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English translation of Government Gazette 2022 nr. 16802 - Policy rule for amendment of the offshore wind energy permits for Hollandse Kust (west) Sites VI and VII

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The Dutch version: <https://zoek.officielebekendmakingen.nl/stcrt-2022-16802.pdf>

Regulation by the Minister for Climate and Energy Policy of 21 June 2022, no. WJZ/ 22087356, concerning a policy rule in relation to the amendment to permits for offshore wind energy for the Hollandse Kust (west) Sites VI and VII (Policy rule for amendment of the offshore wind energy permits for Hollandse Kust (west) Sites VI and VII).

The Minister for Climate and Energy Policy,

Having regard to Section 17(4) of the Offshore Wind Energy Act and Section 4:81 of the General Administrative Law Act;

has decided as follows:

Section 1

In this Policy Rule, the following definitions apply:

application: application for amendment to a permit as referred to in Section 17(4) of the Offshore Wind Energy Act;

Site VI: Site VI as referred to in Section 1 of the Regulation on licensing for Hollandse Kust (west) Wind Farm Site VI;

Site VII: Site VII as referred to in Section 1 of the Regulation on licensing for Hollandse Kust (west) Wind Farm Site VII;

Minister: The Minister for Climate and Energy Policy;

Act: Offshore Wind Energy Act.

Section 2

This Policy Rule applies to the application for an amendment to a permit granted in accordance with Section 25b of the Act for Site VI or Site VII.

Section 3

1. An application should be accompanied by explanatory notes that clearly set out the impact of the proposed amendment to the permit on the following:
 - a. location of the wind farm;
 - b. installed capacity of the wind farm;
 - c. degree of compliance with the criteria referred to in Section 14(1)(d) or (f) of the Act;
 - d. practicability of the plan;
 - e. technical feasibility of the plan;
 - f. financial feasibility of the plan;
 - g. economic feasibility of the plan; or
2. An application must be accompanied by a wind energy yield calculation based on the proposed amendment to the permit, insofar as the amendment relates or jointly relates to the following:
 - a. number of turbines installed at the wind farm;
 - b. positioning of the turbines;
 - c. axis height of the turbines;
 - d. turbine type; or
 - e. investments or innovations that contribute to the ecology of the North Sea from the wind farm at Site VI or to the integration of the wind farm at Site VII into the Dutch energy system.

Section 4

The Minister will amend the permit if the amendment results in the construction or operation of a wind farm:

- a. for which, in the event of a permit application, a permit might be granted in accordance with the procedure referred to in Section 25b of the Act; and
- b. whereby the ranking conducted for a permit application would have resulted in an equal or higher rating and points when applying any ranking criterion other than the financial bid applied in the ranking.

Section 5

This Policy Rule enters into force the day after the publication date of the Government Gazette in which it is included.

Section 6

This Policy Rule is referred to as: 'Policy rule for amendment of the offshore wind energy permits for Hollandse Kust (west) Sites VI and VII)

This Policy Rule and the accompanying Explanatory Notes will be published in the Government Gazette.

The Hague, 21 June 2022

Minister for Climate and Energy Policy,

R.A.A. Jetten

EXPLANATORY NOTES

The Offshore Wind Energy Act (hereinafter: the Act) provides the comprehensive framework for realising wind energy projects in the North Sea. The Act provides for the allocation of sites where wind farms may be built. For each of these sites, an exclusive permit is granted to a potential wind farm operator. Applications for a permit for Hollandse Kust (west) wind farm zone site VI or site VII may be submitted to the Minister of Economic Affairs and Climate Policy (hereinafter: the Minister).

Under Section 17(4) of the Act, the Minister is authorised to amend a permit at the request of the permit holder. This Policy Rule sets out the conditions under which the Minister may agree to amend the permit at the request of the permit holder.

Article 3 of the Policy Rule requires that an application be submitted in full, to enable the Minister to make a substantive assessment of the application for amendment to the permit. This means that the application should clearly set out the consequences of the proposed amendment for, among other things, the location, the capacity and the feasibility of the wind farm. If the amendment concerns the turbines, a new wind energy yield calculation must also be provided.

Pursuant to Article 4 of the Policy Rule, the Minister will only amend the permit if the quality of the wind farm will not be adversely affected by the proposed amendment to the permit. The permits for the sites were awarded on the basis of a qualitative ranking. The assessment of the application for amendment of the permit will therefore include consideration of whether the proposed amendment would lead to a wind farm that would, in a points rating of the permit application, be rated at least equally on four ranking criteria stated in Section 25b(2)(a), (b) and (c) of the Act and Section 7(2) of the Ministerial Regulations relating to the granting of permits for site VI and site VII of the Hollandse Kust (west) Wind Farm Zone.

The amount of the financial bid can obviously no longer be changed. For the other three elements of the ranking, it is not desirable that an amendment affecting those elements, individually, should result in a lower score for the elements concerned. An improved points score for one criterion may not therefore be at the expense of another criterion.

Minister for Climate and Energy Policy,

R.A.A. Jetten