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Commission Regulation (EC) No 304/2008

of 2 April 2008

establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, minimum requirements and the conditions for mutual recognition for the certification of companies and personnel as regards stationary fire protection systems and fire extinguishers containing certain fluorinated greenhouse gases

(Text with EEA relevance)

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases, and in particular Article 5(1) thereof,

Whereas:

(1) For the purposes of the requirements of Regulation (EC) No 842/2006, it is necessary to lay down rules on the qualification of personnel carrying out activities, at the location of the operation of systems containing certain fluorinated greenhouse gases, which potentially affect their leakage.

(2) Personnel not yet certified but enrolled in a training course for the purpose of obtaining a certificate should be, for a limited time, allowed to undertake activities for which such certification is required to gain the practical skills needed for the examination, provided that they are supervised by certified personnel.

(3) A number of Member States do not currently have qualification or certification systems in place. A limited period should therefore be allowed for personnel and companies to obtain a certificate.

(4) For the purpose of avoiding undue administrative burden, it should be allowed to build a certification system on existing qualification schemes provided that the skills and knowledge covered and the relevant qualification system are equivalent to the minimum standards envisaged by this Regulation.

(5) Examination is an effective means of testing the ability of a candidate to carry out properly the actions which can directly cause leakage, as well as those that can indirectly cause leakage.

(6) To enable training and certification of personnel currently active in the areas covered by this Regulation without interrupting their professional activity, an adequate interim period is required during which certification should be based on existing qualification schemes and professional experience.

(7) Officially designated evaluation and certification bodies should ensure compliance with the minimum requirements set out in this Regulation and thereby contribute to the effective and efficient mutual recognition of certificates throughout the Community.

(8) Mutual recognition should not apply to interim certificates since the requirements for obtaining those certificates may be significantly lower than existing requirements in some Member States.

(9) Information on the certification system issuing certificates subject to mutual recognition should be notified to the Commission in the format established by Commission Regulation (EC) No 308/2008 of 2 April 2008 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, the format for notification of the training and certification programmes of the Member States. Information on interim certification systems should be notified to the Commission.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 18(1) of Regulation (EC) No 2037/2000 of the European Parliament and of the Council,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes minimum requirements for the certification referred to in Article 5(1) of Regulation (EC) No 842/2006 in relation to stationary fire protection systems and fire extinguishers containing certain fluorinated greenhouse gases as well as the conditions for mutual recognition of certificates issued in accordance with those requirements.

Article 2

Scope

1. This Regulation shall apply to personnel carrying out the following activities with regard to fire protection systems:

(a) leakage checking of applications containing three kilograms or more of fluorinated greenhouse gases;
(b) recovery, also with regard to fire extinguishers;
(c) installation;
(d) maintenance or servicing.

2. It shall also apply to companies carrying out the following activities with regard to fire protection systems:

(a) installation;
(b) maintenance or servicing.

3. This Regulation shall not apply to any manufacturing and repairing activity undertaken at manufacturers' sites for containers or associated components of stationary fire protection systems containing certain fluorinated greenhouse gases.

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

1. 'installation' means connecting for the first time at the location in which they will operate, one or more containers containing or designed to contain fluorinated greenhouse gas extinguishing agent with associated components, excluding those components which do not affect the containment of the extinguishing agent prior to its release for the purpose of fire extinguishing.

2. 'maintenance or servicing' means all activities that entail work on the containers containing or designed to contain fluorinated greenhouse gas extinguishing agent or on the associated components, excluding those components which do not affect the containment of the extinguishing agent prior to its release for the purpose of fire extinguishing.

Article 4

Certification of personnel

1. Personnel carrying out the activities referred to in Article 2(1) shall hold a certificate as referred to in Article 5 or Article 6.

2. Paragraph 1 shall not apply for a maximum period of one year to personnel undertaking one of the activities referred to in Article 2(1), enrolled in a training course for the purpose of obtaining a certificate covering the relevant activity, provided that they carry out the activity under the supervision of a person holding a certificate covering the relevant activity.

