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Note to the reader (see page 3 of the cover)

I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COMMISSION REGULATION (EC) No 1147/2008

of 31 October 2008

amending Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, as regards Part III.10 of its Annex 1

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty⁽¹⁾, and in particular Article 27 thereof,

Whereas:

- (1) Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty⁽²⁾ established a compulsory comprehensive State aid notification form.

- (2) Following the adoption by the Commission of new guidelines on State aid for environmental protection⁽³⁾ it is necessary to modify a part of the notification form annexed to Regulation (EC) No 794/2004.

- (3) Regulation (EC) No 794/2004 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Part III.10 of Annex I to Regulation (EC) No 794/2004 is replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 31 October 2008.

For the Commission

Neelie KROES

Member of the Commission

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ OJ L 140, 30.4.2004, p. 1.

⁽³⁾ OJ C 82, 1.4.2008, p. 1.

ANNEX

PART III.10

SUPPLEMENTARY INFORMATION SHEET ON STATE AID FOR ENVIRONMENTAL PROTECTION

This supplementary information sheet must be used for the notification of any aid covered by the Community Guidelines on State aid for environmental protection (hereinafter the Environmental aid guidelines) ⁽¹⁾. It must also be used for individual aid for environmental protection which does not fall under any block exemption or is subject to individual notification obligation as it exceeds the individual notification thresholds laid down in the block exemption.

1. Basic characteristics of the notified measure

Please fill in the relevant parts of the notification form corresponding to the character of the notified measure. Please find below a basic guidance.

(A) Please specify the type of aid and fill in the appropriate subsections of **Section 3** (Compatibility of aid under Article 87(3)(c) of the EC Treaty) of this supplementary information sheet:

- ☐ Aid for undertakings which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards, fill in Section 3.1
- ☐ Aid for the acquisition of new transport vehicles which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards, fill in Section 3.1
- ☐ Aid for SMEs for early adaptation to future Community standards, fill in Section 3.2
- ☐ Aid for environmental studies, fill in Section 3.3
- ☐ Aid for energy saving, fill in Section 3.4
- ☐ Aid for renewable energy sources, fill in Section 3.5
- ☐ Aid for the cogeneration, fill in Section 3.6
- ☐ Aid for energy-efficient district heating, fill in Section 3.7
- ☐ Aid for waste management, fill in Section 3.8
- ☐ Aid for the remediation of contaminated sites, fill in Section 3.9
- ☐ Aid for the relocation of undertakings, fill in Section 3.10
- ☐ Aid involved in tradable permit schemes, fill in Section 3.11
- ☐ Aid in the form of reductions of or exemptions from environmental taxes, fill in Section 6.

Furthermore, please fill in: **Section 4** (Incentive effect and necessity of aid), **Section 7** (Criteria triggering a detailed assessment), **Section 8** (Additional information for detailed assessment) ⁽²⁾, and **Section 10** (Reporting and monitoring).

⁽¹⁾ OJ C 82, 1.4.2008, p. 1. For details concerning the use of this supplementary notification sheet in agriculture and fisheries sectors see Section 2.1 (points 59 and 61) of the Environmental aid guidelines.

⁽²⁾ Please note that Sections 4, 7 and 8 do not have to be filled in, in the case of tax exemptions and reductions from environmental taxes falling under Chapter 4 of the Environmental aid guidelines.

(B) Please explain the main characteristics (objective, likely effects of the aid, aid instrument, aid intensity, beneficiaries, budget etc.) of the notified measure.

(C) Can the aid be combined with other aid?

☐ yes ☐ no

If yes, fill in **Section 9** (Cumulation) of this supplementary information sheet.

(D) Is the aid granted in order to promote the execution of an important project of common European interest?

☐ yes ☐ no

If yes, please fill in **Section 5** (Compatibility of aid under Article 87(3)(b) of the EC Treaty) of this supplementary information sheet.

(E) In case the notified individual aid is based on an approved scheme, please provide details concerning that scheme (case number, title of the scheme, date of Commission approval):

.....
.....

(F) Please confirm that if the aid/bonus for small enterprises is granted, the beneficiaries comply with the definition for small enterprises as defined by the Community legislation:

☐ yes

(G) Please confirm that if the aid/bonus for medium enterprises is granted, the beneficiaries comply with the definition for medium enterprises as defined by the Community legislation:

☐ yes

(H) If applicable, please indicate the exchange rate which has been used for the purposes of the notification:

.....
.....

(I) Please number all documents provided by the Member States as annexes to the notification form and indicate the document numbers in the relevant parts of this supplementary information sheet.

2. Objective of the aid

(A) In the light of the objectives of common interest addressed by the Environmental aid guidelines (Section 1.2) please indicate the environmental objectives pursued by the notified measure. Please give a detailed description of each distinct type of aid to be granted under the notified measure:

.....
.....

(B) If the notified measure has already been applied in the past please indicate its results in terms of environmental protection (please indicate the relevant case number and date of Commission approval and, if possible, attach national evaluation reports on the measure):

.....
.....

- (C) If the measure is new, please indicate the expected results and the period over which they will be achieved:

.....

3. Compatibility of aid under Article 87(3)(c) of the EC Treaty

If there are several beneficiaries involved in the project notified as individual aid, please provide the information below for each of them.

3.1. Aid for undertakings which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards ⁽³⁾

3.1.1. Nature of the supported investments, applicable standards

- (A) Please specify if the aid is granted for:

- ☐ investments enabling the beneficiary to increase the level of environmental protection resulting from its activities by improving on the applicable Community standards ⁽⁴⁾, irrespective of the presence of mandatory national standards that are more stringent than the Community standard;

or

- ☐ investments enabling the beneficiary to increase the level of environmental protection resulting from its activities in the absence of Community standards.

- (B) Please provide details, including, where applicable, information on the relevant Community standards:

.....

- (C) If the aid is granted for reaching the national standard exceeding the Community standards, please indicate the applicable national standards and attach a copy:

.....

3.1.2. Aid intensities and bonuses

In the case of aid schemes, the aid intensity must be calculated for each beneficiary of aid.

- (A) What is the maximum aid intensity applicable to the notified measure ⁽⁵⁾?

- (B) Is the aid granted in a genuinely competitive bidding process ⁽⁶⁾?

- ☐ yes ☐ no

If yes, please provide details of the competitive process and attach a copy of the tender notice or its draft:

.....

⁽³⁾ Cf. Environmental aid guidelines, Section 3.1.1.

⁽⁴⁾ Please note that aid may not be granted where improvements bring companies into line with Community standards already adopted and not yet in force.

⁽⁵⁾ The maximum aid intensity is 50 % of the eligible investment cost.

⁽⁶⁾ For details of the genuinely competitive bidding process required, see point 77 of the Environmental aid guidelines.

(C) Bonuses:

Do the supported projects benefit from a bonus?

☐ yes ☐ no

If yes, please specify below.

— Is an SME bonus applied under the notified measure?

☐ yes ☐ no

If yes, please specify the level of bonus applicable ⁽⁷⁾:

— Is the bonus for eco-innovation ⁽⁸⁾ applied under the notified measure?

☐ yes ☐ no

If yes, please describe how the following conditions are fulfilled:

- ☐ the eco-innovation asset or project is new or substantially improved compared to the state of the art in its industry in the Community;
- ☐ the expected environmental benefit is significantly higher than the improvement resulting from the general evolution of the state of the art in comparable activities;
- ☐ the innovative character of these assets or projects involves a clear degree of risk, in technological, market or financial terms, which is higher than the risk generally associated with comparable non-innovative assets or projects.

Please provide details demonstrating the compliance with the abovementioned conditions:

.....

Specify the level of bonus applicable ⁽⁹⁾:

(D) In case of an aid scheme, specify the total aid intensity of the projects supported under the notified scheme (taking into account the bonuses) (%):

3.1.3. Eligible costs ⁽¹⁰⁾

(A) Please confirm that the eligible costs are limited to the extra investment costs necessary to achieve a higher level of environmental protection than required by the Community standards:

☐ yes

(B) Please further confirm that:

- ☐ the precise environmental protection related cost constitutes the eligible costs, if the cost of investing in environmental protection can be easily identified;

or

- ☐ the extra investment costs are established by comparing the investment with the counterfactual situation in the absence of aid, i.e. the reference investment ⁽¹¹⁾;

and

- ☐ the eligible costs are calculated net of any operating benefits and operating costs related to the extra investment for environmental protection and arising during the first five years of the life of the investment concerned.

⁽⁷⁾ The aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.

⁽⁸⁾ Cf. for details see point 78 of the Environmental aid guidelines.

⁽⁹⁾ The aid intensity may be increased by 10 percentage points.

⁽¹⁰⁾ For details see points 80 to 84 of the Environmental aid guidelines.

⁽¹¹⁾ The correct counterfactual is the cost of a technically comparable investment that provides a lower degree of environmental protection (corresponding to mandatory Community standards, if they exist) and that would credibly be realised without aid. See point 81(b) of the Environmental aid guidelines.

(C) What form do the eligible costs take?

- ☐ investments in tangible assets;
- ☐ investments in intangible assets.

(D) In case of investments in tangible assets please indicate the form(s) of investments concerned:

- ☐ investments in land which are strictly necessary in order to meet environmental objectives;
- ☐ investments in buildings intended to reduce or eliminate pollution and nuisances;
- ☐ investments in plant and equipment intended to reduce or eliminate pollution and nuisances;
- ☐ investments to adapt production methods with a view to protecting the environment.

(E) In case of investments in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know how) please confirm that any such intangible asset satisfies the following conditions:

- ☐ it is regarded as a depreciable asset;
- ☐ it is purchased on market terms, from an undertaking from which the acquirer has no power of direct or indirect control,
- ☐ it is included in the assets of the undertaking, and remains in the establishment of the recipient of the aid and is used there for at least five years ⁽¹²⁾.

Furthermore, please confirm that if the intangible asset is sold during those five years:

- ☐ the yield from the sale will be deducted from the eligible costs;
- and
- ☐ all or part of the amount of aid will, where appropriate, be reimbursed.

