

**THE ACT
of 17 July 2009
on the System to Manage the Emissions of
Greenhouse Gases and Other Substances¹⁾**

**Based on OJ L of
2009 no 130, item
1070, no 215, item
1664. of 2010 no
249, item 1657, of
2011 no 122, item
695, of 2012 item
460, 951, of 2013
item 139.**

¹⁾ In the scope of its regulation this Act implements the following Directives of the European Communities:

- 1) Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants (OJ L 309 of 27.11.2001, p. 22, as amended; OJ, Polish Special Edition, Chapter 15, vol. 6, p. 320);
- 2) Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (OJ L 309 of 27.11.2001, p. 1, as amended; OJ, Polish Special Edition, Chapter 15, vol. 6, p. 299);
- 3) Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (OJ L 338 of 13.11.2004, p. 18);
- 4) Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152 of 11.06.2008, p. 1).

This Act provides for the implementation of the following Decisions:

- 1) Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol (OJ L 49 of 19.02.2004, p. 1; OJ, Polish Special Edition, Chapter 15, vol. 8, p. 57);
- 2) Commission Decision 2005/166/EC of 10 February 2005 laying down rules implementing Decision No 280/2004/EC of the European Parliament and of the Council concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol (OJ L 55 of 1.03.2005, p. 57);
- 3) Commission Decision 2007/589/EC of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 229 of 31.08.2007, p. 1);
- 4) Commission Decision 2006/780/EC of 13 November 2006 on avoiding double counting of greenhouse gas emission reductions under the Community emissions trading scheme for project activities under the Kyoto Protocol pursuant to Directive 2003/87/EC of the European Parliament and of the Council (OJ L 316 of 16.11.2006, p. 12).

In the scope of its regulation this Act provides for the implementation of Commission Regulation (EC) No 2216/2004 of 21 December 2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (OJ L 386 of 29.12.2004, p. 1), as amended by Commission Regulation (EC) No 916/2007 of 31 July 2007 amending Commission Regulation (EC) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (OJ L 200 of 1.08.2007, p. 5), and by Commission Regulation (EC) No 994/2008 of 8 October 2008 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (OJ L 271 of 11.10.2008, p. 3), and Regulation No 166/2006 (EC) of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJ L 33 of 4.02.2006, p.1).

This Act amends the Act of 20 July 1991 on the Inspectorate for Environmental Protection and the Environmental Protection Act of 27 April 2001.

Chapter 1

General Provisions

Article 1.

1. This Act sets forth:

- 1) the responsibilities of the National Centre for Emission Balancing and Management;
- 2) the principles of the operation of the National System for Emission Balancing and Forecasting;
- 3) the principles of the management of emissions of greenhouse gases and other substances;
- 4) the principles of the operation of the National Registry of the Kyoto Units and emission allowance;
- 5) the principles of trading in and managing the Kyoto units;
- 6) the principles of the operation of the National Green Investment Scheme and the Climate Account;
- 7) the terms and conditions of the management of the Joint Implementation projects in the territory of the Republic of Poland;
- 8) the terms and conditions of the management outside the territory of the Republic of Poland for:
 - a. the Joint Implementation projects,
 - b. the Clean Development Mechanism projects.

2. The list of greenhouse gases and other substances released into the air and covered by the system for the management of emissions of greenhouse gases and other substances is set out in the Annex to this Act.

Article 2.

For the purposes of this Act:

- 1) “independent accredited entity” shall mean the entity authorised to assess the project documentation referred to in Article 40(7) point 1 and to validate the number of the emission reduction units obtained as a result of the completion of a Joint Implementation project, as selected or identified by the Supervisory Committee;
- 2) “activity” shall mean the parameters to characterise an emission-generating activity, including: the production level, the amount of raw materials or fuels consumed, the quantity of waste generated, the distance travelled as expressed in kilometres and the weight of goods transported;
- 3) “emission balancing” shall mean the identification and forecasting of the emission level, avoided emission and reduced emission, and the collection and processing of information about these values, using data collected for the purposes of national policies and for the purposes of the compliance with the international commitments;
- 4) “equivalent” shall mean one megagram (1 Mg) of carbon dioxide (CO₂) or a quantity of another greenhouse gas equal to one megagram (1 Mg) of carbon dioxide (CO₂), calculated with the application of the respective warming index;
- 5) “emission” shall mean the release, direct or indirect, of greenhouse gases or other substances into the air as a result of an anthropogenic activity;

- 6) “avoided emission” shall mean the emission levels, which could be released into the air in a given year from installations using technologies applied commonly to manufacture a specific product in the territory of the Republic of Poland, but have not been released into the air due to the application of a different technical solution or technology, or other raw materials or fuels, in a new installation;
- 7) “reduced emission” shall mean the emission level which was not released into the air in a given year from an existing installation as a result of modernisation activities undertaken with the aim to reduce the emission level per unit product manufactured or unit quantity of a raw material, intermediate or fuel consumed by the plant on the site of which the installation is situated; however, not as a result of a reduction in its production level;
- 8) “forest management” shall mean any activity in the scope of forest management, protection and development, the maintenance and enhancement of forest resources and crops, as well as the harvesting, except for by means of purchase, of timber, natural resin, young spruces, firs or pines, stump wood, bark, conifer needles and undergrowth crops;
- 9) “installation” shall mean the installation within the meaning of Article 3 point 6 of the Environmental Protection Act of 27 April 2001 (OJ L of 2008, no 25, item 150, as amended²);
- 10) “Kyoto unit” shall mean a certified emission reduction unit, an assigned amount unit, an emission reduction unit or a removal unit;
- 11) “removal unit” shall mean one megagram (1 Mg) of carbon dioxide (CO₂) removed as a result of:
 - a) an anthropogenic activity aimed at the enhancement of a carbon dioxide (CO₂) removal by agriculturally used soil,
 - b) a change in the manner of using agricultural or forest land, including in the scope of afforestation, re-afforestation and deforestation,
 - c) forest management;
- 12) “certified emission reduction unit” shall mean reduced or avoided greenhouse gas emission, as expressed by the equivalent, achieved as a result of the implementation of a Clean Development Mechanism project;
- 13) “assigned amount unit” shall mean the amount of greenhouse gas emission, as expressed by the equivalent, assigned to the eligible State in accordance to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, done in Kyoto on 11 December 1997 (OJ of 2005, no 203, item 1684), hereinafter referred to as the “Kyoto Protocol”;
- 14) “emission reduction unit” shall mean reduced or avoided greenhouse gas emission, as expressed by the equivalent, or one megagram (1 Mg) of carbon dioxide (CO₂) removed, achieved as a result of the implementation of a Joint Implementation project;
- 15) “Supervisory Committee” shall mean the executive body of the Kyoto Protocol established to supervise the implementation of the Joint Implementation projects carried out under Track 2 procedure referred to in Article 37(3);
- 16) “domestic reserve of the Kyoto units” shall mean the quantity of the Kyoto units that the Republic of Poland is obliged to maintain in its National Registry of the

² Amendments to the consolidated text of the cited Act were published in OJ L no 111, item 708; no 138, item 865; no 154, item 958; no 171, item 1056; no 199, item 1227; no 223, item 1446, no 227, item 1505; and of 2009, no 19, item 100, no 20, item 106, no 79, item 666.

- Kyoto Units in a given commitment period pursuant to the provisions of the international law or the European Union law;
- 17) “national emission ceiling” shall mean the maximum emission level which may be emitted in the territory of the Republic of Poland in a given commitment period under the provisions of the international law or the European Union law;
 - 18) “commitment period” shall mean the period of time in which emissions are determined in order to obtain information necessary for supporting the measures designed to ensure that the Republic of Poland meets its international emission reduction commitments;
 - 19) “eligible States” shall mean the States listed in Annex I to the United Nations Framework Convention on Climate Change, done in New York on 9 May 1992 (OJ of 1996, no 53, item 238), hereinafter referred to as the UNFCCC, which ratified the Kyoto Protocol, pursuant to Article 1(7) of the Kyoto Protocol;
 - 20) “user of the environment” shall mean the user of the environment within the meaning of Article 3 point 20 of the Environmental Protection Act of 27 April 2001;
 - 20a) “double counting of emission reductions” shall mean
 - 21) “baseline level” shall mean the level of greenhouse gas emission estimated with the highest probability that would occur if the implementation of a Joint Implementation project or a Clean Development Mechanism project were not undertaken, which provides the reference level allowing for the determination of reduced emission or avoided emission;
 - 22) “Clean Development Mechanism project” shall mean a project implemented by an eligible State in the territory of a State other than the eligible State to reduce or avoid greenhouse gas emission as well as to remove carbon dioxide (CO₂) emission as a result of afforestation or re-afforestation;
 - 23) “Joint Implementation project” shall mean a project implemented by an eligible State in the territory of another eligible State to reduce or avoid greenhouse gas emission, or to remove carbon dioxide (CO₂);
 - 24) “installation operator” shall mean the installation operator within the meaning of Article 3 point 31 of the Environmental Protection Act of 27 April 2001;
 - 25) “emission allowance” shall mean the emission allowance within the meaning of the regulations on the greenhouse gas emission allowance trading scheme;
 - 26) “equipment” shall mean the equipment within the meaning of Article 3 point 42 of the Environmental Protection Act of 27 April 2001;
 - 27) “plant” shall mean the plant within the meaning of Article 3 point 48 of the Environmental Protection Act of 27 April 2001;
 - 28) “emission source” shall mean the installation or its part the operation whereof causes emission.

Chapter 2

The National Centre for Emission Balancing and Management

Article 3.

