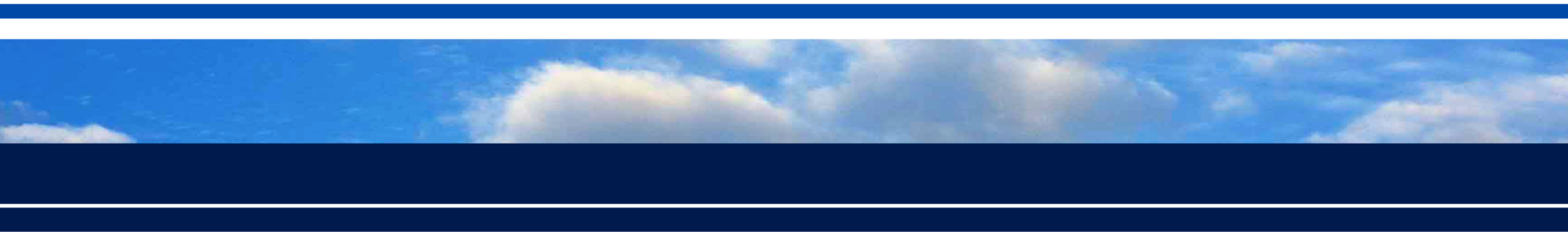


Enforcement and inspection in relation to capacity change issues



Background

Organization of enforcement and inspections in the Netherlands

- Organized as a separate branch, but within the competent authority
- Independent
- Activities:
 - Assessment of emission reports
 - Site visits
 - Other inquiries
- Both random and risk-based
- Instruments:
 - Warning
 - Fine
 - Non compliance penalty
- Compliance assistance (especially in case of new rules and/or new installations)

Capacity changes

Capacity changes and changes in activity level can lead to change of allocated amount of allowances

- New element in current trading period: capacity reductions / reductions in activity level can lead to change in allocation (art 21 and 23 CIMs)
- Changes that had no consequences in 2008-2012, may have consequences now, for example:
 - A bricks factory demolishes one of three production lines
 - An installation reduces its own heat production and starts importing heat from a non-ETS installation nearby

→ Rules are complex

→ Some operators are still not fully aware of this new element

→ How to ensure maximum compliance with regard to capacity changes?

Capacity changes

Compliance can only be ensured when the competent authority has all relevant information

- Information about capacity changes / changes in activity level is mainly available within the installation
- Operators have to report all relevant changes to the competent authority (art 24 CIMs)
- Necessary precondition: Operators know what is relevant
 - CA to give ample publicity to the new rules and where possible provide diagrams that are easy to understand

Capacity changes

Telling operators what they have to do is not enough – Best practice in the Netherlands

- To further ensure compliance, we have made it obligatory for operators to have a procedure on identifying and reporting relevant changes
- This is based on the “Commission Regulation on monitoring and reporting of greenhouse gas emissions” (EU Nr. 601/2012, art 12 (3))
- All operators have to describe how they monitor the relevant parameters, for example:
 - Activity levels
 - Physical changes
- All Monitoring plans must contain a short description of this procedure: this is checked when validating the plan

Capacity changes

Example

- A bricks factory has three production lines, one for paving bricks and two for facing bricks. Free allowances for 2013-2020 have been allocated on the basis of activity level in reference period 2005-2008.
- Because of decreased demand, the production of facing bricks declines in 2011 to 40% of the median of the activity level in 2005-2008.
- In 2013, one of the production lines for facing bricks is demolished. The operator reports a physical change to the CA. This notification is accompanied by production numbers of the years 2011 and 2012.
- The operator has tried to follow the rules and its own procedure, but has failed to realise that the decline in production of facing bricks qualifies as a “partial cessation”

Other mechanisms to ensure maximum compliance

1. Observations by the verifier during verification of the emission report

- When the verifier has observed relevant changes to the capacity or activity level, which have not been reported → The verification report must contain a description of those changes
(Commission Regulation (EU) No 600/2012 art. 27 (3), under o.)
- Applicable from 2014 onwards (verification of 2013 emissions)
- Potential problem: Verifiers have expertise in emissions, not necessarily in activity levels and capacity. Expertise is needed in
 - Allocation rules
 - Process technology
- Possible solution: Introduction of separate requirements for accreditation of verifiers for scope 98

Capacity changes

Other mechanisms to ensure maximum compliance

2. Observations during inspection of installation

- Inspectors may observe relevant changes to the capacity or activity level, which have not been reported

3. Enforcement in case of violation

- Note: Non-reporting of relevant changes must be an offense under national law
- But:
 - Increases complexity of enquiries and site visits
 - Inspectors need to have detailed knowledge of allocation rules
 - More expertise needed in process technology
- Possible solution: Increase knowledge of inspectors
 - But: This may not be realistic if inspectors also have task in other fields (outside of EU-ETS)

Capacity changes

Conclusions

- **There is no “magic bullet”**
- **Making it obligatory to have a procedure for identifying and reporting relevant changes is an effective way of promoting compliance**
- **Added value of the broader role for verifier during verification of the emission report has yet to be proven, and may well require additional measures**

Questions?

