

The Minister for Climate and Energy,

Having regard to Article 3 of the EZK and LNV Subsidies Framework Act, Articles 2, paragraph 1, 4, parts a, b and d, 5, paragraphs 1 and 2, 15, 16, 17, paragraph 1, part b, 19, 25, 34, first paragraph, 44, and 50, second, fourth and seventh paragraph, of the Framework decision on national EZK and LNV subsidies;

Decision:

Article I

The National EZK and LNV Subsidies Regulation will be amended as follows:

A

In chapter 4, the heading of title 4.9 will read 'Title 4.9 Gas storage projects storage year 2022.'

B

A title is added to Chapter 4, reading:

Title 4.10. Gas storage projects storage year 2023

Article 4.10.1. Definitions

In this title:

bidder limit: capacity in MWh for which the applicant has concluded one or more PCAs with the gas storage company Bergermeer;

capacity: fixed gas storage capacity;

gas company: gas company as referred to in Article 1(1)(j) of the Gas Act;

gas day: the period between 06:00 and 06:00 of the following day;

gas storage Bergermeer: gas storage Bergermeer, managed by the gas storage company Bergermeer; gas storage company Bergermeer: TAQA Gas Storage B.V., being the company that manages the gas storage Bergermeer;

booked capacity: capacity of the Bergermeer gas storage facility for which a gas company has concluded one or more PCAs for the storage year 2023;

storage year 2023: the period between gas day 1 April 2023 up to and including gas day 31 March 2024;

optimization day: gas day in the period from 1 November to 31 December 2023 on which the value of TTF Day-Ahead, (for weekends / public holidays TTF Weekend on Friday), minus the value of TTF Q1 2024, exceeds 40 euros per MWh;

PCA: Primary Capacity Agreement, being an agreement between gas storage company Bergermeer and a gas company about the sale and purchase of capacity in the form of a standard bundled unit (SBU) of the capacity in the gas storage Bergermeer for storage year 2023;

TTF: Title Transfer Facility, Dutch gas trading place;

Regulation (EU) 2022/2578: Council Regulation (EU) 2022/2578 of 22 December 2022 establishing a market correction mechanism to protect citizens of the Union and the economy against excessively high prices (OJ 2022, L 335).

Article 4.10.2. Subsidy provision

1. To fill the capacity of the Bergermeer gas storage for the storage year 2023 up to 11.8 TWh, the Minister will grant a subsidy on request for the implementation of a gas storage project aimed at filling the capacity booked by the applicant, by the applicant of the Bergermeer gas storage.
2. A gas storage project as referred to in the first paragraph comprises a coherent whole of activities consisting of filling the capacity booked by the applicant in the Bergermeer gas storage by the applicant by means of injecting and storing gas in the Bergermeer gas storage.

Article 4.10.3. Applicant

The applicant is a gas company that has concluded a PCA with the gas storage company Bergermeer for the purchase of storage capacity for the storage year 2023.

Article 4.10.4. Subsidy amount

1. The amount of the subsidy for a gas storage project as referred to in Article 4.10.2, first paragraph, expressed in euros per MWh, is determined with due observance of the formula:

Q1-24/DA price difference – discount + guarantee premium

where is understood by:

a. Q1-24/DA price difference: the weighted arithmetic average of the Q1-24/DA spread for each day in the price period, rounded to the nearest three decimal places, not less than -15 euros per MWh and being understood by:

1°. Q1-24 / DA spread: the value of TTF Q1 2024 less the value of TTF Day-Ahead for a day in the price period on which the Bergermeer gas storage was available for injection, expressed in euros per MWh, with the TTF for weekend days Q1 2024 and TTF Weekend prices published on the previous Friday are used;

2°. TTF Q1 2024: the arithmetic mean of the bid and offer prices of the TTF Price Assessment Q1 2024, as published in the ICIS European Spot Gas Markets report, in euros per MWh;

3°. TTF Day-Ahead: the arithmetic mean of the bid and offer prices of the TTF Price Assessment Day-Ahead or Weekend, as published in the ICIS European Spot Gas Markets report, in euros per MWh;

4°. price period: period from [PM 2023?] to 31 October 2023, with the exception of the days on which the Q1-24/DA spread is lower than -16 euros per MWh and the days on which the market correction mechanism referred to in Article 4, fifth paragraph, of Regulation (EU) 2022/2578, is activated;

5°. weighted arithmetic mean: the weighting of the arithmetic mean of the Q1-24/DA spread based on the availability of Bergermeer gas storage for injection during the price period;

6°. availability: fraction of the contracted injection capacity that is available on a gas day available to a gas company, calculated daily taking into account the formula:

$$1 - imf - iuf - iof - iff$$

where is understood by:

- imf: factor with a value of 0-1 by which the injection capacity for the gas company is limited during a gas day as a result of planned maintenance of the injection capacity;

- iuf: factor with a value of 0-1 by which the injection capacity for the gas company is limited during a gas day due to unplanned maintenance of the injection capacity;

- iof: factor with a value of 0-1 by which the injection capacity for the gas company is limited during a gas day as a result of a failure of the injection capacity;

- iff: factor with a value of 0-1 that limits the injection capacity for the gas company during a gas day as a result of a force majeure event.

If the value is greater than 0, these factors are determined and communicated daily by the Bergermeer gas company during the injection period.

b. discount: discount based on the gas company's bid for the tender, as referred to in Article 4.10.11, second or third paragraph, which amounts to a maximum of 5.853 euros per MWh, and

c. guarantee premium: premium for offering a guarantee for a negative Q1-24/DA price difference, set at 0.8096 euros per MWh.

2. If a subsidy is granted on the basis of an application for several bids, the level of the discount per MWh for which a subsidy is granted will be determined on the basis of the weighted average of the discount for the capacity for which the subsidy has been granted.

3. If there are more than [94] excluded days, then for each excluded day exceeding that number of [94] days, the capacity for which a subsidy has been granted will be reduced by 1%, with the number of excluded days being the sum of the days on which:

a. the Q1-24/DA spread on a day in the price period is lower than -16 euros per MWh, whereby a day on which the Q1-24/DA spread on a day in the price period is lower than -16 euros per MWh equals is subject to one excluded day;

b. the Bergermeer gas storage is not available for injection, whereby the number of days on which the gas storage is not available is set equal to the sum of the factors referred to in the first paragraph, part a, under 6° over the period from [PM 2023] to and by October 31, 2024; or

c. the market correction mechanism, referred to in Article 4(5) of Regulation (EU) 2022/2578, has been activated.

4. If the application of the formula referred to in the first paragraph leads to:

a. a positive number, the amount of the subsidy is set at zero;

b. a negative number, the amount of the subsidy is determined by multiplying the absolute value of the result of the formula, referred to in the first paragraph, by the capacity for which the subsidy has been granted.

5. If an optimization day occurs, a payment will be deducted per optimization day to the amount of the subsidy amount determined with application of the first to the fourth paragraph.

6. The payment referred to in paragraph 5 is determined with due observance of the following formula:

Premium per MWh * Volume optimization * 50%

where is understood by:

Premium per MWh: number of euros per MWh that the value of the TTF Day-Ahead minus the value of TTF Q1 2024 on an optimization day exceeds 40 euros per MWh;

b. volume optimization: potential number of MWh for which the subsidy recipient can optimize the sales position it has taken up on the gas market for the first quarter of 2024, calculated taking into account the formula:

Availability of production * (Number of MWh for which subsidy has been granted, as corrected on the basis of the third paragraph/100),

where is understood by:

production availability: fraction of the contracted production capacity that is available for a gas company on the basis of the signed PCAs during a day, calculated daily taking into account the formula:

$$1 - wmf - wuf - wof - wff$$

where is understood by:

- wmf: factor with a value of 0-1 by which the production capacity for the gas company is limited during a gas day as a result of planned maintenance of the production capacity;

- wuf: factor with a value of 0-1 by which the production capacity for the gas company is limited during a gas day as a result of unplanned maintenance of the production capacity;

- wof: factor with a value of 0-1 by which the production capacity for the gas company is limited during a gas day as a result of a production capacity failure;

- wff: factor with a value of 0-1 by which the production capacity for the gas company is limited during a gas day as a result of a force majeure event.

