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MEMBER OF THE EUROPEAN COMMISSION

ENVIRONMENT, WATER RESILIENCE AND A COMPETITIVE CIRCULAR ECONOMY

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Subject: Protection of water against pollution

Dear Minister Wiersma,

Thank you for your letter of 11 July 2025 regarding the request from the Netherlands for a derogation under point II of Annex III of Council Directive of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC). I have also seen your letter to the Dutch Parliament of 19 December announcing your decision not to proceed with the 8th nitrates action programme in the current political context in the Netherlands.

First of all, I acknowledge the sensitivity for your farmers and communities and recognise the scale of the challenge.

I would also like to refer to my interim reply of 25 August 2025, where I already signalled our concerns regarding the feasibility of a new derogation. Let me also recall the various technical discussions that have taken place between our services over the past months, where we have examined water quality data, the implementation of measures under the 7th and 8th Nitrates Action Programmes, and the progress on the current derogation. These exchanges have been valuable in informing our assessment.

As you are aware, an amendment to the Nitrates Directive that will authorise the application of RENURE products above the manure application limit, under certain conditions, has recently received the support of the Nitrates Committee. This important step, which was initiated by the Commission in April 2024, is now under scrutiny of the European Parliament and the Council until 8 January 2026. Once adopted, it will help promote nutrient circularity in agriculture while ensuring safeguards for water and the environment. I am confident that this will, over time, give Dutch farmers more flexibility to manage nutrient limits and open the door for innovation in manure recycling. I want to sincerely thank you and your authorities for your excellent collaboration on this file.

Ms Femke Marije Wiersma
Minister of Agriculture, Fisheries, Food Security and Nature
Kingdom of the Netherlands

Following up on our correspondence of this summer regarding your request for a new derogation under the Nitrates Directive to spread manure above the application limit, I must be frank: our thorough assessment of the technical data, as well as the exchanges we have had over the past months, lead us to conclude that the conditions for such a derogation are not met.

As we discussed when we met in April and in November, the Netherlands continues to face very serious challenges in managing nitrates and nitrogen. A further derogation would add to these pressures at a time when water quality and nitrogen pollution remain a pressing concern, and when the phasing-out trajectory under the existing derogation is not yet complete. The annex to this letter provides further details of our analysis.

It is precisely because the Netherlands is under such pressure that it is vital to strengthen the measures proposed in the draft 8th nitrates action programme to address these structural issues. We understand that the current government has decided to leave the development of a new action programme to a new government. It has also decided that, in the meantime, the 7th nitrates action programme and the general conditions of the 2022-2025 derogation will remain in place in 2026. This means however that the norm of 170 kg of nitrogen per hectare per year for manure spreading will apply in all areas. It remains vital to implement the measures already agreed fully, in particular the reduction of manure production foreseen in Article 4.2. The recent legal proposal to annul the mandatory reduction of manure production rights for pork and poultry risks undermining this condition, which is a cornerstone of the package agreed to make the derogation viable.

The Commission stands ready to continue supporting the Netherlands in addressing these challenges. The upcoming changes on RENURE, once transposed into Dutch legislation, should provide certainty for farmers and investors in the implementation of the Nitrates Directive. More broadly, through the Water Resilience Strategy, the Vision for Agriculture and Food, and the new CAP framework proposal, we want to work with you to promote integrated territorial approaches that can both protect water and strengthen the resilience and competitiveness of Dutch farming.

While I must underline the seriousness of the situation, I also want to emphasise that the Commission will continue to support the Netherlands in this complex matter. We are committed to continuing being your partner in delivering solutions that can work in practice for Dutch farmers while safeguarding Europe's environment for the next generation.

Yours sincerely,

A large rectangular area that has been redacted, likely containing a signature or official stamp. It is represented by a solid grey box with a blue border.

Jessika Roswall

Annex on the analysis of the request for a nitrates derogation by the Netherlands

Under the Nitrates Directive, Member States may request derogations from the limit for manure application under certain conditions. The Commission examines such requests taking into account the specific situation of the implementation of the Nitrates Directive in the Member States. In this assessment, the key factors are the effectiveness of the measures under the national nitrates action programme, and the level of progress towards achievement of water quality objectives.

