REPORT


Committee on the Environment, Public Health and Food Safety

Rapporteur: Linda McAvan
Symbols for procedures

* Consultation procedure
  majority of the votes cast

**I Cooperation procedure (first reading)
  majority of the votes cast

**II Cooperation procedure (second reading)
  majority of the votes cast, to approve the common position
  majority of Parliament’s component Members, to reject or amend
  the common position

*** Assent procedure
  majority of Parliament’s component Members except in cases
  covered by Articles 105, 107, 161 and 300 of the EC Treaty and
  Article 7 of the EU Treaty

***I Codecision procedure (first reading)
  majority of the votes cast

***II Codecision procedure (second reading)
  majority of the votes cast, to approve the common position
  majority of Parliament’s component Members, to reject or amend
  the common position

***III Codecision procedure (third reading)
  majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the
Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in bold italics. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in bold. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in normal italics is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)

(Codecision procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0402),

– having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0278/2008),

– having regard to Rule 51 of its Rules of Procedure,

– having regard to the report of the Committee on the Environment, Public Health and Food Safety (A6-0084/2009),

1. Approves the Commission proposal as amended;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council and Commission.

Amendment 1

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) Regulation (EC) No 761/2001 demonstrated its effectiveness in promoting improvements of the environmental performance of organisations and the experience gathered from the implementation of that Regulation should be used to enhance the ability of EMAS to bring about an improvement in the overall environmental performance of organisations.

Amendment

(7) Regulation (EC) No 761/2001 demonstrated its limited effectiveness in promoting improvements of the environmental performance of organisations and the experience gathered from the implementation of that Regulation should be used to enhance the ability of EMAS to bring about an improvement in the overall environmental performance of organisations.
Justification

The EVER study, carried out on behalf of DG Environment, included the statement that most quantitative studies have not been able to confirm a better environmental performance of EMAS-registered organisations as compared to other organizations, and this is why it is important to review the impact of the scheme.

Amendment 2

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) Organisations should be encouraged to participate in EMAS on a voluntary basis and may gain added value in terms of regulatory control, cost savings and public image.

Amendment

(8) Organisations should be encouraged to participate in EMAS on a voluntary basis and may gain added value in terms of regulatory control, cost savings and public image, provided that they are able to demonstrate a high level of environmental performance.

Justification

Any incentive or award should be linked to measurable and verifiable performance and achievements.

Amendment 3

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) The EMAS logo should be an attractive communication and marketing tool for organisations, which raises the awareness of customers to EMAS. Rules for the use of the EMAS logo should be simplified by the use of one single logo and existing restrictions should be removed as far as there should be no confusion with environmental product labels.

Amendment

(15) The EMAS logo should be an attractive communication and marketing tool for organisations, which raises the awareness of customers to EMAS. Rules for the use of the EMAS logo should be simplified by the use of one single logo and existing restrictions should be removed save for those relating to product and packaging. There should be no confusion with environmental product labels.
Justification

The use of the EMAS logo on product and packaging would lead to confusion with the Eco-label. The proposed wording is taken from the existing regulation.

Amendment 4

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) In order to ensure relevance and comparability of the information, reporting 
the organisations’ environmental performance should be on the basis of generic performance indicators focusing on key environmental areas. This should help organisations compare their performance over different reporting periods.

Amendment

(18) In order to ensure relevance and comparability of the information, reporting the organisations’ environmental performance should be on the basis of sector-specific performance indicators focusing on key environmental areas at process and product levels using appropriate benchmarks and scales. This should help organisations compare their performance with the performance of other organisations.

Justification

Generic indicators such as total energy consumption are normally not meaningful as they do not allow for reasonable comparisons between organisations. Even if such data are related to the physical or monetary output, including the value added or number of employees, the data says very little, and could be equated with the results of comparing apples and oranges. A pre-requisite for serious assessments of performance and benchmarking is to compare comparable activities or processes, including indirect activities such as products.

Amendment 5

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) Regulation (EC) No xxxx/2008 of the European Parliament and of the Council of [……………. date] setting out the requirements for accreditation and market surveillance relating to the marketing of products organises accreditation at the national and

Amendment

(20) This Regulation maintains the system of procedures and quality provisions for the licensing and supervision of environmental verifiers as adopted in 1993 in the first EMAS Regulation. That means that Member States may keep their licensing and supervision systems, which
European levels and sets the over all framework for accreditation. This regulation complements these rules in so far as necessary, while taking into account the specific features of EMAS notably the need to ensure a high credibility towards stakeholders, especially Member State and, where appropriate, setting more specific rules.

Those provisions should ensure and steadily improve the competence of environmental verifiers by providing for an independent and neutral accreditation system, training and an appropriate supervision of their activities and thus guarantee the transparency and credibility of organisations participating in EMAS.

The EMAS provisions should ensure and steadily improve the competence of environmental verifiers by providing for an independent and neutral accreditation system, training and an appropriate supervision of their activities and thus guarantee the transparency and credibility of organisations participating in EMAS.

Justification

The licensing of environmental verifiers is considered to be a professional authorisation which is comparable to the authorisation of a civil engineer or a financial auditor. Consequently modifying the licensing procedure and body in line with the new approach is to be rejected. In future the licensing shall remain within the competence of the Member States leaving it up to them how they regulate the procedure for the authorisation and supervision of environmental verifiers.

