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COMMISSION REGULATION (EC) No 498/2007

of 26 March 2007

laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund

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COMMISSION REGULATION (EC) No 498/2007

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laying down detailed rules for the implementation of Council Regulation (EC) No 1198/2006 on the European Fisheries Fund

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund [1], and in particular Article 102 thereof,

Whereas:

(1) Regulation (EC) No 1198/2006 (the basic Regulation) replaces Council Regulations (EC) No 1263/1999 [2] and (EC) No 2792/1999 [3] taking into account new developments in the field of fisheries, fisheries areas and inland fishing. It is therefore appropriate to lay down detailed rules for implementing the basic Regulation.

(2) Detailed rules should be laid down for the presentation of operational programmes. In order to facilitate the establishment of the operational programmes and their examination and approval by the Commission, common rules should be laid down for the structure and content of such programmes, based in particular on the requirements set out in Article 20 of the basic Regulation.

(3) As regards support for measures for the adaptation of the Community fishing fleet, the Member States should present in their operational programmes the methods for the calculation of premiums.

(4) As regards the possibility provided for under Article 25(4) of the basic Regulation to achieve the reduction of engine power by a group of vessels, the conditions for this possibility should be specified.

(5) Certain terms used with special reference to aquaculture and the processing and marketing of fisheries and aquaculture products, should be defined to ensure that they are uniformly understood.

(6) As regards support for productive investments in aquaculture and investments in processing and marketing, the Member States should explain in their operational programmes how they will ensure that priority is given to micro and small enterprises.

(7) As regards support for animal heath measures, detailed conditions should be laid down to ensure compliance with the Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals [4].

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[1] OJ L 223, 15.8.2006, p. 1.
[2] OJ L 161, 26.6.1999, p. 54.
[3] OJ L 337, 30.12.1999, p. 10. Regulation as last amended by Regulation (EC) No 485/2005 (OJ L 81, 30.3.2005, p. 1).
[4] OJ L 328, 24.11.2006, p. 14.

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(8) As regards support for measure of common interest, the eligible expenditure should be defined.

(9) As regards the fisheries areas referred to in Article 43 of the basic Regulation, the conditions for their selection should be specified.

(10) The public-private partnerships supported under Article 45 of the basic Regulation should comply with certain detailed conditions.

(11) As regards support for the sustainable development of fisheries areas, the procedures for selecting groups should be transparent in order to ensure that pertinent and high quality local development strategies are selected for support.

(12) Rules common to several measures should be laid down. In particular, in order to ensure a better targeting of investment operations, a set of common rules for the definition of eligible expenditure should be made available.

(13) In order to guarantee that information on possible funding opportunities is disseminated widely to all interested parties and for the sake of transparency, the minimum content of the information measures needed to inform potential beneficiaries about the financing opportunities offered jointly by the Community and the Member States through the European Fisheries Fund (EFF), including an obligation to publicise the steps that a potential beneficiary should take in order to submit an application for funding and the selection criteria that are to be used, should be set out taking into account the principle of proportionality.

(14) In order to enhance transparency regarding the use of EFF assistance, the list of beneficiaries, the names of the operations and the amount of the public funding allocated to operations should be published annually by Member States, electronically or otherwise. Making such information accessible to the public aims to strengthen the transparency of the Community's action in the area of the development of the fisheries sector, fisheries areas and inland fishing, to enhance the sound financial management of the public funds involved and, in particular, to reinforce control of the public money used and finally to avoid any distortion of competition between beneficiaries of EFF measures. Given the overriding weight of the objectives pursued, it is justified with regard to the principle of proportionality and the requirement of the protection of personal data, to provide for the general publication of the relevant information as it does not go beyond what is necessary in a democratic society and for prevention of irregularities.

(15) In order to ensure a better implementation of the information measures and to allow a better exchange of information between the Member States and the Commission on the information and publicity strategies and results, contact persons responsible for the information and publicity measures should be designated.

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(16) Building on the experience of the 2000-2006 programming period, it is necessary to set out in detail the conditions which financial engineering instruments should fulfil in order to be funded under an operational programme.

