

Commission Delegated Regulation (EU) 2019/331 of 19 December 2018 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/331

of 19 December 2018

determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC⁽¹⁾, and in particular Article 10a(1) thereof,

Whereas:

- (1) Directive 2003/87/EC sets out rules on how transitional free allocation of emission allowances should take place between 2021 and 2030.
- (2) By Decision 2011/278/EU⁽²⁾, the Commission laid down transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC. As Directive 2003/87/EC was substantially amended by Directive (EU) 2018/410 of the European Parliament and of the Council⁽³⁾ and for reasons of clarity as regards the rules applicable between 2021 and 2030, Decision 2011/278/EU should be repealed and replaced.
- (3) In accordance with Article 10a(1) of Directive 2003/87/EC, transitional Union-wide and fully-harmonised measures for the free allocation of emission allowances are to determine, to the extent feasible, *ex-ante* benchmarks so as to ensure that the free allocation of emission allowances takes place in a manner that provides incentives for reductions in greenhouse gas emissions and energy efficient techniques, by taking account of the most efficient techniques, substitutes, alternative production processes, high efficiency cogeneration, efficient energy recovery of waste gases, use of biomass and capture and storage of carbon dioxide, where such facilities are available. At the same time, those measures must not provide incentives to increase emissions. In order to reduce incentives to flare waste gases, other than for safety flaring, the number of allowances allocated free of charge for relevant sub-installations should be reduced by the historical emissions from waste gases flared, with the exception of safety flaring, and not used for the purpose of the production of measurable heat, non-measurable heat

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or electricity. However, taking into account the special treatment accorded by Article 10a(2) of Directive 2003/87/EC, and to provide for a transition, this reduction should only apply from 2026.

- (4) For the purposes of the collection of data which are to form the basis for the adoption of the 54 benchmark values for free allocation between 2021 and 2030 by means of implementing acts to be adopted in accordance with Article 10a(2) of Directive 2003/87/EC, it is necessary to continue to provide definitions of the benchmarks, including the products and related processes, identical to those currently set out in Annex I to Decision 2011/278/EU, apart from certain improvements to legal clarity and linguistic improvements. Article 10a(2) of Directive 2003/87/EC provides that the implementing acts for the 54 benchmark values for free allocation between 2021 and 2030 should be determined using the starting points for determination of annual reduction rate for benchmark value update that were contained in Commission Decision 2011/278/EU as adopted on 27 April 2011. For reasons of clarity, those starting points should also be contained in an Annex to this Regulation.
- (5) The data collection carried out prior to the allocation periods serves the purposes of determining the level of free allocation at installation level as well as providing data that will be used for the purposes of the implementing acts that will determine the 54 benchmark values that will apply between 2021 and 2030. Detailed data at sub-installation level need to be collected, as provided for in Article 11(1) of Directive 2003/87/EC.
- (6) Given the economic relevance of transitional free allocation and the need for equal treatment of operators, it is important that data collected from operators and used for decisions on allocation and which will be used for the implementing acts determining the 54 benchmark values for free allocations between 2021 and 2030 are complete and consistent, and present the highest achievable accuracy. Verification by independent verifiers is an important measure for this purpose.
- (7) The requirement to ensure the collection of high quality data and consistency with the monitoring and reporting of emissions within the scope of Directive 2003/87/EC is a joint responsibility of operators and Member States. For this purpose, specific rules for monitoring and reporting of activity levels, energy flows and emissions at sub-installation level should be provided for, taking duly into account the relevant provisions of Commission Regulation (EU) No 601/2012⁽⁴⁾. Data provided by industry and collected in accordance with these rules should be as accurate and high quality as possible and reflect the actual operations of installations, and be given due consideration for free allocation.
- (8) The operator of an installation should start monitoring the data required in accordance with Annex IV as soon as this Regulation enters into force to ensure that data for the year 2019 can be collected in line with the provisions of this Regulation.
- (9) To limit the complexity of the rules for monitoring and reporting of activity levels, energy flows and emissions at sub-installation level, it is appropriate not to apply a tiered approach.

- (10) To ensure comparable data for the implementing acts that will determine the benchmark values applicable for free allocation between 2021 and 2030, it is necessary to lay down detailed rules for assigning activity levels, energy flows and emissions to sub-installations, consistent with guidance documents produced for the purpose of benchmark data collection for the 2013–2020 period.
- (11) The monitoring methodology plan should describe the instructions to the operator in a logical and simple manner, avoiding duplication of effort and taking into account the existing systems in place at the installation. The monitoring methodology plan should cover the monitoring of activity levels, energy flows and emissions at sub-installation level and serve as a basis for the baseline data reports as well as the annual activity level reporting required for the purpose of adjusting transitional free allocation in accordance with Article 10a(20) of Directive 2003/87/EC. Where possible, the operator should make use of synergies with the monitoring plan approved in accordance with Regulation (EU) No 601/2012.
- (12) The monitoring methodology plan should require approval by the [F¹regulator] in order to ensure consistency with the monitoring rules. Due to time constraints, approval by the [F¹regulator] should not be required for the baseline data report due for submission in 2019. In this case, verifiers should assess compliance of the monitoring methodology plan with the requirements set out in this Regulation. To limit administrative burden, only significant changes to the monitoring methodology plan should require approval by the [F¹regulator].
- (13) To ensure consistency between verification of annual emissions reports required by Directive 2003/87/EC and verification of reports submitted to apply for free allocation as well as to make use of synergies, it is appropriate to use the legal framework set by measures adopted pursuant to Article 15 of Directive 2003/87/EC.
- (14) To facilitate the data collection from operators and the calculation of the emission allowances to be allocated by Member States, inputs, outputs and emissions of each installation should be assigned to the sub-installations. Operators should ensure that activity levels, energy flows and emissions are correctly attributed to the relevant sub-installations, respecting the hierarchy and mutual exclusivity of sub-installations, and that there are no overlaps between sub-installations. Where relevant, this division should take account of the production of products in sectors deemed to be exposed to a risk of carbon leakage as determined in accordance with Article 10b(5) of Directive 2003/87/EC.
- (15) Member States should submit national implementation measures to the Commission by 30 September 2019. In order to promote equal treatment of installations and to avoid distortions of competition, these submissions should include all installations that will be included under the European Union Emissions Trading System (EU ETS) pursuant to Article 24 of Directive 2003/87/EC, in particular where allocations have previously taken place to such installations in respect of heat during the period between 2013 and 2020.

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- (16) In order to avoid any distortion of competition and to ensure an orderly functioning of the carbon market, operators should ensure that when determining the allocation of individual installations no double counting of material or energy flows and no double allocation take place. In this context, operators should pay particular attention to cases where a benchmarked product is produced in more than one installation, where more than one benchmarked product is produced in the same installation, and where intermediate products are exchanged across installation boundaries. Member States should check applications to this end.
- (17) Article 10a(4) of Directive 2003/87/EC provides for free allocation for district heating and high efficiency cogeneration. In accordance with Article 10b(4) of that Directive, the carbon leakage factor applied to non-carbon leakage sub-installations is to decline in a linear manner from 30 % in 2026 to 0 % in 2030, except for district heating, and subject to review pursuant to Article 30 of the Directive. Due to this distinction introduced between district heating and all other heat eligible under heat benchmark sub-installations, a separate heat sub-installation for district heating needs to be introduced in order to provide a clear approach in terms of formulae and baseline data template requirements. District heating should include measurable heat used for the purpose of space heating and cooling of buildings or sites that are not covered by the EU ETS or for the production of domestic hot water.
- (18) It is appropriate that the product benchmarks take account of the efficient energy recovery of waste gases and emissions related to their use. To that end, for the determination of the benchmark values for products of which the production generates waste gases, the carbon content of those waste gases should be taken into account to a large extent. Where waste gases are exported from the production process outside the system boundaries of the relevant product benchmark and combusted for the production of heat outside the system boundaries of a defined benchmarked process, related emissions should be taken into account by means of allocating additional emission allowances on the basis of the heat or fuel benchmark. In the light of the general principle that no emission allowances should be allocated for free in respect of any electricity production, to avoid undue distortions of competition on the markets for electricity supplied to industrial installations and taking into account the inherent carbon price in electricity, it is appropriate that, where waste gases are exported from the production process outside the system boundaries of the relevant product benchmark and combusted for the production of electricity, no additional allowances are allocated beyond the share of the carbon content of the waste gas accounted for in the relevant product benchmark.
- (19) To avoid distortions of competition and to incentivise the use of waste gases, in the absence of information on the composition of relevant gas streams, CO₂ emissions occurring outside the system boundaries of a product benchmark sub-installation resulting from the reduction of metal oxides or similar processes should only be partially assigned to process emissions sub-installations if they are not emitted as result of the energy use of waste gases.

- (20) Indirect emissions related to the production of electricity were considered for the determination of certain benchmark values in Decision 2011/278/EU, on the basis that direct emissions and indirect emissions from electricity production were to a certain extent interchangeable. Where those benchmarks apply, the indirect emissions of an installation should continue to be deducted applying the standard emissions factor that is also used for assessing sectors' exposure to potential carbon leakage as determined in accordance with Article 10b(5) of Directive 2003/87/EC. The relevant provisions should be kept under review, inter alia, with a view to enhancing equal treatment of activities producing the same product and for updating the reference year of 2015 for transitional free allocations between 2026 and 2030.
- (21) Where measurable heat is exchanged between two or more installations, the free allocation of emission allowances should be based on the heat consumption of an installation and take account of the risk of carbon leakage, as appropriate. Thus, to ensure that the number of free emission allowances to be allocated is independent from the heat supply structure, emission allowances should be allocated to the heat consumer.
- (22) The amount of allowances to be allocated free of charge to incumbent installations should be based on historical activity data. The historical activity levels should be based on the arithmetic mean activity during the baseline periods. The baseline periods are sufficiently long to ensure that they can be considered representative for the allocation periods which cover five calendar years as well. For new entrants, as defined in Article 3(h) of Directive 2003/87/EC, the determination of activity levels should be based on the activity level of the first calendar year of operation, after the year of the start of normal operation, as the activity level reported for a full year is considered more representative than a value for the first year of operation that could cover only a short period. Compared to the allocation period 2013 – 2020, due to the introduction of allocation adjustments in accordance with Article 10a(20) of Directive 2003/87/EC, there is no need to maintain the concept of significant capacity change.
- (23) To ensure that the EU ETS delivers reductions over time, Directive 2003/87/EC provides for the Union-wide quantity of allowances to decrease in a linear manner. As regards electricity generators, according to Article 10a(4) of that Directive, a linear reduction factor is applied, using the year 2013 as a reference, unless the uniform cross-sectoral correction factor is applicable. The value of the linear reduction factor is increased to 2,2 % per year from 2021.
- (24) For new entrants, the linear reduction factor is applied with the first year of the relevant allocation period as reference.
- (25) The uniform cross-sectoral correction factor that is applicable in each year of the period from 2021 to 2025 and from 2026 to 2030 to installations that are not identified as electricity generators, and that are not new entrants, pursuant to Article 10a(5) of Directive 2003/87/EC, should be determined on the basis of the preliminary annual amount of emission allowances allocated free of charge over each allocation period, calculated for these installations pursuant to this Regulation, excluding the installations that are excluded by Member States from the EU ETS in accordance with Article 27 or 27a of that Directive. The resulting amount of free emission allowances allocated in

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each year of the two periods should be compared with the annual amount of allowances that is calculated in accordance with Article 10a(5) and 10a(5a) of Directive 2003/87/EC for installations taking into account the relevant share of the annual Union-wide total quantity, as determined pursuant to Article 9 of that Directive, and the relevant amount of emissions that are only included in the EU ETS from 2021 to 2025 or 2026 to 2030, as appropriate.

- (26) As operators apply for free allocation, they should be free to renounce their allocation, totally or partially, by submitting an application to the relevant [F¹regulator] at any time during the relevant allocation period. To maintain certainty and predictability, operators should not have the right to withdraw such an application for the same allocation period. Operators having renounced their allocation should continue to monitor and report the necessary data in order to be able to apply for free allocation in the following allocation period. They should also continue to monitor and report the emissions every year and surrender the relevant amount of allowances.
- (27) To ensure equal treatment of installations, it is appropriate to lay down rules on mergers and splits of installations.
- (28) To facilitate the data collection from operators and the calculation of the emission allowances to be allocated by Member States concerning new entrants it is appropriate to set rules for application for such installations.
- (29) To ensure that no emission allowances are allocated free of charge to an installation that has ceased its operations, it is necessary to specify the conditions under which an installation is deemed to have ceased operations.
- (30) Article 191(2) of the Treaty on the Functioning of the European Union requires that the Union policy on the environment be based on the principle that the polluter should pay and, on this basis, Directive 2003/87/EC provides for a transition to full auctioning over time. Avoiding carbon leakage justifies temporarily postponing full auctioning, and targeted free allocation of allowances to industry is justified in order to address genuine risks of increases in greenhouse gas emissions in third countries where industry is not subject to comparable carbon constraints, as long as comparable climate policy measures are not undertaken by other major economies. Furthermore, free allocation rules should incentivise emission reductions in line with the Union's commitment to reduce the overall greenhouse gas emissions by at least 40 % below 1990 levels by 2030. Incentives for emission reductions for activities that produce the same product should be enhanced.
- (31) In line with the Commission's practice of consulting experts when preparing delegated acts, the Commission Expert Group on Climate Change Policy, consisting of experts from Member States, industry and other relevant organisations, including civil society, has been consulted on documents and provided comments and suggestions on various elements of the proposal, and met three times between May and July 2018.
- (32) This Regulation should enter into force as a matter of urgency as operators are required to comply with its rules on baseline data reporting as of April or May 2019 as required by Article 10a(1) of Directive 2003/87/EC,

HAS ADOPTED THIS REGULATION:

Textual Amendments

- F1** Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**

Modifications etc. (not altering text)

- C1** Regulation applied (with modifications) (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, **20(1)**

CHAPTER I

General provisions

Article 1

Scope

This Regulation shall apply to the free allocation of [^{F2}allowances to installations under the UK ETS].

Textual Amendments

- F2** Words in [Art. 1](#) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 3(2)**

Article 2

Definitions

[^{F3}1] For the purposes of this Regulation, the following definitions apply:

- (1) [^{F4}‘incumbent installation’ means an installation in respect of which a deemed application for free allocation in the 2021-2025 allocation period or an application for free allocation in the 2026-2030 allocation period under Article 4 is made;]
- (2) ‘product benchmark sub-installation’ means inputs, outputs and corresponding emissions relating to the production of a product for which a benchmark has been set in Annex I;
- (3) ‘heat benchmark sub-installation’ means inputs, outputs and corresponding emissions not covered by a product benchmark sub-installation relating to the production other than produced from electricity, the import from an installation covered by the EU ETS [^{F5}or UK ETS], or both, of measurable heat which is:
 - (a) 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, or

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- (b) exported to an installation or other entity not covered by the EU ETS [^{F5}or UK ETS] other than district heating with the exception of the export for the production of electricity;
- (4) ‘district heating’ means the distribution of measurable heat for the purpose of heating or cooling of space or of production of domestic hot water, through a network, to buildings or sites not covered by EU ETS [^{F6}or UK ETS] with the exception of measurable heat used for the production of products and related activities or the production of electricity;
- (5) ‘district heating sub-installation’ means inputs, outputs and corresponding emissions not covered by a product benchmark sub-installation relating to the production, the import from an installation covered by the EU ETS [^{F7}or UK ETS], or both, of measurable heat which is exported for the purposes of district heating;
- (6) ‘fuel benchmark sub-installation’ means inputs, outputs and corresponding emissions not covered by a product benchmark sub-installation relating to the production of non-measurable heat by fuel combustion consumed 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, including safety flaring;
- (7) ‘measurable heat’ means a net heat flow transported through identifiable pipelines or ducts using a heat transfer medium, such as, in particular, steam, hot air, water, oil, liquid metals and salts, for which a heat meter is or could be installed;
- (8) ‘heat meter’ means a thermal energy meter (MI-004) within the meaning of Annex VI to Directive 2014/32/EU of the European Parliament and of the Council⁽⁵⁾ or any other device to measure and record the amount of thermal energy produced based upon flow volumes and temperatures;
- (9) ‘non-measurable heat’ means all heat other than measurable heat;
- (10) ‘process emissions sub-installation’ means [^{F8}emissions of greenhouse gases set out in column 2 of table C in Schedule 2 to the UK ETS Order] other than carbon dioxide, which occur outside the system boundaries of a product benchmark listed in Annex I to this Regulation, or carbon dioxide emissions, which occur outside the system boundaries of a product benchmark listed in Annex I to this Regulation, as a direct and immediate result of any of the following processes and emissions stemming from the combustion of waste gases for the purpose of the production of measurable heat, non-measurable heat or electricity, provided that emissions that would have occurred from the combustion of an amount of natural gas, equivalent to the technically usable energy content of the combusted incompletely oxidised carbon, are subtracted:
- (a) the chemical, electrolytic or pyrometallurgical reduction of metal compounds in ores, concentrates and secondary materials for a primary purpose other than the generation of heat;
 - (b) the removal of impurities from metals and metal compounds for a primary purpose other than the generation of heat;
 - (c) the decomposition of carbonates, excluding those for flue gas scrubbing for a primary purpose other than the generation of heat;

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- (d) chemical syntheses of products and intermediate products where the carbon bearing material participates in the reaction, for a primary purpose other than the generation of heat;
 - (e) the use of carbon containing additives or raw materials for a primary purpose other than the generation of heat;
 - (f) the chemical or electrolytic reduction of metalloids or non-metal oxides such as silicon oxides and phosphates for a primary purpose other than the generation of heat;
- (11) ‘waste gas’ means a gas containing incompletely oxidised carbon in a gaseous state under standard conditions which is a result of any of the processes listed in point (10), where ‘standard conditions’ means temperature of 273,15 K and pressure conditions of 101 325 Pa defining normal cubic metres (Nm³) according to [F⁹Article 3(52) of the Monitoring and Reporting Regulation 2018];
- (12) ‘start of normal operation’ means the first day of operations;
- (13) ‘safety flaring’ means the combustion of pilot fuels and highly fluctuating amounts of process or residual gases in a unit open to atmospheric disturbances which is explicitly required for safety reasons by relevant permits for the installation;
- (14) [F¹⁰‘baseline period’ means:
- (a) in relation to a deemed application for free allocation in the 2021-2025 allocation period or an incumbent installation in respect of which such an application is made, the 5-year period beginning on 1 January 2014;
 - (b) in relation to an application for free allocation in the 2026-2030 allocation period under Article 4 or an incumbent installation in respect of which such an application is made, the 5-year period beginning on 1 January 2019;]
- (15) F¹¹ ...
- (16) ‘uncertainty’ means a parameter, associated with the result of the determination of a quantity, that characterises the dispersion of the values that could reasonably be attributed to the particular quantity, including the effects of systematic as well as of random factors, expressed in per cent, and describes a confidence interval around the mean value comprising 95 % of inferred values taking into account any asymmetry of the distribution of values;
- (17) ‘merger’ means a fusion of two or more installations already holding greenhouse gas permits provided that they are technically connected, operate on the same site and the resulting installation is covered by one greenhouse gas permit;
- (18) ‘split’ means a division of an installation into two or more installations that are covered by separate greenhouse gas permits and are run by different operators.
- (19) [F¹²‘deemed application for free allocation in the 2021-2025 allocation period’ must be construed in accordance with Article 3a;
- (20) [F¹³‘electricity generator’ must be construed in accordance with Article 2c;]
- (21) ‘emission allowance’ means an allowance (as defined in the UK ETS Order);

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- (22) ‘new entrant’ means an installation in respect of which an application for free allocation under Article 5 is made;
- (23) ‘UK ETS Order’ means the Greenhouse Gas Emissions Trading Scheme Order 2020.]
- (24) [F14“relevant CHP electricity” has the meaning given in Article 2c(6).]

[F152 Expressions used in this Regulation that are defined for the purposes of the Climate Change Act 2008 or the UK ETS Order have the meanings given in that Act or Order

3 A reference in this Regulation to a “non-ETS” entity, installation or process is a reference to an entity, installation or process that is not covered by either the EU ETS or the UK ETS.]

Textual Amendments

- F3** Art. 2 renumbered as Art. 2(1) (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(2)**
- F4** Art. 2(1)(1) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(a)**
- F5** Words in Art. 2(1)(3) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(b)**
- F6** Words in Art. 2(1)(4) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(c)**
- F7** Words in Art. 2(1)(5) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(d)**
- F8** Words in Art. 2(1)(10) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(e)**
- F9** Words in Art. 2(1)(11) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(f)**
- F10** Art. 2(1)(14) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(g)**
- F11** Art. 2(1)(15) omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(h)**
- F12** Arts. 2(1)(19)-(23) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(3)(i)**
- F13** Art. 2(1)(20) substituted (1.1.2024 immediately after S.I. 2023/850 comes into force) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 (S.I. 2023/1387), arts. 2(1), **12(2)(a)**
- F14** Art. 2(1)(24) inserted (1.1.2024 immediately after S.I. 2023/850 comes into force) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 (S.I. 2023/1387), arts. 2(1), **12(2)(b)**
- F15** Art. 2(2)(3) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 4(4)**

[F16 Article 2a

Eligibility for free allocation

- (1) An application for free allocation of allowances may not be made under this Regulation in respect of:
- (a) [F17 ...

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- (b) an electricity generator, except in relation to measurable heat:
 - (i) produced by an electricity generator that produced measurable heat by means of high-efficiency cogeneration (as defined in Article 2(34) of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012)^{F18}...; or
 - (ii) exported for the purposes of district heating.
- (2) For the purposes of [^{F19}this Article]:
- (a) the “relevant period” is:
 - (i) in the case of a deemed application for free allocation in the 2021-2025 allocation period or an application for free allocation in the 2026-2030 allocation period under Article 4, the baseline period;
 - (ii) in the case of an application for free allocation under Article 5 [^{F20}made after the end of the first full calendar year after the start of normal operation of a heat benchmark sub-installation], the period from the start of normal operation until the end of the year before the year in which the application is made;
 - (b) Directive 2012/27/EU has effect as if in Annex 2 in point (a) in the first indent after “heat and electricity” there were inserted “; and for the purposes of this indent, cogeneration production from cogeneration units certified under the standard applying from time to time for the purposes of the Combined Heat and Power Quality Assurance Programme that provides primary energy savings during the period of certification must be treated as providing primary energy savings of at least 10% during that period”.
- (3) [^{F21}An application for free allocation may be made in respect of an electricity generator in relation to measurable heat whether or not at the date of the application the electricity generator has produced measurable heat by means of high-efficiency cogeneration or has exported measurable heat for the purposes of district heating.
- (4) Paragraphs 5 and 6 apply where an application for free allocation is made in respect of an electricity generator in relation to measurable heat.
- (5) For the purposes of Chapter 3 of this Regulation and Articles 3a to 6a of the Activity Level Changes Regulation (which relate to the calculation of free allocation), the installation must be treated as not including any heat benchmark sub-installation unless the heat benchmark sub-installation:
- (a) in a case where the installation includes the heat benchmark sub-installation at the date of the application and the application is made under Article 4 or under Article 5 after the end of the first full calendar year after the start of normal operation of the sub-installation, produced measurable heat by means of high-efficiency cogeneration in the relevant period, calculated over the relevant period as a whole; or
 - (b) in any other case, produces measurable heat by means of high-efficiency cogeneration in any subsequent qualifying period, calculated over the subsequent qualifying period as a whole.

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- (6) Where paragraph 5(b) applies, Article 3a of the Activity Level Changes Regulation applies to the heat benchmark sub-installation as if its start of normal operation, if before the beginning of the subsequent qualifying period, were at the beginning of the subsequent qualifying period.
- (7) In paragraphs 5 and 6, “subsequent qualifying period” means, in relation to a heat benchmark sub-installation, any period including at least one full calendar year of operation of the heat benchmark sub-installation that:
- (a) ends with 31 December:
 - (i) in the case of an application under Article 4, in any scheme year (“year 2”) beginning with the second scheme year after the baseline period;
 - (ii) in the case of an application under Article 5, in any scheme year (“year 2”) beginning with the first scheme year for which a report on the activity level of the sub-installation in that year is required under Article 3 of the Activity Level Changes Regulation; and
 - (b) begins with 1 January in the scheme year preceding year 2 or, if the start of normal operation of the heat benchmark sub-installation is later, the start of normal operation of the sub-installation.
- (8) The following regulated activities are not eligible for free allocation:
- (a) the capture of greenhouse gases from a regulated activity for the purpose of transport and geological storage in a storage site;
 - (b) the transport of greenhouse gases by pipelines for geological storage in a storage site;
 - (c) the geological storage of greenhouse gases in a storage site.]]

Textual Amendments

- F16** Art. 2a inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 5**
- F17** Art. 2a(1)(a) omitted (1.1.2024 immediately after S.I. 2023/850 comes into force) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **13(2)(a)**
- F18** Words in Art. 2a(1)(b)(i) omitted (1.1.2024 immediately after S.I. 2023/850 comes into force) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **13(2)(b)**
- F19** Words in Art. 2a(2) substituted (1.1.2024 immediately after S.I. 2023/850 comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **13(3)(a)**
- F20** Words in Art. 2a(2)(a)(ii) inserted (1.1.2024 immediately after S.I. 2023/850 comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **13(3)(b)**
- F21** Art. 2a(3)-(8) inserted (1.1.2024 immediately after S.I. 2023/850 comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **13(4)**

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

f^{F22} Article 2b

Free allocation in 2026-2030 allocation period: applications by incumbent installations that will not produce electricity for sale for consumption outside the installation

- (1) Despite Article 2a(1)(b), an application under Article 4 for free allocation in the 2026-2030 allocation period may be made in respect of an installation that is an electricity generator as if the restriction referred to in Article 2a(1)(b) did not apply, provided that the application is accompanied by a statement by the operator of the installation that the condition in paragraph 2 will be met.
- (2) The condition is that the installation will not produce any electricity (other than relevant CHP electricity) for sale for consumption outside the installation in the period beginning with the date of the application and ending with 31 December 2030 (the “relevant period”).
- (3) Where such an application is accompanied by the statement referred to in paragraph 1:
 - (a) the regulator must assess the statement and any evidence provided and include the statement, evidence and regulator’s assessment in the information sent to the UK ETS authority under Article 15a(3) for assessment by the UK ETS authority under Article 15a(4);
 - (b) if the UK ETS authority considers that the condition in paragraph 2 will be met, for the purposes of determining the application, the application must be treated as made in respect of an installation that is not an electricity generator (and to which the restriction in Article 2a(1)(b) does not apply);
 - (c) if the UK ETS authority does not consider that the condition in paragraph 2 will be met, the UK ETS authority must inform the regulator, and the regulator must inform the operator of the installation.
- (4) Paragraphs 5 to 8 apply where:
 - (a) an application under Article 4 for free allocation in the 2026-2030 allocation period in respect of an electricity generator is treated as made in respect of an installation that is not an electricity generator in accordance with paragraph 3(b) and is assessed as valid under Article 15a(4); and
 - (b) the regulator considers at any time (including on receipt of a report under Article 3 of the Activity Level Changes Regulation) that the installation has produced electricity (other than relevant CHP electricity) for sale for consumption outside the installation in the relevant period.
- (5) The regulator must:
 - (a) determine the historical activity level (if any) of each sub-installation of the installation that the regulator considers would have been determined under this Regulation or the Activity Level Changes Regulation if the application had been treated as made in respect of an electricity generator (and to which the restriction in Article 2a(1)(b) applies);
 - (b) calculate the preliminary and final annual number of allowances (if any) to be allocated in respect of the installation, and of each sub-installation of the installation, for each scheme year in the 2026-2030 allocation period

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- beginning with the relevant scheme year, that the regulator considers would have been calculated under this Regulation and the Activity Level Changes Regulation if the application had been treated as made in respect of an electricity generator (and to which the restriction in Article 2a(1)(b) applies);
- (c) send evidence of the matters referred to in paragraph 4(b) and the determination and calculation referred to in points (a) and (b) of this paragraph to the UK ETS authority.
- (6) If the UK ETS authority considers that the installation has produced electricity (other than relevant CHP electricity) for sale for consumption outside the installation in the relevant period, the UK ETS authority must:
- (a) approve the final annual number of allowances to be allocated in respect of the installation, for each scheme year in the 2026-2030 allocation period beginning with the relevant scheme year, making any corrections to the historical activity levels or preliminary or final annual number of allowances that the UK ETS authority considers appropriate;
- (b) inform the regulator accordingly.
- (7) The regulator must give notice to the operator of the installation of the final annual number of allowances approved.
- (8) For the purposes of Article 5 of the Activity Level Changes Regulation, the reference in paragraph 3 of that Article to the initial allocation must be read as including a reference to the initial allocation that would have been approved if the application had been treated as made in respect of an electricity generator (and to which the restriction in Article 2a(1)(b) applies).
- (9) Where paragraph 4(a) applies to an installation, unless the final annual number of allowances is recalculated and approved under paragraphs 5 and 6, despite the amendment made to Article 3(2) of the Activity Level Changes Regulation by article 22 of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023, the activity level report required by Article 3 of the Activity Level Changes Regulation must contain the information referred to in section 1.4(e) of Annex 4 to this Regulation.
- (10) In this Article, “relevant scheme year”, in relation to an installation, means:
- (a) if the installation first produces electricity (other than relevant CHP electricity) for sale for consumption outside the installation in the period beginning with the date of the application and ending with 31 December 2026, the 2026 scheme year;
- (b) if the installation first produces electricity (other than relevant CHP electricity) for sale for consumption outside the installation on or after 1 January 2027, the scheme year in which the installation first produces such electricity.

Textual Amendments

F22 Arts. 2b, 2c inserted (1.1.2024 immediately after [S.I. 2023/850](#) comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), 14

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Article 2c

Meaning of “electricity generator” and “relevant CHP electricity”

- (1) In this Regulation, “electricity generator” must be construed as follows.
- (2) In relation to a deemed application for free allocation in the 2021-2025 allocation period or an application for free allocation in the 2021-2025 allocation period under Article 5, “electricity generator” means an installation:
 - (a) that on or after 1 January 2005 produced electricity for sale for consumption outside the installation; and
 - (b) at which the regulated activity referred to in column 1 of the first entry in table C in Schedule 2 to the UK ETS Order (combustion of fuels) and no other regulated activity (apart from one referred to in Article 2a(8)) is carried out.
- (3) In relation to an application for free allocation in the 2026-2030 allocation period under Article 4 or 5, “electricity generator” means an installation:
 - (a) that in the relevant period produced electricity for sale for consumption outside the installation; and
 - (b) at which the regulated activity referred to in column 1 of the first entry in table C in Schedule 2 to the UK ETS Order (combustion of fuels) and no other regulated activity (apart from one referred to in Article 2a(8)) is carried out.
- (4) For the purposes of paragraph 3(a), electricity produced for sale for consumption outside the installation in the relevant period must be ignored if:
 - (a) it is relevant CHP electricity; or
 - (b) it represents no more than 5% of the total electricity (not including relevant CHP electricity) produced at the installation in the relevant period.
- (5) In paragraphs 3 and 4, “relevant period” means:
 - (a) in relation to an application for free allocation under Article 4, the baseline period;
 - (b) in relation to an application for free allocation under Article 5, the period beginning with the start of normal operation and ending with the last day of the year before the year in which the application is made.
- (6) In this Regulation, “relevant CHP electricity” means, in relation to an installation, electricity produced at the installation by cogeneration at a cogeneration unit certified under the standard applying from time to time for the purposes of the Combined Heat and Power Quality Assurance Programme that produces electricity for consumption at the installation (and may also produce electricity for sale for consumption outside the installation).]

Status: Point in time view as at 31/03/2024.

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Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

Textual Amendments

F22 Arts. 2b, 2c inserted (1.1.2024 immediately after S.I. 2023/850 comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **14**

^{F23}Article 3

National administrative arrangements

Textual Amendments

F23 Art. 3 omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 6**

^{F24}Article 3a

Applications for free allocation under EU ETS to be treated as applications for free allocation in 2021-2025 allocation period by operators of incumbent installations

- (1) This Article applies where before 1 January 2021, the operator of an installation made an application (an “EU ETS application”) under Article 4 for free allocation of emission allowances under the EU ETS in respect of the allocation period in the EU ETS beginning on 1 January 2021
- (2) For the purposes of this Regulation:
 - (a) the EU ETS application must be treated as an application (a “deemed application for free allocation in the 2021-2025 allocation period”) by the operator of the installation for free allocation of allowances under the UK ETS in the 2021-2025 allocation period;
 - (b) the determination of historical activity levels under Article 15, and anything else done in connection with the EU ETS application under this Regulation, before IP completion day must be treated as done in connection with the deemed application for free allocation in the 2021-2025 allocation period.
- (3) Without limiting paragraph 2, in this Regulation—
 - (a) a reference to a monitoring methodology plan includes a monitoring methodology plan approved for the purposes of the EU ETS application;
 - (b) a reference to a baseline data report or a verification report includes a baseline data report or a verification report submitted for the purposes of the EU ETS application.]

Textual Amendments

F24 Art. 3a inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 7**

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CHAPTER II

Application, data reporting and monitoring rules

Article 4

Application for free allocation [^{F25}in 2026-2030 allocation period] by operators of incumbent installations

[^{F26}1 The operator of any of the following installations may apply to the regulator for free allocation in the 2026-2030 allocation period:

- a an installation for which a permit is issued on or before 30 June [^{F27}2025];
- b an installation that is an ultra-small emitter for the [^{F27}2025] scheme year;
- c an installation for which an application for a permit has been made but not yet determined.

1A An application:

- a may not be made before 1 April [^{F28}2025];
- b must be made on or before 30 June [^{F28}2025].]

2 An application for free allocation submitted pursuant to paragraph 1 shall be accompanied by the following particulars:

- a a baseline data report [^{F29}verified in accordance with the Verification Regulation 2018] containing data for the installation, and its sub-installations as specified in Article 10 and Annexes I and II to this Regulation, taking into account, for the calculation of historical activity levels for specific product benchmarks, Annex III to this Regulation, containing each parameter listed in Annex IV to this Regulation and covering the baseline period ^{F30} ...;
- b [^{F31}except where a monitoring methodology plan has already been approved in relation to the installation under Article 8,] the monitoring methodology plan which formed the basis for the baseline data report and the verification report, in accordance with [^{F32}Article 8 and] Annex VI;

[^{F33}c the verification report on the baseline data report, which (unless the monitoring methodology plan has already been approved by the regulator) must contain the confirmation relating to the plan referred to in Article 27(3)(f) of the Verification Regulation 2018.]

3 [^{F34}Where an application is made in respect of an installation referred to in paragraph 1(c), the application must be treated as never having been made unless the permit is issued on or before 30 June [^{F35}2025].

4 An application may be made under this Article and under either of the following at the same time:

- a paragraph 5 of Schedule 7 to the UK ETS Order (obtaining hospital or small emitter status for 2026-2030 allocation period);
- b paragraph 3 of Schedule 8 to that Order (obtaining ultra-small emitter status for 2026-2030 allocation period).]

Textual Amendments

F25 Words in Art. 4 heading inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 8(2)**

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- F26** Art. 4(1)(1A) substituted for Art. 4(1) (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 8(3)**
- F27** Word in Art. 4(1) substituted (31.3.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2024 (S.I. 2024/192), arts. 2, **11(2)**
- F28** Word in Art. 4(1A) substituted (31.3.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2024 (S.I. 2024/192), arts. 2, **11(3)**
- F29** Words in Art. 4(2)(a) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 8(4)(a)(i)**
- F30** Words in Art. 4(2)(a) omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 8(4)(a)(ii)**
- F31** Words in Art. 4(2)(b) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 8(4)(b)(i)**
- F32** Words in Art. 4(2)(b) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 8(4)(b)(ii)**
- F33** Art. 4(2)(c) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 8(4)(c)**
- F34** Art. 4(3)(4) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 8(5)**
- F35** Word in Art. 4(3) substituted (31.3.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2024 (S.I. 2024/192), arts. 2, **11(4)**

^{F36}Article 5

Application for free allocation by new entrants

1 The operator of an installation at which a regulated activity is carried out and for which a greenhouse gas emissions permit (including a greenhouse gas emissions permit within the meaning of GGETSR 2012) issued for the first time is in force may apply to the regulator:

- a) for free allocation in the 2021-2025 allocation period, if the permit is issued in the period beginning on 1 July 2019 and ending on 30 June [^{F37}2025];
- b) for free allocation in the 2026-2030 allocation period, if the permit is issued in the period beginning on 1 July [^{F37}2025] and ending on 30 June 2029.

2 An application may be made at any time after the end of the year in which the start of normal operation occurs.

3 But where an installation has not been operating for a full calendar year after the start of normal operation, an application may not be made unless:

- a) in the case of an application under paragraph 1(a), the start of normal operation is on or after 1 January 2021;
- b) in the case of an application under paragraph 1(b), the start of normal operation is on or after 1 January 2026.

^{F38}3a

4 For the purposes of the application, the operator must divide the installation into sub-installations in accordance with Article 10.

5 The application must set out the start of normal operation and be accompanied by:

- a) a new entrant data report, verified in accordance with the Verification Regulation 2018, containing each parameter set out in sections 1 and 2 of Annex 4 for each sub-installation separately from the start of normal operation until the end of the year before the year in which the application is made;

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- b) a monitoring methodology plan in accordance with Article 8 and Annex 6;
 - c) the verification report on the new entrant data report, which must contain the confirmation relating to the monitoring methodology plan referred to in Article 27(3)(f) of the Verification Regulation 2018.
- 6 The regulator:
- a) must assess the new entrant data report and the verification report to ensure conformity with the requirements of this Regulation;
 - b) where appropriate, may request corrections by the operator of any non-conformity or error that impacts on the determination of activity levels;
 - c) must not determine historical activity levels under Article 17, activity levels for the purpose of Article 18(2) or calculate the preliminary or final annual number of allowances under Article 18 or 18a unless:
 - i) the regulator considers that the date set out in the application as the start of normal operation, or such other date proposed by the operator, is accurate;
 - ii) the data relating to the installation has been verified as satisfactory or, where it has not been verified as satisfactory, the regulator considers that any data gaps referred to in the verifier's opinion are due to exceptional and unforeseeable circumstances that could not have been avoided even if all due care had been exercised; and
 - iii) any corrections requested under point (b) have been made.]

Textual Amendments

- F36** Art. 5 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 9**
- F37** Word in Art. 5(1) substituted (31.3.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2024 \(S.I. 2024/192\)](#), arts. 2, **12(2)**
- F38** Art. 5(3a) omitted (1.1.2024 immediately after S.I. 2023/850 comes into force) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **15(2)**

Modifications etc. (not altering text)

- C2** Art. 5(3) modified (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, **20(7)**

Article 6

General obligation to monitor

The operator of an installation, applying for or receiving free allocation ^{F39}... shall monitor the data to be submitted as listed in Annex IV to this Regulation, based on a monitoring methodology plan approved by the [^{F1}regulator][^{F40}under Article 8].

Textual Amendments

- F1** Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**
- F39** Words in Art. 6 omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 10(2)**

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F40 Words in Art. 6 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 10(3)**

Article 7

Monitoring principles

1 Operators shall determine complete and consistent data and ensure that there are no overlaps between sub-installations and no double counting. Operators shall apply the determination methods laid down in Annex VII, exercise due diligence and use data sources representing highest achievable accuracy pursuant to section 4 of Annex VII.

2 By way of derogation from paragraph 1, the operator may use other data sources in accordance with sections 4.4 to 4.6 of Annex VII, if any of the following conditions is met:

- a the use of most accurate data sources pursuant to section 4 of Annex VII is technically not feasible;
- b the use of most accurate data sources pursuant to section 4 of Annex VII would incur unreasonable costs;
- c based on a simplified uncertainty assessment identifying major sources of uncertainty and estimating their associated levels of uncertainty, the operator demonstrates to the satisfaction of the [F1regulator] that the associated level of accuracy of the data source proposed by the operator is equivalent to or better than the level of accuracy of most accurate data sources pursuant to section 4 of Annex VII.

3 Operators shall keep complete and transparent records of all data listed in Annex IV, and supporting documents, for at least 10 years from the date of the submission of the application for free allocation [F41(including a deemed application for free allocation in the 2021-2025 allocation period)]. The operator shall, upon request, make those data and documents available to the [F1regulator] and to the verifier.

Textual Amendments

- F1** Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**
- F41** Words in Art. 7(3) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 11(2)**

Article 8

Content and submission of the monitoring methodology plan

1 The operator of an installation applying for free allocation pursuant to [F42Article 4 or 5 must, except where a monitoring methodology plan has already been approved in relation to the installation under this Article, draw up] a monitoring methodology plan containing, in particular, a description of F43... the production processes and a detailed description of monitoring methodologies and data sources. The monitoring methodology plan shall comprise a detailed, complete and transparent documentation of all relevant data collection steps, and shall contain at least the elements laid down in Annex VI.

2 For each parameter listed in Annex IV, the operator shall select a monitoring method based on the principles laid down in Article 7 and on the methodological requirements laid

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down in Annex VII. Based on the risk assessment in accordance with Article 11(1) and control procedures referred to in Article 11(2), when selecting monitoring methods, the operator shall give preference to monitoring methods that give most reliable results, minimise the risk of data gaps, and are least prone to inherent risks, including control risks. The selected method shall be documented in the monitoring methodology plan.

3 Where Annex VI makes a reference to a procedure, ^{F44}... the operator shall establish, document, implement and maintain such a procedure separately from the monitoring methodology plan. The operator shall make any written documentation of the procedures available to the [^{F1}regulator] upon request.

^{F45}4

^{F46}5

[^{F47}6 Where the operator has submitted a monitoring methodology plan to the regulator, the regulator must, by notice to the operator:

- a) if the plan is in accordance with this Regulation, approve it; or
- b) reject it.

7 A notice under paragraph 6 must be given:

- a) where the monitoring methodology plan is submitted with an application for free allocation in the 2026-2030 allocation period under Article 4, on or before 31 December 2025;
- b) where the monitoring methodology plan is submitted with an application for free allocation under Article 5, as soon as reasonably practicable after the application is made.]

[^{F48}c) where the monitoring methodology plan must, by virtue of paragraph 8(4) of Schedule 6, or paragraph 3(2) of Schedule 8A, to the UK ETS Order, be treated as if it had been submitted under this Article, as soon as reasonably practicable.]

Textual Amendments

- F1** Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**
- F42** Words in Art. 8(1) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 12(2)**
- F43** Words in Art. 8(1) omitted (1.1.2023) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **21(2)**
- F44** Words in Art. 8(3) omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 12(3)**
- F45** Art. 8(4) omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 12(4)**
- F46** Art. 8(5) omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 12(4)**
- F47** Art. 8(6)(7) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 12(5)**
- F48** Art. 8(7)(c) inserted (7.2.2022) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2021 \(S.I. 2021/1455\)](#), arts. 2, **30(2)**

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Article 9

Changes to the monitoring methodology plan

1 The operator shall regularly check whether the monitoring methodology plan reflects the nature and functioning of the installation and whether it can be improved. To this end, the operator shall take account of any recommendations for improvements included in the relevant verification report.

2 The operator shall modify the monitoring methodology plan in any of the following situations:

- a new emissions or activity levels occur due to new activities carried out or due to the use of new fuels or materials not yet contained in the monitoring methodology plan;
- b the use of new measuring instrument types, new sampling or analysis methods or new data sources, or other factors, lead to higher accuracy in the determination of reported data;
- c data resulting from the previously applied monitoring methodology has been found incorrect;
- d the monitoring methodology plan is not, or no longer, in conformity with the requirements of this Regulation;
- e it is necessary to implement recommendations for improvement of the monitoring methodology plan contained in a verification report.

[^{F49}3 The operator must notify the regulator of:

- a) any significant modification (within the meaning of paragraph 5) of the monitoring methodology plan at least 14 days before making the modification or, where this is not possible, as soon as reasonably practicable; and
- b) any other modification on or before 31 December in the year in which the modification is made.]

4 Any significant modification of the monitoring methodology plan within the meaning of paragraph 5 shall be subject to approval by the [^{F1}regulator]. Where the [^{F1}regulator] considers that a modification that has been notified by the operator as significant is not significant, it shall inform the operator thereof.

5 The following modifications of the monitoring methodology plan of an installation shall be considered significant:

- a modifications resulting from changes to the installation, in particular new sub-installations, changes to the boundaries of existing sub-installations or closures of sub-installations;
- b a switch from a monitoring methodology laid down in sections 4.4 to 4.6 of Annex VII to another methodology laid down in those sections;
- c the change of a default value or estimation method laid down in the monitoring methodology plan;
- d changes requested by the [^{F1}regulator] to ensure conformity of the monitoring methodology plan with the requirements of this Regulation.

6 The operator shall keep records of all modifications of the monitoring methodology plan. In each record, the following shall be specified:

- a a transparent description of the modification;
- b a justification for the modification;

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- c the date of notification of the intended modification to the [F1regulator];
- d the date of acknowledgement, by the [F1regulator], of the receipt of the notification referred to paragraph 3, where available, and the date of the approval or provision of information referred to in paragraph 4;
- e the starting date of implementation of the modified monitoring methodology plan.

Textual Amendments

- F1** Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**
- F49** Art. 9(3) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 13(2)**

Article 10

Division into sub-installations

1 For the purposes of data reporting and of monitoring [F50under this Regulation and the Activity Level Changes Regulation], the operator shall divide each installation F51... into sub-installations. For this purpose, the installation's inputs, outputs and emissions shall be assigned to one or more sub-installations by establishing, where relevant, a method for quantifying specific fractions of relevant inputs, outputs or emissions to be assigned to individual sub-installations.

2 For attributing the installation's inputs, outputs and emissions to sub-installations, the operator shall carry out the following steps in the descending order:

- a if any of the products as specified for product benchmarks listed in Annex I are produced in the installation, the operator shall attribute the related inputs, outputs and emissions to the product benchmark sub-installations, as applicable, applying rules set out in Annex VII;
- b if inputs, outputs and emissions qualifying for heat benchmark or district heating sub-installations are relevant at the installation, and do not qualify for any of the sub-installations referred to in point (a), the operator shall attribute them to heat benchmark sub-installations or to district heating sub-installation, as applicable, applying the rules set out in Annex VII;
- c if inputs, outputs and emissions qualifying for fuel benchmark sub-installations are relevant at the installation, and do not qualify for any of the sub-installations referred to in points (a) or (b), the operator shall attribute them to fuel benchmark sub-installations, as applicable, applying the rules set out in Annex VII;
- d if inputs, outputs and emissions qualifying for process emissions sub-installations are relevant at the installation, and do not qualify for any of the sub-installations referred to in points (a), (b) or (c), the operator shall attribute them to process emissions sub-installations, as applicable, applying the rules set out in Annex VII.

3 For heat benchmark sub-installations, fuel benchmark sub-installations and process emissions sub-installations, the operator shall clearly distinguish on the basis of NACE and PRODCOM codes whether or not the relevant process serves a sector or subsector [F52set out in the Annex to Commission Delegated Decision (EU) 2019/708]. In addition, the operator shall distinguish the amount of measurable heat which is exported for the purposes of district heating from the measurable heat which does not serve a sector or subsector deemed to be exposed to a

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significant risk of carbon leakage as determined in accordance with Article 10b(5) of Directive 2003/87/EC.

Where at least 95 % of the activity level of the heat benchmark sub-installations, of the fuel benchmark sub-installations or of the process emissions sub-installations, serve sectors or subsectors [F⁵³ set out in the Annex to Commission Delegated Decision (EU) 2019/708] or where at least 95 % of the activity level of the heat benchmark sub-installations, of the fuel benchmark sub-installations or of the process emissions sub-installations serve sectors or subsectors [F⁵⁴ other than those set out in the Annex to Commission Delegated Decision (EU) 2019/708], the operator is exempted from providing data allowing for the distinction in terms of carbon leakage exposure.

Where at least 95 % of the activity level of the district heating sub-installations or the heat benchmark sub-installations are attributable to one of these sub-installations, the operator may attribute the total activity level of these sub-installations to the one with the highest activity level.

4 Where an [F⁵⁵ installation] has produced and exported measurable heat to an installation or other entity not included in the EU ETS [F⁵⁶ or the UK ETS], the operator shall consider that the relevant process of the heat benchmark sub-installation for this heat does not serve a sector or subsector deemed to be exposed to a significant risk of carbon leakage as determined in accordance with Article 10b(5) of Directive 2003/87/EC, unless the operator provides evidence to the satisfaction of the [F¹ regulator] that the consumer of the measurable heat belongs to a sector or subsector [F⁵⁷ set out in the Annex to Commission Delegated Decision (EU) 2019/708].

For distinguishing measurable heat attributable to the district heating sub-installation, the operator shall provide evidence to the satisfaction of the [F¹ regulator] that the measurable heat is exported to district heating.

5 By carrying out the division in accordance with paragraphs 1 and 2, the operator shall ensure all of the following:

- a each of the installation's physical products is attributed to one sub-installation without any omission or double counting;
- b 100 % of the quantity of all the installation's source streams and emissions as listed in the installation's monitoring plan approved in accordance with Regulation (EU) No 601/2012 [F⁵⁸ or the Monitoring and Reporting Regulation 2018] are attributed to sub-installations without any omission or double counting, unless they relate to any process non-eligible for free allocation such as the production of electricity in the installation, flaring other than safety flaring which is not covered by a product benchmark sub-installation, F⁵⁹ ... the production of measurable heat exported to other EU ETS [F⁶⁰ or UK ETS] installations [F⁶¹ or any regulated activity non-eligible for free allocation (see Article 2a(8))];
- c 100 % of the quantity of net measurable heat eligible for free allocation produced within the installation, or imported or exported by the installation, as well as quantities transferred between sub-installations, are attributed to sub-installations without any omission or double counting;
- d for all measurable heat produced, imported or exported by sub-installations, it is documented whether the measurable heat was produced in a combustion process within an EU ETS [F⁶² or UK ETS] installation, imported from other heat producing processes or imported from [F⁶³ non-ETS] entities;
- e where electricity is produced within the installation, the quantities produced within product benchmark sub-installations are attributed to these sub-installations without any omission or double counting;

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- f for each product benchmark sub-installation where exchangeability of fuel and electricity is relevant in accordance with section 2 of Annex I, the relevant amount of electricity consumed is separately identified and attributed;
- g where a sub-installation has outputs of carbon containing materials in the form of exported fuels, products, by-products, feedstocks for other sub-installations or installations, or waste gases, those outputs are attributed to sub-installations without any omission or double counting, if not covered by point (b);
- h CO₂ emissions occurring outside the system boundaries of a product benchmark sub-installation resulting from processes listed in points (a) to (f) of Article 2(10) are assigned to a process emissions sub-installation to the extent that it can be demonstrated to the satisfaction of the ^[F1]regulator that these emissions are direct and immediate results of any of the processes listed in Article 2(10) and that they do not result from the subsequent oxidation of incompletely oxidised carbon in a gaseous state under standard conditions;
- i where CO₂ emissions from the combustion of waste gas not serving the purpose of the production of measurable heat, non-measurable heat or electricity occur outside the system boundaries of a product benchmark sub-installation as a result of the processes listed in points (a) to (f) of Article 2(10), 75 % of the quantity of the carbon content of the waste gas shall be considered as converted to CO₂, and assigned to a process emissions sub-installation;
- j for avoiding any double counting, products of a production process returned into the same production process are deducted from annual activity levels, as appropriate in line with product definitions laid down in Annex I;
- k where measurable heat is recovered from processes covered by a fuel benchmark sub-installation, for avoiding double counting, the relevant amount of net measurable heat divided by a reference efficiency of 90 % is subtracted from the fuel input. The recovery of heat from processes covered by a process emissions sub-installation is treated the same way.

Textual Amendments

- F1** Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**
- F50** Words in Art. 10(1) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(2)(a)**
- F51** Words in Art. 10(1) omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(2)(b)**
- F52** Words in Art. 10(3) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(3)(a)**
- F53** Words in Art. 10(3) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(3)(b)(i)**
- F54** Words in Art. 10(3) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(3)(b)(ii)**
- F55** Word in Art. 10(4) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(4)(a)**
- F56** Words in Art. 10(4) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(4)(b)**
- F57** Words in Art. 10(4) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(4)(c)**
- F58** Words in Art. 10(5)(b) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 14(5)(a)(i)**

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- F59** Word in Art. 10(5)(b) omitted (1.1.2024 immediately after S.I. 2023/850 comes into force) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 (S.I. 2023/1387), arts. 2(1), **16(2)(a)**
- F60** Words in Art. 10(5)(b) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 14(5)(a)(ii)**
- F61** Words in Art. 10(5)(b) inserted (1.1.2024 immediately after S.I. 2023/850 comes into force) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 (S.I. 2023/1387), arts. 2(1), **16(2)(b)**
- F62** Words in Art. 10(5)(d) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 14(5)(b)(i)**
- F63** Word in Art. 10(5)(d) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 14(5)(b)(ii)**

Article 11

Control system

1 The operator shall identify sources of risks of errors in the data flow from primary data to final data in the baseline data report and shall establish, document, implement and maintain an effective control system to ensure that the reports resulting from data flow activities do not contain misstatements and are in conformity with the monitoring methodology plan and in compliance with this Regulation.