1. The National Centre for Emission Balancing and Management, hereinafter referred to as the “National Centre”, is hereby established.
2. The responsibilities of the National Centre shall include:
 - 1) carrying out tasks relating to the operation of the National System for Emission Balancing and Forecasting, including the keeping of the National Database on Emissions of Greenhouse Gases and Other Substances, hereinafter referred to as the “National Database”;
 - 2) keeping the National Registry of the Kyoto Units;
 - 3) providing opinions on the requests for the issue of the Letter of Endorsement and the requests for the issue of the Letter of Approval for the implementation of the Joint Implementation projects to be implemented in the territory of the Republic of Poland;
 - 4) keeping the list of the Joint Implementation projects implemented in the territory of the Republic of Poland for which the Letters of Endorsement or the Letters of Approval have been issued;
 - 5) keeping the list of the entities authorised to verify the reports;
 - 6) drawing up reports and forecasts on the emission levels;
 - 7) developing the methods to determine the emission levels for particular types of installations or activities and the methods to determine the emission factors per unit product manufactured, fuel consumed or raw material used;
 - 8) developing the emission factors per unit product manufactured, fuel consumed or raw material used;
 - 9) monitoring actions related to the implementation of the Joint Implementation projects and Clean Development Mechanism project, as well as other projects aimed at reducing or avoiding greenhouse gas emission;
 - 10) administering greenhouse gas emission allowance trading scheme, in particular:
 - a) keeping the electronic database containing information about installations subject to the scheme necessary for the development of the draft national greenhouse gas allocation plan for the installations subject to the scheme, and the list referred to in Article 21(2) of the Act of 28 April 2011 on the greenhouse gas emission allowance trading scheme (Dz.U. no 122, item 695), and monitoring the method of the installation operator’s fulfilling the obligations related to the participation in the scheme,
 - b) keeping the electronic database containing information about aircraft operators performing air operations under the scheme necessary for monitoring the method of the aircraft operators’ fulfilling the obligations related to the participation in the scheme,
 - c) providing opinions on monitoring plans, referred to in Article 51(1) of the Act of 28 April 2011 on the greenhouse gas emission allowance trading scheme,
 - d) collecting data and performing analyses on the scheme,

- e) developing of the draft national greenhouse gas allocation plan for the installations subject to the scheme, and the list referred to in Article 21(2) of the Act of 28 April 2011 on the greenhouse gas emission allowance trading scheme,
- f) compiling reports on the scheme in terms of participation in the system of installations and aircraft operators,
- g) providing explanations, preparing information and training materials, and conducting trainings on the scheme,
- h) cooperation with public administration authorities within the scope of the scheme and fulfilment of international commitments under the scheme,
- i) keeping the list of the entities authorised to verify the reports specified in the Act of 28 April 2011 on the greenhouse gas emission allowance trading scheme prepared by the aircraft operators and installation operators,
- j) conducting emission allowance,
- k) providing opinions, upon the request of the Minister responsible for the environment, on draft legal acts and documents concerning the scheme,
- l) drawing up lists of the installation operators and aircraft operators who infringed their obligations related to the participation in the scheme, and forwarding them to the Minister responsible for the environment.

3. The National Centre shall draw up sets of information and reports, in particular for the purposes of:

- 1) the public statistics;
 - 2) the system of charges for the release of gases and particulate matter into the air;
 - 3) the greenhouse gas emission balancing system;
 - 4) the system for balancing and accounting for the emissions of sulphur dioxide (SO₂) and nitrogen oxides (NO_x) from large combustion plants;
 - 5) reporting in the framework of the greenhouse gas emission allowance trading scheme;
 - 6) the current air quality assessment, including model analyses.
4. On the basis of the information held in the National Database, the National Centre may also draw up sets of information and reports, other than specified in paragraph 3, for the purposes of the public administration authorities, business self-government bodies and employers' organisations.
5. With a view to meeting the need to provide the public administration authorities with full and timely access to information on emission levels, the Minister responsible for the environment shall lay down, by way of a Regulation, the list of the sets of information and reports referred to in paragraph 4 above and the dates for their forwarding.
6. The sets of information and reports, referred to in paragraph 3, and sets of information and reports put in the list, referred to in paragraph 5, shall be prepared free of charge to the public administration authorities.

Article 4.

- 1. The performance of the responsibilities of the National Centre is hereby entrusted to the Institute of Environmental Protection in Warsaw.
- 2. (repealed).

Article 5.

1. The Minister responsible for the environment shall supervise the performance of its responsibilities by the National Centre.
2. By 31 January of each year, the National Centre shall submit a report on the performance of its responsibilities for the previous calendar year to the Minister responsible for the environment.
3. Where the report is incomplete or gives rise to objections, the Minister responsible for the environment may request that the report should be supplemented or additional clarification should be provided by the date which he sets out.
4. If by the set date the National Centre fails to supplement the report or to submit the clarification required, or if the report submitted still gives rise to objections, the Minister responsible for the environment may order the officials authorised by name from the agency servicing the Minister to carry out an inspection in the scope of the tasks performed by the National Centre.
5. If any significant irregularities are found by the inspection in the scope of the performance of its responsibilities by the National Centre, the Minister responsible for the environment may dismiss the Director of the Institute of Environmental Protection prior to the end of their term in office, without seeking the opinion referred to in Article 22(1) of the Act of 25 July 1985 on the Research and Development Establishments (Dz.U. of 2008, no 159, item 993).

Article 5a.

By 30 June of each year, the Minister responsible for the environment shall submit information on the performance of tasks specified in this Act and in the Act of 28 April 2011 on the greenhouse gas emission allowance trading scheme, and the list of funds spent on the tasks' implementation, to the Council of Ministers.

Chapter 3

The National System for Emission Balancing and Forecasting

Article 6.

1. The National System for Emission Balancing and Forecasting is hereby established, hereinafter referred to as the "National System", in the framework of which information on emissions shall be collected, processed, estimated, forecast, balanced and compiled.
2. The National System shall manage information on:
 - 1) the emission levels of greenhouse gases and other substances released into the air by users of the environment;
 - 2) the production levels and the characteristics of raw materials and fuels relating to emissions;
 - 3) the technical measures aimed at the prevention or limitation of emissions;
 - 4) the levels of emissions reduced and emissions avoided as a result of projects implemented by users of the environment and the dates when these reductions were achieved;

- 5) the planned dates of the launch of new projects and the emission levels of greenhouse gases and other substances released into the air from these projects;
 - 6) the activities relating to the conduct of industrial activities, transport, agriculture, forestry and services;
 - 7) the changes forecast in activities in specific economic sectors.
3. The information referred to in paragraph 2 shall be collected in the National Database.
 4. The National Database shall be managed by the National Centre.

Article 7.

1. By the end of February of each year, the user of the environment shall draw up and upload into the National Database a report containing the information indicated in Article 6(2) points 1-5 for the previous calendar year.
2. Where the obligation to draw up and upload the report relates to the operation of an installation, the installation operator shall be the entity responsible for drawing up and uploading the report.
3. The emission levels referred to in Article 6(2) point 1 shall be determined by measurements taken or on the basis of information on the production level, fuel or raw material consumption and the values of the emission factors corresponding to these quantities.
4. With a view to meeting the need to ensure high-quality emission data, including the assurance of data reliability and consistency and taking into account the relevant developments in the scope of methods and technologies available to reduce the emissions, the Minister responsible for the environment may define, by way of a Regulation, the methods for the determination of the emission levels for particular types of installations.
5. For installations with seasonal or technological emission variations during the year which result from their operational characteristics and methods, the emission level from the installation shall be determined with a breakdown into quarters of the year or months.
6. With a view to meeting the need to ensure the provision of representative data, the Minister responsible for the environment may lay down, by way of a Regulation, the types of installations the operation whereof causes seasonal or technological emission variations during the year which result from the operational characteristics and methods of the installations.
7. With a view to meeting the need to ensure the efficient operation of the National Database and the uniformity and completeness of data stored therein, the Minister responsible for the environment shall define, by way of a Regulation, the format of the report form and the method for its uploading into the National Database.
8. Where the implementation of projects referred to in Article 6(2) points 4-5 is supported with the public resources, the information on the emission levels avoided or reduced and the dates when these reductions were achieved and the information on the emission levels and the total investment costs, including the amount of support from the public resources, shall be supplied by:
 - 1) the National Fund for Environmental Protection and Water Management, hereinafter referred to as the “National Fund”, in the scope of the resources spent and transferred by the National Fund, and the Voivodeship Funds for Environmental Protection and Water Management;
 - 2) districts;
 - 3) municipalities;

- 4) the disposers of the public resources, as referred to in Article 5(1) point 2 of the Public Finance Act of 27 August 2009 (OJ L no 157, item 1240).

Article 8.

1. By 15 March of each year, the National Centre shall analyse the information included in the reports uploaded into the National Database by users of the environment for the previous calendar year.
2. Where it results from information included in the reports on installations the operation of which requires an integrated permit or a permit to release gases or particulate matter into the air that the emission level of any of the substances differs from that in the previous year by more than 10% and that the difference is not caused by a reduction by the same proportion in the production level, the National Centre shall forward the reports on these installations to the Voivodeship Inspector for Environmental Protection by 15 April of each year in order to assess the information included therein.
3. The reports shall be forwarded to the Voivodeship Inspector for Environmental Protection who is competent in the light of the location of the reported installation.
4. The Voivodeship Inspector for Environmental Protection shall, by 15 December of each year, assess information included in the reports.
5. Where it is found that the difference in the emission levels results from a change in the installation operation mode, including its modernisation, technical change, alteration of fuel or raw material, or any other change involving a change in the activities, the Voivodeship Inspector for Environmental Protection shall notify this to the National Centre.
6. Where a mistake in spelling or wrong calculation or any other obvious error occur the Voivodeship Inspector for Environmental Protection shall notify this to the National Centre and the user of the environment that has produced the report.
7. On the basis of information delivered by the Voivodeship Inspector for Environmental Protection, the National Centre shall make the relevant corrections in the National Database.
8. Having received the report referred to in the regulations on the Community greenhouse gas emission allowance trading scheme, the National Centre shall assess the information included therein concerning the carbon dioxide (CO₂) emissions from installations covered by the Community greenhouse gas emission allowance trading scheme.

Article 9.

1. The competent Ministers shall draw up forecasts on the changes in activities for the following sectors of the economy and submit them to the Minister responsible for the environment:
 - 1) electricity sector;
 - 2) district heat supply;
 - 3) mining;
 - 4) oil refineries;
 - 5) iron and steel making;
 - 6) non-ferrous metal smelting;
 - 7) coking industry;
 - 8) cement industry;
 - 9) lime industry;

- 10) ceramic industry;
 - 11) glass industry;
 - 12) wood processing industry;
 - 13) paper and pulp industry;
 - 14) chemical industry;
 - 15) forestry;
 - 16) agriculture;
 - 17) transport.
2. The forecasts on the changes in activities shall be not considered planning documents within the meaning of the provisions of the Act of 6 December 2006 on the Principles of the Implementation of Development Policy (OJ L of 2009, no 84, item 712).
 3. The Council of Ministers shall define, by way of a Regulation
 - 1) the scope of information concerning specific sectors of the economy to be included in the forecasts on the changes in activities,
 - 2) the time intervals for which the forecasts on the changes in activities are to be prepared,
 - 3) the dates for forwarding the forecasts on the changes in activities to the Minister responsible for the environment- with a view to meeting the need to ensure the completeness, consistency and reliability of information included in the forecasts on the changes in activities and the requirement for the timely fulfilment of the commitments of the Republic of Poland under the European Union law or the international environmental agreements, in the scope of the preparation of the emission level forecasts.
 4. The National Centre shall put information concerning the forecasts on the changes in activities into the National Database.

Article 10.

1. On the basis of information included in the National Database, by 30 September of each year, the National Centre shall prepare and forward to the Minister responsible for the environment the national report on the emission levels of greenhouse gases and other substances for the previous year.
2. The national report on the emission levels of greenhouse gases and other substances shall include:
 - 1) the emission balance prepared on the basis of the reports included in the National Database,
 - 2) the emission balance prepared on the basis of the information referred to in Article 7(8).

Article 11.

30 days prior to the deadlines under the European Union law or the international environmental agreements, the National Centre shall prepare and forward to the Minister responsible for the environment the annual emission inventories of:

- 1) the greenhouse gases, pursuant to the guidelines under the UNFCCC;

- 2) the substances set out in the Convention on Long-Range Transboundary Air Pollution, done in Geneva on 13 November 1979 (OJ L of 1985, no 60, item 311; and of 1988, no 40, item 313);
- 3) the substances for which emission or concentration levels have been set out in the legislation of the European Union.

