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CLIMA.B.2 – ETS (II): Implementation, Policy Support & ETS Registry

Guidance Document

The Accreditation and Verification Regulation - Objective and scope of verification

AVR Key guidance note no. II.1, Updated Version of 1 February 2022

This document is part of a series of documents and templates provided by the Commission services for supporting the interpretation of Implementing Regulation (EU) No. 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council.

The guidance represents the views of the Commission services at the time of publication. It is not legally binding.

This guidance document takes into account the discussions within meetings of the informal Technical Working Group on MRVA (Monitoring, Reporting, Verification and Accreditation) under the WGIII of the Climate Change Committee (CCC), as well as written comments received from stakeholders and experts from Member States.

This guidance document was unanimously endorsed by the representatives of the Member States at the meeting of the Climate Change Committee on 11 July 2012.

All guidance documents and templates can be downloaded from the documentation section of the Commission's website at the following address: **https://ec.europa.eu/clima/eu-action/eu-emissions-trading-system-eu-ets/monitoring-reporting-and-verification-eu-ets-emissions_en#tab-0-1**

Version History

Date	Version status	Remarks
12 July 2012	published	Endorsed by CCC on 11 July 2012
27 November 2017	re-published	Minor updates taking into account general updates of the MRVA suite of guidance materials and new legislation. Correction of typos
February 2022	re-published	Updates of new to the new Accreditation and Verification Regulation 2018/2067[1] that was amended by Commission Regulation 2020/2084. This includes revisions for the fourth trading period.

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02018R2067-20210101&from=EN

Background

This paper is part of a suite of guidance documents developed by the Commission services to explain the requirements of the EU ETS Regulation on Accreditation and Verification (AVR). The suite of guidance documents consists of:

- an explanatory guidance on the articles of the AVR (EGD I), including a user manual providing an overview of the guidance documents and their interrelation with the relevant legislation;
- key guidance notes (KGN II) on specific verification and accreditation issues;
- a specific guidance (GD III) on the verification of aircraft operator's reports;
- templates for the verification report and information exchange requirements;
- exemplars consisting of filled-in templates, checklists or specific examples in the explanatory guidance or key guidance notes;
- frequently asked questions.

This key guidance note explains the requirements on the objectives and scope of verification in the AVR. This note represents the views of the Commission services at the time of publication. It is not legally binding.

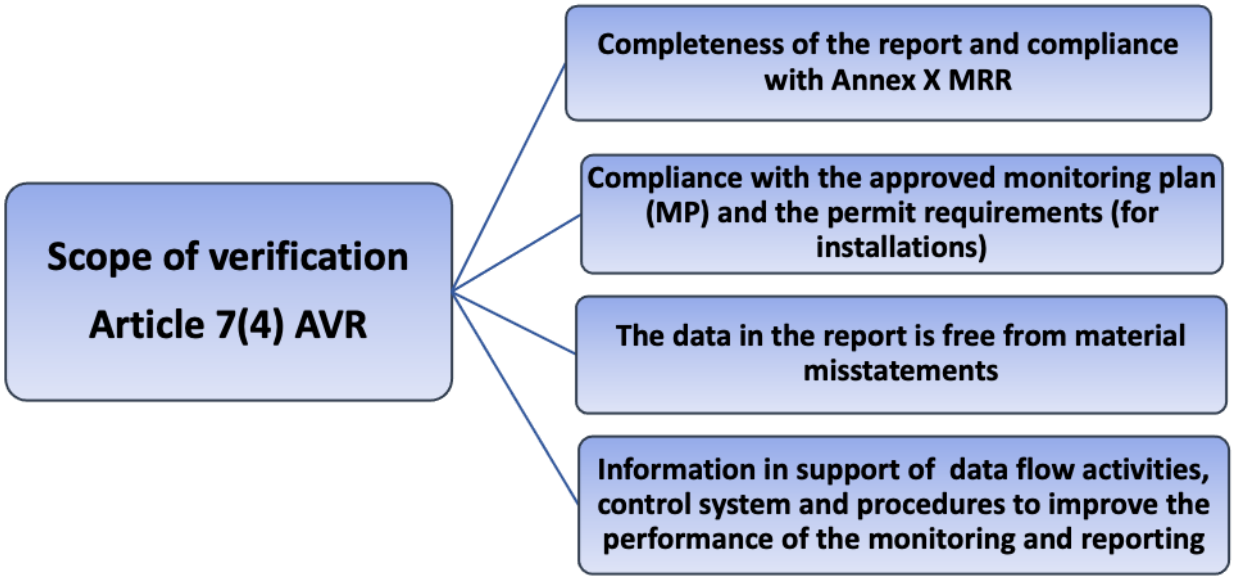
Objectives

The objective of verification is to ensure that the emissions or the tonne kilometre data have been monitored in accordance with the EU ETS Monitoring and Reporting Regulation (MRR)[2] and that reliable and correct emission data or tonne-kilometre data are reported pursuant to Article 14(3) EU ETS Directive and the MRR. The scope of verification is defined by the tasks the verifier must perform to achieve that objective. Article 7(4) of the AVR outlines the key activities a verifier has to undertake during the verification process as a minimum.

Scope of verification

The verifier is required to assess the following elements during a verification

Art. 7(4) AVR



If the verifier has identified non-compliance with the MRR, it must report this in the verification report (Article 7 (5) of the AVR)

[2] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02018R2066-20210101&from=EN

This key guidance note explains the activities and steps outlined in the diagram above.

The note applies to the **verification of operators and aircraft operator's reports**. Scope of verification for baseline data reports and annual activity level report verification is explained in Guidance Document 4 on the verification of allocation data.[3] Please note the following:

▪ Wherever the note uses the term report it means the operator's emission reports and the aircraft operator's emission reports or tonne-kilometre reports. ▪ Wherever the note uses the term operator this also means that the relevant phrase is applicable to aircraft operators unless this is specifically mentioned otherwise in the note.	

Assessing completeness of the report and compliance with Annex X of the MRR

Part of the verifier's task is to check whether the report template has been completed correctly and that this is in line with the requirements listed in Annex X of the MRR. This includes amongst other things a check on whether:

- the required report is complete and it has been filled out correctly;
- the correct units of measurements have been used;
- all changes that occurred during the reporting period have been listed in the report;
- the data in the report reflects the actual situation concerning the operator's activities and methodology at the time of the emissions being generated.

Omissions, misrepresentations and errors in the report have to be regarded as misstatements[4] and have to be corrected by the operator. It depends on the size and nature of the misstatement as well as the particular circumstances of their occurrence as to whether the misstatement should be regarded as material. More information on misstatements can be found in section 2.3.8 and 2.3.9 of EGD I and GD III as well as the FAQ on classification and reporting of outstanding issues in the verification report.

Art. 22(1) AVR

Assessing compliance with the approved monitoring plan and permit

The approved MP and the permit (for installations)[5] are the starting point for the verifier to check the reported data. It needs to check first whether they have been correctly implemented by the operator and whether the actual situation at the time of the emissions generation reflects what is listed in the approved MP and permit (where relevant). More information and examples of non-conformities can be found in section 2.3.8 of EGD I and GD III as well as the FAQ on classification and reporting of outstanding issues in the verification report.

How should a verifier deal with particular elements in the MP?

Annex I of the MRR contains the minimum requirements on the content of the MP for

[3] https://ec.europa.eu/clima/system/files/2021-02/p4_gd4_verification_far_baseline_en.pdf

[4] Misstatement means an omission, misrepresentation or error in the operator's or aircraft operator's reported data, not considering the uncertainty permissible pursuant to Article 12(1) (a) of the MR regulation (Article 3(5) of the AVR).

