

**ORDER**  
**regarding the methodology for the establishment and management of the financial  
guarantee for manufacturers of electrical and electronic equipment**

On the grounds of the provisions of art. 9<sup>1</sup> of Government Emergency Ordinance no. 196/2005 regarding the Environment Fund, approved with subsequent amendments and supplementations by Law no. 105/2006, with subsequent amendments and supplementations, of art. 8 paragraph (9) of Government Decision no. 1.037/2010 on waste electrical and electronic equipment and art. 15 paragraph (4) of Government Decision no. 1.635/2009 on organisation and functioning of the Ministry of Environment and Forests, as subsequently amended and supplemented,

**the Minister of Environment and Forests** issues the following order:

CHAPTER I

**General provisions**

Art. 1. – Upon placing electrical and electronic equipment on the market, hereinafter referred to as EEE, the manufacturer defined under art. 3 letter i) of Government Decision no. 1.037/2010 on waste electrical and electronic equipment must submit a financial guarantee that would cover the financing costs in relation to the operations of collection, treatment, recycling, recovery and disposal in an environmentally sound way of all waste electrical and electronic equipment, hereinafter referred to as WEEE, originating from EEE placed on the national market.

CHAPTER II

**Manufacturers individually fulfilling their obligations provided by art. 5 paragraph (13)  
and art. 7 paragraph (1) of Government Decision no. 1.037/2010.**

Art. 2. – (1) As of the date when this order comes into force, for registration in the Register of Manufacturers of Electrical and Electronic Equipment drawn up in accordance with the provisions of art. 12 paragraph (1) of Government Decision no. 1.037/2010, manufacturers that individually fulfil their obligations provided by art. 5 paragraph (13) and art. 7 paragraph (1) of Government Decision no. 1.037/2010 shall establish the valid financial guarantee for the guarantee period determined for the EEE quantity that is estimated to be placed on the national market by the end of the calendar year in one of the financial guarantee forms provided by art. 8 paragraph (4) letter a) and b) of Government Decision no. 1.037/2010 and shall send the National Environmental Protection Agency, hereinafter referred to as NEPA and to the Environment Fund Administration (EFA), the proof of its establishment.

(2) On the commencement date of the financial year, but no later than March 20 of each year, manufacturers of EEE must establish/update the financial guarantee and send the proof of its establishment/updating to EFA and NEPA, specifying the detailed calculation of the financial guarantee for each year within the guarantee period, for each category of EEE.

(3) The financial guarantee for manufacturers of EEE shall be calculated as sum of the guarantee for each equipment, using the calculation formula provided in appendix no. 1.

(4) Manufacturers shall provide the financial guarantee for the entire guarantee period for a certain category of EEE, for each EEE placed on the market.

(5) Upon establishing and declaring the guarantee period, the manufacturer shall take into account the definition provided by art. 3 letter p) of Government Decision no. 1.037/2010.

(6) At the end of the guarantee period for a certain category of EEE, the manufacturer must prove that it fulfilled its financing obligations in relation to the operations of collection,

treatment, recycling, recovery and disposal for the entire WEEE in accordance with the EEE placed on the market.

(7) WEEE originating from the products placed on the national market by the manufacturers, for which the financing obligations in relation to the operations of collection, treatment, recycling, recovery and disposal have been fulfilled, shall be included in the calculation upon annual guarantee updating or, as the case may be, the manufacturers shall request, in relation thereto, that NEPA issue the decision for release of the financial guarantee established according to art. 2 paragraph (1), using the form provided in annex no. 4, accompanied by the declaration on one's honour regarding the fulfilment of the financing obligations and summary statement regarding the EEE placed on the market and managed WEEE, approved by NEPA.

(8) Upon requesting the release of the financial guarantee or, as the case may be, at the end of the guarantee period or upon termination of activity, each manufacturer must hold and provide to the competent control bodies, upon request, the documents proving the fulfilment of the obligations specified under art. 8 paragraph (1) of Government Decision no. 1.037/2010, such as, for example, invoices, dispatch notes, agreements, concluded with economic operators that are authorised to perform activities of collection and/or treatment/recycling/ recovery/ disposal of WEEE in an environmentally sound way.

(9) In case of termination of activity, the manufacturer must report to NEPA the number and quantity of EEE placed on the national market and which remained unmanaged on the date of termination of activity and declare on one's honour the correctness of reported data.

(10) Within 30 days as of the receipt of the request for decision for release of the financial guarantee or, as the case may be, at the end of the guarantee period or upon termination of manufacturer's activity, NEPA shall ascertain, based on supporting documents and annual reporting, the fulfilment of the financing obligations for collection, treatment, recycling, recovery and disposal of WEEE in an environmentally sound way and shall issue the decision for release of the financial guarantee, and, in case of non-fulfilment, it shall issue the decision for enforcement of the established guarantee, in accordance with the number of EEE for which the manufacturer failed to fulfil its obligations.

