

Commission Regulation (EC) No 2216/2004 of 21 December 2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (Text with EEA relevance) (repealed)

CHAPTER V

TRANSACTIONS

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Status: Point in time view as at 15/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V. (See end of Document for details)

^{F1}Article 43

Issue of force majeure allowances]

Textual Amendments

- F1** Deleted by [Commission Regulation \(EU\) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\)](#).

SECTION 2

Allocation and issue of allowances for the 2008-2012 period and each subsequent five year period

Article 44

National allocation plan table for the 2008-2012 period and each subsequent five year period

1 By 1 January 2007 and by 1 January 12 months before the start of each subsequent five year period, each Member State shall notify to the Commission its national allocation plan table, corresponding to the decision taken under Article 11 of Directive 2003/87/EC. If the national allocation plan table is based upon the national allocation plan notified to the Commission which was not rejected under Article 9(3) of Directive 2003/87/EC or on which the Commission has accepted proposed amendments, the Commission shall instruct the Central Administrator to enter the national allocation plan table into the Community independent transaction log in accordance with the initialisation procedures set out in Annex XIV.

^{F22} A Member State shall notify each correction to its national allocation plan together with each corresponding correction in its national allocation plan table to the Commission. If the correction to the national allocation plan table is based upon the national allocation plan notified to the Commission which was not rejected under Article 9(3) of Directive 2003/87/EC or on which the Commission has accepted amendments and that correction results from improvements in data, the Commission shall instruct the Central Administrator to enter the corresponding correction into the national allocation plan table held in the Community independent transaction log.

All such corrections relating to new entrants shall be made in accordance with the automatic national allocation plan table change process as set out in Annex XIa to this Regulation.

All such corrections not relating to new entrants shall be made in accordance with the initialisation procedures as set out in Annex XIV to this Regulation.

In all other cases, the Member State shall notify the correction to its national allocation plan to the Commission and if the Commission does not reject this correction in

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accordance with the procedure in Article 9(3) of Directive 2003/87/EC, the Commission shall instruct the Central Administrator to enter the corresponding correction into the national allocation plan table held in the Community independent transaction log in accordance with the initialisation procedures set out in Annex XIV to this Regulation.]

3 The registry administrator shall, subsequent to any correction made pursuant to paragraph 2 which occurs after allowances have been issued under Article 45 and which reduces the total quantity of allowances issued under Article 45 for the 2008-2012 period or subsequent five-year periods, convert the number of allowances specified by the competent authority into AAUs by removing the allowance element from the unique unit identification code of each such AAU comprising the elements set out in Annex VI.

The correction shall take place in accordance with the correction to allowances process set out in Annex IX.

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

Article 45

Issue of allowances

After the national allocation plan table has been entered into the Community independent transaction log and, subject to Article 44(2), by 28 February of the first year of the 2008-2012 period and by 28 February of the first year of each subsequent five-year period, the registry administrator shall issue the total quantity of allowances set out in the national allocation plan table into the Party holding account by converting an equal quantity of AAUs held in that holding account into allowances.

This conversion shall take place through adding the allowance element to the unique unit identification code of each such AAU, comprising the elements set out in Annex VI.

The issue of allowances for the 2008-2012 period and each subsequent five-year period shall take place in accordance with the allowance issue (2008-2012 onwards) process set out in Annex IX.

[^{F2}Article 46

Allocation of allowances to operators

Without prejudice to Articles 44(2) and 47, by 28 February 2008 and by 28 February in each year thereafter, the registry administrator shall transfer from the Party holding account to the relevant operator holding account the proportion of the total quantity of allowances issued by any registry administrator under Article 45 which has been allocated to the corresponding installation for that year in accordance with the relevant section of the national allocation plan table.

Where foreseen for an installation in the national allocation plan of the Member State, the registry administrator may transfer that proportion at a later date of each year.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V. (See end of Document for details)

Allowances shall be allocated in accordance with the allowance allocation process set out in Annex IX.]

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

Article 47

Surrender of allowances on instruction of the competent authority

If instructed to do so by the competent authority pursuant to Article 16(1) of Directive 2003/87/EC, the registry administrator shall surrender part or all of the proportion of the total quantity of allowances issued under Article 45 which has been allocated to an installation for a specific year, by entering the number of surrendered allowances into the section of the surrendered allowance table designated for that installation for that year. These surrendered allowances shall remain in the Party holding account.

Allowances surrendered on instruction of the competent authority shall be surrendered in accordance with the allowance allocation process set out in Annex IX.

