

# Belgium

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## The role of the Federal Government and the Regions

Belgium is divided in three regions: the Flemish Region, the Walloon Region and the Brussels Capital Region. Each region has its own Competent Authority (CA). The three CAs operate autonomously, but try to harmonise where possible. Due to autonomous operations, different approaches to the implementation of EU Emission Trading System (EU ETS) cannot be avoided and do occur. The three regional CAs are ultimately responsible for allocation, monitoring, reporting and verification. The Federal Government is ultimately responsible for the registry and accreditation. Information in this Fiche is therefore presented by region.

## Flemish Region

This section outlines how EU ETS is implemented in the Flemish Region.

### **Main changes compared to Phase 2**

The main changes from Phase 2 to Phase 3 are as follows:

- From 2013, an online reporting tool has been used by the operators/verifiers for the submission of annual emission reports (AERs) and verification reports (VRs). Data from this tool are extracted by the CA.
- Operators can now select an accredited verifier in accordance with the Regulation on Accreditation and Verification under the EU ETS, Commission Regulation No. 600/2012 (AVR). Previously there was only one verifier in the Flemish region (the Benchmarking Verification Bureau of Flanders (VBBV)), paid by the Flemish CA.
- As the Flemish Region holds a large chemical cluster, the new scope of ETS resulted in a lot of additional emissions compared to Phase 2. For example, there are four nitric acid installations using measurement-based methodologies (CEMS) now included under EU ETS.
- All monitoring plans (MPs) have been updated to incorporate new provisions included in the new Regulation on Monitoring and Reporting under the EU ETS, Commission Regulation No. 601/2012 (MRR).
- The VBBV now performs specific 'conformity audits', where a site visit is carried out to check if the MP is in line with the situation on site.

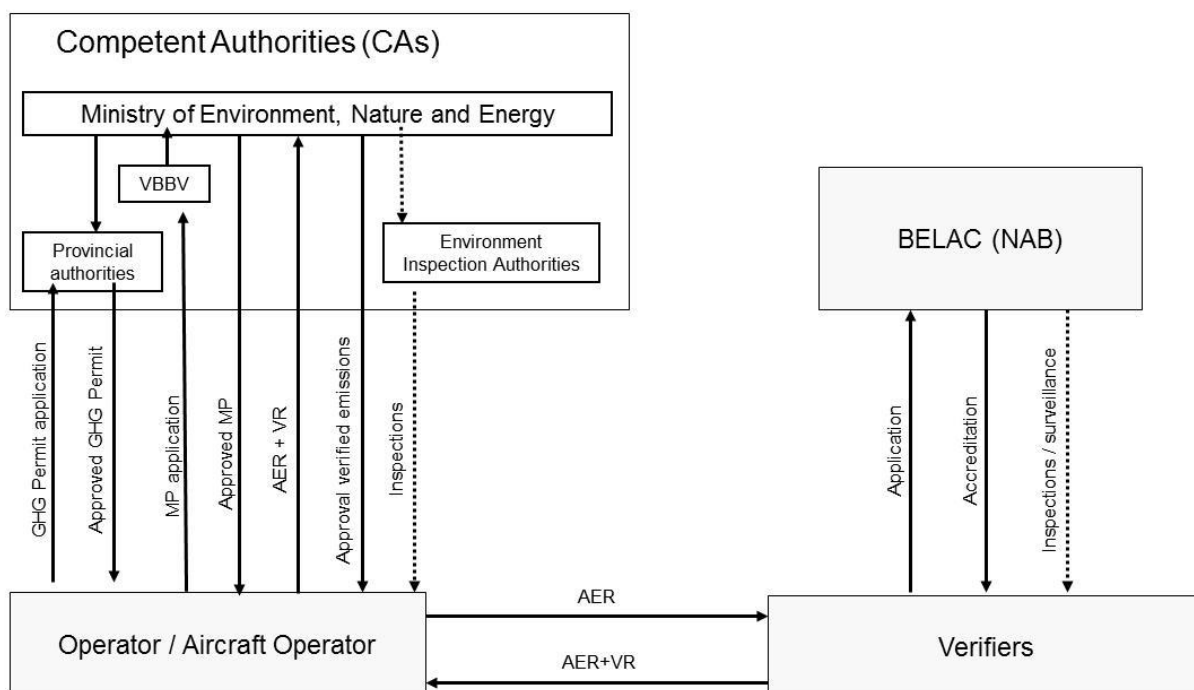
### **Short description of authorities involved, their responsibilities and how they work together**

In the Flemish region, there are several authorities involved in the implementation of the emission trading system (ETS), each with separate responsibilities.

**Figure 1** outlines the organisational structure of ETS in the Flemish Region.

## Organisational chart of national EU-ETS implementation in FLANDERS

– illustrating the hierarchy and/or relations between the actors -



**Figure 1 Organisational chart of EU ETS implementation in the Flemish Region**

The Flemish Ministry of Environment, Nature and Energy (the Ministry) acts as the CA in the Flemish region and is responsible for the following activities with respect to both installations and aircraft operators:

- Drafting legislation implementing EU ETS
- Approving (changes to) MPs
- Reviewing verified tonne kilometre and verified annual emissions reports
- Reviewing new entrant and closure applications.

Both the greenhouse gas (GHG) and IPPC permit are integrated in the environmental permit, which is the responsibility of the provincial authorities. The provincial authorities are therefore responsible for extending the environmental permit with EU ETS sections. Each EU ETS Annex I activity needs to be mentioned in the permit. The Flemish CA gives the provincial authorities advice on the EU ETS sections of environmental permit applications.

The VBBV provides advice to the CA on the approval of the MP and is the only verifier for the submission of new entrant applications and closure notifications.

Operators can select an accredited verifier in accordance with the AVR.

BELAC is the National Accreditation Body (NAB) responsible for accreditation of verifiers in accordance with the AVR. BELAC is a member of the European co-operation for Accreditation and oversees the quality of verifiers.

## **Permitting and monitoring including notification of changes**

### **Permitting**

Operators of installations covered by the EU ETS have to apply to the relevant provincial authority for a greenhouse gas (GHG) permit. The GHG permit is integrated in the environmental permit, which is the responsibility of the provincial authorities<sup>1</sup>. Each EU ETS Annex I activity needs to be mentioned in the environmental permit.

The installation boundaries are defined in line with the European Guidance document on Interpretation of Annex I of the EU ETS Directive. For example, the installation boundaries therefore also include emergency generators and small heating units.

As part of the permit application procedure the operator has to complete the right application for extending the environmental permit with an activity specific section, add an approved MP, and include relevant accompanying data.

An approved MP therefore needs to be submitted as part of the permit application. Operators must submit draft MP applications to the VBBV. The VBBV is responsible for assessing the MP while the Ministry is responsible for approving the MP, based on advice by the VBBV.

The Ministry advises the provincial authorities on the permit applications and whether the MP is in line with the permit. Cases where no approved MP has been added to the permit application or where there is a difference between the MP data and the permit application are highlighted.

The EU ETS part of the permit does not have a specific validity date by law, but has the same validity date as the environmental permit.

Word-based MP templates for installations are provided by the CA. These templates were developed in Phase 2 and updated for Phase 3 to meet the requirements of the MRR. Consistency with the Phase 2 template was requested by operators, so the Commission template for MP was not duplicated.

There are three versions of the template for installations and a checklist is followed to determine which template is applicable:

- A detailed version for installations using CEMS or a fallback approach (relates to 4 installations using CEMS)
- A simplified version for installations of low emission (if the use of this simplified template can be justified, based on a risk assessment by the operator) (relates to approximately 110 installations)
- A standard version for all other operators (relates to approximately 100 installations).