The trend in pollution from nitrates in groundwater or eutrophication of surface water and the degree of progress in addressing pollution are decisive elements in any decision to grant a derogation. This is because the directive requires that the amounts under derogation, that represent additional pressure in sensitive areas, should not jeopardize its objectives relating to reducing or preventing pollution of waters by nitrates from agriculture. While the presence of crops with long growing seasons and high nitrogen uptake, such as permanent grassland, is a prerequisite for the granting of a derogation, this is not the only element in the assessment. It is thus not sufficient to assert that farms with a derogation would have less nitrate losses than farms without a derogation, if there is an *overall excess of nitrates and phosphorus leading to groundwater pollution and eutrophication in the waters*, including in areas connected to the farms under derogation. Furthermore, we have found no reasons to question the scientifically recognised risks of leaching of raw manure, and duly noted the studies prepared for the Dutch authorities on the benefits for water quality¹ and nature² of the phasing out of the nitrates derogation. Indeed, a derogation under the Nitrates Directive should not have detrimental effects on attaining the objectives of other Union legislation, such as the protection of drinking water resources or Natura 2000 areas.

Our analysis finds that water pollution in the Netherlands by nutrients from agriculture is not reducing but has increased in many places. This is illustrated in the graphs below. Data on water quality reported by the Netherlands under the Nitrates Directive for the period 2020-2023 shows that nitrate pollution in groundwater has increased, as the percentage of monitoring points with average nitrate concentrations exceeding 50 mg/l increased from 14% to 18,7% compared to the 2016-2019 period, noting that this percentage had already increased compared with the previous period (Figure 1). Data further shows the deterioration is especially marked in the groundwaters monitoring points that were already polluted or at risk of being polluted. Indeed, the average nitrate concentrations have increased by more than 5 mg/l in 70% of monitoring points that were already polluted and in 63% of points at risk of being polluted (Figure 2). As regards eutrophication of surface waters, it is reported that 54% of monitoring points in fresh surface waters are eutrophic or at risk of being eutrophic. For transitional and coastal waters, 77% of monitoring points are eutrophic or at risk of being eutrophic (Figure 3). A comparison with the previous reporting period is not possible because the Netherlands has reduced the number of monitoring points and monitoring has been discontinued in a significant proportion of points that had shown eutrophication in the previous reporting period³. Moreover, we have also noted that data on summer phosphorus concentrations in ditches shows

¹ https://www.eerstekamer.nl/overig/20230714/wur_effecten_afbouw_mestderogatie/document3/f=/vm53e20tayz9.pdf

² A report of the Planbureau voor de Leefomgeving (PBL) published end of 2024, finds that the phasing out of the nitrates derogation is currently the policy measure with the highest projected impact on the reduction of ammonia emissions from agriculture towards the 2030 targets. <https://www.pbl.nl/downloads/pbl-2024-toelichting-geraamde-ontwikkeling-ammoniakemissie-landbouw-5671-0pdf>

³ Report under the Nitrates Directive by the Netherlands for the period 2020-2023

an increase in several regions well above the standards set by the Netherlands⁴, and further that the reported average values of nitrate and phosphorus concentrations for very large regions even out measured concentrations over large areas without attention to pockets of much higher level of pollution where action would be most urgently required.

Furthermore, the analysis reveals that there has been no overall reduction of pollution or that pollution even increased since 2012 in a number of areas, as also stated in the report by the Netherlands under the Nitrates Directive for the period 2020-2023⁵. The same report also concludes that nutrients pollution and water quality remain a concern in many places, both for nitrates in groundwater and for eutrophication, also potentially affecting drinking water resources. This seems to indicate that the measures of the last three successive nitrates action programmes and their enforcement were insufficiently effective and points to structural concerns in the design of the Dutch nitrates action programmes. Specific aspects have been discussed at technical level but several key questions stand out, namely on the compatibility of the objectives set by the Dutch authorities for the national nitrates action programme with the objectives of the Nitrates Directive, as well as on the absence of measures to address the excess of manure production within the limits of what can be absorbed by the land area without significant environmental losses.

