

The Norwegian Government's position to the Net-zero Industry Act

We refer to the European Commission's proposal of March 16th 2023 for a Net-Zero Industry Act, following up the Green Deal Industrial Plan for a Net-zero Age, and aiming to improve conditions to set up net-zero manufacturing projects in Europe.

Executive summary

The Norwegian Government

- supports the main ambition of the Net-zero Industry Act to improve the investment environment for European manufacturing capacity in net-zero technologies for the green transition, all while supporting a stable and rule-based global trade system.
- welcomes measures in favour of more efficient national permit-granting processes, hereunder extended use of digital tools and options.
- considers the Regulation's proposal to establish a «one stop shop» as worth exploring, if defined as (1) the main, but not sole contact point to every project, and (2) a coordinating authority that does not take over, nor interfere with current delegation of powers between competent national and local authorities.
- emphasizes that any proposed time limits and streamlining of procedures for assessments and authorisations shall comply with environmental, social and safety requirements, as well as local consultation processes.
- underlines our obligations to protect indigenous peoples' rights as set in the ILO convention nr. 169 and the International Covenant on Civil and Political Rights Article 27.
- cannot support the proposed mechanism of tacit approval of permit applications in the case of exceeded time limits.
- suggests the local planning process and environmental impact assessments are considered as preliminary to the «permit-granting process», and not included in it. In our understanding this would make the proposed time limits more realistic and the application process more resource efficient.
- favours the use of environmental criteria in public procurement, as a means to increase the demand – and hence stimulate the offer – for net-zero technologies.
- strongly encourages developing the entire value chain of CO₂ capture, transport, injection and storage on European level, and based on market mechanisms and incentives. It is imperative to ensure environmentally safe storage, and establishing mandatory time limits in permit-granting processes will in many cases conflict with ensuring compliance with environmental protection.

Introduction

The Norwegian Government supports the EU's ambition to strengthen green and digital industrial transformation in Europe, all while supporting a stable and rule-based global trade system. We share the assessment of the EU that action is needed to ensure European competitiveness, resilience and our ability to meet the climate targets. The EU's initiative to

improve the investment environment for net-zero manufacturing projects, is equally a priority to the Norwegian Government, and is reflected in our Green Industrial Initiative¹.

We share the ambition of the Net-zero Industry Act to reduce the administrative burden on net-zero manufacturing projects. Introducing environmental criteria in public procurement is also in line with Norwegian policy, and a measure with the potential to stimulate net-zero manufacturing production. In addition, we welcome the emphasis on CCS-technologies on European level, as an important tool in the process towards industrial decarbonisation and a net-zero economy in 2050. Norway is strongly engaged and world leading in developing the entire value chain of CO₂ capture, transport, injection and storage.

However, it is imperative that some of the provisions in the proposed Act are modified, both to avoid insurmountable challenges and ensure clarification. On this background, please find below some considerations from a Norwegian perspective. These comments are without prejudice to a subsequent consideration of the EEA relevance of the adopted Regulation and of possible EEA-adaptations, which would be necessary for the Regulation to be implemented into the EEA Agreement.

Chapter 2 of the proposal - Administrative and permit-granting processes

The Norwegian Government welcomes efforts and targeted measures to **reduce the administrative burden** on companies through more efficient permit-granting processes. This is important for any sector of the economy, and could be key to encouraging more net-zero manufacturing projects in Europe.

In this context, we applaud the proposal's initiative to **increase digitalisation** of the permit-granting procedures and application processes. Allowing all required documents in an application process to be digitally submitted (Art. 4 (4)) is an efficient measure that should apply for net-zero manufacturing projects, as well as other parts of the private sector, given the gains of efficiency, both in time and money.

We support, in principle, the initiative of streamlining permitting processes for net-zero manufacturing projects. However, as regards the designation of a **“one stop shop”**, defined as a facilitating and coordinating authority per project, the proposed Article 8 of the Regulation can be improved further. Firstly, by assuring that this authority must act as a contact point (“service centre”), and not interfere with current national structures of responsibility and delegation of powers at any point. Secondly, by specifying that this coordinating authority should be considered the main/reference contact point of the project, but not its sole/exclusive contact point. We emphasize this, as the proposed Article 8 (2) may be understood as excluding direct interaction between the project promoters and any other involved responsible authorities.

It is our understanding that local planning processes in particular tend to benefit from direct contact between the planning authority and the project promoter, as the interaction improves the quality of the outcome. Maintaining this contact is therefore in the interest of both parts.

¹ [Roadmap – The green industrial initiative - regjeringen.no](https://www.regjeringen.no)

Consequently, the final Regulation should ensure sufficient flexibility to adapt to national administrative structures and various situations. The possibility to designate more than one national coordinating/competent authority should also be considered.

