

Ordinance on the Establishment of the Guarantees of Regional Origin Register, further Development of the Guarantees of Origin Register and Amendment of the Guarantees of Origin and Guarantees of Regional Origin Fees Regulation (HkRNDV)

of 8 November 2018

Full citation:

“Implementing Ordinance on Guarantees of Origin and Guarantees of Regional Origin of 8 November 2018 (Federal Law Gazette I p. 1853)”

Due to

- Section 92 number 1 to 4, 7, 8, 10 and 11 and to Section 96 subsection (3) of the Renewable Energy Sources Act (EEG) of 21 July 2014 (Federal Law Gazette I p. 1066) in conjunction with Section 96 subsection (3) of Renewable Energy Sources Act (EEG) in conjunction with Section 14 subsection (1) of the Renewable Energy Ordinance of 17 February 2015 (Federal Law Gazette I p. 146) of which Section 92 of the Renewable Energy Sources Act (EEG) was revised by Article 1 number 41 of the Act of 13 October 2016 (Federal Law Gazette I p. 2258), Section 96 subsection (3) of the Renewable Energy Sources Act (EEG) was amended by Article 1 number 44 letter c of the Act of 13 October 2016 (Federal Law Gazette I p. 2258) and Section 14 subsection 1 of the Renewable Energy Sources Act (EEG) was inserted by Article 11 number 9 of the Act of 22 December 2016 (Federal Law Gazette I p. 3106), the Federal Environment Agency enacts in agreement with the Federal Ministry for Economic Affairs and Energy and the Federal Ministry of Justice and Consumer Protection and
- Section 87 subsection 2 first to forth sentence in conjunction with subsection 1 second and third sentence of the Renewable Energy Sources Act (EEG) in conjunction with the Administrative Costs Act of 23 June 1970 (Federal Law Gazette I p. 821) and in conjunction with Section 14 subsection 2 of the Renewable Energy Sources Act (EEG) of which Section 87 subsection 1 third sentence of the Renewable Energy

Sources Act (EEG) was amended by Article 1 number 36 of the Act of 13 October 2016 (Federal Law Gazette I p. 2258) and Section 14 subsection 2 of the Renewable Energy Sources Act (EEG) was inserted by Article 11 number 9 of the Act of 22 December 2016 (Federal Law Gazette I p. 3106).

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Article 1

Implementing Ordinance on Guarantees of Origin and Guarantees of Regional Origin for Electricity from Re- newable Energies

(Guarantees of Origin and Guarantees of Regional Origin Implementing Ordi- nance – HkRNDV)

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Division 1

General Rules

Section 1

Register maintenance

(1) The register administration shall maintain the guarantees of origin register as an electronic database in which issuance of German guarantees of origin, the recognition of foreign guarantees of origin as well as transfer and cancellation of German and foreign guarantees of origin are registered.

(2) The register administration shall maintain the guarantees of regional origin register as an electronic database in which issuance, transfer and cancellation of guarantees of regional origin are registered.

Section 2

Definitions

For the purposes of this ordinance

1. Biomass

shall mean an energy source pursuant to Section 3 number 21 letter e of the Renewable Energy Sources Act (EEG) of 21 July 2014 (Federal Law Gazette I p. 1066), last amended by Article 1 of

the Act of 21 June 2018 (Federal Law Gazette I p. 862);

2. Service provider
shall mean a natural person, a legal entity governed by private or public law or a partnership capable of entering legal relations and authorised by an account holder to perform actions for him in connection with using the guarantees of origin register or the guarantees of regional origin register in relation to the register administration;
3. Power plant at the border
shall mean an installation that is located on the German state border and on both sides of the state border there are facilities necessary for power generation in this installation where the border of the German exclusive economic zone with another state shall be the German state border;
4. Account
shall mean a feature within the guarantees of origin register or the guarantees of regional origin register assigned to the account holder by the register administration through which guarantees of origin are issued, transferred, recognised and cancelled or guarantees of regional origin are issued, transferred and cancelled;
5. Account holder
shall mean a trader, an installation operator or electricity supplier for whom or which the register administration has opened an account in the guarantees of origin register or in the guarantees of regional origin register;
6. User
shall mean a natural person who is authorised by an account holder or a service provider to act on behalf of the principal towards the register administration;
7. Mailbox
shall mean a feature within the guarantees of origin register or the guarantees of regional origin register assigned to the register participant and the operator of an electricity supply grid, this feature being provided to receive electronic documents and messages as well as to announce decisions;
8. Register participant
 - a) in the guarantees of origin register shall mean: an account holder, a registered service provider, an environmental auditor and an environmental auditors' organisation, or
 - b) in the guarantees of regional origin register: an account holder and a registered service provider;
9. Register administration
shall mean the Federal Environment Agency as the competent body pursuant to Section 79 subsection (4) and pursuant to Section 79a subsection 4 of the Renewable Energy Sources Act (EEG);
10. Storage unit
shall mean an installation for the purposes of Section 3 number 1 second clause of (EEG);
11. Environmental auditor or environmental auditors' organisation
 - a) shall mean an environmental auditor or an environmental auditors' organisation for the purpose of Section 2 subsection 2 or subsection 3 of the Environmental Audit Act (UAG) in the version of its announcement of 4 September 2002 (Federal Law Gazette I p. 3490), last amended by Article 13 of the Act of 27 June 2017 (Federal Law Gazette I p. 1966) as amended from time to time if the environmental auditor or the environmental organisation disposes of the following:
 - aa) an accreditation in the field of electricity production from renewable energies according to their respective area of accreditation 35.11.6 as referred to in the annex to the ordinance on the accreditation procedure concerning the UAG in the version of its announcement of 4 September 2002 (Federal Law Gazette I p. 3654) which was last amended by Article 65 of

the Act of 29 March 2017 (Federal Law Gazette I p. 626);

- bb) an accreditation in the field of electricity production from hydropower according to the area of accreditation 35.11.7 as referred to in the annex to the ordinance on the accreditation procedure concerning the (UAG) or
- cc) an accreditation in the field of waste collection, treatment and disposal activities; materials recovery according to the area of accreditation 38 as referred to in the annex to the ordinance on the accreditation procedure concerning the (UAG), as well as
- b) an environmental auditor or an environmental auditors' organisation who or which
 - aa) in another member state of the European Union or another signatory to the Agreement on the European Economic Area disposes of an accreditation for the areas mentioned under letter a and
 - bb) may be active pursuant to Section 18 subsection 1 and 2 of (UAG);
- 12. Area of use
shall mean the post code area or the municipality if it includes several post code areas, at the place the final consumer is supplied with electricity;
- 13. Region of use
shall mean the region of use as well as all post code areas situated in whole or in part within 50 kilometres around the region of use.

Section 3

Communication with the register administration

(1) The register administration provides a communication system as well as

mailboxes within the communication system. Register participants are obliged to open and use an electronic access to the communication system provided by the register administration as well as to a mailbox to communicate with the register administration. Register participants are obliged to communicate with the register administration, especially to submit applications and to make statements as well as to provide information and documents via the communication system pursuant to the first sentence.

(2) Register participants are obliged to use electronic form templates provided by the register administration including provision of information and documents for the communication with the register administration. The register administration specifies in the form templates which information the register participant has to provide due to this ordinance.

(3) If a document transmitted electronically by the register administration is not suitable for displaying and processing for technical reasons the register participant has to inform the register administration immediately about this circumstance.

(4) The register administration may require that the register participants use a specific and established encryption method appropriate for the protection requirements to transmit data and documents to the register administration. Indications and publications of the Federal Office for Information Security shall be considered when encryption is selected. Register participants shall keep encryption up to date.

Section 4

Correction of errors

(1) The register administration is authorised to correct errors identified by it and those, which occurred when guarantees of origin were issued, transferred, recognised or cancelled or when guarantees of regional origin were issued, transferred or cancelled or in installation data or in register participant data. However, it must not generally correct errors which

1. can affect electricity disclosure pursuant to Section 42 subsection 1 of the Energy Industry Act of 7 July 2005 (Federal Law Gazette I p. 1970, 3621) which was last amended by Article 2 (6) of the Act of 20 July 2017 (Federal Law Gazette I p. 2808, 2018 I p. 472), or
2. refer to guarantees of origin or guarantees of regional origin the register administration deleted or declared expired or would have to delete or declare expired.

(2) The register administration is authorised and obliged to take necessary measures to prevent errors as referred to in subsection 1.

(3) The register administration informs register participants affected by a correction about the corrections taken.

Section 5

Designation of areas of use and determination of regions of use for guarantees of regional origin

(1) By general ruling and based on official data or data of other competent bodies the register administration designates areas of use for which guarantees of regional origin may be cancelled and for that purpose determines the region of use for each area of use from which guarantees of regional origin may be cancelled and used for the area of use. Areas of use are designated by the name of community and associated post code or associated post codes. When areas of use are determined, clusters shall correspond, in case of wind turbines pursuant to Section 3 number 7 of the Offshore Wind Energy Act of 13 October 2016 (Federal Law Gazette I p. 2258, 2310) which was last amended by Article 2 (19) of the Act of 20 July 2017 (Federal Law Gazette I p. 2808), to a post code area pursuant to Section 3 number 1 of the Offshore Wind Energy Act. The third sentence shall be applied mutatis mutandis to installations in the territorial sea producing electricity from renewable energies.

(2) The general ruling pursuant to subsection 1 shall always be used for one calendar year. It is published in the Federal Gazette. In addition the announcement shall be published on the website of the register administration.

Section 6

Opening an account in the guarantees of origin register

(1) An account in the guarantees of origin register shall be required for issuance, recognition, transfer and cancellation of guarantees of origin. It is allowed to have several accounts as an account holder.

(2) To open an account pursuant to Section 1 first sentence an application shall be made at the register administration. Installation operators, traders and electricity suppliers shall be authorised to make applications.

(3) If the applicant is a natural person representation by an authorised person in fact is excluded for application. If the applicant is a legal entity governed by private or public law or a partnership capable of entering legal relations, representation by an authorised person in fact who is not employed with the applicant is excluded for application.

(4) When the application is made the following data and information about the applicant shall be forwarded to the register administration:

1. if the applicant is a natural person: first name and last name, street name, house number, post code, place Core Energy Market Data Register Ordinance (MaStRV) of 10 April 2017 (Federal Law Gazette I p. 842), which was last amended by Article 5 of the Act of 17 July 2017 (Federal Law Gazette I p. 2532) if any,
2. intended role or intended roles as installation operators, traders or electricity suppliers and

3. registration number assigned by the Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway (BNetzA) and market partner identification number assigned by the Federal Association of the German Energy and Water Industries (BDEW) if registration shall be as an electricity supplier.

If the applicant is represented pursuant to subsection 3 the register administration shall additionally be provided with first and last name, address as well as phone number and email address of the representative. When the applicant makes an application he shall receive a user name and a password (access code) for the account by the register administration; in case of representation permissible pursuant to subsection 3, the representative shall receive it.

(5) The applicant shall prove his identity by a procedure determined by the register administration in the terms of use pursuant to Section 2 first sentence. When additional accounts are opened by the same applicant identity needs not be proved again. Proof of identity is not required either if the applicant's identity has already been proved when he opened an account in the guarantees of regional origin. If the applicant is represented when he makes an application, the representative shall prove his identity instead of the applicant pursuant to sentences 1 to 3 accordingly and additionally show his power of representation related to the application to open an account and to maintain an account by appropriate documents. The register administration is authorised to stipulate in the terms of use pursuant to Section 52 first sentence that specific uses of the guarantees of origin register requires authentication and what additional information is required for that purpose.

(6) The register administration shall open the account for the applicant once it has verified that the applicant is authorised to make an application and required data and information pursuant to subsection 4 and required proofs pursuant to subsection 6 were completely transmitted

and declare him to be the main user. If the applicant was represented when the application was made, the register administration declares the natural person having made the application on behalf of the applicant to be the main user when the account is opened.

(7) The register administration rejects the application to open an account if the applicant is not authorised to make an application, required data and information pursuant to subsection 4 or required proofs pursuant to subsection 5 were not completely transmitted or the applicant or his representative is excluded from participating in the register pursuant to Section 51. The register administration shall reject the application if prerequisites for locking the account pursuant to Section 49 or for closure of account pursuant to Section 50 are on hand.

Section 7

Opening an account in the guarantees of regional origin register

(1) An account in the guarantees of regional origin register shall be required for issuance, transfer and cancellation of guarantees of regional origin.

(2) Section 6 shall be applied *mutatis mutandis*. As an exception to that

1. a proof of identity is not required if the applicant's identity or the identity of his representative has already been proved when an account was opened in the guarantees of origin register, and
2. representation for the application is also allowed by a service provider if the applicant wants to act as an installation operator in the guarantees of regional origin register.

In case of the second sentence number 2 proof of identity of the installation operator is not required; the service provider's obligation to prove identity in accordance with registration of service providers pursuant to Section 8 subsection 5 to Section 8 subsection 5 shall remain unaffected.

Section 8

Registration of service providers and assignment and authorisation of service providers by the account holder

(1) An account holder can assign a service provider to keep an existing account. A service provider may only keep an account for an account holder due to a certificate of authorisation which was granted to him by the account holder towards the register administration after registering the service provider in the register in which the account is available. If an installation operator assigns a service provider to maintain an account in the guarantees of regional origin register it shall be sufficient notwithstanding the first sentence if the installation operator directly authorises the service provider and the service provider declares towards the register administration that he was authorised by the installation operator; for this purpose the service provider has to transmit to the register administration the certificate of authorisation granted by the installation operator. A service provider may also be active for several account holders.

(2) It may be assigned and authorised as a service provider:

1. a natural person who is not a main user at the same time pursuant to Section 6 subsection 6 second sentence or user pursuant to Section 9 subsection 1,
2. a legal entity governed by private or public law or
3. a partnership capable of entering legal relations.

Environmental auditors or environmental auditors' organisations being active pursuant to this ordinance, must not be assigned and authorised as service providers.

(3) An authorised service provider may principally take all the actions in connection with the use of the guarantees of origin register or the guarantees of regional origin register the account holder is entitled and obliged to unless barred by legitimate interests of the register administration.

(4) The certificate of authorisation must correspond in both, form and content certificate of authorisation to the specifications of the register administration.

(5) The service provider must first be registered in the register of guarantees of origin or in the register of regional origin in order to be authorised in accordance with subsection 1. Registration is done at the register administration on request of the service provider. To register in the guarantees of origin register Section 6 subsection 3 to 7 shall be applied mutatis mutandis, to register in the guarantees of regional origin register Section 7 subsection 2 second sentence number 1 shall be applied mutatis mutandis. The registered service provider shall receive own access codes by the register administration.

(6) The register administration deletes registration of the service provider in the guarantees of origin register or guarantees of regional origin register on request of the latter. At the time of deletion of the registration or exclusion of the service provider from the guarantees of origin register or the guarantees of regional origin register pursuant to Section 49 all existing assignments to account holders expire.

Section 9

Account maintenance by user and main user

(1) An account holder may entrust one or more natural persons employed by him as a user with the maintenance of his account in the guarantees of origin register or in the guarantees of regional origin register. A user may only keep an account on behalf of an account holder due to a certificate of authorisation granted to him by the account holder towards the register administration. For that purpose, the account holder shall transmit data and information to the register administration pursuant to Section 6 subsection 4 second sentence. Authorisation may be done when the application is made pursuant to Sections 6 or 7 or at a later date.

(2) Authorisation of a user pursuant to subsection 1 includes the right to take all the actions towards the register administration on behalf of and with effect for the account holder and to which the account holder is entitled and obliged.

(3) Every user shall receive own access codes to the account of the authorised account holder by the register administration.

(4) If there is a change of data stored about the user, the user is obliged pursuant to subsection 1 third sentence, the user is obliged to immediately and completely transmit modified data to the register administration.

(5) An authorised service provider is also entitled to authorise one or more natural persons employed by him as users in the guarantees of origin register or in the guarantees of regional origin register towards the register administration. Subsections 1 to 4 shall be applied mutatis mutandis provided that authorisation may take place when registration is applied for pursuant to Section 8 subsection 5 or at a later date. Notwithstanding subsection 2 authorisation includes the right to take all the actions towards the register administration on behalf of and with effect for the account holder and to which the service provider is entitled and obliged pursuant to Section 8 subsection 3 first sentence.

(6) For the duration of the existence of an account a main user must be available without time interruption.

(7) For each account the register administration declares a natural person as a main user of this account pursuant to Section 6 subsection 6 first sentence or second sentence. If the account holder was represented when the account was opened pursuant to Section 6 subsection 3 and the representative was declared by the register administration to be the main user pursuant to Section 6 subsection 6 second sentence, the representative authority of the main user includes at the same time the right to maintain an account pursuant to Section 6 subsection 5 forth sentence; subsection 2 shall apply mutatis mutandis.

(8) If there is a change of data stored about the main user pursuant to Section 6 subsection 4, the main user is obliged to immediately and completely transmit modified data to the register administration.

(9) In case of Section 6 subsection 6 second sentence the account holder may replace the main user at any time by a new main user; if a certificate of authorisation of main user expires, the previous main user shall be replaced by a new main user when effectiveness lapses. In both cases of the first sentence proofs of identity and representative authority of the new main user shall be provided to the register administration pursuant to Section 6 subsection 5 forth sentence; the register administration declares the latter to be the new main user as soon as verification has taken place.

Section 10

Transfer of data by environmental auditors and environmental auditors' organisation

(1) Before beginning their activity in the guarantees of origin register according to this ordinance the environmental auditor or the environmental auditors' organisation shall transmit to the register administration data and proofs mentioned in subsections 2 and 3.

(2) The environmental auditor or the natural person acting for the environmental auditors' organisation shall provide the following data to the register administration:

1. first name and surname,
2. office address,
3. phone number and
4. email address.

For environmental auditors' organisation name and address shall in addition be provided. The register administration is entitled to stipulate in the terms of use pursuant to Section 52 first sentence that usage of the guarantees of origin register by

the environmental auditor or by the environmental auditors' organisation requires authentication.

(3) The environmental auditor or the environmental auditors' organisation shall provide to the register administration a proof of identity and evidence of accreditation as an environmental auditor or environmental auditors' organisation. A copy of the certificate of accreditation or the certificates of accreditation shall be provided to the register administration as a proof of accreditation. The register administration determines an appropriate procedure how to provide proof of accreditation. For proof of identity Section 6 subsection 5 shall apply mutatis mutandis.

(4) The environmental auditor or the environmental auditors' organisation shall immediately notify the register administration of the loss of one or more areas of accreditation pursuant to Section 2 number 11 letter a).

(5) The register administration deletes data of the environmental auditor or the environmental auditors' organisation on their request or when the environmental auditor or the environmental auditors' organisation loses the last area of accreditation qualifying for participation in the register pursuant to Section 2 number 11 letter a . When data of the environmental auditor or the environmental auditors' organisation is deleted all their existing allocations to installation operators shall expire.

(6) The register administration informs the accreditation body responsible pursuant to Section 28 of (UAG) if there are legitimate doubts that the environmental auditor or environmental auditors' organisation properly performs activities according to this ordinance.

Section 11

Transfer of data by operators of electricity supply grids

(1) On request by the register administration the operator of an electricity supply grid shall immediately check data and information already stored about him

in the guarantees of origin register or in the guarantees of regional origin register at the place notified in the request and he shall correct if necessary and transmit to the register administration the data required for the structure of the electronic communication channel between him and the register administration. The register administration shall determine the process of transfer of data, format and transmission path of data in the terms of use pursuant to Section 52 first sentence.

(2) When data is changed pursuant to subsection 1 first sentence the operator of an electricity supply grid shall transmit changed data to the register administration immediately and completely.

(3) The register administration shall require in the terms of use pursuant to Section 52 first sentence that the operators of electricity supply grids use a specific and established encryption method appropriate for the protection requirements to transmit data to the register administration. The operator of an electricity supply grid shall update certificates necessary for encrypted data communication at the register administration prior to expiry without being asked.

Division 2

Issuance and contents of guarantees of origin and guarantees of regional origin, registration of installations

Subdivision 1

Issuance of guarantees of origin

Section 12

Requirements for the issuance of guarantees of origin

(1) At the request of the installation operator the register administration shall issue a guarantee of origin per megawatt hour (MWh) of electricity generated net from renewable energies and shall enter it

into the account of the installation operator the installation is allocated to if

1. a valid registration of the installation is available in the guarantees of origin register pursuant to Section 21,
2. quantity of electricity for which issuance is requested in the registered installation has been produced from renewable energies since the beginning of the calendar month of its registration,
3. quantity of electricity produced by the installation and injected into the grid has been communicated to the register administration,
4. for the quantity of electricity produced from renewable energies neither a guarantee of origin nor another proof also serving at least for electricity disclosure or another procedure to disclose electricity supply in Germany or abroad has been issued,
5. for the quantity of electricity arising from combined heat and power generation no guarantee of origin has yet been issued from the competent authority pursuant to Section 31 of the Act on Combined Heat and Power Generation (KWKG) of 21 December 2015 (Federal Law Gazette I p. 2498) which was last amended by Article 3 of the Act of 17 July 2017 (Federal Law Gazette p. 2532), for the operator of highly efficient cogeneration installations for the purpose of Section 2 number 8 of the Act on Combined Heat and Power Generation (KWKG),
6. for quantity of electricity produced from renewable energies no payment pursuant to Section 19 or pursuant to Section 50 of (EEG) has been utilised,
7. not even twelve calendar months have yet passed since the end of the production period pursuant to Section 17 subsection 1 first sentence,
8. in case of a biomass installation presenting an installed capacity of more than 100 kilowatt and
 - a) which may exclusively use biomass according to the approval required for the construction and operation of the installation or
 - b) which, according to the approval required for the construction and operation of the installation, may also use other energy sources or fossil energy sources beside biomass for start-up, priming and supporting fuel, an environmental auditor or an environmental auditors' organisation has confirmed prior to issuance that quantity of electricity registered in the register corresponds to the quantity of electricity pursuant to number 3 and for this quantity of electricity in compliance with Section 42 subsection 1 requirements pursuant to number 2 are met; in case of non-fulfilment of obligations in due time pursuant to Section 42 subsection 1 first sentence or pursuant to 42 subsection 3 second sentence these quantities of electricity shall not be considered quantities of electricity produced from renewable energies,
9. for an installation with an electrical nominal capacity of more than 250 kilowatt and if quantity of electricity was not notified by the operator of the electricity supply grid an environmental auditor or an environmental auditors' organisation has confirmed prior to issuance that quantity of electricity entered in the register corresponds to quantity of electricity pursuant to number 3 unless it concerns installations pursuant to number 8, Sections 13 or 14, and
10. by issuing the guarantee of origin security, accuracy or reliability of the guarantees of origin register is not jeopardised.

A hazard within the meaning of the first sentence 1 number 10 is normally given if there is a reason for locking the account because of the identity of the applicant pursuant to Section 49 or for exclusion from participation in the guarantees of origin register pursuant to Section 51.

(2) Application for issuance of a guarantee of origin may be made prior to generation of quantities of electricity.

(3) When applying for issuance of guarantees of origin the installation operator shall indicate if and how quantity of electricity for which guarantees of origin are requested, was subsidised by the state.

(4) The installation operator is prohibited from applying for a guarantee of origin for a quantity of electricity,

1. for which a payment was utilised pursuant to Section 19 subsection 1 or pursuant to Section 50 subsection 1 of (EEG),
2. for which a guarantee of origin pursuant to Section 31 subsection 1 of the Act on Combined Heat and Power Generation (KWKG) or another proof to disclose electricity supply from renewable energies in Germany or abroad has been issued,
3. which was not produced from renewable energies in an installation after its registration or
4. with respect to which the register administration notified that it shall be used for compensating the negative carryforward pursuant to Section 15 subsection 2.

(5) The register administration shall issue guarantees of origin for quantities of electricity from a storage unit into which several registered installations inject, for the respective installation proportionally. For that purpose quantity of electricity taken as a basis of issuance shall be calculated for each injecting installation by building a product from

1. quantity of electricity injected into the grid and
2. the quotient from
 - a) quantity of electricity injected into the storage unit from each injecting installation and
 - b) total of quantities of electricity of all installations injecting into the storage unit.

Section 41 subsection 3 to 6 shall be applied mutatis mutandis.

Section 13

Issuance of guarantees of origin for electricity from pumped-storage power plants and from run-of-river power plants with pump operation without storage

(1) As to electricity from renewable energies generated in pumped-storage power plants with natural inflows or in run-of-river power plants regulating level difference by means of pumping operation, guarantee of origin shall be issued for quantity of electricity generated by natural inflow at the request of the installation operator.

(2) Quantity of electricity relevant for the issuance of guarantees of origin shall be calculated by deducting quantity of electricity spent for pumping operation from quantity of electricity which the installation injects pursuant to subsection 1. For that purpose neither the source of electricity spent for pumping operation nor geographical situation of the pump is relevant.

(3) The installation operator is entitled to transmit to the register administration an efficiency factor related to pumping losses for an installation pursuant to subsection 1 in order to increase quantity of electricity produced from renewable energies pursuant to subsections 1 and 2 due to energy losses of the pump; efficiency factor shall be proved by confirmation of the environmental auditor or the environmental auditors' organisation. Quantity of electricity relevant for issuance of Guarantees of origin shall be calculated by multiplying this efficiency factor by the quantity of electricity used for pumping operation.

(4) Irrespective of Section 12 the operator of an installation pursuant to subsection 1 shall indicate quantity of electricity relevant for issuance of guarantees of origin pursuant to subsections 1 to 3 when he applies for issuance of guarantees of origin. Issuance shall be done after

quantity of electricity pursuant to the first sentence was confirmed by an environmental auditor or an environmental auditors' organisation.

Section 14

Issuance of guarantees of origin for electricity from power plants at the border

(1) For electricity from renewable energies generated in power plants at the border guarantees of origin shall be issued for the quantity of electricity allocated to Germany and generated from renewable energies in the power plant at the border. Relevant quantity of electricity is calculated by deducting quantity of electricity generated from renewable energies and allocated to countries outside Germany from the entire quantity of electricity generated from renewable energies in the power plant at the border. Allocation shall be done by means of an international treaty or by means of a concession based on an international treaty. In each individual case issuance notwithstanding allocation pursuant to the third sentence may be done by the register administration in consultation with the concerned foreign body keeping the register in order to avoid the double issuing of guarantees of origin for the same quantity of electricity. The register administration discloses deviation pursuant to the forth sentence in the terms of use pursuant to Section 52 first sentence.

(2) The operator of a power plant at the border shall indicate relevant quantity of electricity from renewable energies pursuant to subsection 1 first sentence when he applies for issuance of a guarantee of origin.

(3) If there is no allocation of the quantity of electricity pursuant to subsection 1 third sentence guarantees of origin shall be issued for quantities of electricity produced from renewable energies and coming from generators located within the borders of the Federal Republic of Germany and injecting into the German power grid. In this case the responsible

grid operator shall transmit relevant quantity of electricity to the register administration.

Section 15

Rejection of issuance of guarantees of origin without corresponding electricity generation

(1) The register administration shall reject issuance of guarantees of origin if

1. guarantees of origin were issued to the installation operator at any earlier date,
2. no corresponding quantity of electricity generated from renewable energies was based on the former issuance and
3. guarantees of origin issued in such a way were already transferred to another account not belonging to the installation operator.

(2) In the case of subsection 1 the register administration shall reject issuance of guarantees of origin until quantity of electricity for which guarantees of origin had been issued was compensated by quantities of electricity generated from renewable energies in the installation and for which the installation operator meets requirements of Section 12 subsection 1 number 1 to 9 (negative carryforward).

Section 16

Contents of guarantee of origin

(1) A guarantee of origin issued by the register administration includes beside indications pursuant to Section 9 of the Renewable Energies Ordinance of 17 February 2015 (Federal Law Gazette I p. 146), last amended by Article 3 of the Ordinance of 10 August 2017 of the Federal Gazette I p. 3102);

1. the designation of the register administration as the issuing body,
2. the identification number of installation allocated by the register administration and

3. designation of the installation.

(2) At the request of the installation operator guarantee of origin may include additional information on the way of power generation in the installation (quality features). Quality features are only included in the guarantee of origin if an environmental auditor or an environmental auditors' organisation confirmed their accuracy. Confirmation pursuant to the second sentence shall be done

1. when issuance of the guarantee of origin is applied for or
2. when the installation is registered insofar as it concerns installation-specific data already fixed when the installation is registered.

If guarantee of origin is transferred abroad quality features will be deleted.

(3) At the request of the installation operator guarantee of origin may include additional information that the installation operator sold and delivered quantity of electricity which guarantee of origin is based on, to that electricity supplier to which he will also transfer guarantee of origin (optional coupling). In this case application shall specify:

1. quantity of electricity for which guarantees of origin shall be issued by specifying optional coupling pursuant to the first sentence,
2. name and market partner identification number of electricity supplier,
3. energy source from which electricity was produced,
4. balancing group to which generated quantity of electricity is delivered and
5. if quantity of electricity to be generated is delivered to several electricity suppliers, the respective percentage of quantity of electricity to be delivered to the respective electricity supplier, of the entire quantity of electricity produced in the installation and to be delivered to electricity suppliers.

The installation operator is obliged to deliver quantity of electricity on which guarantees of origin are based by specifying

optional coupling, to the balancing group pursuant to the second sentence number 4. The register administration is entitled to subsequently check supply of quantity of electricity to the balancing group pursuant to the second sentence number 4. If guarantee of origin is retransmitted by the electricity supplier to a third party information on optional coupling will be deleted.

(4) The installation operator shall specify in his application pursuant to subsection 3 notwithstanding subsection 3 second sentence number 4 that generated quantity of electricity to supply operation of railway undertakings was injected into a power grid located beyond standard responsibility of a transmission system operator (TSO) for the operation of railway undertakings (traction power network) if quantity of electricity based on guarantee of origin

1. was generated in an installation connected to a traction power network and
2. supplied by the installation operator to an electricity supplier using exclusively the traction power network and by this electricity supplier to an operator of a railway undertaking or
3. directly supplied by the installation operator using exclusively the traction power network to an operator of a railway undertaking.

(5) In case of subsection 3 and in case of subsection 4 a guarantee of origin shall only be issued if required information is confirmed by an environmental auditor or an environmental auditors' organisation.

(6) The register administration shall be entitled to give additional or restrictive specifications regarding content of information pursuant to subsections 2 to 4. The register administration shall describe specific quality features pursuant to subsection 2 and requirements for their confirmation in the terms of use pursuant to Section 52 2 first sentence. Inclusion of a quality feature may be provided with an ancillary clause, this

is also permitted subsequently if necessary to ensure accuracy of the register.

Section 17

Determination of the production period for guarantees of origin

(1) On the guarantee of origin the register administration shall indicate production period of quantity of electricity on which guarantee of origin is based. Production period shall be specified as a calendar month. The register administration takes the calendar month in which power generation ends as a basis.

(2) As to installations having technical facilities by which the operator of the electricity supply grid may call up the respective actual injection at any time shall be taken as a basis

1. of the beginning of generation of quantity of electricity pursuant to subsection 1 first sentence the first day of the calendar month during which generation of this quantity of electricity was completed and
2. the end of power generation the last day of the same calendar month.

If quantity of electricity generated from renewable energies is below 1 megawatt hour, the end of power generation will be the last day of the calendar month in which generation of 1 megawatt hour of electricity was terminated.

(3) As to installations not covered by subsection 2

1. the beginning of power generation is the first day after the second last reading of power generation data and
2. as the end of power generation the day of the last reading of power generation data.

If quantity of electricity generated from renewable energies during this period is below 1 megawatt hour the end of power generation will be the day of reading prior to which generation of 1 megawatt hour of electricity was terminated.

(4) For the issuance of a guarantee of origin only quantities of electricity shall be considered for which beginning and end of generation are not much more than twelve months apart.

Subdivision 2

Issuance of guarantees of regional origin

Section 18

Requirements for the issuance of guarantees of regional origin

(1) At the request of the installation operator the register administration shall issue a guarantee of regional origin per kilowatt hour (kWh) of electricity generated net from renewable energies and shall credit it to the account of the installation operator the installation is assigned to if

1. a valid registration of the installation is available in the guarantees of regional origin register pursuant to Section 23,
2. quantity of electricity for which issuance is requested, in the registered installation has been produced from renewable energies since the beginning of the calendar month of its registration,
3. quantity of electricity produced by the installation and injected into the grid has been communicated to the register administration,
4. for produced quantity of electricity no guarantee of regional origin was issued,
5. a claim exists to the market premium for the produced quantity of electricity pursuant to Section 19 subsection 1 number 1 of (EEG),
6. not even 24 calendar months have yet passed since the end of the production period pursuant to Section 20 and
7. by issuing the guarantee of regional origin security, accuracy or reliability

of the guarantees of regional origin register are not jeopardised.

(2) Section 12 subsection 1 second sentence and subsection 2 and 5, Section 14 and shall be applied mutatis mutandis.

(3) The installation operator and his service provider are prohibited from applying for a guarantee of regional origin related to a quantity of electricity,

1. not entitled to a market premium pursuant to Section 19 subsection 1 number 1 of (EEG),
2. produced prior to the calendar month of registration of installations or
3. with respect to which the register administration notified that it shall be used for compensating the negative carryforward pursuant to .

Section 19

Contents of guarantee of regional origin

Beside indications pursuant to Section 10 of the Renewable Energies Ordinance a guarantee of regional origin includes the following information:

1. the name of the register administration as the designated issuing body,
2. the issuing state,
3. the types and main components of energy used to generate electricity,,
4. location, type, installed capacity and the date on which the installation in which the electricity was produced became operational,
5. the identification number of installation assigned by the register administration,
6. the name of the installation and
7. designation of areas of use in which guarantee of regional origin may be used.

Section 20

Determination of the production period for guarantees of regional origin

To determine the production period for guarantees of regional origin Section 17(1) and (2) shall be applied mutatis mutandis. If quantity of electricity produced in one calendar month and for which a guarantee of regional origin shall be issued, is less than 1 kilowatt hour, the last day of that calendar month in which generation of 1 kilowatt hour was completed, will be decisive for the end of the electricity production.

Subdivision 3

Registration and deletion of installations

Section 21

Installation registration in the guarantees of origin register

(1) At the request of the installation operator the register administration shall register his installation or his installations in the guarantees of origin register and shall assign it to the installation operator's account. For that purpose the installation operator shall provide the following data to the register administration:

1. for natural persons: first and last name; for legal persons: name and registered office,
2. location of installation:
 - a) geographical coordinates in a format to be determined by the register administration in the terms of use pursuant to Section 52 first sentence and
 - b) address; in case of installations having no own address the nearest address shall be indicated; in case of offshore wind turbines as defined in Section 3 number 7 of the Offshore Wind Energy Act as well as installations in the territorial sea provision of the address is not required,

3. name and address of the grid operator into whose system the installation feeds in; if electricity from the installation feeds into a system not for general electricity supply and this electricity is used by end users connected to that system, the name and address of that grid operator shall be indicated unless information is available to the grid operator pursuant to Section 41 subsections 1 and 2,
 4. the energy sources from which the installation produces electricity,
 5. in the case of biomass installations, whether the installation may also use other energy sources,
 6. a unique identification of the installation and type of installation and if available, specification of the manufacturer,
 7. the EEG installation number or the unique number pursuant to Section 8 subsection 2 of the Core Energy Market Data Register Ordinance if such numbers exist,
 8. installed capacity of the installation,
 9. date on which the installation became operational according to German law; in case of biomass installations which, according to the approval required for the construction and operation of the installation, may also use other energy sources or fossil energy sources beside biomass for start-up, priming and supporting fuel, irrespective of their electrical nominal capacity, the energy source used during initial operating after technical operability was ensured, shall not be important,
 10. identification number or other designation of the facility for collecting the net electricity feed-in of the installation in the electricity supply grid which is entitled to obtain guarantees of origin; if such an identification number of the installation is not available it has to be assigned,
 11. the indication if the installation is fitted with the technical capacity to allow the grid operator to call up the current feed-in at any time,
 12. the meter reading at the date of the application if the technical capacity specified in number 11 is not present,
 13. the transformer ratio of the installation, if applicable,
 14. indication of which other registered installation or which other registered installations of the same installation operator feeds the installation into a storage unit of the installation operator, if applicable,
 15. indications whether and to what extent the installation has benefitted from investment subsidies,
 16. in the event that the account holder has several accounts, the account to which the register administration should assign the installation, and
 17. an indication whether the situation specified in Section 22 subsection (1) number 2 applies.
 - (2) In case of power plants at the border the installation operator shall in addition provide the following data:
 1. the foreign address, if applicable, the nearest foreign address if the power plant at the border has no German address,
 2. the percentage distribution of produced quantities of electricity between the states in which the power plant at the border is located, and
 3. the international treaty on which distribution of quantity of electricity is based, or the concession based on the international treaty.
- In case of power plants at the border the entire power plant at the border shall be registered. In case of power plants at the border where no international treaty and no concession based on an international treaty exist, the installation operator shall exclusively apply for registration of the generation facility located on German territory.
- (3) An installation injecting quantities of electricity into electricity supply

grids of different operators shall be registered separately for each operator as specified in subsection 1.

Section 22

Use of an environmental auditor or environmental auditors' organisations for the registration of installations in the guarantees of origin register

(1) The following installations shall only be registered in the guarantees of origin register if the installation operator obtains verification by an environmental auditor or environmental auditors' organisation of the accuracy of the data supplied pursuant to Section 21 subsection 1 second sentence and this confirmation has been obtained by the register administration:

1. within the meaning of Section 12 and
2. installations with electrical nominal capacity in excess of 100 kilowatts in relation to which the electricity generated in the five years prior to the application for registration for a maximum period of six months
 - a) was in receipt of a market premium, feed-in tariff or a landlord-to-tenant supply premium pursuant to the Renewable Energy Sources Act or
 - b) for the purposes of reducing the EEG surcharge was sold directly by an energy supply enterprise pursuant to Section 39 of (EEG) as applicable until 31 July 2014.

(2) With respect to data whose accuracy has been verified by an environmental auditor or environmental auditors' organisation within the five years prior to the application for registration, the verification required by the environmental auditor or the environmental auditors' organisation pursuant to subsection (1) shall be limited to the fact that accuracy of this data has already been verified.

Section 23

Installation registration in the guarantees of regional origin register

(1) Requirements for registration in the guarantees of origin register pursuant to Section 21 shall be applied mutatis mutandis for registration of an installation in the guarantees of regional origin register. As an exception to that

1. post code and geographical coordinates of the location of the physical metering point of the installation shall be indicated; information on geographical coordinates shall be given in a format determined by the register administration in the terms of use pursuant to Section 2 first sentence,
2. indication is dispensable to what extent the installation has benefitted from investment subsidies,
3. shall additionally be specified EEG installation number and the unique number pursuant to Section 8 subsection 2 of Core Energy Market Data Register Ordinance,
4. it shall be specified for an installation located in Germany whether the value to be applied has been determined by law or by tender,
5. it shall be specified in case of installations located outside Germany, whether the installation was awarded a tender pursuant to Section 5 subsection 2 second sentence of (EEG), and
6. it shall be specified number of awarded tender in case of installations for which value to be applied has been determined by a tender.

(2) At the request of the installation operator the register administration shall register the installation in the guarantees of regional origin register for five years and assign it to the installation operator's account if the installation has already been registered in the guarantees of origin register and if the installation operator provides to the register administration additional data pursuant to subsection 1 second sentence.

(3) The register administration shall reject registration of installations located outside Germany if

1. they are not based in an area of use,

2. in case of subsection 1 first sentence in conjunction with Section 21 subsection 1 second sentence number 5 biomass installation may also use other energy sources or

3. in case of subsection 1 second sentence number 6 the installation was not awarded a tender pursuant to Section 5 subsection 2 second sentence of (EEG).

Section 24

Change of installation data

(1) If data notified pursuant to Section 21 subsection 1 second sentence or subsection 2 first sentence or pursuant to Section 23 second sentence has altered, the installation operator shall submit to the register administration in full and without delay the amended data and the date from which it applies. If the post code changes at the location of the physical metering point of the installation, the register administration will only take this change into account at the beginning of the calendar year following this change.

(2) For installations with a capacity in excess of 100 kW registered in the guarantees of origin register, in relation to amended data supplied for the purposes of subsection Section 21 subsection (1) second sentence numbers 4, 5, 8 and 9, subsection 2 first sentence number 2 and 3 and subsection 3 the installation operator shall furnish proof of the accuracy of such data by verification issued by an environmental auditor or environmental auditors' organisation. Such a proof is not necessary if the responsible operator of the electricity supply grid provides altered data to register administration. Until the register administration receives the verification specified in the first sentence or prior to data transmission specified in the second sentence, no

guarantees of origin shall be issued in relation to the quantities of electricity generated in the installation concerned.

Section 25

Registration of whole installations

(1) On request the register administration shall register several installations as a whole installation if these installations produce electricity from similar renewable energies and inject this electricity via a common calibrated meter and a market location identification number with identical designation. The installation operator shall provide to the register administration the following data related to each installation of the whole installation:

1. related to a registration in the guarantees of origin register: data pursuant to Section 21 subsection 1 second sentence or subsection 2 first sentence,
2. related to a registration in the guarantees of regional origin register: data pursuant to Section 23 subsection 1.

(2) If the installations concerned are installations which generate electricity from solar radiation the information only needs to be supplied in relation to the installation as a whole.

(3) The date on which the whole installation shall be deemed to have commenced operations shall be the date on which the oldest installation of the whole installation entered into service.

Section 26

Period of validity of registration of installations; renewal of registration of installations

(1) The registration of an installation shall be valid for five years.

(2) An application may be made to renew the registration following expiry of the current registration. An application to renew the registration may be made no earlier than three months before and no

later than three months after expiry of the original registration of the installation.

(3) In order to renew the registration the installation operator shall check whether the following data related to his installation and stored in the respective register are still up to date:

1. registered in the guarantees of origin register
 - a) for installations data mentioned in Section 21 subsection 1, second sentence,
 - b) for power plants at the border data mentioned in Section 21 subsection 1, first sentence,
2. for installations registered in the guarantees of regional origin register: data specified in Section 23 subsection 1.

If data stored in the respective register is still up to date the installation operator shall confirm this data towards the register administration, otherwise data shall be updated.

(4) If renewal is not applied for within a period of three months following expiry of the original registration of the installation, a new registration in the guarantees of origin register shall be required pursuant to Section 21, in the guarantees of regional origin register only pursuant to Section 23.

Section 27

Deletion of registration of installations and replacement of installation operator

(1) At the request of the installation operator or if the installation operator ceases to operate the installation which is assigned to him, the register administration shall delete registration of the installation. The installation operator is obliged to inform the register administration without delay that he no longer operates the installation.

(2) If the operator of an installation is replaced, registration of the installation re-

mains unchanged despite declaration pursuant to subsection 1 first sentence and installation shall be assigned to the new installation operator's account if the new installation operator

1. applies for assignment of the installation to his account and registration of the installation is still valid and
2. has proved replacement of the installation operator in a form to be determined by the register administration.

Division 3

Transfer, cancellation, deletion and expiry of guarantees of origin and guarantees of regional origin

Section 28

Transfer of guarantees of origin

At the request of the account holder, the register administration shall transfer a guarantee of origin to the account of a different account holder if, where to do so, security, accuracy and reliability of the guarantees of origin register is not jeopardised. As a rule, the integrity of the register will be regarded as subject to a threat of that kind if the guarantee of origin to be transferred was issued on the basis of incorrect information provided pursuant to Section 12 subsection 1 or Section 21 subsection 1 to 3 or on the basis of inaccurate data on electricity quantities provided pursuant to Section 41 subsection 2 to 6.

(1) On application by the account holder the register administration shall transfer a guarantee of origin to the competent body

1. of another Member State of the European Union,
2. another signatory to the Agreement on the European Economic Area,

3. a contracting party to the Energy Community Treaty. or
4. of Switzerland.

(2) The register administration may refuse to effect the transfer if for such transfer no electronic and automated interface is available to which the register administration is connected

(3) If on acquisition of the guarantee of origin its purchaser knew that the quantity of electricity from renewable energy sources necessary for its issuance had not been generated, an application to transfer such guarantee to the account of a different account holder shall be rejected.

Section 29

Transfer and reversal of guarantees of regional origin

(1) At the request of the account holder the register administration shall transfer one or more guarantees of regional origin to the account of a different account holder,

1. if the issuing account holder and the receiving account holder have concluded a power-supply contract on the basis of which the issuing account holder owes the receiving account holder the supply of electricity in the year of the power generation on which the guarantees of regional origin to be transferred are based
2. if quantity of electricity represented by the guarantees of regional origin does not exceed, in this year, the quantity of electricity owed under the contract pursuant to number 1 and
3. as far as security, accuracy or reliability of the guarantees of regional origin register are not jeopardised by transfer.

Transfer of several guarantees of regional origin subject to the application pursuant to the first sentence shall be done in a single process.

(2) As a rule, the integrity of the register will be regarded as subject to a threat

for the purposes of subsection 1 first sentence number 3 if the guarantee of regional origin to be transferred was issued on the basis of incorrect information provided pursuant to Section 18 subsection 1 or Section 23 subsection 1 or subsection 2 or on the basis of inaccurate data on electricity quantities provided pursuant to Section 41 subsection 2, 4 and 5.

(3) The register administration shall reverse all guarantees of regional origin transferred in a single process to the account of the issuing account holder if

1. the receiving account holder has applied for reversal within one month following transfer and
2. all guarantees of regional origin resulting from the transfer process are still on the account of the receiving account holder.

Expiry of transferred guarantees of regional origin on the account of the receiving account holder does not affect possible reversal of remaining guarantees of regional origin.

(4) It is forbidden to apply for the transfer of a guarantee of regional origin if there is no required power-supply contract pursuant to subsection 1 first sentence.

(5) The receiving account holder is obliged to ensure reversal in due time if there is no required power-supply contract pursuant to subsection 1 first sentence.

(6) In derogation of subsections 1 to 5 the provision of Section 28 subsection (1) related to the transfer of a guarantee of regional origin to another account of the same account holder shall be applied mutatis mutandis.

Section 30

Use and cancellation of guarantees of origin

(1) Guarantees of origin may only be used for electricity disclosure by an electricity supplier. A guarantee of origin shall be deemed to have been used for the purposes of electricity disclosure pursuant to

Section 42 subsection 1 number 1, subsection 3 and 5 first sentence number 1 of the Energy Industry Act where the electricity supplier as owner of the guarantee of origin notifies the register administration that it will use the guarantee of origin to disclose a quantity of electricity supplied to final consumers within the scope of the Renewable Energy Sources Act. Quantity of electricity supplied pursuant to the second sentence shall be rounded up to whole megawatt hours for the purposes of use and cancellation of guarantees of origin.

(2) A guarantee of origin may only be used by the electricity supplier if the latter applies for the cancellation of the guarantee of origin on its account with the register administration which shall grant the application. If on acquisition of the guarantee of origin the electricity supplier knew that the quantity of electricity from renewable energy sources necessary for its issuance had not been generated, an application for cancellation shall be rejected. In this case use of the guarantee of origin shall be prohibited. If only after acquisition of the guarantee of origin the electricity supplier knows that the quantity of electricity from renewable energy sources necessary for its issuance has not been generated, the register administration must not reject the application for cancellation on the grounds that the quantity of electricity from renewable energy sources necessary for its issuance has not been generated, Section 15 shall remain unaffected.

(3) The electricity supplier may only apply for cancellation of its own electricity supply and electricity disclosure. In its application for cancellation, the electricity supplier may specify a particular electricity product or the name of the electricity customer for which the guarantee of origin will be used. If the electricity customer is a natural person his name shall not be stated without his consent.

(4) A guarantee of origin may only be used to disclose electricity quantities supplied to the final customer by the cancelling electricity supplier in the same calendar year as the year in which lies the

end date of the production period related to the guarantee of origin.

Section 31

Use and cancellation of guarantees of regional origin, designation in electricity disclosure

(1) For the use and cancellation of guarantees of regional origin provisions of Section 30 related to use and cancellation of guarantees of origin shall apply accordingly provided that

1. application for cancellation is permitted between 1 August and 15 December of the calendar year following the production period of quantity of electricity for which guarantee of regional origin to be cancelled was issued,
2. guarantees of regional origin may only be used to disclose electricity consumed in a regional context pursuant to Section 79a subsection 8 of (EEG) and pursuant to Section 42 subsection 5 second sentence of the Energy Industry Act,
3. supplied quantity of electricity used for guarantees of regional origin shall be rounded up to whole kilowatt hours and
4. specified in the request for cancellation
 - a) area of use in which guarantees of regional origin shall be used,
 - b) electricity products supplied to this area of use and for which guarantees of regional origin shall be used,
 - c) quantity of electricity supplied to the respective area of use depending on the electricity product according to letter b and consumed by the electricity customer and
 - d) the information whether, for the electricity customer consuming the electricity product according to letter b at the point of supply in the area of use, obligation to pay

EEG surcharge pursuant to Sections 63 to 68 of (EEG) is limited and if so, the amount of the percentage of "Renewable energies financed from the EEG surcharge".

(2) If an electricity supplier indicates to final consumers in the electricity labelling to which percentage electricity which the company must designate pursuant to Section 78 subsection 1 of the Renewable Energy Sources Act as "renewable energy, financed from the EEG surcharge", has been generated in a regional context related to electricity consumption, this designation shall be simple, easy to understand and clearly distinguishable from the electricity label, which the electricity supplier is required to indicate in any case pursuant to Section 42 subsection 1 of the Energy Industry Act (EnWG), in the form of graphic visualisation. The register administration is entitled to govern concrete design, especially textual and graphical representation by general ruling. The general ruling is published in the Federal Gazette. In addition the announcement shall be published on the website of the register administration.

Section 32

Deletion of guarantees of origin

(1) The register administration shall delete guarantees of origin if

1. the account holder has applied for deletion of guarantees of origin,
2. in case of Section 16 contrary to Section 15 subsection 1 number 3 they are still available on an account of the installation operator or
3. they contain a particularly serious and obvious error.

(2) It is forbidden to use deleted guarantees of origin.

(3) If guarantees of origin have been issued on the basis of incorrect data on electricity quantities or if they contain a particularly serious and obvious error the account holder shall notify these circumstances immediately after their discovery.

Section 33

Deletion of guarantees of regional origin

For the deletion of guarantees of regional origin provisions of Section 32 related to the deletion of guarantees of origin shall be applied mutatis mutandis.

Section 34

Expiry of guarantees of origin

The register administration shall declare guarantees of origin expired if they have been cancelled not later than twelve calendar months following the end of the production period. It is forbidden to use expired guarantees of origin.

Section 35

Expiry of guarantees of regional origin

The register administration shall declare guarantees of regional origin expired if they have been cancelled not later than 24 calendar months following the end of the production period. It is forbidden to use expired guarantees of regional origin.

Division 4

Recognition and import of guarantees of origin of foreign bodies keeping the register

Section 36

Recognition of guarantees of origin of foreign bodies keeping the register

(1) Upon application of the body keeping the register and transferring to Germany the register administration shall recognise a guarantee of origin for electricity from renewable energy sources issued in European Union Member States, other States in the European Economic Area, Contracting Parties to the Energy Community Treaty or Switzerland if there is no good reason to doubt the accuracy, reliability or veracity of the guarantee of

origin. As a rule, there will be no good reason to have doubts of that kind, if

1. the end date of the production period for the quantity of electricity to which the guarantee of origin relates is within the last twelve months when the application is made,
2. the guarantee of origin has been neither cancelled nor used,
3. both the issuing and exporting state have a safe and reliable system for issuance, transfer, cancellation and use of guarantees of origin,
4. there is no possibility to declare to final consumers in the state of generation or the state of export that the electricity quantity concerned is from renewable energy sources, and
5. the guarantee of origin may be used only for the purposes of electricity disclosure in both the issuing and exporting states.

(2) The register administration shall refuse to effect the transfer of a guarantee of origin if for such transfer no electronic and automated interface is available to which the register administration is connected.

(3) If the register administration refuses to recognise guarantees of origin from other Member States of the European Union, it shall notify the European Commission of the fact and give reasons for its decision towards the European Commission.

Section 37

Import of recognised guarantees of origin

(1) At the request of the register body effecting the transfer of guarantees of origin to Germany, the register administration shall transfer such guarantees of origin recognised pursuant to Section 36 to the domestic account of the purchaser. For the purposes of that transfer, the register body effecting the transfer to Ger-

many shall provide together with the application for transfer of the guarantee of origin the following details:

1. foreign account number of the account holder from whose account the guarantee of origin will be transferred and
2. domestic account number of the purchaser.

(2) If the register administration refuses the transfer of a recognised guarantee of origin to a domestic account because the requirements of subsection 1 have not been satisfied, it shall notify the register body seeking to effect the transfer to Germany.

Division 5

Duties of register participants, main users, users and operators of electricity supply grids

Section 38

General duties to inform and cooperate

Whenever information which must be notified to the register administration has altered, all register participants and operators of electricity supply grids shall be required to notify the register administration of such amendments in full and without delay.

Section 39

Duties in relation to use of guarantees of origin register or guarantees of regional origin register

Register participants, main users, users and operators of electricity supply grids are obliged

1. to treat with due care all data gathered and stored in connection with the operation of the guarantees of origin register or the guarantees of regional origin register, to handle them

confidentially and not to disclose them to third parties,

2. to ensure by technical and organisational measures that information technology applied to use the guarantees of origin register or guarantees of regional origin register will be kept safe from unauthorized access in a secure environment,
3. to take all necessary steps to ensure that unauthorised third parties do not have access to their account,
4. to immediately inform the register administration that an authentication device has been lost or stolen or that an authentication device or a personal security feature has been misused or used in some other unauthorised manner,
5. to monitor information technology applied to use the guarantees of origin register or guarantees of regional origin register and to ensure security of the operating environment,
6. to use such systems and components which according to the Federal Office for Information Security are evaluated as safe for the intended purpose and state of the art and
7. not to make access data accessible to others; as an exception to that employees of the register administration may be notified of the user name.

Section 40

Duties of the account holder to inform and cooperate

(1) It shall be the responsibility of account holders to check on a regular basis for messages to their mailbox or for credits to their accounts and to verify immediately upon such receipt that the guarantees of origin or the guarantees of regional origin credited are correct. Furthermore the account holders are obliged to check if their applications are processed within a narrow time frame by the register administration and in cases of doubt to inform the register administration about this.

(2) On a regular basis and within short distances the account holders shall check data stored in the guarantees of origin register or in the guarantees of regional origin register about them and their circumstances for any inconsistencies or errors. If the account holders detect such inconsistencies or errors they are obliged to inform the register administration without delay and correct the data concerned.

(3) Account holders shall notify the register administration without delay if any certificate of authorisation issued for transactions with the register administration is revoked.

