

Frequently Asked Questions on Installation Closure/Transfer etc.

These FAQ's are provided in response to various questions received by the EPA regarding permit transfers, closure and operational changes, predominantly relating to the power generation sector. The information given below is provided in good faith but should not be regarded as a legal interpretation. Further information is also available in the Final Allocation Decision of 4 March 2008, in particular in the Appendices on Closure, New Entrants etc. (see www.epa.ie/downloads/pubs/air/etu/name_24235,en.html)

Q1: Do carbon allocations attach to units or a station?

A1: Carbon allocations attach to installations. The installation is defined in the GHG permit. Each installation has its own operator holding account on the Registry. The Registry Administrator issues allowances to each operator holding account annually, by 28 February, unless the associated installation is closed (see answers to Questions 2 and 4 below). (The issuance of allowances for 2008 has been delayed due to the finalisation of NAP2 and technical issues regarding the linking of the EU ETS registries with the International Transaction Log under the Kyoto Protocol. It is hoped issuance will be completed shortly.)

Q2: Are allocations affected/altered by a unit closing?

A2: No, as long as the activity at the installation as a whole remains above the threshold allowances will be issued. Allowances are not issued in the event that an installation is closed as of 1 January of that year. (See Q4 below). If the Competent Authority is investigating the status of the installation the issuance of allowances may be delayed. (See Appendix 2 of Final Allocation Decision, EPA, 4 March 2008).

Q3: When are allocations lost?

A3: Installations that close will retain allowances for the year in which closure occurs, but the allowances will not be issued to such installations for the years after closure. Allowances will not be issued in respect of an installation which has closed in the previous calendar year and, as a consequence, the permit has been (or should have been) revoked or surrendered. Allowances retained in this way are added to the New Entrant Set Aside.

Q4: What defines closure?

A4: The installation is deemed to have closed when the operator no longer carries out the Schedule 1 activity listed in the permit at the installation described in the permit. This may be because

- (i) it has ceased operations entirely at that installation, or,

(ii) the capacity of the installation has dropped below the relevant threshold for that activity given in Schedule 1 of the ETS regulations. When considering whether the capacity of the installation has dropped below the relevant threshold only plant which is currently insured for use will be included.

In addition, for power generation plant, the EPA may look for confirmation that the plant is on the Eirgrid list of fully dispatchable plant with a MWe rating above zero at the start of the year.

Q5: If a baseload plant no longer operates as baseload but remains in operation will the number of allowances be reduced?

A5: No. The annual allocation to each installation is fixed for the duration of the trading period (2008-2012) in accordance with the Final Allocation Decision, provided the activity remains in operation as discussed above.

Q6: An operating unit, such as a peaking plant, which is one component of a power plant installation (Installation A), is sold to another operator and moved to another installation (Installation B) elsewhere in Ireland and put into operation there.

- (i) Does the operator of Installation A continue to receive his full allocation in respect of Installation A assuming other units continue to operate?
- (ii) Can the new operator (Installation B) apply for allowances from the NESA in respect of the newly acquired peaking plant assuming it increases the capacity of Installation B?

A6:

- (i) Yes. The allocation is to the installation described in the permit and will not be changed provided the installation is not closed as discussed above.
- (ii) No. Applications to NESA will not be considered for plant continuously permitted under ETS since 30 June 2006.

Q7: When does an operator have to apply for a new permit?

A7: Under Condition 2 of the GHG permit an operator is required to notify the EPA in the event of a change to the installation. Depending on the nature of the change the following may arise:

- (i) The EPA decides no change to the permit is required and the change is noted.
- (ii) A change to the agreed list of minor emission points (Table 3 of the permit) is required and a letter of agreement, enclosing a revised Table 3, is issued.
- (iii) An amended permit is issued covering the changes.

- (iv) EPA decides that the change to the installation is such that it requires a new GHG permit for that part of the installation.

Q8: Can I apply to the NESA for free allocation if I demolish all or part of the existing installation and replace it with a new one?

A8: Any duly completed application to the NESA for new plant will be assessed but operators should note that no allowances will be allocated in respect of new sources of emissions occurring as a replacement for original sources of the same or greater capacity, on the same site, where those original sources are already in receipt of allowances in respect of the current trading period.

Q9: What if construction of the new plant takes longer than a calendar year? If I decommission or demolish the old installation on 2 January 2009 and do not commission my new installation before 2 January 2010 (therefore it's not in operation on 1 January 2010) is the old installation deemed to have closed?

A9: If the existing permitted installation is closed as described under Q4 above the permit will be revoked, no further allocation will be made (after the 2009 allocation in this example) and the operator may apply to the NESA for allowances in respect of the entire capacity of the new plant.

Q10: If I purchase a permitted installation do I need to apply for a new permit?

A10: If an installation is purchased as a 'going concern' the operator listed in the permit and new operator (the transferee) must make a joint written application to the EPA for transfer of the permit.

In applying for a transfer of the permit the new operator is taking on the liability and responsibility for all legal obligations as required under SI 437 of 2004 and amendments and as listed in the greenhouse gas emissions permit. This includes, but is not limited to:

- The duty to submit a verified annual installation emissions report (AIER) by 31 March for emissions during the previous year in accordance with SI 437 of 2004, article 14 (2)
- The duty to ensure that the AIER is verified in accordance with SI 437 of 2004, article 14 (3)
- The duty to surrender, by 30 April each year, a number of allowances equal to the total emissions from that installation in the previous year in accordance with SI 437 of 2004, article 12(3).
- Any reports or amendments to reports outstanding or required in respect of annual emissions for the previous calendar year.
- Payment of any excess emissions penalties outstanding in accordance with SI 437 of 2004, article 16.
- The obligation to surrender an amount of allowances equal to those excess emissions in the following calendar year

The effective date of transfer shall be agreed by the operator (seller) and transferee (buyer) in the joint permit transfer application and is subject to approval by the EPA.

Once approved, the permit will be issued with the new operator name and the operator holding account on the Registry will be transferred to the new operator pending receipt of any/all relevant registry forms. Where the operator is entering the scheme for the first time, documentation, in accordance with the normal procedures for opening a registry account, will be required. The relevant forms will be provided by the Registry Administrator pending approval of the permit transfer by the EPA.

Q11: Will allowances in the operator holding account also be transferred to the new operator?

A11: Whether or not allowances in the registry account are transferred is a matter for the operator (seller) and transferee (buyer) to agree between themselves. Allowances may be transferred along with the account or the account can be transferred with a 'zero' balance.

Transfers are always initiated by the account holder, and account holders can transfer allowances to any registry account within the international system of registries.

Q12: Can allowances be transferred to the transferee (buyer) in advance of the account transfer?

A12: Yes. If the transferee (buyer) has an existing account in the international system of registries, the current account holder (seller) can transfer allowances to this account at any time.

If the transferee (buyer) does not have an existing account, they can open a person holding account (an account not associated with an installation) in the registry and then the transfer can be initiated by the current account holder (seller).

Once the account is successfully transferred to the new operator (buyer), they can transfer these allowances into the operator holding account when and if they so choose.

This document was last updated: 8 May 2008