Commission Regulation (EC) No 2121/2004 of 13 December 2004 amending Regulation (EC) No 1727/1999 laying down certain detailed rules for the application of Council Regulation (EEC) No 2158/92 on protection of the Community's forests against fire and Regulation (EC) No 2278/1999 laying down certain detailed rules for the application of Council Regulation (EEC) N) 3528/86 on the protection of the Community's forests against atmospheric pollution

COMMISSION REGULATION (EC) No 2121/2004

of 13 December 2004

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2152/2003 of the European Parliament and of the Council of 17 November 2003 concerning monitoring of forests and environmental interactions in the Community[(1)], and in particular Article 14(5) thereof,

Whereas:

(1) Regulation (EC) No 2152/2003 applies from 1 January 2003 and provides the basis to continue with an integrated approach the measures previously carried out under Council Regulation (EEC) No 3528/86 of 17 November 1986 on the protection of the Community's forests against atmospheric pollution[(2)] and Council Regulation (EEC) No 2158/92 of 23 July 1992 on protection of the Community's forests against fire[(3)]. In addition, Regulation (EC) No 2152/2003 has been established to continue air pollution and fire-related forest monitoring and study any further development of the scheme in the future in order to address new environmental issues of relevance for the Community.

(2) Article 8(1) of Regulation (EC) No 2152/2003 stipulates that the activities provided for in Articles 4, 5, 6(2) and (3) and 7(2) of the Regulation shall be implemented under national programmes to be drawn up by Member States for a period of two years. According to Article 8(5), on the basis of the national programmes submitted, or on the basis of any approved adaptations of these national programmes, the Commission shall decide on the financial contributions to the eligible costs.

(3) Article 14(1) of Regulation (EC) No 2152/2003 requires Member States to designate the bodies competent to manage the activities included in the approved national programmes. Thus, that Regulation explicitly delegates implementation tasks to national bodies.

(4) In the absence of a Commission Regulation laying down the detailed rules for the implementation of Regulation (EC) No 2152/2003, the provisions of Commission Regulations (EEC) 1696/87 of 10 June 1987 laying down certain detailed rules for the implementation of Council Regulation (EEC) No 3528/86 on the protection of the Community's forests against atmospheric pollution (inventories, network, reports)[4], (EC) No 804/94 of 11 April 1994 laying down certain detailed rules for the application of Council Regulation (EEC) No 2158/92 as regards forest fire information systems[5], (EC) No 1091/94 of 29 April 1994 laying down certain detailed rules for the implementation of Council Regulation (EEC) No 3528/86 on the protection of the Community's forests against atmospheric pollution[6], (EC) No 1727/1999[7] and (EC) No 2278/1999[8] are still applicable, in so far as they are not incompatible with Regulation (EC) No 2152/2003.

(5) Certain provisions of Regulations (EC) No 1727/1999 and (EC) No 2278/1999 should, however, be brought into line with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[9], in particular Article 54(2)(c) and Article 56 thereof, and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities[10].

(6) Prior analysis has disclosed that the delegation of budget implementation tasks in accordance with Article 54(2)(c) of Regulation (EC, Euratom) No 1605/2002 to national public-sector bodies or bodies governed by private law satisfies the requirements of sound financial management and ensures compliance with the principle of non-discrimination and the visibility of Community action.

(7) Criteria for the selection of bodies competent to be designated by the Member States according to Regulation (EC) No 2152/2003 should be introduced into Regulations (EC) No 1727/1999 and (EC) No 2278/1999 together with provisions ensuring compliance with the requirements of a sound financial management and full respect of the principles of non-discrimination and transparency.

(8) Regulations (EC) No 1727/1999 and (EC) No 2278/1999 should therefore be amended accordingly.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Forestry Committee,

HAS ADOPTED THIS REGULATION:

Article 1

In Regulation (EC) No 1727/1999 the following Article 2a is inserted:

Article 2a

1 The competent bodies designated by the Member States under Article 14 of Regulation (EC) No 2152/2003 of the European Parliament and of the Council[11] in order to manage the activities included in the approved national programmes shall comply with the rules laid down

in the Council Regulation (EC, Euratom) No 1605/2002[(12)] and Commission Regulation (EC, Euratom) No 2342/2002[(13)] as well as with the provisions laid down in the present Regulation.

2 In particular, the bodies referred to in paragraph 1, hereinafter referred to as the 'competent bodies', shall meet at least the following criteria:

a they shall be national public-sector bodies or private-law entities with a public-service mission, provided that they are governed by the law of one of the Member States;

b they shall offer adequate financial guarantees, issued preferably by a public authority, in particular as regards full recovery of amounts due to the Commission;

c they shall operate according to the requirements of sound financial management;

d they shall ensure the transparency of the operations carried out in accordance with Article 56(1)(a) to (e) of Regulation (EC, Euratom) No 1605/2002.

3 In addition to meeting the criteria set out in paragraph 2 the private-law entities referred to in point (a) of that paragraph shall provide proof of the following:

a their technical and professional capacity, on the basis of documentary evidence of the educational and professional qualifications of the members of their managerial staff;

b their economic and financial capacity, on the basis of appropriate statements from banks or evidence of relevant professional risk indemnity insurance or a state guarantee, or balance sheets, or extracts from balance sheets, covering at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the entity is established;

c their competence under national law to perform the budget-implementation tasks, as attested by for example documentary evidence of their enrolment in a professional or trade register or a sworn declaration or certificate, membership of a specific organisation, express authorisation or entry in VAT register;

d that they are not in one of the situations listed in Articles 93 and 94 of Regulation (EC) No 1605/2002.

4 The Commission shall conclude an agreement with the competent bodies in conformity with Articles 56 of Regulation (EC, Euratom) No 1605/2002 and Articles 35 and 41 of Regulation (EC, Euratom) No 2342/2002.

5 The competent bodies shall conduct regular checks to ensure that the actions to be financed under Regulation (EC) No 2152/2003 have been implemented correctly. They shall take appropriate measures to prevent irregularities and fraud and if necessary bring prosecutions to recover funds lost, wrongly paid or incorrectly used.

6 The competent bodies shall provide the Commission with any information it requests. The Commission can carry out document and on-the-spot checks into their existence, relevance and proper operation, in accordance with the rules of sound financial management.

7 The competent bodies shall be the intermediary to whom the Community contribution is paid, and where the accounts and records of the receipt and payment of that contribution in support of the national programme are held, including all invoices and documents of a similar probative value to support the direct and indirect costs of the programme.

Article 2

Regulation (EC) No 2278/1999 is amended as follows. The following Article 2a is inserted: