II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation (EEC) allowing voluntary participation by companies in the industrial sector in a Community Eco-audit scheme

(92/C 76/02)

COM(91) 459 final

(Submitted by the Commission on 6 March 1992)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130s thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the objectives of the Community's environment policy, as set out in the Treaty and detailed in the European Community's action programmes on the environment for 1973 (1), for 1977 (2), for 1983 (3) and for 1987 (4), are, in particular, to prevent, reduce and as far as possible eliminate pollution, particularly at source, and ensure sound management of raw material resources, on the basis of the polluter pays principle;

Whereas, in particular, the fourth Community action programme on the environment highlights the need to develop a more integrated policy on pollution control;

Whereas the Council declared, in its resolution of 19 October 1987 concerning the fourth action programme on the environment (5), that it was important, while observing the respective powers of the Community and the Member States, for Community action to concentrate on certain priority areas, particularly improved access to information on the environment; whereas the European Parliament stressed, in its opinion on the same action programme (6), that access to information for all must be made possible by a specific Community programme;

Whereas the Council adopted Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment (7);

Whereas companies, in particular industrial companies, are faced with constantly growing, far-reaching and complex tasks and responsibilities related to the assessment, control, prevention or reduction of the environmental impact of their activities;

Whereas these tasks and responsibilities call for companies to establish effective environmental protection systems;

Whereas the application of environmental protection systems by companies cannot be separated from the need to ensure appropriate participation by workers in the establishment and implementation of such systems and from the need to promote greater protection of the safety and health of workers;

(1) OJ No C 112, 20. 12. 1973, p. 1.
(2) OJ No C 139, 13. 6. 1977, p. 1.
(3) OJ No C 46, 17. 2. 1983, p. 1.
(4) OJ No C 70, 18. 3. 1987, p. 3.
(5) OJ No C 328, 7. 12. 1987, p. 1.
(6) OJ No C 156, 15. 6. 1987, p. 138.
(7) OJ No L 158, 23. 6. 1990, p. 56.

Whereas the use of environmental auditing techniques, within the framework of such environmental protection systems, is particularly important for the systematic, regular and objective evaluation of environmental performances and facilitates improvement of such performances;

Whereas the establishment of environmental protection systems and the use of environmental auditing in this context are more advanced in the industrial sector;

Whereas the public is showing growing interest in information about the environmental performances of companies;

Whereas environmental auditing, implemented within an appropriate framework, can provide both an effective tool to improve the environmental performances of companies and a solid basis for company policy on information for, and collaboration with, the public;

Whereas the introduction of a flexible Community scheme for the evaluation and improvement of the environmental performance of certain activities would also stimulate further developments in areas such as standardization and certification of internal environmental management systems;

Whereas it is therefore necessary and appropriate to encourage companies to introduce environmental protection systems including audit programmes and to promote systematic, sound information for the public on companies' environmental policy, programmes, management and performance and, in particular, on the link between health and the environment;

Whereas the best means of achieving this end is to establish a Community scheme allowing voluntary participation by companies;

Whereas the aims of such a scheme should be to promote the introduction of effective protection systems, in the light of initial comprehensive and detailed environmental reviews, to lay down the essential requirements for environmental auditing, within the framework of such protection systems, and to inform the public on the basis, in particular, of the audit findings, about the environmental performances of companies;

Whereas it is necessary to provide for independent validation, by accredited environmental auditors, of the environmental statements for the public, in order to guarantee the reliability and representativeness of such information;

Whereas it is necessary to establish the conditions and procedures for the accreditation of environmental auditors and procedures for preventing any distortion of the validation activities within the framework of this Regulation;

Whereas this Regulation could need revision, particularly of its scope, in the light of the experience gained in the first years of its implementation; whereas, therefore, an effective procedure is necessary for such revision,

HAS ADOPTED THIS REGULATION:

Article 1

The Eco-audit scheme and its objectives

1. A Community scheme allowing voluntary participation by industrial companies, hereinafter referred to as the 'Eco-audit scheme', is hereby established for the evaluation and improvement of the environmental performance of industrial activities and the provision of the relevant information to the public.