[5] Checking compliance with the permit for installations usually concerns compliance with the conditions that the Competent Authorities (CA) have incorporated in the operator's permit.

operators; including a description of their activities, the monitoring methodologies they used and the written procedures they have set up and implemented to ensure the accuracy, completeness and consistency of the monitoring and reporting.[6] When checking the operator's compliance with the MP, the verifier has to consider the proper implementation of the MP's different elements. The following should be considered when making this assessment.

Art. 14 AVR

Checking the information in the MP on the boundaries of an installation or aircraft operator:

MRR requirement on MPs	AVR requirement on checking the MP element
▪ The operator has to provide a description of the installation and activities carried out by the installation, including a list of emission sources and source streams to be monitored for each activity (Annex I, section 1 of the MRR).[7] ▪ The aircraft operator has to describe the aircraft types and source streams used (Annex I, section 2 of the MRR).	As part of the data verification the verifier has to check the completeness of the emission sources and source streams as described in the approved monitoring plan.

Art. 16(2) (a) (d) AVR

Checking the completeness of the source streams requires confirmation of for example:

- the correct categorisation of emission source streams into minor, de-minimis and major source streams;
- whether data gaps and double counting occur because emission sources or source streams are lacking or have been incorrectly defined in the MP or the emissions accounts;
- whether emission sources and source streams listed in the approved MP reflect the actual situation in the installation or aircraft operator.

The proper level of confidence on the completeness of the emission sources and source streams as well as the correct delineation of boundaries can be confirmed through cross checking the data on source streams and emission sources with external data sources (e.g. Eurocontrol data for aviation, or fuel supplier data for installations), other data verification checks, plausibility checks and actual inspection during site visits.

These checks are connected to the key principle in verification: i.e. obtaining reasonable assurance and confidence that reliable and correct emission data or tonne-kilometre data are being reported and that the reported data are free from material misstatements. When undertaking the verification, in particularly for the first time, the verifier should make a thorough inspection to check the completeness of source streams and emission sources. The

[6] Section 5 of the MRR Guidance Document no.1 (GD.1) provides detailed information on the different elements of the monitoring plan for installations. Section 6 of the MRR Guidance document no.2 (GD2) provides detailed information on the different elements of the monitoring plan for aircraft operators. The key guidance note on process analysis (KGN II.3) and Guidance Document III on Verification in EU ETS Aviation (GD III) explain how these elements will need to be checked by the verifier.

[7] The description of installation boundaries must be sufficient for demonstrating that neither data gaps nor double counting of emissions occur and, subject to competent authority request or to aid simplification, include a simple diagram of the different parts of the installations that are relevant for the monitoring methodology.

verifier should not solely restrict itself to what is in the monitoring plan but also take into account the actual situation.

Checking the procedures mentioned in the approved MP:

MRR requirement on MP	AVR requirement on checking the MP element
The MP includes a description of and references to operator specific procedures, including on data flow and on control activities (Annex I of the MRR). The detail of these procedures is not part of the approved MP.	As part of the checks required by the AVR the verifier has to assess the actual data flow, control activities and procedures mentioned in the approved MP.

Art. 14(a) (b) (c) AVR

These checks will give the verifier confidence in the robustness of the control activities and ultimately in the accuracy of the reported data. The guidance notes on process analysis and the guidance note on verifier's risk analysis explain how and to what extent these checks should be performed.

Checking information that is not included in the approved MP:
Some information is not included in the MP itself but has to be submitted to the CA for approval

MRR requirement	AVR requirement
Information not included in the approved MP itself but needing the CA's approval, includes:	The verifier has to check the implementation of these elements.
▪ The results of the operator's risk assessment (Article 12(1) (b) of the MRR);	Article 12(3) of the AVR
▪ Evidence demonstrating compliance with uncertainty thresholds (Article 12(1) (a) of the MRR); and,	Article 19(1) of the AVR
▪ The sampling plan for fuels and materials approved by the CA (Article 33 of the MRR).	Article 17 (2) of the AVR

Other information that is relevant for the verifier to take into account when verifying the reported data is for example the correspondence between the operator and the CA, such as:

- notification of temporary changes to the monitoring methodology (Article 23 of the MRR);
- notification of changes to the monitoring plan according to Article 15(1) of the MRR; or
- approval of changes to the monitoring plan according to Article 15(2) of the MRR.