The operator shall make the risk assessment pursuant to the first subparagraph available to the [F1regulator] upon request. The operator shall also make it available for the purposes of verification.

2 For the purpose of the first subparagraph of paragraph 1, the operator shall establish, document, implement and maintain written procedures for data flow activities as well as for control activities, and include references to those procedures in the monitoring methodology plan in accordance with Article 8(3).

3 Control activities referred to in paragraph 2 shall include, where applicable:

- a quality assurance of the relevant measurement equipment;
- b quality assurance of information technology systems ensuring that the relevant systems are designed, documented, tested, implemented, controlled and maintained in a way that ensures processing reliable, accurate and timely data in accordance with the risks identified in accordance with paragraph 1;
- c segregation of duties in the data flow activities and control activities, as well as management of necessary competencies;
- d internal reviews and validation of data;
- e corrections and corrective action;
- f control of out-sourced processes;
- g keeping records and documentation including the management of document versions.

4 For the purposes of paragraph 3(a), the operator shall ensure that all relevant measuring equipment is calibrated, adjusted and checked at regular intervals including prior to use, and checked against measurement standards traceable to international measurement standards, where available, and proportionate to the risks identified.

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Where components of the measuring systems cannot be calibrated, the operator shall identify those in the monitoring methodology plan and propose alternative control activities.

When the equipment is found not to comply with required performance, the operator shall promptly take necessary corrective action.

5 For the purposes of paragraph 3(d), the operator shall review and validate data resulting from the data flow activities referred to in paragraph 2.

Such review and validation of the data shall include:

- a a check as to whether the data are complete;
- b a comparison of the data that the operator has determined over the preceding baseline period and, in particular, consistency checks based on time series of greenhouse gas efficiency of each sub-installation;
- c a comparison of data and values resulting from different operational data collection systems, in particular for production protocols, sales figures and stock figures of products to which product benchmarks relate;
- d comparisons and completeness checks of data at installation and sub-installation level for ensuring that the requirements laid down in Article 10(5) are fulfilled.

6 For the purposes of paragraph 3(e), the operator shall ensure that, where data flow activities or control activities are found not to function effectively, or not to respect the rules set in the documentation of procedures for those activities, corrective action is taken and affected data is corrected without undue delay.

7 For the purposes of paragraph 3(f), where the operator outsources one or more data flow activities or control activities referred to in paragraph 1, the operator shall proceed to all of the following:

- a check the quality of the outsourced data flow activities and control activities in accordance with this Regulation;
- b define appropriate requirements for the outputs of the outsourced processes as well as the methods used in those processes;
- c check the quality of the outputs and methods referred to in point (b) of this paragraph;
- d ensure that outsourced activities are carried out such that those are responsive to the inherent risks and control risks identified in the risk assessment referred to in paragraph 1.

8 The operator shall monitor the effectiveness of the control system, including by carrying out internal reviews and taking into account the findings of the verifier during the verification of reports for the purposes of Article 4(2).

When the operator finds the control system ineffective or not commensurate with the risks identified, it shall seek to improve the control system and update the monitoring methodology plan or the underlying written procedures for data flow activities, risk assessments and control activities, as appropriate.

Textual Amendments

- F1** Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**

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*Changes to legislation: There are currently no known outstanding effects for the
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Article 12

Data gaps

1 Where for technical reasons it is temporarily not feasible to apply the monitoring methodology plan as approved by the ^{F1}regulator], the operator shall apply a method based on alternative data sources listed in the monitoring methodology plan for the purpose of performing corroborative checks in accordance with Article 10(5), or, if such an alternative is not contained in the monitoring methodology plan, an alternative method which provides the highest achievable accuracy according to the generic data sources and their hierarchy laid down in section 4 of Annex VII, or a conservative estimation approach, until the conditions for application of the approved monitoring methodology plan have been restored.

The operator shall take all necessary measures to achieve a prompt application of the approved monitoring methodology plan.

2 Where data relevant for the baseline data report are missing, for which the monitoring methodology plan does not list alternative monitoring methods or alternative data sources for corroborating data or for closing the data gap, the operator shall use an appropriate estimation method for determining conservative surrogate data for the respective time period and missing parameter, in particular, based on best industry practice, recent scientific and technical knowledge, and shall provide due justification for the data gap and the use of those methods in an annex to the baseline data report.

3 Where a temporary deviation from the approved monitoring methodology plan occurs in accordance with paragraph 1, or where data relevant for the report referred to in Article 4(2)(a) or ^{F64}Article 5(5)(a)] are found to be missing, the operator shall without undue delay develop a written procedure for avoiding this type of data gap in the future and modify the monitoring methodology plan in accordance with Article 9(3). Furthermore, the operator shall assess whether and how the control activities referred to in Article 11(3) need to be updated and shall modify those control activities and the relevant written procedures, as appropriate.

Textual Amendments

F1 Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**

F64 Words in Art. 12(3) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 15(2)**

^{F65}Article 13

Use of electronic templates

Textual Amendments

F65 Art. 13 omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 16**

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CHAPTER III

Allocation rules

^{F66}Article 14

National implementation measures

Textual Amendments

F66 Art. 14 omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 16**

Article 15

Historical activity level for incumbent installations

1 ^{F67}The regulator] shall assess the baseline data reports and verification reports submitted in accordance with Article 4(2) to ensure conformity with the requirements of this Regulation. Where appropriate, the ^{F1}regulator] shall request corrections by the operators of any non-conformities or any errors, which impact on the determination of the historical activity levels. The ^{F1}regulator] may request operators to submit more data in addition to the information and documents to be provided in accordance with Article 4(2).

2 On the basis of the assessed baseline data reports and verification reports, ^{F68}the regulator] shall determine historical activity levels of each sub-installation and installation for the relevant baseline period. ^{F69}But the regulator must not determine historical activity levels for an installation unless:

- a) the data relating to an installation has been verified as satisfactory or, where it has not been verified as satisfactory, the regulator considers that any data gaps referred to in the verifier's opinion are due to exceptional and unforeseeable circumstances that could not have been avoided even if all due care had been exercised; and
- b) any corrections requested under paragraph 1 have been made.]

3 The product-related historical activity level shall, for each product for which a product benchmark has been determined as referred to in Annex I, refer to the arithmetic mean of annual historical production of that product in the installation concerned during the baseline period.

4 The heat-related historical activity level shall refer to the arithmetic mean of annual historical import from an installation covered by the EU ETS [^{F70}or UK ETS], production, or both, during the baseline period, of net 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, or exported to an installation or other entity not covered by the EU ETS [^{F70}or UK ETS] with the exception of the export for the production of electricity expressed as terajoule per year.

The district heating-related historical activity level shall refer to the arithmetic mean of annual historical import from an installation covered by the EU ETS [^{F70}or UK ETS],

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production, or both, during the baseline period, of measurable heat which is exported for the purposes of district heating expressed as terajoule per year.

5 The fuel-related historical activity level shall refer to the arithmetic mean of annual historical consumption of fuels used for the production of non-measurable heat consumed 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, including safety flaring, during the baseline period expressed as terajoule per year.

6 For process emissions, which occurred in relation with the production of products in the installation concerned during the baseline period, the process-related historical activity level shall refer to the arithmetic mean of annual historical process emissions expressed as tonnes of carbon dioxide equivalent.

7 For the purposes of the determination of the arithmetic mean values referred to in paragraphs 3 to 6, only calendar years during which the installation has been operating for at least one day shall be taken into account.

If a sub-installation has been operating for less than two calendar years during the relevant baseline period, the historical activity levels shall be the activity levels of the first calendar year of operation after the start of normal operation of this sub-installation.

If a sub-installation has not been operating for a [^{F71}full calendar year] after the start of normal operation during the baseline period, the historical activity level shall be determined when the activity level report after the first [^{F71}full calendar year] of operation is submitted [^{F72}(see Article 3a of the Activity Level Changes Regulation); and in Articles 16 to 16b:

- a) “sub-installation” does not include such a sub-installation;
- b) a reference to an installation must be treated as a reference to the installation excluding such a sub-installation or, where the installation consists entirely of such sub-installations, as excluding the installation.]

8 By way of derogation from paragraph 3, [^{F73}the regulator] shall determine the product-related historical activity level for products to which the product benchmarks referred to in Annex III apply on the basis of the arithmetic mean of annual historical production according to the formulas set out in that Annex.

Textual Amendments

- F1** Words in Regulation substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 2**
- F67** Words in Art. 15(1) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 17(2)**
- F68** Words in Art. 15(2) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 17(3)(a)**
- F69** Words in Art. 15(2) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 17(3)(b)**
- F70** Words in Art. 15(4) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 17(4)**
- F71** Words in Art. 15(7) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 17(5)(a)**
- F72** Words in Art. 15(7) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 17(5)(b)**

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F73 Words in Art. 15(8) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 17(6)**

^{F74}Article 15a

Assessment of applications for free allocation by operators of incumbent installations

- 1 This Article applies where:
 - a a deemed application for free allocation in the 2021-2025 allocation period has been made by the operator of an incumbent installation; or
 - b an application under Article 4 for free allocation in the 2026-2030 allocation period has been made by the operator of an incumbent installation.
- 2 The regulator must send the information set out in paragraph 3 to the UK ETS authority:
 - a where paragraph 1(a) applies, as soon as reasonably practicable after IP completion day;
 - b where paragraph 1(b) applies, on or before 30 September [^{F75}2025].
- 3 The information is:
 - a details of the installation, including details of any permit in force;
 - b the information contained in the baseline data report submitted with the application;
 - c the historical activity levels (if any) of the installation and each sub-installation determined under Article 15 or, if the regulator has not determined historical activity levels by virtue of Article 15(2), the regulator's explanation.
- 4 The UK ETS authority must as soon as reasonably practicable:
 - a assess the application for free allocation and, where relevant, the regulator's explanation under paragraph 3(c); and
 - b inform the regulator whether or not the application is valid, making any corrections to the historical activity levels that the UK ETS authority considers appropriate.
- 5 Where the application is not valid, the regulator must give notice to the operator of the installation of that fact and the reasons for it.
- 6 For the purposes of this Article, an application for free allocation is valid if:
 - ^{F76}a
 - b the application is ^{F77}... in accordance with this Regulation.]

Textual Amendments

- F74** Art. 15a inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 18**
- F75** Word in Art. 15a(2)(b) substituted (31.3.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2024 \(S.I. 2024/192\)](#), arts. 2, **13(2)**
- F76** Art. 15a(6)(a) omitted (1.1.2024 immediately after [S.I. 2023/850](#) comes into force) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **17(2)(a)**
- F77** Word in Art. 15a(6)(b) omitted (1.1.2024 immediately after [S.I. 2023/850](#) comes into force) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **17(2)(b)**

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*Changes to legislation: There are currently no known outstanding effects for the
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Article 16

[^{F78}Preliminary allocation] at installation level for incumbent installations

- [^{F79}1 Where the UK ETS authority informs the regulator under Article 15a(4)(b) that:
- a a deemed application for free allocation in the 2021-2025 allocation period is valid, the regulator must calculate the preliminary annual number of allowances to be allocated in respect of the installation for each scheme year in the 2021-2025 allocation period;
 - b an application for free allocation in the 2026-2030 allocation period under Article 4 is valid, the regulator must calculate the preliminary annual number of allowances to be allocated in respect of the installation for each scheme year in the 2026-2030 allocation period.]
- 2 For the purpose of the calculation referred to in paragraph 1, [^{F80}the regulator] shall first determine the preliminary annual number of emission allowances allocated free of charge for each sub-installation separately, as follows:
- a for product benchmark sub-installations, the preliminary annual number of emission allowances allocated free of charge for a given year shall correspond to the value of that product benchmark for the relevant allocation period [^{F81}set out in Annex 8], multiplied by the relevant product-related historical activity level;
 - b for heat benchmark sub-installations, the preliminary annual number of emission allowances allocated free of charge for a given year shall correspond to the value of the heat benchmark for measurable heat for the relevant allocation period [^{F81}set out in Annex 8], multiplied by the heat-related historical activity level for the consumption or export to non-ETS installations or other entities of measurable heat other than district heating;
 - c for district heating sub-installations, the preliminary annual number of emission allowances allocated free of charge for a given year shall correspond to the value of the heat benchmark for measurable heat for the relevant allocation period [^{F81}set out in Annex 8], multiplied by the district heating-related historical activity level;
 - d for fuel benchmark sub-installations, the preliminary annual number of emission allowances allocated free of charge for a given year shall correspond to the value of the fuel benchmark for the relevant [^{F82}allocation] period [^{F81}set out in Annex 8], multiplied by the fuel-related historical activity level for the fuel consumed;
 - e for process emissions sub-installations, the preliminary annual number of emission allowances allocated free of charge for a given year shall correspond to the process-related historical activity level multiplied by 0,97.

^{F83} ...

3 [^{F84}The] factors determined in Annex V to this Regulation shall be applied to the preliminary annual number of emission allowances allocated free of charge determined for each sub-installation pursuant to paragraph 2 of this Article for the year concerned where the processes in those sub-installations serve sectors or subsectors [^{F85}other than those set out in the Annex to Commission Delegated Decision (EU) 2019/708].

By way of derogation from the first subparagraph, for district heating sub-installations, the factor to be applied shall be 0,3.

4 Where the processes in the sub-installations referred to in paragraph 2 serve sectors or subsectors deemed to be exposed to a significant risk of carbon leakage [^{F86}set out in the Annex to Commission Delegated Decision (EU) 2019/708], the factor to be applied shall be 1.

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5 The preliminary annual number of emission allowances allocated free of charge for sub-installations that received measurable heat from sub-installations producing products covered by the nitric acid benchmark shall be reduced by the annual historical consumption of that heat during the relevant baseline periods, multiplied by the value of the heat benchmark for this measurable heat for the relevant allocation period [^{F87}set out in Annex 8].

[^{F88}In the case of an application for free allocation in the 2026-2030 allocation period under Article 4], the preliminary annual number of emission allowances allocated free of charge for product benchmark sub-installations for the relevant allocation period shall be reduced by the annual historical emissions stemming from waste gases flared, with the exception of safety flaring, and not used for the purpose of the production of measurable heat, non-measurable heat or electricity.

6 The preliminary annual amount of emission allowances allocated free of charge for each installation shall be the sum of all sub-installations' preliminary annual numbers of emission allowances allocated free of charge calculated in accordance with paragraphs 2 to 5.

Where an installation encompasses sub-installations producing pulp (short fibre kraft pulp, long fibre kraft pulp, thermo-mechanical pulp and mechanical pulp, sulphite pulp or other pulp not covered by a product benchmark) exporting measurable heat to other technically connected sub-installations, the preliminary amount of emission allowances allocated free of charge shall, without prejudice to the preliminary annual numbers of emission allowances allocated free of charge for other sub-installations of the installation concerned, only take into account the preliminary annual number of emission allowances allocated free of charge, to the extent that pulp products produced by this sub-installation are placed on the market and not processed into paper in the same or other technically connected installations.

7 When determining the preliminary annual amount of emission allowances allocated free of charge for each installation, [^{F89}the regulator] shall ensure that emissions or activity levels are not double-counted and that the allocation is not negative. In particular, where an intermediate product that is covered by a product benchmark according to the definition of the respective system boundaries set out in Annex I is imported by an installation, emissions shall not be double-counted when determining the preliminary annual amount of emission allowances allocated free of charge for both installations concerned.

^{F90}8

9 For the purpose of the calculations referred to in paragraphs 1 to [^{F91}7], the number of allowances for sub-installations and installations shall be expressed as the nearest integer [^{F92}, taking 0.5 as nearest to the previous integer].

[^{F93}10 The regulator must send the preliminary annual number of allowances calculated in respect of each installation and each sub-installation of each installation to the UK ETS authority as soon as reasonably practicable after [^{F94}benchmarks for the 2026-2030 allocation period are set out in Annex 8 but, if no such benchmarks are set out in Annex 8 on or before [^{F95}31 January 2026], as soon as reasonably practicable thereafter (using the benchmarks for the 2021-2025 allocation period set out in Annex 8 for the calculation)].

11 The regulator must make any corrections to the calculation required by the UK ETS authority.

12 In this Article and in Articles 19 to 22, “relevant allocation period” means, in relation to a benchmark [^{F96}set out in Annex 8]:

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- a in the case of a deemed application for free allocation in the 2021-2025 allocation period or an application for free allocation in the 2021-2025 allocation period under Article 5(1)(a), [^{F97}the 2021-2025 allocation period];
- b in the case of an application for free allocation in the 2026-2030 allocation period under Article 4 or an application for free allocation in the 2026-2030 allocation period under Article 5(1)(b), [^{F98}the 2026-2030 allocation period].]

Textual Amendments

- F78** Words in Art. 16 heading substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(2)**
- F79** Art. 16(1) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(3)**
- F80** Words in Art. 16(2) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(4)(a)(i)**
- F81** Words in art. 16(2)(a)-(d) substituted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **12(2)**
- F82** Word in Art. 16(2)(d) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(4)(a)(ii)**
- F83** Words in Art. 16(2) omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(4)(b)**
- F84** Word in Art. 16(3) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(5)(a)**
- F85** Words in Art. 16(3) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(5)(b)**
- F86** Words in Art. 16(4) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(6)**
- F87** Words in Art. 16(5) substituted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **12(3)**
- F88** Words in Art. 16(5) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(7)**
- F89** Words in Art. 16(7) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(8)**
- F90** Art. 16(8) omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(9)**
- F91** Word in Art. 16(9) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(10)(a)**
- F92** Words in Art. 16(9) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(10)(b)**
- F93** Art. 16(10)-(12) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 19(11)**
- F94** Words in Art. 16(10) substituted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **12(4)**
- F95** Words in Art. 16(10) substituted (31.3.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2024 (S.I. 2024/192), arts. 2, **14(2)**
- F96** Words in Art. 16(12) substituted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **12(5)(a)**
- F97** Words in Art. 16(12)(a) substituted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **12(5)(b)**
- F98** Words in Art. 16(12)(b) substituted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **12(5)(c)**

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

^{F99}Article 16a

Cross-sectoral correction factors

- 1 This Article applies where, for a scheme year (the “relevant scheme year”) in an allocation period:
 - a the sum (“PFA”) of the preliminary annual number of allowances to be allocated in respect of all installations in the relevant scheme year calculated under Article 16 (including any corrections required under Article 16(11)) is greater than the industry cap (“IC”) for the relevant scheme year; and
 - b the amount by which PFA exceeds IC is greater than the previous unallocated amount.
- 2 The previous unallocated amount is $TIC + FS - TFA$, where:
 - a TIC is the sum of the industry cap for each scheme year in the trading period preceding the relevant scheme year;
 - b FS is 40,984,970 allowances (the flexible share);
 - c TFA is the sum of the final allocation for each scheme year in the trading period preceding the relevant scheme year.
- 3 The final allocation for a scheme year is the sum of—
 - a the total preliminary annual number of allowances calculated under Article 16 to be allocated in the scheme year in respect of all installations other than electricity generators multiplied by the cross-sectoral correction factor (if any) for the scheme year determined under this Article; and
 - b the total preliminary annual number of allowances calculated under Article 16 to be allocated in the scheme year in respect of all electricity generators multiplied by the cross-sectoral correction factor (if any) for the scheme year determined under this Article or, if there is no cross-sectoral correction factor for the scheme year, the reduction factor for the scheme year.
- 4 The UK ETS authority must determine the cross-sectoral correction factor for the relevant scheme year, that is to say the factor that reduces PFA by such amount that $TIC + IC + FS = TFA +$ the final allocation for the relevant scheme year.
- 5 The UK ETS authority must, as soon as reasonably practicable, publish for each allocation period:
 - a the cross-sectoral correction factors for scheme years in the allocation period determined under paragraph 4; or
 - b if there is no cross-sectoral correction factor for any scheme year in the allocation period, a statement to that effect.
- 6 For the purposes of this Article:
 - a the industry cap for a scheme year set out in column 1 of table A is the number of allowances set out in the corresponding entry in column 2;
 - b the reduction factor for a scheme year set out in column 1 of table A is the value set out in the corresponding entry in column 3.

Table A

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Scheme year</i>	<i>Industry cap</i>	<i>Reduction factor</i>

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2021	57,856,572	0.8562
2022	56,273,432	0.8342
2023	54,690,292	0.8122
2024	53,107,152	0.7902
2025	51,524,012	0.7682
2026	49,940,872	0.7462
2027	48,357,732	0.7242
2028	46,774,592	0.7022
2029	45,191,452	0.6802
2030	43,608,312	0.6582

- 7 In this Article and Article 16b, “installation” does not include an installation if:
- a a deemed application for free allocation in the 2021-2025 allocation period was made in respect of the installation and the installation is included in the hospital and small emitter list for 2021-2025 or the ultra-small emitter list for 2021-2025; or
 - b an application for free allocation in the 2026-2030 allocation period is made in respect of the installation under Article 4 and the installation is included in the hospital and small emitter list for 2026-2030 or the ultra-small emitter list for 2026-2030.

8 Accordingly, the matters referred to in paragraph 5 must not, in relation to the 2026-2030 allocation period, be published before the publication of the hospital and small emitter list for 2026-2030 and the ultra-small emitter list for 2026-2030 under the UK ETS Order (see paragraph 5(5) of Schedule 7, and paragraph 3(6) of Schedule 8, to that Order)

Textual Amendments

F99 Arts. 16a, 16b inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 20**

Article 16b

Final allocation at installation level for incumbent installations

1 Where the preliminary annual number of allowances to be allocated in respect of an installation has been calculated under Article 16, the regulator must, as soon as reasonably practicable after the publication of the matters referred to in Article 16a(5):

- a calculate the final annual number of allowances to be allocated in respect of each installation and each sub-installation of each installation:
 - i in the case of a deemed application for free allocation in the 2021-2025 allocation period, for each scheme year in the 2021-2025 allocation period;
 - ii in the case of an application for free allocation in the 2026-2030 allocation period under Article 4, for each scheme year in the 2026-2030 allocation period;
 and
- b send the calculation to the UK ETS authority.

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- 2 The final annual number of allowances to be allocated for a scheme year in respect of a sub-installation is the preliminary annual number of allowances calculated under Article 16 (including any corrections required under Article 16(11)) multiplied by:
- in the case of sub-installation of an installation other than an electricity generator, the cross-sectoral correction factor for the scheme year (if any) determined under Article 16a;
 - in the case of a sub-installation of an electricity generator, the cross-sectoral correction factor for the scheme year determined under Article 16a or, if there is no cross-sectoral correction factor for the scheme year, the reduction factor for the scheme year (see Article 16a(6)).
- 3 The final annual number of allowances to be allocated in respect of an installation for a scheme year is the sum of the final annual number of allowances to be allocated in respect of all sub-installations of the installation.
- 4 The UK ETS authority must:
- approve the final annual number allowances, making any corrections to the calculation that the UK ETS authority considers appropriate;
 - inform the regulator accordingly.
- 5 For the purpose of the calculation referred to in paragraphs 2 and 3, the number of allowances for sub-installations and installations must be expressed as the nearest integer, taking 0.5 as nearest to the previous integer.]

Textual Amendments

F99 Arts. 16a, 16b inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 20**

Article 17

Historical activity level for new entrants

[^{F100}1] [^{F101}Where an application for free allocation is made under Article 5, the regulator] shall determine historical activity levels of each new entrant and its sub-installations as follows:

- the product-related historical activity level shall be, for each product for which a product benchmark has been determined as referred to in Annex I to this Regulation ^{F102}..., the activity level of the first calendar year after the start of normal operation for the production of this product of the sub-installation concerned;
- the heat-related historical activity level shall be the activity level of the first calendar year after the start of normal operation for the import from an installation covered by the EU ETS [^{F103}or UK ETS], production, or both, of 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, or exported to an installation or other entity not covered by the EU ETS [^{F103}or UK ETS] with the exception of the export for the production of electricity;
- the district heating-related historical activity level shall be the activity level of the first calendar year after the start of normal operation for the import from an installation

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covered by the EU ETS [^{F104}or UK ETS], production, or both, of measurable heat which is exported for the purposes of district heating;

- (d) the fuel-related historical activity level shall be the activity level of the first calendar year after the start of normal operation for the consumption of fuels used for the production of non-measurable heat consumed 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, including safety flaring, of the installation concerned;
- (e) the process emissions-related activity level shall be the activity level of the first calendar year after the start of normal operation for the production of process emissions of the process unit;
- (f) By way of derogation from point (a), the product-related historical activity level for products to which the product benchmarks referred to in Annex III apply shall be the activity level of the first calendar year after the start of normal operation for the production of this product of the sub-installation concerned, determined according to the formulas set out in that Annex.

[^{F1052} But if a sub-installation has not been operating for a full calendar year after the start of normal operation, the historical activity level must be determined when the activity level report after the first full calendar year of operation is submitted (see Article 3a of the Activity Level Changes Regulation).]

Textual Amendments

- F100** Art. 17 renumbered as Art. 17(1) (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 21(2)**
- F101** Words in Art. 17(1) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 21(3)(a)**
- F102** Words in Art. 17(1)(a) omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 21(3)(b)**
- F103** Words in Art. 17(1)(b) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 21(3)(c)**
- F104** Words in Art. 17(1)(c) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 21(3)(d)**
- F105** Art. 17(2) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 21(4)**

Article 18

[^{F106}Preliminary allocation] to new entrants

[^{F107}A1 The regulator must calculate the preliminary annual number of allowances to be allocated free of charge in respect of a new entrant for scheme years in the relevant allocation period in accordance with this Article

A2 Where the start of normal operation of a new entrant is before the date on which the permit (including a permit within the meaning of GGETSR 2012) for the installation comes into force, for the purposes of this Article and Article 18a:

- a the start of normal operation must be treated as the date on which the permit comes into force; and

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- b the activity level of the year in which the start of normal operation occurs must be treated as the activity level of that year excluding any days before the date on which the permit comes into force.]

1 ^{F108}Where the historical activity level of a sub-installation of the new entrant has been determined under Article 17, the preliminary annual number of allowances to be allocated free of charge in respect of the sub-installation for the first scheme year in the relevant allocation period after the year in which the start of normal operation occurs and for each subsequent scheme year in the relevant allocation period is], as follows:

- a for each product benchmark sub-installation, heat benchmark sub-installation and fuel benchmark sub-installation, the preliminary annual number of emission allowances allocated free of charge for a given year shall correspond to the value of that benchmark for the relevant period multiplied by the relevant historical activity level ^{F109}; and in this point “benchmark for the relevant period” means the benchmark for the relevant allocation period (as defined in Article 16(12)) ^{F110}set out in Annex 8];
- b for each process emissions sub-installation, the preliminary annual number of emission allowances allocated free of charge for a given year shall correspond to the process-related historical activity level multiplied by 0,97.

Article 16(3), (4), (5) and (7) shall apply *mutatis mutandis* to the calculation of the preliminary annual number of emission allowances allocated free of charge ^{F111}in respect of new entrants under this paragraph and paragraph 2].