(F) In case of investments aiming at obtaining a level of environmental protection higher than Community standards, please confirm the relevant statements:

- ☐ if the undertaking is adapting to national standards adopted in the absence of Community standards, the eligible costs consist of the additional investment costs necessary to achieve the level of environmental protection required by the national standards;
- ☐ if the undertaking is adapting to or goes beyond national standards which are more stringent than the relevant Community standards or goes beyond Community standards, the eligible costs consist of the additional investment costs necessary to achieve a level of environmental protection higher than the level required by the Community standards ⁽¹³⁾;
- ☐ if no standards exist, the eligible costs consist of the investment costs necessary to achieve a higher level of environmental protection than that which the undertaking or undertakings in question would achieve in the absence of any environmental aid;

(G) For aid schemes, please provide a detailed calculation methodology, by reference to the counterfactual situation, which will be applied to all individual aid grants based on the notified scheme, and provide the relevant evidence:

.....
.....
.....

⁽¹²⁾ Please note that this condition does not apply if the intangible asset is technically out of date.

⁽¹³⁾ Please note that the cost of investments needed to reach the level of protection required by the Community standards is not eligible.

For individual aid measures, please provide a detailed calculation of the eligible costs of the notified investment project, by reference to the counterfactual situation, and provide relevant evidence:

.....

.....

.....

.....

.....

3.1.4. Specific rules on aid for the acquisition of new transport vehicles which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards ⁽¹⁴⁾

In the case of aid for the acquisition of new transport vehicles which go beyond Community standards or which increase the level of environmental protection in the absence of Community standards, in addition to sections 3.1.-3.1.3:

- (A) Please confirm that new transport vehicles for road, railway, inland waterway and maritime transport complying with adopted Community standards have been acquired before their entry into force and that the Community standards, once mandatory, do not apply retroactively to already purchased vehicles.

☐ yes

Please provide details:

.....

.....

- (B) For retrofitting operations with an environmental protection objective in the transport sector, please confirm that:

☐ the existing means of transport are upgraded to environmental standards that were not yet in force at the date of the entry into operation of those means of transport;

or

☐ the means of transport are not subject to any environmental standards.

3.2. Aid for early adaptation to future Community standards ⁽¹⁵⁾

3.2.1. Basic conditions

- (A) Please confirm that the investment is implemented and finalised at least one year before the entry into force of the standard.

☐ yes ☐ no

If yes, in the case of aid schemes, please provide details on how compliance with this condition is ensured:

.....

.....

If yes, in the case of individual aid please provide details and relevant evidence:

.....

.....

- (B) Please provide details of the relevant Community standards, including the dates relevant for ensuring compliance with condition (A):

.....

.....

⁽¹⁴⁾ Cf. Environmental aid guidelines, Section 3.1.2.

⁽¹⁵⁾ Cf. Environmental aid guidelines, Section 3.1.3.

3.2.2. Aid intensities

What is the basic aid intensity applicable to the notified measure?

- for small enterprises ⁽¹⁶⁾:
- for medium-sized enterprises ⁽¹⁷⁾:
- for large enterprises ⁽¹⁸⁾:

3.2.3. Eligible costs

(A) Please confirm that the eligible costs are limited to the extra investment costs necessary to achieve the level of environmental protection required by the Community standard compared to the existing level of environmental protection required prior to the entry into force of this standard:

- ☐ yes

(B) Please further confirm that:

- ☐ the precise environmental protection related cost constitutes the eligible costs, if the cost of investing in environmental protection can be easily identified;

or

- ☐ the extra investment costs are established by comparing the investment with the counterfactual situation in the absence of aid, i.e. the reference investment ⁽¹⁹⁾;

and

- ☐ eligible costs are calculated net of any operating benefits and operating costs related to the extra investment for environmental protection and arising during the first five years of the life of the investment concerned.

(C) What form do the eligible costs take?

- ☐ investments in tangible assets
- ☐ investments in intangible assets

(D) In case of investments in tangible assets please indicate the form(s) of investments concerned:

- ☐ investments in land which are strictly necessary in order to meet environmental objectives;
- ☐ investments in buildings intended to reduce or eliminate pollution and nuisances;
- ☐ investments in plant and equipment intended to reduce or eliminate pollution and nuisances;
- ☐ investments to adapt production methods with a view to protecting the environment.

⁽¹⁶⁾ The maximum aid intensity is 25 % if the implementation and finalisation take place more than three years before the mandatory date of transposition or date of entry into force and 20 % if the implementation and the finalisation take place between one and three years before the mandatory date of transposition or date of entry into force.

⁽¹⁷⁾ The maximum aid intensity is 20 % if the implementation and finalisation take place more than three years before the mandatory date of transposition or date of entry into force and 15 % if the implementation and the finalisation take place between one and three years before the mandatory date of transposition or date of entry into force.

⁽¹⁸⁾ The maximum aid intensity is 15 % if the implementation and finalisation take place more than three years before the mandatory date of transposition or date of entry into force and 10 % if the implementation and the finalisation take place between one and three years before the mandatory date of transposition or date of entry into force.

⁽¹⁹⁾ The correct counterfactual is the cost of a technically comparable investment that provides a lower degree of environmental protection and that would credibly be realised without aid. See point 81(b) of the Environmental aid guidelines.

- (E) In case of investments in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know how) please confirm that any such intangible asset satisfies the following conditions:

- ☐ it is regarded as a depreciable asset;
- ☐ it is purchased on market terms, from an undertaking from which the acquirer has no power of direct or indirect control,
- ☐ it is included in the assets of the undertaking, and remains in the establishment of the recipient of the aid and is used there for at least five years ⁽²⁰⁾.

Furthermore, please confirm that if the intangible asset is sold during those five years:

- ☐ the yield from the sale will be deducted from the eligible costs;
- and
- ☐ all or part of the amount of aid will, where appropriate, be reimbursed.

- (F) For aid schemes, please provide a detailed calculation methodology, by reference to the counterfactual situation, which will be applied to all individual aid grants based on the notified scheme, and provide the relevant evidence:

.....

For individual aid measures, please provide a detailed calculation of the eligible costs of the notified investment project, by reference to the counterfactual situation, and provide relevant evidence:

.....

3.3. *Aid for environmental studies* ⁽²¹⁾

3.3.1. Studies directly linked to investments aiming at achieving standards which go beyond Community standards, or increase the level of environmental protection in the absence of Community standards

- (A) Please confirm if the aid is granted for studies directly linked to investments for the purposes of achieving standards which go beyond Community standards, or increase the level of environmental protection in the absence of Community standards.

- ☐ yes ☐ no

If yes, please specify which of the following purposes the investment serves:

- ☐ it enables the beneficiary to increase the level of environmental protection resulting from its activities by improving on the applicable Community standards, irrespective of the presence of mandatory national standards that are more stringent than the Community standard;
- or
- ☐ it enables the beneficiary to increase the level of environmental protection resulting from its activities in the absence of Community standards.

⁽²⁰⁾ Please note that this condition does not apply if the intangible asset is technically out of date.

⁽²¹⁾ Cf. Environmental aid guidelines, Section 3.1.4.

- (B) Please provide details, including, where applicable, the information on the relevant Community standards:

.....
.....

- (C) If the aid is granted for studies directly linked to investments aiming at reaching national standards which go beyond Community standards, please indicate the applicable national standards and attach a copy:

.....
.....

- (D) Please describe the types of studies that will be supported:

.....
.....
.....
.....
.....

3.3.2. Studies directly linked to investments for the purposes of achieving energy saving

Please confirm that the aid is granted for studies directly linked to investments for the purposes of achieving energy saving.

☐ yes ☐ no

If yes, please provide evidence on how the purpose of the relevant investment complies with the definition of energy savings as laid down in point 70(2) of the Environmental aid guidelines:

.....
.....

3.3.3. Studies directly linked to investments of producing renewable energy

- (A) Please confirm if the aid is granted for studies directly linked to investments for the purposes of producing renewable energy.

☐ yes ☐ no

If yes, please provide evidence on how the purpose of the relevant investment complies with the definition of production from renewable energy sources, as laid down in point 70(5) and (9) of the Environmental aid guidelines:

.....
.....

- (B) Please specify the type(s) of renewable energy sources which are intended to be supported under the investment linked to the environmental study and provide details:

.....
.....

3.3.4. Aid intensities and bonuses

- (A) What is the maximum aid intensity applicable to the notified measure ⁽²²⁾?

.....

⁽²²⁾ The maximum aid intensity is 50 % of the costs of the study.

(B) Is an SME bonus applied under the notified measure?

☐ yes ☐ no

If yes please specify the level of bonus applicable ⁽²³⁾:

3.4. Aid for energy saving ⁽²⁴⁾

3.4.1. Basic conditions

(A) Please confirm that the notified measure complies with the definition of energy savings in point 70(2) of the Environmental aid guidelines.

☐ yes

(B) Please specify the type(s) of the supported measures leading to energy saving, as well as the level of energy saving to be attained, and provide details:

.....

3.4.2. Investment aid

3.4.2.1. Aid intensities and bonuses

(A) What is the basic aid intensity applicable to the notified measure ⁽²⁵⁾:

(B) Bonuses:

— Is an SME bonus applied under the notified measure?

☐ yes ☐ no

If yes, please specify the level of bonus applicable ⁽²⁶⁾:

(C) Is the aid granted in a genuinely competitive bidding process ⁽²⁷⁾?

☐ yes ☐ no

If yes, please provide details regarding the competitive process and attach a copy of the tender notice or its draft:

.....

(D) In case of an aid scheme, specify the total aid intensity of the projects supported under the notified scheme (taking into account the bonuses) (%):

.....

3.4.2.2. Eligible costs ⁽²⁸⁾

(A) As regards the calculation of the eligible costs, please confirm that the eligible costs are limited to the extra investment costs necessary to achieve energy savings beyond the level required by the Community standards:

☐ yes

⁽²³⁾ When the aid is undertaken on behalf of an SME, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.

⁽²⁴⁾ Cf. Environmental aid guidelines, Section 3.1.5.

⁽²⁵⁾ The maximum aid intensity is 60 % of the eligible investment costs.

⁽²⁶⁾ The aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.

⁽²⁷⁾ For details of the genuinely competitive bidding process required, see point 97 of the Environmental aid guidelines.

⁽²⁸⁾ For details see point 98 of the Environmental aid guidelines.

(B) Please further clarify whether:

- ☐ the precise energy saving related cost constitutes the eligible costs, in case the costs of investing in energy saving can be easily identified;

or

- ☐ the part of the investment directly related to energy saving is established by comparing the investment with the counterfactual situation in the absence of aid, i.e. the reference investment ⁽²⁹⁾;

and

- ☐ eligible costs are calculated net of any operating benefits and operating costs related to the extra investment for energy saving and arising during the first three years of the life of this investment in the case of SMEs, the first four years in the case of large undertakings that are not part of the EU CO₂ Emission Trading System and the first five years in the case of large undertakings that are part of the EU CO₂ Emission Trading System ⁽³⁰⁾.