(11) Within 5 days as of the issuance according to paragraph (10), the decision shall be sent to EFA.

(12) Based on the decision sent according to paragraph (11), in case on non-fulfilment, EFA shall enforce the established financial guarantee, in accordance with the number of EEE for which the manufacturer failed to fulfil its obligations.

(13) EFA shall enforce the financial guarantee established by the individual manufacturer as follows:

a) in the case in which the manufacturer terminates its activity before the end of the guarantee period, for the products placed on the national market and which remained unmanaged, for which it established the guarantee;

b) in the case in which the manufacturer, at the end of the guarantee period, fails to fulfil the financing obligation in relation to collection, treatment, recycling, recovery and disposal, in an environmentally sound way, of waste originating from electrical and electronic equipment placed on the national market, for the products placed on the national market for which it established the guarantee and which remained unmanaged for each category of WEEE;

c) in the case in which the manufacturer terminates its activity and fails to fulfil its reporting obligation provided by paragraph (9).

(14) If EFA finds that the established guarantee differs from the real value of the guarantee calculated for the quantity of EEE placed on the national market, EFA shall request that the guaranteed amount be supplemented or, as the case may be, shall decide to unblock the guarantee difference.

Art. 3 – Producers shall report to NEPA, by January 25 of each year, the guarantee period established for each EEE category.

### CHAPTER III Collective organisations

Art. 4 – (1) As of the commencement date of the financial year, but no later than March 20 of each year, collective organisations shall establish and submit the financial guarantee provided under art. 8 paragraph (7) of Government Decision no. 1.037/2010 for provisions established in accordance with art. 8 paragraph (5) of Government Decision 1.037/2010, which will be valid for the established guarantee period and shall send EFA and NEPA the proof of such guarantee establishment.

(2) The value of the provisions established according to art. 8 paragraph (5) of Government Decision no. 1.037/2010 shall be calculated by each collective organisation for the EEE quantities placed on the national market by EEE manufacturers that are affiliated to the collective organisation and whose activity was terminated and which were not managed by the end of the guarantee period.

(3) Upon establishing and declaring the guarantee period, the collective organisation shall take into account the definition provided under art. 3 letter p) of Government Decision no. 1.037/2010.

(4) The guarantee provided under paragraph (1) shall be calculated as sum of the guarantee for each equipment using the calculation formula provided in appendix no. 2.

(5) If, for WEEE originating from products placed on the national market by manufacturers that are affiliated to the collective organisation, which terminated their activity, the financing obligations in relation to the operations of collection, treatment, recycling, recovery and disposal have been fulfilled, the collective organisations shall request NEPA, in relation thereto, the decision for release of the financial guarantee established in accordance with paragraph (1), using the form provided in appendix no. 5.

(6) The collective organisations that take over the responsibilities for collection, treatment, recycling, recovery of WEEE of a manufacturer that has an agreement, up to such point, with another collective organisation, must also take over the responsibilities for the EEE quantities placed on the market by such manufacturers and which are within the declared guarantee period.

(7) If the collective organisation voluntarily terminates its activity or the insolvency procedure is initiated in relation to such organisation, it must inform NEPA and EFA of such situation, and, at this time, EFA shall enforce the guarantee established according to paragraph (1).

(8) If the operation licence of a collective organisation is cancelled in accordance with art. 7 paragraph (7) of Government Decision no. 1.037/2010, NEPA shall inform EFA in such respect, and, at this time, EFA shall enforce the guarantee established in accordance with paragraph (1).

Art. 5 – (1) Collective organisations must annually send NEPA, by January 25 of each year, the updated list of EEE manufacturers for which they took over the responsibilities regarding WEEE management, management unit costs for the previous year, as well as the guarantee periods for each category of EEE, according to appendix no. 1A to Government Decision no. 1.037/2010 on the date when such EEE is placed on the national market.

(2) Collective organisations must keep the record of fulfilment of obligations for each EEE manufacturer for which they took over such responsibility.

(3) Collective organisations must send NEPA, by March 20 of each year, the EEE quantity, number of units and tons, placed on the market in the previous year for each manufacturer, WEEE quantity, number of units and tons managed in the previous year for each manufacturer, according to art. 7, paragraph (5) of Government Decision 1.037/2010.

(4) Collective organisations that take over the responsibilities for collection, treatment, recycling, recovery of WEEE of manufacturers which have an agreement, up to such moment, with another collective organisation shall send NEPA, by March 20 of each year, the name of the manufacturers whose responsibilities they took over, the date on which such responsibilities were taken over, as well as the EEE quantity within the guarantee period, number of units and tons, for each category of EEE according to appendix no. 1A to

Government Decision no. 1.037/2010 for which they took over the responsibilities for collection, treatment, recycling, recovery in accordance with art. 4 paragraph (6).

#### CHAPTER IV **Use of the financial guarantee**

Art. 6 – (1) The amounts received by EFA as a result of the enforcement of financial guarantees shall remain at the disposal of collective organisations and shall be used for management of WEEE which remained unmanaged for the reasons specified under art. 2 paragraph (13) and art. 4 paragraph (7) and (8).

(2) EFA shall authorise the use of received amounts as a result of the enforcement of financial guarantees in order to pay the costs of performance of operations for collection, transportation, treatment, recycling, recovery, disposal of WEEE, in an environmentally sound way, as specified under paragraph (1).

(3) A collective organisation may request EFA, based on the declaration on one's honour regarding the fulfilment of financing obligations and summary statement regarding EEE for which the management obligations have been taken over and additionally managed WEEE, approved by NEPA, the covering of expenses incurred for the management of the number of WEEE in addition to the number of EEE for which they took over responsibility, at the level of unit costs charged by the requesting organisation, but not more than the value of the enforced guarantee for such EEE.

(4) Collective organisations shall hold and provide to the competent control bodies, at their request, the supporting documents, agreements/ invoices with economic operators authorised to perform activities of collection and/or treatment, recycling/ recovery/ disposal of WEEE in an environmentally sound way or any legal documents proving the fulfilment of the financing obligations of collection, treatment, recycling, recovery and final disposal of WEEE.

#### CHAPTER V **Obligations of the competent authority**

Art. 7 – (1) NEPA has the obligation to establish and publish on its website, by January 31 of each year, according to the table template included in appendix no. 3, the reference management unit value for the calculation of the financial guarantee, for each category of EEE included in appendix no. 1A to Government Decision no. 1.037/2010, calculated as reference management unit value established for the previous year, corrected by an average annual percentage of increase or decrease of the value of management costs annually sent by the collective organisations.

(2) The competent control bodies shall verify, under the law, the correctness of the data reported by manufacturers and collective organisations according to art. 3 and art. 5 paragraph (1) – (3).

#### CHAPTER VI **Temporary provisions**

Art. 8 – (1) For 2011, the reference management unit value for calculation of the financial guarantee shall be the average value of management costs sent by the collective organisations for 2010 for each category of EEE included in appendix no. 1A to Government Decision no. 1.037/2010.

(2) Within 30 days as of the date when this order comes into force, the collective organisations shall send NEPA the management unit costs for 2010.

(3) NEPA shall establish and publish on its website, according to the table template provided in appendix no. 3, the WEEE reference management unit value for 2010, within 35 days as of the date when this order comes into force.

(4) Within 60 days as of the date when this order comes into force, registered manufacturers and/or manufacturers that are undergoing the registering/re-registering

procedure and which, on the date when this order comes into force, have not concluded a responsibility transfer agreement with any of the authorised collective organisations shall establish the financial guarantee according to art. 8 paragraph (4) of Government Decision no. 1.037/2010 and shall send NEPA and EFA the proof of such establishment.

## CHAPTER VII Final provisions

Art. 9 – (1) EEE manufacturers shall register with the Register of Manufacturers of EEE provided by art. 12 paragraph (1) of Government Decision no. 1.037/2010, complying with the obligations provided by art. 12 paragraph (2) – (5) of Government Decision no. 1.037/2010.

(2) EFA and NEPA shall fulfil the provisions of this order.

(3) Appendices no. 1 – 5 shall be an integral part of this order.

(4) This order shall be published in the Official Gazette of Romania, Part I.

Minister of Environment and Forests,  
**László Borbély**

Bucharest, May 23, 2011  
No. 1.441

APPENDIX No. 1

## CALCULATION METHOD for the financial guarantee

**The calculation formula of the financial guarantee for individual manufacturers:**

$$G_T = \sum G_{Ti}$$

$G_T$  = total value of guarantee for electrical and electronic equipment (EEE) placed on the national market;

$G_{Ti}$  = value of guarantee for products in category  $i$ ;

$$G_{Ti} = G_{Ei} + G_{Vi} - G_{Ci}$$

$G_{Ei}$  = guarantee for EEE that is estimated to be placed on the national market from category  $i$  in the current year;

$G_{Vi}$  = value of the guarantee for the difference between the estimated number of EEE and actual number placed on the national market from category  $i$  during the year;

$G_{Ci}$  = value of submitted guarantee according to collected and managed EEE.

$$G_{Vi} = (N_V - N_E) * C_i * (1+R/12)^{12*P}$$

$$G_{Ei} = N'_E * C'_i * (1+R/12)^{12*P}$$

$N_V$  = number of EEE placed on the national market from category  $i$ ;

$N_E$  = number of EEE that was estimated to be placed in the previous year on the national market from category  $i$ ;

$N'_E$  = estimated number of EEE to be placed on the national market in the current year from category  $i$ ;

$C_i$  = reference management unit value established for the year in which EEE was placed on the market;

$C'_i$  = reference management unit value established for the year in which it is estimated that EEE will be placed on the market.

