

July 21, 2017

Renewable Alert Letter

Topic

METI Operation Change - Changes to Business Plan before Completion of Transition to New FIT Scheme **運用変更 - 新制度移行完了前の事業計画変更**

(日本語は英語の後に続きます)

METI Operation Change - Changes to Business Plan before Completion of Transition to New FIT Scheme

A FIT facilities approval (*setsubi ninteï*) under the old FIT Act may be deemed as a FIT business plan approval (*jigyo ninteï*) subject to certain conditions under the new FIT Act. However, in order to complete the transition of the subject project to the new FIT scheme, submission of a business plan (*jigyo keikaku*) by the designated due date is required. As introduced in our [Alert Letter No. 30](#), there is an institutional restriction that any amendment to FIT approval is not allowed until completion of METI's confirmation of the business plan under the new FIT scheme. Accordingly, the issue of METI's confirmation process for business plan reviews taking longer than expected has recently caused some practical concerns possibly affecting the FIT prices of certain projects. Also, in relation to the amendment plans for overloading restrictions (*kasekisai kisei*), as raised in our [Alert Letter No. 31](#), such issue due to procedural time constraints of METI has caused a serious problem.

In order to practically solve this situation, METI published their operation change through the document titled "Concerning Application for Business Plan Amendment Approval and Notification for Business Plan Amendment before Completion of Transition to New FIT Scheme" as of July 20, 2017, and notified that except for certain projects, METI accepts deemed FIT business plan approval holders' submissions of applications for business plan amendment approval (the "Amendment Approval Applications") and notifications for business plan amendment (the "Amendment Notifications") before completion of METI's review of the business plans. The summary of such change is as follows:

- Subject Project: Projects other than solar projects with generation outputs less than 50 kW
- Operation Change: To accept deemed FIT business plan approval holders' submissions of applications for business plan amendment approval and notifications for business plan amendment before completion of METI's review of business plans

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* This letter is intended to provide brief information relevant to renewable energy in Japan. This is not intended to be legal advice. Individual legal and factual circumstances for the subject matter of this letter should be taken into consideration by consultation with professional counsel.

- Requirement: To have submitted a business plan

According to METI, as long as a business plan is submitted prior to submission of the Amendment Approval Applications and Amendment Notifications, such requirement is satisfied. With respect to the Amendment Notifications for the matters that are currently subject to amendment notification (*henko todokede*) but will be subject to amendment approval (*henko ninte*) after implementation of the above-mentioned amendment plans for overloading restrictions (i.e., total solar cell output and others), it should be noted that such notification documents need to be actually received by METI on or prior to the previous date to the implementation date of such amendment plans. After METI's receipt of such Amendment Approval Applications and Amendment Notifications, METI local offices will start their substantive reviews of such application and check of formality requirements of such notifications without waiting for completion of business plan reviews.

Especially in relation to the amendment plans for overloading restrictions, this operation change would work as certain relief measures for the operators who were not able to timely submit minor change notifications (on change of total solar cell output) due to METI's system change upon the transition from the old FIT scheme to the new FIT scheme in the end of the last fiscal year and do not have any option other than to wait for METI's completion of business plan reviews.

運用変更 - 新制度移行完了前の事業計画変更

旧再エネ特措法上の設備認定は一定の条件の下で改正再エネ特措法上の事業認定とみなされますが、対象案件の新制度への移行を完了するためには、所定の期限までに事業計画を提出することが必要になります。アラートレターNo. 30 においてもご紹介いたしました。新制度の下ではかかる事業計画の METI による確認が完了するまで一切の認定変更手続を行うことができないという制度上の制約があるため、METI による事業計画の審査期間長期化の問題は、一部の案件について価格への影響等も懸念させる問題となっております。アラートレターNo. 31 でご紹介した過積載規制にかかる改正案との関係もそのような METI による事務手続上の時間的制約に起因する問題が生じていました。

このような問題への対応として、METI は、平成 29 年 7 月 20 日付にて「新制度への移行手続完了前の事業計画の変更認定申請及び変更届出について」という運用変更文書を公表し、一部の案件を除いて、METI による事業計画の確認完了前に事業計画の変更認定申請及び変更届出を提出・受理することを認める旨の運用変更を告知しました。概要は以下のとおりです。

- 対象案件： 50 kW 未満の太陽光以外の電源
- 運用変更： 事業計画の確認完了前に、みなし認定事業者による事業計画の変更に係る変更認定申請及び変更届出を提出・受理可能とすること
- 要件： 事業計画を提出済みであること

METI によれば、事業計画の提出は変更認定申請及び変更届出の提出までに行われていけばよいとのことです。なお、上記過積載規制にかかる改正法の施行後に変更届出の対象から変更認定の対象に変わる事項（太陽電池の合計出力等）の変更届出については、当該施行日前日中の到達が必要となる点にご留意ください。変更認定申請及び変更届出の到達後は、事業計画の確認完了を待たずに経済産業局による内容の審査及び形式要件の確認が行われることとなります。

特に過積載規制にかかる改正案との関係では、旧制度から新制度への切り替わりに際して METI のシステム上の理由からタイムリーな軽微変更（太陽電池の合計出力の変更）を行うことができず、事業計画の確認完了を待つほかない状態にあった事業者にとって、この運用変更は一定の救済措置として機能することになると考えられます。

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For Comments or Questions Please Contact:
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