2. The objective of the Eco-audit scheme shall be to promote improvements in the environmental performance of industrial activities by:

(a) the establishment and implementation of environmental protection systems by companies;

(b) the systematic, objective and periodic evaluation of the environmental performance of such systems;

(c) the provision of information on environmental performance to the public.

Article 2

Definitions

For the purposes of this Regulation:

(a) 'environmental review' means an initial comprehensive analysis of the environmental issues, impact and performance related to activities at a site, including in particular the aspects referred to in Annex I;

(b) 'environmental protection system' means a coordinated set of measures of various kinds aimed at protecting the environment;

(c) 'environmental policy' means a statement of a company's overall aims and principles of action with respect to the environment;

(d) 'environmental management' means the aspects of the overall management function that determine and implement the environmental policy;

(e) 'environmental management system' means the organizational structure, responsibilities, practices, procedures, processes and resources for implementing environmental management;

(f) 'environmental objectives' means the detailed goals, in terms of environmental performance, which a company sets itself;

(g) 'environmental programme' means a description of the company's specific objectives and activities to ensure greater protection of the environment at a given site, including a description of the measures taken to achieve such objectives and the deadlines set for implementation of such measures;

(h) 'environmental audit' means a management tool comprising a systematic, documented, periodic and objective evaluation of the performance of the organization, management system and equipment designed to protect the environment with the aim of:

(i) facilitating management control of environmental practices;

(ii) assessing compliance with company policies, including observance of the existing regulatory requirements.

Environmental audit includes determination of the factual data necessary to evaluate performance;

(i) 'environmental statement' means a statement prepared by the company in line with the requirements of this Regulation and, in particular, of Article 5;

(j) 'industrial activity' means any activity listed under sections C and D of the classification of economic activities in the European Community (NACE rev. 1), as established by Council Regulation (EEC) No 3037/90 (1), with the addition of electricity, gas, steam and hot water production, and the recycling, treatment, destruction or disposal of solid or liquid waste;

(k) 'company' means any organization which has direct operational control over activities at a given site;

(l) 'site' means all land on which the industrial activities under the control of a company at a given location are carried out, including any connected or associated storage of raw materials, by-products, intermediate products, end-products and waste material, and any equipment and infrastructure involved in the activities, whether or not fixed;

(m) 'accredited environmental auditor' means any person or organization who has obtained accreditation, in line with the conditions and procedures referred to in Article 7;

(n) 'competent bodies' means the bodies designated by Member States, in line with Article 10, to perform the tasks mentioned in this Regulation.

Article 3

Participation in the Eco-audit scheme, commitments by companies participating, participation procedure

1. Companies operating any industrial activity may participate in the Eco-audit scheme at any of the sites where such activities are performed by undertaking to comply with all the rules and conditions and to observe all the procedures set out in this Regulation at each site involved, and in particular:

— to establish and implement, in the light of the results of an initial environmental review, in line with the criteria in Annex I and ensuring appropriate participation by workers and their representatives, an environmental protection system applicable to all activities at the site,

— to carry out, or have carried out, in compliance with the criteria in Annex I, environmental audits at the sites concerned,

— to examine, at the highest management level, all the findings of the audit and, in the light thereof and within the framework of their environmental programme, set objectives and measures aimed at continuous improvement of their environmental performance,

— to prepare an environmental statement specific to each site audited with the same frequency as the environmental audit,

— to have the environmental statement validated by accredited environmental auditors to confirm that the data and information contained therein are reliable and that all the significant environmental issues of relevance to the site are covered in sufficient detail,

— to submit the environmental statements validated by accredited environmental auditors to the competent body and keep them at the disposal of the public.

2. Companies which decide to participate in the Eco-audit scheme for a given site shall, after having carried out an initial environmental review of the site, established an environmental protection system, and prepared an environmental statement, submit the first environmental statement validated by an environmental auditor, including the information referred to in Annex IV, to the competent body referred to in Article 10.

(1) OJ No L 293, 24. 10. 1990, p. 1.

3. The commitments defined in this Article shall apply without prejudice to the action decided upon by the Member States within the framework of point (a) of Article 12 (1).

