

Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC

CHAPTER I

GENERAL PROVISIONS

Article 1

Objective

A Community eco-management and audit scheme, hereinafter referred to as ‘EMAS’, is hereby established, allowing voluntary participation by organisations located inside or outside the Community.

The objective of EMAS, as an important instrument of the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan, is to promote continuous improvements in the environmental performance of organisations by the establishment and implementation of environmental management systems by organisations, the systematic, objective and periodic evaluation of the performance of such systems, the provision of information on environmental performance, an open dialogue with the public and other interested parties and the active involvement of employees in organisations and appropriate training.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

1. ‘environmental policy’ means the overall intentions and direction of an organisation relating to its environmental performance as formally expressed by top management including compliance with all applicable legal requirements relating to the environment and also a commitment to continuous improvement of environmental performance. It provides a framework for action and for the setting of environmental objectives and targets;
2. ‘environmental performance’ means the measurable results of an organisation's management of its environmental aspects;
3. ‘legal compliance’ means full implementation of applicable legal requirements, including permit conditions, relating to the environment;
4. ‘environmental aspect’ means an element of an organisation's activities, products or services that has or can have an impact on the environment;
5. ‘significant environmental aspect’ means an environmental aspect that has or can have a significant environmental impact;

6. 'direct environmental aspect' means an environmental aspect associated with activities, products and services of the organisation itself over which it has direct management control;
7. 'indirect environmental aspect' means an environmental aspect which can result from the interaction of an organisation with third parties and which can to a reasonable degree be influenced by an organisation;
8. 'environmental impact' means any change to the environment, whether adverse or beneficial, wholly or partially resulting from an organisation's activities, products or services;
9. 'environmental review' means an initial comprehensive analysis of environmental aspects, environmental impacts and environmental performance related to an organisation's activities, products and services;
10. 'environmental programme' means a description of the measures, responsibilities and means taken or envisaged to achieve environmental objectives and targets and the deadlines for achieving the environmental objectives and targets;
11. 'environmental objective' means an overall environmental goal, arising from the environmental policy, that an organisation sets itself to achieve, and which is quantified where practicable;
12. 'environmental target' means a detailed performance requirement, arising from the environmental objectives, applicable to an organisation or parts thereof, and that needs to be set and met in order to achieve those objectives;
13. 'environmental management system' means the part of the overall management system that includes the organisational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining the environmental policy and managing the environmental aspects;
14. 'best environmental management practice' means the most effective way to implement the environmental management system by organisations in a relevant sector and that can result in best environmental performance under given economic and technical conditions;
15. 'substantial change' means any change in an organisation's operation, structure, administration, processes, activities, products or services that has or can have a significant impact on an organisation's environmental management system, the environment or human health;
16. 'internal environmental audit' means a systematic, documented, periodic and objective evaluation of the environmental performance of an organisation, management system and processes designed to protect the environment;
17. 'auditor' means an individual or group of individuals, belonging to an organisation itself or a natural or legal person external to that organisation, acting on behalf of that organisation, carrying out an assessment of, in particular, the environmental management system in place and determining conformity with the organisation's environmental policy and programme, including compliance with the applicable legal requirements relating to the environment;
18. 'environmental statement' means the comprehensive information to the public and other interested parties regarding an organisation's:

- (a) structure and activities;
 - (b) environmental policy and environmental management system;
 - (c) environmental aspects and impacts;
 - (d) environmental programme, objectives and targets;
 - (e) environmental performance and compliance with applicable legal obligations relating to the environment as set out in Annex IV;
19. ‘updated environmental statement’ means the comprehensive information to the public and other interested parties containing updates of the last validated environmental statement, only with regard to an organisation's environmental performance and compliance with applicable legal obligations relating to the environment as set out in Annex IV;
20. ‘environmental verifier’ means:
- (a) a conformity assessment body as defined in Regulation (EC) No 765/2008 or any association or group of such bodies, which has obtained accreditation in accordance with this Regulation; or
 - (b) any natural or legal person, or any association or group of such persons, which has obtained a licence to carry out verification and validation in accordance with this Regulation;
21. ‘organisation’ means a company, corporation, firm, enterprise, authority or institution, located inside or outside the Community, or part or combination thereof, whether incorporated or not, public or private, which has its own functions and administration;
22. ‘site’ means a distinct geographic location under the management control of an organisation covering activities, products and services, including all infrastructure, equipment and materials; a site is the smallest entity to be considered for registration;
23. ‘cluster’ means a group of independent organisations related to each other by geographical proximity or business activities jointly implementing the environmental management system;
24. ‘verification’ means the conformity assessment process carried out by an environmental verifier to demonstrate whether an organisation's environmental review, environmental policy, environmental management system and internal environmental audit and its implementation fulfils the requirements of this Regulation;
25. ‘validation’ means the confirmation by the environmental verifier who carried out the verification, that the information and data in an organisation's environmental statement and updated environmental statement are reliable, credible and correct and meet the requirements of this Regulation;
26. ‘enforcement authorities’ means the relevant competent authorities as identified by the Member States to detect, prevent and investigate breaches of applicable legal requirements relating to the environment and, where required, take enforcement action;
27. ‘environmental performance indicator’ means a specific expression that allows measurement of an organisation's environmental performance;

28. 'small organisations' means:
- (a) micro, small and medium-sized enterprises as defined in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises⁽¹⁾; or
 - (b) local authorities governing less than 10 000 inhabitants or other public authorities employing fewer than 250 persons and having an annual budget not exceeding EUR 50 million, or an annual balance sheet not exceeding EUR 43 million, including all of the following:
 - (i) government or other public administrations, or public advisory bodies at national, regional or local level;
 - (ii) natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment; and
 - (iii) natural or legal persons having public responsibilities or functions, or providing public services, relating to the environment under the control of a body or person referred to in point (b);
29. 'corporate registration' means a single registration of all or some sites of an organisation with sites located in one or more Member States or third countries;
30. 'Accreditation Body' means a national accreditation body appointed pursuant to Article 4 of Regulation (EC) No 765/2008 which is responsible for the accreditation and supervision of environmental verifiers;
31. 'Licensing Body' means a body appointed in accordance with Article 5(2) of Regulation (EC) No 765/2008 which is responsible for issuing licences to, and for supervising, environmental verifiers.

CHAPTER II

REGISTRATION OF ORGANISATIONS

Article 3

Determination of the Competent Body

1 Applications for registration from organisations in a Member State shall be made to a Competent Body in that Member State.

2 An organisation with sites located in one or more Member States or third countries may apply for one single corporate registration of all or some of those sites.

Applications for a single corporate registration shall be made to a Competent Body of the Member State where the organisation's headquarters or management centre designated for the purpose of this paragraph is located.

3 Applications for registration from organisations outside the Community, including corporate registration consisting only of sites located outside the Community, shall be made to any Competent Body in those Member States that provide for the registration of organisations from outside the Community in accordance with the second subparagraph of Article 11(1).