If the value is greater than 0, these factors are determined and communicated daily by the Bergermeer gas storage company during the production period.

7. The maximum number of optimization days is 40.

8. If the application of the fifth paragraph leads to a negative number, then the amount of the subsidy is set at 0 euros.

Article 4.10.5. Eligible costs

Contrary to Article 10 and Article 11, paragraph 1, of the Decree, only the costs of the Q1-24/DA price difference, referred to in Article 4.10.4, paragraph 1, under a, shall be deducted from the discount referred to in Article 4.10. .4, first paragraph, under b, and increased by the guarantee premium, referred to in Article 4.10.4, first paragraph, under c, eligible for subsidy.

Article 4.10.6. Distribution of the subsidy ceiling

1. The minister divides the subsidy ceiling by ranking the applications.

2. If two or more applicants for a bid have bid the same discount in their application, rounded to three decimal places, and the amount of capacity of these bids in the ranking exceeds the maximum number of TWh referred to in Article 4.10.2, first paragraph, the capacity of the relevant bids in the applications will be reduced pro rata to the maximum number of TWh to be allocated, as referred to in Article 4.10.2, first paragraph, rounded off mathematically to whole MWh.

Article 4.10.7. Start and realization term

1. The implementation of the gas storage project subsidized under this title will start no later than one month after the date of the decision to grant the subsidy.
2. The period referred to in Article 23(b) of the Decree runs until the gas day of 1 February 2024 (06:00).

Article 4.10.8. Grounds for rejection regarding the content of the project

1. The Minister will reject an application for subsidy if the applicant does not meet the requirements of Article 4.10.3.
2. The Minister rejects an application for a subsidy for a gas storage project as referred to in Article 4.10.2, first paragraph, if the applicant applies a discount in the bid that exceeds the maximum referred to in Article 4.10.4, first paragraph, under b. exceeds.
3. The Minister partially rejects an application for subsidy for a gas storage project as referred to in Article 4.10.2, first paragraph, if the application exceeds the bidder limit.
4. For the purpose of the application of the third paragraph, the minister sorts the bids in the application from the lowest to the highest discount and reduces the application to a capacity where the bidder limit is no longer exceeded, rounded to whole MWh.

Article 4.10.9. Ranking Criteria

The Minister ranks the bids in the applications for subsidy for a gas storage project that have not been rejected higher the lower the discount per MWh, referred to in Article 4.10.4, first paragraph, part b, is.

Article 4.10.10. Obligation of subsidy recipient

1. The subsidy recipient will ensure that the amount of stored gas at the latest at the start of the gas day:
 - a. 1 November 2023 is 100% of the capacity in the Bergermeer gas storage facility for which a subsidy has been granted, and
 - b. 1 February 2024 is at least 40% of the capacity in the Bergermeer gas storage facility for which a subsidy has been granted.
2. The subsidy recipient will immediately notify the Minister if:

before 1 November 2023 it appears that the subsidy recipient will not be able to meet the obligation referred to in the first paragraph, part a;

b. no start is made with the implementation of the gas storage project subsidized under this title within one month after the date of the decision to grant a subsidy;

c. between 1 November 2023 and 1 February 2024 it appears that the subsidy recipient will not be able to meet the obligation referred to in the first paragraph, part b;

d. after the grant has been awarded, a change takes place in the data referred to in Article 4.10.12, part a or b;

e. after award there is a change in the ownership or control of the grant recipient as a result of which the grant recipient is a person, body or entity as referred to in Article 5p, first paragraph, of Regulation (EU) No 833/2014 concerning restrictive measures in respect of Russia's actions destabilizing the situation in Ukraine.

Article 4.10.11 Tender

1. With a view to applying for a subsidy for a gas storage project as referred to in Article 4.10.2, first paragraph, the applicant participates in a tender.

2. The tender for the subsidy, as referred to in Article 4.10.2, first paragraph, will be held on [PM], from 9:00 AM to 5:00 PM.

3. The applicant may submit one application per gas storage project as referred to in Article 4.10.2, first paragraph.

4. An application consists of a maximum of five bids.

5. Subsidies may be awarded for part of the application in case an application consists of several bids.

Article 4.10.12. Information obligations

An application for a subsidy must contain at least:

a. information about the applicant, including:

1°. the postal and visiting address,

2°. the account number, and

3°. the number with which the applicant is registered with the Chamber of Commerce, if applicable;

b. information about the contact person with the applicant, including name, telephone number and e-mail address;

c. information about the applicant's bid, as referred to in Article 4.10.11, second or third paragraph, including in any case:

1°. the amount of capacity in MWh that the applicant offers to fill, and

2°. associated desired discount as referred to in Article 4.10.4, first paragraph, part b;

- d. a copy of the PCAs concluded with the gas storage company Bergermeer; and
- e. a valid power of attorney, using the model included in appendix 4.10.1, showing that the natural person submitting an application on behalf of the applicant is authorized to submit an application on behalf of the gas company.

Article 4.10.13. Application for subsidy determination

1. The final report referred to in Article 50(2)(a) of the Decree, which accompanies the application for subsidy determination, will in any event contain a. a statement from the gas storage company showing how much gas the applicant has on 1 November 2023 and February 1, 2024 stored in the gas storage Bergermeer, and

b. a declaration that the applicant is not a person, entity or body as referred to in Article 5p, paragraph 1, of Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine.

2. Contrary to Article 50(2)(c) of the Decree, the application for subsidy determination need not be accompanied by an auditor's report.

Article 4.10.14.

The subsidy, referred to in Article 4.10.2, first paragraph, contains state aid and is justified by state aid measures SA.PM (2023/N).

Article 4.10.15. Expiry period

This title and appendix 4.10.1 expire with effect from 1 September 2024, on the understanding that they will continue to apply to grants awarded before this date.

B

After appendix 4.9.1, the appendix included in the appendix to this regulation is added.

Article II

A row is added to the table belonging to Article 1 of the 2023 Regulations on opening up EZK and LNV subsidies, reading:

Title 4.10: gas storage projects	Article 4.10.2, first paragraph	Gas storage projects as referred to in Article 4.10.2, first paragraph		PM opening period	€ 240 miljoen
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Article III

These regulations come into effect on the day after the date of issue of the Government Gazette in which they are published.

This regulation will be published in the Government Gazette with explanatory notes.

The Hague,

The Minister for Climate and Energy,

Appendix to Article I, part B

Annex 4.10.1, belonging to Article 4.10.12

PROXY

[printing on gas company stationery]

The undersigned:

[name gas company], registered in [the commercial register of the Chamber of Commerce or a comparable register] under number [number] and with address [address], legally represented by [name], (the "Proxy Party"),

declares to give power of attorney to:

[name of authorized representative], born in [city] on [date of birth], [choose: passport or ID card] with number [passport number/ID card number] and residing at [address] (the "Authorised Agent"), in order for and to submit an application for a subsidy on behalf of the Principal as referred to in Articles 4.10.2 and 4.10.12 of the Regulation of the Minister for Climate and Energy, amending the Regulation on national EZK and LNV subsidies and the Regulation on opening EZK- and LNV subsidies 2023 in connection with the introduction of a subsidy module concerning the provision of subsidies for filling the Bergermeer gas storage facility and to participate in a tender for this purpose as referred to in Article 4.10.11 of the said regulation and to do everything that is reasonably necessary for this purpose. useful and necessary.

This power of attorney is valid with respect to the foregoing purpose and the Principal hereby ratifies and confirms all acts which the Proxyholder shall lawfully perform or cause to be performed pursuant to this power of attorney.

