



Ministry of the Interior and
Kingdom Relations

The Environmental Quality Decree of the Netherlands

Consolidated version December 2020

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Decree of 3 July 2018, rules on the quality of the physical environment and the performance of tasks and authorities (Environmental Quality Decree)

Chapter 1 General provisions

Article 1.1

(terms and definitions)

Annex I to this Decree contains terms and definitions applicable to this Decree.

Article 1.1a

(principle)

This Decree is based on Articles 1.5(2), 2.10(4), 2.11(2), 2.11a, 2.14, 2.15(1), 2.18(1), 2.19(5), 2.24(1), 2.39(4), 2.41(2), 2.43(1 and 2), 3.10(2), 3.13, 3.16(2), 5.18, 5.31(1), 5.34(2), 5.38(3), 5.40(1 and 2), 5.42(1 and 3), 12.24(4), 12.37(3), 16.139(1), 20.1(3 and 4), 20.2, (1,4,5 and 6), 20.3(1), 20.6(1), 20.8(1), 20.10(1), 20.14(3 and 4) and 20.16(1) of the Act, Article 4(1) of the Framework Act Subsidies I and M and Articles 3.4(1)(preamble and b) and 3.7 of the Noise Act Supplementing the Environment and Planning Act.

Article 1.2

(exclusive economic zone)

Articles 1.1, 2.8a, 2.8b, 3.1, 3.15, 4.1(b)(3⁰), 4.2a and 4.8 through to 4.10, Section 4.4, Chapter 8, with the exception of Sections 8.1 and 8.3 and Article 8.17, and Articles 11.21, 11.38 and 11.66 also apply to the exclusive economic zone.

Chapter 2 Environmental values

Section 2.0 Environmental values municipality or province

Article 2.0

(underpinning of environmental values municipality or province)

1. If in an environment plan or environment regulation on the basis of Article 2.11 or 2.12 respectively of the Act environmental values are determined, these are based on an investigation performed by an independent expert.
2. Paragraph one does not apply to:
 - a. environmental values required on the basis of Section 2.3 of the Act or rules as intended in Article 2.22 or 2.24 of the Act;
 - b. deviating environmental values as intended in Article 2.11(2) or 2.12(2) of the Act;
 - c. noise production ceilings as environmental values not required on the basis of Section 2.3 of the Act.

Section 2.1 Environmental values guaranteeing safety

§ 2.1.1

Environmental values for the safety of primary flood defences

Article 2.0a

(environmental values for the safety of primary flood defences)

For the safety of primary flood defences, the environmental values as intended in Article 2.0c apply.

Article 2.0b

(scope environmental values for the safety of primary flood defences)

The environmental values for the safety of primary flood defences apply for a dyke section as intended in Annex II(A), the location of which is bounded by ministerial order.

Article 2.0c

(environmental values for the safety of primary flood defences per section of dyke)

1. Dyke sections as intended in Annex II(A) are subject to the highest permissible risk per year of loss of water retaining capacity as a result of which the area protected by the dyke section floods in such a way and to such an extent that it results in fatalities or substantial economic damage, as intended in Annex II(B)(column 1).
2. Notwithstanding paragraph one, dyke sections 201, 204a, 204b, 205, 206, 208 through to 212, 214 through to 219 and 222 through to 227 are subject to the highest permissible risk per year of loss of water retaining capacity as a result of which the hydraulic load on a subsequent dyke section is substantially raised, as intended in Annex II(B)(column 2).
3. Notwithstanding paragraph one, dyke section 16-5 is subject to the highest permissible risk of loss of water retaining capacity as a result of which the area protected by the dyke section floods in such a way and to such an extent that it results in fatalities or substantial economic damage on each occasion that it is subjected to a hydraulic load by the flooding of the area protected by a preceding dyke section as intended in Annex II(B)(column 3).
4. Dyke sections 25-3, 27-3, 27-4, 31-3, 33-1, 34-3, 34-4 and 34-5 are also subject to the highest permissible risk of loss of water retaining capacity as a result of which the area protected by the dyke section floods in such a way and to such an extent that it results in fatalities or substantial economic damage on each occasion that an increase in hydraulic load occurs as a result of a measure aimed at increasing the discharge or storage capacity of a water system as intended in Annex II(B)(column 4).
5. Dyke sections 208 through to 210 and 225 are also subject to the highest permissible risk of non-closure of the storm surge barrier on each occasion that it is necessary to close the barrier, as intended in Annex II(B)(column 5).