Section 41

Duties of operators of electricity supply grids and installation operators to communicate and notify information

(1) The grid operator to whose grid system an installation is connected in respect of which application for registration has been made is obliged to provide the following information to the register administration on their request:

1. identification number or other designation of the installation pursuant to Section 21 subsection 1 second sentence number 10,
2. information whether in relation to the electricity generated by the installation and fed into the grid system a financial support pursuant to the Renewable Energy Sources Act is claimed,
3. the manner in which the energy produced in the installation is sold within the meaning of Section 21b subsection 1 pursuant to the Renewable Energy Sources Act,
4. information whether electricity produced in the installation will be split proportionally into different methods of divestiture within the meaning of Section 21b subsection 2 pursuant to (EEG) and percentage of the different methods of divestiture,
5. the balancing group into which electricity produced by the installation

was entered, if electricity was entered into more than one balancing group, all balancing groups shall be specified,

6. type of time series,
7. type of generating plant,
8. type of technical equipment to allow the grid operator to call up injection and
9. specification of transformer and transformer ratio where available.

The register administration is entitled to determine additional data to be transferred in the terms of use pursuant to Section 52 first sentence related to the operation of the guarantees of origin register or the guarantees of regional origin register. When data changes pursuant to the first or second sentence, the grid operator shall provide amended data to the register administration without delay.

(2) The grid operator to whose grid system an installation registered in the guarantees of origin register is connected, shall provide to the register administration on its request quantities of electricity injected net into the grid system by the registered installation and for which no payment pursuant to 19 subsection 1 of (EEG) was claimed. For that purpose he shall

1. submit quantities of electricity related to installations fitted with technical capacity to allow the grid operator to call up the current feed-in at any time, at least once a month until the eighth working day of a calendar month for the previous calendar month in quarter-hourly time resolution, and
2. submit quantities of electricity related to other installations at least once a year on the 28 of the calendar month following the reading.

The grid operator to whose grid system an installation registered in the guarantees of regional origin register is connected, shall, in accordance with the second sentence number 1, provide to the register administration quantities of electricity injected net into the grid system by the registered

installation and for which there is entitlement to the market premium pursuant to (EEG). The register administration shall be authorised to determine additional information required for the operation of the guarantees of origin register or the guarantees of regional origin register in the terms of use pursuant to Section 2 first sentence. .

(3) Insofar as electricity from an installation registered in the guarantee of origin is fed into an electricity supply grid not covered by Section 3 number 35 of (EEG) and consumed by final consumers in this electricity supply grid the grid operator to whose grid system this electricity supply grid is connected is responsible for transmitting the data pursuant to subsections 1 and 2, if this data is available to him; moreover, the operator of the electricity supply grid fed into it and in which the electricity was consumed by final consumers, is obliged to transmit. If electricity from an installation registered in the register of origin is passed through a network in the immediate vicinity of the installation by a third party, the operator of this installation is obliged to use the data of the directly consumed electricity pursuant to subsections (1) and (2) in accordance with the first and third sentence, if this data is not available to the grid operator to whose grid system the installation is connected.

(4) If grid operators to whose grid system an installation registered in the guarantees of origin register or guarantees of regional origin register is connected, or operators of a grid system not covered by Section 3 number 35 of the Renewable Energy Sources Act, to which an installation registered in the guarantees of origin register is attached pursuant to subsections (1) to (3), the data to be transmitted, do not provide data in due time or in full via automatic data transmission, they are obliged to submit this data to the register administration no later than 15 January, 15 May and 15 September for the preceding period; data shall be submitted to the register administration by means of a form template provided by the

register administration. The register administration may in the cases referred to in the first sentence, give the operator of an installation registered in the guarantees of regional origin register the possibility of transmitting the data referred to in subsection (1) or subsection (2); the data must be submitted by means of a form template provided by the register administration. The register administration may add additional requirements for transfer in the terms of use pursuant to Section 2 first sentence.

(5) Insofar as the grid operator or, in the case of installations registered in the guarantees of origin register, the operator of an electricity supply grid not covered by Section 3 number 35 of the Renewable Energy Sources Act to whom data is not available pursuant to subsection 1 or subsection 2, this data shall be provided to the register administration by the installation operator in accordance with subsection 4.

(6) In the terms of use pursuant to Section 2 first sentence, the register administration shall determine categories of installations in which the installation operator has to transmit the data pursuant to subsection (2) to the register administration at the latest three months after the end of the production period of the produced electricity by means of the form templates.

Section 42

Evaluation duties for biomass installations registered in the guarantees of origin register

(1) Operators of installations pursuant to Section 12 subsection 1 first sentence number 8, which require the issuance of guarantees of origin for electricity, must, prior to issuance, have the quantity of electricity produced in the installation and the percentage of renewable energies in the energy content of the fuels used determined by an environmental auditor or environmental auditor body at least once a calendar year and have it transmitted to the register administration. The register administration may impose

simplifying specifications for the determination of the percentage of renewable energies of the fuels used in the terms of use pursuant to Section 2 first sentence.

(2) Installation operators pursuant to subsection (1) shall keep a record of the substances where they document fuels used as well as information and evidence related to the type, quantity, uniformity and origin of the fuels consumed and the date of fuel usage. The record of the substances used shall be kept for five years following the expiry of the calendar year of the fuel usage last documented; in the cases referred to in subsection (1), it shall be submitted to the environmental auditor or to the environmental auditors' organisation without being asked, to the register administration upon request.

(3) Installation operators referred to in subsection (1) shall instruct an environmental auditor or an environmental auditors' organisation to check the record of substances used referred to in subsection (2) for plausibility, and for this purpose authorise them to additionally consult an operating logbook of all relevant operations or comparable documents on the installation. In environmental auditors' organisation the plausibility of the record of substances used pursuant to subsection (2), the environmental auditor or the environmental auditors' organisation shall inspect the installation at intervals not exceeding 15 months and record the date of inspection in the guarantees of origin register. If the inspection is omitted during the period specified in the second sentence, the electricity for the production periods following the last inspection is deemed to be equal to that not produced from renewable energies. If the environmental auditor or the environmental auditors' organisation resumes the inspection of the installation after an interruption of more than 15 months since the last inspection, they may determine the quantities of electricity and biogenic components for the production periods not exceeding 12 months prior to the resumption of the inspection and verify them.

(4) The determination of the percentage of renewable energies in the

fuels used in accordance with subsection (1) may be carried out during the course of the year using the required evidence provided pursuant to subsection (2) regardless of location, provided that the determination and confirmation of the percentage of renewable energies in the fuels used is not jeopardised. Section 24 subsection 2 shall remain unaffected. The register administration can check whether the quantities of electricity for which issuance of guarantees of origin has been requested, have been generated from renewable energies. Section 44 shall be applied mutatis mutandis for this testing.

Section 43

Activity of environmental auditors and environmental auditors' organisations

(1) An environmental auditor or an environmental auditors' organisation shall check the data provided by the account holder pursuant to Section 13 subsection 3 and 4, Section 16 subsection 2 and 5, Section 22 subsection 1 and 2, Section 24 subsection 2, Section 42 subsection 1 and 3 and confirm when data is accurate. Confirmation shall be effected pursuant to Section 12 subsection 1 first sentence number 8 and 9. The environmental auditor or the environmental auditors' organisation shall only be authorised to submit this verification and other declarations within the scope of their area of accreditation pursuant to Section 2 number 11 letter a; environmental auditors and environmental auditors' organisations granted an accreditation in the field of electricity production from renewable energies can also provide verifications and declarations for installations within the meaning of Section 12 subsection (1) first sentence.

(2) Pursuant to subsection (1) first sentence the environmental auditor or the environmental auditors' organisation shall, in writing or in electronic form, submit the essential findings and conclusions as well as the basics of these findings and conclusions in a report immediately after

the verification of the submitted information.. The report shall set out clearly the nature and results of the examination. The environmental auditor or environmental auditors' organisation shall enter its verification in the forms provided by the register administration and submit it to that body together with the report.

(3) In exercising the activities specified in the subsections above, the environmental auditor or environmental auditors' organisation shall be deemed to act on behalf of the account holder whose data is subject to detection and verification. The account holder shall support the environmental auditor or the environmental auditors' organisation in their activities, he shall in particular provide without delay accurate and complete documentation and data upon request.

Section 44

Submission of additional documents by installation operator and account holders

(1) The register administration may require the account holders to provide evidence of the power-supply contract pursuant to Section 29 subsection 1 first sentence number 1. If the account holder is an installation operator, the register administration may also require him to verify the accuracy of the information provided by him pursuant to Section 12 subsection 1 and 3, Section 18 subsection 1, Section 21 subsection 1 to 3, Section 23 subsection 1 and 2 and Section 26 subsection 3.

(2) The guarantees referred to in subsection 1 shall be provided in each case by the submission of suitable further documents or by the opinion of an environmental auditor, an environmental auditors' organisation, an auditor or a comparable independent and neutral person. The register administration may determine in the terms of use pursuant to Section 2 first sentence in which way the guarantee shall be furnished. Required guarantees shall be provided without delay.

(3) If installation operators fail to fulfil their duties under subsection (1), the register administration may delete the guarantees of origin or guarantees of regional origin issued to them on the basis of the unconfirmed data. It is forbidden to use deleted guarantees of origin or guarantees of regional origin.

Division 6

Collection, storage, use, transmission and deletion of data

Section 45

Collection, storage and use of personal data

(1) The register administration is authorised pursuant to Section 6 subsection 4 and 5, Section 8 subsection 5, Section 9 subsection 1, 4, 5, 8 and 9, Section 10 subsection 1, 2 and 3, Section 11 subsection 1, Section 21 subsection 1 second sentence number 1 and 2, also in conjunction with Section 24 subsection 1 first sentence, Section 30 subsection 3 second sentence and 3, Section 37 subsection 1 second sentence, Section 38, Section 40, Section 41 subsection 1 and 2 and Section 44 subsection 1 second sentence to collect, store and use personal data to the extent required for the purposes of maintaining the guarantees of origin register.

(2) The register administration is authorised pursuant to Section 7 subsection 2 in conjunction with Section 6 subsection 4 and 5, Section 8 subsection 5, Section 9 subsection 1, 4, 5, 8 and 9, Section 23 subsection 1 first sentence in conjunction with Section 21 subsection 1 second sentence number 1 and 2, also in conjunction with Section 24 subsection 1 first sentence, Section 31 subsection 1 in conjunction with Section 30 subsection 3 second and third sentence, Section 38, Section 40 subsection 1 to collect, store and use personal

data to the extent required for the purposes of maintaining the guarantees of origin register.

Section 46

Data transmission

(1) The register administration may provide data stored in the guarantees of origin register including personal data to the following authorities and bodies:

1. to the extent necessary in an individual case for the fulfilment of their tasks to:
 - a) the Federal Ministry for Economic Affairs and Energy,
 - b) the Federal Network Agency or
 - c) the Federal Office for Agriculture and Food;
2. to the extent necessary in an individual case to fulfil the task specified in Section 79 subsection 3 of (EEG) and to fulfil the reporting obligations of the Federal Republic of Germany to:
 - a) authorities or other bodies responsible for maintaining the register in other Member States of the European Union as specified in Directive 2009/28/EG of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140 of 5.6.2009, p 16), most recently amended by Directive (EU) 2015/1513 (OJ L 239 of 15.9.2015, p. 1),
 - b) authorities or other bodies responsible for maintaining the register in other Contracting Parties to the Energy Community Treaty (OJ L 198 of 20.7.2006, p. 18) as amended from time to time,
 - c) authorities or other bodies responsible for maintaining the

register in European Economic Area States and Switzerland comparable to the authorities or other bodies responsible for maintaining the register specified in letter a above,

- d) bodies and institutions of the European Union or
- e) the Association of Issuing Bodies.

(2) The data stored in the guarantees of regional origin register shall be applied mutatis mutandis in subsection (1) number 1 letter (a) and (b). In addition, the register administration may, in the guarantees of regional origin register, transmit data on the issued guarantees of regional origin, including personal data, to the grid operator responsible for paying the market premium under the Renewable Energy Sources Act.

(3) The register administration may also transmit data stored in the guarantees of origin register or the guarantees of regional origin register to the Federal Network Agency, if necessary to compare the data of the guarantees of origin register or the guarantees of regional origin register with the data stored in the core energy market data register in accordance with Section 1 of the Core Energy Market Data Register Ordinance.

Section 47

Deletion of data

Data stored in the guarantees of origin register or the guarantees of regional origin register shall be deleted without delay if it is no longer required for maintenance of the register.

Division 7

Administrative offences

Section 48

Administrative offences

(1) A person shall be deemed to have committed an administrative offence specified in Section 86 subsection 1 number 4 letter b of (EEG) contrary to Section 12 subsection 4, Section 18 subsection 3 or Section 29 subsection 4 if it applies for a guarantee of origin, a guarantee of regional origin or the transfer of a guarantee of regional origin wilfully or negligently.

(2) A person shall be deemed to have committed an administrative offence specified in Section 86 subsection 1 number 4 letter c of (EEG) if, wilfully or negligently

1. contrary to Section 24 subsection 1 first sentence or Section 41 subsection 1 first or third sentence, subsection 2 first, second or third sentence, subsection 3 or 4 first sentence in relation to data, information or quantities of electricity specified therein, fails to notify such, notifies such items incorrectly, incompletely or not in the manner prescribed or does not notify such in a timely manner,
2. contrary to Section 27 subsection (1) second sentence, Section 32 subsection (3) also in conjunction with Section 33 or Section 40 subsection (3), fails to notify, submits a notification that is incorrect or incomplete or does not submit a notification in a timely manner,
3. contrary to Section 40 subsection 2 fails to notify, submits a notification that is incorrect or incomplete or does not submit a notification in a timely manner or in relation to data specified therein, fails to notify such data, noti-

- fies such data incorrectly, incompletely or does not correct such in a timely manner or
4. contrary to Section 44 subsection (2) third sentence in relation to a guarantee fails to provide such or does not provide such in a timely manner.

Division 8

Freezing and closure of account, exclusion from participation in the registers

Section 49

Freezing and unlocking of an account

(1) The register administration shall freeze the account if

1. the account holder has applied for its freezing or
2. there is good reason to suspect that in connection with use of the account a register participant, a main user or a user has committed or intends to commit a criminal offence.

(2) The register administration shall freeze an account if

1. there is good reason to suspect that the security, accuracy or reliability of the guarantees of origin register or guarantees of regional origin register is at risk; this is usually the case if there is good reason to suspect that at least one of the following requests has been or may be made stating false data:
 - a) an application for the issuance of guarantees of origin or guarantees of regional origin to the account,
 - b) an application for the transfer of guarantees of origin or guarantees of regional origin from or to the account, or

- c) an application for the cancellation of guarantees of origin or guarantees of regional origin from the account,
2. the account holder has more than minor arrears in his payment of fees or expenses, or
3. as regards the details necessary to open and maintain the account, a register participant, main user or user supplied false or incomplete information.

(3) The register administration shall inform the account holder of the freezing of the account. The effect of freezing an account is that guarantees of origin or guarantees of regional origin

1. cannot be issued to the account,
2. cannot be transferred from or to the account and
3. cannot be cancelled.

Access to the mailbox is still possible while the account is blocked. The provisions on the deletion and expiry of guarantees of origin and guarantees of regional origin remain unaffected.

(4) The block on the account shall be removed, if the reason for freezing the account no longer applies. The register administration shall inform the account holder that the account is no longer blocked.

Section 50

Closure of account

(1) The register administration shall close the account if

1. the account holder has applied for closure of the account or
2. the account holder as a legal person under private or public law or as a partnership capable of entering legal relations has ceased to exist.

(2) The register administration shall close an account if use of the account poses a continuing threat to the security, accuracy and reliability of the guarantees

of origin register or the guarantees of regional origin register. As a rule, this is the case if it is suspected that in relation to an installation assigned to the account

1. improper data on electricity quantities has been submitted to the register administration, or
2. incorrect verifications by an environmental auditor or environmental auditors' organisation have been submitted to the register administration.

(3) On closure of the account access of the account holder and assigned main users and users will be closed. If registered installations were assigned to the account these assignments will expire.

Section 51

Exclusion from participation in the registers, renewal of participation following exclusion

(1) The register administration shall exclude the register participant from participation in the guarantees of origin register or guarantees of regional origin register if as a result of his use of the guarantees of origin register or guarantees of regional origin register he has committed a criminal offence. The first sentence shall apply for main users and users mutatis mutandis.

(2) The register administration shall exclude register participants from participating in the guarantees of origin register or the guarantees of regional origin register if they compromise the security, accuracy or reliability of the guarantees of origin register or guarantees of regional origin register. As a rule, this is the case if

1. as a result of their use of the guarantees of origin register or guarantees of regional origin register they have committed an administrative offence,
2. they have obtained unauthorised access to accounts or other transactions in the guarantees of origin register or guarantees of regional origin register or have attempted to obtain such, or

3. intentionally or through their negligence they have permitted unauthorised third parties to have access to the account.

The first and second sentence shall apply for main users and users mutatis mutandis.

(3) The exclusion from participation in the guarantees of origin register or guarantees of regional origin register is made by closing the access of the excluded register participant or the excluded main user or user to the account by the register administration. If an account holder is excluded from participation, his account will also be closed; if any installations registered to this account have been assigned, these assignments will expire.

(4) A former register participant or former main user or user excluded from participation in the register may apply in writing or electronically to the register administration pursuant to Sections 6 to 10 to participate in the guarantees of origin register or guarantees of regional origin register on a renewed basis. That request shall be granted if there are facts to substantiate the admission that the excluded person no longer poses a threat to the security, accuracy and reliability of the guarantees of origin register or guarantees of regional origin register.

(5) The register administration may block access of register participants as well as users to the guarantees of origin register or guarantees of regional origin register if there is good reason to suspect an unauthorised or improper use of the authentication device. Section 49 subsection 1 and 4 shall be applied mutatis mutandis.

Division 9

Terms of use

Section 52

Terms of use

Within the framework of register maintenance the register administration

may issue by general ruling additional requirements to be specified to obtain a right of usage, to use and terminate such right of usage related to the guarantees of origin register and the guarantees of regional origin register (terms of use). Terms of use shall be published in the Federal Gazette. In addition the announcement shall be published on the website of the register administration. Terms of use may subsequently be provided with an ancillary clause.

Section 53

Exclusion of appeals procedure

Measures and decisions of the register administration taken pursuant to this ordinance shall be excluded from the appeals procedure.

Article 2

Amendment of Guarantees of Origin and Guarantees of Regional Origin Fees Ordinance

Guarantees of origin and Guarantees of regional origin Fees Ordinance dated 17 December 2012 (Federal Law Gazette I p. 2703) which was last amended by Article 7 of the Act dated 22 December 2016 (Federal Law Gazette I p. 3106) shall be amended as follows:

1. Sections 1 and 2 shall be replaced by the following Sections 1 to 3:

Section 1

Fees and expenses

(1) For official acts in connection with the issuance, transfer, recognition and cancellation of guarantees of origin and for the use of the guarantees of origin register, the Federal Environment Agency shall charge fees and expenses in accordance with the table of fees set out in annex 1.

(2) The Federal Environment Agency shall charge fees according to annex 2 and expenses for official acts in connection with the issuance, transfer and cancellation of guarantees of regional origin as well as for use of the guarantees of regional origin register.

Section 2

Debtor

(1) Debtor of the annual fee for keeping an account is any account holder who has an account pursuant to Section 2 number 4 of the Guarantees of Origin and Guarantees of Regional Origin Implementing Ordinance. Debtors of the fees for all other official acts are those account holders who have initiated the respective official act or in whose favour the respective official act is performed.

(2) If a service provider represents an installation operator when the account is opened in the guarantees of regional origin register and if this service provider makes a declaration to the register administration that he assumes all costs incurred in connection with the use of the guarantees of regional origin register, the service provider pursuant to subsection (1) is also obliged beside the debtor to pay the costs incurred.

Section 3

Reduction of annual fees, rounding down

(1) The annual fee according to annex 1 number 3 and the annual fee according to annex 2 number 3 shall be reduced pro rata for each full calendar month that a register participant does not hold an account maintained by the register administration.

(2) When setting fees, the register administration rounds them down to the next full cent."

2. The installation will be replaced by the following installations 1 and 2:

Annex 1

(to Section 1 subsection (1))

Table of fees related to the guarantees of origin register

No.	Fees	
1	<u>Fees charged</u> in connection with the issuance, transfer, recognition and cancellation of guarantees of origin	Billing amount in euros in relation to each guarantee of origin
1.1	Issuance of a guarantee of origin pursuant to Section 12 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.01
1.2	Transfer of a guarantee of origin to another account in Germany pursuant to Section 28 subsection (1) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.01
1.3	Transfer of a guarantee of origin to another account of a register held with a foreign competent register pursuant to Section 28 subsection (2) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.01
1.4	Transfer of a guarantee of origin from an account held with a foreign competent register to an account in Germany pursuant to Section 37 subsection (1) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.01
1.5	Cancellation of a guarantee of origin for electricity disclosure pursuant to Section 30 subsection (2) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.02
2	<u>Chargeable acts concerning installations in the guarantees of origin register</u>	Billing amount in euros in relation to each operation
2.1	Registration of an installation in the guarantees of origin register pursuant to Section 21 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	50
2.2	Acquisition of an installation previously assigned to a another installation operator in the guarantees of regional origin register pursuant to Section 27 subsection (2) of the Guarantees of origin and Guarantees of regional	10

No.	Fees	
	origin Implementing Ordinance or assignment of the installation to a new account of the same account holder pursuant to Section 12 subsection (1) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	
3	<u>Chargeable acts for using the guarantees of origin register by maintaining an account</u>	Billing amount in euros
3.1	Annual fee for account holders for each account with a turnover of more than 500,000 guarantees of origin under number 1 per year	750
3.2	Annual fee for account holders for each account with a turnover no fewer than 15,001 and not exceeding 500,000 guarantees of origin under number 1 per year	500
3.3	Annual fee for account holders for each account with a turnover no fewer than 2,501 and not exceeding 15,000 guarantees of origin under number 1 per year	250
3.4	Annual fee for account holders for each account with a turnover fewer than 2,501 guarantees of origin under number 1 per year	50

Annex 2

(to Section 1 subsection (2)).

Table of fees related to the guarantees of regional origin register

No	Fees	
1	<u>Fees charged in connection with the issuance, transfer and cancellation of guarantees of regional origin</u>	Billing amount in euros in relation to each guarantee of regional origin
1.1	Issuance of a guarantee of regional origin pursuant to Section 18 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.000005
1.2	Transfer of a guarantee of regional origin to another account pursuant to Section 29 subsection (1) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.000005
1.3	Reversal of a guarantee of regional origin to the account of the issuing account holder pursuant to Section 29 subsection (3) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.000005

1.4	Cancellation of a guarantee of regional origin for electricity disclosure pursuant to Section 31 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	0.00001
2	<u>Chargeable acts concerning installations in the guarantees of regional origin register</u>	Billing amount in euros in relation to each operation
2.1	Registration of an installation in the guarantees of regional origin register pursuant to Section 23 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	90
2.2	Acquisition of an installation previously assigned to a another installation operator in the guarantees of regional origin register pursuant to Section 27 subsection (2) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance or assignment of the installation to a new account of the same account holder pursuant to Section 18 subsection (1) of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance	20
3	<u>Chargeable acts for using the guarantees of regional origin register by maintaining an account</u>	
3.1	Annual fee for account holders for each account with a turnover of more than 500 500 000 guarantees of regional origin under number 1 per year	750
3.2	Annual fee for account holders for each account with a turnover no fewer than 15,000,001 and not exceeding 500,000,000 guarantees of regional origin under number 1 per year	500
3.3	Annual fee for account holders for each account with a turnover no fewer than 2,500,001 and not exceeding 15,000,000 guarantees of regional origin under number 1 per year	250
3.4	Annual fee for account holders for each account with a turnover of more than 2,500,000 guarantees of regional origin under number 1 per year	50".

Article 3

Entry into Force, Abrogation

This ordinance shall enter into force on the day following its promulgation. Simultaneously the Guarantees of Origin

and Guarantees of Regional Origin Implementing Ordinance of 15 October 2012 (Federal Law Gazette I p. 2147), which was last amended by Article 126 of the Act of 29 March 2017 (Federal Law Gazette I p. 626), shall expire.

Reasons

A. General part

I. Objective and essential content

Pursuant to Article 15 of Directive 2009/28/EC Member States shall be obliged to establish appropriate mechanisms to ensure that guarantees of origin are both electronically issued, recognised, transmitted and cancelled by a central body and accurate, reliable, protected against misuse and fraud-resistant. For the implementation of these European legal requirements, the legal basis was created by Section 79 of (EEG 2017) of 21 July 2014 (Federal Law Gazette I p. 1066) which was last amended by Article 1 of the Act of 21 June 2018 (Federal Law Gazette I 862), as well as the passage of the Guarantees of origin Ordinance (HkNV) of 28 November 2011 (Federal Law Gazette p. 2447) whose regulatory content was last amended by Article 11 of the Act of 22 December 2016 Federal Law Gazette I p. 3106) and introduced in the Renewable Energy Ordinance (EEV) of 17 February 2015 (Federal Law Gazette I p. 146) which was last amended by Article 3 of the Ordinance dated 10 August 2017 (Federal Law Gazette I p. 3102) In order to implement the requirements of European law for an accurate, reliable, fraud-proof guarantees of origin register protected against misuse and to achieve the objectives of preventing the double selling of electricity from renewable energies, the Federal Environment Agency issued the Guarantee of Origin Implementing Ordinance (HkNDV) of 15 October 2012 (Federal Law Gazette I p. 2147) which was last amended by Article 6 of the Act of 22 December 2016 (Federal Law Gazette I p. 3106), renamed Guarantees of origin and Guarantees of regional origin Implementing Ordinance – HkRNDV) and last amended by Article 126 of the Act dated 29 March 2017 (Federal Law Gazette I p. 626).

Experiences of more than five years of operation of the guarantees of origin register

at the Federal Environment Agency have shown that it is necessary to supplement missing rules or to adapt existing regulations to the reality of enforcement. Only this ensures constitutionally plausible and transparent enforcement, which is sufficiently predictable for the participants in the guarantees of origin register. The additions and amendments relate to the following points by way of example: Repeal of the transitional arrangements of the previous Sections 11 subsection (5), 13 subsection (4) third sentence, 18 subsection (3) HkRNDV due to timing; systematization of registration of different groups of participants, deletion of registration, sanctioning and cancellation of sanctioning of register participants and users (table in the part “Reasons” related to Section 6 HkRNDV); establishment of the previous practice of issuing guarantees of origin from the first day of the month (Section 12 subsection (1) number 2 HkRNDV); consideration of storage in front of the grid (Section 12 subsection (5) HkRNDV); initial regulation of the power plants at the border (Section 14 HkRNDV); incorporation of technical requirements for register use from the previous terms of use into the text of the ordinance (Section 39 HkRNDV); adaptation of the notification obligations of grid operators during installation registration to the previous practice (Section 41 subsection (1) first sentence HkRNDV); specification of the inspection tasks of environmental auditors in biomass plants (Section 42 HkRNDV); possibility to transfer data to the Association of Issuing Bodies (AIB) as an umbrella organisation of European operators of guarantees of origin registers (Section 46 subsection (1) number 2 letter (e) HkRNDV).

In addition the wording of the rules on the collection, storage and use of personal data is adapted in line with the new definition in Article 4 (2) of Regulation (EU) 2016/679 (General Data Protection Regulation). This new regulation determines processing as a generic term including in terms of content the previous collection, storage and usage. Changes in content do not result from this.

Besides further amendments are necessary due to the effective change of communication on the energy market of metering point designations effective 1 February, 2018 which become market and meter location identification numbers.¹¹⁾

The amendments of the Guarantees of origin and Guarantees of regional origin Fees Ordinance (HkRNGebV) of 17 December 2012 made in the course of this legislative process (Federal Law Gazette I p. 2703) which was last amended by Article 7 of the Act dated 22 December 2016 (Federal Law Gazette I p. 3106) are editorial with respect to operation and use of the guarantees of origin register. The register administration shall levy expenses for the operation of the guarantees of origin register and in connection with issuance, transfer, recognition and cancellation of guarantees of origin. Section 87 EEG 2017 includes together with Section 14 subsection (2) EEG and the principles of the Administrative Costs Act (VwKostG) of 23 June 1970 which continues to apply to official acts under the EEG 2014 (Federal Law Gazette I p. 821) which was last amended by Article 6 of the Act dated 05 December 2012 (Federal Law Gazette I p. 2415), an authorisation for the register administration to levy and determine fees and expenses. Fees may be levied both as user charges and management fees. The Federal Environment Agency implemented this authorisation to issue ordinances by means of the HkRNGebV. The principles and terminology of the HkRNGebV are based on the VwKostG. The terms that go beyond the Cost Law shall be interpreted in accordance with the EEG 2017, the EEG and the HkRNDV.

Beside these amendments of the provisions related to the guarantees of origin based on experience gained in practical implementation, this legislative process also contains amendments to the HkRNDV and the HkRNGebV inserting

new provisions related to guarantees of regional origin. The legislator provides in Section 79a EEG 2017 that the Federal Environment Agency shall issue to installation operators on their request guarantees of regional origin for electricity directly sold pursuant to Sections 20, 21b subsection (1) number 1 EEG 2017. It shall also transfer and cancel such guarantees. They make it possible to establish a concrete link between the installation that produced electricity financed by the market premium and the consumer whom the electricity supplier supplied with the electricity, as long as they are not more than 50 kilometres apart. The electricity supplier shall cancel the guarantees of regional origin of the installations located in the 50 kilometre region and assign them to the regional electricity customer in the electricity disclosure. For that purpose the Federal Environment Agency shall establish an electronic database where issuance, transfer and cancellation of guarantees of regional origin will be registered (Section 79a subsection (4) HkRNDV). The Federal Ministry for Economic Affairs and Energy shall publish the date of the launch of the guarantees of regional origin register in the Federal Gazette (Section 8 subsection (1) second sentence EEG).

This approach of regional electricity disclosure breaks the principle of current electricity disclosure of EEG-funded electricity, according to which there is no allocation of EEG electricity from individual installations to individual consumers. According to the approach of EEG 2017 all German electricity users pay for the expansion of renewable energies via the EEG surcharge. This distribution of cost burdens related to the expansion on basically all electricity users in Germany means that to no consumer electricity of a particular subsidised installation must be specifically assigned and for funded EEG installations no guarantees of origin must be transferred (Section 80 subsection (2)

¹¹⁾ cf. decision by the Federal Network Agency of 20 December 2016 reference: BK6-16-200 to adapt market communication to the Act on the Digitisation of the Energy Turnaround and, above all, the

Measuring Point Operation Act (MsbG) of 29 August 2016 (Federal Law Gazette I p. 2034), as last amended by article 15 of the Act of 22 December 2016 (Federal Law Gazette I p. 3106).

first sentence EEG 2017). Electricity financed by the EEG surcharge shall mathematically be assigned to all customers in that quantity via electricity disclosure as they pay the EEG surcharge. So far, consumers have not been able to buy electricity from a particular installation whose electricity is being financed through the EEG surcharge. – This basic approach is partially broken by regional disclosure. As evidenced by the reasons given for the Renewable Energy Sources Act (EEG), the guarantees of regional origin system shall allow a specific allocation of electricity from individual EEG-subsidised installations to individual electricity distributors and consumers.²⁾⁾ Section 80 subsection (2) third sentence EEG 2017 expressly stipulates that the prohibition on the transfer of guarantees of origin from EEG-subsidised installations do not apply to guarantees of regional origin. With the possibility of a installation-specific allocation of regional electricity to individual distributors and consumers, the legislator also takes into account the goal of increasing the local acceptance of the construction of new installations: If electricity of specific installations is sold as such locally, there is a chance of increased acceptance of the installations and on-site electricity production by the local population.

For the operation of the guarantees of regional origin register regulations are necessary which specify the requirements of Section 79a EEG 2017 and Sections 8 to 14 EEG. The Federal Environment Agency is authorised pursuant to Section 92 EEG 2017 in conjunction with Section 14 EEG to create regulations to be specified in form of a regulation. This procedure for changing the HkRNDV brings about specification. In addition the operation of the guarantees of regional origin register shall be financed according to the basic decision of the legislator of the EEG 2017 on fees. Section 87 EEG 2017 and Section 14 subsection (2) EEG provide the legal basis for the adoption of the Fees Ordinance.

II. Alternatives

There are no admissible alternatives to the adoption of these rules and their updating and supplementation, in particular as requirements for issuance, transfer, recognition and cancellation of guarantees of origin as well as establishment and operation of an electronic guarantees of origin register comply with the European Directive 2009/28/EC and hence there is an obligation to transpose them into national law and the Federal Environment Agency as the authority responsible for maintaining the register has to ensure a uniform and constitutional implementation.

There is also no admissible alternative with regard to the rules governing the establishment and operation of the guarantees of regional origin register. Omission of provisions to be specified related to guarantees of regional origin would mean that, because of the open provisions of Section 79a EEG 2017, the administrative procedure would be largely unpredictable, which would not be compatible with the rule of law.

Regarding the rules for the collection of fees in the guarantees of regional origin register there are no admissible alternatives, in particular because the Federal Budget Code (BHO) imposes a frugal behaviour on the federal administration. This presupposes that public authorities pass on to the originator the expenses incurred in their administrative acts that citizens or companies trigger partly on a voluntary basis and give them advantages, even financial ones.

III. Consequences

1. Desired and undesired consequences

The establishment and operation of an electronic guarantee of origin register shall be specified under European law, as Directive 2009/28/EC requires in Article 15 (4) that the Member States or the designated competent bodies shall “supervise” issuance, transfer and cancellation

²⁾⁾parliamentary paper BT-Drs. 18/8860, page 245.

of guarantees of origin. Although the establishment and operation of the register at the Federal Environment Agency meant that comparable verification systems organised purely in the private sector lost relevance, however, the commissioning of a central body is a requirement of European law in this respect to improve transparency and consumer protection. Changes and adaptations of the existing law are required according to previous experiences of the execution process related to constitutional enforcement.

The establishment and operation of the guarantees of regional origin register are governed by higher-ranking parliamentary law. For instance, Section 79a (4) EEG 2017 stipulates that the Federal Environmental Agency operates an electronic guarantees of regional origin register. The desired consequence of the guarantees of regional origin register is according to the key issues paper of the Federal Ministry for Economic Affairs and Energy³⁾ the increase in the acceptance of the energy transition locally. Unintended consequences are not connected with this: Firstly, this instrument is voluntary so that electricity suppliers can, at their discretion, opt for the use of guarantees of regional origin and thus offer a regional electricity product. Secondly, there is currently no way for electricity consumers to benefit from the renewable energy financed by the EEG surcharge in such a way that a regional connection between the electricity producing installation and the electricity consumer could be established.

2. Costs to public budgets

Due to the amendment of the existing HkRNDV and the HkRNGebV with regard to the regulations on the guarantees of origin register, costs for the federal budget do not arise. Costs for the federal budget arise in form of personnel and material costs, in particular through the establishment and maintenance of the guarantees

of origin register and guarantees of regional origin register by the Federal Environment Agency pursuant to Section 1. The HkRNDV makes extensive use of possibilities of automation of the administrative procedure and thus of an efficient and cost-effective enforcement within the framework of Section 3a of the Administrative Procedure Act. The guarantees of origin register is a largely automated register. This essentially results in costs for the provision and maintenance of the necessary hardware and software. Furthermore costs are incurred for personnel at the Federal Environment Agency. With regard to personnel and material costs, reference is made to the reasons of the original HkNV as well as to the federal budgets of the years 2012 to 2017. These costs can be refinanced and are also refinanced by means of fees imposed on the users of the register on the basis of the Fee Regulation related to the Guarantees of origin Fees Ordinance (HkRNGebV).

For the guarantees of regional origin register the personnel and material costs already presented in the explanatory memorandum of the EEG 2017 are incurred by the federal budget.⁴⁾ The costs incurred are reduced by the joint use of a database enabled by law by guarantees of regional origin register and guarantees of origin register (Section 79a subsection (4) second sentence EEG 2017) by raising efficiency potential through a shared database. Nonetheless, costs incurred can be refinanced through fee income. This Ordinance, in the form of an amendment to the HkRNDV, regulates the levying of fees and expenses for the operation of the guarantees of regional origin register with the competent authority. As a result, there are no financial burdens for the federal budget. The budgets of the Länder and municipalities are not charged.

³⁾ key issues paper of the Federal Ministry for Economic Affairs and Energy, regional labelling of green electricity of 11 March 2016 page 1 retrievable under

www.bmwi.de/Redaktion/DE/Downloads/P-R/eckpunktepapier-regionale-gruenstromkennzeichnung.html.

⁴⁾parliamentary paper BT-Drs. 18/8860, page 180.

3. Costs for the economy and the consumers

a) Costs for consumers

The issuance, transfer, cancellation and recognition of guarantees of origin and the issue, transfer and cancellation of guarantee of regional origin incur costs which the HKRN-GebV imposes on the register participants who use the register and/or have initiated the specific official acts. The facts and the amount of these costs are described in detail in the HkRNGebV, which adapts this scheme to the amended HkRNDV. It also introduces new charges for the guarantees of regional origin register into the HkRNGebV.

The costs incurred by the register participants for the guarantees of origin register and the guarantees of regional origin register may, of course, be passed on by the electricity suppliers to the consumers opting for a green electricity product or a regional electricity product via the electricity price, as well as any reduction in the market premium (in accordance with Section 53b EEG 2017 0.1 cents per kilowatt hour (kWh)). In relation to the total electricity price, these costs are extremely low. An increase in electricity prices has not yet been linked to the commissioning of the guarantee of origin register and is not expected to continue in the future either with regard to the guarantees of origin register or with regard to the guarantees of regional origin register. Besides consumers also have the choice of not opting for a green electricity product in the event of a higher electricity price.

b) Costs to companies

The use of the guarantees of origin register will incur costs for companies wishing to use the guarantees of origin register by voluntary decision of the company and registering for it in the register and having an account established. The facts and the amount of these costs are specified in the HkRNGebV. The same applies to the use of the guarantees of regional origin register: Its use is also possible voluntarily; depending on the activity of the company, the costs incurred thereby arise from the

fees charged under HKRNGebV relating to guarantees of regional origin.

4. Compliance costs

a) Compliance costs for citizens

For citizens there are no costs associated with the ordinance or its amendment. For citizens guarantees of origin register as well as guarantees of regional origin register are therefore cost-neutral.

b) Compliance costs for the economy by the guarantees of origin register

Hereafter the compliance costs for the economy are represented by changes of the rules with regard to the guarantees of origin register compared to the original version of HkRNDV (see aa and bb), for informational purposes but also with regard to other acts in the guarantees of origin register which does not affect this legislative process (see cc and dd).

It is structured as follows: First, the compliance costs and administrative costs resulting from the amendment of the HkRNDV are represented.

According to this – for informational purposes – the compliance costs which result from the HkRNDV requirements for the economy that have been in force since 2013, are represented. Based on a survey by the Federal Statistical Office, it can be determined that the costs are lower in comparison to the estimate at that time.

aa) compliance costs resulting from the amendment of the HkRNDV

(1) Transfer of the master data of the installation to the register administration pursuant to

Section 41 subsection (1) first sentence of HkRNDV – extension of the data report for grid operators by eight additional data

Section 41 subsection (1) first sentence of HkRNDV regulates the duty of the respective grid operator to provide specific master data to the register administration. This is an electronic transmission of information during the initial installation registration. This information is available to the

grid operator and shall anyway be sent to the grid operator within the scope of general processes of communication in the electricity market.

This data reporting obligation is not new as such. Compared with the previous version of the HkRNDV (Section 24 subsection (1) HkRNDV), the draft amendment to the HkRNDV is to waive this duty of data disclosure of one of the previous data and expand it by eight data (Section 41 subsection (1) first sentence of the draft HkRNDV). This change is due to the industry definition in the context of market communication. Based on the EDI@Energy Manual HKN-R as amended from time to time and the specifications of the Federal Network Agency with regard to market communication, the grid operators have implemented this requirement of Section 41 subsection (1) first sentence HkRNDV voluntarily since the beginning of the operation of the guarantees of origin register. Therefore, in the context of the amendment, there are no additional compliance costs compared to the current situation.

(2) Transfer of the report pursuant to Section 43 subsection (2).third sentence HkRNDV

Section 43 subsection (2) third sentence HkRNDV now provides that the environmental auditor or the environmental auditors' organisation shall not only prepare a written or electronic opinion in each case (see below cc (3)), but also transmit it to the register administration electronically. This shall make it possible for the register administration to ensure the quality of the assessments, but also to be able to fulfil its control task with regard to the assessments, without having to rely on an ad hoc request for the expert opinion.

According to the comments below, about 100 cases a year are to be considered in which the report is to be made available to register administration.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Data transmission to the competent body	3	medium	41.70	2.085
Total	3			2.09

Each operation causes a cost of 2.09 euros. Therefore the compliance costs in 100 cases amount to 209.00 euros annually. This represents administrative costs in the same amount.

The regulatory project is covered by the scope of the "one in, one out" rule. The amount of the compliance costs represents an "in". The compensation proposal is made outside this regulatory project at a comparable transparency.

bb) Changes to the HkRNDV without affecting the compliance costs

Section 39 HkRNDV provides for obligations of persons working with the guarantees of origin register. Such obligations are meant that do not entail measurable compliance costs but shall be applied for general considerations of data security and protection of the integrity of the computer systems used.

The provision of Section 12 subsection (1) first sentence number 2 HkRNDV, as a transitional provision for newly added installations to the register, merely clarifies that guarantees of origin are issued from the first day of the calendar month. But

there are no effects on the compliance costs.

Section 12 subsection (5) of the HkRNDV merely sets out a rule which is irrelevant to compliance costs and does not entail a change in obligations, but specifies the amount of guarantees of origin to be issued from a store.

The provision of Section 14 HkRNDV, which subjects power plants at the border to a regulation, does not include a change in obligations, since so far, power plants at the border have to be registered as independent installations. It is a provision for the allocation of guarantees of origin to the countries involved. They were also included in the case numbers of the installations to be registered during the operation of the guarantees of origin register.

Pursuant to Section 42 subsection (3) third sentence HkRNDV, the environmental auditor or the environmental auditors' organisation has to inspect the installation generating electricity from biomass at least once a calendar year. This duty has already to be met as a result from the assurance of quality of the evaluation (Section 15 subsection (1) first sentence, subsection 5 of the Environmental Audit Act) and number 8.2 of the Terms of use (BANZ AT 01.07.2013 B 10), so it is not new.

cc) representation of compliance costs of HkRNDV for informational purposes dated 15 October 2012 (Federal Law Gazette I p. 2147) in the version of 22 December 2016 (Federal Law Gazette I 3106) with regard to the guarantees of origin register

In the course of the resurvey of the Federal Statistical Office, taking into account previous experiences in enforcement and substantiated case numbers changes ensued in compliance costs for the participants who voluntarily participate in the guarantees of origin register. The recalculated compliance costs are stated here for informational purposes. They are not based on the amendment of the HkRNDV, but on the orientation of previous forecasts to experiences of the execution process.

(1) Application for opening an account pursuant to Section 6 subsection (2) HkRNDV

The HkRNDV amendment will not change the requirement that issuance, transfer and cancellation of guarantees of origin require the application to open an account with the register administration. For that purpose private persons or companies shall provide to the register administration different data defined more precisely in Section 6 HkRNDV. Proper maintenance of the register requires complete and accurate data from the participants. The amount of data has been limited to the lowest possible level. Case numbers are adapted to experiences of the execution process. As expected the number of participants opening accounts was significantly higher at the beginning of the operation of the guarantees of origin register than in the years thereafter. In 2012 (the possibility of opening accounts was officially given by the Federal Environmental Agency from 27 November 2012) and in 2013 some 1,600 accounts in total were opened (about 800 installation operators, 500 electricity traders and 900 electricity suppliers). In the years thereafter, the Federal Environment Agency predicted that the number of cases would be considerably lower, since, for example, all electricity suppliers operating on the market have already had an account. In 2014, the number of registrations of account holders therefore dropped significantly to 193 new accounts. In the following years the number continued to fall to 91 new accounts in 2015 and 77 new accounts in 2016. There must have been some saturation in the meantime as participants in the electricity market essentially have accounts. Since further decreases in numbers are expected in the following years, an annual opening of 100 accounts is assumed for the calculation of the administrative costs.

The calculations follow the "Guideline for the determination and presentation of compliance costs in planned regulations of the Federal Government":

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	30	medium	41.70	20.85
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	50			34.10

Each operation causes a costs amounting to 34.10 euros. For 100 transactions this results in compliance costs of 3 410.00 euros per year.

(2) Commissioning of a service provider, Section 8 subsection (1) HkRNDV

To simplify the operation of the guarantees of origin register, account holders can use a service provider. The latter shall access, with his own access data, the account of the account holder assigning him and perform activities on the account holder's account in implementation of the underlying service or management contract. In doing so, these activities can be restricted internally to the account holder, which does not have any effect on the register administration. In order for the register administration to obtain sufficient knowledge of the assignment, it is necessary to assign in the manner determined by the register administration. The selection of the service provider is provided in a selection field. This causes compliance costs. However, these compliance costs incurring by selecting the relevant service provider in a selection field are so negligible in each individual case and it is rare, so billing will not be made.

(3) Application for issuance of guarantees of origin pursuant to Section 12 HkRNDV

A guarantee of origin shall be issued as before after application by the installation

operator. The application will only be complied with if the conditions in Section 12 HkRNDV are met. The installation operator has to provide information about this. This shall allow a clear allocation of electricity and prevent double selling. In addition this duty to provide information serves to prevent any abuse to be feared for example by the multiple application for guarantees of origin for the same electricity. There is no alternative to collect this data directly from the installation operators. The scope of data is also required in order to enable secure processing of the issuance of a guarantee. Applications for the issuance of guarantees of origin can be submitted by the installation operators prior to each issuance process. However, pursuant to Section 12 subsection (2) HkRNDV it is also possible that the installation operator makes a onetime application and thus a so-called application subscription". In practice, this considerably reduces the number of applications to the register administration and thus also the duties to provide information.

The recalculation became necessary because of the significantly reduced number of cases compared to the previous version of the HkRNDV. While 6,000 installations were still expected, it has been shown in practice that around 1,000 installations are currently registered in the guarantees of origin register. The abolition of the so-called green electricity privi-

lege on 1 August 2014 meant that installations whose eligibility period had not yet expired changed back to subsidised electricity production and no longer issue any guarantees of origin. Many installation operators did not delete these installations in the guarantees of origin register because keeping the register does not trigger a series of fees. A survey dated April 2016 revealed that in 2015 applications for issuance of guarantees of origin for only 281 installations were actually submitted. Even if this number rises slowly in the coming years, it will be far below the forecast. The Federal Environmental Agency

expects 400 installations for which applications for the issuance of guarantees of origin are submitted. It can be assumed that 200 installations have an application subscription which also has a term of more than one year, hence no further application will be made. For the other 200 installations application for issuance will be irregular and not monthly as applications can also be used to issue guarantees of origin for several months. On average there are likely to be 500 applications a year.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	10	medium	41.70	6.95
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	30			20.20

Each operation causes a costs amounting to 20.20 euros. For 500 transactions this results in compliance costs of 10,100.00 euros per year.

(4) Determination and confirmation of quantities of electricity by environmental auditors in biomass installations pursuant to Section 12 subsection (1) first sentence number 8 HkRNDV, pumped storage power plants pursuant to § 13 HkRNDV and biomass installations pursuant to Section 42 subsection (1) first sentence HkRNDV

In case of biomass installations pursuant to Section 12 subsection (1) first sentence number 8 HkRNDV, pumped storage

power plants pursuant to Section 13 HkRNDV and biomass installations pursuant to Section 42 subsection (1) second sentence HkRNDV there will be further costs by the required confirmation of the quantity of electricity by an environmental auditor or an environmental auditors' organisation before issuing guarantees of origin. Unlike the 1,500 concerned installations according to the forecast of the valid HkRNDV currently in force there are likely to be only about 70 concerned installations according to the survey conducted in April 2016. According to the new forecast this number will be extended to 100 installations.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
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Familiarisation with the duty to inform/requirement	10	medium	41.70	6.95
Procurement of data	30	medium	41.70	20.85
Filling in electronic forms	20	medium	41.70	13.90
External meetings in case of need for explanation/inconsistencies	180	medium	41.70	125.10
Total	240			166.80

Each operation causes to the installation operator costs amounting to 166.80 euros. For 100 transactions this results in costs amounting to 16,680.00 euros per year. Material costs due to the use of third parties, namely environmental auditors shall be added. They amount to about 1,000 euros per case, thus 100,000 euros. Therefore compliance costs amount to 116,680.00 euros.

(5) Initial registration of an installation pursuant to Section 21 subsection (1) HkRNDV

Issuing guarantees of origin through the register administration and the assignment of guarantees of origin to an account require preceding registration of the installations. To this end installation operators shall submit data. This includes without limitation the location of the installation, the energy source from which electricity is generated, and the installed capacity of the installation. The data listed in Section 21 HkRNDV are indispensable for the issuing guarantees of origin. Assignment of electricity to an installation can only be done that way. Since data can only be provided by the installation operators, there is no alternative to this duty to provide information. Data is only requested to an extent which is absolutely

necessary for a precise assignment of electricity. Installation registration shall be valid for five years. A longer period of validity is not possible as this is the only way to ensure sufficient up-to-dateness of the information. Renewal of installation registration pursuant to Section 26 subsection (2) and 3 HkRNDV shall be done by validation of the already existing information in the register software by the installation operator himself. For this purpose a self-declaration towards the register administration shall be sufficient. Consequently the administrative costs associated with renewal of registration are so small that they are disregarded in the subsequent calculation. This is also justified because – in contrast to first-time registration – only an existing data shall be checked for their continued accuracy which, based on the duty to regularly update data, always results in the fact that no changes have to be made.

With regard to the number of cases, the forecast of the installations to be registered under HkRNDV in force failed to materialise as did the number of accounts. In the future the number of installations registered annually will be reduced to about 100.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	20	medium	41.70	13.90
Filling in electronic forms	10	medium	41.70	6.95

Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	40			27.15

Each operation causes to the installation operator costs amounting to 27.15 euros. For 100 transactions this results in compliance costs amounting to 2,715.00 euros per year.

(6) Confirmation of the data submitted for registration by environmental auditors or environmental auditors' organisations pursuant to Section 22 HkRNDV

For certain installations the use of an environmental auditor or an environmental auditors' organisation is required (Section

22 HkRNDV). In practice these are in particular hydropower plants having a complex metering situation, and biomass installations which in addition to biomass may also use other energy sources. In total this number has only been about 250 installations so far. Further increase is currently unlikely, i.e. forecast of HkRNDV in force has not been reached. Nevertheless, about 50 installations are expected to be registered each year in the guarantees of origin register and their registration requires an evaluation.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Familiarisation with the duty to inform/requirement	10	medium	41.70	6.95
Procurement of data	20	medium	41.70	13.90
Filling in electronic forms	20	medium	41.70	13.90
External meetings in case of need for explanation/inconsistencies	120	medium	41.70	83.40
Total	170		41.70	118.15

Each operation causes to the installation operator costs amounting to 118.15 euros. For 50 transactions this results in administrative costs amounting to 5,907.50 euros. Material costs due to the use of third parties, namely environmental auditors shall be added. They amount to about 1,000 euros per case, thus 50,000 euros. Therefore compliance costs amount to 55,907.50 euros.

(7) Duty to notify inconsistencies pursuant to Section 40 subsection (2) HkRNDV

Pursuant to Section 38 subsection (1) first sentence HkRNDV account holders shall immediately check receipts of guarantees of origin on their account for their accuracy. Control measures are indispensable to ensure correct and reliable functioning of the register. If inconsistencies are detected, they must be reported to the register administration pursuant to Section 40

subsection (2) HkRNDV. It is expected that there are about 50 cases per year.

Specific activities are split up contrary to the first calculation as follows:

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	10	medium	41.70	6.95
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	30			20.20

Each operation causes to the installation operator costs amounting to 20.20 euros. For 50 transactions this results in compliance costs amounting to 1,010.00 euros.

(8) Transfer of guarantees of origin pursuant to Section 28 HkRNDV

At the request of the holder of a guarantee of origin, the guarantee of origin shall be transferred to another account within the domestic register or to the account of a foreign register. The ability to transfer guarantees of origin is essential to maintain trade between suppliers. About 9,000 transfers take place a year. This estimate is based on the following considerations: About 300 installations issue guarantees

of origin three times a year and transfer them afterwards (= 1,000 transfers). Guarantees of origin are exported about 500 times a year, about 3,500 times they are imported. Guarantees of origin are traded within Germany about 1,500 times without reaching electricity suppliers. Approximately 1,200 electricity suppliers in Germany are supplied with guarantees of origin twice a year on average (= 2,500 transfer processes). In doing so, several guarantees of origin are transmitted per transfer process. Specific activities are split up contrary to the first calculation as follows:

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Filling in electronic forms	5	medium	41.70	3.475

Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	10			6.30

Each operation causes costs amounting to 6.30 euros to the owner of the guarantee of origin. For 9,000 operations this results in compliance costs amounting to 56,700.00 euros per year.

(9) Usage and cancellation of guarantees of origin pursuant to Section 30 HkRNDV

At the request of the user guarantees of origin shall be used and cancelled. Usage/cancellation pursuant to Section 30

HkRNDV is the central tool for using guarantees of origin. As the user of the guarantee of origin must be able to determine the date of the procedure himself, there is no alternative to the application. As companies carry out cancellation twice a year, approximately 2,000 cases occur with about 1,000 electricity suppliers participating in the procedure per year. Specific activities are split up contrary to the first calculation as follows:

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	30	medium	41.70	20.85
Filling in electronic forms	15	medium	41.70	10.425
Data transmission to the competent body	12	medium	41.70	8.34
Copying, archiving	3	low	28.70	1.435
Total	60			41.05

Each operation causes to the electricity supplier costs amounting to 41.05 euros. For 2,000 operations this results in compliance costs amounting to 82,100.00 euros per year

(10) Duty to check received guarantees of origin pursuant to Section 40 subsection (1) first sentence HkRNDV

Pursuant to Section 40 subsection (1) first sentence HkRNDV account holders shall immediately check receipts of guarantees of origin on their account for their accuracy. Control measures are indispensable to ensure correct and reliable functioning of the register. Receipts of guarantees of

origin shall be recorded when they are issued and transferred. In view of the foregoing issuance processes shall be done 2,600 times a year (200 application subscriptions x 10 quantities of electricity and thus issuance processes = 2,000 issuances; 200 installations without application subscription x 3 issuances per year = 600 issuances). Transfers are performed about 9,000 a year. A number of cases of 9,600 may be assumed.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	5	medium	41.70	3.475
Verification of data and entries made	15	medium	41.70	10.425
Copying, archiving	3	low	28.70	1.435
Total	23		40.00	15.33

Each operation causes to the electricity supplier costs amounting to 15.33 euros. For 9,600 operations this results in compliance costs amounting to 147,168.00 euros per year.

dd) representation of previous administrative costs in the guarantees of origin register for informational purposes especially for grid operators

Due to the ordinance grid operators may incur costs in connection with the notification obligations to the register administration regarding the installations participating in the guarantees of origin procedure in Section 40 HkRNDV.

(1) Transfer of the master data of the installation to the register administration pursuant to Section 41 subsection (1) first sentence HkRNDV

Section 41 subsection (1) first sentence of HkRNDV regulates the duty of the respective grid operator to provide specific master data to the register administration. This is an electronic transmission of information during the initial installation registration. Such information is available to the grid operator and shall anyway be sent

to the transmission system operators within the scope of general processes of communication in the electricity market.

Under clause aa subsection (1) it has already been stated that the legislator changes Section 41 of the draft of HkRNDV compared to the version in force to the extent that requirement for notifying data shall be omitted and eight requirements for notifying data added. The former two requirements for notifying data and the other management tasks that affect all data are shown below and recalculated in comparison to the forecasts of the previous HkRNDV. Afterwards the new eight data to be provided shall follow.

Related to previous data: About 1,000 installations have been registered so far. In the future about 100 installations for which operators submit a new registration are expected to be registered each year. Required information is available to grid operators; they will anyway be sent to the transmission system operators. For a reliable and secure installation registration the use of grid operators is therefore appropriate and necessary.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	10	medium	41.70	6.95
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39

Copying, archiving	3	low	28.70	1.435
Total	30			20.20

Each operation causes to the grid operator costs amounting to 20.20 euros. For 100 transactions this results in compliance costs amounting to 2,020.00 euros per year.

Each operation causes to the grid operator costs amounting to 41.70 euros. For 100 transactions this results in compliance costs amounting to 4,170.00 euros per year. This represents administrative costs in the same amount.

The grid operators are thus charged in the guarantees of origin register with compliance costs of 6,190.00 euros. This represents administrative costs in the same amount.

(2) Notification of change of master data pursuant to Section 41 subsection (1).third sentence HkRNDV

Section 41 subsection (1) third sentence HkRNDV obliges the respective grid operator to notify the register administration of the change of master data of a participating installation. In the case of currently 5 000 participating installations master data changes take place in about 500 cases per year.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	10	medium	41.70	6.95
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	30		40.40	20.20

Each operation causes to the grid operator costs amounting to 20.20 euros. For 50 transactions this results in compliance costs amounting to 10,100.00 euros per year.

(3) Transfer of quantities of electricity produced in the installation pursuant to Section 41 subsection (2) HkRNDV

Section 41 subsection (2) of the HkRNDV obliges the grid operator to notify the register administration of the quantities of electricity produced in the installation and fed into the grid by participating installations which feed in via a metering point assigned to the respective grid operator. This only applies if electricity is not financially supported under the EEG. Since this information is available with the grid operator, it is appropriate to use it. Periodicity

of the notification to the register administration varies between one and twelve operations a year, depending on whether it is a consumption-metered or an installation not consumption-metered. The cases where more than once a year data transmission is performed outweigh by far. Therefore, an average value of ten operations per year is assumed. Both in the case of consumption-metered installations - where data is automatically sent to the grid operator - and in non-metered installations - where the grid operator reads

power generation for other reasons - data related to quantities of electricity are available to the grid operator. Technically the transfer of data to the register administration is no problem because it is automated. For the average of ten operations per year and 300 installations, the expected number of cases is 3,000.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	2	medium	41.70	1.39
Filling in electronic forms	6	medium	41.70	4.17
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	2	low	28.70	0.96
Total	12			7.91

Each operation causes to the grid operator costs amounting to 7.91 euros. For 3,000 operations this results in compliance costs amounting to 23,730.00 euros per year.

c) Compliance costs for the economy within the framework of the guarantees of origin register

This legislative process introduces specific methodological norms for the guarantees of regional origin register. As the guarantees of regional origin register is still being set up, the individual expenses can only be estimated on the basis of forecasts.

The potential of installations for whose electricity guarantees of regional origin are issued is much larger because of the different conditions compared to installations that could issue guarantees of origin. While the installed capacity in subsidised

direct selling pursuant to Section 21b subsection 1 number 1 EEG 2017 according to the four transmission system operators⁵⁾⁾ amounted to 61,688 megawatt in March 2017, it was only 166 megawatt in other direct marketing business pursuant to Section 21b subsection 1 number 3 EEG 2017.

It must be considered in the forecast, however, that in the subsidised installations in which the value to be applied is lowered by 0.1 cents per kilowatt hour of electricity produced (Section 53b EEG 2017), there could be no economic incentive at the moment to apply for guarantees of regional origin. Costs for using the guarantees of regional origin register shall be added. They are currently being calculated by the Federal Environment Agency as part of the amendment of the HkRNGebV. Both could be opposed by a rather low readiness of consumers to pay more. In con-

⁵⁾⁾ www.netztransparenz.de (05.09.2018).

trast, guarantees of origin for most installations are in other direct sales more of an instrument for increasing the yield an installation; where applicable, there is a greater interest in applying for guarantees of origin than applying for guarantees of regional origin for the subsidised installations.

In this respect, there are still great uncertainties in the fundamentals on which the forecast is based. It is to be assumed that about 37,000 installations are involved in subsidised direct selling pursuant to Section 21b subsection (1) number (1) EEG 2017.⁶⁾⁾ However, these are likely to be registered in the guarantees of regional origin register only if there is also a consumer requesting for the guarantees of regional origin of the specific installation in whose region of use the latter is located. Ultimately the registration of stakeholders and installations depends on consumers' demand behaviour for regional electricity. Surveys showed that theoretically two-thirds of consumers would prefer to buy regional electricity if offered to them.⁷⁾⁾ According to non-representative surveys conducted by the Federal Environmental Agency, however, consumers' readiness to pay more is rather low.⁸⁾⁾ This currently points to a rather selective use of the guarantees of regional origin register by installation operators and direct sellers. Especially the direct sellers will try to optimize the use of the installation in such a way that they can supply as many consumers as possible with guarantees of regional origin with as few registered installations as possible.

Taking these aspects into consideration, we make the following forecast and therefore assume the following key points for the calculation of compliance costs: The major players in the guarantees of regional origin register and the drivers of the administrative procedures will be about 150 direct sellers who register as traders

and, where appropriate, as installation operators. About 2,000 installation operators with a total of 5,000 installations shall be added. The issuance of guarantees of regional origin will meet consumer demand precisely as the latter will trigger the former. Installations might issue once a year. Commercial chains will be short and follow the electricity supply chains in direct selling. After a maximum of two transfer processes guarantees of regional origin reach the approximately 500 electricity suppliers that offer regional electricity and are cancelled by the latter. About half of these 500 electricity suppliers have their own installation which they market regionally, so that the total number of account holders is 2,400 (2,000 installation operators plus 150 traders/direct sellers plus 500 electricity suppliers / 2 who already have an account as installation operators and thus enter a role combination). Activities by environmental auditors do not take place in the guarantees of regional origin register.

In the context of the forecasts made for the individual procedures in the guarantees of regional origin register compliance costs are calculated as follows:

aa) Application for opening an account, Section 7 HkRNDV

In the guarantees of regional origin register, too, requirement for the issuance, transfer and cancellation of guarantees of regional origin is the application to open an account with register administration. For that purpose private persons or companies shall provide to the register administration different data defined more precisely in Section 7 HkRNDV. Proper maintenance of the register requires complete and accurate data from the participants. The amount of data has been limited to the lowest possible level. According to the forecast mentioned above, the number of account holders (installation operators, traders, electricity suppliers)

⁶⁾⁾ www.netztransparenz.de (05.09.2018).

⁷⁾⁾ Onshore Wind Energy Agency, survey on the acceptance of wind energy on land, spring 2016, published June 2016, p. 8. Similar to Federal Environment Agency

(Ed.), Market Analysis of Green Energy, UBA-TEXTE 04/2014, p. 76.

⁸⁾⁾ www.umweltbundesamt.de/sites/default/files/medien/376/dokumente/2_mmr-workshop_des_umweltbundesamtes_vortrag.pdf, slide 23.

for the first year of the guarantees of regional origin register is about 2,400. Afterwards another 100 stakeholders will have an account set up each year. Therefore

one-time administrative costs for 2,400 registrations and annual administrative costs for 100 participant registrations are expected as a basis of assessment.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	30	medium	41.70	20.85
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	50			34.10

Each operation causes onetime costs amounting to 34.10 euros.

With 2,400 procedures of registration directly after register start onetime compliance costs amounting to 81,840 euros will arise.

Another 100 registrations of participants per year will add up to 3,410 euros annually.

bb) Commissioning of a service provider, Section 8 subsection (1) HkRNDV

To simplify the operation of the guarantees of regional origin register, account holders can use a service provider. The latter shall access, with his own access data, the account of the account holder assigning him and perform activities on the account holder's account in implementation of the underlying service or management contract. In doing so, these activities can be restricted internally to the account holder, which does not have any effect on the register administration. In order for the register administration to obtain sufficient knowledge of the assignment, it is necessary to assign in the manner determined by the register administration. The selection of the service provider is provided in a selection field. This

causes compliance costs. However, these compliance costs incurring by selecting the relevant service provider in a selection field are so negligible in each individual case and it is rare, so billing will not be made.

cc) Registration of an installation, Section 23 HkRNDV

Issuing guarantees of regional origin through the register administration and the assignment of guarantees of regional origin to an account require preceding registration of the installations. To this end installation operators shall submit data. This includes without limitation the location of the installation, the energy source from which electricity is generated, and the installed capacity of the installation. The data listed Section 23 in Section 21 HkRNDV are indispensable for the issuing guarantees of regional origin. Assignment of electricity to an installation can only be done that way. Since data can only be provided by the installation operators, there is no alternative to this duty to provide information. Data is only requested to an extent which is absolutely necessary for a precise assignment of electricity. Installation registration shall be valid for five

years. A longer period of validity is not possible as this is the only way to ensure sufficient up-to-dateness of the information. Renewal of installation registration pursuant to Section 26 subsection (2) and 3 HkRNDV shall be done by validation of the already existing information in the register software by the installation operator himself. For this purpose a self-declaration towards the register administration shall be sufficient. Due to the maximum financing period of electricity production of 20 years from the date of commissioning of the installation pursuant to Section 25 EEG 2017, such a renewal of installation registration does not occur more than three times in most cases. Consequently the administrative costs associated with renewal of registration are so small that they are disregarded in the subsequent calculation. This is also justified because – in contrast to first-time registration – only an existing data shall be checked for their continued accuracy which, based on the duty to regularly update data, always results in the fact that no changes have to be made.

With regard to the number of cases, about 5,000 installations first registered shall be considered according to the aforementioned explanations. A distinction must be made between installations to be newly registered in the guarantees of regional origin register and those that are already stored in the guarantees of origin register. For the latter there is a simplified procedure pursuant to Section 23 subsection (2) according to which the installation operator must report less data to the register administration. This procedure is shorter in terms of time. About half of the

approximately 1,000 installations currently registered in the guarantee of origin register, i.e. 500 installations, could also be able to switch to direct selling with a market premium and thus also apply for registration in the guarantees of regional origin register. These 500 installations can be registered using the simplified procedure, which significantly reduces the effort required to procure data. As a result, at the beginning of the guarantees of regional origin register, 4,500 new installations would have to be registered with time required for data collection of about 20 minutes. 500 installations would have to be transferred from the guarantees of origin register to the guarantees of regional origin register with time involved for data acquisition of only 5 minutes. In the future the number of new installations annually registered in the guarantees of regional origin register will be reduced to about 100.

This means that, after ten years, a total of 5,900 installations will have been registered, of which 500 installations have been registered under the simplified procedure pursuant to Section 23 subsection (2) and 5,400 installations in accordance with the procedure pursuant to Section 23 subsection (1).

4,500 installations of the 5,400 installations registered under the procedure pursuant to Section 23 subsection (1) will be registered directly after starting the guarantees of regional origin register. Onetime compliance costs will be charged for these 4,500 installations.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	20	medium	41.70	13.90
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435

Total	40			27.15
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Each onetime operation of installation registration following the register start causes to the installation operator costs amounting to 27.15 euros. For 4,500 transactions this results in onetime compliance costs amounting to 122,175.00 euros.

pursuant to Section 23 subsection (1) are registered annually. This is an annual effort and thus annual compliance costs equal to the costs of registering 100 installations.

100 installations of the remaining 900 installations registered in the procedure

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	20	medium	41.70	13.90
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	40			27.15

Each operation of installation registration later than the register start causes to the installation operator costs amounting to 27.15 euros. 100 installations are annually registered after register start in every year. This results in annual compliance costs amounting to 2,715 euros.

Calculation of compliance costs in accordance with the simplified procedure of Section 23 subsection (2) is based on 500 installations directly after starting the guarantees of regional origin register.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	5	medium	41.70	3.475
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435

Total	25			16.72
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Each operation causes to the installation operator costs amounting to 16.72 euros. For 500 transactions this results in one-off compliance costs amounting to 8,360 euros per year which represents a settlement cost in the same amount.

As a result, onetime compliance costs of 130,535 euros and further compliance costs of 2,715 euros per year are assumed for installation registration.

dd) Change of master data by the installation operator pursuant to Section 24 HkRNDV

The installation operator is obliged pursuant to Section 24 HkRNDV to constantly

monitor data stored in the guarantees of regional origin register and to update it. As a general rule changes are made by the installation operator. It is he who changes the installation master data so that it is due to him that the obligation to change the installation data is updated.

According to forecasts, 5,000 installations are expected to be registered, especially at the beginning of the guarantees of regional origin register. This changes the master data of 500 installations, for example the address or the installed capacity. This data will be readily available to the installation operator so that it does not require data collection.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Filling in electronic forms	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	10		37.37	6.30

Each operation causes to the installation operator costs amounting to 6.30 euros. For 500 transactions this results in compliance costs amounting to 3,150.00 euros per year.

Section 41 subsection (1) first sentence of HkRNDV regulates the duty of the respective grid operator to provide specific master data of the registered installation to the register administration. This is an electronic transmission of information during the initial installation registration. Such information is available to the grid operator and shall anyway be sent to the transmission system operators within the scope of general processes of communication in the electricity market.

ee) Transfer of master data by the grid operator to the register administration, Section 41 subsection (1) first sentence HkRNDV

The duty is known from the guarantees of origin register. Depending on the content it is also based on the identical and voluntary industry definition of the EDI@Energy Manual HKN-R as amended from time to time and the specifications of the Federal Network Agency with regard to market communication. Data refer to technical details of the installation and are therefore to be found close together in the accounting systems of the obliged grid operators; they will be sent to the transmission system operators anyway. For a reliable and

secure installation registration the use of grid operators is therefore appropriate and necessary.

there are about 100 registrations of installations annually. First one-off expenses shall be calculated.

According to the explanations under bb), the participants shall register 5,000 installations once at the beginning, 500 of which in the simplified procedure; later,

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	30	medium	41.70	20.85
Filling in electronic forms	20	medium	41.70	13.90
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	60			41.05

ff) Transfer of the changes of master data, Section 41 subsection (1).third sentence HkRNDV

Each operation causes to the grid operator one-off expenses amounting to 41.05 euros. With 5,000 installation registrations immediately after the start of the guarantees of regional origin register and thus 5,000 transactions, this results in one-off compliance costs of 205,250 euros. This represents administrative costs in the same amount.

Section 41 subsection (1) third sentence HkRNDV obliges the respective grid operator to notify the register administration of the change of master data of a participating installation. In the case of 5,000 participating installations mainly registered at the beginning of the guarantees of regional origin register, master data changes take place in about 500 cases per year.

Additional 100 installation registrations taking place annually, result in expenses amounting to 4,105 euros per year.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	10	medium	41.70	6.95
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	30			20.20

Each operation causes to the grid operator costs amounting to 20.20 euros. For 500 transactions this results in compliance costs amounting to 10,100.00 euros per year.

gg) Transfer of quantities of electricity produced in the installation, Section 41 subsection (2) HkRNDV

Section 41 subsection (2) of the HkRNDV obliges the grid operator to notify the register administration of the quantity of electricity produced by the installation and fed into the grid by participating installations which feed in via a metering point assigned to the respective grid operator.

This shall only apply, if electricity is financially supported by means of the market premium through direct selling under the EEG. Since this information is available with the grid operator, it is appropriate to consult him. Notification takes place monthly since all installations are remotely readable. Data related to supplied quantities of electricity are available to the grid operator. Technically the transfer of data to the register administration is no problem because it is automated. For the average of twelve operations per year and 5,000 installations, the number of cases to be expected is 60,000.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	2	medium	41.70	1.39
Filling in electronic forms	6	medium	41.70	4.17
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	2	low	28.70	0.96
Total	12			7.91

Each operation causes to the grid operator costs amounting to 7.91 euros. For

60,000 operations this results in compliance costs amounting to 474,600.00 euros per year.

hh) Application for issuance of guarantees of regional origin, Section 18 HkRNDV

A guarantee of regional origin shall be issued after application by the installation operator. The application will only be complied with if the conditions in Section 18 HkRNDV are met. The installation operator has to provide information about this. This shall allow a clear allocation of electricity and prevent double selling. In addition this duty to provide information serves to prevent any abuse to be feared for example by the multiple application for guarantees of regional origin for the same electricity. There is no alternative to collect this data directly from the installation operators. The scope of data is also required in order to enable secure processing of the issuance of a guarantee. Applications for the issuance of guarantees of regional origin can be submitted by

the installation operators prior to each issuance process. However, pursuant to Section 18 subsection (2) in conjunction with Section 12 subsection (2) HkRNDV it is also possible that the installation operator makes a onetime application and thus a so-called “application subscription”. In practice, this considerably reduces the number of applications to the register administration and thus also the duties to provide information. However, this is unlikely to be the case because of the demand restriction related to the issuance of guarantees of regional origin described in (c) above. It is to be assumed that there are approximately 100 installations issuing guarantees of regional origin by means of the application subscription. For all other 4,900 installations, applications for issuance will be submitted once or twice a year at the maximum. It is expected that there are about 7,000 cases a year.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	10	medium	41.70	6.95
Filling in electronic forms	10	medium	41.70	6.95
Verification of data and entries made	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	30			20.20

Each operation causes a costs amounting to 20.20 euros. For 7,000 transactions this results in compliance costs of 141,400.00 euros per year.

ii) Application for transfer of guarantees of regional origin, Section 29 subsection (1) HkRNDV

At the request of the holder of a guarantee of regional origin, the latter will be transferred to another account within the register. The possibility to transfer guarantees of regional origin is essential to maintain

trade between suppliers. However, due to the dependence of transfer on the electricity to be supplied (compulsory contractual coupling pursuant to Section 79a subsection (5) third sentence EEG 2017), there will be fewer transfer processes than for guarantees of origin which can also be traded without electricity. The assumed 2,000 installation operators will try to resell their guarantees of regional origin. As some of the installation operators are electricity suppliers themselves (in the light of the foregoing it has been

assumed that this applies to 250 installation operators) and as it is probable that they use the guarantees of regional origin for their own regional electricity products without the need for transfer, there would still be some 1,750 installation operators who

transfer their guarantees of regional origin. A transfer process can simultaneously affect several guarantees of regional origin. Guarantees of regional origin shall be transferred to 1,000 installation operators out of the 1,750 operators twice a year, while the remaining 750 shall only be transferred once a year. The receivers of transfer processes of installation operators will in many cases already be the electricity suppliers because of the

costs involved in the transfer process and the complexity of transferring guarantees of regional origin (coupling transfer to a power-supply contract). Here it is assumed that in 50 percent of the cases (i.e. 1,375 cases) it is already the electricity supplier that is the first transfer recipient of the installation operator. In the other 50% of the cases (i.e. in another 1,375 cases) further transfer is needed to bring the guarantees of regional origin to the electricity supplier. About 4,125 transfers take place a year.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Filling in electronic forms	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	10			6.30

Each operation causes costs amounting to 6.30 euros to the owner of the guarantee of origin. For 4,125 transactions this results in compliance costs amounting to 25,987.50 euros per year.

jj) Application for reversal of guarantees of regional origin, Section 29 subsection (3) HkRNDV

A new process with respect to the guarantees of origin register is the application to reverse guarantees of regional origin pursuant to Section 29 subsection (3) HkRNDV. It is necessary to reverse incorrect transfers if thus, for example, a holder of guarantees of regional origin falsely transfers them to another account holder

even though he has no power-supply contract with him. Reversal pursuant to Section 29 subsection 3 HkRNDV brings about the compensation for this careless mistake. It also follows that the process is likely to be rarely used, as the participants in the guarantees of regional origin register are professional and should not experience too many incorrect transfers. Therefore the number of cases amounts to 100 transactions a year.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Filling in electronic forms	5	medium	41.70	3.475
Data transmission to the competent body	2	medium	41.70	1.39
Copying, archiving	3	low	28.70	1.435
Total	10			6.30

Each operation causes costs amounting to 6.30 euros to the owner of the guarantee of regional origin. For 100 transactions this results in compliance costs amounting to 630.00 euros per year

kk) Application for the cancellation and use of guarantees of regional origin, Section 31 HkRNDV

At the request of the user guarantees of regional origin shall be used and cancelled. Use/cancellation pursuant to Section 31 HkRNDV is the central tool for using guarantees of regional origin. As the user of the guarantee of regional origin

must be able to determine the date of the procedure himself, there is no alternative to the application. Unlike the guarantees of origin register, companies in the guarantees of regional origin register will not make cancellation twice, but only once. The reason for this is that the lifetime of the guarantees of regional origin lasting 24 months is significantly longer and they can therefore all be cancelled during that time when electricity disclosure is due. Therefore, there are as many applications for cancellations from the approximately 500 electricity suppliers that participate in the guarantees of regional origin register as applications for cancellations.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	30	medium	41.70	20.85
Filling in electronic forms	15	medium	41.70	10.425
Data transmission to the competent body	12	medium	41.70	8.34
Copying, archiving	3	low	28.70	1.435
Total	60			41.05

Each operation causes to the electricity supplier costs amounting to 41.05 euros. For 500 transactions this results in compliance costs amounting to 20,525.00 euros per year.

ll) Duty to check received guarantees of regional origin, Section 40 subsection (1) first sentence HkRNDV

Pursuant to Section 40 subsection (1) first sentence HkRNDV account holders shall immediately check receipts of guarantees of regional origin on their account for their accuracy. Control measures are indispensable to ensure correct and reliable functioning of the register. Receipts of guarantees of regional origin shall be recorded

when they are issued and transferred. According to the above statements there are 7,000 issuance processes a year. Transfers are performed about 4,125 times a

year. A number of cases of 11,125 may be assumed.

Activities	Default times in minutes per case	Level of qualification	Wage rate in euros per hour	Wage rate in euros per operation
Procurement of data	5	medium	41.70	3.475
Verification of data and entries made	15	medium	41.70	10.425
Copying, archiving	3	low	28.70	1.435
Total	23			15.33

Each operation causes to the electricity supplier costs amounting to 15.33 euros. For 11,125 transactions this results in compliance costs amounting to 170,546.25 euros per year

mm) Duty to notify inconsistencies, Section 38 subsection (2) HkRNDV

Pursuant to Section 40 subsection (1) first sentence HkRNDV account holders shall immediately check receipts of guarantees of regional origin on their account for their accuracy. Control measures are indispensable to ensure correct and reliable functioning of the register. If inconsistencies are detected, they must be reported to the register administration pursuant to Section 40 subsection (2) HkRNDV. Only a few cases are to be expected, since there is an own process for reversal of incorrectly transferred guarantees of regional origin which certainly deal already with most of the inconsistencies that have occurred. Thus a calculation related to this process will be neglected because of low frequency.

d) Consideration of the needs of medium-sized companies in the legal impact assessment (SME test)

Planned regulations can be beneficial for SMEs as well as burdensome. Far beyond 90 percent of all companies in Germany are small and medium-sized enterprises (SMEs) in terms of turnover and workforce categories of Recommendation

(2003/361/EC) of the European Commission (up to 249 active persons and up to 50 million euros of annual turnover), the great majority are microenterprises with 1 to 9 employees. SMEs are also found in the electricity industry, especially with installation operators but also with traders and partly with electricity suppliers.

As part of the planned regulation the guide for considering the needs of medium-sized companies in the legal impact assessment (SME test) of 30 December 2015 has been applied, appropriate regulation alternatives and support measures that are less burdensome to SMEs, have been studied and implemented for installation operators. Installation operators are in many cases micro-enterprises (sole traders). In order to spare them dealing with the guarantees of regional origin register, they can use a service provider pursuant to Section 8 HkRNDV. In the practice of the guarantees of regional origin register this will be the direct seller with whom the installation operator already has a contractual relationship. The service provider relationship can be linked to this already existing contractual relationship. It should also be emphasized in particular that installation operators can already make use of the guarantees of regional origin register of the service provider in advance, the latter then registers the installation operator (Section 7 subsection (2) second sentence number 2

HkRNDV). This makes it easier for the installation operator to get into the guarantees of regional origin register and relieves him of the procedure of registration.

Further reliefs were considered, but not implemented. Thus further reliefs are not permitted because both registers require identical guarantees from the point of view of electricity consumers. These guarantees shall be generated, transferred and cancelled in identical, transparent and secure procedures. In this respect, from the point of view of consumers, the self-contained system of guarantees of origin as well as guarantees of regional origin does not allow simplified procedures for SMEs. It should also be borne in mind that both registers are voluntary concerning their use.

e) Compliance costs related to administration

Amendments to the HkRNDV and the HkRNGebV with regard to the guarantees of origin register have no impact on the administration's compliance costs. The provision of Section 46 subsection (1) number (2) letter (e) HkRNDV gives the register administration the option of transmitting data to the Association of Issuing Bodies. An obligation does not derive directly from the ordinance, but at most from the contracts concluded between the register administration and the Association of Issuing Bodies. In this respect the future Section 46 subsection (1) number (2) letter (e) HkRNDV merely reflects the previous administrative practice and does not justify any new compliance costs.

With regard to the guarantees of regional origin register the Federal Environment Agency is launching a new enforcement. The EEG 2017 already provides in its draft⁹⁾ an expense in the form of personnel and material costs. One time only they amount to approximately 100,000 euros for the creation of the register software and annually to material costs for maintenance and service of the register software in the amount of 15,000 euros and staff

costs amounting to 450,000 euros for four posts (two senior civil service, two middle-level civil service). These costs have already been triggered by the EEG 2017 and are no longer considered separately here. They are based on a cost forecast of June 2016 which will be adjusted after the guarantees of regional origin register is put into operation. In addition to increased material costs the personnel costs will also be higher than forecast in the draft of the EEG 2017 in 2016, since, for example, at least one post of the senior service still has to take care of the guarantees of regional origin register.

To the extent that enforcement costs are not covered by fee income, any additional requirements for material and personnel funds shall be compensated financially and in the respective individual Sections.

f) Further costs

Amendments to these regulations have no impact on production costs of electricity from renewable sources. There are no effects on the general level of electricity prices, in particular on the consumer price level. In each case costs are so small that they are not quantifiable. Amendment of Guarantees of origin and Guarantees of regional origin Fees Ordinance performed in this planned regulation are editorial and have no impact on further costs.

g) Assessment of alternatives

Alternatives for reducing compliance costs were fully assessed during the preparation process. However, no solutions could be found which would have made possible an efficient, legally compliant and fraud-proof design of the guarantees of origin or guarantees of regional origin register and would have fulfilled the requirements of European law for establishing the guarantees of origin register. It was always chosen that solution out of the possible solutions causing the least compliance cost.

⁹⁾parliamentary paper BT-Drs. 18/8860, page 6, 180.

IV. Temporal application, time limitation

A limitation of the HkRNDV and the HkRNGebV has been tested but it was rejected. A time limit would be incompatible with the transposition of Directive 2009/28/EC into German law, as it is not limited in time either, nor with Section 79a EEG 2017, which is also indefinite. Compliance with the law of the European Union

The HkRNDV is still in accordance with European Union law as it implements requirements of the Directive 2009/28/EC (here Article 15 “Guarantees of origin of electricity, heating and cooling produced from renewable energy sources”) in the mandatory scope. To the extent that the Regulation partly goes beyond the requirements of Directive 2009/28/EC, this is also compatible with Directive 2009/28/EC, since Article 15 of Directive 2009/28/EC only sets out the minimum information and does not prevent Member States from setting additional requirements for guarantees of origin, provided that the objective of mutual recognition of guarantees of origin is not thereby impaired.

The rules on the guarantees of regional origin register are not founded on European law. They are also in accordance with European Union law. Thus, the use of the guarantees of regional origin register is not limited to suppliers based in Germany; instead, the instrument of guarantees of regional origin is open to any electricity supplier if and to the extent that it supplies consumers in Germany.

V. Compatibility with higher-ranking national law

Interventions in fundamental rights connected with the implementation of Directive 2009/28/EC and the introduction of the guarantees of regional origin register are justified by higher-ranking objectives of public interest, laid down in particular in Section 1 subsection (1) EEG 2017, and

result from the mandatory implementation requirements of European secondary law.

VI. Compatibility with national sustainability strategy

The draft ordinance of the HkRNDV is in line with the sustainability strategy of the Federal Government 2016.¹⁰⁾⁾ It lays the foundation for the operation of the guarantees of origin register and the establishment and operation of the guarantees of regional origin register. It is its objective to make electricity disclosure more transparent and counteract double selling of electricity from renewable sources. In the case of guarantees of regional origin the goal is to increase the acceptance of the local energy transition.

Guarantees of origin make trade in electricity from renewable energies, which is not directly funded by the EEG, more consumer-friendly and transparent. Ultimate consumers can thus make a better choice based on the electricity disclosure of the energy supply enterprises between the different suppliers and make a statement by their decision for a supplier with a high proportion of renewable energies in the energy mix, which can support the expansion of renewable energies, at least indirectly. The resulting increase in renewable energy is a contribution to the transformation of energy supply away from fossil and nuclear fuels towards an energy supply that is based more on renewable energies. Against the background of the finite nature of fossil primary energy sources and their contribution to climate change, this switch to renewable energies is the only way to a sustainable energy supply. Through this transition natural resources, climate and energy resources will be spared in favour of the following generations and at the same time quality of life will be maintained and economic potential will be developed.

For the goals of energy transition there is great support among the population and high approval. Nevertheless it seems appropriate to counteract any reservations

¹⁰⁾⁾ see for that purpose German Sustainability Strategy 2016.

against the expansion of renewable energies locally in the sense of individual new projects. A contribution to increasing the acceptance of the energy transition locally is the regional marketing of the electricity subsidised by the EEG. This can result in areas for new installations being identified on the spot where energy transition takes place. New area designations are essential for further expansion, but also for sufficient competition in tenders of construction of new installations. Guarantees of regional origin are the instrument to establish the link between electricity generating installations and consumers in order that electricity can be offered from certain installations and thus as regionally produced.

VII. Changes to current legal situation

Applicable law will be adapted to the provisions of Directive 2009/28/EC. This requires, in particular, the establishment of an electronic register of guarantees of origin and guarantees of regional origin for electricity from renewable sources, as well as rules on the operation of the register and requirements for the issuance, transfer, recognition and validation of guarantees of origin and guarantees of regional origin.

VIII. Gender equality impact

The regulation has no impact on gender equality.

IX. Evaluation of the planned regulation

On 23 January 2013 the State Secretaries' Committee on Bureaucracy Reduction decided a conception to evaluate new planned regulations. The evaluation establishes a link between the objective and purpose of a scheme and the actual effects achieved and the associated costs. The new planned regulation is the introduction of a fee-based guarantees of regional origin register. Although this new regulatory project is below the threshold of annual compliance costs; the evalua-

tion is justified here out of the idea of uncertainties about its effects - can the intended increase in acceptance for the energy transition actually be achieved through the guarantees of regional origin register? Therefore the Federal Environment Agency will check five years after commissioning the effect of the regulations for the guarantees of regional origin register as to whether the planned objectives have been achieved and also to what extent guarantees of regional origin have been used, if the existing legal provisions could ensure safety, accuracy and reliability of the guarantees of regional origin register and the issued and used guarantees of regional origin, and which rules may need to be amended. In doing so, the Federal Environmental Agency can examine whether or not the acceptance for the energy transition has risen - the main objective of the guarantees of regional origin register - in an approximate and indirect way at the utmost. For "acceptance" is an intrinsic motive of an unlimited number of persons in Germany whose "increase" made it necessary to compare it with the time before commissioning the guarantees of regional origin register which is not affordable. The Federal Environment Agency will carry out this examination on the basis of the following indicators, which can be derived from the data stored in the guarantees of regional origin register: number of installations in the guarantees of regional origin register; average age of the installations for whose electricity production guarantees of regional origin are issued; number of installations which have been put into operation since the start of the guarantees of regional origin register, sorted by calendar years; number of issued and cancelled guarantees of regional origin and number of electricity suppliers cancelling guarantees of regional origin and thus probably supplying regional electricity to consumers, broken down by federal states (*Bundesländer*) of the corporate headquarters. It can be determined from the number and the regional distribution of the cancelling electricity suppliers how widespread regional electricity offers are asked for in Germany. From the age of the installation a

first conclusion can be drawn on whether the goal has been achieved by the Federal Ministry for Economic Affairs and Energy that more land is available for the use of renewable energies due to greater acceptance for the local energy transition.¹¹⁾⁾ The Federal Environment Agency then sends the evaluation report to the Federal Ministry for Economic Affairs and Energy, the Federal Ministry of Justice and Consumer Protection and the Federal Government's Coordinator for Bureaucracy Reduction and Better Regulation in the Federal Chancellery and the National Regulatory Control Council.

B. Special part

To Article 1 (Ordinance on the implementation of the Renewable Energy Ordinance in the field of guarantees of origin and guarantees of regional origin for electricity from renewable energies)

To Division 1 (General Rules)

To Section 1 (Register maintenance)

To subsection 1

Pursuant to subsection 1 the register administration shall maintain the guarantees of origin register as an electronic database in which the issuance of German guarantees of origin, the recognition of foreign guarantees of origin as well as the transfer and cancellation of German and foreign guarantees of origin are registered. Guarantees of origin are therefore not issued as physical documents, but merely registered in an electronic database. Transfer, recognition and cancellation of guarantees of origin are also carried out electronically. This corresponds to Section 79 subsection (1) third sentence EEG 2017 and Article 15 (5) of directive 2009/28/EC. With this kind of maintenance of the guarantees of origin register which is prescribed by European

law, an efficient, cost-effective and unbureaucratic operation of the guarantees of origin register shall be ensured.

To subsection 2

Pursuant to subsection 2 the register administration also maintains the guarantees of regional origin register as an electronic database. As there are only guarantees of regional origin in the guarantees of regional origin register of the register administration, recognition of foreign guarantees of regional origin and a transfer of guarantees of regional origin to foreign countries are not possible. Guarantees of regional origin do not find any legal basis in European law, but they are not excluded either. The German legislator has decided with Section 79a EEG 2017 to introduce guarantees of regional origin as a new instrument to prove regionality of power generation in the electricity disclosure towards the electricity consumer. Significant differences between the guarantee of origin and the guarantee of regional origin include without limitation, in addition to the purely national validity of the guarantees of regional origin and the basis of guarantees of origin under European law

- informative value (guarantee of origin: 1 MWh of electricity was produced from renewable energies; guarantee of regional origin: 1 kWh of electricity was produced in a regional installation),
- the type of selling underlying the issuance pursuant to Section 19 EEG 2017 (guarantee of origin: other direct selling, guarantee of regional origin: direct selling subsidised with a market premium),
- the different possibilities of trading guarantees (guarantee of origin: free tradeability; guarantee of regional origin: trade only along a contractual supply chain of electricity and

¹¹⁾⁾ see for that purpose key issues paper of the Federal Ministry for Economic Affairs and Energy, regional labelling of green electricity of 11 March 2016 page 1 retrievable under

- lifetime (guarantee of origin: 12 months; guarantee of regional origin: 24 months).

The register administration may maintain both forms of guarantees in an electronic database (Section 79a subsection (4) second sentence EEG 2017).

To Section 2 (Definitions)

Section 2 contains a number of definitions of terms used repeatedly in this ordinance; this had to be extended to explain new, frequently used terms or to fill definitional imperfections. Otherwise the definitions contained in the EEG 2017 (Section 3 EEG 2017) also apply in the scope of this ordinance.

To number 1

Number 1 defines the term biomass. The term used refers to the definition of Section 3 number 21 letter e) EEG 2017 and includes the gases biogas, biomethane, landfill gas and sewage gas in the term biomass through the reference in Section 3 number 21 letter e) EEG 2017. This is appropriate to the extent that the substantive provisions of that ordinance shall also include those gases. On the guarantee of origin to be issued the respective biomass energy source shall be listed separately.

To number 2

Number 2 contains a legal definition of the service provider in the guarantees of origin register or guarantees of regional origin register. Service providers are register participants who are authorised by an account holder to act on behalf of the account holder in the guarantees of origin or guarantees of regional origin register. As a service provider both a natural person and a legal person or partnership capable of entering legal relations can be authorised. The role of the service provider is to allow the account holder to hire someone outside company to manage his account. Service providers do not have their own account. In order for service providers to be able to operate in the guarantees of origin or guarantees of regional origin register they must first register in the respective register.

To number 3

For the purposes of the ordinance power plants at the border are defined as installations located on the German state border and that have facilities on both sides of the state border necessary for power generation. These are essentially hydropower plants. It is irrelevant whether the parts of the installation on the foreign territory are purely technical auxiliary facilities, for example parts of the weir system at a hydropower plant, or whether there is another generator on the foreign territory. The second clause equates an installation which stands on the border of the German exclusive economic zone of Germany with that of another state, with the power plant at the border pursuant to the first clause. This shall especially apply to offshore wind farms.

To number 4

Number 4 shall define the term account. Account shall then be an instrument maintained by the register administration within the register which issues, transfers, recognises and cancels guarantees of origin or issues, transfers and cancels guarantees of regional origin. The account shall be assigned to an account holder pursuant to number 5. Through the account, account holders shall have access to the guarantees of origin register or the guarantees of regional origin register. Accounts only serve to issue, transfer, recognise and cancel guarantees of origin or issue, transfer and cancel guarantees of regional origin. However, other register participants who did not intend to issue, transfer, recognise and cancel guarantees may also have access to the register application - guarantees of origin register as well as guarantees of regional origin register. This applies to service providers, electricity grid operators and within the scope of the guarantees of origin register to environmental auditors and environmental auditors' organisations. However, this access does not take place via an account, but via another electronic access to the respective register.

To number 5

Number 5 determines who is the account holder in the guarantees of origin register or guarantees of regional origin register. According to this, the account holder is a dealer, installation operator or electricity supplier for whom the register administration has opened an account in the guarantees of origin register or guarantees of regional origin register. The account holders may be natural persons, legal persons of private or public law or partnerships capable of entering legal relations who act as installation operators, traders or electricity suppliers in the electricity industry. The register administration examines and decides on the basis of the definitions standardised by the EEG 2017 and alternatively those of the Energy Industry Act (EnWG) whether a legal entity or partnership capable of entering legal relations has the status of a dealer, installation operator or electricity supplier. The register administration shall open an account upon application in accordance with Sections 6 or 7.

To number 6

User means a natural person who is authorised to act with the register on behalf of an account holder or a service provider. Accordingly environmental auditors and environmental auditors' organisations cannot authorise users. Account holders (number 5) or service providers (number 2) may be legal persons or partnerships that are not able to act independently. Acts against the register administration must be carried out by natural persons who are defined as users in the ordinance. Users shall basically derive their rights and obligations from the register participants whom they represent. In some cases, however, there are also independent obligations of users in relation to the register administration.

To number 7

The mailbox is an instrument associated with the register participant and the grid operator within the communication system of the register provided for the receipt of electronic documents and messages as well as the announcement of decisions by

the register administration. A placement of decisions into the mailbox triggers for example the deemed receipt of Section 41 subsection 2 second sentence of the Administrative Procedure Act (VwVfG) in the version of the notice of 23 January 2003 (Federal Law Gazette I p. 102) which was last amended by Article 11 subsection (2) of the Act dated 18 July 2017 (Federal Law Gazette I p. 2745).

To number 8

Register participants of the guarantees of origin register and the guarantees of regional origin register may be holders of accounts referred to in number 5 and service providers as referred to in number 2. Environmental auditors and environmental auditors' organisations referred to in number 11 may only be register participants of the guarantees of origin register (letter a)). Register participants have obligations towards the register administration and can be excluded from participating in the register in case of gross breaches of duty.

To number 9

The register administration keeps the guarantees of origin register and the guarantees of regional origin register and is authorised to act in this regard. Register administration shall be the Federal Environment Agency which, pursuant to Section 79 subsection (4) EEG 2017, is designated as competent authority for issuance, transfer, recognition and cancellation of guarantees of origin and pursuant to Section 79a subsection (4) EEG 2017 as competent authority for issuance, transfer and cancellation of guarantees of regional origin.

To number 10

Storage units are defined as technologically neutral with the exception of pumped storage systems pursuant to Section 3 number 1 second clause of the EEG 2017. "Storage units in the grid" which have an energetic recovery from the grid, are not included. As a result, storage units are not considered to be installations in the system of regulation, but rather independent

storage systems. As a result, it is also possible to take account of the fact that, in front of storage units, plants of first production with different primary energy sources can be present. Pumped storage units are governed separately; in their case guarantees of origin are only issued for those quantities of electricity that can be allocated to the natural inflows.

To number 11

Environmental auditors and environmental auditors' organisations are meant as specified in the Environmental Audit Act.

To letter a

Letter a stipulates that environmental auditors and environmental auditors' organisations must be accredited in accordance with Section 2 subsection (2) and (3) of the Environmental Audit Act (UAG). Environmental auditors or environmental auditors' organisations may be natural persons or organisations. This corresponds to the provisions of the EEG 2017 and Section 4 subsection (4) and Section 10 subsection (5) UAG on the job title. The environmental auditor or the environmental auditors' organisation shall have an accreditation in the field of electricity production from renewable energy sources, in the field of electricity production from hydropower and/or in the field of waste treatment and disposal. Inclusion of the area of accreditation waste treatment and disposal for the guarantees of origin register is justified because of the relevance of waste incinerators and substitute fuel plants. To clarify this, the definition refers to the areas of accreditation according to the ordinance on the accreditation procedure concerning the Environmental Audit Act (UAG). Reference to the area of accreditation 38 shall be based on the premise that the environmental auditor must have the required expertise for his activity (Section 7 subsection (1) UAG). Accordingly area of accreditation 38 is mainly provided for the area 38.2 Waste treatment and disposal as specified in Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing statistical classification of economic activities

NACE Revision 2. Due to the accreditation requirements of Section 10 UAG, the environmental auditors' organisation must always have at least one accredited environmental auditor who has such an accreditation.

To letter b

Environmental auditors or environmental auditors' organisations with a corresponding accreditation in other Member States of the European Union or in other Contracting States to the Agreement on the European Economic Area are also eligible under letter b. Due to the reference to Section 18 UAG, they must notify the German accreditation body of their intended activity. This notification requirement complies with the provisions of Article 24 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC, so-called EMAS regulation. This Article contains the notification requirement for activities of environmental auditors or environmental auditors' organisations in other Member States for reasons of environmental protection.

To number 12

Based on Section 79a (6) EEG 2017 number 12 defines the area of use for guarantees of regional origin. The area of use is the postal code area at the place of delivery to the final consumer, or the municipality in which delivery to the final consumer takes place if the municipality consists of several postcodes. By defining the area of use, the Federal Environment Agency makes use of the discretion granted to it in Section 79a subsection (6) forth sentence to refer to the entire municipal area if the municipality in which the final consumer consumes electricity comprises several postcode areas. Supplied final consumers are such consumers in the sense of Section 3 number 25 EnWG. The place of supply is the location of the

point of consumption where the final consumer's electricity consumption is recorded for accounting and electricity disclosure purposes. As a consequence the area of use for a regional electricity customer can split into several areas even if Section 79a EEG 2017 is always formulated in singular (Section 79a subsection (6) first sentence EEG: "... for electricity from an installation which is located in the region of the final consumer supplied with the electricity.") and possibly assumes a one-to-one relationship between the final consumer and the area of use. Therefore regional electricity can also be delivered to a company that has its headquarters in Munich, whereas highly power-consuming server rooms are located in Hamburg. When supplying this electricity customer at two locations in two control areas, it is necessary to use guarantees of regional origin from the region around Munich for the Munich electricity consumption and guarantees of regional origin from the region around Hamburg for the Hamburg electricity consumption. – The consideration of the place of consumption instead of, for example, the head office as an electricity contract partner of the supplier, which receives a regional electricity disclosure, additionally results in the fact that operators of railway undertakings that correspondingly carry out regionally significant consumption measurements, are able to notify the electricity supplier of the consumption of their trains in order that the latter can supply respective locally high consumptions. For such "travelling consumers" or generally "mobile consumers" for which the point of consumption changes regularly, which are therefore not operated by electricity from a constantly charged storage unit (battery) at the same place, but it requires a consideration in each case.

To number 13

Number 13 defines the region of use in relation to a particular area of use as the area from which guarantees of regional origin may originate in order to be used for regional labelling of green electricity in that area of use. The criteria for determining the region of use derive from Section

79a subsection (6) EEG 2017. It is clarified by the definition that not only the perimeter of the area of use belongs to the region of use but also the area of use itself. Regions of use may also extend to the territory of another EU Member State provided that it is subject to an international agreement pursuant to Section 5 subsection (3) EEG 2017 (cf. Section 79a subsection (3) EEG 2017).

To Section 3 (Communication with the register administration)

Section 3 contains general requirements for communication with the register administration. The provisions of Section 3 equally apply to both registers: for the guarantees of origin register as well as for the guarantees of regional origin register, irrespective of whether the register administration has made use of the possibilities of Section 79a subsection (4) second sentence EEG 2017 and operates both registers in the same electronic database.

To subsection 1

According to the first sentence, the register administration provides a communication system and mailboxes within the communication system, which are used for electronic communication and electronic data traffic. Under the second sentence register participants must open and use an electronic access to this communication system for communication with the register administration. This ensures simple and efficient handling of communication with the register and announcement of decisions of the register administration. The same applies to the mandatory use of email mailboxes. The reference of all register participants to electronic communication is justified. Thus register participants are commercially active when they operate the register. In cases of occupational activity legal breakthroughs of the voluntary principle of Section 3a Administrative Procedure Act (VwVfG) have already been recognised in some cases (cf. Section 18 subsection (1) first sentence German law on turnover tax, Section 18 subsection (1) Ordinance on Waste Recovery and Disposal Records (NachwV).

No later than the third day after transmission via the mailbox all notifications and decisions of the register administration shall be considered as announced, Section 41 subsection (2) second sentence VwVfG. In contrast to Section 37 subsection (1) first sentence VwVfG, however, the ordinance does not formulate an obligation to register participants and users to regularly check the mailbox for entries. It is a matter of incumbency, the violation of which will cause the register participant or the user to lose rights because, for example, deadlines for appeals have expired. The third sentence obliges the register participants to handle any communication with the register administration via the communication system, in particular to make applications, to submit declarations and to transmit data and documents.

To subsection 2

Subsection 2 specifies requirements for the form of communication between register participants on the one hand and the register administration on the other hand. According to the first sentence register participants are obliged to use electronic form templates as far as the register administration provides such form templates. For efficient register processing the register administration shall provide corresponding form templates related to applications and other declarations on the electronic platform of the registers on the Internet. The second sentence clarifies that, within the scope of this ordinance, the register administration can also further specify abstractly described data to be given in this form template. Specification takes place, for example, in the form of the unit of measured variables.

To subsection 3

If an electronic document sent by the register administration, for example, a message or an administrative act, is unreadable for technical reasons, i.e. If the recipient can neither read nor edit or process the transmitted document technically, the register participant has a duty to provide information to the register administration pursuant to subsection 3. The participa-

tion of the register participants is necessary in order that the register administration can quickly recognise and correct technical errors of the registers.

To subsection 4

Subsection 4 shall authorise the register administration to prescribe a specific encryption method for data transmission, which can be done in the terms of use pursuant to Section 2 for example. Indications and publications of the Federal Office for Information Security shall be considered when encryption is selected. Encryption shall be kept up to date. For grid operators this rule does not apply; Section 39 subsection (7) provides for separate standardisation.

To Section 4 (Correction of errors)

A particularly important task of the register administration is to ensure security, accuracy and reliability of the guarantees of origin register also provided by European law standards. For example, Article 15 subsection (1) of Directive 2009/28/EC requires that the source of electricity can be guaranteed in accordance with objective, transparent and non-discriminatory criteria. In order to be able to fulfil this guarantee function, which is mandatory under European law, the register administration must be able to effectively correct errors and inaccuracies that occur in a mass procedure with several million guarantees of origin. The register administration also assumes a similar guarantee function in relation to the guarantees of regional origin register since it has to protect the guarantees of regional origin from misuse pursuant to Section 79a subsection 2 second sentence EEG 2017. The Federal Environmental Agency is entitled to these rules on the correction of errors based on the authorisation basis of Section 92 subsection (3) EEG 2017.

To subsection 1

Section 4 allows the register administration to take corrective actions. The first sentence of subsection 1 clarifies that the register administration is basically entitled to make corrections relating to the maintenance of the guarantees of origin register

and the guarantees of regional origin register and to issuance, transfer, recognition or cancellation of guarantees of origin or issuance, transfer or cancellation of guarantees of regional origin. The second sentence restricts the possibilities of the register administration to make corrections pursuant to the first sentence. The restriction follows from the fact that corrections could relate to already completed and no longer changeable situations, which as such may already have an external impact, for example on consumers. Pursuant to number 1 error corrections are generally excluded to the extent that they can affect electricity disclosure pursuant to Section 42 subsection (1) EnWG. It follows, in particular, that corrections to cancelled guarantees of origin or guarantees of regional origin are not possible after 31 October if this can affect the designation of energy sources in the total supply mix due on 1 November. Since, however, this must be specified from 1 November for the previous delivery year (Section 42 subsection 1 number 1 EnWG) and thus notified the customer, a change after 1 November meant that the previous electricity disclosure, notified to the public, would no longer be correct. Such a change of the electricity label is largely to be avoided for the sake of consumer protection. Accuracy of electricity disclosure pursuant to Section 42 subsection (1) EnWG with regard to the designation of other renewable energies is also checked by the register administration. Subsequent error corrections would impede the function of this test, namely to make final statements on the accuracy of electricity disclosure. However, changes in electricity disclosure may also be required later, for example, when it is detected in the context of the determination and audit of the company's annual accounts that previous assumptions related to supply of electricity were incorrect. In this case the guide "Electricity Disclosure" of the Federal Association of the German Energy and Water Industries (BDEW)

shall provide for a revision of the electricity label in order to adapt it to the company's reality.¹²⁾ In this case the Federal Environmental Agency must support the necessary change in the electricity label by making changes to guarantees of origin in individual cases - keeping an eye on consumer protection. In case of doubt this is the only way for a company to return to legality and to show compliance between statement and cancellation. Pursuant to number 2 the register administration will not make any corrections to guarantees of origin either, which have been declared expired pursuant to Section 34. There is usually no interest in correcting these guarantees of origin because they are no longer usable for the former owner. In addition the register administration generally refuses to make corrections if these refer to guarantees of origin, which would have to be declared expired immediately after the error correction pursuant to Section 34. This can include, for example, cases in which the import ceases due to errors in other software components that cannot be influenced by the register administration and can only be completed after the 12-month period of Section 34 has expired.

To subsection 2

Pursuant to subsection 2 the possibility and the duty of correction by the register administration also concern measures necessary to prevent errors in the future. These entitlements also result from the general authorisation in § 79 EEG 2017. In order to avoid errors in the future, subsection 2 shall entitle and commit the register administration to take preventive measures that preclude or reduce the frequency of errors.

To subsection 3

Pursuant to subsection 3 register participants affected by a correction shall be informed of the correction by the register administration.

¹²⁾ BDEW (Ed.), Leitfaden „Stromkennzeichnung“ (Guide "Electricity Disclosure"), as of: August 2017, chapter 7.3.

To Section 5 (Determination of areas of use and determination of regions of use for guarantees of regional origin)

The guarantees of regional origin register is based on the spatial allocation of electricity from renewable energy installations to electricity consumers, to whom such electricity financed by the market premium is allocated if the installation is located in their region. These circumstances are regulated in Section 79a subsection (6) EEG 2017 in an abstract way. By means of Section 5 the Federal Environment Agency shall make use of the entitlement pursuant to Section 92 number 7 EEG 2017 in conjunction with Section 14 subsection (1). Number 6 EEV. They make it possible for the Federal Environmental Agency to regulate and publish which postal code areas specifically form a region in each case. Thus electricity suppliers are relieved of their own examination of this spatial connection. The determination of the regions of use is carried out pursuant to subsection (1) first sentence by means of a general order of register administration on the basis of official data, such as the Federal Agency for Cartography and Geodesy in terms of municipalities as well as data from other competent bodies. Another competent body is, for example, Deutsche Post Direkt GmbH, which provides the postal codes for Germany. Other competent bodies may also be public or private bodies abroad which provide the register administration with data related to foreign municipality and post code areas which needs them to determine the regions of use.

For the purpose of unambiguous identification, areas of use in accordance with subsection 1 second sentence are designated with their postal code and their name of community. For the sole use of the feature zip code or the feature community name is not always sufficient to

achieve a unique determination of the area of use. For example, the postal code area 07751 partly belongs to the municipal area of the city of Jena, but it also includes municipalities outside the city of Jena, e.g. the community of Jenalöbnitz. If a final consumer lives in the postal code area 07751, his area of use may be the municipality of Jena if he lives in Jena. However, if the final consumer lives in 07751 Jenalöbnitz, the area of use is the postal code area 07751, because the municipality of Jenalöbnitz does not include several postal code areas. Only if both characteristics (postal code and municipality name) are specified it is possible in all cases to clearly identify the area of use and thus also to make a unique determination of the associated region of use.

The third and fourth sentence deals with installations generating electricity at sea. German postal code areas do not extend to the sea but end at the coastline¹³⁾ of the mainland; islands usually have a postal code. The water area of the North and Baltic Seas therefore has no postal code areas. This is different in Denmark, for example, where postal code areas also cover the entire water surface from the coastline to the end of the Danish Exclusive Economic Zone (EEZ). As to Germany this would mean that, according to the wording of Section 79a subsection (6) second sentence EEG 2017, installations at sea generating electricity (in the territorial sea as well as in the EEZ¹⁴⁾) could not supply electricity that could be allocated to a consumer by means of a guarantee of regional origin, since there are no postal code areas on the sea. This would especially affect wind turbines pursuant to Section 3 number 7 of the Offshore Wind Energy Act (WindSeeG) of 13 October 2016 (Federal Law Gazette I p. 2258, 2310) which was last amended by Article 2 (19) of the Act dated 20 July 2017 (Federal

¹³⁾ The coastline is the one in the map number 2920 "German North Sea coast and adjacent waters", edition 1994, XII., as well as in the map number 2921 "German Baltic Sea coast and adjacent waters", edition 1994, XII., of the Federal Maritime and Hydrographic Agency coastline represented on a scale of 1: 375 000. The maps

are available at the Federal Maritime and Hydrographic Agency, Bernhard-Nocht-Straße 78, 20359 Hamburg and are archived in the German National Library.

¹⁴⁾ Terms are defined by the United Nations Convention on the Law of the Sea, Federal Law Gazette II 1994, p. 1798.

