‘NIMs BM val. OK?’ in the ALC Tool) be understood?**

- **Precondition for meaningful results:** ALC Template contains the corrected BM values
- **How should results under ‘BM values in the linked NIMs file are correct’ be understood?:** TRUE means that the version of the BDR is OK/acceptable and does not necessarily have to be updated to the new BM values in order to obtain a correctly calculated allocation in the ALC template. This is the case if either:
  - the BDR already IS corrected and contains the correct BM values, or
  - the BDR IS NOT corrected but it is still ensured that this has no impact on the correctness of the calculation of the allocation in the ALC template (in particular the case if only fall-back sub-installations are relevant)

The following table shows how the different combination of cases and displayed results have to be understood.

Case	BM values in BDR	Installation has product BM sub-installations	Displayed Value in column ‘BM values in the linked NIMs file are correct’
Operator chooses to enter NIMs values manually	N.A. (cannot be checked)		
Operator imports NIMs data from BDR	correct	TRUE	TRUE
		FALSE	TRUE
	wrong	TRUE	FALSE*
		FALSE	TRUE

\*only a problem if EExch-F, non-ETS heat import or VCM-F are relevant for any product BM sub-inst.

As said in the footnote\*, the BDR would only need to be updated before linking with the BDR if:

- the EExch-F is relevant (more precisely, only if there is also heat import to this sub-installation), or
- there is non-ETS heat import to a product BM sub-installation, or
- the VCM factor is relevant and lower than 1.

The reason for this is that each of these values, if applicable, would be taking into account the incorrect heat BM value and therefore lead to incorrect values being transferred to the ALC template, leading to an incorrect allocation calculated for this sub-installation.

It has to be noted though that the formula does not check if any of the three cases are relevant, but check for all product BM sub-installations if the BM values in the BDR are correct. Nevertheless, if TRUE is displayed under ‘BM values in the linked NIMs file are correct’, the allocation calculation in the ALC template will always be correct, independent of the BM value used in the BDR.

## 2 SPECIAL ISSUES (ARTICLE 6, ANNEXES,...)

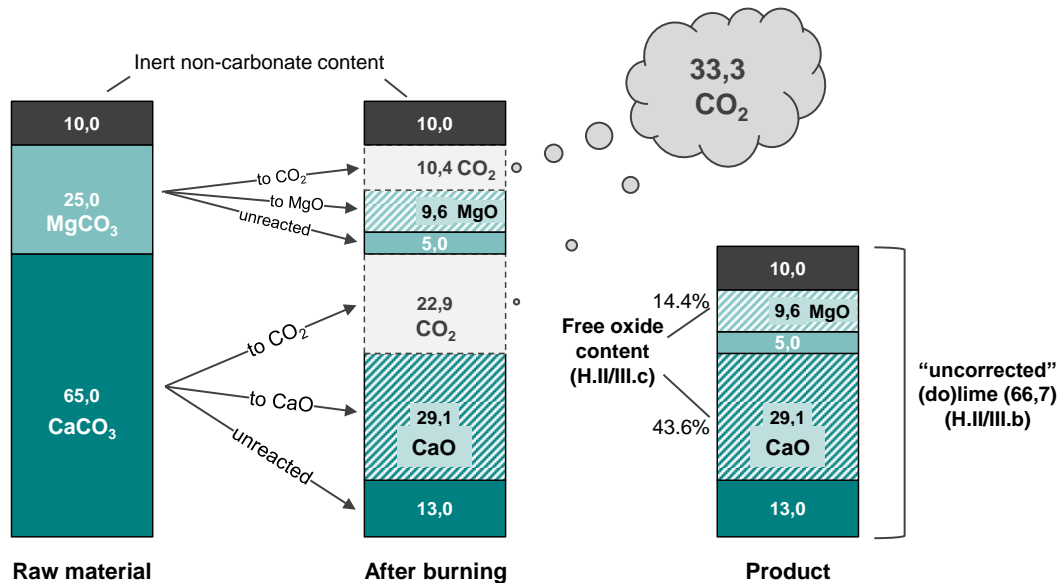
### 2.1 How should the free CaO and MgO content for lime and dolime be reported in sheet H of the ALC template? How should the operator proceed in case this content is not known?

