

**Policy Rule of the State Secretary for the Interior and Kingdom Relations of ..... No WJZ ..... amending the Policy Rule on Compensation for Costs of Earthquake-Resistant Industry Groningen 2023 in connection with an adjustment in the working method for the assessment of industrial installations and buildings and some other adjustments**

The State Secretary for the Interior and Kingdom Relations,

Having regard to Article 13ba of the Temporary Act Groningen [Tijdelijke wet Groningen] and Article 4:81 of the General Administrative Law Act [Algemene wet Bestuursrecht];

Hereby decrees the following:

**ARTICLE I**

The Policy Rule on Compensation for Costs of Earthquake-Resistant Industry Groningen 2023 [Beleidsregel vergoeding kosten aardbevingsbestendige industrie Groningen 2023] is amended as follows:

A

Article 1 is amended as follows:

1. The following definitions are inserted in alphabetical order:

*Basis of Design*: note establishing the initial situation of the industrial installation or associated functionally connected building to be assessed by determining the starting points and assumptions to be used in order to arrive at an assessment of the object;

*2024 Supplementary Review*: supplement to the comprehensive review framework to provide companies with industrial installations or buildings located at a site where the peak ground acceleration is 0.05 g or higher as of 1 October 2023 with a customised assessment that corresponds to the peak ground acceleration at the site where the company in question is located;

2. In the definition of Minister, 'Minister of Economic Affairs and Climate Policy' is replaced by 'Minister of the Interior and Kingdom Relations'.

3. The definition of Process Description is replaced by the following:

*Process Description*: Earthquake Resistance Industry Guide, Process Description Comprehensive Assessment Phase 1, Phase 2 and Phase 3 [Handreiking Aardbevingsbestendigheid Industrie, Procesbeschrijving uitgebreide beoordeling Fase 1, Fase 2 en Fase 3], 2 December 2024, Witteveen and Bos;

4. The definition of time period is deleted, replacing the semicolon at the end of the definition of Standard Method of Storage Tanks with a full stop.

B

Point (a) of paragraph 1 of Article 2 is replaced by the following:

a. companies that:

1°. carry out the activities referred to in Article 5.4 and the associated Annex VII, with the exception of Part A, Subparts 4, 5 and 11, Part B, Subparts 3 and 4, Part C, Part D, Subpart 1, and Part E, Subparts 1 and 13, of the Environmental Quality Decree [Besluit kwaliteit leefomgeving];

2°. establish or operate establishments with an installation as referred to in Annex I to Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 2010);

3°. establish or operate establishments to which Section 2 of Chapter 2 of the Working Conditions Decree [Arbeidsomstandighedenbesluit] applies;

4°. establish or operate establishments that store hazardous substances in quantities exceeding a threshold value as set out in Annex 1 to the Provincial Risk Map Regulations [Regeling provinciale risicokaart];

C

Article 3 is amended as follows:

1. Paragraph 1 is amended as follows:

- a. The indication '1.' is deleted.
- b. 'in the time period used at the time of application' is replaced by 'while carrying out the assessment referred to in Articles 4a, 5, 7, 11a, 12, 14, 19, and 22, or while taking the measures referred to in Articles 9 and 16';

2. Paragraphs 2 and 3 are deleted.

D

After Section 2.1.3, a Section is inserted with the following text:

### **Section 2.1.3a 2024 Supplementary Review**

#### **Article 4a Compensation for a risk analysis according to the 2024 Supplementary Review**

Upon application, the Minister shall provide a company with compensation for applying the 2024 Supplementary Review according to the Process Description, if the company is located at a site where the peak ground acceleration as of

1 October 2021 is at least 0.05 g, calculated and determined at a recurrence interval of 475 years.

#### **Article 4b. Application for compensation for the 2024 Supplementary Review**

An application for compensation, as referred to in Article 4b, shall be submitted at the end of the activities referred to therein and shall contain:

- a. an overview of the actual costs incurred in carrying out the activities;
- b. a public summary of the results of the 2024 Supplementary Review;
- c. a statement from Delft University of Technology that the 2024 Supplementary Review was carried out in accordance with the Process Description; and
- d. a declaration by the applicant that they agree that the information they have provided with the application and the information included in the decision to grant shall be provided by the Minister to the Nederlandse Aardolie Maatschappij [Netherlands Petroleum Company] B.V. in connection with its payment obligation.

E

In Article 7, 'basis of design' is replaced by 'Basis of Design'.

F

In Article 11, 'Article 2(1)(a), (b) or (c)' is replaced by 'Article 2(1)(a), introductory wording and under 1°, 2° or 3°'.

G

After Section 2.2.3, a Section is inserted with the following text:

#### **Section 2.2.3a 2024 Supplementary Review**

##### **Article 11a Compensation for a risk analysis according to the 2024 Supplementary Review**

Upon application, the Minister shall provide a company with compensation for applying the 2024 Supplementary Review according to the Process Description, if the company is located at a site where the peak ground acceleration as of 1 October 2021 is at least 0.05 g, calculated and determined at a recurrence interval of 475 years.

##### **Article 11b. Application for compensation**

An application for compensation, as referred to in Article 11b, shall be submitted at the end of the activities referred to therein and shall contain:

- a. an overview of the actual costs incurred in carrying out the activities;
- b. a public summary of the results of the 2024 Supplementary Review;
- c. a statement from Delft University of Technology that the 2024 Supplementary Review was carried out in accordance with the Process Description; and
- d. a declaration by the applicant that they agree that the information they have provided with the application and the information included in the decision to grant shall be provided by the Minister to the Nederlandse Aardolie Maatschappij [Netherlands Petroleum Company] B.V. in connection with its payment obligation.

H

In Article 18, 'Article 2(1)(d)' is replaced by 'Article 2(1)(a), introductory wording and under 4°'.

I

In Article 21, 'Article 2(1)(d)' is replaced by 'Article 2(1)(a), introductory wording and under 4°'.

J

In Article 24, 'Articles 5, 7, 9, 12, 16, 19, and 22' is replaced by 'Articles 4a, 5, 7, 9, 11a, 12, 16, 19, and 22'.

L

In Article 25, 'Articles 6(b), 8(b), and 10(b)' is replaced by 'Articles 4b(b), 6(b), 8(b), 10(b), and 11b(b)'.

M

In Article 26, 'Article 5, 7, 9, 12, 14, 16, 19 or 22' is replaced each time by 'Article 4a, 5, 7, 9, 11a, 12, 16, 19, and 22'.

## **ARTICLE II**

This Policy Rule shall enter into force on the day following the date of publication of the Government Gazette in which it is included.

This Policy Rule, along with its explanatory memorandum, shall be published in the Government Gazette.

The Hague,

The State Secretary for the Interior and Kingdom Relations - Reparations for Groningen,

## EXPLANATORY NOTES

### I. GENERAL

#### ***Objective and rationale***

The extraction of gas from the Groningen field has led to seismicity in Groningen and North Drenthe to date, which may result in safety risks for industrial buildings and installations. Industrial companies therefore carry out earthquake-resistance studies and take mitigating measures where necessary. On the basis of the Policy Rule on Compensation for Costs of Earthquake-Resistant Industry Groningen 2023 (hereinafter: the Policy Rule), these companies can be reimbursed for the costs thereof. A company is eligible for compensation if it is located at a site where the peak ground acceleration (hereinafter: PGA) is 0.05 g or higher. With the NEN web tool<sup>1</sup>, a company may select the time period applicable at that time to verify whether the company is located at such a site.

In 2020, the State Supervision of Mines [Staatstoezicht op de Mijnen] (hereinafter: SodM), based on the estimated decrease in Groningen seismicity in relation to the phasing out of gas extraction from the Groningen field, predicted that the sixth and last time period could start on 1 October 2023<sup>2</sup>. On the basis of the PGA, a significant proportion of companies would no longer have to carry out an assessment due to earthquake risks, in line with the seismicity associated with this time period.

In January 2023, the State Secretary for Economic Affairs and Climate Policy (hereinafter: EZK) appointed the Groningen Safety Advisory Board [Adviescollege Veiligheid Groningen] (hereinafter: ACVG) to advise on the application of time period 6 (hereinafter: t6) as of 1 October 2023 for industrial installations. On 22 August last year, the ACVG recommended that the time period in force, time period 5 (hereinafter: t5), continue to be maintained<sup>3</sup> given that the anticipated seismic threat, as predicted in 2020 according to the ACVG, does not align with the latest insights from, for example, the Seismic Threat and Risk Analysis [Seismische Dreigings- en Risicoanalyse]. There are also ongoing seismicity studies commissioned by the SodM because the number of earthquakes since 2020 has been higher than the average expectation. The State Secretary for EZK followed this advice.

Because the advice deviates from the prediction that t6 would have started on 1 October 2023, the ACVG recommended that until it is justified to switch to t6, companies should be offered customised solutions under serious circumstances and in close coordination with the supervisory authorities. The ACVG has left interpretation of the possibility of customisation to the EZK and the implementer of the Policy Rule, the National Coordinator Groningen (hereinafter: NCG)

Based on the latest scientific insights regarding peak ground acceleration at the sites where the companies are located, engineering firm Witteveen & Bos developed three assessment working methods on behalf of the NCG, with the aim of making the assessment framework in the Policy Rule future-proof, given the situation that t5 remains applicable for the time being. The final product, the 2024

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<sup>1</sup> [www.seismischekrachten.nen.nl](http://www.seismischekrachten.nen.nl)

<sup>2</sup> Time period 4 (1-10-2020 to 30-9-2021), time period 5 (1-10-2021 to 30-9-2023) and time period 6 (1-10-2023 to 30-9-2029).

<sup>3</sup> Groningen Safety Advisory Board. *Advisory report 'Application of time period 6' ['Toepassing tijdvak 6'] including Annexes*. 18 August 2023.