Law Gazette I p. 2808) which could not sell their electricity as regional one. However, this is an unintended regulatory gap. The increase in acceptance of local energy transition expected by the introduction of guarantees of regional origin also affects installations at sea:

Offshore wind farms as a type of installation, affected most frequently, but also most of the other installations located in the territorial sea, are not only partially visible from the coast but also have a lot of infrastructure on land to supply the electricity produced at sea to customers. For example, power cables on shore are visible on land, substations and partly converter stations are required to integrate electricity into the power grid. Power grid capacities on land themselves, which were designed for a rather thin population density, were considerably expanded in order to be able to quickly transfer electricity to the consumption centres by means of extra-high voltage lines. Construction and maintenance infrastructure of the installations such as harbours for special vessels and production halls are located on land or in the immediate vicinity. This shows that especially the wind turbines at sea depend on a lot of infrastructure on land to be able to produce and supply electricity. At least with regard to this infrastructure, it is also possible to increase the acceptance of the local population – especially since wind energy at sea, with its steady production of electricity, represents an essential pillar in the replacement of nuclear and coal-fired power plants. Furthermore there is no reason to provide for unequal treatment of electricity from wind turbines at sea. In any case, the legislator has not emphasized such reasons either in Section 79a of the EEG 2017 or in its key issues paper. The regulatory gap is even more pronounced in

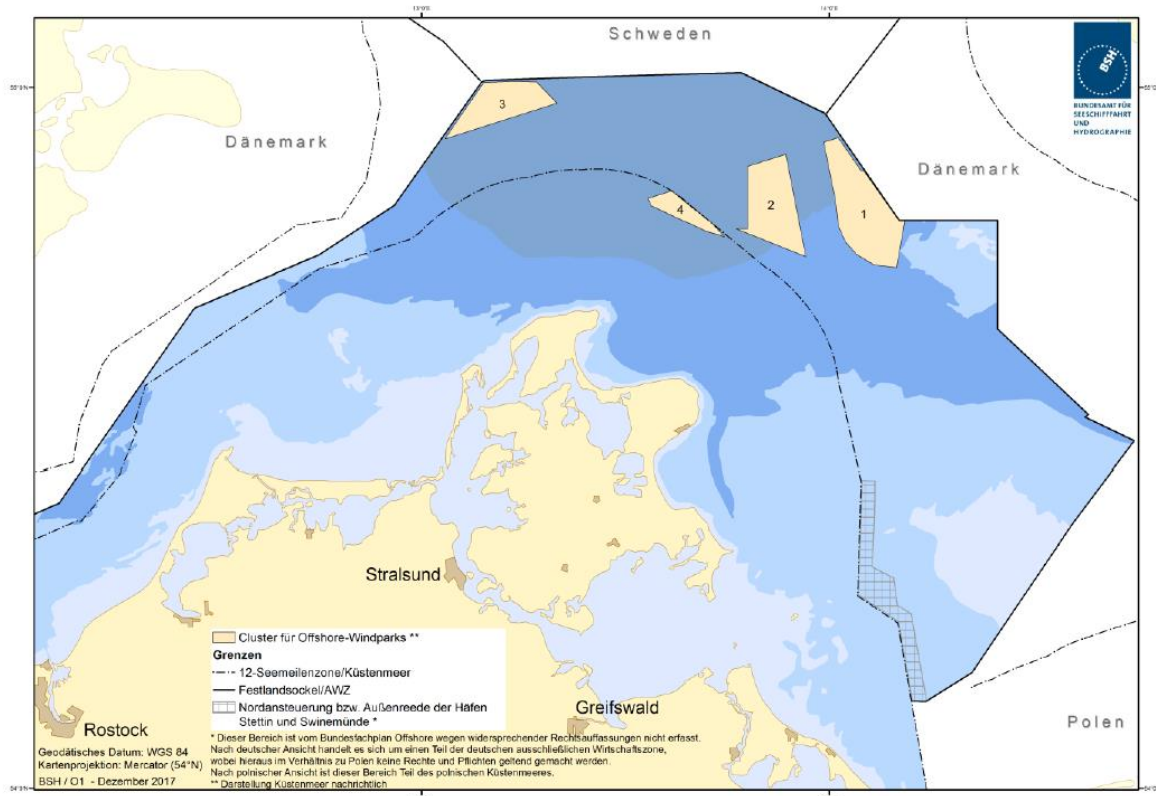
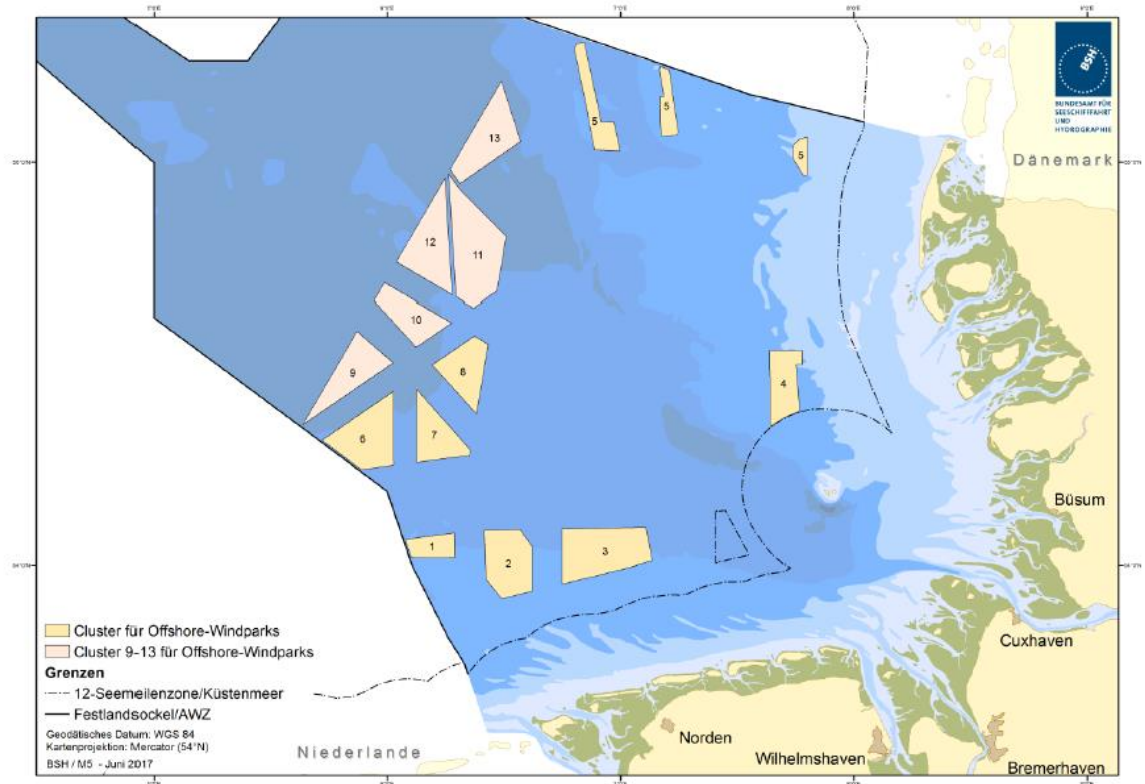
electricity producing plants that are in close proximity to the coastline at sea. From these wind turbines as well as plants that produce electricity from other sources of energy, for example hydropower in the form of tides, consumers are just as directly affected as the neighbour of an on-shore wind farm in order that an increase in acceptance by selling the electricity as regionally produced makes sense.

In the form of Section 5 subsection (1) third sentence, the identified unplanned regulatory gap is filled by the legislator by assigning for the EEZ, i.e. the area between 12 and 200 nautical miles, measured from the coastline of the Federal Republic of Germany from seaward, in the North Sea and Baltic Sea on the clusters for offshore installations pursuant to Section 3 number 1 WindSeeG these fictitious postal codes. The clusters are specified in the Federal Offshore Plan pursuant to Section 17a EnWG related to spatial planning (Section 17a subsection 1 sentence 2 number 1 EnWG), and ensure the orderly development of the spaces for the construction of installations and the grid connection systems only indicated in the spatial plan. The clusters bundle offshore wind farms which are spatially related and suitable for a collective connection to the mainland. The determination and delineation of the clusters is based in particular on the specifications of spatial planning and the consideration of other existing uses and area definitions. For example, existing shipping routes, designations in the spatial planning plan as a priority area for wind power use as well as the absence of admission obstacles especially for environmental or military reasons are decisive. There are 13 such clusters for the North Sea and 3 clusters for the Baltic Sea. These are distributed graphically as follows:¹⁵⁾⁾

¹⁵⁾⁾ Source: Federal Maritime and Hydrographic Agency, Federal Offshore Plan for the German Exclusive Economic Zone of the North Sea 2016/2017 and Environmental Report, 22 December 2017, page

18; Federal Offshore Plan for the German Exclusive Economic Zone of the Baltic Sea 2016/2017 and Environmental Report, 22 December 2017, page 18.

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These planning-specific clusters in accordance with Section 3 subsection (1) WindSeeG are treated as ZIP codes within the guarantees of regional origin register so that electricity produced there

from wind turbines can be supplied to consumers who consume the electricity at a distance of up to 50 kilometres from the cluster. This is likely to apply to a few of

the clusters, but will generally allow electricity produced on the high sea to be delivered as regional electricity to those affected by the land infrastructure. If electricity is generated in the clusters from other sources of energy, for example from solar energy, Section 5 subsection (1) third sentence 3 is generally inapplicable, since it exclusively focuses on wind turbines at sea pursuant to Section 3 number 7 WindSeeG. This is acceptable, since currently other energy sources are not used to produce additional electricity, or the quantity of such further power production is extremely low in a comparison with wind energy so that this amount is negligible.

Especially in the Baltic Sea there is a wind farm outside the three planning clusters. The Federal Maritime and Hydrographic Agency is keeping a cluster 4 for informational purposes. Such wind turbines which are located in the territorial sea, i.e. in the area of the North Sea and Baltic Sea from the coastline of the Federal Republic of Germany up to 12 nautical miles seaward, can also be included in the regional concept pursuant to the forth sentence. However, the forth sentence is more open compared to the third sentence since in that forth sentence also sources of energy other than wind are excluded, which, for example, enables tidal power plants as potential producers of regional electricity. Nevertheless, if such installations in the territorial sea are not part of a planning cluster, the third sentence shall be applied *mutatis mutandis*. "Applied *mutatis mutandis*" means that the provision referred to should not be binding, but that the referenced provision should be applied in the context what makes sense (VGH (Higher Administrative Court of) Kassel, judgement of 13.12.2017 – 6 A 555/16, Rn. recital 25). Thus the installation itself could receive a postal code for lack of planning clusters.

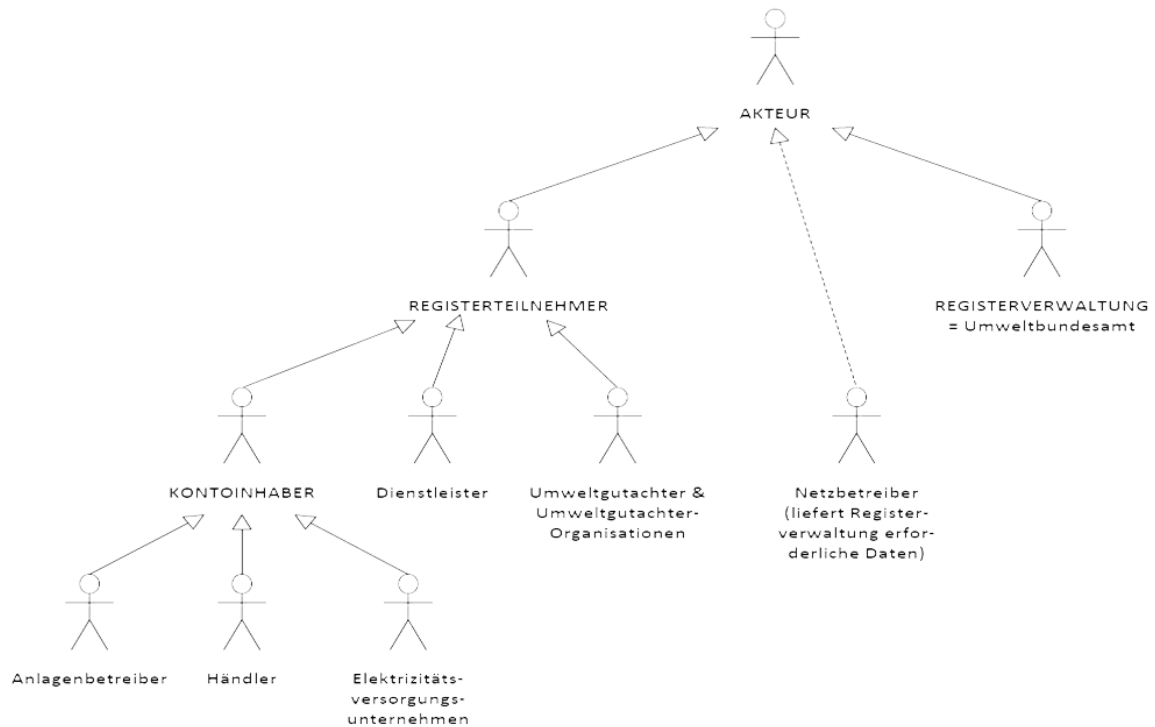
The determination of the regions of use is basically valid for one calendar year pursuant to subsection 2. The background to this limitation is that postal code areas and municipalities can change. These

changes are to be understood for the purposes of regional labelling of green electricity. However, for reasons of legal certainty and predictability for market participants, a change in postal codes or municipalities shall not immediately affect the usability of guarantees of regional origin. Rather, it makes sense that the usability of guarantees of regional origin for a calendar year, which is also the reference period of the (regional green) electricity labelling, remains the same. Pursuant to the second sentence, the register administration publishes the general order pursuant to Section 5 subsection (2) second sentence number 2 of the Proclamation and Publication Act (VkBkmG) of 30 January 1950 (revised version in the Federal Law Gazette III outline number 114-1, last amended by Article 11 subsection (1) of the Act of 18 July 2017 (Federal Law Gazette I p. 2745) in the official Section of the Federal Law Gazette. In addition the notice pursuant to Section 27a VwVfG will be published on the website of the register administration at www.uba.de. The register administration aims to make the assignment of the regions of use publicly known and published by 1 October of the year preceding the year of validity. In the event that there are no changes in the regions of use, the register administration does not publish a new notice in terms of content. Instead, it refers to those used in the previous year in the Federal Gazette and declares them valid. In this respect, it may happen in individual cases that a general order is still applicable. Therefore the application shall "basically" be valid for one calendar year.

To Section 6 (Account opening in the guarantees of origin register)

Section 6 contains the requirements that must be met in order to open an account in the guarantees of origin register. There are several stakeholders who - depending on the function and depending on the question of whether or not they have an account - are registered differently. In summary, the registration and its files in the guarantees of origin register are as follows:

	Entry into the register	Exit from the register	Sanctioning	Withdrawal of sanctioning or re-entry
Installation operator	Section 6	Section 50	Section 49 or Section 51	Section 49 sub-section (4) or Section 51 sub-section (4)
Electricity supplier	Section 6	Section 50	Section 49 or Section 51	Section 49 sub-section (4) or Section 51 sub-section (4)
Trader	Section 6	Section 50	Section 49 or Section 51	Section 49 sub-section (4) or Section 51 sub-section (4)
Environmental auditor/Environmental auditors' organisation	Section 10 sub-section (1)	Section 10 sub-section (5)	Section 10 sub-section (5), if applicable with Section 10 sub-section (6)	Section 10 sub-section (1)
Service provider	Section 8 sub-section (5)	Section 8 sub-section (6)	Section 51	Section 51 sub-section (4)



To subsection 1

Firstly, the first sentence of subsection 1 makes it clear that an account must be

opened with the register administration for issuing of domestic guarantees of origin, recognition of foreign guarantees of origin

as well as transfer and cancellation of domestic and foreign guarantees of origin, since these operations can only be carried out via these accounts and guarantees of origin assigned to the respective holder. This corresponds to the requirement in Section 7 subsection 2 EEV. The second sentence clarifies that a natural or legal person or a partnership capable of entering legal relations can also open several accounts with the register administration. This may be reasonable in cases where a person operates several installations, wants to separate guarantees of origin of different energy sources or takes over electricity trade for several persons.

To subsection 2

Subsection 2 lays down the general requirements for the opening of an account by the registry administration. The first sentence clarifies that an application is always required to open an account. In principle, any natural or legal person of private or public law or a partnership capable of entering legal relations can keep an account. The group of bodies of persons who can take part in the guarantees of origin register is conceivably broad. The second sentence governs entitlement which only applies to installation operators, traders and electricity suppliers.

To subsection 3

Subsection 3 sets out how applicants may be represented by natural persons during application. If the applicant is a natural person only legal representation in the application is possible pursuant to the first sentence and contrary to Section 14 subsection (1) VwVfG. This is intended to allow natural persons who cannot handle their affairs by themselves to participate in the Guarantee of Origin register. A willing representation is not possible, as registration is always a proof of identity, which has to be done personally. Without maximum personality, the register administration would impersonate a fake person who may have nothing to do with holding an account and paying the fees. In this respect there is a factual reason for the exclusion of willing representation. Also,

abuse on a false registration and gerierung should be excluded as a representative. Representation in the subsequent procedure by persons in the role of "service provider" does not hinder this provision. For at least two reasons representation excluded here shall not be compared to that used for example in legal proceedings or in sub-ordinate administrative procedures for constitutional reasons: It is an area of voluntary performance management in which a stakeholder consciously and willingly participates for economic reasons. Pursuant to the second sentence legal persons or partnerships capable of entering legal relations may only be represented by natural persons who have the property of a legal or corporate representative or who is employed in the enterprise. The characteristic of a legal representative or representation by executive bodies does not have to be attributed to the natural person.

To subsection 4

Subsection 4 specifies the data that an applicant must provide to the register administration electronically for the purpose of opening an account. Transmission of data must take place in the form of Section 3 subsection (1).

Number 1 concerns applicants who are natural persons and sets out the data to be provided by those applicants. This includes, for example, the address of the applicant. This will usually be the office address of the applicant. Persons who are commercially active (for example as installation operators) but do not have their own office address can also provide their home address. It must be ensured that an announcement of decisions of the register administration can be made.

Number 2 makes it clear that bodies of persons can also take part in the register. It initially covers all legal persons and legal bodies of persons of private law, for example corporations in the legal form of the GmbH or the AG, the oHG or KG, associations with legal capacity, limited liability companies and registered cooperatives, but also companies under civil law. In addition to bodies of persons of private

law, legal persons under public law are also included. This includes, for example, authorities that procure electricity for all administration buildings of a local authority (state, federal state, municipality) and then act towards them like an electricity supplier, waste incineration plants that are operated in the legal form of a public-law institution, as well as special purpose associations and private companies. Because of their organisational and financial dependence publicly-owned companies will not operate autonomously towards the register. In addition, an applicant who is a legal entity or partnership capable of entering legal relations must indicate the registration number if he is registered as a legal person or partnership capable of entering legal relations in a public register, and the body maintaining the register. These registers include, for example, the commercial register, the association register, the cooperative register and the partnership register.

Numbers 3 to 5 shall equally apply to all applicants. Pursuant to number 4 it shall in particular be specified which role the applicant intends to assume in the guarantees of origin register. The register contains three different roles that an account holder can assume: installation operator, trader and electricity supplier. The three functions differ in their rights in the guarantees of origin register: Guarantees of origin may only be issued for installation operators. Traders as well as installation operators and electricity suppliers are entitled to apply for national transfer of guarantees of origin. In contrast to the other two groups of participants they can also apply for transfers abroad and receive guarantees of origin from abroad (Section 28 subsection (2), Section 37). Only electricity suppliers may cancel guarantees of origin for the purpose of use. Account holders can also perform multiple roles using a single account. – Number 5 requires that applicants registering with the role of an electricity supplier in the register indicate the registration number assigned by the Federal Network Agency. It is an eight-digit key figure including “2000xxxx” assigned by the Federal Network Agency

in the course of registration of an electricity supplier. The use of this number enables a simplified assignment of the data that the Federal Network Agency sends to the Federal Environmental Agency as part of the electricity disclosure test pursuant to Section 42 subsection (7) second sentence EnWG. Besides electricity suppliers shall indicate their market partner identification number. This is a thirteen-digit number assigned by the Federal Association of the Energy and Water Industry e.V. with the help of which participants in the electricity market are identified; based on this identification, communication takes place on the market.

The second sentence sets out additional data to be provided through the representative if the applicant is represented during application pursuant to subsection 3. First and last name, address, phone number and email address of the representative shall be provided.

The third sentence determines which natural person receives access data for the account to be opened. It is the self-acting applicant if it is a natural person and not represented by the legal representative in accordance with subsection 3 first sentence. In all other cases, i.e. for the represented natural person and for legal persons and partnerships capable of entering legal relations, the representative receives the access data; however, the represented natural or legal person and the partnership capable of entering legal relations, remain the applicant for the account and future account holder. In addition the third sentence defines access data as user name and password in order to reach the account area of the register software.

To subsection 5

Subsection 5 sets out how the applicant or his representative proves his identity. The provision also lays down how the representative shall prove his representative authority to the register administration.

In order to apply for an account, the first sentence requires that the natural person making an application proves its identity by means of a suitable procedure to be determined by the register administration.

Pursuant to the second sentence authentication shall not be required when a natural person opens further accounts. The third sentence stipulates that proof of identity can also be omitted if the applicant has already proved his identity when opening an account in the guarantees of regional origin register.

The forth sentence makes provision for the case where the applicant is represented in accordance with subsection 3. Accordingly provisions on the proof of identity pursuant to the first and third sentences shall apply to the representative. Therefore the representative has to prove his own identity, unless he has already applied for an account in the guarantees of origin register or guarantees of regional origin register for this applicant and has already proven his identity in the course of this procedure.

Pursuant to the fifth sentence 5 the register administration is entitled to determine data required for the identification procedure specified in the terms of use going beyond the scope of subsection 4. Usages shall mean all options for action in the register for which the register administration provides special identification procedures.

To subsection 6

Opening an account is subject to a request to the register administration, entitlement and the transmission of data and information referred to in subsection 4 and guarantees referred to in subsection 5. In addition the register administration checks eligibility. For example, the register administration has to verify whether the applicant is actually an electricity supplier, since only such an enterprise may, pursuant to Section 42 EnWG be equipped with the right to cancel guarantees of origin. It must also be an electricity supplier supplying electricity to final consumers in Germany. If conditions for opening an account in the requested role are met, the register administration shall open the account in accordance with subsection 5. Pursuant to the second sentence the register administration declares the representative to be the main user in

case of representation when he applies for account opening pursuant to subsection 3.

To subsection 7

Subsection 7 sets out the reasons why the register administration refuses to open an account. Pursuant to subsection 7 first sentence an account shall not be opened if the applicant is not entitled to make an application (pursuant to subsection (2) second sentence and subsection (6) first sentence, has not completely transmitted required data, information and guarantees pursuant to subsections (4) and (5) or is excluded from participation in the guarantees of origin register pursuant to Section 51 subsection (1). This ensures that the exclusion from participating in the register cannot be circumvented by opening a new account. The opening of the account shall also be refused by the register administration pursuant to the second sentence if the conditions for freezing the account pursuant to Section 49 subsection (1) or (2) or for closing the account pursuant to Section 50 subsection (1) or (2) are met. However, under certain circumstances, where for example the transmission of false data was not subject to a culpable act or only in respect of immaterial data, register administration may nevertheless open the account.

To Section 7 (Account opening in the guarantees of regional origin register)

To subsection 1

First of all subsection 1 clarifies that an account must be opened in the guarantees of regional origin register for the issuance of guarantees of regional origin as well as for the transfer and cancellation of guarantees of regional origin, since only those accounts can be used to carry out the operations mentioned and to assign guarantees of regional origin to the holder. This corresponds to requirement in Section 8 subsection (2) in conjunction with Section 7 subsection (2) EEG. It also shows that the two types of guarantees of origin and guarantees of regional origin cannot be mixed, since both are maintained in different account systems.

To subsection 2

Pursuant to subsection 2 the provisions of Section 6 for opening an account in the guarantees of regional origin register apply *mutatis mutandis* to the account opening in the guarantees of regional origin register. Reference is made to the reasons related to Section 6 subsection (2) to (7). For that purpose the second sentence contains two exceptions:

To number 1

In order to avoid unnecessary administrative burden, an applicant who already has an account in the guarantees of origin register does not need to prove his own identity or the identity of his representative within the meaning of Section 6 subsection (3) for opening an account in the guarantees of regional origin register when it has already been verified in the course of account opening in the guarantees of origin register. A repetition of this verification is not required.

To number 2

To relieve the installation operators, they may be represented by their respective service provider when the account is opened. A prerequisite for this is that the service provider has already been registered in the guarantees of regional origin register in accordance with Section 8 subsection (5). In addition the register administration must have been provided a certificate of authorisation granted by the represented installation operator in accordance with Section 8 subsection (1) to (4) or have been provided in the course of the application for opening an account. If the installation operator is represented by his service provider when opening the account, he is also exempted from the obligation to prove his identity. This does not affect the obligation of the service provider to prove his identity as part of the service provider registration pursuant to Section 8 subsection (5). Number 2 shall exclusively apply to the installation operator's role. Representation during account opening for another role in the guarantees of regional origin register - dealer or electricity supplier - is not considered. Also, only the role of installation operator can be

represented when the account is opened. If the person wishes to exercise another role in the guarantees of regional origin register later on, a role extension is needed.

To Section 8 (Registration of service providers and assignment and authorisation of service providers by the account holder)

Section 8 contains provisions on service providers who can act on behalf of account holders in the guarantees of origin register or guarantees of regional origin register and assist them in their activities or even – with few exceptions – be able to discharge them completely. While users who also act on behalf of account holders due to an authorisation are always natural persons and employed by the company they represent (Section 9 subsection (1) first sentence, service providers may also be legal entities that have users themselves. Thus the provision refers in particular to undertakings which, for the most part for a consideration and due to contractual initiative, carry out the activities of installation operators, traders or electricity suppliers in connection with the maintenance of accounts of guarantees of origin register or guarantees of regional origin register. Service providers cannot operate for environmental auditors, environmental auditors' organisations, grid operators or other service providers. If a service provider acts on behalf of an account holder who has several roles as defined in Section 6 subsection (3) first sentence number 4 or subsection 4 first sentence number 4, the service provider may exercise several or all roles of the account holder. Legal persons of public or private law can also act as service providers. Thus (for example municipal) owner-operated enterprises may - as functional units responsible for internal affairs - carry out purchase of electricity and distribution to other functional units within a (local) authority governed by public law and for that purpose be registered as a service provider in the register.

To subsection 1

Subsection 1, first sentence first regulates that account holders are generally entitled to transfer to an external service provider the transactions related to account maintenance and other register use. This assignment of a service provider to maintain accounts is limited by the wording of the first sentence that it must be an existing account. The application for opening an account must therefore always be done by the (future) account holder himself due to identity check to be performed and must not be done by the service provider on behalf of the account holder. This also results from the fact that the acting person is referred to as "account holder" in the first sentence, which implies that the person entitled to appoint a service provider must already be the holder of an account. The second sentence further restricts the possibility of authorising that the commissioning of the service provider must be carried out in relation to the register administration by the account holder. Conversely, this prohibits a service provider from authorising himself to maintain an account. At least these two actions of opening an account (first sentence) and authorising a service provider (second sentence) are actions that the account holder is not permitted to transfer to a service provider and that are therefore personal within the framework of Section 6 subsection (3). For these two tasks, the service provider cannot and must not relieve the (future) account holder and represent him: Both tasks could jeopardise fraud/proofing of the guarantees of origin register required by Article 15 (5) of Directive 2009/28/EC if a service provider carried them out.

Service providers shall act on the basis of a certificate of authorisation of the respective account holder. In order for the register administration to verify the effectiveness of the transfer of the rights of the account holders to the service providers through the certificate of authorisation, the second sentence stipulates that the corresponding authorisation must be issued to the register administration (external authorisation within the meaning of Section

167 subsection 1 variant 2 of the German Civil Code (Civil Code as amended on 2 January 2002 (Federal Law Gazette I p. 42, 2909; 2003 I p. 738), last amended by article 6 of the Act of 12 July 2018 (Federal Law Gazette I p. 1151)), but not towards the service provider.

In the guarantees of regional origin register, the requirement for the granting of external authorisation by the account holder also applies, albeit with a restriction in favour of installation operators. Pursuant to the third sentence, as an exception to the otherwise applicable first sentence in the guarantees of regional origin register, the service provider may declare to the register administration that it has been authorised by the installation operator by means of an internal authorisation. This regulation is necessary because installation operators in the guarantees of regional origin register may already be represented by their service provider for account opening. If they wish, installation operators can avoid ever being active themselves in the guarantees of regional origin register. This is necessary for reasons of relieving the many, often private operators of small installations. In that case, however, these installation operators cannot be required to act in the guarantees of regional origin register only for granting authorisation. It is therefore sufficient if the service provider transmits the certificate of authorisation granted by the installation operator to the register administration.

The fourth sentence clarifies that service providers may also operate for several account holders. This makes it possible for service providers to take over account maintenance in bundles, thus making it possible to use the expertise of service providers for efficient account maintenance for numerous register participants.

To subsection 2

Subsection 2 finally lists which persons may be commissioned and authorised as service providers. Number 1 distinguishes main users who for the purposes of account opening pursuant to Section 6 sub-

section (3) second sentence may represent account holders and thus, pursuant to Section 6 subsection (6) second sentence become a main user, and users of the service providers. Accordingly service providers must not be employed by the company maintaining the account. Support by the service provider is only permissible to the extent that the legally binding declarations of account opening continue to be provided by the applicant or the future account holder themselves. Legal persons under private or public law (number 2) or partnerships capable of entering legal relations (number 3) can also be service providers. The second sentence clarifies that environmental auditors or environmental auditors' organisations must not be authorised as service providers. This is based on the requirement of Section 15 subsection (6) number (3) UAG, according to which environmental auditors and environmental auditors' organisations have to behave impartially during appraisals. Contractual and thus economic links with the account holders could endanger such impartiality.

To subsection 3

Pursuant to subsection (3) the authorised service provider is entitled to carry out all actions in connection with the use of the register. As part of the authorisation by the account holder restrictions are possible in the internal relationship. Such restrictions do not affect the register administration. Nevertheless, actions that violate the restriction of authority in the internal relationship are effective. However, the service provider may be liable for damages internally. – In addition to the actions already mentioned which the service provider must not undertake under this ordinance already – account opening (exception: account opening in the guarantees of regional origin register as an installation operator) as well as commissioning of service provider and termination of certificate of authorisation of service provider – password change belongs to the unacceptable actions of the account holder. The application to close an account (Section 50 subsection (1) number (1)) is not

covered either by the service provider authority. As the third subsection further clarifies, the activity of the service provider must not be an obstacle to legitimate interests of the register administration.

To subsection 4

Subsection 4 authorises the register administration to make specifications to the form and content of the certificate of authorisation. If these requirements are disregarded in individual cases, granting of certificate of authorisation is subject to a formal error and therefore ineffective. The revocation of a certificate of authorisation is possible at any time by the account holder in accordance with the rules of the BGB, which also apply here. Accordingly an unlimited certificate of authorisation lapses as soon as the account holder declares expiry to the register administration. The account holder may make such declaration at any time for the future. This corresponds to the provision in Section 170 BGB. For that purpose the account holder has to make sure that by declaring expiry of the certificate of authorisation in relation to the register administration the service provider no longer has access to the data of the formerly represented holder. This is especially important when changing the service provider, so that the former service provider can handle the pending transactions. Since the representative authority is granted by way of external certificate of authorisation (subsection (1) second sentence), the declaration of the termination of certificate of authorisation against the third party, i.e. the register administration, must also be made. If only the account holder declares to the service provider that the certificate of authorisation has been terminated, this is not effective towards the register administration (Section 171 subsection (2) BGB). Admittedly the service provider may be liable for damages in relation to the account holder. However, actions taken by the service provider after the certificate of authorisation has been withdrawn are still effective against third parties and the register administration. The account holder may also grant a limited certificate of authorisation.

To subsection 5

Before service providers can take action against the register administration, they must register with the register administration. Pursuant to the second sentence registration requires an application. To register service providers, provisions for the opening of an account in the guarantees of origin register or in the guarantees of regional origin register shall apply in accordance with the third sentence. If service providers are legal persons of private or public law or other partnerships capable of entering legal relations, service providers must therefore submit the data pursuant to Section 6 subsection (4) for their registration in the guarantees of origin register or in the guarantees of regional origin register. When registering service providers in the guarantees of regional origin register, a renewed proof of identity of the service provider pursuant to Section 7 subsection (2) second sentence number 1 is not required if the service provider is already registered in the guarantees of origin register. Conversely, this also applies: If the service provider has first been registered in the guarantees of regional origin register and later applies for registration in the guarantees of origin register, proof of identity is unnecessary (Section 6 subsection (3) fifth sentence or subsection (4) fifth sentence). The registered service provider shall receive own access codes by the register administration in order that he is not dependent on the represented account holder's data. This protects the integrity of the account of the authorised person in fact pursuant to Section 39 number 1, 3 and especially number 7.

To subsection 6

As an *actus contrarius* for registration in accordance with subsection 5, the service provider can also give up his activity as a service provider and then no longer be authorised by account holders. For this purpose, the service provider shall make an application with the register administration

pursuant to the first sentence. The register administration then deletes registration. The second sentence regulates the consequence of deletion. The assignments of the service provider to account holders are deleted. In the case of Section 51, this consequence also applies. If, after cancellation of the service relationship, the former service provider still lays claims against the account holder to guarantees of origin for example, the former service provider must assert them against the account holder in the internal relationship.

To Section 9 (Account maintenance by user and main user)

Section 9 regulates authorisation of users by the account holder in subsections 1 to 4 and authorisation of users by the service provider in subsection 5. In contrast to the user, the main user pursuant to Section 6 subsection (6) is the one who represented the account holder when opening the account; if the account holder is a natural person, he is the main user himself when there is no representation. Environmental auditors and environmental auditors' organisations cannot authorise users. This is due to the fact that accreditation as an environmental auditor pursuant to Section 9 UAG is strictly personal. The guarantees of origin register makes use of the environmental auditor precisely because of these personal qualifications. Passing on the task associated with the register is therefore excluded in order not to jeopardise the purpose of using environmental auditors. Even a holder of a certificate of specialised knowledge (Section 8 UAG) must therefore not be the user of an environmental auditor. The same applies to an environmental auditors' organisation: Again, the legislator uses the environmental auditor because of his personal qualification. Even the environmental auditors' organisation is therefore not an organisational form that can become a register participant as such, but in each case the environmental auditor. An environmental auditors' organisation from another Member State of the European Union must report its activity to the Admission Board four weeks before each assessment (Section

18 (1) UAG). If such an announcement is done within the scope of the activity of the register, the register administration will authorise the environmental auditor in each case or the respective person with comparable qualifications to use the register. The latter is not able either to create a user. Subsections 6 to 9 govern the main user.

To subsection 1

Pursuant to subsection 1, it is possible that the account holder may designate natural persons employed with him as a user within an enterprise and entrust him with the maintenance of the account. These users are then entitled to carry out the transactions related to the account maintenance and other register use in the register. Thus, for example, in a company, further employees may be entitled to maintain the guarantee of origin account in a way that is restricted under employment law. The second sentence clarifies that the authorisation of the user is to be declared by way of an external certificate of authorisation to the register administration. Pursuant to the third sentence the transmission of data to the register administration is required for the authorisation of users pursuant to Section 6 subsection (4) second sentence. Pursuant to the fourth sentence, the certificate of authorisation may be used when account opening in the guarantees of origin register or guarantees of regional origin register is applied for or at any time later. The revocation of the certificate of authorisation takes place according to the regulations of the BGB,

To subsection 2

Subsection 2 regulates the scope of the authorisation as a user. Thereafter, in relation to the register administration, users are entitled to perform, on behalf of and with effect for the account holder, all acts to which the represented account holder is entitled and obliged. The certificate of authorisation of the users thus goes further than that of service providers and includes in particular also the acts for terminating the participation of the account

holder in the guarantees of origin register or guarantees of regional origin register.

To subsection 3

The user shall receive own access codes to the account of the account holder by the register administration. Pursuant to Section 39 number 7 he has to keep them confidential and must not disclose them. As can already be seen from Section 6 subsection (4) third sentence, the ordinance means by access code the username and password. Likewise, Section 6 subsection (4) third sentence regulates with regard to the main user that he obtains access data.

To subsection 4

Pursuant to subsection 4 the user has the obligation to keep the data stored about him in the respective register up to date.

To subsection 5

Pursuant to Section 5 first sentence an authorised service provider is also entitled to authorise one or more natural persons employed by him as users in the guarantees of origin register or in the guarantees of regional origin register towards the register. Subsections 1 to 4 apply mutatis mutandis to the authorisation of users by service providers, as the second sentence clarifies. The user authorisation may take place during the application for registration pursuant to Section 8 paragraph 5 or later. As the third sentence sets out authorisation as a user of the service provider includes, in derogation from subsection (2) the right to take the actions towards the register administration on behalf of and with effect for the account holder and to which the service provider is entitled and obliged pursuant to Section 8 subsection 3 first sentence. The user of a service provider is not entitled to terminate the account holder's participation in the guarantees of origin register or guarantees of regional origin register.

To subsection 6

Subsection 6 starts the rules concerning the main user. If the register administration opens an account for an applicant, the latter will be declared the main user. If the

applicant was represented when the application was made the register administration declares the natural person having made the application on behalf of the applicant to be the main user when the account is opened (Section 6 subsection (6)). Ownership of an account requires a main user at all times. The latter shall be the first contact person of the register administration.

To subsection 7

Subsection (7) shall be complementary to the provision of Section 6 subsection (6). Thus, under the first sentence, the register administration shall assign to each newly opened account a natural person as the main user. The second sentence regulates representative authority of the main user. This authority shall include the right to maintain an account. By ordering the relevant application of subsection 2 the main user has the right to take all the actions towards the register administration on behalf of and with effect for the account holder and to which the account holder is entitled and obliged.

To subsection 8

Subsection (8) shall oblige the main user to transmit the data stored about him without delay and in full to the register administration in accordance with Section 6 subsection (4) when such data is changed.

To subsection 9

Subsection 9 regulates the change of the main user in the cases in which the account holder was represented during registration pursuant to Section 6 subsection 6 second sentence. In these cases the main user is a person other than the account holder. The first sentence stipulates that a change of the main user is possible at any time. When the main user changes, its identity, in contrast to the user, must be checked again. The appointment of the applicant (who is represented at the time of application) as the main user is based on an authorisation pursuant to Section 6 subsection (3). According to the rules of the German Civil Code (BGB) it can expire. If the main user's authorisation expires, the previous

main user must be replaced by a new main user at the time of expiry. In this respect, there must not be any time interruption within the meaning of subsection 6. Proof of identity as well as the representative authority of the new main user shall be submitted to the register administration without delay pursuant to Section 6 subsection (5) forth sentence. If the register administration has received the application and verified proof of identity and representative authority of the new main user, it will designate the latter as the new main user of the account holder. The previous account holder loses the possibility of accessing the account of the account holder. The previous main user remains the main user until this check and verification have been accomplished.

To Section 10 (Transfer of data by environmental auditors and environmental auditors' organisations)

To subsection 1

Environmental auditors and environmental auditors' organisations can only act in the guarantees of origin register. Environmental auditors or environmental auditors' organisations have no function in the guarantees of regional origin register; therefore they have no access to the register either. Subsection 1 requires environmental auditors and environmental auditors' organisations to provide the register administration with the data specified in subsection 2 and 3 before the activity starts. Once data has been stored in the guarantees of origin register, the environmental auditor and the environmental auditors' organisation receive the access data for the electronic register system with which they can only operate the guarantees of origin register. Prior to confirmation by the register administration of the stored data, such data or reports submitted by the environmental auditor or environmental auditors' organisation cannot serve as confirmation under this ordinance.

To subsection 2

Environmental auditors and environmental auditors' organisations must provide

data mentioned in subsection 2. Pursuant to Section 38 data shall be kept up to date. Processes and operations in the register requiring authentication are specified by the register administration in the terms of use pursuant to 2.

To subsection 3

Pursuant to subsection 3 the environmental auditor or the environmental auditors' organisation must submit to the register administration proof of identity and proof of accreditation as an environmental auditor or environmental auditors' organisation to complete the application for registration. Proof of identity corresponds to Section 6 subsection (5) first sentence. Environmental auditors and environmental auditors' organisations shall furnish proof of accreditation by sending a copy of the certificate containing the accreditation in one of the areas mentioned in Section 2 number 11 to the register.

To subsection 4

If the environmental auditor or the environmental auditors' organisation has lost one or more areas of accreditation under Section 2 number (11) letter a), the environmental auditor or environmental auditors' organisation shall immediately notify the register administration without undue delay. In particular in the event that an environmental auditor or an environmental auditors' organisation has lost accreditation or a part of the accreditation areas in the context of the UAG procedure, this must immediately be reported to the register administration. This includes on the one hand the indication of the change in the register, on the other hand the upload of the current licensing certificate. Possible consequences of the loss of accreditation for further participation in the guarantees of origin register are set out in subsection 5, first sentence.

To subsection 5

Subsection 5 regulates the deletion of the stored data of an environmental auditor or an environmental auditors' organisation. The deletion may be made at their request or in the event of loss of their last area of accreditation required for participation in

the register (see Section 2 number 11). After having deleted data, existing allocations to installation operators, for which either installations are assessed or their energy quantities or biogenic proportions are to be confirmed, shall expire. In the case of Section 51 (exclusion of the environmental auditor or environmental auditors' organisation) this consequence will also be effective.

Upon request, the environmental auditor or the environmental auditors' organisation may transfer data to the register administration and have it stored there, provided that it has been proved that at least one of the accreditation areas specified in Section 2 number 11 is available again. Upon new storage, the data and documents referred to in subsections 2 and 3 shall be transmitted and proof of identity must be provided.

To subsection 6

Subsection 6 regulates the cooperation between the register administration and the accreditation body for environmental auditors and environmental auditors' organisations, which, in accordance with Section 15 subsection (9) UAG, also supervises them if they perform activities under other statutory provisions. On the basis of Section 16 UAG, the supervisory body can take the necessary measures. For example, in the absence of reliability with regard to activities under this Ordinance, it may issue instructions or prohibit continuation of activities until instructions are complied with. The possibility of withdrawing the accreditation as an environmental auditor or as an environmental auditors' organisation pursuant to Section 17 UAG remains unaffected anyway.

To Section 11 (Transfer of data by operators of electricity supply grids)

The provision regulates which data is transmitted by operators of electricity supply grids to the register administration in the guarantees of origin register or guarantees of regional origin register in order to be able to fulfil their obligations under Section 41 in particular. In the guarantees of regional origin register, the transfer and storage of data is also a prerequisite for

obtaining information from the register administration under Section 79a subsection (9) second sentence number 2 whether and to what extent guarantees of regional origin have been issued to an installation operator in its own grid area.

The regulation addresses operators of electricity supply grids within the meaning of Section 3 number (2) EnWG. It therefore addresses both grid operators pursuant to Section 3 number 36 EEG 2017, i.e. operators of electricity grids for general supply, as well as operators of electricity grids that do not serve general supply, in particular area grids and closed distribution systems.

To subsection 1

Pursuant to subsection 1, operators of electricity supply grids are required to transmit data without delay to the register administration of the guarantees of origin register or the guarantees of regional origin register when requested to do so by the register administration. The data transmission process for operators of electricity supply grids differs in two respects from other registration and data transmission processes of the register participants: Firstly, it is initiated by the register administration and not by the grid operator as soon as an installation is to be registered in the grid area of a grid operator for the first time. Secondly, the grid operator's data transmission process differs from the process of other register participants insofar that there is no identification process. In order to minimize expenses of grid operators, the register administration takes account of the already existing processes of grid operators and keeps necessary processing costs for grid operators as low as possible. Thus, data about grid operators available in the registers of associations has already been recorded. This data must only be checked by the operator of the electricity supply grid and updated if necessary. Furthermore, the operator of the electricity supply grid is obliged to enter data which is necessary for the setup of the automated electronic communication between him and the register administration. In particular, this is the email address for handling the Edifact

market communication related to the installation master data and readings as well as the market partner identification number. An identification of the operator of electricity supply grids, however, is not required.

Pursuant to the second sentence, the register administration can specify in the terms of use the process of registering the operators of electricity supply grids and also the data format and transmission path for the data to be transmitted, in particular the installation master data pursuant to Section 41 subsection (1) and the quantities of electricity pursuant to Section 41 subsection (2) in the terms of use.

To subsection 2

Subsection 2 requires the operator of an electricity supply grid to notify the register administration of any changes to the data referred to in the first sentence of subsection 1 immediately and in full, and to make the amended data available electronically. This ensures the maintenance of the specified communication.

To subsection 3

Since the data which the electricity supply grid operators have to transmit to the register administration are to be protected, they shall be encrypted. Subsection 3 empowers register administrations to require operators of electricity supply networks to apply a specific encryption method to be used for the transmission of data. This selection of encryption takes place by taking into account the information and publications of the Federal Office for Information Security. Pursuant to the second sentence encryption shall be kept up to date. Therefore the register participants have to transmit the new certificates to the register administration when the encryption certificates expire. In conjunction with subsection 2, the grid operator is obliged to maintain communication and thus to notify the register administration of amended encryption data actively and in due time.

To Division 2 (Issuance and contents of guarantees of origin and guarantees of regional origin, registration of installations)

Division 2 lays down issuance of guarantees of origin and guarantees of regional origin and registration of installations by the register administration. The decision on issuing guarantees of origin or guarantees of regional origin constitutes an administrative act; the individual guarantee of origin or guarantee of regional origin per se is not an administrative act but the result of the administrative decision. The willingness to regulate which the register administration provides, manifests itself for the first time in the notification to the account holder by means of the communication system pursuant to Section 3 as a publicity act with the content that and in what quantity guarantees of origin or guarantees of regional origin shall be issued. Registration of installations by the register administration is also an administrative act.

To Subdivision 1 (Issuance of Guarantees of origin)

Subdivision 1 regulates the issuance of Guarantees of origin by the register administration.

To Section 12 (Requirements for the issuance of guarantees of origin)

Section 12 lays down the conditions governing the issuance of Guarantees of origin. The register administration shall usually issue guarantees of origin applied for once a month. This is in line with the provisions of Section 17, subsection 2.

To subsection 1

Subsection 1 contains the conditions for issuing a guarantee of origin. First of all it is generally required that the installation operator registers in the guarantees of origin register and applies for issuance. If the conditions for the issuance are met, the guarantee of origin is assigned to the applicant's account.

Pursuant to Section 79, subsection 5, first sentence Renewable Energy Sources Act (EEG 2017), guarantees of origin are issued for each megawatt hour of electricity

generated and supplied to final consumers. Subsection 1 refers to the net quantity of electricity generated, meaning any consumption, transformer losses are deducted before grid feed-in. Since only the net volume of electricity generated and fed into the grid is eligible for supply to final consumers. Since grid operators often measure feed-in and take-off by different meters and, in principle, communicate feed-in and withdrawal over different time series with the respective OBIS key figure,

The consumptions to be deducted register the electricity produced by the installation, which is returned before feed-in for the operation of the installation (operation of a pump to increase the difference in level at a hydropower plant, drying of biomass). Besides the installation operator may submit an application for conversion into guarantees of origin for the quantity of electricity that would be considered within the scope of the EEG feed-in tariff or the payment of the market premium. In this case, for example, the electricity at the feed-in meter is used for the market premium calculation; there is no deduction regarding the electricity obtained from the grid. If a different assessment of the quantity of electricity that can obtain guarantees of origin was made and electricity obtained from the grid was deducted from the quantity of electricity produced and if guarantees of origin were issued for the resulting difference, this would create a contradiction with the issuance of guarantees of regional origin. The register administration will issue such guarantees for the quantity of electricity that will receive the market premium in parallel. For the calculation of the market premium, the grid operator uses only the feed-in meter; he does not deduct the electricity withdrawn from the grid. If, on the other hand, the withdrawal from the grid was included in the issuance of guarantees of regional origin, a multiple conflict of valuation would arise: Firstly, the grid operator would have to send a different value to the guarantees of regional origin register than he himself uses for the payment of the market premium. Secondly, for the same installation, the operator would receive

more market premiums than guarantees of regional origin for the same billing month, even though the guarantees of regional origin are only an electricity disclosure instrument and - thirdly - much less valuable than the guarantees of regional origin for a larger quantity of electricity. What applies to the guarantees of regional origin must also apply to the guarantees of origin regulated in parallel. In this respect instead of a strong net principle a weak one applies.

The application for a guarantee of origin can only be submitted by the installation operator, whereby representation by a service provider is possible. The registration of the guarantee of origin can only be made in favour of the installation operator in his account. Therefore, the installation operator making the application must have opened a guarantee of origin account at the register administration. The installation for whose electricity guarantees of origin shall be issued, is assigned to this account.

To number 1

Pursuant to number 1, the installation for which electricity is to be issued guarantees of origin, must be registered with the register administration.

To number 2

Number 2 clarifies that the electricity for which guarantees of origin are to be issued, must be obtained from renewable energy sources. Furthermore, it is only possible to issue guarantees of origin for quantities of electricity generated from the first day of the calendar month in which the installation was registered.

To number 3

Pursuant to number 3, guarantee of origin is issued for the quantity of electricity generated by the installation and fed into the grid. What is meant by the grid into which electricity is fed is basically the grid of general supply (Section 3 number 35 EEG 2017). However, it may also be an area grid or the transmission grid, for example if a wind farm feeds directly into the transport network.

In principle, the register administration shall issue guarantees of origin for electricity consumed before the grid feed-in when a final consumer different from the installation operator consumes the electricity from the registered renewable energy installation and there is a requirement to provide the final consumer with an electricity label in accordance with Section 42 EnWG. In such cases, under certain circumstances and in individual cases, customer systems (Section 3 number 24a EnWG) and customer systems for internal company supply (Section 3 number 24b EnWG) as well as closed distribution grids (Section 110 EnWG) may be grids within the meaning of number 3.

The term "electricity produced by the installation and fed into the grid" does not include the electricity that the installation produces and, before it is fed into the general supply grid, is itself consumed again for power generation in the installation, for example for drying used biomass for or for operation of technical equipment in a wind turbine. In this case, there is constant personal identity between the installation operator (Section 3 number 2 EEG 2017) and the final consumer (Section 3 number 33 EEG 2017) and thus self-supply (§ 3 number 19 EEG 2017). This quantity of electricity is not fed into the grid, it is therefore not available for supply of electricity to other final consumers and it is not taken into account in an electricity label. The register administration shall not issue guarantees of origin for such self-consumed electricity. This also applies to the situation in which the consumption of electricity produced in the installation is not required for the generation of electricity as such, but for ancillary facilities which use the electricity generated in the installation without passing the grid for general supply before. Examples include the lighting of a wind turbine, the uncharged power supply of a caretaker's flat on a hydropower plant or the operation of a pump - even several kilometres away on another plot - to regulate the groundwater level upstream of a hydropower plant. Even in such cases, the electricity does not in principle obtain guarantees of origin, since the final consumer, who is

generally identical to the installation operator, consumes this electricity, which is produced in the production plant, but does not pass through a grid of general supply then. For the issuance of guarantees of origin the required grid feed-in is also missing here. Electricity consumption of the installation purchased by third electricity suppliers is also to be deducted from the quantity of electricity that obtains guarantees of origin. In contrast to the constellation "own system consumption", the system consumption is not covered by self-generated electricity, but by externally purchased electricity. This is indicated by the term "net" in the introductory sentence of Section 12 subsection (1).

Issuance of guarantees of origin can only take place if the information about generated electricity quantities has been previously transmitted by the responsible distribution system operator or transmission system operator or, in accordance with Section 41 subsection (3) by the area grid operator. For that purpose the grid operator communicates the data on the basis of which the register administration calculates this quantity of electricity. The duty of the grid operators to notify information ensures that a third party independent of the installation operator reports the quantities of electricity generated. Exemptions apply, for example, only electricity from pumped storage power plants, in pure biomass installations, mixed combustion plants as well as power plants at the border with state treaty, in which the installation operator notifies the produced quantities of electricity.

To number 4

Numbers 4 to 6 shall consistently implement prohibition of multiple sale. Pursuant to number 4, it must first be ensured that no guarantee of origin related to electricity has yet been issued. In addition, it must be ensured that no other guarantee that can be used for electricity disclosure or any other method of disclosing supply of electricity from renewable energies in Germany or abroad has been issued. This may include, for example, guarantees issued by private organizations in Germany or abroad for the purpose of exploiting the

particular nature of electricity as a source of renewable energy. Sustainability certificates or partial certificates of sustainability, which are issued as part of the Biomass Electricity Sustainability Ordinance of 23 July 2009 (Federal Law Gazette I p. 2174) which was last amended by Article 2 of the Ordinance dated 26 June 2018 (Federal Law Gazette I p. 872), shall not be used for the purposes of electricity disclosure within the meaning of this ordinance, but as evidence of the sustainability criteria for bioenergy resulting from Article 17 (2) to (5) of Directive 2009/28/EC. They are therefore not included here.

To number 5

Number 5 precludes the register administration from issuing guarantee of origin for a quantity of electricity for which the Federal Office of Economics and Export Control already has already issued a guarantee of origin pursuant to Section 31 of the Combined Heat and Power Act (KWKG) of 21 December 2015 (Federal Law Gazette I p. 2498) which was last amended by Article 3 of the Act dated 17 July 2017 (Federal Law Gazette I p. 2531), because of the generation of electricity in a highly efficient cogeneration installation. In this respect the installation operator has an alternative right to choose: For the production of one megawatt hour of electricity from renewable energies in a highly efficient combined heat and power plant, the installation operator can apply for either a "guarantee of renewable origin" at the Federal Environment Agency or a "CHP guarantee of origin" at the Federal Office of Economics and Export Control. Application for a quantity of electricity with both authorities is, however, forbidden.

To number 6

Furthermore, pursuant to number 6, the principle – already laid down in Section 79 EEG 2017 – is implemented that guarantees of origin shall not be issued for quantities of electricity for which payment pursuant to Section 19 or Section 50 EEG 2017 is claimed. The confirmation that such a payment has not been claimed un-

der the EEG is regularly made in accordance with Section 41 by the grid operator to whom this information is available, because he is legally obliged to pay the EEG subsidy. In exceptional cases, for example, the installation operator may be entitled and obliged to provide this information.

To number 7

Number 7 clarifies that a guarantee of origin shall not be issued if twelve or more months have elapsed since the end of the production period. Because then the guarantee of origin would have to be declared expired immediately after issuance pursuant to Section 34.