For reporting the free CaO and MgO content in lime production, Annex III of the FAR states that:

*“In case no data on the content of free CaO/MgO is available, a conservative estimate not higher than 85%/0,5 % shall be applied.”*

However, in practice making any such conservative estimates will rarely be applicable because better data sources will be available, for the following reasons:

- The provisions in Annex III of the FAR cannot be seen in isolation, but also need to take into account the rules set out in Annex VII, section 4.6 of the FAR. There the FAR refer to the use of laboratory analyses (4.6 (a) and (b)) on which sections 6.1 and 6.2 further specify that this would also include indirect/correlation methods.
- Such indirect method applies for the stoichiometric correlation between
  - the (Ca/Mg) carbonate content in the raw material including the corresponding CO<sub>2</sub> emissions, and
  - the free (Ca/Mg) oxide content in the lime/dolime produced (see schematic diagram below).



Even if emissions reporting (Monitoring & Reporting Regulation 2018/2066, Annex IV, section 10) is done via monitoring method A (input-based, e.g. limestone), the reported CO<sub>2</sub> emissions, including the known Ca and Mg content based on which those are determined, together with the amounts of product produced ('uncorrected' lime or dolime), lead to a distinct amount of free CaO/MgO in the lime/dolime.

In this case the ratio between free CaO and MgO is not known, as higher free CaO / lower free MgO equal the same CO<sub>2</sub> emissions and vice versa. Nevertheless, the ratio between free CaO and free MgO can be estimated freely as long as they stoichiometrically lead to the same amount of CO<sub>2</sub> emitted. This can be ensured as long as the following equation is satisfied:

$$\text{uncorrected (do)lime production [t]} \cdot (0.785 \cdot \text{free CaO [\%]} + 1.092 \cdot \text{free MgO [\%]}) = \text{process emissions (t CO}_2\text{) as per annual emissions report}$$

as in the example above:

$$66,7t \cdot (0.785 \cdot 43.6\% + 1.092 \cdot 14,4\%) = 33.3 t CO_2 )$$

**2.2 Can the energy efficiency be calculated if part of the heat/fuel is used for purposes other than the ‘production of goods’ or not ‘within the installation’?**

Yes, the ‘tool’ in sections G.I.1.b.2 to G.I.1.b.5 (and similar sections for other heat and fuel benchmark sub-installation) will calculate the energy efficiency for the whole sub-installation and any heat consumed that is part of the AL. Therefore it is important that any heat/fuel consumed by the sub-installation is reported there. However for any heat not used for ‘production of goods’ or ‘within the installation’ (e.g. exported heat), the energy efficiency will always be calculated as 1 TJ/unit. This means that the expected heat consumption to determine efficiency gains compared to the NIMs will equal the actual heat consumption (see example 7b in Guidance Document 7)

**2.3 How can the energy efficiency be calculated if new products are produced at the sub-installation?**

Similar to the question 2.2 above, for new products the energy efficiency will always be calculated as 1 TJ/unit (expected = actual heat consumption, see example 7b in Guidance Document 7). Only for the next baseline data report will the energy efficiency for the new product be calculated and used as the baseline value.

Note that the relevant section in the Monitoring Methodology Plan (MMP) might need to be changed to reflect the new product including the methodology to attribute fuel or heat consumption to its production.



#### **2.4 What measures do not count as energy efficiency improvements? How should this be reflected in the ALC template?**

Since the provision in Article 6 of the ALC-R is aimed at improving the energy efficiency of the production process<sup>1</sup> (e.g. GJ consumed t produced), changes in energy consumption should not be considered as energy efficiency improvements. Such changes would include for example:

- Shift from eligible heat to non-eligible heat sources (e.g. ETS heat to non-ETS heat or heat from fuel to heat from electricity),
- Shift from fuel consumption in a fuel benchmark sub-installation to heating with electricity.

In order to reflect that in the ALC template under G.I.1.b.1 (and similar sections for all other heat and fuel benchmark sub-installations), the most pragmatic solution would be to not enter any data there all, since this is only optional. However, should the operator want to enter data there, it would be most appropriate, to enter the total energy consumption (eligible and non-eligible) under G.I.1.b.1. So if there is a switch from ETS to non-ETS heat or electricity, the specific energy consumption calculated under G.I.1.b.2. would remain at NIMs levels and the allocation will be adjusted accordingly (i.e. reduced if the switch accounts for more than a 15% reduction).

Note that this appears contrary to the heat counted towards the activity level, i.e. only attribute eligible heat, but it clearly provides the more consistent results for the cases discussed above.