Article 12.

1. The National Centre shall prepare forecasts on the emission levels in order to implement the tasks provided for under the provisions of the European Union law or the international environmental agreements and the Polish National Environmental Policy and forward them to the Minister responsible for the environment 60 days prior to the required deadline.
2. The following shall be considered when preparing the forecasts, in particular:
 - 1) the short- and long-term macroeconomic forecasts;
 - 2) the national and sectoral economic policies and strategies;
 - 3) the forecasts on the changes in activities referred to in Article 9(1), forwarded by the competent Ministers;
 - 4) information on:
 - a) the measures taken to limit or reduce emissions,
 - b) the types of legal, economic and administrative instruments applied to support emission reductions,
 - c) the air quality assessment made in the framework of the national environmental monitoring system.
3. The forecasts on the emission levels shall cover a 10-year period and shall be updated after five years.

Chapter 4

Management of the emissions of greenhouse gases and other substances

Article 13.

1. The system for the management of the emissions of greenhouse gases and other substances, hereinafter referred to as the “management system”, is hereby established with the aim to:
 - 1) manage the national emission ceilings and ensure that they are not exceeded in a permanent manner;
 - 2) reduce the emissions to the required ceilings, where the national emission ceilings have been exceeded;
 - 3) manage the non-used parts of the national emission ceilings.
2. The management system shall include:
 - 1) the National System;
 - 2) the system for balancing and accounting for the emission levels of sulphur dioxide (SO₂) and nitrogen oxides (NO_x) from large combustion plants, as defined in the regulations on the system for balancing and accounting for the emission levels of sulphur dioxide (SO₂) and nitrogen oxides (NO_x) from large combustion plants;

- 3) the Community greenhouse gas emission allowance trading scheme, as defined in the regulations on the Community emission allowance trading scheme;
- 4) trading in and managing the Kyoto units.

Article 14.

Programmes and projects in the scope of environmental protection, limitation or avoidance of greenhouse gas emissions, carbon dioxide (CO₂) removal and sequestration may be implemented in particular under:

- 1) the National Green Investment Scheme;
- 2) the Joint Implementation projects;
- 3) the Clean Development Mechanism projects.

Article 15.

1. Where it results upon information acquired in the framework of the National Scheme that the emission levels cause or are likely to cause the national emission ceiling to be exceeded, the National Centre shall prepare a draft proposal for the national emission reduction plan and submit it to the Minister responsible for the environment.
2. The national emission reduction plan shall be approved, by way of a Regulation, by the Council of Ministers, with a view to meeting the need to limit emissions and ensure that the national emission ceilings are not exceeded in a permanent manner in the future and taking into account the economic interests of the Republic of Poland and its commitments under the provisions of the European Union law or the international environmental agreements.
3. The national emission reduction plan shall include in particular:
 - 1) the specification of substances covered by the plan, including an indication of the extent to which the national emission ceiling is exceeded for these substances;
 - 2) the specification of sectors of the economy covered by the plan;
 - 3) the identification of the major directions and scope of the activities to be pursued by specific sectors of the economy which are required to restore the national emission ceiling;
 - 4) an indication of the method for documenting the implementation of the plan and the effects thereof by the National Centre.
4. When the national emission reduction plan is approved, the public administration authorities shall be obliged to perform analyses on the need to restrict or withdraw an integrated permit or a permit to release gases or particulate matter into the air, where such restrictions or withdrawals are required in order to achieve the objectives under the plan.

Article 16.

1. If the Council of Ministers approves the national emission reduction plan, the Minister responsible for the environment shall, in agreement with the Ministers responsible for the economy, transport, agriculture, construction, local spatial management and planning and local housing, and maritime economy, each within the specific scope of their competence, define by way of a Regulation, the sectoral emission reduction plans, following the provisions of the national emission reduction plan and considering the need to cause the limitation of emissions and to ensure that the national emission ceilings for the specific sectors of the economy are not exceeded in the future.

2. The emission reduction plan shall include, in particular:

- 1) the range of restrictions on the emissions the national emission ceilings of which have been exceeded;
- 2) the dates when the restrictions shall be in effect;
- 3) the list of the users of the environment obliged to limit the emissions the national emission ceilings of which have been exceeded, or the criteria to qualify the installation to be covered by the obligation to reduce emissions;
- 4) for the installations covered by the plan:
 - a) the emission standards for the substances the national emission ceilings of which have been exceeded, where such standards are not in effect yet, or
 - b) the more stringent emission standards for the substances the national emission ceilings of which have been exceeded, where such standards are already in effect, or
 - c) the emission factors for substances per unit product manufactured, fuel consumed or raw material used
- in effect during the implementation of the plan;
- 5) the scope and the method of the measurements of the emission levels or the method to determine the emission levels from the emission factors and the frequency of forwarding the results to the Voivodeship Inspector for Environmental Protection.

3. Where the national emission ceiling is exceeded, the users of the environment covered by the sectoral emission reduction plan shall be obliged, in the scope defined by this plan, to:

- 1) limit the emissions the national ceilings of which have been exceeded;
- 2) comply with the emission standards or more stringent emission standards, defined in the sectoral emission reduction plan, or comply with the emission factors per unit product manufactured, fuel consumed or raw material used;
- 3) fulfil additional obligations in relation to the limitation of emissions, consisting in:
 - a) taking measurements of the emission levels or determining the emission levels from the emission factors,
 - b) forwarding the results of the measurements taken with the required frequency to the Voivodeship Inspector for Environmental Protection.

4. The Minister responsible for the environment may conclude voluntary agreements with the operators on the reduction of emissions in the sectors of the economy covered by the national emission reduction plan. Where such agreement involves the establishment of additional financial incentives for the operator it shall have to be approved by the Minister responsible for public finance.

Chapter 5

The National Registry of the Kyoto Units

Article 17.

1. The Kyoto units shall be held in the National Registry of the Kyoto Units, hereinafter referred to as the “National Registry”.
2. The National Registry shall be managed by the National Centre in the form of an electronic database.

3. The National Registry shall be operated pursuant to the principles set forth in Commission Regulation (EC) No 920/2010 of 7 October 2010 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (OJ L 270 of 14.10.2010, p. 1).
4. The Kyoto units owned by the State Treasury shall be held at the national allowance holding account in the Union registry referred to in Article 12(2) of the Commission Regulation referred to in paragraph 3.
- 4a. Emission allowance shall be held in the operator's holding account, aircraft operator holding accounts in the Union, person holding account or national holding account specified in the Commission Regulation referred to in paragraph 3.
5. In its rules of procedure, the National Centre shall set out specific conditions for the opening, management and keeping of the installation operator holding accounts and the person holding accounts in the National Registry.
6. The National Centre shall publish its rules of procedure on its website.

Chapter 6

Trading and managing the Kyoto units

Article 18.

1. The Kyoto units may be:
 - 1) used to meet the greenhouse gas emission reduction commitment under the Kyoto Protocol;
 - 2) traded at international level;
 - 3) banked for the subsequent commitment period, except for removal units.
2. Activities, referred to in paragraph 1, shall be carried out in accordance with the provisions of the Kyoto Protocol and decisions of the Conference of the Parties to the United Nations Convention of Climate Change serving as the Meeting of the Parties to the Kyoto Protocol.
3. Assigned amount units may be additionally used to exchange for:
 - 1) the emission reduction units equivalent to the reduction or avoidance of greenhouse gas emissions, obtained from the Joint Implementation projects carried out in the territory of the Republic of Poland;
 - 2) the emission allowances under the Community emission allowance trading scheme.
4. The emission allowances under the Community emission allowance trading scheme may be exchanged for the assigned amount units.
5. The removal units may be additionally exchanged for the emission reduction units equivalent to the removal of carbon dioxide (CO₂) achieved as a result of the Joint Implementation projects carried out in the territory of the Republic of Poland.
6. (repealed).
7. (repealed).

Article 19.

1. The trading referred to in Article 18(1) point 2 shall be carried out on the basis of an agreement concluded between the Republic of Poland and an eligible State or with an entity authorised by the eligible State to this end.
2. The agreements referred to in paragraph 1 may be concluded as international agreements pursuant to the provisions of the Act on International Agreements of 14 April 2000 (OJ L no 39, item 443; and of 2002, no 216, item 1824) or as civil law contracts.
3. The conclusion of a civil law contract shall require approval of the Council of Ministers.
4. Within 14 days of its conclusion, the civil law contract shall be notified to the Council of Ministers.

Article 19a.

The proceeds from sales of the Kyoto units shall be transferred to the National Fund bank account or to the separate sub-account if so provided in the contract on the sales of the Kyoto units.

Article 20.

The Minister responsible for the environment shall be the authority competent in the matters referred to in Articles 18 and 19.

Article 21.

1. The National Centre shall submit the information and data on the estimated number of assigned amount units than can be sold to the Minister responsible for the environment:
2. The information on the following shall be considered when estimating the number of assigned amount units:
 - 1) the forecast total national greenhouse gas emissions in the 2008-2012 commitment period;
 - 2) the total real national greenhouse gas emissions, available for the last year;
 - 3) the total real emissions from installations covered by the Community emission allowance trading scheme, available for the last year;
 - 4) the number of assigned amount units designated to be exchanged for emission allowances allocated to installations under the Community emission allowance trading scheme;
 - 5) the number of assigned amount units designated to be exchanged for emission reduction units under the Joint Implementation projects carried out in the territory of the Republic of Poland;
 - 6) the level of domestic reserve of the Kyoto units;
 - 7) the forecast number of assigned amount units designated to be transferred to the next commitment period;
 - 8) the magnitude of the demand for and supply of assigned amount units on the international market;
 - 9) the number of assigned amount units sold to date.

Chapter 7

The National Green Investment Scheme

Article 22.

1. The National Green Investment Scheme is hereby established, under which the proceeds from sales of assigned amount units shall be used to:

- 1) co-finance in the territory of the Republic of Poland the implementation of:
 - a) environmental programmes or projects, in particular those aimed at the limitation or avoidance of national greenhouse gas emissions and carbon dioxide (CO₂) removals or sequestration,
 - b) the measures of adaptation to climate change;
 - c) other measures in the field of air protection;
- 2) refinance:
 - a) the National Fund's costs related to allocation of the Fund's resources other than the proceeds from sales of the Kyoto units,
 - b) the costs related to allocation of the Voivodeship Funds for Environmental Protection' resources to the Fund, hereinafter referred to as "the Voivodeship Fund"

- for co-financing environmental programmes or projects, including the costs related to transferring resources to the State budget income in order to co-finance tasks implemented by the budgetary units, including the programmes and projects' implementation.