To number 8

Number 8 imposes a particularly stringent guarantee requirement related to pure installations and mixed combustion plants. A new feature compared to the previous version of the HkRNDV is that pure biomass plants are also included in the regulation, i.e. they are subject to the required expert opinion prior to issuance. In return, the previously required subsequent confirmation of the quantities of electricity and fuels used no longer applies. The stricter guarantee requirements are justified here, since in these installations guarantee is comparatively complex. For installations referred to in number 8, the environmental auditor or the environmental auditors' organisation must first verify the quantity of electricity contained in the register; the benchmark here is neither the first actual feed-in notification of the grid operator nor the final corrective balancing group billing according to subclause 2.7 of the bulletin number 1 establishing the "Market Rules for the Implementation of Balancing Group's Electricity Billing (MaBiS)" of the Ruling Chamber 6 of the Federal Network Agency, ref. no.: BK6-07-002 of 29/09/2009, rather a volume of electricity, which the grid operator calculates after a first clearing around the 8th working day after the delivery month. In addition, an environmental report shall demonstrate that the quantity of electricity requested for the issuance of Guarantees of origin was produced from renewable energies in

the registered installation and from the first day of the month of registration of the installation (see number 2). The criteria for determining the biogenic components of the energy source used are the documentation available to the environmental auditor or the environmental auditors' organisation at the time of evaluation of the respective month. The second clause deals with the situation that the environmental auditor or the environmental auditors' organisation did not confirm prior to issuance that the amount of electricity entered in the register was determined in compliance with Section 42. In the case of biomass plants and mixed combustion plants, an environmental auditor or an environmental auditors' organisation must determine the quantity of electricity produced in the installation and the proportion of renewable energies in the energy content of the fuels used once a calendar year (Section 42 subsection (1) first sentence). If the installation operator allows this deadline to elapse, the quantity of electricity in the relevant evaluation year shall be deemed not to have been produced from renewable sources. The register administration will then reject the application for issuance and, if necessary, take further measures according pursuant to Sections 15 and 32 for guarantees of origin already issued. Furthermore, in the case of biomass plants, it is mandatory for the installation operator to have the installation inspected once a year by an environmental auditor or an environmental auditors' organisation (Section 42 subsection (3) third sentence) and the environmental auditor or the environmental auditors' organisation has to enter the date of the inspection into the guarantee of origin (Section 42, subsection 3, forth sentence). If this is not done for one calendar year, quantities of electricity of the calendar year in question are deemed not to be produced from renewable sources, so that no guarantees of origin can be issued for them. The legal consequences then likewise arise from Sections 15 and 32 if appropriate.

To number 9

Number 9 provides, inter alia, for a special control of the data pursuant to Section 41 subsection (3) to (5), which were transmitted to the register administration by the installation operators. As far as quantities of electricity from installations with an installed capacity of 250 kW or more are concerned, the installation operator has the obligation to have the data transmitted to the register administration confirmed by an environmental auditor or an environmental auditors' organisation. This should ensure greater reliability of the data. This applies in particular to cases in which there is a close legal connection or even personal identity between the installation operator and the operator of the grid or the direct connection. Biomass plants, pumped-storage power plants and power plants at the border are excluded from evaluation duties. – The earlier version of the HkRNDV provided for a limit of 100 kW, from which an environmental expert's evaluation of the quantities of electricity is required. This became especially relevant in the case of solar tenant electricity models, in which the access grid operator was unaware of the amount of electricity remaining in the tenement and therefore could not communicate it. This expert opinion for installations larger than 100 kW called into question the economic viability of these models. Against the background of Section 21 subsection (3) first sentence EEG 2017 it would have been appropriate to maintain the limit of 100 kW. The practical experiences, however, spoke in favour of dividing the solar tenant electricity models into three categories: First, installations up to a capacity of 100 kW which can obtain the tenant electricity surcharge; in terms of numbers, these are more likely to be kept within a small framework, which the legislator clearly expresses by capping the eligible capacity to 500 MW per year (Section 23b subsection (3) first sentence EEG 2017). Installations with a higher output will not receive EEG surcharge financing via the tenant electricity surcharge, but at best, guarantees of origin for other direct selling of electricity. Here, the legislator is free to subject these systems with a capacity greater

than 100 kW, regardless of the legislative evaluation of the tenant electricity surcharge rules of an independent and especially practicable regulation. The legislator makes use of this fact and states in number 9 that installations with a capacity of 101 kW to 250 kW do not need an assessment by an environmental auditor before issuing guarantees of origin; they represent the second group. Installations with a capacity of more than 251 kW, which require an assessment by an environmental auditor before issuing guarantees of origin, are the third group.

To number 10

Finally, under number 10, the issuance of guarantees of origin must not impair the safety, accuracy or reliability of the register. This general clause makes it possible to refuse to issue guarantees of origin in specific cases in which, for example, a false guarantee must be issued or at least a reasonable suspicion of a breach of the security, accuracy or reliability of the register exists. The requirement of missing risk must be cumulative in terms of safety, accuracy and reliability; even if only one of the three protected goods is at risk, register administration is entitled to refuse to issue the guarantees of origin.

The second sentence specifies issuance requirements pursuant to number 10 including two examples. A threat to the security, accuracy or reliability of the guarantees of origin register, which hinders the issuance, is normally present if there is a reason in the person of the applicant for blocking the account pursuant to Section 49 or the exclusion of the register pursuant to Section 51.

To subsection 2

Subsection 2 also allows for an ex-ante application, in which the application for the issuance of guarantees of origin takes place before the generation of the corresponding quantity of electricity. For example, it is also permissible for an installation operator to submit a one-time application for guarantees of origin, which then applies for a longer period and includes the regular issuance of guarantees of origin ("application subscription"). For biomass

plants and mixed combustion plants with more than 100 kilowatts (kW) of installed capacity, for pumped storage power plants as defined in Section 13, it should be noted that the installation operator may also submit the application prior to confirmation by the environmental auditor or the environmental auditors' organisation, but the register administration will not process such application because the requirements for its positive decision have not yet been all met.

To subsection 3

Subsection 3, first sentence, requires installation operators to indicate whether and, if so, in what way and to what extent the amount of electricity for which guarantees of origin are requested has been state-subsidised. The indication is a compulsory European data requirement that must be included in the guarantee of origin (Article 15 (6) (d) of Directive 2009/28/EC). Article 2 (k) of Directive 2009/28/EC defines the concept of support scheme.

To subsection 4

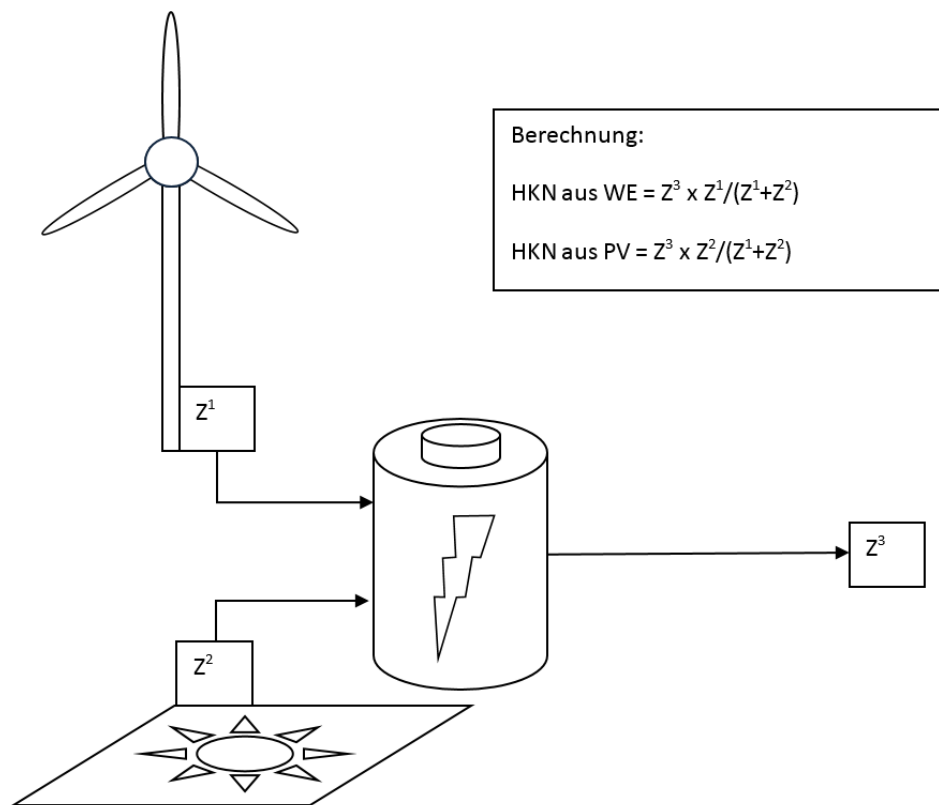
Subsection 4 contains prohibitions on double exploitation. Number 1 prohibits the application for a guarantee of origin for quantities of electricity that have already been subsidised pursuant to Section 19 or Section 50 EEG 2017. Pursuant to number 2, the installation operator is not permitted to apply for guarantees of origin under this ordinance for electricity for which a guarantee of origin has already been issued in accordance with Section 31 of the Combined Heat and Power Act. Even in the event that another proof has been issued for domestic or foreign use, which can also be used for electricity disclosure, for the amount of electricity generated, the

application for a guarantee of origin under this regulation is prohibited. Number 3 also prohibits the application for guarantees of origin for electricity generated in non-registered installations or not generated from renewable sources. Number 4 prohibits the application for a guarantee of origin for the amount of electricity to be used after notification of the register administration to compensate for the negative carryforward in accordance with Section 15 subsection 2. The prohibition norms of subsection 4 are additionally substantiated pursuant to Section 48 subsection (1) as an administrative offence.

To subsection 5

It is to be reported to the register administration by the installation operator who operates at least two installations in front of a storage unit belonging to him, which in turn is located in front of the grid. In addition, the installations feeding into the storage unit are to be linked to it. The feed-in installations must be registered separately, quantities of electricity fed into the storage unit will not receive any guarantees of origin. As a possible installation constellation injection into the storage unit by installations of different energy sources also come into consideration. Data of quantities of electricity must be specified in accordance with the third sentence by the installation and storage operator in accordance with Section 41 subsection (3) to (6).

The second sentence governs how offsetting of the quantities of electricity fed into the storage facility as well as the quantities of electricity fed into the grid shall be performed taking into account the leakage currents. Billing is illustrated in the following scheme.



To Section 13 (Issuance of guarantees of origin for electricity from pumped-storage power plants and from run-of-river power plants with pump operation without storage)

Section 13 governs the issuance of guarantees of origin for pumped-storage power plants as well as for run-of-river power plants which can regulate the level difference required for power generation in front of and behind the weir by means of pump operation.

To subsection 1

Subsection 1 sets out the principle for determining the quantity of electricity from renewable energies obtained in pumped-storage power plants with natural inflows and in run-of-river power plants which can regulate the level difference by means of pump operation. As to pumped-storage power plants without natural inflows, issuance of guarantees of origin is out of the question as electricity generated in these power plants is not electricity from renewable sources.

The two types of electricity generated from hydropower covered by Section 13 show the problem that one part of electricity is generated directly from renewable energy sources, namely electricity to be assigned to water from natural inflows or the natural flow behaviour of the river which Section 13 describes as "natural inflow". No guarantees of origin can be issued for the part of electricity that is extracted from the amount of water pumped and thereafter turbinised - to the water tower or upstream in front of the weir. This quantity of electricity must therefore be deducted from the total quantity of electricity generated in the hydropower plant. This departure from calculation according to the superseded version of this ordinance is based on the EECS rules (European Energy Certificate System) of the Association of Issuing Bodies. The pump energy used is considered as auxiliary energy and must therefore be deducted. For that purpose the type of energy source for the pump operation is not relevant.

To subsection 2

The first sentence defines the method of calculating the quantity of electricity for which guarantees of origin may be issued pursuant to subsection 1. Accordingly, the quantity of electricity for which the installation operator can obtain guarantees of origin is the result of subtracting the amount of electricity used for the pump operation from the total amount of electricity generated by the hydropower plant pursuant to subsection 1. Pursuant to the second sentence, it is initially irrelevant where electricity used for the pump operation comes from. Such electricity can come directly from the quantity of electricity generated in the plant or obtained from the grid. Furthermore, it is irrelevant whether the capacity of the hydropower plant is supported or made possible by a pump which may be located far away. The auxiliary energy used for the pump must be deducted for the issuance of guarantees of origin.

To subsection 3

Subsection 3 allows the installation operator to set an efficiency factor to subtract the energy loss resulting from the pump operation from the quantity of electricity produced. The installation operator is free to prove an efficiency <1 of the pump by submitting a confirmation from an environmental auditor or an environmental auditors' organisation, which is then used as a factor to calculate the quantity of electricity. Operation of the pump results in energy losses that are not reflected in the quantity of pumped-up water. In case of an inefficient pump, these losses can – confirmed by the environmental auditor – be determined with an efficiency <1 and taken into account positively in the amount of guarantees of origin to be issued by multiplying by the amount of energy used for the pump operation. This ensures that the register administration will indeed issue guarantees of origin for electricity produced from renewable energy sources.

To subsection 4

Subsection 4 requires operators of pumped-storage power plants and run-of-

river power plants with pump operation to transmit the quantity of electricity related to the pump operation and the amount of electricity relevant to issue guarantees of origin to the register administration themselves, calculated in accordance with subsections 1 to 3. This is necessary because the proportion of consumed pump current in the total quantity of electricity that has been injected is unknown to the grid operators receiving the produced electricity. Since in this case no third party, but the installation operator himself transmits the data on electricity quantities, the confirmation of this data by an environmental auditor or an environmental auditors' organisation is required before issuing guarantees of origin. An environmental auditor or environmental auditors' organisation shall deduct from the quantity of electricity produced the quantity of electricity used by the pump, and confirm to the register administration the amount of electricity produced from natural inflow and relevant to issue guarantees of origin.

To Section 14 (Issuance of guarantees of origin for electricity from power plants at the border)

Section 14 establishes special regulations for power plants at the border. Pursuant to Section 5 subsection (1) EEG 2017, the EEG 2017 on which this ordinance is based shall apply to installations if and to the extent that electricity is generated within the federal territory including the German exclusive economic zone. Due to the broad definition of the installation, the legislator also stipulates validity of the EEG 2017 for installations in which not only the power generation facilities, but merely the other facilities necessary for power generation such as weir systems, are within the scope of the EEG 2017. Thus the legislator eliminated existing legal uncertainty for installations not exclusively located in Germany (parliamentary paper BT-Drs. 18/1891, page 200). Section 14 shall draw on on this point. The applicability of the EEG does not reveal anything about the quantity of electricity for which guarantees of origin can be issued.

To subsection 1

The first sentence establishes the basic rule that the register administration shall issue guarantees of origin for electricity from such power plants at the border if these power plants produce electricity from renewable energies such as hydro-power and for the amount of electricity that is assigned to the German state on the basis of international treaties. Construction and operation of power plants at the border are usually based on a contract under international law, namely a State Treaty of the Federal Republic of Germany (Article 32 (1) of the Basic Law for the Federal Republic of Germany (GG) in the revised version published in the Federal Law Gazette Part III, outline number 100-1, as last amended by Article 1 of the Law of 13 July 2017 (Federal Law Gazette I p. 2347)), a country contract or an administrative agreement of a German federal state (Article 32 (3) Basic Law) or on a licence based on a state treaty. These contracts allocate electricity produced at a border river with several plants or in a specific plant to the both states involved. The contractual assignment shall precede as a special regulation governing the validity of the Renewable Energy Sources Act (parliamentary paper BT-Drs. 16/8148, page 38). For the issuance of guarantees of origin, it is therefore irrelevant which quantities of electricity are actually fed into the German grid. Pursuant to the second sentence the register administration shall issue guarantees of origin in the amount corresponding to the total amount of the installation minus the amount of electricity allocated to the foreign state by a contract under international law or by a state treaty. It is even irrelevant because of the special nature of the international contract regulation that some of the installations in fact have no direct connection to the German electricity grid or feed produced electricity exclusively into the German electricity grid. Nevertheless, the operator of such installations can obtain guarantees of origin in the amount that the contract under international law or the state treaty allocates electricity to Germany. It follows from the third sentence

that an agreement merely concluded between the operators on the allocation of electricity is not sufficient. Instead it must be an agreement on the allocation of electricity due to a contract under international law or a concession based on such a contract. Within the framework of a state treaty or a contract at federal state level for the allocation of the electricity produced in installations of a border river with several power plants at the border, the involved power plant operators are again free to divide the capacities and quantities of electricity of individual installations among themselves, as long as they move within the framework of international law. Pursuant to the forth sentence it is possible for the register administration to make a derogation from the rule of distribution of electricity pursuant to the second sentence. This may be due to the fact that the other relevant foreign registration authority issues guarantees of origin for a different quantity of electricity than that quantity assigned under the state or international agreement or concession. In order to exclude the dual issuance of guarantees of origin for a megawatt-hour of electricity prohibited by Directive 2009/28/EC, it is necessary to deviate from the requirements of the second sentence in individual cases and in coordination with the registration authority of the other state. The register administration discloses deviation pursuant to the forth sentence in the terms of use pursuant to 2.

To subsection 2

Since in the case of a power plant at the border, the German grid operator has in most cases no knowledge of the amount of electricity produced in the power plant, the operator of the power plant at the border must directly notify the amounts of electricity to the register administration. This is the amount of electricity that results after deducting the amount of electricity due to the foreign state.

To subsection 3

As a rule, there will be a contract under international law or a concession for allocating the amount of electricity produced

in a power plant at the border. In the absence of such contracts and concessions the first sentence shall stipulate that the register administration only issues guarantees of origin for the quantity of electricity from renewable energies produced in generators located in the Federal Republic of Germany or within its exclusive economic zone and fed into the German grid.. In accordance with the second sentence, the obligation of the grid operator to communicate the relevant amounts of electricity to the register administration for this amount of electricity related to general supply pursuant to Section 41, is then updated.

To Section 15 (Rejection of issuance of guarantees of origin without corresponding electricity generation)

To subsection 1

Subsection 1 allows the register administration to refuse issuance of guarantees of origin if guarantees of origin were issued to the installation operator at an earlier date without the issuance being based on the generation of a corresponding quantity of electricity from renewable energies and guarantees of origin have already been transferred from the installation operator's account. The "negative carryforward" thus calculated by comparing the actually produced quantity of electricity with the one stored in the register must first be reduced by the installation operator before the register administration issues new guarantees of origin. In case that the guarantees of origin are still in the account of the installation operator, the register administration has, pursuant to Section 32 subsection (1) number (2), the obligation to delete them in order to preserve the integrity of the guarantees of origin register. Mutual responsibility between Section 15 and Section 32 subsection 1 number 2 exist if Guarantees of origin (GO) issued without electricity generation still exist on the account of the installation operator, while other Guarantees of origin (GO) issued without electricity generation have already been transferred to another party. In this case, the Guarantees of origin (GO) are deleted from the account pursuant to Section 32

subsection (1) number 2 and the register administration shall also record a negative carryforward pursuant to Section 15.

To subsection 2

Pursuant to subsection 2, reduction referred to in subsection (1) can only be carried out with such amounts of electricity from the installation concerned for which the installation operator would in principle be entitled to obtain guarantees of origin in accordance with Section 12 subsection (1). The installation operator can, at any time, track the negative carryforward in his account and thereby determine which amount of electricity has to be compensated. Transferred guarantees of origin that have already been placed on the market are not affected by the regulation, as they are protected by legitimate expectations. In order to prevent misuse, the negative carryforward is assigned to the installation indefinitely.

To Section 16 (Contents of guarantee of origin)

To subsection 1

Section 16 subsection (1) regulates which other contents in addition to the requirements of Section 9 EEG receive guarantees of origin issued by the register administration. Additional information, such as CO₂ emissions from electricity production, cannot be part of the Guarantee of Origin, as it is not expressly permitted.

To number 1

Under number 1 the guarantee of origin must indicate the register administration as issuer. This is particularly necessary if the guarantee of origin is transferred to another state.

To number 2

Under number 2, the identification number of the installation assigned by the register administration as part of the registration of installations, which does not correspond to the EEG installation code or the unique registration number pursuant to Section 8 subsection 2 of the Core Energy Market Data Register Ordinance (MaStRV) of 10 April 2017 (Federal Law Gazette I p. 842) which was last amended by Article 5 of

the Act dated 17 July 2017 (Federal Law Gazette I p. 2532) must be indicated on the guarantee of origin. The regulation is used for the simple, unambiguous assignment of guarantees of origin to installations.

To number 3

Under number 3 the name of the installation must be indicated.

To subsection 2

Subsection 2 contains optional information, so-called quality features which can be specified on the guarantee of origin at the request of the installation operator and allocated to the installation. In accordance with the first sentence this concerns information on the way in which the installation generates electricity, for example on special ecological requirements. The content requirements are made by the register administration in accordance with subsection 6. For example, the quality features of hydropower plants are features that attest the ecological construction and operation of the installation. Pursuant to the second sentence a quality feature can only be the content of the guarantee of origin if the accuracy of the information provided by the installation operator has been confirmed by an environmental report. Furthermore the third sentence regulates the time of the necessary confirmation. Installation-specific data which is already fixed at the time of installation registration, can already be confirmed. If the guarantee of origin is transferred abroad, all quality features pursuant to the fourth sentence are deleted, since these can generally not be recognised and adopted by foreign registers.

To subsection 3

Compared to the previous version subsection 3 contains, in addition to the new legal definition of the optional coupling, a new obligation to specify the energy source from which the quantities of electricity to be supplied were produced.

The first sentence creates the possibility for the installation operator, to have it mentioned on the guarantee of origin on

request that this guarantee of origin is financially related to the underlying electricity volume and is marketed. Pursuant to the second sentence the person wishing to benefit from this "optional coupling" during application for issuance of guarantees of origin must specify the quantity of electricity for which guarantees of origin with the coupling feature are to be issued, the name of the electricity supplier, its market partner identification number, the source of energy from which electricity was produced, the balancing group to which the amount of electricity produced is supplied, and, as far as the amount of electricity to be generated is supplied to several electricity suppliers, the respective percentage and have it confirmed by an environmental auditor or an environmental auditors' organisation. That balancing group must be specified by which the electricity supplier supplies its final consumers with electricity. I.e. it is not imperative for the electricity supplier to have its own balancing group. Pursuant to the third sentence, electricity must actually be delivered to the balancing group specified in the second sentence number 4. An actual supply of electricity to the electricity supplier has taken place when, as part of the schedule notification to the grid operators, the amount of electricity to be generated in the installation is registered in the balancing group of the electricity supplier and actually reflected in the balancing group without any conflicting business. Coupling is thus neither "physical", since there is no exclusive line between the electricity generating installation and the consumer, nor "contractual", since it does not depend solely on the contractual relationships that exist between the participants and that can be easily undermined by opposing contracts. Rather, the optional coupling is a kind of "financial" coupling, as it works with the balancing groups of the electricity suppliers. Under the fourth sentence the register administration has the right to check whether such a financial electricity delivery actually existed. If the guarantee of origin is transferred from the electricity supplier to a third party, the information on the coupling is irretrievably deleted pursu-

ant to the fifth sentence, since at the moment of retransmission the financial verifiability of the connection of electricity with the guarantee of origin no longer exists. The inclusion of the optional coupling when issuing the (German) guarantee of origin means that the register administration cannot make the coupling note for electricity produced abroad. However, electricity suppliers may have recourse to an opinion from, for example, an accountant, an environmental auditor or an environmental auditors' organisation outside the registry, to prove coupling towards consumers to electricity produced abroad.

To subsection 4

Subsection 4 also includes installations for optional coupling which feed directly into a traction power network. Traction power networks basically do not have balancing group systems that could be specified. However, they have the peculiarity that they are technically separated from the power grid for general supply. This is reflected in the fact that under number 1 they must be outside the control of a transmission system operator. The connection to the power grid of general supply may at most be made via decentralized converters or transformers at only a few points in the overall network. Such networks are sufficiently separate from the general supply networks. It is therefore justified to treat the traction power network as a separate balancing group within the meaning of subsection 3 number 4. If an installation now feeds directly into such a traction power network, the installation operator can apply for optional coupling if he passes on the guarantee of origin to the electricity supplier, which enables the operation of a railway undertakings operator by means of electricity in the traction power network. In this case, contrary to subsection 3 number 4, the installation operator does not specify a balancing group, but instead only that he feeds into a traction power network.

To subsection 5

Subsection 5 specifies that an environmental auditor or an environmental auditors' organisation shall review the data

communicated by the operator for optional coupling referred to in subsections 3 and 4. In terms of time this is done during application for issuance. The issuance of coupled guarantees of origin is thus only performed after the confirmation by the environmental auditor or the environmental auditors' organisation that the conditions are met.

To subsection 6

Pursuant to subsection 6, the register administration may further specify the optional information referred to in subsections 2 and 3. The register administration can regulate the requirements to the extent that it can also bring about a restriction of the additional optional information by selecting the possible entries.

The assignment of the quality feature to the installation may be provided pursuant to the third sentence with an ancillary clause pursuant to Section 36 VwVfG, for example granted with a time limit or with a proviso of cancellation. After expiration of the deadline, the quality feature either expires or is automatically extended by the register administration upon further existence of the legality conditions. Already granted assignments of quality features can be subsequently provided with an ancillary clause pursuant to the second clause of sentence 3, for example completed with a time limit or with a proviso of cancellation. This is due to the fact that the selection and award criteria for quality information are regularly adjusted to new findings by the register administration. The inclusion of a possibility of allocating quality features with ancillary clause serves to make quality features more flexible, taking into account the protection of legitimate expectations. The quality features are subject to an ongoing evaluation by the register administration.

To Section 17 (Determination of the production period for guarantees of origin)

Section 17 specifies in more detailed terms the generation period for Guarantees of origin (GO) of Section 9 number 3 of the EEV emission standard. The generation period is particularly relevant for the

use and cancellation of Guarantees of origin (GO) pursuant to Section 30.

To subsection 1

Subsection 1 clarifies in the first sentence that the Guarantee of Origin (GO) shall indicate the period during which the volume of electricity for which the GO was issued, was generated. This already follows from Section 9 number 3 of the EEV emission standard and is also in accordance with the Renewable Energy Directive. The following subsections contain more specific provisions on how the generation period is to be determined. The register administration specifies the production period, pursuant to the second sentence, as a calendar month on the Guarantee of Origin (GO). The calendar month in which the electricity generation was completed, i.e. the month in which the electricity generation ends pursuant to subsection 2 or subsection 3, shall apply.

To subsection 2

Subsection 2 deals with so-called power-measured installations within the meaning of Section 9 subsection 1 first sentence number 2 of the Renewable Energy Sources Act (EEG 2017), which are equipped with a technical device with which the grid operator can call up the respective actual feed-in at any time in quarter-hour increments, also referred to as "calibrated recording load curve measurement". At this point, the register administration has access to the quantities of electricity generated in quarter-hour increments based on the data transmitted by the grid operators pursuant to Section 41. On this basis, the generation period could also be indicated with quarter-hour precision on the Guarantee of Origin (GO). However, in order to simplify processing, the first sentence, in conjunction with subsection 1, second sentence stipulates that the generation period is to be specified only for calendar months, even for power-metered installations. Since Guarantees of origin (GO) are always issued for an electricity volume of 1 megawatt hour (MWh), the generation period must be indicated for the electricity volume of 1 MWh on which the Guarantee of Origin (GO) is

based. The electricity generation commences on the first day of the calendar month in which the generation of one MWh of electricity has been achieved. The electricity generation finishes on the last day of the same calendar month in which the generation of one MWh of electricity has been achieved. Therefore, if the generation of 1 MWh of electricity began on 3 March and was completed on 19 March (and the next 1 MWh was generated thereafter), the start of the electricity generation is 1 March and the end of electricity generation is 31 March. Pursuant to subsection 1 second sentence the generation period will be indicated as "March" on the Guarantee of Origin (GO).

The first sentence does not apply to installations generating less than one MWh of electricity from renewable energy sources in one month. The second sentence shall postpone the end of electricity generation for these installations, within the meaning of subsection 1 second sentence, to the last day of the month in which the installation has generated at least one full MWh of electricity since the start of its electricity generation. Thus, if the installation generated 0.3 MWh of electricity in March, was idle in April, generated 0.2 MWh in May and 1.8 MWh in June, the start of electricity generation in excess of one MWh is 1 March (subsection 2 first sentence) and the end of electricity generation is 30 June (subsection 2 second sentence). The register administration shall then issue two Guarantees of origin (GO) stating the generation period as "June" for the 2.3 MWh of electricity generated during this period (subsection 1 second sentence). For the remaining 0.3 MWh of electricity, subsection 2 second sentence shall once again apply, such that these shall be added to the volumes generated in July.

To subsection 3

Sentence 1 lays down the rules for the determination of the generation period for power metered installations in which the meter data are transmitted to the register administration at least once a year (Section 41, subsection 2, second sentence, number 2). For these installations, it is not possible to specify a monthly breakdown

of the generation period as provided for in subsection 2 for power metered installations. The generation period in this case can only be made on the basis of the calendar data on which the electricity feed-in quantities were metered. Accordingly, the start and end of the generation period shall be determined on the basis of the calendar dates of the last two readings of the electricity generation data. The Guarantee of Origin (GO) does not bear any information as to the beginning and end of the generation period, but exclusively information indicating the end of the electricity generation and thus the month in which the electricity generation was completed. As in the case of the power metered installations referred to in subsection (2), the second sentence provides that volumes of electricity generated in one reading cycle and for which no Guarantee of Origin (GO) can be issued, as no full MWh has been generated, are carried over to the next reading cycle. In application of subsection 2, second sentence, the month of the last reading in which at least one full MWh was generated shall thus be used as the monthly content.

To subsection 4

Pursuant to subsection 2, second sentence and subsection 3, second sentence, the start and end of the electricity generation may diverge by more than one month. There thus exists the possibility that in the case of subsection 2, second sentence, or subsection 3, second sentence, the installation operator "accumulates" electricity volumes over a longer period of time in order to achieve 1 MWh of electricity from renewable energy sources, and likewise the possibility that in the case of subsection 3, first sentence, the meter readings thus only occur at intervals spaced widely apart. In order to prevent the period between the start and the end of electricity generation from becoming excessively long in these two instances, subsection 4 restricts the period between these dates for the issuance of Guarantees of origin (GO) to a period which shall not significantly exceed 12 months. The Energy Industry Act (EnWG) already uses this wording for describing a time frame under

Section 40 subsection 3, first sentence. In contrast to Section 12, subsection 1, number 7, this time interval is stipulated since in some cases the reading of the installations can occur at somewhat longer intervals than exactly 12 months (e.g: meter reading on 13.01.2018 and then again on 01.02.2019).

To Subdivision 2 (Issuance of guarantees of regional origin)

Subdivision 2 is new and regulates the issuance of guarantees of regional origin.

To Section 18 (Conditions for the issuance of guarantees of regional origin)

Section 18 lays down the conditions governing the issuance of Guarantees of regional origin.

To subsection 1

Subsection 1 reproduces the stipulation in Section 79a, number 1 of the Renewable Energy Sources Act (EEG 2017) that Guarantees of regional origin shall only be issued to installation operators upon application. It follows from Section 79a, subsection 5 Renewable Energy Sources Act (EEG 2017) that Guarantees of regional origin are issued in kilowatt-hours.

Pursuant to Section 79a, subsection 5, first sentence Renewable Energy Sources Act (EEG 2017), guarantees of regional origin are issued for each kilowatt-hour of electricity generated and supplied to final consumers. Subsection 1 refers to the net volume of electricity generated, meaning any self-consumption, converter or transformer losses are deducted before grid feed-in. Since only the net volume of electricity generated and fed into the grid is eligible for supply to final consumers. This is in line with the provisions of Section 12, subsection 1.

Additional issuance requirements are enumerated in subsection 1 below.

To number 1

Guarantees of regional origin may be issued for electricity volumes generated in an installation listed in the Guarantees of

regional origin register. The entry of installations in the Guarantees of regional origin register is governed by Section 23.

To number 2

Number 2 specifies that only the electricity that was generated in the installation listed in the Guarantees of regional origin register from the beginning of the month of registration of the installation, is eligible for a Guarantee of regional origin. Any volumes of electricity that were generated in the installation before the month in which the registration was made, cannot be taken into account. Such application for issuance is prohibited under subsection 3 and is prosecuted as an administrative offence under Section 48 subsection 1.

To number 3

The register administration shall have received a notification of the net volume generated and fed into the network. This shall as a rule be provided by the grid operator pursuant to Section 41.

To number 4

Quantities of electricity for which a guarantee of regional origin has already been issued cannot be used again. This ensues from Section 79a, subsection 5, second sentence 2 of the Renewable Energy Sources Act (EEG 2017).

To number 5

Only the volume of electricity for which the installation operator claims the market premium under Section 19 subsection 1 number 1 of the Renewable Energy Sources Act (EEG 2017) is eligible under Section 79a number 1 of the Renewable Energy Sources Act (EEG 2017). An issuance can only be made for electricity volumes for which the grid operator has reported the marketing method "Direct marketing with market premium" pursuant to Section 41. It follows from the condition that direct marketing with a market premium must be used for the marketing of the electricity that in contrast to the Guarantee of Origin (GO), an installation which according to the authorisation required for the construction and operation of the installation, may use biomass as well as other energy sources or which uses fossil

energy sources for start-up, ignition or auxiliary firing (mixed firing installation) cannot issue Guarantees of regional origin. This is not possible however, owing to the so-called exclusivity principle, laid down in Section 19 subsection 1 of the Renewable Energy Sources Act (EEG 2017) in its introductory sentence, which states that the market premium can only be claimed if renewable energies are exclusively used. For example, operators of waste incineration installations are not authorised to issue Guarantees of regional origin for the electricity generated in their installation.

To number 6

According to number 6, the issuance presupposes that no more than 24 calendar months have elapsed since the end of the electricity generation period. Otherwise, the register administration would have to declare these Guarantees of regional origin as having expired immediately after their issuance, pursuant to Section 35. An issuance for such electricity volumes would therefore only result in unnecessary additional expenditure and must be avoided for reasons of cost-efficiency.

To number 7

Finally, under number 7, the issuance must not impair the safety, accuracy or reliability of the Guarantees of regional origin register. This condition is indicative of the protection against abuse under Section 79a subsection 2 second sentence of the Renewable Energy Sources Act (EEG 2017).

To subsection 2

Subsection 2 provides that certain rules on the issuance of Guarantees of origin (GO) shall apply *mutatis mutandis*. Accordingly, the rules under Section 12 subsection 1 second sentence shall apply *mutatis mutandis* to any impairment of the safety, accuracy or reliability of the guarantees of origin register in the Guarantees of regional origin register. An application for issuance of Guarantees of regional origin prior to electricity generation can also be filed in the Guarantees of regional origin register (cf. Section 12 subsection

2). In contrast to the Guarantees of origin register, the Guarantees of regional origin register for pure biomass installations does not include any specific requirements, since confirmation by an environmental expert or an environmental auditors' organisation is not mandatory in the Guarantees of regional origin register. The issuance of Guarantees of regional origin for electricity volumes from a storage facility shall be subject to the rules on Guarantee of Origin (GO) (Section 12 subsection 5). For electricity from power plants at the border, Guarantees of regional origin shall be issued pursuant to Section 14. Rejection of the issuance due to too many previously issued Guarantees of regional origin and the negative application likewise depend on the regulations governing Guarantees of origin (GO). For instance, the provision of Section 13 (issuance of Guarantees of origin (GO) for electricity from pumped-storage power plants and run-of-river power plants with pumped operation without storage) does not apply *mutatis mutandis*. In principle, the market premium is not available for the types of installations regulated in Section 13, since they do not generate electricity solely from natural inflows but also from pumped water and thus from conventional electricity and therefore do not meet the requirements of the exclusivity principle under Section 19 of the Renewable Energy Sources Act (EEG 2017) (cf. BT-Drs. 17/6071, p. 69).

To subsection 3

Subsection 3 regulates three prohibitions directed at the installation operator and his service provider, which are also reinforced by an administrative offence pursuant to Section 48 subsection 1.

To number 1

Under number 1, it is prohibited to apply for the issuance of a Guarantee of regional origin for an electricity volume which is not eligible for the market premium under the Renewable Energy Sources Act (EEG 2017). This encompasses, for example, electricity volumes which have not been generated exclusively from renewable energy sources or

which have been marketed in another form of disposal pursuant to Section 21b of the Renewable Energy Sources Act (EEG 2017), i. e. the feed-in tariff or other direct marketing methods.

To number 2

Under number 2, it is prohibited to apply for the issuance of a Guarantee of regional origin for an electricity volume which was generated the month prior to registration of the installation in the guarantees of regional origin register. This prohibition corresponds to the issuance requirement set out in subsection 1 number 2.

To number 3

Under number 3, it is prohibited to apply for the issuance of a guarantee of regional origin in respect of an electricity volume for which the register administration announced that such data would be used to compensate the electricity volume account pursuant to Section 15 (negative balance carried forward). The prohibition is intended to prevent system operators from obstructing the implementation of the negative statement pursuant to Section 15 by making an application.

To Section 19 (Contents of Guarantee of regional origin)

Section 19 determines what information a guarantee of regional origin contains, in addition to the data required under Section 10 EEG. This list is exhaustive. The guarantee of regional origin cannot therefore show any other information, such as CO₂ emissions.

To number 1

Under number 1, the guarantee of regional origin must indicate the register administration as issuer. This indicates the official status of the guarantee of regional origin. The analogy to the Guarantees of origin (GO) also serves to facilitate administration and increase cost efficiency.

To number 2

Under number 2, the issuing Member State must be indicated on the Guarantee of regional origin. The analogy to the

Guarantees of origin (GO) serves to facilitate administration.

To number 3

Under number 3, the energy sources must be indicated on the guarantee of regional origin. This enables the electricity supplier to make corresponding statements to the end user supplied, within the framework of regional green power labelling.

To number 4

Under number 4, the location of the installation, i.e. its address within the meaning of Section 6 subsection 4 number 1, the type of installation, the installed capacity and the date of commissioning must be indicated. The analogy to the Guarantees of origin (GO) serves on the one hand to facilitate administration. In addition, this data enables the electricity supplier to make corresponding statements to the end user supplied, within the framework of regional green power labelling.

To number 5

Under number 5, the identification number of the installation assigned by the register administration as part of the registration of installations, which does not correspond to the Renewable Energy Sources Act (EEG 2017) installation code or the number pursuant to Section 8 subsection 2 of the Core Energy Market Data Register Ordinance (MaStRV) must be indicated on the Guarantee of regional origin. The regulation is used for the simple, unambiguous assignment of guarantees of regional origin to installations.

To number 6

Under number 6, the name of the installation must be indicated. This makes it easier for register participants to assign the Guarantee of regional origin to an installation.

To number 7

Under number 7, the scope of application, within the meaning of Section 2 number 12, in which the Guarantee of regional origin may be used, shall be indicated on the Guarantee of regional origin. The purpose of this regulation is to provide legal certainty and predictability by ensuring

that register participants can easily and quickly identify the usefulness of a particular Guarantee of regional origin by sole means of the Guarantee of regional origin and without the need for further information.

To Section 20 (Determination of the production period for guarantees of regional origin)

Section 20 regulates how the generation period is determined for Guarantees of regional origin: The rules for determining the generation period for Guarantees of origin (GO) under Section 17 subsections 1 and 2 shall apply mutatis mutandis, though the second sentence shall be adapted to the fact that Guarantees of regional origin are issued in kWh and not in MWh as is the case for Guarantees of origin (GO). The generation period to be indicated on the Guarantee of regional origin, pursuant to Section 10 number 3 EEG, shall be the calendar month in which the generation of the electricity volume underlying the Guarantee of regional origin in question, was completed. If the installation has not generated a full kilowatt-hour of electricity in a calendar month, the calendar month in which the kilowatt-hour was completed shall apply.

Since installations claiming the market premium must have technical facilities at their disposal pursuant to Section 20 Renewable Energy Sources Act (EEG 2017) enabling them to call up the actual feed-in at any time, there is no need to define the corresponding application of Section 17 subsection 3. The applicability of Section 17 subsection 4 is also superfluous, since the issuance of Guarantees of regional origin in kilowatt-hours enables the possibility to be excluded that an installation may need more than 24 months to generate the minimum volume of electricity required for the issuance of a Guarantee of regional origin.

To Subdivision 3 (Registration and deletion of installations)

Sections 21 to 27 regulate the registration and deletion of installations in the Guarantees of origin register and in the Guarantees of regional origin register exclusively

for the purpose of issuing guarantees of origin (GO) or guarantees of regional origin. The basis for these regulations is the ordinance authorisation on Guarantees of origin (GO) and Guarantees of regional origin under Section 92 numbers 1, 3 and 4 of (EEG 2017). A distinction shall be made between the register of installations under Sections 6, 93 of the Renewable Energy Sources Act (EEG 2017) and the core energy market data register (MaStR) under Section 111e of the Energy Industry Act (EnWG).

Once the core energy market data register (MaStR) has been commissioned, the organisational and technical prerequisites for access to the data in the core energy market data register (MaStR) have been satisfied, and after full and complete transmission of the required data to the core energy market data register (MaStR) has occurred, the register administration shall no longer gather the data required for the registration of installations from the register participants insofar as such data is recorded in the core energy market data register (MaStR).

To Section 21 (Registration of installations in the guarantees of origin register)

Section 21 regulates the registration of installations if Guarantees of origin (GO) are to be issued for electricity generated by such installations. In order to provide the register administration with knowledge and evidence of installation-related data on electricity generated from renewable energy sources, registration of the installation generating the renewable electricity is required before Guarantees of origin (GO) can be issued. Under Section 12 subsection 1 number 2, it is not possible to issue guarantees of origin (GO) before the installations have been registered.

To subsection 1

The first sentence provides in general that the allocation of installations shall be made to accounts of account holders enrolled with the register administration pursuant to Section 6. A precondition for the registration of an installation is therefore

that the installation operator holds an account in the Guarantees of origin register. In addition, only installations within the scope of (EEG 2017) can be registered. This area of application is defined in Section 5 subsection 1 of (EEG 2017) as the territory of the Federal Republic including the German exclusive economic zone. Subsection 2 provides for additional regulations for power plants at the border to take account of their specific features. Further requirements for registration of the installation in the Guarantees of origin register are defined in Sections 22, 24 to 27. The registration is valid for a period of five years, pursuant to Section 26 subsection 1.

The second sentence specifies the data that the applicant installation operator must submit to the register administration as part of its application for the registration of installations. Such data is necessary, notably in order to establish the identity of the installation and to assess its credibility in relation to the installation's technical characteristics and the electricity volumes generated by it. Data shall be submitted electronically, pursuant to Section 3.

To number to 3

Numbers 1 to 3 contain general data requirements for the installation operator, the installation and the grid operator. The definition of the geographical coordinate system is carried out within the framework of the terms of use under 2. The geographical coordinates must be collected in addition to the location data pursuant to the requirements of the register administration pursuant to Section 14 of the E-Government Act (EGovG) of 25 July 2013 (Federal Law Gazette I p. 2749), as last amended by article 1 of the Act of 5 July 2017 (Federal Law Gazette I p. 2206), to provide for geo-referencing as part of the revision of a register containing information and references to domestic properties. Operators of offshore wind turbines within the meaning of Section 3 number 49 of the Renewable Energy Sources Act (EEG 2017) and Section 3 number 7 of the offshore wind energy act (WindSeeG) as well as operators of offshore wind tur-

bines in territorial waters shall only indicate the geographical coordinates as the location. For other installations, the address of the installation must be provided. Some installations do not have their own address, for instance a wind farm or a hydroelectric power plant, which can only be reached via an unnamed access road. In such cases, the installation operator must provide the nearest address.

To number 4

The installation operator shall only indicate the energy sources at the level of detail specified by the register software. The subsequent use, for example, of other wastes at a waste incineration plant, so that wastes with a different waste code pursuant to the Waste Catalogue Ordinance of 10 December 2001 of the Federal Law Gazette (I p. 3379), last amended by article 2 of the Ordinance of 17 July 2017 of the Federal Law Gazette (I p. 2644) does not result in the necessity to change the energy source. The renewable energy sources used in waste incineration plants is generally indicated as "solid biomass" in the register software, but not in the level of detail of the waste codes.

To number 5

Under number 5, for biomass installations, it shall be specified whether the installation has received permission by the authorities to exclusively use biomass or whether other fossil feedstocks are permitted. This data is necessary in order to assess whether Guarantees of origin (GO) can be issued for the entire electricity output of the installation. In addition, the obligation of installation operators to provide evidence pursuant to Section 42 subsection 1 shall be complied with for biomass installations with an installed capacity in excess of 100 kW.

To number 6

Under number 6, the name and type of the installation and, if applicable, the name of the manufacturer of the installation shall be provided. The description of the installation shall be in the form of a clear, customary wording, which may also appear in

confirmations of cancellation of the Guarantees of origin (GO), e.g. "Windpark South New Town". This also complies with the European legal requirement that the "description" of the installation must be mentioned in the Guarantee of Origin (GO).

To number 7

Under number 7, the Renewable Energy Sources Act (EEG 2017) installation number used by the grid operators in the implementation of the EEG shall be indicated. This obligation only applies to installations that have received EEG remuneration. If the installation is registered in the core energy market data register (MaStR) the registration number shall be indicated, pursuant to Section 8 subsection 2 of the core energy market data register (MaStR). With this data, an easier comparison can be made with the existing data of the transmission grid operators and the Federal Network Agency.

To number 8

Under number 8, the installed capacity of the installation must be disclosed, whereby the term installed capacity as defined in Section 3 number 31 of (EEG 2017) must be used, i.e. the actual electrical power which the plant is technically capable of providing during normal operation without time restrictions and without prejudice to short-term minor anomalies. This usually corresponds to the power indicated on the nameplate of the generator or in a manufacturer's attestation.

To number 9

The date of commissioning of the installation pursuant to number 9 shall be determined under German law, even in the case of a power plant at the border pursuant to Section 14. Irrespective of this, for mixed combustion plants, i.e. biomass installations which may also use other energy sources in addition to biomass for electricity generation, the type of energy source used is irrelevant, once its operational status has been established.

To number 10

Under number 10, it is necessary to provide the identification number or other reference number of the installation through which the installation feeds into the grid, after possible own consumption by the installation and withdrawal by the installation operator. In principle, this refers to the market location identification number applied for and assigned by the operator of the electricity supply grid.¹⁶⁾ Under this Ordinance, the market location corresponds to the feed-in point within the meaning of Section 1 of the Electricity Network Access Regulation (StromNZV) of 25 July 2005 (Federal Law Gazette I p. 2243) which was last amended by Article 1 of the Ordinance dated 19 December 2017 (Federal Law Gazette I p. 3988). This is the point at which energy is generated and is the subject of supplier switching or balancing processes; the market location is connected to a grid by at least one line. The market location is identified by a unique, non-changeable identification number (ID).¹⁷⁾ This market location identification number is a purely numeric eleven-digit code that is generated centrally by a code allocation authority and issued to the grid operators, which in turn allocate the market locations. Electricity generating installations have their own market allocation identification number, but also each formed segment of the installation pursuant to Section 21b subsection 2 first sentence of the Renewable Energy Sources Act (EEG 2017), which therefore results in two different reporting point types market allocation identification numbers (installation and segment). - The identification number of the installation which records the net electricity feed-in of the installation, i.e. the volume of electricity fed into the grid measured at the feed-in point minus, for instance, the extraction

of the installation from the electricity supply grid, shall be provided. If there is no such identification number for this mapping yet, it must be issued by the grid operator, (number 10 second part of sentence.) This is a construct that is comparable to the smart metering system pursuant to Section 5.2.3 of the Metering Code VDE-AR-N 4400. As a rule, these calculate two or more meter readings, subtracting, for example the installation's reference counter from the generation counter. In the event that the volume of electricity, pursuant to Section 21b subsection 2 of the Renewable Energy Sources Act (EEG 2017), is allocated on a percentage basis to different forms of sale ("Tranching"), each Tranch will, according to the above, also receive its own market allocation identification number.¹⁸⁾ The market allocation identification number of the Tranch for the disposal form "other direct marketing" must then be indicated. The electricity must be grid feed-in volumes, i.e. not volumes of electricity consumed by the installation or by the operator of the installation itself, backed by its own generation or by grid purchases. Guarantees of origin (GO) can only be issued for volumes not consumed by the grid operator itself but fed into the electricity grid and delivered to final consumers pursuant to Section 79 subsection 5 first sentence of the Renewable Energy Sources Act (EEG 2017). If the installation operator does not know the market location identification number of the installation, he must obtain this information for the registration of the installation with the grid operator.

To number 11

The information in number 11 on the power measurement to be recorded within the meaning of Section 10 subsection 1 first sentence number 2 of (EEG 2017) is

¹⁶⁾ See decision of the Federal Network Agency dated 20.12.2016, Document number: BK6-16-200 to adapt market communication to the Act on the Digitisation of the Energy Turnaround and, above all, the Measuring Point Operation Act (MsbG) of 29 August 2016 of the Federal Law Gazette (I p. 2034) as last amended by article 15 of the Act of 22 December

2016 (Federal Law Gazette I p. 3106) with annexes

¹⁷⁾ See decision of the Federal Network Agency dated 20.12.2016, Document number: BK6-16-200, P. 13 f. as well as Annex 3 to Decision BK6-16-200, p. 7.

¹⁸⁾ BDEW, application assistance. The new market allocation identification number 28. April 2017, Version 1.0, P. 3.

required in order to ascertain the type of registration of the electricity volumes relevant to the issuance of the guarantees of origin (GO). Different regulations for determining the generation period pursuant to Section 17 shall apply notably to installations with recorded power measurement.

To number 12

Number 12 covers instances in which the installation does not have a technical facility with which the grid operator can call up the respective actual feed-in at any time. In these cases, the register administration receives a new value of generated electricity volumes with each meter reading. For the first issuance, however, an initial value of the electricity meter is required. The installation operator must inform the register administration of this when registering the installation.

To number 13

Under number 13, the transformer ratio for the installation shall be indicated. The transformer ratio is required to calculate the actual amount of power flow. This is especially necessary for installations which do not have a recording load curve measurement, in order to convert the meter reading into an electricity volume.

To number 14

Under number 14, the installation operator shall indicate whether the installation together with another installation already registered in the Guarantees of origin register and operated by the same installation operator or several such installations, feeds into a storage facility pursuant to Section 2 number 10. This information is required with regard to Section 12 subsection 5. Under Section 12 subsection 5, Guarantees of origin (GO) shall not be issued if the electricity volumes fed into the storage facilities are not exclusively from renewable energy sources. In this respect it is immaterial, within the meaning of the Guarantees of origin and Regional Origin Implementing Ordinance (HkRNDV,) if installations which are not regulated under the Renewable Energy Sources Act (EEG 2017), feed electricity volumes into the

storage facility. Guarantees of origin (GO) shall only be issued for these on the basis of their biogenic content.

To number 15

The information referred to in number 15 is necessary because, in order to comply with European law, the Guarantee of Origin (GO) must contain information on whether, how and to what extent the installation has received investment subsidies. These include, for example, programmes of the Kreditanstalt für Wiederaufbau as a national development bank, such as the "100,000 Roofs Solar Power Programme" from 1999 to 2003 or currently the "Renewable Energies - Standard" programme.

To number 16

Since, pursuant to Section 6 subsection 1 second sentence, one person may be the holder of multiple accounts, in the event that the applicant operates more than one account, he shall inform the register administrator pursuant to number 16, of the account to which the installation is to be assigned.

To number 17

In addition, number 17 obliges installation operators, when registering an installation by referring to Section 22 subsection 1 number 2, to report whether the electricity generated in the installation has already recently received any relevant payments under the Renewable Energy Sources Act (EEG 2017), financial support under the EEG 2014, remuneration under the EEG in the period up to 31 December 2017, a remuneration claimed under the EEG in the version applicable up to 31 July 2014 or direct marketing under Section 33b numbers 1 or 2 of the EEG in the version applicable up to 31 July 2014 was carried out or the electricity supplier to which the installation operator supplied its electricity reduced the EEG surcharge under Section 39 EEG in the version applicable up to 31 July 2014 and Section 104 subsection 2 EEG 2014. This information refers to the generation of electricity prior to the registration of the installation, but is limited to a period of five years prior to the

registration of the installation and applies only if the feed-in tariff and the market premium have been used within these five years for a total period of at least six months. This information is required in order to determine whether the confirmation of data by the environmental expert or the environmental assessment organisation required under Section 22 subsection 1 number 2 is necessary for the registration of the installation.

To subsection 2

During their registration, power plants at the border display a number of specific characteristics. The first sentence summarises these deviations from subsection 1.

To number 1

Some power plants at the border only have foreign addresses and land registry data. In such case, the foreign address shall be indicated. If necessary, the nearest foreign address or foreign land registry information must also be indicated, if the power plants at the border does not have its own address and the nearest address is not German.

To number 2

For power plants at the border, the electricity is regularly distributed among the countries participating in the project in accordance with specific requirements agreed at international law level. Therefore, in addition to the data in subsection 1, the installation operator of a power plant at the border, under number 2, shall inform the register administration of the percentage values distributed of the electricity volumes generated, between Germany and the foreign country(ies).

To number 3

In addition, the system operator must transmit the international agreement or the corresponding licence to the register administration. This is achieved, for instance, by sending a copy from the Federal Law Gazette Part II. In practice, this is achieved via the upload function as defined in Section 3 subsection 1 third sentence and the terms of use under number 2.

When inputting data for a power plant at the border, it is possible that the provisions of German and foreign law may conflict with each other over the data. Thus, it is possible that the law of the foreign country in which the power plant at the border is located determines the commissioning date differently from German law. In such cases, the registration of the power plant at the border, in the German guarantees of origin register must always be governed by the German legislation of the Renewable Energy Sources Act (EEG 2017) and its subsequent amendments (Section 21 subsection 1 second sentence number 9). The associated possibility that the data of an installation in both registers concerned contradict each other shall be accepted. This applies not only to the initial registration, but also to the modification of the installation data.

The second sentence states clearly that the operator of the power plant at the border shall register ownership in full. If there are several generators, some of which are located in Germany, while others are located abroad, all generators must be indicated, which in turn has an impact on the installed capacity, i. e. sum of the total output of all generators. . In the event that the power plant at the border exceptionally does not have the right to distribute electricity through an international agreement or licence, the installation operator may, pursuant to sentence 3, only include in the Guarantees of origin register the installations generating electricity that fall within the scope of the Ordinance.

To subsection 3

Installations that feed into several grid levels partly serve as substations between the grid levels (so-called push-through power plants). Since the Guarantees of origin register is primarily based on the reporting point type market location identification number as the determining installation factor (see subsection 1 second sentence, number 10), it can be assumed here that the installation must be listed in the register as many times as it supplies network levels and thus grid operators. Accordingly, the registration of installations is subject to certain fees.

