

Guidance for installations

Frequently asked questions on 2019 National Implementation Measures

Version 2

Issued 3 May 2019



About this guidance

This guidance has been developed by UK regulators to support EU ETS operators who are participating in the 2019 National Implementation Measures (NIMs) data collection exercise. It is based on questions that have been received by UK Regulators

The European Commission have produced a suite of guidance documents and these can be found here:

https://ec.europa.eu/clima/policies/ets/allowances_en#tab-0-1

Further information

If you have any policy queries, such as BEIS consultation or Article 27 or 27A schemes, please contact the EU ETS team at the Department for Business, Energy and Industrial Strategy (BEIS): eu.ets@beis.gov.uk

If you have any other technical questions, please contact your Regulator's helpdesk. See [table 1](#) below to find the Regulator responsible for your installation and the email address for their helpdesk.

Note, the Environment Agency will respond to helpdesk requests with a standard email committing to a 10 working day response. This is standard response and all regulators are committed to responding to requests much faster than this wherever possible.

The content of a webinar held on 21 March 2019 for operators, verifiers and UKAS can be found using the link on SEPA's website:

<https://www.sepa.org.uk/regulations/climate-change/eu-emissions-trading-system>

Answers to frequently asked questions (this document) will be published at the same link and periodically updated.

Table 1 List of UK regulator and their helpdesks

Installation location	Regulator	Helpdesk email address
England	Environment Agency	ETSPHaseIVHelp@environment-agency.gov.uk
Department for Business, Energy and Industrial Strategy (BEIS) - Offshore Petroleum Regulator for Environment and Decommissioning (OPRED)	BEIS – OPRED	EMT@beis.gov.uk
Northern Ireland	The Department of Agriculture, Environment and Rural Affairs (DAERA)	emissions.trading@daera-ni.gov.uk
Scotland	Scottish Environment Protection Agency (SEPA)	emission.trading@sepa.org.uk
Wales	Natural Resources Wales	GHGHelp@naturalresourceswales.gov.uk

Document version	Summary of changes made
1	New
2	Deadline for submission of information from operators extended to 30 June 2019, and related updates. New FAQs added: 1.8, 2.6 and 5.17 to 5.23.

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1. Participating in the National Implementation Measures

1.1. Do I have to participate in this NIMs exercise?

Yes. If your installation is in the EU ETS and you have, or will have, a GHG permit on or before 30 June 2019, then yes – but to what extent will depend on your type of installation and eligibility to apply for a free allocation of allowances. This is because all regulators must provide BEIS with a full list of all installations covered by the EU ETS by mid-September 2019.

Even if you're not eligible, or do not want to apply for an allocation, you will still need to provide some information and be included in the UK's NIMs submission.

Section 4 of [Guidance Document 1](#) has some useful information on which installations must be included in the NIMs list.

See [table 2](#) below for details of what data you will need to submit and by when.

Table 2 Summary of data to be submitted in 2019

Type of EU ETS operator	NIMs baseline report	Monitoring methodology plan (MMP)	Verification report with positive opinion	Supporting evidence for MMP	Deadline for submissions
Electricity generator (not eligible for free allocation)	Sheet A only	No	No	No	30 June 2019
Article 27a	Sheet A and D.1.2**	No*	No*	No*	30 June 2019
Article 27	Sheet A and D.1.2**	No*	No*	No*	30 June 2019
Operators not applying for a free allocation	Sheet A only	No*	No*	No*	30 June 2019

Eligible operators applying for a free allocation of allowances	All sheets except B+C	Yes	Yes	Yes	30 June 2019
Operators who obtained a permit before 30 June 2019 but have not operated in the baseline period	Sheet A	Yes	No	Yes	30 June 2019

*To note that by opting to not complete these sections an operator renders itself ineligible for free allocation under the EU ETS for 2021-25

**you do not need to complete line 44 'Energy input from fuels'

1.2. What will the information be used for?

There are four main purposes for collecting this information:

- Assess eligibility for free allocation;
- Assess eligibility and participation in Article 27 and 27A schemes (subject to public consultation and final agreement from the Commission);
- If eligible, to calculate the free allocation for an individual installation; and
- To re-calculate benchmark values that will be used across the scheme (and ultimately affect the final allocation amounts).

As previously communicated, if the government considers the data collected as part of this exercise to be useful to the design and implementation of a non-EU ETS post-EU exit carbon pricing scheme, the government will also use the data collected for this purpose.

1.3. What's the deadline for submitting information?

You need to submit all of your information to your regulator by the deadlines shown in [table 2](#).

This deadline was made based on detailed discussions with regulators, taking into consideration what was achievable for operators, verifiers and regulators.

See [Q1.5](#) if you are struggling to meet this deadline.

1.4. What do I need to submit?

[Table 2](#) summarises what information must be provided.

If you are not eligible for free allocation, such as an electricity generator, you need only submit a completed sheet A.

If you are an operator that is eligible for the Article 27 or 27A, as described in the EU ETS Directive, and do not wish to apply for free allowances, you must complete sheet A and a small part of sheet D (D.1.2) so that we can assess your eligibility for these schemes.

