

Ordinance
of 24 June 2002
Enacting and Amending Ordinances
under Immission Control and Waste Law

On the basis of

- Article 58e of the Federal Immission Control Act (*Bundes-Immissionsschutzgesetz*) as announced on 14 May 1990 (Federal Law Gazette 1990 I p. 880), which was inserted pursuant to Article 2 No. 16 of the Act of 27 July 2001 (Federal Law Gazette 2001 I p. 1950), also in conjunction with Article 15 paragraph 4 of the Federal Immission Control Act as announced on 14 May 1990 (Federal Law Gazette 1990 I p. 880), as revised by Article 1 No. 8 of the Act of 9 October 1996 (Federal Law Gazette 1996 I p. 1498), in conjunction with Article 10 paragraph 10 of the Federal Immission Control Act as announced on 14 May 1990 (Federal Law Gazette 1990 I p. 880), as most recently amended by Article 2 No. 7 of the Act of 27 July 2001 (Federal Law Gazette 2001 I p. 1950),
- Article 55a of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal (*Kreislaufwirtschafts- und Abfallgesetz*) of 27 September 1994 (Federal Law Gazette 1994 I p. 2705), which was inserted pursuant to Article 8 No. 12 of the Act of 27 July 2001 (Federal Law Gazette 2001 I p. 1950),
- Article 19 paragraph 4 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal (*Kreislaufwirtschafts- und Abfallgesetz*) of 27 September 1994 (Federal Law Gazette 1994 I p. 2705), also in conjunction with Article 20 paragraph 1 sentence 2, Article 48 and Article 52 paragraph 2 of the same,

the Federal Government, having heard the parties concerned, ordains as follows:

Section 1

Ordinance on Facilitation of Supervision under Immission Control and Waste Law for Sites and Organisations registered pursuant to Regulation (EC) No. 761/2001 (EMAS Privileges Ordinance (*EMAS-Privilegierungs-Verordnung*) – EMASPrivilegV)

Article 1

Definitions

An EMAS facility within the meaning of this Ordinance shall be a facility which is part of an organisation registered in accordance with Article 6 of 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) (OJ EC No. L 114 p. 1) or part of a site remaining on the EMAS registration list pursuant to Article 17 No. 4 sentence 1 of EC Regulation No. 761/2001.

Only the German version of the text is legally binding !

Article 2

Company Organisation

In relation to EMAS facilities and in relation to waste which has come into the possession of the obligated party in the course of the activities of an organisation registered pursuant to Article 6 of Regulation (EC) No. 761/2001 or a site remaining on the EMAS registration list pursuant to Article 17 paragraph 4 sentence 1 of Regulation (EC) No. 761/2001 in accordance with Article 26 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal, the duties of notification and information concerning operational organisation pursuant to Article 52a of the Federal Immission Control Act and Article 53 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal shall be satisfied by provision of the certificate of registration of the site or organisation. In individual cases the authority may demand the submission of further documents.

Article 3

Company Officer

(1) Orders to appoint one or more company officers pursuant to Article 53 paragraph 2 of the Federal Immission Control Act or pursuant to Article 54 paragraph 2 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal should be waived in the case of an EMAS facility or in the case of a specialised waste management company within the meaning of Article 52 paragraph 1 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal in conjunction with Article 2 paragraphs 1 and 2 of the Specialist Waste Management Companies Ordinance (*Entsorgungsfachbetriebeverordnung*) of 10 September 1996 (Federal Law Gazette 1996 I p. 1421). Sentence 1 shall with the necessary modifications apply to orders pursuant to Article 58a paragraph 2 of the Federal Immission Control Act. In the context of exemption decisions pursuant to Article 6 of the Ordinance of 30 July 1993 on immission control and hazardous incident officers (*Verordnung über Immissionsschutz- und Störfallbeauftragte*) (Federal Law Gazette 1993 I p. 1433), as most recently amended by Article 2 of the Act of 9 September 2001 (Federal Law Gazette 2001 I p. 2331), each in the version in force at the time, the competent authority shall take account of the fact that the facility is an EMAS facility.

(2) Annual reports pursuant to Article 54 paragraph 2 and Article 58b paragraph 2 sentence 1 of the Federal Immission Control Act and pursuant to Article 55 paragraph 2 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal shall not be required provided equivalent information emerges from the environmental audit report and provided the operational immission control, waste management or hazardous incident officer has co-signed the report and agrees with the decision not to prepare a separate annual report.

