



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
CLIMATE ACTION
Directorate B - European and International Carbon Markets

Frequently Asked Questions on New Entrants & Closures Applications¹

Issued on 19 November 2014

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Content

1	GENERAL ISSUES AND TEMPLATE	3
1.1	Bug in formula for steam cracking for NE&C applications.....	3
1.2	Private households allocation within NE&C applications.....	3
1.3	Bug in calculating the measurable heat non-eligible by origin	3
1.4	How does the initial allocation and history of allocation changes have to be filled in section III of sheet A in the template?.....	4
1.5	Is it possible to report more than one change of allocation in one application (i.e. template)?	4
2	SIGNIFICANT CAPACITY CHANGES	4
2.1	How can the start of normal/changed operation be determined for installations that have very irregular capacity usage (e.g. peak load boilers or district heating installations)?	4
2.2	Will an installation which has not reached the 40% threshold yet receive allowances for the phase before start?.....	6
2.3	How should the start of normal/changed operation be determined when planned or unplanned maintenance occurred during the 90 day period?	6
2.4	How to determine the new allocation if a sub-installation reduces its capacity to zero?7	
2.5	Are there situations where the RCUF can be “1” or even higher?	8
2.6	How to determine the RCUF for significant capacity reductions?	8
2.7	How to deal with measures exclusively aiming at improving the energy efficiency?	9
2.8	Does installation of additional pipelines constitute a physical change, eligible for free allocation?	10
3	(PARTIAL) CESSATIONS.....	10
3.1	Does an installation still receive allowances even when it stopped operations just because it still has all permits and is technically possible to operate?.....	10
3.2	What happens when an installation having ceased operations is re-opened again?..	11
3.3	How do changes to the heat supply structure without any physical changes impact allocation?	11
3.4	How are the partial cessation rules to be applied for cases where the Carbon Leakage (CL) status changes?	12
3.5	Does a partial cessation have to be reported every year?	13

1 GENERAL ISSUES AND TEMPLATE

1.1 Bug in formula for steam cracking for NE&C applications

NOTE: This is only relevant for installations with the “steam cracking” product benchmark. This bug is in principle already removed from all versions that are in circulation.

The bug:

In sheet “H_SpecialBM” the amount for steam cracking allocation correction (section IV.2.b) is not calculated correctly.

Affected section in the template:

Sheet H, cell I232 contains a wrong formula.

The solution:

Cell I232 should contain the formula:

“=IF(COUNT(I225:N227)>0, 12*SUMPRODUCT(S225:S227, G225:G227), EUconst_NA)”

1.2 Private households allocation within NE&C applications

NOTE: This is only relevant for cases where new entrant and closure rules are applied to installations which received an initial allocation for “private households”.

The bug:

In sheet “K_Summary” section V.1 and V.3 no allocation to private households is displayed despite entering corresponding data in sheet A, section III.

Affected section in the template:

Sheet A: The phrase “Private households” has not been translated in the hidden cells D592 and D615.

The solution:

The formula “=Translations!\$B\$1005” should be copied into the (hidden) cells D592 and D615 of sheet A.

Please make sure that in sheet “Translations” the cell B1005 really contains the translation of “Private households”. If this is not the case, the reference to “\$B\$1005” has to be replaced by the reference to the cell containing this translation when carrying out the correction.

1.3 Bug in calculating the measurable heat non-eligible by origin

NOTE: This is only relevant for installation in which measurable heat from non-ETS sources is available.

The problem:

In sheet “E_EnergyFlows” the amount of heat non-eligible by origin is not calculated correctly.

Affected section in the template:

Row 167 of sheet “E_EnergyFlows”: Each cell contains a wrong formula.

The solution:

Cell I167 contains the formula:

“=IF(ISNUMBER(I\$162);J303;””)” but should contain

“=IF(ISNUMBER(I\$162);I303;””)”. The same problem occurs in all other cells in this row (columns I to N).

1.4 How does the initial allocation and history of allocation changes have to be filled in section III of sheet A in the template?

In section A.III.1, the final allocation for the NIMs has to be entered. For greenfields this section has to be left empty.

In section A.III.2 and A.III.3 all changes after the NIMs but before the current application have to be entered. The result of this section A.III is the latest final allocation for the installation before the current application.

This means that any changes related to the current application are not reflected here.

1.5 Is it possible to report more than one change of allocation in one application (i.e. template)?

In general, yes it is possible, provided that the changes are not related to the same sub-installation.

