

Follow up by the Netherlands on the meeting of June 9th, 2022 on preparation for a derogation
15 June 2022

General

Following the technical meeting on the preparations for a derogation on June 9th, 2022 we herewith send you our response. Furthermore the letters to Parliament of June 10th, 2022 on the start note for the National Program for the Rural Areas and the perspective for agriculture in the Netherlands are enclosed.

General conditions: transition derogation

Proposal ENVI

The derogation is granted as a transitional measure to accompany reforms of the agriculture and livestock sector in the Netherlands in order to meet EU environmental and climate requirements in relation to nitrogen emissions (ammonia) and nutrients in water.

Reply: at the end of this document

General conditions: manure ceilings

*The Netherlands shall monitor the amount of manure produced and shall ensure that manure production at national level, both in terms of nitrogen and phosphorus shall not exceed the levels of year **2020** (this is 489,4 million kg of nitrogen and 150,7 million kg of phosphorous), and, that, as a result of the implementation of the reforms, the amount of manure produced will gradually decrease and in 2025 shall not exceed N 440,4 P: 135,6 (10% reduction)*

Reply

We can agree that the manure production at national level, both in terms of nitrogen and phosphorus, shall not exceed the levels of 2020.

With reference to our explanation in our reply of June 2nd, 2022, and the meeting of February, 3rd, 2022 were we discussed the Structural Approach and the National Program for the Rural Area, how it is embedded and the functioning of it. Because the National Program for the Rural Area will be executed by an integral, area specific approach, it is of upmost importance that all the concerned parties in those areas are and stay committed. An gradual annual reduction of the national manure production ceiling will put extra pressure on the integrated area approach. In this approach buyout and termination of farms is enclosed and this will result in taking out and annulling production rights out of the market. This means a direct and permanent reduction of livestock and thus of manure production. In order to ensure the reduction of phosphate and nitrogen production by livestock is definitive and permanent, the manure production ceilings, which are laid down in the Fertilizer Act, will be adjusted downwards to confirm the decrease in the volume of the livestock. We are however of the opinion that this should take place in line with the natural attrition and farmers ending their businesses. Another point is that the measures, including the buyout and termination of farms, will have the first effects mid-2024. So therefore the first results will not be there to see in the first years.

Our conclusion stays that the pace of downward adjustment of the manure production ceiling should follow the pace of the expected effects of the area process. We can therefore not agree on a gradually decrease with 10% reduction in 2025.

General conditions: anti-fraud

Proposal ENVI

*(3) The Netherlands shall pursue the implementation of the **enhanced enforcement strategy**.*

The enhanced enforcement strategy shall, as a minimum, include the following elements:

- (a) continued independent assessment of fraud cases and identification of areas and actors of manure handling and management with a higher risk of deliberate non-compliance with the national rules on manure.*
- (b) Continued implementation of the enhanced enforcement in the high risk areas De Peel, Gelderse Vallei and Twente; The enhanced enforcement strategy shall progressively be extended to all regions by the end of 2025, taking into account the experience and best practices gained.*
- (c) in all regions, specific focus of the enforcement strategy on high-risk actors in the manure value chain, notably intermediaries and co-digesters.*
- (d) real time accountability of manure transport via automation starting 1 January 2023.*
- (e) Continued strengthening of the capacity for inspections and controls,*
- (f) individual inspection of at least 5,5 %yearly of the pig farms.*

Agreed text proposal in meeting of June 9th, 2022, with respect to 3b

(b) Continued implementation of the enhanced enforcement in the high risk areas De Peel, Gelderse Vallei and Twente; The enhanced enforcement strategy shall progressively be extended to all regions where the risk-assessment shows that the risks have significantly increased, by the end of 2025, taking into account the experience and best practices gained.

General Conditions: fertilizer register and fertilization plan

- All farms shall make an annual fertilisation plan before the growing season (note -controls of the plan only for derogated farms cfr article 7)
- An electronic fertiliser register shall be in place as of January 2024 in accordance with the 7th NAP, registering application of mineral fertilisers and manure production and application on the land. By 1 January 2025 all farms shall use the register. The authorities shall monitor and analyse the application rates, and provide advice on methods to reduce the overall fertilizer application rates.

Reply
Agree

General conditions: agriculture activity near and within Natura 2000 sites

Proposal ENVI

- Exclude from derogation all Natura 2000 sites
- [exclude from derogation all nearby areas with catchments flowing into N sensitive and overloaded Natura 2000 sites].

Reply

- Exclude all N2000 sites: Agree
- Nearby: on June 9th, 2022 in a letter to Parliament the provisional guiding emission reduction of NH3 targets per area are announced.¹ For the area processes, a map of the Netherlands has also been included with a global spatial representation of the conditions of water, soil, nature and nitrogen in relation to agriculture. This map is intended as an aid to clarify the structuring choices and to offer residents, entrepreneurs and authorities in areas action perspectives. However, as you can see it will have an effect on the area nearby Natura 2000 sites. Herewith 'nearby' is covered.
The conditions of water, soil, nature and nitrogen in relation to agriculture are leading for the integrated area approach and form the basis for the area objectives that the Provinces will submit no later than 1 July 2023.

Polluted areas: orange and red

Proposal ENVI

Reference to table with the remaining water quality tasks for groundwater and surface water (N and P). Data from 2021 derogation report, Shows further deterioration of water quality
Need mapping with soil categories used in previous derogation and Provinces

Reply

As stated in the addendum on the 7th Action Program the objectives for the Nitrates Directive and the Water Framework Directive for the agricultural part will be met with the integral area oriented approach. The remaining water quality task for especially water surface (N and P) varies enormously in the Netherlands and it is difficult to address this task with an even more differentiated soil type approach.

In the autumn of 2021 in an additional scientific exploration by Wageningen University and Research it was stated that for additional measures for surface water quality it is necessary to zoom in on hotspots in order to find ultimate consequences and solutions at area level, company level and even plan/parcel level for appropriate measures. And that these measures can be better elaborated at area level and should not be implemented as general measures by central government. This sometimes requires robust measures and measures that focus on spatial planning and changes in the water system.²³ This is the main reason why the remaining task is addressed in the addendum on the 7th Action Program.

The table in the 7th Action Program and the addendum is a coarse-grained estimation of the remaining water quality task. The table encloses all sources which contribute to the water pollution.

¹ <https://www.rijksoverheid.nl/ministeries/ministerie-van-landbouw-natuur-en-voedselkwaliteit/documenten/rapporten/2022/06/10/startnotitie-nplg-10-juni-2022>

² [Kamerstuk 33037, nr. 431 | Overheid.nl > Officiële bekendmakingen \(officielebekendmakingen.nl\)](#)

³ Memo Kansen van de stikstofaanpak voor het doelbereik van de KRW voor nutriënten. Groenendijk, 2021. Wageningen Environmental research.

In many of the red and orange areas it is not the actual fertilization that is the largest source of nitrogen and/or phosphate in the surface water. Wastewater treatment plants or nutrients from abroad, for example, also contribute. A lower derogation application standard will therefore hardly contribute to the improvement of water quality in these regions.

Furthermore, the Netherlands has no legal basis for designating the reduction of eutrophication by designating polluted areas for surface water. This takes accurate analysis and good scientific substantiation which takes time.

We therefore want to maintain to the existing division of the 230- and 250-areas to make already steps in water quality in the coming years. We can commit to a further scientific elaboration of a hot spot/polluted area approach which is aligned with the integral area-oriented approach (National Program for the Rural Areas) in 2024.

General conditions: Areas with Groundwater pollution

Proposal ENVI

- *Derogation application rate starting point reduced*

Reply: see our response on the table with remaining water quality task

- *Overall and gradual reduction of fertilization rate (manure + chemical) of 20% of the fertilization rates of the 7thNAP by end of 2025*

Reply: will follow after buffer strips

- *No derogations in groundwater protection areas (After several years of voluntary measures it is expected that only 50% of the hotspots will reach the 50 mg norm)*
- *GWPA: Gradual reduction of fertilization (chemical +manure) to the range for organic/sustainable agriculture.*

Reply: We will further elaborate this in the integral area oriented approach

Reply no derogation in GWPA's

We are prepared to take the necessary measures in these areas. This can also contains measures in relation to the cultivation of certain crops. However, we are of the opinion that these measures should be taken in arable farming and horticulture. Since these farms are not participating in derogation it would be a far reaching measure with possible major consequences for individual companies to take up in the derogation decision. Therefore the derogation decision is not a suitable instrument for extra measures in all farm, because the decision is only on grazing livestock farms. We can agree on taking up the importance for additional far-reaching measures in groundwater protection areas in the considerations of the derogation decision. The necessary measures will be developed within the integral area oriented approach.

We can agree upon a clausula in the derogation that states, that a package of mandatory measures in areas with groundwater pollution that can be legally implemented by 1 January 2025 at the latest and earlier of this is possible within the time schedule for adjusting legislation/regulation.