Those organisations shall ensure that the environmental verifier which will carry out the verification and validate the environmental management system of the organisation is accredited or licensed in the Member State where the organisation applies for registration.

Article 4

Preparation for registration

- 1 Organisations wishing to be registered for the first time shall:
 - a carry out an environmental review of all environmental aspects of the organisation in accordance with the requirements set out in Annex I and in point A.3.1 of Annex II;
 - b in the light of the results of the environmental review, develop and implement an environmental management system covering all the requirements referred to in Annex II, and, where available, taking into account the best environmental management practice for the relevant sector referred to in Article 46(1)(a);
 - c carry out an internal audit in accordance with the requirements set out in point A.5.5 of Annex II and Annex III;
 - d prepare an environmental statement, in accordance with Annex IV. Where sectoral reference documents as referred to in Article 46 are available for the specific sector, the assessment of the organisation's environmental performance shall take into account the relevant document.

2 Organisations may use the assistance referred to in Article 32 that is available in the Member State where the organisation applies for registration.

3 Organisations which have a certified environmental management system, recognised in accordance with Article 45(4), shall not be obliged to carry out those parts which have been recognised as equivalent to this Regulation.

4 Organisations shall provide material or documentary evidence showing that the organisation complies with all applicable legal requirements relating to the environment.

Organisations may request information from the competent enforcement authority or authorities in accordance with Article 32 or the environmental verifier.

Organisations outside the Community shall also make reference to the legal requirements relating to the environment applicable to similar organisations in the Member States where they intend to submit an application.

Where sectoral reference documents as referred to in Article 46 are available for the specific sector, the assessment of the organisation's environmental performance shall be made with reference to the relevant document.

5 The initial environmental review, the environment management system, the audit procedure and its implementation shall be verified by an accredited or licensed environmental verifier and the environmental statement shall be validated by that verifier.

Article 5

Application for registration

- 1 Any organisation meeting requirements set out in Article 4 may apply for registration.

- 2 The application for registration shall be made to the Competent Body determined in accordance with Article 3 and shall include the following:
- a the validated environmental statement in electronic or printed form;
 - b the declaration as referred to in Article 25(9), signed by the environmental verifier which validated the environmental statement;
 - c a completed form, which includes at least the minimum information on as set out in Annex VI;
 - d evidence of payment of applicable fees, if applicable.
- 3 The application shall be written in (one of) the official language(s) of the Member State in which the organisation applies for registration.

CHAPTER III

OBLIGATIONS OF REGISTERED ORGANISATIONS

Article 6

Renewal of EMAS registration

- 1 A registered organisation shall at least on a three-yearly basis:
- a have the full environmental management system and audit programme and its implementation verified;
 - b prepare the environmental statement in accordance with the requirements set out in Annex IV and have it validated by an environmental verifier;
 - c forward the validated environmental statement to the Competent Body;
 - d forward to the Competent Body a completed form, which includes at least the minimum information set out in Annex VI;
 - e pay a fee for the renewal of the registration to the Competent Body, if applicable.
- 2 Without prejudice to paragraph 1, in the intervening years, a registered organisation shall:
- a in accordance with the audit programme, carry out an internal audit of its environmental performance and compliance with applicable legal requirements relating to the environment in accordance with Annex III;
 - b prepare an updated environmental statement in accordance with the requirements laid down in Annex IV, and have it validated by an environmental verifier;
 - c forward the validated updated environmental statement to the Competent Body;
 - d forward to the Competent Body a completed form, which includes at least the minimum information set out in Annex VI;
 - e pay a fee for the maintenance of the registration to the Competent Body, if applicable.
- 3 Registered organisations shall make their environmental statement and updated environmental statement accessible to the public within one month of registration and one month after the renewal of the registration is completed.

Registered organisations may satisfy that requirement by providing access to the environmental statement and the updated environmental statement upon request or by creating links to Internet sites where those statements can be accessed.

Registered organisations shall specify the way in which they provide public access in the form set out in Annex VI.

Article 7

Derogation for small organisations

1 Competent Bodies shall, upon request of a small organisation, extend for that organisation the three-yearly frequency referred to in Article 6(1) up to four years or the annual frequency referred to in Article 6(2) up to two years, provided that the environmental verifier that has verified the organisation confirms that all the following conditions are met:

- a no significant environmental risks are present;
- b the organisation has no substantial changes planned as defined in Article 8, and
- c there exist no significant local environmental problems that the organisation contributes to.

To submit the request referred to in the first subparagraph, the organisation may use the form set out in Annex VI.

2 The Competent Body shall refuse the request if the conditions set out in paragraph 1 are not met. It shall communicate a reasoned justification to the organisation.

3 Organisations benefiting from an extension of up to two years, as referred to in paragraph 1, shall forward the non-validated updated environmental statement to the Competent Body each year that they are exempt from the obligation to have a validated updated environmental statement.

Article 8

Substantial changes

1 Where a registered organisation plans to introduce substantial changes, the organisation shall carry out an environmental review of these changes, including their environmental aspects and impacts.

2 Following the environmental review of changes, the organisation shall update the initial environmental review, modify the environmental policy, the environmental programme and the environmental management system and revise and update the entire environmental statement accordingly.

3 All documents modified and updated pursuant to paragraph 2 shall be verified and validated within six months.

4 After validation, the organisation shall submit changes to the Competent Body using the form set out in Annex VI and make the changes publicly available.

Article 9

Internal environmental audit

1 A registered organisation shall establish an audit programme that ensures that over a period of time, not exceeding three years or four years if the derogation provided for in

Article 7 applies, all activities in the organisation are subject to an internal environmental audit in accordance with the requirements set out in Annex III.

2 The audit shall be carried out by auditors who possess, individually or collectively, the competence necessary for carrying out these tasks and are sufficiently independent of the activities they audit to make an objective judgment.

3 The organisation's environmental auditing programme shall define the objectives of each audit or audit cycle including the audit frequency for each activity.

4 A written audit report shall be prepared by the auditors at the end of each audit and audit cycle.

5 The auditor shall communicate the findings and conclusions of the audit to the organisation.

6 Following the audit process, the organisation shall prepare and implement an appropriate action plan.

7 The organisation shall put in place appropriate mechanisms that ensure that the audit results are followed up.

Article 10

Use of the EMAS logo

1 Without prejudice to Article 35(2), the EMAS logo set out in Annex V may be used only by registered organisations and only as long as their registration is valid.

The logo shall always bear the registration number of the organisation.

2 The EMAS logo shall only be used in accordance with the technical specifications set out in Annex V.

3 In case an organisation chooses, in accordance with Article 3(2), not to include all its sites in the corporate registration, it shall ensure that in its communications with the public and in its use of the EMAS logo it is clear which sites are covered by the registration.

4 The EMAS logo shall not be used:

- a on products or their packaging; or
- b in conjunction with comparative claims concerning other activities and services or in a way that may create confusion with environmental product labels.

