Commission Regulation (EC) No 916/2007 of 31 July 2007 amending Regulation (EC) No 2216/2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (Text with EEA relevance)

COMMISSION REGULATION (EC) No 916/2007

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(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC[(1)], and in particular Article 19(3) thereof,

Having regard to Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol[(2)], and in particular the first subparagraph, second sentence of Article 6(1) thereof,

Whereas:

(1) Commission Regulation (EC) No 2216/2004[(3)] laid down general provisions, functional and technical specifications and operational and maintenance requirements concerning the standardised and secured registries system consisting of registries, in the form of standardised electronic databases containing common data elements, and the Community independent transaction log.

(2) Due to the nature of the registries' system's architecture, if registries are communicating with the Community independent transaction log through the United Nations Framework Convention on Climate Change (UNFCCC) independent transaction log it is only possible to change the routing for all registries at the same time. Any registry that would not be ready for a given deadline, should also have to stop its participation in the Community greenhouse gas emission allowance scheme if other Member States connected to the UNFCCC independent transaction log without it. Therefore, when the UNFCCC independent transaction log is operational, it should be ensured that it is linked to the Community independent transaction log and registries either when the Community independent transaction log and all registries are technically capable of such a link or when the Community considers it appropriate to link the two transaction logs.

(3) It is currently foreseen that when a connection between the UNFCCC independent transaction log and the Community independent transaction log exists, registries would connect to the Community independent transaction log through the UNFCCC independent transaction log. However, interactions between the Community independent transaction log and registries would become much simpler and more flexible if registries would connect to the UNFCCC independent transaction log through the Community independent transaction log. The Central Administrator should therefore be empowered to determine the order of connections.

(4) Both the Member States and the Community should ensure that their registries are connected to the UNFCCC independent transaction log at the earliest possible date and should deliver to the administrator of the UNFCCC independent transaction log the documentation required for the initialisation of their registry with that log in accordance with the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol, elaborated pursuant to Decision 24/CP.8 of the Conference of the Parties to the UNFCCC.

(5) The Community should make all necessary efforts to ensure that every Member State registry, the Community independent transaction log and the UNFCCC independent transaction log are connected to each other before 1 December 2007.

(6) Registries should be enabled to ensure that entering verified emissions in the registries is possible only if the verified emissions report has been delivered to the competent authority, and after the deadline for surrendering allowances, verified emissions data should be corrected only if the decision of the competent authority also addresses the compliance status of the installation whose verified emissions are corrected.

(7) Provisions should be adopted to ensure that Member States that are not able to issue AAUs due to reasons other than being determined to be ineligible to transfer and acquire ERUs and AAUs, and use CERs in accordance with the provisions of Decision 11/CMP.1 of the Kyoto Protocol to the UNFCCC are able to continue their equal participation in the Community emissions trading scheme, which would be impeded in the period 2008 to 2012 as, unlike all other Member States, they would not be able to issue allowances that are converted from AAUs. Such equal participation should be allowed through a mechanism within the Community registry that allows operators in Member States which do not have AAUs to exchange allowances that are not converted from AAUs for allowances converted from AAUs when transferring allowances to accounts in registries of Member States which do have AAUs. An equivalent process should allow similar transfers in the opposite direction. By modifying the rules of calculating an installation's compliance status, which is the figure that registries use to express whether an operator has complied with its obligation to surrender allowances in accordance with Directive 2003/87/EC, operators should be prevented from being considered not in compliance with their obligations under Directive 2003/87/EC because of surrendering allowances for a year that is not the one preceding the current year.

(8) The provision of allowances from the reserve by Member States to new entrant installations and the flow of allowances to the reserve due to the closure of installations

should be represented in the national allocation plan table, thus allowing the public to have access to comprehensive and up-to-date information related to such transactions.

(9) In order to ensure the capability of the Community independent transaction log to function independently in the event of a UNFCCC independent transaction log malfunction, those checks defined in the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol, elaborated pursuant to Decision 24/CP.8 of the Conference of the Parties to the UNFCCC that are to be carried out by the UNFCCC independent transaction log and which are currently implemented by the Community independent transaction log should be included in Community legislation

(10) It is of utmost importance for a latest date to be specified for displaying information on installations' verified emissions in order to complete the annual compliance cycle. In the light of experience, the current latest date for the display of this information should be replaced by a provision ensuring that the display by the Member States and by the Commission takes place at the earliest possible moment and in a coordinated and harmonized manner.

(11) As the current information displayed on the Community independent transaction log regarding the fulfilment of surrender obligations by installations as required by the provisions of Annex XVI to Regulation (EC) No 2216/2004 is not always clear, in particular with regard to any changes that might happen in an installation’s compliance status after the surrender deadline, the information regarding the fulfilment of surrender obligations should be made more detailed and more specific.