Amendment 6

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) Without prejudice to the rules of the Treaty on state aid, incentives should be given by Member States to registered organisations such as access to funding or tax incentives in the framework of schemes supporting environmental performance of organisations.

Amendment

(22) Without prejudice to the rules of the Treaty on state aid, incentives should be given by Member States to registered organisations that achieve a performance of excellence such as access to funding or tax incentives in the framework of schemes supporting environmental performance of organisations.
industry. supporting environmental performance of industry.

Justification

Any incentive or award should be linked to measurable and verifiable performance and achievements.

Amendment 7

Proposal for a regulation
Recital 24

Text proposed by the Commission
(24) With the aim of ensuring a harmonised application of this Regulation the Commission shall, if appropriate, produce sectoral reference documents in the area covered by this Regulation.

Amendment
(24) With the aim of ensuring a harmonised application of this Regulation the Commission shall produce sectoral reference documents in the area covered by this Regulation following a priority programme reviewed by the Member States and stakeholders.

Amendment 8

Proposal for a regulation
Recital 25

Text proposed by the Commission
(25) This Regulation should be revised, if appropriate, in the light of experience gained after a certain period of operation.

Amendment
(25) This Regulation should be revised, if appropriate, in the light of experience gained within five years of its entry into force. That revision should assess in particular the impact of the scheme on the environment and the number of participants in the scheme, in order to inform a decision on its continuation.

Justification

EMAS requires considerable effort by participating organisations, the Commission and Member States. This proposal aims to improve the existing Regulation. An honest assessment of the real impact of these changes is required during the revision process.
Amendment 9
Proposal for a regulation
Article 2 – point 1

Text proposed by the Commission

(1) "environmental policy" means an organisation’s overall aims and principles of action with respect to the environment including compliance with all applicable legal requirements relating to the environment and also a commitment to continual improvement of environmental performance;

Amendment

(1) "environmental policy" means the overall intentions and direction of an organisation relating to its environmental performance as formally expressed by senior management, including compliance with all applicable legal requirements relating to the environment and also a commitment to continual improvement of environmental performance. It provides a framework for action and for the setting of environmental objectives and targets.

Justification

Definitions should be as closely aligned to ISO 14001 as possible to facilitate the step-up approach.

Amendment 10
Proposal for a regulation
Article 2 – point 2

Text proposed by the Commission

(2) "environmental performance" means the results of an organisation's management of its environmental aspects;

Amendment

(2) "environmental performance" means the measurable results of an organisation's management of its environmental aspects;

Justification

Definitions should be as closely aligned to ISO 14001 as possible to facilitate the step-up approach.
Amendment 11
Proposal for a regulation
Article 2 – point 12

Text proposed by the Commission

(12) "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;

Amendment

(12) "environmental management system" means the part of an organisation’s management system used to develop and implement its environmental policy and manage its environmental aspects. It is a set of interrelated elements (organisational structure, planning activities, responsibilities, practices, procedures and resources) used to establish and achieve the environmental performance objectives.

Justification

Definitions should be as closely aligned to ISO 14001 as possible to facilitate the step-up approach.

Amendment 12
Proposal for a regulation
Article 2 – point 16

Text proposed by the Commission

(16) "environmental performance report" means the comprehensive information to the public and other interested parties regarding the organisation’s environmental performance and compliance with applicable legal obligations relating to the environment;

Amendment

deleted

Justification

The Commission has proposed a new reporting mechanism that is not needed. The current system of annual updates of the environmental statement is sufficient, but with new core performance indicators.

Amendment 13
Proposal for a regulation
Article 2 – point 18

Text proposed by the Commission

(18) "environmental verifier" means any natural or legal person, or any association or group of such persons qualifying as a conformity assessment body as defined in Regulation (EC) No xxxx/2008, who has obtained accreditation, in accordance with this Regulation;

Amendment

(18) "environmental verifier" means any natural or legal person, or any association or group of such persons which has or have obtained an accreditation in accordance with the procedures and conditions of Chapter V, and which is independent from the relevant organisation.

Justification

A well functioning and tested accreditation system has been operating in the Member States for a number of years. It would be counterproductive to change this well functioning system which was set up in line with Art. 5 EMAS II. The peer review process gave proof of the well functioning of these systems.

Amendment 14

Proposal for a regulation
Article 2 – point 20

Text proposed by the Commission

(20) "site" means a distinct geographic location under the management control of an organisation covering activities, products and services, including all infrastructure, equipment and materials;

Amendment

(20) "site" means a distinct geographic location under the management control of an organisation covering activities, products or services, including all infrastructure, equipment and materials;

Amendment 15

Proposal for a regulation
Article 2 – point 26

Text proposed by the Commission


Amendment

(26) "Licensing body" means a body which is designated by a Member State to issue a licence to environmental verifiers and which is responsible for supervising those persons or organisations. Member
States may designate their Accreditation Body under Regulation (EC) No 765/2008 as an authorising body under this Regulation.

Justification

There is a well functioning and tested accreditation system that has been operating in the Member States for a number of years. According to the principle of the subsidiarity it should be left to the Member States.

Amendment 16

Proposal for a regulation
Article 2 – point 26 a (new)

Text proposed by the Commission

Amendment

(26a) "substantial change" means a significant expansion of capacity or change in the nature or functioning of the organisation.

Justification

A definition of "substantial change" is needed due to the provisions in Article 8.