(C) In the case of investment aid for achieving a level of energy saving higher than Community standards, please confirm which one of the following statements is applicable:

- ☐ if the undertaking is adapting to national standards adopted in the absence of Community standards, the eligible costs consist of the additional investment costs necessary to achieve the level of environmental protection required by the national standards;
- ☐ if the undertaking is adapting to or goes beyond national standards which are more stringent than the relevant Community standards or goes beyond Community standards, the eligible costs consist of the additional investment costs necessary to achieve a level of environmental protection higher than the level required by the Community standards ⁽³¹⁾;
- ☐ if no standards exist, the eligible costs consist of the investment costs necessary to achieve a higher level of environmental protection than that which the undertaking or undertakings in question would achieve in the absence of any environmental aid;

(D) What form do the eligible costs take?

- ☐ investments in tangible assets;
- ☐ investments in intangible assets.

(E) In the case of investments in tangible assets please indicate the form(s) of investments concerned:

- ☐ investments in land which are strictly necessary in order to meet environmental objectives;
- ☐ investments in buildings intended to reduce or eliminate pollution and nuisances;
- ☐ investments in plant and equipment intended to reduce or eliminate pollution and nuisances;
- ☐ investments to adapt production methods with a view to protecting the environment.

(F) In the case of investments in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know how) please confirm that any such intangible asset satisfies the following conditions:

- ☐ it is regarded as a depreciable asset;

⁽²⁹⁾ The correct counterfactual is the cost of a technically comparable investment that provides a lower degree of environmental protection and that would credibly be realised without aid. See point 81(b) of the Environmental aid guidelines.

⁽³⁰⁾ Please note that for large undertakings, this period can be reduced to the first three years of the life of the investment, where the depreciation time of the investment can be demonstrated not to exceed three years.

⁽³¹⁾ Please note that the cost of investments needed to reach the level of protection required by the Community standards is not eligible.

- ☐ it is purchased on market terms, from an undertaking from which the acquirer has no power of direct or indirect control,
- ☐ it is included in the assets of the undertaking, and remains in the establishment of the recipient of the aid and is used there for at least five years ⁽³²⁾.

Furthermore, please confirm that if the intangible asset is sold during those five years:

- ☐ the yield from the sale will be deducted from the eligible costs;
- and
- ☐ all or part of the aid amount will be, where appropriate, reimbursed.

- (G) For aid schemes, please provide a detailed calculation methodology, by reference to the counterfactual situation ⁽³³⁾, which will be applied to all individual aid grants based on the notified scheme, and provide the relevant evidence:

.....

If the notification concerns an individual aid measure, please provide a detailed calculation of the eligible costs of the notified investment project, by reference to the counterfactual situation, and provide relevant evidence:

.....

3.4.3. Operating aid

- (A) Please provide information/calculations demonstrating that the aid is limited to compensating for net extra production costs resulting from the investment taking account of benefits resulting from energy saving ⁽³⁴⁾:

.....

- (B) What is the duration of the operating aid measure ⁽³⁵⁾?

- (C) Is the aid degressive?

☐ yes ☐ no

What is the aid intensity of the:

— degressive aid (please indicate the degressive rates for each year) ⁽³⁶⁾:

— non-degressive aid ⁽³⁷⁾:

⁽³²⁾ Please note that this condition does not apply if the intangible asset is technically out of date.

⁽³³⁾ See point 81(b) of the Environmental aid guidelines.

⁽³⁴⁾ Please note that any investment aid granted to the undertaking in respect of the new plant must be deducted from production costs.

⁽³⁵⁾ Please note that the duration must be limited to maximum five years.

⁽³⁶⁾ The aid intensity must not exceed 100 % of the extra costs in the first year, but must have fallen in a linear fashion to zero by the end of the fifth year.

⁽³⁷⁾ The maximum aid intensity is 50 % of the extra costs.

3.5. *Aid for renewable energy sources* ⁽³⁸⁾

3.5.1. Basic conditions

- (A) Please confirm that the aid is granted exclusively for the promotion of renewable energy sources as defined by the Environmental aid guidelines ⁽³⁹⁾.

☐ yes ☐ no

- (B) In the case of biofuel promotion, please confirm that the aid is granted exclusively for the promotion of sustainable biofuels within the meaning of those guidelines.

☐ yes ☐ no

- (C) Please specify the type(s) of renewable energy sources ⁽⁴⁰⁾ supported under the notified measure and provide details:

.....

3.5.2. Investment aid

3.5.2.1. Aid intensities and bonuses

- (A) What is the basic aid intensity applicable to each renewable energy source supported by the notified measure ⁽⁴¹⁾:

- (B) Is an SME bonus applied under the notified measure?

☐ yes ☐ no

If yes, please specify the level of bonus applicable ⁽⁴²⁾:

- (C) Is the aid granted in a genuinely competitive bidding process ⁽⁴³⁾?

☐ yes ☐ no

If yes, please provide details of the competitive process and attach a copy of the tender notice or its draft:

.....

- (D) In the case of an aid scheme, specify the total aid intensity of the projects supported under the notified scheme (taking into account the bonuses) (%):

.....

3.5.2.2. Eligible costs ⁽⁴⁴⁾

- (A) Please confirm that the eligible costs are limited to the extra investment costs borne by the beneficiary compared with a conventional power plant or with a conventional heating system with the same capacity in terms of the effective production of energy;

☐ yes

- (B) Please further confirm that:

- ☐ the precise renewable energy related cost constitutes the eligible costs, in case the cost of investing renewable energy can be easily identified;

or

⁽³⁸⁾ Cf. Environmental aid guidelines, Section 3.1.6.

⁽³⁹⁾ See point 70(5) to (9) of the Environmental aid guidelines.

⁽⁴⁰⁾ Please note that aid for investment and/or operating aid for the production of biofuels shall be allowed only with regard to sustainable biofuels.

⁽⁴¹⁾ The maximum aid intensity is 60 % of the eligible investment costs.

⁽⁴²⁾ The aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.

⁽⁴³⁾ For details of the genuinely competitive bidding process required, see point 104 of the Environmental aid guidelines.

⁽⁴⁴⁾ For details see points 105 and 106 of the Environmental aid guidelines.

- ☐ the extra investment costs are established by comparing the investment with the counterfactual situation in the absence of aid, i.e. the reference investment ⁽⁴⁵⁾;

and

- ☐ eligible costs are calculated net of any operating benefits and costs related to the extra investment for renewable sources of energy and arising during the first five years of the life of the investment concerned.

(C) What form do the eligible costs take?

- ☐ investments in tangible assets;
- ☐ investments in intangible assets.

(D) In the case of investments in tangible assets, please indicate the form(s) of investments concerned:

- ☐ investments in land which are strictly necessary in order to meet environmental objectives;
- ☐ investments in buildings intended to reduce or eliminate pollution and nuisances;
- ☐ investments in plant and equipment intended to reduce or eliminate pollution and nuisances;
- ☐ investments to adapt production methods with a view to protecting the environment.

(E) In the case of investments in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know how) please confirm that any such intangible asset satisfies the following conditions:

- ☐ it is regarded as a depreciable asset;
- ☐ it is purchased on market terms, from an undertaking from which the acquirer has not power of direct or indirect control;
- ☐ it is included in the assets of the undertaking, and remains in the establishment of the recipient of the aid and is used there for at least five years ⁽⁴⁶⁾.

Furthermore, please confirm that if the intangible asset is sold during those five years:

- ☐ the yield from the sale will be deducted from the eligible costs;
- and
- ☐ all or part of the aid amount will be, where appropriate, reimbursed.

(F) For aid schemes, please provide a detailed calculation methodology, by reference to the counterfactual situation, which will be applied to all individual aid grants based on the notified scheme, and provide the relevant evidence:

.....

.....

.....

.....

.....

⁽⁴⁵⁾ The correct counterfactual is the cost of a technically comparable investment that provides a lower degree of environmental protection and that would credibly be realised without aid. See point 81(b) of the Environmental aid guidelines.

⁽⁴⁶⁾ Please note that this condition does not apply if the intangible asset is technically out of date.

For individual aid measures, please provide a detailed calculation of the eligible costs of the notified investment project, by reference to the counterfactual situation, and provide relevant evidence:

.....

.....

.....

.....

.....

3.5.3. Operating aid

Following the choice of the operating aid assessment option ⁽⁴⁷⁾, please fill in the relevant part of the section below.

3.5.3.1. Option 1

- (A) Please provide for the duration of the notified measure the following information demonstrating that the operating aid is granted in order to cover the difference between the cost of producing energy from renewable sources and the market price of the form of energy concerned:

- detailed analysis of the cost of producing energy from each of the relevant renewable sources ⁽⁴⁸⁾:

.....

.....

- detailed analysis of the market price of the form of energy concerned:

.....

.....

- (B) Please demonstrate that the aid will be granted only until the plant has been fully depreciated according to normal accounting rules ⁽⁴⁹⁾ and provide a detailed analysis of the depreciation of each type ⁽⁵⁰⁾ of the investments for environmental protection:

.....

.....

For aid schemes, please specify how the compliance with this condition will be ensured:

.....

.....

For individual aid, please provide a detailed analysis demonstrating that this condition is fulfilled:

.....

.....

- (C) When determining the amount of operating aid, please demonstrate how any investment aid granted to the undertaking in question in respect of a new plant is deducted from production costs:

.....

.....

⁽⁴⁷⁾ For details on Option 1 see point 109 of the Environmental aid guidelines, for Option 2 see point 110 of the Environmental aid guidelines and for Option 3 see point 111 of the Environmental aid guidelines.

⁽⁴⁸⁾ For aid schemes the information can be provided in the form of a (theoretical) calculation example (preferably with the amounts in net present values). The production costs should at least be specified separately for each type of renewable energy source. Specific information may also be useful for different plant capacities and for different types of production installation where the cost structure varies significantly (for example for land-based and/or off-shore wind power).

⁽⁴⁹⁾ Please note that any further energy produced by the plant will not qualify for any assistance. However, the aid may also cover a normal return on capital.

⁽⁵⁰⁾ The depreciation should at least be specified separately for each type of renewable energy source (preferably with the amounts in net present values). Specific information may also be useful for different plant capacities and land-based and/or off-shore windpower.

(D) Does the aid also cover a normal return on capital?