Commission guidance is used by the CA and VBBV, particularly to help understand provisions in the MRR. Operators have also made use of this guidance. Additional guidance is also incorporated into the MP templates. For small emitters standard procedures have been developed to harmonise completion of the MP.

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<sup>1</sup> There are 5 provincial authorities in the Flemish Region

For aviation a template similar to the Commission excel template is used. The main difference is in the way in which changes need to be reported. Small emitters are required to complete this template, although certain sections are not required. For aviation, guidance is provided on how to deal with changes and completion of a logbook.

The VBBV will receive MPs via email. When assessing the MP the VBBV checks the completeness of the MP and carries out plausibility and consistency checks within the MP itself. Each element in the MP is checked against a word checklist/work instruction that corresponds to each section of MP and is in line with MRR requirements. This ensures a common approach is used in assessing the MP. A peer review process is also in place. Both these approaches are good practice. During the MP assessment process, there is direct communication between the installation and VBBV.

In assessment of Phase 3 MP, the VBBV have noted that there is sometimes a misunderstanding of the content and purpose of procedures amongst operators of installations. For aircraft operators (AO) there have been some issues noted in the establishment of the risk assessment and the notification of significant (and other) changes to the CA.

For Phase 3, all MP's were approved by early 2013. Every year updated MPs for the next year need to be submitted by the operator to the VBBV by 15 November. By the end of March of the next year, most of these updated MPs are approved by the Ministry.

Phase 2 GHG permits have remained valid for Phase 3. However, many installations needed to update their permit because of the extension of the scope in Phase 3. In many cases the update consists of just adding a specific Annex I activity. Most permits are now updated, although some applications for update are still pending. These installations already have an approved MP, and were already covered by the EU ETS in Phase 2, so are covered by the obligations to report verified emissions and surrender allowances. In practice, no issues were found in 2013 reporting.

The CA retains all MPs and supporting documents on their server. Files are saved by year and then by operator.

### **Monitoring incl. notification of changes**

With respect to notifying changes of the MP, significant changes (as per Article 15.3 of the MRR) need to be verified by the VBBV and then approved by the Ministry. All changes (whether significant or not) also need to be recorded in a 'changes logbook', which is kept by each operator. A special template is provided for this 'changes logbook'. This logbook needs to be submitted to:

- 1) The accredited verifier alongside the AER each year
- 2) The VBBV when proposing the updated MP by 15 November each year.

Significant changes need to be reported to the VBBV and approved by the CA before the change is applied, or (in rare cases) as soon as possible after this change, if notifying before was not possible.

All operators have to submit an updated MP by 15 November each year, which includes all significant and other changes. The updated MP is verified by VBBV before 20<sup>th</sup> January and submitted to the Ministry for approval. VBBV uses checklists to assist in the assessment of changes to the MP. After approval by the Ministry, this MP is valid for the year plus one, and replaces the previous version of the approved MP.

Guidance is provided on the notification of changes, which helps operators to understand how to complete their logbook and what procedure to follow.

In the Flemish Region, there have been no specific issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t) and the related Guidance Document). Information has been checked by VBBV, who has a good knowledge of the installations.

Upon request of the CA, we have also included the classification of the installations in the Flemish Region, which is shown in Table 1.

**Table 1 Installations in the Flemish region**

| Installations   | Number     |
|---|------------|
| Installations with low emissions                                      | 111        |
| Category A installations (excluding installations with low emissions) | 42         |
| Category B installations  | 46         |
| Category C installations  | 18         |
| Total number of installations   | <b>217</b> |

The number of source streams that need to be monitored by the installations is shown in Table 2:

**Table 2 Source streams in the Flemish region**

| # source streams per installation | # installations with this # of source streams  | cumulated # of installations | # source streams involved | cumulated # of source streams | % of installations with this # of source streams | % of installations with this or lower # of source streams | % of source streams of this category in total | cumulated % of source streams |
|-----------------------------------|--|------------------------------|---------------------------|-------------------------------|--|---|---|-------------------------------|
| 1                                 | 40   | 40                           | 40                        | 40                            | 19%  | 19%   | 5%  | 5%                            |
| 2                                 | 69   | 109                          | 138                       | 178                           | 32%  | 50%   | 16%   | 20%                           |
| 3                                 | 35   | 144                          | 105                       | 283                           | 16%  | 67%   | 12%   | 32%                           |
| 4                                 | 17   | 161                          | 68                        | 351                           | 8%   | 75%   | 8%  | 40%                           |
| 5                                 | 12   | 173                          | 60                        | 411                           | 6%   | 80%   | 7%  | 47%                           |
| 6                                 | 9  | 182                          | 54                        | 465                           | 4%   | 84%   | 6%  | 53%                           |
| 7                                 | 9  | 191                          | 63                        | 528                           | 4%   | 88%   | 7%  | 61%                           |
| 8                                 | 7  | 198                          | 56                        | 584                           | 3%   | 92%   | 6%  | 67%                           |
| 9                                 | 2  | 200                          | 18                        | 602                           | 1%   | 93%   | 2%  | 69%                           |
| 10                                | 1  | 201                          | 10                        | 612                           | 0%   | 93%   | 1%  | 70%                           |
| 11                                | 4  | 205                          | 44                        | 656                           | 2%   | 95%   | 5%  | 75%                           |
| 12                                | 2  | 207                          | 24                        | 680                           | 1%   | 96%   | 3%  | 78%                           |
| 14                                | 2  | 209                          | 28                        | 708                           | 1%   | 97%   | 3%  | 81%                           |
| 15                                | 2  | 211                          | 30                        | 738                           | 1%   | 98%   | 3%  | 85%                           |
| 16                                | 1  | 212                          | 16                        | 754                           | 0%   | 98%   | 2%  | 86%                           |
| 21                                | 1  | 213                          | 21                        | 775                           | 0%   | 99%   | 2%  | 89%                           |
| 23                                | 1  | 214                          | 23                        | 798                           | 0%   | 99%   | 3%  | 92%                           |
| 28                                | 1  | 215                          | 28                        | 826                           | 0%   | 100%  | 3%  | 95%                           |
| 46                                | 1  | 216                          | 46                        | 872                           | 0%   | 100%  | 5%  | 100%                          |
| <b>216</b>                        |  |                              | <b>872</b>                |                               |  |   |   |                               |
| <b>Conclusions:</b>               |  |                              |                           |                               |  |   |   |                               |
| 1                                 | Half of the installations under ETS in the Flemish Region have a very limited reporting obligation (one or two activity data to be reported, combined with - in most cases - standard NCV, emission and oxidation factors)     |                              |                           |                               |  |   |   |                               |
| 2                                 | 75% of the installations under ETS in the Flemish Region have a rather limited reporting obligation (4 or less activity data to be reported, combined with - in a lot of cases - standard NCV, emission and oxidation factors) |                              |                           |                               |  |   |   |                               |
| 3                                 | 5% of the installations under ETS in the Flemish Region (the most complex ones) are responsible for 25% of the number of source streams  |                              |                           |                               |  |   |   |                               |

The CA believes that MRR Article 26 has resulted in more B and C installations meeting highest tiers.

Improvement reports in the Flemish Region have been submitted by approximately 80 installations; predominantly category B and C installations. The plans cover issues related to improvements according to Article 14(1) and 69(1-3) of the MRR, as well as improvements as a result of Article 9, 47(3) and 69 (4) of the MRR (issues mentioned in the VRs).

No installations in the Flemish region are applying a fallback approach.

