Non-Paper on Enabling the Energy Transition with Temporary, Small Nitrogen Emissions

The Netherlands fully supports the objectives of the European Union to protect, preserve and restore **biodiversity, the objectives of the Clean Industrial Deal** and to reach our European **climate goals and aim for Zero Pollution in 2050**. Therefore, we need to scale up our sustainable net-zero energy production and the necessary infrastructure in order to **decarbonize** our economy, become **climate-neutral**, strengthen **nature** and **reduce energy dependence**. The EU Action Plan for Affordable Energy and the EU Grids Package are therefore important milestones in reaching our European objectives.

However, the implementation and application of European measures on nature/environment and energy can simultaneously affect each other in certain circumstances. In particular, in densely populated Member States where energy transition projects must fit in small areas in regions where pressure on the environment is already considerable. Therefore, to reach our European goals, EU legislation needs to be more coherent in order to enable one another.

Temporary (small) nitrogen emissions
Renewable energy projects as defined in the Renewable Energy Directive 3 (RED3) lead to a reduction of both carbon and nitrogen emissions[1]. Therefore, these projects help to improve the condition of nature, climate and the environment. Renewable energy projects consequently (indirectly) contribute to the goals of the Nature and Habitats Directive as well as the European climate objectives. However, at the moment permitting procedures for renewable energy projects in the Netherlands are often delayed or rejected since small, temporary nitrogen emissions during the construction phase are under circumstances not allowed by the Habitats Directive. These delays are not only affecting decarbonization of industry but are also worsening grid congestion. Tackling grid congestion is essential to allow electrification of existing companies and to connect (new) housing projects and businesses to the grid.

Delays can occur in the permitting process due to the application of the provisions set out in Article 6(3) of the Habitats Directive, which require thorough assessment of potential impacts on protected sites. Article 6(3) requires that even relatively small nitrogen depositions that are emitted during the construction of energy transition projects, are tested and examined extensively as a part of the appropriate assessment. As a rule significant effects of These small, temporary emissions can only be excluded by comprehensive, time consuming and expensive study. Though until that study is finished, the effects are deemed to have a negative impact on the natural characteristics of a Natura 2000 area. This conflicts with the objectives of streamlining and speeding up permitting according to RED3, especially when it is known that significant adverse effects of nitrogen by renewables as a rule can be excluded. The information is parallel to consideration 33 of RED3, while the rebuttable presumption misses. The positive effects of the reduction of nitrogen deposition by a change to renewables are not even taken into account.

Example: **replacement of an existing high-voltage substation and increasing the capacity of the substation, to meet the demand for sustainability.**
An existing high-voltage substation is located directly adjacent to an N2000 area in Limburg. This station needs to be fully replaced and expanded to enable the energy transition in the region. However, the network operator expects delays or even postponement of this specific project as there are no current solutions foreseen for the nitrogen permit. The replacement leads to a (small) temporary nitrogen deposition in N2000 area. Even zero emission materials, which sometimes offers solutions, are not available or not even yet developed. Because of this project houses, businesses and the production of renewable energy in the region cannot be connected to the grid.

[1] Onderzoek samenhang Energietransitie en stikstof in de industrie | Publicatie | Rijksoverheid.nl
Laat duurzame energieprojecten bijdragen aan oplossen stikstofcrisis - NVDE - Nederlandse Vereniging Duurzame Energie

If a significant negative impact cannot be excluded beforehand a permit can only be granted based of Article 6(4) of the EU Habitats Directive under the conditions that there is (1) a lack of feasible alternatives, (2) the project is deemed to be necessary by imperative reasons of overriding public interest and (3) for any resulting adverse impacts to be compensated. The process for obtaining a permit under Article 6(4) can be lengthy and costly due to the thorough assessments and need for compensatory measures to ensure that the overall coherence of Natura 2000 is protected.

Therefore, the Netherlands urges the European Commission to clarify that (in line with the goals of RED3) the temporary (small) nitrogen emissions of the construction phase of renewable energy projects and all necessary (infrastructure) projects which are necessary for the connection of these projects do not adversely affect Natura 2000-habitat[2]. This can be given as a rebuttable presumption. This can be governed in upcoming European legislative proposals (such as the European Grid Package) by excluding small, temporary nitrogen emissions from the appropriate assessment of article 6 (3) of the Habitats Directive in regard to the construction of renewable energy projects.

With a rebuttable presumption for (small) temporary nitrogen emissions of the construction phase of these renewable energy projects, a huge barrier in permitting will be tackled, which will lead to a structural reduction in carbon and nitrogen emissions on a long term. The Netherlands is actively working to reduce its national nitrogen emissions. This clarification is in line with our approach to small and temporary emissions that is now in preparation. However, this particular clarification would enable the Netherlands to create the prerequisite to execute the national measures. These long term net positive effects should be ensured when this clarification is made. In that way, this proposal will both contribute to (1) speeding up the energy transition and help reach our climate goals, but (2) also strengthen nature and the environment since the reduction in nitrogen emission will not be used for other activities.

[2] As defined under the third revision of the Renewable Energy Directive