*Supplementary Review*, serves as a supplement to the Comprehensive Assessment in the Policy Rule. The *2024 Supplementary Review* has been added to the Guide Part 1 Process Description<sup>4</sup> (hereinafter: the Process Description), which provides industrial companies with the tools to record the steps in the assessment process in writing.

## **Contents**

As of 1 October 2023, a company that is located at a site where the peak ground acceleration (PGA) is 0.05 g or higher has the choice of three separate working methods under the 2024 Supplementary Review:

1. **Alignment with the chemical industry review framework on PGS 6.** Companies located at a site at or below the 0.05 g threshold value. They are given the possibility to use elements of the review framework for earthquake risks for the chemical industry according to the more common working method without special earthquake risks in accordance with Guideline 6 of the Publication Series on Hazardous Substances [Publicatiereeks Gevaarlijke Stoffen] (hereinafter: PGS 6).
2. **Application of Selection Methodology Step II as a customisation tool for simplified Phase 1 analysis.** If the qualitative risk analysis (Phase 1) shows that a company may be at risk of earthquakes, a semi-quantitative analysis (Selection Methodology Step II) is carried out to assess whether a quantitative risk analysis is actually necessary (Phase 2). The Selection Methodology Step II is used as an alternative to a full Phase 1 study for simplified qualitative/semi-quantitative assessment. In this way, it is specifically determined whether investigations and/or measures are proportionate in relation to the actual risk.
3. **Using previous (Phase 1 or 2) assessments according to the principle of similar installations.** When a company has a large number of similar installations under management and/or similar ones exist in the Groningen earthquake area (references), the company is given the opportunity to substantiate that the installation to be assessed has a similar or lower risk profile than the reference.

As with reviewing in accordance with the other review frameworks in the Process Description, a company must always justify why and in which way the chosen working method is appropriate for its specific situation.

## **II. ARTICLES**

### **Article I**

#### **Part A**

'Basis of Design' is defined for the sake of comprehensibility of the Policy Rule.

In addition, the '2024 Supplementary Review' is defined. This procedure for risk analysis and related measures follows from the Process Description, and with this amendment to the Policy Rule, the possibility of compensation for costs under this procedure has been added in Sections 2.1.3a and 2.2.3a.

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<sup>4</sup> Earthquake Resistance Industry Guide - Part 1: Process Description Comprehensive Assessment Phase 1, Phase 2 and Phase 3.

Furthermore, this Policy Rule is part of the portfolio of the Minister of the Interior and Kingdom Relations. The definition has been adapted to reflect this.

In addition, the definition of Process Description has been adapted so that it is in line with the latest updated version of the document, which includes the 2024 Supplementary Review.

In addition, the definition of the term 'time period' is deleted. On the advice of the Groningen Safety Advisory Board, time period 5 shall be used and there shall be no transition made to time period 6. The reference to time periods and the associated time provisions is therefore no longer appropriate to the current working method.

### **Part B**

With the entry into force of the Environment and Planning Act [Omgevingswet], the Decree on External Safety of Establishments [Besluit externe veiligheid inrichtingen] was incorporated into the Environmental Quality Decree. Article 2(1) (a) referred to the Decree on External Safety of Establishments with regard to the scope of application of the Policy Rule. With the present amendment, this has been adjusted to a reference to the Environmental Quality Decree. Annex VII of the Environmental Quality Decree examines which categories of activities were previously covered by the Policy Rule under the Decree on External Safety of Establishments. On this basis, a number of categories of activities from Annex VII of the Environmental Quality Decree are excluded.

### **Part C**

Article 3 has been amended because it derogates from the scheme of progression of the time periods by continuing to apply time period 5 for an indefinite period. Nevertheless, the peak ground acceleration used at the time of carrying out the assessment remains decisive in determining whether a company is eligible for compensation. This is now reflected in the amended Article 3. The distinction between the time period to be used for new construction and existing construction is therefore no longer relevant. This distinction has been removed from the Policy Rule by deleting paragraph 2. Paragraph 3 also lapses now that 1 October 2024 has passed and all the more so since this exception is no longer relevant, given the amendment to paragraph 1.

### **Part D**

Part D contains the new Section 2.1.3a. This Section provides the NCG with the option of paying compensation to a company for carrying out an assessment based on the 2024 Supplementary Review concerning existing construction. More information on the 2024 Supplementary Review can be found in the General Section of the Explanatory Memorandum.

### **Parts E and F**

Parts E and F concern editorial changes.

### **Part G**

Part G contains the new Section 2.2.3a. This Section provides the NCG with the option of paying compensation to a company for carrying out an assessment

based on the 2024 Supplementary Review concerning new construction. More information on the 2024 Supplementary Review can be found in the General Section of the Explanatory Memorandum.

***Parts H and I***

Parts H and I concern editorial changes.

***Parts J, K and L***

With the addition of Sections 2.1.3a and 2.2.3a for the purpose of compensation for the 2024 Supplementary Review, the references in Articles 24, 25 and 26 need to be adapted.

The State Secretary for the Interior and Kingdom Relations - Reparations for Groningen,