- Article 2.od** (term and nature of environmental values for the safety of primary flood defences)
1. The environmental values for the safety of primary flood defences will be satisfied as from 1 January 2050).
 2. The environmental values for the safety of primary flood defences are result obligations.
- Article 2.oe** (possible exceptions environmental values for the safety of primary flood defences not managed by the State)
1. An exception can be made in the water management programme to satisfying the environmental values for the safety of primary flood defences in as much as not managed by the State.
 2. Paragraph one applies to cases where:
 - a. the measures to satisfy the environmental value are programmed on the part of the delta programme as intended in Article 4.9 of the Water Act, which contains the measures that must be taken by Our Minister of Infrastructure and Water Management or water authorities for a reason as intended in Article 7.24(1)(a, b or c) of that Act;
 - b. satisfying the environmental value is unreasonably costly;
 - c. due to circumstances beyond the scope of influence of the board of directors of the water authority, the results of the assessment of the safety of the primary flood defence change in such a way that the environmental value is not or cannot be satisfied; or
 - d. despite the relevant actions taken, the environmental value is not or cannot be satisfied within an appropriate term, due to the lead time of taking measures to satisfy the environmental value.
- Article 2.of** (possible exception to environmental values for the safety of primary flood defences managed by the State)
1. An exception can be made to satisfying the environmental values for the safety of primary flood defences in the national water programme if relating to a primary flood defence managed by the State.
 2. Paragraph one applies to cases as intended in Article 2.oe(2)(b, c and d) whereby in c, instead of 'the board of directors of the water authority', 'Our Minister of Infrastructure and Water Management' can be read.
- § 2.1.2** *Environmental values for the safety of flood defences other than the primary flood defences managed by the State*
- Article 2.og** (environmental values for the safety of flood defences other than the primary flood defences managed by the State)
- For the safety of flood defences other than primary flood defences, if relating to flood defences managed by the State, as referred to in Annex II(2)(B) to the Environment Decree, the environmental values as intended in Article 2.oi apply.
- Article 2.oh** (scope environmental values safety of flood defences other than primary flood defences managed by the State)
- The environmental values for the safety of flood defences other than primary flood defences, in as much as managed by the State, apply to:
- a. dyke sections as intended in Annex IIa(A), the locations of which are bounded by ministerial order; or
 - b. water-retaining civil engineering structures in entrenched sections of flood defences as intended in Annex IIa(A).