5 Any environmental information published by a registered organisation may bear the EMAS logo provided such information makes reference to the organisation's latest environmental statement or updated environmental statement from which it was drawn and it has been validated by an environmental verifier as being:

- a accurate;
- b substantiated and verifiable;
- c relevant and used in an appropriate context or setting;
- d representative of the overall environmental performance of the organisation;
- e unlikely to result in misinterpretation; and
- f significant in relation to the overall environmental impact.

CHAPTER IV

RULES APPLICABLE TO COMPETENT BODIES*Article 11***Designation and role of Competent Bodies**

1 Member States shall designate Competent Bodies, which shall be responsible for the registration of organisations located in the Community in accordance with this Regulation.

Member States may provide that the Competent Bodies they designate provide for and shall be responsible for the registration of organisations located outside the Community in accordance with this Regulation.

The Competent Bodies shall control the entry and maintenance of organisations on the register, including suspension and deletion.

2 The Competent Bodies may be national, regional or local.

3 The composition of the Competent Bodies shall guarantee their independence and neutrality.

4 The Competent Bodies shall have the appropriate resources, both financial and in terms of personnel, for the proper performance of their tasks.

5 The Competent Bodies shall apply this Regulation in a consistent manner and shall participate in regular peer evaluation as set out in Article 17.

*Article 12***Obligations concerning the registration process**

1 Competent Bodies shall establish procedures for the registration of organisations. They shall in particular establish rules for:

- a considering observations from interested parties, including Accreditation and Licensing Bodies and competent enforcement authorities and the organisations' representative bodies, concerning applicant or registered organisations;
- b refusal of registration, suspension or deletion of organisations, and
- c resolution of appeals and complaints made against their decisions.

2 Competent Bodies shall establish and maintain a register of organisations registered in their Member States, including information as to how their environmental statement or updated environmental statement can be obtained, and, in the case of changes, update that register on a monthly basis.

The register shall be publicly available on a website.

3 Competent Bodies shall each month, directly or via the national authorities as decided by the Member States concerned, communicate changes in the register referred to in paragraph 2 to the Commission.

Article 13

Registration of organisations

1 Competent Bodies shall consider applications for registration of organisations in accordance with the procedures established to this end.

2 Where an organisation applies for registration, the Competent Body shall register that organisation and give it a registration number if all the following conditions are fulfilled:

- a the Competent Body has received an application for registration, which includes all the documents referred to in Article 5(2)(a) to (d);
- b the Competent Body has checked that the verification and validation have been carried out in accordance with Articles 25, 26 and 27;
- c the Competent Body is satisfied on the basis of material evidence received, for example through a written report from the competent enforcement authority that there is no evidence of breach of applicable legal requirements relating to the environment;
- d there are no relevant complaints from interested parties or complaints have been positively solved;
- e the Competent Body is satisfied on the basis of evidence received that the organisation meets all the requirements of this Regulation; and
- f the Competent Body has received a registration fee, if applicable.

3 The Competent Body shall inform the organisation that it has been registered and provide the organisation with its registration number and the EMAS logo.

4 If a Competent Body concludes that an applicant organisation does not comply with the requirements set out in paragraph 2, it shall refuse to register that organisation and communicate a reasoned justification to the organisation.

5 If a Competent Body receives a written supervision report from the Accreditation or Licensing Body which provides evidence that the activities of the environmental verifier were not performed adequately enough to ensure that the requirements of this Regulation are met by the applicant organisation, it shall refuse to register that organisation. The Competent Body shall invite the organisation to submit a new application for registration.

6 In order to obtain the necessary evidence for taking a decision on refusal of registration of organisations, the Competent Body shall consult the concerned parties including the organisation.

Article 14

Renewal of the organisation's registration

1 A Competent Body shall renew the registration of the organisation if all the following conditions are fulfilled:

- a the Competent Body has received a validated environmental statement as referred to in Article 6(1)(c), a validated updated environmental statement as referred to in Article 6(2)(c) or a non-validated updated environmental statement as referred to in Article 7(3);

- b the Competent Body has received a completed form, which includes at least the minimum information set out in Annex VI, as referred to in Article 6(1)(d) and in Article 6(2)(d);
 - c the Competent Body has no evidence that the verification and validation have not been carried out in accordance with Articles 25, 26 and 27;
 - d the Competent Body has no evidence of non-compliance by the organisation with applicable legal requirements relating to the environment;
 - e there are no relevant complaints from interested parties or complaints have been positively solved;
 - f the Competent Body is satisfied on the basis of evidence received that the organisation meets all the requirements of this Regulation; and
 - g the Competent Body has received a fee for renewal of the registration, if applicable.
- 2 The Competent Body shall inform the organisation that its registration has been renewed.

Article 15

Suspension or deletion of organisations from the register

- 1 Where a Competent Body believes that a registered organisation does not comply with this Regulation, it shall give the organisation the opportunity to submit its views on the matter. Should the organisation fail to provide a satisfactory response it shall be deleted or suspended from the register.
- 2 Where a Competent Body receives a written supervision report from the Accreditation or Licensing Body which provides evidence that the activities of the environmental verifier were not performed adequately enough to ensure that the requirements of this Regulation are met by the registered organisation, registration shall be suspended.
- 3 A registered organisation shall be suspended or deleted from the register, as appropriate, if it fails to submit to a Competent Body, within two months of being required to do so, any of the following:
- a the validated environmental statement, an updated environmental statement or the signed declaration referred to in Article 25(9);
 - b a form which includes at least the minimum information set out in Annex VI from the organisation.
- 4 If a Competent Body is informed through a written report by the competent enforcement authority of a breach by the organisation of any applicable legal requirements relating to the environment, it shall suspend or delete the reference to that organisation from the register as appropriate.
- 5 In case a Competent Body decides to suspend or delete a registration it shall take into account at least the following:
- a the environmental effect of the non-compliance by the organisation with the requirements of this Regulation;
 - b the foreseeability of the non-compliance by the organisation with the requirements of this Regulation or the circumstances leading to it;
 - c previous instances of non-compliance with the requirements of this Regulation by the organisation; and
 - d the specific circumstances of the organisation.

6 In order to obtain the necessary evidence for taking its decision on suspension or deletion of organisations from the register, the Competent Body shall consult the concerned parties including the organisation.

7 Where the Competent Body has received evidence, other than by means of a written supervision report of the Accreditation or Licensing Body, that activities of the environmental verifier were not performed adequately enough to ensure that the requirements of this Regulation are met by the organisation, it shall consult the Accreditation or Licensing Body supervising the environmental verifier.

8 The Competent Body shall give reasons for any measures taken.

9 The Competent Body shall provide appropriate information to the organisation concerning the consultations with the concerned parties.

10 Suspension of an organisation from the register shall be lifted if the Competent Body has received satisfactory information that the organisation is in compliance with the requirements of this Regulation.