If the starting dates are within the same month (in particular on the same day) there should be no inconsistencies throughout the sheets and the operator may submit changes to multiple sub-installations in one application. However, in reality the start of normal or changed operation may not occur in the same month for all sub-installation. This can lead to inconsistent entries in sheets D and E of the template.

For those cases or in case of any doubt it is recommended to submit one application for each change. In each template the initial allocation should be entered assuming that the preceding allocation change will be approved. This allows reporting a chronologically consistent sequence of applications.

2 SIGNIFICANT CAPACITY CHANGES

2.1 How can the start of normal/changed operation be determined for installations that have very irregular capacity usage (e.g. peak load boilers or district heating installations)?

In Article 3(n) of the Harmonised Allocation Rules Decision the start of normal operation is defined as “the verified and approved first day of a continuous 90-day period, or, where the usual production cycle in the sector concerned does not foresee continuous production, the first day of a 90-day period split in sector-specific production cycles, during which the installation operates at least at 40% of the capacity that the equipment is designed to accommodate taking into account, where appropriate, the installation-specific operating conditions”.

Furthermore, section 3.1 of Guidance Document 7 states “*the daily design capacity needs to be determined on the basis of project build capacity based on evidence and on the guaranteed values given by the supplier. Relevant documents could be reports - the ones accompanying the project -, datasheets, and guaranteed performance values.*”

Note that in the following the term “design capacity” is used for expressing “*the capacity that the equipment is designed to accommodate taking into account, where appropriate, the installation-specific operating conditions*”, which is information different from e.g. guaranteed 24 hour capacities.

With respect to the determination of the design capacity:

In general, the design capacity should reflect the production capacity as intended for “the normal or changed operation of the (sub-)installation”, and should be expressed in the units to be applied for the relevant sub-installation (e.g. for heat benchmark sub-installations in TJ of heat consumed and heat exported to non-ETS).

The “normal or changed operation” of the (sub-)installation has to be interpreted in an appropriate way such that the design capacity used is consistent with the operation mode. In particular it should be evaluated whether the capacity of e.g. a reserve unit (e.g. boilers and kilns) should be included in the determination of the design capacity relevant for “normal/changed operation” (e.g. may be in particular relevant for district heating plants).

With respect to the determination of the relevant activity levels during the 90 days period:

It may be typical for installations in a certain sector (e.g. district heating) to have days with zero activity levels. Therefore, days with zero activity level should not necessarily be part of the 90-day period (alternatively the days with activity levels are added to a 90 day period).

Note: It is stated in Guidance Document 7 “the start of normal or changed operations is defined as the first day of the earliest continuous 90 day period during which the activity level related to the added capacity (AL_{added}) reaches at least 40% of the added design capacity (C_{design})”, according to the following formula:

$$\left(\frac{AL}{C_{design}} \right)_{90 \text{ day period}} \geq 0.4$$

It seems therefore appropriate to use AL and C_{design} consistently in such a way that the result would be “1.0” if the installation operated as intended for this 90 day period. Therefore, C_{design} should reflect the daily design capacity added up to the 90 day period.

However, the NE&C template requires to provide the design capacity in units per year. C_{design} for the 90 day period, i.e. the denominator in the formula above, is then calculated by multiplication of the value entered with 90/365 in the template. Therefore, the design capacity entered in the template should reflect the daily design capacity added up to 365 days in order to obtain consistent results.

This approach allows to apply the following aspects in a consistent way:

- *the 90 day period with regards to the days taken into account as being part of that period, AND*
- *the design capacity, AND*
- *the average activity level in calendar years prior to the physical change (where relevant)*

Please note that the elements relating to design capacity will only have an impact on the determination of the start of normal/changed operation, i.e. the 40% threshold. However, the capacity on which the activity level and the allocation will be based will be calculated as the average of the two highest monthly activity levels after the start of normal/changed operation.

Example:

A greenfield district heating installation has two boilers with a total rated input of 100 MW and a 50 MW reserve boiler. This installation is intended to act as a peak load installation with an expected maximum of 8 full load hours on any given day.

Since the design capacity reflects installation-specific operating conditions, it may seem appropriate for this case to not take into account the 50 MW reserve boiler for normal operation conditions. Furthermore, also only the 8 daily full load hours (note: this is even without taking into account days with zero activity) with respect to the 100 MW may be considered instead of 24 hours here.