#### **2.5 How can the energy efficiency be calculated if different units (e.g. tonne, litre) are used for the production of goods within one sub-installation?**

When the first version of the ALC template was published, the energy efficiency was understood as an aggregated value at sub-installation level and could therefore only be calculated if all production levels were given in the same unit. With the updated calculation method of the energy efficiency in July 2021, the use of different units for each product is now possible in principle. However, the ALC template could not be updated in that regard. Therefore, if products are reported and verified in different units, values have to be converted to one uniform unit, normally to a mass unit, tonnes.

For reporting values that are not 'production of goods' or 'within the installation' the production values should be reported as '0' (or empty), as any production e.g. linked with exported heat, occurs outside the system boundaries of the installation and thus any energy efficiency improvements would also occur outside the system boundaries. However, energy consumption levels have to be provided for all purposes listed in the ALC template under G.I.1.b.1 (and similar sections for all other heat and fuel benchmark sub-installations), i.e. values in row 99 of sheet G ("share of a") have to equal "100%".

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<sup>1</sup> Article 2(4) of the Energy Efficiency Directive (2012/27/EU) defines: 'energy efficiency' means the ratio of output of performance, service, goods or energy, to input of energy

### 3 MERGERS & SPLITS

#### 3.1 *How should merges or splits be reported?*

Mergers and splits have to be reported by following the steps below:

1. Complete a NIMs template (baseline data report, BDR) with data consistent with the installations' system boundaries as after the merger or split. In the case of a merger, one BDR has to be submitted to the competent authority, while for a split two BDRs have to be submitted.
2. Complete all ALC reports based on each BDR for all years. E.g. if the split occurs in 2023, two BDRs and for each installation all three ALC reports (2021, 2022, 2023 (if applicable)) have to be submitted.

#### 3.2 *Can two installations merge where one is an electricity generator and the other one is not? And vice versa, can an installation be split into one electricity generator and one non-electricity generator installation? The same question applies for mergers between new entrants and incumbents.*

It is important to note that Article 25(4) of the FAR stipulates that '*...the free allocation of allowances of the installations after mergers or splits shall correspond to the final amount of free allocation, before the mergers or splits.*' Therefore, a merger or split, following the steps outlined in point 3.1 above, can only be accepted if the competent authority ensures<sup>2</sup> that, for all years of the allocation period, no changes in the amount of allocation occur beyond the changes triggered by the application of the following factors:

- A linear reduction factor as applied to electricity generators; or
- A linear reduction factor as applied to new entrants; or
- A cross sectoral correction factor.

The same reasoning applies to changes related to the eligibility of heat for receiving free allocation. If the final status of the merged installation is not electricity generator, then it is no longer relevant how the heat has been produced. If this is not the case, the merger or split will not be accepted and the installation(s) would have to continue submitting ALC reports consistent with the existing structure as reflected in the NIMs during the rest of the sub-period 2021-2025.

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<sup>2</sup> For instance, this could involve asking the operator(s) to provide detailed information on the merger or split, including already submitting updated baseline data reports for each installation present after the merger or split.

**3.3** *How can an electricity generator that did not have high-efficiency CHP or district heating in the NIMs receive free allowances when it starts high-efficiency CHP or district heating after June 2019?*

**District heating:**

For district heating, the same rules apply as for all other sub-installations. This means that if an installation starts exporting heat to district heating, it will be treated as a new sub-installation.

**High-efficiency CHP:**

Since high efficiency concerns also eligible heat, the same rules apply as for all other sub-installations. However, this eligibility decision is preceded by the determination of the high efficiency status of the CHP and dependent on the applicable reference period. Therefore, the following cases can be distinguished:

- New entrant: the high efficiency status of the CHP will be determined in line with the HAL determination, i.e. based on the first full calendar year of operation. To this end, the CHP tool can be filled and used as the basis to determine whether the CHP is high-efficient or not.
- New sub-installation / new high efficiency CHP: in the case the installation did not have a CHP before and builds a new one, it will be treated as a potential new sub-installation, provided the CHP is high efficiency. The determination of the high efficiency status of the CHP can be done as described for new entrants above.
- Incumbents with existing CHP: If an existing CHP was found to be high efficiency or not in the NIMs, this status will not change (either way) until the next NIMs data collection in 2024 for the second sub-period 2026-2030.