Article 16

Forum of Competent Bodies

1 A Forum of Competent Bodies from all Member States, hereinafter referred to as ‘the Forum of Competent Bodies’, shall be set up by the Competent Bodies and meet at least once per year in the presence of a representative of the Commission.

The Forum of Competent Bodies shall adopt its rules of procedure.

2 Competent Bodies of each Member State shall participate in the Forum of Competent Bodies. Where several Competent Bodies are established within one Member State, appropriate measures shall be taken to ensure that all of them are informed about the activities of the Forum of Competent Bodies.

3 The Forum of Competent Bodies shall develop guidance to ensure the consistency of procedures relating to the registration of organisations in accordance with this Regulation, including renewal of registration and suspension and deletion of organisations from the register both inside and outside the Community.

The Forum of Competent Bodies shall transmit to the Commission the guidance documents and documents referring to the peer evaluation.

4 Guidance documents referring to harmonisation procedures approved by the Forum of Competent Bodies shall be proposed as appropriate by the Commission for adoption in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Those documents shall be made publicly available.

Article 17

Peer evaluation of Competent Bodies

1 A peer evaluation shall be organised by the Forum of Competent Bodies to assess conformity of the registration system of every Competent Body with this Regulation and to develop a harmonised approach to the application of the rules relating to registration.

2 The peer evaluation shall be carried out on a regular basis and at least every four years, and shall include an assessment of the rules and procedures set out in Articles 12, 13 and 15. All Competent Bodies shall participate in the peer evaluation.

3 The Commission shall establish procedures for carrying out the peer evaluation, including appropriate appeals procedures against decisions taken as a result of the peer evaluation.

Those measures, designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

4 Procedures referred to in paragraph 3 shall be established before the first peer evaluation takes place.

5 The Forum of Competent Bodies shall transmit a regular report of the peer evaluation to the Commission and the Committee established under Article 49(1).

That report shall be made publicly available after approval by the Forum of Competent Bodies and the Committee referred to in the first subparagraph.

CHAPTER V

ENVIRONMENTAL VERIFIERS

Article 18

Tasks of Environmental verifiers

1 Environmental verifiers shall assess whether an organisation's environmental review, environmental policy, management system, audit procedures and their implementation comply with the requirements of this Regulation.

2 Environmental verifiers shall verify the following:

- a compliance of the organisation with all the requirements of this Regulation with respect to the initial environmental review, environmental management system, environmental audit and its results and the environmental statement or updated environmental statement;
- b compliance of the organisation with applicable Community, national, regional and local legal requirements relating to the environment;
- c the organisation's continuous improvement of environmental performance; and
- d the reliability, credibility and correctness of the data and information in the following documents:
 - (i) the environmental statement;
 - (ii) the updated environmental statement;
 - (iii) any environmental information to be validated.

3 Environmental verifiers shall, in particular, verify the appropriateness of the initial environmental review, or audit or other procedures carried out by the organisation, without unnecessarily duplicating those procedures.

4 Environmental verifiers shall verify whether the results of the internal audit are reliable. Where appropriate, they shall use spot-checks for that purpose.

5 At the time of the verification for the preparation for registration of an organisation, the environmental verifier shall check that at least the following requirements are met by that organisation:

- a a fully operational environmental management system in accordance with Annex II is in place;
- b a fully planned audit programme is in place and has begun in accordance with Annex III so that at least the most significant environmental impacts have been covered;
- c the management review referred to in Part A of Annex II is completed; and
- d an environmental statement is prepared in accordance with Annex IV and sectoral reference documents were taken into account, where available.

6 For the purposes of the verification for the renewal of registration referred to in Article 6(1), the environmental verifier shall check that the following requirements are met by the organisation:

- a the organisation has a fully operational environmental management system in accordance with Annex II;
- b the organisation has a fully operational planned audit programme, with at least one audit cycle completed in accordance with Annex III;
- c the organisation has completed one management review; and
- d the organisation has prepared an environmental statement in accordance with Annex IV and sectoral reference documents were taken into account, where available.

7 For the purposes of the verification for renewal of registration referred to in Article 6(2), the environmental verifier shall check that at least the following requirements are met by the organisation:

- a the organisation has carried out an internal audit of the environmental performance and the compliance with applicable legal requirements relating to the environment in accordance with Annex III;
- b the organisation demonstrates ongoing compliance with applicable legal requirements relating to the environment and continuous improvement of its environmental performance; and
- c the organisation has prepared an updated environmental statement in accordance with Annex IV and, where available, sectoral reference documents were taken into account.

Article 19

Frequency of verification

1 The environmental verifier shall design, in consultation with the organisation, a programme that ensures that all elements required for registration and renewal of registration referred to in Articles 4, 5 and 6 are verified.

2 The environmental verifier shall at intervals not exceeding 12 months validate any updated information in the environmental statement or updated environmental statement.

Where relevant, the derogation provided for in Article 7 shall apply.

Article 20

Requirements for environmental verifiers

1 In order to obtain accreditation or a licence in accordance with this Regulation, a candidate environmental verifier shall introduce a request with the Accreditation or Licensing Body from which it seeks accreditation or a licence.

That request shall specify the scope of the requested accreditation or licence by reference to the classification of economic activities as set out in Regulation (EC) No 1893/2006⁽²⁾.

2 The environmental verifier shall provide to the Accreditation or Licensing Body appropriate evidence of its competence, including knowledge, relevant experience and technical capacities relevant to the scope of the requested accreditation or licence in the following fields:

- a this Regulation;
- b the general functioning of environmental management systems;
- c relevant sectoral reference documents issued by the Commission, under Article 46, for the application of this Regulation;
- d the legislative, regulatory and administrative requirements relevant to the activity subject to verification and validation;
- e environmental aspects and impacts including the environmental dimension of sustainable development;
- f the technical aspects, relevant to environmental issues, of the activity subject to verification and validation;
- g the general functioning of the activity subject to verification and validation in order to assess the appropriateness of the management system, in relation to the interaction of the organisation and its products, services and operations with the environment including at least the following:
 - (i) technologies employed by the organisation;
 - (ii) terminology and tools deployed in the activities;
 - (iii) operational activities and characteristics of their interaction with the environment;
 - (iv) methodologies for the evaluation of significant environmental aspects;
 - (v) pollution control and mitigation technologies;
- h environmental auditing requirements and methodology including the ability to undertake effective verification audits of an environmental management system, identification of appropriate audit findings and conclusions and preparation and presentation of audits reports, in oral and written forms, to provide a clear record of the verification audit;
- i information audit, the environmental statement and the updated environmental statement in relation to data management, data storage and manipulation, presentation of data in written and graphical format for the appreciation of potential data errors, use of assumptions and estimates;
- j the environmental dimension of products and services including the environmental aspects and environmental performance during the usage and post-use, and the integrity of data provided for environmental decision making.

