

COMMISSION DECISION

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)*(notified under document number C(2001) 2504)***(Text with EEA relevance)**

(2001/681/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)⁽¹⁾, and in particular Article 2(s) second paragraph, Article 3(3)(b) and Article 8 thereof,

Whereas:

- (1) Regulation (EC) No 761/2001 establishes the requirements for organisations to participate in EMAS.
- (2) Guidance should be laid down to ensure that Regulation (EC) No 761/2001 is applied uniformly by all the Member States.
- (3) It is appropriate to identify specific cases where defining the appropriate entity to be registered as an EMAS organisation might be difficult and to provide for a harmonised approach to this situation as well as for exceptions where registration is allowed for entity smaller than a site.
- (4) Guidance should be laid down for the establishment of the verification programmes of organisations under EMAS, for conducting validations of environmental statements and subsequent yearly updates, as well as for exceptions to the principle of yearly validated updates.
- (5) It is also appropriate to harmonise the use of the EMAS logo at practical level and to ensure that the exhaustive

list of exceptions for use of the logo in certain conditions is clearly spelt out.

- (6) The measures provided for in this Decision are in accordance with the opinion of the Committee established pursuant to Article 14 of Regulation (EC) No 761/2001,

HAS ADOPTED THIS DECISION:

Article 1

Entities under the second paragraph of Article 2(s) of Regulation (EC) No 761/2001 shall be registered as an organisation in accordance with the guidance set out in Annex I.

Article 2

Organisations shall have the updates of their environmental statement validated as referred to in Article 3(b) of Regulation (EC) No 761/2001 in accordance with the guidance set out in Annex II.

Article 3

The EMAS logo as referred to in Article 8 of Regulation (EC) No 761/2001 shall be used in accordance with the guidance set out in Annex III.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 7 September 2001.

For the Commission

Margot WALLSTRÖM

Member of the Commission

⁽¹⁾ OJ L 114, 24.4.2001, p. 1.

ANNEX I

GUIDANCE ON ENTITY SUITABLE FOR REGISTRATION TO EMAS

(All references to annexes are the Annexes to Regulation (EC) No 761/2001 unless expressly stated otherwise)

Objective of the guidance

The expansion of EMAS from its traditional coverage of the industrial/manufacturing sectors to all organisations having environmental impacts means that entities with many different organisational structures will be able to register to EMAS. This guidance has been prepared on the basis of Article 2(s), second and fourth sentences and of Article 2(t) of Regulation (EC) No 761/2001 to assist organisations, environmental verifiers and competent bodies in deciding on the appropriate entity for registration as organisation to EMAS.

The choice of the entity to be registered will be a combination of management control and geographic location.

The entity to be registered as an organisation under EMAS shall not exceed the boundaries of one Member State. If the organisation comprises one or more sites, each of the sites to which EMAS applies shall comply with all the requirements of EMAS including the continual improvement of environmental performance as defined in Article 2(b) of Regulation (EC) No 761/2001.

Entities with the following organisational structures have been identified and will be considered in detail in the different paragraphs of this document:

1. organisations operating in just one site;
2. organisations which could, under exceptional circumstances, register an entity smaller than one site;
3. organisations operating in different sites:
 - (a) with same or similar products or services,
 - (b) with different products or services;
4. organisations for which a specific site cannot be properly defined;
5. organisations controlling temporary sites;
6. independent organisations registering as one common organisation;
7. small enterprises operating in a given large territory and producing the same or similar products or services;
8. local authorities and governmental institutions

At the outset participants in EMAS ought to bear in mind that environmental verifiers, and where appropriate, the competent bodies, can exert an influence in agreeing the entity to be registered (see Article 2(s) and (t) of Regulation (EC) No 761/2001). Equally all participants are required to produce an environmental statement which, amongst other things, must include a clear and unambiguous description of the organisation registering under EMAS and a summary of its activities, products and services and its relationship to any parent organisation (see Annex III, point 3.2(a)). These requirements link with others relating to the management control and influence over the organisation's environmental aspects (see Annex I.A, and in particular point 4.3.1, and Annex I.B)

The purpose of these requirements is to ensure that the organisation has management control and influence over its environmental aspects that have significant environmental impacts at all sites. Therefore participants are advised to have a clear and reasoned justification for selecting the sites or parts of sites of the organisation to be registered. By doing so they will be anticipating the requirements of the environmental statement and will be well placed to respond to possible queries notably from verifiers and competent bodies but also additionally from other interested parties. The competent body shall refuse registration if the chosen entity to be registered does not correspond with the definitions given in Article 2(s) and (t) of Regulation (EC) No 761/2001 and explained in this guidance document. Therefore in case of doubt an organisation should consult the competent body already in the starting phase of implementing an environmental management system (EMS).

Principles:

- transparency,
- management control,
- no selection of good areas only,
- public accountability,
- local accountability.

Definitions

'Organisation' shall mean, according to Article 2(s) of Regulation (EC) No 761/2001, a company, corporation, firm, enterprise, authority or institution, or part or combination thereof, whether incorporated or not, public or private, that has its own functions and administrations.

'Site' shall mean, according to Article 2(t) of Regulation (EC) No 761/2001, all land at a distinct geographic location under the management control of an organisation covering activities, products and services. This includes all infrastructure, equipment and materials.

'Entity' site or subdivision, organisation, part or group of organisations, seeking to register under one registration number.

1. ORGANISATIONS OPERATING IN JUST ONE SITE

An organisation operating in just one site is the simplest case because the range of management and the geographic location correspond with each other. Sites registered to EMAS I will fall into this category according to Article 17(4) of Regulation (EC) No 761/2001.

Positive examples:

- a company, operating in one site where it both produces pipes and radios, may register only one of these branches,
- cafeteria of a clothing manufacturer site may be registered separately.

Negative example:

- pharmaceutical company may not register only the part of the plant producing the final product going to the consumer separately, leaving out the basic industry production process regarding the intermediate substances at the same site.

2. EXCEPTIONAL CIRCUMSTANCES FOR REGISTERING AN ENTITY SMALLER THAN ONE SITE

If an organisation considers to register an entity smaller than a site, the following principles must be made the basis of its decision. Firstly, the exception may not be used for the purpose of 'cherry picking'. It is therefore not allowed to register parts of a unique production process with the intent to exclude parts of the site which could not be registered according to EMAS. An organisation must be able to give evidence of its capability to monitor and control all its significant environmental aspects and prove that the entity intended to be registered has not been especially separated from other poor performing parts of the larger site.