The design capacity for this sub-installation for the 90 day period can therefore be calculated as follows:

$$\text{Design capacity}_{90 \text{ days}}(TJ) = 100 \text{ MW} \cdot 8 \frac{\text{h}}{\text{day}} \cdot 90 \text{ days} \cdot 3600 \frac{\text{s}}{\text{h}} \cdot \frac{TJ}{10^6 \text{ MJ}} = 259 \text{ TJ}$$

This value will be used as the denominator to assess whether the cumulated daily activity levels over the 90 day period exceeded the 40% threshold. In order to obtain this value as the denominator in the template for further calculations, the annual design capacity to be entered is calculated as 259 TJ multiplied by 365/90 = 1051 TJ.

Since it may be typical for such peak load installations that there are days with zero production, such days may not be excluded from the 90 day cycle to assess whether the 40% threshold has been exceeded.² In this case it has to be demonstrated to the satisfaction of the Competent Authority that days with zero production are typical in this sector.

2.2 Will an installation which has not reached the 40% threshold yet receive allowances for the phase before start?

No, allocation for the phase before start in accordance with Article 19(2) of the CIMs³ can not be granted before the start of normal operation has been determined.

Article 17(1) of the CIMs states: *“Upon application by a new entrant, Member States shall determine on the basis of the present rules the amount of allowances to be allocated free of charge once the installation concerned has started normal operation and its initial installed capacity has been determined”*

2.3 How should the start of normal/changed operation be determined when planned or unplanned maintenance occurred during the 90 day period?

In Articles 3 (n) and (o) of the Harmonised Allocation Rules Decision, the start of normal/changed operation is defined as *“the verified and approved first day of a continuous 90-day period, or, where the usual production cycle in the sector concerned does not foresee continuous production, the first day of a 90-day period split in sector-specific production cycles, during which the installation/changed sub-installation operates at least at 40% of the capacity that the equipment is designed to accommodate taking into account, where appropriate, the installation/sub-installation-specific operating conditions;”*

Furthermore, in section 3.1 of Guidance Document 7 it is clarified for greenfield plants that *“the continuous 90 day period is to be understood as a period of 90 consecutive days in which the sub-installation is operated each day.”*

² Note that including/excluding days with zero production has to be done in a consistent way for the design capacity and for the days being part of the 90 day cycle.

³ Article 19(2): *“For independently verified emissions of the new entrant which occurred prior to the start of normal operation, additional allowances shall be allocated on the basis of historic emissions expressed as tonnes of carbon dioxide equivalent”*

In analogy to that, for significant capacity extensions it is clarified in section 4.2 of Guidance Document 7 that *“the continuous 90 day period is to be understood as a period of 90 consecutive days in which the sub-installation that has undergone a capacity change operated each day.”*

As a consequence, only if a disruption of operation can be considered typical for this sector, is it justified that this disruption does not lead to a reset of the 90 day counter. In a sector operating continuously, it seems however unlikely that there is a planned stop within 90 days after start of operations using the new equipment. Any unplanned stops may indicate that the new equipment is not yet working properly and thus the installation should not be deemed having started normal/changed operations. Furthermore, if the unplanned maintenance is clearly related to malfunction of any of the new physical units or parts, it can be assumed that this should not be considered as sector-specific operation conditions. The 90-day counter should be reset in such case.

For some exceptional cases it may be difficult to gather sector-specific information. For those cases it may serve as an indication that it is “unusual” for the sector if such maintenance has not been carried out in the past before the change (in case of significant capacity changes). For such cases the burden of proof that the disruption is typical and sector-specific remains with the operator. Thus, any justification provided by the operator linked solely to the installation-specific operation cycles should not be deemed sufficient proof.

2.4 How to determine the new allocation if a sub-installation reduces its capacity to zero?

First of all, a significant capacity reduction can only occur if at least one physical change has been made, even if a sub-installation is taken completely out of service. If this is not the case only the rules for partial cessations are applicable.

If a physical change was made, e.g. dismantling of the sub-installation’s physical units, the new capacity has to be determined (even if it is zero) using the NE&C template. Sheet C of the template will then ask for the design capacity which is the remaining capacity in the case of significant capacity reductions. However, if “0” is entered here, a division by zero will lead to an error message in the template.

A pragmatic approach to circumvent this problem would be to enter e.g. “0.01” as design capacity and also the same value as the daily activity of the first day after start of changed operations. For all subsequent days, zero will have to be entered for the daily activity. Although this is not completely correct, it will provide the correct result, i.e. displaying the start of changed operations in sheet C. Please note that entries here do not have an impact on the allocation.

The new capacity and subsequently the new allocation, is determined by the relevant inputs in sheets D, E and F. For the determination of the new capacity all relevant inputs in those sheets related to this sub-installation will simply be “zero” in order to obtain a new capacity of zero. In the case of fall-back sub-installations, entering a RCUF of “1” in sheet G can always make sure that the new allocation is reduced zero if the physical units have been decommissioned and the sub-installation no longer exists.

For product benchmark sub-installation the case might occur that despite the new capacity being zero, the NE&C template displays an allocation larger than zero. This case occurs if the installation’s historic capacity utilisation factor (HCUF) is higher than the EU-wide standard capacity utilisation factor (SCUF) which has to be applied. In order to avoid the strange result that a sub-installation that no longer exists still receives allowances, negative values

may be entered for the monthly production in sheet F to such an extent that the new activity level is zero or negative. The template does not allow negative allocation and will automatically adjust such values to zero.

2.5 Are there situations where the RCUF can be “1” or even higher?

No. As stated in Guidance Document 2, “no values for the RCUF equal or higher than 100% must be accepted.” There are no situations that constitute an exception to this rule.

2.6 How to determine the RCUF for significant capacity reductions?

The second sub-paragraph of Article 18(2) says: “*The relevant capacity utilisation factor referred to in paragraphs 1(b) to (d) shall be determined by Member States on the basis of duly substantiated and independently verified information on the installation’s intended normal operation, maintenance, common production cycle, energy efficient techniques and typical capacity utilisation in the sector concerned compared to sector-specific information.*”

The basis for calculating the new preliminary allocation for a fall-back sub-installation after significant capacity reductions pursuant to Article 21 of the CIMs (also see chapter 5 of GD7) is⁴:

$$BM \cdot [HAL_{initial} + (CAP_{new} - CAP_{initial}) \cdot RCUF]$$

A simple and straightforward approach is to take the sub-installation’s historic capacity utilisation (HCUF) during the NIMs baseline period or the latest RCUF, if available. However, the formula above shows that the value for RCUF is reflecting the reduced and not the remaining capacity.⁵ Therefore, using HCUF or latest RCUF may lead to unintended results with regards to the remaining capacity after the significant capacity reduction.

On the other hand, the requirement to consider the “*installation’s intended normal operation, maintenance, common production cycle, energy efficient techniques*” implies that the RCUF should, to a certain extent, take into account what the new activity level (AL_{new}), i.e. the utilisation factor of the remaining capacity, will be.

$$AL_{new} = HAL_{initial} + (CAP_{new} - CAP_{initial}) \cdot RCUF$$

As an alternative to using the HCUF or latest RCUF, the RCUF can be determined by estimating AL_{new} on the “installation’s intended [...]”. This means to estimate what the activity level after the change is expected to be based on the operator’s information regarding the intended normal operation, maintenance, common production cycle and typical capacity utilisation in the sector concerned compared to sector-specific information.

With an estimate for $AL_{new,estimated}$ and $CAP_{initial}$, CAP_{new} and $HAL_{initial}$ known, RCUF can subsequently be calculated using the following formula.

⁴ Note that for simplicity reasons correction factors such as “exchangeability of fuel and electricity” or “heat imported from non-ETS” are not considered here.

⁵ Note that for product benchmark sub-installations the corresponding SCUF, i.e. a harmonised value for the specific product, is applied.

$$RCUF = \frac{AL_{new,estimated} - HAL_{initial}}{CAP_{new} - CAP_{initial}}$$

Note that RCUF can only take values between zero and one ($0 \leq RCUF \leq 1$). According to the abovementioned rules set out in Article 18(2) the Competent Authority will decide which approach seems most appropriate based on all relevant information provided by the operator.

2.7 **How to deal with measures exclusively aiming at improving the energy efficiency?**

Recital (1) of the CIMs states that “[...] the free allocation of emission allowances takes place in a manner that provides incentives for reductions in greenhouse gas emissions and energy efficient techniques, [...] and should not provide incentives to increase emissions. [...]”

Based on this recital, it is stated in section 5.1 of Guidance Document 7 that: “Physical changes exclusively aiming at improving the energy efficiency of a sub-installation [...] should not be regarded as physical change leading to a significant capacity reduction. Nevertheless, the operator needs to report such physical changes to the Competent Authority and, where appropriate, provide detailed evidence.” Therefore, this provision should avoid the perversity incentive not to improve the energy efficiency.

The operator should be required to submit to the CA all relevant information that allows to assess whether this physical change is really exclusively aiming at improving energy efficiency. Therefore, e.g. for a heat benchmark sub-installation consuming measurable heat for the production of goods, measures exclusively aiming at improving the energy efficiency are expected not to lead to lower production levels of the goods that are produced.⁶ However, efficiency indicators such as “TJ heat consumed/ t product produced” will decline.

In that respect such information will include specific data (e.g. heat consumption data per unit of product produced, measures implemented to increase energy efficiency, etc.) for which the NE&C template is not really designed. As a consequence, it is not useful to use the NE&C template, as the final purpose of that template is really intended to calculate the effect of the application of the new entrant and closure rules. However, some elements from that template can be “reused” for providing the supporting evidence.

If the result of this change is that it is indeed exclusively aiming at energy efficiency, no further administrative steps are required, i.e. no capacity will be changed officially. As a consequence, no NE&C template has to be submitted to the Commission for approval.

Since this provision does not lead to a change of the installed capacity and the HAL it does not impose any prejudice to any subsequent significant capacity changes. This means that in the event further physical changes leading to significant capacity changes of the relevant sub-installations occur after this energy efficiency measure, the new allocation will be determined as set out in the CIMs, i.e. without consideration of the energy efficiency measure.

Please note that in order not to provide incentives to increase emissions or energy consumption such exemption could also be considered for partial cessations. However, it is consid-

⁶ Please note that for assessing the efficiency of the production units only the efficiency of the heat consumption is relevant. Any efficiency improvement related to the production of the measurable heat does not impact this assessment as it is already taken into account by the heat benchmark.

ered unlikely that an energy efficiency measure leads to an efficiency increase, i.e. reduced specific consumption of (measurable) heat for fuel and heat BM sub-installations without any physical changes.

2.8 Does installation of additional pipelines constitute a physical change, eligible for free allocation?

In the section 4.1 of Guidance Document 6 it is stated: “*In order for an increase in heat export to be marked as significant, the physical changes need to have any of the following results:*

- *the heat export to non-ETS entities can increase by 10% compared to the initial heat export before the change, OR*
- *the increase in heat export to non-ETS entities leads to an additional allocation of emission allowances of more than 50000 allowances per year representing at least 5% of the preliminary annual number of emission allowances allocated free of charge for the heat exporting sub-installation before the increase in heat export.”*

Significant capacity changes have to be assessed with respect to the whole sub-installation’s potential to operate at changed activity levels. This means in the case of e.g. district heating that the physical change at the “boiler-pipelines/ducts-heat exchanger” system (simplified system description of a common district heater) must allow for higher activity levels with respect to the ability to export more measurable heat to non-ETS.

This means it is in principle not relevant if there have been changes to the rated thermal input of boilers, but to the ability of the whole sub-installation to operate at a higher capacity in terms of TJ per year consumed or exported to non-ETS in case the bottleneck of the “boiler-pipelines/ducts-heat exchanger” has been eliminated by making this physical change.

In any case no significant extension occurred if:

- there is clearly no technical connection between this pipeline and the equipment for the export of heat (i.e. the change did not take place within the boundaries of the heat BM sub-installation and there is no causality link to higher throughput), OR
- it cannot be demonstrated that the new pipeline has “de-bottlenecked” this sub-installation, i.e. the capacity of exporting heat has not changed. Note that the latter may mean that the new capacity is not 10% higher than the old one, rendering this change a non-significant one.

3 (PARTIAL) CESSATIONS

3.1 Does an installation still receive allowances even when it stopped operations just because it still has all permits and is technically possible to operate?

If the installation still has all permits, and if it is still technically possible to operate, the installation can only be deemed having ceased operations if reason (e) of Article 22(1) of the Harmonised Allocation Rules Decision is satisfied. Reason (e) of Article 22(1) is defined as: “*the installation is not operating, but has been operating before and the operator cannot establish that this installation will resume operation at the latest within 6 months after having ceased operations...*” Member States may extend this period up to a maximum of 18 months under exceptional and unforeseeable circumstances.

Only installations that are kept in reserve or standby and installations that are operated on a seasonal schedule are exempted from the application of reason (e) under certain circumstances according to Article 22(2) of the Harmonised Allocation Rules Decision.

However, even if the installation cannot be deemed having ceased operations due to exceptional or unforeseeable circumstances or because it is kept in reserve or standby, or because it is operated on a seasonal schedule, the rules for *partial* cessation – as laid down in Article 23 of the Harmonised Allocation Rules Decision – still apply also to such installations. In practice, in both cases no allowances will be issued as of the following year unless sub-installations for which the partial cessation rules are not applicable are involved⁷. Nevertheless, it is important to correctly identify each case (cessation or partial cessation) since it has implications on the way such installations are treated should they ever operate again.