3 The environmental verifier shall be required to demonstrate a continuing professional development in the fields of competence set out in paragraph 2 and to maintain such development for assessment by the Accreditation or Licensing Body.

4 The environmental verifier shall be an external third party, independent, in particular of the organisation's auditor or consultant, impartial and objective in performing its activities.

5 The environmental verifier shall ensure that it is free from any commercial, financial or other pressures which might influence its judgment or endanger trust in its independence of judgment and integrity in relation to the verification activities. The environmental verifier shall ensure compliance with any rules applicable in this respect.

6 The environmental verifier shall have documented methods and procedures, including quality control mechanisms and confidentiality provisions, to comply with the verification and validation requirements of this Regulation.

7 Where an organisation acts as environmental verifier, it shall keep an organisation chart detailing structures and responsibilities within the organisation and a statement of legal status, ownership and funding sources.

That organisation chart shall be made available on request.

8 Compliance with these requirements shall be ensured through the assessment carried out prior to the accreditation or licensing and through the supervision by the Accreditation or Licensing Body.

Article 21

Additional requirements for environmental verifiers which are natural persons and performing verification and validation activities individually

Natural persons acting as environmental verifiers and performing verification and validation individually shall have, in addition to complying with the requirements set out in Article 20:

- (a) all the necessary competence to perform verification and validation activities in their licensed fields;
- (b) a limited scope of the licence dependent on their personal competence.

Article 22

Additional requirements for environmental verifiers active in third countries

1 Where an environmental verifier intends to carry out verification and validation activities in third countries, it shall seek accreditation or licence for specific third countries.

2 In order to obtain accreditation or a licence for a third country, the environmental verifier shall meet, in addition to the requirements set out in Articles 20 and 21, the following requirements:

- a knowledge and understanding of the legislative, regulatory and administrative requirements relating to the environment in the third country for which accreditation or a licence is sought;

- b knowledge and understanding of the official language of the third country for which accreditation or a licence is sought.

3 The requirements set out in paragraph 2 shall be deemed to be met where the environmental verifier demonstrates the existence of a contractual relationship between itself and a qualified person or organisation fulfilling those requirements.

That person or organisation shall be independent of the organisation to be verified.

Article 23

Supervision of environmental verifiers

1 Supervision of verification and validation activities carried out by environmental verifiers in:

- a the Member State where they are accredited or licensed shall be carried out by the Accreditation or Licensing Body that granted the accreditation or licence;
- b a third country shall be carried out by the Accreditation or Licensing Body that granted the accreditation or licence to the environmental verifier for those activities;
- c a Member State other than where the accreditation or licence was granted shall be carried out by the Accreditation or Licensing Body of the Member State where the verification takes place.

2 At least four weeks in advance of each verification in a Member State, the environmental verifier shall notify its accreditation or licence details and the time and place of the verification to the Accreditation or Licensing Body responsible for the supervision of the environmental verifier concerned.

3 The environmental verifier shall immediately inform the Accreditation or Licensing Body of any changes which have a bearing on the accreditation or licence or their scope.

4 Provision shall be made by the Accreditation or Licensing Body, at regular intervals not exceeding 24 months, to ensure that the environmental verifier continues to comply with the accreditation or licence requirements and to monitor the quality of the verification and validation activities undertaken.

5 Supervision may consist of an office audit, on-the-spot supervision in organisations, questionnaires, a review of environmental statements or updated environmental statements validated by the environmental verifiers and review of the verification report.

Supervision shall be proportionate to the activity undertaken by the environmental verifier.

6 Organisations must allow the Accreditation or Licensing Bodies to supervise the environmental verifier during the verification and validation process.

7 Any decision taken by the Accreditation or Licensing Body to terminate or suspend the accreditation or licence or restrict the scope of the accreditation or licence shall be taken only after the environmental verifier has had the possibility of a hearing.

8 If the supervising Accreditation or Licensing Body is of the opinion that the quality of the work of an environmental verifier does not meet the requirements of this Regulation, a written supervision report shall be transmitted to the environmental verifier concerned and to the Competent Body to which the organisation concerned intends to apply for registration or which registered the organisation concerned.

In the case of any further dispute, the supervision report shall be transmitted to the Forum of Accreditation and Licensing Bodies referred to in Article 30.

Article 24

Additional requirements for supervision of environmental verifiers active in a Member State other than that where the accreditation or licence was granted

1 An environmental verifier accredited or licensed in one Member State shall, at least four weeks before performing verification and validation activities in another Member State, notify to the Accreditation or Licensing Body of the latter Member State the following information:

- a its accreditation or licence details, competences, in particular knowledge of legal requirements relating to the environment and official language of the other Member State, and team composition if appropriate;
- b the time and place of the verification and validation;
- c the address and contact details of the organisation.

That notification shall be provided before each verification and validation activity.

2 The Accreditation or Licensing Body may request clarification of the verifier's knowledge of the necessary applicable legal requirements relating to the environment.

3 The Accreditation or Licensing Body may require conditions other than those referred to in paragraph 1 only where those other conditions do not prejudice the right of the environmental verifier to provide services in a Member State other than the one where the accreditation or licence was granted.

4 The Accreditation or Licensing Body shall not use the procedure referred to in paragraph 1 to delay the arrival of the environmental verifier. Where the Accreditation or Licensing Body is not able to fulfil its tasks in accordance with paragraphs 2 and 3 before the time for verification and validation as notified by the verifier in accordance with paragraph 1(b), it shall communicate a reasoned justification to the verifier.

5 No discriminatory fees for notification and supervision shall be charged by the Accreditation or Licensing Bodies.

6 Where the supervising Accreditation or Licensing Body is of the opinion that the quality of the work of the environmental verifier does not meet the requirements of this Regulation, a written supervision report shall be transmitted to the environmental verifier concerned, the Accreditation or Licensing Body which granted the accreditation or licence, and the Competent Body to which the organisation concerned intends to apply for registration or which registered the organisation concerned. In the case of any further dispute the supervision report shall be transmitted to the Forum of Accreditation and Licensing Bodies referred to in Article 30.

Article 25

Conditions for performing verification and validation

1 The environmental verifier shall operate within the scope of its accreditation or licence, and on the basis of a written agreement with the organisation.

That agreement shall:

- a specify the scope of the activity;
- b specify conditions aimed at enabling the environmental verifier to operate in an independent professional manner; and
- c commit the organisation to providing the necessary cooperation.

2 The environmental verifier shall ensure that the components of the organisation are unambiguously defined and correspond to a real division of the activities.

The environmental statement shall clearly specify the different parts of the organisation that are subject to verification or validation.

3 The environmental verifier shall carry out an assessment of the elements set out in Article 18.

4 As part of the verification and validation activities the environmental verifier shall examine documentation, visit the organisation, carry out spot-checks and conduct interviews with personnel.

5 Prior to a visit by the environmental verifier, the organisation shall provide it with basic information about the organisation and its activities, the environmental policy and programme, the description of the environmental management system in operation in the organisation, details of the environmental review or audit carried out, the report on that review or audit and on any corrective action taken afterwards, and the draft environmental statement or updated environmental statement.

