EUROPEAN COMMISSION
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Directorate B - European and International Carbon Markets

Guidance Document n°11

on the harmonised free allocation methodology for the EU ETS – 2024 revision

Guidance on Climate-neutrality plans as a condition to free allocation

Final version issued on 26 February 2024

The guidance does not represent an official position of the Commission and is not legally binding. However, this guidance aims to clarify the requirements established in the EU ETS Directive, the FAR and the CNP Regulation and is essential to understanding those legally binding rules.

CONTENTS

1 Introduction

1.1 Scope of this guidance document

This guidance document is part of a group of documents, which are intended to support the Member States[1], and their Competent Authorities, in the consistent implementation throughout the Union of the allocation methodology for the second allocation period of Phase 4 of the EU ETS, following the revision of the EU ETS Directive[2] and Commission Delegated Regulation 2019/331 on "Transitional Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a of the EU ETS Directive" (FAR)[3], and the subsequent implementing acts. Guidance Document 1 on General Guidance to the Allocation Methodology provides an overview of the legislative background to the group of guidance documents. It also explains how the different Guidance Documents relate to each other and provides a glossary of the terminology used throughout the guidance.

The current Guidance Document elaborates the general harmonised free allocation methodology under Article 10a described in Guidance Document 1 with respect to the submission of climate-neutrality plans (CNPs) by EU ETS operators to meet conditionality requirements related to the application for free allowances, and the criteria such CNPs must meet.

Note on outstanding issues in this version of the Guidance Document

As decision-making on the allocation methodology is not yet finalised, certain elements of this Guidance Document are as yet undefined. This especially includes issues related to the revision of the FAR, the Regulation on Activity Level Changes (ALCR) and the revisions to the Accreditation and Verification Regulation. In addition, it can also apply to references to the outstanding legislation itself or to accompanying Guidance Documents that are still to be prepared or finalised.

1.2 Structure of this guidance document

Section 2 elaborates the cases where a part of the free allocation in the second allocation period of Phase 4 is conditional on having in place a compliant climate-neutrality plan, discussing the cases of product-benchmark installations above the 80th percentile[4] and District Heating installations

[1] When the term 'Member States' is used in this Guidance Document, this includes the EFTA countries covered by the EU ETS as applicable.

[2] Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system (Text with EEA relevance), PE/9/2023/REV/1, OJ L 130, 16.5.2023, p. 134–202, see: http://data.europa.eu/eli/dir/2023/959/oj

[3] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0331

[4] More fully: 'installations with product-benchmark (p-BM) sub-installation with specific emissions higher than the 80th percentile of their benchmark curve".

respectively. Section 3 focuses on the mandatory elements of the CNP, explaining the definitions and concepts used regarding the minimum content of the CNP as stipulated in the CNP Regulation.

In order to further guide the reader through the contents of this Guidance Document, the following lay-out conventions have been used:

- Relevant legislative articles have been included in italics in text boxes;
- ⇒ is used to refer to other sections where specific elements quoted in the article included in the text box are elaborated;
- Where observations are made that may be of particular importance to the reader, the following icon is included in the margin:
- A list of abbreviations is included in Annex A of this Guidance Document;
- An overview of relevant legislation, with their formal regulation number and a 'shorthand title' as used in this Guidance Document, is included in Annex B.

Here it should be noted that (for sub-articles and paragraphs) the headings of the text boxes do not necessarily refer to any formal article titles. Where these do not exist, a heading is used to reflect the focus of the legal text included in the text box.

1.3 Where to find Guidance Documents

All the Commission's guidance documents, FAQs and templates in relation to the free allocation rules can be found under:

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

In addition, the Commission has provided an extensive suite of guidance material in relation to MRVA (Monitoring, Reporting, Verification and Accreditation) under the EU ETS[5]. The user of the current document is assumed to be familiar with at least the basic principles of MRVA.

[5] https://ec.europa.eu/clima/policies/ets/monitoring_en#tab-0-1 – see in particular the section "Quick guides".

2 Conditionality of free allocation in relation to CNPs

This section explains the rules laid out in the legislative framework for climate-neutrality plans in the context of the EU ETS. This framework is first described in Section 2.1. The EU ETS Directive and its implementing legislation contain various provisions that apply to CNPs for product-benchmark installations and for District Heating. These cross-cutting provisions are explained in Section 2.2, focusing on common definitions and the administrative process for developing and implementing CNPs. Specific provisions for product-benchmark installations and District Heating are described in Section 2.3 and 2.4, respectively. The minimum content of the CNP is elaborated in Section 3.

2.1 Legislative framework for climate-neutrality plans

The 2023 **EU ETS Directive** includes various provisions to bring the EU ETS into line with the ambition level of the Fit-for-55 policy package. In addition to decreasing the total amount of allowances available under a more quickly tightening cap, several provisions aim to reduce the amount of free allocation issued under Art.10a of the Directive. The updated Art.10a(1) introduces a number of cases of conditional free allocation in sub-paragraph 5, i.e., situations in which certain conditions need to be met before the full final amount of free allowances is issued.

Three separate cases of such conditionality are defined in the Directive:

1. The free allocation to eligible installations will be reduced by 20% if operators have not implemented certain energy efficiency recommendations from energy audits or energy management systems as required under the EU Energy Efficiency Directive (EED)[6].
2. The free allocation to eligible installations that have product-benchmarks (p-BMs)[7] will be reduced by 20% if a sub-installation's specific emissions are higher than the 80th percentile of their benchmark curve, unless they have a compliant climate-neutrality plan (CNP) in place.
3. District Heating (DH) operators in Member States with relatively high DH emissions[8] can obtain an additional 30% of free allowances on the condition that they have a compliant CNP in place

[6]The 2023 EU ETS Directive refers to Art.8 of the 2012 EED, which defines installations that are required to have a certified energy management system in place and/or perform energy audits in terms of the installations' annual energy use. This is not to be confused with the updated EED (2023), where this provision is in Art.11. See: 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. 1–56, ELI: http://data.europa.eu/eli/dir/2012/27/oj

[7] This will be referred to as 'p-BM installations' for short in the remainder of this Guidance Document. Note that the CNP applies to the whole installation unless the p-BM contributes less than 20% to the installation's total free allocation. This means that the CNP must include all sub-installations present in the installation, i.e. not only to p-BM sub-installations, but also the so-called 'fallback' sub-installations (heat-BM, Fuel-BM and process emissions BM sub-installations). See Section 2.3 for more details.

[8] Defined in terms of the share of the MS' DH emissions and GDP in EU total DH emissions and GDP, see Section 2.4 for more details.

and they make sufficient investments in the implementation of the included emission reduction measures before 2030.

Art.10a(1) also mandates the European Commission to adopt delegated acts to further elaborate the requirements for the information that operators need to submit to show whether the conditions specified have been met, as well as the procedures for assessing compliance. This is partly done in Article22b of the revised **FAR**[9]. For more information on the conditionality of free allocation in the case of an insufficient implementation of energy efficiency measures (conditionality #1 above), we refer to *Guidance Document 12 on Guidance on conditionality of free allocation on implementation of energy efficiency improvement measures.*[10]

For the other two cases (conditionalities #2-3 above), the FAR contains some further provisions related to the CNP. They elaborate the impact of failing to meet the specified conditions on an installation's free allocation. This includes the impact in case both condition #1 *and* condition #2 are not met (for more information, see Section 2.2), as well as the relationship between the installation-level allocation and sub-installation(s)' performance (for more information, see Section 2.3). The FAR also specifies the timeline for the compliance check of the CNPs, the role of Competent Authorities (CAs) and verifiers, and the updating and publication of the CNPs (see Section 2.2).

In addition, a separate **implementing regulation on CNPs** has been adopted[11], which prescribes the minimum content and format of the plans and defines the main terminology used in the CNP. The CNP Regulation takes into account the need for consistency with existing EU legislation and builds on existing definitions and concepts, including the European Climate Law[12], the Recovery & Resilience Facility and the Social Climate Fund[13], and the Corporate Sustainability Reporting Directive

[9] Commission Delegated Regulation (EU) .../... of 30.1.2024 amending Delegated Regulation (EU) 2019/331 as regards transitional Union-wide rules for harmonised free allocation of emission allowances,

https://ec.europa.eu/transparency/documents-register/detail?ref=C(2024)441&lang=en

[10] Link to URL once updated GDs are online.

[11] Commission Implementing Regulation (EU) 2023/2441 of 31 October 2023 laying down rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards the content and format of climate-neutrality plans needed for granting free allocation of emission allowances, see:

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32023R2441.

[12] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1), http://data.europa.eu/eli/reg/2021/1119/oj.

[13] Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17), http://data.europa.eu/eli/reg/2021/241/oj; Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060 (OJ L 130, 16.5.2023, p. 1),

http://data.europa.eu/eli/reg/2023/955/oj.

(CSRD)[14], as well as the Monitoring & Reporting Regulation (MRR)[15] and the FAR, as shown in Figure 1.

[14] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, OJ L 322, 16.12.2022, p. 15–80,

ELI: http://data.europa.eu/eli/dir/2022/2464/oj

[15] Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012 (OJ L 334, 31.12.2018, p. 1), http://data.europa.eu/eli/reg_impl/2018/2066/oj .

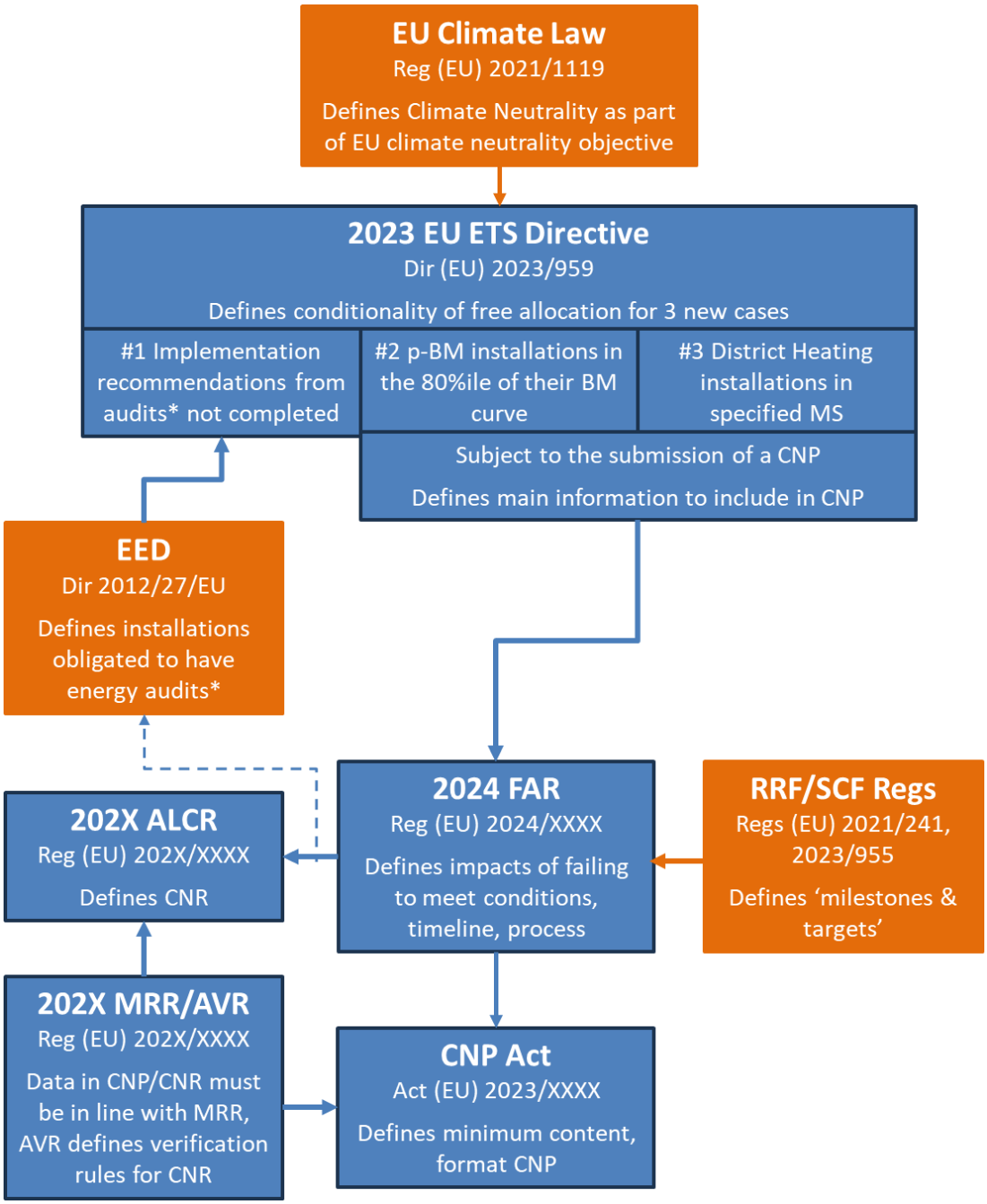
EU Climate Law
Reg (EU) 2021/1119
Defines Climate Neutrality as part of EU climate neutrality objective
2023 EU ETS Directive
Dir (EU) 2023/959
Defines conditionality of free allocation for 3 new cases
#1 Implementation recommendations from audits* not completed
#2 p-BM installations in the 80%ile of their BM curve
#3 District Heating installations in specified MS
Subject to the submission of a CNP
Defines main information to include in CNP
EED
Dir 2012/27/EU
Defines installations obligated to have energy audits*
2024 FAR
Reg (EU) 2024/XXXX
Defines impacts of failing to meet conditions, timeline, process
RRF/SCF Regs
Regs (EU) 2021/241, 2023/955
Defines 'milestones & targets'
202X ALCR
Reg (EU) 202X/XXXX
Defines CNR
202X MRR/AVR
Reg (EU) 202X/XXXX
Data in CNP/CNR must be in line with MRR, AVR defines verification rules for CNR
CNP Act
Act (EU) 2023/XXXX
Defines minimum content, format CNP

Figure 1 Relationship between different parts of the legislation affecting the CNP conditionality of free allocation[16], with the EU ETS Directive and its delegated and implementing acts shown in blue[17], and other legislation in orange[18].

2.2 General considerations for CNPs

2.2.1 CNP concepts and definitions

Climate neutrality

The definition of climate neutrality used in the EU ETS Directive and its implementing legislation, is based on the description of the EU's climate-neutrality objective for 2050, as established in Art.2 of the European Climate Law (see *Text Box 1*).

Text Box 1 European Climate Law Art.2.1: Climate-neutrality definition

Union-wide greenhouse gas emissions and removals regulated in Union law shall be balanced within the Union at the latest by 2050, thus reducing emissions to net zero by that date, and the Union shall aim to achieve negative emissions thereafter.

This means that:

- The scope of climate-neutrality plans goes beyond CO_2 emissions alone, also covering other greenhouse gases (GHG) (expressed in CO_2-equivalents).
- Climate neutrality refers to net emissions, i.e., including both GHG emissions and removals by sinks.
- The timeline for achieving such net-zero emissions is up to and including 2050.

[16] The Energy Efficiency conditionality is also further elaborated in other legislation (such as the FAR and the ALCR). These connections are not shown here for reasons of clarity of the graph. Please see GD12 on Energy efficiency conditionality for further information.

[17] AVR = Accreditation and Verification Regulation, Implementing Regulation (EU) 2018/2067 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC,

http://data.europa.eu/eli/reg_impl/2018/2067/oj

[18] * = or certified energy management systems.

In relation to the CNPs in the context of the EU ETS Directive, this definition is limited to the gases and the sources and sinks that are covered by the system.[19] This currently means including CO_2, as well as N_2O from the production of nitric acid, adipic acid and glyoxal and glyoxylic acid and PFCs from primary aluminium production as sources and certain technology-based removals as sinks. Removals by biological sinks (forestry) are excluded from the EU ETS, and therefore also from the CNPs. It is furthermore determined that operators' climate-neutrality objectives cannot be met through the use of carbon offset credits[20]. The use of any abatement or removal technologies to reach climate neutrality should be in line with relevant (national and Community) legislation.

Climate-neutrality plans

The conditionality of free allowances as part of the revised EU ETS Directive is first established in relation to the implementation of energy efficiency measures (conditionality #1 in Section 2.1), in Article 10a(1), sub-paragraph 3. Climate-neutrality plans are subsequently introduced in the fifth sub-paragraph, which focuses on product-BM (sub-)installations (see *Text Box 2*). For DH installations, the conditionality of free allocation is introduced later, in Art. 10b(4) of the Directive (see *Text Box 3*).

Here it should be noted that there is no legal obligation for operators to submit a CNP. Only in the case where operators want to receive the free allowances that are subject to the condition that they have a compliant CNP in place, are they required to submit such a plan to establish their eligibility.

Text Box 2 2023 EU ETS Directive Art.10a(1), fifth subparagraph: Free allocation conditional to climate-neutrality plan (for p-BM installations above the 80th percentile)

In addition to the requirements set out in the third subparagraph of this paragraph[21], the reduction by 20 % referred to in that subparagraph shall be applied where, by 1 May 2024, operators of installations whose greenhouse gas emission levels are higher than the 80th percentile of emission levels for the relevant product benchmarks have not established a climate-neutrality plan for each of those installations for its activities covered by this Directive. That plan shall contain the elements specified in Article 10b(4) and be established in accordance with the implementing acts provided for in that Article. Article 10b(4) shall be read as only referring to the installation level.

⇒ Note that how the 20% reduction is applied to the affected installations is further discussed in Section 2.3 below, while the process and timeline for the submission of CNPs is described in Section 2.2.2.

[19] As per point 5 of the Annex to the CNP Regulation, which refers to the definitions in accordance with rules and system boundaries set out in Implementing Regulation (EU) 2018/2066 (the MRR) and in Delegated Regulation (EU) 2019/331 (the FAR).

[20] As specified in *Text Box 3*.

[21] Referring to the conditionality related to the energy efficiency measures identified in mandated energy audits.

CNP measures, milestones & targets

For the content of the CNP, the fifth subparagraph mentioned above refers to Art.10b on 'Transitional measures to support certain energy intensive industries in the event of carbon leakage', where the requirement to submit a CNP is established for district heating operators to be eligible for additional free allocation (see *Text Box 3*). Consequentially, all CNPs must contain the information on measures and investments, intermediate targets and milestones, and estimated impacts of measures and investments mentioned in the text box below, including the CNPs of p-BM installations.

Text Box 3 2023 EU ETS Directive Art.10b(4): Information required in the CNP

By 1 May 2024, operators of district heating shall establish a climate-neutrality plan for the installations for which they apply for additional free allocation in accordance with the second subparagraph of this paragraph. That plan shall be consistent with the climate-neutrality objective set out in Article 2(1) of Regulation (EU) 2021/1119 and shall set out:

(a) measures and investments to reach climate neutrality by 2050 at installation or company level, excluding the use of carbon offset credits;

(b) intermediate targets and milestones to measure, by 31 December 2025 and by 31 December of each fifth year thereafter, progress made towards reaching climate neutrality as set out in point (a) of this subparagraph;

(c) an estimate of the impact of each of the measures and investments referred to in point (a) of this subparagraph as regards the reduction of greenhouse gas emissions. ⇒ Note that the definition of targets and milestones is further discussed in Section 3.2.4.[22]

Here it should be noted that the reference to 'company level' in point (a) in *Text Box 3* only applies to district heating, not to p-benchmark (sub-)installations, as clarified in the CNP Regulation and the revised FAR (see Section 2.3). The CNP Regulation further specifies that in point (b) above, 'milestones' refer to qualitative achievements, while 'targets' refer to quantitative emissions reduction achievements (Recital 5). Some examples of such milestones and targets are provided below.

Examples of milestones include:

- Financial investment decision made;
- Construction permits obtained;
- Start of construction or installation of equipment;
- Start of operation.

[22] Note that (for the short-term) targets do not necessarily have to be emission reduction targets (e.g., for 2025), as further explained in Section 3.2.4.

Examples of targets:

- Relative emission reduction (%) in year X compared to historic emissions;
- Absolute emission reduction in year X compared to historic emissions;
- Relative reduction in specific emissions in year X compared to baseline specific emissions;
- Relative reduction below the relevant BM level.

Text Box 4 CNP Regulation Art.2: Content of climate-neutrality plans

(2) 'milestones' means qualitative indicators of progress towards the achievement of a measure or investment to reach climate-neutrality objective by 2050 as described in Article 2 of Regulation (EU) 2021/1119 at installation level or optionally at company level for operators of district heating, pursuant to Article 10a(1), fifth subparagraph and Article 10b(4), third subparagraph of Directive 2003/87/EC, excluding the use of carbon offset credits;

(3) 'targets' means quantitative indicators of progress towards the achievement of a measure or investment to reach climate neutrality by 2050 as described in Article 2 of Regulation (EU) 2021/1119 at installation level or optionally at company level for operators of district heating, pursuant to Article 10a(1), fifth subparagraph and Article 10b(4), third subparagraph of Directive 2003/87/EC, excluding the use of carbon offset credits;

(4) 'intermediate targets and milestones' means targets and milestones set for 31 December 2025 and for 31 December of each fifth year thereafter.

⇒ Note that the definition of measures and investments is further discussed in Section 3.2.5.

Non-cumulative nature of double-conditionality penalties

It should be noted that for p-BM installations that fall above the 80th percentile of their BM curve (conditionality #2 in Section 2.1 above), the conditionality related to the implementation of energy efficiency measures (conditionality #1 in Section 2.1) might also apply. This is referred to in the revised FAR as 'double-conditionality'. In this case, the 20% reduction in free allocation is applied only once. This means that:

- If both conditionality 1 and conditionality 2 are met, operators are eligible for the full amount of free allowances;
- If either condition 1 or condition 2 is not met, the 20% reduction applies;
- If both condition 1 and 2 are not met, the total amount of free allowances is also cut by 20%.