☐ yes ☐ no

If yes, please provide details and the information/calculations showing the rate of the normal return and give reasons why the chosen rate is appropriate:

.....

(E) For aid for the production of renewable energy from biomass, where the operating aid would exceed the amount of investment, please provide data/evidence (based on calculation examples for aid schemes or detailed calculation for individual aid) demonstrating that the aggregate costs borne by the undertakings after plant depreciation are still higher than the market prices of the energy:

.....

(F) Please specify the precise support mechanisms (taking into account the requirements described above) and, in particular, the methods of calculating the amount of aid:

— for aid schemes based on a (theoretical) example of an eligible project:

.....

Furthermore, please confirm that the calculation methodology described above will be applied to all individual aid grants based on the notified aid scheme:

☐ yes

— for individual aid please provide a detailed calculation of the aid amount (taking into account the requirements described above):

.....

(G) What is the duration of the notified measure?

.....

It is the practice of the Commission to limit its authorisation to 10 years. If yes, could you please undertake to re-notify the measure within a period of 10 years?

☐ yes ☐ no

3.5.3.2. Option 2

(A) Please provide a detailed description of the green certificate or tender system (including, *inter alia*, the information on the level of discretionary powers, the role of the administrator, the price determination mechanism, the financing mechanism, the penalty mechanism and re-distribution mechanism):

.....

(B) What is the duration of the notified measure ⁽⁵¹⁾?

.....

(C) Please provide data/calculations showing that the aid is essential to ensure the viability of the renewable energy sources:

.....

⁽⁵¹⁾ Please note that the Commission can authorise such notified measure for a period of 10 years.

- (D) Please provide data/calculations showing that the aid does not in the aggregate result in overcompensation for renewable energy:

.....

- (E) Please provide information/calculations showing that the aid does not dissuade renewable energy producers from becoming more competitive:

.....

3.5.3.3. Option 3 ⁽⁵²⁾

- (A) What is the duration of the operating aid measure ⁽⁵³⁾?

- (B) Please provide for the duration of the notified measure the following information demonstrating that the operating aid is granted to compensate for the difference between the cost of producing energy from renewable sources and the market price of the form of energy concerned:

- detailed analysis of the cost of producing energy from each of the relevant renewable sources ⁽⁵⁴⁾:

.....

- detailed analysis of the market price of the form of energy concerned:

.....

- (C) Is the aid degressive?

☐ yes ☐ no

What is the aid intensity of the:

- degressive aid (please indicate the degressive rates for each year) ⁽⁵⁵⁾:

.....;

- non-degressive aid ⁽⁵⁶⁾:

3.6. Aid for cogeneration ⁽⁵⁷⁾

3.6.1. Basic conditions

Please confirm that the aid for cogeneration is granted exclusively to cogeneration units satisfying the definition of high efficiency cogeneration as set out in point 70(11) of the Environmental aid guidelines:

☐ yes ☐ no

3.6.2. Investment aid

Please confirm that:

- ☐ the new cogeneration unit will overall make primary energy savings compared to separate production as defined by Directive 2004/8/EC and Commission Decision 2007/74/EC.

⁽⁵²⁾ Member States may grant operating aid in accordance with the provisions set out in point 100 of the Environmental aid guidelines.

⁽⁵³⁾ Please note that the duration must be limited to maximum five years.

⁽⁵⁴⁾ For aid schemes the information can be provided in the form of a (theoretical) calculation example (preferably with the amounts in net present values). The production costs should at least be specified separately for each type of renewable energy source. Specific information may also be useful for different plant capacities and land-based and/or off-shore wind power.

⁽⁵⁵⁾ The aid intensity must not exceed 100 % of the extra costs in the first year, but must have fallen in a linear fashion to zero by the end of the fifth year.

⁽⁵⁶⁾ The maximum aid intensity is 50 % of the extra costs.

⁽⁵⁷⁾ Cf. Environmental aid guidelines, Section 3.1.7.

- ☐ the improvement of an existing cogeneration unit or conversion of an existing power generation unit into a cogeneration unit will result in primary energy savings compared to the original situation.

Please provide details and evidence demonstrating the compliance with the above mentioned conditions:

.....

3.6.2.1. Aid intensities and bonuses

(A) What is the basic aid intensity applicable to the notified measure ⁽⁵⁸⁾?

(B) Bonuses:

— Is an SME bonus applied under the notified measure?

☐ yes ☐ no

If yes, please specify the level of bonus applicable ⁽⁵⁹⁾:

(C) Is the aid granted in a genuinely competitive bidding process ⁽⁶⁰⁾?

☐ yes ☐ no

If yes, please provide details of the competitive process and attach a copy of the tender notice or its draft:

.....

(D) In case of an aid scheme, specify the total aid intensity of the projects supported under the notified scheme (taking into account the bonuses) (%):

.....

.....

3.6.2.2. Eligible costs ⁽⁶¹⁾

(A) Please confirm that the eligible costs are limited to the extra investment costs necessary to realise a high efficiency cogeneration plant:

☐ yes

(B) Please further confirm that:

☐ the precise cogeneration related cost constitutes the eligible costs, if the cost of investing in cogeneration can be easily defined;

or

☐ the extra investment costs directly related to cogeneration are established by comparing the investment with the counterfactual situation in the absence of aid, i.e. the reference investment ⁽⁶²⁾;

and

☐ eligible costs are calculated net of any operating benefits and operating costs related to the extra investment and arising during the first five years of the life of the investment concerned.

⁽⁵⁸⁾ The maximum aid intensity is 60 % of the eligible investment costs.

⁽⁵⁹⁾ The aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.

⁽⁶⁰⁾ For details of the genuinely competitive bidding process required, see point 116 of the Environmental aid guidelines.

⁽⁶¹⁾ For details see points 117 and 118 of the Environmental aid guidelines.

⁽⁶²⁾ The correct counterfactual is the cost of a technically comparable investment that provides a lower degree of environmental protection and that would credibly be realised without aid. See point 81(b) of the Environmental aid guidelines.

(C) What form do the eligible costs take?

- ☐ investments in tangible assets;
- ☐ investments in intangible assets.

(D) In the case of investments in tangible assets, please indicate the form(s) of investments concerned:

- ☐ investments in land which are strictly necessary in order to meet environmental objectives;
- ☐ investments in buildings intended to reduce or eliminate pollution and nuisances;
- ☐ investments in plant and equipment intended to reduce or eliminate pollution and nuisances;
- ☐ investments to adapt production methods with a view to protecting the environment.

(E) In the case of investments in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know how) please confirm that any such intangible asset satisfies the following conditions:

- ☐ it is regarded as a depreciable asset;
- ☐ it is purchased on market terms, from an undertaking from which the acquirer has not power of direct or indirect control,
- ☐ it is included in the assets of the undertaking, and remains in the establishment of the recipient of the aid and is used there for at least five years ⁽⁶³⁾.

Furthermore, please confirm that if the intangible asset is sold during those five years:

- ☐ the yield from the sale will be deducted from the eligible costs;
- and
- ☐ all or part of the aid amount will be, where appropriate, reimbursed.

(F) For aid schemes, please provide a detailed calculation methodology, by reference to the counterfactual situation, which will be applied to all individual aid grants based on the notified scheme, and provide the relevant evidence:

.....
.....
.....
.....
.....

For individual aid measures, please provide a detailed calculation of the eligible costs of the notified investment project, by reference to the counterfactual situation, and provide relevant evidence:

.....
.....
.....
.....
.....

⁽⁶³⁾ Please note that this condition does not apply if the intangible asset is technically out of date.

3.6.3. Operating aid

- (A) Please confirm that the existing cogeneration unit satisfies both the definition of high-efficiency cogeneration set out in point 70(11) of the Environmental aid guidelines and the requirement that there are overall primary savings compared to separate production as defined by Directive 2004/8/EC and Decision 2007/74/EC:

☐ yes

- (B) Please confirm further that the operating aid for high efficiency cogeneration is granted exclusively to:

- ☐ undertakings distributing electric power and heat to the public, where the costs of producing such electric power or heat exceed its market price ⁽⁶⁴⁾;
- ☐ for the industrial use of the combined production of electric power and heat where it can be shown that the production cost of one unit of energy using that technique exceeds the market price of one unit of conventional energy ⁽⁶⁵⁾.

Please provide details and evidence that the relevant condition(s) is/are complied with:

.....

3.6.3.1. Option 1

- (A) Please provide the following information demonstrating that the operating aid is granted in order to cover the difference between the cost of producing energy in cogeneration units and the market price of the form of energy concerned:

— detailed analysis of the cost of producing energy in cogeneration units ⁽⁶⁶⁾:

.....

— detailed analysis of the market price of the form of energy concerned:

.....

- (B) Please demonstrate that the aid will be granted only until the plant has been fully depreciated according to normal accounting rules ⁽⁶⁷⁾ and provide a detailed analysis of the depreciation of each type of the investments for environmental protection:

.....

For aid schemes, please specify how the compliance with this condition will be ensured:

.....

For individual aid, please provide a detailed analysis demonstrating that this condition is fulfilled:

.....

⁽⁶⁴⁾ The decision as to whether the aid is necessary will take account of the costs and revenue resulting from the production and sale of the electric power or heat.

⁽⁶⁵⁾ The production cost may include the plant's normal return on capital, but any gains by the undertaking in terms of heat production must be deducted from production costs.

⁽⁶⁶⁾ For aid schemes the information can be provided in the form of an (theoretical) calculation example.

⁽⁶⁷⁾ Please note that any further energy produced by the plant will not qualify for any assistance. However, the aid may also cover a normal return on capital.

- (C) When determining the amount of operating aid, please demonstrate how any investment aid granted to the undertaking in question in respect of a new plant is deducted from production costs:

.....
.....

- (D) Does the aid also cover a normal return on capital?

☐ yes ☐ no

If yes, please provide details and information/calculations showing the rate of normal return and give reasons why the chosen rate is appropriate:

.....
.....

- (E) For aid supporting biomass-based CHP units, if the operating aid would exceed the amount of investment, please provide data/evidence (based on calculation examples for aid schemes or detailed calculation for individual aid) demonstrating that the aggregate costs borne by the undertakings after plant depreciation are still higher than the market prices of the energy:

.....
.....

- (F) Please specify the precise support mechanisms (taking into account the requirements described above) and in particular the methods of calculating the amount of aid:

— for aid schemes based on a (theoretical) example of an eligible project:

.....
.....

Furthermore, please confirm that the calculation methodology describe above will be applied to all individual aid grants based on the notified aid scheme:

☐ yes

— for individual aid please provide a detailed calculation of the amount of aid (taking into account the requirements described above):

.....
.....