6 The environmental verifier shall prepare a written report for the organisation, on the outcome of the verification, which shall specify:

- a all issues relevant to the activity carried out by the environmental verifier;
- b a description of conformity with all requirements of this Regulation including supporting evidence, findings and conclusions;
- c the comparison of the achievements and targets with the previous environmental statements and the environmental performance assessment and assessment of the continuous environmental performance improvement of the organisation;
- d if applicable, technical defects in the environmental review, audit method, environmental management system, or any other relevant process.

7 In cases of non-conformity with the provisions of this Regulation, the report shall specify in addition:

- a findings and conclusions on the non-conformity by the organisation and evidence on which those findings and conclusion are based;
- b points of disagreement with the draft environmental statement or updated environmental statement, and details of the amendments or additions that should be made to the environmental statement or updated environmental statement.

8 After verification, the environmental verifier shall validate the organisation's environmental statement or updated environmental statement and confirm that it meets the requirements of this Regulation provided that the outcome of the verification and validation confirms that:

- a the information and data in the organisation's environmental statement or updated environmental statement are reliable and correct and meet the requirements of this Regulation; and
- b there is no evidence that the organisation does not fulfil applicable legal requirements relating to the environment.

9 Upon validation, the environmental verifier shall issue a signed declaration as referred to in Annex VII declaring that the verification and validation were carried out in accordance with this Regulation.

10 Environmental verifiers accredited or licensed in one Member State may perform verification and validation activities in any other Member State in accordance with the requirements set out in this Regulation.

The verification or validation activity shall be subject to supervision by the Accreditation or Licensing Body of the Member State where the activity is to be performed. The start of the activity shall be notified to that Accreditation or Licensing Body in accordance with the timing set out in Article 24(1).

Article 26

Verification and validation of small organisations

1 When carrying out verification and validation activities, the environmental verifier shall take into account specific characteristics of small organisations, including the following:

- a short reporting lines;
- b multifunctional staff;
- c on-the-job training;
- d the ability to adapt rapidly to change; and
- e limited documentation of procedures.

2 The environmental verifier shall conduct verification or validation in a way that does not impose unnecessary burdens on small organisations.

3 The environmental verifier shall take into account objective evidence that a system is effective, including the existence of procedures within the organisation that are proportionate to the size and complexity of the operation, the nature of the associated environmental impacts and the competence of the operators.

Article 27

Conditions for verification and validation in third countries

1 Environmental verifiers accredited or licensed in a Member State may perform verification and validation activities for an organisation located in a third country in accordance with the requirements set out in this Regulation.

2 At least six weeks before verification or validation in a third country, the environmental verifier shall notify its accreditation or licence details and the time and place of the verification or validation to the Accreditation or Licensing Body of the Member State in which the organisation concerned intends to apply for registration or is registered.

3 The verification and validation activities shall be subject to supervision by the Accreditation or Licensing Body of the Member State in which the environmental verifier is accredited or licensed. The start of the activity shall be notified to that Accreditation or Licensing Body in accordance with the timing set out in paragraph 2.

CHAPTER VI

ACCREDITATION AND LICENSING BODIES

Article 28

Operation of Accreditation and Licensing

1 Accreditation Bodies appointed by the Member States pursuant to Article 4 of Regulation (EC) No 765/2008 shall be responsible for the accreditation of environmental verifiers and the supervision of the activities carried out by environmental verifiers in accordance with this Regulation.

2 Member States may appoint a Licensing Body, in accordance with Article 5(2) of Regulation (EC) No 765/2008, which shall be responsible for issuing licences to and supervising environmental verifiers.

3 Member States may decide not to allow the accreditation or licensing of natural persons as environmental verifiers.

4 Accreditation and Licensing Bodies shall assess an environmental verifier's competence in the light of the elements set out in Articles 20, 21 and 22 relevant to the scope of the requested accreditation or licence.

5 The scope of accreditation or the licence of environmental verifiers shall be determined according to the classification of economic activities as set out in Regulation (EC) No 1893/2006. That scope shall be limited by the competence of the environmental verifier and, where appropriate, it shall take into account the size and complexity of the activity.

6 Accreditation and Licensing Bodies shall establish appropriate procedures on accreditation or licensing, refusal of accreditation or a licence, suspension and withdrawal of accreditation or a licence of environmental verifiers and on supervision of environmental verifiers.

Those procedures shall include mechanisms for considering observations from concerned parties, including Competent Bodies and the representative bodies of organisations, concerning applicants and accredited or licensed environmental verifiers.

7 In the case of a refusal of accreditation or licence, the Accreditation or Licensing Body shall inform the environmental verifier of the reasons for the decision.

8 Accreditation or Licensing Bodies shall establish, revise and update a list of environmental verifiers and their scope of accreditation or licence in their Member States and shall communicate each month, directly or via the national authorities as decided by the Member State concerned, changes in that list to the Commission and to the Competent Body of the Member State where the Accreditation or Licensing Body is located.

9 Within the framework of the rules and procedures regarding monitoring of activities as laid down in Article 5(3) of Regulation (EC) No 765/2008, Accreditation and Licensing Bodies shall draw up a supervision report where they decide, after consultation with the environmental verifier concerned, either of the following:

- a that the activities of the environmental verifier were not performed adequately enough to ensure that the requirements of this Regulation are met by the organisation;
- b that the verification and the validation by the environmental verifier were carried out in violation of one or more of the requirements of this Regulation.

This report shall be transmitted to the Competent Body in the Member State where the organisation is registered or applies for registration and, if applicable, to the Accreditation or Licensing Body that granted the accreditation or licence.

Article 29

Suspension and withdrawal of accreditation or licence

1 Suspension or withdrawal of the accreditation or licence shall require the consultation of concerned parties including the environmental verifier, in order to provide the Accreditation or Licensing Body with the necessary evidence for taking its decision.

2 The Accreditation or Licensing Body shall inform the environmental verifier of the reasons for the measures taken and, if applicable, of the process of discussion with the competent enforcement authority.

3 The accreditation or licence shall be suspended or withdrawn until assurance of the environmental verifier's compliance with this Regulation is obtained, as appropriate, depending on the nature and scope of the failure or violation of legal requirements.

4 Suspension of the accreditation or licence shall be lifted where the Accreditation or Licensing Body has received satisfactory information that the environmental verifier complies with this Regulation.

Article 30

Forum of the Accreditation and Licensing Bodies

1 A forum constituted of all the Accreditation and Licensing Bodies from all Member States, hereinafter referred to as 'the Forum of the Accreditation and Licensing Bodies', shall be set up and meet at least once per year in the presence of a representative of the Commission.