Secondly, the principles of 'local accountability' and 'public accountability' expressed in Annex III, point 3.7 and Annex I, point B.2 and point B.3 must be followed. Communication with the public is a key element of EMAS. In its own interest an organisation should inform the public in a transparent and understandable manner on the environmental performance of a specific site. If a subdivision has an own market it might be important for it to be able to use the logo for its own communication. However, if an entity smaller than the respective site, intends to register under EMAS, it must be clearly communicated to the public that only parts of the organisation's operations at the site are managed under EMAS since, normally, the operations at one site are being perceived by the public as one inseparable whole. An organisation shall be responsible for a clear communication with the surrounding and appropriate actions shall be taken to avoid misleading of the public.

On the basis of these principles an entity smaller than a site can be separately registered if:

- the subdivision has clearly defined own products, services or activities and the environmental aspects and impacts of the subdivision can be clearly identified and distinguished from those of other non registered parts of the site,
- the subdivision has an own management and administrative functions with the competences to ensure that the subdivision is empowered to organise and control its EMS, its environmental impacts and take corrective actions on its responsibilities. Evidence can be found in the legal status, own registration at the chamber of commerce, organisation charts, reports from the mother organisation, own writing papers,
- there are clear responsibilities allocated to the subdivision for compliance with requirements in permits/environmental licenses which are issued to the subdivision.

The site cannot be subdivided if:

- the separated entity only covers parts of the operations at the site which are not representative for the environmental aspects and impacts of the whole operations at the site,
- it is not understandable from an external view point which part of the operations at the site is managed by the EMS and why exactly this part has been separated from the operations at the site.

Particularly in this case it is essential to clearly define the boundaries to the responsibilities for inputs and outputs to and from the organisation. In its EMS the organisation shall also take account of interfaces with services and activities which are not completely within the scope of the EMS. For example, it shall assess the environmental aspects and impacts of common infrastructure at the site such as a common waste management or effluent treatment plant and include these in its environmental program and the continual improvement process.

3. ORGANISATION OPERATING IN DIFFERENT SITES

Under Regulation (EC) No 761/2001 participants can still continue to register individual sites or as 'an organisation' (defined in Article 2(s)) or part or combination thereof. Either way, all participants are required to demonstrate continual improvement in performance of their significant aspects and impacts in accordance with their policy, programme and targets. Those registering several sites as one organisation need also to take account of the requirements of Article 2(b), Annex I.B(2) and Annex III, point 3.7 and to be able to justify why improved performance may not be evident at each of its sites.

As well as clarifying and justifying their selection of a site or combination of sites, organisations seeking registration under EMAS, whether in the private or public sectors, should also be prepared to clarify and justify to their stakeholders what are their intentions regarding sites not yet registered.

3.1. *With the same or similar products or services*

In order to achieve one 'registration number', the organisation should be able to demonstrate to the verifier the consistent application of its environmental management procedures and policy at all sites. Organisations falling into this category are often characterised by common management procedures for their operations at different sites, for example, a common environmental management handbook. Due to this, it may be possible to reduce the verification-depth at the individual sites if the organisation can demonstrate full management control over all of its sites.

If the activities at the site are of similar environmental aspects and impacts, subject to a similar environmental management system, and operated within the same structures, such as branches, business offices or operational and workshop installations, it may then be possible to verify some of the various sites on a selective basis. The samples must be selected so as to ensure that the verifier has a representative and comprehensive insight into the environmental performance of the organisation and that he is able to check the reliability of data and the local accountability.

Good practice on the selection of sampling techniques⁽¹⁾ should be used and verifiers shall take into account the following factors while choosing the sites to be included in the verification programme:

- the environmental policy and programme;
- the complexity of the EMS, the significance of direct and indirect environmental aspects and impacts and the potential interaction with sensitive environs;
- the maturity of the EMS at the site;
- views of interested parties (complaints, public interest in a site);
- the spread of the organisation's staff over the sites;
- any shift working;
- the history of environmental problems;
- results from previous verifications and internal audits.

Over a period of verification cycles, all sites should be covered. In the first verification and in each following verification cycle, the headquarter must be included into the verification programme.

Organisations and verifiers must remember that if there are significant environmental impacts associated with distinct geographic locations all these sites shall be individually verified and the related environmental data associated with the significant environmental impacts shall be reported in the environmental statement in accordance to the principles of the 'local accountability'.

A site must be verified individually if:

- the size, scale and nature of its activities/operations at the site have been recognised as being significant;
- the internal audits and the management review have shown need for corrective action;
- substantial changes in the environmental management system or in the operations at the site have occurred since the last verification;
- or if the site is significantly different from the other sites of the organisation in:
 - size and working practices,
 - direct and indirect environmental aspects/impacts (type and significance),
 - the sensitivity of its environments,
 - the legal requirements applicable,
 - the structure of its local EMS and or the local management system,
 - the size, scale and nature of its activities/operations at the site.

Organisations should consider the risk of losing the common registration for all sites in case of a breach of regulatory requirements at only one site. Taking into account such a risk, organisations may in addition register these specific locations individually. As opposed to verification, sampling techniques may, as a general rule, not be applied in the internal audit according to Annex III.

⁽¹⁾ — ISO/IEC Guide 66.

— EA — 7/02.

— Other international and national legislation and guidance.

Examples:

- banks,
- travel agencies,
- retail chains,
- consultants.

3.2. *With different products or services*

In these cases it is not possible for the verifier to use sampling techniques since the operating procedures and impacts at each site will be different. It is the choice of the organisation whether it wants to register each site separately or it wants to register its sites under one common registration number.

Irrespective of whether an organisation wishes to have one or separate registrations of each singular site, several issues must be considered including:

- the need for analysis of environmental aspects and impacts associated to all the different locations,
- the related management control of those,
- existence of environmental policy and programmes taking account of the principle of local accountability.

In this case all of the sites shall be individually verified and the related environmental data shall be reported separately in the environmental statement. (See Annex III, point 3.7 and Guidance on the Environmental Statement (Annex II of this Decision)).

Even in this case, an organisation wanting to register some or all of its sites under a common registration number has to be aware of the risk of loss of the common registration in case of a breach at a single site (location).

It might be that a company will start by registering its single sites and later on to unify them under one registration number as one organisation.

Examples:

- power generation,
- mechanical components manufacture,
- chemical companies,
- waste disposal.

Hints:

- compatibility of corporate and site environmental policy,
- significant local impacts shall be reported in the environmental statement,
- interaction of environmental aspects between different sites,
- corporate control of the local EMS,
- each site can be registered separately,
- loss of common registration for a breach at one site.

4. ORGANISATION FOR WHICH A SPECIFIC SITE CANNOT BE PROPERLY DEFINED

For organisations for which a site cannot easily be determined, it is particularly important in case of doubt that both organisation and verifiers to consult the competent body on whether the chosen entity is suitable to be registered in accordance with the principles of EMAS.

In this case the sphere of operation and infrastructure must be clearly defined, comprehensively integrated in the management system and precisely described in the environmental statement. In these organisations, in particular, it is important that the responsibilities for significant environmental aspects are clearly defined and that the verifier has evidence that the organisation has a proper procedure to control such aspects. Due to the fact that these organisations operate generally in large areas, including towns or metropolitan territory, the organisation should give evidence, as appropriate, that it has:

- considered risks for environment and population,
- adopted appropriate plans for informing people how to behave in case of emergency,
- prepared systematic information on the pollution level,
- considered the infrastructure under its control.

There are cases in which an organisation, despite controlling different sites in a defined area, cannot operate each site separately and the environmental impacts of the separate sites are linked. In this case, the separate sites should be considered as a single organisation for registration to EMAS.

Examples:

- service distribution (heat, water, gas, electricity, etc.),
- telecommunications,
- transport,
- waste collection.

5. ORGANISATIONS CONTROLLING TEMPORARY SITES

In the case organisations perform operations on sites not owned by themselves for defined periods of time, the verifier will check the organisation's management system and its environmental performances at selected temporary sites which shall be representative of the organisation's environmental management capability. The verifier must use good practice auditing sampling techniques to verify the effectiveness of the procedures at the chosen sites.

The organisation shall give evidence that adopted procedures and technologies, suitable to the specific sites in which it has to temporarily operate, are in place.

Where applicable, these procedures should include at least the following items:

- appropriate technology and training;
- proper environmental analysis of the sites prior to start the activity;
- analysis of the environmental consequences out coming from future planned activities;
- communication to the public living in the area and to the local authorities concerning the relevant environmental aspects associated to the working plan, and the related identified solutions;
- formulation of recovering plans or solutions for improving the involved area's environmental conditions at the end of the operations.

Temporary sites will, on a spot-checking basis, be part of the verification process. It's their activities that are being registered not just their location.

Examples:

- construction companies,
- cleaning companies,
- service providers,
- contamination remediators,
- circuses.

6. INDEPENDENT ORGANISATIONS OPERATING IN A LIMITED AREA REGISTERED AS ONE COMMON ORGANISATION

It should be considered that people living in the neighbour of a large site, local authorities and environmental enforcement bodies have a great interest to face a common responsibilities and unique environmental programme for the whole area. Independent companies may wish to pool resources to achieve a common registration to EMAS. This is allowed under the regulation since the definition reads 'organisation' shall mean a company, corporation, firm, enterprise, authority or institution, or part or combination thereof, whether incorporated or not, public or private, that has its own functions and administrations.

In these cases the participating organisations, in order to get a common registration as one organisation, must be able to demonstrate a common responsibility (policy, procedures, etc.) for the management of significant environmental aspects and impacts including, in particular, the setting of objectives and targets and corrective actions. Those organising their EMS together and getting a common registration are all required to demonstrate continual improvement in performance of their significant aspects and impacts in accordance with their policy, targets and programme. As several sites are getting registered as one organisation, it is also necessary to take into account requirements of Article 2(b) of Regulation (EC) No 761/2001, Annex I.B(2) and Annex III, point 3.7 and to be able to justify why improved performance may not be evident at each of its sites.

It should be noted that the logo can only be used by the organisation registered to EMAS and hence in the case of a business park the logo could only be used in conjunction with the name of the business park. In any case, a single organisation could register itself individually in addition to the registration of the business park.

Examples:

- small industrial area,
- holiday complex,
- business parks.

Hints:

- common environmental policy and programme,
- common management responsibilities,
- the loss of common registration for a breach at a single site.

7. SMALL ENTERPRISES OPERATING IN A GIVEN LARGE TERRITORY AND PRODUCING THE SAME OR SIMILAR PRODUCT OR SERVICES, SEEKING INDIVIDUAL REGISTRATION

Article 11(1) of Regulation (EC) No 761/2001 reads '... In order to promote participation of SMEs, including those concentrated in well defined geographical areas, local authorities, in participation with industrial associations, chambers of commerce and interested parties may provide assistance in the identification of significant environmental impacts. SMEs may then use this in defining their environmental programme and setting the objectives and targets of their EMAS management system ...'.

In these geographical areas the SMEs (which very often may share a common technological level, the same production methods and approximately the same organisational and management systems) shall necessarily:

- consider the cumulative effects resulting from their production processes,
- interact with the same community, the same institutions, the same environmental control bodies at local level, with respect to their environmental problems. Indeed they face identical needs regarding the quality of environment,
- consider the interaction between their environmental impacts and those produced by the other industrial operators existing in the geographical area as well as by public services enterprises and civil residences.

On the other hand they have the possibility of:

- searching common solutions for solving their environmental problems (to increase efficiency of plants for reduction of pollutants, to overcome their cultural restrictions or their inadequacy for environmental management, and so on);
- supporting each other, for example, by:
 - exchanging experiences on the identification of environmental aspects and impacts,
 - drafting an environmental policy and programme together,
 - performing internal audits vice versa in the partner's organisation to easier identify environmental aspects and impacts,
 - hiring a common environmental consultant,
 - using the same infrastructures for the management of various environmental impacts such as wastewater treatment plants, waste incinerators, dumps etc. and creating specific organisations, like consortia for that,
 - and, on the basis of their common efforts to implement EMS, hiring the same verifier which may, due to the similarities within EMSs, facilitate the verification and validation process and lower the related costs;
- participating in local environmental projects, such as Agenda 21 processes (local or regional authorities or industrial organisations may support such activities by helping build up networks).