The power of attorney is valid from the date of signature by the Proxy Giver and can only be revoked after written notification from the Proxy Giver to the Proxyholder at [address] and the Netherlands Enterprise Agency (RVO) at bergermeer@rvo.nl, after which this power of attorney has been revoked as of the date of receipt of the written notification by RVO, to be confirmed by RVO to the Principal.

[name of gas company]

By: [name of person authorized to sign]

Position: [position of person authorized to sign]

Place:

Date:

[Please attach proof that the person who signed the power of attorney is also authorized to represent the company]

EXPLANATION

1. Background

The war in Ukraine and the subsequent far-reaching reduction of gas supplies by Russia to the EU has put pressure on the security of gas supply in both the Netherlands and the other member states of the European Union. In the interest of securing the security of gas and energy supply and given the volatile and uncertain situation on the gas and energy market, it is essential that the European seasonal gas storage facilities are sufficiently filled during the injection season.

This subsidy scheme aims to encourage market parties to fill the Bergermeer gas storage, the largest high-calorific gas storage in Europe, thereby contributing to guaranteeing the security of gas and energy supply.

1.1 Background

Under normal market conditions, seasonal storages are filled during the months of April through October (injection season), when gas prices are lower, and gas is sold from the storages during the months of November through March (production season), when gas prices are higher. The positive difference between the buying (summer) and selling (winter) price, the so-called summer/winter spread, in this case covers the costs of gas storage and usually yields enough to be profitable.

At the beginning of 2022, however, the situation was reversed: Due to high gas prices and the volatility and uncertainty in the gas market, summer prices were higher than expected winter prices. As a result, there was no commercial incentive for parties to store gas in gas storage facilities: the risk of a negative summer/winter spread and the consequent risk of large financial losses meant that market parties did not book capacity in gas storage facilities or, insofar as this capacity was booked, did not fill it. In addition, there were a number of market parties, controlled by Russian parties, who presumably refrained from filling their long-term booked capacity due to political strategic considerations.

These developments resulted in an potentially historically low filling level for European gas storage facilities, which, in combination with the threat of a sharply reduced supply of gas from Russia, poses a risk to the gas and energy supply security in the EU.

1.2 Measures at EU and national level

Measures have been taken by both the EU and its member states, including the Netherlands, to ensure sufficient filling of the gas storage facilities in the interest of guaranteeing the security of gas and energy supply.

At EU level , mandatory filling levels for European gas storage facilities have been set , a certification system for gas storage facilities has been introduced and a temporary crisis framework for state aid measures to support the economy following the Russian aggression against Ukraine has been established . Very recently, the Council also adopted a sanction measure under which storage capacity may no longer be made available to 'Russian entities'.

The EU storage obligation was 80% in 2022 and will be 90% from 2023. This obligation may be reduced for a Member State by the volume supplied to third countries during the reference period 2016 to 2021. For the Netherlands, this means a discount of the filling target to 68% in 2022 and 73% from 2023 due to gas exports to the United Kingdom via the pipeline between Bacton and Balgzand (BBL).

In line with the wishes of the House of Representatives and advice from GTS and the Mining Council, among others, the cabinet aimed to fill the gas storage facilities as much as possible before 2022. For 2023, the minimum target filling level of the cabinet is 90%.

The total Dutch storage capacity, on the basis of which the EU filling targets have been determined, amounts to 13.9 billion m³ and is divided over 6 storage facilities:

Storages	Type	Storage capacity (bcm)
Norg	L gas	5,934
Grijpskerk	L gas	2,385
PGI Alkmaar	L gas	0.5
Bergermeer	H gas	4,565
Energy Stock	L gas	0.365
EWE Gas Speicher	L-Gas	0.15

The filling of the Norg, Grijpskerk and PGI Alkmaar storages was already sufficiently guaranteed in 2022 on the basis of the agreements in the Norg agreement. For 2023, this applies in full to the Grijpskerk and PGI Alkmaar storages. With regard to Norg gas storage, a lower obligation applies for 2023 on the basis of the current agreements in the context of the Norg agreement. The way in which a minimum filling level of 90% can be guaranteed for the gas storage Norg will be included in the review of these agreements in the context of the closure of the Groningen field. The storage facilities of Energystock and EWE Gasspeicher have a very limited size and are not used for seasonal storage. For this reason, these storages have not been included for the purpose of taking measures to achieve the mandatory filling level.

This meant that before 2022 there was only reason to take measures to ensure the filling of Bergermeer. This also applies to 2023.

1.3 Measures for filling the Bergemeer gas storage

For 2022, the government has opted to stimulate the filling of the Bergermeer gas storage by market parties and has taken two measures to this end in 2022. In the first place, the government has been using a subsidy measure stimulated market parties, other than Gazprom, to book the remaining capacity in the Bergermeer gas storage facility and to fill the capacity they have booked . In addition to this, the cabinet has appointed EBN B.V. charged with the task of filling Bergermeer gas storage as far as possible, insofar as market parties did not do so .

These measures have contributed to the more than full filling of the Bergermeer gas storage on the reference date of 1 November 2022. Market parties have stored approx. 33.83 TWh of gas and EBN approx. 12.2 TWh. Because the market conditions changed during the filling season and the summer-winter spread, for which the subsidy measure provided a safety net, has been positive on average, it is expected that the subsidy measure will not (or only to a very limited extent) lead to payment of the subsidy granted. The filling of the gas storage by EBN B.V. is not expected to result in costs for the government (or only to a very limited extent). The final settlement for both measures is expected to take place around May 2023.

For the storage year 2023, the storage capacity in the Bergermeer gas storage facility has been increased to 48.5 TWh. The capacity of the Bergermeer gas storage facility for the storage year 2023 has been fully booked by market parties. The gas storage company sold 13.25 TWh of capacity at auctions held on December 13, 2022 and February 14, 2023 and also sold 6.5 TWh using so-called optimization agreements. Finally , Gazprom Export PSJC has usage rights for 19.6 TWh under the long - term agreement between the gas storage company and Gazprom Export PSJC .

However, the fact that the available capacity has been booked says nothing about the extent to which the booked capacity is actually filled. It is uncertain how the gas market will develop in the coming months. The outlook is now more favorable than last year: there is a positive spread and significantly lower gas prices. This is because the gas storages were well filled at the start of this winter and the gas storages – partly due to the mild winter weather – are expected to be filled to a higher percentage at the start of the next filling season (April 1, 2023) than around that time last year. Despite the fact that the current gas price is still relatively high, it is significantly lower than last year.

Because the market situation remains uncertain and volatile, it is not certain that the market conditions for filling the gas storage facilities will remain positive and that the storage facilities will be filled to a sufficient degree. The government has therefore announced that it intends to achieve the intended filling level with the aid of two measures that are largely comparable to the measures taken last storage year to fill the Bergermeer gas storage: A subsidy measure that encourages market parties to fill booked capacity, even when the summer/winter spread is negative and in addition EBN B.V. re-entrusted with the task of filling Bergermeer gas storage to 90%, insofar as market parties do not do so . Both measures are thus intended to provide a safety net for the situation where market conditions are no longer such that market parties, for commercial reasons, proceed to sufficiently fill the Bergermeer gas storage.

The total expenditure involved in the two measures largely depends on the final summer-winter spread. The expenditure is estimated at a maximum of € 240 million for the subsidy scheme and € 520.5 million for the compensation to EBN . The subsidy ceiling for this scheme has been set at €240 million (Article II).

2. Content of the subsidy measure

The aim of the present subsidy measure is to make filling the Bergermeer gas storage facility sufficiently attractive for market parties in storage year 2023. The subsidy measure provides a safety net that stimulates the storage of gas when the difference between the purchase and sale price (summer-winter spread) is negative. The design of this subsidy measure is largely the same as the design of this subsidy measure for the storage year 2022, but the changed market conditions have been taken into account.