Article 2.oi	<p>(environmental values for the safety of flood defences other than the primary flood defences managed by the State)</p> <p>1. Dyke sections as intended in Annex IIa(A) are subject to the average exceeding frequency per year of the highest water level for which the dyke section must be dimensioned, as intended in Annex IIa(B).</p> <p>2. Water-retaining civil engineering structures in entrenched sections of flood defences as intended in Annex IIa(A) are subject to the average exceeding frequency per year of the highest water level for which the civil engineering structure must be dimensioned of 1:100.</p>
Article 2.oj	<p>(term and nature of environmental value for safety of flood defences other than primary flood defences managed by the State)</p> <p>1. The environmental values will be satisfied as from 1 January 2032.</p> <p>2. The environmental values for the safety of flood defences other than primary flood defences, in as much as managed by the State, are result obligations.</p>
Article 2.ok	<p>(possible exception environmental values for the safety of flood defences other than the primary flood defences managed by the State)</p> <p>1. An exception can be made to satisfying the environmental values for the safety of flood defences other than primary flood defences in the national water programme other than primary flood defences in as much as managed by the State.</p> <p>2. Paragraph one applies to cases as intended in Article 2.oe(2)(b, c and d) whereby in c, instead of 'the board of directors of the water authority', 'Our Minister of Infrastructure and Water Management' can be read.</p>
Section 2.2	<p>Environmental values protecting health and the environment</p>
§ 2.2.1	<p>Environmental values quality of outside air</p>
Article 2.1	<p>(environmental values air quality)</p> <p>The quality of the outside air is subject to the environmental values as intended in Articles 2.3 through to 2.8a.</p>
Article 2.1a	<p>(environmental values from the air quality directive and the dangerous substances in ambient air directive)</p> <p>1. The environmental values as intended in Articles 2.3 through to 2.8 apply to 293 K and 101.3 kPa for sulphur dioxide, nitrogen dioxide, nitrogen oxides, benzene, carbon monoxide and ozone, and at ambient temperature and pressure for PM₁₀ and PM_{2.5}.</p> <p>2. In an environment plan or environment regulation, an additional environmental value or a deviating environmental value that is stricter than the environmental values as intended in paragraph one may be determined, for the quality of outside air. The economic effects will be considered in determining the value.</p>
§ 2.2.1.1	<p>Environmental values air quality directive</p>
Article 2.2	<p>(scope environmental values air quality directive)</p> <p>The environmental values for the quality of outside air as intended in Articles 2.3 through to 2.7 do not apply to a workplace as intended in Article 2 of Council Directive 89/654/EC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (OJEC 1989, L 393) to which as a rule the public has no access.</p>

Article 2.3**(environmental values sulphur dioxide)**

1. Sulphur dioxide is subject to the following maximum permissible concentrations:
 - a. 350 µg/m³ hourly average, not exceeded more than 24 times per calendar year;
 - b. 125 µg/m³ 24-hour average, not exceeded more than three times per calendar year;
 - c. 20 µg/m³ calendar year average; and
 - d. 20 µg/m³ winter six-monthly average, over the period from 1 October through to 31 March.
2. The environmental values for sulphur dioxide are result obligations.
3. The environmental values as intended in paragraph one (preamble and c and d) apply at locations with a surface area of at least 1,000 km² located at a distance of at least:
 - a. 20 km from a agglomeration designated by ministerial order; and
 - b. 5 km from:
 1. another location with building;
 2. an IPPC installation or other environmentally harmful installation; and
 3. a motorway or trunk road used by more than 50,000 motor vehicles per day.

Article 2.4**(environmental values nitrogen dioxide and nitrogen oxides)**

1. Nitrogen dioxide is subject to the following maximum permissible concentrations:
 - a. 200 µg/m³ hourly average, not exceeded more than eighteen times per calendar year; and
 - b. 40 µg/m³ calendar year average.
2. Nitrogen oxides are subject to a maximum permissible concentration of 30 µg/m³ calendar year average.
3. The environmental values for nitrogen dioxide and nitrogen oxides are result obligations.
4. The environmental value for nitrogen oxides, as intended in paragraph two applies at locations as intended in Article 2.3(3).

Article 2.5**(environmental values particulate matter)**

1. PM₁₀ is subject to the following maximum permissible concentrations:
 - a. 50 µg/m³ 24-hour average, exceeded not more than 35 times per calendar year; and
 - b. 40 µg/m³ calendar year average.
2. PM_{2.5} is subject to the following maximum permissible concentrations:
 - a. 25 µg/m³ calendar year average.
 - b. 20 µg/m³ moving average of the calendar year averages calculated over three calendar years; and
 - c. 14.4 µg/m³ moving average of the calendar year averages calculated over three calendar years.
3. The environmental values for PM₁₀, as intended in paragraph one and the environmental values for PM_{2.5} as intended in paragraph two(a and b) are result obligations.
4. The environmental value for PM_{2.5} as intended in paragraph two(c) is a best efforts obligation.
5. The environmental values as intended in paragraph two(b and c) apply to urban background locations, namely urban areas where the concentrations are representative for the exposure of the general urban population.