(3) The duties of notification pursuant to Article 55 paragraph 1 sentence 2 and Article 58c paragraph 1 of the Federal Immission Control Act and pursuant to Article 55 sentence 3 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal in conjunction with Article 55 paragraph 1 sentence 2 of the Federal Immission Control Act shall also be satisfied by the operator of an EMAS facility if he furnishes the competent authority with documentary material prepared in the course of the environmental audit which contains equivalent information.

Article 4

Determination of Emissions

In the case of EMAS facilities the competent authority should not order measurements pursuant to Article 28 sentence 1 number 2 of the Federal Immission Control Act until after expiration of a longer period than three years. The competent authority should moreover permit the operator of an EMAS facility to perform measurements pursuant to Article 28 sentence 1 number 2 of the Federal Immission Control Act using its own personnel if the operator, immission control officer or other suitable employee possesses the necessary expert knowledge and reliability and the use of suitable devices and equipment is ensured.

Article 5

Repeat Measurements, Functional Checks

(1) The competent authority should on application permit the operator of an EMAS facility to perform for such facility, using its own personnel, repeat

1. measurements pursuant to Article 12 paragraph 3 of the Ordinance of 10 December 1990 limiting emissions of highly volatile halogenated organic compounds (*Verordnung zur Emissionsbegrenzung von leichtflüchtigen halogenierten organischen Verbindungen*) (Federal Law Gazette 1990 I p. 2694), most recently amended by Article 2 of the Ordinance of 21 August 2001 (Federal Law Gazette 2001 I p. 2180), in the version in force at the time,
2. measurements pursuant to Article 22 paragraph 1 sentence 1 number 2 of the Ordinance of 22 June 1983 on large firing plants (*Verordnung über Großfeuerungsanlagen*) (Federal Law Gazette 1983 I p. 719), amended by Article 6 of the Act of 3 May 2000 (Federal Law Gazette 2000 I p. 632), in the version in force at the time,
3. measurements pursuant to Article 13 paragraph 2 sentence 2 of the Ordinance of 23 November 1990 on incineration plants for waste and similar combustible substances (*Verordnung über Verbrennungsanlagen für Abfälle und ähnliche brennbare Stoffe*) (Federal Law Gazette 1990 I p. 2545, 2832), most recently amended by Article 6 of the Act of 27 July 2001 (Federal Law Gazette 2001 I p. 1950), in the version in force at the time,
4. measurements pursuant to Article 8 paragraph 3 of the Ordinance of 27 May 1998 limiting emissions of volatile organic compounds during the transfer and storage of motor gasolines (*Verordnung zur Begrenzung der Emissionen flüchtiger organischer Verbindungen beim Umfüllen und Lagern von Ottokraftstoffen*) (Federal Law Gazette 1998 I p. 1174), amended by Article 3 of the Ordinance of 21 August 2001 (Federal Law Gazette 2001 I p. 2180), in the version in force at the time,

if the operator, immission control officer or other suitable employee possesses the necessary expert knowledge and reliability and the use of suitable devices and equipment is ensured.

(2) Subject to the same conditions the competent authority should on application permit the operator of an EMAS facility to perform for such facility, using its own personnel, functional checks pursuant to

1. Article 12 paragraph 7 sentence 2 of the Ordinance limiting emissions of highly volatile halogenated organic compounds in the version in force at the time,
2. Article 28 paragraph 1 of the Ordinance on large firing plants in the version in force at the time,
3. Article 10 paragraph 3 of the Ordinance on incineration plants for waste and similar combustible substances in the version in force at the time,
4. Article 7 paragraph 3 of the Ordinance of 19 March 1997 on cremation facilities (*Verordnung über Anlagen zur Feuerbestattung*) (Federal Law Gazette 1997 I p. 545), which was amended by Article 11 of the Act of 3 May 2000 (Federal Law Gazette 2000 I p. 632), in the version in force at the time.

Sentence 1 shall not apply to initial functional checks.

Article 6

Safety checks

The competent authority should on application permit the operator of an EMAS facility to perform, using its own personnel, safety checks pursuant to Article 29a paragraph 2 numbers 1 to 4 of the Federal Immission Control Act if plant safety aspects have been the subject of the audit and of the check by a suitably qualified environmental verifier and it is ensured that the operator, hazardous incident officer or other suitable employee possesses the necessary expert knowledge and reliability and that appropriate devices and equipment are used. The results of the checks are to be submitted to the authority at the latter's request.