The Nitrates Directive requires that Member States design action programmes to fulfil the objectives of the Directive and take additional measures or reinforced actions as soon as it becomes clear that the measures in place are not effective in addressing nitrates pollution in groundwater and surface water, and eutrophication of surface waters due to agriculture. It is also necessary that such additional measures are effective in addressing the pollution and attaining the objectives of the directive in a reasonable time as confirmed in the case-law of the European Court of Justice⁶. Moreover, the Nitrates Directive is connected to the Water Framework Directive 2000/60/EU (WFD)⁷, and as a basic measure must contribute effectively to its objectives and target to attain good status in 2027. In this regard, it is important to recall the Commission recommendations of 4/2/2025 on the Dutch River Basin Management Plans (RBMPs) according to which the Netherlands should step up action to drastically reduce nutrient pollution (the nitrogen surplus being four times higher than the EU average, with 50% coming from agriculture), by assessing the effectiveness of existing measures and implementing additional measures as necessary to achieve the objectives of the WFD, including mandatory measures if voluntary measures appear insufficient and through securing greater synergies between the WFD goals and other policies and instruments (CAP, MSFD and NiD). This is based on the data reported by the Netherlands whereby no surface water body is in good ecological status, and only 5,2% of these water bodies are expected to reach good ecological status/potential by 2027.

Considering the reported water quality data and the conclusion that previous action programmes have not resulted in reducing and preventing pollution, we have assessed the draft 8th nitrates action programme for the period 2026-2029 as well as the accompanying documents

⁴ <https://www.rivm.nl/landelijk-meetnet-effecten-mestbeleid/onderzoeksresultaten/trendrapportage>

⁵ RIVM - Landbouwpraktijk en waterkwaliteit in Nederland; toestand (2020-2023) en trend (1992-2023) <https://www.rivm.nl/publicaties/landbouwpraktijk-en-waterkwaliteit-in-nederland-toestand-2020-2023-en-trend-1992-2023>

⁶ Notably Case 322/00 Commission v The Netherlands, Case 543/16 Commission v Germany, Case 576/22 Commission v Spain

⁷ [Implementation Reports - European Commission](#)

and the analysis made on the effectiveness of measures that we received from the Netherlands in summer and autumn 2025. The available information suggests that the draft 8th nitrates action programme would not address the structural concerns which have led to stagnation of results since 2012 and that the measures proposed could lead to a weakening compared with the 7th nitrates action programme (that included its addendum and the nitrates derogation measures). Such are the decrease of buffer strips in some areas, the planned increase of nitrogen fertilisation norms in the polluted areas, and the risks of relaxation of efforts and insufficient incentives in the goal-oriented approach. We also note the plans to redefine the polluted areas (“areas deserving attention”) only two years after their introduction. From the technical clarifications provided is not evident that the redefinition could be justified on the grounds of increasing the effectiveness of the nitrates action programme while the pollution challenges identified in these areas have not been addressed and the changes will be disruptive for farmers. We further find that many actions remain undefined. We particularly note the absence of measures to support maintaining of grassland, whereas the 7th NAP had envisaged that the Dutch authorities set up a land based dairy farming.

We recall that the current derogation⁸ for the period 2022-2025 (as stated in Article 1) was granted as a transitional measure to accompany *reforms* of the agriculture and livestock sector in the Netherlands to meet EU environmental and climate requirements in relation to nitrogen emissions (including ammonia) and nutrients in water (including Directive 91/676/EEC). The Commission considered it was necessary to ensure a predictable transition derogation period of maximum 4 years for grassland farmers until the planned reforms as set out in the NAP 7 Addendum are fully incorporated in Dutch law and to accompany the gradual implementation of the new reforms. However, at the end of this transition period, no long-term measures have yet been put in place nor are planned for the next 4 years to support a sustainable future for grassland dairy farmers.

In view of the foregoing, the analysis of water quality evolution and the assessment of the draft 8th nitrates action programme indicates that the conditions for a new nitrates derogation are not fulfilled and that the draft 8th nitrates action programme would not be sufficient to address the water quality concerns. Following the current government’s decision of 19 December 2025 to leave the development of a new action programme to the new government, the Commission hopes that these considerations will be helpful in framing measures for the future that are compatible with the requirements of the Directive.

In addition to these elements, another important aspect to consider is that the production, management and spreading of manure is an important source of ammonia emissions, responsible for negative health impacts due to air quality degradation and for nitrogen deposition on sensitive nature which can be affected by additional spreading of manure which is the case for many Dutch Natura 2000 areas. The case-law is clear that the additional spreading of manure cannot have a detrimental effect on the conservation objectives of the habitats and species protected under EU law⁹. This is why beyond improving water quality, the phasing out of the derogation was also meant to contribute to reducing ammonia emissions from livestock farming, and it was found to be a key part of the planned reduction. The evolution of the situation in 2025 is not favourable. On the one hand the Planbureau voor de

⁸ Commission Implementing Decision of 30.9.2022 on granting a derogation requested by the Netherlands pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources

⁹ Judgement of 7 November 2018 in joined Cases C-293/17 and C-294/17

Leefomgeving found that national statutory targets for nitrogen deposition on nature are far beyond reach even in the absence of a nitrates derogation¹⁰, while the Netherlands is required by court decision of January 2025 to stop the deterioration of nitrogen-sensitive Natura 2000 areas¹¹. The measures proposed by the Dutch Government on reducing ammonia emissions from agriculture exceed the scope of this analysis, apart from noting that these are not yet in place. Scientific assessments have concluded that these measures would not be sufficient to reach the needed reduction of ammonia emissions and in this context a nitrates derogation would further increase the required reduction effort¹².

Figure 1 - Share of groundwater monitoring points with an average nitrates concentration ≥ 50 mg/l in reporting periods 2016-2019 and 2020-2023

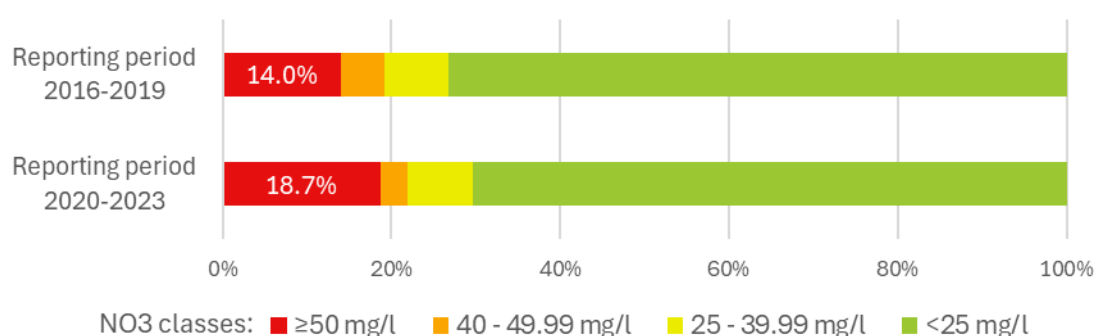
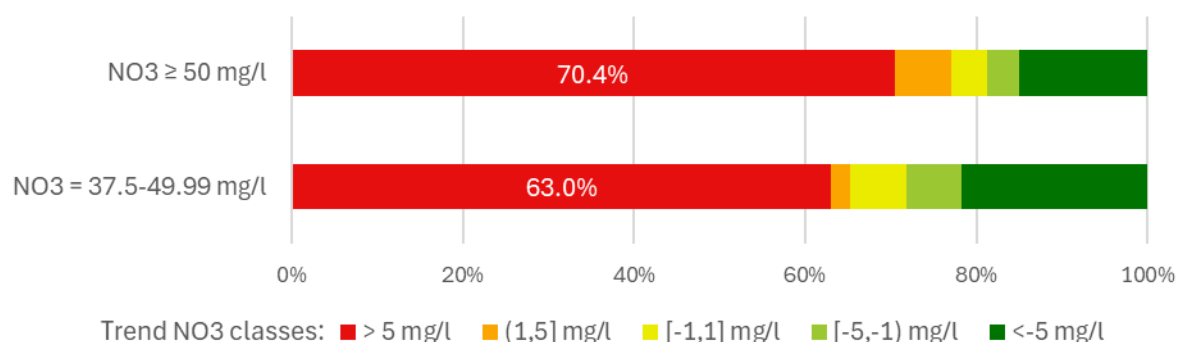


Figure 2 - Share of change in nitrates concentration (NO3) in groundwater monitoring points with NO3 ≥ 50 mg/l and 37.5-49.99 mg/l between reporting periods 2016-2019 and 2020-2023



¹⁰ “despite a significant reduction in ammonia emissions due, inter alia, to the expiry of the derogation, statutory national targets for nitrogen deposition on nature are far beyond reach” Extract from the report from the Planbureau voor de Leefomgeving (PBL) of 6 March 2025 on “Emission estimates Air Pollutant Substances (ERL) 2025”

¹¹ Rechtzaak C/09/651046 / HA ZA 23-641, 22-01-2025

¹² <https://www.pbl.nl/system/files/document/2025-08/pbl-2025-Reflectie-op-MCEN-maatregelenpakket-spoor-2-PBL-WUR-Deltares-RIVM-5923.pdf>

Figure 3 – Share of eutrophic/ could become eutrophic surface waters monitoring points in the reporting period 2020-2023