In the regular market situation, gas companies make money from a positive summer-winter spread. This is the difference between the price at which the gas purchased and stored during the filling season and the price at which the stored gas is sold on the market in winter. This income covers the costs they incur for gas storage and constitutes their profit. The costs incurred consist of the capacity fee for the use of the storage, the injection and extraction costs, financing costs and credit costs for the purchase of gas and other costs for filling the gas storage.

2.1 Eligible Activities

Pursuant to this subsidy scheme, the Minister for Climate and Energy (hereinafter: the Minister) grants subsidy for the implementation of a gas storage project aimed at filling by gas companies the capacity of the Bergermeer gas storage facility booked by them for the storage year 2023 (article 4.10.2, first paragraph). The eligible activities concern the filling of the booked capacity in the Bergermeer gas storage facility by gas companies by means of injecting and storing gas in the Bergermeer gas storage facility (Article 4.10.2, second paragraph). Unlike last year, no subsidy will be made available for the costs of purchasing storage capacity. This is because the storage capacity that was available to capacity holders during the auctions organized by the gas storage company in December 2022 and February 2023 has been completely sold. The gas storage company is still considering the consequences of the sanction measure in the field of storage capacity for offering the capacity to which Gazprom had rights of use. To date, this capacity is only available on an interruptible basis for parties that have concluded an SSSA with the gas storage company and is therefore not part of this subsidy measure.

2.2 Target Companies

The subsidy measure is aimed at gas companies that have booked storage capacity in the Bergermeer gas storage facility for the storage year 2023 (article 4.10.3). This concerns the capacity that has been booked permanently (not interruptible) by the relevant parties (article 4.10.1) and therefore does not include the capacity that is available to a party that has concluded an SSSA with the storage company on an interruptible basis. when it is not filled by the capacity holder who has booked the capacity permanently. This is because parties that fill on an interruptible basis can be interrupted. This means that the firm capacity holder can report at any time to still store gas in the capacity it has booked. This may result in the party that stores gas on an interruptible basis having to remove its gas from storage and sell it on the market. This risk of interruption does not compare well with the mandatory filling targets (Article 4.10.10, second paragraph). associated with the subsidy.

Gas companies that have concluded a Standard Storage Services Agreement (hereinafter: SSSA) with the Bergermeer gas storage company can book storage capacity for the Bergermeer gas storage facility. This is an agreement between gas storage company Bergermeer and the gas company, which includes the conditions for the use of capacity in the gas storage Bergermeer. Before the parties can enter into such an agreement, the gas storage company Bergermeer conducts an extensive investigation of the gas company, in order to exclude credit risks, among other things. This process usually takes several weeks.

Only parties that have concluded an SSSA with the gas storage company Bergermeer may participate in auctions organized by the gas storage company Bergermeer where storage capacity for the gas storage Bergermeer is sold for a storage year. If a gas company has successfully participated in an auction organized by the gas storage company Bergermeer, it enters into an agreement (a Primary Capacity Agreement, hereinafter: PCA) with the gas storage company Bergermeer on the sale and purchase of capacity in the form of standard bundled unit (SBU) of the capacity in the Bergermeer gas storage. An SBU is the minimum unit in which capacity is offered at the auction by the gas storage company Bergermeer and includes 1 MWh of storage space and associated injection and production rights in accordance with the SSSA.

Following the decision adopted by the European Council on 24 February 2023 tenth sanctions package, as of 26 February 2023 there will be a ban on making storage capacity available to:

- a) a Russian national, a natural person residing in Russia or a legal person, entity or body established in Russia;
- (b) a legal person, entity or body of which more than 50% of the property rights are owned directly or indirectly by a legal person, entity or body referred to in point (a); or
- c) a natural person, a legal person, an entity or a body acting on behalf or at the direction of a legal person, an entity or a body referred to in points a) or b).

Because as a result of this prohibition, these persons, bodies and entities are no longer allowed to use the storage capacity of gas storage facilities located in the EU, these parties cannot make use of this subsidy scheme.

2.3 Amount of subsidy

Under this scheme, a subsidy is granted per MWh stored on the basis of the negative price difference between the purchase price of gas during the injection period and the forward sales price of gas for the first quarter of 2024 (spread), using the following formula:

Q1-24/DA price difference – discount + guarantee premium

Because the subsidy only intended to provide a safety net, the subsidy recipient will only receive a subsidy if the outcome of this formula is negative.

The various parts of the formula used to determine the amount of the subsidy per MWh are explained in more detail below, also highlighting the points on which the parameters used deviate from the parameters used for the storage year 2022.

2.3.1 Price difference and discount

For the purpose of determining the amount of the subsidy per MWh of gas stored, the price difference is reduced by a discount based on the gas company's bid in the open tender (Article 4.10.4, first paragraph). With the aid of the discount, the gas company can cover the costs it incurs for filling the storage.

The price difference concerns the weighted price difference (spread) between the purchase price for the gas that will be stored and the forward sale price of the stored gas for all days during the price period in which the Bergermeer gas storage was available for injection and the spread was not lower than -16 euros. The maximum weighted average price difference for which a subsidy can be awarded on the basis of the scheme is -15 euros per MWh (article 4.10.4, first paragraph, under a, under 1°). These parameters have not changed compared to storage year 2022. The explicit specification of the maximum of the maximum weighted average price difference merely establishes the starting point that was also used for the previous storage year. Limiting the maximum average weighted spread for which this subsidy scheme offers a guarantee to -15 euros is a guarantee to limit the total costs of the subsidy measure.

The price period is the period from [PM 2023] up to and including 31 October 2023 in which gas companies make purchases for storage for the implementation of gas storage projects for which a subsidy is granted under this scheme, Article 4.10.4, first paragraph, part a, under 4°). The price period is 10 days longer than it was in 2022, because unlike last year, the Bergermeer storage is not closed for maintenance between 21 and 31 October.

In practice, when gas companies purchase gas for storage, they immediately set up a forward sale transaction in the market for the sale of the gas in the first quarter of 2024 against this purchase transaction. This is because leaving the position open entails considerable financial risks. By selling the gas immediately, after purchasing, for the first quarter of 2024, they hedge against this risk. The price difference is calculated using the actual market prices (bid and ask prices) as they apply on the Dutch gas trading platform, the Title Transfer Facility, for the purchase of gas (TTF Day Ahead) and sale in the first quarter of 2024 (TTF Q1 2024). The information about these prices is available via the ICIS European Spot Gas Markets report (article 4.10.4, first paragraph, part a, under 2° and 3°).

To calculate the price difference, when determining the weighted price difference, only the days of the price period are taken into account where the spread is not lower than -16 euros MWh and the market correction mechanism was not activated (Article 4.10.4, first paragraph, part a, under 4°). It was decided to exclude days on which the spread is lower than EUR -16 per MWh to ensure that the market is not unnecessarily disrupted as a result of this subsidy measure.

It was decided to exclude days on which the correction mechanism applies because on these days the price formation on the TTF cannot be considered representative of the price formation on the gas market. Pursuant to Article 4(1) of Council Regulation (EU) 2022/2578 of 22 December 2022 establishing a market correction mechanism to protect the citizens of the Union and the economy against excessively high prices (OJ EU 2022, L 339) (hereinafter: Regulation (EU) 2022/2578), a market correction mechanism is activated for the settlement price of front-year TTF derivatives when a market correction event occurs. A market correction is deemed to have occurred when the ICE Endex B.V. (The Netherlands) the published settlement price of front-month TTF derivatives is higher than EUR 180/MWh for three business days and during that period is EUR 35 per MWh higher than the reference price. If ACER (Agency for the cooperation of Energy Regulators) finds that a

market correction event has occurred, it publishes a market correction message on its website, stating that a market correction event has occurred. When the market correction mechanism is activated, a price cap applies from the day after the publication of a market correction message for TTF derivatives that expire in the period from the maturity date of the front-month TTF derivative to the maturity date of the front-year TTF derivative . During the period that the market mechanism is activated, market operators will not accept orders above this price cap and participants in the TTF derivatives market will not place orders above this price cap. After activation of the market correction mechanism, the dynamic bid limit applies for at least 20 business days, unless suspended or deactivated by the European Commission.