Article 7

Reports

The operator of an EMAS facility shall submit to the competent authority, at the latter's request only,

1. a copy of the report pursuant to Article 12 paragraph 6 of the Ordinance limiting emissions of highly volatile halogenated organic compounds in the version in force at the time,
2. a copy of the report pursuant to Article 8 paragraph 5 sentence 3 of the Ordinance limiting emissions of volatile organic compounds during the transfer and storage of motor gasolines in the version in force at the time,
3. a copy of the report pursuant to Article 6 paragraph 4 sentence 3 of the Ordinance of 7 October 1992 limiting hydrocarbon emissions during the refuelling of motor vehicles (*Verordnung zur Begrenzung der Kohlenwasserstoffemissionen bei der Betankung von Kraftfahrzeugen*) (Federal Law Gazette 1992 I p. 1730) in the version in force at the time,
4. the certificate and the reports pursuant to Article 7 paragraph 3 sentence 3, Article 8 paragraph 2 and Article 10 paragraph 1 of the Ordinance on cremation facilities in the version in force at the time;

if the reports indicate failure to comply with the requirements to be satisfied, the reports shall be submitted unasked to the competent authority. Sentence 1 shall not apply to facilities which fall within the scope of application of the Ordinance limiting emissions of highly volatile halogenated organic compounds and which require authorisation in a procedure pursuant to Article 4 paragraph 1 of the Federal Immission Control Act involving public participation.

Article 8

Extension of Measurement Intervals

The competent authority should extend by one year in each case the intervals for measurements on EMAS facilities pursuant to Article 12 paragraph 3 of the Ordinance limiting emissions of highly volatile halogenated organic compounds in the version in force at the time.

Article 9

Informing the Public

The party obligated under Article 18 of the Ordinance on incineration facilities for waste and similar combustible substances in the version in force at the time may after notifying the competent authority supply the annual information to the public by means of the latest updated environmental statement, provided the latter contains the necessary details.

Article 10

Revocation

(1) The competent authority may wholly or partially revoke the monitoring simplifications granted by it in accordance with this Ordinance if

1. the operator contravenes legal or criminal provisions for the protection of the environment, a condition imposed under authorisation law or a subsequent order, or if
2. facts subsequently become known that constitute grounds for refusing, deleting or suspending the entry of an organisation in the EMAS register.

(2) Insofar as the competent authority makes use of the possibility of revocation pursuant to paragraph 1, it shall inform the competent body for registration thereof in accordance with Article 34 of the Environmental Audit Act (*Umweltauditgesetz*).

Section 2

Authorisation Procedure Ordinance

(Verordnung über das Genehmigungsverfahren)

Article 4 paragraph 1 sentence 2 of the Authorisation Procedure Ordinance in the version announced on 29 May 1992 (Federal Law Gazette 1992 I p. 1001), most recently amended by Article 7 of the Ordinance of 10 December 2001 (Federal Law Gazette 2001 I p. 3379), shall be reworded as follows:

“At the same time account shall be taken of whether the facility is part of a registered site of an organisation registered under

1. Regulation (EC) No. 1836/1993 concerning the voluntary participation of commercial enterprises in a Community eco-management and audit scheme of 29 June 1993 (OJ EC No. L 168 p. 1) or
2. Regulation (EC) No. 761/2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) of 19 March 2001 (OJ EC No. L 114 p. 1)

in respect of which details are contained in an environmental statement submitted to the competent enforcement authority and declared valid and taken as a basis for registration, or in an underlying environmental audit report.”

Section 3

Ordinance limiting emissions of volatile organic compounds during the transfer and storage of motor gasoline

(Verordnung zur Begrenzung der Emissionen flüchtiger organischer Verbindungen beim Umfüllen und Lagern von Ottokraftstoffen)

In Article 11 paragraph 2 of the Ordinance of 27 May 1998 limiting emissions of volatile organic compounds during the transfer and storage of motor gasolines (Federal Law Gazette 1998 I p. 1174), which was amended by Article 3 of the Ordinance of 21 August 2001 (Federal Law Gazette 2001 I p. 2180), the words “in conjunction with Article 17 paragraph 4 sentence 1 of 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) (OJ EC No. L 114 p. 1) or in the list pursuant to Article 7 paragraph 2 of EC Regulation No. 761/2001” shall be inserted after the information “(OJ EC No. L 168 p. 1)”.