2. The programmes or projects referred to in paragraph 1 shall be carried out with the aim to:

- 1) improve energy efficiency in different sectors of the economy;
 - 2) improve coal use efficiency, including the application of clean coal technologies;
 - 3) change to low-emission fuels;
 - 4) avoid or reduce greenhouse gas emissions from the transport sector;
 - 5) use renewable energy sources;
 - 6) avoid or reduce methane emissions by means of its recovery and utilisation in mining, waste and sewage management and agriculture as well as for energy generation;
 - 7) carry out carbon sequestration;
 - 8) take any other measures aimed at the limitation or avoidance of national emissions of greenhouse gases or carbon dioxide (CO₂) removals and adaptation to climate change;
- carry out research and development activities in the field of the use of renewable sources and state-of-the-art and innovative environmentally sound technologies;
- 10) carry out education activities, including training courses to support the fulfilment of the national commitments under the Kyoto Protocol.

3. The Council of Ministers shall lay down, by way of a Regulation, the types of programmes and projects to be carried out in the areas referred to in paragraph 2, with a view to meeting the need to fulfil the commitments under the provisions of the Community legislation and international agreements in the field of environmental protection as well as the need to

ensure the transparency of the procedures for the selection of programmes and projects and taking into account the designated areas and the magnitude of the environmental effects achieved.

Article 23.

1. The proceeds from sales of assigned amount units shall be transferred directly to a separate bank account of the National Fund, hereinafter referred to as the "Climate Account", if so provided in the concluded contract on the sales of assigned amount units.
2. The resources which have not been used, by the date set out by the contract on the sales of assigned amount units, referred to in Article 22(1), shall be returned to the bank account indicated in this contract if the contract so provides.
3. Where so provided in the concluded contract on the sales of assigned amount units, the proceeds from sales of assigned amount units may be held at separate sub-accounts of the Climate Account.
4. The National Fund shall take no charge for operating the Climate Account.

Article 24.

1. The Consultative Board is hereby appointed as an advisory body to the Minister responsible for the environment in the scope of the operation of the National Green Investment Scheme.
2. The responsibilities of the Consultative Board shall include the provision of opinions in the matters related to the operation of the National Green Investment Scheme, including, in particular, the provision of opinions on:
 - 1) the rules of the call for applications for the grant of co-financing with the resources collected at the Climate Account;
 - 2) the programmes and projects pre-qualified for co-financing with the resources collected at the Climate Account;
 - 3) lists of costs referred to in Article 31a(1) and Article 31b(2).
3. In providing its opinions on the programmes and projects referred to in paragraph 2 point 2, the Consultative Board shall take into account the areas referred to in Article 22(2), the types of projects and programmes to be implemented, as specified in the regulations issued pursuant to Article 22(3), and compliance with the conditions for the award of the support.
- 3a. In providing its opinions on the lists of costs referred to in Article 31a(1) and Article 31(2), the Consultative Board shall take into account the areas referred to in Article 22(2), and the types of projects and programmes specified in the regulations issued pursuant to Article 22(3).
4. The Consultative Board shall consist of one representative of:
 - 1) the Minister responsible for the environment;
 - 2) the Minister responsible for the economy;
 - 3) the Minister responsible for public finance;
 - 4) the Minister responsible for agriculture;
 - 5) the Minister responsible for the State Treasury;
 - 6) the Minister responsible for transport;
 - 7) the Minister responsible for science;
 - 8) the National Centre.

5. The Minister responsible for the environment shall appoint and dismiss the representative of the National Centre.
- 5a. The representative of the Operator of the National Green Investment Scheme shall participate in the Consultative Board works as an observer without voting rights.
6. The expenses related to servicing the Consultative Board shall be financed with the resources held at the Climate Account.
7. The Minister responsible for the environment shall set out, by way of a Regulation, the rules of procedure of the Consultative Board.

Article 25.

1. The National Operator of the National Green Investment Scheme, hereinafter referred to as the "National Operator", shall manage the National Green Investment Scheme.
2. The responsibilities of the National Operator shall be to:
 - 1) manage the call for applications for co-financing with the resources collected at the Climate Account and to verify them;
 - 2) prepare a list of programmes and projects pre-qualified for co-financing with the resources collected at the Climate Account;
 - 2a) submit the lists of costs pre-qualified for refinancing with the resources collected at the Climate Account, indicating programmes and projects the costs relate to, to the Minister responsible for the environment;
 - 3) supervise the implementation of programmes and projects and to assess the environmental effects which they have achieved;
 - 4) prepare the reports required under the contracts on the sales of assigned amount units and to submit them to the Minister responsible for the environment;
 - 5) organise technical assistance to potential beneficiaries;
 - 6) carry out promotion and information activities related to the National Green Investment Scheme;
(repealed);
 - 7a) monitor:
 - a) the results related to the avoidance or reduction of greenhouse gas emission under the National Green Investment Scheme,
 - b) beneficiaries' spending resources obtained from the Climate Account, as well as progress in the implementation of programmes or projects co-financed with the resources collected at the Climate Account;
 - 8) keep a list of programmes and projects co-financed:
 - a) with the resources collected at the Climate Account,
 - b) with other resources of the National Fund or of the voivodeship fund, the costs related to their aim were refinanced with the resources collected at the Climate Account;
 - 9) monitor the beneficiaries' use of the resources.
- 2a. Monitoring referred to in paragraph 2 point 7a(a) shall be conducted for five calendar years after the year when the programme or project implementation was completed.
3. The costs of the implementation of the responsibilities referred to in paragraph 2 shall be covered with the resources collected at the Climate Account, in accordance with the contracts on the sales of assigned amount units.

Article 26.

The performance of the responsibilities of the National Operator is hereby entrusted to the National Fund.

Article 27.

The Minister responsible for the environment shall supervise the performance of its responsibilities by the National Operator.

Article 28.

1. The programmes and projects referred to in Article 22 shall be co-financed with the resources collected at the Climate Account in the form of grants, including grants used as subsidies to the interest on bank credits and grants used for the partial repayment of the principal of bank credits.
2. Where the co-financing of programmes and projects constitutes aid which conforms to the premises referred to in Article 107(1) of the Treaty establishing the European Community or *de minimis* aid, specific conditions for the grant of aid shall apply to such co-financing.
3. (repealed).

Article 29.

1. The National Operator shall organise and manage under a competition procedure the call for applications for the grant of co-financing with the resources collected at the Climate Account for programmes or projects in the framework of the National Green Investment Scheme.
2. The National Operator shall announce the call for applications in a daily newspaper with country-wide coverage and on its own website.
3. The National Operator shall develop its rules of procedure for the call for applications, taking into account the requirements under the contracts concluded on the sales of assigned amount units and publicise it on its website.
4. The rules of procedure for the call for applications shall include:
 - 1) an indication of the entities eligible to seek co-financing with the resources collected at the Climate Account;
 - 2) the procedure(s) for the selection of programmes and projects and the criteria for their assessment;
 - 3) the deadlines for the submission of applications and the assessment of programme and projects;
 - 3a) an indication of the limit of the resources for co-financing;
 - 3b) an indication of the possibility to allocate the unused amount of the limit to co-financing reserve programmes or projects;
 - 4) the formats of application forms.
- 4a. The National Operator may change the rules of procedure for the call for applications if the changes do not cause worsening of the conditions of the call for applications or if it is necessary to make the changes due to the amendments to the applicable legislation.

5. The rules of procedure for the call for applications shall be approved by the Minister responsible for the environment.

Article 30.

1. The application for the grant of co-financing with the resources collected at the Climate Account shall be submitted to the National Operator.
2. The National Operator shall perform a pre-selection of the programmes and projects to be co-financed with the resources collected at the Climate Account.
3. The National Operator shall publish on its website:
 - 1) the information on the entities, hereinafter referred to as “Entities”, the programmes or projects of which have been pre-selected to be co-financed with the resources collected at the Climate Account;
 - 2) a list of programmes and projects which have been pre-selected to be co-financed with the resources collected at the Climate Account;
 - 3) the information on the scope, methods and conditions for co-financing and the implementation deadlines for the programmes and projects referred to in point 2.
4. The National Operator shall submit the list and the information referred to in paragraph 3 to the Minister responsible for the environment for approval.
5. The Minister responsible for the environment shall approve the list of programmes and projects or refuse, by way of an administrative decision, to approve the particular programmes or projects in the list, taking into account the results of the call referred to in Article 29(1) and the opinion of the Consultative Board.
6. The Minister responsible for the environment shall publish on the website of the agency servicing this Minister a list of Entities the programmes and projects of which have been approved; hereinafter referred to as the “Beneficiaries”, along with a list of these programmes and projects.
7. Having received the list of programmes and projects approved by the Minister responsible for the environment, the National Operator shall conclude grant agreements with each Beneficiary, or with both the Beneficiary and the Bank which awards a credit to the Beneficiary for the implementation of a programme or project.
8. The agreement referred to in paragraph 7 shall specify the scope and frequency of submitting the reports including data and information on the results obtained in relation to the avoidance or reduction of greenhouse gas emission, spending resources obtained from the Climate Account, and progress in the programme or project implementation by the Beneficiary.

Article 30a.

1. If the total requested funding of the programmes or projects pre-selected to be co-financed with the resources collected at the Climate Account exceeds the limit of the resources collected at the Climate Account for co-financing, as specified in the rules of procedure for the call for applications, the pre-selected programmes and projects shall be divided into basic and reserve.
2. The programmes or projects shall be divided into basic and reserve by the National Operator, taking into account the efficiency criterion.
3. Provisions of Article 30(3)-(8) shall apply to the basic programmes and projects.

Article 30b.

1. If the limit of the resources collected at the Climate Account for co-financing, as specified in the rules of procedure for the call for applications, had not been fully used for co-financing basic programmes or projects, the National Operator may allocate the unused amount of the limit for co-financing reserve programmes or projects if provided so in the rules of procedure for the call for applications.
2. Reserve programmes and projects, for co-financing of which the National Operator allocated the unused amount of the limit, are programmes and projects pre-selected to be co-financed with the resources collected at the Climate Account.
3. Provisions of Article 30(3)-(8) shall apply to the programmes and projects referred to in paragraph 2.

Article 31.

1. The Entity whose programme or project present in the list referred to in Article 30(3) point 2 has not been approved by the Minister responsible for the environment may, within 14 days as of the receipt of the decision, submit an application to the Minister responsible for the environment for reconsideration of the case.
2. Where the Minister responsible for the environment upholds his decision, the Entity shall be entitled to lodge, within 14 days as of the receipt of the decision, a complaint with the Voivodship Administrative Court.
3. The lodging of the complaint shall not stay the conclusion of grant agreements with the Beneficiaries.

Article 31a.