The Flemish Region has four nitric acid installations using measurement-based methodologies (CEMS) (out of 216 installations overall). CEMS are used only for N<sub>2</sub>O emissions from nitric acid production. There were no CEMS prior to Phase 3. The CA requires operators using CEMS to complete the most detailed MP template. Standards relevant to EN14181 (QAL1, QAL2, QAL3 and AST) are applicable regarding quality assurance and measurement requirements for CEMS, as well as requirements for laboratories to be EN ISO 17025 accredited.

No specific issues have been identified with the use of biomass. There is only one installation that uses bioliquids. This installation uses animal fat. The operator of this installation has provided the CA with certified evidence (as part of the MP) that this animal fat meets sustainability criteria under a voluntary scheme in the Netherlands. According to Flemish legislation, the certificate is also valid in the Flemish region.

All operators use route III (i.e. full uncertainty calculation) for uncertainty calculation as they have experience with it from Phase 2. Use of routes I and II is found confusing by operators and therefore these are not used.

The examples in the Commission guidance have been useful, but further examples, such as for online analysers, would be useful. VBBV uses internal guidance to assist in the checking of uncertainty assessments.

The CA has noted that the requirements for uncertainty assessments for measurement instruments under "type-conform" conditions (national metrological control) are confusing for operators and verifiers. The CA has stated that national metrological control is not applicable in the Flemish Region.

The CA has found that the new determination method for unreasonable costs is clear and that the Commission's tool to determine unreasonable costs has helped in assessing operators' claims over facing unreasonable costs.

The CA has not had any experience where an operator has claimed that applying a specific monitoring methodology is technically not feasible.

The CA has had a few experiences of using the 1/3 rule calculator provided by the Commission. These experiences were specifically where an input of a mass balance was a very pure chemical. Where operators were purchasing a pure fuel stream and did not have online analysis, analysis would be performed once a day and the 1/3 rule would then be applied if results were very consistent. In these cases analysis would have dropped from one per day to around six per year.

In general, the requirements of the MRR on frequency of analysis have led to an increase in the frequency of analysis amongst operators.

The CA has seen the number of applications for equivalence concerning EN ISO 17025 accredited laboratories increase since introduction of the MRR. This is due to a lot of installations having special slop streams and off gases that are so operator-specific that there is no lab that tries to acquire an EN ISO 17025 certificate for them. Guidance note 5 and checklist has been particularly useful for operators.

The CA has not experienced any issues with inherent CO<sub>2</sub> or transfer of CO<sub>2</sub> in the Flemish Region. The one case of transfer of inherent CO<sub>2</sub> is with a steel plant that transfers waste gases to an electricity producer. The circumstances of this case have not changed since 2005.

## **Aviation**

Aircraft operators (AOs) meeting the requirements of MRR Article 54 ('small emitter' status) are allowed to use simplified monitoring requirements and Eurocontrol's small emitter's tool to estimate their fuel consumption.

When updated versions of the Commission EU ETS Operator List are released and new AO identified the AOC is checked in order to identify the responsible party. If no AOC is available, the owner of the aircraft (determined based on the registration number) is considered to have responsibility. The CA would then look to identify contact details via the internet. If no results were found, Eurocontrol or the aviation authority where the relevant aircraft are registered would be contacted.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are clear and straightforward.

The CA uses Eurocontrol Support Facility (SF) to cross check reported emission in AERs.

For 2013 AERs, AO have been advised to report 2013 emission by 31<sup>st</sup> March 2015. AO are also advised to submit SF report together with their own spreadsheet log of flights to the verifier.

## **Reporting and verification**

### **Submission of reports**

Operators are required to submit an AER to the CA by the 14<sup>th</sup> March each year. From 2014 (for the 2013 AER), an online reporting tool has been used by the operators and verifiers for the submission of AERs and VRs. A long-term goal for the online reporting tool is to combine all forms of environmental reporting into one online interface.

The online reporting tool allows for better handling of data by the CA and makes it easier to check data. The CA has provided a manual for the new online reporting tool to assist operators in completion of their AER.

Operators need to have their AER verified by an accredited verifier. Emissions have to be reported by the operator in the online reporting tool and then a VR needs to be uploaded by the selected verifier in the same online tool.

An excel template is available for the VR. This template is based on the Commission template, but with some minor adaptations for the Flemish Region.

Waiving of site visits have not been approved to date in Phase 3. All sites have had site visits relating to their 2013 AERs.

Aircraft operators have not yet reported for 2013 emissions. Commission templates for aviation will be used for aviation AERs and VRs. The online reporting system used for installations will not be used for this.

### **Review of AERs and VRs**

The online tool carries out an automated completion check on all submitted AERs. In general, consistency and plausibility checks of AER data are carried out by the CA. Formal procedures for the review of AERs and VRs are under development. The focus for the 2013 compliance cycle was smooth introduction of the new reporting tool. The CA has performed some basic checks on submitted reports, including comparison with emissions with previous years' data and consistency of the emission figures in AER and VR. Checks against the MP or additional sources of information were not specifically carried out for 2013 AERs.

Formal procedures, when developed, will also include the process for when errors are identified in the AER or VR. No issues were identified in the basic checks carried out on 2013 AER.

Operators are informed via email once the CA has accepted the verified emissions. The correspondence confirms that verified emissions will be sent to registry and that the operator will need to surrender allowances for these.

### **Determination of the emissions figure**

The national legislation does not contain specific provisions on how the CA is allowed to determine the emissions figure. However, the provisions of the MRR apply. No determinations have been required to date.

### **Improvement reports**

When they are required, operators need to submit the improvement report (IR) to the CA by the 30<sup>th</sup> June. IRs are currently submitted via email. In the future, it will be evaluated whether submission of IR will also be via the online reporting tool. A word template, which is a simplified version<sup>2</sup> of the Commission template, is provided to operators for IRs.

To date the most common improvement requirements identified by verifiers and operators are:

- Compliance of MP with GHG-permit
- Tier requirements (some installations needed to install new measurement equipment)
- Adjustments to procedures, as procedures often not in line with reality
- Improvements to risk assessments, as sometimes too general and not installation-specific enough
- Internal audits not being performed

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<sup>2</sup> For example, there are no operators in the Flemish Region that use a fall back approach, so the simplified template has no references to fallback approach.



- Data flow diagram missing and/or data checkpoints missing from this diagram.

## **Electronic reporting**

All documents are submitted electronically to the CA and stored on their server. MPs, IRs and additional documentation are received via email, while AERs and VRs are submitted via the online reporting tool.

Electronic submission was not mandatory for 2013 AERs, but it is foreseen that it will be mandatory from 2014 AERs. Already in 2014, all operators submitted 2013 AERs via the online tool.

The online reporting system uses the same access control system as other environmental reporting systems in the Flemish Region. A unique email is sent to the responsible person for submission of AER (as per the details in the MP), providing them with a unique link and login. Confidentiality is managed as part of the IT system.

Some automated checks are carried out in the online system, including some warnings if data inputted is not as expected. Currently automated checks are not carried out against MP information.

## **Accreditation and acceptance of verifiers**

Introduction of the AVR has changed the verification and accreditation process in the Flemish Region. BELAC is the National Accreditation Body (NAB) responsible for accreditation of verifiers in accordance with the AVR.

Previously there was only one verifier (VBBV) in the Flemish Region, paid by the CA. As from 2014, operators need to select an accredited verifier in accordance with the AVR.

The Walloon Region is appointed as the focal point for Belgium between CA and NAB. Regular meetings and email exchanges occur between CAs and NAB, in which the Flemish CA will participate, as required.

Further information on the accreditation and acceptance of verifiers is provided in section 0 of the Walloon region section of the fiche.