2 The task of the Forum of the Accreditation and Licensing Bodies shall be to ensure the consistency of procedures relating to the following:

- a the accreditation or licensing of environmental verifiers under this Regulation, including refusal, suspension and withdrawal of accreditation or licence;
- b the supervision of activities carried out by accredited or licensed environmental verifiers.

3 The Forum of the Accreditation and Licensing Bodies shall develop guidance on issues in the field of the competence of Accreditation and Licensing Bodies.

4 The Forum of the Accreditation and Licensing Bodies shall adopt its rules of procedure.

5 The guidance documents referred to in paragraph 3 and the rules of procedure referred to in paragraph 4 shall be transmitted to the Commission.

6 Guidance documents referring to harmonisation procedures approved by the Forum of the Accreditation and Licensing Bodies shall be proposed as appropriate by the Commission for adoption in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

These documents shall be made publicly available.

Article 31

Peer evaluation of Accreditation and Licensing Bodies

1 The peer evaluation with regard to accreditation and licensing of environmental verifiers under this Regulation to be organised by the Forum of Accreditation and Licensing Bodies, shall be carried out on a regular basis, at least every four years, and shall include an assessment of the rules and procedures set out in Articles 28 and 29.

All Accreditation and Licensing Bodies shall participate in the peer evaluation.

2 The Forum of Accreditation and Licensing Bodies shall transmit a regular report of the peer evaluation to the Commission and the Committee established under Article 49(1).

That report shall be made publicly available after approval by the Forum of Accreditation and Licensing Bodies and the Committee referred to in the first subparagraph.

CHAPTER VII

RULES APPLICABLE TO MEMBER STATES

Article 32

Assistance to organisations relating to compliance with legal requirements relating to the environment

1 Member States shall ensure that organisations get access to information and assistance possibilities regarding legal requirements relating to the environment in that Member State.

2 The assistance shall include the following:

- a information regarding the applicable legal requirements relating to the environment;
- b identification of the competent enforcement authorities for specific legal requirements relating to the environment that have been identified as being applicable.

3 Member States may confer the tasks referred to in paragraphs 1 and 2 to the Competent Bodies or to any other body having the necessary expertise and the appropriate resources to fulfil the task.

4 Member States shall ensure that enforcement authorities reply to requests, at least from small organisations, on the applicable legal requirements relating to the environment that fall within their competence, and provide information to the organisations on the means of showing how the organisations meet relevant legal requirements.

5 Member States shall ensure that competent enforcement authorities communicate a failure by registered organisations to comply with applicable legal requirements relating to the environment to the Competent Body which has registered the organisation.

The competent enforcement authority shall inform that Competent Body as soon as possible and in any case within one month after it has become aware of the failure.

Article 33

Promotion of EMAS

1 Member States shall, in conjunction with Competent Bodies, enforcement authorities and other relevant stakeholders, promote the EMAS scheme taking into account activities referred to in Articles 34 to 38.

2 To that end, Member States may establish a promotion strategy which shall be revised on a regular basis.

Article 34

Information

1 Member States shall take appropriate measures to provide information to:

- a the public about the objectives and principal components of EMAS;
- b organisations about the contents of this Regulation.

2 Member States shall, where appropriate, use professional publications, local journals, promotion campaigns or any other functional means to increase general awareness of EMAS.

Member States may cooperate, in particular, with industrial associations, consumer organisations, environmental organisations, trade unions, local institutions and other relevant stakeholders.

Article 35

Promotion activities

1 Member States shall carry out promotion activities for EMAS. These activities may include:

- a the promotion of the exchange of knowledge and best practices on EMAS among all concerned parties;
- b the development of effective tools for EMAS promotion and to share them with organisations;
- c the provision of technical support to organisations in the definition and implementation of their EMAS-related marketing activities;
- d the encouragement of partnerships among organisations for EMAS promotion.

2 The EMAS logo without a registration number may be used by Competent Bodies, Accreditation and Licensing Bodies, national authorities and other stakeholders for EMAS-related marketing and promotional purposes. In such cases, use of the EMAS logo set out in Annex V shall not suggest that the user is registered where this is not the case.

Article 36

Promotion of participation of small organisations

Member States shall take adequate measures to encourage the participation of small organisations, *inter alia*, by:

- (a) facilitating access to information and support funds specially adapted to them;
- (b) ensuring that reasonable registration fees encourage their participation;
- (c) promoting technical assistance measures.

Article 37

Cluster and step-by-step approach

1 Member States shall encourage local authorities to provide, in participation with industrial associations, chambers of commerce and other concerned parties, specific assistance to clusters of organisations to meet the requirements for registration as referred to in Articles 4, 5 and 6.

Each organisation from the cluster shall be registered separately.

2 Member States shall encourage organisations to implement an environment management system. They shall in particular encourage a step-by-step approach leading to EMAS registration.

3 Systems established pursuant to paragraphs 1 and 2 shall operate with the objective of avoiding unnecessary costs for participants, in particular for small organisations.

Article 38

EMAS and other policies and instruments in the Community

1 Without prejudice to Community legislation, Member States shall consider how registration under EMAS in accordance with this Regulation can be:

- a taken into account in the development of new legislation;
- b used as a tool in the application and enforcement of legislation;
- c taken into account in public procurement and purchasing.

2 Without prejudice to Community legislation, notably competition, taxation and State aid legislation, Member States shall, where appropriate, take measures facilitating organisations to become or remain EMAS registered.

Those measures may include, *inter alia*, the following:

- a regulatory relief, so that a registered organisation is considered as being compliant with certain legal requirements relating to the environment laid down in other legal instruments, identified by the competent authorities;
- b better regulation, whereby other legal instruments are modified so that burdens on organisations participating in EMAS are removed, reduced or simplified with a view to encouraging the efficient operation of markets and raising the level of competitiveness.

Article 39

Fees

- 1 Member States may charge fees taking into account the following:
 - a the costs incurred in connection with the provision of information and assistance to organisations by the bodies designated or set up to that end by Member States pursuant to Article 32;
 - b the costs incurred in connection with the accreditation, licensing and supervision of environmental verifiers;
 - c the costs for registration, renewal of registration, suspension and deletion by Competent Bodies as well as the additional costs of administering those processes for organisations outside the Community.

Those fees shall not exceed a reasonable amount and shall be proportionate to the size of the organisation and to the work to be done.

- 2 Member States shall ensure that organisations are informed about all applicable fees.

Article 40

Non-compliance

- 1 Member States shall take appropriate legal or administrative measures in case of non-compliance with this Regulation.
- 2 Member States shall put in place effective provisions against the use of the EMAS logo in violation of this Regulation.

Provisions put in place in accordance with Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market⁽³⁾ may be used.

Article 41

Information and reporting to the Commission

- 1 Member States shall inform the Commission of the structure and procedures relating to the functioning of the Competent Bodies and Accreditation and Licensing Bodies and shall update that information, where appropriate.
- 2 Every two years, Member States shall report to the Commission updated information on the measures taken pursuant to this Regulation.