1. In order to receive refinancing with the resources collected at the Climate Account of the costs, referred to in Article 22(1) point 2(a), including costs related to the allocation of the resources for co-financing reserve programmes or projects, referred to in Article 30a(1), the National Fund shall prepare the list of costs pre-qualified for refinancing and submit it for the approval of the Minister responsible for the environment together with the indication of programmes and projects the costs apply to.
2. The list of costs, referred to in paragraph 1, shall include the National Fund's costs related to the allocation of the resources other than the proceeds from sales of the Kyoto units, in accordance with the Environmental Protection Act of 27 April 2001, allocated to:
 - 1) grants, including subsidies to the interest on bank credits, grants used for the partial repayment of the principal of bank credits, subsidies to the interest or price of redemption of bonds for co-financing programmes and projects implemented in the areas, referred to in Article 22(2);
 - 2) co-financing tasks implemented by the budgetary units, including programmes or projects implementation in the areas referred to in Article 22(2).
3. The Minister responsible for the environment, taking into account the opinion of the Consultative Board, shall approve certain costs included in the list of costs, referred to in paragraph 1.
4. After obtaining the approval, referred to in paragraph 3, the National Fund shall refinance the costs, referred to in Article 22(1) point 2(a), by transferring the amount of the resources

collected at the Climate Account equivalent to the amount of the costs to the National Fund's bank account other than the Climate Account.

Article 31b.

1. In order to receive refinancing with the resources collected at the Climate Account of the costs, referred to in Article 22(1) point 2(b), the voivodeship fund shall prepare the draft list of costs pre-qualified for refinancing and submit it for the agreement of the National Fund together with the indication of programmes and projects the costs apply to.
2. The National Fund shall submit the agreed list of costs pre-qualified for refinancing for the approval of the Minister responsible for the environment together with the indication of programmes and projects the costs apply to.
3. The list of costs, referred to in paragraph 2, shall include the voivodeship fund's costs related to the allocation of the resources, in accordance with the Environmental Protection Act of 27 April 2001, allocated to:
 - 1) grants, including subsidies to the interest on bank credits, grants used for the partial repayment of the principal of bank credits, subsidies to the interest or price of redemption of bonds for co-financing programmes and projects implemented in the areas, referred to in Article 22(2);
 - 2) co-financing tasks implemented by the budgetary units, including programmes or projects implementation in the areas referred to in Article 22(2).
4. The Minister responsible for the environment, taking into account the opinion of the Consultative Board, shall approve certain costs included in the list of costs, referred to in paragraph 2.
5. After obtaining the approval, referred to in paragraph 4, the National Fund shall conclude a contract on refinancing the costs with the voivodeship fund.
6. The contract, referred to in paragraph 5, shall specify in particular:
 - 1) the list of costs subject to refinancing with the indication of programmes or projects the costs apply to;
 - 2) detailed scope and frequency of submitting the reports including data and information on the results obtained in relation to the avoidance or reduction of greenhouse gas emission by the voivodeship fund.
7. The National Fund shall refinance the costs, referred to in Article 22(1) point 2(b), under the contract, referred to in paragraph 5, by transferring the amount of the resources collected at the Climate Account equivalent to the amount of the costs subject to refinancing to the voivodeship fund's bank account specified in the contract.

Article 31c.

1. The National Fund may grant co-financing with resources other than those collected at the Climate Account in order to supplement the Beneficiary's own contribution.
2. Costs incurred by the National Fund in order to supplement the Beneficiary's own contribution shall not be subject to refinancing with the resources collected at the Climate Account.

Articles 32-34 (repealed);

Article 35.

1. On the basis of the results of the monitoring, referred to in Article 25(2) point 7a, and the National Fund's data on the allocation of resources collected at the Climate Account the National Operator shall prepare and submit to the Minister responsible for the environment, by:
 - 1) 30 June of each year, the report for the previous calendar year on the implemented programmes or projects co-financed with the resources collected at the Climate Account, their allocation, including to refinancing the costs, and the results obtained in relation to the avoidance or reduction of greenhouse gas emission under the National Green Investment Scheme;
 - 2) the end of the month following the end of each quarter of the year, the composite reports for the period from the beginning of the year to the end of the last quarter covered by the report on the progress in the implementation of programmes or projects co-financed with the resources collected at the Climate Account and their allocation, including to refinancing the costs.
2. The reports, referred to in paragraph 1, shall be submitted by the National Operator to the National Centre.
- 2a. The report, referred to in paragraph 1 point 1, shall be subject to verification by the independent accredited entity or the authorised entity, within the meaning of the regulations on the Community emission allowance trading scheme, in terms of the correctness of information on the results obtained in relation to the avoidance or reduction of greenhouse gas emission under the National Green Investment Scheme.
3. The National Operator may require that the Beneficiary immediately return all or the part of the granted resources or may suspend payment of the following liabilities specified in the schedule, if they decide that the resources received by the Beneficiary are used in breach of the conditions specified in the grant agreement, referred to in Article 30(7).
4. The resources shall be returned to the Climate Account.

Article 36. (repealed).

Chapter 8

**Execution of the Joint Implementation projects in the territory
of the Republic of Poland**

Article 37.

1. The Joint Implementation project may be carried out in the territory of the Republic of Poland in the framework of the national project implementation procedure or the international project implementation procedure, hereinafter referred to as the "Tracks".
2. The national project implementation procedure for a Joint Implementation project, hereinafter referred to as "Track 1", shall include the procedure for the approval of the project and the methods for its monitoring, assessment and verification.

3. The international project implementation procedure for a Joint Implementation projects, hereinafter referred to as „Track 2”, shall include the procedure for the approval of the project and the methods for its monitoring, assessment and verification as set out in the Decisions of the Conference of the Parties to the UNFCCC serving as the Meeting of the Parties to the Kyoto Protocol and by the Supervisory Committee.
4. In submitting the request for the issue of the Letter of Approval referred to in Article 40(6), the entity which carries out a Joint Implementation project shall choose one of the Tracks.

Article 38.

1. The implementation of a Joint Implementation project, irrespective of the Track chosen, shall require a Letter of Endorsement, and then a Letter of Approval, issued by the Minister responsible for the environment with the exception of paragraph 1a.
 - 1a. The implementation of a Joint Implementation project resulting in the avoidance or reduction of greenhouse gas emission into the air from an installation covered by the Community emission allowance trading scheme for which the implementer of the project plans to obtain emission reduction units from the reserve, referred to in Article 13(2) point 1 of the Act of 28 April 2011 on the greenhouse gas emission allowance trading scheme (OJ L no 122, item 695), shall require the Letter of Approval only.
 2. The Minister responsible for the environment shall issue the Letter of Endorsement and the Letter of Approval in the form of administrative decisions, each following the opinion by the National Centre, where the project in question complies with the conditions set out in Article 39, with the exception of paragraph 2a.
 - 2a. The Letter of Approval concerning the Joint Implementation projects, referred to in paragraph 1a, may be issued if the project in question complies with the conditions, referred to in Article 39(1) point 3 and paragraph 2, and will be implemented by 28 February 2012.
 3. The National Centre shall provide its opinion, in the form of a decision, within:
 - 1) 14 days as of the date of the delivery of the request in the case of the Letter of Endorsement;
 - 2) 30 days as of the date of the delivery of the request in the case of the Letter of Approval.
 4. The Minister responsible for the environment shall issue the Letter of Endorsement and the Letter of Approval or refuse to issue them within 14 days as of the date of the receipt of the opinion of the National Centre.
 5. Prior to the issue of the Letter of Approval, the Minister responsible for the environment shall notify to the European Commission of their intention to do so and shall, at the same time, forward the report referred to in Article 40 (5) point 2.
 6. The Minister responsible for the environment shall forward a copy of the Letter of Endorsement or the Letter of Approval, or of the decisions to refuse to issue them, to the National Centre within 14 days as of the date of issuing them.
 7. The validity of a Letter of Endorsement shall expire after a year has elapsed since the date of its delivery to the proponent of the Joint Implementation project, unless a request to grant a Letter of Approval is submitted during that time by the project proponent.
8. The Minister responsible for the environment shall, by way of an administrative decision, state that the Letter of Endorsement has expired.

Article 39.

1. The Letter of Endorsement may be issued where the following conditions are met by the Joint Implementation project:
 - 1) it involves no completed and finished project investment projects;
 - 2) it is one of project types which can be carried out as Joint Implementation projects in the territory of the Republic of Poland, specified in the regulations issued pursuant to paragraph 3;
 - 3) it does not result in double counting of emission reductions;
 - 4) it does not implement obligations under the provisions of the European Union or national legislation.
2. The Letter of Approval may be issued where a valid Letter of Endorsement has been granted for a Joint Implementation project and the project meets the following conditions:
 - 1) the reduction or avoidance of greenhouse gas, or carbon dioxide (CO₂) emission removals achieved as a result of its implementation are additional to those that would occur if this project were not carried out;
 - 2) it causes no deterioration of the environmental quality;
 - 3) it ensures the limitation of adverse environmental impacts;
 - 4) it ensures the use of the solutions corresponding to the criteria of the best available techniques;
 - 5) it meets the conditions set out in the regulations issued pursuant to paragraph 3;
 - 6) it meets the conditions set out in the regulations issued pursuant to paragraph 4 – in the case of hydro-power plants exceeding 20 MW.
3. The Minister responsible for the environment shall define, by way of a Regulation, the types of projects that can be carried out as Joint Implementation projects in the territory of the Republic of Poland, with a view to meeting the climate protection requirements and taking into account the national circumstances in the field of greenhouse gas emissions and the related needs and activity directions.
4. The Minister responsible for the environment may define, by way of a Regulation, the detailed conditions to be met by Joint Implementation projects and the Clean Development Mechanism projects in relation to hydro-power plants exceeding 20 MW in the course of their implementation as well as assessment criteria and the reporting form to confirm the compliance with these requirements, with a view to meeting the need to ensure the appropriate quality of the environmental effects to be achieved by these projects and the harmonization of their assessment.

Article 40.

1. The Letter of Endorsement and the Letter of Approval shall be granted upon request submitted by the proponent of a Joint Implementation project.
2. The request shall be submitted to the Minister responsible for the environment in writing and in electronic form, in Polish and in English.
3. The Minister responsible for the environment shall immediately, but no later than within 14 days, forward the request to the National Centre for its opinion.
4. The request for the issue of the Letter of Endorsement shall specify:

- 1) the project proponent's name, surname and residence address, or its name and an indication of its seat and address;
- 2) an indication of the project location;
- 3) the estimation of the anticipated levels of greenhouse gas emission reduction or avoidance, or carbon dioxide (CO₂) emission removal;
- 4) an indication of the anticipated period during which emission reduction units will arise from project implementation;
- 5) a description of the project and the technology used;
- 6) a description of the manner and sources of financing for the project;
- 7) information on:
 - a) the anticipated environmental and social effects to be produced by project implementation,
 - b) the project advancement phase on the date of submission of the request,
 - c) the Track planned.

5. The request for the issue of the Letter of Endorsement shall be accompanied by:

- 1) the proponent's declaration that the project will have no effect on the reduction of greenhouse gas emissions from installations covered by the Community emission allowance trading scheme;
- 2) a report produced by the accredited independent entity or the authorised entity confirming that the project will not result in double counting of emission reductions.

6. The request for the issue of the Letter of Approval shall specify:

- 1) the project proponent's name, surname and residence address, or its name and an indication of its seat and address;
- 2) an indication of the project location;
- 3) the identity of purchaser of the emission reduction units;
- 4) information on the Track chosen.