## **Inspections and enforcement**

### **Inspections**

Two types of inspection are carried out in the Flemish region:

1. In accordance with the IED, operators are inspected by the environmental inspection authorities. These inspections are always carried out, but the focus is much broader than EU ETS issues. Compliance with the MP and MRR requirements is not the main focus of these inspection bodies. However, when the CA (Ministry of Environment) is aware of non-compliance with the EU ETS sections of the environmental permit (e.g. when no AER is submitted), the environmental inspection authorities are informed which can formally determine the non-compliance.

2. The VBBV performs 'conformity audits'. They do site visits and check if the MP is in line with the situation on site. These conformity audits are new in Phase 3. Frequency of conformity audits going forward will be:
  - Every year for category C installations (started in 2013)
  - Every 2 years for category B installations (starting in 2014)
  - Every 4 years for category A installations (starting in 2014).

During conformity audits, the whole MP will be assessed for conformity with MRR requirements, including supporting documentation on laboratories, measurement devices and in-house procedures. A physical inspection of monitoring equipment on site will also be carried out. Issues will be reported back to the operator who will be required to solve them by the time the updated MP is due (15 November annually). These audits constitute good practice.

To date, conformity audits have found instances where:

- Procedures were not in line with the MRR or were missing
- Basic uncertainties of measurement devices were not correct
- Information on emissions sources not in line with GHG permit
- No EN ISO 17025 certificates of laboratories.

## **Enforcement**

With the exception of not surrendering sufficient emission allowances, there are no EU ETS specific sanctions. The Ministry of Environment can only impose sanctions on operators based on the general provisions of the environmental act. The following infringements can be distinguished:

- Up to €250,000 multiplied with an index of 5.5 for emitting emissions while not having a valid ETS permit
- Up to €50,000 multiplied with an index of 5.5 for not complying with monitoring and reporting requirements
- Up to €50,000 multiplied with an index of 5.5 for not notifying changes
- Not surrendering emission allowances equivalent to the emissions reported.

For these infringements administrative fines can be imposed by the Ministry of Environment.

For aviation, the following penalties apply:

- An AO that does not have an approved MP by the 1st of January faces an administrative fine between 5,000 and 450,000. The exact amount is calculated as €0.5 by the estimated emissions (taking into account the minimum and maximum)
- An AO that does not report verified emissions by the second Thursday of March faces an administrative fine between 5,000 and 450,000. The exact amount is calculated as 0.5 by the estimated emissions (taking into account the minimum and maximum).

## **MS Summary**

The Flemish Ministry of Environment, Nature and Energy (the Ministry) has overall responsibility for the implementation of EU ETS compliance requirements in the Flemish Region of Belgium and has responsibility for MPs, AERs and VRs. Provincial authorities are responsible for the GHG permit, which is combined with the IPPC permit into an integrated environmental permit.

VBBV, who, before Phase 3, was the only verifier in the Flemish Region, now has a role in reviewing MPs and advising the Ministry on approval of MPs, as well as performing specific

'conformity audits', where a site visit is carried out to check if the MP is in line with the situation on site.

Word-based MP templates are provided for installations. There are three versions of the template and a checklist is used to determine with template should be used. Installations are required to submit updated MPs to VBBV each year by 15 November. The Ministry aims to approve these by the end of March of the next year.

From 2013, an online reporting tool has been used by the operators/verifiers for the submission of AERs and VRs. An excel template is available for the VR. This template is based on the Commission template, but with some minor adaptations for the Flemish Region. Commission templates for are used for aviation AERs and VRs.

BELAC is the appointed NAB for accreditation of verification bodies for EU ETS in Belgium.

### **Good practices**

- As the CA does not use the Commission MP templates, additional guidance is incorporated into the word-based MP templates to assist operators in their completion.
- The CA has produced standard procedures for installations of low emission to harmonise completion of the MP.
- Each element in the MP is checked against a word checklist/work instruction that corresponds to each section of MP and is in line with MRR requirements. This ensures a common approach is used in assessing the MP. A peer review process is also in place.
- All changes (whether significant or not) are recorded by operators in a 'changes logbook'. A special template is provided for this logbook by the CA. The logbook needs to be submitted to the accredited verifier alongside the AER each year and to the VBBV when proposing the updated MP by 15 November each year.
- Two types of inspection are carried out in the Flemish region; IED inspections and 'conformity audits', which are new for Phase 3. The conformity audits will assess the whole MP for conformity with MRR requirements and a physical inspection of monitoring equipment on site will also be carried out. Operator will be required to solve issues by the time the updated MP is due on the 15 November.
- The CA has provided a manual for the new online reporting tool to assist operators in completion of their AER.

### **Recommendations**

#### **CA organisation**

1. As there are several authorities performing compliance-related tasks autonomously, the MS should ensure that responsibilities are clear for all CAs and should conduct periodic checks on MPs, AERs and VRs approved to facilitate consistency and quality. Provision of regular training and guidance on processes can help to ensure harmonisation of approaches and quality of compliance work.

## **Permitting & MP Approval**

2. There are still some installations that need their permit updated due to the extension of the scope in Phase 3. Approved MPs are in place, but the MS should ensure that the provincial authorities complete these permit updates as soon as possible. As a good practice, all CAs should strive to complete their issuance of permits and approved MPs more quickly and in time for the start of compliance cycles.
3. As the risk assessment and the justification for using a simplified MP is done by the operator MS should ensure that the CAs are performing a review of the risk assessment, in order to assess whether it remains appropriate or not. As good practice, the MS may wish to consider providing further training and guidance on how to undertake uncertainty assessments to local authorities, verifiers and potentially even operators.
4. As a good practice, the MS should ensure that, during the MP approval process, VBBV are performing cross-checks with the permit. This is in order to ensure information given in the permit and the MP application are consistent, since different authorities are responsible for the issuance of permits and the approval of MPs.
5. As VBBV have noted that there is sometimes a misunderstanding of the content and purpose of procedures amongst operators of installations, the MS should ensure clarity amongst operation of the content and purpose.
6. As VBBV have noted that for aircraft operators (AO) there have been some issues in the establishment of the risk assessment and the notification of significant (and other) changes to the CA, the MS should ensure that AOs are establishing risk assessments and notifying the CA of changes as per the MRR.

## **AER & VR Submission and Review**

7. The MS has not yet established formal procedures for the checking of AERs and VRs, as the focus for 2013 AER/VRs was on the new electronic reporting system. The MS should establish such procedures for future reporting years, which should specify content and consistency checks that should be carried out. The focus should be on the quality of reviews, and carrying out thorough consistency and content checks, rather than aiming at reviewing all submissions each year. Picking a representative sample, e.g. based on a risk-based approach, and ensuring that submissions of all operators are being checked in depth within a certain time period, e.g. within one/two/four years depending on the number of installations and the available resources at the CA, should be the preferred approach.

## **Improvement Reports**

8. IRs are currently submitted via email. The MS should ensure that the CA continues with plans to establish whether submission of IRs could also be carried out via the online reporting system, as this could reduce the burden on the CA and operators.

## **General**

9. The MS should check with the CA to ensure that the online reporting systems used meet all requirements of MRR Articles 74 and 75.
10. Where errors are found in the published aircraft operator list, the MS should remember to inform Eurocontrol of required changes as soon as possible.
11. As good practice, all MS should consider (continuing to) actively participating in the Compliance Forum, and use this as a resource to resolve questions as they arise.

## Walloon Region

### **Main changes compared to Phase 2**

The main changes from Phase 2 to Phase 3 are as follows:

- ETSWAP has been introduced for the submission of MPs, AERs, VRs and IRs for both installations and aircraft operators in the Walloon Region.
- Operators can now select an accredited verifier in accordance with the AVR.
- New operators included in EU ETS due to combustion definition clarification (asphalt sector).