In the revised FAR, conditionality #1 is covered in Art.22a, and conditionality #2 in Art.22b, with double-conditionality addressed in Art.22c (see *Text Box 5*).

Text Box 5 FAR Art.22: Conditionality and double-conditionality

Recital 24

In order to safeguard the incentives of the double-conditionality and to avoid unreasonable consequences, the conditionality of free allocation on implementation of energy efficiency improvement measure and the conditionality of free allocation on climate-neutrality plans should not be cumulative. This means that the reduction by 20% in free allocation should apply if one or both conditionalities are not met under Article 10a(1), third and fifth subparagraphs of Directive 2003/87/EC.

Article 22c Non-cumulative nature of the 20% reduction in Articles 22a and 22b

The 20% reduction referred to in Article 22a and Article 22b, shall be applied to an installation only once in the relevant allocation period.

Figure 2 below shows how the different provisions on CNP conditionality relate to each other.

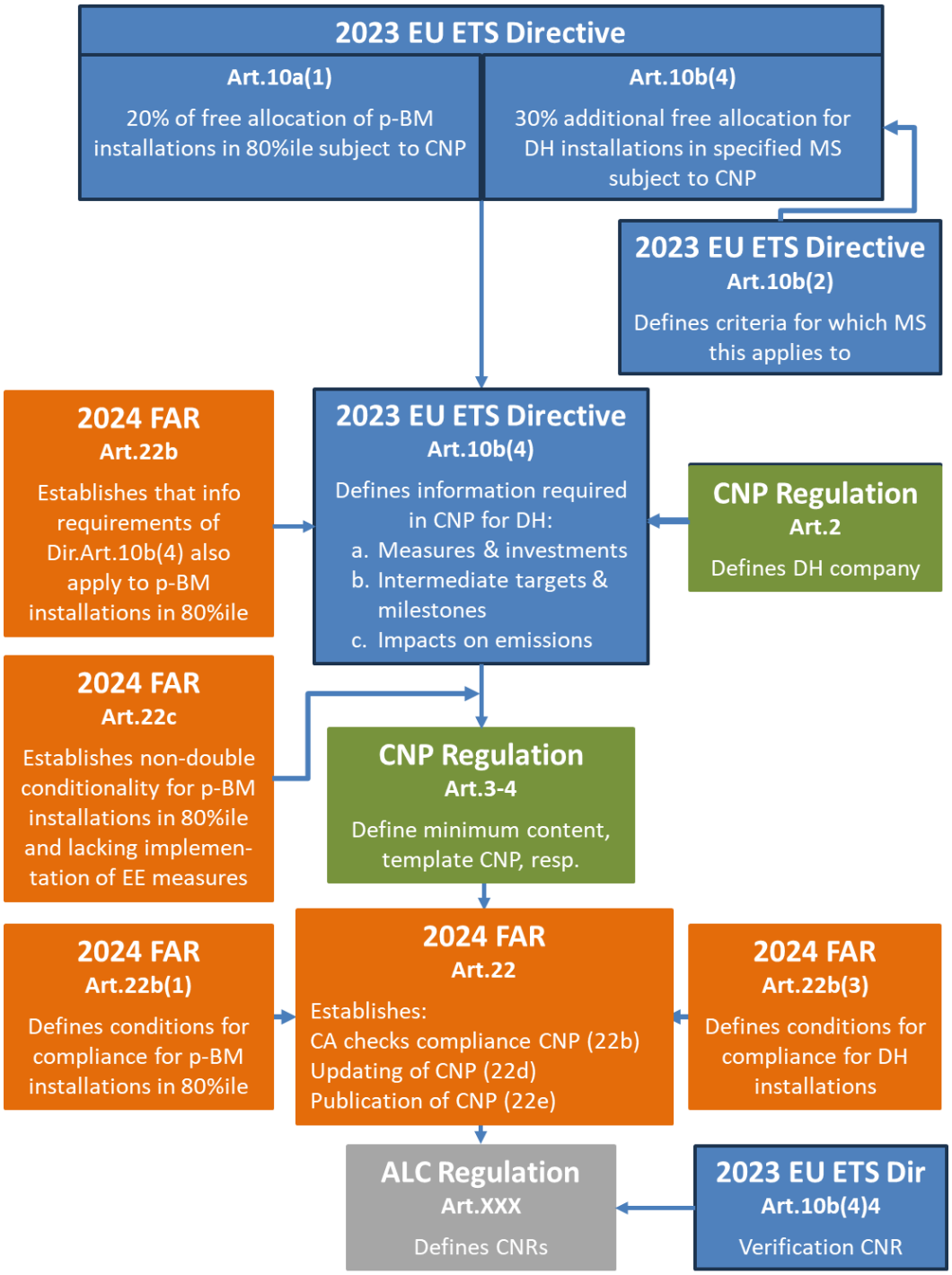

Figure 2 Relationship between different legislative articles related to CNPs (the 2023 EU ETS Directive is shown in blue, the 2023 FAR in orange, the CNP Regulation in green and the still to be drafted revised ALCR in grey).

2.2.2 The CNP development and implementation process

Figure 3 below illustrates the process for the development and compliance check of the CNPs for both p-BM installations and DH installations, unless otherwise noted. The main steps are discussed further below.

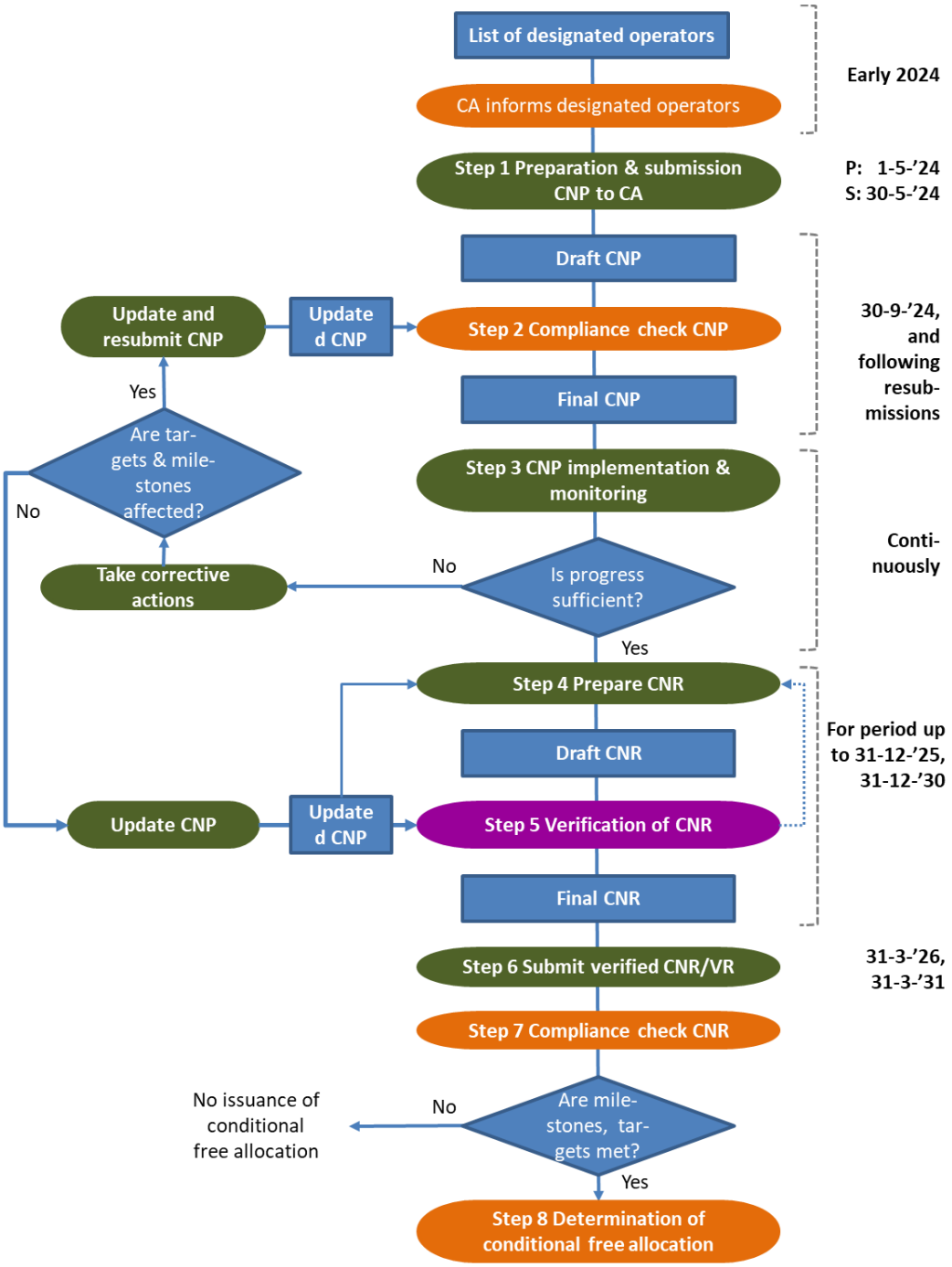

Figure 3 The CNP development and implementation process. Ellipses show actions by the various stakeholders (orange = CA, green = operator, purple = verifier). Rectangular boxes show deliverables (VR = Verification Report).

DH operators[23] are eligible to apply for the transitional additional free allocation, if they are located in one of the Member States that meet the criteria specified in Directive Art.10b(4) (for further details see Section 2.4). This only applies to the second allocation period of Phase 4.

For *p-benchmark sub-installations*, the Commission has drawn up a list of installations whose free allocation will be reduced by 20% if they do not have a compliant CNP in place, in line with Directive Art.10a(1) (for further details see Section 2.3). This list is shared with MS' Competent Authorities, which are responsible for informing the affected operators. It should be noted that this list will *not* be updated in order to provide legal certainty to operators on the list, as well as to those not included in the list.[24] For installations that are on the list, the CNP obligations remain in place until all targets are met (towards climate neutrality in 2050), unless the installation or the relevant product sub-installation ceases operation and given that changes in physical capacity or technology do not allow to restart production under this sub-installation.[25]

Step 1 Preparation and submission of the CNP

So-designated operators that want to receive the conditional amount of free allocation need to prepare a CNP in line with the minimum content and format requirements laid out in the annex of the CNP Regulation (see Section 3.1). Where designated operators decide not to apply for – or receive - the conditional amount of free allocation, a CNP does *not* have to be developed and submitted. This applies to both DH operators and p-BM installations.

Submitted CNPs need to be developed using the CNP template provided by the Commission, unless the Member State CA has developed its own template for its operators to use. If they choose to do so, the template need to reflect the minimum content and format of the CNP, similarly to the Commission's electronic template,as required under the CNP Regulation, and as described in more detail in Section 3.