7. The following shall be enclosed with the request for the issue of the Letter of Approval:

- 1) the project documentation, including:
 - a) a description of the project, including the technology applied,
 - b) a description of the project financing sources and methods,
 - c) a description of the project baseline level and the method for its determination,
 - d) the estimation of the greenhouse gas emission reduction or avoidance level or the carbon dioxide (CO₂) emission removal and the description of the methodology of estimation of these levels,
 - e) the estimation whether the greenhouse gas emission reduction or avoidance, or the carbon dioxide (CO₂) emission removal as a result of the implementation of the project are additional to those which would occur if the project were not carried out,
 - f) the project monitoring plan;
- 2) the project documentation assessment report produced by:
 - a) the accredited independent entity or the authorised entity, referred to in paragraph 9, where Track 1 has been chosen, or
 - b) the accredited independent entity where Track 2 has been chosen;
- 3) the environmental impact report for the project, where the project is one of those projects which may always have a significant environmental impact, or the project data sheet where the project is one of those projects which may potentially have a

significant environmental impact, as referred to in the provisions of the Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (OJ L no 199, item 1227 and no 227, item 1505; and of 2009, no 42, item 340, no 84, item 700);

- 4) the Letter of Approval for the project, issued by the competent authority of the eligible State which purchases emission reduction units or a document to confirm the intention to purchase emission reduction units, made out by this authority;
 - 5) the declaration and the report, referred to in paragraph 5 points 1 and 2, in the case of the project referred to in Article 38(1a).
8. Where the entity purchasing the emission reduction units is not the eligible State, the request for the issue of the Letter of Approval shall be accompanied by a letter authorising this entity to participate in the Joint Implementation projects, issued by the competent authority of the eligible State.
 9. The entity authorised to verify reports on the greenhouse gas emission reduction results under the Joint Implementation projects, and preparing the report, referred to in paragraph 7 point 2, shall accredit the Accreditation Centre, referred to in the Article 25 of the Act of 30 August 2002 on the Conformity Assessment System (Dz.U. of 2010 no 138, item 935, as amended³) pursuant to the provisions of the Act.
 10. The authorised entity, referred to in paragraph 9 shall provide verification and the report, referred to in paragraph 7 point 2, to be prepared by the person who has higher education in: science, technology and social sciences in economics, specified in the regulations based on Article 3(1) of the Act of 14 March 2003 on academic degrees and titles and degrees and titles in the field of art (Dz.U. no 65, item 595, as amended⁴), and fulfils at least one of the following conditions:
 - 1) has at least four years of professional experience in at least one of the following fields:
 - a) supervision or control of technology processes and devices, including environmental protection requirements,
 - b) implementation of eco-management scheme and verification of data and reports on the environment,
 - c) emission management or balancing, including monitoring, reporting and verification of greenhouse gas emission reduction,
 - d) project documentation assessment, including determination of the baseline levels and values of the emission factors and estimation of the greenhouse gas emission reduction;
 - 2) has at least two years of professional experience in the implementation of:
 - a) the reporting procedure and the criteria for the determination of the baseline levels and the values of the emission factors or the sectoral baseline levels in accordance with the legislation concerning greenhouse gas emission management, or
 - b) the methodology of greenhouse gas emission reduction estimation, monitoring and reporting, or

³ Amendments to the consolidated text of the cited Act were published in Dz.U. of 2011 no 102, item 586 and no 227, item 1367 and of 2012 item 1529.

⁴ Amendments to the cited Act were published in Dz.U. of 2005 no 164, item 1365, of 2010 no 96, item 620 and no 182, item 1228 and of 2011 no 84, item 455.

- c) the methodology of monitoring, including techniques of the measurements of the emission levels and calibration of measurement instruments, and determination of greenhouse gas emission reduction, or
 - d) the methodology of research and management of data and quality assurance and quality control systems.
11. The National Centre shall keep the list of the authorised entities, referred to in paragraph 9, and upload it to its website.

Article 41.

1. The Minister responsible for the environment shall define, by way of a Regulation, the format of the request form for the issue of the Letter of Endorsement and the detailed scope of information to be included therein, with a view to meeting the need to unify the procedure for the assessment of Joint Implementation projects and the need to acquire complete information enabling the performance of this assessment.
2. For the Joint Implementation projects under Track 1, the Minister responsible for the environment shall define, by way of a Regulation, a detailed scope of information to be included in the project documentation referred to in Article 40(7) point 1, with a view to meeting the need to ensure that the documentation contains complete information on the project as required for a comprehensive assessment of the projects and the effects achieved by their implementation.
3. The Minister responsible for the environment may define, by way of a Regulation, the criteria for the determination of the baseline levels, including the values of the emission factors or the sectoral baseline levels, and the methods for monitoring the emission levels, with a view to meeting the need to harmonise and effectively estimate the greenhouse gas emission reduction or limitation as a result of Joint Implementation projects.

Article 42.

1. The Letter of Approval shall include:
 - 1) the project proponent's name, surname and residence address, or its name and an indication of its seat and address;
 - 2) an indication of the project location;
 - 3) the project title;
 - 4) the confirmation that the project is one of Joint Implementation projects;
 - 5) an indication of the maximum number of emission reduction units which may be transferred to the purchaser of these units;
 - 5a) an indication of the maximum number of emission reduction units resulting from the reduction of greenhouse gas emission from installations covered by the Community emission allowance trading scheme, that may be forwarded to the purchaser of the units;
 - 5b) an indication of the installation subject to the Community emission allowance trading scheme if the reduced emission or avoided emission resulted from reduction of greenhouse gas emission levels in the installation;
 - 6) the identity of purchaser of the emission reduction units;
 - 7) an indication of the Track;
 - 8) (repealed).

2. Where Track 2 had been chosen, the Letter of Approval shall include, in addition, the requirement for a positive appraisal of the report referred to in Article 40(7) point 2 by the Supervisory Committee.
3. The Letter of Approval shall provide the grounds for the Minister responsible for the environment to issue and transfer to the purchaser the verified emission reduction units produced by the implementation of the project.
4. (repealed).

Article 43.

1. Where Track 2 had been chosen, the report referred to in Article 40(7) point 2 shall be subject to an assessment by the Supervisory Committee following the issue of the Letter of Approval for this project.
2. The implementer of a Joint Implementation project shall be obliged to submit the report referred in Article 40(7) point 2 to the Supervisory Committee via the accredited independent entity which has drawn up this report.
3. The implementer of a Joint Implementation project shall submit information on the results of the assessment performed by the Supervisory Committee to the Minister responsible for the environment within 14 days of the date of its receipt.
4. In the case of a negative assessment of the report referred in Article 40(7) point 2 by the Supervisory Committee, the Minister responsible for the environment shall state that the Letter of Approval has expired.
5. In the case referred to in paragraph 4, the implementer of a Joint Implementation project shall not be entitled to claim damages, or to shift the execution of the Joint Implementation project to Track 1 and apply for the re-issue of such a Letter under this Track.

Article 44.

1. The implementer of a Joint Implementation project shall be obliged to apply for a modification of the Letter of Approval, in case of a change of:
 - 1) the name or company implementing the project;
 - 2) the project location or the addition of new project locations;
 - 3) the regulations on the method for monitoring the emission levels reduced or avoided;
 - 4) the technology applied, causing a change in the number of the emission reduction units generated as a result of the implementation of the project;
 - 5) the track.
2. The Minister responsible for the environment shall issue a decision to modify the Letter of Approval.
- 2a. The Minister responsible for the environment shall issue a decision to modify the Letter of Approval, having received an opinion from the National Centre if the Letter is modified on the basis of paragraph 1 point 3 or 4.
3. The provision of Article 38(3) and the provisions of Article 40(6)-(8) shall apply accordingly.

Article 45.

1. The implementer of a Joint Implementation project shall be obliged to monitor this project.

2. The Joint Implementation project shall be monitored according to the monitoring plan set out in the project documentation referred to in Article 40(7) point 1.
3. On the basis of the data from its monitoring, the implementer of the Joint Implementation project shall prepare a monitoring report, identifying the greenhouse gas emissions reduced or avoided, or carbon dioxide (CO₂) emissions removed in the reporting period and the number of the emission reduction units acquired as a result of the execution of the Joint Implementation project.
4. The reporting period must not be longer than 1 year, with the exception of the Joint Implementation project referred to in Article 38(1a).
5. The number of the emission reduction units, referred to in paragraph 3, generated as a result of the execution of the Joint Implementation project, shall be subject to verification by:
 - 1) the accredited independent entity or the authorised entity referred to in Article 40(9), where Track 1 had been chosen, or
 - 2) the accredited independent entity, where Track 2 had been chosen.
6. A report shall be drawn up on the verification referred to in paragraph 5.
7. The verification report referred to in paragraph 6 shall identify the number of emission reduction units generated by the completion of the Joint Implementation project in a given reporting period divided into calendar years, including the number of emission reduction units resulting from the reduction of greenhouse gas emission from the installations subject to the Community emission allowance trading scheme.
8. The verification report referred to in paragraph 6 shall be submitted by the implementer of the Joint Implementation project to the National Centre within six months as of the date of completion of the reporting period referred to in paragraph 3 for which the report has been prepared, however, not later than on the date of submitting the application referred to in Article 50(2).

Article 46.

1. Where Track 2 had been chosen the verification report referred to in Article 45(6) shall be subject to the assessment by the Supervisory Committee.
2. The implementer of the Joint Implementation project shall be obliged to submit the verification report referred to in Article 45(6) to the Supervisory Committee via the accredited independent entity which has produced this report.
3. In the case of a negative assessment of the verification report by the Supervisory Committee, the implementer of the Joint Implementation project may not apply for the transfer of the emission reduction units. In this case, the implementer of the Joint Implementation project shall not be entitled to claim damages.

Article 47.

For the Joint Implementation projects under Track 1, the Minister responsible for the environment shall define, by way of a Regulation:

- 1) the form and layout of the monitoring report referred to in Article 45(3) and the scope of information to be included therein;
- 2) the form and layout of the verification report referred to in Article 45(6) and the scope of information to be included therein

- with a view to meeting the need to ensure the uniformity, consistency and reliability of information and data on the emission reduction units generated by the implementation of these projects which allow for the assessment of the correctness of project implementation and the appraisal of the results achieved.

Article 48.

1. The National Centre shall keep a list of the Joint Implementation projects carried out in the territory of the Republic of Poland for which the Letters of Endorsement or the Letters of Approval have been issued.
2. The National Centre shall enter a Joint Implementation project into the list within 7 days of the date of the receipt of a copy of the Letter of Endorsement or the Letter of Approval.
3. The National Centre shall collect documentation relating to the Joint Implementation projects carried out in the territory of the Republic of Poland and will keep it for 5 years from the project completion date.

Article 49.