Article 2.6**(environmental values benzene, lead and carbon monoxide)**

1. Benzene is subject to the maximum permissible concentration of 5 µg/m³ calendar year average.
2. Lead is subject to the maximum permissible concentration of 0.5 µg/m³ calendar year average PM₁₀.
3. Carbon monoxide is subject to the maximum permissible concentration of 10,000 µg/m³ maximum eight-hour average in a day.
4. The environmental values for benzene, carbon monoxide and lead are result obligations.

Article 2.7**(environmental values ozone)**

1. Ozone is subject to the following maximum permissible concentrations:
 - a. 120 µg/m³ maximum eight-hour average concentration in a day, which on average is not exceeded by more than twenty-five days per calendar year averaged over three calendar years;
 - b. 120 µg/m³ maximum eight-hour average concentration in a day, in a calendar year, that is satisfied in the long term;
 - c. 18,000 (µg/m³) · hour as AOT₄₀ average over five calendar years; and
 - d. 6,000 (µg/m³) · hour AOT₄₀ per calendar year, satisfied in the long term.
2. AOT₄₀ is a totalled difference between the hourly average concentrations for ozone above 80 µg/m³ and 80 µg/m³ between 08.00 hours and 20.00 hours for the period from 1 May through to 31 July.
3. The environmental values for ozone are best efforts obligations.

§ 2.2.1.2***Environmental values dangerous substances in ambient air directive*****Article 2.8****(environmental values dangerous substances in ambient air directive)**

1. The following substances are subject to the designated maximum permissible concentration as a calendar year average in PM₁₀:
 - a. for arsenic: 6 ng/m³;
 - b. for cadmium: 5 ng/m³;
 - c. for nickel: 20 ng/m³; and
 - d. for benzo(a)pyrene: 1 ng/m³.
2. The environmental values for arsenic, cadmium, nickel and benzo(a)pyrene are best efforts obligations.

§ 2.2.1.3***Environmental values NEC directive*****Article 2.8a****(environmental values NEC directive)**

1. For the total annual anthropogenic emissions from sources located in the Netherlands of the following substances, the designated reduction percentage as compared with 2005 applies, which is satisfied starting from 1 January of the designated year:
 - a. for sulphur dioxide:
 1. 28%, in 2020; and
 2. 53%, in 2030;
 - b. for nitrogen oxides:
 1. 45%, in 2020; and
 2. 61%, in 2030;
 - c. for volatile organic substances with the exception of methane:
 1. 8%, in 2020; and
 2. 15%, in 2030;
 - d. for ammonia:
 1. 13%, in 2020; and
 2. 21%, in 2030; and
 - e. for PM_{2.5}:
 1. 37%, in 2020; and
 2. 45%, in 2030.
2. For the application of this Article, sulphur dioxide shall be taken to mean: all sulphur compounds expressed as sulphur dioxide, including sulphur trioxide, sulphuric acid and reduced sulphur compounds such as hydrogen sulphide, mercaptans and dimethyl sulphides.
3. The environmental values for sulphur dioxide, nitrogen oxides, volatile organic substances with the exception of methane, ammonia and PM_{2.5} are result obligations.