(12) In order to ensure an equal access to market-related information which is a fundamental requirement of a well-functioning market, the Community independent transaction log should make accessible to the public additional information items, such as information on whether an account is blocked, the fees charged by various registries, the set-aside table required under Commission Decision 2006/780/EC of 13 November 2006 on avoiding double counting of greenhouse gas emission reductions under the Community emissions trading scheme for project activities under the Kyoto Protocol pursuant to Directive 2003/87/EC of the European Parliament and of the Council[(4)], the share of installations that have already submitted their verified emissions, the share of allowances that never participated in any transaction between allocation and surrender.

(13) Regulation (EC) No 2216/2004 should therefore be amended accordingly.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Climate Change Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2216/2004 is amended as follows:

1. Article 2 is amended as follows:

(a) point (e) is replaced by the following:

(e) "assigned amount unit" (AAU) means a unit issued pursuant to Article 7(3) of Decision No 280/2004/EC or by a Party to the Kyoto Protocol;;

(b) In point (p), the following sentence is added:

'Special provisions are applicable to registries referred to in Article 63a;'.

2. In Article 3(3), the following subparagraph is added:

Each registry shall be capable of executing correctly all the processes concerning automatic national allocation plan table changes set out in Annex XIa from 1 February 2008..

3. Article 5 is amended as follows:

(a) paragraphs 4 and 5 are replaced by the following:

4. The Central Administrator shall provide the administrative processes referred to in Annex XI in order to facilitate the integrity of the data within the registries system and shall provide the processes related to automatic national allocation plan table changes referred to in Annex XIa to ensure that national allocation plan tables reflect the number of allowances issued and allocated to installations.

5 The Central Administrator shall only perform processes concerning allowances, verified emissions, automatic national allocation plan table changes, accounts or Kyoto units where necessary to carry out its functions as Central Administrator.;

(b) in paragraph 6, the following subparagraph is added:

The Community independent transaction log shall be capable of executing correctly all the processes concerning automatic national allocation plan table changes set out in Annex XIa from 1 February 2008..

4. Article 6(2) is replaced by the following:

2. From 1 February 2008 until the communication link referred to in Article 7 has been established, all processes concerning allowances, verified emissions, automatic national allocation plan table changes, and accounts shall be completed through the exchange of data via the Community independent transaction log..

5. Article 7 is replaced by the following:

Article 7

Communication link between the independent transaction logs

1 A communication link between the Community independent transaction log and the UNFCCC independent transaction log shall be considered as established when these systems are linked on the basis of a decision taken by the Central Administrator after consulting the Climate Change Committee. The Central Administrator shall establish and maintain such a link when

a all registries have successfully completed the UNFCCC initialisation procedure; and

b the Community independent transaction log and the UNFCCC independent transaction log are able to provide the necessary functionality and to link to each other.

2 If the conditions provided for in paragraph 1 are not met, the Commission may, subject to the majority support of the Climate Change Committee, instruct the Central Administrator to establish and maintain such a link.

3 After having established the link described in 1., all processes concerning allowances, verified emissions, accounts, automatic national allocation plan table changes and Kyoto units shall be completed through the exchange of data via the UNFCCC independent transaction log and thereon to the Community independent transaction log.

4 The Commission shall evaluate and report to the Climate Change Committee on options for connecting registries, the UNFCCC independent transaction log and the Community independent transaction log different from the one described in 3.In particular it shall be considered whether all processes concerning allowances and Kyoto units shall be completed through the exchange of data via the Community independent transaction log and thereon to the UNFCCC independent transaction log and all processes concerning verified emissions, accounts and automatic national allocation plan table changes shall be completed through the exchange of data via the Community independent transaction log.

5 Each Member State shall deliver to the administrator of the UNFCCC independent transaction log and the Central Administrator the documentation required for the initialisation of each registry with the UNFCCC independent transaction log, and by 1 September 2007 each registry shall be technically prepared for the initialisation process to commence, in accordance with the functional and technical specifications for data exchange standards for registry systems under the Kyoto Protocol, elaborated pursuant to Decision 24/CP.8 of the Conference of the Parties to the UNFCCC.

6 The decisions referred to in paragraphs 1 and 2 shall, where possible be adopted at least three months prior to their implementation..

6. Article 10(3) is replaced by the following:

3. Each competent authority and registry administrator shall only perform processes concerning allowances, verified emissions, automatic national allocation plan table changes, accounts or Kyoto units where necessary to carry out their functions as competent authority or registry administrator..

7. Article 15(1) is replaced by the following:

1. Within 14 days of the entry into force of each greenhouse gas emissions permit issued to the operator of an installation where the installation has not previously been covered by such a permit or the activation of the communication link between the registry and the Community independent transaction log, whichever is the later, the competent authority, or the operator where the competent authority so requires, shall provide the registry administrator of the Member State registry with the information set out in Annex III..

8. In Article 17, the following paragraph 3 is added: