

Phase III Baseline Data Collection Frequently Asked Questions

The following questions have been submitted to the EPA over the last few weeks and we are reproducing them here so that all operators and verifiers may have a better understanding of our interpretation of the CIMs. Our answers are based on the guidance documents published by the Commission and on the responses received from their helpdesk in some cases.

1. Where can I find links to the Commission Guidance documents?

The Commission guidance may be found using the following link to their website:

http://ec.europa.eu/clima/documentation/ets/benchmarking_en.htm

2. What is the requirement for a site visit for the Phase 3 baseline verifications?

Site visits will be necessary in all cases to verify the quality of the data and to ensure that only data with the highest achievable accuracy has been used and the most reliable methods have been chosen to determine activity level and capacity, where required, to avoid overestimations/over allocations. The only situation where the EPA may allow the verifier to waive the site visit is in relation to off-shore installations, if, based on the risk analysis performed, the verifier deems a site visit is not required.

3. How should I compare my 2005-2008 data to 2009-2010?

The median of the annual data for years 2005-2008 and the median for 2009-2010 should be compared when assessing whether to use 2005-08 or 2009-10 remembering that the same baseline period must be chosen for all sub-installations.

4. If my installation has less than two year's data because it commenced after the 1st January 2009, what should I do?

In cases of less than two year's data, an operator will have to calculate the historical activity level. The historical activity level of an installation is the initial installed capacity multiplied by the relevant capacity utilisation factor.

5. We increased our manufacturing plant capacity by 30% in 2009/2010 in terms of product output. We do not have a product benchmark. The heat and fuel benchmark sub-installations are relevant to our site. Capacity has not increased at either of these sub-installations. Are we entitled to claim a significant capacity extension for the increase in manufacturing plant capacity?

You do not meet the criteria for a significant capacity extension as you have not expanded capacity in relation to the heat benchmark sub-installation or fuel benchmark sub-installation.

In accordance with Article 3(j) of the CIMs "significant capacity extension means a significant increase in a sub-installations initial installed capacity whereby all of the following occur:

One or more identifiable physical changes relating to its technical configuration and functioning other than the mere replacement of a production line takes place and the sub-installation can be operated at a capacity that is at least 10% higher compared to the initial installed capacity of the sub-installation before the change or the sub-installation to which the physical changes relate has a significantly higher activity level resulting in an additional allocation of emission allowances of more

than 50,000 allowances per year representing at least 5% of the preliminary annual number of emission allowances allocated free of charge for this sub-installation before the change.

6. If minor diesel fuel use is classified as a *de minimis* source and cannot be accurately separated from fuel used for electricity generation, can small quantities of diesel be excluded from the baseline data report?

If the Operator chooses to exclude *de-minimis* amounts of gas oil used in fire pumps etc. because the quantities cannot be separated from gas oil used in electricity generation (diesel generators) there should not be a problem unless it affects the overall materiality level.

7. Under what conditions does sheet B from section II onwards, of the baseline data report, need to be completed?

Sheet B from section II onwards needs to be completed only if the installation boundaries will change from 2013 or where no verified AIER data has been submitted to the EPA previously for all the relevant baseline years for each source stream.

8. Can I use the fuel benchmark if I consume measurable heat but am unable to measure it?

No, you must use the heat benchmark where you meet the conditions relating to this allocation methodology. Please refer to Table 1 Guidance Document No. 2 *Guidance on Allocation Methodologies* (p. 7-8) which sets out the conditions relating to the four allocation methodologies. In addition please refer to Annex II “Determination of net measurable heat production/consumption” in Guidance Document No. 3 *Data Collection Guidance* for a description of some methods to determine amounts of net measurable heat.

9. In the absence of suitable data from the suppliers of our boiler system, is it acceptable to use the calculated efficiency from a previous energy audit measured by an outside consultant in order to calculate heat flow from gas usage as provided by our gas utility?

Annex II in Guidance Document 3 - *Data Collection Guidance* sets out the methodology for the determination of net measurable heat production/consumption. In accordance with this methodology “in assessing the appropriate method, the guiding principle should always be that the highest achievable accuracy is pursued and over estimation of heat production/consumption is avoided.” You must determine which method is in compliance with the principle of highest achievable accuracy and which method can be considered reliable and therefore avoids any overestimation/over-allocation. Unless you can meet all the criteria of Method 3 *Calculating a proxy based on measured efficiency* in line with the above principle and satisfy your Verifier of these facts you will need to apply Method 4 *Calculating a proxy based on the reference efficiency*. Whichever method you choose you will need to include justification in your Methodology Report. In applying Method 4 you must justify to your Verifier and in the Methodology Report that the reference efficiency of 0.7 is appropriate to the specific heat generating units at your installation and does not lead to an over estimation of heat production/consumption.

10. Should I include condensate return in the heat data that I provide?

All data on heat flows should be net heat flows.

11. For heat and fuel benchmark sub-installations is fuel and measurable heat usage by abatement equipment eligible for free allocation?

Fuel and heat consumption of abatement equipment for off-gas treatment in general is not eligible for free allocation.

12. How is the flaring of biogas from an anaerobic digester treated? Is it considered to be safety flaring?

Flaring is only regarded as safety flaring if:

1. The flaring is required by relevant permit for safety reasons and
2. The combustion takes place in a unit open to atmospheric disturbances (the combustion in other units is not covered) and
3. The amounts of process or residual gases are highly fluctuating.

If the flaring is not required by the permit and if the amounts of residual gases are not highly fluctuating on a day to day basis, then the flaring is not considered to be safety flaring. Please refer to Chapter 2 of Guidance Document No. 8 *Waste gases and process emissions sub-installations* for a definition of flaring and safety flaring.

13. Is it necessary to complete the fall back approaches section of the baseline data report if there is just one heat benchmark sub installation and no other sub installations for any other benchmarks?

It is necessary to complete the relevant sections of sheet G Fallback.

14. If an operator chooses a specific baseline period (i.e. 2005-2008) for the installation, can he include in the historical activity level calculation significant capacity extensions that occurred in other years, like 2009 and 2010?

Yes, it is possible for an installation to choose 2005-2008 for HAL calculation and include an adjustment for a significant capacity extension which occurs in the 2009-10. The phrase *“The same baseline period must be chosen for the entire installation including all sub-installations”* is intended to prevent installations with more than one sub-installation from choosing different baseline periods for the sub-installations; it is not applicable for the calculation of allocation following a significant capacity extension.

15. If there is a significant capacity change can the operator choose to ignore this if it is too difficult to separate data for existing capacity and changed capacity and just report total activity data for each year as if there were no significant capacity change?

For incumbent installations for which an allocation must be calculated, it is obligatory to report changes in capacity in the template and to verify if they are significant or not.

16. How do you determine initial capacity for installations that commenced in 2009 or later? Is it always an experimental verification of capacity?

Please refer to the Table below.

	Based on avg. of two highest monthly activity levels in...	Exp. verification
Initial capacity of product benchmark sub-installations to	1 Jan. 2005 – 31 Dec. 2008	Never

determine SCUF		
Initial capacity of sub-installations of an installation that operated <2 years in the baseline period	Start of operation – 30 June 2011 In case no 2 months are available, but start of normal operation is before 30 June 2011 then period can be extended to 30 Sept. 2011	If start of changed operation is after 30 June 2011
Initial capacity of sub-installation to assess whether a capacity change is significant	1 Jan. 2005 (or last capacity change) – physical change leading to the change in capacity	Never
Initial capacity of sub-installation to determine added capacity	1 Jan. 2005 (or last capacity change) – start of changed operation	Never
Capacity of sub-installation after a significant capacity change	Six months after start of changed operation In case no 2 months are available, but start of changed operation is before 30 June 2011 then period can be extended to 30 Sept. 2011	Never

17. Is NACE Code 2020 under NAP 3 deemed to be exposed to a significant risk of carbon leakage?

NACE Code 2020 is included on the list of sectors and subsectors which, pursuant to Article 10a(13) of Directive 2003/87/EC are deemed to be exposed to a significant risk of carbon leakage, as per **COMMISSION DECISION of 24 December 2009 determining, pursuant to Directive 2003/87/EC of the European Parliament and of the Council, a list of sectors and subsectors which are deemed to be exposed to a significant risk of carbon leakage (notified under document C(2009) 10251) (Text with EEA relevance) (2010/2/EU)**

This list applies for the years 2013-2014 as per the Commission Decision.