Any discrepancies[8] with the MP and/or permit (for installations) should be raised with the operator to obtain an explanation and ensure that they are resolved as soon as possible. Evidence could include details of correspondence with the CA and any MP or permit variation documents.

Art. 7(6) Art. 10(1)n Art. 15(4) Art. 20(2) Art. 22(3) AVR

[8] Temporary or permanent changes to the MP.

Different versions of the MP:

If changes to the MP[9] occur during the reporting period, the verifier may be confronted with different versions of the MP. The verifier must take these versions into account. Several situations can arise.

Significant modifications (changes) to the MP result in the operator applying the new MP once the operator has received the CA's decision to approve this change (e.g. where the situation in an installation will change only after approval by the CA). The verifier will in that case check the emission report against the new MP from the moment the CA has approved the change and the operator has received that approval decision.

However the MRR allows the operator under certain conditions to monitor and report according to the new MP prior to obtaining approval.[10] The operator may carry out monitoring and reporting using the new MP if one of the following situations applies:

Art. 16(1) MRR

- where the operator can reasonably assume that the proposed changes are not significant[11];
- where monitoring in accordance with the original MP would lead to incomplete data (e.g. an additional fuel is included or a boiler has been added to the installation);
- if the operator can reasonably assume that the updated MP will be approved as proposed. This could be the case when for example an additional fuel is introduced which will be monitored according to similar requirements (same tiers, comparable fuels etc.).

5.6.1 MRR (GD1) and 6.5.2 MRR (GD2)

In those cases the verifier will take the new MP into account from the moment the operator monitors according to the new MP. In the example above this means that the verifier will assess the new fuel data and the application of the monitoring methodology related to that fuel from the moment that the new fuel is used in the installation. The verifier shall consider all correspondence between the CA and operator when assessing the implementation of the MP. If the CA rejects an issue in the proposed change to the MP, the verifier must take this into consideration when carrying out the verification.

Non-significant changes to the MP can also take effect prior to the moment when the operator receives information from the CA that acknowledges the notification of that change. This occurs for example in the following cases:

- the operator can reasonably assume that the change to the MP is not significant;
- the CA has allowed the operator to notify the non-significant changes to the MP by 31 December of the same year in which these changes occurred;
- monitoring in accordance with the original MP would lead to incomplete emission data.

[9] Referred to as modifications to the MP in Article 15 of the MRR.

[10] The MRR provides a pragmatic approach to deal with situations in which the approval process may take a longer time than the physical change of the installation or aircraft operator (e.g. when new sources are introduced) (see section 5.6.1 of the MRR Guidance Document no.1 (GD.1) and section 6.5.1 of the MRR Guidance Document no.2 (GD.2)).

[11] A non-exhaustive list of significant modifications to the MP is provided in Article 15(3) of the MRR. If the impact of the proposed change to the MP on the monitoring methodology or the reported data or the risks to misstatements and non-conformities is relatively small, it may not be significant (see section 5.6.2 of the MRR Guidance Document no.1 (GD.1) and section 6.5.2 of the MRR Guidance Document no.2 (GD.2)).

In those cases the verifier will take the new MP into account when assessing the data from the moment the operator has applied or applies the change and has monitored or monitors according to the new MP.

In the case the operator is not sure on the significance of the change or whether the new MP can be applied before approval, the MRR requires the operator to carry out all monitoring and reporting in parallel, using both the modified and the original MP. In those cases the verifier should take into account both MPs until the operator receives the CA's decision approving the change or confirming that the notification was received. From that moment on the verifier uses only the new MP to check the data and its implementation.

