Unofficial translation prepared for NAM by J.L. den Dulk, January 2009

Amendment of the Mijnbouwwet in connection with the stimulation of an active use of licences for exploration, production and storage.

PROPOSED BILL

31479

nr 2

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, etc., etc., etc.

To all who may see or hear this, we salute you! Be it known as follows.

We have considered that it is desirable to enact new regulations to extend the authority to alter production and storage permits under the terms of the Mijnbouwwet and furthermore to amend this legislation in a number of places with regard to the storage of substances.

As such, We, having heard the Council of State and having consulted the Staten Generaal, have approved and deemed as we hereby approve and deem this.

Section I

The Mijnbouwwet shall be amended as follows:

A

Article **18** shall be amended as follows.

1. Article 18.1 shall read as follows:

2. Without prejudice to Article 32c, Our Minister may only amend a licence at the request of the holder.

3. A new clause shall be inserted, which shall read as follows:

4. In the Staatscourant notice shall be given of a decision to amend a licence.

B

Article **22.10** is deleted

C

To Article **26** shall be added:

3. In the event a holder of an exploration or production licence for hydrocarbons has been granted a storage licence for the same area and for the same substance, the exploration or production licence shall cease to exist at the moment that the granted storage licence becomes irrevocable.
4. As from the moment that a production licence as meant in Article 26.3 ceases to exist, the minerals in the area for which the production licence was applicable shall be deemed to be substances that by the holder of the storage licence as meant in Article 26.3 have been stored.
5. Articles 26.3 and 26.4 not apply to a holder of an exploration or production licence for hydrocarbons if he has, before those Articles have become effective, been granted an irrevocable storage licence for the same area and the same substance.

D

After Article **26** a new article is inserted:

Article 26a

1. As soon as an application for a storage licence is submitted, other parties shall be afforded the opportunity to submit an application for a storage licence in respect of the same area.
2. Our Minister shall publish an invitation in the Staatscourant for this purpose. This invitation shall cite the provisions of Article 17.
3. Other parties may submit an application during a period of up to thirteen 13 weeks after the date on which the invitation is published in the Staatscourant.
4. The procedure set out in Articles 26a.1 up to and including 26a.3 shall not apply in respect of:
   a. an application that is submitted in accordance with Article 26.3
   b. licences to which Article 26.1 or Article 26.2 applies.

E

Article **27.1** shall be amended as follows:

1. The word, "of", in Article 27.1.e is deleted.

2. The full stop at the end of Article 27.1. g is replaced by "or".

3. A new sub-clause, which reads as follows, shall be inserted:

   h. in the event it is required for the purposes of the general interest that an area, for which an application for a storage licence is submitted, is used to store substances other than those referred to in that application.

F

Article 30 shall be amended as follows:

1. The designation, "1", shall be inserted before the text.

2. Two new clauses, which read as follows, shall be inserted:

2. Furthermore, Our Minister may amend or revoke a storage licence in the event of non-compliance with the provisions of Article 39a.

3. A notice of a decision to amend or revoke a licence shall be published in the Staatscourant.

G

After Article **32** a new Chapter is added, reading as follows:

Article 32a

1. Our Minister will annually before 1st April establish a description of the parts of an area for which a production or storage licence applies, where:
   a. in the previous 2 calendar years no significant activities with respect to the exploration for or production of minerals or storage of substances have taken place;
   b. the production activities ceased;

2. The decision to establish the description will be notified in the Staatscourant.

Article 32b

1. Our Minister may reduce the area to which a production licence applies by a part thereof, if in that part during a period of 2 calendar years no significant activities with respect to the exploration for or production or storage of minerals have taken place or the production activities ceased.
2. Our Minister will notify the holder of a production or storage licence in writing of his intent to reduce an area as meant in Article 32b.1 and will enable him to make plausible, within 6 month commencing the first day after the day of sending of the notification, that in that part significant activities as meant in Article 32b.1 have been or will be carried out.
3. Significant activities as meant in Article 32b.2 shall in any event be deemed to have occurred or to occur if:
   a. exploration, production or storage activities as meant in Articles 1.e, 1.f or 1.g, respectively, have been carried out or will, in the Minister's view, be carried out within a reasonable period of time;
   b. a storage plan a meant in Article 34 has been submitted;
   c. a storage plan as meant in Article 39, in conjunction with Article 34, has been submitted.
4. Ultimately within 4 months after lapse of the period meant in Article 32b.2 or, if the holder of the licence has within that period notified in writing that no activities will be or have been carried out, Our Minister shall, ultimately within 4 months after that notification render a decision about reduction of a licence area. Our Minister may attach conditions and restrictions to a decision. If our Minister has not rendered a decision within the period as meant in the first sentence, the area will be designated as not to have been reduced.

Article 32c

1. A decision as meant in Article 32b shall be rendered in such a manner that both the area covered by the licence which remains after it has been reduced and that part by which it is reduced comply with the provisions of Articles 11.3 and 11.4.
2. The decision shall in any event mention:
   a. the licence area which remains after the reduction;

b. the part by which the licence area is reduced; and

c. the moment in time when the reduction of the area covered by a licence is to occur.

3. Notice of the decision shall be published in the Staatscourant.

H

After Article **39** is inserted:

Article 39a

Within a period of 12 month after a storage licence has become irrevocable, the holder of the storage licence or the person designated by virtue of Article 22 shall submit a storage plan to Our Minister.

I

A new clause shall be inserted in **Article 67** and Articles 67.4 and 67.5 shall be renumbered accordingly:

4. In the event that the inspector issues an advance ruling, in respect of which he may stipulate additional requirements and against which objections may be lodged, to the effect that a legal act seeks to protect against exposure to a price or foreign exchange risk in relation to hydrocarbons that have been or are to be produced, the result of the relevant legal act shall be deemed to be part of the result meant in Article 66.1.

J

To Article **149** a new sub-clause will be added:

3. Articles 26.3, 26.4 and Chapter 3a shall not apply to a licence as meant in Article 26.1.

K

In Article **150.1** after "article 21.1.d" shall be inserted: or Article 32b.

Section II

This Act shall come into effect on a date to be set by royal decree.