For all operators wishing to apply for free allowances, you must submit:

- A completed and verified copy of the NIMs baseline data template
- A Monitoring Methodology Plan (MMP)
- A Verification Statement

You must use the templates that UK regulators have asked operators to use. For example, the NIMs baseline report has been adapted to allow for aggregated emissions data.

Go to [SEPA's website](#) to find the right templates for UK operators to use, the templates are on the right-hand side of the page:

<https://www.sepa.org.uk/regulations/climate-change/eu-emissions-trading-system/>

1.5. I'm struggling to get my data verified by the 2019 deadline, what should I do?

Any operator that believes that they will struggle to meet the deadline stated in [table 2](#), should contact their regulator as soon as possible so they can understand the difficulties and explore together what is possible.

See [table 1](#) for details of your regulator's helpdesk email address.

1.6. Where can I get help from?

If you need advice, you can contact your regulator using their helpdesks.

Note, the Environment Agency will respond to helpdesk requests with a standard email committing to a 10 working day response. This is standard response and all regulators are committed to responding to requests much faster than this wherever possible.

The content of a webinar held on 21 March 2019 for operators, verifiers and UKAS can be found using the link on SEPA's website:

<https://www.sepa.org.uk/regulations/climate-change/eu-emissions-trading-system>

Answers to frequently asked questions (this document) will be published at the same link and periodically updated.

1.7. I have an installation that is currently in the EU ETS but expects to surrender its permit this year. Does it still have to go through this Phase IV exercise?

All installations that are covered by the scope of the EU ETS must provide some information to their regulator.

If the installation is sure it will not be conducting a regulated activity under the EU ETS from 2021-2025, and intends to surrender its permit, then it does not need to conduct the NIMs exercise. If there is any doubt about if they will be operating or not, then it is their decision to make; but operators must undertake the NIMs exercise if they wish to be eligible for free allocation during the first allocation period of Phase IV (2021 – 2025).

You should also note that continued UK membership of the EU ETS post-EU Exit is still being considered. A range of options are being looked at, including continuing to participate in the EU ETS, a UK ETS (linked or standalone) or a carbon tax. Data requested under the 2019 National Implementation Measures (NIMs) exercise will be required for all options for the UK's long-term carbon pricing approach. Operators should therefore continue to prepare for submitting their verified NIMs data, in line with communications previously circulated by their regulators, by the deadline stated in [table 2](#).

See also BEIS' announcement on 13 September 2018 on [gov.uk under the heading 'Participating in 2019 NIMs Exercise'](#).

1.8. How do I submit my data?

A NIMs workflow task will appear in ETSWAP for you to upload your completed NIMs submission. The task will be available from Friday 17 May 2019.

2. Small emitters (Article 27 and 27a)

2.1. Do 'Opt-outs' need to complete the NIMs and MMP?

In a Phase IV scenario, the UK government is currently minded to offer the opt-out options of ETS Directive Article 27 (small emitter) scheme for operators with verified emissions in 2016, 17 and 18 of less than 25,000 tonnes CO₂ equivalent and an installed capacity of less than 35MW; or, (in the case of Article 27a) verified emissions in 2016, 17 and 18 of less than 2,500 tonnes CO₂ equivalent.

The general architecture of the current scheme is likely to be retained, with improvements made where possible. Detailed information regarding the calculation of emissions targets for operators on a Phase IV small emitter opt out schemes will be included in the upcoming consultation on the future of carbon pricing. However, operators may note that calculation of a target based on historical emissions was an option for UK operators on the Phase III Small Emitters and Hospitals opt out.

All final policy positions will be subject to stakeholder feedback as part of BEIS's consultation on the future of carbon pricing in the UK (available here <https://www.gov.uk/government/consultations/the-future-of-uk-carbon-pricing>). All final policy decisions on opt-outs are also subject to European Commission approval which we will not receive until after 30 September 2019.

It is for each operator to decide whether to participate in the 2019 NIMs data collection exercise, taking into account the consequences of not submitting an application on time.

Please note by opting not to provide a 'full' NIMs return, operators render themselves ineligible for free allocation under the EU ETS for 2021-25 should they enter the main scheme.

2.2. What do small emitters who choose to opt out have to submit?

[Table 2](#) summarises what information must be provided.

If you are an operator that is eligible for the Article 27 or 27A, as described in the EU ETS Directive, and do not wish to apply for free allowances, UK operators must complete sheet A and a small part of sheet D so that we can assess your eligibility for the schemes.

The NIMs template which can be found on SEPA's website:

<https://www.sepa.org.uk/regulations/climate-change/eu-emissions-trading-system/>.

Please note by opting not to provide a 'full' NIMs return, operators render themselves ineligible for free allocation under the EU ETS for 2021-25 should they enter the main scheme.

2.3. I am an opt-out installation & I self-verified emissions – do I now need to have my annual emissions verified to be eligible for Article 27/27a?

No, not if you do not intend to apply for a free allocation of allowances. Your regulator will need to check your eligibility and they will accept 'self-verified' annual emissions data for this purpose.

However, if you intend to apply for a free allocation of allowances for 2021-2024 then all of your NIMs baseline report data must be verified by an accredited verifier, in compliance with the Free Allocation Regulation.

All final policy positions will be subject to stakeholder feedback as part of government consultation on the future of carbon pricing in the UK (due to be launched in due course), where these policies will be set out in detail. All final policy decisions on opt-outs are also subject to European Commission approval which we will not receive until after 30 September 2019.

2.4. You need to choose Article 27/27a by 31 August – but the details of the scheme are not available – how can I decide?

The UK government has published a consultation document on the future of carbon pricing in the UK (see <https://www.gov.uk/government/consultations/the-future-of-uk-carbon-pricing>). This consultation document outlines the policy options to allow operators to make a decision on the UK's suggested approach. However, the final scheme design will still be subject to European Commission approval which we will not receive until after 30 September 2019.

If an eligible operator indicates a preference to enter the UK's Article 27 or 27a scheme in their 30 June 2019 submission, but later (e.g. once final details of the policy are confirmed) wish instead to enter the main EU ETS scheme, they will be able to do so if they notify their regulator before 31 August 2019. Such an operator would still only be eligible for free allocation if they submitted a 'full' NIMs return by 30 June 2019. If no such communication is received before 31 August 2019, and the operator is deemed to be eligible, then it will be entered onto the Article 27 or 27A scheme, as they had previously indicated.

2.5. Do Article 27/27a installations need to report activity level changes?

No. Activity level reporting is necessary to determine how free allocation will change to reflect changes in production. As opt-outs are not eligible for free allocation this process is not relevant to them.

2.6. My installation was a new entrant at the start of Phase III and went straight into the Small Emitter and Hospital Opt-out Scheme, therefore I do not have a Registry installation identification number. In the NIMs template what should I enter as the identification code of the installation in the Registry?

If you have never had a registry installation code before (for example because you were new to EU ETS in phase III and went straight into the UK's Small Emitter and Hospital opt-out scheme), please contact your regulator, and you will be provided with a number to be used in section (e) 'identification code of the installation in the Registry'. The form will then use this number to automatically generate your unique ID for notification to the Commission.

3. Monitoring methodology Plan

Not sure where to start? Section 2 of [Commission Guidance Document 5 on Monitoring and Reporting in relation to the Free Allocation Regulation](#) directs you to where you can start your reading, depending on your level of experience and your role.

3.1. What's a Monitoring Methodology Plan (MMP)?

The concept of a monitoring methodology plan is new for Phase IV.

Your existing greenhouse gas permit is based on your Monitoring Plan (MP). This details how you will monitor, calculate and report emissions across your installation.

The Monitoring Methodology Plan is similar but relates specifically to your allocation of free allowances.

- It will be 'backward looking' i.e. explaining how you've collected data during the baseline period (2014-2018), that is the basis of your application for free allowances in Phase IV, and
- It will be 'forward looking' i.e. explaining how you'll be monitoring this information during Phase IV, as you will need to monitor your activity levels, report them annually and your free allocation of allowances adjusted as necessary.

3.2. What's the difference between a monitoring plan (MP) and monitoring methodology plan (MMP)?

In simple terms, it's about viewing (or 'splitting') your installation's activities differently for different purposes.

Monitoring plan (MP): For monitoring and reporting your installation's total annual emissions – driven by the requirements of the Monitoring and Reporting Regulation – you might look at emissions from different source streams (fuels) and add them up to give a total for your installation. You then surrender the corresponding number of allowances.

Monitoring methodology plan (MMP): For calculating your initial allocation of free allowances – driven by the Free Allocation Regulation – you would consider what parts of your installation’s activities would be eligible for a free allocation of allowances, and their relevant activity levels. This is done using the concept of ‘sub-installations’.

The monitoring methodology plan will also be used to track future adjustments to your allocation based on the activity of the various sub-installations. This will be driven by the activity level change regulation which is currently being developed.

See [Q4.1](#) for more information on sub-installations.

3.3. Does my monitoring methodology plan have to include monitoring approaches for future data collection (forward looking), historical data (backward looking), or both?

Both. If you wish to apply for a free allocation of allowances, you must submit a monitoring methodology plan (MMP) to your EU ETS Regulator by the deadline set in [table 2](#) for your regulator’s approval. The MMP must describe both the monitoring approaches used to collect the data between 2014 and 2018 and annual activity data from 2019 to the highest achievable accuracy.

FAR Articles 4 and 8 GD4 section 2.2 GD5 section 4.7, 5.1 and 5.3

Changes to your allocation will be dependent on annual changes in your activity data. The exact details of how and when this will be done are being discussed at European level, however, we anticipate that you will need to be collecting this data from 2019.

For some operators the highest achievable accuracy for data collected for annual reporting might be the same as the historical data, so there is no need to differentiate between the two. However, the FAR and the Commission’s guidance recognises that this may not be the situation for all operators. It is therefore necessary to describe how data was collected for the historic data and then how it will be monitored going forward.