3. Member States may decide that paragraph 1 shall not apply for a period which shall not exceed the date referred to in Article 5(4) of Regulation (EC) No 842/2006, to personnel undertaking one or more of the

activities provided for in Article 2(1) of this Regulation before the date referred to in Article 5(2) of Regulation (EC) No 842/2006.

Such personnel shall, for the period referred to in the first subparagraph, be deemed certified as regards those activities for the purposes of the requirements of Regulation (EC) No 842/2006.

Article 5

Personnel certificates

1. A certification body as referred to in Article 10 shall issue a certificate to personnel who have passed a theoretical and practical examination organised by an evaluation body as referred to in Article 11, covering the minimum skills and knowledge set out in the Annex.

2. The certificate shall contain at least the following:

(a) the name of the certification body, the full name of the holder, a certificate number, and the date of expiry if any;

(b) the activities which the holder of the certificate is entitled to perform;

(c) issuing date and issuer's signature.

3. Where an existing examination-based certification system covers the minimum skills and knowledge set out in the Annex and meets the requirements of Articles 10 and 11, but the related attestation does not contain the elements laid down in paragraph 2 of this Article, a certification body referred to in Article 10 may issue a certificate to the holder of this qualification without repeating examination.

4. Where an existing examination based certification system meets the requirements of Articles 10 and 11 and partially covers the minimum skills as set out in the Annex, certification bodies may issue a certificate provided that the applicant passes a supplementary examination of the skills and knowledge not covered by the existing certification organised by an evaluation body referred to in Article 11.

Article 6

Interim certificates for personnel

1. Member States may apply a system of interim certification for personnel referred to in Article 2(1) in accordance with paragraphs 2 or 3, or paragraphs 2 and 3, of this Article.

The interim certificates referred to in paragraphs 2 and 3 shall expire on 4 July 2010 at the latest.

2. Personnel holding an attestation issued under existing qualification schemes for activities referred to in Article 2(1) shall be deemed holders of an interim certificate.

Member States shall identify attestations qualifying as interim certificates for the activities referred to in Article 2(1) which the holder is entitled to carry out.

3. Personnel with professional experience in the activities, acquired before the date referred to in Article 5(2) of Regulation (EC) No 842/2006, shall be issued with an interim certificate by an entity designated by the Member State.

The interim certificate shall indicate the activities covered and the expiry date.

Article 7

Certification of companies

1. Companies referred to in Article 2(2) shall hold a certificate as referred to in Article 8 or Article 9.

2. Member States may decide that paragraph 1 shall not apply for a period which shall not exceed the date referred to in Article 5(4) of Regulation (EC) No 842/2006, to companies involved in one or more of the activities provided for in Article 2(2) of this Regulation before the date referred to in Article 5(2) of Regulation (EC) No 842/2006.

Article 8

Company certificates

1. A certification body as referred to in Article 10 shall issue a certificate to a company for one or more of the activities referred to in Article 2(2) provided that it fulfils the following requirements:

(a) employment of personnel certified in accordance with Article 5, for the activities requiring certification, in a sufficient number to cover the expected volume of activities;

(b) proof that the necessary tools and procedures are available to the personnel engaged in activities for which certification is required.

2. The certificate shall contain at least the following:

(a) the name of the certification body, the full name of the holder, a certificate number, and the date of expiry if any;

(b) the activities which the holder of the certificate is entitled to perform;

(c) issuing date and issuer’s signature.

Article 9

Interim certificates for companies

1. Member States may apply an interim certification system for companies referred to in Article 2(2) in accordance with paragraphs 2 or 3, or paragraphs 2 and 3, of this Article.

The interim certificates referred to in paragraphs 2 and 3 shall expire on 4 July 2010 at the latest.

2. Companies certified under existing certification schemes for activities referred to in Article 2(2) shall be deemed holders of an interim certificate.

Member States shall identify attestations qualifying as interim certificates for the activities referred to in Article 2(2) which the holder is entitled to carry out.

3. Companies employing personnel holding a certificate for the activities for which certification is required for the purposes of Article 2(2) shall be issued with an interim certificate by an entity designated by the Member State.

The interim certificate shall indicate the activities which the holder is entitled to carry out and the expiry date.