Days on which the Bergermeer gas storage is not available for injection are also excluded from the calculation of the weighted price difference (Article 4.10.4, first paragraph, part a, under 5°). The availability of the Bergermeer gas storage is determined by determining whether the gas storage was unavailable for part of the day due to planned maintenance (imf), unplanned maintenance (iuf), failure of the injection capacity (iof) or a force major event (iff) (force majeure) (article 4.10.4, first paragraph, part a, under 6°). This system has been laid down in the SSSA by the gas storage company Bergermeer. In the event that the storage was not available for one of these reasons, the Bergermeer gas storage company determines a factor with a value of 0-1 for each reason and communicates this to the gas companies that have booked capacity in the Bergermeer gas storage and the Netherlands Enterprise Agency. (hereinafter: RVO). This factor is determined in proportion to the percentage of availability in a day (24 hours). For example, if the gas storage was not available for injection for 3 hours during a day due to unplanned maintenance (iuf), this constitutes 12.5% ($3/24 \cdot 100$) of the day, which is 0.125 expressed in a value of 0-1 . The added factors can never exceed 1. If the gas storage company does not set a factor on a day during the injection period, the value of the factor is 0. The availability of the Bergermeer gas storage is then calculated using the formula: $1 - imf - iuf - iof - iff$. The availability during a day during the injection period is communicated by the gas storage company Bergermeer to the gas companies that have booked capacity in the gas storage Bergermeer and to RVO.

The price difference is then reduced by a discount (article 4.10.4, first paragraph, part b). This concerns an amount that arises from a bid made by a gas company during the opening of the tender. With the help of this discount, the gas company can cover the costs it incurs for storage. This includes, among other things, the injection and withdrawal costs, financing costs and credit costs for the purchase of gas and, if the gas company also competes for the unsold capacity in the Bergermeer gas storage, the capacity fee for the use of the storage. To mitigate the risk of overcompensation, a maximum of 5.853 euros per MWh has been set for the discount that can be offered. This amount is higher than the maximum amount that could be offered for storage year 2022 (3.991 euros per MWh), because the injection and extraction costs, financing costs and credit costs for the purchase of gas have increased.

If an applicant includes several bids in its application, the subsidy will be granted for the weighted average of the discount offered per MWh (article 4.10.4, second paragraph). In an example calculation, this looks like this:

	Bid 1	Bid 2	Bid 3	Bid 4	Bid 5	Weighted Average
Discount (€)	2,50	3,00	3,25	3,30	3,50	3,044
MWh	2	2	1	2	1	8

Days on which the Bergermeer gas storage facility is not available for injection, the spread is lower than -16 euros or on which the market correction mechanism is activated are regarded as excluded days for the implementation of this subsidy scheme. If the number of excluded days during the injection period (PM up to and including 31 October 2023) exceeds [94], the capacity for which a subsidy has been granted will be reduced by 1% for each additional excluded day (Article 4.10.4, third paragraph). The number of excluded days is higher than in the storage year 2022, because the period during which injections can take place is longer as a result of the scheme starting earlier and the Bergermeer gas storage facility being available for injection for longer.

If an applicant has been granted a subsidy for filling 5 MWh and there are 2 excluded days above the [94] days, the capacity for which a subsidy has been granted will be reduced by 2% to 4.9 MWh. This has consequences in the first place for the determination of the amount of the subsidy. After all, the outcome of the formula (Q1-24/DA price difference – discount) is multiplied by a lower number of MWh. In addition, this also has consequences for the mandatory filling level on November 1, 2023 and February 1, 2024, which has also been excluded as a result of the correction due to days lower.

For the calculation of the number of excluded days, days on which the spread is lower than EUR -16 count as 1 excluded day (Article 4.10.4, third paragraph, under a). Days on which Bergermeer storage is not available are determined on the basis of the availability of Bergermeer using the method included in Article 4.10.4, first paragraph, part 6° (Article 4.10.4, third paragraph, part a). A day on which the gas storage was not available for injection for 3 hours constitutes 0.125 excluded day according to this calculation.

A subsidy will only be paid if the price difference less the discount plus the guarantee premium is negative. This subsidy is set at the absolute value of the negative price difference less the discount plus the guarantee premium multiplied by the number of MWh for which subsidy has been granted. If the price difference less the discount plus the guarantee premium is positive, the subsidy is set at €0 (article 4.10.4, eighth paragraph).

2.3.2 Guarantee premium

The guarantee offered by the scheme for the storage of gas in the Bergermeer gas storage facility aims to encourage parties that would not have stored gas under the current market conditions to store gas in the Bergermeer gas storage facility. If the risk that the guarantee aims to cover (a negative Q1-24/DA price difference) materialises, a subsidy will be paid out under this scheme. If there is a positive result of the formula Q1-24/DA price difference minus discount, then the subsidy recipient will not receive a subsidy, but will still benefit from the scheme because he would not have gas stored without the guarantee offered by the scheme. To compensate for this benefit, a premium is charged per MWh for the use of the guarantee (article 4.10.4, first paragraph, part c).

For the purpose of determining a fee for providing a guarantee for a negative Q1-24/DA price difference, the maximum negative spread (16 euros/MWh) on a day during the price period that is involved in the calculation of the weighted average is price difference multiplied by the reference interest rate of 5.06% calculated for this situation on the basis of the Commission Communication on the revision of the method by which the reference and discount rates are calculated. The calculation of the reference interest rate is based on an implied credit profile of the parties that have concluded an SSSA with the gas storage operator that averages BBB. It was then assessed that the level of

collateralisation for the guarantee is normal. This is because there is no formal security provided by the parties, but the amount of the guarantee can be recovered from the subsidy. Because recovery is only possible until the amount of the subsidy is set at €0, there is a limited residual risk, as a result of which the level of collateralisation cannot be assessed as high. According to the table, this results in a pricing of 100 basis points. Because these are companies with a good implied credit rating and a guarantee with a normal level of collateralisation, a standard addition of 100 basis points is added. These 200 basis points are set against a reference interest rate of 3.06% for the Netherlands (date 1/3/2023). This leads to a reference interest rate of 5.06%. Applied to the maximum negative spread on a day during the price period that is involved in the calculation of the weighted average price difference of EUR 16 per MWh, the fee for the guarantee per MWh is EUR 0.8096 per MWh (16×0.0506).

2.3.3 Deduction Sales Optimization

After gas has been purchased during the period from PM to October 31, 2023 using the guarantee offered by this subsidy scheme, the production period will start.

If excessive prices on the market mean that sales positions taken up with the aid of this scheme can be significantly improved (optimised), it is desirable that the State shares in the benefit generated with the aid of this scheme. For this reason, provision has been made for a correction mechanism (deduction) on the basis of which a percentage of the excess profit achieved as a result of a considerable optimization of the sales position is deducted from the subsidy (article 4.10.4, fifth paragraph).

There is an excessive advantage if the TTF Day-Ahead (sale price) minus the value of TTF Q1 2024 (purchase price for the first quarter of 2024) (hereinafter: TTF Day-Ahead /TTF Q1 2024 spread) is greater than EUR 40 per MWh (article 4.10.4, fifth paragraph). The amount of EUR 40 per MWh is based on 99.5 percent of the relative spread (DA/front month spread and DA/2nd front month spread) over applied for the last 5 years prior to the gas crisis at a price level of 100 euros per MWh. Despite the fact that the gas price is currently lower than 100 euros per MWh, it is likely that if the storage conditions become negative, the gas price will be higher. For this reason, it has been decided to align with the amount set for storage year 2022.