Article 4

Standardization of environmental management systems

The Commission shall request the appropriate European standardization bodies to develop and adopt standards for environmental management systems based on the criteria in Annex I, taking into account the objectives, principles and provisions of this Regulation.

Article 5

Environmental statement

1. An environmental statement shall be prepared for each site participating in the Eco-audit scheme, under the control of company management and on the basis, in particular, of each environmental audit or, for the first statement, of the initial environmental review. It shall be written specifically for the public in a concise, non-technical form.

2. The environmental statement shall include, in particular, the following contents:

— a description of the company's activities at the site considered,

— a detailed assessment of all the significant environmental issues of relevance to the activities concerned,

— a summary of the figures on pollutant emissions, waste generation, raw material, energy and water consumption and other significant environmental aspects, as appropriate,

— a presentation of the company's environmental policy, programme and specific objectives for the site considered,

— an evaluation of the environmental performance of the protection system implemented at the site considered,

— the deadline set for submission of the next statement.

The statement shall be validated under the conditions set out in Annex II.

Article 6

Organization of auditing and validation activities

1. The environmental audit of a site may be conducted either by the company's auditors, if the company has set up its own appropriate system, for example within the framework of the EN 29000 standard, or by external auditors accredited for this purpose by a body recognized by the Member State. In both cases the audit shall be performed in line with the criteria set out in Annex I and, in particular, taking account of the ISO 10011 standards on auditors' qualifications (part 2) and on audit procedures (part 1).

2. The Environmental statements shall be validated by accredited environmental auditors, in line with the criteria set out in Annex II.

Accredited environmental auditors shall not divulge, without authorization from the company management, any information or data obtained in the course of their validation activities.

3. The Commission shall request the European Organization for Testing and Certification (EOTC) to establish the conditions and procedures for certification of compliance with the standards mentioned in Article 4, based on the criteria set out in Annex II, and to ensure coordination of the bodies designated by the Member States within the framework of Article 7 (1).

Article 7

Accreditation of environmental auditors

1. Member States shall ensure, within 12 months of the entry into force of this Regulation, that accreditation systems responsible for laying down and implementing appropriate conditions and procedures for the accreditation of environmental auditors and for supervising their activities are fully operational. To this end, Member States may either use existing certification institutions or designate or set up other appropriate bodies.

In establishing the abovementioned conditions and procedures, the accreditation systems in the Member States shall take account of the criteria set out in Annex II. Member States shall inform the Commission in advance of the measures they intend to adopt on this subject. These measures must be approved by the Commission before they can be adopted by an accreditation system.

Member States shall adopt the rules and procedures necessary to enable the accreditation systems to perform their role.

Member States shall inform the Commission without delay of the measures taken within the framework of this paragraph.

2. The competent bodies, the industrial confederations concerned, non-governmental environmental and consumer organizations and trade unions shall be entitled to participate in setting up and directing, in line with the rules and procedures established by the Member States, the accreditation systems referred to in paragraph 1. The Commission shall be informed of these rules and procedures without delay.

3. The accreditation systems shall collaborate, in particular in supervising the activities of accredited environmental auditors. The Commission shall take appropriate action to facilitate such collaboration.

4. Auditors accredited in one Member State may perform validation activities in any other Member State.

Article 8

List of accredited environmental auditors

The accreditation systems shall establish, update and revise a list of accredited environmental auditors in each Member State and shall communicate this list to the Commission.

The Commission shall publish an overall Community list in the *Official Journal of the European Communities.*

Article 9

List of sites participating in the Eco-audit scheme

1. The bodies designated for this purpose by the Member States shall establish a list of sites participating in the Eco-audit scheme and shall update this list regularly.

If a company fails to submit the validated environmental statements for a site to the competent body within the deadline announced, the site shall be deleted from the list.

2. The competent bodies shall communicate the lists and their updates to the Commission each year.

Each year the Commission shall publish in the *Official Journal of the European Communities* a list of all the sites participating in the Eco-audit scheme in the Community.

Article 10

Competent bodies

Member States shall designate, within 12 months of the entry into force of this Regulation, the competent bodies and shall inform the Commission thereof immediately.