The reference management unit value is calculated as reference management unit value established for the previous year for a category of EEE provided in appendix no. 1A to Government Decision no. 1.037/2010 on waste electrical and electronic equipment,

corrected by the average annual percentage of increase or decrease of the value of management costs sent annually by the collective organisations for a category of EEE provided in appendix no. 1A to Government Decision no. 1.037/2010 and is included on the list published by the National Agency for Environment Protection on its website.

$R$  = ROBOR rate at one month, expressed as percentage, with 3 decimal places, plus 5% on March 1<sup>st</sup> of the year in which EEE was placed on the market;

$R'$  = ROBOR rate at one month, expressed as percentage, with 3 decimal places, plus 5% on March 1<sup>st</sup> of the year in which it is estimated that EEE will be placed on the market;

$P$  = EEE guarantee period established by the manufacturer according to art. 2 paragraph (5) of the order.

**NOTE:**

Collected and managed waste EEE shall extinguish the guarantees in the order in which they were established.

**APPENDIX No. 2**

**CALCULATION METHOD  
for the financial guarantee**

**The calculation formula of the financial guarantee for collective organisations:**

$$G_T = \sum N_i * C_i * (1+R/12)^{12*P}$$

$G_T$  = total value of guarantee for electrical and electronic equipment (EEE) placed on the national market by EEE manufacturers that are affiliated to the collective organisation, whose activity was terminated and which were not managed by the end of the year;

$N_i$  = number of EEE from category  $i$  ( $i=1-10$ ) placed on the national market by EEE manufacturers that are affiliated to the collective organisation, whose activity was terminated and which were not managed by the end of the year;

$C_i$  = management unit value established for the year in which EEE was placed on the market.

The management unit value is the value established by such collective organisation for the previous year for a category of EEE provided in appendix no. 1A to Government Decision no. 1.037/2010 on waste electrical and electronic equipment and which is sent annually to the National Agency for Environment Protection;

$P$  = period of time remaining from the EEE guarantee period established by the collective organisation for the category of EEE placed on the national market by EEE manufacturers that are affiliated to the collective organisation, whose activity was terminated and which were not managed by the end of the year;

$R$  = ROBOR rate at one month, expressed as percentage, with 3 decimal places, plus 5%.

**APPENDIX No. 3**

**TABLE TEMPLATE  
indicating the reference management unit values for each category of electrical and electronic equipment \*)**

Category of electrical and electronic equipment (according to appendix no. 1A to Government Decision no. 1.037/2010) regarding waste electrical and electronic equipment	Reference management unit value (lei/piece)
1.Large household appliances	

2. Small household appliances	
3. IT and telecommunications equipment	
4. Consumer equipment	
5. Lighting equipment	
6. Electrical and electronic tools (except for large fixed industrial tools)	
7. Toys, leisure and sports equipment	
8. Medical devices (except for all implanted and infected products)	
9. Monitor and control instruments	
10. Automatic dispensers	

\*) For calculation of the financial guarantee by individual manufacturers, the reference management unit values according to the provisions of art. 7 paragraph (1) and art. 8 paragraph (3) of the order shall be used.

**TEMPLATE**

**of decision form for release/ enforcement of the financial guarantee for which the financing obligations for the operations of collection, treatment, recycling, recovery and disposal of waste electrical and electronic equipment originating from electrical and electronic equipment placed on the national market by individual manufacturers were fulfilled/ were not fulfilled**

<b>1. Manufacturer of electrical and electronic equipment</b>									
No. of registration with the trade register									
Sole registration number									
No. of registration with the Register of Associations and Foundations									
No. of registration with the Register of Manufacturers									
Name of manufacturer:									
Registered office:									
<b>2. Bank/ insurance company</b>									
Name of bank/ insurance company									
Office:									
Blocked bank account Letter of guarantee no. Insurance no.									
Date:	Date:								
Stamp and signature (bank/ insurance company)	Stamp and signature (manufacturer)								
<b>3. Amount of funds withdrawn from the blocked account</b>									
Amount in lei (in figures and letters)*)									
<b>4. National Agency for Environment Protection</b>					<b>5. Environment Fund Administration**)</b>				
Office:					Office:				
Telephone:					Telephone:				



E-mail:	E-mail:
Date:	Date:
Stamp and signature of institution's manager	Stamp and signature of institution's manager

\*) In accordance with the documents submitted and appended to this form in order to prove the expenses incurred in relation to fulfilment of the financial obligations regarding the management of waste electrical and electronic equipment.

\*\*\*) To be filled in only in the case of financial guarantee enforcement.