- (G) What is the duration of the notified measure?

.....
.....

It is the Commission practice to limit its decisions to 10 years. If yes, could you please undertake to re-notify the measure within a period of 10 years?

☐ yes ☐ no

3.6.3.2. Option 2

- (A) Please provide a detailed description of the certificate or tender system (including , *inter alia*, the information on the level of discretionary powers, the role of the administrator, the price determination mechanism):

.....
.....

(B) What is the duration of the notified measure ⁽⁶⁸⁾?

.....

(C) Please provide data/calculations showing that the aid is essential to ensure the viability of the production of energy in cogeneration plants:

.....

(D) Please provide data/calculations showing that the aid does not in the aggregate result in overcompensation for energy produced in cogeneration plants:

.....

(E) Please provide information/calculations showing that the aid does not dissuade producers of energy in cogeneration from becoming more competitive:

.....

3.6.3.3. Option 3

(A) What is the duration of the operating aid measure ⁽⁶⁹⁾?

(B) Please provide for the duration of the notified measure the following information demonstrating that the operating aid is granted in order to compensate for the difference between the cost of producing energy in cogeneration plants and the market price of the form of energy concerned:

— detailed analysis of the cost of producing energy in cogeneration plants:

.....

— detailed analysis of the market price of the form of energy concerned:

.....

(C) Is the aid degressive?

☐ yes ☐ no

What is the aid intensity of the:

— degressive aid (please indicate the degressive rates for each year) ⁽⁷⁰⁾:

.....;

— non-degressive aid ⁽⁷¹⁾:

3.7. Aid for energy efficient district heating ⁽⁷²⁾

3.7.1. Basic conditions

Please confirm that:

☐ the environmental investment aid in energy-efficient district heating installations leads to primary energy savings

and

⁽⁶⁸⁾ Please note that the Commission can authorise such notified measure for a period of 10 years.

⁽⁶⁹⁾ Please note that the duration must be limited to maximum five years.

⁽⁷⁰⁾ The aid intensity must not exceed 100 % of the extra costs in the first year, but must have fallen in a linear fashion to zero by the end of the fifth year.

⁽⁷¹⁾ The maximum aid intensity is 50 % of the extra costs.

⁽⁷²⁾ Cf. Environmental aid guidelines, Section 3.1.8.

- ☐ the beneficiary district heating installation satisfies the definition of energy efficient district heating set out in point 70(13) of the Environmental aid guidelines

and

- ☐ the combined operation of the generation of heat (as well as electricity in the case of cogeneration) and the distribution of heat will result in primary energy savings

or

- ☐ the investment is meant for the use and distribution of waste heat for district heating purposes.

In the case of aid schemes, please provide details on how compliance with this condition is ensured:

.....

In the case of individual aid, please provide details and relevant evidence:

.....

3.7.2. Aid intensities and bonuses

(A) What is the basic aid intensity applicable to the notified measure ⁽⁷³⁾?

(B) Is an SME bonus applied under the notified measure?

- ☐ yes ☐ no

If yes, please specify the level of bonus applicable ⁽⁷⁴⁾:

(C) Is the aid granted in a genuinely competitive bidding process ⁽⁷⁵⁾?

- ☐ yes ☐ no

If yes, please provide details of the competitive process and attach a copy of the tender notice or its draft:

.....

(D) In case of an aid scheme, specify the total aid intensity of the projects supported under the notified scheme (taking into account the bonuses) (%):

.....

3.7.3. Eligible costs ⁽⁷⁶⁾

(A) Please confirm that the eligible costs are limited to the extra investment costs necessary to realise an investment leading to energy-efficient district heating as compared to the reference investment:

- ☐ yes

(B) Please further confirm that:

- ☐ the precise energy efficient district heating related cost constitutes the eligible costs, if the costs of investing in environmental protection can be easily identified;

or

⁽⁷³⁾ The maximum aid intensity is 50 % of the eligible costs. If the aid is intended solely for the generation part of a district heating installation, energy-efficient district heating installations using renewable sources of energy or cogeneration, the maximum aid intensity is 60 % of the eligible costs.

⁽⁷⁴⁾ The aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.

⁽⁷⁵⁾ For details of the genuinely competitive bidding process required, see point 123 of the Environmental aid guidelines.

⁽⁷⁶⁾ For details see points 124 and 125 of the Environmental aid guidelines.

- ☐ the extra investment costs are established by comparing the investment with the counterfactual situation in the absence of aid, i.e. the reference investment ⁽⁷⁷⁾;

and

- ☐ eligible costs are calculated net of any operating benefits and operating costs related to the extra investment and arising during the first five years of the life of the investment concerned.

(C) What form do the eligible costs take?

- ☐ investments in tangible assets;
- ☐ investments in intangible assets.

(D) In the case of investments in tangible assets, please indicate the form(s) of investments concerned:

- ☐ investments in land which are strictly necessary in order to meet environmental objectives;
- ☐ investments in buildings intended to reduce or eliminate pollution and nuisances;
- ☐ investments in plant and equipment intended to reduce or eliminate pollution and nuisances;
- ☐ investments to adapt production methods with a view to protecting the environment.

(E) In the case of investments in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know how), please confirm that any such intangible asset satisfies the following conditions:

- ☐ it is regarded as a depreciable asset;
- ☐ it is purchased on market terms, from an undertaking from which the acquirer has not power of direct or indirect control,
- ☐ it is included in the assets of the undertaking, and remains in the establishment of the recipient of the aid and is used there for at least five years ⁽⁷⁸⁾.

Furthermore, please confirm that if the intangible asset is sold during those five years:

- ☐ the yield from the sale will be deducted from the eligible costs;
- and
- ☐ all or part of the aid amount will be, where appropriate, reimbursed.

(F) For aid schemes, please provide a detailed calculation methodology, by reference to the counterfactual situation, which will be applied to all individual aid grants based on the notified scheme, and provide the relevant evidence:

.....

.....

.....

.....

.....

⁽⁷⁷⁾ The correct counterfactual is the cost of a technically comparable investment that provides a lower degree of environmental protection and that would credibly be realised without aid. See point 81(b) of the Environmental aid guidelines.

⁽⁷⁸⁾ Please note that this condition does not apply if the intangible asset is technically out of date.

For individual aid measures, please provide a detailed calculation of the eligible costs of the notified investment project, by reference to the counterfactual situation, and provide relevant evidence:

.....

.....

.....

.....

.....

3.8. *Aid for waste management* ⁽⁷⁹⁾

3.8.1. General conditions

Please confirm that the following conditions are met:

- ☐ the aid is granted for the management of waste of other undertakings, including activities of re-utilisation, recycling and recovery, which is in accordance with the hierarchical classification of the principles of waste management ⁽⁸⁰⁾.
- ☐ the investment is aimed at reducing pollution generated by other undertakings (polluters) and does not extend to pollution generated by the beneficiary of the aid;
- ☐ the aid does not indirectly relieve the polluters from a burden that should be borne by them under Community law, or from a burden that should be considered as a normal company cost for the polluters;
- ☐ the investment goes beyond the “state of the art” ⁽⁸¹⁾ or uses conventional technologies in an innovative manner;
- ☐ the treated materials would otherwise be disposed of, or be treated in a less environmentally friendly manner;
- ☐ the investment does not merely increase demand for the materials to be recycled without increasing collection of those materials.

Furthermore, please provide details and evidence demonstrating compliance with the above mentioned conditions:

.....

.....

.....

.....

.....

3.8.2. Aid intensities

(A) What is the basic aid intensity applicable to the notified measure ⁽⁸²⁾?

(B) Is the SME bonus applied under the notified measure?

- ☐ yes ☐ no

If yes, please specify the level of bonus applicable ⁽⁸³⁾:

(C) In case of an aid scheme, specify the total aid intensity of the projects supported under the notified scheme (taking into account the bonuses) (%):

.....

.....

⁽⁷⁹⁾ Cf. Environmental aid guidelines, Section 3.1.9.

⁽⁸⁰⁾ Classification given in the Communication from the Commission on the review of the Community Strategy for Waste Management (COM(96) 399 final, 30.7.1996). For details see footnote 45 of the Environmental aid guidelines.

⁽⁸¹⁾ For a definition see footnote 46 of the Environmental aid guidelines.

⁽⁸²⁾ The maximum aid intensity is 50 % of the eligible investment costs.

⁽⁸³⁾ The aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.

3.8.3. Eligible costs ⁽⁸⁴⁾

(A) Please confirm that the eligible costs are limited to the extra investment costs necessary to realise an investment leading to waste management and borne by the beneficiary compared to the reference investment, i.e. a conventional production not involving waste management with the same capacity:

☐ yes

(B) Please further confirm that:

☐ the precise waste management related costs constitute the eligible costs, if the cost of investing in waste management can be easily defined;

or

☐ the extra investment costs are established by comparing the investment with the counterfactual situation in the absence of aid, i.e. the reference investment ⁽⁸⁵⁾;

and

☐ the cost of such reference investment is deducted from the eligible costs;

☐ eligible costs are calculated net of any operating benefits and operating costs related to the extra investment for waste management and arising during the first five years of the life of the investment concerned.

(C) What form do the eligible costs take?

☐ investments in tangible assets;

☐ investments in intangible assets.

(D) In the case of investments in tangible assets, please indicate the form(s) of investments concerned:

☐ investments in land which are strictly necessary in order to meet environmental objectives;

☐ investments in buildings intended to reduce or eliminate pollution and nuisances;

☐ investments in plant and equipment intended to reduce or eliminate pollution and nuisances;

☐ investments to adapt production methods with a view to protecting the environment.

(E) In the case of investments in intangible assets (technology transfer through the acquisition of operating licenses or of patented and non-patented know how), please confirm that any such intangible asset satisfies the following conditions:

☐ it is regarded as a depreciable asset;

☐ it is purchased on market terms, from an undertaking from which the acquirer has not power of direct or indirect control,

☐ it is included in the assets of the undertaking, and remains in the establishment of the recipient of the aid and is used there for at least five years ⁽⁸⁶⁾.

Furthermore, please confirm that if the intangible asset is sold during those five years:

☐ the yield from the sale will be deducted from the eligible costs;

and

☐ all or part of the amount of the aid will, where appropriate, be reimbursed.

⁽⁸⁴⁾ For details, see points 130 and 131 of the Environmental aid guidelines.