Article 11

The Eco-audit logo

1. The logo illustrated in Annex III may be used in relation to sites participating in the Eco-audit scheme. The logo shall always be accompanied by a statement of which sites are participating.

The logo may be used:

— on the company's environmental statements,

— on the company's brochures, reports and information documentation,

— on the company's headed paper,

— for the company's advertisements, on condition that such advertisements contain no reference to specific products or services.

The logo may not be used on products, product packages or for product advertisement.

The logo shall always be accompanied by one of the phrases in Annex III, as appropriate.

2. The use of the logo shall be forbidden in the case of sites which fail to comply with the requirements of the Community and national environmental regulations.

Member States shall take the necessary measures to empower the competent bodies to supervise use of the logo and shall inform the Commission of these measures immediately.

Article 12

Promotion of the Eco-audit scheme

1. Member States may take action to promote the Eco-audit scheme, provided such action is in compliance with Community law, in particular by:

(a) in the case of small and medium-sized enterprises, establishing or promoting assistance measures and, possibly, structures, aimed at providing such firms with the expertise and support needed in order to comply with the rules, conditions and procedures defined by this Regulation and, in particular, to set up environmental protection systems, conduct audits and prepare and validate statements;

(b) simplifying and/or reducing the practical verification and inspection formalities under certain conditions, in particular for small and medium-sized enterprises;

(c) advertising and informing the public of the Eco-audit scheme.

Member States shall inform the Commission immediately of the measures they take within the framework of this Article.

2. The Commission, having consulted the two sides of industry, shall present proposals to the Council aiming at greater participation in the Eco-audit scheme by small and medium-sized enterprises, in particular by providing information, training and technical assistance.

Article 13

Revision

Four years after the entry into force of this Regulation, the Commission shall review the Eco-audit scheme in the light of the experience gained during its operation and shall, if necessary, propose to the Council the appropriate amendments, particularly to the scope and nature of the scheme.

Within the framework of this revision, the Council shall adopt the amendments proposed by a qualified majority, as provided for by the second paragraph of Article 130s of the Treaty.

Article 14

Entry into force

This Regulation shall enter into force on 1 January 1993.

It shall apply with effect from 1 July 1994.

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

ANNEX I

Issues, criteria and requirements concerning environmental protection systems and environmental auditing

A. Environmental protection systems must be established taking account of the EN 29000 series of standards and, as soon as they are adopted, of any specific standards set in the future within the framework of the provisions of Article 4.

Such systems will include, in particular, the following elements, formally stated in writing: an environmental policy, environmental objectives, an environmental programme and an environmental management system, including an audit programme.

The corresponding documents will explain how the environmental policy and the environmental management system for the site relate to the policy and systems of the company as a whole and will include a statement of the environmental policy conducted by the company.

The environmental protection system will include technical and organizational measures and procedures aiming at generating the information and data necessary to evaluate the environmental performance of activities at the site considered, with reference to the company's environmental policies, objectives and programmes.

B. Issues to be covered

The following issues will be covered within the framework of environmental protection systems and environmental auditing:

— assessment, control and prevention of the impact of the activity concerned on the various sectors of the environment,

— energy management, savings and choice,

— raw materials managment, savings, choice and transportation; water management and savings,

— waste avoidance, recycling, reuse, transportation and disposal,

— selection of production processes,

— product planning (design, packaging, transportation, use and disposal),

— prevention and limitation of accidents,

— staff information, training and participation on environmental issues,

— external information and public participation, including dealing with public complaints.

C. Environmental performance will be assessed by reference to the Community and national standards applicable to this field and to the best available pollution abatement technologies, as defined within the framework of Community legislation.

As regards environmental management, the following 'good management practices' will be taken as the reference, where appropriate, for the protection systems and environmental auditing under the Eco-audit scheme.

1. Management shall prepare and regularly review at the highest level the company's environmental policy, objectives and programmes. These policies, objectives and programmes shall be stated in writing.

2. Management, in cooperation with staff representatives, shall foster a sense of responsibility for the environment amongst employees at all levels.