In those reports, Member States shall take account of the latest report presented by the Commission to the European Parliament and to the Council pursuant to Article 47.

CHAPTER VIII

RULES APPLICABLE TO THE COMMISSION

Article 42

Information

- 1 The Commission shall provide information to:
 - a the public on the objectives and principal components of EMAS;
 - b organisations on the content of this Regulation.
- 2 The Commission shall maintain and make publicly available:
 - a a register of environmental verifiers and registered organisations;
 - b a database of environmental statements in electronic format;
 - c a database of best practices on EMAS, including, inter alia, effective tools for EMAS promotion and examples of technical support to organisations;
 - d a list of Community resources for the funding of EMAS implementation and related projects and activities.

Article 43

Collaboration and coordination

- 1 The Commission shall promote, as appropriate, collaboration between Member States in order, in particular, to achieve a uniform and consistent application of the rules throughout the Community relating to the following:
 - a registration of organisations;
 - b environmental verifiers;
 - c the information and assistance referred to in Article 32.
- 2 Without prejudice to Community legislation on public procurement, the Commission and other Community institutions and bodies shall, where appropriate, refer to EMAS or other environmental management systems recognised in accordance with Article 45, or equivalent, as contract performance conditions for works and service contracts.

Article 44

Integration of EMAS into other policies and instruments in the Community

The Commission shall consider how registration under EMAS in accordance with this Regulation can be:

1. taken into account in the development of new legislation and revision of existing legislation, in particular in the form of regulatory relief and better regulation as described in Article 38(2);
2. used as a tool in the context of application and enforcement of legislation.

Article 45

Relationship with other environmental management systems

1 Member States may submit to the Commission a written request for recognition of existing environmental management systems, or parts thereof, that are certified in accordance with appropriate certification procedures recognised at national or regional level as complying with corresponding requirements of this Regulation.

2 Member States shall specify in their request the relevant parts of the environmental management systems and the corresponding requirements of this Regulation.

3 Member States shall provide evidence of the equivalence with this Regulation of all relevant parts of the environmental management system concerned.

4 The Commission shall, after examination of the request referred to in paragraph 1, and acting in accordance with the advisory procedure referred to in Article 49(2), recognise the relevant parts of the environmental management systems and recognise the accreditation or licensing requirements for the certification bodies if it is of the opinion that a Member State has:

- a specified sufficiently clearly in the request the relevant parts of the environmental management systems and the corresponding requirements of this Regulation;
- b provided sufficient evidence of the equivalence with this Regulation of all relevant parts of the environmental management system at stake.

5 The Commission shall publish the references of the recognised environmental management systems, including the relevant sections of EMAS referred to in Annex I to which those references apply, and the recognised accreditation or licensing requirements in the *Official Journal of the European Union*.

Article 46

Development of reference documents and guides

1 The Commission shall, in consultation with Member States and other stakeholders, develop sectoral reference documents that shall include:

- a best environmental management practice;
- b environmental performance indicators for specific sectors;
- c where appropriate, benchmarks of excellence and rating systems identifying environmental performance levels.

The Commission may also develop reference documents for cross-sectoral use.

2 The Commission shall take into account existing reference documents and environmental performance indicators developed in accordance with other environmental policies and instruments in the Community or international standards.

3 The Commission shall establish, by the end of 2010, a working plan setting out an indicative list of sectors, which will be considered priorities for the adoption of sectoral and cross-sectoral reference documents.

The working plan shall be made publicly available and regularly updated.

4 The Commission shall, in cooperation with the Forum of Competent Bodies, develop a guide on registration of organisations outside the Community.

5 The Commission shall publish a user's guide setting out the steps needed to participate in EMAS.

That guide shall be available in all official languages of the institutions of the European Union and online.

6 Documents developed in accordance with paragraphs 1 and 4 shall be submitted for adoption. Those measures, designed to amend non-essential elements of this Regulation, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 47

Reporting

Every five years, the Commission shall submit to the European Parliament and to the Council a report containing information on the actions and measures taken under this Chapter and information received from the Member States pursuant to Article 41.

The report shall include an assessment of the impact of the scheme on the environment and the trend in terms of number of participants.

CHAPTER IX

FINAL PROVISIONS

Article 48

Amendment of Annexes

1 The Commission may amend the Annexes if necessary or appropriate, in the light of experience gained in the operation of EMAS, in response to identified needs for guidance on EMAS requirements and in the light of any changes in international standards or new standards which are of relevance to the effectiveness of this Regulation.

2 Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 49

Committee procedure

1 The Commission shall be assisted by a Committee.

2 Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 50

Review

The Commission shall review EMAS in the light of the experience gained during its operation and international developments by 11 January 2015. It shall take into account the reports transmitted to the European Parliament and to the Council in accordance with Article 47.

Article 51

Repeal and transitional provisions

- 1 The following legal acts shall be repealed:
 - a Regulation (EC) No 761/2001;
 - b Commission Decision 2001/681/EC of 7 September 2001 on guidance for the implementation of Regulation (EC) No 761/2001 of the European Parliament and of the Council allowing voluntary participation by organisations in a Community Eco-management and audit scheme (EMAS)⁽⁴⁾;
 - c Commission Decision 2006/193/EC of 1 March 2006 laying down rules, under Regulation (EC) No 761/2001 of the European Parliament and of the Council, on the use of the EMAS logo in the exceptional cases of transport packaging and tertiary packaging⁽⁵⁾.
- 2 By way of derogation from paragraph 1:
 - a national Accreditation Bodies and Competent Bodies set up pursuant to Regulation (EC) No 761/2001 shall continue their activities. Member States shall modify the procedures followed by Accreditation Bodies and Competent Bodies in accordance with this Regulation. Member States shall ensure that the systems implementing the modified procedures are fully operational by 11 January 2011;
 - b organisations registered in accordance with Regulation (EC) No 761/2001 shall remain on the EMAS register. At the time of the next verification of an organisation the environmental verifier shall check its compliance with the new requirements of this Regulation. If the next verification is to be carried out before 11 July 2010, the date of the next verification may be extended by six months in agreement with the environmental verifier and the Competent Bodies;
 - c environmental verifiers accredited in accordance with Regulation (EC) No 761/2001 may continue to perform their activities in accordance with the requirements established by this Regulation.
- 3 References to Regulation (EC) No 761/2001 shall be construed as references to this Regulation and be read in accordance with the correlation table set out in Annex VIII.

Article 52

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 25 November 2009.

For the European Parliament

The President

J. BUZEK

For the Council

The President

Å. TORSTENSSON

Status: This is the original version (as it was originally adopted).

- (1) [OJ L 124, 20.5.2003, p. 36.](#)
- (2) Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 ([OJ L 393, 30.12.2006, p. 1.](#))
- (3) [OJ L 149, 11.6.2005, p. 22.](#)
- (4) [OJ L 247, 17.9.2001, p. 24.](#)
- (5) [OJ L 70, 9.3.2006, p. 63.](#)