1. The Minister responsible for the environment shall publish in the Public Information Bulletin the information on the Letters of Endorsement and the Letters of Approval issued for Joint Implementation projects and the project documentation referred to in Article 40(7) point 1.
2. In the case of the Joint Implementation projects carried out under Track 1, the Minister responsible for the environment shall forward information on the Joint Implementation projects approved to the UNFCCC Secretariat.
3. In the case of the Joint Implementation projects carried out under Track 2, the accredited independent entity or the authorised entity referred to in Article 40(9) shall publish the project documentation assessment report referred to in Article 40(7) point 2 and the verification report referred to in Article 45(6) on its website.

Article 50.

1. The emission reduction units shall be freely disposable.
2. The transfer of the emission reduction units to the account or accounts, as indicated by the purchaser which are kept in the registry of the eligible State or in the National Registry shall be made upon request of the implementer of the Joint Implementation project.
- 2a. In the case of the Joint Implementation projects, referred to in Article 38(1a), emission reduction units shall be transferred from the reserve indicated in Article 13(2) point 1 of the Act of 28 April 2011 on the greenhouse gas emission allowance trading scheme (OJ L no 122, item 695).
3. The request shall be submitted in writing and in electronic form to the Minister responsible for the environment within six months of the date of the completion of the reporting period referred to in Article 45(3) for which the verification report has been produced.
4. The request shall include:
 - 1) an indication of the identity of the purchaser(s) of the emission reduction units;

- 2) an indication of the reporting period to which the verification report refers and for which the emission reduction units are to be transferred;
- 3) an indication of the number of the emission reduction units to be transferred to the purchaser according to the number set out in the verification report or in the Letter of Approval for the project; where there is a difference the lower value shall apply;
 - 3a) an indication of the number of the emission reduction units generated as a result of the reduction of emission levels from the installations subject to the Community emission allowance trading scheme to be transferred to the purchaser of the units according to the number set out in the verification report or in the Letter of Approval for the project; where there is a difference the lower value shall apply;
- 4) an indication of the account or accounts to which the emission reduction units are to be transferred.
5. The request shall be accompanied by the following:
 - 1) the contract on the sales of emission reduction units or another document setting out the way of disposing of these units or transferring them;
 - 2) the authorisation of the purchaser to participate in the Joint Implementation projects, issued by the competent authority of the eligible State, where the purchaser is not an eligible State;
 - 3) the verification report referred to in Article 45(6).
6. Where the Joint Implementation project is carried out under Track 2, the verification report referred to in Article 45(6) must be approved by the Supervisory Committee.
7. The Minister responsible for the environment shall consent to the issue of the emission reduction units, by way of an administrative decision, within 14 days of the date of the receipt of the request.
8. The total number of the emission reduction units which may be transferred to the purchaser shall not be greater than the sum of the emission reduction units defined in the verification reports referred to in Article 45(5) or in the Letter of Approval for the project. Where there is a difference the lower value shall apply.
9. The Minister responsible for the environment shall forward a copy of the final decision referred to in paragraph 7 to the National Centre.
10. The National Centre shall immediately, but no later than within 14 days of the date when the copy of the final decision is forwarded, transfer the emission reduction units in the quantity set out in the decision to the indicated account or accounts in the National Registry.

Chapter 9

Execution of the Joint Implementation projects outside the territory of the Republic of Poland and the Clean Development Mechanism projects

Article 51.

1. The participation in the Joint Implementation projects outside the territory of the Republic of Poland and the Clean Development Mechanism projects shall require consent to be granted in the form of an administrative decision by the Minister responsible for the environment.

2. The consent shall be granted on request of the entity interested in the participation in the project.
3. The request for the grant of consent shall be submitted in writing and in electronic form to the Minister responsible for the environment, in Polish and in English.
4. The request for the grant of consent shall include:
 - 1) the project proponent's name, surname and residence address, or its name and an indication of its seat and address;
 - 2) an indication of the project location;
 - 3) the estimation of the anticipated levels of greenhouse gas emission reduction or avoidance, or carbon dioxide (CO₂) emission removal;
 - 4) an indication of the anticipated period during which emission reduction units or certified emission reduction units will arise as a result of the project implementation;
 - 5) documents to confirm the satisfaction of the conditions referred to in paragraph 5;
 - 6) a description of the project and the technology used;
 - 7) information on:
 - a) the project advancement phase on the date of submission of the request,
 - b) the Track chosen in the case of Joint Implementation projects.
5. The Joint Implementation projects and the Clean Development Mechanism projects relating to hydro-power plants exceeding 20 MW shall, in addition, meet the criteria set out in the regulations issued under Article 39(4).

Article 52.

1. The Minister responsible for the environment shall grant or refuse to grant consent within 30 days as of the request submission date at the latest.
2. The Minister responsible for the environment shall refuse to grant consent, in the form of an administrative decision, if the request fails to comply with the conditions set out in Article 51.
3. The Minister responsible for the environment shall forward a copy of decision to grant or refuse to grant consent to the National Centre within 14 days as of the date of issuing them.

Article 53.

The decision granting consent to participation in a project shall include:

- 1) the project proponent's name, surname and residence address or its name, an indication of its seat and address;
- 2) an indication of the project location;
- 3) the name of the project for which it has been issued;
- 4) the authorisation to participate in the Joint Implementation project or the Clean Development Mechanism project.

Article 54.

The emission reduction units and the certified emission reduction units generated by the implementation of projects outside the territory of the Republic of Poland shall be freely disposable.

Chapter 10

Amendments to the existing provisions

Article 55.

In the Act of 20 July 1991 on the Inspectorate for Environmental Protection (OJ L of 2007, no 44, item 287, as amended⁵), in Article 2(1), point 14b shall be added following point 14a:

“14b) the assessment of the quality of information included in the reports referred to in Article 7(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances (OJ L no 130, item 1070);”.

Article 56.

The following amendments shall be made to the Environmental Protection Act of 27 April 2001 (OJ L of 2008, no 25, item 150, as amended⁶):

1) in Article 152:

a) in paragraph 2 point 7, a full stop shall be replaced by a colon and point 8 shall be added:

“8) a list of emission sources, installations and technical means designed to prevent or limit emissions and a list of substances subject to the obligation to draw up the report referred to in Article 7(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances (Dz.U. no 130, item 1070).”.

b) paragraph 2a shall be added following paragraph 2:

„2a. The regulations issued under Article 221(1a) shall apply to the information communicated in the list referred to in paragraph 2 point 8.”;

2) in Article 195(1) point 3, a full stop shall be replaced by a colon and point 4 shall be added:

“4) there has been an exceedance of the national emission ceilings referred to in Article 15(1) the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances.”;

3) in Article 208:

a) in paragraph 2 point 3, a full stop shall be replaced by a colon and point 4 shall be added:

“4) a list of emission sources, installations and technical means designed to prevent or limit emissions and a list of substances subject to the obligation to draw up the report referred to in Article 7(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances.”.

b) paragraph 2c shall be added following paragraph 2b:

⁵ Amendments to the consolidated text of the cited Act were published in Dz.U. of 2007 no 75, item 493, no 88, item 587 and no 124, item 859, of 2008 no 138, item 865, no 199, item 1227 and no 227, item 1505 and of 2009 no 18, item 97, no 31, item 206 and no 79, item 666.

⁶ Amendments to the consolidated text of the cited Act were published in Dz.U. of 2008 no 111, item 708, no 138, item 865, no 154, item 958, no 171, item 1056, no 199, item 1227, no 223, item 1464 and no 227, item 1505 and of 2009 no 19, item 100, no 20, item 106 and no 79, item 666.

„2c. The regulations issued under Article 221(1a) shall apply to the information communicated in the list referred to in paragraph 2 point 4.”;

4) in Article 221:

a) in paragraph 1 point 7, a full stop shall be replaced by a colon and point 8 shall be added:

“8) a list of emission sources, installations and technical means designed to prevent or limit emissions and a list of substances subject to the obligation to draw up the report referred to in Article 7(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances.”;

b) paragraph 1a shall be added following paragraph 1:

„1a. With a view to meeting the need to ensure the unification and completeness of information communicated for the purposes of the national system for emission balancing and forecasting referred to in the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances, the Minister responsible for the environment shall define, by way of a Regulation, the format of the form to contain a list of emission sources, installations and technical means designed to prevent or limit emissions and a list of substances subject to the obligation to draw up the report referred to in Article 7(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances.”;

5) in Article 236b:

a) paragraph 1 shall become:

“1. The operator of an installation carrying at least one of the activities set out in Annex I to Regulation 166/2006 shall forward a report including data on the exceedance of the threshold values in effect for the releases and transfers of pollutants and the transfers of waste set out in Regulation 166/2006, by 31 March of the year following a given reporting year, to the Voivodeship Inspector for Environmental Protection.”;

b) paragraph 4 shall be repealed;

6) in Article 236c, paragraph 1 shall become:

“1. The Chief Inspector for Environmental Protection shall forward a report prepared according to the format set out in Annex III to Regulation 166/2006 to the European Commission, within 15 months as of the end of a given reporting year.”;

7) Articles 285 and 286 shall become:

“Article 285. 1. The charge shall be calculated according to the rates in effect when the use of the environment was made:

2. The user of the environment shall pay the charge for the discharge of wastewater into waters or to land, water abstraction and the landfill of waste by the end of the month following each half of the year.

3. The user of the environment shall pay the charge for the release of gases or particulate matter into the air by the end of the month following the first half of the year and by the end of February of next year for the second half of the year.

4. The charge for the release of gases or particulate matter into the air shall be calculated from the real annual emissions identified in the report

referred to in Article 7(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances.

5. The charge for the release of gases or particulate matter into the air:
 - 1) for the first half of the year, shall be paid as 50% of the annual charge for the release of gases and particulate matter into the air, as incurred in the previous calendar year;
 - 2) for the second half of the year, the charge shall be paid following the principles set out in paragraph 3 in an amount reduced by the charge paid for the first half of the year.
6. The entity which pays a lump charge for wastewater discharged from breeding or farming of fish other than salmonids or other aquatic organisms shall pay it within 2 months of the end of the period referred to in Article 287(1) point 5.
7. Where in a given calendar year waste was deposited at a waste landfill and waste of the same type was taken from the landfill, the user of the environment shall pay the charge by 31 January of next year.

- Article 286.
1. By the date referred to in Article 285(2) and (7), the user of the environment shall submit to the Voivodeship Marshall a record containing information and data referred to in Article 287, which have been used to calculate the amounts of charges, and the amounts of these charges.
 2. The user of the environment which releases gases and particulate matter into the air shall submit to the Voivodeship Marshall a record prepared from the information included in the report referred to in Article 7(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances, taking into account the information on the types of substances released into the air, the emission levels and the amounts of charges for the release of gases and particulate matter into the air, as paid for the previous calendar year.
 3. The user of the environment shall submit the record referred to in paragraph 2 for the previous calendar year by the end of February of next year.
 4. The information contained in the record referred to in paragraph 2 shall provide the grounds for the issue of a writ of execution.
 5. The user of the environment which discharges wastewater from breeding or farming of fish other than salmonids or other aquatic organisms shall forward the information by the end of the month following the period referred to in Article 287(1) point 5.
 6. By the date referred to in Article 285(2), the user of the environment shall also submit to the Voivodeship Inspector for Environmental Protection a record containing the information and data referred to in Article 287(1) points 2 and 3 which have been used to calculate the amounts of charges.
 7. The National Centre for Emission Balancing and Management, referred to in Article 3(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances, shall, by 30 June of the next year, forward to the Voivodeship Inspector for Environmental Protection the information on the types of substances released into the air, the emission levels and the amounts of charges for the release of gases and

particulate matter into the air, paid for the previous calendar year and prepared from the reports referred to in Article 7(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances, as required to manage the Voivodeship database on the use of the environment.