2 ^{F112}Where the start of normal operation of a sub-installation of a new entrant occurs in a scheme year in the relevant allocation period, the preliminary] annual number of emission allowances allocated free of charge for the ^{F113}scheme year] shall correspond to the value of the applicable benchmark value for each sub-installation multiplied by the activity level of that year.

^{F114}2A Paragraph 2 applies whether or not the historical activity level of the sub-installation has been determined under Article 17.]

3 The preliminary annual amount of emission allowances allocated free of charge for each installation shall be the sum of all sub-installations' preliminary annual numbers of emission allowances allocated free of charge calculated in accordance with paragraphs 1 and 2. The second subparagraph of Article 16(6) shall apply.

^{F115}4

^{F116}5

6 For the purpose of the calculations referred to in paragraphs ^{F117}1 to 3], the number of allowances for sub-installations and installations shall be expressed as the nearest integer ^{F118}, taking 0.5 as nearest to the previous integer].

^{F119}7 In this Article (except as provided in paragraph 1(a)) and Article 18b, “relevant allocation period” means:

- a in relation to an application for free allocation made under Article 5(1)(a), the 2021-2025 allocation period;
- b in relation to an application for free allocation made under Article 5(1)(b), the 2026-2030 allocation period.]

Textual Amendments

F106 Words in Art. 18 heading substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 22(2)**

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- F107** Art. 18(A1)(A2) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(3)**
- F108** Words in Art. 18(1) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(4)(a)(i)**
- F109** Words in Art. 18(1)(a) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(4)(a)(ii)**
- F110** Words in Art. 18(1)(a) substituted (1.1.2024) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2023 (S.I. 2023/850), arts. 2, **13(2)**
- F111** Words in Art. 18(1)(b) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(4)(b)**
- F112** Words in Art. 18(2) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(5)(a)**
- F113** Words in Art. 18(2) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(5)(b)**
- F114** Art. 18(2A) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(6)**
- F115** Art. 18(4) omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(7)**
- F116** Art. 18(5) omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(7)**
- F117** Words in Art. 18(6) substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(8)(a)**
- F118** Words in Art. 18(6) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(8)(b)**
- F119** Art. 18(7) inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 22(9)**

[^{F120}Article 18a

Assessment of applications and final allocation at installation level for new entrants

- 1 Where an application for free allocation is made by a new entrant under Article 5, the regulator must send the information set out in paragraph 2 to the UK ETS authority as soon as reasonably practicable.
- 2 The information is:
 - a) details of the installation, including details of the greenhouse gas emissions permit in force;
 - b) the information contained in the new entrant data report submitted with the application under Article 5;
 - c) the historical activity levels (if any) determined under Article 17;
 - d) the preliminary annual number of allowances to be allocated in respect of the installation and of each sub-installation separately, as calculated under Article 18;
 - e) where the regulator has not, by virtue of Article 5(6)(c), determined historical activity levels or the preliminary annual number of allowances, the regulator's explanation;
 - f) except where point (e) applies, the final annual number of allowances to be allocated in respect of each sub-installation of the installation:
 - i) for the scheme year in the relevant allocation period in which the start of normal operation of the sub-installation occurs; and

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- ii) where the historical activity level of the sub-installation has been determined under Article 17, for each subsequent scheme year in the relevant allocation period;
- g) except where point (e) applies, the final annual number of allowances to be allocated in respect of the installation for each scheme year in the relevant allocation period;
- h) whether or not a monitoring methodology plan has been approved in relation to the installation under Article 8.
- 3 The final annual number of allowances to be allocated in respect of a sub-installation for a scheme year is the preliminary annual number of allowances calculated under Article 18 multiplied by the reduction factor for the scheme year.
- 4 The final annual number of allowances to be allocated in respect of an installation for a scheme year is the sum of the final annual number of allowances to be allocated in respect of all sub-installations of the installation for the scheme year.
- 5 The UK ETS authority must as soon as reasonably practicable:
- a assess the application for free allocation and, where relevant, the regulator's explanation under paragraph 2(e); and
- b inform the regulator whether or not the application is valid.
- 6 Where the application is valid, the UK ETS authority must also:
- a approve the final annual number of allowances, making any corrections to the historical activity levels, preliminary annual number of allowances and final annual number of allowances that the UK ETS authority considers appropriate; and
- b inform the regulator of the matters referred to in point (a).
- 7 But where a monitoring methodology plan has not been approved in relation to the installation at the date on which the information set out in paragraph 2 is sent to the UK ETS authority, paragraph 6 applies only after the regulator informs the UK ETS authority that the monitoring methodology plan submitted to the regulator for approval has been approved and does not apply if the regulator informs the UK ETS authority that the monitoring methodology plan has been rejected.
- 8 The regulator must give notice to the operator of the installation of the following:
- a whether or not the application is valid;
- b if the application is not valid, the reasons why it is not valid.
- 9 Where the application is valid, the regulator must also give notice to the operator:
- a of the final annual number of allowances approved under paragraph 6; or
- b that a final annual number of allowances has not been approved because the monitoring methodology plan submitted to the regulator for approval has been rejected.
- 10 For the purpose of the calculations referred to in paragraphs 3 and 4, the number of allowances for sub-installations and installations must be expressed as the nearest integer, taking 0.5 as nearest to the previous integer.
- 11 For the purposes of this Article, the reduction factor for a scheme year set out in column 1 of table B is the value set out in the corresponding entry in column 2.

Table B

<i>Column 1</i>	<i>Column 2</i>
<i>Scheme year</i>	<i>Reduction factor</i>

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

2021, 2026	1
2022, 2027	0.978
2023, 2028	0.956
2024, 2029	0.934
2025, 2030	0.912

12 For the purposes of this Article, an application for free allocation is valid if:

- ^{F121}a
b the application is ^{F122}... in accordance with this Regulation.]

Textual Amendments

F120 Art. 18a inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 23**

F121 Art. 18a(12)(a) omitted (1.1.2024 immediately after [S.I. 2023/850](#) comes into force) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **18(2)(a)**

F122 Word in Art. 18a(12)(b) omitted (1.1.2024 immediately after [S.I. 2023/850](#) comes into force) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **18(2)(b)**

Article 19

Allocation in respect of steam cracking

By way of derogation from Article 16(2)(a) and Article 18(1)(a), the preliminary annual number of emission allowances allocated free of charge for a product benchmark sub-installation relating to the production of high value chemicals ('HVC') shall correspond to the value of the steam cracking product benchmark for the relevant allocation period multiplied by the historical activity level determined in accordance with Annex III and multiplied by the quotient of the total direct emissions including emissions from net imported heat over the baseline period referred to in Article 15(2) or of the first calendar year after the start of normal operation referred to in [^{F123}Article 17(1)(a)], as appropriate, calculated in accordance with Article 22(2) and expressed as tonnes of carbon dioxide equivalent and the sum of these total direct emissions and the relevant indirect emissions over the baseline period referred to in Article 15(2) or of the first calendar year after the start of normal operation referred to in [^{F123}Article 17(1)(a)], as appropriate, calculated in accordance with Article 22(3). To the result of that calculation, 1,78 tonnes of carbon dioxide per ton of hydrogen times the mean historical production of hydrogen from supplemental feed expressed in tons of hydrogen, 0,24 tonnes of carbon dioxide per ton of ethylene times the mean historical production of ethylene from supplemental feed expressed in tons of ethylene, and 0,16 tonnes of carbon dioxide per ton of HVC times the mean historical production of other high value chemicals than hydrogen and ethylene from supplemental feed expressed in tons of HVC, shall be added.

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

Textual Amendments

F123 Words in [Art. 19](#) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), [Sch. 1 para. 24\(2\)](#)

Article 20

Allocation in respect of vinyl chloride monomer

By way of derogation from Article 16(2)(a) and Article 18(1)(a), the preliminary annual number of emission allowances allocated free of charge for a sub-installation relating to the production of vinyl chloride monomer ('VCM') shall correspond to the value of the VCM benchmark for the relevant allocation period multiplied by the historical activity level for VCM production expressed as tonnes and multiplied by the quotient of the direct emissions for the production of VCM including emissions from net imported heat over the baseline period referred to in Article 15(2) or of the first calendar year after the start of normal operation referred to in ^{F124}Article 17(1)(a)], as appropriate, calculated in accordance with Article 22(2), expressed as tonnes of carbon dioxide equivalent and the sum of those direct emissions and the hydrogen-related emissions for the production of VCM over the baseline period referred to in Article 15(2) or of the first calendar year after the start of normal operation referred to in ^{F124}Article 17(1)(a)], as appropriate, expressed as tonnes of carbon dioxide equivalent calculated on the basis of the historical heat consumption stemming from hydrogen combustion expressed as terajoules times the value of the heat benchmark for the relevant allocation period.

Textual Amendments

F124 Words in [Art. 20](#) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), [Sch. 1 para. 25\(2\)](#)

Article 21

Heat flows between installations

Where a product-benchmark sub-installation encompasses measurable heat imported from an installation or other entity not included in the EU ETS [^{F125}or UK ETS], the preliminary annual number of emission allowances allocated free of charge for the product benchmark sub-installation concerned determined pursuant to Article 16(2)(a) or Article 18(1)(a), as appropriate, shall be reduced by the amount of heat historically imported from an installation or other entity not included in the EU ETS [^{F125}or UK ETS] in the year concerned multiplied by the value of the heat benchmark for measurable heat for the relevant allocation period.

Textual Amendments

F125 Words in [Art. 21](#) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), [Sch. 1 para. 26\(2\)](#)

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

Article 22

Exchangeability of fuel and electricity

1 For each product benchmark sub-installation corresponding to a product benchmark defined in section 2 of Annex I with consideration of exchangeability of fuel and electricity, the preliminary annual number of emission allowances allocated free of charge shall correspond to the value of the relevant product benchmark for the relevant allocation period multiplied by the product-related historical activity level and multiplied by the quotient of the total direct emissions including emissions from net imported heat over the baseline period referred to in Article 15(2) or of the first calendar year after the start of normal operation referred to in [F126 Article 17(1)(a)], as appropriate, calculated in accordance with paragraph 2, expressed as tonnes of carbon dioxide equivalent and the sum of these total direct emissions and the relevant indirect emissions over the baseline period referred to in Article 15(2) or of the first calendar year after the start of normal operation referred to in [F126 Article 17(1)(a)], as appropriate, calculated in accordance with paragraph 3.

2 For the purposes of the calculation of emissions from net imported heat, the amount of measurable heat for the production of the product concerned imported from installations covered by the EU ETS [F127 or UK ETS] during the baseline period referred to in Article 15(2) or of the first calendar year after the start of normal operation referred to in [F126 Article 17(1)(a)], as appropriate, shall be multiplied by the value of the heat benchmark for the relevant allocation period.

3 For the purposes of the calculation of indirect emissions, the relevant indirect emissions refer to the relevant electricity consumption as specified in the definition of processes and emissions covered in Annex I during the baseline period referred to in Article 15(2) or of the first calendar year after the start of normal operation referred to in [F126 Article 17(1)(a)], as appropriate, expressed in megawatt-hours for the production of the product concerned times 0,376 tonnes of carbon dioxide per megawatt-hour and expressed as tonnes of carbon dioxide.

Textual Amendments

F126 Word in Art. 22 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 27(2)**

F127 Words in Art. 22(2) inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 27(3)**

F128 Article 23

Changes to the allocation of an installation

Textual Amendments

F128 Art. 23 omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 28**

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

^{F129}Article 24

Renunciation of free allocation of allowances

1 Where an installation is an FA installation for the 2021-2025 allocation period, the operator of the installation may by giving notice (a “renunciation notice”) to the regulator renounce free allocation in respect of the remaining scheme years in the 2021-2025 allocation period beginning with the scheme year after the year in which the notice is given.

2 Where an installation is an FA installation for the 2026-2030 allocation period, the operator of the installation may by giving notice (a “renunciation notice”) to the regulator renounce free allocation in respect of the remaining scheme years in the 2026-2030 allocation period beginning with the scheme year after the year in which the notice is given.

3 The renunciation notice must set out:

- a) whether the renunciation is made in respect of:
 - i) the installation as a whole; or
 - ii) one or more sub-installations of the installation (but not all of them); and
- b) where point (a)(ii) applies, the sub-installation or sub-installations in respect of which the renunciation is made.

4 Where a renunciation notice is given, the regulator must:

- a) recalculate the final annual number of allowances to be allocated in respect of the installation for each of the remaining scheme years of the allocation period, to take account of the renunciation notice;
- b) send the calculation to the UK ETS authority.

5 The UK ETS authority must:

- a) approve the final annual number of allowances to be allocated in respect of the installation, making any corrections that the UK ETS authority considers appropriate; and
- b) inform the regulator accordingly.

6 The regulator must inform the operator of the final annual number of allowances approved.

7 Where an application under paragraph 7 of Schedule 6 to the UK ETS Order for the transfer of a greenhouse gas emissions permit containing a statement by the new operator (as defined in paragraph 7 of that Schedule) that the new operator renounces free allocation in respect of the transferred units (as defined in that paragraph) is granted under paragraph 9 of that Schedule:

- a) for the purposes of this Article, the new operator must be treated as giving a renunciation notice in respect of the transferred units; and
- b) in the case of a transfer other than a partial transfer, for the purposes of article 4A(3) (b) and (5)(b) of the UK ETS Order, the renunciation notice must be treated as having been given by the new operator in respect of the installation as a whole.]

Textual Amendments

F129 Art. 24 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 29**

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
 Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

^{F130}Article 25

Mergers and splits

1 This Article applies where an application for the transfer of a greenhouse gas emissions permit of an installation that is an FA installation at the transfer date is granted under paragraph 9 of Schedule 6 to the UK ETS Order.

2 But this Article does not apply if the application contains a statement by the new operator (as defined in paragraph 7 of that Schedule) that the new operator renounces free allocation in respect of the transferred units (as defined in that paragraph).

3 The operators of installations (“new installations”) resulting from a merger or split must submit the following to the regulator:

- a the relevant report or reports (see paragraphs 4 and 5);
- b a report on [^{F131}the activity level (if any) of each sub-installation of each new installation in the first relevant calendar year] containing the information referred to in Article 3(2) of the Activity Level Changes Regulation, as if the merger or split had taken place at the beginning of that year;
- c a verification report on the reports referred to in points (a) and (b) in accordance with the Verification Regulation 2018.

4 In the case of a merger, the relevant report is:

- a if at least one of the installations before the merger was an incumbent installation whose start of normal operation occurred before the end of the baseline period, a report verified in accordance with the Verification Regulation 2018 containing the data referred to in Article 4(2)(a) covering the baseline period for the new installation and its sub-installations, as if the merger had taken place at the beginning of the baseline period;
- b in any other case, a report verified in accordance with the Verification Regulation 2018 on the activity level of the first calendar year after the start of normal operation of the following installations before the merger and their sub-installations:
 - i the installation with the earliest start of normal operation; and
 - ii any other installation whose start of normal operation occurred in the same year as the installation with the earliest start of normal operation.

5 In the case of a split, the relevant reports are:

- a if the installation before the split was an incumbent installation whose start of normal operation occurred before the end of the baseline period, a report verified in accordance with the Verification Regulation 2018 containing the data referred to in Article 4(2)(a) covering the baseline period for each new installation and its sub-installations, as if the split had taken place at the beginning of the baseline period;
- b in any other case, a report verified in accordance with the Verification Regulation 2018 on the activity level of the installation in the first calendar year after the start of normal operation for each new installation and its sub-installations, as if the split had taken place at the beginning of that year.

6 After assessing the reports referred to in paragraph 3, the regulator must:

- a determine the historical activity level of each sub-installation of each new installation:
 - i where paragraph 4(a) or 5(a) applies, in accordance with Article 15;
 - ii where paragraph 4(b) or 5(b) applies in accordance with Article 17;

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- b based on the historical activity levels, calculate the preliminary and final annual number of allowances to be allocated in respect of each new installation and of each sub-installation of each new installation for each scheme year in the relevant allocation period beginning with the [^{F132}first recalculated scheme year]:
 - i where paragraph 4(a) or 5(a) applies, in accordance with Articles 16 and 16b;
 - ii where paragraph 4(b) or 5(b) applies, in accordance with Article 18 and 18a;
 - c send the information contained in the relevant report or reports referred to in paragraph 3(a), the determination referred to in point (a) and the calculation referred to in point (b) to the UK ETS authority.
- 7 For the purposes of paragraph 6:
- a where a sub-installation of an installation before a split is split into 2 or more sub-installations, the historical activity level and allocation in respect of the sub-installation of the new installation must be based on the historical activity level of the respective stationary technical units of the installation before the split;
 - b the final annual number of allowances to be allocated in respect of the new installation or installations for a scheme year must correspond to the final annual number of allowances to be allocated in respect of the installation or installations before the merger or split for the scheme year.
- 8 The UK ETS authority must:
- a approve the final annual number of allowances to be allocated in respect of each new installation for each scheme year in the relevant allocation period beginning with the [^{F133}first recalculated scheme year], making any corrections that the UK ETS authority considers appropriate; and
 - b inform the regulator accordingly.
- 9 The regulator must give notice to the operator of each new installation:
- a of the final annual number of allowances approved; and
 - b where the final annual number of allowances to be allocated in respect of a new installation for each scheme year in the relevant allocation period [^{F134}beginning with the first recalculated scheme year] is zero, that the installation is not an FA installation for the relevant allocation period.
- [^{F135}9a Paragraph 9(b) does not apply to a new installation:
- a in the case of a split, if the installation before the split was an electricity generator;
 - b in the case of a merger, if any installation before the merger was an electricity generator.]
- 10 In this Article:
- a “relevant allocation period” means:
 - i where any installation before the split or merger is an FA installation for the 2021-2025 allocation period, the 2021-2025 allocation period;
 - ii where any installation before the split or merger is an FA installation for the 2026-2030 allocation period, the 2026-2030 allocation period;
 - b “transfer date”, in relation to the transfer referred to in paragraph 1, has the meaning given in paragraph 9 of Schedule 6 to the UK ETS Order.]
- [^{F136}c “first relevant calendar year” means—
- i where the transfer date is before 31 March in a scheme year, the calendar year beginning 2 years before the scheme year in which the transfer date occurs;
 - ii where the transfer date is on or after 31 March in a scheme year, the calendar year before the scheme year in which the transfer date occurs;

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- d “first recalculated scheme year” means—
- i where the transfer date is before 31 March in a scheme year, the scheme year in which the transfer date occurs;
 - ii where the transfer date is on or after 31 March in a scheme year, the scheme year after the scheme year in which the transfer date occurs.]

Textual Amendments

- F130** Art. 25 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 30**
- F131** Words in Art. 25(3)(b) substituted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **22(2)**
- F132** Words in Art. 25(6)(b) substituted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **22(3)**
- F133** Words in Art. 25(8)(a) substituted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **22(4)**
- F134** Words in Art. 25(9)(b) substituted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **22(5)**
- F135** Art. 25(9a) inserted (1.1.2024 immediately after S.I. 2023/850 comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **19(2)**
- F136** Art. 25(10)(c)(d) inserted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **22(6)**

^{F137}Article 26

Cessation of operations of an installation

- 1 This Article applies where:
- a an installation that is an FA installation has ceased operation; or
 - b the greenhouse gas emissions permit of such an installation is surrendered under paragraph 11(2) of Schedule 6 to the UK ETS Order or revoked under paragraph 12(3) of that Schedule.
- ^{F1382} No allowances may be allocated in respect of the installation for the first non-entitled scheme year and all subsequent scheme years; and in this paragraph the “first non-entitled scheme year” means the earlier of:
- a) the scheme year after the year in which the installation ceased operation; and
 - b) where paragraph 1(b) applies, the scheme year after the year in which the surrender or revocation of the permit takes effect.]
- 3 The regulator must:
- a recalculate the final annual number of allowances to be allocated in respect of the installation for those scheme years as zero; and
 - b send the calculation to the UK ETS authority.
- 4 The UK ETS authority must:
- a approve the final annual number of allowances to be allocated in respect of the installation; and
 - b inform the regulator accordingly.

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
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5 The regulator must give notice to the operator of the installation of the UK ETS authority's approval.]

Textual Amendments

F137 Art. 26 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 31**

F138 Art. 26(2) substituted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **23(2)**

CHAPTER IV

Final provisions

Article 27

Repeal of Decision 2011/278/EU

Decision 2011/278/EU is repealed with effect from 1 January 2021. However, it shall continue to apply to allocations relating to the period prior to 1 January 2021.

Article 28

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

F139 ...

Done at Brussels, 19 December 2018.

For the Commission

The President

Jean-Claude JUNCKER

Textual Amendments

F139 Words in [Signature](#) omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 32**

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
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ANNEX I

Benchmarks

1. Definition of product benchmarks and system boundaries without consideration of exchangeability of fuel and electricity

Product benchmark	Definition of products covered	Definition of processes and emissions covered (system boundaries)	Starting point for determination of annual reduction rate for benchmark value update(allowances/t)
Coke	Coke-oven coke (obtained from the carbonisation of coking coal, at high temperature) or gas-works coke (by-product of gas-works plants) expressed in tonnes of dry coke, determined at the discharge of the coke oven or gas-works plant. Lignite coke is not covered by this benchmark. Coking in refineries is not included but covered by the CWT methodology for refineries.	All processes directly or indirectly linked to the process units coke ovens, H ₂ S/ NH ₃ incineration, coal preheating (defreezing), coke gas extractor, desulphurisation unit, distillation unit, steam generation plant, pressure control in batteries, biological water treatment, miscellaneous heating of by-products and hydrogen separator are included. Coke oven gas cleaning is included.	0,286
Sintered ore	Agglomerated iron-bearing product containing iron ore fines, fluxes and iron-containing recycling materials with the chemical and physical properties such as the level of basicity, mechanical strength and permeability required to deliver iron and necessary flux materials into iron ore reduction	All processes directly or indirectly linked to the process units sinter strand, ignition, feedstock preparation units, hot screening unit, sinter cooling unit, cold screening unit and steam generation unit are included.	0,171

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	processes. Expressed in tonnes of sintered ore as leaving the sinter plant.		
Hot metal	Liquid iron saturated with carbon for further processing, considered as product of blast furnaces, and expressed in tonnes of liquid iron at the exit point of the blast furnace. Similar products such as ferroalloys are not covered by this product benchmark. Residual material and by-products are not to be considered as part of the product.	All processes directly or indirectly linked to the process units blast furnace, hot metal treatment units, blast furnace blowers, blast furnace hot stoves, basic oxygen furnace, secondary metallurgy units, vacuum ladles, casting units (including cutting), slag treatment unit, burden preparation, BF gas treatment unit, dedusting units, scrap pre-heating, coal drying for PCI, vessels preheating stands, casting ingots preheating stands, compressed air production, dust treatment unit (briquetting), sludge treatment unit (briquetting), steam injection in BF unit, steam generation plant, converter BOF gas cooling and miscellaneous are included.	1,328
Pre-bake anode	Anodes for aluminium electrolysis use consisting of petrol coke, pitch and normally recycled anodes, which are formed to shape specifically intended for a particular smelter and baked in anode baking ovens to a temperature of around 1 150 °C. Söderberg anodes are	All processes directly or indirectly linked to the production of pre-bake anodes are included.	0,324

Status: Point in time view as at 31/03/2024.

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	not covered by this product benchmark.		
Aluminium	Unwrought non-alloy liquid aluminium from electrolysis. Expressed in tonnes measured between the electrolysis section and the holding furnace of the cast house, before alloys and secondary aluminium are added.	All processes directly or indirectly linked to the production step electrolysis are included. Emissions resulting from holding furnaces and casting, and emissions related to anode productions are excluded.	1,514
Grey cement clinker	Grey cement clinker as total clinker produced.	All processes directly or indirectly linked to the production of grey cement clinker are included.	0,766
White cement clinker	White cement clinker for use as main binding component in the formulation of materials such as joint fillers, ceramic tile adhesives, insulation, and anchorage mortars, industrial floor mortars, ready mixed plaster, repair mortars, and water-tight coatings with maximum average contents of 0,4 mass-% Fe ₂ O ₃ , 0,003 mass-% Cr ₂ O ₃ and 0,03 mass-% Mn ₂ O ₃ . Expressed in tonnes of white cement clinker (as 100 % clinker).	All processes directly or indirectly linked to the production of white cement clinker are included.	0,987
Lime	Quicklime: calcium oxide (CaO) produced by the decarbonation of limestone (CaCO ₃). Expressed in tonnes of 'standard pure' defined as lime with a free CaO	All processes directly or indirectly linked to the production of lime are included.	0,954

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	<p>content of 94,5 %. Lime produced and consumed in the same installation for purification processes is not covered by this product benchmark. The internal lime production of the pulp sector is already covered by the respective pulp benchmarks and is therefore not eligible for additional allocation based on the lime benchmark.</p>		
Dolime	<p>Dolime or calcined dolomite as mixture of calcium and magnesium oxides produced by the decarbonation of dolomite ($\text{CaCO}_3 \cdot \text{MgCO}_3$) with a residual CO_2 exceeding 0,25 %, a free MgO content between 25 % and 40 % and a bulk density of the commercial product below 3,05 g/cm³. Dolime shall be expressed as 'standard pure dolime' quality with a free CaO content of 57,4 % and a free MgO content of 38,0 %.</p>	<p>All processes directly or indirectly linked to the production of dolime are included, in particular fuel preparation, calcination/sintering and flue gas treatment.</p>	1,072
Sintered dolime	<p>Mixture of calcium and magnesium oxides used solely for the production of refractory bricks and other refractory products with a minimum bulk density of 3,05 g/cm³. Expressed in tonnes</p>	<p>All processes directly or indirectly linked to the production of sintered dolime are included.</p>	1,449

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	of saleable sintered dolime.		
Float glass	Float/ground/polish glass. (as tons of glass exiting the lehr).	All processes directly or indirectly linked to the production steps melter, refiner, working end, bath and lehr are included. Finishing workshops that can be physically separated from the upstream process, such as offline coating, laminating and toughening are excluded.	0,453
Bottles and jars of colourless glass	Bottles of colourless glass of a nominal capacity < 2,5 litres, produced in a furnace where there is no deliberate addition of colour for beverages and foodstuffs (excluding bottles covered with leather or composition leather; infant's feeding bottles) except extra-white flint products with an iron oxide content expressed as percent Fe ₂ O ₃ by weight lower than 0,03 % and colour co-ordinates of L in the range 100 to 87, of a in the range 0 to – 5 and of b in the range 0 to 3 (using the CIELAB advocated by the Commission Internationale d'éclairage) expressed as tonnes of packed product.	All processes directly or indirectly linked to the production steps materials handling, melting, forming, downstream processing, packaging and ancillary processes are included.	0,382
Bottles and jars of coloured glass	Bottles of coloured glass of a nominal capacity < 2,5 litres, for beverages and	All processes directly or indirectly linked to the production steps materials	0,306

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	<p>foodstuffs (excluding bottles covered with leather or composition leather; infant's feeding bottles), not meeting the definition of the product benchmark for bottles and jars of colourless glass, expressed as tonnes of packed product.</p>	<p>handling, melting, forming, downstream processing, packaging and ancillary processes are included.</p>	
<p>Continuous filament glass fibre products</p>	<p>Melted glass for the production of continuous filament glass fibre products namely chopped strands, rovings, yarns and staple glass fibre and mats, expressed as tonnes of melted glass exiting the forehearth calculated from the quantity of raw material input into the furnace after subtraction of the volatile gaseous emissions. Mineral wool products for thermal, acoustic and fire insulation are not covered by this benchmark.</p>	<p>All processes directly or indirectly linked to the production processes glass melting in the furnaces and glass refining in the forehearths are included, in particular direct CO₂ emissions associated to these process CO₂ emissions resulting from the decarbonatisation of the glass mineral raw materials during the melting process. Downstream processes to convert the fibres into sellable products are not included in this product benchmark. Supporting processes such as material handling are regarded as utilities and are outside the system boundaries.</p>	<p>0,406</p>
<p>Facing bricks</p>	<p>Facing bricks with a density > 1 000 kg/m³ used for masonry based on EN 771-1, excluding pavers, clinker bricks and blue braised facing bricks.</p>	<p>All processes directly or indirectly linked to the production processes raw material preparation, component mixing, forming and shaping of ware, drying of ware, firing of ware, product finishing and</p>	<p>0,139</p>

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

		flue gas cleaning are included.	
Pavers	Clay bricks of any color used for flooring according to EN 1344. Expressed in tonnes of paves as net saleable product.	All processes directly or indirectly linked to the production processes raw material preparation, component mixing, forming and shaping of ware, drying of ware, firing of ware, product finishing and flue gas cleaning are included.	0,192
Roof tiles	Clay roofing tiles as defined in EN 1304:2005 excluding blue braised roof tiles and accessories. Expressed in tonnes of saleable roof tiles.	All processes directly or indirectly linked to the production processes raw material preparation, component mixing, forming and shaping of ware, drying of ware, firing of ware, product finishing and flue gas cleaning are included.	0,144
Spray dried powder	Spray-dried powder for the production of dry-pressed wall and floor tiles. Expressed in tonnes of powder produced.	All processes directly or indirectly linked to the production of spray-dried powder are included.	0,076
Plaster	Plasters consisting of calcined gypsum or calcium sulphate (including for use in building, for use in dressing woven fabrics or surfacing paper, for use in dentistry, for use in land remediation), in tonnes of stucco (saleable production). Alpha plaster, plaster that is further processed to plasterboard and the production of the intermediate product dried secondary	All processes directly or indirectly linked to the production steps milling, drying and calcining are included.	0,048

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	gypsum are not covered by this product benchmark.		
Dried secondary gypsum	Dried secondary gypsum (synthetic gypsum produced as a recycled by-product of the power industry or recycled material from construction waste and demolition) expressed as tonnes of product.	All processes directly or indirectly linked to the drying of secondary gypsum are included	0,017
Short fibre kraft pulp	Short fibre kraft pulp is a wood pulp produced by the sulphate chemical process using cooking liquor, characterised by fibre lengths of 1 – 1,5 mm, which is mainly used for products which require specific smoothness and bulk, as tissue and printing paper, expressed as net saleable production in air dried tonnes, measured at the end of the production process, Air dry metric tonne of pulp meaning dry solids content of 90 %.	All processes which are part of the pulp production process (in particular the pulp mill, recovery boiler, pulp drying section and lime kiln and connected energy conversion units (boiler/CHP)) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included.	0,12
Long fibre kraft pulp	Long fibre kraft pulp is a wood pulp produced by the sulphate chemical process using cooking liquor, characterised	All processes which are part of the pulp production process (in particular the pulp mill, recovery boiler, pulp drying section and lime	0,06

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	by fibre lengths of 3 – 3,5 mm, including bleached and unbleached pulp, expressed as net saleable production in air dried tonnes, measured at the end of the production process. Air dry metric tonne of pulp meaning dry solids content of 90 %.	kiln and connected energy conversion units (boiler/CHP)) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included.	
Sulphite pulp, thermo-mechanical and mechanical pulp	Sulphite pulp produced by a specific pulp making process, e.g. pulp produced by cooking wood chips in a pressure vessel in the presence of bisulphite liquor expressed as net saleable production in air dried metric tonnes measured at the end of the production process. Air dry metric tonne of pulp meaning dry solids contents of 90 %. Sulphite pulp can be either bleached or unbleached. Mechanical pulp grades: TMP (thermomechanical pulp) and groundwood as net saleable production in air dried metric tonnes measured	All processes which are part of the pulp production process (in particular the pulp mill, recovery boiler, pulp drying section and lime kiln and connected energy conversion units (boiler/CHP)) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and	0,02

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	<p>at the end of the production process. Air dry metric tonne of pulp meaning dry solids contents of 90 %. Mechanical pulp can be either bleached or unbleached. Not covered by this group are the smaller subgroups of semichemical pulp CTMP – chemithermomechanical pulp and dissolving pulp.</p>	<p>district heating are not included.</p>	
Recovered paper pulp	<p>Pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material expressed in tonnes of saleable production in air dried metric tonnes measured at the end of the production process. Air dry metric tonne of pulp meaning dry solids contents of 90 %. In case of pulp production, the production is defined as the total pulp produced including both pulp for internal delivery to a paper mill and market pulp.</p>	<p>All processes which are part of the production of pulp from recovered paper and connected energy conversion units (boiler/CHP)) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included.</p>	0,039
Newsprint	<p>Specific paper grade (in rolls or sheets) expressed as net saleable production in air dried tonnes, defined as paper with 6 % moisture content.</p>	<p>All processes which are part of the paper production process (in particular paper or board machine and connected energy conversion units (boiler/CHP) and</p>	0,298

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
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		<p>direct process fuel use) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included.</p>	
Uncoated fine paper	<p>Uncoated fine paper, covering both uncoated mechanical and uncoated woodfree expressed as net saleable production in air dried tonnes, defined as paper with 6 % moisture content.</p> <p>1. Uncoated woodfree papers covers papers suitable for printing or other graphic purposes made from a variety of mainly virgin fibre furnishes, with variable levels of mineral filler and</p>	<p>All processes which are part of the paper production process (in particular paper or board machine and connected energy conversion units (boiler/CHP) and direct process fuel use) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included.</p>	0,318

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	2. a range of finishing processes. Uncoated mechanical papers cover the specific paper grades made from mechanical pulp, used for packaging or graphic purposes/ magazines.		
Coated fine paper	Coated fine paper covering both coated mechanical and coated woodfree papers expressed as net saleable production in air dried tonnes, defined as paper with 6 % moisture content.	All processes which are part of the paper production process (in particular paper or board machine and connected energy conversion units (boiler/CHP) and direct process fuel use) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included.	0,318
Tissue	Tissue papers, covering a wide range of tissue and other hygienic papers	All processes which are part of the paper production process (in particular paper	0,334

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	<p>for use in households or commercial and industrial premises such as toilet paper and facial tissues, kitchen towels, hand towels and industrial wipes, the manufacture of baby nappies, sanitary towels, etc. TAD - Through Air Dried Tissue is not part of this group. Expressed as tonnes of net saleable production of parent reel in air dried tonnes, defined as paper with 6 % moisture content.</p>	<p>or board machine and connected energy conversion units (boiler/CHP) and direct process fuel use) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included. The conversion of parent reel weight to finished products is not part of this product benchmark.</p>	
Testliner and fluting	<p>Testliner and fluting expressed as net saleable production in air dried tonnes defined as paper with 6 % moisture content.</p> <p>1. Testliner covers types of paperboard that meet specific tests adopted by the packaging industry to qualify for use as the outer facing layer for</p>	<p>All processes which are part of the paper production process (in particular paper or board machine and connected energy conversion units (boiler/CHP) and direct process fuel use) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite</p>	0,248

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	<p>2. corrugated board, from which shipping containers are made. Fluting refers to the centre segment of corrugated shipping containers, being faced with linerboard (testliner/ kraftliner) on both sides. Fluting covers mainly papers made from recycled fibre but this group also holds paperboard that is made from chemical and semi-chemical pulp. Kraftliner is not included in this product benchmark.</p>	<p>(drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included.</p>	
<p>Uncoated carton board</p>	<p>Various uncoated products (expressed as net saleable production in air dried tonnes, defined as paper with 6 % moisture content) which may be single or multiply. Uncoated carton board is mainly</p>	<p>All processes which are part of the paper production process (in particular paper or board machine and connected energy conversion units (boiler/CHP) and direct process fuel use) are included. Other activities</p>	<p>0,237</p>

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	<p>used for packaging applications which the main needed characteristic is strength and stiffness, and for which the commercial aspects as information carrier are of a second order of importance. Carton board is made from virgin and/or recovered fibres, has good folding properties, stiffness and scoring ability. It is mainly used in cartons for consumer products such as frozen food, cosmetics and for liquid containers; also known as solid board, folding box board, boxboard or carrier board or core board.</p>	<p>on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate) production, treatment of odorous gases, and district heating are not included.</p>	
Coated carton board	<p>This benchmark covers a wide range of coated products (expressed as net saleable production in air dried tonnes, defined as paper with 6 % moisture content) which may be single or multiply. Coated carton board is mainly used for commercial applications that need to bring commercial information printed on the packaging to the shelf in the store in applications such as food, pharma, cosmetics, and other. Carton board is made from virgin and/or recovered fibres, and has good folding properties,</p>	<p>All processes which are part of the paper production process (in particular paper or board machine and connected energy conversion units (boiler/CHP) and direct process fuel use) are included. Other activities on site that are not part of this process such as sawmilling activities, woodworking activities, production of chemicals for sale, waste treatment (treating waste onsite instead of offsite (drying, pelletising, incinerating, landfilling), PCC (precipitated calcium carbonate)</p>	0,273

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	stiffness and scoring ability. It is mainly used in cartons for consumer products such as frozen food, cosmetics and for liquid containers; also known as solid board, folding box board, boxboard or carrier board or core board.	production, treatment of odorous gases, and district heating are not included.	
Nitric acid	Nitric acid (HNO ₃), to be recorded in tonnes HNO ₃ (100 % purity).	All processes directly or indirectly linked to the production of the benchmarked product as well as the N ₂ O destruction process are included except the production of ammonia.	0,302
Adipic acid	Adipic acid to be recorded in tonnes of dry purified adipic acid stored in silos or packed in (big)bags. Salts and esters of adipic acid are not covered by this product benchmark.	All processes directly or indirectly linked to the production of the benchmarked product as well as the N ₂ O destruction process are included.	2,79
Vinyl chloride monomer (VCM)	Vinyl chloride (chloroethylene). Expressed in tonnes of vinyl chloride (saleable product, 100 % purity).	All processes directly or indirectly linked to the production steps direct chlorination, oxychlorination and EDC cracking to VCM are included. Direct chlorination refers to chlorination of ethylene. Oxychlorination refers to chlorination of ethylene with hydrogen chloride (HCl) and oxygen. The incineration of chlorinated hydrocarbons contained in the vent gases of EDC/ VCM production is included in the	0,204

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

		benchmark. The production of oxygen and compressed air used as raw materials in VCM manufacture are excluded from the benchmark.	
Phenol/acetone	Sum of phenol, acetone and the by-product alpha-methyl styrene as total production, expressed in tonnes of saleable product at 100 % purity.	All processes directly or indirectly linked to the production of phenol and acetone are included, in particular air compression, hydroperoxidation, cumene recovery from spent air, concentration & cleavage, production fractionation & purification, tar cracking, acetophenone recovery & purification, AMS recovery for export, AMS hydrogenation for ISB recycle, initial waste water purification (1st waste water stripper), cooling water generation (e.g., cooling towers), cooling water utilisation (circulation pumps), flare & incinerators (even if physically located OSB) as well as any support fuel consumption.	0,266
S-PVC	Polyvinyl chloride; not mixed with any other substances consisting of PVC particles with a mean size between 50 and 200 µm. Expressed in tonnes of S-PVC	All processes directly or indirectly linked to the production of S-PVC are included except the production of VCM.	0,085

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	(saleable product, 100 % purity).		
E-PVC	Polyvinyl chloride; not mixed with any other substances consisting of PVC particles with a mean size between 0,1 and 3 µm. Expressed in tonnes of E-PVC (saleable product, 100 % purity).	All processes directly or indirectly linked to the production of E-PVC are included except the production of VCM.	0,238
Soda ash	Disodium carbonate, expressed in tonnes of soda ash as total gross production except dense soda ash obtained as by-product in a caprolactam production network.	All processes directly or indirectly linked to the process units brine purification, limestone calcination and milk of lime production, absorption of ammonia, precipitation of NaHCO ₃ , filtration or Separation of NaHCO ₃ crystals from mother liquor, decomposition of NaHCO ₃ to Na ₂ CO ₃ , recovery of ammonia and densification or production of dense soda ash are included.	0,843

If no other reference is given, all product benchmarks refer to 1 ton of product produced expressed as saleable (net) production and to 100 % purity of the substance concerned.

All definitions of processes and emissions covered (system boundaries) include flares where they occur.

2. Definition of product benchmarks and system boundaries with consideration of exchangeability of fuel and electricity

Product benchmark	Definition of products covered	Definition of processes and emissions covered (system boundaries)	Starting point for determination of annual reduction rate for benchmark value update(allowances/t)
Refinery products	Mix of refinery products with more	All processes of a refinery matching	0,0295

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	<p>than 40 % light products (motor spirit (gasoline) including aviation spirit, spirit type (gasoline type) jet fuel, other light petroleum oils/ light preparations, kerosene including kerosene type jet fuel, gas oils) expressed as CO₂ weighted tonne (CWT). Refineries with other product mixes are not covered by this product benchmark.</p>	<p>the definition of one of the CWT process units as well as ancillary non-process facilities operating inside the refinery fence-line such as tankage, blending, effluent treatment, etc. are included. Lube oils and bitumen processing units located in mainstream refineries are also included in the refinery CWT and emissions envelope. Process units pertaining to other sectors, such as petrochemicals, are sometimes physically integrated with the refinery. Such process units and their emissions are excluded from the CWT approach. For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.</p>	
EAF carbon steel	<p>Steel containing less than 8 % metallic alloying elements and tramp elements to such levels limiting the use to those applications where no high surface quality and processability is required and if none of the criteria for the content of the metal alloying elements and the steel quality for high alloy steel are met. Expressed</p>	<p>All processes directly or indirectly linked to the process units electric arc furnace, secondary metallurgy, casting and cutting, post-combustion unit, dedusting unit, vessels heating stands, casting ingots preheating stands, scrap drying and scrap preheating are included. Processes downstream of</p>	0,283

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	in tonnes of crude secondary steel ex-caster.	casting are not included. For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.	
EAF high alloy steel	Steel containing 8 % or more metallic alloying elements or where high surface quality and processability is required. Expressed in tonnes of crude secondary steel ex-caster.	All processes directly or indirectly linked to the process units electric arc furnace, secondary metallurgy, casting and cutting, post-combustion unit, dedusting unit, vessels heating stands, casting ingots preheating stands, slow cooling pit, scrap drying and scrap preheating are included. The process units FeCr converter and cryogenic storage of industrial gases are not included. Processes downstream of casting are not included. For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.	0,352
Iron casting	Casted iron expressed as tonnes of liquid iron ready alloyed, skinned, and ready for casting.	All processes directly or indirectly linked to the process steps melting shop, casting shop, core shop and finishing are included. The process step 'finishing' refers to operations like fettling but not general matching, heat treatment or	0,325

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

		<p>painting which are not covered by the system boundaries of this product benchmark.</p> <p>For the determination of indirect emissions, only the electricity consumption of melting processes within the system boundaries shall be considered.</p>	
Mineral wool	<p>Mineral wool insulation products for thermal, acoustic and fire applications manufactured using glass, rock or slag. Expressed in tonnes of mineral wool (saleable product).</p>	<p>All processes directly or indirectly linked to the production steps melting, fiberizing and injection of binders, curing and drying and forming are included.</p> <p>For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.</p>	0,682
Plasterboard	<p>The benchmark covers boards, sheets, panels, tiles, similar articles of plaster/compositions based on plaster, (not) faced/reinforced with paper/paperboard only, excluding articles agglomerated with plaster, ornamented (in tonnes of stucco, saleable product). High-density gypsum fibreboards are not covered by this product benchmark.</p>	<p>All processes directly or indirectly linked to the production steps milling, drying, calcining and board drying are included.</p> <p>For the determination of indirect emissions, only the electricity consumption of heat pumps applied in the drying stage shall be considered.</p> <p>The production of the intermediary product dried secondary gypsum is not covered by this benchmark.</p>	0,131
Carbon black	<p>Furnace carbon black, expressed in tonnes of furnace carbon black, saleable</p>	<p>All processes directly or indirectly linked to the production of furnace carbon black</p>	1,954

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	product, purity above 96 %. Gas- and lamp black products are not covered by this benchmark.	as well as finishing, packaging and flaring are included. For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered. Exchangeability factor should be calculated considering electricity driven devices like pumps and compressors with a rated power of 2 MW or more.	
Ammonia	Ammonia (NH ₃), expressed in tonnes produced, 100 % purity.	All processes directly or indirectly linked to the production of the ammonia and the intermediate product hydrogen are included. Ammonia production from other intermediate products is not covered. For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.	1,619
Steam cracking	Mix of high value chemicals (HVC) expressed in tonnes as total mass of acetylene, ethylene, propylene, butadiene, benzene and hydrogen exported out of the cracker perimeter excluding HVC from supplemental feed (hydrogen, ethylene, other HVC) with an ethylene content in	All processes directly or indirectly linked to the production of high value chemicals as purified product or intermediate product with concentrated content of the respective HVC in the lowest tradable form (raw C4, unhydrogenated pygas) are included except C4 extraction (butadiene plant),	0,702

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	the total product mix of at least 30 mass-percent and a content of HVC, fuel gas, butenes and liquid hydrocarbons of together at least 50 mass-percent of the total product mix	C4-hydrogenation, hydrotreating of pyrolysis gasoline & aromatics extraction and logistics/storage for daily operation. For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.	
Aromatics	Mix of aromatics expressed as CO ₂ weighted tonne (CWT)	All processes directly or indirectly linked to the aromatics sub-units pygas hydrotreater, benzene/toluene/xylene (BTX) extraction, TDP, HDA, xylene isomerisation, P-xylene units, cumene production and Cyclo-hexane production are included. For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.	0,0295
Styrene	Styrene monomer (vinyl benzene, CAS number: 100-42-5). Expressed in tonnes of styrene (saleable product).	All processes directly or indirectly linked to the production of styrene as well as the intermediate product ethylbenzene (with the amount used as feed for the styrene production) are included. For installations producing both propylene oxide and styrene monomer, the facilities exclusively dedicated to propylene and	0,527

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

		propylene oxide unit operations are excluded from this benchmark, and shared facilities are covered in proportion to the production in tonnes of the styrene monomer production. For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.	
Hydrogen	Pure hydrogen and mixtures of hydrogen and carbon monoxide having a hydrogen content $\geq 60\%$ volume fraction of total contained hydrogen plus carbon monoxide based on the aggregation of all hydrogen- and carbon-monoxide-containing product streams exported from the sub-installation concerned expressed as tonnes of 100 % pure hydrogen, as net saleable product.	All relevant process elements directly or indirectly linked to the production of hydrogen and the separation of hydrogen and carbon monoxide are included. These elements lie between: <ul style="list-style-type: none"> a) the point(s) of entry of hydrocarbon feedstock(s) and, if separate, fuel(s); b) the points of exit of all product streams containing hydrogen and/or carbon monoxide; c) the point(s) of entry or exit of import or export heat. For the determination of indirect emissions, the total electricity consumption within the system	8,85

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
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		boundaries shall be considered.	
Synthesis gas (syngas)	Mixtures of hydrogen and carbon monoxide having a hydrogen content < 60 % volume fraction of total contained hydrogen plus carbon monoxide based on the aggregation of all hydrogen- and carbon-monoxide-containing product streams exported from the sub-installation concerned. Expressed in tonnes of synthesis gas referred to 47 volume-percent hydrogen as net saleable product.	All relevant process elements directly or indirectly linked to the production of syngas and the separation of hydrogen and carbon monoxide are included. These elements lie between: <ul style="list-style-type: none"> a) the point(s) of entry of hydrocarbon feedstock(s) and, if separate, fuel(s) b) the points of exit of all product streams containing hydrogen and/or carbon monoxide c) the point(s) of entry or exit of import or export heat For the determination of indirect emissions, the total electricity consumption within the system boundaries shall be considered.	0,242
Ethylene oxide/ethylene glycols	The ethylene oxide/ethylene glycol benchmark covers the products ethylene oxide (EO, high purity), monoethylene glycol (MEG, standard grade + fiber grade (high purity)), diethylene glycol	All processes directly or indirectly linked to the process units EO production, EO purification and glycol section are included. The total electricity consumption (and the related indirect emissions) within the system boundaries	0,512

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

(DEG), triethylene glycol (TEG). The total amount of products is expressed in terms of tonnes of EO-equivalents (EOE), which are defined as the amount of EO (in mass) that is embedded in one mass unit of the specific glycol.	is covered by this product benchmark.	
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If no other reference is given, all product benchmarks refer to 1 ton of product produced expressed as saleable (net) production and to 100 % purity of the substance concerned.

All definitions of processes and emissions covered (system boundaries) include flares where they occur.

3. Heat and fuel benchmarks

Benchmark	Starting point for determination of annual reduction rate for benchmark value update(allowances/TJ)
Heat benchmark	62,3
Fuel benchmark	56,1

ANNEX II

Specific product benchmarks

1. Refineries benchmark: CO₂ weighted tonne (CWT) functions

CWT function	Description	Basis (kt/a) ^a	CWT factor
Atmospheric Crude Distillation	Mild Crude Unit, Standard Crude Unit	F	1,00
Vacuum Distillation	Mild Vacuum Fractionation, Standard Vacuum Column, Vacuum Fractionating Column Vacuum distillation factor also includes average energy and emissions for Heavy Feed Vacuum (HFV) unit. Since this is always in	F	0,85

^a Net fresh feed (F), Reactor feed (R, includes recycle), Product feed (P), Synthesis gas production for POX units (SG)

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	series with the Mild Vacuum Unit (MVU), HFV capacity is not counted separately.		
Solvent Deasphalting	Conventional Solvent, Supercritical Solvent	F	2,45
Visbreaking	Atmospheric Residuum (w/o a Soaker Drum), Atmospheric Residuum (with a Soaker Drum), Vacuum Bottoms Feed (w/o a Soaker Drum), Vacuum Bottoms Feed (with a Soaker Drum) Visbreaking factor also includes average energy and emissions for Vacuum Flasher Column (VAC VFL) but capacity is not counted separately.	F	1,40
Thermal Cracking	Thermal cracking factor also includes average energy and emissions for Vacuum Flasher Column (VAC VFL) but capacity is not counted separately.	F	2,70
Delayed Coking	Delayed Coking	F	2,20
Fluid Coking	Fluid Coking	F	7,60
Flexicoking	Flexicoking	F	16,60
Coke Calcining	Vertical-Axis Hearth, Horizontal-Axis Rotary Kiln	P	12,75
Fluid Catalytic Cracking	Fluid Catalytic Cracking, Mild Residuum Catalytic Cracking, Residual Catalytic Cracking	F	5,50

a Net fresh feed (F), Reactor feed (R, includes recycle), Product feed (P), Synthesis gas production for POX units (SG)

Status: Point in time view as at 31/03/2024.

