

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 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.

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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<sup>(1)</sup>.

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.

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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 license 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.

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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;

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- 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.

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- (1) 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](#)).

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