Amendment 17

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. Organisations wishing to be registered for the first time shall carry out an environmental review of all environmental aspects of the organisation in accordance with Annex I.

1. Organisations wishing to be registered for the first time shall develop and implement an environmental management system. The steps to achieve this are set out in Annexes I to IV. Where available, account should be taken of the best environmental management practice included in the relevant sectoral reference documents referred to in Article 46.
Justification

To create clarity, the reference to an Environmental Review has been moved to a later paragraph to show it is just one aspect of EMAS.

Amendment 18

Proposal for a regulation
Article 4 – paragraph 3

Text proposed by the Commission

3. Organisations which have a certified environmental management system, recognized according to Article 45(4), shall not be obliged to conduct a full initial environmental review, with regard to information provided by the recognised certified environmental management system.

Amendment

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

Justification

All relevant aspects of any certified Environmental Management System, not just the environmental review, should be recognized according to Article 45.

Amendment 19

Proposal for a regulation
Article 4 – paragraph 4

Text proposed by the Commission

4. In the light of the results of the review, organisations shall 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.

Amendment

4. In accordance with point A.3.1 of Annex II on the environmental management system requirements, the organisation shall carry out an initial environmental review, taking into account the matters set out in Annex I.

Justification

In line with the amendment to paragraph 1 of this article, the reference to an Environmental Review has been moved to this paragraph to show it is just one aspect of an EMAS.
Amendment 20
Proposal for a regulation
Article 4 – paragraph 6

Text proposed by the Commission

6. Organisations shall carry out an internal audit in accordance with the requirements set out in Annex III.

Amendment

6. In accordance with point A.5.5 of Annex II on the environment management system requirements, organisations shall carry out an internal audit in line with the requirements set out in Annex III.

Justification

This amendment clarifies that internal audits are one of the requirements of the Environmental Management System listed in Annex II.

Amendment 21
Proposal for a regulation
Article 4 – paragraph 7 – subparagraph 1

Text proposed by the Commission

7. Organisations shall prepare an environmental statement, in accordance with Annex IV Part B.

Amendment

7. In accordance with point A.5.1 of Annex II on the environmental management system requirements, organisations shall prepare an environmental statement, in line with Annex IV.

Justification

This amendment clarifies that Environmental Statements are one of the requirements of the Environmental Management System listed in Annex II.
Amendment 22
Proposal for a regulation
Article 4 – paragraph 8

Text proposed by the Commission

8. The initial environmental review, the environment management system, the audit procedure and the environmental statement shall be verified by an accredited environmental verifier and the environmental statement shall be validated by that environmental verifier.

Amendment

8. The entire environment management system set out in Annex II, including the initial environmental review set out in Annex I, the Audit procedure set out in Annex III and the environmental statement set out in Annex IV, shall be verified by an accredited environmental verifier and the environmental statement shall be validated by that environmental verifier.

Justification

This amendment clarifies that the Environmental Review, Audit Procedures and the Environmental Statement are all requirements of the Environmental Management System.

Amendment 23
Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. A registered organisation shall on a three-yearly basis:

(a) have the full environmental management system and audit programme verified,

(b) prepare the environmental statement in accordance with the requirements set out in Annex IV, Parts B and D,

(c) have the environmental statement validated,

(d) forward the validated environmental statement to the Competent Body,

(e) forward to the Competent Body a completed form, which includes at least the minimum information set out in

Amendment

deleted
Annex VI.

Justification

The introduction of two different reporting and auditing cycles is unnecessary and potentially confusing. Instead, the two cycles should be combined into one annual procedure.

Amendment 24

Proposal for a regulation
Article 6 – paragraph 2

Text proposed by the Commission

2. A registered organisation shall, on an annual basis:

   (a) carry 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) prepare an environmental performance report in accordance with the requirements laid down in Annex IV Parts C and D,

   (c) forward the validated environmental performance report 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.

Amendment

2. A registered organisation shall on an annual basis:

   (a) carry 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) update the environmental statement, in accordance with the requirements laid down in Annex IV and have it validated,

   (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,

   (da) have the full environmental management system and audit programme verified.

Justification

The introduction of two different reporting and auditing cycles is unnecessary and potentially confusing. Instead, the two cycles should be combined into one annual procedure.
Amendment 25
Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

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 five years or the annual frequency referred to in Article 6(2) up to two years, provided that all the following conditions are met:

(a) no environmental risks are present,
(b) the organisation has no operational changes planned to its environmental management system, and
(c) there exist no significant local environmental problems.

Amendment

1. Competent Bodies shall, upon request of a small organisation, extend for that organisation, the annual frequency referred to in Article 6 up to two years, provided that all the following conditions are met:

(a) the initial environmental review showed that the organisation has no significant environmental aspects, and
(b) the organisation has no substantial changes planned, as defined in Article 8.

Justification

Limited flexibility should be allowed for small organisations. The definition of environmental risk is brought into line with the definitions in Article 2. The amendment makes point (c) superfluous.

Obligations relating to maintenance of the EMAS system entail high administrative costs which are difficult to bear for an SME. In order to ease access for European SMEs to the system, such costs should be reduced where the organisation does not plan to make substantial changes to its production system and where there is no reason to expect new environmental dangers or local environmental problems.

Amendment 26
Proposal for a regulation
Article 7 - paragraph 2

Text proposed by the Commission

2. In order to obtain the extension referred to in paragraph 1, the organisation concerned shall submit a request to the Competent Body that has registered the organisation and provide evidence that the conditions for

Amendment

Deleted
derogation are fulfilled.