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Other Catalytic Cracking	Houdry Catalytic Cracking, Thermoform Catalytic Cracking	F	4,10
Distillate/Gasoil Hydrocracking	Mild Hydrocracking, Severe Hydrocracking, Naphtha Hydrocracking	F	2,85
Residual Hydrocracking	H-Oil, LC-Fining™ and Hycon	F	3,75
Naphtha/Gasoline Hydrotreating	Benzene Saturation, Desulfurisation of C4–C6 Feeds, Conventional Naphtha H/T, Diolefin to Olefin Saturation, Diolefin to Olefin Saturation of Alkylation Feed, FCC Gasoline hydrotreating with minimum octane loss, Olefinic Alkylation of Thio S, S-Zorb™ Process, Selective H/T of Pygas/Naphtha, Pygas/Naphtha Desulfurisation, Selective H/T of Pygas/Naphtha Naphtha hydrotreating factor includes energy and emissions for Reactor for Selective H/T (NHYT/RXST) but capacity is not counted separately.	F	1,10
Kerosene/Diesel Hydrotreating	Aromatic Saturation, Conventional H/T, Solvent aromatics hydrogenation, Conventional Distillate H/T, High Severity Distillate H/T, Ultra-High Severity H/T, Middle Distillate Dewaxing, S-Zorb™	F	0,90

a Net fresh feed (F), Reactor feed (R, includes recycle), Product feed (P), Synthesis gas production for POX units (SG)

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	Process, Selective Hydrotreating of Distillates		
Residual Hydrotreating	Desulfurisation of Atmospheric Residuum Desulfurisation of Vacuum Residuum	F	1,55
VGO Hydrotreating	Hydrodesulphurisation/ denitrification, Hydrodesulphurisation	F	0,90
Hydrogen Production	Steam Methane Reforming, Steam Naphtha Reforming, Partial Oxidation Units of Light Feeds Factor for hydrogen production includes energy and emissions for purification (H2PURE), but capacity is not counted separately.	P (referred to 100 % hydrogen)	300,00
Catalytic Reforming	Continuous Regeneration, Cyclic, Semi-Regenerative, AROMAX	F	4,95
Alkylation	Alkylation with HF Acid, Alkylation with Sulfuric Acid, Polymerisation C3 Olefin Feed, Polymerisation C3/ C4 Feed, Dimersol Factor for alkylation/ polymerisation includes energy and emissions for acid regeneration (ACID), but capacity is not counted separately.	P	7,25
C4 Isomerisation	C4 Isomerisation Factor also includes energy and emissions related to average EU27 special fractionation (DIB)	R	3,25

a Net fresh feed (F), Reactor feed (R, includes recycle), Product feed (P), Synthesis gas production for POX units (SG)

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
 Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

	correlated with C4 isomerisation.		
C5/C6 Isomerisation	C5/C6 Isomerisation Factor also includes energy and emissions related to average EU27 special fractionation (DIH) correlated with C5 isomerisation.	R	2,85
Oxygenate Production	MBTE Distillation Units, MTBE Extractive Units, ETBE, TAME, Isooctene Production	P	5,60
Propylene Production	Chemical Grade, Polymer grade	F	3,45
Asphalt Manufacture	Asphalt & Bitumen Manufacture Production figure should include Polymer-Modified Asphalt. CWT factor includes blowing	P	2,10
Polymer-Modified Asphalt Blending	Polymer-Modified Asphalt Blending	P	0,55
Sulphur Recovery	Sulphur Recovery Factor for sulfur recovery includes energy and emissions for tail gas recovery (TRU) and H2S Springer Unit (U32), but capacity is not counted separately.	P	18,60
Aromatic Solvent Extraction	ASE: Extraction Distillation, ASE: Liquid/Liquid Extraction, ASE: Liq/Liq w/Extr. Distillation CWT factor cover all feeds including Pygas after hydrotreatment. Pygas hydrotreating should be accounted	F	5,25

a Net fresh feed (F), Reactor feed (R, includes recycle), Product feed (P), Synthesis gas production for POX units (SG)

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	under naphtha hydrotreatment.		
Hydrodealkylation	Hydrodealkylation	F	2,45
TDP/TDA	Toluene Disproportionation/ Dealkylation	F	1,85
Cyclohexane production	Cyclohexane production	P	3,00
Xylene Isomerisation	Xylene Isomerisation	F	1,85
Paraxylene production	Paraxylene Adsorption, Paraxylene Crystallisation Factor also includes energy and emissions for Xylene Splitter and Orthoxylene Rerun Column.	P	6,40
Metaxylene production	Metaxylene production	P	11,10
Phtalic anhydride production	Phtalic anhydride production	P	14,40
Maleic anhydride production	Maleic anhydride production	P	20,80
Ethylbenzene production	Ethylbenzene production Factor also includes energy and emissions for Ethylbenzene distillation.	P	1,55
Cumene production	Cumene production	P	5,00
Phenol production	Phenol production	P	1,15
Lube solvent extraction	Lube solvent extraction: Solvent is Furfural, Solvent is NMP, Solvent is Phenol, Solvent is SO ₂	F	2,10
Lube solvent dewaxing	Lube solvent dewaxing: Solvent is Chlorocarbon, Solvent is MEK/ Toluene, Solvent is	F	4,55

a Net fresh feed (F), Reactor feed (R, includes recycle), Product feed (P), Synthesis gas production for POX units (SG)

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
 Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

	MEK/MIBK, Solvent is propane		
Catalytic Wax Isomerisation	Catalytic Wax Isomerisation and Dewaxing, Selective Wax Cracking	F	1,60
Lube Hydrocracker	Lube Hydrocracker w/Multi-Fraction Distillation, Lube Hydrocracker w/ Vacuum Stripper	F	2,50
Wax Deoiling	Wax Deoiling: Solvent is Chlorocarbon, Solvent is MEK/ Toluene, Solvent is MEK/MIBK, Solvent is Propane	P	12,00
Lube/Wax Hydrotreating	Lube H/F w/Vacuum Stripper, Lube H/ T w/Multi-Fraction Distillation, Lube H/ T w/Vacuum Stripper, Wax H/F w/Vacuum Stripper, Wax H/T w/Multi-Fraction Distillation, Wax H/T w/Vacuum Stripper	F	1,15
Solvent Hydrotreating	Solvent Hydrotreating	F	1,25
Solvent Fractionation	Solvent Fractionation	F	0,90
Mol sieve for C10+ paraffins	Mol sieve for C10+ paraffins	P	1,85
Partial Oxidation of Residual Feeds (POX) for Fuel	POX Syngas for Fuel	SG (referred to 47 % hydrogen)	8,20
Partial Oxidation of Residual Feeds (POX) for Hydrogen or Methanol	POX Syngas for Hydrogen or Methanol, POX Syngas for Methanol Factor includes energy and emissions for CO Shift and H2 Purification (U71) but capacity is not counted separately.	SG (referred to 47 % hydrogen)	44,00

a Net fresh feed (F), Reactor feed (R, includes recycle), Product feed (P), Synthesis gas production for POX units (SG)

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

Methanol from syngas	Methanol	P	- 36,20
Air Separation	Air Separation	P (MNm ³ O ₂)	8,80
Fractionation of purchased NGL	Fractionation of purchased NGL	F	1,00
Flue gas treatment	DeSO _x and deNO _x	F (MNm ³)	0,10
Treatment and Compression of Fuel Gas for Sales	Treatment and Compression of Fuel Gas for Sales	kW	0,15
Seawater Desalination	Seawater Desalination	P	1,15

a Net fresh feed (F), Reactor feed (R, includes recycle), Product feed (P), Synthesis gas production for POX units (SG)

2. Aromatics benchmark: CWT functions

CWT function	Description	Basis (kt/a) ^a	CWT factor
Naphtha/gasoline hydrotreater	Benzene Saturation, Desulfurisation of C4–C6 Feeds, Conventional Naphtha H/T, Diolefin to Olefin Saturation, Diolefin to Olefin Saturation of Alkylation Feed, FCC Gasoline hydrotreating with minimum octane loss, Olefinic Alkylation of Thio S, S-Zorb™ Process, Selective H/T of Pygas/Naphtha, Pygas/Naphtha Desulfurisation, Selective H/T of Pygas/Naphtha. Naphtha hydrotreating factor includes energy and emissions for Reactor for Selective H/T (NHYT/RXST) but capacity is not counted separately.	F	1,10
Aromatic solvent extraction	ASE: Extraction Distillation, ASE:	F	5,25

a Net fresh feed (F), Product feed (P)

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

	Liquid/Liquid Extraction, ASE: Liq/Liq w/Extr. Distillation CWT factor cover all feeds including Pygas after hydrotreatment. Pygas hydrotreating should be accounted under naphtha hydrotreatment.		
TDP/TDA	Toluene Disproportionation/ Dealkylation	F	1,85
Hydrodealkylation	Hydrodealkylation	F	2,45
Xylene isomerisation	Xylene Isomerisation	F	1,85
Paraxylene production	Paraxylene Adsorption, Paraxylene Crystallisation Factor also includes energy and emissions for Xylene Splitter and Orthoxylene Rerun Column.	P	6,40
Cyclohexane production	Cyclohexane production	P	3,00
Cumene production	Cumene production	P	5,00

a Net fresh feed (F), Product feed (P)

ANNEX III

Historical activity level for specific benchmarks referred to in Articles 15(8) and [F140]17(1)(f)

Textual Amendments

F140 Word in Annex 3 heading substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), Sch. 1 para. 33(2)

- The product-related historical activity level for the baseline period for products to which the refinery product benchmark as referred to in Annex I applies on the basis of the different CWT functions, their definitions, the basis for throughput as well as the CWT factors as listed in Annex II, shall be determined according to the following formula:

$$HAL_{CWT} = ARITHMETIC\ MEAN(1,0183 \times \sum_{i=1}^n (TP_{i,k} \times CWT_i) + 298 + 0,315 \times TP_{AD,k})$$

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

whereby:

- HAL_{CWT} : historical activity level expressed as CWT
 $TP_{i,k}$: throughput of the CWT function i in year k of the baseline period
 CWT_i : CWT factor of the CWT function i
 $TP_{AD,k}$: throughput of the CWT function 'Atmospheric Crude Distillation' in year k of the baseline period

2. The product-related historical activity level for the baseline period for products to which the lime product benchmark as referred to in Annex I applies shall be determined according to the following formula:

$$HAL_{lime,standard} = ARITHMETIC\ MEAN\left(\frac{785 \times m_{CaO,k} + 1092 \times m_{MgO,k}}{751,7} \times HAL_{lime,uncorrected,k}\right)$$

whereby:

- $HAL_{lime,standard}$: historical activity level for lime production expressed in tons of standard pure lime
 $m_{CaO,k}$: content of free CaO in the produced lime in year k of the baseline period expressed as mass-%
 In case no data on the content of free CaO is available, a conservative estimate not higher than 85 % shall be applied.
 $m_{MgO,k}$: content of free MgO in the produced lime in year k of the baseline period expressed as mass-%
 In case no data on the content of free MgO is available, a conservative estimate not higher than 0,5 % shall be applied.
 $HAL_{lime,uncorrected,k}$: uncorrected historical activity level for lime production in year k of the baseline period expressed in tonnes of lime

3. The product-related historical activity level for the baseline period for products to which the dolime product benchmark as referred to in Annex I applies shall be determined according to the following formula:

$$HAL_{dolime,standard} = ARITHMETIC\ MEAN\left(\frac{785 \times m_{CaO,k} + 1092 \times m_{MgO,k}}{865,6} \times HAL_{dolime,uncorrected,k}\right)$$

whereby:

- $HAL_{dolime,standard}$: historical activity level for dolime production expressed in tonnes of standard pure dolime
 $m_{CaO,k}$: content of free CaO in the produced dolime in year k of the baseline period expressed as mass-%
 In case no data on the content of free CaO is available, a conservative estimate not higher than 52 % shall be applied.
 $m_{MgO,k}$: content of free MgO in the produced dolime in year k of the baseline period expressed as mass-%
 In case no data on the content of free MgO is available, a conservative estimate not higher than 33 % shall be applied.
 $HAL_{dolime,uncorrected,k}$: uncorrected historical activity level for dolime production in year k of the baseline period expressed in tonnes of lime

4. The product-related historical activity level for the baseline period for products to which the steam cracking product benchmark as referred to in Annex I applies shall be determined according to the following formula:

$$HAL_{HVC,net} = ARITHMETIC\ MEAN\ (HAL_{HVC,total,k} - HSF_{H,k} - HSF_{E,k} - HSF_{O,k})$$

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

whereby:

- $HAL_{HVC,net}$: historical activity level for high value chemicals net of high value chemicals produced from supplemental feed expressed in tonnes of HVC
- $HAL_{HVC,total,k}$: historical activity level for total high value chemicals production in year k of the baseline period expressed in tonnes of HVC
- $HSF_{H,k}$: historical supplemental feed of hydrogen in year k of the baseline period expressed in tonnes of hydrogen
- $HSF_{E,k}$: historical supplemental feed of ethylene in year k of the baseline period expressed in tonnes of ethylene
- $HSF_{O,k}$: historical supplemental feed of other high value chemicals than hydrogen and ethylene in year k of the baseline period expressed in tonnes of HVC

5. The product-related historical activity level for the baseline period for products to which the aromatics product benchmark as referred to in Annex I applies on the basis of the different CWT functions, their definitions, the basis for throughput as well as the CWT factors as listed in Annex II shall be determined according to the following formula:

$$HAL_{CWT} = \text{ARITHMETIC MEAN}(\sum_{i=1}^n (TP_{i,k} \times CWT_i))$$

whereby:

- HAL_{CWT} : historical activity level expressed as CWT
- $TP_{i,k}$: throughput of the CWT function i in year k of the baseline period
- CWT_i : CWT factor of the CWT function i

6. The product-related historical activity level for the baseline period for products to which the hydrogen product benchmark as referred to in Annex I applies shall be determined according to the following formula:

$$HAL_{H_2} = \text{ARITHMETIC MEAN} \left(HAL_{H_2+CO,k} \times \left(1 - \frac{1-VF_{H_2,k}}{0,4027} \right) \times 0,00008987 \frac{t}{Nm^3} \right)$$

whereby:

- HAL_{H_2} : historical activity level for hydrogen production referred to 100 % hydrogen
- $VF_{H_2,k}$: historical production volume fraction of pure hydrogen in the total volume of hydrogen and carbon monoxide in year k of the baseline period
- $HAL_{H_2 + CO,k}$: historical activity level for hydrogen production referred to historical hydrogen content expressed as norm cubic meters per year referring to 0 °C and 101,325 kPa in year k of the baseline period

7. The product-related historical activity level for the baseline period for products to which the synthesis gas (syngas) product benchmark as referred to in Annex I applies shall be determined according to the following formula:

$$HAL_{syngas} = \text{ARITHMETIC MEAN} \left(HAL_{H_2+CO,k} \times \left(1 - \frac{0,47-VF_{H_2,k}}{0,0863} \right) \times 0,0007047 \frac{t}{Nm^3} \right)$$

whereby:

- HAL_{syngas} : historical activity level for synthesis gas production referred to 47 % hydrogen

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

- $VF_{H_2,k}$: historical production volume fraction of pure hydrogen in the total volume of hydrogen and carbon monoxide in year k of the baseline period
- $HAL_{H_2 + CO,k}$: historical activity level for synthesis gas production referred to historical hydrogen content expressed as norm cubic meters per year referring to 0 °C and 101,325 kPa in year k of the baseline period

8. The product-related historical activity level for the baseline period for products to which the ethylene oxide/ethylene glycols product benchmark as referred to in Annex I applies shall be determined according to the following formula:

$$HAL_{EO/CG} = \text{ARITHMETIC MEAN}(\sum_{i=1}^n (HAL_{i,k} \times CF_{EOE,i}))$$

whereby:

- $HAL_{EO/EG}$: historical activity level for ethylene oxide/ethylene glycols production expressed in tonnes of ethylene oxide equivalents
- $HAL_{i,k}$: historical activity level for the production of the ethylene oxide or glycol i in year k of the baseline period expressed in tonnes
- $CF_{EOE,i}$: conversion factor for the ethylene oxide or glycol i relative to ethylene oxide

Following conversion factors shall be applied:

- Ethylene oxide: 1,000
- Monoethylene glycol: 0,710
- Diethylene glycol: 0,830
- Triethylene glycol: 0,880

ANNEX IV

Parameters for baseline data collection

Without prejudice to the power of the [F1 regulator] to request additional particulars in accordance with Article 15(1), operators shall submit for the purposes of the baseline data report, the following data at installation and sub-installation level for all calendar years of the [F141] baseline period beginning on 1 January 2019]. For new entrants, the data report shall cover the data listed in sections 1 and 2 at installation and sub-installation level.

Textual Amendments

F141 Words in Annex 4 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 34(2)**

1. GENERAL INSTALLATION DATA
 - 1.1. **Identification of the installation and the operator**

This item contains at least the following information:

- (a) Name and address of the installation;
- (b) Installation identifier used in the [F142 registry];

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

- (c) F143 ...
- (d) Permit identifier and date of the most recent F144 ... permit, if applicable;
- (e) Name and address of the operator, contact information of an authorised representative and of a primary contact person, if different.

Textual Amendments

F142 Word in Annex 4 s. 1.1 substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(a)(i)**

F143 Words in Annex 4 s. 1.1 omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(a)(ii)**

F144 Word in Annex 4 s. 1.1 omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(a)(iii)**

1.2. Verifier information

This item contains at least the following information:

- (a) Name and address of the verifier, contact information of an authorised representative and of a primary contact person, if different;
- (b) Name of the national accreditation body which accredited the verifier;
- (c) Registration number issued by the national accreditation body.

1.3. Activity information

This item contains at least the following information:

- (a) List of [F145 regulated activities] carried out in the installation;
- (b) The installation's NACE code (revision 2) in accordance with Regulation (EC) No 1893/2006 of the European Parliament and of the Council⁽⁶⁾;
- (c) [F146 Whether the installation meets condition A, B or C referred to in paragraph 6 of Schedule 7 to the UK ETS Order or the relevant condition referred to in paragraph 3 of Schedule 8 to that Order.]

Textual Amendments

F145 Words in Annex 4 s. 1.3 substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(b)(i)**

F146 Words in Annex 4 s. 1.3 substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(b)(ii)**

1.4. Eligibility for free allocation

This item contains at least the following information:

- (a) Whether the installation is an electricity generator F147 ...;
- (b) [F148 Whether the installation is used for any of the following:

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

- (i) the capture of greenhouse gases from [^{F149}a regulated activity] for the purpose of transport and geological storage in a storage site;
- (ii) the transport of greenhouse gases by pipelines for geological storage in a storage site;
- (iii) the geological storage of greenhouse gases in a storage site;]
- (c) Whether the installation produces heat not used for electricity production.
- (d) [^{F150}Where all the electricity (if any) reported under section 2.5(d) is sold, a statement to that effect or, in any other case, the total amount of electricity produced at the installation sold for consumption outside the installation;
- (e) Where electricity was produced at the installation by cogeneration at a cogeneration unit certified under the standard applying from time to time for the purposes of the Combined Heat and Power Quality Assurance Programme:
 - (i) evidence of the certification;
 - (ii) the total amount of electricity produced by cogeneration at the unit;
 - (iii) if the unit produced electricity for consumption at the installation, evidence of this;
- (f) Where the operator of an installation that is an electricity generator wants free allocation in relation to measurable heat produced by means of high-efficiency cogeneration within the meaning of Article 2a, evidence that measurable heat has been produced by such means in the relevant period or, as the case may be, the subsequent qualifying period referred to in that Article.]

Textual Amendments

F147 Words in Annex 4 s. 1.4 omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(c)(i)**

F148 Words in Annex 4 s. 1.4 substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(c)(ii)**

F149 Words in Annex 4 s. 1.4(b)(i) substituted (1.1.2024 immediately after S.I. 2023/850 comes into force) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 (S.I. 2023/1387), arts. 2(1), **20(2)(a)**

F150 Annex 4 s. 1.4(d)-(f) inserted (1.1.2024 immediately after S.I. 2023/850 comes into force) by The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 2) Order 2023 (S.I. 2023/1387), arts. 2(1), **20(2)(b)**

1.5. List of sub-installations

This item contains a list of all sub-installations at the installation.

1.6. List of connections to other EU ETS [^{F151}or UK ETS] installations or non-ETS entities for the transfer of measurable heat, intermediate products, waste gases or CO₂ for use in that installation or permanent geological storage

This item contains at least the following information for each connected installation or entity:

- (a) Name of installation or entity connected;

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

- (b) Type of connection (import or export: measurable heat, waste gases, CO₂);
- (c) Is the installation or entity itself under the scope of the EU ETS [^{F152}or UK ETS]?
 - If yes, [^{F153}Union Registry or registry] ID and Permit ID, contact person;
 - If no, name and address of entity, contact person.

Textual Amendments

F152 Words in Annex 4 s. 1.6 inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(d)(ii)(aa)**

F153 Words in Annex 4 s. 1.6 substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(d)(ii)(bb)**

Textual Amendments

F151 Words in Annex 4 s. 1.6 heading inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(3)(d)(i)**

2. DETAILED ANNUAL DATA FOR EACH YEAR IN THE BASELINE PERIOD

2.1. Detailed annual verified emissions data at installation level

This item contains at least the following information:

- (a) For each source stream: Activity data, calculation factors used, fossil emissions, emissions from biomass, in case of fuels (including if used as process input) energy input calculated from the Net Calorific Value (NCV);
- (b) For each emission source for which continuous emission monitoring systems have been used: fossil emissions, emissions from biomass, annual hourly average of [^{F154}greenhouse gas] concentration and flue gas flow; in case of CO₂: proxy data for energy input associated with the emissions;
- (c) Where a fall-back approach in accordance with Article 22 of [^{F155}the Monitoring and Reporting Regulation 2018] is used, the fossil and biomass emissions determined, proxy data for energy input associated with the emissions, if applicable;
- (d) The amount of transferred CO₂ imported and/or exported.

Textual Amendments

F154 Words in Annex 4 s. 2.1 substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(a)(i)(aa)**

F155 Words in Annex 4 s. 2.1 substituted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(a)(i)(bb)**

[^{F156}The report may include] only aggregated emission figures.

Status: Point in time view as at 31/03/2024.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

Textual Amendments

F156 Words in Annex 4 s. 2.1 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 34(4)(a)(ii)**

2.2. Annual emissions per sub-installation [^{F157}, etc.]

This item contains a complete balance of emissions, identifying the quantity of emissions attributable to each sub-installation [^{F158} and the quantity of emissions not attributable to any sub-installation].

Textual Amendments

F158 Words in Annex 4 s. 2.2 inserted (1.1.2024 immediately after [S.I. 2023/850](#) comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **20(3)(b)**

Textual Amendments

F157 Word in Annex 4 s. 2.2 heading inserted (1.1.2024 immediately after [S.I. 2023/850](#) comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), **20(3)(a)**

2.3. Annual installation-wide balance of heat import, production, consumption and export

This item contains at least the following information:

- (a) The total amount of energy input used in the installation contained in fuels;
- (b) If applicable, the energy content of imported waste gases;
- (c) If applicable, the amount of energy in fuels exported to other directly technically connected EU ETS [^{F159} or UK ETS] installations or non-ETS entities;
- (d) If applicable, the energy content of waste gases exported to other EU ETS [^{F160} or UK ETS] installations or non-ETS entities;
- (e) The amount of energy input from fuels used for electricity production;
- (f) The amount of energy input from fuels attributed to fuel benchmark sub-installations (reported separately for carbon leakage and non-carbon leakage fuel benchmark sub-installation);
- (g) The amount of fuel input used for production of measurable heat;
- (h) Total amount of measurable heat produced in the installation;
- (i) Net amount of measurable heat imported from installations covered by the EU ETS [^{F161} or UK ETS];
- (j) Net amount of measurable heat imported from installations and entities not covered by the EU ETS [^{F162} or UK ETS];

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

- (k) Net amount of measurable heat consumed for electricity production within the installation;
- (l) Net amount of measurable heat consumed for product benchmark sub-installations within the installation;
- (m) Net amount of measurable heat exported to EU ETS [^{F163}or UK ETS] installations;
- (n) Net amount of measurable heat exported to installations or entities not covered by the EU ETS [^{F164}or UK ETS];
- (o) Net amount of measurable heat exported for the purpose of district heating;
- (p) Net amount of measurable heat attributable to heat benchmark sub-installations (reported separately for ^{F165}... heat benchmark and district heating sub-installations [^{F166}that serve and do not serve sectors or subsectors set out in the Annex to Commission Delegated Decision (EU) 2019/708]);
- (q) The amount of heat losses, if not already included in the data referred to in points (a) to (p).

Textual Amendments

- F159** Words in Annex 4 s. 2.3 inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(b)(i)**
- F160** Words in Annex 4 s. 2.3 inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(b)(ii)**
- F161** Words in Annex 4 s. 2.3 inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(b)(iii)**
- F162** Words in Annex 4 s. 2.3 inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(b)(iv)**
- F163** Words in Annex 4 s. 2.3 inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(b)(v)**
- F164** Words in Annex 4 s. 2.3 inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(b)(vi)**
- F165** Words in Annex 4 s. 2.3 omitted (31.12.2020) by virtue of The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(b)(vii)(aa)**
- F166** Words in Annex 4 s. 2.3 inserted (31.12.2020) by The Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (S.I. 2020/1557), art. 2(2), **Sch. 1 para. 34(4)(b)(vii)(bb)**

2.4. Annual attribution of energy to sub-installations

This item contains at least the following information:

- (a) Amount of energy input from fuels, including their respective emissions factor, to:
 - each product benchmark sub-installation;
 - each heat benchmark and district heating sub-installation;
 - each fuel benchmark sub-installation;
- (b) Amount of measurable heat imported:
 - by each product benchmark sub-installation;
 - from nitric acid product benchmark sub-installations;
 - from sub-installations producing pulp;

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*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

- (c) Amount of measurable heat exported by:
— each product benchmark sub-installation.

2.5. Annual installation-wide balance of electricity import, production, consumption and export

This item contains at least the following information:

- (a) Total amount of electricity produced from fuels;
(b) Total amount of other electricity produced;
(c) Total amount of electricity imported from the grid or from other installations;
(d) Total amount of electricity exported to the grid or to other installations;
(e) Total amount of electricity consumed in the installation;
(f) For electricity consumption within product benchmark sub-installations, which are listed in part 2 of Annex I, the amount of electricity consumed that qualifies as exchangeable.

Points (a) to (e) only have to be reported by installations that produce electricity.

2.6. Further annual data for sub-installations

This item contains at least the following information:

- (a) The amount of measurable heat attributed to sub-installation imported from [F¹⁶⁷non-ETS] entities or processes;
(b) If applicable, for each sub-installation, a list of products produced within the boundaries of the sub-installation, including their codes under the PRODCOM list referred to in Article 2(2) of Council Regulation (EEC) No 3924/91⁽⁷⁾, based on NACE-4 codes referred to Regulation (EC) No 1893/2006 of the European Parliament and of the Council⁽⁸⁾ (NACE rev. 2) and the amount of production. PRODCOM shall be at least as disaggregated as the related sub-sector identification in [F¹⁶⁸Commission Delegated Decision (EU) 2019/708];
(c) By way of derogation from point (b), for [F¹⁶⁹a heat benchmark sub-installation that serves a sector or subsector set out in the Annex to Commission Delegated Decision (EU) 2019/708], in case of export of measurable heat to installations or entities not covered by the EU ETS [F¹⁷⁰or UK ETS], the NACE-4 codes (NACE rev. 2) of those installations or entities;
(d) If applicable and available to the operator, for each sub-installation, the emission factor of the fuel mix related to the measurable heat imported or exported;
(e) If applicable, for each sub-installation, the quantity and emission factor of waste gases imported and exported;
(f) If applicable, for each sub-installation, the energy content (net calorific value) of the waste gases imported and exported.

Textual Amendments

- F167** Word in Annex 4 s. 2.6 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 34(4)(c)(i)**
- F168** Words in Annex 4 s. 2.6 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 34(4)(c)(ii)**
- F169** Words in Annex 4 s. 2.6 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 34(4)(c)(iii)(aa)**
- F170** Words in Annex 4 s. 2.6 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 34(4)(c)(iii)(bb)**

2.7. Annual activity data for product benchmark sub-installations

This item contains at least the following information:

- (a) Annual production data of the product as specified in Annex I, in the unit listed in that Annex;
- (b) A list of products produced within the boundaries of the sub-installation, including their PRODCOM codes (based on NACE rev. 2). PRODCOM shall be at least as disaggregated as the related sub-sector identification in [^{F171}Commission Delegated Decision (EU) 2019/708];
- (c) Amount of transferred CO₂ imported from or exported to other sub-installations, installations or other entities;
- (d) Amount of export or import of intermediate products covered by product benchmark sub-installations;
- (e) If applicable, for the refinery or aromatics product benchmark sub-installations, the annual throughput for each CWT function as specified in Annex II;
- (f) If applicable, for the lime or dolime product benchmark sub-installations, the uncorrected annual production quantity and the annual average values for m_{CaO} and m_{MgO} in accordance with Annex III;
- (g) If applicable, for the steam cracking product benchmark sub-installation, the total annual HVC production and the quantity of supplementary feed expressed as amounts of hydrogen, ethylene and other HVC;
- (h) If applicable, for the hydrogen or synthesis gas product benchmark sub-installations, the annual amount of hydrogen or synthesis gas production referred to hydrogen content expressed as norm cubic meters per year referring to 0 °C and 101,325 kPa and the annual production volume fraction of pure hydrogen in the hydrogen/carbon monoxide mixture;
- (i) If applicable, for the ethylene oxide/ethylene glycols product benchmark sub-installation, the annual production levels of ethylene oxide, monoethylene glycol, diethylene glycol and triethylene glycol;
- (j) If applicable, for the vinyl chloride monomer product benchmark sub-installation, the heat consumed stemming from hydrogen consumption;
- (k) If applicable, for the short fibre kraft pulp, long fibre kraft pulp, thermo-mechanical pulp and mechanical pulp, sulphite pulp product benchmark sub-installations or other pulp not covered by a product benchmark sub-installation, the annual production level

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*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

of the respective pulp and the annual amount of pulp placed on the market and not processed into paper in the same or other technically connected installations;

- (l) If applicable, the amount, energy content and emission factor of waste gases produced within the system boundaries of the respective product benchmark sub-installation and flared within or outside the system boundaries of that product benchmark sub-installation, with the exception of safety flaring, and not used for the purpose of the production of measurable heat, non-measurable heat or electricity.