3.4. Does my monitoring methodology plan need to be approved by the Regulator before it is validated?

No. It is recognised that there is insufficient time for regulators to approve monitoring methodology plans (MMP) before they are required to be submitted in support of operators’ baseline data reports. But, in a similar way to Phase III, verifiers must validate the MMP to ensure that it meets the requirements of the Free Allocation Regulation.

FAR Article 8(4) GD4 section 2.2, section 6.1
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There will be a period of time between the deadline for submitting MMPs for approval, along with baseline reports and verification reports and 30 December 2020 when regulators will review and approve MMPs.

3.5. Can I change my monitoring methodology plan after I have submitted it (by the deadline set in table 2)?

Yes. Your verifier will assess your monitoring methodology plan (MMP) and your baseline data report, to check that they comply with the Free Allocation Regulation and so that the regulator may have confidence in the baseline data report figures. Your verifier must verify the data and validate the MMP, confirming that the monitoring methodologies you used were appropriate and that you have obtained the data to the highest accuracy.

FAR Article 9

If your verifier finds that you used the best data possible for historical data but that you can be more accurate going forward and you have not described this, the MMP will not be compliant with the Free Allocation Regulation. Your verifier is likely to provide you with a 'verified with comments' opinion and make recommendations for improvement. This is still a positive opinion but you must change your MMP and submit it to your regulator without delay.

4. Completing your monitoring methodology plan

4.1. What is a sub-installation and how do I know which ones I have at my site?

A sub-installation is a (non-physical) concept used to calculate a free allocation of allowances.

Different parts of your operation / aspects of what you do may be eligible for different amounts of allocation, and other parts may not be eligible for any. Defining a sub-installation will be based on one of the four approaches. The use of:

- a Product benchmark (see [Guidance Document 9](#))
- a Heat benchmark
- a Fuel benchmark
- Process emissions

(In the order they should be considered)

Useful guidance can be found in [Commission Guidance Document 1](#) Sections 5.1 and 5.2, also in [Guidance Document 2](#) Sections 2 and 3.

4.2. Can we base the monitoring methodology plan on the description of installation and calculation approach description in the existing permits?

Potentially, but it depends on the level of detail in the approved monitoring plan (permit) and operators need to ensure the requirements of the Free Allocation Regulation are met.

Annex VI of the Free Allocation Regulation contains a list of the minimum information required to be included in the monitoring methodology plan. Annex VI, paragraph 1 (c) and (d) of the Free Allocation Regulation states that the description needs to cover the main processes, a list the emission sources and should include a flow diagram and plan of the installation that allows an understanding of the main material and energy flows.

Where the Free Allocation Regulation requires a procedure, for example, to regularly evaluate the monitoring methodology plan's effectiveness, this can be added to the existing procedure for annual emissions monitoring plan.

4.3. What is the hierarchical order that is applied?

Article 7 of the Free Allocation Regulation requires the operator to “use data sources representing highest achievable accuracy pursuant to section 4 of Annex VII”. Use of other

data sources is allowed in cases where the use of most accurate data sources is technically not feasible, would incur unreasonable costs, or where the operator can provide evidence that another chosen method exhibits lower uncertainty. Annex VII section 4 of the Free Allocation Regulation gives a hierarchy of preferred data sources according to accuracy for materials and fuels; quantification of energy flows and properties of materials.

4.4. In the webinar of 21 March, a hierarchy of properties for converting meter data into emissions with lab sampling highest and the constant assumptions lower was presented. Will the CA continue to provide the equivalent of Tier 2a emission properties for common fuels?

In annual emission report terms and the Monitoring and Reporting Regulation, Tier 2a relates to the use of country specific factors relating to common fuels and materials (commonly known as 'national factors'). As this information will continue to be required for monitoring and reporting under the approved monitoring plan we expect that UK Government will continue to publish this information.

You can find a recording of the webinar of 21 March on SEPA's website <https://www.sepa.org.uk/regulations/climate-change/eu-emissions-trading-system>

4.5. I can't copy, paste or insert shapes into the Monitoring Methodology Plan – what do I do?

Your regulator will accept a full flow chart attached Tab C II (b). You can also provide as many separate attachments as necessary as long as these are correctly referenced in the MMP.

5. Completing the NIMs baseline data report

5.1. What is the “unique installation identifier” on the contents page of the NIMs and MMP templates?

On Sheet A of the NIMs template the following is needed under (b) (d) & (e):

