

Ministry of Economic Affairs, Industry, Climate Action and
Energy of the State of North Rhine-Westphalia

Summary of the second amendment of the Regional Development Plan of North Rhine- Westphalia and the environmental review

**Excerpts from the environmental report including the planned specifications of
the second LEP amendment (Table 1)**

Cause

The state government of North Rhine-Westphalia intends to revise the Regional Development Plan of North Rhine-Westphalia (LEP [*Landesentwicklungsplan*] NRW) within the framework of a second amendment procedure. The second amendment serves, in particular, to implement the *WindBG* (Wind Energy Area Requirements Act) in order to secure additional areas for the use of wind energy in NRW. According to Section 3 (1) of the *WindBG*, a percentage of the land area in each federal state is to be designated for onshore wind energy in accordance with Appendix 1 (area contribution value). In North Rhine-Westphalia, according to Appendix 1 of Section 3 of the *WindBG*, this includes 1.1% of the state's land area by 31/12/2027 and 1.8% of the state's land area by 31/12/2032. The state government is pursuing the goal of achieving these area targets by as early as 2025. In addition, the area for outdoor solar arrays (outdoor photovoltaic systems or solar thermal systems) in North Rhine-Westphalia is to be expanded.

The current LEP NRW is composed of the 2017 version and the 1st amendment, which entered into force in August 2019. In May 2022, however, the Higher Administrative Court of North Rhine-Westphalia declared individual provisions of the 1st Amendment in the objectives for securing raw materials ineffective.

The LEP NRW is the most important regional planning instrument in North Rhine-Westphalia. In accordance with Section 1 (1) of the *ROG* [Regional Planning Act], it serves to coordinate different requirements for the space, to compensate for the land protection and land use conflicts already occurring at state level and to take precautions for individual uses and functions of the space. In accordance with Section 8 of the *ROG*, an environmental assessment must be carried out in the context of the preparation and amendment of regional development plans in accordance with Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (SEA Directive).

Scope and content of the second amendment to the LEP NRW

The second amendment to the LEP NRW, planned by the state government of North Rhine-Westphalia, is particularly for implementing the federal government's *WindBG* and extending the area for outdoor solar energy. The planned changes of objectives and principles in the LEP are summarised in Tab. 1.

Tab. 1 Planned content of the second amendment to the LEP NRW*

Applicable LEP NRW (Updated: 2019)	Planned amendment to the LEP NRW
Principle 10.2-2 Wind energy priority areas	Objective 10.2-2 Wind energy priority areas
In the planning regions, areas for the use of wind energy can be defined as priority areas in the regional plans.	<p>For North Rhine-Westphalia, a total of 1.8 percent of the state's land area is to be designated for wind energy in terms of planning.</p> <p>To this end, areas for the use of wind energy are to be designated as priority areas in the regional plans (wind areas) in the six planning regions, to at least the following extent:</p> <ul style="list-style-type: none"> • Arnsberg planning region: 13,186 ha • Detmold planning region: 13,888 ha • Düsseldorf planning region: 4,151 ha • Cologne planning region: 15,682 ha • Münster planning region: 12,670 ha • Planning region of the Ruhr Regional Association: 2,036 ha <p>These priority areas are to be designated as rotor outside areas.</p>
Principle 10.2-3 Distance between areas/areas for wind turbines	Principle 10.2-3 Distance between areas/areas for wind turbines
When planning wind turbines in regional plans and municipal land use plans, a precautionary planning distance should be maintained from general settlement areas and residential areas in accordance with local conditions; there must be a distance of 1500 metres from general and pure residential areas. This does not apply to the replacement of old systems (repowering).	When planning wind turbines in regional plans and municipal land use plans, a precautionary planning distance should be maintained from general settlement areas and residential areas in accordance with local conditions; there must be a distance of 1500 metres from general and pure residential areas. This does not apply to the replacement of old systems (repowering).
	Objective 10.2-3 Incompatibility of height limits with wind energy areas
	Height restrictions are not compatible with the wind energy areas defined under Objective 10.2-2.

Applicable LEP NRW (Updated: 2019)	Planned amendment to the LEP NRW
	Principle 10.2-5 Carry out and complete changes to the national and regional plans in parallel
	<i>The regional planning procedures for defining the area targets will be conducted in parallel with the amendment of the Regional Development Plan. In particular, the implementation of the participation procedure in accordance with Section 9 (2) of the ROG is to be completed in 2024 in order to enable the legal consequences of Section 245 e (4) of the BauGB [Federal Building Code] to take effect as early as in 2024. The procedures are due to be completed in 2025.</i>
	Objective 10.2-6: Wind energy utilisation in woodland areas
	<i>Regional forest areas designated by regional planning may be used for wind energy in the case of coniferous forests. Excluded are nature reserves, national parks, national natural monuments, natural forest reserves and Natura 2000 sites.</i>
	Principle 10.2-7 Wind energy utilisation in low-forest municipalities
	<i>In low-forest municipalities (less than 20% of the municipal area is made up of forest), deciduous and coniferous trees and mixed forests are of great significance when it comes to open space, forest functionality, wildlife corridors and the preservation of biological diversity. As such, areas of forest designated by regional planning in low-forest municipalities (made up of less than 20% forest) should not be considered when defining areas for wind energy, as far as is reasonable in terms of planning.</i>
	Objective 10.2-8: Wind energy utilisation in nature conservation areas
	<i>Deviating from Objectives 7.2-2 and 7.2-3, priority areas for wind energy utilisation may also be designated in conservation areas, except for Natura 2000 areas, nature reserves, national natural monuments or national parks.</i>
	Principle 10.2-9 Consideration of existing locations and municipal wind energy planning
	<i>The designation of wind energy areas under Objective 10.2-2 shall take into account appropriate wind energy locations and wind energy planning by the municipalities.</i>
	Objective 10.2-10 Monitoring of wind energy areas
	<i>Wind energy areas must be examined and updated on a regular basis with regard to technical developments and an area's usability for energy production.</i>

Applicable LEP NRW (Updated: 2019)	Planned amendment to the LEP NRW
	Principle 10.2-11 Use of municipalities with wind energy areas
	<i>In the regional planning designation of wind energy areas, the interests of the affected municipalities, in particular, must be taken into account.</i>
	Objective 10.2-12 Wind energy utilisation in industrial and commercial areas
	<i>In commercial and industrial areas, the use of suitable areas for wind energy utilisation must be examined. In this context, wind energy utilisation must be made possible as a complementary use subordinate to other commercial and industrial uses in order to simultaneously ensure the most efficient use of land and avoid the further designation of areas for commercial and industrial uses.</i>
	Objective 10.2-13 Controlling wind energy usage in the transitional period

Applicable LEP NRW (Updated: 2019)	Planned amendment to the LEP NRW
	<p><i>In the future, more wind turbines are to be built in wind energy areas in North Rhine-Westphalia according to Objective 10.2-2, as well as on special construction sites, in special areas and in comparable areas designated on land use and development plans. The regional planning bodies are obliged to define these wind energy areas to the extent required by 2025.</i></p> <p><i>Until the relevant regional plans adapted based on the version of the Regional Development Plan dated XX/ XX/ 2023 become effective (transitional period), more wind turbines are to be built on the areas set out by regional planning bodies in their draft plans.</i></p> <p><i>Where such concepts do not yet exist, large, connected areas suitable for wind energy (areas with core potential) are to be used for wind energy expansion. Such areas are considered especially suitable for being adopted in regional planning where there are no restrictions in place under regional planning law and no possibility of a concentrated wind energy expansion.</i></p> <p><i>Building additional wind turbines outside of these areas during the transitional period would go against the planning control objective, unless the achievement thereof is otherwise ensured. Building additional turbines outside of pre-defined areas within the scope of regional planning shall be handled on a case-by-case basis during the transitional period, as justified by the individual case, implementing measures under regional planning law in each instance (Section 12 of the Regional Planning Law and Section 36 of the Regional Development Law for North Rhine-Westphalia).</i></p>
Objective 10.2-5 Solar energy utilisation	Objective 10.2-14 Open-space solar energy outdoors for regional planning