This deduction is calculated by multiplying the additional price per MWh per optimization day by the number of MWh for which the subsidy recipient was able to optimize its sales position on that day (optimization volume) and then multiplying this by the payment percentage set at 50% (article 4.10.4, sixth paragraph). An optimization day is any day in the period from November 1 to December 31, 2023 on which a subsidy recipient can partially bring forward the sales position it has taken up for the first quarter of 2024 on the gas market in order to benefit from a TTF Day Ahead. /TTF Q1 2024 spread greater than EUR 40 per MWh (article 4.10.1). Due to the obligation to have filled 40% of the capacity for which a subsidy has been granted by 1 February 2024, the maximum number of optimization days is 40 (article 4.10.4, seventh paragraph). If a subsidy recipient were to use all maximum 40 optimization days, he would have brought forward 40% of the sales of the capacity for which the subsidy was granted. This gas is withdrawn from storage and the gas that is purchased to meet the previously held sales position for Q1 2024 is not re-injected but delivered immediately. As a result, in that case a maximum of 60% of the gas stored for the first quarter is still in storage. As a result of the use of the TTF Q1 price reference, sales orders for this gas will be evenly distributed

over the months of January, February and March 2024 (Q1), approx. 20% per month, approx. 40% for the months of February and March .

The optimization volume is calculated by dividing the number of MWh for which a subsidy has been granted by the average production ratio (100). The average production ratio is the average ratio between the stored volume and the maximum volume that can be produced from the Bergermeer storage facility on 1 day based on the pressure curve of the Bergermeer gas storage facility. In the PCAs established by the parties with the gas storage operator, this is set at an average of 1% of the booked capacity. The result of this sum must then be multiplied by the availability for production of the Bergermeer gas storage on the day in question. This is calculated in a similar way to availability for injection.

The correction of the subsidy with the payment can under no circumstances lead to a negative subsidy amount (a payment obligation for the subsidy recipient) (article 4.10.4, eighth paragraph).

2.4 Tender

2.4.1 General

The subsidy measure is designed as a tender, whereby gas companies make a bid for the 'discount' at which they are prepared to store a number of MWh of gas stated in the bid (Article 4.10.4, first paragraph). In this way, parties are encouraged to submit the costs they incur (for which no cost-covering allowance applies) at a minimum level. This mitigates any risk of a commercial advantage. The tender takes place on PM (09:00-17:00) (article 4.10.4, second paragraph). In order to create scarcity and thus competition between the parties, the tender relates to 11.8 TWh of the available storage capacity (article 4.10.2, first paragraph).

Bids for the tender are made per whole MWh. This is in line with the working method of the Bergermeer gas storage facility, where the storage capacity in Standard Bundled Units (SBUs) is auctioned. 1 SBU amounts to 1 MWh.

2.4.2 The application for subsidy

One application can be submitted by the applicant per gas storage project. This request can then consist of a maximum of five bids. If an application consists of several bids, the grant may be awarded for part of the application (Article 4.10.11, paragraphs 3 to 5).

The provisions of Section 4.1.1 of the General Administrative Law Act (hereinafter: Awb) apply to the submission of an application. The application containing the bid(s) is submitted using a resource made available by the Minister (Article 19(1) of the Framework Decision on EZK and LNV Subsidies, hereinafter referred to as: the Decree). In this case, this is done via an eLoket. Parties that have a registration with the Chamber of Commerce can gain access to this counter by means of eHerkenning level III. For foreign companies – which are not registered with the Chamber of Commerce – it is possible to log in to the eLoket via MijnRvO.nl. Verification occurs in that case by means of an SMS code.

The application contains the data as described in Article 4.10.12. This primarily concerns information about the applicant and his contact person. The application also contains the details of the bid on the basis of Article 4.10.11, being in any case the amount of capacity that the applicant offers to fill and the desired discount. The application is accompanied by a copy of the PCAs concluded by the applicant with the gas storage company Bergermeer. This shows for how many MWh the applicant has concluded PCAs with the gas storage company and therefore what the applicant's bidder limit is. The application also contains a valid power of attorney showing that the natural person is authorized to submit the application on behalf of the gas company.

During the opening of the tender, an application can be changed by making the desired adjustments in the eLoket. When a request is made in the eLoket, a confirmation of receipt of the request is automatically generated.

2.4.3 Grounds for rejection

In addition to the grounds for rejection included in Article 4:35 of the Awb and Articles 22 to 24 of the Decree, the Regulation contains various grounds for rejection that specifically pertain to gas storage projects (Article 4.10.8). For example, an application will be rejected if the applicant is not a gas company that has booked fixed storage capacity with the gas storage company. An application is also rejected if the offered discount exceeds the maximum discount of 5.853 euros per MWh (Article 4.10.8, second paragraph) and an application is partially rejected if the amount exceeds the fixed storage capacity booked by the applicant in the Bergermeer gas storage facility (the bidder limit) (article 4.10.8, third paragraph). To this end, the Minister sorts the bids in the application from the lowest stated to the highest stated discount and reduces the application, starting with the highest bid, to a capacity where the bidder limit is no longer exceeded, rounded to whole MWh (Article 4.10.8, fourth paragraph).

2.4.4 Distribution of the subsidy ceiling: Ranking

Insofar as the minister has not rejected the applications for subsidy, the applications will have to be ranked among themselves. The ranking is based on the discount offered per MWh. An application is ranked higher the lower the discount per MWh is (article 4.10.9).

If the ranking on the basis of the offered discount shows that bids are ranked equally, but the allocation of both bids results in the maximum number of TWh as described in Article 4.10.2, first paragraph, being exceeded, then both bids will be pro proportionally reduced to a number of MWh that does not exceed the maximum number of TWh of the relevant tender (article 4.10.6, second paragraph). For example, if 10 MWh can still be allocated and there are equally ranked bids of 8 MWh and 12 MWh respectively:

	MWh	Pro rata correction
Bid A	8	$8/20=0,4*100=40\%$ $10*40\% = 4 \text{ MWh}$
Bid B	12	$12/20=0.6*100=60\%$ $10*60\% = 6 \text{ MWh}$

Pursuant to Article 26(2) of the Decree, the term for taking a decision on an application for subsidy is a maximum of 13 weeks. This term can be extended once by a maximum of 13 weeks. However, given the importance of starting filling the Bergermeer gas storage facility as soon as possible, RVO aims to decide on the applications as soon as possible. By way of illustration: for the storage year 2022, RVO took a decision on an application within a few days.

2.5 Subsidy Obligations

Various obligations are attached to a subsidy for the implementation of a gas storage project aimed at filling the capacity of the Bergermeer gas storage facility. In the first place, the subsidy recipient must start the implementation of the gas storage project subsidized under this scheme within one month after the date of the subsidy award (article 4.10.7, first paragraph).

Furthermore, subsidy recipients are obliged to have fully (100%) filled the capacity for which subsidy is granted by 1 November 2023 (6:00 am). From that moment on, they may again extract gas from the storage, on the understanding that they are obliged to have 40% filled of the capacity for which a subsidy has been granted in the Bergermeer storage on 1 February 2023 (6:00 a.m.) (article 4.10.10, tenth paragraph). The percentage for February 1, 2023 is a fraction higher than the percentage that applied for February 1, 2022, this is due to the interim filling targets laid down in Implementing Regulation (EU) 2022/2301. However, the capacity for which a subsidy has been granted can be reduced (Article 4.10.4, third paragraph, see §2.3 of this explanatory note). Should during the term of the subsidy becomes known that one of these objectives will not be achieved, the subsidy recipient must immediately report this to the minister (article 4.10.10, second paragraph, parts a and b).

In addition, the subsidy recipient must also immediately notify the minister of changes in the information about the subsidy recipient, that were submitted during the application, with regard to the postal and visiting address, the account number, the number with which the applicant is registered with the Chamber of Commerce (if applicable) and information about the contact person at the applicant, including the name, telephone number and e-mail address (article 4.10.10, third paragraph, under c).