(b) Member State in which the installation is situated:	<input type="text" value="United Kingdom"/>
<small><i>"Member State" means here: State which participates in the EU ETS, i.e. EU Member States and Iceland, Norway and Liechtenstein.</i></small>	
(c) Has this installation been included in the EU ETS before?	<input type="text"/>
(d) Unique identifier provided by the competent authority:	<input type="text" value="UK-?-IN-12345"/>
<small><i>This is the ID used by the competent authority for correspondence with the installation, e.g. for free allocation in earlier periods. For installations which have not been included in the EU ETS before, operators are requested to contact the competent authority to receive such ID. Competent authorities must ensure to have a unique ID available before notifying any data to the European Commission.</i></small>	
(e) Identification code of the installation in the Registry:	<input type="text" value="12345"/>
<small><i>This is usually a natural number, i.e. a code different from the Permit identifier used in the Registry (EUTL). Together with the Member State selected under (b), this Registry ID (unique ID) will result in the Unique ID displayed automatically in (f) below. E.g. if the installation with Registry ID 123456 is situated in Belgium, this will result in "BE000000000123456". If your installation received free allocation in the previous phase of the EU ETS, please ensure that the Unique ID is identical to the one in the previous phase.</i></small>	
(f) Unique ID for notification to the Commission:	<input type="text" value="GB0000000000012345"/>

- 1d: EU-ETS GHG or EIE permit ID (e.g. UK-E-IN-12345)
- 1e: Installation ID for the Registry (between 2 - 6 digit number) – this can be found on the EUTL website here: <http://ec.europa.eu/environment/ets/oha.do?languageCode=en> – click on National Administrator “UK” (top left-hand box) and input EU-ETS permit ID (bottom right-hand box) – click search – 4th column from the left will provide the Installation ID required for the NIMs template.
- 1f: Template will generate a unique code for notification to the Commission (e.g. GB000000000000###).

If you have never had a registry installation code before (for example because you were new to EU ETS in phase III and went straight into the UK’s Small Emitter and Hospital opt-out scheme), please contact your regulator, and you will be provided with a unique number to be used in section (e) ‘identification code of the installation in the Registry’. The form will then use this number to automatically generate your unique ID for notification to the Commission.

5.2. Can you use previously verified annual emission monitoring report values in the NIMs spreadsheet for verification or is it to be recalculated/verified?

The information in annual emission monitoring (AEM) reports will be usable for some of the data collection exercise; however, you will still require your baseline data collection and monitoring methodology plan (MMP) to be verified as being satisfactory in terms of the Free Allocation Regulation (FAR). This is because your AEM report has been gathered in accordance with the Monitoring and Reporting Regulation for emissions. The FAR requires some additional information and some slightly different sets of data to provide the activity

level and benchmark updates as well as an MMP compiled in accordance with Annex VII of the FAR.

5.3. How should I report data relating to changes in operation during the baseline years?

For example, a sub-installation closed in 2018, but was in operation in 2014, 2015 and 2016 then partially shut in 2017. How is this entered in the NIMs template?

GD 2
Section 6.2

Where a sub-installation has closed completely during the baseline period the emissions data and activity data up to the closure date should be provided to ensure that a complete picture of the installation emissions and activity level is provided and attributed.

While an allocation will be calculated for this sub-installation; the allocation for the 1st year and remainder of phase IV will be adjusted in accordance with the allocation change rules (these are currently being developed) to ensure that no allocation is given which you are not entitled to.

5.4. Does partial cessation impact on the start date of normal operation?

Article 15 (7) of the Free Allocation Regulation states that for the purposes of the determination of the historic activity level (HAL), only calendar years during which the installation has been operating for at least one day shall be taken into account. So for a year where a partial cessation applied the activity level would still be used in the calculation of the HAL, as long as there had been at least one day of operation.

5.5. A product was on the carbon leakage list in Phase III but is not on the list for Phase IV. What sub-installation applies?

GD 2
Section 2.2

You should choose non-CL (non-carbon leakage) in the NIMs template;

5.6. What does 'heat' mean? Is this total heat or useable heat? What does 'consumed' mean?

When we consider heat. We are referring to 'measurable heat', as defined in Article 2(7) of the Free Allocation Regulation:

'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;

To be eligible for an allocation relating to heat you will need to review which sub-installation might apply to your installation and whether you export heat to non-ETS entities or district heating. The information that you are required to measure is the amount of “net measurable heat” which is defined in the Free Allocation Regulation. Where a heat benchmark sub-installation applies and the heat is used for processes within the installation boundary, it is the consumption of heat which is measured and upon which the allocation is based.

Consumption is defined within Article 2(3)(a) and Article 7 of the Free Allocation Regulation as:

“Measurable heat which is consumed within the installation boundaries for the production of products, for the production of mechanical energy other than used for the production of electricity.”

5.7. Heat is used for an office block. How do I calculate the amount of heat? Is it counted it as part of the whole ETS installation? Does it depend on whether it is less than or greater than 5%?

FAR Article
10(3)
GD2 p22

The heat used for an office block located within the installation boundary should be accounted for within the ETS installation if the emission sources are included within the permit and monitoring plan. The attribution of emissions and activity level from these sources will depend on the relevant sub-installations; the de-minimis rule should not be applied in this situation as the emissions and activity level are associated with the activity that is undertaken on the site. It is not likely that the office block could be considered as a separate sub-installation.

See [Guidance Document 2](#) for further guidance about the de-minimis rule.

