

energy - legal changes published in August 2017

Order no. 2469/2017 for the approval of the simplified procedure for carrying out the archaeological research, issuing the necessary authorizations, and issuing the archaeological discharge certificate in the case of the implementation of projects of national importance in the field of natural gas issued by the Ministry of Culture and National Identity, was published in the Official Gazette of Romania, Part I, no. 626 of August 2, 2017.

The New Order approves the Simplified Procedure for carrying out the archaeological research, issuing the necessary permits and issuing the archaeological discharge certificate in the case of the implementation of projects of national importance in the field of natural gas.

The procedure establishes inter alia that:

- the permits for archaeological research, regardless of its stages, are issued by the Department for Cultural Heritage of the Ministry of Culture and National Identity and are valid during the project of archaeological research required to implement a project of national importance in the field of natural gas;
- in case of fulfillment of the legal conditions of the permit, the issuance of the archaeological research permits necessary for the implementation of the projects in the field of natural gas, regardless of the stages of the archaeological research, is made within 15 working days, but the term can be extended, once, by 5 working days, if it is found that the submitted documentation is incomplete or if the quorum necessary for holding the meeting of the National Archeology Commission was not met;
- all archaeological research reports, regardless of its stages, must be submitted by the beneficiary or by its representatives to the decentralized public services of the Ministry of Culture and National Identity.

Date of entry into force: 02 August 2017.

Order no. 74/2017 on the approval of regulated revenue, total revenue and transmission fees for the transmission of natural gas through the National Transmission System, issued by NRAE, was published in the Official Gazette of Romania, Part I, no. 639 of August 4, 2017.

The Order establishes the manner in which the transport fees for the natural gas transmission activity are established by the National Transmission System, carried out between 1 October 2017-30 September 2017, as follows:

- (a) the capacity reservation fee per entry / exit points group for firm / interruptible transport services according to Annex 1 of the Order;
- (b) volumetric fee for the quantity of natural gas transmitted to the distribution systems: 2,45lei / MWh;
- (c) volumetric rate for the amount of natural gas transmitted through the National Transmission System: 3,20lei / MWh.

The fees set out in points (b) and (c) above also contain the amount of monopoly tax.

The fees for the natural gas transport service do not include VAT.

The Order also establishes the regulated income and the total income for the period between 1 October 2017-30 September 2018 for the natural gas transmission activity through the National Transmission System operated by the National Gas Transmission Company Transgaz SA (Annex 2 to the Order).

Date of entry into force: 04 August 2017.

Order no. 64/2017 amending and supplementing the Order of the President of the National Regulatory Authority for Energy no. 118/2016 on the approval of fees and money contributions collected by the NRAE in 2017 issued by NRAE, was published in the Official Gazette of Romania, Part I, no. 644 of August 7, 2017.

The Order amends and supplements the Order of the President of the National Regulatory Authority for Energy no. 118/2016 regarding the approval of fees and cash contributions charged by the NRAE in 2017, setting the fee for the authorization of legal persons and natural persons as energy auditors, the fee for the certification of energy managers and the fee for the approval / authorization of the companies providing energy services.

Date of entry into force: 07 August 2017.

Emergency Ordinance no. 61/2017 for the approval of certain measures regarding the mandate of the Ministry of Energy for the transfer of some of the shares owed by the Romanian government in companies producing heating agent to the local public administration units with a view to setting up and organizing the public power supply system in a centralized system, issued by the Romanian Government, was published in the Official Gazette of Romania, Part I, no. 648 of August 7, 2017.

According to the Ordinance, the transfer of shares held by the Romanian state in companies producing heat to local government units to establish and organize the public service of heat supply in a centralized system is made onerously and provided the following cumulative conditions:

- the administrative-territorial unit requested, on the basis of the decision of the local council or the General Council of Bucharest Municipality, the transfer of the stake held by the Romanian state through the Ministry of Energy in companies producing heating agent;
- the territorial public administration units for which the insolvency procedure has not been opened under the law may request the transfer of the share packages;
- conducting a technical and economic analysis that includes the justification of the operation and its effects;
- the transfer is carried out in compliance with the national and European rules on state aid and competition;
- the creditors' agreement should be expressed if the shares transferred are encumbered by guarantees and if the credit contracts made by the company issuing the shares indicates the need for such an agreement in the case of the transfer of the shares;
- takeover by the territorial-administrative units of any financial obligations from loans contracted or guaranteed by the state to the heat producing company.

The offer price for the stake will be determined on the basis of a valuation report carried out by an independent auditor, certified according to the law, whose services are purchased by the Ministry of Energy in accordance with the applicable laws.

Selling the stake is carried out at the higher of the values resulting from the evaluation report and the nominal value of the stake resulting from the application of the nominal value to the number of shares.

The main elements of the sale-purchase agreement through which the transfer is made shall be approved by Government decision.

Date of entry into force: 07 August 2017.

Decision no. 562/2017 on declaring the project "Expanding the Capacity of the National Transmission System to ensure natural gas flow on the axis Romania-Republic of Moldova" as a project of national importance in the field of natural gas, issued by the Government, was published in the Official Gazette, Part I, no. 654 of August 9, 2017.