(17) With regard to Article 59 of the basic Regulation and in the light of the experience gained, it is necessary to lay down the obligations which the managing authorities should have with regard to beneficiaries in the phase leading to the selection and approval of the operations to be funded, with regard to the aspects which the verifications of the expenditure declared by the beneficiary should cover, including administrative verifications of the applications for reimbursement, and on-the-spot verifications of individual operations and with regard to the conditions to be observed when on-the-spot verifications are carried out on a sample basis.

(18) It is also necessary to set out in detail the information which should be included in the accounting records of operations and the information to be kept as data on implementation which the managing authorities should record, store and submit to the Commission upon request.

(19) In order to ensure that expenditure under operational programmes can be properly audited, it is necessary to set out the criteria that an audit trail should comply with in order to be considered adequate.

(20) The audit of operations is carried out under the responsibility of the audit authority. To ensure that the scope and effectiveness of those audits are adequate and that they are carried out according to the same standards in all Member States, it is necessary to set out the conditions which those audits should fulfil.

(21) Experience has shown that it is necessary to set out in detail the basis for the sampling of operations to be audited, which the audit authority should observe in establishing or approving the sampling method, including certain technical criteria to be used for a random statistical sample and factors to be taken into account for a complementary sample.

(22) In order to simplify and harmonise standards for the preparation and presentation of the audit strategy, the annual control report and the closure declarations for which the audit authority is responsible under Article 61 of the basic Regulation, it is necessary to lay down detailed rules concerning their content and specify the nature and quality of the information on which they rely.

(23) In order to ensure the most effective application of Article 87 of the basic Regulation with regard to the availability of documents and the rights of the Court of Auditors and the Commission to have access to all supporting documents regarding expenditure and audits, managing authorities should ensure that information on the identity and location of the bodies holding the supporting documents is readily available and those documents should be readily provided to a minimum list of persons and bodies. For the same purpose, it is necessary to set out which data carriers may be considered as commonly accepted for the purpose of keeping such documents. To that end, the national authorities should lay down the procedures necessary to ensure that the documents kept are in conformity with the originals, when this is relevant, and can be relied on for audit purposes.

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(24) In order to harmonise standards for the certification of expenditure and for the preparation of applications for payments, the content of such certificates and applications should be laid down and the nature and quality of the information, on which they rely, specified. Detailed procedures should be set out for keeping, in accordance with Article 60(f) of the basic Regulation, an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation and for informing the Commission accordingly.

(25) Under Article 71 of the basic Regulation, the Member States are required before the submission of the first application for interim payment or at least within twelve months after the approval of the operational programme, to submit to the Commission a description of the management and control systems, a report setting out the results of an assessment of the systems set up and an opinion on their compliance with the provisions of that Regulation on management and control systems. Since those documents are among the principal elements that the Commission relies on, in the context of the shared management of the Community budget, to satisfy itself that the financial assistance concerned is used by the Member States in accordance with the applicable rules and principles necessary for protecting the Community's financial interests, it is necessary to set out in detail the information that such documents should contain and the basis for the assessment and the opinion.

(26) Article 57 of the basic Regulation provides that the arrangements for auditing are to be proportionate to the total amount of public expenditure allocated to the operational programme concerned. Where the public expenditure allocated to the operational programme is limited, it is appropriate that there should be an option for the Member State to rely more on national bodies and rules for carrying out certain functions related to the control and audit arrangements and that the Commission should therefore specify which verifications, which audits of operations and which obligations may be carried out and executed according to national rules and by national bodies. In those circumstances, the Commission should also differentiate between the means by which Member States have to fulfil the functions of certification of expenditure and verification of the management and control system and establish the conditions under which it may limit its own audit and rely on assurances provided by national bodies.

(27) As part of their management and control obligations, Member States are required to report and monitor irregularities. Detailed rules to implement that requirement were laid down in Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums unduly paid in connection with the financing of the structural policies and the organisation of an information system in this field ([1]). It is appropriate, for reasons of clarity and simplification, to incorporate those rules into this Regulation.

([1]) OJ L 178, 12.7.1994, p. 43. Regulation as amended by Regulation (EC) No 2035/2005 (OJ L 328, 15.12.2005, p. 8).