Art 16(1) (2) MRR

If the CA's decision or acknowledgment of the notification has retrospective effect for the period in which both MP were used in parallel, the verifier can use the new MP to verify the accuracy of the data for that period. This depends also on the correspondence between the CA and the operator.

Assessing whether data are free from material misstatements

A key aspect of verification is the assessment of whether the data submitted in the report are free from material misstatement. In order for the verifier to conclude this, it must obtain clear and objective evidence from the operator to support the total emissions or tonne-kilometres reported. All information in the report will need to be taken into account. This includes all underlying data such as activity data and emission factors. To obtain the evidence required for a reasonable level of assurance and making this assessment on the material correctness of the data, the verifier shall use analytical procedures and carry out substantive data testing in accordance with Articles 15 and 16 of the AVR. For more information on these types of testing please see the key guidance note on process analysis (KGN II.3).

Art 7(4) AVR

Assessing whether recommendations can be provided to improve the performance of monitoring and reporting

This activity is strongly linked with Articles 27(3) (s) and 30 of the AVR and also the continuous improvement principle of the MRR (Article 9 of the MRR). The verifier has the responsibility to consider and assess whether there are areas for improvement in the monitoring and reporting process of an operator with the intent to improve the rigour, robustness and quality of reported data. This relates especially to the data flow activities, the risk assessment, the control activities, the evaluation of the control system and the procedures mentioned in the approved MP. If there are areas for improvement, the verifier must include a recommendation for improvement in the verification report.[12]

More guidance on recommendations for improvement can be found in section 3.2.13 and 3.3 in the Explanatory Guidance (EGD I) and GDIII on verification in aviation as well as the FAQ on classification and reporting outstanding issues..

To what extent should the verifier check against the MRR?

It is the responsibility of the CA to approve the MP and to check whether the proposed MP is

[12] However, whilst the verifier should identify weaknesses in control activities as part of the recommendations and inform the operator why it is considered a weakness, the verifier shall not communicate in any way how the operator should resolve the weakness, as that would place the verifier in a consultancy role and compromise its independence

in line with the MRR. The verifier takes the approved MP as the starting point to assess whether the reported data is free from material misstatement. However this does not exempt the verifier from crosschecking against the MRR to some extent. For example:

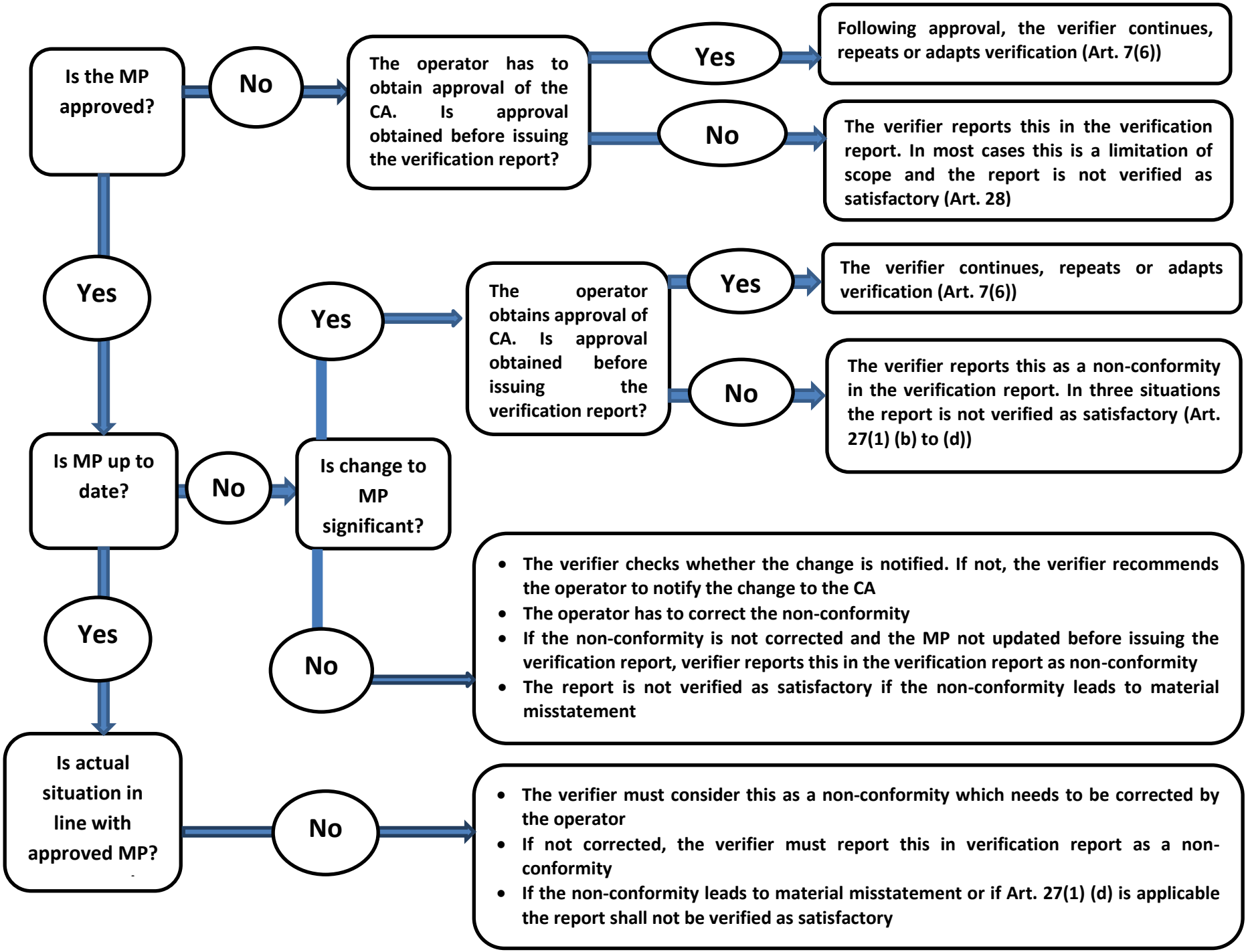
- The approved MP provides only a short description and reference to procedures that have been established and have to be maintained and implemented by the operator. Maintenance and implementation of the actual procedures is the responsibility of the operator, and normally will not have been assessed in depth by the CA. Therefore, the verifier has an important role to assess the adequacy of the operator's control activities and internal procedures, and in detecting non-compliance with the MRR in terms of effectiveness, appropriate documentation, maintenance and implementation;
- The verifier will assess the approved MP against the MRR when checking for example the completeness and correct delineation of emission sources and source streams and the correct use of tiers.

Please note that it is not the verifier's responsibility to actively check every element and detail of the operator's situation or operations against the MRR. That would be duplicating the task of the CA. However, it is the responsibility of the verifier to assess whether the data is fairly stated and in that respect the verifier is entitled to and required by the AVR to list its observations in the verification report. Article 7(5) of the AVR specifically requires the verifier to include in the verification report any non-compliances with the MRR that the verifier has come across in the course of the verification. Section 3.2.8. 3.2.9, 3.2.13 and 3.3 of EGDI and GD III provide further information on how non-compliance issues are addressed. The FAQ on classification and reporting of outstanding issues provides guidance on how to classify and report non-compliance issues.

Art 7(5) AVR

What should a verifier do if the MP is not approved; if the MP is not up to date or if the actual situation within the operator's operations is not in line with the approved MP?

One of the first activities the verifier should do during the verification process is to check whether the MP is approved and whether it is up to date. The figure below highlights the consequences when the MP is not approved, not complete or when the actual situation within an installation or aircraft operator is not in line with the approved MP.


Is the MP approved?
No
The operator has to obtain approval of the CA. Is approval obtained before issuing the verification report?
Yes
Following approval, the verifier continues, repeats or adapts verification (Art. 7(6))
No
The verifier reports this in the verification report. In most cases this is a limitation of scope and the report is not verified as satisfactory (Art. 28)
Yes
Is MP up to date?
No
Is change to MP significant?
Yes
The operator obtains approval of CA. Is approval obtained before issuing the verification report?
Yes
The verifier continues, repeats or adapts verification (Art. 7(6))
No
The verifier reports this as a non-conformity in the verification report. In three situations the report is not verified as satisfactory (Art. 27(1) (b) to (d))
No
• The verifier checks whether the change is notified. If not, the verifier recommends the operator to notify the change to the CA
• The operator has to correct the non-conformity
• If the non-conformity is not corrected and the MP not updated before issuing the verification report, verifier reports this in the verification report as non-conformity
• The report is not verified as satisfactory if the non-conformity leads to material misstatement
Yes
Is actual situation in line with approved MP?
No
• The verifier must consider this as a non-conformity which needs to be corrected by the operator
• If not corrected, the verifier must report this in verification report as a non-conformity
• If the non-conformity leads to material misstatement or if Art. 27(1) (d) is applicable the report shall not be verified as satisfactory

Significant changes as listed in Article 15 (3) and (4) of the MRR need the approval of the CA. More explanation on significant and non-significant changes please see section 5.6 of the MRR Guidance Document no.1 (GD.1) and 6.5 MRR Guidance Document no.2 (GD.2).

What should a verifier do if the approved MP is not in line with the MRR or when the actual situation is not in line with the MRR?

If the verifier identifies an element in the approved MP that is not in line with the MRR, the verifier informs the operator and reports this in the verification report. This could for instance be the case if an approved MP does not specify the tier for an emission factor as required by the MRR. The verifier should first recommend the operator to contact the CA and correct this non-compliance with the MRR by having the MP amended. If this non-compliance with the MRR is not corrected by the time of issuing the verification report, the verifier will state in the verification report that an element in the approved MP is not in line with the MRR.

Art 7(5) AVR

Art 27(3) (o) AVR

This equally applies to cases where the actual situation within an installation or aircraft operator is not in line with the MRR and the verifier identifies this non-compliance. Such non-compliance arises if an element in a procedure is not in line with the MRR. Procedures are not included in its totality in the MP which means the approved MP itself is fully in line with the MRR, only that specific element of the procedure is non-compliant. Also in these cases must the verifier report this non-compliance in the verification report if that non-compliance is not resolved by the operator in consultation with the CA before issue of the verification report.

If a non-compliance with the MRR is resolved before issue of the verification report, the verifier must record this outcome in its internal verification documentation, but it should not raise it in the verification report.

Where non-compliance with the MRR is reported in the verification report, it is up to the CA to take further action:

- If the non-compliance has led to a non-material misstatement that has not been corrected before issuing the verification report, the CA shall evaluate the misstatement and where appropriate, make a conservative estimation of the emission data.[13] The CA will enter this data in the registry in accordance with Article 31 of the Registry Regulation[13].

Art 70(2) MRR

- If the non-compliance has led to a material misstatement, the operator's report is not verified as satisfactory. The CA shall make a conservative estimation of the emission data, and enter the corrected data in the registry in accordance with Article 31 of the

Art 70(1) MRR

[13] This does not mean that the emission report is not satisfactory. A satisfactory report can still contain non-material misstatements provided these are reported in the verification report (see key guidance note on verification report (KGN 6). Reportable emissions are in that case the verified emission data, while the outstanding uncorrected non-material misstatements are reported separately in the verification report. However in such a situation the CA is entitled to make a conservative estimation according to Article 70(2) of the MRR. The CA shall report to the operator whether and which corrections are required to the emissions report.

Registry Regulation[14].

- If the non-compliance does not lead to misstatement, the CA may request the operator to change the MP or consider taking enforcement action.

[14] Commission Delegated Regulation (EU) 2019/1122 of 12 March 2019 supplementing Directive 2003/87/EC of the European Parliament and of the Council as regards the functioning of the Union Registry, OJ, 2 July 2019, L 177/3.