3. Management shall assess in advance the environmental impact of all new activities, products and processes.

4. Management shall assess and monitor the impact of current activities on the local environment and examine any significant impact of these activities on the environment in general.

5. Management shall ensure that the environmental impact of all the activities is reduced to the minimum.

6. Management shall ensure that the arrangements necessary to reduce waste generation to the minimum and to conserve resources are introduced and applied.

7. Management shall take the necessary measures to prevent accidental emissions of materials or energy.

8. The company shall establish and apply verification procedures to check compliance with the environmental policy and, where these procedures require measurement and testing, to establish and update records of the results.

9. The company shall establish and update the procedures and action to be pursued in the event of detection of non-compliance with its environmental policy, objectives or targets.

10. Management shall cooperate with the public authorities to establish and update contingency procedures to minimize the impact of any accidents that nevertheless occur.

11. Management shall provide the public with the information necessary to understand the potential environmental impact of the company's activities and shall be prepared to respond positively to expressions of public concern.

12. Management shall provide appropriate advice to customers on the prevention of accidents and pollution during the handling, use and disposal of the products made by the company.

13. Management shall ensure that contractors working on the company's behalf apply environmental standards equivalent to the company's own.

D. The issues and requirements mentioned in sections B and C will apply in so far as they are under the control of the site management.

E. Environmental auditing

The audit method and procedure will be established in the light of the relevant guidelines in the ISO 10011 international standards and within the framework of the specific principles and requirements of this Regulation.

In particular:

Objectives

The company's environmental auditing programmes will define, in writing, the specific objectives of auditing of the site considered.

The objectives must include, in particular, assessing the management systems in place, determining compliance with Community, national, and local regulations and determining conformity with company policies.

Scope

The overall scope of the audit must be clearly defined and must explicitly specify the:

— subject areas covered,

— activities at the site,

— environmental performance standards,

— period covered by the audit.

Organization and resources

Environmental audits must be performed by auditors with appropriate knowledge of the sectors and fields audited and sufficient training and proficiency as an auditor to achieve the stated objectives. The resources and time allocated to the audit must be commensurate with the scope and objectives of the audit.

The top company management shall support the auditing.

The auditors shall be independent of the activities they audit.

Planning and preparation for a site audit

Each audit will be planned and prepared with the objectives, in particular, of:

— ensuring that appropriate resources are allocated,

— ensuring that each individual involved in the audit process (including auditors, site management, staff representatives and other key personnel) understands his or her role and responsibilities.

Preparation will include familiarization with activities on the site and with the environmental protection system established there and review of the findings and conclusions of previous audits.

On-site audit activities

On-site activities will include discussions with site personnel, inspection of operating conditions and equipment and reviewing of records, written procedures and other relevant documentation, with the objective of evaluating environmental performance at the site by determining whether the site meets the applicable standards and whether the systems in place to manage environmental responsibilities are effective and appropriate.

The following steps, in particular, will be included in the audit process:

— understanding of the management systems,

— assessing strengths and weaknesses of the management systems,

— gathering relevant evidence,

— evaluating audit results,

— preparing audit conclusions,

— reporting audit findings and conclusions.

Reporting audit findings and conclusions

A written audit report of the appropriate form and content will be prepared by the auditors to ensure full, formal submission of the findings and conclusions of the audit.

The findings and conclusions of the audit must be formally communicated to the top company management.

The fundamental objetive of a written audit report is:

— to document the scope of the audit,

— to provide management with factual information on the environmental performance at the site and with the team's conclusions on this performance,

— to demonstrate the need for and initiate corrective action.

Audit follow-up

The audit process will culminate in the preparation and implementation of a plan of appropriate corrective action.

Appropriate mechanisms must be in place and in operation to ensure that the audit results are followed up.

Criteria for establishing appropriate audit frequency

The audit will be conducted at intervals of between one and three years. The frequency will be established by the top company management, taking account of the potential overall environmental impact of the activities at the site, depending, in particular, on the following elements:

— importance and urgency of the problems detected,

— scale and complexity of the activities,

— volume of emissions,

— history of environmental problems.