⁽⁸⁵⁾ The correct counterfactual is the cost of a technically comparable investment that provides a lower degree of environmental protection and that would credibly be realised without aid. See point 81(b) of the Environmental aid guidelines.

⁽⁸⁶⁾ Please note that this condition does not apply if the intangible asset is technically out of date.

- (F) For aid schemes, please provide a detailed calculation methodology, by reference to the counterfactual situation, which will be applied to all individual aid grants based on the notified scheme, and provide the relevant evidence:

.....

.....

.....

.....

.....

For individual aid measures, please provide a detailed calculation of the eligible costs of the notified investment project, by reference to the counterfactual situation, and provide relevant evidence:

.....

.....

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3.9. *Aid for the remediation of contaminated sites* ⁽⁸⁷⁾

3.9.1. General conditions

Please confirm that the following conditions are fulfilled:

- ☐ the investment aid to undertakings repairing environmental damage by remediating contaminated sites ⁽⁸⁸⁾, leads to an improvement of environmental protection.

Please describe in detail the relevant improvement of the environmental protection, including, if applicable or available, information on the site, the type of contamination, a description of the activity that caused the contamination, and the proposed remediation procedure:

.....

.....

- ☐ the polluter ⁽⁸⁹⁾ responsible for the contamination of the site can not be identified or cannot be made to bear the costs.

Please provide details and evidence demonstrating the compliance with the above mentioned condition:

.....

.....

3.9.2. Aid intensities and eligible costs

- (A) What is the basic aid intensity applicable to the notified measure ⁽⁹⁰⁾?

- (B) Please confirm that the total amount of aid will under no circumstances exceed the actual cost of the remediation work:

☐ yes

- (C) Please specify the cost of the remediation work ⁽⁹¹⁾:

.....

.....

⁽⁸⁷⁾ Cf. Environmental aid guidelines, Section 3.1.10.

⁽⁸⁸⁾ The environmental damage concerned covers damage to the quality of the soil or of surface water or groundwater.

⁽⁸⁹⁾ In this context, "polluter" refers to the person liable under the law applicable in each Member State, without prejudice to the adoption of Community rules in the matter.

⁽⁹⁰⁾ The aid may amount up to 100 % of the eligible costs.

⁽⁹¹⁾ All expenditure incurred by an undertaking in remediating its site, whether or not such expenditure can be shown as a fixed asset on its balance sheet, ranks as eligible investment in the case of the remediation of contaminated sites.

(D) Please confirm that the increase in the value of the land is deducted from the eligible costs:

☐ yes

Please provide details on how this is ensured:

.....

(E) For aid schemes, please provide a calculation methodology, in line with the above mentioned principles, which will be applied to all individual aid grants based on the notified scheme and provide relevant evidence:

.....

For individual aid measures, please provide a detailed calculation of the eligible costs of the notified investment project, complying with the above mentioned principles, and provide relevant evidence:

.....

3.10. *Aid for relocation of undertakings* ⁽⁹²⁾

3.10.1. General conditions

(A) Please confirm that:

- ☐ the change of location is dictated by environmental protection or prevention grounds and has been ordered by the administrative or judicial decision of a competent public authority or agreed between the undertaking and the competent public authority;
- ☐ the undertaking complies with the strictest environmental standards applicable in the new region where it is located.

Please provide details and evidence demonstrating compliance with the above mentioned conditions:

.....

(B) Please confirm that the beneficiary:

- ☐ is an undertaking established in an urban area or in a special area of conservation designated under Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora ⁽⁹³⁾, which lawfully carries out an activity that creates major pollution and must, on account of this location, move from its place of establishment to a more suitable area;
- or
- ☐ is an establishment or installation falling within the scope of Seveso II Directive ⁽⁹⁴⁾.

⁽⁹²⁾ Cf. Environmental aid guidelines, Section 3.1.11.

⁽⁹³⁾ OJ L 206, 22.7.1992, p. 7.

⁽⁹⁴⁾ Council Directive 96/82/EC on the control of major-accidents hazards involving dangerous substances OJ L 10, 14.1.1997, p. 13.

Please provide details and evidence:

.....
.....

3.10.2. Aid intensities and eligible costs

(A) What is the basic aid intensity applicable to the notified measure ⁽⁹⁵⁾?

(B) Is an SME bonus applied under the notified measure?

☐ yes ☐ no

If yes, please specify the level of bonus applicable ⁽⁹⁶⁾:.....

(C) Please provide details and the relevant evidence (if applicable) on the following elements linked to the relocation aid:

(a) benefits:

— the yield from the sale or renting of the plant or land abandoned:

.....
.....

— the compensation paid in the event of expropriation:

.....
.....

— any other gains connected with the transfer of the plant, notably gains resulting from an improvement, on the occasion of the transfer, in the technology used and accounting gains associated with better use of the plant:

.....
.....

— investments relating to any capacity increase:

.....
.....

— other potential benefits:

.....
.....

(b) costs:

— the costs connected with the purchase of land or the construction or purchase of new plant of the same capacity as the plant abandoned:

.....
.....

— any penalties imposed on the undertaking for having terminated the contract for the renting of land or buildings, if the administrative or judicial decision ordering the change of location results in the early termination of this contract:

.....
.....

⁽⁹⁵⁾ The maximum aid intensity is 50 % of the eligible investment costs.

⁽⁹⁶⁾ The aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises.

— other potential costs:

.....

- (D) For aid schemes, please provide a calculation methodology (e.g. based on a theoretical example) for eligible costs/aid amount, including the benefit/cost elements mentioned in point C, which will be applied to all individual aid grants based on the notified scheme:

.....

For individual aid measures, please provide a detailed calculation of the eligible costs/aid amount of the notified investment project, including the benefit/cost elements mentioned in point C, and provide the relevant evidence:

.....

3.11. Aid involved in tradable permit schemes ⁽⁹⁷⁾

- (A) Please describe in detail the tradable permit scheme, including, *inter alia*, the objectives, the granting methodology, the authorities/entities involved, the role of the State, the beneficiaries and the procedural aspects:

.....

- (B) Please explain how:

- ☐ the tradable permit scheme is set up in such a way as to achieve environmental objectives beyond those intended to be achieved on the basis of Community standards that are mandatory for the undertakings concerned:

.....

- ☐ the allocation is carried out in a transparent way and based on objective criteria and on data sources of the highest quality available:

.....

- ☐ the total amount of tradable permits or allowances granted to each undertaking for a price below their market value is not higher than its expected needs as estimated for the situation in absence of the trading scheme:

.....

⁽⁹⁷⁾ Cf. Environmental aid guidelines, Section 3.1.12.

- ☐ the allocation methodology does not favour certain undertakings or certain sectors;

In case the allocation methodology favours certain undertakings or certain sectors, please explain how this is justified by the environmental logic of the scheme itself or is necessary for consistency with other environmental policies:

.....
.....

Furthermore, please explain how:

- ☐ new entrants shall not in principle receive permits or allowances on more favourable conditions than existing undertakings operating on the same markets:

.....
.....

- ☐ granting higher allocations to existing installations compared to new entrants should not result in creating undue barriers to entry:

.....
.....

Please provide details and evidence demonstrating compliance with the above mentioned conditions:

.....
.....

(C) Please confirm that the following criteria ⁽⁹⁸⁾ are respected by the scheme:

- ☐ the choice of beneficiaries is based on objective and transparent criteria and the aid is granted in principle in the same way for all competitors in the same sector/relevant market if they are in a similar factual situation;

and

- ☐ full auctioning leads to a substantial increase in production costs for each sector or category of individual beneficiaries;

and

- ☐ the cost increase from the tradable permit scheme can not be passed on to customers without leading to important sales reductions ⁽⁹⁹⁾;

and

- ☐ the best performing technique in the EEA was used as a benchmark for the level of the allowance granted.

Please provide details demonstrating how these criteria are applied:

.....
.....

⁽⁹⁸⁾ Please note that these criteria do not apply for the trading period ending on 31 December 2012 for tradable permit schemes in accordance with Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

⁽⁹⁹⁾ This analysis may be conducted on the basis of estimations of, *inter alia*, the product price elasticity of the sector concerned. These estimations will be made in the relevant geographic market. Estimates of lost sales as well as their impact on the profitability of the company may be used.

4. Incentive effect and necessity of aid ⁽¹⁰⁰⁾

4.1. General conditions

- (A) Has/have the supported project(s) started prior to the submission of the application for the aid by the beneficiary/beneficiaries to the national authorities?

☐ yes ☐ no

If yes, the Commission considers that the aid does not present an incentive for the beneficiary ⁽¹⁰¹⁾.

- (B) If no, specify the relevant dates:

— The environmental project commenced on:

— The aid application by the beneficiary was submitted to the national authorities on:

Please provide the relevant supporting documents.

4.2. Evaluation of the incentive effect

If the aid is granted to

— non-SMEs,

— SMEs but must be assessed in accordance with the detailed assessment,

the Commission will require that the incentive effect is demonstrated by means of an evaluation. Go to the next questions. Otherwise, the Commission considers that the incentive effect is automatically met for the measure at hand.

4.2.1. General conditions

If it is necessary to demonstrate an incentive effect for several beneficiaries participating in the notified project, please provide the information below for each of them.

In order to demonstrate the incentive effect, the Commission requires an evaluation by the Member State in order to prove that without the aid, i.e. in the counterfactual situation, the more environmentally friendly alternative would not have been retained. Please fill in the information below

4.2.2. Criteria

- (A) Please demonstrate how the counterfactual situation is credible:

.....

- (B) Have the eligible costs been calculated in accordance with the methodology set out in points 81, 82 and 83 of the Environmental aid guidelines?

☐ yes ☐ no

Please provide details and evidence demonstrating the methodology used:

.....

⁽¹⁰⁰⁾ Cf. the Environmental aid guidelines, Section 3.2.

⁽¹⁰¹⁾ See point 143 of the Environmental aid guidelines.

(C) Would the investment have been sufficiently profitable without the aid?

- ☐ yes ☐ no

Please provide details and evidence of the relevant profitability ⁽¹⁰²⁾:

.....
.....

5. **Compatibility of aid under Article 87(3)(b) of the EC Treaty**

Aid for environmental protection to promote the execution of an important project ⁽¹⁰³⁾ of common European interest may be considered to be compatible with the common market pursuant to Article 87(3)(b) of the EC Treaty.

5.1. *General conditions (cumulative)*

(A) Please provide details and evidence of the terms of implementation of the notified project, including its participants, its objectives and its effects and the means to achieve the objectives ⁽¹⁰⁴⁾:

.....
.....