8. The provisions of the Act of 17 June 1966 on the Administrative Execution Proceedings shall apply to the liabilities for the charges for the use of environment where such liabilities result from the record of the amounts of the charges due.
9. The user of the environment shall also submit a record which has been used to calculate the charges for the landfill of waste to the Municipality Head or Town/City Mayor who is competent for the location of the waste landfill.
10. The Minister responsible for the environment shall define, by way of a Regulation, the formats of records containing information and data on the scope of the use of the environment and on the amounts of the charges due and the method for the presentation of this information and data, meeting in particular to the requirement for this record to include:
 - 1) summary information about the scope of the discharge of wastewater into waters or to land, water abstraction and the landfill of waste;
 - 2) an instruction that the information contained in the record concerning the amounts of the charges due shall provide the grounds for the issue of a writ of execution.
11. The following shall be set out in the Regulation referred to in paragraph 10:
 - 1) the format of the record;
 - 2) the content of the record;
 - 3) the layout of the record;

4) the techniques required for the submission of the record.”;

8) in Article 286a, paragraph 1 shall become:

“1. On the basis of the records referred to in Article 286(1), the information referred to in Article 286(7) and the information about the use of the environment, as contained in the decisions referred to in Article 288(1), the Voivodeship Inspector for Environmental Protection shall keep the Voivodeship database on the use of the environment in the scope indicated in Article 287(1) points 2 and 3, and shall prepare the Voivodeship report and forward it to Minister responsible for the environment via the Chief Inspector for Environmental Protection.”;

9) in Article 287(1), point 1 shall be repealed;

10) in Article 288(1) point 1 shall become:

“1) fails to submit a record containing information and data about the scope of the use of the environment and the amounts of the charges due and the list referred to in Article 286(2), the Voivodeship Marshal shall impose the charge, by way of a decision, based on their own findings and the results of an inspection carried out by the Voivodeship Inspector for Environmental Protection”;

11) in Article 400, paragraph 5 shall be added:

“5. The National Fund shall perform the responsibilities of the National Operator of the Green Investment Scheme, as set out in the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances.”;

12) Article 401b shall become:

“Article 401b. The proceeds specified in Article 401(2)-(13) and (13e), Article 401a and Article 401c shall also be allocated to cover the costs of their servicing.”;

13) following Article 401b, Article 401c shall be added:

“Article 401c 1. The revenues of the National Fund shall also include the proceeds from the contracts on sales of assigned amount units concluded pursuant to the Act of 17 July on the System to Manage the Emissions of Greenhouse Gases and Other Substances.

2. The revenues referred to in paragraph 1 shall also be used to:

- 1) co-finance tasks to support the implementation of measures carried out under the programmes and projects included in the National Green Investment Scheme referred to in Article 22(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances;
- 2) cover the costs of the implementation of the tasks referred to in Article 25(2) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances;
- 3) cover the costs of servicing the Consultative Board referred to in Article 24(1) of the Act of 17 July 2009 on the System to Manage the Emissions of Greenhouse Gases and Other Substances.”

Chapter 11

Transitional and final provisions

Article 57.

1. The Letters of Approval which have been issued for the Joint Implementation projects before this Act enters into force shall become the Letters of Approval within the meaning of this Act.
2. The Letters of Endorsement which have been issued for the Joint Implementation projects before this Act enters into force shall become the Letters of Endorsement within the meaning of this Act.
3. The entities to which the Letters of Endorsement have been granted before this Act enters into force may apply for the grant of the Letter of Approval within 6 months of the date when this Act enters into force.
4. Where no request is submitted for the issue of the Letter of Approval by the date referred to in paragraph 3, the Letter of Endorsement granted before this Act enters into force shall become void.
5. The Minister responsible for the environment shall transfer assigned amount units in exchange for greenhouse gas emissions reduced or avoided, or carbon dioxide (CO₂) removed, where so provided by the Letter of Approval for a Joint Implementation project which has been granted before this Act enters into force. The provisions of Article 50 shall apply accordingly.

6. Where the Joint Implementation projects are approved and completed before this Act enters into force, the request for the transfer of emission reduction units or assigned amount units shall be submitted within six months of the entry into force of this Act. The provisions of Article 50 shall apply accordingly.

Article 58. (repealed)

Article 59.

The user of the environment shall prepare the first report referred to in Article 7(1) for 2010 and upload it into the National Database by the end of February 2011.

Article 59a.

The National Fund, poviats, gminas and public resources administrators, referred to in Article 5(1) point 2 of the Public Finance Act of 27 August 2009, shall prepare the first information, referred to in Article 7(8), for 2010 and forward them by the end of February 2011.

Article 60.

The Voivodeship Inspector for Environmental Protection shall make the first assessment of the information referred to in Article 8(4) by 15 December 2012. The information contained in the reports for 2010 and 2011 shall be subject to this assessment.

Article 60a.

1. The provisions of Articles 285-288 of the Act amended in Article 56 in its version prior to the date of entry into force of this Act shall apply to the charge for releasing gases or particulate matter into the air, referred to in Article 273(1) point 1 of the Act amended in Article 56, due for the period from 31 December 2016.
2. The charge for releasing gases or particulate matter into the air for the first half of the 2017 shall be paid in the amount of 50% of charges for releasing gases or particulate matter into the air for the first and the second half of 2016.

Article 61.

The executive regulations issued pursuant to Article 286(3) of the Act amended in Article 56 shall remain in force until the entry into force of the executive regulations issued pursuant to Article 286(10) of the Act amended in Article 56.

Article 62.

This Act shall enter into force within 30 days of the date of its publication, except for Article 56(7) which shall enter into force on 1 January 2017.

Annex
to the Act of 17 July 2009 (item 1070)

No.	Substance	CAS number ¹⁾
1	2	3
Greenhouse gases		
1.	Carbon dioxide (CO ₂)	124-38-9
2.	Methane (CH ₄)	74-82-8
3.	Nitrous oxide (N ₂ O)	10024-97-2
4.	Hydrofluorocarbons (HFCs) ²⁾	
5.	Perfluorocarbons (PFCs) ³⁾	
6.	Sulphur hexafluoride (SF ₆)	2551-62-4
Other substances		
7.	Aldrin	309-00-2
8.	Ammonia (NH ₃)	7664-41-7
9.	Anthracene	120-12-7
10.	Arsenic and its compounds (as As) ⁴⁾	
11.	Asbestos	1332-21-4
12.	Benzene	71-43-2
13.	Benzo(a)pyrene	
14.	Benzo(b)fluoranthene	
15.	Benzo(k)fluoranthene	
16.	Chlorine and its inorganic compounds (as HCl)	
17.	Chlordane	57-74-9
18.	Chlordecone	143-50-0
19.	Vinyl chloride	75-01-4
20.	Chlorofluorocarbons (CFCs) ⁵⁾	
21.	Chromium and its compounds (as Cr) ⁴⁾	
22.	Hydrogen cyanide (HCN)	74-90-8
23.	Zinc and its compounds (as Zn) ⁴⁾	
1	2	3
24.	Tetrachloroethylene (PER)	127-18-4
25.	Tetrachloromethane (TCM)	56-23-5
26.	DDT	50-29-3
27.	Di-(2-ethyl hexyl) phthalate (DEHP)	117-81-7
28.	Dieldrin	60-57-1
29.	Dichloromethane (DCM)	75-09-2
30.	Endrin	72-20-8
31.	Fluorine and its inorganic compounds (as HF)	
32.	Halons ⁶⁾	
33.	Hexabromobiphenyl	36355-1-8
34.	Heptachlor	76-44-8
35.	Indeno(1,2,3-cd)pyrene	
36.	Cadmium and its compounds (as Cd) ⁴⁾	
37.	Lindane	58-89-9
38.	Copper and its compounds (as Cu) ⁴⁾	

39.	Mirex	2385-85-5
40.	Naphthalene	91-20-3
41.	non-methane volatile organic compounds (NMVOCs)	
42.	Nickel and its compounds (as Ni) ⁴⁾	
43.	Lead and its compounds (as Pb) ⁴⁾	
44.	PCDD + PCDF [Polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans] (as Teq) ⁷⁾	
45.	Pentachlorobenzene	608-93-5
46.	Pentachlorophenol (PCP)	87-86-5
47.	Polychlorinated biphenyl (PCB)	1336-36-3
48.	Total suspended particulates TSP	
49.	Particulate matter PM10	
50.	Particulate matter PM2.5	
51.	Mercury and its compounds (as Hg) ⁴⁾	
52.	Hexachlorobenzene (HCB)	118-74-1
53.	Ethylene oxide	75-21-8
54.	Carbon monoxide (CO)	630-08-0
55.	Nitrogen oxides (NO _x /NO ₂)	
56.	Sulphur oxides (SO _x /SO ₂)	
1	2	3
57.	Toxaphene	8001-35-2
58.	Trichlorobenzene [all isomers] (TCB)	12002-48-1
59.	Trichloroethylene	79-01-6
60.	Trichloromethane	67-66-3
61.	Hydrochlorofluorocarbons (HCFCs) ⁸⁾	
62.	1,1,1-trichloroethane	71-55-6
63.	1,1,2,2-tetrachloroethane	79-34-5
64.	1,2,3,4,5,6-hexachlorocyclohexane (HCH)	608-73-1
65.	1,2-dichloroethane (EDC)	107-06-2

Notes:

¹⁾The numerical substance codes refer to the Chemical Abstracts Service.

²⁾The total mass of hydrogen fluorocarbons: sum of HFC23, HFC32, HFC41, HFC4310mee, HFC125, HFC134, HFC134a, HFC152a, HFC143, HFC143a, HFC227ea, HFC236fa, HFC245ca, HFC365mfc.

³⁾Total mass of perfluorocarbons: sum of CF₄, C₂F₆, C₃F₈, C₄F₁₀, c-C₄F₈, C⁵F¹², C₆F₁₄.

⁴⁾All metals as the total mass of this element in all chemical forms present in the emissions.

⁵⁾The total mass of substances, including their isomers listed in Groups I and II of Annex I to Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer (OJ L 244 of 29.9.2000, p. 1, as amended).

⁶⁾The total mass of substances, including their isomers listed in Groups III and VI of Annex I to Regulation (EC) No 2037/2000.

⁷⁾Expressed as I-TEQ.

⁸⁾The total mass of substances, including their isomers listed in Group VIII of Annex I to Regulation (EC) No 2037/2000.