Finally, the subsidy recipient must immediately notify the Minister of any change in the ownership or control of the subsidy recipient as a result of which the subsidy recipient becomes a person entity or body subject to the sanction measure relating to the provision of storage services under the tenth sanction package (see §2.2 of this explanatory note) (Article 4.10.10, third paragraph, part c).

If the European Commission declares an emergency at regional or Union level on the basis of Article 12 of Regulation (EU) 2017/1938 on security of gas supply, it will be assessed at that time whether this will have consequences for the subsidy obligations described. This also applies if the market correction mechanism as referred to in Regulation (EU) 2022/2578 is activated and gas companies are consequently unable to carry out the necessary transactions on the gas market for a longer period of time in order to be able to store gas.

2.6 Subsidy determination

The term for implementation of a gas storage project subsidized under this scheme runs until the gas day of 1 February 2024 (6:00 a.m.) (Article 4.10.7, second paragraph). From that moment on, an application for subsidy determination can be submitted. Such an application must meet the requirements set out in Section 4:45 of the Awb and Section 50(2) of the Decree. Pursuant to Article 52(2) of the Awb, an application for subsidy determination must be submitted using a resource made available by the Minister for Climate and Energy. RVO provides a form for this.

Pursuant to Article 52(2) of the Awb, the application must be accompanied by a final report. This final report must in any case contain a statement from the gas storage company showing how much gas the applicant has stored in the Bergermeer gas storage on 1 November 2023 and 1 February 2024 (article [PM]). In addition, a statement must be added in which the applicant declares that no person, to be an entity or body against which the sanction measure with regard to the provision of storage services applies pursuant to the tenth sanction package (see §2.2 of this explanatory note on this subject) (Article 4.10.13, first paragraph). section c of the Decree stipulates that the application for subsidy determination does not have to be accompanied by an accountant's statement. This has been waived pursuant to Article 50(7) of the Decree because the amount of the subsidy is determined by RVO on the basis of data on market prices during the pricing period.

Pursuant to Article 52 of the Decree, RVO must take a decision on this application within thirteen weeks after receipt of the application for determination (or after the period applicable for submitting it has expired). However, RVO strives to take a decision on determining the subsidy as soon as possible after receipt of the application.

If, upon determination, it appears that the subsidy obligations have not been complied with, for example because the required filling level has not been met on the specified dates (Article 4.10.10, first paragraph), then this constitutes a of the Awb provides grounds for changing or withdrawing the subsidy to the detriment of the beneficiary.

3. Relationship to higher law and national regulations

3.1 National law

3.1.1 General Administrative Law Act

The minister's decisions on grant applications are decisions within the meaning of Section 1:3 of the General Administrative Law Act (hereinafter: Awb). This means that the formal and substantive general principles of good governance included in the Awb apply to the formation and content of the decisions (chapters 2 and 3 and title 4.1 of the Awb) and the provisions of chapters 6, 7 and 8 apply to the objection and appeal to the administrative court that can be lodged by the applicant against the decisions of the minister. With regard to decisions on applications for subsidy, the rules of title 4.2 of the Awb also apply to the payment of the established fees. In addition, supervision and enforcement With regard to compliance with this regulation, the provisions of chapter 5 of the General Administrative Law Act apply.

3.1.2 Framework Act EZK and LNV Subsidies and Framework Decision National EZK and LNV Subsidies

This subsidy scheme is based on the Framework Act EZK and LNV Subsidies (hereinafter: Framework Act). Pursuant to Article 2(1)(a) of the Framework Act, the Minister for Climate and Energy can grant subsidies for activities that fit in with energy policy. Pursuant to Article 3(2) and (3) of the Framework Act, the activities for which a subsidy can be awarded may be further determined by or pursuant to an order in council or by regulation of the Minister, as well as other criteria for that provision. Rules may also be laid down by or pursuant to order in council or by regulation of Our Minister with regard to the amount of the subsidy or the manner in which this amount is determined, the application for a subsidy and the decision-making process thereon, the conditions under which the subsidy is awarded, the obligations for the subsidy recipient, the determination of the subsidy, withdrawal and amendment of the subsidy award or determination, the payment of the subsidy and the granting of advances the report on the effectiveness and effects of the subsidy in practice , referred to in Article 4:24 of the Awb. It is also provided by or pursuant to a general administrative order or a ministerial regulation that a subsidy ceiling is set and the method of its distribution is regulated, unless the Minister of Finance has agreed to the omission thereof.

These further rules, insofar as relevant to the present regulation, have been laid down in the Framework Decision on national EZK and LNV subsidies. This Decree also contains, insofar as relevant to the present scheme, regulations regarding the granting of subsidy (Articles 2-4), the amount of subsidy (Articles 5-9), eligible costs (Articles 10-15), the method of distribution and subsidy ceiling (articles 16-17), submitting the application (articles 19-21), grounds for rejection (articles 22-25), the decision on the application (articles 26-29), conditions for the subsidy recipient (articles 30-34), obligations of the subsidy recipient (Articles 35-44) and the subsidy determination (Articles 49-53).

The National EZK and LNV Subsidies Regulation also includes a number of further general regulations (Chapter 1) and specific rules with regard to the various subsidy modules in various EZK and LNV policy areas. With this regulation, a new title has been inserted in chapter 4 (Energy and Climate).

Finally, the 2023 EZK and LNV Subsidies Opening Regulations contain the subsidy ceilings and opening periods for the year 2023 of the subsidy modules included in the National EZK and LNV Subsidies Regulations (RNES). With this regulation, a new line has been added to the table of Article 1, second paragraph, of this opening regulation.

3.2 European law aspects

The regulation does not contain any technical regulations within the meaning of Directive No. 2015/1535/EU.

The subsidy provided under this measure contains state aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (hereinafter: TFEU).

In the Communication from the Commission on a temporary crisis framework for State aid measures to support the economy following the Russian aggression against Ukraine, the European Commission indicated that it will assess aid measures aimed at stimulating the filling of gas storage facilities under Article 107(3) , preamble and part b of the TFEU. Under this Article, aid measures may be considered compatible with the internal market if they promote an important project of common European interest or remedy a serious disturbance in the economy of a Member State. In this communication, the European Commission has also indicated which aspects it considers important when assessing support measures aimed at stimulating the filling of gas storage facilities.

In accordance with Article 108(3) of the TFEU, this regulation has been submitted to the European Commission for approval. [P.M]

4. Consequences

4.1 Financial Consequences

The filling requirement of 90% for Bergermeer gas storage translates into a volume of 43.65 TWh. The costs involved in the present subsidy scheme depend on the price difference actually realized on the gas market. This concerns the price difference in the period from [PM 2023 up to and including 31 oktober 2023 (the price period) between the price for gas delivered the next day (Day Ahead) compared to the price for gas in the first quarter of to be delivered in 2024. To determine the maximum budget for this scheme calculated with the maximum average negative day-ahead/winter spread for which this subsidy measure offers subsidy: €-15 per MWh.

In addition, a discount is taken into account. This is an amount that subsidy applicants can determine themselves, based on the costs they expect to incur to fill the Bergermeer gas storage. This has a maximum of € 5.85 per MWh. The maximum total costs for the subsidy scheme are € 240 million with a bandwidth. This amounts to a maximum of € 20.30 per MWh of stored gas.

Below is an example of different possible applications in different market situations and the final subsidy to be paid out as a result. The payout is the absolute value of the outcome in the bottom row of the table. All examples concern a fee in euros per MWh.