Textual Amendments

F171 Words in [Annex 4 s. 2.7](#) substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), [Sch. 1 para. 34\(4\)\(d\)](#)

3. DATA FOR BENCHMARK UPDATE

3.1. Annual data for product benchmark sub-installations

This item contains at least the following information for each year of the baseline period:

- (a) A list of products produced within the boundaries of the sub-installation, including their PRODCOM codes (NACE rev. 2);
- (b) Activity level;
- (c) Attributed emissions with the exception of emissions linked to the import of measurable heat from other sub-installations, installations or other entities;
- (d) Amount of measurable heat imported from other sub-installations, installations or other entities including the emission factor, if known;
- (e) Amount of measurable heat exported to other sub-installations, installations or other entities;
- (f) Amount, energy content and emission factor of waste gases imported from other sub-installations, installations or other entities;
- (g) Amount, energy content and emission factor of waste gases produced;
- (h) Amount, energy content and emission factor of waste gases exported to other sub-installations, installations or other entities;
- (i) Quantity of electricity consumed which qualifies as exchangeable, in case of benchmarks which are listed in part 2 of Annex I;
- (j) Quantity of electricity produced;
- (k) Amount of transferred CO₂ imported from other sub-installations, installations or other entities;
- (l) Amount of transferred CO₂ exported to other sub-installations, installations or other entities;
- (m) Export or import of intermediate products covered by product benchmarks (yes/no) and a description of the type of intermediate product, if applicable;
- (n) Quantity of supplementary feed expressed as amounts of hydrogen, ethylene and other HVC, in case of the steam cracking product benchmark;

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*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

- (o) Heat consumed stemming from hydrogen consumption, in case of the for vinyl chloride monomer product benchmark.

3.2. Annual data for heat benchmark sub-installations and district heating sub-installations

This item contains at least the following information for each year of the baseline period:

- (a) Quantity of net measurable heat produced within each heat benchmark sub-installation or district heating sub-installation;
- (b) Emissions attributed to production of measurable heat;
- (c) Activity level of the sub-installation;
- (d) Quantity of measurable heat produced, imported from and exported to other sub-installations, installations or other entities;
- (e) Quantity of electricity produced.

3.3. Annual data for fuel benchmark sub-installations

This item contains at least the following information for each year of the baseline period:

- (a) Activity level;
- (b) Attributed emissions.

ANNEX V

Factors applicable for reducing free allocation ^{F172}...

Textual Amendments

F172 Words in [Annex 5](#) heading omitted (31.12.2020) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), [Sch. 1 para. 35\(2\)](#)

Year	Value of the factor
2021	0,300
2022	0,300
2023	0,300
2024	0,300
2025	0,300
2026	0,300
2027	0,225
2028	0,150
2029	0,075
2030	0,000

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

ANNEX VI

Minimum content of the monitoring methodology plan

The monitoring methodology plan shall contain at least the following information:

1. General information on the installation:
 - (a) Information for identifying the installation and the operator, including the Installation identifier used in the [F¹⁷³registry];
 - (b) Information identifying the version of the monitoring methodology plan, the date of approval by the [F¹regulator] and the date from which it is applicable;
 - (c) F¹⁷⁴ ...
 - (d) [F¹⁷⁵A flow diagram and plan of the installation which allow an understanding of the main material and energy flows, containing] at least the following information:
 - The technical elements of the installation, identifying emissions sources as well as heat producing and consuming units;
 - All energy and material flows, in particular the source streams, measurable and non-measurable heat, electricity where relevant, and waste gases;
 - The points of measurement and metering devices;
 - Boundaries of the sub-installations, including the split between sub-installation serving sectors deemed to be exposed to a significant risk of carbon leakage and sub-installations serving other sectors, based on NACE rev. 2 or PRODCOM;
 - (e) A list and description of connections to other EU ETS [F¹⁷⁶UK ETS] installations or non-ETS entities for the transfer of measurable heat, intermediate products, waste gases or CO₂ for use in that installation or permanent geological storage, including the name and address and a contact person of the connected installation or entity, and its unique identifier in the Union Registry [F¹⁷⁷or the registry], if applicable;
 - (f) A reference to the procedure for managing the assignment of responsibilities for monitoring and reporting within the installation, and for managing the competences of responsible personnel;
 - (g) A reference to the procedure for regular evaluation of the monitoring methodology plan's appropriateness in accordance with Article 9(1); this procedure shall in particular ensure that monitoring methods are in place for all data items listed in Annex IV which are relevant at the installation, and that most accurate available data sources in accordance with section 4 of Annex VII are used;
 - (h) A reference to the written procedures of the data flow activities and of control activities pursuant to Article 11(2), including diagrams where appropriate for clarification.
2. Information on sub-installations:

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*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

- (a) For each sub-installation, a reference to the procedure for keeping track of the products produced and their PRODCOM codes;
 - (b) System boundaries of each sub-installation, describing clearly which technical units are included, a description of the processes carried out and which input materials and fuels, which products and outputs are attributed to which sub-installation; in case of complex sub-installations, a separate detailed flow diagram shall be included for those sub-installations;
 - (c) A description of parts of installations which serve more than one sub-installation, including heat supply systems, jointly used boilers and CHP units;
 - (d) For each sub-installation, where relevant, the description of methods to assign parts of installations which serve more than one sub-installation and their emissions to the respective sub-installations.
3. Monitoring methods at installation level:
- (a) A description of the methods used to quantify the installation-wide balance of heat import, production, consumption and export;
 - (b) The method used for ensuring that data gaps and double counting are avoided.
4. Monitoring methods at sub-installation level:
- (a) A description of the methods used to quantify its direct emissions including, where applicable, the method for quantifying the absolute amount or percentage of source streams or emissions monitored by measurement-based methodologies in accordance with [F178the Monitoring and Reporting Regulation 2018] attributed to the sub-installation, where applicable;
 - (b) A description of the methods used to attribute and to quantify the amounts and emission factors of energy input from fuels, of export of energy contained in fuels, where applicable;
 - (c) A description of the methods used to attribute and to quantify the amounts and, if available, emission factors of measureable heat import, export, consumption and production, where applicable;
 - (d) A description of the methods used to quantify the amounts of electricity consumption and production, and the exchangeable part of consumption, where applicable;
 - (e) A description of the methods used to attribute and to quantify the amounts, energy contents and emission factors of waste gas import, export, consumption and production, where applicable;
 - (f) A description of the methods used to attribute and to quantify the amounts of transferred CO₂ imported or exported, where applicable;
 - (g) For each product benchmark sub-installation, a description of the methods used to quantify the annual production of the product as specified in Annex I including, if applicable, additional parameters required as provided for in Articles 19 and 20 and Annexes II and III;

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*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

Textual Amendments

- F173** Word in Annex 6 s. 1 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 36(2)(a)**
- F174** Annex 6 para. 1(c) omitted (1.1.2023) by virtue of [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **24(2)(a)**
- F175** Words in Annex 6 para. 1(d) substituted (1.1.2023) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2022 \(S.I. 2022/1173\)](#), arts. 2, **24(2)(b)**
- F176** Words in Annex 6 s. 1 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 36(2)(b)(i)**
- F177** Words in Annex 6 s. 1 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 36(2)(b)(ii)**
- F178** Words in Annex 6 s. 4 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 36(3)**

The descriptions of the methods used to quantify parameters to be monitored and reported shall include, where relevant, calculation steps, data sources, calculation formulae, relevant calculation factors including unit of measurement, horizontal and vertical checks for corroborating data, procedures underpinning sampling plans, measurement equipment used with reference to the relevant diagram and a description how they are installed and maintained and list of laboratories engaged in carrying out relevant analytical procedures. Where relevant, the description shall include the result of the simplified uncertainty assessment referred to in Article 7(2)(c). For each relevant calculation formula, the plan shall contain one example using real data.

ANNEX VII

Data monitoring methods

1. SCOPE

This Annex lays down methods for determining data required for reporting the data listed in Annex IV at installation level, as well as rules for attribution of these data to sub-installations, with the exception of data monitored in accordance with a monitoring plan approved by the [F1regulator] pursuant to Regulation (EU) No 601/2012 [F179 or the Monitoring and Reporting Regulation 2018]. Data determined [F180: in accordance with either Regulation] shall be used under this Regulation where relevant.

Textual Amendments

- F179** Words in Annex 7 s. 1 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(2)(a)**
- F180** Words in Annex 7 s. 1 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(2)(b)**

2. DEFINITIONS

‘Data set’ for the purposes of this Annex means one type of data, either at installation level or sub-installation level as relevant in the circumstances, as any of the following:

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- (a) the amount of fuels or materials consumed or produced by a process as relevant for the calculation-based monitoring methodology, expressed in terajoules, mass in tonnes, or for gases as volume in normal cubic metres, as appropriate, including for waste gases;
- (b) a calculation factor as used by [^{F181}the Monitoring and Reporting Regulation 2018] (i.e. composition of a material or fuel or waste gas);
- (c) net quantity of measurable heat, and the relevant parameters required for determining this quantity, in particular:
 - mass flow of heat transfer medium, and
 - enthalpy of transmitted and returned heat transfer medium, as specified by composition, temperature, pressure and saturation;
- (d) quantities of non-measurable heat, specified by the relevant quantities of fuels used for producing the heat, and the net calorific value (NCV) of the fuel mix;
- (e) quantities of electricity;
- (f) quantities of CO₂ transferred between installations.

Textual Amendments

F181 Words in Annex 7 s. 2 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(3)(a)**

‘Determination methodology’ means either of the following:

- (a) a methodology of identifying, collecting and processing data already available at the installation for data sets of historical data or;
- (b) a monitoring methodology for a specific data set based on an approved monitoring methodology plan.

In addition, the definitions of ‘source stream’, ‘emission source’, ‘inherent risk’, ‘control risk’ and ‘emission factor’ as set in Article 3 of [^{F182}the Monitoring and Reporting Regulation 2018] shall apply.

Textual Amendments

F182 Words in Annex 7 s. 2 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(3)(b)**

3. GENERAL METHODS

3.1. Applicable methods

The operator shall determine data for the purpose of compiling a baseline data report in accordance with point (a) of Article 4(2) using methods contained in this Annex. Where this Annex does not describe applicable methods for determining a specific data set, the operator shall apply a suitable method, subject to the approval by the [^{F1}regulator] of the monitoring methodology plan in accordance with [^{F183}Article 8]. A method shall be deemed suitable where the operator ensures that any metering, analyses, sampling, calibrations and validations for the determination of the specific data set are carried out by applying methods based on corresponding EN standards. Where such standards are not available, the methods shall be

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*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

based on suitable ISO standards or national standards. Where no applicable published standards exist, suitable draft standards, industry best practice guidelines or other scientifically proven methodologies shall be used, limiting sampling and measurement bias.

Textual Amendments

F183 Words in Annex 7 s. 3.1 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(4)**

3.2. Approach to attributing data to sub-installations

1. Where data for a specific data set are not available for each sub-installation, the operator shall propose an appropriate method for determining the required data for each individual sub-installation, except for cases referred to in the second and third subparagraphs of Article 10(3). For this purpose, either of the following principles shall be applied depending on which principle yields more accurate results:
 - (a) where different products are produced one after the other in the same production line, inputs, outputs and corresponding emissions shall be attributed sequentially based on the usage time per year for each sub-installation;
 - (b) inputs, outputs and corresponding emissions shall be attributed based on the mass or volume of individual products produced or estimates based on the ratio of free reaction enthalpies of the chemical reactions involved or based on another suitable distribution key that is corroborated by a sound scientific methodology.
2. Where several measurement instruments of different quality are contributing to measurement results, either of the following methods shall be used for splitting installation-level data on quantities of materials, fuels, measurable heat or electricity to sub-installations:
 - (a) Determination of the split based on a determination method, such as sub-metering, estimate, correlation, used equally for each sub-installation. Where the sum of the sub-installation data is different from the data determined separately for the installation, a uniform 'reconciliation factor' shall be applied for uniform correction to meet the total figure of the installation as follows:

$RecF = D_{Inst} / \sum D_{SI}$	(Equation 1)
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where RecF is the reconciliation factor, DInst is the data value determined for the installation as a whole, and DSI are the data values for the different sub-installations. The data for each sub-installation are then corrected as follows:

$D_{SI,corr} = D_{SI} \times RecF$	(Equation 2)
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- (b) If only one sub-installation's data are unknown or of lower quality than the data of other sub-installations, known sub-installation data may be subtracted from the total installation data. This method is preferred only for sub-installations which contribute smaller quantities to the installation's allocation.

3.3. Measurement instruments or procedures not under the operator's control

The operator may make use of measurement systems or analytical procedures outside the operator's own control:

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

- (a) where the operator does not have their own measurement instrument or analytical procedure available for the determination of a specific data set;
- (b) where determination of a data set by the operator's own measurement instruments or analytical procedures is technically not feasible or would incur unreasonable costs;
- (c) where the operator demonstrates to the satisfaction of the [F¹regulator] that the measurement system or analytical procedure outside the operator's control gives more reliable results and is less prone to control risks.

To that end, the operator may revert to one of the following data sources:

- (a) amounts from invoices issued by a trade partner, provided that a commercial transaction between two independent trade partners takes place;
- (b) direct readings from the measurement systems;
- (c) use of empirical correlations provided by a competent and independent body, such as equipment suppliers, engineering providers or accredited laboratories.

3.4. Indirect determination methods

Where no direct metering or analysis approach is available for a required data set, in particular for cases where net measurable heat is going into different production processes, the operator shall propose the use of an indirect determination method, such as:

- (a) calculation based on a known chemical or physical process, using appropriate accepted literature values for the chemical and physical properties of substances involved, appropriate stoichiometric factors and thermodynamic properties such as reaction enthalpies, as appropriate;
- (b) calculation based on the installation's design data such as the energy efficiencies of technical units or calculated energy consumption per unit of product;
- (c) correlations based on empirical tests for determining estimation values for the required data set from non-calibrated equipment or data documented in production protocols. For this purpose the operator shall ensure that the correlation satisfies the requirements of good engineering practice and that it is applied only to determine values which fall into the range for which it was established. The operator shall evaluate the validity of such correlations at least once a year.

4. SELECTION OF DETERMINATION METHODOLOGIES AND DATA SOURCES REPRESENTING HIGHEST ACHIEVABLE ACCURACY

4.1. Technical feasibility

Where an operator claims that applying a specific determination methodology is technically not feasible, the [F¹regulator] shall assess the technical feasibility taking the operator's justification into account. That justification shall be based on the operator having technical resources capable of meeting the needs of a proposed system or requirement that can be implemented in the required time for the purposes of this Regulation. Those technical resources shall include availability of required techniques and technology.

4.2. Unreasonable costs

Where an operator claims that applying a specific determination methodology incurs unreasonable costs, the [F¹regulator] shall assess the unreasonable nature of the costs, taking into account the operator's justification.

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

The [F¹regulator] shall consider costs unreasonable where the operator's cost estimation exceeds the benefit of a specific determination methodology. To that end, the benefit shall be calculated by multiplying an improvement factor with a reference price of [F¹⁸⁴£20]per allowance and costs shall include an appropriate depreciation period based on the economic lifetime of the equipment, where applicable.

Textual Amendments

F184 Sum in Annex 7 s. 4.2 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(a)(i)**

The improvement factor shall be 1 % of the most recently determined sub-installation's annual allocation free of charge. By way of derogation from this calculation method, the [F¹regulator] may allow operators to determine the improvement factor as 1 % of the affected CO₂ equivalent. The affected CO₂ equivalent shall be one the following, depending on the parameter for which the improvement of methodology is considered:

- (a) In the case of a fuel or material containing carbon, including waste gases, the emissions that would result if the carbon contained in the annual quantity of the fuel or material were converted into CO₂;
- (b) In the case of emissions monitored by a measurement-based methodology, the annual emissions of the respective emission source;
- (c) In the case of measurable heat, the respective annual amount of measurable heat multiplied by the heat benchmark;
- (d) In the case of non-measurable heat, the respective annual amount of non-measurable heat multiplied by the fuel benchmark;
- (e) In the case of electricity, the respective annual amount of electricity multiplied by the factor specified in Article 22(3);
- (f) In the case of the quantity of a product for which a product benchmark applies, the sub-installation's preliminary annual number of emission allowances allocated free of charge determined in accordance with Article 16(2) for the first year of the respective allocation period. Where the relevant benchmark [F¹⁸⁵for the 2026-2030 allocation period is not set out in Annex 8, the benchmark for the 2021-2025 allocation period] shall be used.

Textual Amendments

F185 Words in Annex 7 s. 4.2(f) substituted (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, **14(2)**

Measures relating to the improvement of an installation's monitoring methodology shall not be deemed to incur unreasonable costs up to an accumulated amount of [F¹⁸⁶£2,000] per year. For installations with low emissions in accordance with Article 47 of [F¹⁸⁷the Monitoring and Reporting Regulation 2018] that threshold shall be [F¹⁸⁸£500]per year.

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

Textual Amendments

- F186** Sum in Annex 7 s. 4.2 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(a)(ii)(aa)**
- F187** Words in Annex 7 s. 4.2 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(a)(ii)(bb)**
- F188** Sum in Annex 7 s. 4.2 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(a)(ii)(cc)**

4.3. Process

To determine the most accurate available data sources, the operator shall select the most accurate data sources which are technically feasible and do not incur unreasonable costs, and which ensure a clear data flow with lowest inherent risk and control risk (referred to hereinafter as ‘primary data sources’). The operator shall use the primary data sources for the purpose of compiling the baseline data report.

To the extent feasible without incurring unreasonable costs, for the purpose of the control system in accordance with Article 11, the operator shall strive to identify and use additional data sources or methods for determining data which allow corroboration of the primary data sources (referred to hereinafter as ‘corroborating data sources’). The selected corroborating data sources, if any, shall be documented in the written procedures referred to in Article 11(2) and in the monitoring methodology plan.

For selecting the primary data sources, the operator shall compare all available data sources for the same data set using the generic data sources listed in sections 4.4 to 4.6, and use one of the highest ranked data sources that are considered as most accurate data sources. Only if any of the derogations in accordance with Article 7(2) apply, other data sources may be used. In such case, the next highest ranked data source shall be applied unless it is technically not feasible, would incur unreasonable costs or another data source has equivalent or lower level of associated uncertainty. Where needed, further data sources can be considered.

For selecting the corroborating data sources, the operator shall compare all available data sources for the same data set using the generic data sources listed in sections 4.4 to 4.6, and use an available data source other than the most accurate available data source.

For selecting data sources in order to determine all the data required in accordance with Annex IV, the operator shall proceed for the following main types of data sets as follows:

- (a) For the determination of quantities of products, fuels and other materials the operator shall take into account the generic data sources and their hierarchy laid down in section 4.4 of this Annex;
- (b) For the determination of quantities of energy flows (measurable or non-measurable heat, electricity) the operator shall take into account the generic data sources and their hierarchy laid down in section 4.5 of this Annex;
- (c) For the determination of properties of products, fuels and other materials, the operator shall take into account the generic data sources and their hierarchy laid down in section 4.6 of this Annex.

For the purpose of improving the monitoring methodology plan, the operator shall check regularly and at least once per year, whether new data sources have become available. In case such new data sources are considered more accurate in accordance with the ranking described in

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*Changes to legislation: There are currently no known outstanding effects for the
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sections 4.4 to 4.6, they shall be applied and the monitoring methodology plan shall be changed in accordance with Article 9.

4.4. Selecting data sources for quantification of materials and fuels

The following generic data sources shall be used selecting most accurate available data sources for quantifying amounts (expressed as tonnes or Nm³) of materials, fuels, waste gases or products entering or leaving the installation, or any sub-installation:

- (a) Methods in accordance with the monitoring plan approved under Regulation (EU) No 601/2012 [F189 or the Monitoring and Reporting Regulation 2018];
- (b) Readings of measuring instruments [F190 that comply with the Non-automatic Weighing Instruments Regulations 2016 or the Measuring Instruments Regulations 2016] for direct determination of a data set;
- (c) Readings of measuring instruments under the operator's control for direct determination of a data set not falling under point (b);
- (d) Readings of measuring instruments not under the operator's control for direct determination of a data set not falling under point (b);
- (e) Readings of measuring instruments for indirect determination of a data set, provided that an appropriate correlation between the measurement and the data set in question is established in line with section 3.4;
- (f) Other methods, in particular for historical data or where no other data source can be identified by the operator as available.

Textual Amendments

F189 Words in Annex 7 s. 4.4 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(b)(i)**

F190 Words in Annex 7 s. 4.4 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(b)(ii)**

For selecting data sources for the purpose of Article 7(1), only the data sources listed in points (a) and (b) of the first paragraph are considered representing most accurate data sources while the data source referred to in point (a) of that paragraph shall be used to the extent that it covers the respective data set. The data sources referred to in points (c) to (f) of the first paragraph are considered less accurate in the descending hierarchical order from point (c) to point (f).

4.5. Selecting data sources for quantification of energy flows

The following generic data sources shall be used for selecting most accurate available data sources quantifying amounts, expressed as TJ or GWh, of measurable heat or electricity entering or leaving the installation, or any sub-installation:

- (a) Readings of measuring instruments [F191 that comply with the Non-automatic Weighing Instruments Regulations 2016 or the Measuring Instruments Regulations 2016] for direct determination of a data set;
- (b) Readings of measuring instruments under the operator's control for direct determination of a data set not falling under point a;

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*Changes to legislation: There are currently no known outstanding effects for the
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- (c) Readings of measuring instruments not under the operator's control for direct determination of a data set not falling under point a;
- (d) Readings of measuring instruments for indirect determination of a data set, provided that an appropriate correlation between the measurement and the data set in question is established in line with section 3.4 of this Annex;
- (e) Calculation of a proxy for the determining net amounts of measurable heat in accordance with method 3 of section 7.2;
- (f) Other methods, in particular for historical data or where no other data source can be identified by the operator as available.

Textual Amendments

F191 Words in Annex 7 s. 4.5 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(c)**

For selecting data sources for the purpose of Article 7(1), only the data source referred to in point (a) of the first paragraph is considered representing most accurate data sources. The data sources referred to in points (b) to (f) of the first paragraph are considered less accurate in the descending hierarchical order from point (b) to point (f).

For situations where no information is available for some parameters (such as temperature and amount of condensate returned) required to determine net flows of measurable heat, the provisions of section 7 are to be applied. In accordance with section 7, several parameters need to be determined in order to result in annual net amounts of measurable heat. Therefore the overall result for the annual net amount of heat should be considered the purpose of the simplified uncertainly assessment in accordance with point (c) of Article 7(2) for the for selection of the methods referred to in points (b) to (f) of the first paragraph when deviating from the selection of data sources representing most accurate data sources.

4.6. Selecting data sources for properties of materials

The following generic data sources shall be used selecting most accurate available data sources for determining properties such as moisture or purity of the substance, carbon content, net calorific value, biomass content, etc. of products, materials, fuels or waste gases as inputs or outputs of the installation or sub-installation:

- (a) Methods for determining calculation factors in accordance with the monitoring plan approved under Regulation (EU) No 601/2012 [^{F192}or the Monitoring and Reporting Regulation 2018];
- (b) Laboratory analyses in accordance with section 6.1 of this Annex;
- (c) Simplified laboratory analyses in accordance with section 6.2 of this Annex;
- (d) Constant values based on one of the following data sources:
 - standard factors used by the [^{F193}United Kingdom] for its national inventory submission to the Secretariat of the United Nations Framework Convention on Climate Change;
 - literature values agreed with the [^{F1}regulator], including standard factors published by the [^{F1}regulator], which are compatible with factors referred to under the previous sub-item, but they are representative of more disaggregated sources of fuel streams;

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*Changes to legislation: There are currently no known outstanding effects for the
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- values specified and guaranteed by the supplier of a fuel or material where the operator can demonstrate to the satisfaction of the [F1regulator] that the carbon content exhibits a 95 % confidence interval of not more than 1 %;
- (e) Constant values based on one of the following data sources:
 - standard factors and stoichiometric factors listed in Annex VI to [F194the Monitoring and Reporting Regulation 2018] or listed in the Intergovernmental Panel on Climate Change (IPCC) guidelines;
 - values based on analyses carried out in the past, where the operator can demonstrate to the satisfaction of the [F1regulator] that those values are representative for future batches of the same fuel or material;
 - Other values based on scientific evidence.

Textual Amendments

F192 Words in Annex 7 s. 4.6 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(d)(i)**

F193 Words in Annex 7 s. 4.6 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(d)(ii)**

F194 Words in Annex 7 s. 4.6 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(5)(d)(iii)**

For selecting data sources for the purpose of Article 7(1), only the data sources referred to in points (a) and (b) of the first paragraph are considered representing most accurate data sources while data source referred to in point (a) of that paragraph shall be used to the extent that it covers the respective data set. The data sources referred to in points (c) to (e) of the first paragraph are considered less accurate in the descending hierarchical order from point (c) to point (e).

5. METHODS FOR DETERMINING ANNUAL QUANTITIES OF MATERIALS AND FUELS

Where the operator has to determine annual quantities of fuels or materials, including products relating to product benchmark sub-installations, the operator shall determine such quantities at installation level or for each relevant sub-installation, as required, in one of the following ways:

- (a) based on continual metering at the process where the material is consumed or produced;
- (b) based on aggregation of metering of quantities separately delivered or produced taking into account relevant stock changes.

For the purposes of point (b) of the first paragraph, the quantity of fuel or material consumed during the calendar year at the installation or sub-installation shall be calculated as the quantity of fuel or material imported during the calendar year, minus the quantity of fuel or material exported, plus the quantity of fuel or material in stock at the beginning of the calendar year, minus the quantity of fuel or material in stock at the end of the calendar year.

For the purposes of point (b) of the first paragraph, the quantity of product or other material exported during the calendar year shall be calculated as the quantity of product or material exported during the reporting period, minus the quantity imported or recycled into the process, minus the quantity of product or material in stock at the beginning of the calendar year, plus the quantity of product or material in stock at the end of the calendar year.