Justification

The frequency of the audit, the environmental performance report and environmental statement in the scheme proposed for small organisations is unworkable. The procedure is complicated and will generate excessive administrative costs. A scheme that was essentially contained in the first EMAS regulation is better. Under this scheme, small organisations are exempted from annual validations. Since it is the Competent Body that ultimately decides whether or not to go ahead with registration, this dispenses with an unnecessary procedure.

Amendment 27

Proposal for a regulation
Article 7 - paragraph 3

Text proposed by the Commission

Amendment

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

Justification

The one year cycle should, in principle, be maintained as in ISO 14001, but exceptions can be made in the case of SMEs under the above mentioned conditions. No request is necessary to the competent body as it is up to the environmental verifier to decide about a deviation from the validation cycle.

Amendment 28

Proposal for a regulation
Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. In case of substantial changes in a registered organisation, the organisation shall carry out an environmental review of these changes, including their environmental aspects and impacts.

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.
impacts.

Justification

The EMAS system should not act as an obstacle to technological development and a firm's production plans, but should follow industrial development and guarantee the environmental standards thereof.

Amendment 29

Proposal for a regulation
Article 8 – paragraph 2

Text proposed by the Commission

Amendment

2. The organisation shall update the initial environmental review and modify the environmental policy of the organisation accordingly.

Amendment

2. The organisation shall update the relevant parts of the environmental management system accordingly.

Justification

The text clarifies that all relevant parts should be modified.

Amendment 30

Proposal for a regulation
Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. The updated environmental review and the modified environmental policy shall be verified and validated.

Amendment

3. The updated environmental review and the modified environmental policy shall be verified and validated following the changes made.

Justification

The EMAS system should not act as an obstacle to technological development and a firm's production plans, but should follow industrial development and guarantee the environmental standards thereof.

Amendment 31
Proposal for a regulation
Article 9 – paragraph 1

Text proposed by the Commission

1. A registered organisation shall establish an audit programme that ensures that over a period of time, not exceeding three years, all activities in the organisation are subject to an audit in accordance with the requirements set out in Annex III.

Amendment

1. A registered organisation shall establish an audit programme that ensures that over a period of time, not exceeding three years, subject to the provisions of Article 7, all activities in the organisation are subject to an audit in accordance with the requirements set out in Annex III.

Justification

It is necessary to bring this article into line with the provisions of Article 7 concerning exemptions for small organisations.

Amendment 32

Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

1. The EMAS logo set out in Annex V may be used only by registered organisations and only as long as their registration is valid.

Amendment

1. The EMAS logo set out in Annex V shall be used only by registered organisations and only as long as their registration is valid.

Amendment 33

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Justification

It is necessary to make the wording more specific to avoid any possibility of misinterpretation.
Amendment 34

Proposal for a regulation
Article 10 – paragraph 4

Text proposed by the Commission
4. The logo shall not be used in conjunction with comparative claims concerning other activities and services or in a way that may create confusion with environmental product labels.

Amendment
4. The logo shall not be used:

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

Justification
The use of the EMAS logo on product and packaging would lead to confusion with the Eco-label. The proposed wording is taken from the existing regulation.

Amendment 35

Proposal for a regulation
Article 12 – paragraph 1 - point a

Text proposed by the Commission
(a) considering observations from interested parties, including Accreditation Bodies and competent enforcement authorities, concerning applicant or registered organisations,

Amendment
(a) considering observations from interested parties, including Accreditation Bodies and competent enforcement authorities and the organisations' representative bodies, concerning applicant or registered organisations,

Justification
The Competent Bodies should be able to benefit from the observations of organisations that are registered or in the process of being registered, and provision should be made for a mechanism whereby organisations can contribute collectively to effective management of the scheme, so as to ensure that the competent bodies operate in a balanced manner.
Amendment 36

Proposal for a regulation
Article 13 – paragraph 2 – point c

Text proposed by the Commission
Amendment

(c) the Competent Body is satisfied on the basis of material evidence received or through a positive report from the competent enforcement authority of the legal compliance of the organisation;

(c) the Competent Body is satisfied on the basis of material evidence received or through a report from the competent enforcement authority of the legal compliance of the organisation;

Justification

National Regulators generally confirm that they know of no evidence of non compliance, rather than providing a "positive" report on compliance.

Amendment 37

Proposal for a regulation
Article 13 – paragraph 5

Text proposed by the Commission
Amendment

5. If a Competent Body receives a supervision report from the Accreditation 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.

5. If a Competent Body receives a supervision report from the Accreditation 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. The Accreditation Body shall conduct a check on the environmental verifier's activities and shall give the environmental verifier concerned an opportunity to express its opinion on the matter. If it does not provide a satisfactory explanation, its accreditation as an assessment body under Regulation (EC) No 765/2008 shall be suspended.
Justification

If the application for registration submitted by an organisation is rejected because the activities of the environmental verifier were not performed adequately enough to ensure that the requirements of this Regulation are met, the Accreditation Body should invite the organisation to submit a new application and conduct an investigation into the verifier's activities in order to avoid cases of incompetence or corruption.