The Decision aims to declare the project "Expanding the Capacity of the National Transmission System to ensure natural gas flow on the axis Romania-Republic of Moldova" as a project of national importance in the field of natural gas, and the Energy Ministry is designated as the competent authority responsible for facilitating and coordinating the procedure of authorization for the project.

Date of entry into force: 09 August 2017.

Decision no. 563/2017 regarding the declaration of the project "New developments of the National Transmission System for collecting gas from the Black Sea shore - Extension of the National Transmission System by building natural gas Transmission pipeline from the Black Sea gas collection point - Vadu to the Transit 1 pipeline - Gradina city area" as a project of national importance in the field of natural gas, issued by the Government, was published in the Official Gazette of Romania, Part I, no. 654 of August 9, 2017.

Through the Decision, the project "New developments of the National Transmission System for collecting gas from the Black Sea shore - Extension of the National Transmission System by building natural gas Transmission pipeline from the Black Sea gas collection point - Vadu to the Transit 1 pipeline - Gradina city area" is declared a project of national importance in the field of natural gas.

The Ministry of Energy is designated as competent authority responsible for facilitating and coordinating the authorization procedure for the project.

Date of entry into force: 09 August 2017.

Decision no. 1111/2017 amending and supplementing the Decision of the Head of the Energy Efficiency Department no. 2.794 / 2014 approving the Regulation for certifying energy managers and authorizing energy service providing companies and the Regulation for licensing energy auditors in the industry, issued by NRAE, was published in the Official Gazette of Romania, Part I, no. 655 of August 9, 2017.

According to the Decision, the Regulation for certifying energy managers and authorizing companies providing energy services is amended as follows:

- it provides that the syllabus of specialized courses is approved by NRAE-DEE after consulting Society of and energy managers and auditors of Romania and published on the NRAE website;
- it changes a number of documents for granting the certificate of energy manager in the industry;
- it establishes that appeal results are published on the website of the NRAE-DEE and communicated to the applicant;

- it amends the list of documents required to obtain authorization for companies providing energy services to businesses;
- it amends and supplements chapters on: the granting of energy manager certificate and authorization of energy services company; modifying and prolonging the validity of the energy manager certificate; paying the energy manager certification fee; suspension and withdrawal of the energy manager certificate.

The decision amends and supplements the Regulation for licensing energy auditors in the industry, relevant being the following:

- it provides that the extension of energy auditor authorizations is granted to individuals, including PFAs, which on the basis of assessment forms on the energy audit quality obtain a score of at least 10 points and legal persons who obtain a minimum score of 50 points;
- it establishes that where a natural or legal person energy auditor no longer wishes to pursue the authorized activity, they shall require in writing from NRAE-DEE the withdrawal of authorization; NRAE-DEE withdraws said authorization within 30 days from the date of registration of the notification to NRAE;
- it amends Annexes 7-11.

Date of entry into force: 09 August 2017

Order no. 75/2017 amending the Regulation on the organization and running of simultaneous auctions with decreasing price on the centralized market for universal service, approved by the Order of the President of the National Regulatory Authority for Energy no. 65/2014, and for amending and supplementing the calculation of the fees applied by last instance suppliers to final customers, approved by the Order of the President of the National Regulatory Authority for Energy no. 92/2015, issued by NRAE, was published in the Official Gazette of Romania, Part I, no. 656 of August 9, 2017.

The regulation for the organization and running of simultaneous auctions with decreasing price on the centralized market for universal service, approved by the Order of the President of the NRAE no. 65/2014 is amended, relevant being the fact that the condition applicable to the quantities related to the purchase offers of a FUI has changed, as well as the fact that the situations in which a tender session can be canceled by a decision of the NRAE President have been established.

The calculation methodology of the fee applied by last instance suppliers to final customers, approved by the Order of the President of the NRAE no. 92/2015 is amended, establishing the formula for the average purchase price of electricity supplied to CPC rates.

Date of entry into force: 09 August 2017.

Order no. 79/2017 for amending and supplementing the Regulation for the issuance of green certificates, approved by the Order of the President of the National Regulatory Authority for Energy no. 4/2015 issued by NRAE, was published in the Official Gazette of Romania, Part I, no. 683 of 23 August 2017.

The normative act amends and supplements the Regulation for the issue of green certificates, approved by the Order of the President of the NRAE no. 4/2015. Of these modifications and additions, we mention:

- Defining unwarranted GCs as being those GCs issued by the transmission system operator of a producer of electricity from renewable sources accredited for the green certificate promotion system, which represents unfair state aid to be recovered once it has been found;
- supplements the definition of additional GCs offered, in the sense that these can be GCs provided under art. 6 par. (5) of Law no. 220/2008, republished, as amended and supplemented, for the quantities of E-RES produced in power plants using energy crops;
- setting TSO's obligation, as issuer of the GC to submit to NRAE quarterly monitoring reports on certificates of origin submitted by accredited manufacturers for biomass used in own power plants.

Date of entry into force: 23 August 2017.