The normal auditing frequency in the Eco-audit scheme will be:

— one year for activities with a high environmental impact,

— two years for activities with a moderate environmental impact,

— three years for activities with a low environmental impact.

ANNEX II

Criteria and requirements concerning the accreditation of environmental auditors and to the function of the auditor

A. **Accreditation of environmental auditors**

European standard EN 45012 must be taken into account, as appropriate, in setting up and implementing the accreditation procedures and conditions for environmental auditors.

B. **The function of accredited auditors**

Validation will be carried out by accredited environmental auditors in conformity with the professional codes of practice which will be established and revised by the Commission.

The function of the auditor is to certify:

— compliance with all the requirements of this Regulation, particularly concerning the environmental review, the environmental audit process and the environmental statements,

— the technical validity of the environmental review or audit process and of any other method and procedure on which the information and data contained in the statement are based,

— the reliability of the data and information in the statement and whether the statement adequately covers all the significant environmental issues of relevance to the site.

The auditor will carry out all the investigations necessary to perform the function described above in a sound professional manner, using appropriate methods and avoiding unnecessary duplication of the company's activities and methods.

The auditor will operate on the basis of a written agreement with the company which defines the scope of the work, enables the auditor to operate in an independent professional manner and commits the company to providing the necessary cooperation.

The verification will involve examination of documentation, a visit to the site including, in particular, interviews with personnel, preparation of a report to the company management and solution of the issues raised by the report.

The documentation to be examined in advance of the site visit will include basic information about the site and activities there, the description of the environmental management system in operation at the site, details of the previous environmental review or audit carried out, the report on that review or audit and the draft environmental statement.

The company will also provide the auditor with the necessary information on previous reviews and audits and details of any infringements of the legislation and of any civil suits relating to environmental matters in the previous five years.

The auditor's report to the company management will specify:

1. cases of non-compliance with the provisions of this Regulation;

2. technical defects in the environmental review or audit method or in any other relevant process;

3. points of disagreement with the review or audit report;

4. points of disagreement with the draft environmental statement, together with details of the amendments or additions that should be made to the environmental statement.

The following cases can arise:

(a) if the protection system, the audit method and the other processes used to produce the statement appear to be adequate and the statement proves accurate, sufficiently detailed and in compliance with the requirements of the Eco-audit scheme, the auditor will validate the statement and certify that it gives a true and fair account of the environmental issues of relevance to activities at the site;

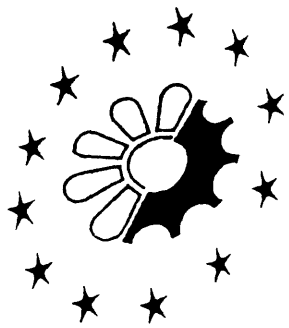
(b) if the protection system, the audit method and the other relevant processes appear adequate but the statement needs to be revised and/or completed, the auditor will discuss the changes needed with the company management and will not validate the statement until the company has made the appropriate amendments and/or additions to the statement;

(c) if the protection system, the audit method and/or the other relevant processes considered appear inadequate, the auditor will make appropriate recommendations to the company's management on the improvements needed and will not validate the statement until the shortcomings in the processes have been corrected, the processes repeated as far as necessary, and the statement revised accordingly.

ANNEX III

The Eco-audit logo

Eco-audit is a European Community scheme for the evaluation and improvement of the environmental performance at industrial production sites.



The logo illustrated above must be used in conjunction with one of the following phrases, as appropriate:

— All our production sites in the EC participate in the Eco-audit scheme.

— All our production sites in (name of Community Member State) participate in the Eco-audit scheme.

— The following production sites of our company participate in the Eco-audit scheme.

ANNEX IV

Information to be provided to the competent bodies at the time of submission of the first environmental statement:

1. Name of company;

2. Name and location of the site;

3. Brief description of activities at the site: (refer to annexed documents if necessary);

4. Name and address of the accredited environmental auditor who validated the statement annexed;

5. Deadline for submission of the next validated environmental statement.

The following details must be annexed to the statement:

(a) a brief description of the environmental protection system;

(b) a description of the auditing programme established for the site;

(c) the initial validated environmental statement.