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Local Residents Briefing Session Procedures under the Amended Renewable Energy Act

Daisuke Tanimoto / Takashi Fujiki / Keisuke Suzuki / Ryotaro Kagawa

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1. Introduction

The *Act on Special Measures for the Promotion of the Use of Electricity from Renewable Energy Sources* (Act No. 108 of 2011) has recently been amended and now has come into effect on April 1, 2024 (the “Amended Renewable Energy Act”).

Featured among the amended items, this paper provides a summary of the procedures for *briefing sessions* for local residents (“Briefing Sessions”)¹. In order to flesh out the requirements of the Briefing Sessions, the amended Regulations for Enforcement of the Act on Special

¹ Prior notification measures, which are required especially for low-voltage projects, are not discussed in this paper.

Measures for the Promotion of the Use of Electricity from Renewable Energy Sources² (METI Ordinance No. 46 of 2012; the “Amended Enforcement Regulations”), the “Implementation Guidelines for Briefings and Prior Notification Measures”³ (the “GL”), and the results of the public comments on the Amended Enforcement Regulations and the GL (the “Public Comment”)⁴ were promulgated and published on February 20, 2024⁵.

The business operator will be required to obtain new approval for its renewable energy power generation business plan or approval for amendments to its renewable energy power generation business plan, and holding a Briefing Session will be a prerequisite for such approval (Article 9, Paragraph 4, Item 6, and Article 10, Paragraphs 1 and 4 of the Amended Renewable Energy Act, and Article 4-2-3 of the Amended Enforcement Regulations) if,

- (i) a business operator who operates a high/extra-high voltage renewable energy power generation facility with an output of 50 kW or more that is the subject of an application for new approval for, or approval of changes to, its FIT/FIP system, and who intends to engage in a renewable energy power generation business, desires to obtain new approval for its FIT/FIP system;
- (ii) a business operator who operates a low voltage renewable energy power generation facility with an output of less than 50 kW that is the subject of an application for new approval for, or approval of changes to, its FIT/FIP system, and who intends to engage in renewable energy power generation business in an area that is highly likely to have an impact on the neighboring regions and the surrounding environment (i.e., an area where certain development permits and licenses are required), desires to obtain new approval for its FIT/FIP system; or
- (iii) an approved business operator who has already obtained approval for its FIT/FIP system and meets the requirements for the size of power sources and the place of installation of power sources, as described above, desires to change a certain matter in its renewable energy power generation business plan⁶,

² A table comparing the former and the revised Regulations for Enforcement of the Act on Special Measures for the Promotion of the Use of Electricity from Renewable Energy Sources can be found at the following link:

³ https://www.enecho.meti.go.jp/category/saving_and_new/saiene/kaitori/dl/announce/20240220.pdf

⁴ https://www.enecho.meti.go.jp/category/saving_and_new/saiene/kaitori/dl/announce/20240220_setsumeikai.pdf

⁵ <https://public-comment.e-gov.go.jp/servlet/PcmFileDownload?seqNo=0000269365>

<https://public-comment.e-gov.go.jp/servlet/PcmFileDownload?seqNo=0000269364>

⁶ For more information on the cases where a Briefing Session will be held prior to the application for approval of amendments, please see our previous newsletter titled “[Introduction to the “Implementation Guidelines for Briefings and Prior Notification Measures” in Preparation for the Enforcement of the Revised Renewable Energy Act.](#)”

⁷ Some specific examples are changes in (i) matters listed in Article 9, Paragraph 2, Items 3-6 and 8 of the Amended Renewable Energy Act, and (ii) matters listed in Article 9, Paragraph 3 of the Amended Renewable Energy Act, except for minor changes (specifically, changes in matters other than those listed in Article 9 of the Revised Enforcement Regulations). A Briefing Session is required when a lot number is added or changed as a change in the location of

In addition, Chapter 5, Section 2 of the GL (page 28) states that when an approved business operator changes⁷, both the former and the new approved business operators must, in principle, be present at a Briefing Session.

Therefore, when entering into a transaction that falls under the category of a business transfer, merger or company split, it would be best to stipulate in the contract for such a transaction the obligation to cooperate with each other, and to determine a division of their roles for participation in the Briefing Sessions and other relevant procedures.

2. Procedures Required Before Holding a Briefing Session

2.1 Overview

In order to hold a Briefing Session, the following steps must be taken: (i) determine the matters to be explained and prepare handouts, (ii) consider the scope of target “local residents” (including consultation with municipal governments), and (iii) determine the venue/content of invitations, and deliver the invitations. In principle, a Briefing Session must be held at least three months prior to the application for approval or the application for approval of amendments, and it is therefore necessary to set a schedule for the project taking this time frame into consideration (Article 4-2-3, Paragraph 2, Item 7 (a) to (e) of the Amended Enforcement Regulations).

2.2 Step 1: Determine the matters to be explained and prepare handouts

The items and matters that must be explained when holding a Briefing Session are listed in Table 1 (Article 4-2-3, Paragraph 2, Item 3 of the Amended Enforcement Regulations). If a Briefing Session(s) has/have already been held, it is sufficient to explain the items that have been changed from those explained in the previous Briefing Session(s) (the main sentence of Article 4-2-3, Paragraph 2, Item 3 of the Amended Enforcement Regulations).

the renewable energy power generation business, and when a plan is changed to delete a lot number (Public Comment to the GL No. 122).

⁷ However, if only the beneficial owner changes, the approved business operator itself will be required to attend a Briefing Session, and the former beneficial owner will not necessarily be required to attend (Note 36 of the “Working Group for Long-term Use of Renewable Energy Resources and Community Coexistence: The Second Report.” See https://www.meti.go.jp/shingikai/enecho/denryoku_gas/saisei_kano/kyosei_wg/pdf/20231128_1.pdf)

Table 1⁸

Items	Matters to be explained
An outline of the renewable energy power generation business plan	Identity of the business operator who intends to apply for approval ⁹ , types of power sources, methods of installation of renewable energy power generation facilities, output, location of the renewable energy power generation business, and whether it is possible to continue generating power in the event of a disaster (whether the power conditioner has an isolated operation function, and whether there is an electrical outlet for power supply)
Status of compliance with the relevant laws and regulations	<p>With respect to the following permits, licenses and notifications, etc. under the relevant laws and regulations, whether it is necessary to take any procedures to obtain and file such permits, licenses and notifications, etc., the status of obtaining such permits, etc., the schedule for obtaining such permits, etc., and the system for complying with the relevant laws and regulations:</p> <ul style="list-style-type: none"> (i) the specified permits and licenses (<i>nintei shinsei youken kyoninka</i>) required to conduct the renewable energy power generation business; (ii) the permits, licenses and notifications, etc. under the laws and regulations listed in the “Report on the Status of Procedures for Renewable Energy Power Generation Business Pursuant to Related Laws and Regulations,” which is required to be submitted at the time of the application for approval; and (iii) if the relevant municipal ordinance requires a permit, license and notification, etc. for the development prior to the conduct of the renewable energy power generation business or the installation of renewable energy power generation facilities and other structures in order to protect the natural environment and landscape, etc., such permit, license and notification, etc.
Status of acquisition of land title	<p>The following must be explained in the context of describing the status of the acquisition of land title:</p> <ul style="list-style-type: none"> (i) whether ownership or any other title to use the site where the renewable energy power generation facilities will be installed has been acquired; and (ii) if such title has not been acquired at the time of the Briefing Session, the status of its acquisition.
An outline of the	A schedule of the planned construction work, including the expected

⁸ Prepared by the authors by reference to Chapter 3, Section 4, Subsection 2 of the GL (page 13-14), and Chapter 5, Section 2, Subsection 2 of the GL (page 28).

⁹ This includes applications for approval of amendments (hereinafter the same in Table 1). In the case of an application for approval of amendments, if a Briefing Session(s) has/have already been held, only the items that have been changed from those explained in such Briefing Session(s) will be explained (the main sentence of Article 4-2-3, Paragraph 2, Item 3 of the Enforcement Regulations).

installation work for the renewable energy power generation business	timing of the start of construction and commencement of operations
Related party information	The following must be explained as “related party information”: (i) if the business operator is a corporation, the names and outlines of its representatives and officers; (ii) if the business operator is a corporation, its major investors; and (iii) the identity of the anticipated maintenance and inspection supervisor.
Matters concerning business continuity (only if the plan is amended)	Matters necessary for the transfer of agreements, etc. executed with local governments, and necessary for the smooth and reliable continuity of the business
Impact of the business and precautionary measures	For each power source, the matters to be explained are defined in terms of safety, landscape, natural and living environment, and waste removal, etc. For details, please see Chapter 5, Section 2, Subsection 3 et seq. of the GL (page 15).

When preparing handouts, it is required that (a) all matters to be explained should be summarized, and (b) drawings and illustrative photographs supplementing the explanation should be used as appropriate (Chapter 3, Section 4 of the GL (page 13)).

2.3 Step 2: Consider the scope of target “local residents” (including consultation with municipal governments)

The following standards are provided in order to identify the scope of “local residents” at whom the Briefing Sessions are targeted (Article 4-2-3, Paragraph 2, Item 1 of the Amended Enforcement Regulations).

Size of power source	Residents	Owners of lands/buildings
Low voltage	Areas within 100 meters of the site boundary line of the project area	Owners of lands/buildings adjacent to the project area of renewable energy power generation facilities
High/extra-high voltage	Areas within 300 meters of the site boundary line of the project area	
Notwithstanding the foregoing, large-size power sources subject to the environmental assessment provided in the Environmental Impact Assessment Act (Class-1 Project)	Areas within 1 kilometers of the site boundary line of the project area	

Also, it is necessary to consult in advance with the municipal government that governs the project area of the renewable energy power generation business. The scope of local residents may be expanded based on the opinion of the municipal government (or of other municipal governments with which the municipal government believes it necessary to consult) (Article 4-2-3, Paragraph 2, Item 1 of the Amended Enforcement Regulations, and Chapter III, Section 1 of the GL (page 7)).

From these perspectives, in practice, it is necessary to first determine the handouts and content of explanations, and then the specific scope of the local residents with the related municipal governments.

2.4 Step 3: Determine the venue/content of invitations and delivering the invitations

(1) Determine the venue

After Step 2, the venue and date of the Briefing Session will be determined¹⁰¹¹.

(2) Determine the content of invitations

After the venue and time are determined, the subject business operators will deliver invitations (Article 4-2-3, Paragraph 2, Item 2 of the Amended Enforcement Regulations). It is assumed that invitations will be prepared in accordance with Appendix 3 of the GL.

(3) Delivery method of invitations

The subject business operators should deliver invitations to the local residents by any of the following methods no later than two weeks prior to the scheduled date of the Briefing Session (Article 4-2-3, Paragraph 2, Item 2 of the Amended Enforcement Regulations)¹².

- (i) Deliver documents by posting
- (ii) Deliver documents by house-to-house visits
- (iii) Post on a bulletin; or
- (iv) Post on gazettes or magazines¹³ of the relevant municipal government

Since invitations are also posted in the system of the Agency for Natural Resources and Energy, primarily to inform owners of the lands/buildings adjacent to the project area of renewable energy power generation facilities, it is necessary to submit the matters to be set out in Appendix 3 of the GL no later than two weeks prior to the opening of the Briefing Session (the main sentence of Article 4-2-3, Paragraph 2, Item 2 of the Amended Enforcement Regulations)¹⁴.

¹⁰ It is necessary to select an appropriate time and venue of the Briefing Session, fully considering the convenience of the local residents. Examples of inappropriate times and venues are late at night and early in the morning, and places difficult to access (Chapter 3, Section 3 of the GL (page12)).

¹¹ It is necessary to consider the venue in the prior consultation with the municipal government in Step 2. If the scheduled date and venue have not been determined, Appendix 1 of the GL (Consultation Form with the Municipal Government) requires that they be left blank.

¹² It would be an option to post the notice of the Briefing Session on the business operators' website, but even in this case, it is necessary to combine it with any of the methods listed in (i) through (iv) (Chapter 3, Section 3 of the GL (page 12)).

¹³ According to the GL, they should be limited to print media (Chapter 3, Section 3 of the GL (page 11)).

¹⁴ Under this system, renewable energy power generation business operators are not required to confirm the registration of the lands and buildings to identify the owners of the lands/buildings adjacent to the project areas (Public Comment to the Revised Enforcement Regulations No. 43).

3. Content and Matters to be Noted at the Briefing Session

3.1 Matters for explanation and content of the Briefing Session

Matters to be explained at the Briefing Session are as stated in Step 1 above. Explanations should be given based on the handouts (Chapter 3, Section 3 of the GL (page 12)).

It is necessary to describe the “principal investors” in the information on the related persons (Article 4-2-3, Paragraph 2, Item 3 (e) of the Amended Enforcement Regulations), namely, the following persons according to the GL (Chapter 3, Section 4-2 of the GL (pages 14-15)):

- (i) a member of the approved business operator (if the approved business operator is a membership company (*mochibun kaisha*), including *godo kaisha*);
- (ii) the top five shareholders holding voting rights in the approved business operator (if the approved business operator is a stock company (*kabushiki kaisha*));
- (iii) all TK (*tokumei kumiai*) investors holding the top five TK investments in an approved business operator; or
- (iv) the "Parent Company" of an entity specified in (i) through (iii) above (Parent Company is as defined in Article 8, Paragraph 3 of Regulation on Terminology, Forms and Preparation Methods of Financial Statements).

3.2 Points of attention in proceedings of Briefing Session

3.2.1 Explanation by business operator itself

A business operator who applies for certification must provide necessary and appropriate explanations on the items and matters to be explained at a Briefing Session (Article 4-2-3, Paragraph 2, Item 2 of the Amended Enforcement Regulations).

Chapter 3, Section 5-1 of the GL (page 20) provides that, if the business operator who applies for certification is a corporation, an officer or employee able to give sufficient and appropriate explanations must attend the Briefing Session and give such explanations. Even if the business operator is an SPC, it may not have another person (e.g. its parent company or asset manager) represent it by delegation or other means, and it is required to give explanations itself, such as by a personal representative of the SPC (Public Comment to the GL No. 84). In this regard, Chapter 3, Section 5-1 of the GL (page 20) provides that, if a renewable energy power generation business is outsourced to an outsourcing company, it is acceptable to have a person from the outsourcing company with the requisite expert and technical knowledge attend and provide supplementary explanations at the Briefing Session. However, even in such a case, the business operator is responsible for the explanations and needs to provide the explanations itself.

3.2.2 Ensuring attendance of “local residents”

GL provides that, in order to attend a Briefing Session, local residents must present their identification (in the case of a resident, their driver's license or other proof identifying their address, and in the case of a land/building owner, a certified copy of the register or other documents issued by a public agency) at the reception to the Session (Chapter 3, Section 5-1 of the GL (page 21)).

GL also requires that (i) local residents be permitted to attend or leave the Briefing Session at any time during the predetermined hours of the session, and (ii) no act be committed before or during the Briefing Session to refuse or discourage attendance by local residents at the Briefing Session (Chapter 3, Section 5-1 of the GL (page 21)).

3.2.3 Q&A session with “local residents”

Subject business operators are required (i) to ensure the length of a Briefing Session necessary for allowing a sufficient question time in light of the expected number of attendees at the Briefing Session (Article 4-2-3, Paragraph 2, Item 4 of the Amended Enforcement Regulations, Chapter 3, Section 5-1 of the GL (page 21)), and (ii) to be prepared to answer questions at the venue during the scheduled hours of the Briefing Session, even if no questions were asked immediately at the start of the question time (Chapter 3, Section 5-1 of the GL (page 21)).

Subject business operators are required to “sincerely respond” to participants' opinions and questions (Article 4-2-3, Paragraph 2, Item 4 of the Amended Enforcement Regulations), and the criteria required for a response to qualify as a “sincere response” include providing accurate answers based on facts, giving objective and concrete answers, the giving of due regard to personal information and privacy. In the event of noncompliance with this requirement, strict actions will be taken, such as by way of not granting certification or by revoking certification (Chapter 3, Section 5-1 of the GL (page 21)).

3.2.4 Audio and video recording and retention

It is required to record Briefing Sessions on a recording medium through simultaneous audio and video recordings of the entire proceedings to allow subsequent objective verification (Article 4-2-3, Paragraph 2, Item 5 of the Amended Enforcement Regulations, Chapter 3, Section 5-3 of the GL (page 22)). Such recording medium needs to be retained until the end of the procurement period and the delivery period (Article 4-2-3, Paragraph 2, Item 5 of the Amended Enforcement Regulations).

For the video recording of a Briefing Session, the following rules are provided (Chapter 3, Section 5-3 of the GL (page 22), Public Comment to the GL No. 96-98):

- (i) The Briefing Session shall be recorded from the back of the attendees at an angle that shows the speaker, in order to protect the attendees' privacy;
- (ii) Audio or video recordings by the local residents and media attending the Briefing Session are prohibited;
- (iii) Public release of the recording is prohibited.¹⁵

4. Handling of questions after Briefing Session

4.1 Question form

For a period of at least two weeks after the holding of a Briefing Session, the business operator is required (i) to accept questions from local residents who have attended the Briefing Session and (ii) to sincerely answer such questions in writing (Article 4-2-3, Paragraph 2, Item 6 of the Amended Enforcement Regulations).

4.2 Handling of questions at additional Briefing Sessions

In order to appropriately handle questions from residents, the business operator is required to hold a sufficient number of Briefing Sessions and sincerely respond to questions from local residents (Chapter 3, Section 5-4 of the GL (page 23)). Where necessary, such as when many questions are raised, the operator must hold an additional Briefing Session, and must also prepare and distribute a document stating the answers at the additional Briefing Session (Chapter 3, Section 5-2 of the GL (page 22)).

5. Documents to be Submitted for Application for Certification and Application for Amendment

Please see Table 2 below for the documents evidencing the holding of a Briefing Session. In preparing for and dealing with a Briefing Session, it is necessary to keep in mind that ultimately the documents listed in Table 2 must also be prepared.

¹⁵ It is assumed that the Agency for Natural Resources and Energy will request a business operator to submit the audio and video recording if subsequent objective verification becomes necessary with respect to the matters stated in the materials submitted by the business operator (Chapter 3, Section 5-3 of the GL (page 22)).

Table 2¹⁶

	Materials to submit
Materials concerning the scope of local residents	<ul style="list-style-type: none"> ● Map or other materials that can show the range of horizontal distance from the site boundary of the venue ● Documents disclosing prior consultation with municipalities (Appendix 1 to the GL) ● Documents describing the opinions of the relevant municipalities (Appendix 2 to the GL)
Materials concerning invitation	<ul style="list-style-type: none"> ● Handouts or documents posted in circular notices, the official Gazette or public relations magazine of the relevant local governments ● Documents indicating the scope of local residents who received an invitation to the Session <p>*If posting or a door-to-door visit was used, specify the location by address, etc.</p> <p>*In the case where a circular notice, the official Gazette, or a public relations magazine of the relevant local governments was used, identify and clarify the scope of the covered residents by address, etc. to the maximum extent by, for example, asking for cooperation from the relevant local government before submission.</p>
Materials concerning items and matters to be explained	<ul style="list-style-type: none"> ● Handouts that can prove that all of the items and matters to be covered were listed on the Briefing Session agenda.
Materials concerning attendees	<ul style="list-style-type: none"> ● List of attendees at the Briefing Session
Minutes	<ul style="list-style-type: none"> ● Minutes from the start of the Briefing Session until the conclusion of all the proceedings, including the question time¹⁷
Materials concerning question form	<ul style="list-style-type: none"> ● Questions listed in an interrogative format followed by the answers given to the local residents <p>*If no questions were submitted, an observation to that effect</p>
Documents concerning questions at Briefing Session	<ul style="list-style-type: none"> ● Briefing Session summary report that provides a summary of the explanations given at the Briefing Session by the business operator and the communications made during the question period (Appendix 4 to the GL)¹⁸

¹⁶ Prepared by the authors in reference to Chapter 3, Section 6 of the GL (pages 23-24).

¹⁷ Minutes shall be prepared for the main explanations and the entire question time, and shall be word-by-word for the question time.

¹⁸ Submitted information will be publicly released through the system of the Agency for Natural Resources and Energy.

6. Conclusion

This paper has outlined the general procedural requirements related to the Briefing Session, but when holding the Briefing Session, it will be necessary to look to the regulations on a more detailed level and to adapt the contours of the Session in each case to the reality on the ground. Especially since we find ourselves in the early stages of the introduction of the procedure outlined above, when there is so little accumulated experience related to the putting of these new legal requirements into practice, it will be essential to prepare carefully for your Briefing Sessions by ascertaining all relevant background facts that might affect conformity with the Amended Renewable Energy Act and its ancillary regulations, including those detailed in this paper.

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 - Authors:
 - Daisuke Tanimoto (daisuke.tanimoto@amt-law.com)
 - Takashi Fujiki (takashi.fujiki@amt-law.com)
 - Keisuke Suzuki (keisuke.suzuki@amt-law.com)
 - Ryotaro Kagawa (ryotaro.kagawa@amt-law.com)

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