Taking into account the previous considerations the definition of a general programme, implemented by local authorities, industrial associations, chambers of commerce on the basis of an initial environmental analysis of the whole territory, represents a very useful preliminary step for SME approaching EMAS.

The territorial environmental programme should then be clearly identified, published and accepted by all concerned parties, and seek for significant improvement of the environment of the whole area.

Once environmental objectives and targets have been adopted and recognised, each organisation (SMEs, public services, local authorities, etc.) could then, on a voluntary basis according to the EMAS procedure, set out the necessary steps to individually comply to Regulation (EC) No 761/2001 and seek for registration on an individual basis.

The verifier, in such a case would have to assess that the environmental management system is capable to deliver he specific objectives and targets of each single organisation according to the general programme, objectives and targets of the whole area. The environmental statement should then, beside its content required by EMAS, clearly identify the specific organisation's contribution to the targets of the whole environmental programme.

Examples:

- industrial districts,
- touristic areas,
- shopping malls.

Hints:

- setting a promotion body,
- approval of feasibility study,
- independent assessment of the environmental overall objectives and targets,
- involvement in local Agenda 21 programme.

8. LOCAL AUTHORITIES AND GOVERNMENTAL INSTITUTIONS

When the organisation seeking an EMAS registration is a public institution, it is important to state that the indirect environmental aspects, such as those that are a consequence of the authority's policies, can be the most important and, therefore, the problems to be considered cannot be restricted only to the management's organisational structure and to the associated direct environmental aspects.

Indeed, the political responsibilities of a public administration are connected to the management of the territory and the quality of the life, present and future, of the citizens that fall under its responsibility.

For some local authorities or governmental institutions, due to the complexity of the management and of the aspects to be considered, it can be possible to accept a separate registration of parts of such organisations. In this case the communication to the public and use of the logo shall be unambiguous and clearly referred only to the specific branch or unit registered.

It is advisable for these organisations to establish a reference environmental policy to which each part of the organisation, could comply.

Examples:

- local authorities,
- ministries,
- governmental agencies,
- local Agenda 21.

Hints:

- consultation and consensus of the citizens,
- economic development and environment compatibility,
- evaluation of alternative strategic choices and related priorities,
- territorial plans and related measurable objectives and related responsibilities,
- continuous verification and monitoring of the environmental plan,
- right balance between free private initiatives and social needs.
- education of citizens and economic operators.

ANNEX II

GUIDANCE ON VERIFICATION, VALIDATION AND AUDIT FREQUENCY

(All references to annexes are the Annexes to Regulation (EC) No 761/2001 unless expressly stated otherwise)

1. INTRODUCTION

Following the first verification, EMAS requires the verifier in conjunction with the organisation to design and agree a verification programme covering a period of no more than 36 months. Following the first validation of the environmental statement, EMAS also requires that the information shall be updated annually and that any changes shall be validated annually, except in certain circumstances. This guidance identifies issues to be considered in designing the verification programme including when deviations from the annual frequency of updating the information in the environmental statement might be justified. It also gives guidance on internal audit frequency.

For clarity, this guidance uses the following terms to mean:

'Verification' — the assessment (audit) carried out by the environmental verifier to ensure that an organisation's environmental policy, management system and audit procedure(s) conform to the requirements of Regulation (EC) No 761/2001. This shall include visiting the organisation, examining documents/records and interviewing personnel.

'Validation' — the assessment carried out by the environmental verifier to check that the information and data within the organisation's environmental statement is reliable, credible and correct and meets the requirements set out in Annex III, point 3.2.

2. VERIFICATION PROGRAMME

2.1. Requirement

In consultation with the organisation the verifier shall design a programme to ensure that all elements required for registration with EMAS are verified in a period not exceeding 36 months (Annex V, point 5.6).

2.2. Intent

This requirement is to reassure the organisation's management and interested parties that the environmental policy, management system, procedures, information, data measurement and monitoring, meet the requirements of Regulation (EC) No 761/2001. Regular interaction between the verifier and the organisation helps build credibility and confidence in users of EMAS as well as the scheme itself. In order to ensure ongoing surveillance of the organisation's EMS and environmental performance, good practice would be to structure the verification so that one third of the organisation's activities be verified each year such that over the maximum 36 month period all activities are verified. This will also help to give confidence to the verifier on the accuracy, credibility and reliability of information in the environmental statement.

However, in small organisations and small enterprises (see box for definition) the verification may take place in one visit, at a frequency to be agreed between the verifier and the organisation but at least every 36 months for the whole system.

Definition of a small organisation or enterprise

'Small enterprise' is defined as an enterprise which:

- has fewer than 50 employees and
- has either,
 - an annual turnover not exceeding EUR 7 million, or
 - an annual balance-sheet total not exceeding EUR 5 million,

- and 25 % or more of the capital or the voting rights is not owned by one enterprise, or jointly by several enterprises.

2.3. *Guidance*

The verifier shall design and agree the verification programme only when the initial full verification and validation of the environmental statement has been completed. In designing the verification programme the verifier should consider:

- strength and confidence in the internal audit programme, including the frequency of internal audits,
- complexity of the EMS,
- the environmental policy,
- size, scale and nature of the organisation's activities, products and services,
- significance of the organisation's direct and indirect environmental aspects over which it has control or can be expected to have an influence,
- strength of the data and information management and retrieval system, as it relates to information and data in the environmental statement,
- history of environmental problems,
- extent of activities subject to environmental regulations,
- results from previous verifications,
- experience of the organisation in complying with EMAS requirements.

A verifier, in assessing conformity against the requirements of the EMAS Regulation, may base that assessment either, against the functions, activities, products and services of the organisation; or against the environmental aspects over which the organisation has direct and/or indirect control and influence.