Article 10

Certification body

1. A certification body shall be provided for by a national law or regulation, or designated by the competent authority of a Member State or other entities entitled to do so, as being allowed to issue certificates to personnel or companies involved in one or more of the activities referred to in Article 2.

The certification body shall be independent and impartial in carrying out its activities.

2. The certification body shall establish and apply procedures for the issuance, suspending and withdrawing of certificates.

3. The certification body shall maintain records that allow verifying the status of a certified person or company. The records shall demonstrate that the certification process has been effectively fulfilled. Records shall be kept for a minimum period of five years.

Article 11

Evaluation body

1. An evaluation body designated by the competent authority of a Member State or other entities entitled to do so, shall organise examinations for the personnel referred to in Article 2(1). A certification body as referred to in Article 10 may also qualify as an evaluation body.

The evaluation body shall be independent and impartial in carrying out its activities.

2. Examinations shall be planned and structured in a manner which ensures that the minimum skills and knowledge set out in the Annex are covered.

3. The evaluation body shall adopt reporting procedures and keep records to enable the documentation of the individual and overall results of the evaluation.

4. The evaluation body shall ensure that examiners assigned to a test have due knowledge of the relevant examination methods and examination documents as well as an appropriate competence in the field to be examined. It shall also ensure that the necessary equipment, tools and materials are available for the practical tests.

Article 12

Notification

1. By 4 July 2008, Member States shall notify the Commission of their intention to apply an interim certification system according to Articles 6 or 9, or both.

2. By 4 January 2009, Member States shall notify the Commission, where applicable, of designated entities entitled to issue interim certificates and of enacted national provisions according to which documents issued by existing certification systems are deemed as interim certificates.

3. By 4 January 2009, Member States shall notify the Commission of the names and contact details of certification bodies for personnel and companies covered by Article 10 and of the titles of certificates for personnel complying with the requirements of Article 5 and companies complying with the requirements of Article 8, using the format established by Regulation (EC) No 308/2008.

4. Member States shall update the notification submitted pursuant to paragraph 3, with relevant new information, and submit it to the Commission without delay.

Article 13

Conditions for mutual recognition

1. Mutual recognition of certificates issued in other Member States shall only apply to certificates issued in accordance with Article 5 for personnel and Article 8 for companies.

2. Member States may require holders of certificates issued in another Member State to provide a translation of the certificate in another official Community language.

Article 14

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 2 April 2008.

ANNEX

Minimum requirements as to the skills and knowledge to be covered by the evaluation bodies

The examination referred to in Articles 5(1) and 11(2) shall comprise the following:

(a) a theoretical test with one or more questions testing that skill or knowledge, as indicated in the column ‘Test type’ by (T);

(b) a practical test where the applicant shall perform the corresponding task with the relevant material, tools and equipment, as indicated in the column ‘Test type’ by (P).

Minimum knowledge and skills		Test type
1.	Basic knowledge of relevant environment issues (climate change, Kyoto Protocol, global warming potential of fluorinated greenhouse gases)	T
2.	Basic knowledge of relevant technical standards	T
3.	Basic knowledge of relevant provisions of Regulation (EC) No 842/2006 and of the relevant Regulations implementing provisions of Regulation (EC) No 842/2006	T
4.	Good knowledge of the different types of fire protection equipment containing fluorinated greenhouse gases on the market	T
5.	Good knowledge of types of valves, actuation mechanisms, safe handling, prevention of discharge and leakage	T
6.	Good knowledge of equipment and tools required for safe handling and work practices	T
7.	Ability to install fire protection system containers designed to contain fluorinated greenhouse gases	P
8.	Knowledge of correct practices to move pressurised containers containing fluorinated greenhouse gases	T
9.	Ability to check system records prior to a check for leakage and identify the relevant information on any repeating issues or problem areas to pay attention to	T
10.	Ability to make a visual and manual checking of the system for leakage in accordance with Commission Regulation (EC) No 1497/2007 of 18 December 2007 establishing, pursuant to Regulation (EC) No 842/2006 of the European Parliament and of the Council, standard leakage checking requirements for stationary fire protection systems containing certain fluorinated greenhouse gases	P
11.	Knowledge of environmentally friendly practices for the recovery of fluorinated greenhouse gases from and charging of fire protection systems	T