3.2 What happens when an installation having ceased operations is re-opened again?

An installation that has ceased operations according to Article 22 of the Harmonised Allocation Rules Decision should have a new GHG emissions permit and will be treated as a new entrant when it re-opens again (see information in the box in section 6.2 of Guidance Document 7).

The allocation will be determined in accordance with the rules for new entrant greenfields. The allocation will then be determined on a sub-installation level based on the 90 day period following the start of normal operation of each sub-installation.

3.3 How do changes to the heat supply structure without any physical changes impact allocation?

Article 3(c) of the CIMs defines:

“heat benchmark sub-installation’ means inputs, outputs and corresponding emissions not covered by a product benchmark sub-installation relating to the production, the import from an installation or other entity covered by the Union scheme, or both, of measurable heat which is

- consumed within the installation's boundaries for the production of products, for the production of mechanical energy other than used for the production of electricity, for heating or cooling with the exception of the consumption for the production of electricity, or*
- exported to an installation or other entity not covered by the Union scheme with the exception of the export for the production of electricity”*

These rules applied for determining the eligible amount of heat as basis for the historic activity levels of heat BM sub-installations for the NIMs. It is therefore clear that the same rules have to be respected when comparing annual activity levels to the initial activity levels for the

⁷ In accordance with Article 23(1) of the CIMs partial cessation rules only apply to a “sub-installation, which contributes to at least 30 % of the installation’s final annual amount of emission allowances allocated free of charge or to the allocation of more than 50 000 allowances”

purpose of Article 23, i.e. only the eligible amount of heat consumed or exported has to be taken into account.

The following situations are potentially relevant:

- An ETS installation is consuming measurable heat produced either onsite or by another ETS installation. The installation is now switching to importing heat from a non-ETS supplier
- An ETS installation is exporting measurable heat to non-ETS. The heat consumer now changes from being a non-ETS installation to an ETS installation OR the non-ETS consumer starts using the heat for the production of electricity

Both cases will lead to a partial cessation if the consumption or export of the eligible amount of heat is reduced by at least 50% in any given calendar year, provided that this sub-installation contributes to at least 30 % of the installation's final annual amount of emission allowances allocated free of charge or to the allocation of more than 50000 allowances.

3.4 How are the partial cessation rules to be applied for cases where the Carbon Leakage (CL) status changes?

In principle, a change of the CL status of a product will also lead to changes of the sub-installation's initial installed capacity and initial activity level. Those values will then be the same as if the CL status of the products have always been the current one.

Example:

An installation has reported the following two sub-installations for the NIMs:

- *Heat BM sub-installation, CL exposed: The installation is consuming measurable heat produced onsite for the production of two CL-exposed products A and B (HAL = 500 TJ (300 TJ for product A and 200 TJ for product B))*
- *Heat BM sub-installation, non-CL exposed: The installation is also exporting measurable heat to a district heating network (HAL = 50 TJ)*

With the non-CL sub-installation not contributing at least 30% of the installation's final allocation, the partial cessation rules are only applicable to the CL exposed sub-installed.

After revision of the CL list, product B is no longer considered CL exposed from 2015 onwards. This will impact the installation's allocation and historic activity level (i.e. the initial installed activity levels for assessing partial cessations) for 2015-2020 as follows:

- *Heat BM sub-installation, CL exposed: The installation is now consuming measurable heat produced onsite for the production of only one CL-exposed product A (HAL = 300 TJ)*
- *Heat BM sub-installation, non-CL exposed: The installation is exporting measurable heat to a district heating network (HAL = 50 TJ) and consuming measurable heat produced onsite for the production of product B (HAL = 200 TJ, total HAL for this sub-installation = 250 TJ)*

Please note that now both sub-installation qualify for a potential partial cessation. Allocation will be adjusted the activity level of any of the two sub-installation is reduced by at least 50% compared to the HAL in any given year.

3.5 *Does a partial cessation have to be reported every year?*

Please contact your Competent Authority for the correct national procedure in this regard.

If the adjustment factor stays the same in subsequent years, an application however only has to be submitted and notified to the European Commission via the Competent Authority for the first year the partial cessation occurred. Only if the activity level in any given year causes a change of the adjustment factor, hence to the allocation, a new application needs to be submitted and notified.