The verification for organisations with accredited certification to EN ISO 14001 (or any other environmental standard) recognised under the procedures set out in Article 9(1) of Regulation (EC) No 761/2001 need only address those elements not covered by the recognised standard. In such cases the verifier is expected to consider the EN ISO 14001 surveillance programme in designing the verification programme and if feasible aim to combine the assessment visits as far as possible, to avoid unnecessary duplication, cost and time to the organisation. However, the verification activities will differ from those of the surveillance visits undertaken as part of EN ISO 14001 certification. In particular they shall cover the additional points covered in Annex I.

3. UPDATES OF ENVIRONMENTAL INFORMATION

3.1. *Requirement*

Article 3(3)(b) of Regulation (EC) No 761/2001 requires that, for an organisation to maintain registration to EMAS, it shall: 'forward the yearly necessary validated updates of its environmental statement to the competent body and make them publicly available. Deviations from the frequency with which updates shall be performed can be made under circumstances laid down in Commission guidance adopted in accordance with the procedure laid down in Article 14(2), in particular for small organisations and small enterprises according to Commission Recommendation 96/280/EC⁽¹⁾ and when there is no operational change in the environmental management system'.

Annex III, point 3.4, on maintenance of publicly available information states: 'The organisation shall update the information detailed in point 3.2 and shall have any changes validated by an environmental verifier, on a yearly basis. Deviations from the frequency with which updates shall be performed may be made under circumstances laid down in Commission guidance ...'.

⁽¹⁾ OJ L 107, 30.4.1996, p. 4.

This is reiterated in Annex V, point 5.6, which states: '... In addition the verifier shall at intervals not exceeding 12 months validate any updated information in the environmental statement. Deviations from the frequency with which updates shall be performed may be made under circumstances laid down in Commission guidance ...'.

3.2. *Guidance*

The normal expectation is for annual updates of the information in the environmental statement and to have the changes validated. The cost effective and better practice is to link the validation of the environmental statement with the on-going verification programme. Time, effort and cost of validation will depend on the quality of the data and information management and retrieval system used to derive the environmental statement.

Normally the data and information on the organisation's performance (Annex III, point 3.2(e)) will change yearly and will need to be updated in the environmental statement though only the changes need to be validated. Updating the information in the environmental statement does not require the publication of a new environmental statement each year, simply that it is publicly available. The goal of EMAS is to encourage the public disclosure of credible information about improvements in environmental performance. This can be done, for example, by producing a separate free-standing environmental statement; or by including such information with the report of accounts; in printed form or on a website. See separate Commission guidance on environmental statement set out in Annex I to Commission recommendation 2001/680/EC⁽¹⁾.

Although the updated information for small businesses and small organisations need not be a large expensively produced glossy document, Regulation (EC) No 761/2001 allows these organisations to extend the frequency for updating their information and having it validated. Only these organisations are therefore exempt from the yearly validation of updated information (see examples below), unless they have:

- major environmental hazards associated with their activities, products and services, or
- significant operational changes in their environmental management system, or
- significant legal requirements relating to their activities, products and services, or
- significant local issues,

in which case the verifier shall require validated yearly updates of the information in the environmental statement.

If not done annually then updating of the environmental statement will be expected within a period not exceeding 36 months.

Examples:

- small bakeries
- kindergarten
- single retail outlets

3.3. *Validation of extracts of the environmental statement*

Organisations may wish to use extracts from their environmental statement in conjunction with the EMAS logo. Examples include:

- submitting validated emissions data to environmental regulators,
- information on carbon emissions under national climate change reduction programmes,
- fulfilling legal requirements for public disclosure of environmental information to shareholders and pension schemes.

⁽¹⁾ See page 3 of this Official Journal.

In using the logo with extracts, the organisation shall only use extracts from the latest validated environmental statement. The extracts need also to accord with the requirements in Annex III, point 3.5(a) to (f), by being relevant and significant and avoid being deceptive or misleading.

Extracts from the environmental statement used with the EMAS logo must be validated separately. Time, effort and cost can be saved by identifying which extracts are to be used so that these may be validated at the same time as the statement.

For information on the use of the logo see Commission Guidance in Annex III to this Decision.

4. AUDIT FREQUENCY

4.1. Requirement

Annex II 2.9 on Audit Frequency states that 'The frequency with which any activity is audited will vary depending upon the:

- nature, scale and complexity of the activities,
- significance of associated environmental impacts,
- importance and urgency of the problems detected by previous audits,
- history of environmental problems.

An organisation shall define its own audit programme and audit frequency taking account of Commission guidance ...'.

4.2. Intent

This is to ensure that an audit programme is developed which provides management with the information it needs to review the organisation's environmental performance and the effectiveness of the environmental management system, and be able to demonstrate that they are in control. It will also provide a basis for the verifier developing and agreeing the verification programme with the organisation and for determining the frequency that they visit the organisation.

4.3. Guidance

Good practice in designing an audit programme would be to audit the activities, products and services that cause, or have the potential to cause, the most significant environmental impacts more frequently than those of lower significance. The organisation should also carry out audits at least on an annual basis, as this will help to demonstrate to the organisation's management and the verifier that it is in control of its significant environmental aspects.

ANNEX III

GUIDANCE DOCUMENT ON THE USE OF THE EMAS LOGO

(All references to annexes are the Annexes to Regulation (EC) No 761/2001 unless expressly stated otherwise)

1. PRINCIPLES

Reference Regulation

This guidance is without prejudice to Community law, or national laws or technical standards not governed by Community law, in particular Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising⁽¹⁾ and the duties of organisations under those laws and standards.

1.1. *Goals of the EMAS logo*

One of the core elements of Regulation (EC) No 761/2001 is the introduction of different options for the communication of environmental information to stakeholders. Organisations shall be encouraged to give account of their environmental performance to the public, their clients and customers by using these additional options of communication.

The EMAS logo is a trade mark of Regulation (EC) No 761/2001. It is the purpose of the EMAS logo to indicate to the public and other interested parties:

- the establishment and implementation of an environmental management system,
- the systematic, objective and periodic evaluation of the performance of such systems,
- the provision of information on environmental performance and an open dialogue with the public and other interested parties,
- the active involvement, including appropriate training of employees,

by the organisation, including the provision for legal compliance with relevant environmental legislation. In particular it indicates that the organisation provides publicly available, periodic environmental statements which have been validated by an independent verifier.