We need to strike the right balance, between improving the investment climate for net-zero manufacturing projects and allowing for inclusive processes to ensure support locally. Streamlining of the procedures for assessments and authorisations should not affect the standards of environmental protection, nor public consultations.

Based on this, we find the proposed mandatory time limits for permit-granting process challenging, cf. Article 6 and 13. We acknowledge the need to accelerate some permit-granting processes, and have addressed this issue in the Norwegian Green Industrial Initiative. However, the suggested time limits seem very tight, both when considered separately (intermediary steps), and in total, for finalising the process. Especially for larger projects, we consider the proposed time limits as unrealistic, due to the obligation to comply with local planning processes, environmental, social and safety requirements, combined with unexpected events and seasonal variations.

The time frames must provide for sufficient time to carry out environmental impact assessments, public consultations and additional investigations with the required quality and standard, also to maintain local support for net-zero industries. In the case of projects in traditional Sami territories, the Norwegian Government is obligated to consult with the Sami Parliament and with reindeer herders with land use rights, to secure indigenous peoples' rights as set in the ILO convention nr. 169 and the International Covenant on Civil and Political Rights article 27. We emphasize that the ability to carry out substantial, genuine and effective consultations is an important part of the Norwegian authorities process of verifying that projects adhere to international human rights standards.

The proposal also sets time limits for the project promoters, which must prepare and submit all relevant applications to the coordinating authority, before the permit-granting process is initialized, cf. Article 6. This can imply substantial (extra) costs for a project, as some applications require comprehensive investigation. A project promoter could prefer to await the result of the local planning process before going ahead with preparing other permit applications. We therefore recommend to allow for a more flexible process, where submitting all applications at once becomes an option, and not an obligation to the project promoters. This could also lead to more efficient resource management in the public administration, as it would reduce the number of received and processed applications.

A compromise solution could be to consider the local planning process and environmental impact assessments as preliminary to the «permit-granting process», and thereby exempted from this definition in Art. 3 (f). This would imply that the planning processes and environmental impact assessments are not included in the proposed time limits. The result is that the proposal's time limits are more realistic and the application process could become more resource efficient. Otherwise, we suggest the proposed time limits be expanded, in order to permit relevant consultations and assessments.

As to the proposed **mechanism of tacit approval of permit applications in the case of exceeded time limits, we strongly oppose it.** The proposal set in Article 13 implies that a lack of reply from the relevant administrative bodies within the applicable time limit will result in an automatic approval of the specific intermediary steps. We do not see the benefits for society as a whole, from having an application approved and an installation potentially operating without fulfilling the relevant and necessary conditions set by the competent authority. Furthermore, this would probably not be in accordance with requirements that follow from the Industry Emissions Directive (IED) and the Water Framework Directive, and in the case of Norway, it would not be compatible with the strict permit granting regulation system in the national Pollution Control Act.

In addition, this mechanism could have unforeseen effects, such as a competent authority choosing to reject an application that could otherwise been approved, to avoid a (high) risk of exceeding time frames. This seems counterproductive to all parties involved.

Grid connection permits

According to the proposed Article 3 (f), a permit-granting process includes “grid connection permits” when required to expand and operate net-zero technology manufacturing projects. In Norway, grid connection as such is not governed by a permit-granting regime. All consumers of electricity shall be given access to the grid by the system operators. Consumers shall be given a response without due delay. If there is not sufficient capacity in the existing grid, the system operators are obliged to invest in upgrades. However, a permit from the energy authorities is required for the construction of new installations or upgrades in the grid.

To our understanding, the draft definition in Article 3 (f) of the permit-granting process is meant to be of an indicative nature, regarding different administrative permits that are considered relevant for net-zero technology manufacturing projects, according to national law. The definition should therefore be further clarified in the final wording, to establish its reach/scope. Our current understanding is that in national systems where no administrative permits are required for grid connection, the regulation will not apply.

Moreover, to ensure consistency and legal certainty in the EU framework, the proposed provisions on grid connection permits should be assessed against the obligations on system operators pursuant to Directive 2019/944, and its amendments, on rules for the internal market for electricity, regulating third party access to transmission and distribution systems.

Chapter 3 of the proposal - CO₂ capture, transport, injection and storage

We welcome that the proposed Regulation includes CCS as a strategic net-zero technology, and we share the objective of accelerating large-scale implementation of CCS technologies. However, we would like to point out some elements in the proposal that are challenging from our perspective.

Sufficient capacity on CO₂ capture, transport, injection and storage on European level must be developed, but subject to the entire value chain being taken into account, and based on market mechanisms and incentives. Norway has promoted carbon capture and storage

(CCS) as a climate mitigating measure for more than two decades and is presently at the forefront as regards CCS in Europe. The Norwegian State has contributed financially with large amounts to establish a market and an overall value chain for CCS through the Longship project, which is expected to be put into operation in the second half of 2024.