Article 2.8b**(possible exceptions environmental values)**

1. To satisfy the environmental values as intended in Article 2.8a, an exception may only be made in as much as permitted in accordance with the NEC Directive.
2. Paragraph one does not apply if an environmental value cannot be satisfied:
 - a. due to an exceptionally cold winter or an exceptionally dry summer: in that case, the environmental value will be considered as having been satisfied if the average of the annual emissions for the current, previous and coming year satisfy the environmental value; or
 - b. due to the sudden and exceptional interruption or capacity loss within the power or heat supply or production system that could not reasonably be predicted: in that case, the environmental value is considered as having been satisfied for a maximum of three years, if:
 1. all reasonable efforts, including the taking of new measures and the implementation of new policy, have been made to satisfy the environmental values;
 2. those efforts are continued in order to keep the period during which the environmental value is not satisfied as short as possible; and
 3. the taking of measures and the implementation of policy in addition to the measures and the policy as intended in 1°, would result in unreasonably high costs, would represent a considerable risk to national energy security or would expose a considerable proportion of the population to a substantial risk of energy poverty.
3. If relating to the environmental value as intended in Article 2.8a(1)(e)(2°), paragraph one also does not apply if, after all cost effective measures have been taken, the environmental value cannot be satisfied. In that case, the environmental value is considered as having been satisfied for a maximum of five years if for each of those years the failure to comply with the standard is compensated by an equivalent emission reduction of another substance for which an environmental value as intended in Article 2.8a applies.

§ 2.2.2***Environmental values water quality*****§ 2.2.2.0*****General*****Article 2.9****(environmental values water quality)**

1. The water quality of a Water Framework Directive (WFD) body of surface water is subject to the environmental values as intended in Articles 2.10(1), 2.11(1) and 2.15(1).
2. The water quality of a body of groundwater is subject to the environmental values as intended in Articles 2.13(1) and 2.14(1).
3. An additional environmental value or deviating environmental value that is stricter than the environmental values as intended in paragraphs one and two may be determined by an environment regulation for the water quality of a WFD body of surface water or body of groundwater. The economic effects will be considered in determining the value.

§ 2.2.2.1***WFD bodies of surface water*****Article 2.10****(environmental values good chemical status WFD body of surface water)**

1. A WFD body of surface water has a good chemical status. A good chemical status is achieved if:
 - a. the requirements as intended in Annex III are met, whereby for the substances referred to in columns 10 and 11 of that Annex, the environmental values are satisfied as from the date stated in those columns; and
 - b. the concentration of priority substances that have a tendency to accumulate in sediment or in biota has not risen significantly by the dates stated in Annex III.

2. Each of the requirements as intended in paragraph one (a) and the requirement as intended in paragraph one (b) are separate environmental values.
3. In a case as intended in Article 3(8ter) of the Priority Substances Directive, notwithstanding paragraph one (preamble and a), instead of the date 22 December 2021 stated in column 10 of Annex III, the date 22 December 2027 stated in column 11 of Annex III applies.
4. The environmental values are different obligations as intended in Article 2.10(1) (preamble and a) of the Act, as described in Article 4(1)(preamble and a)(ii and iii) of the Water Framework Directive.
5. The environmental values apply to a WFD body of surface water designated in a regional water programme or the national water programme on the basis of Article 4.4(2) (preamble and a) or 4.10(2)(preamble and a).

Article 2.11**(environmental value good ecological status WFD body of surface water)**

1. A WFD body of surface water has a good ecological status. A good ecological status is achieved if the WFD body of surface water:
 - a. fulfils the definitions of good ecological status for the quality element elaborated for that type of natural WFD body of surface water, as intended in Annex V, subsection 1.2, tables 1.2.1 through to 1.2.4, to the Water Framework Directive, elaborated in the Stowa report for natural water types; and
 - b. for the quality element specific pollutants contains no higher concentration of a substance listed in Annex IIIa, than the value listed for that substance in that annex.
2. The environmental value is a different obligation as intended in Article 2.10(1)(preamble and a) of the Act, as described in Article 4(1)(a)(ii) of the Water Framework Directive.
3. The environmental value applies to a WFD body of surface water designated in a regional water programme or the national water programme on the basis of Article 4.4(2) (preamble and a) or 4.10(2)(preamble and a).