(B) Please confirm that:

- ☐ the project is in the common European interest ⁽¹⁰⁵⁾: it contributes in a concrete, exemplary and identifiable manner to the Community interest in the field of environmental protection ⁽¹⁰⁶⁾;

and

- ☐ the advantage achieved by the objective of the project is not limited to one Member State or to the Member States implementing it, but extends to the Community as a whole ⁽¹⁰⁷⁾;

and

- ☐ the project makes a substantive contribution to the Community objectives.

Please provide details and evidence:

.....
.....

(C) Please provide details and evidence illustrating that the aid is necessary AND presents an incentive for the execution of the project:

.....
.....

(D) Please provide details and evidence demonstrating that the project involves a high level of risk:

.....
.....

(E) Please provide details and evidence illustrating that the project is of great importance with regard to its volume ⁽¹⁰⁸⁾:

.....
.....

⁽¹⁰²⁾ Due account being taken of the benefits associated with the investment without aid, including the value of tradable permits which may become available to the undertaking concerned following the environmentally friendly investment.

⁽¹⁰³⁾ The Commission may also consider a group of projects as together constituting a project.

⁽¹⁰⁴⁾ Please note that the projects must be specific and clearly defined as regards these aspects.

⁽¹⁰⁵⁾ Please note that the common European interest must be demonstrated in practical terms, for example it must be demonstrated that the project enables significant progress to be made towards achieving specific environmental Community objectives.

⁽¹⁰⁶⁾ Such as by being of great importance for the environmental strategy of the European Union.

⁽¹⁰⁷⁾ The fact that the project is carried out by undertakings in different Member States is not sufficient.

⁽¹⁰⁸⁾ Please note that it must be substantial in size and produce substantial environmental effects.

- (F) Please indicate the beneficiary's own contribution ⁽¹⁰⁹⁾ to the project:

.....

- (G) Please list the Member States from which the undertakings involved in the notified project come ⁽¹¹⁰⁾.

.....

5.2. Description of the project

Please provide a detailed description of the project, including, *inter alia*, structure/organisation, beneficiaries, budget, amount of aid, aid intensity ⁽¹¹¹⁾, investments concerned and eligible costs. For guidance, please see Section 3 of this supplementary information sheet.

.....

6. Aid in the form of reductions of or exemptions from environmental taxes

6.1. General conditions

- (A) Please explain how the tax reductions or exemptions contribute indirectly to an improvement of the level of the environmental protection and motivate why the tax reductions and exemptions do not undermine the general objective pursued:

.....

- (B) For reductions of or exemptions from harmonised taxes at Community level, please confirm that:

- ☐ the aid is granted for a maximum period of 10 years;

and

- ☐ the beneficiaries pay at least the Community minimum tax level set by the relevant applicable directive ⁽¹¹²⁾.

Please provide for each category of beneficiaries evidence regarding the payable minimum tax level (rate actually paid preferably in EUR and in the same units as the applicable Community legislation):

.....

- ☐ they are compatible with the relevant applicable Community legislation and comply with the limits and conditions set out therein:

Please refer to the relevant provision(s) and provide the relevant evidence:

.....

- (C) For reductions of or exemptions from environmental taxes which have not been harmonised or for those which have been harmonised but beneficiaries pay less than the Community minimum tax level, please confirm that the aid is granted for a maximum period of 10 years:

- ☐ yes ☐ no

⁽¹⁰⁹⁾ Please note that the Commission will consider the notified projects more favourably if they include a significant own contribution of the beneficiary to the projects.

⁽¹¹⁰⁾ Please note that the Commission will consider the notified projects more favourably if they involve undertakings from a significant number of Member States.

⁽¹¹¹⁾ Please note that the Commission may authorise aid at higher rates than otherwise laid down in the Environmental aid guidelines.

⁽¹¹²⁾ "Community minimum tax level" means the minimum level of taxation provided for in Community legislation. For energy products and electricity, the Community minimum tax level means the minimum level of taxation laid down in Annex I to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

Furthermore, please provide the following:

- a detailed description of the exempted sector(s):
.....
.....
- information for each sector, as to the best performing techniques within the EEA regarding the reduction of the environmental harm targeted by the tax:
.....
.....
- a list of the 20 largest beneficiaries covered by the exemptions/reductions as well as a detailed description of their situation, in particular their turnover, their market shares and the size of the tax base:
.....
.....

6.2. *Necessity of the aid*

Please confirm that:

- ☐ the choice of beneficiaries is based on objective and transparent criteria and the aid is granted in principle in the same way for all competitors in the same sector/relevant market if they are in a similar factual situation

and

- ☐ the environmental tax without reduction would lead to a substantial increase in production cost for each sector or category of individual beneficiaries ⁽¹¹³⁾;

and

- ☐ without the aid the substantial increase in production costs would lead to important sales reductions if it would be passed on to customers ⁽¹¹⁴⁾.

Please provide evidence related to the above mentioned conditions:

.....
.....

6.3. *Proportionality of the aid*

Please specify which one of the following conditions is met:

- (A) Does the scheme lay down criteria ensuring that each individual beneficiary pays a proportion of the national tax level which is broadly equivalent to the environmental performance of each individual beneficiary compared to the performance related to the best performing technique within the EEA?

☐ yes ☐ no

Please provide details and evidence demonstrating the compliance with this condition:

.....
.....

- (B) Are aid beneficiaries paying at least 20 % of the national tax?

☐ yes ☐ no

⁽¹¹³⁾ With regard to energy products and electricity "energy-intensive business" as defined in Article 17(1)(a) of Directive 2003/96/EC shall be regarded as fulfilling this criterion as long as that provision remains in force.

⁽¹¹⁴⁾ In this respect, Member States may provide estimations of, *inter alia*, the product price elasticity of the sector concerned in the relevant geographic market as well as estimates of lost sales and/or reduced profits for the companies in the sector/category concerned.

If no, please demonstrate how a lower rate can be justified in view of a limited distortion of competition:

.....

(C) Are the reductions or exemptions conditional on the conclusion of agreements between the Member State and the recipient undertakings or associations of undertakings?

☐ yes ☐ no

If yes, please provide details and evidence illustrating that the undertakings or associations of undertakings commit themselves to achieve environmental protection objectives which have the same effect as (i) the taxation linked to environmental performance ⁽¹¹⁵⁾, or (ii) 20 % of the national tax ⁽¹¹⁶⁾ or (iii) if the Community minimum tax level is applied.:

.....

Please further confirm that:

- ☐ the substance of the agreements has been negotiated by the Member State and specifies the targets and fixes a time schedule for reaching targets;
- ☐ the Member State ensures independent and timely monitoring of the commitments concluded in these agreements;
- ☐ these agreements will be revised periodically in the light of technological and other developments and stipulate effective penalty arrangements applicable if the commitments are not met.

Specify per sector the targets and time schedule and describe the monitoring and review mechanisms (for example by whom and with what periodicity) as well as the penalty mechanism:

.....

7. **Criteria triggering a detailed assessment** ⁽¹¹⁷⁾

Please indicate if the notified measure falls within the following categories of aid:

- ☐ for measures covered by a Block Exemption Regulation, the case was notified to the Commission pursuant to a duty to notify aid individually as prescribed in the BER;
- ☐ investment aid, where the aid amount exceeds EUR 7,5 million for one undertaking, (even if part of an approved aid scheme);
- ☐ operating aid for energy saving, where the aid amount exceeds EUR 5 million per undertaking for five years;
- ☐ operating aid for the production of renewable electricity and/or combined production of renewable heat, when the aid is granted to renewable electricity installations in sites where the resulting renewable electricity generation capacity exceeds 125 MW;
- ☐ operating aid for the production of biofuel, when the aid is granted to a biofuel production installation in sites, where the resulting production exceeds 150 000 t per year;

⁽¹¹⁵⁾ Meaning the same effect as if the scheme laid down criteria ensuring that each individual beneficiary pays a proportion of the national tax level which is broadly equivalent to the environmental performance of each beneficiary compared to the performance related to the best performing technique within the EEA, see point 159(a) of the Guidelines.

⁽¹¹⁶⁾ Unless a lower rate can be justified in view of a limited distortion of competition, see point 159(b) of the Guidelines.

⁽¹¹⁷⁾ Cf. Environmental aid guidelines. Section 5.1.

- operating aid for cogeneration, where aid is granted to cogeneration installation with the resulting cogeneration electricity capacity exceeding 200 MW ⁽¹¹⁸⁾
- operating aid granted to new plants producing renewable energy on the basis of a calculation of the external costs avoided ⁽¹¹⁹⁾.

In this case please provide a reasoned and quantified comparative cost analysis, together with an assessment of competing energy producers' external costs, so as to demonstrate that the aid does genuinely compensate for external costs avoided ⁽¹²⁰⁾.

If the notified measure falls within at least one of these aid categories, it is subject to a detailed assessment and additional information should be provided in order to enable the Commission to carry out a detailed assessment (Section 8 of this supplementary information sheet).

8. Additional information for detailed assessment ⁽¹²¹⁾

If there are several beneficiaries participating in the notified project subject to a detailed assessment, please provide the information below for each of them. This is without prejudice to the full description of the notified project, including participants, in the previous sections of this supplementary sheet.

8.1. General observations

The purpose of this detailed assessment is to ensure that high amounts of aid for environmental protection do not distort competition to an extent contrary to the common interest, but actually contribute to the common interest. This happens when the benefits of State aid in terms of additional environmental benefits outweigh the harm for competition and trade ⁽¹²²⁾.

The detailed assessment is conducted on the basis of the positive and negative elements which are specified in Sections 5.2.1 and 5.2.2 of the Environmental aid guidelines and they apply in addition to the criteria set out in Chapter 3 of the Environmental aid guidelines.

Provisions below represent a guidance as to the type of information the Commission may require in order to carry out a detailed assessment. The guidance is intended to make the Commission's decisions and their reasoning transparent and foreseeable in order to create predictability and legal certainty. Member States should provide all the elements that they consider useful for the assessment of the case.

The Member States are in particular invited to rely on the information sources listed below. Please indicate if these supporting documents are attached to the notification:

- evaluations of past State aid schemes or measures;
- impact assessments made by the granting authority;
- other studies related to the environmental protection.

8.2. Existence of a market failure ⁽¹²³⁾

- (A) Please identify the expected contribution of the measure to environmental protection (in quantifiable terms) and provide the supporting documents:

.....