5.8. How should I report emissions & activity levels of CHP and should I be considered as an electricity generator?

FAR Article 16(8)
GD 5 Section 6.10
GD2 Section 2.1

If you have a CHP on-site you still may be eligible for allocation for the emission associated with production of heat. There is a special tool within the NIMs template to deal with attribution of emissions and activity level related to CHP or co-generation. However, you should consider the guidance provided on whether you are considered as an “electricity generator” in terms of NIMs template Sheet A II 1(a); generally if you produce heat which is not used for electricity production you are eligible for allocation. However, it is important that you answer the question correctly relating to being classed as an “Electricity Generator” since your allocation may be calculated differently.

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

Note that the CHP tool in the NIMs template contains space for calculations for up to two CHP units. However, the CHP tool is a standalone tool in the template so if you have

more than two CHP units then use a separate copy of the NIMs template for the calculations for the further units. If you do calculations for additional CHP units in this way then submit the additional file for files (which contain only calculations in the CHP tool) by providing reference to them in Section J.I.(d) of your NIMs submission. In this way the additional CHP calculations form part of the submission as an external file.

5.9. When does the heat sub-installation apply and when does the fuel sub-installation apply?

[Guidance Document 2](#) states that four approaches are used in order to calculate the allocation of free allowances to the different sub-installations. The approaches have the following strict order of applicability, as required by Article 10(2) of the Free Allocation Regulation (FAR):

- The product benchmark approach;
- The heat benchmark approach;
- The fuel benchmark approach;
- The process emissions approach.

If your installation's activities are not covered by the product benchmark definitions in the FAR then where measurable heat is consumed it should be accounted for under the heat benchmark sub-installation. [Guidance Document 2](#) section 3.2 has more information about this.

The heat benchmark has to be used if the definition of measurable heat from the FAR applies: "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."

It is important to note that the heat consumed by a heat benchmark sub-installation is measured at the heat consuming production lines, and not at the heat producing facilities. So the allocation is based on the quantity of heat consumed and is therefore not directly related to the energy content in the fuel consumed.

5.10. How do I fill in the template if I have more than one product but they all fall under the same NACE code (for example, refinery products, propane, butane & dry gas)?

A product benchmark can encompass several similar products. You must list each product and its corresponding PRODCOM 2010 code in Sheet F(f) so your regulator can check whether all products listed fall within the boundaries of a particular product benchmark. You can use NACE codes only if there is no PRODCOM available.

5.11. Are 2 production lines in the same NACE/PRODCOM categorised as one sub-installation as per Phase III?

Yes - if products are covered by the same NACE/ PRODCOM code, then they would fall under the same sub-installation. For fall-back approaches, you may use the NACE code instead of PRODCOM if several similar products within the same NACE group.

5.12. The NACE code is going to be changing, which one do we use?

The NACE code used in the baseline data collection should refer to the code that was applicable at the time the data was generated; a NACE code change will be dealt with via MMP updates in future as well as the activity level change rules where the carbon leakage status is affected.

5.13. There is no 8 digit PRODCOM code for one of our products which is 100% of our production. Should we report this product using a PRODCOM code or the 4 digit NACE code?

If an 8 digit PRODCOM is not available for the product in question, then you can use the 4 digit NACE code. If your product does not fall within a product benchmark, then you will use one or several of the fall-back approaches.

5.14. If an operator has one site with two separate sub-installations: one with carbon leakage, one without, which NACE/PRODCOM do they use?

The NACE code for inputting into Sheet A.1.4.b should be the NACE classification under which you report value added for structural business statistics (i.e. the principle activity in cases where an operator is involved in more than 1 activity). Later on in the template you will account for different PRODCOM 2010 / NACE codes and input these into sheet F_PRODUCTBM (for product benchmark sub-installations) and / or sheet G_Fall-back (fall-back approach sub-installations) as necessary to confirm carbon leakage status of each sub-installation.

5.15. If the installation boundary changed during Phase III bringing in new sources, for individual year data do you only include sources permitted during that year?

If emissions sources were missed from a permit, either by accident or as a change to an installation boundary then the regulator will have requested that the annual emissions reports for those years and the permit to be amended. Therefore, they should be included for all years where the emissions were reported.

5.16. Do we report data from emission sources that are de-minimis, such as gas oil used in small sources and acetylene?

In Phase III, we didn't report initially but then we were asked to. What do we do for Phase IV?

You are required to report all of your emissions for each year in the baseline that you were operating; however, you do not need to attribute emissions and activity levels to sub-installation which you do not want to be considered for free allocation.

5.17. Do we need to enter data for 100% biomass fuels?

Yes. In the NIMs template, Sheet D, you are required to provide the following biomass emissions (in accordance with page 27 of Guidance Document 3): biomass emissions, either from sustainable biomass, or from biomass for which sustainability criteria do not apply, in tonnes of CO₂ per year (these are biomass emissions as if they were non-zero rated). Where an emission factor of zero has been applied for reporting purposes you will need to derive a suitable preliminary emission factor.

