

# Prohibition on coal-fired power plants

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## Current situation

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## Current situation

In the new government's coalition agreement of October 10 2017, the ruling parties promised to phase out coal-fired power plants by 2030 (for further details please see "[New government's ambitious climate and energy initiatives](#)").

Parallel to the ongoing negotiations on an ambitious new climate agreement (for further details please see "[Towards a climate and energy plan: will Dutch polder model succeed?](#)"), the minister of economic affairs and climate policy has been negotiating the closure of the five remaining coal-fired power plants in the Netherlands.

On May 16 2018 the government announced a new bill that will effect this closure. Immediately thereafter, on May 18 2018, a draft for this bill was published for consultation until June 16 2018.

## Proposed bill

The central article of the draft Act on the Prohibition on Coal for Electricity Production unsurprisingly prohibits the production of electricity in a production installation by means of coal. This prohibition will enter into force immediately after the act's publication in the *Government Gazette*, following its adoption by Parliament (the House of Representatives and subsequently the Senate). Parliament is expected to vote overwhelmingly in the bill's favour.

The prohibition will not apply to production installations with a net electricity efficiency of:

- 40% or more (old coal-fired plants) until the end of 2024; or
- 44% or more (new coal-fired plants) until January 1 2030.

'Net electricity efficiency' is defined as the electricity supplied to the national high-voltage grid divided by the energy content of the fuel used.

The bill further provides that at the request of a production installation operator, the minister of economic affairs and climate policy may grant compensation when the operator proves that it has been disproportionately hit by the prohibition relative to the other operators of coal-fired production installations. This reflects the public law principle of equality before the law, which requires governments and their agencies to compensate for disproportionate damages as a result of legitimate measures. In the explanatory notes to the draft bill, the minister substantiated why, in his view:

- the prohibition meets the fair balance test of Article 1 of the First Protocol to the European Convention on Human Rights; and
- additional compensatory mechanisms (other than the aforementioned right to request compensation from the minister on the basis that the prohibition is disproportionate) are not necessary in the draft bill.

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The minister highlighted:

- the likelihood of the prohibition or other measures to reduce carbon dioxide (CO<sub>2</sub>) coming into force for the existing coal-fired plants;
- the fact that the plants can be used to produce electricity with other fuels (eg, biomass, for which subsidies have been granted); and
- the grace periods of more than five years for the allegedly depreciated old plants and more than 10 years for the new plants (assuming that the act enters into force before the end of 2019).

### **Effects and initial public reactions**

There are five coal-fired power plants in the Netherlands, owned by four operators:

- RWE (one old plant and one new plant);
- ENGIE (one new plant);
- Uniper (one new plant); and
- Nuon/Vattenfall (one old plant).

Closure of these five plants would significantly reduce the emittance of CO<sub>2</sub> in the Netherlands. According to the Dutch Emissions Authority, coal-fired electricity production resulted in emissions of 29.5 megatonnes of CO<sub>2</sub> in the Netherlands in 2016.

Nuon/Vattenfall has already publicly announced that it will accept the forced closure of its old Hemweg (Amsterdam) power plant by no later than 2024. Uniper is experimenting with iron powder as an alternative fuel for its Maasvlakte (Rotterdam) coal-fired power plant and has publicly pressed for more subsidies to make the transition to other fuels for this new plant. ENGIE has publicly kept its cards close to its chest with respect to its new Rotterdam power plant. However, RWE, which is also working on the transition to biomass for both its old and new Eemshaven (Groningen) plants, has dubbed the draft bill "unwise" and threatened to take legal action. RWE has publicly pointed out that its huge new power plant (with a capacity of more than 1.5 gigawatts) was commissioned in 2015 allegedly at the government's special request for an investment of €3.2 billion and operates within the conditions of the permits granted thereto.

Although exiting coal may be relatively easy, it may be naive to think that it can be done for free.

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