Applicable LEP NRW (Updated: 2019)	Planned amendment to the LEP NRW
<p>The use of space for solar energy utilisation by regional planning is possible if the location is compatible with the protective function and utility stated in the respective specification in the regional plan and it is a matter of:</p> <ul style="list-style-type: none"> - the re-use of commercial, mining, transport or housing brownfield sites or military conversion sites with structures, - filled land or - locations along federal highways or railways with trans-regional importance. 	<p><i>Regional or land-use planning for open-space solar energy installations relevant to regional planning is possible in open spaces, except for forest areas and nature conservation areas as defined by regional planning, if the respective location is compatible with the protective function and utility stated in the respective specification in the regional plan. The overriding public interest in the expansion of renewable energies must be taken into account.</i></p> <p>the re-use of commercial, mining, transport or housing brownfield sites or military conversion sites with structures,</p> <p>filled land or</p> <p>locations along federal highways or railways with trans-regional importance.</p>
	<p>Objective 10.2-15 Utilisation of high-quality arable soils for solar energy installations in open spaces relevant to regional planning</p>
	<p><i>Regional or land-use planning for solar energy installations in open spaces relevant to regional planning on high-quality arable soils may only be carried out for agricultural photovoltaic systems.</i></p>
	<p>Principle 10.2-16 Use of core agricultural spaces for solar energy installations in open spaces relevant to regional planning</p>
	<p><i>Regional or land-use planning for solar energy installations in open spaces relevant to regional planning in core agricultural spaces should only be carried out for agricultural photovoltaic systems</i></p>
	<p>Principle 10.2-17 Particularly suitable locations for solar energy installations in open spaces relevant to regional planning</p>

Applicable LEP NRW (Updated: 2019)	Planned amendment to the LEP NRW
	<p><i>The following locations are to be given preference for solar energy installations in open spaces relevant to regional planning:</i></p> <ul style="list-style-type: none"> - <i>suitable brownfield sites,</i> - <i>appropriate stockpiles and landfills,</i> - <i>suitable areas in less-favoured areas,</i> - <i>artificial and substantially modified surface water,</i> <i>or</i> - <i>wind energy areas where this is compatible with the priority function of those areas.</i> <p><i>In addition, areas up to a distance of 500 m from federal highways, state roads and national railway tracks are to be preferentially used. To this end, areas along federal highways and national railway tracks should be primarily designated for systems. Along all other roads and railways devoted to public transport and adjacent to settlement areas, on the other hand, it would be preferable if only areas up to a distance of 200 m were to be used. As a priority, areas should not be designated for systems in the open space alone, but should start from the infrastructure installation or be related to a constructional use, taking into account the interests of agricultural enterprises. Reference is made to that specified in Objective 10.2-15 regarding providing special protection to agricultural areas with high-quality arable soils, as well as to the core agricultural spaces to be considered when making an assessment mentioned in Principle 10.2-16.</i></p>

Applicable LEP NRW (Updated: 2019)	Planned amendment to the LEP NRW
	<i>Principle 10.2-18 Open-space solar energy in settlement areas</i>
	<i>Land-use planning is intended to support the use of open-space solar energy in settlement areas as a complementary use subordinate to other commercial and industrial uses.</i>

*Only the paragraphs in which text changes are made are displayed. Paragraphs where no changes are made are not reproduced. Areas with text changes are highlighted in italics. The text in the right-hand column is crossed out where entire provisions or paragraphs in the previous LEP have been deleted. The headings with the names of the objectives and principles are in bold

The second amendment of the LEP NRW only covers textual specifications in the form of objectives and principles of regional planning. These are where existing specifications have been reworded, modified or deleted.

The LEP NRW specifications for the distribution of the area contribution values mentioned in the *WindBG* for wind energy utilisation in the regions is based on the revised area analysis for wind energy utilisation in the state of North Rhine-Westphalia (area analysis for wind energy in NRW) (see Chapter **Fehler! Verweisquelle konnte nicht gefunden werden.**). This was developed by the State Office for Nature, Environment and Consumer Protection of the State of North Rhine-Westphalia (LANUV NRW) (LANUV 2023c).

The area of application for the LEP NRW as a state-wide regional planning plan is the territory of North Rhine-Westphalia. In this context, the second amendment of the LEP NRW refers to a formal procedure in which parts of the LEP currently in force are amended or deleted or new provisions are supplemented. The rest of the plan remains valid.

Cross-border environmental effect

The area of application of the LEP NRW borders on the neighbouring EU Member States of the Netherlands and Belgium. The SEA therefore raises the question of whether negative cross-border environmental effects may occur on Dutch or Belgian territory as a result of the new planning arrangements.