Amendment 38

Proposal for a regulation
Article 14 – paragraph 4 a (new)

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<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>4a. The Competent Body may decide to maintain the organisation's registration if it is demonstrated that the non-compliance was committed in good faith and that the causes of the non-compliance itself have been removed.</td>
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</table>

Justification

The Competent Body should be allowed to maintain the registration if it is demonstrated that the organisation's failure to comply was committed in good faith, and therefore by mistake, and to check that the cause of the non-compliance have been removed.

Amendment 39

Proposal for a regulation
Article 15 – paragraph 1

<table>
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<th>Text proposed by the Commission</th>
<th>Amendment</th>
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<tr>
<td>1. A Forum of Competent Bodies from all Member States (hereinafter &quot;Forum&quot;) shall be set up by the Competent Bodies. It shall meet at least once per year in the presence of a representative of the Commission.</td>
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<tr>
<td>1. A Forum of Competent Bodies from all Member States (hereinafter &quot;Forum&quot;) shall be set up and assisted by the Commission. It shall meet at least once per year. The Forum shall invite the organisations' representative bodies to participate in the Forum.</td>
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Justification

It is unlikely that such a Forum will work unless someone provides central coordination and
funding. The Commission is best suited to this task.

The participation of the organisations’ representative bodies will help to gear the system more closely to the needs of businesses.

Amendment 40

Proposal for a regulation
Article 17 – paragraph 7 – point c

Text proposed by the Commission
(c) the organisation has prepared an environmental performance report in accordance with Part C of Annex IV.

Amendment
(c) the organisation has prepared an environmental statement in accordance with Annex IV.

Justification
The introduction of two different reporting and auditing cycles is unnecessary and potentially confusing. Instead, the two cycles should be combined into one annual procedure.

Amendment 41

Proposal for a regulation
Article 18 – paragraph 2

Text proposed by the Commission
2. The environmental verifier shall at intervals not exceeding 12 months validate any updated information in the environmental statement or the environmental performance report.

Amendment
2. Without prejudice to Article 7, the environmental verifier shall at intervals not exceeding 12 months validate any updated information in the environmental statement.

Justification
SMEs are not considered in this provision. Therefore reference is made to Art. 7 which would allow deviation from yearly validation for SMEs under certain conditions.
Amendment 42
Proposal for a regulation
Article 19 – paragraph 4

Text proposed by the Commission

4. The environmental verifier shall be independent, in particular of the organisation’s auditor or consultant, impartial and objective in performing his activities.

Amendment

4. The environmental verifier shall be an independent external third party.

Justification

This amendment makes it clear that the environmental verified shall be an external third party.

Amendment 43
Proposal for a regulation
Article 24 – paragraph 8 – point b

Text proposed by the Commission

(b) that the organisation fulfils all applicable legal requirements relating to the environment.

Amendment

(b) that the environmental verifier has found no indication that the organisation does not fulfil all applicable legal requirements relating to the environment.

Justification

The environmental verifier can only confirm that he has found no indication that the organisation does not fulfil the applicable legal requirements relating to the environment.

Amendment 44
Proposal for a regulation
Article 28

Text proposed by the Commission

1. Accreditation Bodies appointed by the Member States pursuant to Article 4 of Regulation (EC) No xxxx/2008, shall be responsible for the accreditation of environmental verifiers and the

Amendment

1. Member States shall designate a body to issue licences to environmental verifiers and to be responsible for supervising these persons or organisations, in accordance with point
supervision of the activities carried out by environmental verifiers in accordance with this Regulation.

2. **Accreditation** Bodies shall assess an environmental verifiers’ competence in the light of the elements set out in Articles 19, 20 and 21 relevant to the scope of the requested accreditation.

3. The scope of accreditation 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.

4. **Accreditation** Bodies shall establish appropriate procedures on accreditation, refusal of accreditation, suspension and withdrawal of accreditation of environmental verifiers and on supervision of environmental verifiers.

Those procedures shall include mechanisms for considering observations from concerned parties, including Competent Bodies, concerning applicant and accredited environmental verifiers.

5. In case of a refusal of accreditation, the **Accreditation** Body shall inform the environmental verifier of the reasons for the decision.

6. **Accreditation** Bodies shall establish, revise and update a list of environmental verifiers and their scope of accreditation in their Member States and shall communicate changes in that list each month to the Commission and to the Competent Body of the Member State where the Accreditation Body is located.

7. **Within the framework of the rules and procedures regarding monitoring of activities as laid down in Article 5(3)** of 26 of Article 2. This body shall perform its functions in a neutral and independent manner.

2. **Licensing** Bodies shall assess an environmental verifier’s competence in the light of the elements set out in Articles 19, 20 and 21 relevant to the scope of the requested licence.

3. The scope of 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.

4. **Licensing** Bodies shall establish appropriate procedures on accreditation, refusal of accreditation, suspension and withdrawal of accreditation 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 applicant and licensed environmental verifiers.

5. In case of a refusal of a licence, the **Licensing** Body shall inform the environmental verifier of the reasons for the decision.

6. **Licensing** Bodies shall establish, revise and update a list of environmental verifiers and the scope of their licence in their Member States and shall communicate changes in that list each month to the Commission and to the Competent Body of the Member State where the Licensing Body is located.

7. **The Licensing** Body shall draw up a supervision report where it decides, after consultation with the environmental...
Regulation (EC) No xxxx/2008, an Accreditation Body shall draw up a supervision report where it decides, 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 Body that granted the accreditation.