5.18. Who needs to complete section IV of Sheet E on Electricity?

The first question (a) in section IV of Sheet E asks whether the installation produces electricity. If the answer is "false" then the subsequent questions in the section (b to g) are optional. Installations which produce electricity (thereby answering "true" to question (a)) are required to provide information in the NIMs template relating to emissions from electricity production. Section 2.5 of Annex IV of the FAR requires operators to provide the full balance if electricity is produced. However, in order to reduce the administrative burden, if electricity is only produced from emergency power units then we do not require you to report a full electricity balance. Please note that in such cases you must always ensure that the energy input into the emergency power units must be reported as ineligible to free allocation, and the emissions must not be attributed to any of the sub-installations.

5.19. How do I take account of direct steam injection in relation to the heat benchmark?

Where steam is used in a process including use of the latent heat, section 7.2 of Annex VII provides for the following: "Where the operator provides evidence to the satisfaction of the competent authority that condensate remains in the product (e.g. in 'live steam injection' processes), the respective amount of condensate enthalpy is not deducted."

5.20. How do I deal with data gaps?

Sections 4.4 to 4.6 of Annex VII of the FAR set out the order of preference for data sources used for the quantification of materials, fuels, energy flows and material properties. Methods must be chosen in compliance with the stated hierarchy.

When applying the hierarchy of methods to collecting historical data, the information provided as part of the annual emissions reporting in accordance with the MRR is considered as “methods in accordance with the MP” and therefore there should not be a data gap associated with these data sources. Guidance Document 5 has a number of sections on data gaps, especially Section 5.6.2.

5.21. What are the options for handling de-minimis emission sources when completing the template?

Conservatively underestimating a sub-installation’s activity level (including reporting having no such sub-installation at all) is only acceptable if this does not lead to an overestimation of any other sub-installation's attributed emissions (in particular with regard to any product benchmark sub-installation). In other words, an operator may choose for convenience to ignore an emission source which makes a minor contribution to overall emissions (thereby losing the opportunity for any free allocation associated with that emission source) but it is essential that no other emission source is over-stated as a result.

5.22. How do I present data related to the use of waste heat recovery units (WHRUs) when installed within the exhaust stack of (for example) a gas turbine that is generating electricity?

There is no free allocation for the generation of electricity but any heat that is recovered from such a process does attract a free allocation. In such cases, this ought to be treated as a combined heat and power (CHP) unit and the co-generation tool on Sheet D, Section III of the NIMs template used.

5.23. What is suitable as a "permit" under the definition of safety flaring?

If your installation is subject to the Control of Major Accident Hazards (COMAH) Regulations, then your COMAH safety report may be acceptable for the part of the definition relating to it being covered by a permit, as long as it specifically distinguishes non-safety flaring from safety flaring. It is essential to avoid classifying all flaring as safety flaring, which would go against the principles of the FAR. Section 2.2 of Guidance Document 8 provides information on the need for a permit for flaring.

6. Calculation of allowances

6.1. What will the allocation be based on?

This depends on the type(s) of sub-installation, but in general terms will be based on:

- the HAL (Historic Activity Level) during the baseline period of 2014-2018
- the Benchmark value (for that type sub-installation)
- whether the sub-installation is exposed to Carbon Leakage (CL) or not
- other factors as applied by the Commission

Please see [Guidance Document 2](#) for details on the approach.

6.2. How do I calculate the HAL?

See [Guidance Document 2](#), Section 6 for some useful guidance

6.3. How do I know if a sub-installation is exposed to Carbon Leakage?

This is based on the NACE or PRODCOM code for your sector or sub-sector, relating to the sub-installation in question. Note that the first four digits of a PRODCOM code will be the same as the relevant NACE code

You can check your NACE code here:

https://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=LST_NOM_DTL&StrNom=NACE_REV2&StrLanguageCode=EN&StrLayoutCode=&IntPcKey=

PRODCOM codes are available here:

https://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=LST_NOM_DTL&StrNom=PRD_2017&StrLanguageCode=EN&IntPcKey=&StrLayoutCode=HIERARCHIC

The Commission has published a provisional list of (sub-) sectors deemed exposed to Carbon Leakage – available at https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-5046070_en (scroll down to the Commission Adoption section and download Annex C). We do not expect this list to change before it is adopted and formally published.

As an example:

An installation, a dairy, manufactures two products – skimmed milk powder (NACE 1051, PRODCOM 105121) and ice cream (NACE 1052, PRODCOM 105210)

From checking GD9, these aren't covered by a Product Benchmark and the installation does not use 'measurable heat' but can measure the amount of fuel used (combusted) to produce these products – so will apply for allocation under a Fuel sub-installation.

From checking the Carbon Leakage (CL) list, producing Skimmed Milk Powder is exposed to CL but producing ice cream is not.

This means that although the two processes happen at the same site, use some of the same equipment (albeit at different times) and aren't physically distinct, for the purposes of allocation the two activities are split, giving into two sub-installations – Fuel CL and Fuel non-CL.

To calculate the HAL for each of these, they need to look at fuel usage during the baseline period (of 2014 – 2018) and split this accordingly, to show how much fuel (TJ/year) was used in the production of skimmed milk powder and how much to make ice cream.

This is multiplied by the Fuel benchmark value (XX allowances per TJ of fuel used) and a CL factor – the latter being different depending on whether CL or non-CL.

