Commission Regulation (EC) No 306/2008 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 personnel recovering certain fluorinated greenhouse gas-based solvents from equipment (Text with EEA relevance)

COMMISSION REGULATION (EC) No 306/2008

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 personnel recovering certain fluorinated greenhouse gas-based solvents from equipment

(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[(1)], 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, on equipment containing certain fluorinated greenhouse gases, which can potentially cause 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 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) Entities manufacturing or operating equipment containing fluorinated greenhouse gas based solvents could be designated as evaluation or certification bodies, or both, provided that they fulfil the relevant requirements.

(6) In order to avoid unnecessary administrative costs, a Member State, in which currently no fluorinated greenhouse gas-based solvents are used, should be entitled not to establish the full certification system, provided the Member State makes the necessary

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arrangement to ensure that certificates could be issued without undue delays in case they might be requested in future, therefore not creating undue market entry barriers.

(7) 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.

(8) 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.

(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[(2)].

(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[(3)],

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation establishes minimum requirements for the certification of personnel recovering certain fluorinated greenhouse gas-based solvents from equipment as well as the conditions for mutual recognition of certificates issued in accordance with those requirements.

Article 2

Certification of personnel

1 Personnel carrying out the activity referred to in Article 1 shall hold a certificate **[**[X1]as referred to in Article 3.**]**

2 Paragraph 1 shall not apply for a maximum period of 1 year to personnel enrolled in a training course for the purpose of obtaining a certificate provided that they carry out the activity under the supervision of a person holding a certificate.

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 the activity provided for in Article 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 this activity for the purposes of the requirements of Regulation (EC) No 842/2006.

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Editorial Information

X1 Substituted by Corrigendum to Commission Regulation (EC) No 306/2008 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 personnel recovering certain fluorinated greenhouse gas-based solvents from equipment (Official Journal of the European Union L 92 of 3 April 2008).

Article 3

Issuance of certificates to personnel

1 A certification body as referred to in Article 4 shall issue a certificate to personnel who have passed a theoretical and practical examination organised by an evaluation body as referred to in Article 5, 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 activity 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 4 and 5, but the related attestation does not contain the elements laid down in paragraph 2 of this Article, a certification body referred to in Article 4 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 4 and 5 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 5.

Article 4

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 involved in the activity referred to in Article 1.

The certification body shall be 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. The records shall demonstrate that the certification process has been effectively fulfilled. Records shall be kept for a minimum period of 5 years.

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Article 5

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 1. A certification body as referred to in Article 4 may also qualify as an evaluation body.

The evaluation body shall be 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 6

Notification

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

2 If fluorinated greenhouse gas-based solvents are not used in a Member State, this Member State may decide not to designate the certification or the evaluation body referred to in Article 4 and 5, or both, before the need for such certification arises in the future. In this case the Member State concerned shall provide for the necessary arrangements under its national legislation in order to ensure the issuance of such certificates without undue delays in the event such certification would be requested in the future.

By 4 January 2009, the Member State shall notify to the Commission the intention to make use of and the arrangements made to comply with this paragraph. In that case, paragraph 1 shall not apply.

3 Member States shall update the notification submitted pursuant to paragraph 1, with relevant new information, and submit it to the Commission without delay.

Article 7

Conditions for mutual recognition

1 Mutual recognition of certificates issued in other Member States shall apply to certificates issued in accordance with Article 3.

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.