Article 2.12**(possible exceptions good ecological potential WFD body of surface water)**

1. For an artificial WFD body of surface water or heavily altered WFD body of surface water, an exception can be made to the obligation to satisfy the environmental value and good ecological status as intended in Article 2.11(1), if a good ecological potential is determined in a regional water programme, if relating to regional waters, or the national water programme, if relating to national waters.
2. The good ecological potential applies to an artificial WFD body of surface water or heavily altered WFD body of surface water designated in a regional water programme or the national water programme on the basis of Article 4.4(2)(preamble and a) or 4.10(2) (preamble and a).

§ 2.2.2.2**Bodies of groundwater****Article 2.13****(environmental value good quantitative status body of groundwater)**

1. A body of groundwater has a good quantitative status. A good quantitative status is achieved if the conditions as intended in Annex V (point 2.1.2) to the Water Framework Directive are met.
2. The environmental value is a different obligation as intended in Article 2.10(1)(preamble and a) of the Act, as described in Article 4(1)(preamble and b)(ii) of the Water Framework Directive.
3. The environmental value applies to a body of groundwater designated in a regional water programme on the on the basis of Article 4.4(2)(preamble and b).

Article 2.14**(environmental values good chemical status body of groundwater)**

1. A body of groundwater has a good chemical status. A good chemical status is achieved if:
 - a. the conditions as intended in Annex V (point 2.3.2) to the Water Framework Directive and the requirements as intended in Annex IV (tables A and B) are met; or
 - b. the requirements as intended in a are not met, but the provincial executive has confirmed by means of an appropriate investigation in compliance with Annex III to the Groundwater Directive, that the conditions as intended in Article 4(2)(preamble and c) and (5) of that Directive are met.
2. Every condition and requirement as intended in paragraph one (a) is a separate environmental value.
3. The environmental values are different obligations as intended in Article 2.10(1) (preamble and a) of the Act, as described in Article 4(1)(preamble and b)(ii) of the Water Framework Directive.
4. The environmental values apply to a body of groundwater designated in a regional water programme on the on the basis of Article 4.4(2)(preamble and b).

§ 2.2.2.3

Water extraction locations**Article 2.15****(environmental values water extracted at a water extraction location in a WFD body of surface water)**

1. The water extracted at a water extraction location located in a WFD body of surface water meets the requirements for the extracted water as intended in Annex V.
2. The environmental value is a different obligation as intended in Article 2.10(1)(preamble and a) of the Act, as described in Article 7(2) of the Water Framework Directive.
3. The environmental value applies to a water extraction location located in a WFD body of surface water, designated in a regional water programme or the national water programme on the basis of Article 4.4(2)(preamble and c) or 4.10(2)(preamble and b).

§ 2.2.2.4

Confluence and possible exceptions**Article 2.16****(strictest requirement for confluence)**

The strictest requirement aimed at protecting the water quality applies if, for a WFD body of surface water or a body of groundwater, more than one of the following environmental values, other targets or other requirements apply simultaneously:

- a. an environmental value as intended in Article 2.10(1), 2.11(1), 2.13(1), 2.14(1) or 2.15(1) or 2.19(1);
- b. good ecological potential as intended in Article 2.12(1);
- c. a different target for the physical environment as intended in Article 4.15(1), 4.17(1), 4.19 or 4.21(2); or
- d. a different requirement aimed at protecting the water quality on the basis of other regulations.