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*Changes to legislation: There are currently no known outstanding effects for the
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Where it is technically not feasible or would incur unreasonable costs to determine quantities in stock by direct measurement, the operator may estimate those quantities based on one of the following:

- (a) data from previous years and correlated with appropriate activity levels for the reporting period;
- (b) documented procedures and respective data in audited financial statements for the reporting period.

Where the determination of quantities of products, materials or fuels for the entire calendar year is technically not feasible or would incur unreasonable costs, the operator may choose the next most appropriate day to separate a reporting year from the following one, and reconcile accordingly to the calendar year required. The deviations involved for one or more product, material or fuel shall be clearly recorded, form the basis of a value representative for the calendar year, and be considered consistently in relation to the next year.

6. REQUIREMENTS FOR LABORATORY ANALYSES AND RELATED SAMPLING

6.1. Requirements for laboratory analyses

Where the operator needs to carry out laboratory analyses for determining properties (including moisture, purity, concentration, carbon content, biomass fraction, net calorific value, density) of products, materials, fuels or waste gases, or for establishing correlations between parameters for the purpose of indirect determination of required data, the analyses shall be carried out in accordance with Articles 32 to 35 of [F195the Monitoring and Reporting Regulation 2018], using an approved sampling plan for ensuring that samples are representative for the batch to which they relate. Where Annex VII to [F195the Monitoring and Reporting Regulation 2018] does not provide an appropriate minimum frequency of analyses for a particular product, material or fuel, the operator shall propose a suitable analysis frequency for approval by the [F1regulator] based on information on the heterogeneity of the product, material or fuel.

Textual Amendments

F195 Words in Annex 7 s. 6.1 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(6)**

6.2. Simplified requirements for certain laboratory analyses

Where the operator provides evidence to the satisfaction of the [F1regulator] that analyses in accordance with section 6.1 are technically not feasible or would incur unreasonable costs, the operator shall carry out the required analyses based on industry best practice, or use established proxies, in combination with an empirical correlation to an easier accessible parameter, determined at least once per year in accordance with section 6.1.

7. RULES FOR DETERMINING NET MEASURABLE HEAT

7.1. Principles

All specified amounts of measurable heat shall always refer to *net* amount of measurable heat, determined as the heat content (enthalpy) of the heat flow transmitted to the heat consuming process or external user minus the heat content of the return flow.

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*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

Heat consuming processes necessary for operating the heat production and distribution, such as deaerators, make-up water preparation, and regular blow offs, shall be taken into account in the efficiency of the heat system and can therefore not be considered heat consuming processes eligible for allocation.

Where the same heat medium is used by several consecutive processes and its heat is consumed starting from different temperature levels, the quantity of heat consumed by each heat consuming process shall be determined separately, unless the processes fall within the same sub-installation. Re-heating of the transfer medium between consecutive heat consuming processes should be treated like additional heat production.

Where heat is used to provide cooling via an absorption cooling process, that cooling process shall be considered as the heat consuming process.

7.2. Methodologies for determining net amounts of measurable heat

For the purpose of selecting data sources for quantification of energy flows in accordance with section 4.5, following methodologies for determining net amounts of measurable heat shall be considered:

Method 1: Using measurements

Under this method, the operator measures all relevant parameters, in particular temperature, pressure, state of the transmitted as well as the returned heat medium. The state of the medium in case of steam shall refer to its saturation or degree of superheating. The operator furthermore measures the (volumetric) flow rate of the heat transfer medium. Based on the measured values, the operator determines the enthalpy and the specific volume of the heat transfer medium using suitable steam tables or engineering software.

The mass flow rate of the medium is calculated as

$\dot{m} = \dot{V} / v$	(Equation 3)
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Where \dot{m} is the mass flow rate in kg/s, \dot{V} is the volumetric flow rate in m³/s and v is the specific volume in m³/kg.

As the mass flow rate is considered the same for transmitted and returned medium, the heat flow rate is calculated using the difference in enthalpy between the transmitted flow and the return, as follows:

$\dot{Q} = (h_{flow} - h_{return}) \cdot \dot{m}$	(Equation 4)
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Where \dot{Q} is the heat flow rate in kJ/s, h_{flow} is the enthalpy of the transmitted flow in kJ/kg, h_{return} is the enthalpy of the return flow in kJ/kg, and \dot{m} is the mass flow rate in kg/s.

In case of steam or hot water used as heat transfer medium, where the condensate is not returned, or where it is not feasible to estimate the enthalpy of the returned condensate, the operator shall determine h_{return} based on a temperature of 90 °C.

If the mass flow rates are known to be not identical, the following shall apply:

- Where the operator provides evidence to the satisfaction of the [F1regulator] that condensate remains in the product (e.g. in 'life steam injection' processes), the respective amount of condensate enthalpy is not deducted;

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- Where heat transfer medium is known to be lost (e.g. due to leakages or sewerage), an estimate for the respective mass flow shall be deducted from the mass flow of the transmitted heat transfer medium.

For determining the annual net heat flow from the above data, the operator shall – subject to the measurement equipment and data processing available, use one of the following methods:

- Determine annual average values for the parameters determining the annual average enthalpy of the transmitted and returned heat medium, and multiply with the total annual mass flow, using equation 4;
- Determine hourly values of the heat flow and sum up those values over the annual total operating time of the heat system. Subject to the data processing system, hourly values may be substituted by other time intervals as appropriate.

Method 2: Using documentation

The operator determines net amounts of measurable heat based on documents in accordance with section 4.6 of this Annex, provided that heat quantities provided in such documents are based on metering, or on reasonable estimation methods in accordance with section 3.4 of this Annex.

Method 3: Calculation of a proxy based on measured efficiency

The operator determines amounts of net measurable heat based on the fuel input and the measured efficiency related to the heat production:

$Q = \eta_H \cdot E_{IN}$	(Equation 5)
$E_{IN} = \sum AD_i \cdot NCV_i$	(Equation 6)

Where Q is the amount of heat expressed in TJ, η_H is the measured efficiency of heat production, E_{IN} is the energy input from fuels, AD_i are the annual activity data (i.e. quantities consumed) of fuels i , and NCV_i the net calorific values of fuels i .

The value of η_H is either measured by the operator over a reasonably long period, which sufficiently takes into account different load states of the installation or taken from the manufacturer's documentation. In that regard the specific part load curve is to be taken into account by using an annual load factor:

$L_F = E_{IN}/E_{Max}$	(Equation 7)
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Where L_F is the load factor, E_{IN} the energy input as determined using Equation 6 over the calendar year, and E_{Max} the maximum fuel input if the heat producing unit had been running at 100 % nominal load for the full calendar year.

The efficiency should be based on a situation in which all condensate is returned. A temperature of 90 °C should be assumed for the returned condensate.

Method 4: Calculating a proxy based on the reference efficiency

This method is identical to method 3, but using a reference efficiency of 70 % ($\eta_{Ref,H} = 0,7$) in Equation 5.

7.3. Distinguishing district heating, EU ETS [^{F196}or UK ETS] and non-ETS heat

Where an installation imports measurable heat, the operator shall determine separately the quantity of heat coming from installations covered by the EU ETS [^{F197}or UK ETS], and heat

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*Changes to legislation: There are currently no known outstanding effects for the
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imported from [F198 non-ETS] entities. Where an installation consumes measurable heat exported from a nitric acid product benchmark sub-installation, the operator shall determine that amount of heat consumed separately from other measurable heat.

Textual Amendments

F197 Words in Annex 7 s. 7.3 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(7)(b)(i)**

F198 Word in Annex 7 s. 7.3 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(7)(b)(ii)**

Where an installation exports measurable heat, the operator shall determine separately the quantity of heat exported to installations covered by the EU ETS [F199 or UK ETS], and heat exported to [F200 non-ETS] entities. Furthermore, the operator shall determine separately quantities of heat qualifying as district heating.

Textual Amendments

F199 Words in Annex 7 s. 7.3 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(7)(c)(i)**

F200 Word in Annex 7 s. 7.3 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(7)(c)(ii)**

Textual Amendments

F196 Words in Annex 7 s. 7.3 heading inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(7)(a)**

8. RULES FOR ASSIGNING FUELS AND EMISSIONS OF COMBINED HEAT AND POWER PRODUCTION (CHP) FOR THE PURPOSE OF UPDATING BENCHMARK VALUES

This section applies to situations where an operator, for the purpose of updating benchmark values, has to attribute inputs, outputs and emissions of cogeneration units to sub-installations.

For the purposes of this section, ‘cogeneration’ is used as defined in point (30) of Article 2 of Directive 2012/27/EU of the European Parliament and of the Council⁽⁹⁾.

The emissions of a cogeneration unit are determined as

$$Em_{CHP} = \sum AD_i \cdot NCV_i \cdot EF_i + Em_{FGC} \quad (\text{Equation 8})$$

Where Em_{CHP} are the annual emissions of the cogeneration unit expressed as t CO₂, AD_i are the annual activity data (i.e. quantities consumed) of fuels i used for the CHP unit expressed in tonnes or Nm³, NCV_i the net calorific values of fuels i expressed as TJ/t or TJ/Nm³, and EF_i the emission factors of fuels i expressed in t CO₂/TJ. Em_{FGC} are process emissions from flue gas cleaning expressed in t CO₂.

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Changes to legislation: There are currently no known outstanding effects for the
 Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

The energy input to the CHP unit is calculated in accordance with Equation 6. The respective annual average efficiencies of heat production and electricity (or mechanical energy, if applicable) production are calculated as follows:

$\eta_{heat} = Q_{net}/E_{IN}$	(Equation 9)
$\eta_{el} = E_{el}/E_{IN}$	(Equation 10)

Where η_{heat} (dimensionless) is the annual average efficiency of heat production, Q_{net} is the annual net amount of heat produced by the cogeneration unit expressed as TJ as determined in accordance with section 7.2, E_{IN} the energy input as determined using Equation 6 expressed as TJ, η_{el} (dimensionless) is the annual average efficiency of electricity production, and E_{el} the net annual electricity production of the cogeneration unit, expressed as TJ.

Where the operator provides evidence to the satisfaction of the [F¹regulator] that the determination of the efficiencies η_{heat} and η_{el} is technically not feasible or would incur unreasonable costs, values based on technical documentation (design values) of the installation shall be used. If no such values are available, conservative default values of $\eta_{heat} = 0,55$ and $\eta_{el} = 0,25$ should be used.

The attribution factors for heat and electricity from CHP are calculated as

$F_{CHP,Heat} = \frac{\eta_{heat}/\eta_{ref,heat}}{\eta_{heat}/\eta_{ref,heat} + \eta_{el}/\eta_{ref,el}}$	(Equation 11)
$F_{CHP,El} = \frac{\eta_{el}/\eta_{ref,el}}{\eta_{heat}/\eta_{ref,heat} + \eta_{el}/\eta_{ref,el}}$	(Equation 12)

Where $F_{CHP,Heat}$ is the attribution factor for heat and $F_{CHP,El}$ is the attribution factor for electricity (or mechanical energy, if applicable), both expressed without dimension $\eta_{ref,heat}$ is the reference efficiency for heat production in a stand-alone boiler, and $\eta_{ref,el}$ the reference efficiency of electricity production without cogeneration. For the reference efficiencies the operator shall apply the appropriate fuel-specific values from the Commission Delegated Regulation (EU) 2015/2402⁽¹⁰⁾ without application of the correction factors for avoided grid losses in Annex IV to that Regulation.

For attributing the energy input or emissions of the cogeneration unit to the production of heat and electricity (or mechanical energy, if applicable), the operator shall multiply the total energy input or emissions with the respective attribution factor for heat or electricity.

The specific emission factor of the CHP-related measurable heat to be used for the attribution of heat-related emissions to sub-installations in accordance with section 10.1.2 is calculated as

$EF_{CHP,Heat} = Em_{CHP} \cdot F_{CHP,Heat}/Q_{net}$	(Equation 13)
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Where $EF_{CHP,heat}$ is the emission factor for the production of measurable heat in the cogeneration unit expressed as t CO₂/TJ.

9. PROCEDURE FOR TRACKING PRODCOM CODES OF PRODUCTS

For the purpose of correct attribution of data to sub-installations, the operator shall maintain a list of all products produced at the installation and their applicable PRODCOM codes, based on NACE rev. 2. Based on this list, the operator shall:

Status: Point in time view as at 31/03/2024.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

- Attribute products and their annual production figures to product benchmark sub-installations in accordance with product definitions provided in Annex I where appropriate;
- Take this information into account for attributing inputs, outputs and emissions separately to sub-installations related to sectors exposed to a significant risk of carbon leakage or not exposed to such risk, in accordance with Article 10.

To this end the operator shall establish, document, implement and maintain a procedure for regular checking whether the products produced in the installation confirm with the PRODCOM codes applied when setting up the monitoring methodology plan. This procedure shall furthermore contain provisions to identify if the installation produces a new product for the first time, and to ensure that the operator determines the applicable PRODCOM code for the new product, add it to the list of products and attributes related inputs, outputs and emissions to the appropriate sub-installation.

10. RULES FOR DETERMINING EMISSIONS AT SUB-INSTALLATION LEVEL FOR THE PURPOSE OF UPDATING BENCHMARK VALUES

10.1. Emissions at sub-installation level

For the purpose of Article 10, the operator shall attribute the installation's total emissions to sub-installations applying, where applicable, the provisions of sections 3.2 and 10.1.1 to 10.1.5 of this Annex.

10.1.1. *Direct attribution of source streams or emission sources*

1. Emissions of source streams or emission sources serving only one sub-installation are attributed to that sub-installation in full. Where the operator uses a mass balance, outgoing source streams shall be subtracted in accordance with Article 25 of [F²⁰¹the Monitoring and Reporting Regulation 2012 or, where relevant, the Monitoring and Reporting Regulation 2018]. For avoiding double counting, source streams which are converted into waste gases, with the exception of waste gases produced and fully consumed within the same product benchmark sub-installation, shall not be attributed using this approach.

Textual Amendments

F201 Words in Annex 7 s. 10.1.1 point 1 substituted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(8)(a)**

2. Only where source streams or emission sources serve more than one sub-installation, the following approaches for attribution of emissions apply:
 - Emissions from source streams or emission sources used for the production of measurable heat shall be attributed to sub-installations in accordance with section 10.1.2;
 - Where waste gases are not used within the product benchmark sub-installation in which it is produced, the emissions stemming from waste gases shall be attributed in accordance with section 10.1.5;
 - Where the amounts of source streams attributable to sub-installations are determined by metering before the use in the sub-installation, the operator shall apply the appropriate methodology in accordance with section 3.2.

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- Where emissions from source streams or emission sources cannot be attributed in accordance with other approaches, they shall be attributed using correlated parameters, which have already been attributed to sub-installations in accordance with section 3.2. For that purpose, the operator shall attribute source stream amounts and their respective emissions proportionally to the ratio in which those parameters are attributed to sub-installations. Appropriate parameters include the mass of products produced, mass or volume of fuel or material consumed, amount of non-measurable heat produced, operating hours, or known equipment efficiencies.

10.1.2. Emissions attributable to measurable heat

Where the sub-installation consumes measurable heat produced within the installation, the operator shall determine, where applicable, the heat-related emissions using one of the following methods.

1. For measurable heat produced from the combustion of fuels within the installation except heat produced by cogeneration, the operator determines the emission factor of the relevant fuel mix and calculates emissions attributable to the sub-installation as

$$Em_{Q,sub-inst} = EF_{mix} \cdot Q_{consumed,sub-inst} / \eta \quad \text{(Equation 14)}$$

Where $Em_{Q,sub-inst}$ is the heat-related emissions of the sub-installation in t CO₂, EF_{mix} is the emission factor of the respective fuel mix expressed as t CO₂/TJ including emissions from flue gas cleaning, where applicable, $Q_{consumed,sub-inst}$ is the amount of measurable heat consumed in the sub-installation expressed in TJ, and η is the efficiency of the heat production process.

EF_{mix} is calculated as

$$EF_{mix} = (\sum AD_i \cdot NCV_i \cdot EF_i + Em_{FGC}) / (\sum AD_i \cdot NCV_i) \quad \text{(Equation 15)}$$

Where AD_i are the annual activity data (i.e. quantities consumed) of fuels i used for the measurable heat production expressed in tonnes or Nm³, NCV_i the net calorific values of fuels i expressed as TJ/t or TJ/Nm³, and EF_i the emission factors of fuels i expressed in t CO₂/TJ. Em_{FGC} are process emissions from flue gas cleaning expressed in t CO₂.

Where a waste gas is part of the fuel mix used, the emission factor of that waste gas is adjusted before calculating EF_{mix} in accordance with point (b) of section 10.1.5 of this Annex.

2. For measurable heat produced in cogeneration units where fuels are combusted within the installation, the operator determines the emission factor of the relevant fuel mix and calculates emissions attributable to the sub-installation as

$$Em_{Q,CHP,sub-inst} = EF_{CHP,Heat} \cdot Q_{cons,CHP,sub-inst} \quad \text{(Equation 16)}$$

Where $Em_{Q,CHP,sub-inst}$ is the CHP-heat-related emissions of the sub-installation in t CO₂, $EF_{CHP,Heat}$ is the emission factor of the heat part of the cogeneration unit as determined in accordance with section 8 expressed as t CO₂/TJ including emissions

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from flue gas cleaning, where applicable, and $Q_{cons,CHP,sub-inst}$ is the amount of measurable heat produced by cogeneration within the installation and consumed in the sub-installation expressed in TJ.

Where a waste gas is part of the fuel mix used in the cogeneration unit, the emission factor of that waste gas is adjusted before calculating $EF_{CHP,Heat}$ in accordance with point (b) of section 10.1.5.

3. Where measurable heat is recovered from processes covered by a product benchmark sub-installation, a fuel benchmark sub-installation or a process emission sub-installation, the operator shall report those amounts of heat as being transferred between the relevant sub-installations in the baseline data report in accordance with point (a) of Article 4(2).
4. Where measurable heat is imported from other installations covered by the EU ETS [^{F202}or UK ETS] or from installations or entities not covered by the EU ETS [^{F202}or UK ETS], the emission factor related to the production of that heat shall be reported, if available.
5. The operator shall attribute zero emissions to measurable heat produced from electricity, but report the related amounts of measurable heat in the baseline data report in accordance with point (a) of Article 4(2).

Textual Amendments

F202 Words in Annex 7 s. 10.1.2 point 4 inserted (31.12.2020) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2020 \(S.I. 2020/1557\)](#), art. 2(2), **Sch. 1 para. 37(8)(b)**

10.1.3. *Attribution of emissions related to heat losses*

Where losses of measurable heat are determined separately from the amounts used in sub-installations, in order to satisfy the criterion in accordance with point (c) of Article 10(5), the operator shall add emissions in relation to a proportionate quantity of heat losses to the emissions of all sub-installations in which measurable heat produced in the installation is used, using emission factors determined in accordance with section 10.1.2 of this Annex.

10.1.4. *Attribution of emissions related to non-measurable heat*

In order to attribute emissions related to the use of non-measurable heat that is not included in a product benchmark sub-installation, the operator shall attribute the relevant source streams or emission sources to sub-installations in accordance with section 10.1.1, using the relevant emission factors. The operator shall attribute only fuels and source streams related to process emissions from flue gas cleaning to uses of non-measurable heat.

Where a waste gas is part of the fuel mix used, the emission factor of that waste gas is adjusted before attributing its emissions to non-measurable heat use, in accordance with point (b) of section 10.1.5.

10.1.5. *Attribution of emission for the production and use of waste gases*

The emissions from waste gases are split into two parts, except where they are used in the same product benchmark sub-installation where they are produced, as follows:

- (a) An amount of emissions assigned to the production of the waste gas is attributed under the product benchmark sub-installation where the waste gas is produced.

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This amount is calculated as follows:

$$Em_{WG} = V_{WG} \cdot NCV_{WG} \cdot (EF_{WG} - EF_{NG} \cdot Corr_n) \quad (\text{Equation 17})$$

Where Em_{WG} is the amount of emissions assigned to the production of the waste gas, V_{WG} is the volume of waste gas produced expressed as Nm^3 or t, NCV_{WG} is the net calorific value of the waste gas expressed as TJ/Nm^3 or TJ/t , EF_{WG} is the emission factor of the waste gas expressed as $t\ CO_2/TJ$, EF_{NG} is the emission factor of natural gas ($56,1\ t\ CO_2/TJ$), and $Corr_n$ is a factor that accounts for the difference in efficiencies between the use of waste gas and the use of the reference fuel natural gas. The default value of this factor is equal to 0,667.

- (b) An amount of emissions assigned to the consumption of the waste gas is attributed to the product benchmark sub-installation, heat benchmark sub-installation, district heating sub-installation or fuel benchmark sub-installation, where it is consumed. This amount is determined by multiplying the amount and calorific value of the waste gas with the value of the heat or fuel benchmark, as applicable.

10.2. Attributed emissions to sub-installations

The operator shall determine the attributed emissions of each sub-installation as a sum of:

- (a) emissions related to source streams relevant for the sub-installation determined in accordance with section 10.1.1, as applicable;
- (b) emissions attributable to measurable heat consumed in the sub-installation determined in accordance with sections 10.1.2 and 10.1.3, as applicable;
- (c) emissions attributable to non-measurable heat consumed in the sub-installation determined in accordance with section 10.1.4, as applicable;
- (d) emissions attributable to the production or use of waste gases in the sub-installation determined in accordance with section 10.1.5, as applicable.

In this calculation, the operator shall ensure that neither omissions nor double counting of source streams occur.

The operator shall also determine the difference between the total emissions of the installation and the sum of attributed emissions of all sub-installations relevant at the installation. If applicable, the operator shall identify all processes contributing to this difference and corroborate the plausibility of the attribution by estimating the emissions associated with these processes, in particular with source streams used for electricity production [^{F203}, for flaring other than safety flaring and for a regulated activity non-eligible for free allocation (see Article 2a(8))].

Textual Amendments

F203 Words in Annex 7 s. 10.2 substituted (1.1.2024 immediately after [S.I. 2023/850](#) comes into force) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) \(No. 2\) Order 2023 \(S.I. 2023/1387\)](#), arts. 2(1), 21(2)

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*Changes to legislation: There are currently no known outstanding effects for the
Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)*

[^{F204} Annex 8

Benchmarks

Textual Amendments

F204 Annex 8 inserted (1.1.2024) by [The Greenhouse Gas Emissions Trading Scheme \(Amendment\) Order 2023 \(S.I. 2023/850\)](#), arts. 2, 15

Table A

PRODUCT BENCHMARKS WITHOUT CONSIDERATION OF EXCHANGEABILITY OF FUEL AND ELECTRICITY FOR 2021-2025 ALLOCATION PERIOD

<i>Product benchmark</i>	<i>Benchmark value (allowances/t) for 2021-2025 allocation period</i>
Coke	0.217
Sintered ore	0.157
Hot metal	1.288
Pre-bake anode	0.312
Aluminium	1.464
Grey cement clinker	0.693
White cement clinker	0.957
Lime	0.725
Dolime	0.815
Sintered dolime	1.406
Float glass	0.399
Bottles and jars of colourless glass	0.290
Bottles and jars of coloured glass	0.237
Continuous filament glass fibre products	0.309
Facing bricks	0.106
Pavers	0.146
Roof tiles	0.120
Spray-dried powder	0.058
Plaster	0.047
Dried secondary gypsum	0.013
Short fibre kraft pulp	0.091
Long fibre kraft pulp	0.046
Sulphite pulp, thermo-mechanical and mechanical pulp	0.015

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<i>Product benchmark</i>	<i>Benchmark value (allowances/t) for 2021-2025 allocation period</i>
Recovered paper pulp	0.030
Newsprint	0.226
Uncoated fine paper	0.242
Coated fine paper	0.242
Tissue	0.254
Testliner and fluting	0.188
Uncoated carton board	0.180
Coated carton board	0.207
Nitric acid	0.230
Adipic acid	2.12
Vinyl chloride monomer (VCM)	0.155
Phenol/acetone	0.230
S-PVC	0.066
E-PVC	0.181
Soda ash	0.753

Table B

PRODUCT BENCHMARKS WITH CONSIDERATION OF EXCHANGEABILITY
 OF FUEL AND ELECTRICITY FOR 2021-2025 ALLOCATION PERIOD

<i>Product benchmark</i>	<i>Benchmark value (allowances/t) for 2021-2025 allocation period</i>
Refinery products	0.0228
EAF carbon steel	0.215
EAF high alloy steel	0.268
Iron casting	0.282
Mineral wool	0.536
Plasterboard	0.110
Carbon black	1.485
Ammonia	1.570
Steam cracking	0.681
Aromatics	0.0228
Styrene	0.401
Hydrogen	6.84

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<i>Product benchmark</i>	<i>Benchmark value (allowances/t) for 2021-2025 allocation period</i>
Synthesis gas (syngas)	0.187
Ethylene oxide/ethylene glycols	0.389

Table C

HEAT AND FUEL BENCHMARKS FOR 2021-2025 ALLOCATION PERIOD

<i>Benchmark</i>	<i>Benchmark value (allowances/TJ) for 2021-2025 allocation period</i>
Heat benchmark	47.3
Fuel benchmark	42.6

Where no benchmarks are set out in this Annex for the 2026-2030 allocation period, the benchmarks for the 2021-2025 allocation period are to be used.]

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Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331. (See end of Document for details)

- (1) [OJ L 275, 25.10.2003, p. 32.](#)
- (2) Commission Decision 2011/278/EU of 27 April 2011 determining transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of Directive 2003/87/EC of the European Parliament and of the Council ([OJ L 130, 17.5.2011, p. 1.](#))
- (3) 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 ([OJ L 76, 19.3.2018, p. 3.](#))
- (4) Commission Regulation (EU) No 601/2012 of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council ([OJ L 181, 12.7.2012, p. 30.](#))
- (5) Directive 2014/32/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of measuring instruments ([OJ L 96, 29.3.2014, p. 149.](#))
- (6) Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains ([OJ L 393, 30.12.2006, p. 1.](#))
- (7) Council Regulation (EEC) No 3924/91 of 19 December 1991 on the establishment of a Community survey of industrial production ([OJ L 374, 31.12.1991, p. 1.](#))
- (8) Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains ([OJ L 393, 30.12.2006, p. 1.](#))
- (9) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC ([OJ L 315, 14.11.2012, p. 1.](#))
- (10) Commission Delegated Regulation (EU) 2015/2402 of 12 October 2015 reviewing harmonised efficiency reference values for separate production of electricity and heat in application of Directive 2012/27/EU of the European Parliament and of the Council and repealing Commission Implementing Decision 2011/877/EU ([OJ L 333, 19.12.2015, p. 54.](#))

Status:

Point in time view as at 31/03/2024.

Changes to legislation:

There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2019/331.