	Company 1	Company 2	Company 3	Company 4	Company 5	Company 6
Spread	+6	+2	-5	+6	+2	-5
Discount	-2,491	-2,591	-2,291	-5,491	-5,491	- 3,491
Guarantee premie	+0,264	+0,264	+0,264	+0,264	+0,264	+0,264
Sum	3,773	-0,327	-7,027	0,773	-3,227	-8,227
Subsidy	0 €/MWh	0,327 €/MWh	7,027 €/MWh	0 €/MWh	3,227 €/MWh	8,227 €/MWh

A ceiling of € 240 million has been included for this scheme. Because there is competition in the tender, participants are stimulated to bid as cheaply as possible. The desired effect of the scheme is that the gas companies involved fill their capacity in the Bergermeer gas storage facility as fully as possible at the lowest possible cost.

4.2 Regulatory pressure

The regulatory burden costs arising from this regulation concern acquaintance costs, costs related to submitting the application and costs related to obligations during the term of the subsidy.

When calculating the regulatory burden costs for companies, standard hourly rates are used that are based on the hourly wages of employees by occupational group determined by Statistics Netherlands in the Manual for the Measurement of Regulatory Burden Costs (version 2023). It is expected that from the applicant parties mainly highly trained employees and administrative employees will carry out the necessary actions. That is why the calculations use an hourly rate of 50 euros, which lies between the hourly wage of highly educated employees (54 euros) and administrative employees (39 euros).

The subsidy scheme is aimed at a well-defined target group and only concerns filling capacity in the Bergermeer gas storage facility during the storage year 2023. Given this short time horizon, the regulatory burden costs will not be calculated per year, but as one-off costs.

Approximately 10 applications are expected to be submitted, of which 8 are expected to be awarded. A gas company can submit a maximum of one application, consisting of a maximum of five bids. The calculation of the regulatory burden costs is based on an average of two bids per subsidy application about which the applicant must provide information. The total maximum available budget for the measure is € 240,000,000.

Acknowledgment costs

Familiarizing yourself with the subsidy scheme takes time and is required before submitting an application. The acquaintance time is assumed to be the same for all applicants at three hours. Since the regulation is published in Dutch and the target group is English-speaking, three hours of translation time is also counted. At an hourly rate of 50 euros, six hours and 10 applications, the acquaintance costs amount to a total of $10 \times 6 \times 50 = € 3,000$.

Costs associated with the application

It is expected that 10 parties will submit an application in the Tender. General information must be provided with the application, such as details about the applicant, including the postal and visiting address, the account number and, if applicable, the number with which the applicant is registered with the Chamber of Commerce; the details of the contact person at the applicant, including name, telephone number and e-mail address. Gathering this information takes two hours (€ 1,000). In addition, foreign parties must create an account on mijnRVO.nl in order to submit their application via E-loket. This costs one hour (€ 500). In addition, an applicant submits (a copy of) the SSSA, the Primary Capacity Agreement (PCA) and a valid power of attorney in accordance with the attached model, showing that the natural person who submits an application on behalf of the applicant is authorized to submit an application on behalf of the gas company. serve. This takes a total of three hours (€ 1,500). Because the parties already have an SSSA with the gas storage company, no project

and/or financing plan is required, as the gas storage company has already assessed whether the parties are sufficiently creditworthy.

In addition, an application contains the information about the bids for which the applicant is applying for a subsidy. This concerns at least the following information per bid: the amount of storage capacity in MWh that the applicant offers to fill and associated desired discount; copies of the PCAs concluded by the applicant with the gas storage company Bergermeer (this shows how much capacity in MWh the applicant has concluded PCAs with the gas storage company); a statement in which the applicant declares that it complies with Article 4.9.3, part b. Supplying this information, including internal consultation and decision-making, takes approximately ten hours (€ 5,000) for all bids added up.

For 10 applicants, providing all the above information with the application therefore takes approximately 16 hours in total, and €8,000 in one-off costs.

After the application, there are no further costs for the applicants whose application has been rejected.

Costs during the term of the subsidy

During the term of the subsidy, the subsidy recipient must report 1) the filling obligation has not been met 2) changes in the information about the subsidy recipient that were provided when submitting the application, with regard to the postal and visiting address, the account number, the number with which the applicant is registered with the Chamber of Commerce (if applicable) and information about the contact person at the applicant, including name, telephone number and e-mail address and 3) change in ownership or control of the grant recipient that causes the subsidy recipient no longer meets the condition of Article 4.9.3, first paragraph, part b. One hour per capacity holder is charged for passing on the report. It is expected that an average of 1 notification will be submitted per capacity holder. That amounts to € 400 in total in one-off costs.

For the expected 8 applicants who will receive a positive subsidy decision, there will still be one-off regulatory burden costs after 1 November due to the application for a subsidy determination in February 2024. This application for a determination will at least contain: the final report, as referred to in Article 50, second paragraph, part a of the decision, which accompanies the application for subsidy determination. This includes at least: a supporting document demonstrating that the capacity for which the subsidy has been granted is 100% filled on 1 November 2023 and 40% on 1 February 2024; and a statement in which the applicant declares that it complies with Article 4.9.3, part b. The application for subsidy determination does not have to be accompanied by an accountant's statement. Applying for a determination of the subsidy takes a total of four hours. For 8 applicants, the costs therefore amount to approximately € 1,600 (4 x 8 x 50).

Because the subsidy scheme ends on 1 February 2024, there are no structural administrative burdens for the subsidy recipients. In addition, there is no obligation for continuous reporting or evaluation after receipt and determination of the subsidy.

Total regulatory burden costs

Total regulatory costs	Once off (tariff 50 euro/hour)
Studying subsidy scheme	<u>€ 3.000</u>
Application	<u>€ 8.000</u>
Report at the end	<u>€ 2.000</u>
Total	<u>€ 13.000</u>

In total, the regulatory burden costs of this subsidy scheme amount to €13,000. With the maximum available subsidy budget of € 240,000,000, the regulatory burden costs therefore amount to 0.0054% of the maximum available budget.

Experienced regulatory pressure

Due to the exceptional circumstances and short lead time, the present subsidy scheme has been designed in such a way that it is as workable as possible for the subsidy applicants and for RVO. The requirements and information obligations in the regulation have been kept to a minimum, whereby they are still sufficient for the proper implementation of the regulation. The perceived usefulness of this regulation, which is defined as the various benefits or added value that companies, citizens or professionals expect from the legislation and regulations, for themselves or for society, is expected to be more than sufficient because the regulation is essential for the security of gas supply in the Netherlands during the coming winter. An attempt has been made to keep the perceived regulatory burden as low as possible by making the regulation as clean, lean and mean as possible.

In addition, a large part of the target group has participated in the Bergermeer scheme 2022. The scheme has remained the same in design, so that the methodology is already known to many parties. In addition, the parties that can participate in the scheme have been able to provide input on the scheme via an internet consultation and the gas storage company and are therefore familiar with the system and the calculation of the subsidy amount. The draft scheme has been submitted to the parties to ensure that the scheme is not impracticable. The gas storage company also offers information material to the target group. This coordination has a substantial lowering effect on regulatory burden costs.

Advisory ATR

ATR has not selected the dossier for formal advice because it has no major consequences for the regulatory burden ft.

5. Implementation aspects and enforcement

The implementation of this subsidy scheme is in the hands of RVO, part of the Ministry of Economic Affairs and Climate Policy. RVO is responsible for supervising and enforcing this regulation, making use of the possibilities offered by the General Administrative Law Act (Awb). For example, non-compliance with the obligations attached to this subsidy under Section 4:48(1)(b) of the Awb constitutes grounds for amending or withdrawing the subsidy to the detriment of the beneficiary.

[P.M]

6. Consultation

[P.M]

7. Time of Entry into Force

This regulation comes into force on the day after the date of issue of the Government Gazette in which it is published.

This deviates from the policy regarding fixed change moments. In connection with the security of gas supply, it is very important that the filling of the Bergermeer gas storage is started as soon as possible. It is therefore not considered responsible to wait until the next fixed moment of change.

The Minister for Climate and Energy,