Article 2.17**(possible exceptions environmental values and good ecological potential)**

1. An exception may only be made to satisfying the environmental values as intended in Articles 2.10(1), 2.11(1), 2.13(1), 2.14(1) and 2.15(1) in a regional water programme if relating to regional waters or in the national water programme if relating to national waters, in as much as such is permitted in accordance with the Water Framework Directive or the Priority Substances Directive.
2. Paragraph one applies to cases where:
 - a. the status of the WFD body of surface water or body of groundwater is not further declining;
 - b. satisfying the environmental value is not viable or is unreasonably costly as a consequence of damage due to human activities or as a result of its natural condition;
 - c. the conditions of Article 4(5, 8 and 9) of the Water Framework Directive are met; and

- d. a less strict target with supporting argument for the body of water is included in the regional water programme if relating to regional waters or the national water programme, if relating to national waters.
- 3. Paragraph one also applies to cases in which:
 - a. failure to satisfy the environmental value is caused by a source of pollution located outside the Netherlands;
 - b. satisfying the environmental value is not possible as a consequence of cross-border WFD pollution; and
 - c. the conditions in Article 6(1)(preamble and c) and (2) of the Priority Substances Directive are met.
- 4. Paragraph one also applies to cases in which:
 - a. failure to satisfy the environmental value is the consequence of new changes to the physical properties of a WFD body of surface water or changes to the status of a body of groundwater;
 - b. the conditions of Article 4(7, 8 and 9) of the Water Framework Directive are met; and
 - c. the supporting argument for the body of water is included in the regional water programme if relating to regional waters or the national water programme, if relating to national waters.
- 5. Paragraphs one, two and four apply accordingly to the good ecological potential determined on the basis of Article 2.12 for an artificial or heavily altered WFD body of surface water.

Article 2.18**(possible exception term environmental values)**

1. The term within which an environmental value must be satisfied may be extended, in as much as permitted according to the Water Framework Directive, for the environmental values as intended in Articles 2.10(1), 2.11(1), 2.13(1), 2.14(1) and 2.15(1) if:
 - a. the status of the WFD body of surface water or body of groundwater is not declining;
 - b. the conditions of Article 4(4 and 8) of the Water Framework Directive are met; and
 - c. the supporting argument is included in the regional water programme if relating to regional waters or the national water programme, if relating to national waters.
2. Paragraph one applies accordingly to the good ecological potential determined on the basis of Article 2.12 for an artificial or heavily altered WFD body of surface water.

§ 2.2.3***Environmental values quality of the bathing site*****Article 2.19****(environmental value bathing site)**

1. Under all circumstances, a bathing site complies with the class acceptable as intended in Annex II(2) to the Bathing Water Directive.
2. The environmental value as intended in paragraph one is a result obligation.
3. In an environment regulation, an additional environmental value or a deviating environmental value that is stricter than the environmental value as intended in paragraph one may be determined, for the quality of a bathing site. The economic effects will be considered in determining the value.

Article 2.20**(possible exception environmental value)**

- Notwithstanding Article 2.19(1) and in compliance with Article 5(4) of the Bathing Water Directive, a bathing site may be temporarily classified in the class poor if at the start of the bathing season:
- a. the provincial executive takes appropriate bathing water management measures including issuing a negative bathing recommendation or imposing a bathing ban, to prevent exposure of bathers to polluted bathing water;
 - b. the manager of the body of surface water identifies the causes of bathing water pollution as a result of which the class acceptable has not been achieved, and takes appropriate measures to prevent or limit pollution or to remove the causes; and
 - c. the provincial executive informs the public in compliance with Article 10.39(3) of the Environment Decree.

Chapter 3 Specific tasks

Section 3.1 Tasks in implementation of the marine strategy framework directive

Article 3.1 (initial assessment, description of good environmental status and environmental targets)

In preparation for the programme of marine strategy measures, Our Minister of Infrastructure and Water Management, in consultation with Our Minister of Agriculture, Nature and Food Quality has determined for Dutch marine waters:

- a. the initial assessment as intended in Article 8 of the Marine Strategy Framework Directive;
- b. the description of the good environmental status as intended in Article 9(1), in combination with Article 3(4 and 5) of the Marine Strategy Framework Directive; and
- c. the environmental targets and accompanying indicators as intended in Article 10(1) in combination with Article 3(7) of the Marine Strategy Framework Directive.