The CNP needs to be submitted to the relevant Competent Authority by 30 May 2024 together with the baseline data report. If the CNP has not been submitted by that date, the conditional free allocation will not be issued. Note that issuance of the conditional free allocation will in any case only be done after *all* conditions are met, including verification of the climate-neutrality report (CNR), at the end of the period (see also steps 5 to 8 below). *Text Box 12* and *Text Box 13* in Sections 2.3 and 2.4 set out the conditions for p-BM installations and DH installations respectively.

Submission of the CNP may be one month earlier or later, where Member States have set an alternative time limit for such submission, in line with Art. 4.2 of the FAR, as per *Text Box 6*.

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[23] See Section Conditional free allocation for District Heating2.4 for the exact definition of DH operators and the scope of emissions eligible for the conditional free allocation.

[24] Taking installations out of the list would mean other installations then become part of the highest 20% on the benchmark curve affected by the conditionality provision in their stead. These installations would then need to be included in the list as a replacement of the omitted installations.

[25] Unless changed in future revisions of the EU ETS Directive.

Text Box 6 FAR Art.4.2: Alternate national time limits for CNP submission

1. The operator of an installation eligible for free allocation pursuant to Article 10a of Directive 2003/87/EC may submit to the competent authority an application for free allocation for an allocation period. That application shall be submitted before 30 May 2019 as regards the first allocation period and every five years thereafter.

Member States may set an alternative time-limit for the submission of such applications, which, however, may not be later or earlier than one month compared to the time-limit provided for in the first subparagraph.

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

(a) a baseline data report verified as satisfactory, in accordance with measures adopted pursuant to Article 15 of Directive 2003/87/EC 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 relating to the allocation period to which the application relates;

(b) the monitoring methodology plan which formed the basis for the baseline data report and the verification report, in accordance with Annex VI;

(ba) where relevant, the climate-neutrality plan in accordance with Article 10a(1), fifth sub-paragraph, and Article 10b(4) of Directive 2003/87/EC;

(c) a verification report issued in accordance with measures adopted pursuant to Article 15 of Directive 2003/87/EC on the baseline data report

Step 2 Compliance check of the CNP by the CA

By 30 September 2024, CAs need to have checked the CNP to ensure that it is compliant with the requirements for the content and format as stipulated in the CNP Regulation. Issuance of the conditional free allocation is subject to such compliance, in line with Article 22b(1) of the FAR[26]. For more details on the required content, see Section 3.1. The CNP does not need to be verified.

The CA will publish CNPs that are found compliant[27]. Operators can request that commercially sensitive information be deleted from the published version of the CNP, if such requests are 'duly justified'. What is considered commercially sensitive information (and what constitutes 'duly justified') is to be determined by the relevant CA, in accordance with the national transposition of

[26] *Text Box 12* in Section 2.3 for p-BM CNPs and *Text Box 13* in Section 2.4 for DH CNPs respectively.

[27] Including updated and resubmitted CNPs as per Step 3. CAs can decide to keep earlier versions of compliant CNPs are available to increase transparency.

EU Directive 2003/4 on public access to environmental information[28], keeping in mind the overall objective of the CNPs to incentivise emission reductions on a path to climate neutrality by 2050.

Step 3 Implementation and monitoring by operators

During the 5-year allocation period, the operator will implement measures and investments in line with its compliant CNP. The legislation does not prescribe a specific emissions reduction trajectory (pathway) over time, nor does it require implementation of specific measures at a specific moment in time. It only requires the definition of intermediate targets and milestones towards climate neutrality by 2050 (along with the measures and investments planned to achieve those targets and milestones). During 2025 and each subsequent 5-year allocation period, the operator must monitor its progress in implementing the measures and investment included in its CNP and the achievement of the defined targets and milestones, in line with provisions in the FAR and the MRR. Based on the monitoring of the progress in implementing the identified measures and investment during the allocation period, the operator must track the plan's effectiveness at achieving the stated targets and milestones. Here it should be noted that neither the Directive nor the CNP Regulation prescribes which measures to implement. The latter also requires the inclusion of potential 'enabling conditions and infrastructure needs for the measures and investments' (see Section 3.2).[29] If operators deem progress to be ineffective, they must implement corrective actions to ensure that progress towards the target is sufficiently maintained. Corrective action here refers to measures to be taken by the operator with the aim of bringing the installation's emissions back on track to achieving the stated target and milestones. This can, for instance, mean speeding up the implementation of measures or implementing additional measures.[30]

Any update to the CNP that affects the defined targets and milestones must be submitted to the CA (see *Text Box 7*).[31] If significant changes occur in the implementation of the CNP that do *not* affect milestones and targets, the changes *do* need to be reflected in an updated CNP to ensure that the

[28]This assessment is common practice under this Directive. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council

Directive 90/313/EEC, OJ, 14.02.03, L 41/26, see https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:041:0026:0032:EN:PDF.

[29] Whether progress is evaluated continuously or at specific intervals during the relevant period is up to the operator, weighing the efforts involved in the evaluation against the risk of being unable to take timely corrective measures achieving in non-compliance and a loss of the conditional free allocation. The choice made must be specified in the CNP and is subject to the CA compliance check. The periods at which the effectiveness of the CNP is evaluated regarding greenhouse gas emissions reductions, have to be indicated as well.

[30] Note that this is different from the use of 'corrective actions' in the context of regular verification, where such actions can also include administrative measures, e.g., the correction of misstatements.

[31] Note that this refers to changes that result in a different targets and milestones, not the change in emissions resulting from the progress towards reaching those targets and milestones. So, if no such change occurs during the 5-year period, no update is needed.

verifier can make a proper assessment of achievements reported in the CNR against the (latest) intentions of the CNP. However, in this case, the CNP does not need to be resubmitted to the CA.

As an example, if an investment that was defined as a milestone in the CNP is delayed, this means the installation would not be on track to meet its milestones (and potentially its target). This must then either be redressed by speeding up the investment so that the milestone can be reached, or an update to the CNP must be submitted to the CA reflecting the changed milestone (and target if applicable).[32]

Text Box 7 FAR, Art. 22d: Update of the climate-neutrality plan

1. The operators shall, at periods specified in the climate-neutrality plan referred to in Article 22b and whenever necessary, evaluate the effectiveness of the climate-neutrality plan regarding greenhouse gas emissions reductions and implement corrective actions where appropriate to ensure that the milestones and targets are met. Any update shall only affect future milestones and targets.

2. Where the climate-neutrality plan is updated with respect to milestones and targets, the operator shall submit the updated plan to the competent authority without undue delay.

Step 4 Preparation of the climate-neutrality report

Results of the monitoring conducted during the allocation period will be reflected in a climate-neutrality report (CNR), which will need to be verified (see *Text Box 8*). A template for the CNR will be provided by the Commission. It should be noted that the CNR only needs to be prepared (and verified) for the 5-year period ending December 31, 2025, and then only once every 5 years thereafter. Further rules on the CNR are to be adopted in the revised ALC Regulation.

Text Box 8 ALC Regulation, Art.XX: CNR placeholder

Introduction/requirements CNR

Step 5 Verification of the CNR

Progress towards achieving the (intermediate) targets and milestones reported in the CNR needs to be verified by an accredited 3rd party, in line with the general verification procedures of the EU ETS Directive and the Accreditation and Verification Regulation (AVR), referred to therein (see *Text Box 9*). This needs to be done for the first allocation period (the period ending 31 December 2025), and each 5-year period thereafter. No conditional free allowances will be allocated for the second

[32] Whether the cause of the delay is under the operator's control is in this context not material.

allocation period of Phase 4 if the CNR is not verified as satisfactory. For p-BM installations this also applies to any of the subsequent allocation periods.[33]

The verifier assesses whether the targets and milestones defined in the CNP are met. For that purpose, the verifier assesses whether the CNP has been implemented correctly, whether the data in the CNR are correct[34] and whether milestones and targets have been met. During verification the verifier may identify errors in the data in the CNR or non-compliance with the CNP or the CNP Regulation. In those cases, the operator will be required to correct such errors, in line with AVR requirements. At the end of the verification, the verifier reports any outstanding issues, whether these issues are material and whether milestones and targets are considered achieved. For further guidance please see the updated Guidance Document 4 on verification of allocation data.

Text Box 9 2023 EU ETS Directive, Art.10b4, subparagraph 4: Verification achievements

The achievement of the targets and milestones referred to in the third subparagraph, point (b), of this paragraph, shall be verified in respect of the period until 31 December 2025 and in respect of each period ending 31 December of each fifth year thereafter, in accordance with the verification and accreditation procedures provided for in Article 15. No free allowances beyond the amount referred to in the first subparagraph of this paragraph shall be allocated if the achievement of the intermediate targets and milestones has not been verified in respect of the period until the end of 2025 or in respect of the period from 2026 to 2030.

Step 6 Submit the verified CNR to the CA

The operator must submit the CNR to the CA, along with the Verification Report (VR), by 31 March 2026 for the period ending 31 December 2025, and for each 5-year period thereafter.

Step 7 Compliance check of the CNR by the CA

Even if the CNR is verified as satisfactory, follow-up action in close cooperation with the CA may still be needed where outstanding issues have been identified in the VR (see Guidance Document 4 on verification of allocation data for further information). Upon the conclusion of any follow-up actions, the CA assesses whether the CNR is in compliance in terms of achieving the targets and milestones established in the CNP, as well as with the other conditions for receiving the additional free allowances (see *Text Box 12* and *Text Box 13* in Sections 2.3 and 2.4).

Step 8 Determination of conditional free allocation

If the CNP has not been submitted by 30 May 2024 or has not been found compliant by the CA, this will be reflected in the NIMs list submitted by the CA to the Commission by 30 September 2024, and

[33] For DH plants, the conditional allocation is only available for the second allocation period of Phase 4.

[34] Whether the CNR is free from material misstatements, i.e., that there are no material errors, misrepresentations and omissions in the data included in the CNR.

the conditional free allocation will not be considered in the calculation of the final amount of free allowances of the installation. For installations whose CNP has been found compliant with requirements[35], the relevant CA will reflect this in its NIMs list and inform the Commission that (at that moment in time) the 20% reduction in free allocation does not apply in the case of p-BM installations, or that the DH operator qualifies for the 30% additional free allocation.

The *preliminary* amount of free allocation will be calculated based on this. However, the installation's *final* free allocation will only be determined after the implementation of the CNP has been assessed for the allocation period ending in December 2025 through verification of the CNR. For DH operators this will include an assessment of the investments made towards significant emission reduction, in addition to the verification of the achievement of the relevant milestones and targets. If the verifier cannot confirm that the relevant milestones and targets reported in the CNR have been achieved, the CA will inform the Commission that the 20% reduction will apply for the p-BM installation, or that the DH operator is not eligible for the additional 30% free allowances. The conditional free allocation will then not be included in the calculation of the final free allocation in the first national allocation table, in June 2026.