This should result in a preliminary allocation of allowances to the Fuel CL sub-installation and a preliminary allocation to the Fuel non-CL sub-installation, which when added together give the total preliminary allocation of free allowances to the installation (i.e. the dairy)

7. Verification and improvements under the Free Allocation Regulation

7.1. My verifier has listed recommendations for improvements. What do I do?

Part of your verifier's role is to identify areas for improvement, where needed. These will be listed in their verification report and will usually relate to:

- your risk assessment
- procedures relating to data flow and control activities, including your evaluation of your control activities
- monitoring and reporting of your data

The Free Allocation Regulation requires operators to take account of their verifier's recommendations for improvement. The verifier will check during the following year's verification if the improvement has been implemented. If it hasn't been implemented, or not implemented satisfactorily, then the verifier will assess the material impact on the data.

FAR Article 9 GD4 section 6.1 GD5 section 3 & 5.4

7.2. Do I have to complete an improvement report?

No. Article 9 of the Free Allocation Regulation (FAR) requires you to regularly review your monitoring methodology plan and to ensure that it reflects the current operation of the installation. You are required to have a procedure which sets out how you will do this but as a guide, it should be reviewed annually, in the same way as your annual emissions monitoring plan.

Unlike in annual emissions monitoring, you do not need to submit an improvement report for free allocation monitoring and reporting. But if you don't notify your regulator of changes in the timescales described in the FAR, you will not be compliant with the FAR. This will be noted in future verification reports.

Section 5.4 of [Guidance Document 5](#) suggests that a change log is a good way of capturing improvements that you have made.

7.3. My verifier has listed non-compliances. What do I do?

If your verifier has stated that your monitoring methodology plan is not in compliance with requirements of the Free Allocation Regulation, for example you have not described how you will monitor your activity levels going forward (the forwarding looking part see

questions 3.3 and 3.5); you will be required to submit an updated monitoring methodology plan to your regulator, in accordance with Article 9 of the Free Allocation Regulation.

If your updated monitoring methodology plan still does not comply with the highest achievable accuracy, then you will need to attach evidence, such as an unreasonable cost justification, an explanation of technical infeasibility or simplified uncertainty assessments, as relevant, with your submission.

7.4. What if I don't agree with my verifier's recommendations for improvement?

GD4 section
6.4.1

Contact your regulator for advice and be prepared to provide evidence for example, on the grounds of technical feasibility or unreasonable costs, to your regulator.

Glossary of terms

Term	Definition
Benchmark (BM)	The value assigned to the product, fuel, heat and process sub-installations to allow a comparison of GHG efficiencies. Calculated as allowances/unit of activity
Carbon Leakage Exposed (CL) Non-Carbon Leakage Exposed (Non-CL)	The presence of a product PRODCOM or installation NACE code on the carbon leakage list will inform whether the sub-installation can claim to be CL or non-CL.
Free Allocation Regulation: FAR	<u>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</u>
Historic Activity Level: HAL	The arithmetic mean of activity level of the sub-installation in the baseline period (Article 15 of the Free Allocation Regulation)
Monitoring Methodology Plan: MMP	A plan showing the description of the installation, sub-installations, production processes and detailed description of monitoring methodologies and data sources used to inform the baseline data collection, benchmark update and monitoring of this information going forward. (Article 8 of the Free Allocation Rules)
National Implementation Measures NIMs	The list of installations in each member state that will be included in the EU ETS in phase IV including those who are eligible for allocation (and the allocation to be granted), electricity generators, Article 27&27a installations

8. List of Commission Guidance Documents and templates for Phase IV

Document	Web address
Guidance document 1 General guidance	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_gd1_general_guidance_en.pdf
Guidance document 2 Allocation methodologies	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_gd2_allocation_methodologies_en.pdf
Guidance document 3 Data Collection	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_gd3_data_collection_en.pdf
Guidance document 4 verification	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_gd4_verification_far_baseline_en.pdf
Guidance document 5 Monitoring and reporting	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_gd5_mr_guidance_en.pdf
Guidance document 6 Heat flows	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_gd6_cross-boundary_heat_flows_en.pdf
Guidance document 7 New Entrants & Closures	Not available yet
Guidance document 8 Process emissions & waste gas	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_gd8_waste_gases_process_emissions_en.pdf
Guidance document 9 Product benchmarks	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_gd9_sector_specific_guidance_en.pdf
Guidance document 10 Mergers & Splits	Not available yet
NIMS baseline report template (UK version)	https://www.sepa.org.uk/regulations/climate-change/eu-emissions-trading-system/
Monitoring methodology plan template	https://ec.europa.eu/clima/sites/clima/files/ets/allowances/docs/p4_monitoring_methodology_plan_template_en.xlsx

Verification opinion template (UK version)	https://www.sepa.org.uk/regulations/climate-change/eu-emissions-trading-system/
Guidance to identify electricity generators revised v2 (2010)	https://ec.europa.eu/clima/sites/clima/files/ets/docs/guidance_electricity_generators_en.pdf