### **Organisation and responsibilities of authorities involved in EU ETS**

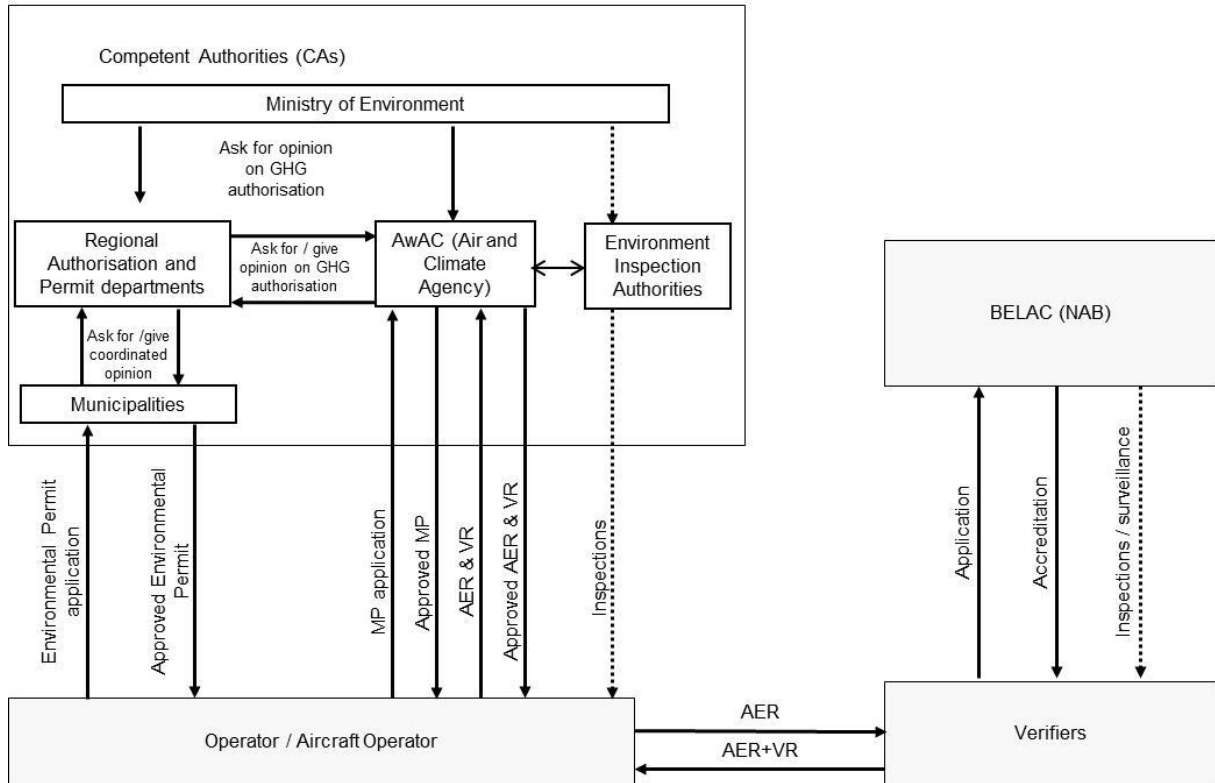
#### **Key responsibilities**

In Belgium Walloon Region, there several authorities involved in implementation of the emission trading system (ETS), each with separate responsibilities.

**Figure 2** outlines the organisational structure of ETS in the Walloon region of Belgium.

# Organisational chart of national EU-ETS implementation in WALLONIA

– illustrating the hierarchy and/or relations between the actors -



**Figure 2 Organisational chart of EU ETS implementation in Wallonia**

In the Walloon region the MRR is supplemented with regional legislation that complements the EU legislation, with Walloon specific requirements.

The Walloon Air and Climate Agency (AwAC) acts as the CA in the Walloon Region and is responsible for the following activities:

- Drafting legislation implementing EU ETS
- Providing an opinion and proposing a GHG Authorisation when Regional Authorisation and Permit departments ask for an opinion from AwAC following a demand for an environmental permit application
- Approving MPs
- Making decisions on notifications of changes to the MP
- Reviewing tonne kilometre, AERs and VRs for both installations and aircraft operators.

Greenhouse gas (GHG) authorisation for EU ETS is integrated in environmental permits, which are the responsibility of the Regional Authorisation and Permit departments. These departments are therefore responsible for integrating ETS conditions in the environmental permits. The final permits are delivered by the municipalities.

BELAC is the National Accreditation Body (NAB) responsible for accreditation of verifiers in accordance with the AVR. BELAC is a member of the European co-operation of Accreditation and oversees the quality of verifiers.

Operators can now select an accredited verifier in accordance with the AVR.

## **Permitting and monitoring including notification of changes**

### **Permitting**

Operators of installations covered by the EU ETS have to apply to the relevant Regional Authorisation and Permit departments/municipality for an environmental permit, which includes authorisation for GHG. The Regional Authorisation and Permit departments are responsible for integration of ETS conditions into these permits and the municipalities for final issuance of the permits.

Installation boundaries for the permit are assessed on a case-by-case basis and defined as broadly as possible. The CA has found Commission guidance on Annex I interpretation particularly useful in helping to define installation boundaries. The verifier will check the installation boundaries as part of the verification of the AER. AwAC also provided training to the different permitting departments regarding the interpretation of annex 1 of the ETS directive.

As part of the permit application procedure, capacity data is provided for the installation and individual combustion units.

Operators are not required to submit an approved MP as part of the permit application. However, operators are required to complete an Annex with information on capacity and the monitoring methodology to be applied. When the permit is issued by the municipality and before operations begin, the operator is required to submit a MP to AwAC via their IT system ETSWAP.

The Walloon version of ETSWAP is based upon UK Environment Agency's version and adapted to Walloon specifications. This web-based tool provides IT support for the full compliance cycle. ETSWAP has an online MP form that has the same content as the Commission MP templates, with some minor adjustments for the Walloon Region (for example the source stream diagram has been made mandatory, as has the written procedure for "change in operation" which is optional in EC template. ETSWAP helps facilitate EU ETS implementation, provides easy access to data and history of reporting and facilitates communication with operators.

Since the beginning of Phase 3, operators are required to use the IT system ETSWAP to submit their application for a MP. Early in Phase 3, some flexibility was provided, which allowed operators to use the Commission Template and AwAC transferred the data provided by operators into ETSWAP.

Simplified MPs are not allowed to be submitted by operators. However, level of detail in MPs for low emitters can be less than for larger installations.

When assessing the MP, AwAC checks the completeness of the MP (some fields are mandatory in ETSWAP, which helps to ensure completeness). It also carries out plausibility and consistency checks within the MP. Each specific element in the MP is checked against the MRR. This includes the correct application of the tier and the correct application of analyses and uncertainty assessment.

Regular internal meetings have been held by the CA to help harmonise the MP assessment approach. The CA also appointed one peer reviewer for all MP to support a harmonised approach. This peer reviewer was the senior technical expert on the team, with many years of experience. If

an agreement on any element wasn't reached internally, the CA has raised the question with the Commission or the Compliance Forum Task Forces to gain an additional view.

MP approval is granted by letter. This is sent via email directly from ETSWAP and by post. Walloon legislation mandates that such a written letter be sent to the operator within 60 days after the operator has submitted his MP.

AwAC has also drawn verifiers' attention to elements of the MP for checking during the verification process. Particular areas highlighted to verifiers to check includes checking of source streams and emission sources completeness, source stream diagram representativeness, sampling plan representativeness and implementation of procedures.