⁽¹¹⁸⁾ Please note that aid for the production of heat from cogeneration will be assessed in the context of notification based on electricity.

⁽¹¹⁹⁾ For details see point 161 of the Environmental aid guidelines.

⁽¹²⁰⁾ Please note that in order to calculate external avoided costs, the method of calculation used has to be internationally recognised and validated by the Commission. Please further note that in any event, the amount of aid granted to producers that exceeds the amount of aid resulting from option 1 (cf. point 109 of the Environmental aid guidelines) for operating aid for renewable sources of energy must be reinvested by the firms in renewable sources of energy in accordance with section 3.1.6.1.

⁽¹²¹⁾ Cf. Environmental aid guidelines, Section 5.2.

⁽¹²²⁾ For details on detailed assessment and balancing the positive and negative elements see Section 1.3, 5.2.1 (points 166 to 174) and 5.2.2 (points 175 to 188).

⁽¹²³⁾ Cf. Environmental aid guidelines, Section 5.2.1.1.

- (B) Please identify the level of environmental protection targeted, as compared to existing Community standards and/or standards in other Member States and provide the supporting documents:

.....

- (C) In the case of the aid for adapting to national standards going beyond the Community standards, please provide the following information and (if relevant) supporting documents:

- ☐ nature, type and location of the main competitors of the aid beneficiary:

.....

- ☐ the cost of implementation of the national standard (respectively tradable permit schemes) for the aid beneficiary had no aid been given:

.....

- ☐ the comparative costs of implementation of those standards for the main competitors of the aid beneficiary:

.....

8.3. *Appropriate instrument* ⁽¹²⁴⁾

Please indicate on what basis the Member State decided to use a selective instrument such as State aid in order to increase environmental protection and provide supporting documents:

- ☐ impact assessment of the proposed measure;
- ☐ comparative analysis of other policy options considered by the Member State;
- ☐ evidence that the polluter pays principle is respected;
- ☐ others:

8.4. *Incentive effect and necessity of the aid* ⁽¹²⁵⁾

In addition to the calculation of extra costs outlined in Chapter 3 of the Environmental aid guidelines please specify the elements listed below.

- (A) Please provide evidence of the specific action(s) ⁽¹²⁶⁾ that would not have been taken by the undertaking without the aid (counterfactual situation) and provide supporting documents:.

.....

- (B) At least one of the following elements must be present for the purposes of demonstration of the expected environmental effect linked to the change in behaviour. Please specify those relevant for the notified measure and provide supporting documents.

- ☐ increase in level of environmental protection;
- ☐ increase in speed of the implementation of future standards

⁽¹²⁴⁾ Cf. Environmental aid guidelines, Section 5.2.1.2.

⁽¹²⁵⁾ Cf. Environmental aid guidelines, Section 5.2.1.3.

⁽¹²⁶⁾ For instance, a new investment, a more environmentally friendly production process and/or a new product that is more environmentally friendly.

(C) The following elements may be used for the purposes of demonstration of an incentive effect. Please specify those relevant for the notified measure, and provide supporting documents ⁽¹²⁷⁾:

- ☐ production advantages;
- ☐ market conditions;
- ☐ possible future mandatory standards (if there are ongoing negotiations at Community level to introduce new or higher mandatory standards which the measure concerned would seek to target);
- ☐ level of risk;
- ☐ level of profitability

(D) In the case of aid granted to undertakings adapting to a national standard or going beyond Community standards or adopted in the absence of Community standards, please provide the information and supporting documents showing that the aid beneficiary would have been affected substantially in terms of increased costs and would not have been able to bear the costs associated with the immediate implementation of national standards:

.....

8.5. *Proportionality of the aid* ⁽¹²⁸⁾

(A) Please provide an accurate calculation of the eligible costs demonstrating that they are indeed limited to the extra costs necessary to achieve the level of environmental protection:

.....

(B) Were the beneficiaries selected in an open selection process?

- ☐ yes ☐ no

Please provide details ⁽¹²⁹⁾ and supporting documents:

.....

(C) Please explain how it is ensured that the aid is limited to the minimum necessary and provide supporting documents:

.....

8.6 *Analysis of the distortion of competition and trade* ⁽¹³⁰⁾

8.6.1. *Relevant markets and effects on trade*

(A) Please indicate whether the aid is likely to have impact on competition between undertakings in any product market.

- ☐ yes ☐ no

Please specify the product markets on which the aid is likely to have impact ⁽¹³¹⁾:

.....

⁽¹²⁷⁾ For details on different types of advantages see Section 5.2.1.3 (point (172) of the Environmental aid guidelines.

⁽¹²⁸⁾ Cf. Environmental aid guidelines, Section 5.2.1.4.

⁽¹²⁹⁾ For example information on how non-discrimination, transparency, openness are ensured.

⁽¹³⁰⁾ For details on negative effects of the aid measure see Section 5.2.2.

⁽¹³¹⁾ For details see footnote 60 of the Environmental aid guidelines.

- (B) For each of these markets please provide some indicative market share of the beneficiary:

.....

For each of these markets please provide some indicative market shares of the other companies present in the market. If possible, please provide the associated Herfindahl-Hirschman Index (HHI):

.....

- (C) Please describe the structure and dynamics of the relevant markets and provide supporting documents:

.....

- (D) If relevant, please provide information on the effects on trade (shift of trade flows and location of economic activity):

.....

- (E) The following elements will be considered by the Commission when assessing the likelihood that the beneficiary may increase or maintain sales as a result of the aid. Please indicate those in relation to which supporting documents are provided ⁽¹³²⁾:

- ☐ reduction in or compensation of production unit costs.
- ☐ more environmentally friendly production process.
- ☐ new product.

8.6.2. Dynamic incentives/crowding out

The following elements will be considered by the Commission in its analysis of effects of the aid on competitors' dynamic incentives to invest ⁽¹³³⁾. Please indicate those in relation to which supporting documents are provided:

- ☐ amount of the aid;
- ☐ frequency of the aid;
- ☐ duration of the aid;
- ☐ gradual decrease of the aid;
- ☐ readiness to meet future standards;
- ☐ level of the regulatory standards in relation to the environmental objectives;
- ☐ the risk of cross subsidisation;
- ☐ technological neutrality;
- ☐ competing innovation.

8.6.3. Maintaining inefficient firms afloat ⁽¹³⁴⁾

The following elements will be considered by the Commission in its analysis of effects of the aid in order to prevent avoid unnecessary support to undertakings, which are unable to adapt to more environmentally friendly standards and technologies because of their low levels of efficiency ⁽¹³⁵⁾. Please, indicate those in relation to which details and supporting documents are provided:

- ☐ type of beneficiaries.

⁽¹³²⁾ For details see point 177 of the Environmental aid guidelines.

⁽¹³³⁾ For details see points 178 and 179 of the Environmental aid guidelines.

⁽¹³⁴⁾ For details see Section 5.2.2.2 of the Environmental aid guidelines.

⁽¹³⁵⁾ For details see Section 5.2.2.2. of the Environmental aid guidelines.

- ☐ overcapacity in the sector targeted by the aid.
- ☐ normal behaviour in the sector targeted by the aid.
- ☐ relative importance of the aid.
- ☐ selection process.
- ☐ selectivity.

8.6.4. Market power/exclusionary behaviour ⁽¹³⁶⁾

The following elements will be considered by the Commission in its analysis of effects of the aid on beneficiary's market power. Please, indicate those in relation to which details and supported documents are provided:

- ☐ market power of aid beneficiary and market structure
- ☐ new entry;
- ☐ product differentiation and price discrimination
- ☐ buyer power

8.6.5. Effects on trade and location ⁽¹³⁷⁾

Please provide evidence that the aid was not decisive for the choice of location for the investment:

.....
.....

9. Cumulation ⁽¹³⁸⁾

(A) Is the aid granted under the notified measure combined with other aid ⁽¹³⁹⁾?

- ☐ yes ☐ no

(B) If yes, please describe the cumulation rules applicable to the notified aid measure:

.....
.....
.....
.....
.....

(C) Please specify how the respect of cumulation rules will be verified under the notified aid measure:

.....
.....
.....
.....
.....

⁽¹³⁶⁾ For details see Section 5.2.2.3. of the Environmental aid guidelines.

⁽¹³⁷⁾ For details see Section 5.2.2.4. of the Environmental aid guidelines.

⁽¹³⁸⁾ Cf. Environmental aid guidelines, Chapter 6.

⁽¹³⁹⁾ Please note that aid for environmental protection must not be cumulated with *de minimis* aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding that fixed in the Environmental aid guidelines.

10. Reporting and monitoring ⁽¹⁴⁰⁾**10.1. Annual reports**

Please note that this reporting obligation is without prejudice to the reporting obligation pursuant to Commission Regulation (EC) No 794/2004 implementing Council Regulation (EC) No 659/1999 ⁽¹⁴¹⁾.

Please undertake to submit annual reports on the implementation of the notified environmental aid measure to the Commission, which shall contain for each approved scheme as regards large undertakings, all the elements listed below:

- names of the beneficiaries;
 - aid amount per beneficiary;
 - aid intensity;
 - description of the objective of the measure and of what type of environmental protection it is intended to promote;
 - sectors of activity where the aided projects are undertaken;
 - explanation of how the incentive effect has been respected.
- ☐ yes

In case of tax exemptions or reductions, please undertake to submit annual reports containing the elements listed below:

- legislative and/or regulatory text(s) establishing the aid;
 - specification of the categories of undertakings benefiting from tax reductions or exemptions;
 - specification of sectors of the economy most affected by these tax exemptions/reductions.
- ☐ yes

10.2. Monitoring and evaluation

- (A) Please undertake to maintain detailed records regarding the granting of aid, with all information necessary to establish that the eligible costs and maximum allowable aid intensity have been observed.

☐ yes

- (B) Please undertake to ensure that detailed records referred to in Section A above are maintained for 10 years from the date on which the aid was granted.

☐ yes

⁽¹⁴⁰⁾ Cf. Environmental aid guidelines, Section 7.1, 7.2 and 7.3.

⁽¹⁴¹⁾ Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ L 140, 30.4.2004, p. 1).

(C) Please undertake to submit the records referred to in Section A above on request of the Commission.

☐ yes

11. **Other information**

Please give any other information you consider necessary to assess the measure(s) in question under the Environmental aid guidelines.'

NOTE TO THE READER

The institutions have decided to no longer quote in their texts the last amendment to cited acts.

Unless otherwise indicated, references to acts in the texts published here are to the version of those acts currently in force.