Within this context the EMAS logo has a threefold function:

- to indicate the reliability and credibility of information provided by an organisation with regard to its environmental performance;
- to indicate the organisation's commitment to improvement in environmental performance and to the sound management of its environmental aspects;
- to raise awareness about the scheme in the public, among interested parties and among organisations willing to improve their environmental performance.

Thus it is the intention of the Community to add value to EMAS by creating new and credible options for EMAS-registered organisations to demonstrate their environmental performance and commitment to environmental protection by communicating with interested parties through a wide range of different means, as proposed in this guidance document.

1.2. *Relationship between the EMAS logo and eco-labelling schemes (Article 8(2) of Regulation (EC) No 761/2001)*

The EMAS logo stands for:

- voluntary proactive efforts by the registered organisations to continuously improve their environmental performance beyond regulatory requirements,

⁽¹⁾ OJ L 250, 19.9.1984, p. 17.

- a functioning environmental management system implementing objectives set by the organisation, and
- the fact that information provided in e.g. the environmental statement is credible, and has been validated by an accredited environmental verifier.

As distinct from the EMAS logo, eco-labelling schemes for products and services have different characteristics:

- they are by their nature selective and thus indicate a comparative claim between products, activities and services that bear the label and those who do not;
- they indicate that ecological criteria set up by a third party are met, for which only some of the products in the market qualify;
- the definition of the relevant criteria follows an (mostly officially) approved consultative procedure.

Eco-labelling schemes can provide relevant information with the view to environmental aspects associated with products and services.

The EMAS logo does not imply any of these characteristics nor shall it be used in a way that leads to confusion with these characteristics.

It is the responsibility of organisations, verifiers and competent bodies to avoid any confusion with environmental product labels. To this end the organisation has to carefully select the information to be communicated and design communication tools in order to avoid any confusion. It is the verifier's responsibility to assess the validity and reliability of the message to be delivered to the customer in accordance with the criteria defined in Annex III, points 3.2 and 3.5 and in accordance with his duties as defined in Annex V.

2. REQUIREMENTS AS NAMED IN REGULATION (EC) No 761/2001

2.1. *Relevant legal provisions*

(a) Article 8 ('logo') defines:

- the conditions under which the EMAS logo may be used, namely the requirement of a current EMAS-registration (paragraph 1),
- the five different options for its use (paragraph 2) and
- the cases where it shall not be used, namely on products or their packaging and in conjunction with comparative claims (paragraph 3).

(b) Annex III, point 3.5 'Publication of information' provides options for public information in addition to the environmental statement and in points (a) to (f) specifies the requirements that have to be met if selected information is generated and used bearing the EMAS logo. Annex III, point 3.5 requires the information to be:

- accurate and non deceptive,
- substantiated and verifiable,
- relevant and used in an appropriate context or setting,
- representative of the overall environmental performance of the organisation,
- unlikely to result in misinterpretation
- significant in relation to the overall environmental impact.

Organisations shall take into account the requirements of Annex III, point 3.5 (a) to (f) also when using the EMAS logo on adverts for products, activities and services as explained in section 5 of this guidance.

- (c) Annex IV 'Minimum requirements for the logo' defines the two forms of the logo: one indicating 'verified environmental management' (version 1), the other indicating 'validated environmental information' (version 2). In both cases the registration number of the organisation must be indicated.

The logo's format according to Annex IV may be changed only under the circumstances defined in the point 2.2 of this guidance.

2.2. Use of the logo for promotion of the EMAS scheme

It is recognised that there is a need to use the logo for promotion of the EMAS scheme. In this context the use of the words 'Validated information' or 'Verified environmental management' would be inappropriate as would the use of a registration number. Therefore the logo may be used for the promotion of EMAS in the following format:



for the following purposes, for example:

- promotional materials (badges, etc);
- journalistic articles;
- Commission guidance;
- books, publications on EMAS;

provided that:

- it is not used in association with an organisation's name, and
- that it does not imply or convey the impression of registration to the scheme or that the user of the logo in this form is not making any environmental claim for its activities, products and services.

2.3. The logo's functions in different types of information (Article 8 and Annex IV of Regulation (EC) No 761/2001)

Whereas version 1 of the logo indicates the fact that an organisation has an environmental management system in place confirming to the requirements of EMAS, version 2 indicates that specific information to which the logo is attributed has been validated under EMAS.

In Article 8(2) the EMAS Regulation names five different options for the use of the logo:

- (a) on validated information as described in Annex III, point 3.5, under circumstances defined in this guidance. In this case the logo indicates that the information is drawn from a validated environmental statement and meets the requirements of Annex III, point 3.5 (version 2);
- (b) on validated environmental statements: Highlights the participation in the scheme and demonstrates that the content of the statement is validated (version 2);
- (c) on registered organisations' letterheads (version 1);

- (d) on information advertising an organisation's participation in EMAS: Indicates the fact that the organisation participates in EMAS. Version 1 of the logo can, for example, be used on plates, buildings, websites, invitations, etc.;
- (e) on, or in, adverts for products, activities and services only under the circumstances defined in this guidance which shall ensure that there is no confusion with environmental product labels (version 2).

In all of these cases there has to be a clear link to the organisation's name.

Users of the logo EMAS-registered organisations should bear in mind that there should be no misunderstanding by the public when using the logo. For example no organisation shall use the logo in any way to confuse or mislead the public in stating that it has just done something 'similar' to the EMAS Regulation or in its own way 'according' to the Regulation.

Whereas the use of the logo in the statement and on letterheads was covered in Regulation (EEC) No 1836/93⁽¹⁾ several new uses of the logo are allowed under Regulation (EC) No 761/2001 and these cases are dealt with in the following points.

3. GUIDANCE ON THE USE OF THE LOGO ON SELECTED INFORMATION FROM THE ENVIRONMENTAL STATEMENT (Article 8(2) (a) and Annex III, point 3.5, of Regulation No 761/2001)

3.1. *General requirements*

The use of the logo (version 2) in connection with selected information has to meet the requirements named in Annex III, point 3.5.

There is a wide range of possible publication formats such as:

- information brochures,
- datasheets,
- handouts,
- adverts in newspapers,
- environmental chapters in non-environment-related publications,
- websites etc., and
- TV advertisements.

The appropriate use of the logo does not depend on the technical means by which information is presented. The general requirement to be met by any use of the logo in these cases is:

Make the information to which the logo refers visible!