Text Box 10 ALC Regulation, Art.XX: issuance placeholder

Issuance of conditional free allocation

2.3 Conditional free allocation for p-BM installations above the 80th percentile

The full set of conditions that 'p-BM installations' must meet to avoid a 20% reduction in their free allocation is set out in Art.22b(1) of the FAR (see *Text Box 12*). The installations affected by this provision are those with a performance above the 80th percentile of their benchmark curve averaged over 2016 and 2017. As BM curves are determined at the sub-installation level, the provision applies to installations that have at least one sub-installation with GHG emissions per unit of benchmarked

[35] Including timely submission.

product that meets this criterion.[36] This is illustrated in Figure 4.

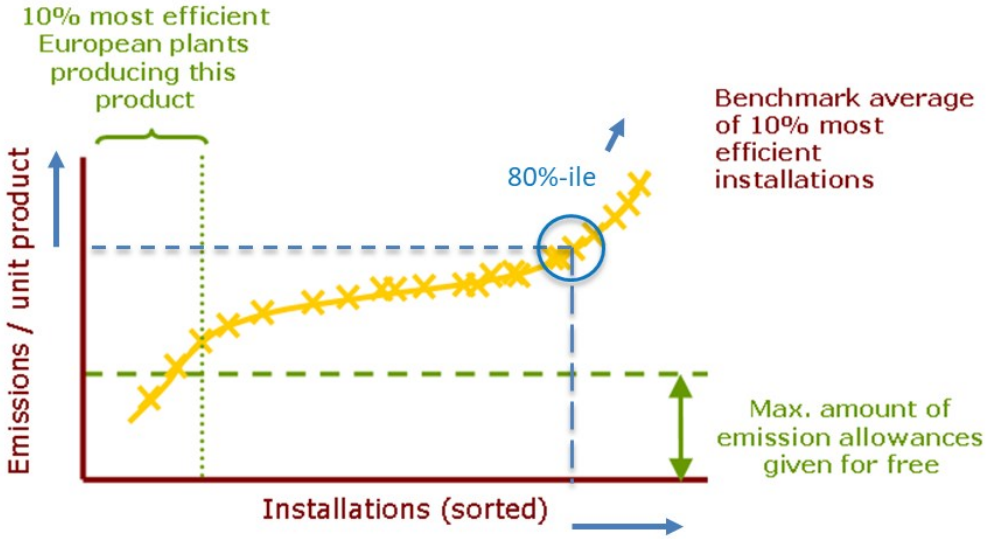

Figure 4 The >80th percentile performance criterion used to determine the applicability of the 20% reduction in free allocation for p-BM installations. Installations with one or more sub-installations with specific emissions above the blue dotted line are subject to such a reduction if targets and milestones identified in the established CNP are not achieved.

Here it should be noted that the CNP must cover the *entire* installation, not only the sub-installation(s) that are above the 80th percentile. This includes other p-BM sub-installations and any fall-back sub-installations.[37] Failure to do so affects the free allocation of the entire installation. In other words, the 20% reduction in free allowances is applied to the free allocation of the entire installation under Art.10a of the Directive.

Where the p-BM sub-installation that triggers the CNP conditionality contributes 20% or less to the installation's total preliminary annual allocation for the first allocation period, the 20% reduction is not applied (see *Text Box 11*).

Text Box 11 FAR, Art.22b2: De-minimis rule for p-BM (sub-) installations

2. Paragraph 1, first subparagraph, shall not apply where the relevant product benchmark sub-installation does not contribute to more than 20 % of the sum of all sub-installations' preliminary annual numbers of emission allowances allocated free of charge in respect of the period from 2021 to 2025, calculated in accordance with Article 16, paragraphs 2 to 5.

[36] Except for a de-minimis provision, as described below.

[37] Heat, district heating, fuel and process emission sub-installations.

It should also be noted that, while the ETS Directive requires the *establishment* of the CNP by 1 May, *submission* of the CNP only needs to be done by 30 May, together with the Baseline Data Report, as per the FAR. As mentioned before, the submission of the CNP may be one month earlier or later, where Member States have set an alternative time limit for such submission, in line with Art. 4.2 of the FAR, see *Text Box 6*.

Text Box 12 FAR, Article 22b(1): Conditions for additional free allocation for p-BM installations above the 80th percentile

1. For the purposes of Article 10a(1), fifth subparagraph, of Directive 2003/87/EC, the final annual number of emission allowances allocated free of charge, determined pursuant to Article 16(8) of this Regulation, shall be reduced by 20 % for an installation with product benchmark sub-installations where the greenhouse gas emission levels of at least one of those product-benchmark sub-installations were higher than the 80th percentile of emission levels for the relevant product benchmarks in the years 2016 and 2017.

By way of derogation from the first subparagraph, no such reduction shall apply if the following conditions are fulfilled:

(a) the operator of an installation referred to in the first subparagraph has submitted a climate-neutrality plan for its activities covered by Directive 2003/87/EC to the competent authority by 30 May 2024, or as appropriate, pursuant to Article 4 of this Regulation as part of the application for free allocation;

(b) the achievement of the targets and milestones referred to in Article 10b(4), third subparagraph, *point (b), of Directive 2003/87/EC has been confirmed by the verification carried out in accordance Article 10b(4),* , fourth subparagraph, of that Directive*;*

(c) the competent authority has checked and deemed compliant the content and format of the climate-neutrality plan pursuant to paragraph 4.

⇒ Note that the contents of the CNP (beyond what has been described here) and the related definitions are further discussed in Section 3.

2.4 Conditional free allocation for District Heating

Article 10b(4) of the 2023 EU ETS Directive stipulates that certain MS provide a 30% additional free allocation to district heating for the period 2026-2030, on the condition that equivalent investments are made by the affected operators to significantly reduce emissions before 2030, in line with the compliant CNP. All conditions that DH operators must meet are specified in Art.22b(3) of the FAR (see *Text Box 13* below).

It should be noted that, while the ETS Directive requires the *establishment* of the CNP by 1 May, the FAR requires *submission* of the CNP by 30 May, together with the Baseline Data Report.

Text Box 13 FAR, Art.22b3: Conditions for additional free allocation for DH

3. For the purposes of Article 10b(4), second, third and fourth sub-paragraphs of Directive 2003/87/EC, the preliminary annual number of emission allowances allocated free of charge to a district heating sub-installation, calculated in accordance with Article 16, paragraphs 2 and 3, of this Regulation, shall be increased by 30 % of the number calculated in accordance with paragraph 2 of Article 16, where the operator of a district heating sub-installation has submitted an application in accordance with Article 4 of this Regulation and where, in respect of the period until the end of 2025 or in respect of the period from 2026 to 2030, all of the following conditions are met:

(a) The installation or district heating company is located in a Member State that meets the criteria set out in Article 10b(4), second sub-paragraph, of Directive 2003/87/EC and as referred to in Annex VIII;

(b) The installation or district heating company invested a volume at least equivalent to the economic value of the additional number of free allowances for the period 2026 to 2030, in accordance with the intermediate targets and milestones as set out in the climate-neutrality plan to measure, by 31 December 2025 and by 31 December of each fifth year thereafter, progress made towards reaching climate-neutrality;

(c) The investment referred to under point (b) leads to significant emission reductions before 2030;

(d) The installation or district heating company submits a climate-neutrality plan by 30 May 2024 pursuant to Article 4(1) or as appropriate*, for its activities covered by Directive 2003/87/EC;*

(e) The achievement of the targets and milestones referred to in Article 10b(4), third subparagraph, point (b), of Directive 2003/87/EC is confirmed by the verification carried out in accordance with Article 10b(4), fourth subparagraph id that Directive;

(f) The competent authority has checked and deemed compliant the content and format of the climate-neutrality plan pursuant to paragraph 4.

⇒ Note that the contents of the CNP (beyond what has been described here) and the related definitions are further discussed in Section 3.

The **MSs** to which this article applies are determined on the basis of their DH emissions and its role in the country's GDP, as follows:

$$\frac{MS\ DH\ emissions}{EU\ DH\ emissions} \Big/ \frac{MS\ GDP}{EU\ GDP} > 5$$

Where:

MS DH emissions = A Member State's average GHG emissions from district heating covered by the EU ETS in 2014-2018;

EU DH emissions = The EU's average GHG emissions from district heating in 2014-2018;

MS GDP = A Member State's average GDP in 2014-2018;

EU GDP = The EU's average GDP in 2014-2018

This criterion is currently met by the following MS (as per FAR Annex VIII):

- Bulgaria;
- Czechia;
- Latvia;
- Poland.

It should be noted that the additional amount of conditional free allocation is not affected by the **carbon leakage factor**, with the annual preliminary allocation calculated by applying the following equation (see also *Text Box 14*):

$$F_{i,k} = BM_i \times HAL_i(0.3 + CLEF_{i,k})$$

Where:

$F_{i,k}$ Annual preliminary allocation for the district heating sub-installation i in year k (allowances per year);

BM_i Applicable benchmark value (allowances per unit of activity);

HAL_i The sub-installation's Historic Activity level (unit of activity per year);

$CLEF_{i,k}$ Applicable Carbon Leakage Exposure Factor (unit-less).

Text Box 14 FAR, Art.16, para 2: Calculation basis for additional free allocation for DH

2. For the purpose of the calculation referred to in paragraph 1, Member States 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, adopted in accordance with Article 10a(2) of Directive 2003/87/EC, 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, adopted in accordance with Article 10a(2) of Directive 2003/87/EC, 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, adopted in accordance with Article 10a(2) of Directive 2003/87/EC, 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 five-year period, adopted in accordance with Article 10a(2) of Directive 2003/87/EC, multiplied by the fuel-related historical activity level for the energy 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 for the years until 31 December 2027 and by 0,91 for the years 2028 and onwards.

The value of the **investments** in emission reductions by 2030 in line with the CNP must be at least equal to the value of the additional free allowances. For this determination, a fixed carbon price should be used, in line with the one used to determine the investment value for electricity generators under the Art.10c derogation in the ETS Directive. This refers to the 'market value' of allowances, defined as the average of the price of allowances on the common auction platform in the preceding calendar year' (see *Text Box 15* and *Text Box 16* below). In the context of the CNP, this refers to the year 2023, where the average allowance price at the common auction platform equalled €83.6.

The total amount of investments that an operator needs to make, resulting in 'significant emission reductions by 2030', to be eligible for the conditional free allowances is then determined as follows:

$$Investment_{eq} = 30\% \times Allocation_{26-30} \times C\ price$$

Where:

$Investment_{eq}$ = The equivalent investment volume in Euro to be made;

$Allocation_{20\text{-}30}$ = The operator's total free allocation under Art.10a of the Directive over the period 2026-2030 in EUAs;

C price = The average price of the allowances on the EU common auctioning platform in 2023.

The interpretation of '**significant emission reductions**' is also clarified in the FAR (see *Text Box 15*), which prescribes the use of an emission reduction rate in line with the Linear Reduction Factor (LRF). The 2023 Directive establishes the LRF for the relevant period as an annual reduction of 2.2% until 2024, 4.3% from 2024 to (and including) 2027, and 4.4% as of 2028, as shown in **Error! Reference source not found.** below. Note that *no* trajectory is prescribed for the emission levels to be achieved in the years before 2030.