In our view, permit-granting processes relating to net-zero strategic CO₂-storage projects cannot be subject to mandatory time limits, as this may be counter-productive and reduce public acceptance for CCS technology overall. The permit-granting processes need to be carried out in accordance with the Directive 2009/31/EC on the geological storage of carbon dioxide and national law, without compromising legitimate and thorough considerations regarding environment, geology, safety or coexistence with other industries such as fisheries. It must be clarified in the final wording whether or not the 18-month time limit proposed in Article 13 (1) c) shall pertain to each individual permit required for a CO₂ storage site to become operational under national law. As an example, the development of a storage site on the Norwegian Continental Shelf would take several years, from the award of an exploration licence through the phase of constructing the transportation and injection facilities necessary and until the actual start of injection. An 18-month time limit for the granting of each individual permit could be feasible, while the same time limit for all relevant permits together would be undoable. The national competent authority should also be authorised to extend any time limit in exceptional circumstances.

The proposal in Article 18 (1) on contribution of authorised oil and gas producers may be understood as imposing a financial obligation with retroactive effect. These challenges fundamental principles in national and international law. The provisions in the proposed Regulation on contributions to CO₂-injection capacity must also reflect the fundamental principles of the Paris Agreement. The objectives of nationally determined contributions are achieved through domestic mitigation measures, including national emissions reductions and removals. This principle must also be the outset for calculation of individual contributions to CO₂-injection capacity for any entities subject to the requirements in the proposed Regulation.

Chapter 4 of the proposal – Access to markets – Public procurement

The Norwegian Government favours the use of environmental criteria in public procurement procedures, as a means to increase the demand, and hence stimulating the offer, for net-zero technologies. Previous relevant experience indicates that this can be a well-functioning measure for developing new markets for green technologies and industries. It will be important to still enable local innovation in both the public and private sector for developing such markets. Thus, Norway takes broadly the same stand as the Commission regarding the suggested policy instruments in Article 19 on sustainability and resilience contribution in public procurement procedures.

However, there may be challenges regarding how the proposed Article 19 are to be operationalized by affected parties in both private and public sector. Firstly, when it comes to calculating quantitative requirements when combining the sustainability and resilience criteria in public tenders. Assessing whether each offer is in line with such an approach, may require large administrative resources and will additionally make the control and further follow-up of

contracts more complicated. We therefore support the Commission's proposal to defer the application of the relevant provisions of the Regulation for two years for smaller public buyers and for contracts of lower value (cf. recital 33), as this would allow for reducing potentially disproportionate (negative) effects of the proposed new criteria.

Secondly, it is important to provide clear guidance on how the stakeholders should deal with a possible exception to the criteria for sustainability and resilience. According to the proposed Article 19, such an exception can be granted if the fulfilment of the above-mentioned criteria lead to substantial cost increases, of minimum 10 per cent. In order to know if a project will be more than 10 per cent more expensive due to these requirements, it may prove necessary for the tenderers to submit two offers; one with and one without fulfilled requirements for sustainability and resilience. Clear guidelines on the above-mentioned issue would therefore be welcomed.

Furthermore, we encourage the EU to take action to coordinate its approach when drafting and adopting legislation on these public procurement related provisions. This is based on our previous experience with, and proposed development of, what we consider to be a fragmented legal domain. We also encourage the Commission to provide complete and updated overview on the different public procurement related provisions, with clear indication of their enforcement date. This would give contracting authorities and companies easier access to information on which legal requirements that are applicable in a specific procurement.

Chapter 5 of the proposal – Enhancing skills for quality job creation

The Norwegian Government welcomes the proposal's measures to develop and deploy skills that are needed in net-zero industries in Europe and for the green and digital transition. We support new and/or strengthened policy initiatives in this field, as skills shortage and skills mismatch are among the most substantial challenges both in the EU and Norwegian economy, and something that will affect also net-zero technology industries.

We are positive to the proposal of establishing European Net-Zero Industry Academies, cf. Art. 23, presumably based on the model of the Battery Academies. However, we would welcome a more detailed description, as to clarify which education levels these Academies will cover and how they will relate to the national education system/institutions, as the education/training targets formal qualifications. It is important to maximise the gains and spillover effects from this measure to both workers/students, businesses and the educational sector.

As to the proposal in Art. 24(1), it states that the participating states shall report on educational programmes and regulated professions included under the NZIA. Given that the Directive on recognition of professional qualifications already imposes such reporting, we suggest that this article 24 is revised accordingly.

Chapter 7 of the proposal – Net-Zero Europe Platform

The Norwegian Government considers the Net-zero Europe Platform as a potential center of convergence and useful arena to coordinate intergovernmental dialogue and private-public discussions on net-zero industries and technologies.

We would welcome a more precise description on the role of this platform, its structure and functions in the operationalisation of the Net-zero Industry Act.