General conditions: areas with surface water pollution & eutrophication

Proposal ENVI

- *Derogation application rate starting point reduced*

Reply: see our response on the table with remaining water quality task

- *Buffer strips: 3m everywhere as a minimum (with minimum, only well justified exceptions) (or more as proposed in 7th NAP + addendum)*
- *Overall and gradual reduction of fertilization rates prescribed by 7thNAP (manure + chemical) by 20% by 2025*

Reply: reply will follow after buffer strips

Reply Buffer strips

The size of the buffer strips as proposed in the seventh Action Program, and as previously discussed with you, are set at 2 meters-buffer strip because of several reasons. Research shows that there are unique characteristics to the Dutch landscape and agricultural landuse that make buffer strips much less effective and applicable as compared to other international research.⁴ These characteristics include the abundance of drainage of parcels, flat lands and deep soils with high infiltration rates. Next to this, model studies show that effectivity does not increase linearly with larger strips. Therefore, the Netherlands, in general, does not view applying larger buffer strips everywhere as a proportional measure. Especially given the small parcel sizes and abundance of ditches in the north and western parts of the country. This view extends to a CAP legal requirement of 3 meters. We therefore plead to keep both the 7th NAP and CAP basic requirements at 2 meters.

⁴ <https://zoek.officielebekendmakingen.nl/blg-995837.pdf>

Of course, buffer strips will be larger when water courses require every possible improvement. Such as the 5 meter requirement for ecologically vulnerable streams, and the much larger buffer zones in stream valleys in the sandy-soils in Central, East and the South of the Netherlands as described in the addendum (100-250 meters).

Proposal ENVI

Overall and gradual reduction of fertilization rate (manure + chemical) as a measure to address the increasing nutrients pollution

Reply

As announced in the 7th Action Program an update will take place on the nitrogen applications standards and the modelling. Scientific advice on good agricultural practice will be form the basis of decision-making as is common procedure when changes in usage standards and the system are made.

The Scientific Committee on Nutrient Management Policy will be asked for scientific advice on the update, in order to bring the application standards further towards the ecological optimum. In this update will take both the total N-application standards for different crops as the working-coefficients of animal manure will be taken into account. So it will see on the total use of nitrogen. Our efforts will strive towards a gradual reduction of the total use of nitrogen in agriculture by the end of 2025 based on the gross nitrogen balance.

Article 6 Application rates for derogation and Renure

Proposal ENVI

- *In line with the ambition of Netherlands to convert the dairy sector to a fully land based dairy sector, the maximum amount of livestock manure to be applied every year shall be reduced as follows*
- *Year 2022 : 250 /230*
- *Year 2023 : 230/ 210*
- *Year 2024: 210 / 190 -> 200/200*
- *Year 2025 : 190 / 170 _> 190/190*
- *Year 2026 : no derogation*

Reply

We here for refer to our reply of June 2nd, 2022 in which we have shared our arguments for the reduction in derogation application standards and why the reduction path we propose remains unchanged.

	230 kg N/ha	250 kg N/ha
2022	230	250
2023	220	240
2024	210	230
2025	200	220

For for the most sensitive water quality areas (the '230 regions'), the Netherlands is prepared to waive a derogation for unprocessed animal manure after 2025, which means the application rates will be further reduced to 170 kg N/ha as of 2026. other parts of the country (the '250-regions'), we see the need of a reduced level of the use of Nitrogen from livestock manure, but see also the benefits of using livestock manure on grassland farms in reaching the goals of the Green Deal and F2F-strategy. A very fast reduction scheme would lead to large disruptions in de manure market, leading to difficulties in implementation and control.

In our opinion this reduction path should include the country specific solution for the use of products derived from livestock manure (RENURE) as a substitute for the use of chemical fertilizers as we have requested and explained our reasoning in our letter of 26th April 2022.

Articles 7 and 8 Conditions for derogated farms

Proposal ENVI

- *Similar, except if similar conditions to be adopted in 7thNAP for all farmers*
- *Possibility to reduce admin burden on farmers*

Reply

We are preparing a text proposal, which is in the final stage of alignment with our legal services.

Article 9: conditions on ammonia emissions

Proposal ENVI

- *Similar as existent*

Reply: Agree

Article 11: Controls and inspections

Proposal ENVI

- *Admin controls 5% per year*
- *Field inspections 5% per year*
- *Should this be increased to 10%?*

Reply

- Administrative controls: RVO performs 100% administrative controls on derogated farms
- Field inspections: an increase will require a great amount of capacity and commitment from the control and enforcement authority (NVWA), which cannot then be deployed for the enhanced manure enforcement strategy. Furthermore, the derogated farms are the low-risk companies. In controls on these farms the highest compliance is found. The greatest risks lie within intermediary companies (manure transporters and traders). It is important to take a risk-oriented approach to companies in the fertilizer chain that make fraud possible on a larger scale. Expansion of physical checks to 10% deploys a lot of NVWA capacity with little result that cannot be used to tackle the real risk companies. Therefore we propose to remain this on 5%.

To end with the general condition on: *The derogation is granted as a transitional measure to accompany reforms of the agriculture and livestock sector in the Netherlands in order to meet EU environmental and climate requirements in relation to nitrogen emissions (ammonia) and nutrients in water.*

Reply: We agree taken into account this reply.