



Consultation response on the Netherlands' draft implementation of RED III (Regeling Energie Vervoer 2024)

We appreciate the opportunity to provide comments on the Ministry of Infrastructure and Water Management's draft Regeling Energie Vervoer implementing Directive (EU) 2023/2413 (RED III). The proposal represents an important step toward integrating renewable fuels of non-biological origin (RFNBOs) into the national energy mix. We acknowledge the Ministry's efforts to broaden the regulatory scope and note with appreciation that the draft now explicitly defines RFNBOs in Article 1, paragraph 1(k) and recognises them in the compliance framework set out in Articles 9.7.4–9.7.4.6 of the Wet milieubeheer. Equally, we welcome the emphasis on verification and record-keeping, including the inboekverklaring and quarterly digital reporting obligations under Article 25a(3) and Article 25b(1), which considerably strengthen transparency and traceability, but advise caution on overregulating nascent fuel supply chains.

Nevertheless, several aspects of the draft fall short of the ambition and market clarity necessary to deliver the Directive's objectives.

In relation to Annex III (sectoral sub-quotas and overall targets)

The sectoral sub-quotas contained in Annex III, Table 1 fix the RFNBO obligation at only 1.07 % for the road sector by 2030 and a symbolic 0.32 % for maritime fuels, far below both the RED III horizontal target of 5.5 % advanced fuels including at least 1 % RFNBOs (Article 25(1)(b) RED III) and the Commission's 42 % industrial-use benchmark for renewable hydrogen (Article 22a RED III). By maintaining a national target of roughly 24 % instead of 42 % (Toelichting, p. 44), the Netherlands risks signalling limited domestic demand and thereby weakening investor confidence. The sub-quotas in Annex III should therefore be revised upward to align both sectoral and aggregate targets with the Directive's mandatory levels. Aligning ambition would also reinforce the Port of Rotterdam's role as a European import and distribution hub for green hydrogen and its derivatives. We acknowledge the ministry's reasoning of a supply risk in the short term due to immature fuel supply chain, but point to the argument laid out in the Renewable Energy Directive (recital 72) that mandates supply quotas serve the purpose of ramping up the fuel supply chain.

In relation to Articles 25a and 25b (mass balancing and verification of imports)

In principle we welcome the strong endorsement of mass balancing in Articles 25a and 25b. However, it is without a doubt detrimental to both RFNBOs and biofuel pathways to integrate energy carriers under a single certification and registry architecture consistent with Article 30(8) RED III. Fundamentally, the import-verification requirement in Article 25b(4) introduces uncertainty. The obligation seems to require testing of imported renewable fuels for their biogenic content, counting only that fraction toward compliance. While that may be appropriate for biofuels produced without mass-balancing – it is fundamentally incompatible with RFNBO as by definition, RFNBOs derive their energy content from renewable electricity rather than biomass, applying a biogenic-content test would effectively disqualify them. ***The Ministry should urgently clarify in the final text that the biogenic-fraction test applies solely to fuels classified as "biobrandstoffen" under Article 2(1) and not to RFNBOs under Article***



1(k). For RFNBOs, verification should instead rely on renewable-electricity guarantees of origin and lifecycle-emission accounting in line with Article 4(3) of Delegated Regulation 2023/1184. The same clarification should ensure that imported fuels certified under EU-approved voluntary schemes are automatically recognised. Requiring additional Dutch testing, as implied by Article 25b(4) and the explanatory note on p. 46, would conflict with Article 30(5) RED III, which mandates mutual recognition of sustainability certificates across Member States.

In relation to Article 9.7.5 (Wet milieubeheer) – penalties for non-compliance

The draft continues to rely on the general penalty framework of the Wet milieubeheer without defining a quantitative sanction formula. The absence of a clear, per-tonne penalty benchmark under Article 9.7.5 weakens regulatory predictability and fails to convey an adequate market signal. Establishing a transparent penalty calculation linked to the average market value of emission-reduction units (EREs) would enhance compliance credibility and provide investors with measurable certainty.

In relation to Article 9.7.4.3 (correction factor for refinery hydrogen, RAREs)

The *Toelichting* (p. 44) postpones application of the planned correction factor 0.4 for refinery-route hydrogen until after 2030. While the intention to protect early-stage hydrogen investment is understandable, indefinite deferral risks diverting renewable hydrogen from direct transport applications to refining, contrary to Article 25(1)(b) RED III. The Ministry should specify, preferably within Article 9.7.4.3, a review mechanism and timeline for activating the 0.4 factor once sufficient RFNBO supply capacity is established.

In conclusion, the Ministry has successfully incorporated several stakeholder recommendations, notably the explicit recognition of RFNBO. To consolidate the Netherlands' leadership in renewable fuels, the final regulation should raise the sub-quotas in Annex III to match RED III levels, clarify that biogenic-fraction testing in Article 25b(4) does not apply to RFNBOs, ensure recognition of EU-certified imports under Article 25b(5), define proportionate penalties in Article 9.7.5, and confirm a timetable for implementing the 0.4 correction factor in Article