Justification

Licensing of environmental verifiers is equivalent to the granting of a professional licence, which is comparable to the licensing of a civil engineer or a financial auditor, the term Accreditation Body shall be replaced by the term Licensing Body.

It is important to take account of the opinions expressed by the organisations' representative bodies when establishing the procedures for accreditation, refusal of accreditation and suspension of verifiers.

Amendment 45

Proposal for a regulation
Article 30 – paragraph 1

Text proposed by the Commission

1. Within the framework of the body recognised under Article 14 of Regulation (EC) No xxxx/2008 the Accreditation Bodies from all Member States shall meet at least once per year in the presence of a representative of the Commission (hereinafter, "meeting of the Accreditation Bodies").

Amendment

1. Within the framework of the body recognised under Article 14 of Regulation (EC) No 765/2008 the Accreditation Bodies from all Member States shall meet at least once per year in the presence of a representative of the Commission (hereinafter, "meeting of the Accreditation Bodies"). The meeting of Accreditation Bodies shall invite the bodies that are representative of the organisations to
participate in the meeting.

Justification

The meeting of Accreditation Bodies should be able to benefit from the observations of organisations that are registered or in the process of being registered in order to ensure that a mechanism exists whereby organisations can contribute collectively to the effective running of the scheme, with a view to guaranteeing a balanced operation of Accreditation Bodies.

Amendment 46

Proposal for a regulation
Article 31 – paragraph 1 – introductory paragraph

Text proposed by the Commission

1. The peer evaluation with regard to accreditation of environmental verifiers under this Regulation to be organised by the body referred to in Article 30(1) in accordance with Article 10 of Regulation (EC) No xxx/2008, shall include at least an assessment of the rules and procedures relating to the following:

Amendment

1. The peer evaluation with regard to accreditation of environmental verifiers under this Regulation to be organised by the body referred to in Article 30(1) in accordance with Article 10 of Regulation (EC) No 765/2008, shall include at least an assessment of the rules and procedures and of the opinions expressed by or on behalf of the organisations relating to the following:

Amendment 47

Proposal for a regulation
Article 33 – paragraph 6

Text proposed by the Commission

6. Member States shall ensure that competent enforcement authorities communicate as soon as possible and in any case within one month of failure by registered organisations to comply with this Regulation to the Competent Body which has registered the organisation.

Amendment

6. Member States shall ensure that competent enforcement authorities communicate, as soon as practicable and in any case within two months a failure by registered organisations to comply with applicable legal requirements relating to the environment, to the Competent Body which has registered the organisation.

Justification

Clarifies that this paragraph refers to compliance with environmental law over which
enforcement authorities have competence, and not the EMAS regulation, over which they have no control. One month may also be too restrictive for enforcement authorities for investigating and reporting incidents.

Amendment 48

Proposal for a regulation
Article 34

Text proposed by the Commission

Member States shall adopt a promotion plan, which includes objectives, actions and initiatives to promote EMAS in general and to encourage organisations to participate in EMAS.

Amendment

Member States shall support actions and initiatives to promote EMAS in general and to encourage organisations to participate in EMAS.

Justification

The introduction of mandatory measures for the promotion of EMAS in the MS cannot be accepted. The Member States can only promote the instrument EMAS based on the available financial resources.

Amendment 49

Proposal for a regulation
Article 38 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that local authorities, in participation with industrial associations, chambers of commerce and concerned parties provide specific assistance to clusters of organisations that are related to each other by geographical proximity or business activities, to meet the requirements for registration as referred to in Articles 4, 5 and 6.

Amendment

1. Member States may encourage local authorities, in participation with industrial associations, chambers of commerce and concerned parties to provide specific assistance to clusters of organisations that are related to each other by geographical proximity or business activities, in order to meet the requirements for registration as referred to in Articles 4, 5 and 6.

Justification

EMAS is a voluntary system. Member States cannot oblige local authorities and other independent organisations to cooperate on EMAS.
Amendment 50
Proposal for a regulation
Article 42 - paragraph 1

Text proposed by the Commission
Member States shall annually report to the Commission on the measures taken pursuant to this Regulation.

Amendment
Member States shall report every five years to the Commission on the measures taken pursuant to this Regulation.

Justification
An annual reporting obligation would create a high administrative burden to the Member States.

Amendment 51
Proposal for a regulation
Article 43 – paragraph 1 a (new)

Text proposed by the Commission
1a. 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 and online.

Amendment

Justification
A clear, easy to understand guide could attract new participants to the scheme. If we want organisations across the EU to take part, particularly small organisations, the text must be available in all languages.

Amendment 52
Proposal for a regulation
Article 44 – paragraph 1 – subparagraph 1

Text proposed by the Commission
1. The Commission may promote collaboration between Member States in order, in particular, to come to a uniform and consistent application of the rules throughout the Community relating to the

Amendment
1. The Commission shall promote collaboration between Member States in order, in particular, to come to a uniform and consistent application of the rules throughout the Community relating to the
justification

This links with a previous amendment to Article 15, paragraph 1.

Amendment 53

Proposal for a regulation
Article 46 – paragraph 1

Text proposed by the Commission

The Commission shall ensure information exchange and collaboration between Member States and other stakeholders on the best environmental management practice for relevant sectors, in order to develop sectoral reference documents, including best environmental management practice and environmental performance indicators for specific sectors.