To Section 22 (Deployment of environmental auditors or environmental auditors' organisations for the registration of installations in the Guarantees of origin register)

To subsection 1

Subsection 1 lays down the requirements for the registration of installations pursuant to Section 12 subsection 1 first sentence number 8, i.e. biomass and mixed combustion plants with an installed capacity exceeding 100 kW (number 1), as well as for all other installations with an installed capacity exceeding 100 kW which in the last five years prior to registration have received a total market premium for a maximum period of six months (Section 20 of the Renewable Energy Sources Act (EEG 2017) and similar previous provisions), have received an EEG feed-in remuneration (Section 21 Renewable Energy Sources Act (EEG 2017) and similar previous provisions) or the tenant supply premium pursuant to Section 19 subsection 1 number 3 Renewable Energy Sources Act (EEG 2017) (number 2 letter a) or whose electricity was marketed directly by an electricity supplier for the purpose of reducing the EEG surcharge ("Green electricity privilege" of Section 39 EEG 2012 - number 2 letter b). For these installations, all information pursuant to Section 21 subsection 1 shall be confirmed by an environmental auditor or an environmental auditors' organisation, since the data of installations pursuant to subsection 2 have as a rule not yet been verified, or at least not for a long time, by grid operators when claiming an EEG remuneration or market premium. Only after such confirmation is the installation officially registered within the meaning of Section 12 subsection 1 first sentence number 1. In the performance of his or her duties, the environmental auditor or the environmental auditors' organisation shall to some extent have recourse to data derived not from the installation operator but from the grid operator, for example (cf. Section 12 subsection 1 first sentence number 3). For this purpose it is sufficient if the environmental auditor or the envi-

ronmental auditors' organisation have recourse to documents which the installation operator is able to provide on this issue (e.g. the grid usage charge statement at the time the grid operator is identified).

To subsection 2

To the extent that certain data under verification has previously been endorsed by an environmental auditor, under a pre-existing system of Guarantees of origin (GO), subsection 2 provides that the environmental auditor or the environmental auditors' organisation is not required to re-examine data that has previously been validated by an environmental auditor. The environmental auditor or the environmental auditors' organisation need only confirm in such instance, that this data has already been examined.

To Section 23 (Registration of installations in the Guarantees of regional origin register)

Section 23 regulates the initial registration of installations in the Guarantees of regional origin register.

To subsection 1

Subsection 1 first sentence stipulates that in principle the provisions on the registration of installations in the Guarantees of regional origin register, pursuant to Section 21, shall apply mutatis mutandis to the registration of installations in the Guarantees of origin register. A mutatis mutandis application of Section 22 is not required, as verification by environmental auditors or environmental auditors' organisations can be dispensed with in the Guarantees of regional origin register. The second sentence regulates by means of an exhaustive list, the extent to which the registration of installations in the Guarantees of regional origin register differs from that in the Guarantees of origin register.

To number 1

Under number 1, the postcode and the geographical coordinates at the location of the physical metering point of the installation shall also be provided. Pursuant to Section 10 subsection 4 EEG, the post-

code is indicated on the Guarantee of regional origin and serves as a point of reference for locating the installation in the regions of use. The location of the physical metering point is the transfer point of the electricity from the installation operator to the grid operator, i.e. the point at which ownership of the electricity passes from the installation operator to the grid operator. This is derived from the grid connection agreement between the grid operator and the connection owner (customer). In the case of offshore wind turbines, where the power is transferred by means of direct current to the mainland, the physical metering point is usually the substation at sea. Consumers are assigned to installations in the Guarantees of regional origin register according to their postal code. To ensure that the postal code is correctly indicated and verifiable, the geographical coordinates shall enable the register administration to ascertain the accuracy of the postal code and, if necessary, take corrective action. These values will not be included in the core energy market data register (MaStR) of the Federal Network Agency (BNetzA).

To number 2

Under number 2, by derogation from Section 19 subsection 1 second sentence number 16, the extent to which the installation has received investment subsidies need not be disclosed, since under Section 10 number 5 letter a) EEG this information does not have to be included on the Guarantee of regional origin.

To number 3

In contrast to Section 21 subsection 1 second sentence number 7, the Renewable Energy Sources Act (EEG 2017) installation code and the core energy market data register number must always be indicated, under Section 8 subsection 2 Core Energy Market Data Register Ordinance (MaStRV) since installations which receive the market premium and are thus able to issue Guarantees of regional origin always have an EEG installation code and are registered in the core energy market data register (MaStR).

To number 4

Under number 4, in the case of installations located within the territory of the Federal Republic of Germany, it must be stated whether the investment value has been legally established or by tender procedure. This information is mandatory under Section 53b of the Renewable Energy Sources Act (EEG 2017). It is limited to installations located within the territory of the Federal Republic of Germany in so far as installations outside the territory of the Federal Republic of Germany can only ever receive market premium via tender procedure. Number 5 shall apply to these installations.

To number 5

In contrast to installations within the Federal territory, installations outside the Federal territory are only entitled to the market premium if they have been awarded a contract in an open tender procedure, pursuant to Section 5 subsection 2 second sentence of the Renewable Energy Sources Act (EEG 2017). It must be disclosed that the contract has been awarded in view of the issuance requirement of Section 18 subsection 1 number 5.

To number 6

Under number 6, in the case of installations for which the investment value is determined by tender, the award number must be indicated. This applies to installations abroad and, as the case may be, also to domestic installations. The information is compiled with regard to Section 53b of the Renewable Energy Sources Act (EEG 2017) and facilitates verification by comparison with the data of the Federal Network Agency.

To subsection 2

Subsection 2 provides that installations already listed in the Guarantees of origin register can be registered under a simplified procedure in the Guarantees of regional origin register. For this purpose, the installation operator need only provide the register administration with the additional data to be provided under subsection 1, second sentence.

To subsection 3

Subsection 3 stipulates the cases in which the register administration refuses to register an installation. Firstly, the register administration declines to register installations located abroad, if these installations are not located in a region of use, despite compliance with the conditions set out in subsection 1. Powers to deny registration are derived from Section 79a subsection 3 of (EEG 2017), according to which the register administration exercises discretion with regard to issuing Guarantees of regional origin for electricity originating from foreign installations. The issuance of Guarantees of regional origin for electricity from such installations shall not come under consideration if the guarantees of regional origin cannot be exploited in any area of use. This is the case if the installation does not belong to any use region, since it is located far inland and thus far from the border of the Federal Republic of Germany. The issue of regional certificates despite the lack of usability is to be discouraged on the grounds of economic efficiency and to save on administration and to protect the installation operator against economic disadvantages.

Secondly, the register administration refuses to register a biomass plant that may also use non-renewable energies. Such installations breach the exclusivity principle and pursuant to Section 19 subsection 1 number 1 of (EEG 2017), cannot therefore claim a market premium under Section 20 of Act (EEG 2017). As a result, pursuant to Section 79a subsection 1 number 1 of (EEG 2017) and Section 21 subsection 1 number 5, no Guarantee of regional origin may be issued for the electricity generated in such an installation.

Thirdly, the register administration refuses to register installations located abroad if the installation has not been awarded a contract in a tender procedure pursuant to Section 5 subsection 2 second sentence of (EEG), in which case the installation cannot claim a Guarantee of regional origin pursuant to Section 79a subsection 3 of (EEG 2017).

All three grounds for refusal are based on the fact that, for reasons of efficiency and to reduce administration as well as protecting the installation operator against economic losses, an installation for which no Guarantee of regional origin may be issued, cannot be registered in the regional register from the outset.

To Section 24 (Modification of installation data)

To subsection 1

In addition to the general reporting obligation in Section 38, Section 24 contains a special reporting obligation for modified data pursuant to Sections 21 and 23. The notification shall be made in full and promptly, i.e. without undue delay, together with the date from which the amendment becomes effective for the register. Under the second sentence, a change to the postcode at the location of the physical metering point of the installation, which is a date to be entered in the Guarantees of regional origin register when registering the installation, shall not become effective until the beginning of the year following the amendment. The background to this is that, for reasons of legal certainty and foreseeability, amendments during the year which may affect the regional usability of Guarantees of regional origins should be excluded. Thus, modifications to the regions and areas of use pursuant to Section 5 shall only become effective at the beginning of a calendar year.

To subsection 2

Subsection 2 first sentence regulates which data must also be validated by an environmental auditor or an environmental auditors' organisation in the event of a modification. The first requirement is reporting of the data change by the installation operator, which must be made immediately after the change pursuant to subsection 1 first sentence. There is an obligation to provide additional expert approval of the notified amendment in the cases listed exhaustively in subsection 2, first sentence. Exceptionally, the second clause of sentence 1 does not require an

additional expert confirmation if the competent grid operator of the general supply network has transmitted the amended data to the register administration pursuant to Section 41 subsection 1. Acting as an independent third party, the Ordinance assumes that the grid operator has supplied correct data. The confirmation by the environmental auditor or the environmental auditors' organisation is, in contrast to the reporting of changes by the installation operator, independent of any time constraints. It is the duty of the installation operator to provide the verification confirmation promptly, since, pursuant to the third sentence, no Guarantees of origin or Guarantees of regional origin are issued to it in the period between the modification taking effect and confirmation by the environmental auditor or the environmental auditors' organisation.

To Section 25 (Registration of whole installations)

Section 25 regulates, in addition to Section 21, the registration of several installations as a whole installation in the Guarantees of origin register or in the Guarantees of regional origin register.

To subsection 1

If several installations within the meaning of Section 3 subsection 1 of (EEG 2017) are fed into the electricity grid via a common calibrated metering device and a market location identification number with identical designation and the fed-in electricity was generated from similar renewable energies (so-called whole installation), these may be registered as one installation. Without this provision, it would be impossible or at least considerably more difficult for the grid operators to supply electricity generation data, which is important for the issue of Guarantees of origin (GO) or Guarantees of regional origin, since the electricity generation of each individual installation is not measured within the meaning of Section 3 number 1 of (EEG 2017). Such is the case, for example, with a wind farm that normally feeds electricity into the grid via a single meter. The grid operator would not be able to determine

the quantities of electricity for each individual wind turbine, but could at best perform a mathematical allocation. The first sentence states that the data for each installation within the meaning of (EEG 2017) must be recorded when the installation is registered. This ensures that different characteristics of several installations are recorded comprehensively. The market location identification number can belong to the reporting point type installation or the reporting point type Tranch.

To subsection 2

In contrast to the option in the first sentence of subsection 1, subsection 2 for solar installations does not require data to be collected for each individual solar module that can be deemed an installation within the meaning of (EEG 2017). In the configuration of solar energy radiation installations, it would not be practicable for the purposes of Guarantees of origin and Regional Origin Implementing Ordinance (HkRNDV,) to record the individual module as a system. If in this case each individual installation within the meaning of (EEG 2017) had to be registered with the guarantees of origin register or the guarantees of regional origin register, this would entail an unreasonable effort.

To subsection 3

Under subsection 3, Guarantees of origin (GO) and Guarantees of regional origin for electricity from installations registered as a single installation pursuant to subsection 1 or 2, shall indicate a single commissioning date. The earliest commissioning date of all individual plants within the meaning of Section 3 subsection 1 of (EEG 2017) is decisive.

To Section 26 (Period of validity of registration of installations; renewal of registration of installations)

Section 26 contains provisions on the period of validity of the registration of installations in the guarantees of origin register and in the guarantees of regional origin register as well as on the re-registration of installations after expiry of the period of validity.

To subsection 1

Pursuant to subsection 1, the registration of installations in the guarantees of origin register and in the guarantees of regional origin register is valid for five years. This shall apply both to the initial installation registration pursuant to Section 21 or Section 23 and to the renewed installation registration under subsection 2. The registration of the installation shall expire at the end of the validity period. The objective of limiting the period of validity of the registration of the installation is to ensure that the accuracy of the data stored in the Guarantees of origin register and in the Guarantees of regional origin register is actively validated at regular intervals. In addition, pursuant to Sections 24 and 38, the installation operator is required to notify the register administration promptly of any changes to the installation.

To subsection 2

Subsection 2 stipulates the deadline for installation operators to apply for renewal of their installation registration. The first sentence provides that renewal of installation registration can only apply for the period following the expiry of the previous installation registration. The second sentence states that an application for renewal of the installation registration may only be submitted three months prior to the expiry date, at the earliest, and three months after the expiry date of the original installation registration at the latest. However, a renewed installation registration declared within three months of the expiry of the validity period through self certification shall only have future effect. Should the installation registration have expired in the meantime, the register administration shall refuse to issue Guarantees of origin (GO) for the period between the expiry of the installation registration and the self-certification pursuant to subsection 2 second sentence. The renewed registration of installations shall be back dated to the beginning of the month in which the renewed installation registration is announced, Section 12 subsection 1 first sentence number 2, Section 18 subsection 1 number 2.

To subsection 3

Subsection 3 stipulates the content and form of the renewal of registration of installations. In contrast to the initial registration of an installation pursuant to Section 21 or Section 23, in which certain information must be confirmed by an environmental auditor or an environmental auditors' organisation or by the grid operator, the renewed registration of an installation first involves examining the data of the installation recorded in the register pursuant to the first sentence. If the installation operator is satisfied that the recorded data is correct, he shall confirm it to the register administration pursuant to the second sentence. In terms of content, the confirmation must include the information provided pursuant to Section 21 subsections 1 to 4 or Section 23, which must also be provided when registering the installation for the first time, i.e. it must be complete. Should the installation operator determine that the data is no longer up to date, he shall correct it. Such correction is mandatory under Section 24 subsection 1, failing which, under Section 48 subsection 2 number 1 it may constitute an administrative offence.

To subsection 4

Under subsection 4, three months after the end of the period of validity of the original registration of installations, a new registration in the Guarantees of origin register may only be undertaken pursuant to Section 21 and in the Guarantees of regional origin register pursuant to Section 23.

To Section 27 (Deletion of registration of installations and replacement of installation operator)

To subsection 1

Under Section 21 subsection 1 first sentence, an installation shall be assigned to an account holder upon registration. If the installation is no longer operated by the holder of the account to which the installation is assigned in the Guarantees of origin register or in the Guarantees of regional origin register, this means that the

registration of the installation in the Guarantees of origin register or in the Guarantees of regional origin register is no longer valid. In accordance with Section 27 subsection 1 first sentence, the register administration shall therefore delete the registration of the installation if such installation is no longer operated by the account holder. Therefore, under the second sentence, the system operator is required to immediately inform the register administration that he is no longer operating the installation. The register administration shall also delete the registration of installations in the guarantees of origin register and in the Guarantees of regional origin register, if requested by the installation operator (first sentence).

To subsection 2

Subsection 2 contains a non-standard case, whereby the installation registration remains valid even if the installation operator changes. This is conditional upon the new installation operator having opened an account with the registry and the new installation operator having applied for the allocation of the installation to his account, on the proviso that the registration of the installation has not yet expired (number 1). The time taken to register the installation shall not be affected by the transfer of the installation registration to another installation operator and shall also be five years from the date of the last installation registration. Finally, under number 2, the new installation operator shall provide appropriate evidence of the transfer, such as the sale agreement of the installation. The register administration may specify a certain type of supporting documents.

To Division 3 (Transfer, cancellation, deletion and expiry of guarantees of origin and guarantees of regional origin)

Section 3 governs the transfer of Guarantees of origin (GO) and guarantees of regional origin from one account holder to another, the cancellation of Guarantees of origin (GO) and Guarantees of regional origin, the deletion of Guarantees of origin and Guarantees of regional origin, and the

expiry of Guarantees of origin and Guarantees of regional origin.

To Section 28 (Transfer of guarantees of origin)

Section 28 governs the conditions and legal consequences of a transfer of Guarantees of origin (GO) between account holders. Subsection 1 regulates the transfer of Guarantees of origin (GO) within the Guarantees of origin register of the Federal Environment Agency, while subsection 2 standardises the transfer of Guarantees of origin (GO) from the German Guarantees of origin register to a foreign Guarantees of origin register.

To subsection 1

Pursuant to subsection 1 first sentence the transfer of a Guarantee of Origin (GO) within the national register first necessitates an application by the holder of the Guarantee of Origin (GO). However, a specific application or other volition by the acquirer of the Guarantee of Origin (GO), such as a formal declaration of acceptance, is neither necessary nor feasible. The transfer of a Guarantee of Origin (GO) shall be permitted in accordance with the first sentence, both to the applicant account holder's own account if that person has more than one account and to the account of a third party account holder. The transfer of the Guarantee of Origin (GO) also requires that the security, accuracy or credibility of the register is not compromised. This helps to ensure the exclusion of fraudulent transfers. The second sentence contains concrete examples of rules for this type of risk.

To subsection 2

Subsection 2 governs the transfer of Guarantees of origin (GO) to the Guarantees of origin register of the competent authority of another Member State (export). The first sentence provides for the transfer of Guarantees of origin (GO) to the registers of Member States of the European Union, to the registers of other States party to the Agreement on the European Economic Area, to the registers of States party to the Energy Community Treaty and to the Swiss register. The

transfer shall take place at the request of the holder of a Guarantee of Origin (GO) on the German account.

To subsection 3

Subsection 3 gives the register administration the possibility to decline a transfer if no electronic and automated interface to the respective foreign registry exists. In such cases, the possibility of dual use of Guarantees of origin (GO) transmitted without an electronic and automated interface cannot be ruled out.

To subsection 4

Pursuant to subsection 4, the application for transfer shall be declined if the account holder in a purchase chain possessed knowledge, entailing commitment and business responsibility, at the time of acquisition of the Guarantee of Origin (GO) to be transferred, that the issuance of the Guarantee of Origin (GO) was not based on electricity volumes generated from renewable energy sources, i.e. that he was acting in bad faith at the time of acquisition of the Guarantee of Origin (GO). The provision does not address bad faith acquisition as such, but only subsequent requests for transfer. Thus, pursuant to Section 28 subsection 4, the acquirer acting in bad faith is prohibited from transferring the Guarantee of Origin (GO). A cancellation shall also have no effect pursuant to Section 30 subsection (2) second sentence. The Guarantee of Origin (GO) thus is retained by the bad faith acquirer and expires at the end of its useful life. Since there is thus no threat to the integrity of the system of Guarantees of origin (GO) posed by the Guarantees of origin (GO) in question, which were issued even though the associated electricity was not generated or not generated from renewable energy sources, under Section 15 subsection 2, it is not necessary to make a negative assertion. This provision shall not apply to bona fide acquisitions.

To Section 29 (Transfer and reversal of guarantees of regional origin)

To subsection 1

Subsection 1 governs the conditions for the transfer of Guarantees of regional

origin from one account holder to another account holder. The transfer requires an application. The application for transfer may relate to one or more Guarantees of regional origin. All Guarantees of regional origin subject of a transfer application, shall be bundled into a single transfer transaction pursuant to the second sentence.

Pursuant to the first sentence, the transfer presupposes that the transferring account holder makes a declaration to the register administration regarding the underlying power-supply contract with the transferee. Thereby ensuring that Guarantees of regional origin,

pursuant to Section 79a subsection 5 sentence 3 of the Renewable Energy Sources Act (EEG 2017) may only be transferred along the contractual supply chain of the electricity for which they have been issued. An application for transfer without a power-supply contract is prohibited under subsection 4 and constitutes an administrative offence under Section 48 subsection 1. In order to verify the veracity of the declaration on the power-supply contract, the register administration may, pursuant to Section 44 subsection 1, request the supplying and receiving account holder to submit documents at random proving the existence of the power-supply contract pursuant to subsection 1 first sentence.

Under the first sentence, the power-supply contract between the transferring and the receiving account holders must comply with the following criteria: The power-supply contract shall cover power supplied in the year of generation of the electricity volumes for which the Guarantees of regional origins to be transferred were issued (temporal linkage). The power-supply contract must also relate to a supply quantity greater than or equal to the electricity volume represented by the total Guarantees of regional origin transferred for the whole year of production (quantity linkage). All that is required is that the quantity delivered can be determined on the basis of the power-supply contract. The actual volume can be determined on the basis of supplementary documents. The latter applies in particular to direct

marketing agreements between the installation operator and the direct marketer: The main obligation of the installation operator is not to determine the volume of electricity to be supplied, but to commit the installation operator to handing over the entire volume or a percentage share (Section 21b subsection 2 of the Renewable Energy Sources Act (EEG 2017) of the electricity generated in the installation to the direct marketer. The volume of electricity generated during the production year results from the subsequent statements of account between the direct marketer and the installation operator - the "supplementary documents" mentioned above. - Moreover, particularly in the wholesale sector, the power-supply contracts on which the transfer of the Guarantees of regional origin is based must be sufficiently defined, i.e. they must in principle specify the volume of electricity to be supplied. Framework agreements are therefore less suitable than individual contracts for the presentation of the power supply partnership.

The temporal and quantitative linkage criteria are intended to guarantee that, on the basis of a power supply contract, the number of Guarantees of regional origin transferred cannot exceed the volume of electricity supplied. The annual temporal linkage makes it possible to transfer Guarantees of regional origin whose electricity generation period for example occurs in February, linked to a power supply contract for electricity supplies in another period during the same year, such as May or the third quarter or 5 January. This time flexibility is essential to prevent inappropriate intervention in electricity trading. In addition, it offsets the disadvantages of the varying availability of fluctuating renewable energies over the year.

Finally, under Section 1 first sentence number 3, the transfer must not impair the safety, accuracy or credibility of the Guarantees of regional origin register. This requirement serves to protect against abuse and is explained in more detail in subsection 2.

To subsection 2

Subsection 2 lists examples of risks within the meaning of subsection 1, first sentence, number 3, which may be accepted if a Guarantee of regional origin to be transferred was issued on the basis of false information pertaining to the conditions for issuance pursuant to Section 18 subsection 1 or the conditions for installation registration pursuant to Section 23, due to incorrect electricity flow data pursuant to Section 41 subsections 2, 4 or 5.

To subsection 3

Subsection 3 governs how the register administration can be instructed to reverse Guarantees of regional origin if for example, the Guarantees of regional origin transferred do not correspond to the contractually prescribed Guarantees of regional origin. A reversal must always be initiated by a party who has received Guarantees of regional origin without a power supply contract having been concluded with the (first) transferring account holder (see subsection 5). The possibility to reverse is required since a transfer is only possible on the basis of a power supply contract and account holders must be allowed to reverse any false transfers. An example of a false transfer is the transfer of Guarantee of regional origin of the quality expected, but to the beneficiary who has been wrongly and carelessly selected. In the absence of a power supply contract with the transferor, the erroneously selected beneficiary would have no possibility to return the Guarantees of regional origin. Subsection 3 grants him this possibility with the so-called reversal. The reversal reverses in full the transfer. It shall record all Guarantees of regional origin from the transfer operation. The only exception to this shall be the second sentence. Guarantees of regional origin that have expired before the reversal on the account of the receiving account holder shall remain on the recipient account and shall not be returned to the account of the sending account holder. This is because Guarantees of regional origin that have been declared obsolete should be withdrawn from the market and should no longer change hands. To protect the

receiving account holder, the expiry of guarantees of regional origin from the transfer process shall not affect the possibility to reverse the transfer. The reversal can be executed notwithstanding expiry, but it shall only include the guarantees of regional origin that have not expired.

To number 1

The reversal requires the receiving account holder to submit a request to the register administration. The application shall be submitted within one month of the transfer. Requests for reversals that are submitted late shall be rejected by the register administration. The substantial time period allocated for reversal allows the received account holder or his service provider to verify the guarantees of regional origin received. However, it is reasonable that the right of verification and reversal shall not be indefinite so that the transferring account holder may at some point be satisfied that the transfer is definitive and that he no longer has to anticipate a reversal.

To number 2

Under number 2, the reversal is subject to the condition that the receiving account holder still holds all the Guarantees of regional origin from the transfer transaction in his account and has not yet cancelled or transferred them, even partially. This ensures that reversals cover the entire transfer process. A selection of the guarantees of regional origin to be reversed shall be excluded so as to avoid circumvention of the transfer requirements provided for under subsection 1.

To subsection 4

Subsection 4 sets out a prohibition that can be complied with both by the transferring account holder and its service provider. It shall prohibit the transferring account holder from applying for a transfer if the power supply contract with the receiving account holder under subsection 1 first sentence number 1 does not even exist or does exist but, under subsection 1 first sentence number 2, the volume of power owed under the contract exceeds the number of guarantees of regional

origin to be transferred. This prohibition is reinforced by an administrative offence pursuant to Section 48 subsection 1. Such prohibition is necessary in order to implement the linkage requirement in Section 79a subsection 5 third sentence of the Renewable Energy Sources Act (EEG 2017) and its definition in subsection 1.

To subsection 5

Subsection 5 requires the receiving account holder to ensure that the reversal referred to under subsection 3 is executed in due time if the requisite power supply contract does not actually exist. This provision also serves to implement the requirement of linked transfer pursuant to Section 79a subsection 5 third sentence of the Renewable Energy Sources Act (EEG 2017). Beneficiaries of guarantees of regional origin are already required under Section 40 subsection 1 to verify the accuracy of entries on their account. In light of the importance of the coupling requirement in Section 79a subsection (5) third sentence of the Renewable Energy Sources Act (EEG 2017), it is advisable to request an examination on whether a power supply contract with the transferring account holder satisfies the requirements of subsection 1 first sentence regarding transferred guarantees of regional origin. If the power supply contract with the beneficiary account holder pursuant to subsection (1) first sentence number 1 does not even exist or does exist but, pursuant to subsection 1 first sentence number 2, the volume of power to be supplied under the contract exceeds the number of guarantees of regional origin to be transferred, the power supply contract shall be deemed non-compliant with the requirements of subsection 1 first sentence. The reversal shall be effected in due time if no power supply contract has been concluded at all with the transferring account holder or if the power supply contract does not correspond temporally or quantitatively with the transferred guarantees of regional origin. Pursuant to subsection 5, the beneficiary account holder is required to comply with the reversal time limit stipulated in subsection 3 number 1 and not to obstruct the reversal

by continuing to transfer or invalidate individual guarantees of regional origin from the transfer process (subsection 3 number 2). Breach of subsection 5 shall not be punishable by an administrative offence, but may where appropriate result in a sanction under Sections 49 to 51.

To subsection 6

Subsection 6 provides for the transfer of guarantees of regional origin from one account to another for the same account holder. Such a possibility exists as Section 7 subsection (2), first sentence, in conjunction with Section 6 subsection 1, second sentence, authorises one owner to hold multiple accounts in the guarantees of regional origin register. The personal identity of the individual in question must be established; a mere affiliation to a group is not sufficient. Where there is a transfer between two accounts of the same account holder, the requirements set out in subsections 1 to 5 shall not apply, pursuant to subsection 6. More specifically, the transfer is not linked to the existence of a power supply contract since the holder of the transferring and receiving accounts is identical, therefore there is no need for a power supply contract. For this reason, there is no need for a reversal. Rather, the transfer can be carried out adequately pursuant to the provisions on the transfer of guarantees of origin (GO) within the guarantees of origin register, pursuant to Section 28 subsection 1.

To Section 30 (Usage and cancellation of Guarantees of origin (GO))

Section 30 governs the usage and cancellation of Guarantees of origin (GO). Following on from the definition of guarantee of origin under Section 3 subsection 29 of the Renewable Energy Sources Act (EEG 2017), the provision clarifies that cancellation of Guarantees of origin (GO) shall only ever be carried out for the sole purpose of electricity disclosure. The cancellation of a Guarantee of Origin (GO) cannot be used for other purposes, since the Guarantees of origin (GO) are intended exclusively for use in electricity disclosure. Conversely, Guarantees of origin (GO) can only be used once they have

been cancelled. The conceptual significance attached to the Guarantee of Origin (GO) cannot otherwise be exploited. Cancellation and usage should be understood as two sides of the same coin, with cancellation always only occurring within the guarantees of origin register and usage always only occurring outside the guarantees of origin register. Cancellation is only possible upon application. Cancellation, which occurs upon application and for use in electricity disclosure, must be distinguished from the expiry of the Guarantees of origin (GO) (Section 34), for which an ex officio declaration is issued. Earlier versions of this ordinance and the EEG also refer to this as invalidation. To facilitate the distinction between the two processes - cancellation and expiration, which also have different legal implications, the legislator has introduced a concept with the expiration declaration which has stood the test of time. Further information on expiration can be found in the explanatory memorandum to Section 34. Expired Guarantees of origin (GO) are withdrawn from the market, in the same way as the cancelled Guarantees of origin (GO), but their conceptual significance for electricity generation from renewable energy sources may no longer be used for electricity disclosure.

To subsection 1

Pursuant to the first sentence, the Guarantee of Origin (GO) may be used for electricity disclosure by a electricity supplier. This already results from the fact that Guarantees of origin (GO) as defined in Section 3 number 29 of the Renewable Energy Sources Act (EEG 2017) can only be used for electricity disclosure and that electricity disclosure pursuant to Section 42 of the Energy Industry Act (EnWG) can only be carried out by electricity suppliers.

Moreover, subsection 1 in the second sentence describes the concept for the use of a Guarantee of Origin (GO). First of all, it results from the provision that guarantees of origin can only be used by the holder of the guarantee of origin and only for guarantees of origin which are in the holder's account.

In addition, Guarantees of origin (GO) registered in the Guarantees of origin register of the register administration can only be used, pursuant to the second sentence, for disclosure of electricity volumes which are supplied to final consumers within the scope of application of the Renewable Energy Sources Act (EEG 2017). This implements the requirement in Article 15 subsection 4 of Directive 2009/28/EC that national authorities competent for Guarantees of origin (GO) should not have geographically overlapping responsibilities. According to Section 5 subsection 1 Renewable Energy Sources Act (EEG 2017), the scope of the Renewable Energy Sources Act (EEG 2017) includes the supply of final consumers in the territory of the Federal Republic of Germany including the German exclusive economic zone. Final consumers must therefore consume electricity in Germany or the exclusive economic zone. The supply of final consumers in neighbouring countries by a German electricity supplier is therefore not covered; Guarantees of origin (GO) for such supply do not have to be cancelled in the German register. This derives from Section 42 of the Energy Industry Act (EnWG). This means that the electricity supplier must also include in the electricity disclosure, the energy source mix and the environmental impact together with the corresponding average values for electricity generation in Germany. In electricity disclosure obtained by a final consumer abroad, this information would be misleading. Similarly, a foreign electricity supplier must cancel Guarantees of origin (GO) with the German register if it supplies electricity to final consumers in Germany. This is already stated under Section 109 subsection 2 EnWG. This means that a foreign electricity supplier supplying electricity to final consumers in Germany shall require an account in the German guarantees of origin register and shall import Guarantees of origin (GO) into the German account before cancelling and using them. Cancellation of Guarantees of origin abroad for the supply of electricity to final consumers in

Germany with or without electricity disclosure in Germany, a so-called ex-domain cancellation, is not authorised.

Since they can only be used by electricity suppliers supplying final consumers, the electricity supplier itself must acquire the Guarantee of Origin (GO) before use and record it in its account. Only on this basis is it possible for the electricity supplier or its service provider registered in the guarantees of origin register to cancel the contract and subsequently dispose of it for a consumer in Germany. Usage of the Guarantee of Origin (GO) shall be understood in the declaration to the register administration that the Guarantee of Origin (GO) shall be used for the purpose of electricity disclosure for an electricity volume delivered to different final consumers. As is apparent from the nomenclature in Section 42 of the Energy Industry Act (EnWG) and Section 3 subsection 18 of the Energy Industry Act (EnWG), the final consumer must be different from the electricity supplier. Usage presupposes that the electricity has actually been supplied or will be supplied in the relevant year. Usage does not presuppose that actual electricity disclosure has already occurred. Otherwise, the requirement contained in the Renewable Energies Directive that the electricity must be used by twelve months at the latest after generation of the relevant electricity volume, would not have to be implemented, since the electricity disclosure can as a rule only be carried out more than twelve months after generation of the relevant electricity volume from renewable energy sources. On the contrary, according to the wording of Section 42 subsection 5 number 1 of the Energy Industry Act (EnWG), it is inadmissible to cancel and use Guarantees of origin (GO) chronologically after the electricity disclosure mark has been produced ('were cancelled'). The use of electricity from other renewable energy sources for the purpose of electricity disclosure requires prior cancellation of the Guarantees of origin (GO) by the register administration (Section 42 subsection 5 number 1 of the Energy Industry Act (EnWG)). This means that the electricity supplier must cancel Guarantees of origin (GO) chronologically

before publishing the electricity disclosure.

The specific electricity volumes which an electricity supplier supplies to final consumers for which the Guarantee of Origin (GO) can be used, are defined in subsection 4 third sentence which stipulates the number of Guarantees of origin (GO) that have to be cancelled for a volume of electricity supplied by the electricity supplier. The electricity volumes supplied for which Guarantees of origin (GO) must be cancelled and used is always rounded up to full MWh. The number of Guarantees of origin (GO) cancelled shall not be inferior to the quantity of electricity supplied. Example: To supply of 85.1 MWh of electricity from other renewable energy sources, 86 Guarantees of origin (GO) must be cancelled.

To subsection 2

Subsection 2, first sentence, states that such use is only authorised if an application for cancellation of the Guarantee of Origin (GO) is made. This guarantees that Guarantees of origin (GO) are cancelled upon usage and therefore cannot be used more than once. The application for cancellation must be submitted by an electricity supplier. This is justified since the provisions of the Renewable Energy Sources Act (EEG 2017) permit the use of Guarantees of origin (GO) only within the framework of electricity disclosure and this must be carried out by electricity suppliers pursuant to Section 42 of the Energy Industry Act (EnWG). This prevents other operators on the electricity market, including, electricity customers from cancelling or using the Guarantees of origin (GO) or to use the information contained in them. Pursuant to Section 30 subsection 2 second sentence, the application for cancellation shall be rejected if the electricity supplier was aware at the time it acquired the Guarantee of Origin (GO), entailing commitment and business responsibility, that the issuance of the Guarantee of Origin (GO) was not based on electricity generated from renewable energy sources. This does not cover acquisitions made in bad faith as such, but subsequent

cancellation applications. The third sentence clearly states that if the second sentence applies, the Guarantee of Origin (GO) must not be used. This is designed to prevent the targeted collusion of electricity suppliers with account holders in transactions involving non compliant Guarantees of origin (GO) and their subsequent cancellation. The fourth sentence regulates the case in which the acquirer discovers after the purchase transaction that the electricity volume required for issuance of the Guarantees of origin (GO) has not been generated from renewable energy sources. In this case, the acquisition is bona fide; the acquirer is only deemed to be acting in bad faith subsequent to the acquisition. In such case, the acquirer may cancel the Guarantees of origin (GO) acquired in a bona fide manner as an electricity supplier. Since the installation operator obtained Guarantees of origin (GO) which were issued without the required electricity volume from renewable energy sources being generated, Section 15 subsection 2 shall apply, meaning that the installation operator has made a false submission. The electricity supplier shall not be affected by this in the event of bona fide acquisition.

To subsection 3

Subsection 3 in its first sentence provides clarification of Section 42 subsection 5 number 1 of the Energy Industry Act (EnWG) by stipulating that the electricity supplier may only cancel for reasons of its own electricity supply, its electricity disclosure and its own electricity labelling. Sentence 2 gives the user the option of indicating in the application for cancellation a specific electricity product pursuant to Section 42 subsection 3 of the Energy Industry Act (EnWG) or the name of an electricity customer for whom or for which the Guarantee of Origin (GO) shall be used. According to the third sentence, for reasons of data privacy, the user may only state the name of an electricity customer who is a natural person in the cancellation application if the electricity customer has given his consent, i.e. prior to the application.

To subsection 4

Subsection 4 contains a specific provision on the electricity volumes for which a Guarantee of Origin (GO) can be used. Accordingly, Guarantees of origin (GO) may be used only for the purpose of identifying electricity generated in the same year as the electricity on which the Guarantee of Origin (GO) is based. The end of the generation period referred to in Section 17 of this Regulation shall apply as the reference period. A Guarantee of Origin (GO) where the generation period for the underlying electricity volume is approximately October 2017 can consequently be used to identify electricity supplied to final consumers in 2017. The declaration on the corresponding use of the Guarantee of Origin (GO) may be made 12 months after the generation period up to October 2018. When the specific electricity disclosure is made, it is not specified in detail based on the usage pursuant to Section 30, but rather is governed by Section 42 of the Energy Industry Act (EnWG).

To Section 31 (Usage and cancellation of guarantees of regional origin, identification in electricity disclosure)

Section 31 regulates the usage and cancellation of guarantees of regional origin on the basis of Section 79a subsections 7 and 8 Renewable Energy Sources Act (EEG 2017). The provision also lays down more detailed requirements for the identification of the regional context between electricity generation and electricity disclosure.

To subsection 1

Subsection 1 declares the provisions of Section 30 applicable *mutatis mutandis* with regard to the usage and cancellation of guarantees of regional origin but with four differences, which are enumerated below.

To number 1

Number 1 states that cancellation applications are only admissible between 1 August to 15 December of the calendar year following the generation period of the

guarantees of regional origin to be cancelled. This is connected with the relevant closing dates for the electricity disclosure of electricity financed from the EEG surcharge. The EEG quotient required to calculate the electricity volumes to be reported as EEG electricity pursuant to Section 78 subsection 3 (EEG 2017) shall be available until 31 July of the calendar year following the supply of electricity. Without the EEG quotient, electricity suppliers cannot quantify the volume of electricity that they have supplied to final consumers in a particular region and are required to report as "renewable energy sources financed from the EEG surcharge" under Section 78 (EEG 2017). Thus a cancellation before publication of the EEG quotient is meaningless or at the very least entails high financial risks. The end of the cancellation period is connected with the deadline for electricity disclosure pursuant to Section 42 subsection 1 number 1 of the Energy Industry Act (EnWG), according to which the electricity suppliers must disclose the energy source mix no later than 1 November of the year following the supply of electricity. In order to be able to implement complex calculations and delayed procurement processes of guarantees of regional origin and also subsequent corrections of the electricity disclosure, for practical reasons the cancellation by 15 December of the calendar year following the electricity supply and thus six weeks beyond the *per se* mandatory date of Section 42 of the Energy Industry Act (EnWG) should be possible.

To number 2

In derogation from the first sentence of Section 30 subsection 1 guarantees of regional origin may only be used under number 2 for the purposes of regional green electricity disclosure, i.e. the identification of electricity generated in a regional context and financed by the EEG surcharge in accordance with Section 79a subsection 8 of (EEG 2017) and Section 42 subsection 5 second sentence of the Energy Industry Act (EnWG).

To number 3

In derogation from the third sentence of Section 30 subsection 1, number 3 states that, for the purposes of cancellation, the electricity volume to be shown by means of guarantees of regional origin as originating from regional generation sources must be rounded up to kilowatt-hours. The reason for this is that guarantees of regional origin are issued in kilowatt hours.

To number 4

Under number 4, additional data must be included in the cancellation application so that the register administration can monitor the correct use of the guarantees of regional origin register. The possibility of regulating the procedure for the cancellation of guarantees of regional origin and the collection of further data is based on Section 92 numbers 3 and 4 of (EEG 2017) and Section 14 subsection 1 numbers 4 and 5 of the EEG.

To letter a

First of all, the electricity supplier must specify the area of use in which the guarantee of regional origin is to be used pursuant to Section 2 number 12. The provision has no equivalence in the Guarantees of origin (GO) since the latter can be used to identify power supply throughout Germany. Guarantees of regional origin on the other hand, can only be used in certain areas of use. The register administration shall determine and publish which these are in the general ruling pursuant to Section 5.

To letter b

The electricity supplier shall also indicate which electricity product or products it supplies to the area of use referred to under letter a). This can also involve several products, for example a regional electricity product for the municipality of Berlin with guarantees of regional origin from installations in the Berlin city area and a regional electricity product with guarantees of regional origin from installations in the Brandenburg area around Berlin. The regional electricity product does not have to have an official name; a name is simply required to make a reasonable distinction

within the guarantees of regional origin register for the electricity supplier trading and for the register administration. So for example the electricity supplier could call the only product in Berlin "Berlin" and the only product in Potsdam "Potsdam", even if these products have no official names or are all called "Local power supply".

To letter c

The electricity supplier is also required to indicate the electricity volume that it actually supplied to the electricity customers in the region, for each area of use and for each electricity product. The quantity to be indicated is not the percentage or total volume corresponding to the EEG surcharge share, but the absolute volume of electricity in kWh or MWh actually supplied to electricity customers bearing the name of the electricity product in the area of use and consumed by them in the electricity disclosure year, notwithstanding the content of the electricity disclosure.

To letter d

Finally, the electricity supplier must indicate whether it supplies a regional electricity product in the area of use to a company or a railway whose obligation to pay the EEG surcharge is limited pursuant to Sections 63 to 68 of (EEG 2017), and also the percentage share of "renewable energies financed from the EEG surcharge".. This is designed to help the electricity supplier customise its cancellation to demand. The EEG surcharge is limited to enterprises and railways with high electricity costs: To maintain their international or intermodal competitiveness, undertakings with intensive electricity costs and railways pay a lower EEG surcharge. The consequence of this is that the percentage of electricity that is shown as "Renewable energy sources funded by the EEG surcharge" in their electricity disclosure is considerably lower than that of household consumers. Pursuant to Section 78 subsection 5 of (EEG 2017), these companies receive their own electricity disclosure as a product mix, which indicates that these supplies are independent electricity products. In other words, if an electricity

supplier were to supply a household consumer and undertakings with intensive electricity costs within an area of use, it would supply two regional electricity products in that region within the meaning of letter b).

To subsection 2

Subsection 2 implements the authorisation of Section 92 subsection 11 Renewable Energy Sources Act (EEG 2017) and Section 14 subsection 1 number 9 EEG. The first sentence of Section 42 of the Energy Industry Act (EnWG) specifies general information on the design of electricity disclosure. It first describes how the regulation is only concerned with identification of the regional context, which can be effected for the part of the electricity disclosure to be shown under Section 78 subsection 1 of (EEG 2017) as "renewable energies financed from the EEG surcharge", to the extent that guarantees of regional origin for this have been cancelled. Under the first sentence, this designation shall be simple, easy to understand and clearly distinguishable from the mandatory electricity disclosure, which the electricity supplier is required to indicate in any case pursuant to Section 42 subsection 1 of the Energy Industry Act (EnWG), in the form of graphic visualisation. The background is, firstly that the consumer should recognise that electricity disclosure which otherwise only deals with the energy sources used for electricity generation shows a new aspect, namely the generation of electricity in a regional context. It must be clarified that this designation of the regional context differs in content from the energy sources, which shall be achieved by clearly recognisable differentiation. Secondly, this minimum requirement is intended to enable comparison of the electricity disclosure with the regional context presented and thus achieve the objective of providing identification of energy sources to the consumer. In order ensure such objective is achieved, the second sentence enables the register administration to regulate the actual design, in terms of text and graphics, by means of a general ruling. The third sentence states that this general

ruling is to be published in the official Section of the Federal Law Gazette pursuant to Section 5 subsection 2 second sentence number 2 VkBkmG. In addition, pursuant to the fourth sentence, the announcement pursuant to Section 27a VwVfG shall be published on the website of the register administration at the following address: www.uba.de The general ruling under this subsection can be integrated into the general ruling under Section 53 (terms of use) or published independently.

To Section 32 (Deletion of Guarantees of origin (GO))

To subsection 1

Section 32 governs cases in which the register administration withdraws Guarantees of origin (GO) from the market by deleting them. The Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV,) used the term "ex officio cancellation" in its previous version. In order to better distinguish the cancellation from other forms of withdrawal of Guarantees of origin (GO) from the market, the Guarantees of origin and Regional Origin Implementing Ordinance (HkRNDV,) now adopts the terms deletion and expiry. In contrast to expired Guarantees of origin (GO), which are included in the 'ENTSO-E energy source mix for Germany, adjusted for the volumes financed by the EEG surcharge and EEG Guarantees of origin (GO), deleted Guarantees of origin (GO) have no impact on the correction of the ENTSO-E energy source mix for Germany pursuant to Section 42 subsection 4 of the Energy Industry Act (EnWG). The deletion of Guarantees of origin (GO) is a means of correcting errors in Guarantees of origin (GO) which should not have been issued as such. In relation to error correction pursuant to Section 4, deletion is however a last resort, i.e. the correction of errors in existing Guarantees of origin (GO) always takes precedence over the deletion of Guarantees of origin (GO). The register administration may only delete the Guarantee of Origin (GO) if the error is so serious that it cannot be remedied by correcting the Guarantee of

Origin (GO) and the only option that remains is deletion of the incorrect Guarantee of Origin (GO). A further ground for deletion is stipulated by Section 44 subsection 3 first sentence. The register administration may then delete Guarantees of origin (GO) or regional guarantees of origin, if an installation operator does not immediately provide the guarantees demanded by the register administration for these issuances or if the documents submitted do not confirm the veracity of the data to be checked.

To number 1

Under number 1, the register administration shall delete Guarantees of origin (GO) at the request of the account holder. Under subsection 3, there is a duty in specific cases to request the deletion of Guarantees of origin (GO).

To number 2

Pursuant to number 2, the register administration shall ex officio delete Guarantees of origin (GO) issued to the installation operator which are not based on corresponding electricity generation if these Guarantees of origin (GO) are still held in the installation operator's account. The account affected by the deletion may also pertain to an account other than the one functioning as an installation operator account if the party affected by the cancellation is listed in the register under multiple functions, such as installation operator and electricity supplier and the Guarantees of origin (GO) are transferred to the account serving the latter function. This reason for deletion is backed by the register administration's possibility, pursuant to Section 15, to record a negative carryforward on the account of the installation operator if the Guarantees of origin (GO) in such case are no longer held in one of the installation operators' accounts. Irregularities between Section 15 and Section 32 subsection 1 number 2 exist if Guarantees of origin (GO) issued without electricity generation still exist on the account, while other Guarantees of origin (GO) issued without electricity generation have already been transferred to another party. In this case, the Guarantees of origin (GO) are

deleted from the account and the register administration shall also record a negative carryforward pursuant to Section 15.

However, deletion under number 2 is not possible if the Guarantees of origin (GO) no longer exist on an installation operator's account and, for instance, have been transferred to the account of a third party. In such a case, the register administration may only proceed with a deletion if the third party submits a deletion request, which is required under subsection 3.

To number 3

Under number 3, the register administration ex officio deletes Guarantees of origin (GO) which contain a particularly serious and manifest error. This includes above all guarantees of origin (GO) from installations which should not have been registered in the guarantees of origin register, such as installations located abroad which are not marginal power plants, or installations which are unable to generate electricity from renewable sources due to their technology (e.g. nuclear power plants).

To subsection 2

Subsection 2 clarifies that the Guarantees of origin (GO) deleted by the register administration pursuant to subsection 1 shall not be available to the account holder for use in the electricity disclosure pursuant to Section 30.

To subsection 3

Subsection 3 requires the account holder to report incorrect guarantees of origin to the register administration. The register administration shall delete these notified guarantees of origin pursuant to subsection 1 number 3. Account holders thus have the obligation to notify the register administration for cancellation of Guarantees of origin (GO) which have been issued on the basis of incorrect electricity volume data or which contain a particularly serious and obvious error so that they can no longer be cancelled and, where appropriate, used for electricity disclosure. This also prevents the register administration from issuing fewer Guarantees of origin (GO) by means of "offsetting" pursuant to Section 15. If the account

holder has notified the register administrator pursuant to subsection 3 and the register administrator has deleted this Guarantee of Origin (GO) pursuant to subsection 1 number 3, these Guarantees of origin (GO) may no longer be used pursuant to the second sentence of subsection 1. The obligation to notify shall apply immediately from the moment at which the account holder becomes aware of the erroneous nature of the Guarantee of Origin (GO).

To Section 33 (Deletion of guarantees of regional origin)

Section 33 governs the deletion of Guarantees of regional origin (GO). The rules on the deletion of Guarantees of origin (GO) shall apply *mutatis mutandis*.

To Section 34 (Expiry of guarantees of origin)

Section 34 provides that the Guarantee of Origin (GO) shall be declared expired by the register administration if the holder of the Guarantee of Origin (GO) does not apply to have it cancelled within twelve months at the latest after the generation period. This implements the requirement of Section 11 subsection 2 EEG and, pursuant to Section 17, stipulates that the generation period is to be determined by reference to the end of electricity generation. Guarantees of origin (GO) must be cancelled pursuant to Section 42 subsections 1 and 5 of the Energy Industry Act (EnWG) until the electricity disclosure is published. This results from the wording "were cancelled" in Section 42 subsection 5 number 1 of the Energy Industry Act (EnWG). Expired Guarantees of origin (GO) will be incorporated into the ENTSO-E energy sources mix for Germany, adjusted for the volumes financed by the EEG surcharge and Guarantees of origin (GO) pursuant to Section 42 subsection 4 EnWG. The second sentence clarifies that expired Guarantees of origin (GO) may not be used for electricity disclosure.

To Section 35 (Expiry of guarantees of regional origin)

Section 35 governs the expiry of regional guarantees to which the rules on the expiry of Guarantees of origin (GO) apply *mutatis mutandis*, but subject to the proviso that under Section 12 EEG, the expiry declaration does not intervene until 24 months after the end of the generation period. Expired Guarantees of regional origin, unlike expired Guarantees of origin (GO), are not included in the adjusted ENTSO-E energy sources mix pursuant to Section 42 subsection 4 of the Energy Industry Act (EnWG). Pursuant to the second sentence, guarantees of regional origin declared expired, may not be used for electricity disclosure.

To Division 4 (Recognition and import of guarantees of origin of foreign bodies keeping the register)

To Section 36 (Recognition of guarantees of origin of foreign bodies keeping the register)

Section 36 governs the conditions under which Guarantees of origin (GO) issued in other Member States are recognised by the register administration. This Regulation implements the provisions of Article 15 (9) of Directive 2009/28/EC which require Member States to recognise Guarantees of origin (GO) issued by other Member States pursuant to the Directive. The provision also covers Guarantees of origin (GO) issued by the register administration which have been transferred to the register of another State and which are now to be re-imported into the Guarantees of origin register by a foreign register. Recognition is also required for re-importing national Guarantees of origin (GO).

To subsection 1

The first sentence requires the register administration, at the request of the registration authority abroad transferring to Germany to recognise Guarantees of origin (GO) from Member States of the European Union, other Contracting States to the Agreement on the European Economic Area, Contracting Parties to the Energy Community Treaty and Switzerland under the conditions specified herein. The application to the register administration shall be submitted by the registration authority transferring the registry to Germany. It initiates the administrative procedure with the German register administration, which culminates in the recognition or non-recognition of the Guarantee of Origin (GO). The foreign registry ultimately transmits the application of the holder of the account to the foreign registry, which in turn activates the chain of applications. The foreign registration authority finally transmits the application of the account holder to the foreign registration body which activates the chain of applications. The latter shall contact its registration office abroad. This in turn shows the import process in the German register administration. The underlying rules of the Association of Issuing Bodies (AIB) refer to this announcement as "notify" (Clause C5.1.3 (c) (i) of the EECS Rules). This publication or reporting to the German register administration by the registration authority transferring to Germany shall activate the administrative procedure for the German register administration. At the end of this process, a decision is made on whether the Guarantee of Origin (GO) should be recognised. The recognition audit takes place before the import. If the recognition criteria are not met, importing shall not take place. The application for recognition by the register administration is to be filed by the register that wishes to transfer Guarantees of origin (GO) to the Guarantees of origin register of the German register administration. This is based on the technical transfer, according to which, the foreign account holder instigates the export with the foreign register administrator and the latter then forwards

the application to the German register administration via the electronic interface pursuant to the third sentence. Therefore, only the foreign register administrator interacts with the German register administration and not the holder of the Guarantee of Origin (GO). The second clause of the first sentence refers to the requirements of Article 15 (9) of Directive 2009/28/EC. Under this provision, a Member State has the right to refuse to recognise Guarantees of origin (GO) from another Member State if, after verification, it has reasonable doubts as to their accuracy, reliability or veracity. Failure to present substantiated doubts is a precondition for recognition. In principle, recognition requires that there are no reasonable doubts, i.e. that there are no specific grounds for doubting the accuracy, reliability or veracity of a Guarantee of Origin (GO). Numbers 1 to 5 in the second sentence include examples in which there are generally no reasonable doubts as to the accuracy, reliability or veracity of a Guarantee of Origin (GO).

To number 1

Number 1 corresponds to the requirements of Article 15 (3) of Directive 2009/28/EC that Guarantees of origin (GO) must be used and cancelled within 12 months of the generation of the corresponding energy unit. The regulation states clearly that there is no right to recognition of a Guarantee of Origin (GO) if, at the time of the application for recognition, generation of the underlying electricity volumes from renewable energy sources occurred more than 12 months ago. The regulation refers to the calendar month in which the end of the generation period falls in relation to the date of electricity generation. The point of rejecting an application for recognition is to ensure that the register administration does not have to cancel the Guarantee of Origin (GO) at the same time as it is recognised, but that it is cancelled by the relevant foreign register from which the Guarantee of Origin (GO) is to be transferred.

To number 2

With number 2, the dual use prohibition is included in the recognition requirements for clarification purposes: Guarantees of origin (GO) which have already been used or cancelled shall not be recognised thus preventing their re-use or repeated cancellation.

To number 3

Number 3 specifies that a secure and reliable system for the issuance, transfer, cancellation and use of Guarantees of origin (GO) must be implemented in the issuing and exporting state.

To number 4

Number 4 requires that in the country of production or export, the electricity volume indicated in the Guarantee of Origin (GO) to be recognised must not be shown to final consumers as electricity from renewable energy sources. This regulation corresponds to the second subparagraph of Article 15 (2) of Directive 2009/28/EC, which requires Member States to ensure that the same unit of energy from renewable energy sources is taken into account only once.

To number 5

Number 5 repeats the requirement in the first sentence of Article 15 (9) of Directive 2009/28/EC that the mutual recognition requirement between Member States is limited to Guarantees of origin (GO) which serve no other purpose than that of electricity disclosure. Number 5 refers to the issuing and exporting countries. Given the tradeability of the Guarantee of Origin (GO), it must initially only serve the purpose of electricity disclosure in the issuing country. However, if the Guarantee of Origin (GO) serves other purposes, there is the risk of duplication of use of the Guarantee of Origin (GO) if it is cancelled and used in Germany. The same also applies to the exporting Member State, which may be different from the issuing state, and which acts as a quasi transit state for the Guarantee of Origin (GO). Here, too, the information in the Guarantee of Origin (GO) may already have been used, which must be avoided.

To subsection 2

Subsection 2 normally requires the register administration to refuse the transfer and subsequent recognition of Guarantees of origin (GO) if the transfer is not made by electronic and automated interface to which the Guarantee of Origin (GO) register is connected. In such cases, where an electronic and automated interface is absent, the risk that a Guarantee of Origin (GO) may be used twice cannot be excluded. This is true, for example, when an attempt is made to apply for an import by email using an attached electronic document containing a Guarantee of Origin (GO). The email creates a local copy of the document at the receiver's location, thus doubling the information that may be contained in the email on the issuance of a Guarantee of Origin (GO) in the exporting Member State. The register administration rejects such a request by email in principle due to the non-utilisation of an automated interface.

To subsection 2

The regulation requires the register administration to notify the European Union Commission of a refusal to recognise a Guarantee of Origin (GO) from another Member State, together with grounds for such refusal, pursuant to Article 15 (9) third sentence of Directive 2009/28/EC.

To Section 37 (Import of recognised guarantees of origin)

To subsection 1

Under subsection 1, first sentence, Guarantees of origin (GO) recognised under Section 36 shall be transferred to the national target account. As an additional requirement to the stipulations of Section 36, the second sentence provides, pertaining to the transfer, that the foreign registration authority must transmit the number of the target account and the source account together with the application to the German register administration. This is necessary to correctly assign the Guarantee of Origin (GO) to the beneficiary's account. The account numbers are standardized in the form of member codes.