Table 1. LRF applicable across the years to be used in the determination of significant emission reductions to be achieved before 2030.

Year	LRF	Cumulative reduction factor
2021	0.022	1
2022	0.022	0.978
2023	0.022	0.956
2024	0.043	0.913
2025	0.043	0.870
2026	0.043	0.827
2027	0.043	0.784
2028	0.044	0.740
2029	0.044	0.696
2030	0.044	0.652

The above also means that investment and measures need to be in place in 2029 at the latest, to be taken into account for determining the 'significant emission reduction' (see also Section 3.2.5). Note that investments in measures to achieve significant emission reductions can also be achieved and demonstrated earlier.

Note also that any conditional free allocation for DH operators is only provided for the DH activities of the operator that are covered by EU ETS[38]. If a DH operator also operates non-DH activities covered by the ETS, the latter are not eligible for the additional 30% free allocations. Emission reductions that are achieved in those other activities can also not contribute to the 'significant emission reductions' to be achieved to meet the conditions for the additional free allowances. If a DH company operates installations covered by the EU ETS as well as installations that are not, investments in the non-ETS installations and emissions reductions achieved as a result thereof cannot be counted towards compliance with the conditionality requirements.

Text Box 15 Article22b; Equivalent investments and significant reductions

FAR, Article 22b(3), subparagraph 3: Equivalent investments

For the purposes of point (b), the economic value of the additional 30 % allowances shall be determined by multiplying the additional number of free allowances over the period 2026 to 2030 by the average price of allowances on the common auction platform in the calendar year preceding the application referred to in Article 4(2) and multiplied by the factor determined in accordance with Article 14(6), as applicable to the installation.

[38] Including, where relevant, heat export to a non-ETS district heating operator.

FAR, Article.22b(3), subparagraph 4: Significant emission reductions

For the purposes of point (c), emission reductions are significant where the specific emissions, expressed as tonnes of CO_2 per terajoules of district heating supplied, of the installation or district heating company are reduced below the average specific emissions during the relevant baseline period with an emission reduction rate equivalent to the application of the linear reduction factors referred to in Article 9 of Directive 2003/87/EC, starting from the mid-point of the relevant baseline period.

Text Box 16 2023 EU ETS Directive, Art.10c(3): Carbon price for investment value

3. The value of the intended investments shall at least equal the market value of the free allocation, while taking into account the need to limit directly linked price increases. The market value shall be the average of the price of allowances on the common auction platform in the preceding calendar year. […]

It should be noted that FAR Art.22b3 (*Text Box 13*) requires that *all* conditions listed are met to be eligible for the conditional free allocation, i.e., including those related to both the emissions reductions to be achieved (criterion b) and the investments to be made (criterion c). However, different timelines are specified in this regard:

- The size of investments equates to the value of the conditional free allowances for the period 2026-2030;
- The significant emission reductions from these investments must be achieved *before* 2030 (i.e., by the end of 2029 at the latest).
- The timing of the investments is not explicitly specified, they need to be made 'in accordance with the intermediate targets and milestones as set out in the climate-neutrality plan to measure, by 31 December 2025 and by 31 December of each fifth year thereafter, progress made towards reaching climate-neutrality'.

However, the 'average specific emissions' referred to in the definition of significant emission reductions in FAR, Art.22b(3), subparagraph 4 (*Text Box 15* above) relates to the weighted average over the baseline years. Measures implemented before or during the baseline period will be reflected in lower emissions during the baseline years. Consequently, such measures do not reduce emissions below the levels during the baseline period. Hence, any investments made before the CNP was established can only contribute to the 'significant emission reductions' of Art.22b(3) if the measures take effect (and reduce emissions) *after the baseline period*, i.e., as of 2024 (see also Section 3.2.5) and *before 2030.*

Art.10b(4)a of the Directive provides the option to define the measures and investments for DH operators to reach carbon neutrality by 2050 at the '**installation or company level**' (see *Text Box 3* in Section 2.2). Art.2 of the CNP Regulation also defines 'targets' and 'milestones' (as referred to in Art.10b(4)b of the Directive) 'at installation level, or optionally at company level' (see *Text Box 4* above). FAR Art.22b(3) defines obligations in this respect for the 'installation or district heating

company' (see *Text Box 13* above).The Annex to the CNP Regulation requires any company-level CNP to include information identifying each DH installation covered by the CNP and its relationship to the DH company.[39]

Once the option for a CNP at the company level has been chosen, information included in the CNP (and the CNR) regarding targets and milestones, measures and investments, and emissions must be provided at the same company level, as well as at the installation level. Failure to meet the targets and milestones defined at the company level (or any of the other conditionality requirements) would mean that the additional allowances will not be allocated for the DH company as a whole.

The definition of 'district heating company' is provided by the CNP Regulation, as shown in *Text Box 17* below.

Text Box 17 CNP Regulation, Art. 2: Definition of district heating company

For the purposes of this Regulation, the following definitions shall apply:

(1) 'district heating company' means a company that operates installations the main economic activities of which are classified according to the NACE codes referred to in Regulation (EC) No 1893/2006 of the European Parliament and of the Council[40] as either steam and air conditioning supply, or production of electricity combined with the export of district heating.

[39] In case a DH operator opts for a company-level CNP, the Baseline Data Reports of individual installations covered by the CNP can refer to the same CNP developed for the DH company.

[40] 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).

3 Climate-neutrality plan

This section further elaborates the requirements that the climate neutrality plan must meet. Section 3.1 summarises the minimum content of the CNP, as defined in the Annex to the CNP Regulation. Subsequently, Section 3.2 specifies the requirements for each and defines the terminology used in relation to the scope and system boundaries of the CNP, the targets & milestones included, the measures & investments foreseen and their impacts. Provisions described in this section apply to both p-BM installations above the 80th percentile and DH installations, unless otherwise specified.

3.1 Minimum content

The CNP Regulation sets out which elements must be covered by the CNP. Although additional information can be included, those elements (elaborated in the Regulation's Annex) comprise the minimum content of the CNP. This minimum content is also reflected in the structure of the CNP template. The minimum content includes information regarding:

(1) General information about the installation[41];

(2-3) Historical emissions (in line with specified scope and system boundaries for historical emissions that are also used for target emission levels in #4-5);

(4-5) Milestones and targets, including intermediate milestones and targets for 2025 and for each 5-year period thereafter, and the conditions they must meet;

(6) Measures and investments planned during each 5-year period to reach the defined milestones and targets and to reach climate neutrality by 2050, including the enabling conditions and infrastructure needs for the defined measures and investments;

(7) Estimated (quantitative and qualitative) impacts of each measure and investment on greenhouse gas emissions for each of the 5-year periods, by category of low-carbon technology.

Here it should be noted that measures and investments should be included not only for 2030, but for each 5-year period until 2050, with estimated impacts for each period, showing the intended achievement of the intermediate targets and milestones for each period, as illustrated in Figure 5 below.

[41] Including for DH installations whether the CNP is submitted at the company level, and if so, the installations covered.

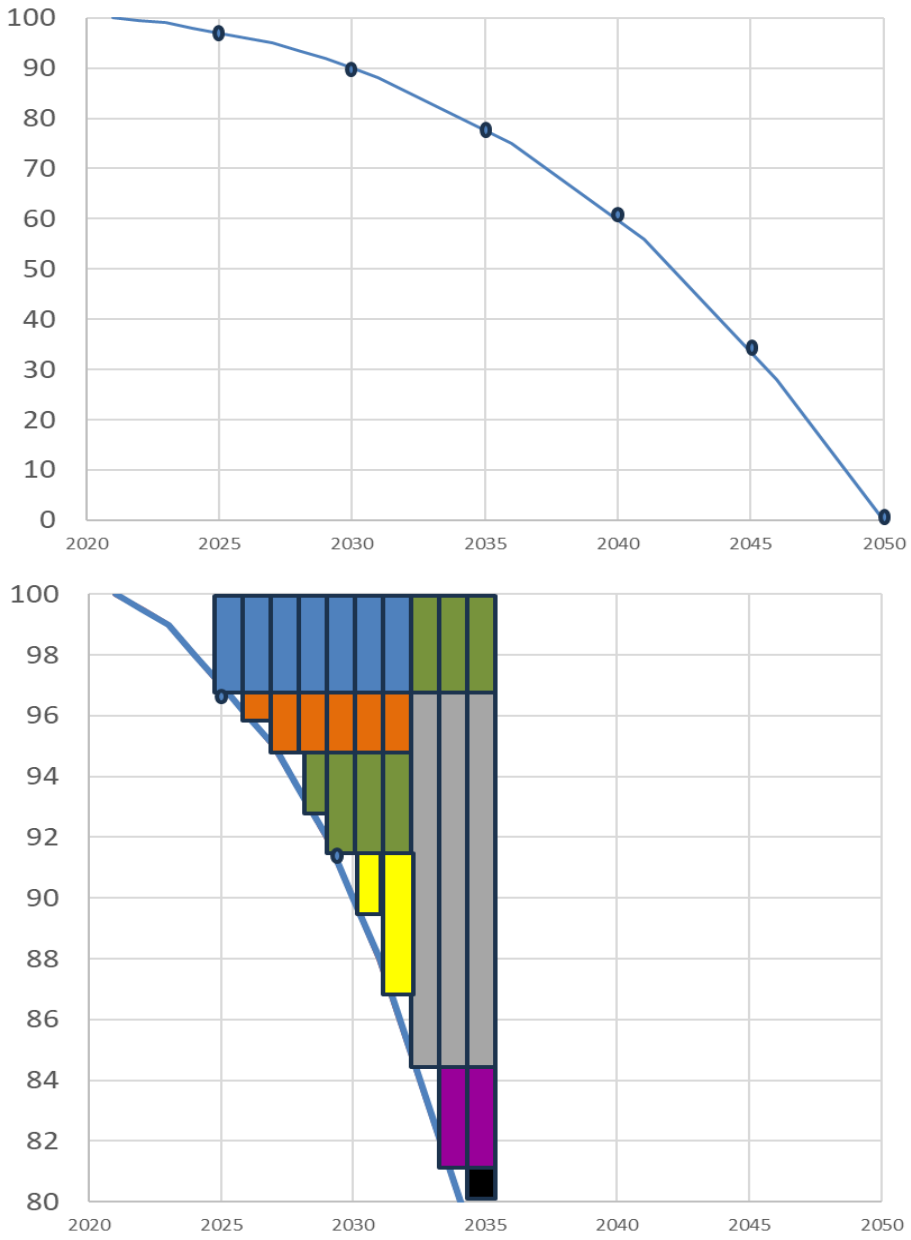

Figure 5 An illustration of example targets and measures towards climate neutrality in 2050 to include in the CNP, showing individual measures and their impact on the installation's (indexed) emissions in each year. The lower graph shows a close-up of the early years of the top graph. Each coloured bar represents a different measure, that impacts emission levels in various years.[42] In

[42] A smaller bar in the same colour in the first year a measure is shown, can, e.g., represent a measure that is implemented half-way through the year.

this illustration, the grey measure replaces the blue, orange and yellow measures.[43] The duration and impact of the measures shown are for illustration only.

One element that the Annex to the CNP Regulation mentions explicitly as optional to include a list of measures and investments already implemented prior to the submission of the CNP.

Here it should be noted that the CNP Regulation only describes the elements that must be included in the CNP, it does not prescribe the ambition level for targets and the level of investments or their timetable, nor does it prescribe specific measures or milestones. The CA will only check whether the minimal required elements are present and in line with the definitions in the CNP Regulation.

This means that operators can define their own measures and investments to include in their CNP, and determine their own targets, milestones and timetables, as long as they are in line with the definitions in the CNP Regulation (and other legislation referred to therein). Its Art.3 furthermore requires that they meet the SMART principle, i.e., are specific, measurable, achievable, relevant and time-bound:

- **Specific and measurable**: this is to be understood as specific to the EU ETS installation and the respective benchmarks or production process in general. The fact that the CNP Regulation requires quantification of the emissions targets and the impacts of the measures will already ensure specificity and measurability,
- **Achievable**: the fact that the operators' themselves determine the ambition levels of their targets, investment levels and timetables, as well as which measures to implement, ensures their achievability and relevance. The specification of enabling conditions and infrastructure needs for the defined measures and investments further supports assessing the achievability of the proposed targets and actions.
- **Relevant**: this is usually to be understood as measures, targets, etc. being aligned with the long-term objective. In this specific case, this would mean that those measures, targets, etc. are aligned with the installation's long-term climate-neutrality objective.
- **Time-bound**: the annual and 5-year requirements ensure the time-bound nature of any measures, targets, milestones, etc.

Point 6 of the Annex to the CNP Regulation requires a 'detailed description of measures and investments' in the CNP. The level of detail provided should be sufficient for the CA and the verifier to understand their impact on emissions and how they relate to the specified milestones and targets (see the examples provided below). The CA needs to check completeness (whether all elements required as minimum contents in the CNP Regulation are provided) and relevance in terms of being applicable to the installation covered and the timeframe concerned.

It should be noted that the CNP must provide <u>one single trajectory</u> towards climate neutrality by 2050 in its interim terms of targets and milestones, with an accompanying set of measures and investments. Progress will be assessed against this trajectory during verification of each CNR. Where changes occur in circumstances that affect targets, milestones, measures and investments

[43] For example, the grey bar represents the installation of ais new furnace, whereas the blue, orange and yellow bars showed the impacts of retrofits to the old furnace that was used before the replacement.

after the CNP has been submitted to the CA, this will be reflected in the required updates of the CNP. Enabling conditions can also be specified in the CNP, to indicate potential future changes in case related assumptions in the CNP do not come to fruition.

3.2 CNP requirements

3.2.1 Installation identification

Point 1 of the Annex to the CNP Regulation requires a set of information identifying the installation for which the CNP is being submitted to meet the condition for additional free allocation. For DH operators submitting a CNP for a multi-installation DH company, identifying information must be provided for each individual installation covered by the CNP, with a description of its relationship to the DH company (see point 1(f) of the CNP Regulation Annex). This can relate to, e.g., ownership, geographical (site) location or any technical connections.

3.2.2 Scope and system boundaries

For p-BM installations, the CNP is prepared for the whole installation, even if only one of its sub-installations falls above the 80th percentile of its BM curve (see Section 2.3). For DH, the scope of a CNP can be individual installations or multiple installations that belong to the same DH company. If a DH operator has opted to provide a CNP at the company level and the DH company operates installations covered by the EU ETS as well as installations that are not, only the installations falling under the EU ETS should be included in its CNP.

In terms of the emissions covered by the historical emissions as well as the targets, the system boundaries must be consistent with those stated in the installation(s) GHG emissions permit(s), and the provisions of the FAR and the MRR. This also applies to the GHGs, sources and sinks covered (see also Section 2.1) It should be noted that for DH operators, not all emissions within the installation(s) system boundaries may be eligible for the free conditional allocation (see Section 2.4 for more details).

Consequently, the measures included to achieve the targets must address the emissions within the installation(s) system boundaries. This also means that any emissions reductions or carbon removals occurring outside the system boundaries defined in the GHG emissions permit(s) cannot contribute to achieving the defined targets. Carbon offset credits are also explicitly excluded.

3.2.3 Historical emission levels

The starting point for the path to carbon neutrality by 2050 is formed by the installation's historical emissions, i.e., the average emissions in the relevant baseline period for the allocation, as determined in the FAR. Hence, for CNPs that are submitted to the CA in 2024 as part of an application for free allocation for 2026-2030, the relevant baseline period is 2019-2023.

Historical emissions must be provided as specific emissions (tCO_2eq/unit of activity level) for each year in the baseline period and for each benchmarked sub-installation separately. This means emissions per unit of product for p-BMs sub-installations, emissions per unit of heat consumed for

heat-BM sub-installations and emissions per unit of fuel consumed for fuel-BMs sub-installations.[44] For the latter two, the emissions can also be expressed per unit of underlying production level, e.g., tonnes of product not covered by a product BM but associated with a heat or fuel BM sub-installation. For process emissions (sub-)installations, specific emissions must be provided expressed as tonnes CO_2e (i.e., the unit of the process emissions sub-installation) as well as optionally per unit of production, e.g., per tonne of non-product BM ceramic products produced.

Since the climate-neutrality plan refers to the whole installation and not all emissions are eligible for free allocation, historical emissions (and targets, see below) must be provided for non-eligible emissions as well. Those could be treated similarly to the concept for a sub-installation and expressed as specific emissions, e.g., per MWh (for electricity production), per TJ of non-safety flaring, etc. Attributing emissions to sub-installations must be done in line with the rules set out in Part 10 of Annex VII to the FAR in terms of specific emissions (tCO_2eq/unit of activity level). In determining the emissions of CO_2 for a product other than at the level of sub-installation activity for fall-back sub-installations, it should be taken into account whether the product is produced within the boundaries of the installation or whether heat is a product itself (production of products outside of the installation boundaries).

When (intermediate) targets are defined relative to BM values for each relevant sub-installation (see Section 3.2.4), historical emissions must also be provided relative to the benchmark values for those sub-installations. Optionally, absolute historical emissions can also be included at the installation and/or sub-installation level.

3.2.4 Milestones & targets

As per the CNP Regulation, the term ‘milestones’ refers to qualitative indicators of progress, while ‘targets’ refers to quantitative indicators of progress towards the achievement of a measure or investment to reach climate neutrality by 2050 as described in the European Climate Law (see also *Text Box 4* in Section 2.2.1). Both need to be defined in line with the FAR and the MRR.

Specific emission targets must be specified for 2025 and each 5-year period thereafter, expressed as the amount of GHG emissions/unit of activity level to be reached in each year in the 5-year target period and for each benchmarked sub-installation. This means emissions per unit of product for p-BMs sub-installations and process emissions sub-installations, emissions per unit of heat consumed for heat-BM sub-installations and emissions per unit of fuel consumed for fuel-BMs sub-installations. As for the historical emissions described above, for the latter two, the emissions can also be expressed per unit of underlying production level. As noted before, this refers to *emission* targets, not necessarily *emission reduction* targets. Especially in the short term, measures may not have taken effect yet and the emission target could equal baseline emission levels.

In addition, the relative emissions reduction must be provided for each year.

[44] In line with the FAR rules these are expressed in TJ, not physical units.

Targets at the sub-installation level also have to be defined relative to BM values, e.g., a reduction of the specific emissions of clinker to 20% below the clinker benchmark value, using the benchmark value that is applicable when the CNP was submitted.

Absolute emissions reduction targets can also be provided for 2025 and per 5-year period thereafter, but only in addition to the specific emissions targets mentioned above. Where an installation has more than one sub-installation, absolute emissions reduction targets would need to be defined at the sub-installation level (with the installation-level target being the sum of the sub-installation targets in absolute emissions).

Qualitative milestones need to be defined for 2025 and each subsequent 5-year period that are consistent with the required progress towards the specified emission targets in the corresponding period. Detailed descriptions of each milestone need to be provided (see the example provided below).

Example description of milestones and targets

A measure included in the CNP involves replacing a furnace, requiring an investment into a new furnace fired by sustainable biomass or electricity to replace one of two old fossil-fuelled furnaces in 2029. The associated targets and milestones to be put in the CNP could be as follows.

Intermediate targets:

- For 2025 would remain at historic baseline period levels, assuming no other measures are implemented;
- For 2030, specific emissions will be reduced by 50% compared to the historic baseline period levels.

Milestones:

- A final investment decision taken in 2027;
- Dismantling of the old furnace in 2028;
- Start-up of the new furnace in 2029.

3.2.5 Measures & investments

For each of the measures and investments that are planned to be implemented during each of the 5-year periods up to 2050 to reach the interim targets and milestones, a detailed description must be included in the CNP. Investments need to be provided in total amount per investment in a given year (expressed in Euros/year), as well as the associated annualised investments per 5-year period for each measure.

Investments that have been made before the CNP was established can be included in the CNP[45], so long as the financed measures only take effect (and therefore impact emissions) *after* the baseline period (2019-2023). In case of DH installations investments made after 2029 cannot be taken into account when assessing the compliance with the special requirements as they would not contribute to significant emission reductions before 2030. Later investments could only be considered to decide whether the installation achieved its intermediate milestones and targets.

As the FAR Art.22b(3) refers to significant emissions reductions to be achieved *before* 2030, not *by (the end of)* 2030, measures included in the CNP need to be in place in 2029, with emissions reductions reflected in the CNR submitted for 2029 (see also Section 2.3).

Attributed emissions include emissions related to any imported heat. Therefore, a change in the heat supply structure towards more GHG efficient heat generation could qualify as a decarbonisation measure as well. However, in the CNP it would need to be clearly described that this change relates to measures and investments taken by the operator that lead to this change of the supplier.

Projects that are funded by other public funds or financial instruments can be included in the CNP, but the same cost cannot be covered twice, i.e. cannot be covered also by conditional free allocation. In other words, investments covering costs of those projects that have already been financed by such public funds/instruments cannot be counted as investments towards achieving significant emission reductions for the purpose of the conditional free allocation.

The measures identified in the CNP to achieve the (intermediate) targets need to be described in sufficient detail for the CA to assess that they are relevant to the targets and meet the requirements in the CNP Regulation. The description should also provide sufficient detail for the verifier to be able to check the accuracy of the CNR and to assess whether the CNP has been implemented.

The examples below show how the description of measures and investments is foreseen in the CNP template, with headline information included in the CNP tables, while further details can be provided in additional files.

[45] And taken into account to establish the equivalency with the value of the conditional free allowances received by DH operators.

Example of the description of measures (top) and investments (bottom) in the CNP template

I Measures

1 Measure description and reasons

Please list here all relevant planned measures (e.g. electrification of fossil-powered furnaces) until 2050, providing for each measure the following information:

- *the period during which the measure is planned to be taken. If a measure has impacts in more than one period, please select the period in which it will be first implemented;*
- *a short name or internal ID for each measure in order to facilitate making reference to each measure later in this template;*
- *a detailed description of each measure. It is possible to refer to an attached document file, if the description exceeds the space provided here (then please list the exact file name here and in sheet K_Comments).*

Measures should be entered as aggregated as possible. E.g. process optimisations over different periods can be entered as one measure with the period of the first optimisation.

No.	Period	Short name or internal ID	Detailed description
Ex.1	2031-2035	Hydrogen steel	Replacement of BF/BOF with DRI using green hydrogen (further details see separate file 'CNP file.docx')
Ex.2	2025-2030	Measures AB 5 to 7	Process optimisations over different periods starting from 2027
ME1			
ME2			
ME3			
ME4			
ME5			
ME6			
ME7			
ME8			
ME9			
ME10			

II Investments

1 Investment

Please list here all investments providing the following information:

- *the year in which the investment is planned to be taken;*
- *a short name or internal ID for each investment in order to facilitate making reference to each investment later in this template;*
- *the corresponding investment costs in mio. €. This value should be expressed as the one-off investment costs, annualisation will be done automatically under point 2) below;*
- *a detailed description of each investment. It is possible to refer to an attached document file, if the description exceeds the space provided here (then please list the exact file name here and in sheet K_Comments).*

No.	Year	Short name or internal ID	Costs in M€	Detailed description of investments
Ex.1	2032	New electric furnaces	152	Purchase and installation of electric furnaces (further details see separate file 'CNP file.docx')
IN1	2026	new conveyer belts	20	Purchase and installation 2 new conveyer belts (further details see separate file CNP 1 file.docx')
IN2	2032	3 new electric furnaces	152	Purchase and installation of 3 electric furnaces (further details see separate file 'CNP 2 file.docx')
IN3	2037	2 additional new electric furnaces	110	Purchase and installation of 2 electric furnaces (further details see separate file 'CNP 3 file.docx')
IN4				
IN5				
IN6				
IN7				
IN8				
IN9				
IN10				

2 Investments annualised Euros

The annualised Euros per year for each five-year period are automatically calculated based on the inputs under point 1) above.

Period	2025	2026-2030	2031-2035	2036-2040	2041-2045	2046-2050
Annualised M€	0.00	4.00	30.40	22.00	0.00	0.00

In terms of the detailed description of **investments** required in the CNP (see the text box below), an approach similar to the minimum requirements for energy audits under the EED can be used. Guideline (c) of Annex VI of the EED requires energy audits to "build, whenever possible, on life-cycle cost analysis (LCCA) instead of Simple Payback Periods (SPP) in order to take account of long-term savings, residual values of long-term investments and discount rates".[46] This information can also be used in the justification of selected measures requested as part of the description of the impacts of the measures (see Section 3.2.6).

Text Box 18 CNP Regulation, Annex A, Point 6(b): Description of investments in the CNP

6(b) a detailed description and quantification of the investments related to the measures, expressed as Euros invested in a certain year, as well as annualised Euros per year for each five-year period;

If there are **enabling conditions and infrastructure** needs that are required to be in place before specific measures and investments can be implemented and effective, they need to be described in detail in the CNP. If the conditions under which the measure can be implemented are not in place, other measures can be implemented to ensure the defined targets and milestones are achieved. The inclusion of this information will facilitate the verification of the achievement of the targets and milestones after submission of the CNR. If the enabling conditions and/or infrastructure required for any of the measures and investments is not in place, and alternative measures to reach the defined targets and milestones are not feasible, an updated CNP must be submitted to the CA. This updated CNP must include updated targets and milestones towards climate neutrality by 2050, reflecting the impact of the lack of the required enabling conditions and/or infrastructure specified in the earlier version of the CNP.

[46] Life Cycle Cost Analysis (LCCA) is a tool to determine the most cost-effective option when comparing competing alternative measures to "purchase, own, operate, maintain or dispose of an energy-using asset or process". It uses the net present value (NPV) of the Business-as-Usual scenario and the alternative measure(s) and a discount rate to assess the net discounted benefit of the proposed alternative measure to decide on investments. Recommendations for minimum requirements for implementing the EED state that "LCCA should be used when each alternative option is equally appropriate to be implemented on technical grounds. Energy audits should, whenever possible, build on LCCA over simple payback periods."

See: DG ENER, 2015, A Study on Energy Efficiency in Enterprises: Energy Audits and Energy Management Systems Implementation of national minimum criteria for energy audits, in line with Annex VI of the Energy

Efficiency Directive, Ricardo, see: https://energy.ec.europa.eu/system/files/2016-10/eed-art8-study_on_minimum_criteria_for_energy_audits-wp3-final_0.pdf.

Examples of enabling conditions and infrastructure needs

Examples of enabling conditions and infrastructure needs can include:

- Infrastructure for transport of captured CO_2, and the availability of geological storage sites or demand for its utilisation, as well as relevant enabling legislation regarding, e.g., health and safety.
- The availability of sufficient capacity of an electricity grid and the timely availability of sufficient connections to electrify the industrial production process.
- The availability of a sufficient hydrogen supply, and acceptance of the risks and safety protocols by public authorities and insurance companies to enable a switch to hydrogen-based production.
- Legal acceptance of using waste or recycled material in certain applications.

3.2.6 Impacts

For each of the measures and investments included in the CNP, both a qualitative and a quantitative estimate of their impact on the GHG emissions of the installation must be given for each of the 5-year periods. Where possible, the impacts should be provided per impact category, as shown in Table 2.

Table 2 Examples of measures in various low-carbon technology or impact categories

Impact category	**Examples**
(i) switch to low- or zero-emission technologies	Use of inert anodes in aluminium industry, clinker-free cement
(ii) energy efficiency and energy savings	Adding a pre-calciner and multi-stage preheaters to a cement kiln Production of ethylene from feedstocks such as methanol,
(iii) switch from fossil fuels to:	
(1) hydrogen	Switch from integrated steel production using coal/cokes with BF/BOF furnaces to DRI-produced steel using green electricity and green hydrogen
(2) electricity	Switch from coal/cokes-based steel production (BF/BOF) to electric arc furnaces Use of a large-scale container glass hybrid furnace with a high share of electricity

Impact category	Examples
(3) biomass[47]	Replacing fossil fuel in a cement kiln with more biomass (complying with RED II criteria)
(4) alternative fuels from waste streams	Gasification of waste from biodiesel production to produce syngas Replacing coal by refuse-derived fuel in a soda ash plant
(5) other sources of renewable energy	Production of green hydrogen through electrolysis
(iv) resource efficiency, including reduced consumption of materials and recycling	Increase of chemical recycling in the plastics industry Increase of recycling in sectors such as glass
(v) carbon capture utilisation and storage	Carbon capture for geological storage from blast furnace waste gas in the iron and steel sector

The CNP should also provide a justification as to why the measures and investments included in the plan were selected over other alternatives with potentially larger emissions reduction impacts. This can, for example, include obligations under other – national or Community – legislation (e.g., of the EED).

[47] Fulfilling the sustainability and greenhouse gas savings criteria referred to in Article 38(5) of Implementing Regulation (EU) 2018/2066.

4 Annex A List of abbreviations

ALCR	Activity Level Change Regulation
AVR	Accreditation and Verification Regulation
BFG	Blast Furnace Gas
BM	Benchmark
BMU	Benchmark Update Implementing act
CA	Competent Authorities
CCS	Carbon Capture and Storage
CCU	Carbon Capture and Utilisation
CHP	Combined Heat and Power
CNP	Climate-neutrality plan
CNR	Climate-neutrality report
CIMs	Transitional Community-wide and fully harmonised Implementing Measures pursuant to Article 10a(1) of the EU ETS Directive
CLL	Carbon Leakage List, Delegated act
CSCF	Cross Sectoral Correction Factor
CSRD	Corporate Sustainability Reporting Directive
DH	District Heating
EED	Energy Efficiency Directive
ETS	Emissions Trading System, here always referring to the EU ETS
EU ETS	European Emissions Trading System
FAR	Union-wide rules for harmonised free allocation of emission allowances pursuant to Article 10a(1) of the EU ETS Directive
GDP	Gross Domestic Product
GHG	Greenhouse Gas
HAL	Historical Activity Level
IED	Industrial Emissions Directive
IPPC	Integrated Pollution Prevention and Control
ISO	International Organization for Standardization
LCCA	Life Cycle Cost Analysis
LRF	Linear Reduction Factor

MS	Member States
MRR	Monitoring and Reporting Regulation
MRV	Monitoring, Reporting and Verification
NIMs	National Implementation Measures
p- BM	Product benchmarks
RF	Reduction Factor
RRF	Recovery and Resilience Facility
QA/QC	Quality Assurance / Quality Control
VR	Verification Report

5 Annex B Overview of relevant legislation

In (reverse) chronological order

Legislative number	Shorthand title	URL
To be added	Revised FAR	https://ec.europa.eu/transparency/documents-register/api/files/C(2024)441?ersIds=090166e507e4c880,090166e507e4d487
Implementing Regulation (EU) 2023/2441	CNP Regulation	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32023R2441
Directive (EU) 2023/959	2023 revision of the EU ETS Directive	http://data.europa.eu/eli/dir/2023/959/oj
Regulation (EU) 2023/955	Social Climate Fund Regulation	http://data.europa.eu/eli/reg/2023/955/oj
Directive (EU) 2023/1791	2023 revision of the EED	http://data.europa.eu/eli/dir/2023/1791/oj
Directive (EU) 2022/2464	Corporate Sustainability Reporting Directive (CSRD)	http://data.europa.eu/eli/dir/2022/2464/oj
Regulation (EU) 2021/1119	European Climate Law	http://data.europa.eu/eli/reg/2021/1119/oj
Implementing Regulation (EU) 2021/447	Benchmark decision	http://data.europa.eu/eli/reg_impl/2021/447/oj
Regulation (EU) 2021/241	Recovery & Resilience Fund Regulation	http://data.europa.eu/eli/reg/2021/241/oj
Delegated Regulation (EU) 2019/331	Free Allocation Rules Regulation (FAR)	http://data.europa.eu/eli/reg_del/2019/331/oj
Implementing Regulation (EU) 2018/2066	Monitoring & Reporting Regulation (MRR)	http://data.europa.eu/eli/reg_impl/2018/2066/oj

Implementing Regulation (EU) 2018/2067	Accreditation and Verification Regulation (ACR)	http://data.europa.eu/eli/reg_impl/2018/2067/oj
Directive 2012/27/EU	Energy Efficiency Directive (EED)	http://data.europa.eu/eli/reg_impl/2018/2067/oj
Directive 2010/75/EU	Industrial Emissions Directive (IED)	http://data.europa.eu/eli/dir/2010/75/oj
Directive 2003/87/EC	EU ETS Directive	https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0087
Directive 2003/4/EC	Public access to environmental information	see https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:041:0026:0032:EN:PDF