^{F2}Article 48

Allocation of allowances to new entrants

If instructed to do so by the competent authority, the registry administrator shall transfer a proportion of allowances issued by any registry administrator under Article 45 that are in the Party holding account to the operator holding account of a new entrant in accordance with the relevant section of the national allocation plan table for that new entrant for the year in question.

Allowances shall be transferred in accordance with the allowance allocation process set out in Annex IX.]

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

^{F3}Article 48a

Allocation of allowances following their sale by Member State

If instructed to do so by the competent authority following a sale of allowances held by a Member State, the registry administrator shall transfer a quantity of allowances from

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the Party holding account to the person holding account or operator holding account of the buyer of allowances.

Allowances transferred within the same registry shall be transferred in accordance with the 'internal transfer' process set out in Annex IX. Allowances transferred from one registry to another will be transferred in accordance with the 'external transfer (2008 to 2012 onwards)' process set out in Annex IX.]

Textual Amendments

- F3** Inserted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

SECTION 3

Transfers and eligibility

Article 49

Transfers of allowances and Kyoto units by account holders

1 The registry administrator shall carry out any transfer between holding accounts referred to in Article 11(1) and (2):

- a within its registry as requested by an account holder in accordance with the internal transfer process set out in Annex IX;
- [^{F1}b between registries as requested by an account holder for allowances issued for the 2005-2007 period in accordance with the external transfer (2005-2007) process set out in Annex IX; and]
- c between registries as requested by an account holder for allowances issued for the 2008-2012 period and subsequent five-year periods and Kyoto units in accordance with the external transfer (2008-2012 onwards) process set out in Annex IX.

2 Allowances may only be transferred from an account in a registry to an account in a third country registry or the CDM Registry, or acquired from an account in a third country registry or the CDM Registry by an account in a registry, where an agreement has been concluded in accordance with Article 25(1) of Directive 2003/87/EC and such transfers are in accordance with any provisions relating to the mutual recognition of allowances under that agreement drawn up by the Commission pursuant to Article 25(2) of Directive 2003/87/EC.

Textual Amendments

- F1** Deleted by [Commission Regulation \(EU\) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

Status: Point in time view as at 15/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V. (See end of Document for details)

Article 50

Eligibility and the commitment period reserve

1 ^[F2]When a communication link is established between the UNFCCC independent transaction log and the Community independent transaction log in accordance with Article 7 of this Regulation a Member State may not transfer or acquire ERUs or AAUs, until 16 months have elapsed since the submission of its report in accordance with Article 7(1) of Decision No 280/2004/EC, unless the Secretariat to the UNFCCC has informed that Member State that compliance procedures will not be commenced.]

Pursuant to Article 8 of Decision No 280/2004/EC, if the Secretariat to the UNFCCC informs a Member State that it does not meet the requirements allowing it to transfer or acquire ERUs or AAUs, or use CERs, the relevant body of the Member State shall instruct the registry administrator not to initiate those transactions requiring such eligibility.

^[F2] When, from 1 January 2008 onwards, the holdings of ERUs, CERs, AAUs and RMUs valid for the relevant five-year period in the Party holding accounts, operator holding accounts, person holding accounts and retirement accounts in a Member State become less than 1 per cent higher than the commitment period reserve, calculated as 90 per cent of the Member State's assigned amount or 100 per cent of five times its most recently reviewed inventory, whichever is the lowest, the Central Administrator shall notify that Member State.]

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

SECTION 4

Verified emissions

^[F2]Article 51

Verified emissions of an installation

1 Upon the verification as satisfactory, in accordance with the detailed requirements established by the Member State pursuant to Annex V of Directive 2003/87/EC, of an operator's report on the emissions from an installation during a previous year, each verifier, including those competent authorities acting as verifiers shall enter or approve the entry of the annual verified emissions for that installation for that year into the section of the verified emissions table designated for that installation for that year in accordance with the verified emissions update process set out in Annex VIII to this Regulation.

2 The registry administrator may prohibit the entry of the annual verified emissions for an installation until the competent authority has received the verified emissions report submitted

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by operators pursuant to Article 14(3) of Directive 2003/87/EC for that installation, and enabled the registry to receive the annual verified emissions.

3 The competent authority may instruct the registry administrator to correct the annual verified emissions for an installation for a previous year to ensure compliance with the detailed requirements established by the Member State pursuant to Annex V to Directive 2003/87/EC, by entering the corrected annual verified emissions for that installation for that year into the section of the verified emissions table designated for that installation for that year in accordance with the verified emissions update process set out in Annex VIII to this Regulation.

4 If the competent authority instructs the registry administrator to correct the annual verified emissions for an installation for a previous year after the deadline specified in Article 6(2) of Directive 2003/87/EC for surrendering allowances equal to the emissions of that previous year, the Central Administrator shall only allow such a correction if it was informed of the competent authority's decision on the new compliance status applicable to the installation as a result of the correction of the verified emissions.]

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

SECTION 5

Surrender of allowances

Article 52

Surrender of allowances

An operator shall surrender allowances for an installation by requesting or, where provided in Member State legislation, be deemed to have requested, the registry administrator to:

- (a) transfer a specified number of allowances for a specified year from the relevant operator holding account into the Party holding account of that registry;
- (b) enter the number of transferred allowances into the section of the surrendered allowance table designated for that installation for that year.

The transfer and entry shall take place in accordance with the allowance surrender process set out under Annex IX.

Article 53

The use of CERs and ERUs

The use of CERs and ERUs by an operator in accordance with Article 11a of Directive 2003/87/EC in respect of an installation shall take place through an operator requesting the registry administrator to:

Status: Point in time view as at 15/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V. (See end of Document for details)

- (a) transfer a specified number of CERs or ERUs for a specified year from the relevant operator holding account into the Party holding account of that registry;
- (b) enter the number of transferred CERs and ERUs into the section of the surrendered allowance table designated for that installation for that year.

[^{F4}The registry administrator shall only accept requests to surrender CERs and ERUs up to the percentage of allocation to each installation specified by Member State legislation. The CITL shall reject any request to surrender CERs and ERUs that would surpass the maximum allowed amount of CERs and ERUs to be surrendered in the Member State, or that would result in surrendering CERs or ERUs that are barred from surrendering in accordance with Article 11a of Directive 2003/87/EC.]

The transfer and entry shall take place in accordance with the allowance surrender process set out under Annex IX.

[^{F5}A CER or ERU that was already surrendered may not be surrendered again nor transferred to an operator or person holding account in the EU ETS.

Surrendered CERs and ERUs shall only be transferred into a retirement account.]

Textual Amendments

- F4** Substituted by [Commission Regulation \(EU\) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)
- F5** Inserted by [Commission Regulation \(EU\) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

^{F1}Article 54

[^{F1}Surrender of force majeure allowances]

Textual Amendments

- F1** Deleted by [Commission Regulation \(EU\) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

^{F2}Article 55

Calculation of compliance status figures

Upon an entry being made into the section of the surrendered allowance table or verified emissions table designated for an installation, the registry administrator shall determine the following:

Status: Point in time view as at 15/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V. (See end of Document for details)

- (a) for the years 2005, 2006 and 2007, the compliance status figure for that installation and for each year by calculating the sum of all allowances surrendered pursuant to Articles 52, 53 and 54 for the 2005 to 2007 period minus the sum of all verified emissions in the current five-year period up to and including the current year;
- (b) for the year 2008 and each year thereafter, the compliance status figure for that installation and for each year by calculating the sum of all allowances surrendered pursuant to Articles 52, 53 and 54 for the current period minus the sum of all verified emissions from the year 2008 up to and including the current year, plus a correction factor.

The correction factor referred to in point (b) shall be zero if the 2007 figure was greater than zero, but shall remain as the 2007 figure if the 2007 figure is less than or equal to zero.]

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

Article 56

Entries into the compliance status table

1 The registry administrator shall enter the installation's compliance status figure calculated in accordance with Article 55 for each year into the section of the compliance status table designated for that installation.

2 On 1 May 2006 and on 1 May of each year thereafter the registry administrator shall notify the compliance status table to the competent authority. In addition, the registry administrator shall notify any changes to the entries for previous years of the compliance status table to the competent authority.

[^{F2} Article 57

Entries into the verified emissions table

Where, on 1 May 2006 and on 1 May of each year thereafter, no verified emissions figure has been entered into the verified emissions table for an installation for a previous year, any substitute emissions figure determined pursuant to Article 16(1) of Directive 2003/87/EC which has not been calculated as closely as possible in accordance with the detailed requirements established by the Member State pursuant to Annex V of Directive 2003/87/EC shall not be entered into the verified emissions table.]

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of](#)

Status: Point in time view as at 15/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V. (See end of Document for details)

the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (Text with EEA relevance).

SECTION 6

Cancellation and retirement

^{F1}Article 58

[^{F1}Cancellation and retirement of surrendered allowances and force majeure allowances for the 2005-2007 period]

Textual Amendments

- F1** Deleted by [Commission Regulation \(EU\) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\)](#).

^{F2}Article 59

Cancellation and retirement of surrendered allowances for the 2008 to 2012 period and subsequent periods

1 By 30 June 2009 and 30 June of each year thereafter, the registry administrator shall cancel allowances surrendered for the 2008 to 2012 period and each subsequent five year period, by:

- a converting a number of allowances issued for that five-year period and held in the Party holding account, equal to the total number of allowances surrendered pursuant to Article 52 as entered in the surrendered allowance table since 1 January of the first year of the relevant period until 31 May of the subsequent year and since 1 June of the preceding year until 31 May of each of the subsequent years, into AAUs by removing the allowance element from the unique unit identification code of each such AAU comprising the elements set out in Annex VI in accordance with the ‘conversion of surrendered allowances for retirement (2008 to 2012 onwards)’ process set out in Annex IX; and
- b transferring a number of Kyoto units of the type specified by the competent authority, with the exception of Kyoto units resulting from projects referred to in Article 11a(3) of Directive 2003/87/EC, equal to the total number of allowances surrendered pursuant to Articles 52 and 53 as entered in the surrendered allowance table since 1 January of the first year of the relevant period until 31 May of the subsequent year and from 1 June of the preceding year until 31 May of each of the subsequent years, from the Party holding account to the retirement account for the relevant period in accordance with the ‘retirement of surrendered allowances (2008 to 2012 onwards)’ process set out in Annex IX.

Status: Point in time view as at 15/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V. (See end of Document for details)

2 After 30 June 2013 and 30 June of the year after the end of each subsequent five-year period, the registry administrator may retire any allowances not yet allocated to operators by converting them into AAUs through removing the allowance element from the unique unit identification code of each such AAU comprising the elements set out in Annex VI in accordance with the ‘conversion of unallocated allowances for retirement (2008 to 2012 onwards)’ process set out in Annex IX and transferring them from the Party holding account to the retirement account for the relevant period in accordance with the ‘retirement of unallocated allowances (2008 to 2012 onwards)’ process set out in Annex IX.]

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\).](#)

^{F1}SECTION 7

[^{F1}Cancellation and replacement

^{F1}Article 60

Cancellation and replacement of allowances issued for the 2005-2007 period

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^{F1}Article 61

Cancellation and replacement of allowances issued for the 2008-2012 period and subsequent periods]

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SECTION 8

Voluntary cancellation and retirement

Article 62

Voluntary cancellation of allowances and Kyoto units

1 The registry administrator shall carry out any request from an account holder pursuant to Article 12(4) of Directive 2003/87/EC to voluntarily cancel allowances or Kyoto units held in any of his holding accounts. The voluntary cancellation of allowances and Kyoto units shall take place in accordance with paragraphs 2 and 3.

^{F1}2

Status: Point in time view as at 15/10/2010.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V. (See end of Document for details)

3 For Kyoto units and allowances issued for the 2008-2012 period and subsequent five-year periods the registry administrator shall transfer the number of Kyoto units or allowances specified by the account holder from his account to the appropriate cancellation account for the 2008-2012 period and subsequent five-year periods in accordance with the cancellation (2008-2012 onwards) process set out Annex IX.

4 Allowances or Kyoto units held in a cancellation account may not be transferred to any other account in the registries system or to any account in the CDM registry or in a third country registry.

Textual Amendments

- F1** Deleted by [Commission Regulation \(EU\) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\)](#).

Article 63

Retirement of Kyoto units

[^{F21} If instructed by the relevant body of the Member State, the registry administrator shall transfer any quantity and types of Kyoto units specified by that body which have not already been retired pursuant to Article 59 from the Party holding account to the appropriate retirement account in his registry in accordance with the ‘retirement of Kyoto units (2008 to 2012 onwards)’ process set out in Annex IX.]

2 An operator or person shall not be able to transfer allowances from his operator or person holding account into a retirement account.

3 Kyoto units held in a retirement account may not be transferred to any other account in the registries system or to any account in the CDM registry or in a third country registry.

Textual Amendments

- F2** Substituted by [Commission Regulation \(EC\) No 916/2007 of 31 July 2007 amending Regulation \(EC\) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council \(Text with EEA relevance\)](#).

Status:

Point in time view as at 15/10/2010.

Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EC) No 2216/2004 (repealed), CHAPTER V.