Order no. 78/2017 approving the methodology for determining the static annual quantity of green certificates and annual mandatory quota of green certificates issued by NRAE, was published in the Official Gazette of Romania, Part I, no. 686 of 24 August 2017.

The order approves the Methodology for determining the annual static quantity of green certificates and the mandatory annual quota for the acquisition of green certificates, provided in the annex which is an integral part of the Order.

The methodology for establishing the annual static quantity of green certificates and the mandatory annual quota for the acquisition of green certificates takes into account:

- (a) the calculation of the static annual quantity of green certificates in accordance with Art. 4 par. (61) of Law no. 220/2008 establishing the system for promoting the production of energy from renewable energy sources, republished, as subsequently amended and supplemented;
- (b) the calculation of the static annual quantity of green certificates;
- (c) the calculation of the mandatory annual quota for green certificates;

- (d) the calculation of the number of green certificates related to the non-fulfillment of the estimated annual quota of green certificates for each quarter of analysis by economic operators obliged to purchase green certificates;
- (e) the calculation of the number of green certificates related to the non-fulfillment of the mandatory quota for the acquisition of green certificates for the year of analysis by economic operators obliged to purchase green certificates;
- (f) the calculation of the amount of money related to fulfill the annual mandatory quota of green certificates.

The act repeals the Order of the President of the NRAE no. 41/2016 for the approval of the Methodology for setting the mandatory annual quota of electricity produced from renewable energy sources benefiting from the green certificate promotion and green certificate acquisition system, published in the Official Gazette of Romania, Part I, no. . 734 of 22 September 2016.

Date of entry into force: 24 August 2017.

Order no. 72/2017 approving the technical norms on technical requirements for connection to the public interest electricity networks for synchronous generator units, issued by NRAE, was published in the Official Gazette of Romania, Part I, no. 688 of August 24, 2017.

The normative act approves the Technical Norm regarding the technical requirements for connection to the public electricity networks of synchronous generating units, set out in the annex which is an integral part of the Order, published in the Official Gazette of Romania, Part I, no. 688 bis.

The standard establishes the minimum technical requirements for the connection of the synchronous generating units to the public electricity networks, which is the scope of these requirements, as well as the general conditions for the synchronous generating units of category A, B, C and D.

Upon the entry into force of the Order, the following are repealed:

- (i) Article 40, Chapter 5.4.1. "Dispatchable generating units connected to public interest electricity networks", provisions of chapter 5.4.2. "Requirements for telecommunication equipment", with the exception of Article 176, and the provisions of Chapter 5.4.4. "Telecommunication and Data Acquisition and Telemetering Systems", with the exception of Article 187 of the Technical Code of the Electric Transmission Network, Part I - Basic General Rules, approved by the Order of the President of the NRAE no. 20/2004, published in the Official Gazette of Romania, Part I, no. 828 of September 8, 2004, as amended;

- (ii) provisions of Chapters 4.4.1. " Dispatchable generating units", 4.4.2. "Installations of other RED Users" and 4.4.3. "Telecommunication and data acquisition systems", excluding points 4.4.3.1. and 4.4.3.2., of the Technical Code of the Distribution Networks, approved by the Order of the President of the NRAE no. 128/2008, published in the Official Gazette of Romania, Part I, no. 43 of 26 January 2009.

Date of entry into force: 27 April 2019.

Order no. 77/2017 for the approval of the organization and functioning of the green certificates market issued by NRAE, was published in the Official Gazette of Romania, Part I, no. 697 of 29 August 2017.

This Order approves the Regulation for the organization and functioning of the green certificates market.

The organization and functioning of the green certificates market sets out:

- how to organize and operate the green certificates market;
- stakeholders and their responsibilities in the organization and operation of the green certificates market;
- how to record and manage information about green certificates trading;
- information necessary to monitor the functioning of the green certificates market.

Date of entry into force: 01 September 2017.

Ordinance no. 17/2017 for amending art. 8 of the Law no. 165/2016 on safety of offshore oil operations, issued by the Government, was published in the Official Gazette of Romania, Part I, no. 703 of 30 August 2017.

The Ordinance provides a single article, which states that Article 8 of Law no. 165/2016 regarding the safety of offshore oil operations, published in the Official Gazette of Romania, Part I, no. 572 of July 28, 2016, as amended and supplemented, paragraphs (14), (15) and the introductory part of paragraph (16) shall be amended to read as follows:

"(14) The competent authority is headed by a president having state secretary rank and two vice-presidents acting having deputy state secretary ranks, appointed by the Prime Minister for a period of five years. The president is the competent authority in relation to third parties. In absence of the President, its duties shall be exercised by the Vice-President designated in this respect by order of the President.

(15) Being president and vice president is incompatible with public office, except for teaching, according to the law. The president and vice president are forbidden to exercise, directly or through intermediaries, trading activities and participate in the administration or management of companies under the Companies Act no. 31/1990, republished, as subsequently amended and supplemented, autonomous government business entities or cooperative organizations.

(16) The powers of the president and vice-president end on:".

Date of entry into force: 02 September 2017.