Newsletters are regularly sent to operators and verifiers for information purposes and to help harmonise the implementation of EU and Walloon legislation and workshops were organised for operators and for verifiers separately to inform them of the changed requirements of Phase 3.

Commission guidance is used by the CA and is distributed to operators via newsletters or the website of AwAC. Examples provided in the guidance on issues such as uncertainty assessment, biomass fraction analyses and risk assessments are particularly useful for operators, although some operators have found the uncertainty assessment guidance confusing.

The CA provided examples of written procedures to small operators, where requested. Some information is available in ETSWAP to assist operators in completion of the MP template, including equivalent help text as in the Commission's template.

In accordance with the EU-Directive, permitting is not applicable for aircraft operators in the Walloon Region. ETSWAP is also used for submission of aviation MPs, with similar procedures to installations.

For Phase 3, the MP approval process was started in 2012 and all MP's were approved by March 2014. Approval of some MPs was delayed due to needing to send the MP back to the operator several times due to the quality of data submitted, even though AwAC had reviewed some draft versions of MPs before the official MP submission date. It took a lot of time (particularly for large operators) to collect, submit and check data such as information on measurement devices and sampling plans (where not already in place). Many operators were also not used to working with written procedures, so this was an area of difficulty for the CA to get corrected in installations MPs.

Some permits have not yet been updated with ETS requirements by the municipal authorities. The municipalities will carry out updating the permits. This process is ongoing and is likely to be completed by the end of 2014 or the beginning of 2015. AwAC does not have control over the municipal authorities and is only able to know if the permit has been issued (or not) if informed by the municipality. Some operators have expressed their concerns to AwAC that they don't have an updated GHG authorisation, but AwAC notes that all the installations are covered by an approved MP.

### **Monitoring incl. notification of changes**

Significant changes to the MP, that required notification to the CA, are listed in Article 15 of the MRR. These changes are also listed in the MP approval letter sent to the operators.



Operators are required to submit an updated MP for significant changes. An update of the environmental permit is only required if there is a change in Annex I activities.

The CA should be notified ASAP of significant changes. However, CA has noticed that, in practice, operators don't always notify when they should.

Approval of changes is granted by letter attached to an email sent via ETSWAP.

The CA assesses changes to the MP via the variation or notification workflow in ETSWAP. Where required, information on notification of changes is provided to operators via newsletters.

Changes that do not require approval by the CA need to be reported via ETSWAP by the end of the year (31<sup>st</sup> December). However, such changes are often picked up by verifiers during site visits and verification of the annual emissions report.

In the Walloon Region of Belgium, there have been no specific issues with the broadened definition of 'combustion' (as outlined in Directive 2003/87/EC Art. 3(t)). The broadened definition is checked as much as possible in the review of MPs. Where clarity was required, the CA used the Commission guidance, examples and Annex I directive examples to help interpret the definition. Particular attention was paid to furnaces (including those for offices).

The CA did receive some clarification questions about the definition of the scope from operators, particularly from the asphalt sector, which was new in Phase 3 due to the broadened definition. The CA is not aware as to whether MRR Article 26 has resulted in more B and C installations meeting highest tiers.

Approximately 8% of installations are in a transitional period and working to an improvement plan to reach the highest tiers. ETSWAP stores every situation where operator do not apply the tiers required by article 26 (based on the MP). Based on this information, the system, at the frequency indicated in article 69.1, generates a task in ETSWAP for each installation that had obtained a derogation to apply a lower tier than required by article 26. This task consists of an improvement plan required by the article 26 and article 69.1. AwAC can ensure that those situations are tracked by ETSWAP. If an operator does not submit its improvement plan by the required deadline, the system will alert CA user of the non-compliance so that a follow-up is possible.

For installations applying a fallback methodology, the CA had detailed contact with the operator and carried out a full assessment of the uncertainty assessment for the whole installation. There are two installations applying a fallback approach in the Walloon region. Both cases are to do with flares without measurement instruments to measure composition of the flare gas and the complexity of the site makes mass balance difficult. The installations have also submitted unreasonable cost calculations to the CA.

The CA has encountered one instance where an operator was not able to achieve the minimum tier requirements for a natural gas source stream, linked to its exclusion as a Commercial Standard Fuel. This case concerned a category B installation that was not connected to the Fluxys<sup>3</sup> gas

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<sup>3</sup> Fluxys is the company is responsible for the transport of gas in Belgium. They are responsible for analysing the know composition of natural gas in their pipeline. This data is then made available through their website. Originally, only net calorific value (NCV) was

network and so did not have access to the Fluxys EDP-platform and did not know the composition of their gas. This operator then found it difficult to meet the minimum tier requirement for natural gas. A solution has been found in collaboration with the operator and the gas supplier so that the operator was able to achieve the required tier.

The CA has often required higher tiers for natural gas, in the case where installations are connected to the Fluxys gas network, as installations on the network can meet tier 3 without additional effort. The CA has also required higher tiers in cases where the results of the uncertainty assessment showed that a higher tier could be achieved.

In the checking of MPs, the CA came across some instances where the MP application needed to be amended, as the joint emissions total for a source stream in a given category exceeded the permitted total.

The CA has not been notified of any instance where an installation with low emissions has exceeded the low emitter threshold. The CA has made special contact with installations just below thresholds to inform them of the thresholds. Special attention is given to these installations during the review phase of annual emissions reports. Following contact, some operators requested to be put into the higher category, as they were aware that their emissions may exceed the low emitter threshold in future years.

The Walloon region has one nitric acid installation using measurement-based methodologies (CEMS) (out of approximately 110 installations overall). CEMS are used only for N<sub>2</sub>O emissions from nitric acid production. There were no CEMS prior to Phase 3. Standards regarding quality assurance and measurement requirements for CEMS are applied as per the MRR. The CA has received certification that the laboratory used is EN ISO 17025 accredited.

Installations in the Walloon region use mainly solid biomass, with limited use of bioliquids. The CA hasn't specifically needed to consider the sustainability criteria for bioliquids as:

- Bioliquids used are often considered as waste, and should be considered as sustainable (although CA has noted that other MS may have taken a different interpretation here)
- There is no legal base in Wallonia for sustainability criteria for heat production. There is a legal basis for sustainability criteria for electricity production, but no Walloon ETS installations are using bioloquid for electricity production.

The CA has noted that there is often a difference in the documentation provided by operators regarding purity of biomass. It does not appear clear to operators which evidence is required.

The CA has interpreted that the emission factor (EF) is zero for a pure biomass source stream and MP approved with EF as zero in such instances. This has an implication in AER reports, as emissions from pure biomass source streams for 2013 are not calculated. From 2015 onwards, a preliminary emission factor will be integrated for pure biomass so that emissions from pure biomass will be calculated as well.

The CA has approved analytical techniques/standards for determining the biomass fraction of biomass source streams. The most used method in these instances is the selective dissolution

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available from Fluxys. However, the CA carried out discussions with Fluxys and, due to this intervention, Fluxys has also made the emissions factor (EF) for natural gas available (since the beginning of Phase 3).

method. CA has noted that it can be difficult to find laboratories executing 14C-analysis method, which is also a very expensive analysis.

The CA has not encountered instances where an operator has claimed unreasonable cost or technical infeasibility in applying the requirements of Art. 39(1) of the MRR.

Operators have found the requirements for uncertainty assessments difficult. The examples in the Commission guidance have been useful for simple situations, but further examples on more complex situations would be useful. The CA prioritises checking of uncertainty assessments according to risks. Large installations and major source streams would all be checked in detail. The CA also provided operators with a lot of support on completing their uncertainty assessments.