To subsection 2

Subsection 2 stipulates that the register administration shall notify the foreign registry of any refusal to transfer. The provision is designed to safeguard the security, accuracy and reliability of existing Guarantee of Origin (GO) systems. The information shall enable the foreign register to perform further investigations and, if necessary, remedy existing deficiencies in the safety system of the guarantees of origin register.

To Division 5 (Duties of register participants, main users, users and operators of electricity supply grids)

To Section 38 (General duties to inform and cooperate)

Section 38 contains a general reporting obligation addressed to all register participants and grid operators, irrespective of their function within the guarantees of origin register or guarantees of regional origin register, which relates to changes in data that had to be communicated to the register administration. Thereafter, data changes shall be transmitted in full to the register administration without delay, i.e. without culpable delay. This applies, for example, to name changes or corporate conversions. Environmental auditors must also notify the register administration if they forfeit an accreditation area referred to in Section 2 number 11 letter a) with which they were registered in the guarantees of origin register.

To Section 39 (Duties in relation to use of guarantees of origin register or guarantees of regional origin register)

New Section 39 provides rules for the safe use of the guarantees of origin register and the guarantees of regional origin register, for information technology (IT) reasons. For the guarantees of origin register, the provision constitutes a clarification of the provisions of European law. Article 15 (5) of Directive 2009/28/EC requires the guarantees of origin register to be accurate, reliable and fraud-proof. In addition, Section 79 subsection 2 second sentence of the Renewable Energy Sources

Act (EEG 2017) obliges the register administration to protect the guarantees of origin register against misuse. There is no statutory basis under European law for the guarantees of regional origin register. Thus, the regulation on information technology security is based on the prevention of misuse pursuant to Section 79a subsection 2 second sentence of the Renewable Energy Sources Act (EEG 2017).

Since the register administration can only control the software and the database and safeguard them against damage and unauthorised access from third parties, the persons working at the guarantees of origin register or at the guarantees of regional origin register also have their role to play in providing IT security.. Otherwise, fraud-proofing of the guarantees of origin register and the guarantees of origin regional register would be impossible to guarantee. The same applies to data protection from the perspective of the users of the register. Section 39 provides the essential requirements for IT security and data protection from the perspective of the users of the register.

To number 1

Number 1 lays down the obligation for all persons working with the guarantees of origin register or the guarantees of regional origin register to treat the data acquired in connection with the maintenance of these registers with utmost care, to maintain its confidentiality and not to disclose it to unauthorised third parties. Some of the data contained in the guarantees of origin register or the guarantees of regional origin register is governed by data protection rules, as it concerns personal data or business and trade secrets. Number 7 provides a special regulation for the access data user name and password. To avoid conducting a case-by-case examination, all persons working with the guarantees of origin register or the guarantees of regional origin register must respect data confidentiality and not disclose data to third parties.

To number 2

Number 1 is followed by number 2, which alerts to the fact that the environment set

up by the operator also fulfils an important role in preventing unauthorised access. In organisational terms, the work should therefore not take place in a location where the operator's work can be observed, for example in public transport such as the train or other public spaces such as a café. When leaving the work place, the session must be logged off in the register. From a technical point of view, this includes the use of up-to-date anti-virus software. The operator may not use the guarantees of origin register or the guarantees of regional origin register with the same IT system, for example the smartphone on which he simultaneously receives the smsTAN authentication code; the terms of use also exclude this.

To number 3

Number 3 requires account holders to take all appropriate steps to prevent unauthorised access to their account. The explicit obligation to comply with security measures is primarily intended to ensure the security, accuracy and reliability of the guarantees of origin register, since account holders generally already pay attention to careful account management voluntarily, i.e. within the framework of their obligations.

To number 4

The same applies to number 4 of the provision. This includes the duty to immediately report to the register administration the loss or theft of an authentication instrument as well as the misuse or other unauthorised use of an authentication instrument or a personal backup feature. The term authentication instrument for payments was already acknowledged by legislation until the transposition of Directive 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010 and the repeal of Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35; L 169, 28.6.2016) by BT-Drucksache 18/11495, p. 110, for example in Section 675j of the German Civil Code (BGB) and in Section 1 (5) of the

German Payment Services Supervision Act (ZAG) and therefore requires no further explanation here. Account holders will also have to ensure that no unauthorised persons gain knowledge of passwords. In this connection, the terms of use may contain further specific requirements, i.e. that the password or smsTAN must not be entered outside the specially secured Internet pages of the register site, that precautions must be taken to prevent unauthorised use of the mobile terminals accessible under the mobile telephone numbers specified, or that the device with which a smsTAN is received may not simultaneously be used to perform the transaction by Internet.

To number 5

The organisational measures set out in number 2 are clarified in number 5. This requires the register participant and its users to monitor the IT system they use to operate the guarantees of origin register or the guarantees of regional origin register as well as guaranteeing the security of the user environment. The aforementioned persons shall ensure that no one else uses the logged in session in the guarantees of origin register or in the guarantees of regional origin register to perform actions in their temporary absence for example. Consequently, the aforementioned persons must either "log out" of the register or close the office if they are unable to supervise the IT system.

To number 6

As regards the technical systems and components deployed, the user should, with a view to substantiating the requirements of the aforementioned number 5, align himself, pursuant to number 6, with those requirements assessed as safe by the Federal Office for Information Security (BSI) and described as the current state of safety technology,

To number 7

Number 7 standardizes the confidentiality obligation of login data. This comprises the user name and password. While the register software generates the user

name independently according to certain settings during the registration process, the register participant creates a password for himself according to the instruction rules, which is created by the register administration in the terms of use, for security reasons. With the help of a given user name and password, the Guarantees of origin register participant or the Guarantees of regional origin register participant can log into the Register and perform actions. Accordingly, the register participant and its users shall not disclose the login data to any other persons. To ensure the effective functioning of the guarantees of origin register or the guarantees of regional origin register, they must be kept strictly confidential from all participants and not disclosed to anyone. For example, the account holder may not disclose the access data to the service provider whom he has instructed to manage his account. Similarly, this is not necessary since the service provider has its own access data and is not dependent on the account holder's data. Since the service provider may not be aware of the account holder's access data, he may not create the account of the account holder in charge of the service provider's account, as this would give him access to the account holder's login data. This is the case if Section 8 subsection 1 first sentence states that the account holder may only commission a service provider after the account has been opened. An exception applies with regard to the user name vis-à-vis the register administration. For some operations, it is essential that the register administration learns the user name of the person using the register. This may be the case, for example, if a future account holder has made multiple registrations by mistake, in which case the user name ensures that the account opening request to be deleted can be identified. The user name is also used for correct identification when accounts are deleted. The password, on the other hand, shall not be disclosed or requested by the register administration.

To Section 40 (Duties of the account holder to inform and cooperate)

Section 40 sets out the special reporting and cooperation obligations of account holders. The obligations specified therein serve to ensure the security, accuracy and reliability of the guarantees of origin register and the guarantees of regional origin register.

To subsection 1

Subsection 1, first sentence, requires account holders to regularly check their P.O. boxes and accounts for the receipt of Guarantees of origin (GO) or guarantees of regional origin and to promptly check the accuracy of the credentials. The accuracy shall be verified in so far as the account holder is able to perform such an audit at reasonable cost. For instance, it is not possible for the account holder to check the accuracy of the unique identification number of the Guarantee of Origin (GO) pursuant to Section 9 subsection 1 of the Renewable Energy Sources Act (EEV 2017) or the unique identification number of the Guarantee of regional origin pursuant to Section 10 subsection 1 of the Renewable Energy Sources Act (EEV 2017) at reasonable cost. The second sentence extends the inspection requirement under the first sentence to applications submitted: These are usually processed automatically in the register software, such as applications for the issuance, transfer and cancellation of Guarantees of origin (GO) or guarantees of regional origin, excluding processes that require employee cooperation, such as the registration of a new register participant or the examination of the recognition of a foreign Guarantee of Origin (GO). The duration of the processing of an automated process usually totals a maximum of 15 minutes. If an automated application has not been processed even several hours after filing, the account holder is required to check on its progress with the register administration.

To subsection 2

Under the first sentence, account holders are required to check the data stored on them in the register for discrepancies or

errors. The Account Holder is obliged to compare the facts with the contents of the Register at regular, short intervals. The intervals should be sufficiently spaced with a length of one to two months maximum. The requirement applies not only to personal or business data pertaining to the account holder, but to all circumstances, including, but not limited to, investment and account data, data relating to authorised users and data to be used for the purposes of issuing, transferring, recognising and cancelling Guarantees of origin (GO) or issuing, transferring and cancelling Guarantees of regional origin. Should the account holder discover any discrepancies or errors during the verification process, the register administration shall be notified promptly and the relevant data shall be corrected pursuant to the second sentence. The purpose of this regulation is to prevent false information from entering any legal transactions. Breach of this obligation is punishable by a fine pursuant to Section 48, subsection 2, number 3.

To subsection 3

Subsection 3 obliges account holders to notify the register administration of the expiry of an authorisation declared to the register administration. The provision encompasses both the user authorisation and the service provider authorisation. A reporting of changes concerning authorised representatives is explicitly provided for to prevent unauthorised access to account transactions in the interests of account holders but also for the security, accuracy and reliability of the guarantees of origin register and the guarantees of regional origin register.

To Section 41 (Duties of operators of electricity supply grids and installation operators to communicate and notify information)

Section 41 governs the reporting obligations of installation operators, but above all of grid operators. Accordingly, grid operators are required to provide data on the registered installation (master data), on the electricity volumes fed-in from installations registered with the register admin-

istration (transaction data) as well as information on the eligibility for the EEG surcharge based funding. This data is necessary for the issuance of Guarantees of origin (GO) and guarantees of regional origin. Transmission of the data by the grid operator is both necessary and relevant, as the grid operator maintains up-to-date, high-grade and electronically available data on the electricity volumes fed into the grid and the surcharge-based funding under the Renewable Energy Sources Act (EEG 2017). In addition, as an independent third party not benefiting financially from the guarantees of origin register and the guarantees of regional origin register, the grid operator has no reason to provide false data to the register administration.

The data transmission obligations apply to the grid operators for general supply, i.e. grid operators pursuant to Section 3 number 35 of the Renewable Energy Sources Act (EEG 2017), whose grid is connected to an installation registered in the guarantees of origin register or the guarantees of regional origin register (subsections 1 and 2). These grids are usually distribution grids. The general supply grid in subsections 1 and 2 also includes cases in which installations for the generation of electricity from renewable energy sources feed directly into the transmission grid (cf. Section 3 number 44 EEG 2017); this may be the case for example with large wind farms or mixed combustion plants. Obligations of distribution system operators and transmission system operators are governed specifically by Section 41 subsection 1 (master data), subsection 2 (variable data), subsection 3 first sentence first clause (master data and variable data for area grids if the data are available), subsection 3 second sentence first clause (master data and variable data for installations in the guarantees of origin register for direct consumption), subsection 4 first sentence (use of input screen is mandatory).

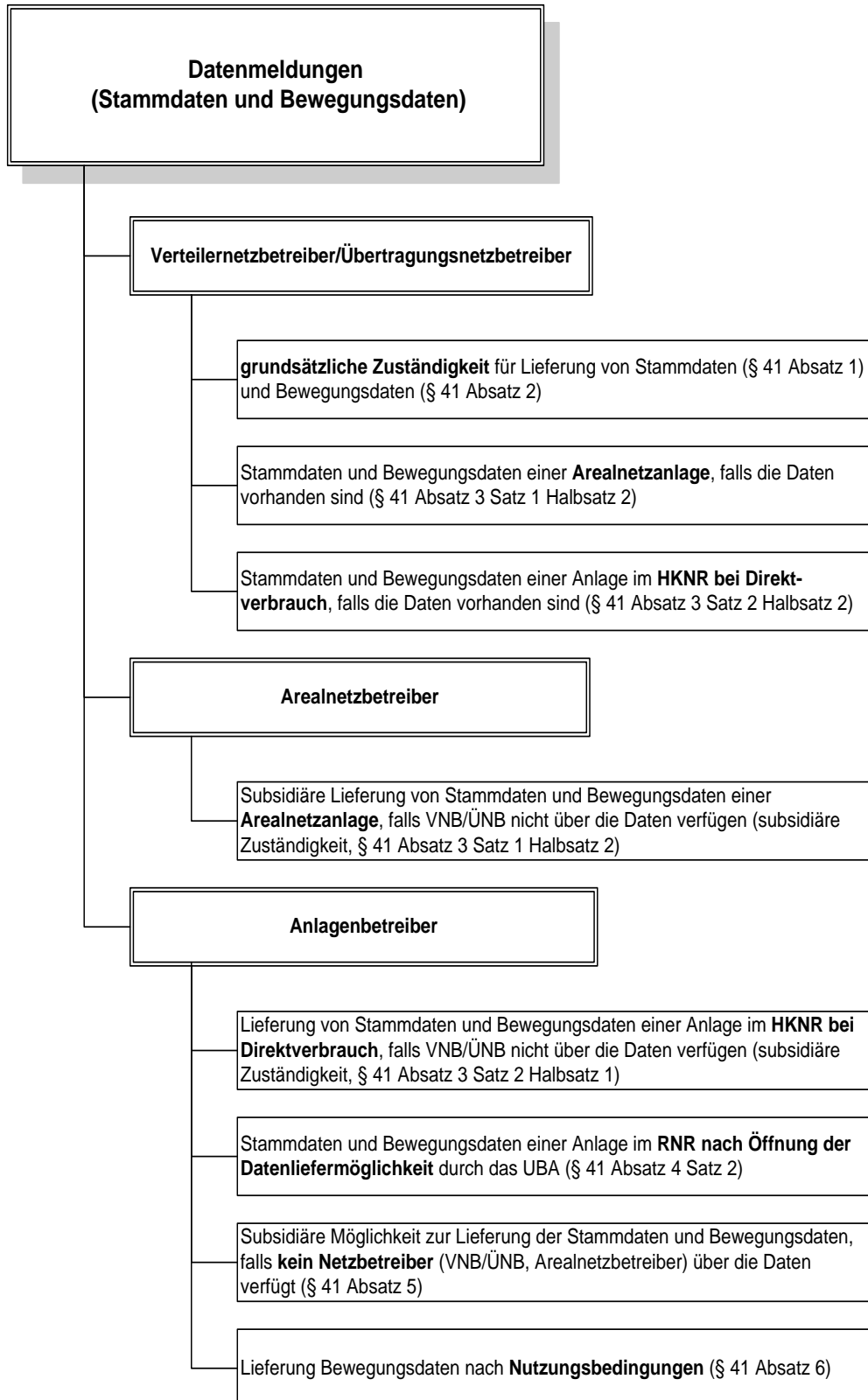
On the other hand, operators of area networks are also obliged to transmit data if an installation registered in the guarantees of origin register is connected to such

a network and the downstream grid operator (distribution system operator or transmission system operator) does not have the data. Obligations for area grid operators are governed in particular by subsection 3 first sentence, second clause (subsidiary obligation to the grid operator to supply master data and variable data) and subsection 4 first sentence (mandatory use of input screen). This obligation only applies to the guarantees of origin register, since in the case of installations registered in the guarantees of regional origin register, the grid operator always has the information on the electricity volumes and on the EEG surcharge available to him because he pays the market premium. If neither the downstream grid operator nor the area grid operator have access to the data, the installation operator itself shall report the data (subsection 5). The area grid must also constitute a grid from a legal standpoint, and characterised primarily by intermeshing. On the other hand, a direct connection between the installation and the consumer, as occurs for instance when a photovoltaic system on the roof of a tenement building supplies a rented

apartment outside the tenant electricity surcharge pursuant to Section 19 subsection 1 number 3 EEG 2017, does not constitute a grid. If the grid operator downstream of the direct connection has the data on production and consumption in the apartment building, it must supply the data.

In addition, the installation operator itself reports master data and variable data for installations in the guarantees of origin register pursuant to subsection 3 second sentence in the case of direct consumption, if the grid operator does not possess such data). Under certain circumstances, installation operators may also be granted the option under subsection 4, second sentence, of sharing master data and transaction data in the guarantees of regional origin register. In general, the installation operator has a subsidiary reporting obligation pursuant to subsection 5. Subsection 6 provides that the terms of use may specify further installations for which the operator shall report variable data.

Duties and responsibilities also result from the following synopsis:



To Section 1

Subsection 1 deals with the transfer of the master data of an installation by the grid operator. These are sent by the grid operator as a comparison with the data sent by the installation operator. At the same time,

it is also intended to ensure that the master data "marketing method" is used only for the

Guarantees of origin (GO) as provided for in Section 79 subsection 1 number 1 of the Renewable Energy Sources Act (EEG 2017) or guarantees of regional origin (EEG 2017) are issued only for the quantities of electricity for which the market premium is subsidised (Section 79a subsection 1 number 1 of the Renewable Energy Sources Act (EEG 2017)). The reporting shall be made by the grid operator at the request of the register administration. This means two things: First, grid operators only communicate data when requested to do so by the register administration. Secondly, the grid operator shall act promptly following the request. The first sentence describes the specific data required to determine whether the quantities of electricity produced in a clearly identifiable installation are actually eligible to receive Guarantees of origin (GO) or guarantees of regional origin.

To number 1

Under number 1, grid operators shall transmit the identification number or other designation of the facility of the installation metering the net electricity volumes fed into the electricity supply grid pursuant to Section 21 subsection 1 second sentence number 10. This serves to clearly identify the electricity volumes for each installation. This can either be the market location identification number, which identifies the installation, the market location identification number of the Tranche, or a measurement location identification number. The grid operator shall provide the identification number which identifies the electricity volume authorised to receive Guarantees of origin (GO) or guarantees of regional origin. In the case of proportionate marketing in several marketing forms pursuant to the Renewable Energy Sources Act (EEG 2017) (Tranching), each Tranche receives its own market allocation identification number. If for example, the installation simultaneously purchases electricity from the grid, an identification number corresponding to the smart metering system shall be assigned pursuant to Section 21 subsection 1 second sentence number 10 second half sentence.

To number 2

Under number 2, it must be clarified whether the installation operator is claiming the EEG surcharge for the electricity in accordance with the Renewable Energy Sources Act (EEG 2017).

To number 3

Under number 3, the grid operator must disclose the form of sale of the electricity within the meaning of Section 21b subsection 1 of the Renewable Energy Sources Act (EEG 2017). As the grid operator settles the payment claims under the EEG with the installation operator, the grid operator has information on the current marketing method for each month.

To number 4

The requirement also exists to notify a potentially existing proportionate sale (Tranching), since for the entire electricity volume generated by the installation the percentage distribution pursuant to Section 21b subsection 2 of the Renewable Energy Sources Act (EEG 2017) must be reported. Pursuant to Section 21b subsection 2 of the Renewable Energy Sources Act (EEG 2017), the installation operator is entitled to divide the electricity into so-called Tranches and thus sell it to multiple customers and/or using diverse marketing methods.

To number 5

Under number 5, the grid operator also specifies the balancing group defined in Section 4 of the Electricity Network Access Regulation (StromNZV). In Germany, the Energy Identification Code (EIC-Code) is used to describe the balancing group, a 16-digit designation assigned by the Federal Energy and Water Association (BDEW) on behalf of the European Network of Transmission System Operators for Electricity (ENTSO-E). The reporting of the balancing group is required above all for the optional coupling of Guarantees of origin (GO) pursuant to Section 16 subsection 3. Since a percentage distribution of the electricity supply to several consumers leads to a feed-in into several balancing groups, it may also be

necessary to specify several balancing groups.

To number 6

The type of time series, which number 6 submits to the grid operator for transmission, describes the energy sources used. It is essentially based on bulletin number 1 establishing the "Market Rules for the Implementation of the Electricity Balancing Group Accounting (MaBiS)" of Decision Chamber 6 of the Federal Network Agency, file no.: BK6-07-002 from 29.09.2009, with updates and additions by the Working Group EDI@Energy in the "Code list of types of time series".

To number 7

The indication of the type of generating installation is essential in order to prevent any issue of Guarantees of origin (GO) or guarantees of regional origin for electricity from installations which are not installations generating electricity from renewable sources.

To number 8

Here it must be indicated whether the installation has a device for recording load profile measurement or a manually readable meter.

To number 9

The transformer and the transformer ratio, if any, shall be specified.

Whether or not a concrete application for the issue of Guarantees of origin (GO) or guarantees of regional origin already exists, for the electricity volume, is of no relevance to the grid operator's obligation to supply data. The initial release of the master data shall occur prior to the transmission of the quantities of electricity. With the data referred to in the first sentence, the register administration has information on a possible payment claim under the Renewable Energy Sources Act (EEG 2017) for the total volume of electricity notified by the grid operators for which the issuance of Guarantees of origin (GO) or guarantees of regional origin can be envisaged and can clearly assign this to an installation. The grid operator's obligation exists from the moment of registration of

the installation by the installation operator, once the grid operator has been informed of this by the register administration.

Under the second sentence, the register administration has the right to specify any further data necessary for the functioning of the guarantees of origin register or the guarantees of regional origin register. It may specify this in the terms of use pursuant to Section 52 first sentence. To date, the industry itself has made specifications to specify the requirements, which have been recorded in an "EDI@Energy Application Manual - Description of data to be exchanged with the guarantees of origin register (HKN-R) of the Federal Environment Agency (UBA)". These processes and data requirements of market communication shall be adapted in terms of content every 6 months. They will apply in the same way not only to the Guarantees of origin register but also to the guarantees of regional origin register. These adjustments may entail a need for the register administration to obtain further data, as the register administration endeavours to follow existing market processes in order to minimise costs and workload for stakeholders, notably grid operators. For simplification purposes, the register administration could refer to the EDI@Energy documents under the general ruling. In addition, pursuant to the third sentence, for installations already registered in the guarantees of origin register or the guarantees of regional origin register, the grid operator must report a change in the data referred to in the first sentence, or the data referred to in the second sentence, such as monthly changes in the form of sale of the electricity generated (Section 21b subsection 1 of the Renewable Energy Sources Act (EEG 2017)). The data shall be sent to the register administration as part of the communication with the grid operators during the transmission of master data.

To subsection 2

The first sentence of subsection 2 contains the general obligation of grid operators to transmit electricity volumes fed on a net basis into the grid by installations

registered in the guarantees of origin register. This includes all electricity volumes that are not consumed by the installation operator before feed-in. Furthermore, quantities of electricity that the installation has purchased from the grid are to be deducted from the feed-in volume (net principle). Allowance is made for the installation's grid connection up to a maximum of the feed-in volume; negative electricity feed-in is excluded. It is not necessary to check to whom or which end consumer the electricity generated and fed into the grid is delivered. As long as the electricity is supplied to the balancing group of a third party, it can be presumed that the electricity is not consumed by the installation operator itself.

Pursuant to the second sentence, the scope of the data transmission obligation depends on the type and method of measurement. In the case of power-measured installations within the meaning of Section 9 subsection 1 first sentence number 2 of the Renewable Energy Sources Act (EEG 2017), (calibrated recording load curve measurement), the data pursuant to the second sentence number 1 shall be available at least once a month up to the 8th working day of a month for the previous calendar month. In the course of the following weeks, changes to the electricity volume generated may be reflected subsequently in the grid operator's billing systems. This is based on so-called data clearing, which is to be carried out within the framework of the "Market Rules for the Implementation of Electricity Balancing Group Accounting (MaBiS)", published as Annex 1 to Resolution BK6-07-002 of the Federal Network Agency. For example, the grid operator transmits the first corrected quantity 29 working days after the electricity delivery month (subclause 1.3.3. MaBiS) and at the end of the eighth month after the month of electricity delivery, a final correction (subclause 2.7. MaBiS, so-called correction balancing group billing) of the quantities of electricity supplied. These corrections, which the grid operator undertakes as part of balancing group settlements, are irrelevant in the context of the guarantees of origin regis-

ter, since all Guarantees of origin (GO) issued on the basis of the first electricity declaration may already have been sold and cancelled. In addition, the register administration does not require the electricity volumes until eight working days after the end of the generation month, meaning that sufficient data clearing can be performed in the meantime. If an environmental auditor or an environmental auditors' organisation inspects the electricity volumes fed in, the verification criterion is neither the grid operator's first actual feed-in report nor the final corrective balancing group statement pursuant to Section 2.7. MaBiS, rather a volume of electricity, which the grid operator calculates after a first clearing around the 8th working day after the delivery month. The transmission shall take place in the form of the individual quarter-hourly values for the calendar month. This corresponds to the usual quarter-hourly resolution on the electricity market, which means that the grid operator does not have to use any other format for reporting, which could entail additional costs.

For installations which are not power metered, the data pursuant to the second sentence number 2 shall be transmitted after reading on the 28th day of the month following the reading. Nonetheless, the data must be provided to the register on an aggregated basis at least once a year. Since Guarantees of origin (GO) are only issued if the electricity is not subsidised, the data transmission obligation exists only then and only to this extent. Marketed volumes of electricity shall not be reported to the register administration so as to consistently implement the double-marketing prohibition under Sections 79, 80 of the Renewable Energy Sources Act (EEG 2017). The obligation to report only unsubsidised electricity volumes plays a role above all in systems without recording load curve measurement. For example, the installation operator may have changed the marketing method in the period during which the grid operator sends the read data. Example: The installation operator markets the electricity directly without promotion. In May the installation operator switches to EEG tariffs and in

September back to unsubsidised direct marketing. In January of the following year, the grid operator reads the meter. The grid operator may not send the register administration the value resulting from the value read off in January of the following year minus the value read off in January of the previous year, as this electricity volume also contains subsidised electricity volumes. Here the grid operator must either deduct the subsidised electricity quantities before sending them to the register administration or read the meter each time the marketing form changes and send the meter reading to the register administration. Failure to do so shall constitute a breach of this duty.

The third sentence regulates the grid operator's transmission obligation for quantities of electricity fed into the grid by installations registered in the guarantees of regional origin register. The transmission obligation is limited to electricity volumes marketed by the installation operator as market premium pursuant to Section 19 subsection 1 number 1 of the Renewable Energy Sources Act (EEG 2017), since guarantees of regional origin may only be issued for these electricity volumes. Since installations registered in the guarantees of regional origin register must have a measuring facility within the meaning of Section 9 subsection 1 number 2 of the Renewable Energy Sources Act (EEG 2017), the grid operator must always transmit the electricity volumes to the guarantees of regional origin register pursuant to the second sentence number 1 at least once a month by the eighth working day of a month for the preceding month in a quarter-hourly resolution.

In the event that further data is required for the issuance of Guarantees of origin (GO) or guarantees of regional origin, the register administration may, pursuant to the fourth sentence, also specify additional data needed for the functioning of the register under the terms of use pursuant to Section 52.

To subsection 3

Subsection 3 regulates the obligation to transmit the electricity volume data of installations connected to a network which is not used for general supply. This provision applies only to installations registered in the guarantees of origin register. This configuration is irrelevant for the guarantees of regional origin register since in this case there would be no entitlement to the market premium and thus no entitlement to guarantees of regional origin.

The first sentence governs the case where the installation feeds into an area grid, notably a closed distribution system pursuant to Section 110 of the Energy Industry Act (EnWG), and the electricity within this grid is consumed by third party final consumers. In this case, the operator of the general supply grid, i.e. the grid operator to whose grid the area grid is connected pursuant to Section 3 number 36 of the Renewable Energy Sources Act (EEG 2017), is generally required to transmit the electricity volume data provided it has the corresponding data at its disposal, because, as a rule, it measures the electricity volumes consumed outside the general supply grid. The distribution system operator is thereby committed in the first instance; the area grid operator is only under an obligation to supply data if such data is not available to the general supply grid operator. The same regulations apply to the scope of data transmission as apply to the data to be transmitted by the grid operators for general supply, according to which there is a different data transmission obligation for power metered and non power metered installations. Should the area grid operator also not dispose of the installation data and the electricity volume, then the installation operator shall be subject to the data transmission requirement (subsection 5). The second sentence governs the case in which the installation supplies the electricity to a third party in the immediate vicinity of the installation without network transmission (Section 21b subsection 4 number 2 of the Renewable Energy Sources Act (EEG 2017)). In the case of this type of direct

consumption, the grid operator to whose grid the system is connected is also first and foremost committed to transmit the data. If the grid operator does not possess the necessary data, the installation operator shall be required to transmit the data pursuant to subsections 1 and 2 on a subordinate basis. In the case of direct consumption, the data report shall be made pursuant to subsection 4, i.e. by means of a form template provided by the register administration by the cut-off dates specified in subsection 4; the register administration may also make further specifications for this data report pursuant to subsection 4, third sentence.

To subsection 4

Subsection 4 governs how the reporting obligation is to be fulfilled should there be failure in the communication of installation data and electricity volumes between grid operators and the register administration. Practical experience has shown that electronic, automated and mass-produced communication systems can also fail. Either the operator of a given network cannot process the requirements of the register administration or the register administration fails to implement the reporting made by the grid operators. In some cases, the grid operator is also unable to provide the specified means of transmission, possibly because it only operates a small area grid. Irrespective of where the communication failure occurs between the two operators, rapid action is required by both parties, the grid operator and the register administration, to ensure that the installation operator rapidly obtains registration of its installation or the Guarantees of origin (GO). Therefore, should communication fail on master data or readings pursuant to subsection 4, the grid operators shall be obliged to transmit the data to the register administration via a portal. Otherwise, the installation operator risks incurring losses since the register administration rejects applications for Guarantees of origin (GO) after 12 months from the generation period and applications for guarantees of regional origin after 24 months from the generation period. The obligation shall always apply when the

data is not transmitted in full or in part by automatic electronic data transmission. The data shall only be deemed transmitted if it reaches the register administration by the means prescribed in subsection 4 first sentence and in a version which can be further processed. If the installation master data or the electricity volumes were not transmitted or not transmitted in full, grid operators and area grid operators shall be required to transmit the data via the electronic form template on three dates: 15 January, 15 May and 15 September. On these dates, the grid operators and the area grid operators must send the missing installation master data and electricity volumes for the previous four-month period framed by the previous date (minus 15 days for data collection and processing) to the register administration via the electronic form template, i.e. on 15 January for September, October, November and December, on 15 May for January, February, March and April and on 15 September for May, June, July and August. The second sentence enables the register administration, in the event automated grid operator communication should fail, to provide the operators of installations registered in the Guarantees of regional origin register with a form template which they themselves can use to send the data referred to in subsections 1 and 2 to the register administration.

To subsection 5

Subsection 5 stipulates that installation operators are required to transmit master data and electricity volume data on a subordinate basis if such data is exceptionally not available to the grid system operator or, as the case may be, to the area grid operator. Such is the case, for example, if the grid operator is unable to transmit the data owing to market communication requirements, which is the case with waste incineration plants. If the installed capacity of an installation registered in the guarantees of origin register exceeds 250 kilowatts, notification of the electricity volumes pursuant to Section 10 subsection 1 number 9 and Section 41 must be validated by an environmental auditor or an

environmental auditors' organisation before Guarantees of origin (GO) can be issued.

To subsection 6

Under subsection 6, the register administration is competent to determine categories of installations for which generation data is to be transferred by the installation operator to the register administration. These categories of installations shall be defined in the terms of use pursuant to Section 52.

To Section 42 (Evaluation duties for biomass installations registered in the guarantees of origin register)

Section 42 contains obligations for operators of biomass installations to have environmental auditors or environmental auditors' organisation conduct investigations, inspections and collect evidence. Section 42 applies exclusively to biomass installations registered in the guarantees of origin register. Biomass installations within the meaning of this regulation are pure biomass installations, as well as mixed combustion plants.

To subsection 1

Subsection 1 describes the testing and reporting obligation for pure biomass installations and mixed firing plants with an installed capacity of more than 100 kilowatts (Section 12 subsection 1 first sentence number 8), according to which the volume of electricity for which the installation operator may apply for Guarantees of origin (GO) must have been generated from renewable energy sources. The mandatory requirement to furnish evidence of an environmental report does not apply to the above-mentioned installations with an installed capacity of up to 100 kW. The installation operator shall provide the required evidence by an environmental auditor or an environmental auditors' organisation before issuing the Guarantees of origin (GO). This obligation to provide proof is intended to ensure that Guarantees of origin (GO) are only issued for electricity from renewable energy sources. For pure biomass plants, special verification requirements are required

since many biomass plants can also easily use other, non-renewable energy sources. For mixed combustion plants, calculating the share of renewable energies contained in the fuel whose electricity is eligible for Guarantees of origin (GO) proves to be comparatively complex (cf. the explanatory memorandum to Section 12 subsection 1 first sentence number 8).

The role of the environmental auditor or environmental auditors' organisation shall be as follows: For mixed combustion plants, the environmental auditor or environmental auditors' organisation shall determine the electricity volume produced in the plant and the share of renewable energy in the energy content of the combustibles used (biogenic share) and transmit it to the register administration. The electricity volume to be validated shall be the total amount of electricity generated in the installation during the month in question, including non-biogenic proportions of the fuel used. Furthermore, the environmental auditor or environmental auditors' organisation shall determine the proportion of renewable energies used in the fuel. The proportion is not to be determined on a mass basis, but on an energy basis. The assessment shall be made according to the state of the art. The current version of DIN EN 15440 describes methods for waste incineration plants and substitute fuel plants. Any lack of clarity in the method used shall be tolerated and offset by experience. Other state-of-the-art methods may also be applied. In the case of mixed combustion plants using biomethane, the installation operator can provide evidence to the environmental auditor or environmental auditors' organisation using an extract from the biogas register. The environmental auditor or the environmental auditors' organisation shall indicate this biogenic share determined in this way as a percentage of the energy content of the total fuel used in the register software. The fact that the expert assessment is to be carried out once a calendar year reflects the obligation of the register administration to reject an application for a Guarantee of Origin (GO) pursuant to Section 12 subsection 1 first sentence number 8 owing to the lapse of time if

electricity generation took place more than 12 months ago.

The same applies to mixed combustion plants but with modifications for pure biomass plants with an installed capacity of more than 100 kilowatts. In synchronisation with the mixed combustion plants, the environmental auditor or the environmental auditors' organisation in the case of pure biomass plants shall, before issuing the Guarantees of origin (GO), determine the proportions of renewable energies contained in the combustibles used and the net quantity of electricity generated and transmit this information to the register administration.

Validation by the environmental auditor or verification body is a prerequisite for the issuance of Guarantees of origin (GO). The assessment thus represents an obligation for the installation operator. This eliminates the need for sanctions in the event that the installation operator fails to carry out the required assessment.

The second sentence enables the register administration to lay down appropriate specifications for the calculation of the proportion of renewable energies used in the combustibles, to facilitate the expert appraisal process. These specifications, which the register administration defines in the terms of use, do not waive the requirement for an expert assessment.

To subsection 2

To enable and facilitate the examination and verification by the environmental auditor or the environmental auditors' organisation, pursuant to subsection 1, subsection 2 contains an obligation for the installation operator of a biomass installation or a mixed combustion plant to provide the environmental auditor or the environmental auditors' organisation with documentation on the combustibles or input materials used in the installation, i.e. an input materials log. This shall consist of a systematic, chronological and complete collection of all relevant supporting documents concerning the substances combusted in the electricity generation installation. In the case of waste incineration plants, this can be done pursuant to Section 49 of the

Closed Substance Cycle Waste Management Act of 24 February 2012 (Federal Law Gazette I p. 212), as amended by article 12 subsection 9 of the Act of 20 July 2017 (Federal Law Gazette. I p. 2808) must be used as the input material log. The quantity is usually recorded by mass and not by volume. In the area of waste disposal, for example, this corresponds to the information to be provided in the consignment notes as proof of the disposal of waste, see Annex 1 to the Ordinance on the Verification of Waste Disposal (NachwV) of 20 October 2006 (Federal Law Gazette I p. 2298), which was amended by article 11 subsection 11 of the Act of 18 July 2017 (Federal Law Gazette I p. 2745). The unit refers to the specified quantity. With regard to the origin of the substances used, a self-assessment document is sufficient for biomass produced by the plant itself (e.g. bark and wood chips in the sawmill). Managing involves a continuous, permanent maintenance of the relevant documents in an input material log. The simple establishment of an ad hoc report when an environmental auditor or an environmental auditors' organisation conducts an audit is insufficient, such that the installation operator is deemed not to have provided the evidence required. Pursuant to sentence 2, the input material log must also be maintained for at least five years in order to enable subsequent control of the input materials. While the installation operator furnishes the input material log to the environmental auditor and the environmental auditors' organisation without obligation, he furnishes the input material log to the register administration only upon request. Conversely, the register administration is authorised to request the input material log and to compare its contents with those of the guarantees of origin register.

To subsection 3

Subsection 3 specifies the tasks of the environmental auditor or environmental auditors' organisation and the manner in which they are to be performed. The first sentence clarifies that the environmental auditor or environmental auditors' organisation is acting on behalf of the installation

operator. Subsection 3 shall draw on the obligations and practices which otherwise apply to the work of environmental auditors and environmental auditors' organisation. For example, Section 7 of the Environmental Audit Act describes the expertise that the environmental auditor or the environmental auditors' organisation must possess to properly perform his or her duties. Subsection 3 specifies the expertise required herein in the methodology, performance and assessment of the environmental audit. Pursuant to the first sentence, the environmental auditor or environmental auditors' organisation shall verify the credibility of the documents submitted pursuant to subsection 2. Should there be a lack of credibility, the environmental auditor or the environmental auditors' organisation shall draw the attention of the installation operator to this fact and demand rectification. Failure to do so, or failure to do so adequately, shall result in the environmental auditor or environmental auditors' organisation being deprived of the necessary facts underlying his or her work; the only remaining option shall be to reject the request submitted by the installation operator. The credibility check entitles the environmental auditor and the environmental auditors' organisation under the first sentence to ask the installation operator for further documentation to compare with the documents submitted. The first sentence expressly states the operation logbook in which the installation operator records all relevant operational procedures. Comparable documents can also be submitted if they are complete, chronologically grouped and sufficiently informative. Comparable documents include, for example, delivery notes or fuel delivery contracts.

The second sentence provides that the environmental auditor and the environmental auditors' organisation shall at intervals not exceeding 15 months, visit and inspect the pure biomass plant or the mixed combustion plant for which they are to carry out the identification, verification or validation. From a practical point of view, a visual inspection is essential because the impression gained is used to more accurately assess the credibility of

the documents submitted and to carry out the investigation and examination accordingly. The environmental auditor or environmental auditors' organisation shall record the on-site inspection referred to in the second sentence in the register software. Naturally, the environmental auditor and the environmental auditors' organisation can inspect the installation more frequently.

The third sentence governs the legal consequences of failure to conduct a visual inspection: The electricity is then classified as not generated from renewable energy sources. The fourth sentence states clearly that if a visual inspection is not performed in more than 15 months, the inspection can only be retrospectively performed for electricity volumes from the last 12 months. This restriction derives from the 12-month lifespan of a Guarantee of Origin (GO) and the electricity volume on which it is based (Section 12 subsection 1 first sentence, number 7).

To subsection 4

Subsection 4, first sentence, stipulates that the environmental auditor or the environmental auditors' organisation shall, in the interim period between visits to the installation, not be required to perform the on-site assessment, notification and verification of the renewable share of the combustibles used at the installation, but shall undertake such activities in the environmental verification office on the basis of the documents submitted. A precondition for this however is that satisfactory examination of the criteria for assessment and validation is not at risk. If the environmental auditor or the environmental auditors' organisation is aware of such a risk, an on-site inspection of the installation shall be required.

The second sentence emphasises that the issuance of Guarantees of origin (GO) for biomass installations may also be excluded for other reasons affecting the environmental auditor or the environmental auditors' organisation, particularly where relevant installation data have been modified. Here it is quite possible that the en-

environmental auditor and the environmental auditors' organisation must inspect the installation for any of the reasons outlined in Section 24 subsection 2, even if not for the reasons stated in Section 42. The third sentence provides that the register administration may in turn monitor the verification activities of the environmental auditor and the environmental auditors' organisation. The subject of this random check is whether the register administration actually issued Guarantees of origin (GO) only for electricity generated from renewable energy sources. The fourth sentence assumes that the identification, verification and reporting performed by the environmental auditor and the environmental auditors' organisation within the year, i.e. not on site, is prone to error. The register administration will thus act on behalf of the accreditation body for environmental auditors, which in Germany is the Deutsche Akkreditierungs- und Zulassungsgesellschaft für Umweltgutachter mbH (DAU) based in Bonn, which is required to carry out verifications pursuant to Section 15 of the German Environmental Audit Act (UAG). The fourth sentence shall finally permit the register administration to obtain documents or expert opinions pursuant to Section 44 from the installation operator in order to verify the data pursuant to the third sentence.

To Section 43 (Activity of environmental auditors and environmental auditors' organisations)

Section 43 provides the framework for the activities of environmental auditors and environmental auditors' organisations, which are responsible for a number of tasks in the validation of data in the context of the guarantees of origin register. Environmental auditors or environmental verification agencies have no responsibilities within the context of the guarantees of regional origin register.

To subsection 1

Subsection 1 begins in the first sentence by listing the rules containing data that account holders must have validated by an

environmental auditor or an environmental auditors' organisation. The obligations of account holders arise directly from the relevant provisions of the Regulation. The second sentence stipulates that environmental auditors or environmental auditors' organisations may only act in the area of competence which corresponds to their accreditation pursuant to Section 2 subsection 11 letter a), i.e. environmental auditors with an accreditation in the field of hydropower shall only act for hydropower installations, environmental auditors with an accreditation in the field of electricity generation from renewable energy sources shall only act for renewable energy installations, including hydropower installations, and environmental auditors for waste shall only act for installations generating electricity from the thermal recovery of waste and substitute combustibles. An exception is made after the second half sentence for pure biomass plants and mixed combustion plants, for example waste incineration plants or substitute fuel power plants, where environmental auditors and environmental verification organisations having the scope of approval for renewable electricity generation (NACE code 35.11.6) may also issue declarations and endorsements. This is due to the fact that it is primarily a matter of determining the biogenic proportions of the combustibles used, i. e. waste, a mission that is very closely linked to renewable energy sources.

To subsection 2

Under the first sentence, the environmental auditor or the environmental auditors' organisation shall make the validations referred to in subsection 1 on the basis of a verification. This means that the on-site installation, the planning and approval documents, the electricity supply contracts, the input material log, or the waste register need to be inspected. The main findings obtained, the facts justifying the decision and the conclusions derived therefrom as well as their basis shall be recorded in writing or electronically in the form of an expert report. The report of the environmental auditor or the environmental auditors' organisation shall, pursuant

to the second sentence, disclose the content and result of the verification in a comprehensive way and provide a technically sound assessment. The environmental auditor or the environmental verification organisation must therefore explain in the expert report the basis of the verification and the method by which the result is obtained. Thus, the scope and depth of the representation depend on the subject under investigation. If individual facts or data can be confirmed without intensive examination by the environmental auditor or the environmental verification organisation, a detailed description shall not be required. However, the mere reference in another scientific opinion to values determined by third parties (e.g. of biogenic components) is inadmissible unless the expert report drawn up for the guarantees of origin register makes it clear that the situation found at the site inspected is consistent with or at least comparable to that referred to in the expert report. The register administration needs the approval of the environmental auditor or the environmental auditors' organisation, i.e. the result of the verification as well as the assessment. Under the third sentence, the result of the environmental auditor's or environmental auditors' organisation's verification shall be recorded in electronic form templates provided by the register administration. The primary purpose of environmental auditors or environmental auditors' organisations is to confirm to the register administration certain data specified by the Regulation. This data shall be used in the electronic register of Guarantees of origin (GO) to enable Guarantees of origin (GO) to be issued, transferred and cancelled. For the data to be directly available to the electronic register, the environmental auditor or environmental auditors' organisation shall transmit them electronically and input them in the appropriate form templates. The expert report, which must meet the requirements of the first and second sentences, shall also be uploaded at the appropriate point in the register (e.g. as a pdf document) and thus submitted to the register administration in electronic form. The register administration may fur-

ther specify the data to be transmitted under this Regulation in the form templates provided by the register administration.

To subsection 3

The first sentence clarifies that the environmental auditor or environmental auditors' organisation shall act on behalf of the person whose information is to be determined and/or confirmed, i.e. on behalf of the operator of the installation or the account holder, when carrying out activities under this Regulation. The costs incurred by the environmental auditor or environmental auditors' organisation in carrying out its activities shall also be borne by the verifier whose details are to be verified and not by the register administration. As part of their verification activities, environmental auditors and environmental auditors' organisations are dependent on the support of installation operators and other account holders. The second sentence renders this an obligation of installation operators and other account holders. To assist, the said persons shall immediately provide accurate and complete data.

To Section 44 (Submission of additional documents by installation operator and account holders)

For reasons of economy, in particular to prevent the costs associated with the generation of electricity from renewable energy sources increasing as a result of joining the Guarantees of origin register and the Guarantees of regional origin register, no verification of the data to be transmitted for the registration of an installation is required from register participants. The provision of Section 44 grants the register administration the possibility, upon request, to demand that the accuracy of the data submitted for the registration of the installation and further actions in the guarantees of origin register and in the guarantees of regional origin register, be substantiated by documents supplied or environmental reports.

To subsection 1

In order to verify compliance with the provisions of this Regulation and the accuracy of the information provided, the first

sentence authorises the register administration to request account holders in the guarantees of regional origin register to provide evidence of the electricity supply contract underlying a specific transfer of guarantees of regional origin. The register administration is entitled, at its discretion, to demand such evidence from the transferring account holder, the receiving account holder or both account holders. Proof can be provided, for example, by submitting the electricity supply contract and, if necessary, supplementary accounting documents. The second sentence states that the register administration may require installation operators to demonstrate the accuracy of the data transmitted to the register. This concerns the registration of installations in the guarantees of origin register and the guarantees of regional origin register, the issuance of Guarantees of origin (GO) and guarantees of regional origin and the re-registration of installations.

To subsection 2

Subsection 2 specifies possible further documentary evidence. Thus, a report by an environmental auditor or an environmental auditors' organisation, an auditor or a comparable independent and neutral expert may be requested by the register administration. The decision as to whether confirmation by the submission of further documents is adequate or whether other persons are to be commissioned to certify the data is at the discretion of the register administration. This may also govern the manner in which evidence is furnished pursuant to the second sentence of the terms of use pursuant to Section 52. The third sentence stipulates that the requested account holder is obliged to transmit the requested confirmation in the requested form electronically and expeditiously, i.e. without undue delay, to the register administration. Violation of the obligation to transmit the requested evidence without delay pursuant to the third sentence shall constitute an administrative offence under Section 48 subsection 2 number 4.

To subsection 3

Subsection 3 governs the legal consequences of a violation of the obligations under subsection 1. The register administration may delete those Guarantees of origin (GO) or Guarantees of regional origin which it issued on the basis of unconfirmed data pursuant to the first sentence. As a result, these can no longer be used by the account holder (second sentence).

To Division 6 (Collection, storage, use, transmission and deletion of data)

To Section 45 (Collection, storage, use of personal data)

Section 45 clarifies that the register administration may collect, store and use such personal data in order to operate the guarantees of origin register (subsection 1) and the guarantees of regional origin register (subsection 2). This is a rewording of the existing concepts of collection, storage and use in line with the new definition in article 4 number 2 of Regulation (EU) 2016/679 (Basic Data Protection Regulation). This European provision defines processing as a generic term, though this would be too restrictive for the purposes of maintaining the Guarantees of origin (GO) and guarantees of regional origin registers. This is why Section 45 restricts itself to the use of the more specific processing variants to collect, store and use. As a result, there are no substantive changes to the previous version of the Guarantees of origin and Regional Origin Implementing Ordinance (HkRNDV,). This authorisation is restricted by the mandatory data protection principle or the data minimisation principle laid down in article 5 subsection 1 of Regulation (EU) 2016/679. In this context, the register administration is not authorised to collect, store and use data which is not necessary for the maintenance of the register. Section 45 is based on letter e) of the first subparagraph of article 6 subsection 1 in conjunction with subsections 2 and 3 of the General Data Protection Regulation.

To Section 46 (Data transmission)

The register administration may transmit data to bodies which are enumerated in Section 46. The basis for this authorisation consists of the possibility of regulating the procedure (Section 92 subsection 3 of the Renewable Energy Sources Act (EEG 2017), Section 14 subsection 1 number 4 of the EEG). In many areas, data transmission is essential for the implementation of the procedures.

This applies, for example, to data cross-checks between the guarantees of origin register, the guarantees of regional origin register and the core energy market data register of the Federal Network Agency (subsection 3), the transfer of Guarantees of origin (GO) to a register of another Member State by data transmission to the registry authority of the other Member State (subsection 1 number 2 letters a, b and c) and the Association of Issuing Bodies as the authority which operates the interface for international trade (subsection 1 number 2 letter e), or the transfer of data to EU institutions and bodies (subsection 1 number 2 letter d), since non-recognition of a foreign Guarantee of Origin (GO) must be notified to the EU Commission, Section 34 subsection 2 in implementation of article 15 subsection 10 of Directive 2009/28/EC.

Under subsection 1 number 1, personal data may be transferred to the Federal Economics Ministry, the Federal Network Agency or the Federal Agency for Agriculture and Food to the extent necessary for the performance of their tasks on a case by case basis. With regard to the Federal Economics Ministry, it is conceivable that data transmission may be necessary for the purpose of technical supervision and for the execution of its functions pursuant to Sections 88a, 92, 93, 97 of the Renewable Energy Sources Act (EEG 2017) or pursuant to Section 112 number 4 of the Energy Sources Act (EnWG). With regard to the Federal Network Agency, data transmission may be used, for example, to perform its functions under Section 6 or Section 85 subsection 1 number 3 letter d) of the Renewable Energy Sources Act (EEG 2017) or Section 65 of the Energy

Sources Act 2017. The Federal Agency for Agriculture and Food, might need to receive data to perform its functions under the Biomass Electricity Sustainability Ordinance, for instance.

For data in the Guarantees of regional origin register, the possibility of transmitting data pursuant to the first sentence of subsection 2 shall be restricted with regard to the parties involved. The reason for this is that the Guarantee of regional origin exist exclusively in Germany, so that transfers to offices in other countries cease to apply. Expanding subsection 1 number 1, the register administration may transmit data on issued guarantees of regional origin including personal data pursuant to subsection 2 second sentence to the grid operator required to pay out the market premium so that the latter can check whether an installation operator has fulfilled its reporting obligation pursuant to Section 71 number 2 letter b) of the Renewable Energy Sources Act (EEG 2017) and can calculate the reduction in the value to be created pursuant to Section 53b of the Renewable Energy Sources Act (EEG 2017). This data transmission by the register administrator to the relevant grid operator is already provided for in Section 79a subsection 9 second sentence number 2 of the Renewable Energy Sources Act (EEG 2017).

The transmission of data is encrypted using state-of-the-art technology. The need to protect personal data and company and trade secrets shall be given appropriate consideration. The current state of the art is defined by the Federal Office for Information Security.

From 25 May 2018, Section 46 shall be based on Article 6 subsection 1, first subparagraph, letter e) in conjunction with subsections 2 and 3 of the General Data Protection Regulation. The regulation contained in Section 46 constitutes a legal provision of a Member State within the meaning of article 6 subsection 4 of the General Data Protection Regulation.

Data transmissions to Switzerland pursuant to Section 46 subsection 1 number 2 letter c) are permitted from 25 May 2018

pursuant to article 45 subsection 9 of the General Data Protection Regulation on the basis of Decision 2000/518/EC of 26 July 2000 for the adequate protection of personal data in Switzerland pursuant to article 25 subsection 6 of the currently applicable EC Data Protection Directive 95/46/EC. With regard to data transfers to Norway and Iceland, it is assumed that the ongoing process for the transfer of the General Data Protection Regulation in the European Economic Area will be rapidly completed and that the General Data Protection Regulation will find immediate application in the EEA countries.

To Section 47 (Deletion of data)

Section 47 provides that all data collected by the register administration shall be deleted immediately as soon as it is no longer required for operation of the register. When implementing this standard, due consideration is given to the internal administrative rules governing the retention of documents and, the limitation periods for prosecution of VAT fraud for example. Data to be deleted includes data transmitted to the guarantees of origin register and to the guarantees of regional origin register in connection with the registration of installations and the opening of accounts, as well as in connection with the issuance, transfer, recognition, use and cancellation of Guarantees of origin (GO) and guarantees of regional origin. Section 47 is based on letter e) of the first subparagraph of article 6 subsection 1 in conjunction with subsections 2 and 3 of the General Data Protection Regulation.

To Division 7 (Administrative offences)

Section 48 (Administrative offences)

Section 48 provides for the possibility of introducing administrative offences in relation to Guarantees of origin (GO) and Guarantees of regional origin. A list of punishable offences exists and constitutes the offences subject to fines for the fixed penalty regulation under Section 86 of the Renewable Energy Sources Act (EEG 2017). A separate authorisation from the EEV is not required to establish

the offences punishable by a fine. Substantive reference to the blanket standards under Section 86 subsection 1 number 4 letters b) and c) of the Renewable Energy Sources Act (EEG 2017) shall suffice.

To subsection 1

Subsection 1 regulates administrative offences within the meaning of Section 86 subsection 1 number 4 letter b) of the Renewable Energy Sources Act (EEG 2017), which the register administration can punish by a fine of up to EUR 200,000. With regard to Guarantees of origin (GO), it establishes that the violation of the prohibitions under Section 12 subsection 4 on submitting issuance applications constitutes an administrative offence. Section 12 subsection 4 lists the applications for issuance that are prohibited. Under Section 12 subsection 4 number 1, installation operators are prohibited from applying for Guarantees of origin (GO) for an electricity volume in respect of which they have already claimed a payment under the EEG (feed-in remuneration, market premium, management premium, tenant electricity surcharge or flexibility premium). Section 12 subsection 4 number 2 provides that an application to have a Guarantee of Origin (GO) issued is punishable by a fine if the electricity volume in question has already been issued with a certificate which can be used for electricity disclosure in Germany or abroad. The same applies in the case of the previous issuing of a Guarantee of Origin (GO) within the meaning of Section 31 subsection 1 of the Combined Heat and Power Act (KWKG). Subsection 1 shall also apply to cases in which a Guarantee of Origin (GO) is applied for in violation of Section 12 subsection 4 number 3, even though no corresponding electricity volume was generated from renewable energy sources subsequent to registration of the installation. This applies both if the electricity volume is not generated from renewable energy sources and if it is generated from renewable energy sources but the generation period is prior to installation registration. Finally, subsection 1

contains the prohibition referred to in Section 12 subsection 4 number 4 from applying for a Guarantee of Origin (GO) for electricity volumes for which the register administration has indicated that the Guarantee of Origin (GO) shall be used to offset the negative carryforward under Section 15 subsection 2.

