

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of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (Text with EEA relevance) (repealed)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

#### SECTION 1

#### **Allocation and issue of allowances for the 2005-2007 period**

##### *Article 38*

#### **National allocation plan table for the 2005-2007 period**

1 By 1 October 2004, 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.

2 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 is in accordance with methodologies set out in that national allocation plan or 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 in accordance with the initialisation procedures set out in Annex XIV. 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 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.

3 The registry administrator shall, subsequent to any correction made pursuant to paragraph 2 which occurs after allowances have been issued under Article 39 and which reduces the total quantity of allowances issued under Article 39 for the 2005-2007 period, transfer the number of allowances specified by the competent authority from the holding accounts referred to in Article 11(1) and (2) in which the allowances are held to the cancellation account for the 2005-2007 period.

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

### *Article 39*

#### **Issue of allowances**

After the national allocation plan table has been entered into the Community independent transaction log and, subject to Article 38(2), by 28 February 2005, the registry administrator shall issue the total quantity of allowances set out in the national allocation plan table into the Party holding account.

When issuing such allowances the registry administrator shall assign a unique unit identification code to each allowance comprising the elements set out in Annex VI.

Allowances shall be issued in accordance with the allowance issue (2005-2007) process set out in Annex IX.

### *Article 40*

#### **Allocation of allowances to operators**

Without prejudice to Articles 38(2) and 41, by 28 February 2005 and by 28 February of each year thereafter for the 2005-2007 period, 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 under Article 39 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.

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

### *Article 41*

#### **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 39 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.

#### *Article 42*

##### **Allocation of allowances to new entrants**

If instructed to do so by the competent authority, the registry administrator shall transfer a proportion of the total quantity of allowances issued under Article 39 that are remaining in the Party holding account to the operator holding account of a new entrant.

Allowances shall be transferred in accordance with the internal transfer process set out in Annex IX.

#### *Article 43*

##### **Issue of force majeure allowances**

1 If instructed to do so by the competent authority, the registry administrator shall issue into the Party holding account the number of force majeure allowances authorised by the Commission for the 2005-2007 period pursuant to Article 29 of Directive 2003/87/EC.

Force majeure allowances shall be issued in accordance with the force majeure allowance issue process set out in Annex IX.

2 The registry administrator shall enter the number of issued force majeure allowances into the sections of the surrendered allowance table designated for those installations and years for which authorisation was given.

3 When issuing force majeure allowances the registry administrator shall assign a unique unit identification code to each such force majeure allowance comprising the elements set out in Annex VI.

### 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.

2 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 in accordance with the initialisation procedures as set out in Annex XIV. 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 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.

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.

#### *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.

#### *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 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.

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

#### *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.

#### *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 the total quantity of allowances issued under Article 45 that are remaining in the Party holding account to the operator holding account of a new entrant.

Allowances shall be transferred in accordance with the internal transfer process set out in Annex IX.

## 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;
- 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.

#### *Article 50*

### **Eligibility and the commitment period reserve**

1 A Member State may not transfer or acquire ERUs or AAUs, or use CERs, until 16 months have elapsed since the submission of its report in accordance with Article 7(1) of Decision 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.

2 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 approach a breach of the commitment period reserve, calculated as 90 % of the Member State's assigned amount or 100 % of five times its most recently reviewed inventory, whichever is the lowest, the Commission shall notify that Member State.

## SECTION 4

### **Verified emissions**

#### *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, the verifier 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 under Annex VIII.

2 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 of 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 under Annex VIII.

## 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:

- (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.

From 1 January 2008 onwards, the registry administrator shall only accept requests to use CERs and ERUs up to a percentage of the allocation made to each installation, as specified by that administrator's Member State in its national allocation plan for that period.

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

#### *Article 54*

### **Surrender of force majeure allowances**

The issue of force majeure allowances in accordance with Article 43 shall constitute the surrender of those force majeure allowances.

### *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:

- (a) during the years 2005, 2006 and 2007 determine the compliance status figure for that installation and for each year by calculating the sum of all allowances surrendered from the year 2005 up to and including the current year minus the sum of all verified emissions from the year 2005 up to and including the current year;
- (b) during the year 2008 and each year thereafter determine the compliance status figure for that installation and for each year by calculating the sum of all allowances surrendered from the year 2008 up to and including the current year 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 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.