If an entire publication's content is covered by the environmental statement and validated by the verifier, the logo may be used in any way considered adequate (for example, on the cover page, the head of an advert, as graphic background of the text, etc.).

The validated information has to be clearly distinguished from the rest of the text, for example, by a frame, different layout, colour, size or typefaces used) if it is:

- only a part within another publication 'body' (for example, with technical or business content), or
- presented in connection with other non-validated environmental information (for example, one block within a larger text, or one section of a company report, etc.).

⁽¹⁾ OJ L 168, 10.7.1993, p. 1, repealed by Regulation (EC) No 761/2001.

The logo has to be placed in a way that allows for a clear attribution to the validated information.

3.2. Examples

The following examples illustrate the principles defined in point 3.1 of this guidance for registered organisations. In all cases named as 'allowed' the criteria named in Annex III, point 3.5 (a) to (f) have to be met. In the cases named as 'not allowed' the criteria named in Annex III, point 3.5 are violated are indicated.

No	Example	Status
1.	Logo (version 2) on the head of a compilation of relevant and validated performance data for authorities	Allowed
2.	Logo (version 2) placed on a handout for employees containing exclusively validated information on the operation of the environmental management system	Allowed
3.	Logo (version 2) on the cover of a brochure for customers and suppliers, content taken from the validated environmental statement	Allowed
4.	Logo (version 2) within the annual environmental report of a holding-organisation that includes registered and non-registered subsidiaries heading the chapter on the validated environmental management system in some, clearly named EMAS registered parts of the organisation	Allowed
5.	Logo (version 2) on the cover of a company's environmental report, parts of the company are not registered	Not allowed due to violation of Annex III, point 3.5, (a), (d), (e) and (f)
6.	Logo (version 2) on the cover of an organisation's business report (organisation completely registered)	Not allowed due to violation of Annex III, point 3.5, (a), (d), (e) and (f)
7.	Logo (version 2) as underlying graphic for a compilation of validated environmental data in a business report	Allowed
8.	Logo (version 2) as underlying graphic for validated advice for customers on the sound disposal of a product	Allowed
9.	Logo (version 2) besides validated environmental information on an organisation's website	Allowed
10.	Logo (version 2) besides a validated statement placed on a registered distribution company's truck beside the company name saying 'We have reduced the average Diesel-consumption of our truck fleet by 20 % to xy litres per 100 km between 1995 and 1998'	Allowed
11.	Logo (version 2) besides a statement placed on a truck bearing a retailer's brand logo 'Our distribution is environmentally friendly'	Not allowed due to violation of Annex III, point 3.5, (a), (b), (c), (d), (e) and (f)
12.	Logo (version 2) on a page containing validated information requirements for suppliers within a retailer's catalogue	Allowed

4. GUIDANCE ON THE USE OF THE LOGO ON ADVERTISEMENT FOR THE ORGANISATION'S PARTICIPATION IN THE SCHEME (Article 8(2) (d) of Regulation No 761/2001)

4.1. *General requirements*

The use of the logo (version 1) in accordance with Article 8(2)(d) is intended to inform the public and interested parties that an organisation is registered. Therefore it is necessary that the logo is clearly and exclusively attributed to the registered organisation. Confusion with organisations not registered to EMAS has to be avoided.

Registered organisations and providers of communication services working on their behalf shall not create the impression that the latter themselves have fulfilled the requirements of EMAS if this is not the case.

4.2. *Examples*

The following examples illustrate the abovementioned principles for registered organisations:

No	Example	Status
1.	Logo (version 1) on the cover of an information brochure (not containing environmental information) (organisation completely registered)	Allowed
2.	Logo (version 1) on the cover of an organisations business report (organisation not completely registered)	Not allowed since complete registration is required
3.	Logo (version 1) on the cover of an organisations business report (organisation not completely registered)	Allowed
4.	Storage tank on a registered site painted with the logo (version 1)	Allowed
5.	Logo (version 1) in a newspaper as underlying graphic in a joint advertisement of two companies announcing their environmental cooperation along the supply chain (one is registered, the other is not)	Not allowed since the impression is created that both companies are registered under EMAS
6.	Logo (version 1) on a retailer's catalogue, placed beside a list of brand names of suppliers (some of whom are not registered)	Not allowed since the impression is created that all the suppliers are EMAS registered
7.	Logo (version 1) placed beside the entry door of an aircraft produced by a registered manufacturer, operated by a non-registered airline	Not allowed since the impression is created that the aircraft is operated under EMAS by the airline
8.	Logo (version 1) placed on a bus beside the name of a registered public transport authority operating the bus	Allowed
9.	Logo (version 1) next to the name of a registered organisation on the vehicle fleet of that organisation	Allowed
10.	Logo (version 1) on a plate at the entry of a registered department store	Allowed
11.	Logo (version 1) on forms used by a registered public authority	Allowed

5. GUIDANCE ON THE USE OF THE LOGO ON, OR IN, ADVERTS FOR PRODUCTS, ACTIVITIES AND SERVICES
(Article 8(2)(e)), (Article 8(2) (a)+(b) and Annex III, point 3.5)

5.1. *General requirements*

Regulation (EC) No 761/2001 puts stronger emphasis on indirect environmental aspects compared to Regulation (EEC) No 1836/93. Among these the characteristics of products, activities and services play a central role. It aims to encourage organisations to issue information on their environmental performance in conjunction with their products and to use their marketing tools in order to promote the objectives of EMAS. This encompasses environmental aspects indirectly linked to the product as well as direct product characteristics — provided they have been validated by the verifier.

In no case must the logo be used alone in adverts for products, activities and services (like an eco-label). A clearly visible connection to the validated information is necessary. The validated information has to be distinguished from other information provided.

The information to which the logo refers should be selected in accordance with the principles named in Annex III, point 3.5 (a) to (f).

According to Article 8(2)(e) in conjunction with (a) and (d) it is allowed to use the EMAS logo in order to:

- indicate the organisation's participation in EMAS (version 1),
- indicate the fact that a product, activity and service has been produced by an EMAS-registered organisation (version 1), and
- add credibility to validated information directly or indirectly related to products, activities and services (version 2).