This examination must take into account that the LEP amendment does not make any specific regional planning specifications. Despite the LEP amendments, the construction of wind energy plants remains subject to the designation of priority areas for wind energy utilisation at regional planning level and/or a location decision for individual wind energy plants at approval level. Despite the LEP amendments, the construction of solar energy systems remains subject to further planning control and/or a location decision at the approval level. In this context, the necessary minimum distances and precautionary distances, for example to settlement areas or to deposits and breeding grounds of wind-sensitive species, must be checked – not only for the State of North Rhine-Westphalia, but also in cross-border locations.

The amendments to the LEP NRW do not result in preference being given to near-border sites. Therefore, the planned amendments to the LEP NRW alone are not expected to have a significant adverse effect on the environment in the neighbouring states of the Netherlands or Belgium.

Overall plan view

In principle, the subject of the environmental assessment is the entire plan, including all plan contents, which may have a significant environmental impact. Therefore, the results of the description and assessment of each plan specification, including the effects that have not ensued in the context of individual assessments, should be combined to a final evaluation of the overall plan impact of all plan contents. In particular, cumulative environmental effects must be taken into account. (MWIDE NRW 2020).

The overall planning assessment of the environmental impact of the planned changes can only be carried out in general terms on the basis of the specifications which are only available in textual form and which can only be located locally. A summary assessment of the expected environmental impact of the LEP, i.e. a detailed quantification of the consequences for the environment, is not possible and can only be carried out in the course of planning at the subordinate planning levels (regional and building planning) (stratification).

Overall, it is clear that the planned specifications in the LEP NRW provide for a fair distribution in the state, which corresponds to the natural conditions, both with regard to the distribution of area contribution values for wind energy and for the available locations for outdoors solar energy installations. There is sufficient planning scope for avoiding possible cumulative negative environmental effects at the following level and for avoiding them with location alternatives without having to question the expansion goals of the state government for renewable energies.

Generally understandable summary of the environmental report

The state government of North Rhine-Westphalia intends to revise the Regional Development Plan of North Rhine-Westphalia (LEP [*Landesentwicklungsplan*] NRW) within the framework of a second amendment procedure. The second amendment serves in particular to implement the *WindBG* (Wind Energy Area Requirements Act) in order to secure additional areas for the use of wind energy in NRW. The area contribution values according to Appendix 1 of Section 3 (1) of the *WindBG* are 1.1 % of the state area for NRW, which is to be reached by 31/12/2027, and 1.8 % by 31/12/2032. In addition, the state government is pursuing the goal of expanding the areas for open-space solar energy installations (photovoltaic or solar thermal) in North Rhine-Westphalia. No area contribution values are currently being specified for solar energy. The second amendment to the LEP NRW only covers text specifications. There is no provision for separate drawings. The planned amendments include:

- The fair distribution of the area contribution values for the State of North Rhine-Westphalia mentioned in the *WindBG* across the regional planning areas.
- Enabling wind energy utilisation on suitable land in forests, commercial and industrial areas

- Removal of the 1,500 m distance control for wind turbines
- Expansion of the areas for open-space solar energy.

When drawing up regional development plans, an environmental assessment must be carried out by the body responsible for the regional planning plan, in accordance with Section 8 (1) of the *ROG*. This also applies to the second amendment to the LEP NRW in the present case in accordance with Section 7 (7) of the *ROG*. The environmental assessment shall identify, describe and assess the likely significant impact of an amendment on the following protected resources:

- human beings, including human health,
- animals, plants and biodiversity,
- surface, soil, water, air, climate,
- landscape,
- cultural and other material goods; and
- the interactions between the aforementioned protected resources.

The main content document of the environmental review is the environmental report to be prepared in accordance with Section 8 (1) of the *ROG*. The environmental assessment therefore relates to what can be reasonably required according to generally accepted test methods and our current state of knowledge, as well as according to the content and level of detail of the regional planning plan. The test intensity and the forecasting methods used are based on the scale of the planning specifications.

The environmental assessment concludes that the planned specifications in the LEP NRW regarding the distribution of area contribution values for wind energy as well as for the available locations for open-space solar energy provide for a fair distribution in the state in accordance with natural conditions. There is sufficient planning scope for avoiding possible cumulative negative environmental effects at the following planning level and for avoiding them with location alternatives without having to question the expansion goals of the state government for renewable energies.