



EUROPEAN
COMMISSION

Brussels, 31.1.2014
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COMMISSION IMPLEMENTING DECISION

of 31.1.2014

**amending Commission Implementing Decision C(2012) 9432 so as to modify the Award
Decision under the first call for proposals of the NER300 funding programme**

only the Spanish, German, Greek, English, French, Italian, Hungarian, Dutch, Polish,
Portuguese, Finnish, Swedish language versions are authentic

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC¹, as amended by Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community², and in particular Article 10a(8) thereof,

Having regard to Commission Decision 2010/670/EU of 3 November 2010 laying down criteria and measures for the financing of commercial demonstration projects that aim at the environmentally safe capture and geological storage of CO₂ as well as demonstration projects of innovative renewable energy technologies under the scheme for greenhouse gas emission allowance trading within the Community established by Directive 2003/87/EC of the European Parliament and of the Council³, and in particular Article 5(5) thereof,

Having regard to Article 17(1) of the Treaty on European Union,

Whereas:

- (1) Article 10a(8) of Directive 2003/87/EC establishes a mechanism for the financing of commercial demonstration projects that aim at the environmentally safe capture and geological storage of CO₂ (hereinafter: "CCS") and demonstration projects of innovative renewable energy technologies (hereinafter: "RES"), covering 300 million allowances from the new entrants reserve of the EU Emissions Trading System (hereinafter: "NER300 funding programme").
- (2) Commission Decision 2010/670/EU sets out the rules and criteria for the selection and implementation of those projects and the basic rules for the monetisation of allowances and for the management of revenues.
- (3) Pursuant to Articles 5 to 9 of Commission Decision 2010/670/EU, the Commission published a first call for proposals covering the proceeds of 200 million allowances out of the 300 million allowances on 9 November 2010, followed by a selection procedure and the adoption of an Award Decision under the first call for proposals of

¹ OJ L 275, 25.10.2003, p. 32.

² OJ L 140, 5.6.2009, p. 63.

³ OJ L 290, 6.11.2010, p. 39.

the NER300 funding programme for 23 projects on 18 December 2012⁴ (hereinafter: "Award Decision").

- (4) The Commission, during the following months, received notifications by Member States, where changes were proposed to some of the awarded projects. Following the procedure set out by Annex 2, points 4 and 5 of the Award Decision, the Commission carried out the assessments upon the technical and financial implications of the proposed changes on the projects, checked whether the Member States would support the potential changes and concluded that the duly justified changes should be implemented. In addition, one Member State requested to withdraw their project from the Award Decision. Therefore, this amendment to the Award Decision is necessary to take changes to six projects into account. It is also adjusted in the light of the withdrawal of one project. The whole Annex 1 to the Award Decision is replaced.
- (5) There are three types of amendments: a) the modification of date of entry into operation of a project; b) the request for granting of an upfront funding; c) technical and financial adjustments to the project definition. All changes are agreed and adopted on the understanding that they neither affect the scope of the projects and their feasibility, nor the results of the selection procedure, nor the maximum amount of funding.
- (6) Regarding the date of entry into operation, five projects are concerned. For all of them the date of entry in operation is shifted to 31 December 2016, in view of delays in permitting procedures or financial planning.
- (7) Two projects are granted upfront funding, according to Article 11(5) of Commission Decision 2010/670/EU, so as to improve the viability of their financing plans. The granting was agreed upon guarantee given by Member States that any funding which exceeds the amount determined pursuant to the Award Decision will be returned to the EIB.
- (8) Technical and financial adjustments to the project definition are required for one project insofar as, pursuant to Annex 2, point 4 of the Award Decision, the relevant costs to be taken into account for the final investment decision are now estimated lower than the relevant costs on the basis of which the Award Decision was determined.
- (9) One project is instead withdrawn because the available technologies are not sufficiently developed yet in order to meet the timeline requirements laid down by Article 9 and 11(1) of Commission Decision 2010/670/EU.
- (10) This Decision also modifies Annex 3, point 7 of the Award Decision, in order to make it consistent with the provisions of Annex 2, point 3 of the Award Decision, where a distinction is made between the case of definite failure of a project to enter into operation from that of a definite cessation of operation. In the former case the Award Decision shall cease to have effect retroactively (*ex tunc*); in the latter as of the date of notification (*ex nunc*).
- (11) The measures provided for in this Decision are in accordance with the opinion of the Climate Change Committee,

⁴ Commission Implementing Decision C(2012) 9432.

HAS ADOPTED THIS DECISION:

Article 1

Annex 1 to Commission Implementing Decision C(2012) 9432 is replaced by Annex 1 to this Decision.

Article 2

In Annex 3 to Commission Implementing Decision C(2012) 9432, point 7 is replaced by the following text:

7. Project failure

- (a) Where the Project, for other reasons than those set out in 5. definitively fails to enter into operation, the Project "*ex tunc*" loses its entitlement to receive funding under [*insert title of Legally Binding Instrument*] "and 5c shall apply. Where the Project definitively ceases operation, the Project *ex nunc* loses its entitlement to receive funding under [*insert title of Legally Binding Instrument*]".
- (b) The Project Sponsor shall notify [*insert details of competent authority of the Member State*] of any event that may lead to a situation referred to in paragraph a) within one week of its occurrence. [*insert details of competent authority of the Member State*] will determine whether or not the conditions referred to in paragraph a) are met and notify the Commission accordingly as specified in the Award Decision.
- (c) Based on the determination referred to in paragraph b) "regarding definitive cease of operation", [*insert details of competent authority of the Member State*] shall calculate any Excess Funding as defined in Annex I in accordance with Annex I.3 and shall notify the Project Sponsor of any Excess Funding within one month of the notification referred to in paragraph b).
- (d) Any Excess Funding notified to the Project Sponsor in accordance with paragraph c) shall be returned to [*insert details of competent authority of the Member State*] within three months of the notification referred to under paragraph c).

Article 3

This Decision is addressed to the Kingdom of Belgium, the Federal Republic of Germany, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, Hungary, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 31.1.2014

For the Commission
Connie HEDEGAARD
Member of the Commission