Amendment

The Commission shall ensure information exchange and collaboration between Member States and other stakeholders on the best environmental management practice for relevant sectors, in order to develop sectoral or sub-sectoral reference documents, which may include best environmental management practice, environmental minimum performance requirements going significantly beyond the legal minimum, environmental performance indicators for specific sectors, and benchmarks of excellence and rating systems identifying performance levels.

After having consulted all involved stakeholders in the sector or subsector in question such as industry, trade unions, traders, retailers, importers, environmental protection groups and consumer organisations, the Commission shall, not later than 1 January 2010, establish a working plan which shall be made publicly available. The working plan shall set out, for the following three years, an indicative list of sectors and subsectors which will be considered priorities for the adoption of sectoral reference documents to start with and to be completed for all sectors. The working plan shall be amended periodically by the Commission after consultation with all relevant stakeholders.
Justification

The sectoral reference documents should help organisations to improve their environmental performance and the inclusion of benchmarks and rating systems could be useful.

Amendment 54

Proposal for a regulation
Article 50

Text proposed by the Commission

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

Amendment

The Commission shall review EMAS, no later than five years after entry into force, in the light of the experience gained during its operation and international developments. The revision shall assess in particular the impact of the scheme on the environment and the trend in terms of number of participants with a view to a decision being taken on the continuation of the scheme. It shall take into account the reports transmitted to the European Parliament and to the Council in accordance with Article 47.

Justification

EMAS requires considerable effort by participating organisations, the Commission and Member States. This proposal aims to improve the existing Regulation. An honest assessment of the real impact of these changes is required during the revision process.

Amendment 55

Proposal for a regulation
Annex I – paragraph 2 – point (a) – subparagraph 2

Text proposed by the Commission

All organisations have to consider the direct aspects of their operations.

Amendment

All organisations have to consider the direct aspects of their operations, with particular reference to the core indicators set out in Annex IV.
Justification

There should be a clear link between the Environmental Review, and the reporting of the core indicators. Organisations should identify their core indicators in the environmental review, and then report on them in their environmental statement.

Amendment 56

Proposal for a regulation
Annex II– point A.3 Planning – right-hand column Part B (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
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</thead>
<tbody>
<tr>
<td>Part B</td>
<td></td>
</tr>
<tr>
<td>additional issues to be addressed by organisations implementing EMAS</td>
<td>additional issues to be addressed by organisations implementing EMAS</td>
</tr>
</tbody>
</table>

Organisations implementing EMAS should follow the additional requirements for an Environmental Review set out in Annex I which builds on ISO "Planning" requirements.

Justification

The amendment clarifies the link between Annex II and Annex I. Organisations applying for EMAS registration must implement additional requirements to those needed for ISO certification and these are listed in Annex I.

Amendment 57

Proposal for a regulation
Annex II– point A.5 Checking – right-hand column Part B (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part B</td>
<td></td>
</tr>
<tr>
<td>additional issues to be addressed by organisations implementing EMAS</td>
<td>additional issues to be addressed by organisations implementing EMAS</td>
</tr>
</tbody>
</table>

Organisations implementing EMAS should meet the additional requirements for the internal environmental audit set out in Annex III and for the environmental statement set out in Annex IV, which build on ISO "Checking" requirements.
Justification

The amendment clarifies the link between Annex II and Annexes III and IV. Organisations applying for EMAS registration must implement additional requirements to those needed for ISO certification and these are listed in Annex III and IV.

Amendment 58

Proposal for a regulation
Annex IV – point C

Text proposed by the Commission

<table>
<thead>
<tr>
<th>C. ENVIRONMENTAL PERFORMANCE REPORT</th>
<th>deleted*</th>
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</table>

The environmental performance report shall contain at least the elements and shall meet the minimum requirements as set out below:

(a) a summary of the data available on the performance of the organisation against its environmental objectives and targets with respect to its significant environmental impacts. Reporting shall be on the core indicators and on other relevant existing environmental performance indicators as set out under section D.

(b) other factors regarding environmental performance including performance against legal provisions with respect to their significant environmental impacts;

(c) a description of the applicable legal requirements relating to the environment and evidence of compliance with these requirements;

(d) the name and accreditation number of the environmental verifier and the date of validation.

*references to Environmental Performance Reports should be deleted throughout the Regulation.
Justification

The Commission has proposed a new double reporting mechanism: every 3 years the organisation shall update their environmental statement, and every year the organisation shall produce an environmental performance report. Given the requirements of both documents appears the same, it appears more efficient to stick with the current annual single reporting mechanism, whereby an organisation must update their environmental statement.

Amendment 59

Proposal for a regulation
Annex IV – point D – paragraph 2 (a)

Text proposed by the Commission

(a) Core indicators shall apply to all types of organisations. They focus on performance in the following key environmental areas:

- Energy efficiency;
- Material efficiency;
- Water;
- Waste;
- Biodiversity;
- and Emissions.

Amendment

(a) Core indicators shall apply to all types of organisations. They focus on performance in the following key environmental areas:

- Energy efficiency;
- Material efficiency;
- Water;
- Waste;
- Biodiversity;
- and Emissions.

If an organisation feels that one or more of the core indicators are not relevant to their direct environmental aspects, they shall provide justification to that effect.

Justification

The core indicators are an important new element to the regulation and have the potential to strengthen the scheme. However, flexibility should be given on which indicators should be used to ensure they are relevant.
EXPLANATORY STATEMENT

The Eco-Management and Audit Scheme (EMAS) is a voluntary EU scheme that helps an organisation identify, monitor, measure and report on their environmental impacts. First introduced in 1995, it was extended in 2001 to both public and private sector organisations. It requires independent verification of data and transparency and communication with stakeholders with a view to long term improvements in environmental performance.

In the ten years that EMAS has been in existence, many alternative voluntary tools and standards have been established at the national and international level. Some of these new systems are attracting more participants than EMAS. The International ISO 14001 has, for example, become the leading Environmental Management System (EMS) and is preferred to EMAS because it is seen as less onerous. ISO 14001 has around 130,000 participants worldwide and 35,000 in the EU. EMAS currently has around 4,200 registered organisations in the EU, which has not increased substantially from the 2004 figure of around 3,100 registrants. For the best-performing EMAS Member State, Germany, there is a downward trend from 1,672 organisations in 2004 to 1,415 in 2008. However, there are some increases in EMAS registrations in other Member States such as in Spain where the number of organisations has leaped from 411 in 2004, to 1,027 in 2008.

The Commission argues that while the requirements for EMAS registration are tougher, the environmental outcomes are better than for other EMS. The problem is that because EMS are relatively “young” schemes, research on outcomes is inconclusive as the Commission own studies on EMAS indicate.

The Commission is using the opportunity of the revision of EMAS to propose some changes aimed at simplifying the system and increasing the number of participants to 35,000 within 10 years which is the same level of EU participation as in ISO 14001. Changes include:

- “corporate registration” for organisations with sites in several Member States.
- “cluster registration” for organisations wishing to work together to achieve registration
- Reduced fees and less frequent reporting for SMEs
- A requirement for Member States to step-up their promotional activities and a push to introduce incentives to encourage participation.
- Additional Commission support through the introduction of sectoral reference documents

The rapporteur welcomes these changes.

However, there are some areas where the Commission and Member States could do more to attract organisations to register EMAS without harming its environmental integrity:
Simplified language and a better structured proposal would make the requirements easier to follow for organisations. One amendment calls on the Commission to publish an EMAS User Manual which should be particularly helpful for small organisations. Other amendments clarify the relationship between the various requirements set out in the annexes.

Aligning the definitions of EMAS with ISO 14001 would help organisations step up more easily from ISO to EMAS. Amendments are therefore tabled to this effect, except in cases where there is a clear reason for changing the definition.

The Commission has proposed a new 3-yearly reporting cycle, in addition to the current annual reporting cycle. This seems unnecessary and potentially confusing. A number of amendments combine the two cycles into one annual procedure or every two years in the case of SMEs.

The Commission is seeking to improve compliance with EU environmental law through EMAS. It therefore proposes that organisations may request a statement of compliance from the regulatory authorities. National regulators will not generally be willing to provide such a “positive statement” of compliance, but can issue a statement that they are not aware of any case of non-compliance. An amendment is tabled along these lines.

The introduction of sectoral reference documents is an important new element of the regulation and should be strengthened. The Commission should be encouraged to adopt comprehensive reference documents for as many sectors or sub-sectors as possible.

The proposed core indicators are a welcome addition and should help organisations to report on their environmental performance. However, not all of the generic indicators will be relevant to the organisation and the possibility to deviate from the list should be allowed provided a justification is given. The sectoral reference documents should also replace the generic indicators with ones specific to that sector.

The Commission has proposed relaxing the restrictions on the use of the EMAS logo but it must be clear that the logo cannot be used on packaging and products as this runs the risk of confusion with the eco-label.

The Commission and Member States could do more to encourage participation in EMAS, for example through holding EMAS awards and through referring to EMAS as contract performance conditions for works and service contracts.

In conclusion, the rapporteur sees the value of continuing the EMAS scheme and giving time for the proposed changes to attract more participants while retaining its environmental integrity. In order to do this, EMAS must be simplified and its added value made clearer to potential participants. The Commission must continue to monitor progress with EMAS in an objective manner. If by the time of the next review, the numbers of organisations taking part fails to increase as planned, alternative proposals will be needed.
## PROCEDURE

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<tr>
<th>Title</th>
<th>Voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)</th>
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<tr>
<td>Date submitted to Parliament</td>
<td>16.7.2008</td>
</tr>
<tr>
<td>Committee responsible</td>
<td>ENVI</td>
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<tr>
<td>Date announced in plenary</td>
<td>2.9.2008</td>
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<td>Date of decision</td>
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<tr>
<td>Rapporteur(s)</td>
<td>Linda McAvan</td>
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<tr>
<td>Date appointed</td>
<td>1.10.2008</td>
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<tr>
<td>Discussed in committee</td>
<td>21.1.2009</td>
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<tr>
<td>Date adopted</td>
<td>17.2.2009</td>
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| Result of final vote | +: 52  
-: 1  
0: 1 |
| Substitute(s) present for the final vote | Kathalijne Maria Buitenweg, Philip Bushill-Matthews, Bairbre de Brún, Jutta Haug, Karsten Friedrich Hoppenstedt, Johannes Lebeeck, Caroline Lucas, Miroslav Mikolášik, Hartmut Nasserer, Justas Vincas Paleckis, Alojz Peterle, Renate Sommer, Lambert van Nistelrooij |
| Substitute(s) under Rule 178(2) present for the final vote | Domenico Antonio Basile |