Regarding guarantees of regional origin, subsection 1 governs administrative offences relating to prohibited applications for issuance pursuant to Section 18 subsection 3 and prohibited applications for transfer pursuant to Section 29 subsection 4. It covers and penalises situations in which the installation operator or its service provider, in contravention of Section 18 subsection 3, applies for a guarantee of regional origin for a quantity of electricity not eligible for the market premium under the Renewable Energy Sources Act (EEG), which was generated prior to the calendar month of the installation registration, or in respect of which the register administration has notified the operator that it shall use the certificate to offset the negative carryforward pursuant to Section 15 subsection 2. It also penalises applications for the transfer of guarantees of regional origin submitted without a power supply contract with the customer (Section 29 subsection 4). The customer shall not be penalised because he or she did not initiate the transfer and has therefore not contributed to the cause. He or she is solely responsible for requesting the reversal, which does not incur a financial penalty. Reversals, which in principle are also made without an electricity supply contract, constitute a separate process under Section 29 subsection 3 to which Section 48 subsection 1 explicitly does not refer. The norm is intended to reinforce the stringent requirements of Section 79a subsection 5 third sentence of the Renewable Energy Sources Act (EEG 2017), since guarantees of regional origin may only be transferred along the contractual supply chain of the power for which they have been issued. Reversal, on the other hand, does not incur a financial penalty and must be executed in good time (Section 29 subsection 5).

To subsection 2

Subsection 2 regulates administrative offences within the meaning of Section 86 subsection 1 number 4 letter b) of the Renewable Energy Sources Act (EEG 2017), for which the register administration can impose a financial penalty of up to EUR 50,000.

To number 1

Number 1 penalises the violation of various data and evidence transmission obligations.

Number 1 provides for the imposition of financial penalties for violations of the reporting obligations of installation operators when altering installation data pursuant to Section 24 subsection 1 first sentence in the guarantees of origin register or the guarantees of regional origin register. The regulation stipulates that altered data must be transmitted immediately in its entirety to the register administration. This is a sine qua non for the accuracy and reliability of the register, the observance of which requires the imposition of financial penalties.

In addition, number 1 sanctions violations of the reporting obligations of grid operators or area grid operators pursuant to Section 41. To a considerable extent, operating the register is based on the correct, timely and complete transmission of data by grid operators as defined in Section 41. Missing data deliveries by the installation operator cannot be sanctioned. If the installation operator fails to transmit master data or movement data to the register administration pursuant to Section 41 (subsection 3 second sentence, first half sentence, Section 41 (subsection 4 second sentence, Section 41 subsection 5 or Section 41 subsection 6, he shall not be entitled to receive Guarantees of origin (GO) or guarantees of regional origin. A possible application for the issuance of a guarantee shall not be accepted if the necessary information is not provided. Thus, the obligation to furnish data is rather a duty for him which is duly sanctioned by the impossibility to issue Guarantees of origin (GO) or guarantees of regional origin..

To number 2

In this case, the violation of specific reporting obligations is subject to a financial penalty. The regulation serves to ensure the safety, accuracy and reliability of the guarantees of origin register and the guarantees of regional origin register. Specifically, this concerns the obligation of installation operators to notify the register administration that they have ceased to operate an installation registered in the guarantees of origin register or the guarantees of regional origin register (Section 27 subsection 1 second sentence). Furthermore, violation of the reporting obligation is subject to a financial penalty, pursuant to Section 32 subsection 3. Under this regulation, an account holder who obtains a Guarantee of Origin (GO) or a guarantee of regional origin, obtained through Section 33 above, issued on the basis of false electricity volume data, or which contains a particularly serious and manifest error, shall report this to the register administration. The provisions of Section 28 subsection 4 and Section 30 subsection 2 second sentence and fourth sentence of Section 30 differ according to whether the acquirer of the inaccurate Guarantee of Origin (GO) or the guarantee of origin issued overly frequently acted in good or in bad faith at the time of the acquisition in respect of the irregular nature of the transaction or the fact the certificate was issued without any electricity generated from renewable sources. Such a distinction does not extend either to Section 32 subsection 3 or to the rule on financial penalties under Section 48 subsection 2 number 2 referring to that provision. This is due to the fact that the register administration relies on the reporting of errors or issuance without the corresponding quantity of electricity so as to eliminate any systematic errors in the register software. Likewise, the expiry of authorisations must be reported (Section 40 subsection 3). The reporting of errors and inconsistencies is a precondition for corrections by the register administration and therefore essential to the accuracy of the register. The imposition of financial penalties is intended to ensure that the reporting obligation and hence prior verification are taken seriously.

To number 3

Number 3 covers the obligation of account holders to report discrepancies and errors in the data stored on them in the register (Section 40 subsection 2 second sentence). The reporting of errors and inconsistencies and the duty to correct such errors and inconsistencies is a precondition for corrections, by the register administration and therefore essential to the accuracy of the register. The imposition of financial penalties is intended to ensure that the reporting obligation and hence prior verification are taken seriously.

To number 4

Finally, the standard substantiates an omission or delay in the provision of documents pursuant to Section 44 subsection 2 third sentence. This applies to cases where operators do not immediately provide the register administration with expert reports from environmental auditors and environmental auditors' organisations, auditors or other guarantors or any other appropriate supporting documentation. The imposition of financial penalties is intended to ensure that the obligation to transmit supporting evidence is taken seriously.

To Division 8 (Freezing and closure of account, exclusion from participation in the registers)

To Section 49 (Freezing and unlocking of an account)

Section 49 permits the register administration to temporarily block an account in the guarantees of origin register or in the guarantees of regional origin register. This regulation serves to ensure the accuracy and thus the achievement of the purpose of the register system by temporarily preventing the issue of Guarantees of origin (GO) and guarantees of regional origin to an account, their transfer to and from an account and their cancellation, should the safety, accuracy or reliability of the guarantees of origin or guarantees of regional origin registers otherwise be at risk. While subsections 1 and 2 govern the conditions for blocking an account, subsection 3 sets out the legal consequences

thereof. The unblocking of the account as an actus contrarius is finally dealt with in subsection 4.

To subsection 1

The register administration has a duty to block an account for two reasons: firstly, if the account holder requests the account to be blocked (number 1) and secondly, if there are reasonable grounds for suspecting that an offence has been committed or is intended to be committed in connection with the use of the account (number 2). In this context, blocking may also serve to prevent the issue, transfer and cancellation of Guarantees of origin (GO) or guarantees of regional origin until a criminal offence has been established.

To subsection 2

Subsection 2 sets out the conditions for blocking an account which are independent of the application. Once these have been fulfilled, the register administration shall block the account. In exceptional cases, the register administration may also refrain from blocking an account.

To number 1

Number 1 enables the register administration to react promptly when there are reasonable grounds for suspecting a risk to the safety, accuracy or reliability of the guarantees of origin register. The temporary closure of the account is intended to prevent Guarantees of origin (GO) or guarantees of regional origin, the transfer or cancellation of which would compromise the accuracy of the guarantees of origin register or the guarantees of regional origin register, from being issued to the benefit of the account or from being transferred from one account to the other or cancelled.

Blocking in accordance with number 1 may be envisaged if there is a risk that Guarantees of origin (GO) or guarantees of regional origin will be issued and credited to the account even though the quantity of electricity reported has not been generated, or has not been generated from renewable energy sources, or was not generated in the manner specified. Blocking is intended to prevent such

Guarantees of origin (GO) or guarantees of regional origin from entering legitimate transactions, i.e. from being transferred to third parties or cancelled.

To number 2

Number 2 authorises the register administration to block an account if fees for the account have not been paid pursuant to the Guarantees of origin and Guarantees of regional origin Fees Ordinance (HkNGebV), despite a fee notice and previous requests having been issued. The regulation is intended, inter alia, to ensure that the financing of the guarantees of origin register and the guarantees of regional origin register, as a necessary public mission, is not compromised. A sizeable amount of unpaid fees usually begins at EUR 500. The collection of reminder fees or late payment surcharges or the enforcement of the outstanding sum of money shall remain unaffected by the possibility of blocking the account.

To number 3

Pursuant to number 3, the register administration shall block an account if it is subsequently established that the register participant or the user provided incorrect or incomplete information when opening and maintaining the account. In order to be blocked pursuant to number 3, it must be established that the data in question is legally relevant and that a correction cannot be made by waiting for the register participants or the users, as continuation of the account threatens the further circulation of incorrect legally relevant data.

To subsection 3

Subsection 3 governs the effects of account blocking. Pursuant to the first sentence, the register administration shall inform the account holder that the account has been blocked. The second sentence stipulates that during the blocking of an account, Guarantees of origin (GO) or guarantees of regional origin may neither be issued to the benefit of the account nor transferred to or from the account nor cancelled by the account holder. The third sentence clarifies that access to the mailbox is also possible during blocking so as

to demonstrate that the main purpose of blocking the account is to safeguard the account and the register. The account holder should still be able to access the documents stored in the mailbox during this time. In this respect, the blocking of the account must be separated from the blocking of access to the register. The fourth sentence clarifies that, at the account blocking stage, the account holder shall not have access to his Guarantees of origin (GO) or his guarantees of regional origin. These shall, however, also expire without application being made, at the end of their useful life.

To subsection 4

Subsection 4 stipulates that the account block must be lifted upon elimination of the reason which caused the blocking. The register administration shall inform the account holder concerned that the blocking has been lifted.

To Section 50 (Closure of account)

Section 50 enables the register administration to close an account upon application or ex officio and thus to exclude the account holder from further participation in the guarantees of origin register or the guarantees of regional origin register, at least with this account.

To subsection 1

Subsection 1 provides that the register administration should close the account when there is no longer any need for its continuation. Under number 1, the register administration shall close an account at the request of the account holder. Number 2 regulates the closure of an account by the register administration irrespective of the application for registration in instances where the account holder has been fully wound up as a legal entity or as a partnership with legal capacity and the bodies of persons thus ceases to exist after dissolution and liquidation.

To subsection 2

Subsection 2 provides a mechanism for the register administration to close an account ex officio if the account constitutes a permanent threat to the safety, accuracy or reliability of the register. In contrast to

Section 49 subsection 2 number 1, which requires only the justified suspicion of a risk for an account to be blocked, exclusion from the register by account closure requires the existence of a permanent threat.

To subsection 3

If the account is closed in one of the two registers, the account holder loses access to his account pursuant to the first sentence. The same applies to the account holder's users. Any existing allocations to investments shall expire pursuant to the second sentence upon account closure.

To Section 51 (Exclusion from participation in the registers, renewal of participation following exclusion)

Section 51 enables the register administration to exclude not only register participants but also authorised users from participating in the guarantees of origin register and the guarantees of regional origin register. If the group of persons in relation to Section 50 were not expanded, the improper conduct of the authorised users could be attributed to the register participants and their exclusion would thus be justified, however, the violating party could still continue to participate in the guarantees of origin register or in the guarantees of regional origin register by simply re-registering an account. Such behaviour could compromise the safety, accuracy and reliability of the guarantees of origin register. Authorised users always act on behalf of the register participants, i.e. their actions and their consequences are governed by the general rules of representation in the German Civil Code (Sections 164 to 18 (BGB)). As a rule, the representative's actions are attributed to the person represented pursuant to Section 164 of the German Civil Code (BGB), in other words, violations principally affect the register participant. With a view to preventing authorised representatives from continuing to act illegally in the framework of the guarantees of origin register or the guarantees of regional origin register, this provision shall also apply to representatives.

To subsection 1

Pursuant to the first sentence, the register administration shall order the register participant to be excluded from participation in the guarantees of origin register or the guarantees of regional origin register if such register participants are guilty of criminal activities or administrative offences while using the guarantees of origin register or the guarantees of regional origin register. Even committing a single offence results in exclusion. The consequence of exclusion from participation in the register must be dissociated from the issue of the fate of the account. For the authorised user the first sentence shall apply *mutatis mutandis*. He shall also be excluded from participation in the fate of the account or the guarantees of origin register or the guarantees of regional origin register if he has engaged in criminal activity or committed an administrative offence while using the guarantees of origin register or the guarantees of regional origin register.

To subsection 2

Subsection 2 sets out the conditions governing exclusion from participation in the guarantees of origin register or the guarantees of regional origin register according to the discretion of the register administration. The exclusion of register participants pursuant to the first and second sentences as well as authorised users pursuant to the third sentence shall only be possible if they have violated requirements which are crucial for the safety, accuracy or reliability of the guarantees of origin register.

When making this binding discretionary decision, the register administration shall weigh all the factors carefully given the considerable repercussions on the register participant and the authorised user. The decision shall be based on prior facts, i.e. historical circumstances, which should not have occurred too long ago and must relate to registration participation. More specifically, account will have to be taken, *inter alia*, of the seriousness of the violation and its implications on the safety, accuracy or reliability of the guarantees of

origin register stipulated under article 15 subsection 9 of Directive 2009/28/EC; the same criteria shall also apply to the guarantees of regional origin register. The assessment shall be based on a forecast scale.

Numbers 1 to 3 of the second sentence contain examples of the rules applicable to the violations in question.

To number 1

The offence giving grounds for exclusion under number 1 constitutes an administrative offence committed by a register participant or user when using the guarantees of origin register or the guarantees of regional origin register. The grounds are deemed fulfilled once the register administration has imposed a financial penalty pursuant to Section 48. In contrast to subsection 1, however, a first administrative offence does not necessarily lead to exclusion.

To number 2

The offence that gave rise to exclusion under numbers 2 and 3 consists of granting unauthorised persons access to register operations. The reason for designating this as an example is that, in addition to endangering the safety, accuracy or reliability of the system as a whole, granting unauthorised access also compromises the trust invested by all register participants and the public in its safety or reliability.

To number 3

Number 3 expands number 2 to include that granting account access to unauthorised third parties shall also lead to exclusion.

To subsection 3

Subsection 3 regulates the effect of the exclusion of the register participants and establishes that during such exclusion, access to the guarantees of origin register or the guarantees of regional origin register shall no longer be possible and that any existing account shall be closed resulting in deletion of the remaining Guarantees of origin (GO) or guarantees of regional origin; such deleted Guarantees of

origin to be included in the residual mix. As with Section 50 subsection 3 second sentence, any existing allocations of investments shall lapse upon closure of the account.

To subsection 4

Subsection 2 clarifies that, upon written request and in duly justified cases, the person excluded from the operation of the registry shall be allowed to participate again. A precondition for lifting the exclusion is that the person excluded no longer poses a threat to the safety, accuracy or reliability of the guarantees of origin register or the guarantees of regional origin register. Once the exclusion has been lifted, renewed registration may be requested taking into account the relevant provisions (Section 6 for account holders in the guarantees of origin register, Section 7 for account holders in the guarantees of regional origin register, Section 8 for service providers in both registers and Section 10 for environmental auditors in the guarantees of origin register).

To subsection 5

In the event of substantiated suspicion of fraudulent or unauthorised use of the authentication instrument, access may be blocked. Subsection 5 authorises the register administration to temporarily block access of the register participant or a user to the register, irrespective of the register participant's application. The purpose of this provision is to safeguard the safety, accuracy and reliability of the register required under Article 15 (9) of Directive 2009/28/EC for the Guarantees of origin register, which shall apply mutatis mutandis to the guarantees of regional origin register, and to enable the register administration to block access to the associated login data in the short term, should discrepancies arise in relation to identifiable access data, thereby preventing any impairment of the register's accuracy. A precondition for blocking access is that reasonable grounds exist for suspecting unauthorised or fraudulent use of the authentication instrument. The second sentence of Section 49 subsection 3 and sub-

section 4 provides that the register administration shall inform the person concerned that access has been blocked and that the blocking has been lifted.

To Division 9 (Terms of use)

To Section 52 (Terms of use)

Section 52 authorises the register administration to issue terms of use by general ruling. Under the first sentence, the register administration is entitled, by means of a general ruling published in the Federal Law Gazette pursuant to the second sentence, to issue further specific conditions and specifications for obtaining the entitlement to use the register, for the use of the register and for termination of entitlement to use the register. The regulation stipulates that the rules which may be adopted for maintaining the register shall comprise no more than details and specifications. These may concern either only the guarantees of origin register, only the guarantees of regional origin register or both registers simultaneously. The terms of use shall be published in the Federal Law Gazette (second sentence) by the issuing register administration as well as the general ruling pursuant to Section 5, namely the designation of the regions, or the general decree pursuant to Section 31 subsection 2 second sentence, namely the regulation on the configuration of the electricity disclosure for regional electricity products, pursuant to Section 5 subsection 2 second sentence number 2 of the Official announcements and notices Act (VkBkmG) (second sentence). Under the third sentence the announcement pursuant to Section 27a of the Administrative Procedure Act (VwVfG) shall be published on the website of the register administration at the following address: www.uba.de. The terms of use can be provided with ancillary provisions within the meaning of Section 36 of the Administrative Procedure Act (VwVfG) pursuant to the fourth sentence, even retroactively, with a proviso of cancellation. The register administration may issue all general rulings pursuant to Sections 5, 31 and 53 independently of each other, but may also integrate them into a general decree.

To Section 53 (Exclusion of opposition proceedings)

Pursuant to Section 53, opposition proceedings against measures and decisions of the register administration shall be excluded under that regulation. The legal basis for this exclusion is provided by the authorisations in Section 92 subsections 3 and 4 of the Renewable Energy Sources Act (EEG 2017). Under this provision, the regulatory authority is in particular empowered to regulate the procedure for the issuance, recognition, transfer and cancellation of Guarantees of origin (GO) and guarantees of regional origin. The comprehensive authority to regulate the administrative procedure also includes the authority to exclude the opposition procedure, which is part of the administrative procedure. Under the case-law of the Federal Constitutional Court, the ordinance is also a suitable means from which to exclude opposition proceedings pursuant to Section 68 subsection 1 second sentence of the Administrative Court Ordinance (BVerfGE 84, 34). An appeal procedure would not be practicable in the mass procedure for issuing, recognising, cancelling and transferring Guarantees of origin (GO) and for issuing, cancelling and transferring guarantees of regional origin and would significantly affect the efficiency of this electronic and automated procedure. Adequate legal protection is ensured through recourse to legal action. For example, the provisions of the Environmental Audit Act on legal remedies against measures taken by the accreditation body shall remain without prejudice.

To Article 2 (Amendment of Guarantees of origin and Guarantees of regional origin Fees Ordinance)

In addition to clarification of the meaning with regard to the fees for Guarantees of origin (GO), the Fees Ordinance above all contains adjustments with regard to the commissioning of the Guarantees of regional origin register.

To number 1

To Section 1 (Fees and expenses)

Section 1 subsection 1 implements the reference to the Guarantees of origin register and refers the fees in the guarantees of origin register to Annex 1 of the Ordinance, since the guarantees of regional origin register integrates a further Annex 2 into the Guarantees of origin and Guarantees of regional origin Fees Ordinance (HkNGebV).

The newly inserted subsection 2 implements the possibility for the Federal Environment Agency, in its capacity as register administration, to charge fees and expenses to the account holders of the guarantees of regional origin register. The register administration shall charge fees and expenses in accordance with the Fee Schedule in Annex 2 for official acts in connection with the issuance, transfer and cancellation of guarantees of regional origin and for the use of the guarantees of regional origin register.

The fee that the register administration collects for the guarantees of regional origin register binds the legislator of Section 87 of the Renewable Energy Sources Act (EEG 2017) to official acts, but also to the pure use of the guarantees of regional origin register. The purpose of the fee determined by the legislator (Federal Constitutional Court, BVerfGE 108, 1, recital. 53), does not limit the amount of the fee to covering the actual administrative costs incurred by the register administration if it performs certain official acts. Instead, a so-called user fee may be levied. User fees are fees charged by the administration for the actual use of a public facility, the services associated therewith and for other public services that are not official acts (Administrative Court of Berlin, judgement of 01.02.2008, ref: 10 A 37.06, recital 30). The Guarantees of origin and Guarantees of regional origin Fees Ordinance (HkNGebV), regulates such a user fee through its annual fee in number 3 of the Fee Schedule in Annex 2 to Section 1 subsection 2, which includes additional expenses pursuant to and in implementation of Section 10 of the Administrative

Costs Act (VwKostG). Administrative charges may also be levied for certain official acts.

The equivalence principle laid down in Section 3 first sentence of the Administrative Costs Act (VwKostG) shall apply for determination of the fee amount. The equivalence principle as a manifestation of the constitutional principle of proportionality requires that the fee amount, which takes into account the administrative expenditure, must not be grossly disproportionate to the economic value of the public service it covers (see Federal Constitutional Court, BVerfGE 20, 257 (270); Federal Administrative Court, BVerwGE 118, 123 (125)). It does not follow however, that the fee amount must be limited by the costs of the public service in general or on a case by case basis in such a way that the fees may not exceed these costs (Administrative Court of Bavaria, decision of 12.04.2000, file no.: 19 N 98.3739, recital 40). Provided that the equivalence principle is applicable, the legislator has much scope for decision making and leeway with regard to the assessment of the fee (Federal Administrative Court, BVerwGE 118, 123 (125 f.)). Yet the expenditure of the public sector is an important indicator of a disproportionate fee, which means that the administrative costs incurred for the service are not entirely irrelevant. The equivalence principle prohibits the fixing of the fee in such a way that the costs of the chargeable service are "completely lost sight of" (Federal Administrative Court, BVerwGE 118, 123 (127)).

The cost recovery principle shall not apply to the present Fees Ordinance. This results from the authorization underlying principle in Section 87 of the Renewable Energy Sources Act (EEG 2017) in conjunction with Section 3 of the Administrative Costs Act (VwKostG.). Pursuant to Section 3 second sentence of the Administrative Costs Act (VwKostG), the cost recovery principle applies generally only if it is legally stipulated that fees shall be levied to cover administrative expenditure. However, no such order was issued in Section 87 of the Renewable Energy

Sources Act (EEG 2017). Moreover, it is generally accepted that the cost recovery principle does not apply to user fees (cf. Federal Administrative Court, Buchholz 401.84 User Fees No. 25).

In addition to fees, the register administration charges expenses. This follows in accordance with the provisions of Section 10 of the Administrative Costs Act (VwKostG).

The chargeable offences and the amount of the charges are set out in Section 1 subsection 2 of the Fee Schedule to the guarantees of regional origin register, which is attached as Annex 2 to Section 1 subsection 2 of this Ordinance.

To Section 2 HkRNGebV (Debtor)

Section 2 determines the chargeable person. This is an essentially declaration-based norm that echoes the contents of Section 13 of the Administrative Costs Act (VwKostG), which is already in force, and specifies the contents for the account holders of the two registers, the guarantees of origin register and the guarantee of regional origin register, as well as the legal users.

The provisions of Section 2 shall apply equally to debtors subject to charges in the guarantees of origin register and in the guarantees of regional origin register, unless the validity of only one of the two registers is explicitly prescribed. In determining the due date, the legislature has broad scope (Federal Constitutional Court, BVerfGE 108, 1, recital 64). In the absence of a provision to the contrary, the debt owed shall in principle become due upon notification of the fee decision to the party liable for payment, unless the register administration specifies a later date (Section 17 of the Administrative Costs Act (VwKostG)).

Pursuant to Section 2 subsection 1 first sentence, the individuals holding an account with the register administration, i.e. so-called account holders, must pay an annual fee for each of the accounts held. It is irrelevant whether it is an account in the guarantees of origin register, an account in the guarantees of regional origin

register, or an account in both registers, i.e. two accounts: However the annual fee must be paid for each of the accounts.

The annual fee shall include a flat fee for certain services offered by the register administration which are necessary to maintain and offer the account to the account holders. For details of the content covered by the annual fee, please refer to the explanatory memorandum to the Fee Schedule. Account holders in the guarantees of origin register or in the guarantees of regional origin register are, pursuant to Section 6 subsection 2 second sentence of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV,) installation operators, traders and electricity suppliers.

Concerning the annual fee, the obligation to pay fees already exists through the mere ownership of the account. This means that their creation is independent of whether operations take place on the account or not, for example, whether Guarantees of origin (GO) are issued or guarantees of regional origin are cancelled. Ownership of an account by the account holder constitutes a form of permanent obligation. The account holders themselves have obligations arising from account ownership which, in addition to the obligation to pay fees, also consist, of maintaining up-to-date data. The register administration on the other hand upholds the software, maintains the software and offers besides consultation other services on a case by case basis, such as the recording of reported changes. This claim is regardless of whether issuances, transfers and cancellations of guarantees of origin or guarantees of regional origin have been effected. Ownership of an account by the account holder and maintenance of the account for the account holder by the Federal Environment Agency are the basic requirements for the use of the guarantees of origin register and the guarantees of regional origin register as public institutions maintained in the public interest by the account holder. This offer and maintenance are to be paid for by a usage fee. The annual fee is capped. No account holder shall pay an

annual fee of more than EUR 750 per account per year. To avoid paying the annual fee, the account holder may close the account assigned to him (application pursuant to Section 50 subsection 1 number 1 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV,))

Pursuant to Section 2 subsection 1 second sentence, account holders shall additionally and depending on the occurrence of the corresponding offences bear fees other than the annual fee pursuant to Fee schedules 1 and 2 (promotion fee). Environmental auditors and environmental auditors' organisations in the guarantees of origin register and users pursuant to Section 2 subsection 6 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV,), and grid operators in both registers, shall not be jointly and severally liable for fees pursuant to this Ordinance. Where a service provider is registered in the guarantees of origin register or in the guarantees of regional origin register, it shall not have its own account for this purpose but shall use the account of the party for whom it is acting. If an account holder, in addition to acting as installation operator, trader or electricity supplier, also acts as service provider, then such person shall be deemed to hold an account and shall therefore be subject to charges. Each fee-based activity triggers an activity fee. Since each chargeable action constitutes usage of the guarantees of origin or guarantees of regional origin facility, there is a genuine link between each individual amount and the total amount of the promotion fees, and the actual administrative expenditure. The administrative expenditure shall depend on the number of procedures applied for and not on other factors. A system exists thereby which, although not capped, is inextricably linked to the administrative procedures entailed by applications and thus cannot be disassociated from the administrative expenditure.

Section 2 subsection 2 lays down a sui generis rule on fee liability in the guarantees of regional origin register. In contrast to the guarantees of origin register, in

which voluntary representation of natural persons by a service provider in the registration process of account holders is not permitted in any role due to the need for identification, the guarantees of regional origin register, pursuant to Section 7 subsection 2 second sentence number 2 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV,) stipulates that the installation operator may elect not to carry out its own registration and identification and that the service provider commissioned to carry it out takes over. In this case, the service provider registers the installation operator, in other words, it performs the registration process for and on behalf of the installation operator. If the installation operator exercises his right to be represented by a service provider for registration, the service provider may declare to the Federal Environment Agency (as register administration) that it will bear the installation operator's costs pursuant to Section 13 subsection 1 number 2 of the Administrative Costs Act (VwKostG). This declaration shall be carried out routinely within the scope of the authority of the Federal Environment Agency in form and content (Section 8 subsection 4 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV)). If the installation operator decides to instruct a service provider to transmit data to open an account, and if the service provider submits the declaration to the Federal Environment Agency in the form of the specified certificate of authorisation within the scope of his legal powers, the service provider shall bear the costs owed by the installation operator and consequently shall be required to make payment. This cost liability renders the service provider party to the contract alongside the installation operators who continue to be liable for costs. Consequently, the takeover does not exempt the installation operator from its obligations. This is where the effect of Section 13 subsection 2 of the Administrative Costs Act (VwKostG) applies: Several cost debtors shall be jointly and severally liable. Thus installation operators and service providers are jointly and severally liable within

the meaning of Section 421 of the German Civil Code (BGB) in such a way that the register administration may, at its dutiful discretion, demand payment of the fees and expenses in whole or in part from any of the debtors, i.e. from both the installation operator and the service provider. Fulfilment of obligations by one of the joint and several debtors shall also be effective for the other joint and several debtors. All debtors remain obligated until the entire performance has been effected (Section 421 second sentence of the German Civil Code (BGB)).

The effect of Section 2 subsection 2 follows the wording on which the process of registration of the installation operator by the service provider in the guarantees of regional origin register is based. A statement by the service provider that he assumes the debt of the installation operator or any other account holder in the guarantees of regional origin register can also be made outside of the process of installation operator registration, as clarified by Section 13 subsection 1 number 2 of the Administrative Costs Act (VwKostG).

The joint and several liability of the installation operator and the service provider is straightforward in instances where the installation operator commissions the service provider to perform the registration in the guarantees of regional origin register and the service provider continues to represent the service provider to this day. However, both the installation operator and the service provider may terminate the contract with a service provider and, conversely, the service provider may terminate its service relationship with the installation operator. From that point, the joint and several liability also lapses, as it is based on the service provider assuming the joint and several liability of the installation operator in addition to the installation operator, on the condition that he also represents the installation operator. Without representation, i.e. without a service relationship between installation operators and service providers, there is no legal basis for joint and several liability. If the installation operator, or the service

provider should terminate the service relationship, only the installation operator shall be liable for the fees. This situation can change again when the installation operator commissions a new service provider, or renews the existing one's contract. Here again, a service provider enters into force on the side of the installation operator. If, in such cases, the service provider declares to the Federal Environment Agency that it will bear the costs pursuant to Section 13 subsection 1 number 2 of the Administrative Costs Act (VwKostG), both installation operators and service providers shall be jointly and severally liable. It is irrelevant whether this newly commissioned service provider is the former service provider or a totally different service provider.

To Section 3 HkRNGebV (Reduction of annual fees, rounding down)

Section 3 subsection 1 governs the reduction of certain fees and subsection 2 the rounding off.

Section 3 subsection 1 regulates the amount of the annual fee pursuant to Section 2 paragraph 1 first sentence in the guarantees of origin register and the guarantees of regional origin register if an account holder does not hold the account with the register administration for the full twelve months of the year. In this case, the annual fee shall be reduced on a pro rata basis with respect to the months in which the account holder did not maintain an account with the register administration over twelve calendar months. This calculation takes into account only the calendar months, not the calendar days. If an account is held from 10 January to 19 March, for example, 3/12 of the annual fee will be payable.

Section 3 subsection 2 takes into account that in two cases charges may be below the one-cent threshold: First, the pro rata calculation of the annual fee for less than 12 months regularly leads to fee levels below the one cent threshold. Example: If the account holder only has a few transactions on the account for seven months in one year (May to December), the amount of the annual fee $50 / 12 \times 7$

equals EUR 29.1666667. Second, the fee amounts for the chargeable offences in number 1 of Annex 2 fall below one euro cent. Example: The issuance and transfer of 955 guarantees of regional origin costs a fee in the amount of EUR 0.00955.

The administration shall not send any fee notices with a debt of less than one cent, as in the second example, as the administration normally sets the fee once a year and account holders who fulfil the conditions stipulated in Annex 2, number 1, are required to maintain an account which generates a fee of at least EUR 4.16 per month. Nevertheless, some of the costs fixed in the cost assessment decision would amount to less than one cent. Such amounts of less than one cent are not payable by a debtor. In this respect, Section 3 subsection 2 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNGebV) avails itself of the possibility provided for in Section 6 of the Administrative Costs Act (VwKostG). In this case, the administration reduces the fee for underlying reasons of fairness inherent in the nature of the case, namely the inability to pay sums of money below one cent. The fact that there is always a reduction in the cost debt in this case is due to the fact that the cost debtor would otherwise be charged very minor costs for rounding off or rounding up or down to two decimal places, which would not be offset by any administrative measures. The rounding off of the fee occurs "at the time it is fixed". The fees are established ex officio by means of an administrative act (Section 14 subsection 1 first sentence of the Administrative Costs Act ("VwKostG")). This does not take place at the same time as the decision on the merits, which constitutes the issuance of a Guarantee of Origin (GO). Instead, for practical reasons, a collection is made of the fees incurred in a calendar year, which are collected at the end of the year by the Federal Environment Agency.

To number 2

Number 2 amends the two Fee Schedules in Annexes 1 and 2.

To Annex 1 - Fee Schedule for the Guarantees of origin register

With regard to Annex 1, Fee Schedules for the Guarantees of origin register, the amendments are essentially editorial in nature. This eliminates the need for sub-headings.

In number 3 of the fee schedule to the guarantees of origin register, the charges (fee schedule, second column) are reformulated in relation to Guarantees of origin (GO). The background to this is that in practice there have been difficulties in interpreting what exactly is to be understood by the term "turnover" used in the previous version of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNGebV). The legislator now clarifies linguistically what was meant by the concept of turnover, namely any chargeable operation carried out with a Guarantee of Origin (GO) or any chargeable operation carried out with a Guarantee of Origin (GO) within the meaning of numbers 1.1 to 1.5 of Annex 1.

Thus, the issuance of a Guarantee of Origin (GO) is one such chargeable transaction (i.e. "one" transaction; the issuance of five Guarantees of origin (GO) therefore implies the existence of five transactions or five paid events in respect of Guarantees of origin), the transfer of a Guarantees of origin is a chargeable transaction for the sender (i.e. "another" transaction for the sender, but not for the beneficiary, as none of the numbers 1.1 to 1.5 of Annex 1 impose a fee) and the cancellation of a Guarantee of Origin (GO) is a chargeable transaction (i.e. "another" sale). A chargeable transaction (i.e. "one" transaction; five guarantees of origin corresponds to five chargeable transactions and thus five sales) is also represented, for example, by the receipt of a Guarantee of Origin (GO) sent from an account of a foreign register administrator (a Guarantee of Origin (GO) for the addressee referred to in number 1.4) or the transfer of a Guarantee of Origin (GO) back to the account held with the register administration of a sender who erroneously entered

the Guarantee of Origin (GO) in the account of an account holder because he wrongly selected the receiving account holder (a transaction subject to a fee for the sender under number 1.2 and thus a transaction for him).

In some of these cases it may be that, although the person liable to pay the fees is liable for a transaction within the meaning of the former law and thus for a chargeable transaction carried out with a Guarantee of Origin (GO), he did not generate the facts underlying the chargeable transaction carried out with a Guarantee of Origin (GO). For example, the fee payer may only react to the fact that he was erroneously assigned a Guarantee of Origin (GO) to his account but is not allowed to retain it in the absence of a causal transaction. If he transfers this back to the sender, he performs a transaction. If this operation involves ten Guarantees of origin (GO) transferred from abroad to the account holder, it constitutes two times ten chargeable acts (number 1.4 for receiving ten Guarantees of origin (GO) from abroad and number 1.3 for transferring ten Guarantees of origin (GO) abroad). - This fact of not causing the circumstances on which the chargeable event is based shall not relieve him vis a vis the register administration, of his obligation to pay the fees accruing for the respective activity. In addition to the respective fees, the process also potentially entails classifying the fee debtor in a new, higher category for the annual fee, not because the facts of the case were caused but because of the chargeable acts. Again, it is important that the new, higher fee category can be attributed to the fee debtor; whether or not it was caused by him in each individual case is irrelevant. If the debtor considers someone else to be the offender, he may, if appropriate and depending on the circumstances, reclaim this paid fee from the offender by internal arrangement.

To Annex 2 - Fee Schedule for the Guarantees of regional origin register

General information

Number 2 also adds a new Annex 2 to the Guarantees of origin and Guarantees of regional origin Fees Ordinance (HkNGebV). It constitutes the core of the amendment to the Guarantees of origin and Guarantees of regional origin Fees Ordinance (HkNGebV) in so far as it extends the right to charge fees to the guarantees of regional origin register before it is implemented and thereby renders the usage of and the actions in the guarantees of regional origin register chargeable.

Annex 2 of the Guarantees of origin and Guarantees of regional origin Fees Ordinance (HkNGebV) contains the fee schedule, which lists the individual charges and assigns to them the amount of fees to be paid. In addition, the fee regulations of the Act on Administrative Offences (OWiG) of 19 February 1987 (Federal Law Gazette I p. 602) which was last amended by Article 5 of the Act dated 27 August 2017 (Federal Law Gazette I p. 3295) shall apply.

While the fee schedule in Annex 1 deals with the fees in the Guarantees of origin (GO) register, Annex 2 deals with charges in the guarantees of regional origin register. Both fee schedules differentiate between chargeable acts for specific activities set out in numbers 1 and 2 (promotion fees) and the annual fee under number 3. These fee items are coordinated with each other and described in a way that is recognisable for the fee debtors such that the latter are not repeatedly called upon to pay the same expenditure of a service through different chargeable acts.

To Numbers 1 and 2 of Annex 2

The chargeable acts and amounts referred to under numbers 1 and 2 of the fee schedule in Annex 2 shall cover activities of the register administration in the guarantees of regional origin register which are not already part of the annual fee under number 3. This concerns specific administrative activities applied for by fee debtors. That the fee debtor may not have caused the situation which led to the application for reversal of the charge under Section 29 subsection 2 of the Guarantees of origin and Guarantees of regional

origin Implementing Ordinance (HkRNDV,) is irrelevant to the charging of the fee.

The fee for official acts is provided by the legislator of Section 87 of the Renewable Energy Sources Act (EEG 2017) in addition to the fee for the use of the guarantees of regional origin register. The fees for official acts (action fees), in contrast to the user fee, are mainly concerned with acts or activities actually performed by the register administration. Official acts are normally made at the request of the fee debtor. The amount of the fee is not capped in such a way that the expenses of the administration for the official act triggering the fee is strictly limited to this. Rather, in contrast to the version of Section 63a of the Renewable Energy Sources Act valid until 31 March 2012, the legislator has eliminated this restriction, formulated by the words "to cover administrative expenses". This transpired after the Act amending the legal framework for electricity generated from solar radiation energy had been substantiated and further changes had been made to the law on renewable energies in order "to take sufficient account of the value of the official act for the fee debtor" (Bundestag-Drucksache 17/8877, p. 25). Even in the case of the special chargeable acts under numbers 1 and 2 of the fee schedule which can be traced back to specific official acts, the legislator may thus go beyond the pure administrative expenses and include the value of the official act for the fee debtor in the amount of the fee (equivalence principle, Section 3 first sentence of the Administrative Costs Act ("VwKostG")). Even here, administrative expenditure serves as an indication of the scale of fees.

To Number 1 of the Fee Schedule of Annex 2

The offences referred to under number 1 cover official acts carried out by the register administration in respect of guarantees of regional origin. These are the essential basic functions in a guarantees of regional origin register.

The fees here depend mainly on the number of guarantees of regional origin issued, transferred, cancelled, etc. Accordingly, the charges under number 1 of the fee schedule are so-called value charges (cf. Administrative Court of Berlin, judgement of 01.02.2008, ref. no.: ref: 10 A 37.06, recital 53). These are permissible, as explicitly stated under former Section 63a subsection 1 of the Renewable Energy Sources Act (EEG 2017) on the guarantees of origin register. The legislator of the act amending the legal framework for electricity generated from solar radiation energy and for further changes in the law on renewable energies) is the reasons for the re-wording of Section 63a of the Renewable Energy Sources Act (EEG 2017) above all with the future "possibility of grading a fee according to the number of Guarantees of origin (GO) issued" (Federal Parliament publication 17/8877, p. 25). The legislator does not describe the scale permitted by law in more detail in numbers as regards the size of the individual scales. It is thus left up to the legislator to decide whether the fee should increase, for example, in increments of 1 000 or 10 or per individual guarantee of regional origin issued by the register administration. It makes sense for the amount of the fee explicitly permitted by the legislator to depend on the individual item. This approach results in a high level of fee fairness, since each account holder shall pay fees to the extent that he obtains an advantage in the form of each guarantee of regional origin and incurs administrative costs. The differences in the frequency of use of the register is reflected in the differing amount of the annual fee and cannot be replicated here.

In addition to the value of the guarantees of regional origin, the chargeable acts un-

der number 1 also include other cost factors which are inextricably linked to the chargeable acts. They shall include corrections by the register administration of any errors that may have occurred in the relevant operation, spot checks and contacting of the relevant account holders by the register administration. The troubleshooting to be carried out in an automated process may require a high level of staff deployment. Under Section 41 subsection 2 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV) more than 800 grid operators, are required to supply the register administration with the electricity volumes generated, which can then be converted into guarantees of regional origin. However, the current practice of data delivery from grid operators to balancing group managers and coordinators and the experience of the Federal Environment Agency from the guarantees of origin register show that this automated data transmission (so-called market communication) is prone to errors which means that data is delivered late or not at all. In these situations

register administration employees are required to investigate the error and rectify it. Errors can arise on any account and in any of the processes covered under number 1; the fees can therefore be allocated to all participants without contravening the equal treatment principle provided for in article 3 of the German Constitution (GG).

On the basis of the figures given under A. III. 4.c), the administrative costs for the register administration incurred on the activities each year related to the respective fee numbers are:

Number	Number of operations per year / Number of guarantees of regional origin per year (forecast)	Personnel expenditure and costs for this personnel expenditure per year	Material costs
1.1	7,000 /	525 hours, 35,963.50 euros	1,082.90 euros

	35,000,000,000		
1.2	4,125 / 32,000,000,000	309.75 hours, 22,417.06 eu- ros	638.14 euros
1.3	413 / 2,891,000,000	82 hours, 6,526.32 euros	63.89 euros
1.4	500 / 32,000,000,000	339.58 hours, 23,329.90 eu- ros	77.35 euros

To Number 2 of the Fee Schedule of Annex 2

Number 2 covers official acts concerning installations which generate electricity from renewable energy sources.

The registration of an installation (fee number 2.1) is the most important basic requirement for the inclusion of an installation operator in the guarantees of regional origin register and for the issuance of guarantees of regional origin in general. Issuance of a guarantee of regional origin is only possible if the installation is registered. The registration of installations is therefore closely and directly linked to the issuance of guarantees of regional origin. The levying of a fee for registration of an installation is therefore covered by the enabling clause of Section 14 subsection 2 of the Renewable Energy Sources Act (EEG 2017).

Installation registration is a process that involves a great deal of effort by the authority, especially if the installation data communicated by the operator to the register administration does not match the data of the competent grid operator. This is where manual testing and clarification work is required for the elimination of errors. This will mean that there will be fewer errors in the case of installations that are already registered in the guarantees of origin register and which are now to be transferred to the guarantees of regional origin register, since the market communication processes of these installations are already functioning, the installation data has already been essentially exchanged between the Federal Environment Agency

and the competent distribution system operator, leaving the installation operator to simply complete the installation data rather than input it in full. As a result, the register administration expenditure in these cases will be lower than for registering completely new installations.

The assignment of the installation to a new operator or a new account (fee number 2.2) necessitates verification procedures by the register administration. It is directly related to the issuance of guarantees of regional origin, as in the case for first-time registration of installations, since this is a precondition for the correct issuance of guarantees of regional origin. The fee is attributable to the new operator. This is justified by the fact that Section 27 subsection 1 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV,) generally assumes that the installation registration shall expire. The takeover of the installation by another operator, on the other hand, is characterised as an exception (Section 27 subsection 2 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV,): By way of derogation from subsection 1...') caused by the acquiring operator. The latter shall therefore be responsible for the fees. The inspection expenditure for a change of account, pursuant to Sections 18, 24 subsections 1 and 21 subsection 1 second sentence number 16 of the Guarantees of origin and Guarantees of regional origin Implementing Ordinance (HkRNDV, is analogous.

On the basis of the figures given under A. III. 4.c), the administrative costs for the

register administration incurred on the activities each year related to the respective fee numbers are:

Number	Number of operations per year (forecast)	Personnel costs	Material costs
2.1	590	688.682 hours, 52,086.12 euros	–
2.2	50	16.6 hours, 1,071.35 euros	–

To Number 3 of the Fee Schedule of Annex 2

Pursuant to number 3, the register administration shall levy an annual fee for the use of the guarantees of regional origin register. The amount is charged by account holders within the meaning of Section 2 number 5 HkRNDV. Since account holders can each have multiple accounts, the annual fee applies to each of the accounts maintained by the persons. – The "account" is to be distinguished from the "access to the register": If a stakeholder of the electricity market opens an account pursuant to Sections 6 and 7 HkRNDV, he has a chargeable account. This does not change if the stakeholder declares when opening the account that he would like to assume several roles, such as installation operator and electricity supplier, under Section 6 subsection (2) second sentence HkRNDV. For each of these roles, the stakeholder receives separate access to the register, but both are directed to the same and only account. Only then, when the stakeholder passes through the account opening process two or more times, the register administration opens a new and second account, which in turn triggers another annual fee as an account maintenance fee.

In implementation of Section 10 VwKostG the annual fee is designed as a combination of expenses and a user fee. Such a user fee expressly allows for the authorisation basis of Section 87 subsection (1) EEG 2017.

The expenses recorded in the annual fee include general expenses of register operation. In particular, the term "operation of the register" covers expenses for specific operations of the register administration typically arising to each account holder of the guarantees of regional origin register for their accounts in order to meet their general requirements that the account holders have to fulfil. The annual fee shall summarise these official acts to obtain an "overall picture" (Federal Constitutional Court, BVerfGE 108, 1, recital 62). These include above all the following actions:

- Permanent maintenance, control and upkeep of the information technology operation of the guarantees of regional origin register,
- Maintaining, controlling and up-keeping the technical interfaces for data transmission, such as the data required by the electricity grid operators to issue guarantees of regional origin pursuant to Section 41 HkRNDV,
- Providing and updating the user manuals of the register software as well as up-to-date information for account holders,
- Checking existing data in the accounts of the guarantees of regional origin register for plausibility and accuracy, other random checks,

- verbal, telephone, electronic and written advice to the account holders (hotline, first level support) as well as information other than those of Section 19 of the Federal Data Protection Act (as amended on 25.05.2018) or of Article 15 of Regulation 2016/679 of the European Parliament and Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data, on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation)¹⁹⁾, exceeding verbal or simple written information pursuant to Section 7 subsection (1) VwKostG, Section 10 subsection (1) second sentence of the Freedom of Information Act (IFG) of 5 September 2005 (Federal Law Gazettel. I p. 2722), as amended by article 2 subsection 6 of the Act of 07 August 2013 (Federal Law Gazette. I p. 3154), production of statistics:
- Basic charges for necessary technical measures to ensure data security (for example, two-factor authentication),
- Maintaining the concept of the region, updating the data allowing the allocation of the consumers to the installations,
- Fulfilling the duty of the register administration to maintain and, if necessary, submit files (Section 99 subsection 1 first sentence of Administrative Court Ordinance (VwGO) in the version of the notice of 19 March 1991 (Federal Law Gazette I p. 686) which was last amended by Article 7 of the Act dated 12 July 2018 (Federal Law Gazette I p. 1151), including compensation of media breaks.

Overlapping processes, purely internal procedures of the register administration such as meetings or measures of staff

management or training are not covered by the annual fee and are financed from the general budget of the Federal Environmental Agency. This includes, for example, press and public relations or training of employees.

The amount of work in the register administration for the tasks described above is about 6,745.5 hours and the material costs share is about 300,000 euros, according to the number of transactions and numbers of account holders forecasted above in the explanatory memorandum. In addition there are expenses such as for printer paper and letter postage.

The volume of occurring official acts paid by the annual fee varies from account holder to account holder. Since the legislator summarizes many individual cases for the mass procedure under consideration here - the number of which is likely to increase in the future as the energy transition progresses and renewable energies expand - it is, according to constitutional case-law, permitted to make "generalising, typecasting and blanket regulations" (Federal Constitutional Court, BVerfGE 108, 1, recital 62). However, despite this possibility of generalisation, the legislator has to remain within the limits prescribed by the principle of equality of Article 3 of the Basic Law (GG). As a result, generalisations and typifications inherently imply that unequal treatment and possibly even hardship can occur for certain persons. These may only hit a relatively small number of people and the breach of the principle of equality must not be very intense (Federal Constitutional Court, BVerfGE 26, 265 (275 f.)). It is also essential for the admissibility of a typifying rule whether an injustice arising from it would be avoidable only with difficulty (Federal Constitutional Court, BVerfGE 45, 376 (390)). Such is the case here: For example, it is not foreseeable in advance how many account holders will seek advice from the register administration after starting the guarantees of regional origin register in order to better understand the register software and then be able to initiate the relevant processes, such as registering a power

¹⁹⁾ OJ EU L 119/1 of 04.05.2016.

generating installation. The provision of detailed assistance in the form of verbal information about the functions and handling of the register software is a specifically initiated official act that can be charged as such by means of a fee. However, to account for them in a timely manner or according to frequencies would disproportionately increase the effort to be made and therefore does not appear practicable (Federal Constitutional Court, BVerfGE 9, 20 (32)). In addition, generalisations reduce the administrative burden of register administration, thereby contributing to lower costs.

In order to achieve a sufficiently fair distribution of the financial burdens of register operation despite the possibility of generalisation, the fee schedule provides for a division of the annual fee depending on the frequency of use of the register in implementation of Section 6 VwKostG: Account holders with high volumes of issuance, trading or cancellation will pay a higher annual fee than those account holders who have issued, traded or cancelled a smaller amount. Especially for account holders participating only with a small volume in the guarantees of regional origin register, no hurdle for the usage of the guarantees of regional origin register should be set up by charging relatively high fixed costs, since they are not in a position to realise an equally large financial benefit from the usage of guarantees of regional origin like the "big account holders". All account holders benefit from the specific activities of the register administration mentioned above. They also occur with all account holders.

Above all the amount of fees shall be determined on the basis of the administrative expenses incurred for these activities. The calculation of the fees was based on the expense of the register administration, which is expected to be generated for the guarantees of regional origin register. The fees resulting from the official acts relating to the special chargeable acts of number 1 and 2 of Annex 2 to Section 1 subsection (2) have not been taken into account in determining the annual fee under number 3. There is a strict distinction between

activities whose administrative costs are charged as part of the annual fee and the special chargeable acts in such a manner that fee debtors are not debited twice for identical administrative services.

The actual amount of the annual fees mentioned in the schedule of fees under number 3 was based on the following considerations:

In terms of amount, the levying of fees is limited - as stated above. The equivalence principle as a manifestation of the constitutional principle of proportionality requires that the fee amount, which takes into account the administrative expenditure, must not be grossly disproportionate to the value of the public service it covers (see Federal Constitutional Court, BVerfGE 20, 257 (270); Federal Administrative Court, BVerwGE 118, 123 (125)). They may exceed the cost of public service in general or on a case by case basis (cf. Federal Administrative Court, BVerwGE 118, 123 (126)). Nevertheless, public expenditure is an important indicator of disproportionate levels of fees. This prevents from specifying charges completely irrespective of the expenses for the chargeable service (Federal Administrative Court, BVerwGE 118, 123 (126)) so that they "completely lose sight of the costs". There must therefore be an appropriate relationship between the amount of the fee, which takes into account the administrative burden on the one hand, and the importance, economic value or other benefit of the official act on the other hand (Federal Administrative Court, BVerwGE 118, 123 (125)).

Concerning the value of register administration services for account holders, it must be taken into account that persons subject to a fee related to electricity for which they generate, transfer or cancel guarantees of regional origin, it is likely that they will be able to obtain a higher price on the electricity market and thus generate a separate profit. Setting up an account with the register administration entails a tangible financial benefit for them. The amount of this benefit depends on the price of the guarantees of regional origin, which will adapt to the German

market in the future. This raises the question of the willingness to pay more for regional electricity. The Federal Environmental Agency has received very different answers to this question in the past²⁰⁾, which cannot be described as representative.

Nevertheless, a slightly higher price will be expected. Providing regional electricity is a hassle for electricity suppliers as they create the necessary physical connection between the consumer and the installation, who need to purchase and cancel guarantees of regional origin. Suppliers will not be able to shift this total effort, which is caused by the regional electricity supply, one-to-one on the electricity customers, as they are very price-sensitive. Therefore there will rather be a kind of subsidisation of the regional electricity products by other electricity products without this subsidisation reaching 100%. The regional electricity products will therefore be slightly more expensive than "normal electricity products". In addition, suppliers of regional green electricity – probably the most frequently offered product – still have to purchase and cancel 100% of guarantees of origin for such electricity products in addition to currently about 45% guarantees of regional origin. – This does not need to involve a higher price of regional electricity products with every electricity supplier. It may also be that suppliers will consciously offer the regional electricity products with an identical price as other products, in order to establish customer loyalty or – especially in municipal utilities – to implement decisions of the local authority, which relies on regionality, without providing an extra charge.

The additional price caused by these considerations is likely to be around 0.1 cents per kWh on a national average or about 0.5 cents at most. This results in an economic value of the guarantees of regional origin, which will in fact be higher than this 0.1 to 0.5 cents / kWh, but should be estimated on account of the partial subsidisa-

tion of these values. With an expected volume of approx. 35 billion guarantees of regional origin in the German register per year, assuming a price of 0.1 to 0.5 cents per guarantee of regional origin, the value of the provision of the accounts by the register administration is 32,000,000 to 160,000,000 euros. In addition, usage of the guarantees of regional origin register is voluntary for most account holders, especially installation operators and traders. The future payers can thus also decide against the usage of the guarantees of regional origin register and thus against an applicable fee.

With regard to public expenditure as an indication of fee calculation, the legislator carried out a staff estimate based on the analytical estimation procedure according to the specifications of the "Handbook of Organizational Examinations and Personnel Needs Assessment" issued by the Federal Ministry of the Interior and the Federal Office of Administration." (Dec. 2016).²¹⁾ The activities used for the annual fee were calculated by the hour or by case, broken down into positions and compensation groups, and finally multiplied by the staff cost rates as per the Circular of the Federal Ministry of Finance, Gz: II A 3 – H 1012-10/07/0001 :013 of 30 June 2017. In addition, there is the fixed lump sum for material costs relating to the personnel carrying out the activities that cover the annual fee, as well as expenses that are necessary for the maintenance of the operation of hardware and software, including the safety requirements. These expenses are to be checked during operation and, if necessary, the fees are to be adjusted to the actually incurred expenses of the register administration.

In addition to the fees, the annual fee also includes expenses of the register administration based on Section 10 VwKostG.

These calculated administration costs break down into the following predicted quantities of accounts:

²⁰⁾ www.umweltbundesamt.de/sites/default/files/medien/376/dokumente/2_mnr-

²¹⁾ workshop_des_umweltbundesamtes_vortrag.pdf, slide 23.
www.orghandbuch.de.

Description		Amounts of accounts
XL	> 500,000,000 chargeable operations related to guarantees of regional origin per year	300
L	Between 15,000,001 and up to 500,000,000 chargeable operations related to guarantees of regional origin per year	500
M	Between 2,500,001 and up to 15,000,001 chargeable operations related to guarantees of regional origin per year	600
S	≤ 2,500,000 chargeable operations related to guarantees of regional origin per year	1,000

A deduction for the collective benefit was made on the basis of the value of the public authorities and the actual expenditure incurred for the establishment and operation of the guarantees of regional origin register (Federal Administrative Court, BVerwGE 69, 242 (245 f.)). The guarantees of regional origin register also operates in the interest of the public, because the guarantees of regional origin register supports transparency in the electricity market and thus offers electricity customers – and thus ultimately every person in Germany – a better basis for deciding on the choice of electricity tariff. In addition, the guarantees of regional origin register should increase the acceptance of the local energy transition and thereby accelerate energy transition. The guarantees of regional origin register is thus not only and

not exclusively for the interest of the register participants. Rather, the operation of the register is also in the interest of the public in the changeover from power generation to renewable energy sources.

To Article 3 (Entry into Force, Abrogation)

Overall, the HkRNDV is redesigned conceptually, structurally and linguistically to improve user-friendliness. Regulations are increasingly summarized from a content point of view. Because of the extensive structural changes, the new regulation does not take the form of an amendment to the existing HkRNDV, but of a replacement ordinance.

The HkRNGebV will continue in amended form.