### *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.

### *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 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.



## SECTION 6

### **Cancellation and retirement**

#### *Article 58*

#### **Cancellation and retirement of surrendered allowances and force majeure allowances for the 2005-2007 period**

On 30 June 2006, 2007 and 2008 the registry administrator shall cancel a number of allowances, CERs, and force majeure allowances held in the Party holding account pursuant to Articles 52, 53 and 54. The number of allowances, CERs, and force majeure allowances to be cancelled shall be equal to the total number of surrendered allowances entered in the surrendered allowance table for the periods 1 January 2005 to 30 June 2006, 30 June 2006 to 30 June 2007, and 30 June 2007 to 30 June 2008.

Cancellation shall take place by transferring CERs, with the exception of CERs resulting from projects referred to in Article 11a(3) of Directive 2003/87/EC, from the Party holding account into the cancellation account for the 2008-2012 period, and by transferring allowances and force majeure allowances from the Party holding account to the retirement account for the 2005-2007 period, in accordance with the retirement (2005-2007) process set out in Annex IX.

#### *Article 59*

#### **Cancellation and retirement of surrendered allowances for the 2008-2012 period and subsequent periods**

On 30 June 2009 and on 30 June of each year thereafter, the registry administrator shall cancel allowances surrendered for the 2008-2012 period and each subsequent five year period, in accordance with the retirement (2008-2012 onwards) process set out in Annex IX, 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 2008 on 30 June 2009 and since 30 June of the preceding year on 30 June 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; 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 2008 on 30 June 2009 and since 30 June of the preceding year on 30 June of the subsequent years, from the Party holding account to the retirement account for the relevant period.

## SECTION 7

**Cancellation and replacement***Article 60***Cancellation and replacement of allowances issued for the 2005-2007 period**

On 1 May 2008, each registry administrator shall cancel and, if instructed to do so by the competent authority, replace allowances held in his registry in accordance with the allowance cancellation and replacement process set out in Annex IX by:

- (a) transferring a number of allowances, equal to the number of allowances issued for the 2005-2007 period minus the number of allowances surrendered pursuant to Articles 52 and 54 since 30 June of the preceding year, from their holding accounts referred to in Article 11(1) and (2) to the cancellation account for the 2005-2007 period;
- (b) if instructed to do so by the competent authority, issuing a number of replacement allowances specified by the competent authority by converting an equal number of AAUs issued for the 2008-2012 period held in the Party holding account into allowances by adding the allowance element to the unique unit identification code of each such AAU comprising the elements set out in Annex VI;
- (c) transferring any such replacement allowances referred to in (b) from the Party holding account into the operator and person holding accounts specified by the competent authority from which allowances were transferred under point (a).

*Article 61***Cancellation and replacement of allowances issued for the 2008-2012 period and subsequent periods**

On 1 May in 2013 and on 1 May in the first year of each subsequent five year period, each registry administrator shall cancel and replace allowances held in its registry in accordance with the allowance cancellation and replacement process set out in Annex IX by:

- (a) transferring all allowances issued for the preceding five-year period from their operator and person holding accounts to the Party holding account;
- (b) converting a number of allowances, equal to the number of allowances issued for the preceding five-year period minus the number of allowances surrendered pursuant to Article 52 since 30 June of the preceding year, 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;
- (c) issuing an equal number of replacement allowances by converting AAUs issued for the current period held in the Party holding account into allowances by adding the allowance element to the unique unit identification code of each such AAU comprising the elements set out in Annex VI;
- (d) transferring a number of those allowances issued under point (c) for the current period from the Party holding account into each operator and person holding account from

which allowances were transferred under point (a), equal to the number of allowances that were transferred from those accounts under point (a).

## 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.

2 For allowances issued for the 2005-2007 period the registry administrator shall transfer the number of allowances specified by the account holder from his account to the cancellation account for the 2005-2007 period in accordance with the allowance cancellation (2005-2007) process set out in Annex IX.

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.

#### *Article 63*

#### **Retirement of Kyoto units**

1 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 (2008-2012 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.