18. Where can I get information on my NACE Code? Can EPA give me my correct NACE Code?

NACE Codes are the remit of the Central Statistics Office (CSO).
Please see the following link from the Central Statistics Office

(<http://www.cso.ie/px/u/NACECoder/NACEItems/searchnace.asp>)

where users have the ability to search for a particular NACE code. Please note that this facility applies only to NACE Rev 2 codes however concordance files are available at Eurostat's classification server, URL as follows

http://ec.europa.eu/eurostat/ramon/reactions/index.cfm?TargetUrl=LST_LINK&StrNomRelCode=NACE%20REV.%2020-%20NACE%20REV.%201.1&StrLanguageCode=EN

or contact the CSO at:

Industry and Construction Statistics
SBS RAP
Central Statistics Office
Skehard Road
Cork

Tel: 00 - 353 - (0)21 - 4535000
Lo-Call: 1890 313414
Lo-Call: 0870 8760256 (UK/NI)
Internet: www.cso.ie

19. What should we do if we cannot attribute the different products we manufacture to the relevant heat benchmark sub-installations CL or non CL exposed or to the relevant fuel benchmark sub-installations CL or non-CL exposed as they are produced on the same production processes and they are not separately monitored to enable us to break down on product by product basis?

Article 7.6. of the CIM's deals with this issue. It states that:

Inputs, outputs and corresponding emissions for which only data for the installation as a whole is available, shall be proportionally attributed to the relevant sub-installations, as follows:

- 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;
- where this is not possible they 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.

In addition further guidance is given in Annex I of Guidance Document 3 *Data Collection Guidance*. In addition to other requirements this guidance states that data used should be the ones of highest achievable accuracy. Where data has to be attributed to sub-installations, the installations total figures may need to be split. In this circumstance it is preferable to subtract data for the sub-installation with the best available data from the total installation, instead of applying estimation methods of lower quality to each sub-installation. For minor installations the estimations will often be sufficient. If there is no sufficient historical data for the calculation of the HAL available, data gaps should be filled through conservative estimations, meaning estimations that would not lead to overestimate the allocation.

20. If my company is potentially closing the site before the start of Phase III, do I still need to provide the historic data?

You will need to be absolutely certain that the site will close before the start of Phase III if you do not intend to submit the required data. If the company wishes to sell the site for the continuation of production or if the decision on closure is not yet finalised, it may be in the interests of the company to submit the required data. If this data is not submitted, the installation may not receive a free allocation of allowances for Phase III. If you consider that you will not be operating at the commencement of Phase III, please contact the EPA as soon as possible to provide evidence that this is the case.

21. If my installation meets the criteria under Article 27 of the ETS Directive, which allows it to opt out of Phase III, do I still need to submit the baseline data?

While the form gives operators the opportunity to inform us that they meet the criteria for a small emitter in section AI 4.(d) and in sheet I of the form, baseline data is still required as the NIMS notified by all MS to the Commission must contain the preliminary allocation which would be due to any incumbent installation even if eligible for an opt-out under Article 27. Please note that no decision has been made by Government to allow opt-outs of the scheme at this time, it is an optional provision of the Directive.

22. When assessing if I meet the 35 MW thermal input criteria for being considered as a small emitter, can I exclude plant <3 MW in the calculation?

No; the exclusion of a plant with a rating of <3 MW is only applicable when assessing whether you carry out an Annex I activity. All combustion plants must be included when calculating if you are below the 35 MW threshold criteria for being considered as a small emitter.

23. How do I know if historic data for my installation is free from material errors or misstatements?

Any errors and/or misstatements found in the data are measured in terms of materiality, which is an expression of the relative significance of any individual matter in the context of an installation's historical baseline data. A specified materiality level influences the thoroughness with which the verifier reviews the baseline data and checks supporting records for errors and misstatements. Section 3.6.2 Materiality, in Guidance Document No. 4 -*Verification of NIMs Baseline Data Reports and Methodology Reports* gives detailed guidance on materiality.

24. If a new installation that does not yet have a greenhouse gas permit is being constructed at the moment and will be commencing operations after the baseline period but before the commencement of Phase III, does the form need to be completed?

You do not need to complete the form. However, you will need to apply for a permit prior to commencement of the activity and if you wish to receive free allowances, you will need to apply to the Phase III NER. The Commission is currently finalising a guidance document on how the NER will be operated in Phase III.

25. What procedures should operators and verifiers follow to deal with missing data, for any period of time, and how do we handle this in terms of assessing materiality?

Please refer to Annex I Data Sources, of Guidance Document No. 3 - *Data Collection Guidance* for detailed information on this. In terms of assessing the materiality, an assessment needs to be made on the contribution made to the preliminary annual number of emission allowances allocated to the installation free of charge pursuant to Article 10(2) and (3) of the CIMs. Note that in some cases, estimation of missing data may have no effect on materiality.