Section 4

Ordinance on Waste Management Concepts and Waste Balance Sheets (*Abfallwirtschaftskonzept- und -bilanzverordnung*)

The Ordinance of 13 September 1996 on waste management concepts and waste balance sheets (Federal Law Gazette 1996 I p. 1447; 1997 I p. 2862), most recently amended by Article 3b of the Act of 21 June 2002 (Federal Law Gazette 2002 I p. 2199), shall be amended as follows:

1. in Article 7 paragraph 1 sentence 2 the words “Article 2 letter k of Council Regulation (EEC) No. 1836/93 of 29 June 1993 allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme (OJ EC No. L 168 p. 1)” shall be replaced by the words “Article 2 letter t of 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) (OJ EC No. L 114 p. 1)”.
2. in Article 8 paragraph 6 the words “in conjunction with Article 17 paragraph 4 of 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) (OJ EC No. L 114 p. 1) or pursuant to Regulation (EC) No. 761/2001” shall be inserted after the information “(OJ EC No. L 168 p. 1)”, and the words “and which contains the details for the period concerned that are required pursuant to Articles 19 and 20 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible Waste Disposal and pursuant to the present Ordinance” shall be inserted after the words “accepted as valid”.

Section 5

Specialist Waste Management Companies Ordinance (*Entsorgungsfachbetriebeverordnung*)

The Ordinance of 10 September 1996 on specialist waste management companies (Federal Law Gazette 1996 I p. 1421), amended by Article 6 of the Act of 9 September 2001 (Federal Law Gazette 2001 I p. 2331), shall be amended as follows:

1. in Article 13 paragraph 4 number 2 the words “in conjunction with Article 17 paragraph 4 of 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) (OJ EC No. L 114 p. 1) or pursuant to Article 3 paragraph 2 letter d and paragraph 3 letter a in conjunction with Annex V, Section 5.4 to Regulation (EC) No. 761/2001” shall be inserted after the information “(OJ EC No. L 168 p. 1)”.
2. in Article 15 paragraph 2 the words “in conjunction with Article 17 paragraph 3 of Regulation (EC) No. 761/2001 or for the industrial sectors in subcategories 90.00.3 (collection, transport and temporary storage of waste), 90.00.4 (composting facilities), 90.00.5 (waste incineration facilities), 90.00.6 (other waste treatment facilities) and 90.00.7 (landfill sites) in accordance with the subdivisions of the NACE Code set out in “Klassifizierung der Wirtschaftszweige” (*Classification of Industrial Sectors*), Federal Statistical Office 1993, in conjunction with Council Regulation (EEC) No. 3037/90 concerning the statistical classification of economic activities in the European Community (OJ EC No. L 293 p. 1), as amended by Commission Regulation (EC) No. 761/93 of 24 March 1993 (OJ EC No. L 83 p. 1) and Annex V Section 5.2.2. to Regulation (EC) No. 761/2001” shall be inserted after the words “Article 2 letter i of Regulation (EC) No. 1836/93”.

Section 6

Ordinance on Waste Recovery and Disposal Records (*Nachweisverordnung*)

The Ordinance of 10 September 1996 on waste recovery and disposal records (Federal Law Gazette 1996 I p. 1382, 1997 I p. 2860), as most recently amended by Article 1 of the Ordinance of 25 April 2002 (Federal Law Gazette 2002 I p. 1488), shall be amended as follows:

1. in Article 5 paragraph 2 sentence 3 the words “in conjunction with Article 17 paragraph 4 of 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) (OJ EC No. L 114 p. 1) or pursuant to Article 3 paragraph 2 letters c and e and paragraph 3 letter b in conjunction with Annex III section 3.2 of Regulation (EC) No. 761/2001” shall be inserted after the words “audit scheme”.
2. in Article 13 paragraph 1 sentence 3 the words “in conjunction with Article 17 paragraph 4 of Regulation (EC) No. 761/2001 or pursuant to Article 3 paragraph 2 letters c and e and paragraph 3 letter b in conjunction with Annex III section 3.2 of Regulation (EC) No. 761/2001” shall be inserted after the words “audit scheme”.

Article 7

Entry into Force

This Ordinance shall enter into force on the day following its promulgation.

The Bundesrat has given its consent.

Berlin, 24 June 2002

The Federal Chancellor
Gerhard Schröder

The Federal Minister for the
Environment, Nature Conservation and Nuclear Safety
Jürgen Trittin

Only the German version of the text is legally binding !