A clearly visible connection to the validated information is necessary. All activities relevant for the information delivered with the logo must be under the management control of a registered organisation.

The logo can be used in a number of different ways such as:

- in printed adverts for products (e.g. in newspapers, catalogues, etc.),
- in user manuals,
- in other media (e.g. TV, websites, etc.),
- shelves, racks where products, activities and services are presented to the customers,
- exhibition stands, etc.

The organisation using the logo must have control over and responsibility for the way the logo is presented. There must be a clearly identified relationship between the logo and the activity, product or service to which it relates.

Again it is not the technical way as such by which the logo is presented that decides whether its use is allowed or not but the content of the information delivered. In every case it has to be made clear to which information the organisation refers.

(a) Information indirectly concerning the product, activity or service:

If the logo (version 2) is intended to indicate one of the following, relevant validated information has to be given in the advert and has to be recognisable as information related to specific validated characteristics of the organisation's environmental management:

- performance characteristics of the relevant production processes,
- characteristics of the organisation's environmental management,

- environmental policy, objectives and targets,
- general environmental performance data.

Claims on environmental aspects not sufficiently covered by the organisation's environmental management are not allowed.

(b) Information directly concerning the product, activity or service:

If the logo (version 2) is intended to indicate one of the following, relevant validated information has to be given in the advert and has to be recognisable as information related to specific validated characteristics of the product:

- environmentally relevant characteristics of the product, activity or service itself,
- characteristics of the product in its use phase or after use,
- improvement in the products or the services environmental performance,
- product or service related environmental policy objectives and targets,
- environmental performance data related to the product, activity or service,

Claims on environmental aspects not sufficiently covered by the organisation's environmental management are not allowed.

Three fundamental limits to the use of the logo have to be respected. It is not allowed to use the logo:

- on products and their packaging,
- in conjunction with comparative claims concerning competitors products, activities or services, and
- in adverts for products without clear information/indication of the characteristics of the organisation or the product itself to which it relates.

Thus, the EMAS logo as such delivers no information to the consumer (as an eco-label) but indicates the validated status of information provided. In other words it represents a 'seal of reliability of the information' and not a 'seal of superiority of the product?'

In addition in all cases where an eco-labelling scheme operates for the product, activity or service in consideration (i.e. where there are established requirements for the EU-eco-label or national eco-labelling schemes) the following requirements apply:

- the organisation and the verifier are obliged to take necessary and specific provision, as stipulated in the abovementioned general principles and illustrated in the examples, for avoiding confusion with an existing eco-label;
- organisations and verifiers shall consider eco-label criteria relevant for the product when checking the information to be delivered against the requirements of Annex III, point 3.5 (a) to (f),
- all eco-labelling schemes shall be considered that are relevant for the market in which the logo will be used;
- in no case is it allowed to make reference to criteria established for relevant eco-labels.

5.2. Examples

The following examples illustrate the principles referred to in paragraph 5.1 of this Guidance. In all cases named as 'allowed' the criteria named in Annex III, point 3.5 (a) to (f) have to be met. In the cases named as 'not allowed' it is indicated which of the criteria named in Annex III, point 3.5 are violated.

No	Example	Status
1.	Logo (version 1) beside the validated information 'produced by an EMAS registered organisation' in an advert	Allowed
2.	Logo (version 1 or 2) beside the validated information 'environmentally superior product in relation to alternatives'	Not allowed due to violation of Annex III, point 3.5 (a), (b), (c), (d), (e) and (f)
3.	Logo (version 2) beside the validated information 'Energy efficiency in production enhanced by 20 % from 1996 to 1999'	Allowed
4.	Logo (version 1 or 2) placed in a photo of a product without further information	Not allowed due to the danger of confusion with a product label
5.	Logo (version 2) beside the validated information '60 % of our suppliers EMAS registered in 1988'	Allowed
6.	Logo (version 2) placed beside the validated information: 'Yearly updated environmental statement available at ...'	Allowed
7.	Logo (version 2) beside the validated information: 'energy consumption of the product reduced by 10 % compared to 1997's model'	Allowed
8.	Logo (version 2) beside the validated statement by a bank explaining the integration of environmental aspects in its investment criteria	Allowed
9.	Logo (version 2) beside a validated statement in a retailer's catalogue listing environment related criteria for its suppliers	Allowed
10.	Logo (version 2) on a statement in a retailer's catalogue stating 'Environmental impact of the goods in our shelves reduced by 20 % since 1998'	Not allowed due to violation of Annex III, point 3.5 (a), (b), (c) and (e)n
11.	Logo (version 2) beside the validated information claiming 'noise reduction by 10 % compared to 1997's model'. An eco-label exists, requiring noise levels lower than the performance of the product. The criteria of the eco-label have been considered	Allowed
12.	Logo (version 2) beside a validated information claiming 20 % reduction of odour complaints at a slaughterhouse in 1999 compared to 1998	Allowed
13.	Logo (version 2) beside the statement by an oil refinery claiming paper reduction by 10 % per tonne of gasoline produced	Not allowed due to violation of Annex III, point 3.5 (d) and (f)
14.	Logo (version 1 or 2) beside the photo of a non-registered holiday resort in the catalogue of a registered travel company	Not allowed since the organisation to which the logo is attributed (the resort) is not registered
15.	Logo (version 2) on page 2 of a travel company's catalogue, delivering validated information on the measures taken in the field of sustainable tourism	Allowed
16.	Logo (version 2) in an advertisement by a paper producer containing validated information on the requirements on suppliers for forest stewardship	Allowed
17.	Logo (version 2) beside validated information in an airline's on-board magazine	Allowed

No	Example	Status
18.	Logo (version 2) in an advertisement for absorbent paper beside the statement 'We have reached a recycling content equivalent to the requirement of the "Blue Angel"'	Not allowed due to violation of the requirements of this guidance (point 5.1)
19.	Logo (version 2) in an advertisement for a refrigerator claiming 'We exceed the requirements for the EU-eco-label by 10 %'	Not allowed due to violation of the requirements of this guidance (point 5.1)
20.	Logo (version 2) in an advertisement for a computer containing parts supplied by non-registered companies claiming 'Life-cycle environmental impact reduced under EMAS'	Not allowed due to violation of Annex III, point 3.5 (a), (b), (e) and (f)