The requirements for uncertainty assessments for measurement instruments under "type-conform" conditions are difficult for operators to understand, as operators often do not have any information on the uncertainty error in such instances.

The CA used the formula in the MRR to help in determination of unreasonable costs. In practice, it can be difficult for a CA to assess the estimated costs, as they are not industry experts on costs related to industrial production.

The CA finds the requirements of the MRR on frequency of analysis clear. However, there is no adaptation for installations with seasonal activities (for example, sugar factories) and whether such installations are still required to meet the outlined frequency of analysis.

The CA has had one installation using the 1/3 rule calculator provided by the Commission.

The requirements of the MRR relating to laboratories accredited according EN ISO 17025 are clear to the CA. Regarding non accredited laboratories, it was not easy for the CA to assess which level of details was required to prove their technical competencies. In practice it took a long time for operators to provide the necessary certificates/documents to the CA. In some instances operators had difficulties in obtaining information from supplier laboratories.

The CA has not had any experiences with inherent CO<sub>2</sub> or the transfer of CO<sub>2</sub>.

## **Aviation**

Aircraft operators (AOs) meeting the requirements of MRR Article 54 ('small emitter' status) complete the same form on ETSWAP as other operators. They are allowed to use Eurocontrol's small emitter's tool to estimate their fuel consumption.

When updated versions of the Commission EU ETS Operator List are released and new AO identified, the CA requests a contact address directly from Eurocontrol or Airport managers. Contact details are occasionally found via the internet.

Where possible, new AOs will be contacted directly by mail. Email may be used in instances where a postal address is not available.

The requirements for fuel density measurement and identifying sources of uncertainty and determining fuel uplift, as outlined in the MRR, are clear and straightforward.

Since 2013, the CA uses Eurocontrol Support Facility (SF) to cross check reported emission in AERs.

For 2013 AERs, AOs have been advised to report full scope and the CA will recalculate emissions with regards to the new scope. This approach is possible as the CA regulates only five AOs.

## **Reporting and verification**

### **Submission of AERs and VRs**

Operators are required to have their AER verified by an accredited verifier and need to submit their AER and VR to the CA by the 2<sup>nd</sup> Thursday of March each year. Templates are available on ETSWAP for completion of AER and VR. The procedure for submission of AERs and VRs is the same for both installations and aircraft operators.

The AER and VR templates on ETSWAP cover the contents of the Commission templates and the requirements of the MRR.

Guidance additional to the Commission guidance on AER was not produced by the CA. However, the CA did organise a workshop for verifiers on how to use ETSWAP. However, verifiers interviewed stated that they only have access to the VR section on ETSWAP. They suggested that they cannot view the MP or additional document and can only view a printout version of the AER. If this were the case, it means that they do not have ready access to the information required to carry out the verification and they have suggested they typically need to request documentation from the operator. This introduces a risk that information received from the operator is not the most up to date version.

The CA has confirmed that verifiers will have access to AER and all versions of MP via ETSWAP but only when the operator has submitted its AER to the verifier. The verifier is also able to give the access back to the operator so that the operator is able to make corrections to its AER. This means that if the operator has not submitted its AER, the verifier can access neither the different MP versions nor the AER. Verifiers interviewed have demonstrated that they are not clear with the level of access they have in ETSWAP and should be made aware of how to access necessary information in ETSWAP.

Three applications for a simplified verification were approved relating to 2013 AERs. These cases were very simple installations owned by the same company. They were approved due to the type of equipment used on site. With the equipment there is nothing that can actually be seen, as verified in previous site visits. Operations involved in these simplified verifications are turbojets that are used to produce electricity during peak demand. Those sites have been visited by the verifier in 2010 and similar sites from the same company have been visited during 2013 emission verification exercise. All other sites had site visits relating to their 2013 AERs.

### **Review of AERs and VRs**

AERs and VRs are reviewed by the CA, who follow internal procedures and the workflows set out in ETSWAP.

ETSWAP ensures 100% completeness of AER and VR, as incomplete reports cannot be submitted. Checks are also made by the CA on content. A checklist has been developed to facilitate such checks. These include:

- Plausibility checks on the data within the AER and crosschecks with the VR, permit and MP
- Crosscheck on consistency historic emissions
- Checks on comments contained in the VR, including assessment of whether a change the permit or MP is required
- Check for any changes in the operation of installation
- Crosschecks with data gathered from other reporting mechanisms
- Check on the correctness of the data in the AER, including calculated data
- That the selected verifier is accredited with the correct scope.

A log of comments on the assessment is retained in ETSWAP. A peer review process is followed to ensure a harmonised approach to the review of AERs and VRs. 100% of AERs and VRs are reviewed for consistency and related to content.

If errors or material misstatement were identified in an AER or VR, the CA would return to the operator via ETSWAP and request corrections or complementary information. The operator then needs to submit the report to the verifier via ETSWAP for re-verification.

The CA is legally obliged to inform the operator when the AER/VR has been accepted. A letter is sent via ETSWAP.

### **Determination of the emissions figure**

The national legislation does not contain specific provisions on how the CA is allowed to determine the emissions figure. However, the provisions of the MRR apply. No determinations have been required to date in Phase 3.

The process for the determination of emissions will follow the same procedure as for Phase 2, where estimates will be made on a case-by-case basis, based on available information.

Determination of emissions would occur in cases where an AER was not submitted or in cases such as bankruptcy of an operator.

### **Improvement reports**

Any recommendation made by a verifier in the VR (with the exception of recommendations for improvement for low emitters) requires an improvement report (IR) to be completed, as required by Article 69(4) of the MRR. Verifier recommendations in the VR result in an IR workflow being generated in ETSWAP. Operators are required to complete and submit via ETSWAP by the 30<sup>th</sup> June each year. ETSWAP also has a separate workflow for improvement reporting relating to Article 69(2) and 69(3) of the MRR.

To date common improvement requirements identified by verifiers and operators are:

- Improvements relating to written procedures
- Further explanation of data flows
- Inclusion of missing emission sources

- Tier requirements (some verifiers noted that tier for natural gas higher than required. However, the CA had required higher tiers for natural gas in instances where this could be met without additional effort)
- Changes to category of source streams (e.g. de-minimis to minor)
- Improvements to risk assessments (as sites tend to have more coverage of risks at the meter level and no consideration of wider risks and controls for these)
- Organisation of people and their roles and responsibilities.

### **Electronic reporting**

As discussed, the CA in the Walloon Region uses ETSWAP for submission of MP, AER, VR and IR. Electronic reporting of these documents has been used by all operators/aircraft operators in Phase 3, although some flexibility was given to operators early in Phase 3.

ETSWAP has been developed in line with the requirements of Article 75 of the MRR.

### **Accreditation of verifiers**

Introduction of the AVR has changed the accreditation process in the Walloon region of Belgium. BELAC is the National Accreditation Body (NAB) responsible for accreditation of verifiers in accordance with the AVR. Previously there was no formal accreditation process and verifiers were authorised by Walloon Air and Climate Agency (AWAC).

The Walloon region is appointed as the focal point for Belgium between CA and NAB and a collaboration arrangement is in place for communication and information exchange. Regular meetings and email exchanges occur between CAs and NAB. Up to Feb 2014 all CAs in Belgium met on an almost monthly basis to ensure successful implementation of the new accreditation process. It is envisaged that these meetings will be carried out on a bi-annual basis going forward.

No complaint regarding a verifier has been submitted by the CA to the NAB that has accredited that verifier. However, remarks and comments on minor issues found have been submitted as part of the information exchange process.

The CA has not been informed of any suspension, withdrawal or reduction of accreditation scope imposed on a verifier by any NAB.

BELAC now accredits verifiers according to ISO14065 and the detailed recommendations set out in the AVR. Additional information on the accreditation process is made available to verifiers, which highlights specific points relevant to the NAB and provides practical steps that draw together the requirements and signposts to the AVR and specific Commission guidance.

The accreditation certificate is currently valid for one year, until the end of 2014. Accreditation certificates have been renewed in November 2014 and now have a validity until 30/06/2017.

In the assessment process for accreditation of verifier, BELAC would carry out the following steps:

- An informal pre-assessment, which would allow the NAB and verification body to become acquainted. The NAB would look at status of documentation and the verification body can become acquainted with the accreditation process. The NAB will outline certain requirements, which will allow the verification body to prepare effectively.

- A formal assessment, which would be carried out in two parts:
  1. Analysis of documentation to ascertain whether this shows conformity with the AVR. The NAB provides verification bodies with a list of required documentation that is based on Art.45 of the AVR. The list also includes general documents required as part of all their general accreditation process
  2. An office assessment would then be carried out, where the NAB will discuss findings and the implementation stage
- The verification body will get a report detailing any non-conformities found. They will have an agreed period of time to take remedial actions and demonstrate compliance to the NAB.
- The NAB will then carry out witnessed audits, witnessing activities covered by the scope applied for and verifying work and competencies.
- At the end of the process, the NAB will have a formal decision process based on final report
- Formal decision will be made by the accreditation board.

The NAB will also carry out annual surveillance of verification bodies. Each year the verification body would have an office visit. The NAB would expect to see that verification procedures and personnel remain relatively stable over the years. A surveillance and witness plan for the year would then be created, based on the number of verifications planned for the year.

The NAB has established procedures to withdraw, suspend or reduce the scope of an accreditation of a verifier not meeting the AVR requirements. These have not been applied to date, although the NAB has reduced the scope applied for by an applicant (i.e. accredited for part of the original scope requested), as the verification body did not demonstrate that it was competent in all the fields applied for.

The NAB updates information on accredited verifiers to their website as soon as possible.

AwAC has now started a process to be able to assist as observer to the Belac's audits of verifiers. This will extend the competences of the audit-team and will allow AwAC to have a better view on what happens in practice.

## **Inspections and enforcement**

### **Inspections**

There are currently no EU ETS specific inspections being carried out in the Walloon region. Operators are currently only inspected by the Environmental Inspection Authorities as part of the IED permit. These inspections are always carried out, but the focus is much broader than EU ETS issues. Only non-compliance with the IED permit (including the EU ETS section) can be followed up by this inspection body and so some issues are not picked up. Compliance with the MP and MRR requirements is not assessed. If the Environmental Inspection Authority finds issues of non-compliance with the EU ETS part of the permit, AwAC is informed.

Non-compliance of the MP and MRR requirements is currently tackled by AwAC during the review of AERs and notification of changes.

AwAC can carry out site visits to installations, but can't take actions on any issues identified. AwAC is currently elaborating their strategy for inspection going forward and will be looking to develop complementary legal procedures on inspections.

## **Enforcement**

AwAC can only impose sanctions on operators/aircraft operators as follows:

- Delay in submitting AER: €500 per working day (up to a maximum of €15,000)
- Delay in surrendering allocations: €100 per tonne of CO<sub>2</sub>e
- Environment Inspection Authorities can impose penalties related to environmental permit (infractions).

## **MS Summary**

AwAC has overall responsibility for the implementation of EU ETS compliance requirements in the Walloon Region of Belgium and has responsibility for MPs, AERs and VRs. Regional Authorisation and Permit departments are responsible for the GHG permit, which (as per the Flemish Region) is combined with the IPPC permit into an integrated environmental permit.

The submission of MPs, AERs and VRs is now facilitated through ETSWAP for both installations and aircraft operators. ETSWAP helps facilitate EU ETS implementation, with workflows for various tasks, as well as providing easy access to data and history of reporting and facilitating communication with operators.

BELAC is the appointed NAB for accreditation of verification bodies for EU ETS in Belgium.

## **Good Practices**

- The CA also appointed one peer reviewer for all MP to support a harmonised approach to the approval of MPs.
- The CA provided examples of written procedures to small operators, where requested.
- The CA has often required higher tiers for natural gas, in the case where installations are connected to the Fluxys gas network, as installations on the network can meet tier 3 without additional effort. The CA has also required higher tiers in cases where the results of the uncertainty assessment showed that a higher tier could be achieved.
- The CA makes special contact with installations just below thresholds to inform them of the thresholds and pays special attention to these installations to ensure they are not exceeding the threshold.
- Checking of AERs and VRs follow a detailed workflow in ETSWAP. A log of comments on the assessment is retained in ETSWAP.
- Verifier recommendations in the VR result in an IR workflow being generated in ETSWAP and the IR process is automated through ETSWAP. ETSWAP also has a separate workflow for improvement reporting relating to Article 69(2) and 69(3) of the MRR.
- Newsletters are regularly sent to operators and verifiers for information purposes and to help harmonise the implementation of EU and Walloon legislation.
- As good practice all MS should consider (continuing to) actively participating in the Compliance Forum, and use this as a resource to resolve questions as they arise.



## **Recommendations**

### **Permitting**

1. Some permits have not yet been updated with ETS requirements by the municipal authorities. All installations are covered by an approved MP, but the MS should ensure that AwAC require that the municipal authorities complete these updates as soon as possible.

### **MP Approval**

2. As a good practice, and as different authorities are responsible for the issuance of permits and the approval of MPs, the MS should confirm that during the MP approval process, AwAC ensure that cross-checks are carried out between the MP and the permit in order to ensure information given in the permit and the MP application are consistent.

### **Verification**

3. During the verifier interview, verifiers noted that they are not able to access important information, such as the most recent version of the approved MP via ETSWAP. Verifiers were under the impression that they need to rely on the operator to send them the relevant information. However, the required access is available in ETSWAP, although the verifiers have demonstrated that they are not clear with the level of access they have in ETSWAP. AwAC should ensure all verifiers are made aware of how to access necessary information in ETSWAP.

### **Inspections**

4. During the interview it was noted that some site visits were waived regarding 2013 data. The MS should reinforce to the CA and verifiers that the AVR FAQ 4.5 states that, with the exception of aviation small emitters, site visits cannot be waived for installations in relation to the 2013 emissions report regardless of the verifier's assessment of risks. This requirement derives from Article 21(1) (3) (4) and 31(3) (c) of the AVR and waiving of site visits represents a non-compliance with these AVR requirements. Where installation site visits were waived for 2013, these will need to be carried out for the 2014 reporting year.
5. The MS should ensure that AwAC continue with plans for elaborating their strategy for inspection going forward and developing complementary legal procedures on inspections. The CA could also consider developing a checklist of EU ETS-specific issues to be checked as part of IED inspections (e.g. emission sources or that certain procedures are in place). The CA should also ensure there is a good process for communication and follow up of ETS-specific issues identified in these inspections.

### **General**

6. Where errors are found in the published aircraft operator list, the MS should remember to inform Eurocontrol of required changes as soon as possible.
7. All MS should consider (continuing to) actively participating in the Compliance Forum, and use this as a resource to resolve questions as they arise.

## Brussels Region

There is only one installation in the Brussels Region. The Brussels Region did not participate in the interview of competent authorities. Therefore, no information is available on Phase 3 organisation or procedures the Brussels Region.

The Walloon Region and the Brussels Region work together for NIMs, but not for practical implementation of Phase 3 of the EU ETS.