Section 3.2 Quality and management of bathing sites

Article 3.2 (designation of bathing site)

Each year, in consultation with the managers of bodies of surface water, the provincial executive will designate the bathing sites from the locations where in their judgement large numbers of people may bathe. In designating bathing sites, they will consider:

- a. the developments in the number of people bathing at the locations, the infrastructure or facilities; and
- b. measures taken to encourage bathing.

Article 3.3 (non designation of a bathing site)

1. A location will no longer be designated as a bathing site if this bathing site achieved the status poor as intended in Annex II(1) to the Bathing Water Directive for a period of five consecutive years.
2. If a location is no longer designated as a bathing site on the basis of paragraph one, the provincial executive will issue a negative bathing recommendation or announce a bathing ban.

Article 3.4 (duration of the bathing season)

For each bathing site, the provincial executive will determine the start and finish of the bathing season.

Article 3.5 (safety investigation and implementation of measures)

1. The provincial executive will ensure that an investigation into the safety of the bathing site is undertaken each year.
2. Based on the results of the investigation, both the manager of the body of surface water and the provincial executive will implement measures to safeguard or improve the safety of the bathing site.

Article 3.6 (bathing water profile)

1. The manager of the body of surface water will ensure that a bathing water profile is drawn up for a bathing site as intended in Article 6 of the Bathing Water Directive in compliance with Annex III to that Directive.
2. A bathing water profile may relate to a single bathing site or to multiple adjacent bathing sites.

3. Based on the bathing water profile, the manager of the body of surface water will ensure that measures are implemented to satisfy the environmental value, as intended in Article 2.19.

4. Both the manager of the body of surface water and the provincial executive will ensure that realistic and proportional measures are taken to maintain or improve the quality of the bathing site and to ensure an increase in the number of bathing sites classified as excellent or good.

Article 3.7

(bathing water management measures in the event of excessive growth of cyanobacteria, macroalgae and marine phytoplankton)

1. In the event of excessive growth of cyanobacteria, if the provincial executive determines or suspects a health risk, the provincial executive and the manager of the body of surface water will each ensure that appropriate bathing water management measures are taken without delay, to prevent exposure to polluted bathing water.

2. In the event of excessive growth of macroalgae or marine phytoplankton, if the provincial executive determines or suspects a health risk, the provincial executive and the manager of the body of surface water will each ensure that appropriate bathing water management measures are taken.

Article 3.8

(bathing water management measures for polluted bathing water)

If as a result of monitoring as intended in Article 10.21(3) the manager of the body of surface water identifies the pollution of bathing water by tar-like residues, glass, plastic, rubber or other waste, both the manager of the body of surface water and the provincial executive will ensure that appropriate bathing water management measures are taken.

Article 3.9

(bathing water management measures in unexpected circumstances)

If necessary, the manager of the body of surface water will take appropriate bathing water management measures in good time, when he becomes he aware of unexpected situations that have or reasonably could have adverse consequences for the quality of the bathing site and the health of bathers.

Article 3.10

(period for taking bathing water management measures)

Articles 3.7 through to 3.9 only apply during the bathing season.

Article 3.11

(procedures for short-term bathing water pollution)

In compliance with Annex II to the Bathing Water Directive, the manager of the body of surface water will lay down procedures for predicting and tackling short-term bathing water pollution, in the form of microbiological contamination as intended in Annex I (column A) to the Bathing Water Directive with clearly demonstrable causes which are not normally expected to adversely affect the bathing water quality for longer than 72 hours, from the start of the adverse effect.

Section 3.3

Management of water systems

Article 3.12

(designation of national waters water level ordinance)

Under all circumstances, Our Minister of Infrastructure and Water Management will impose water level ordinances as intended in Article 2.41(2) of the Act for the following bodies of surface water, bodies of groundwater or parts thereof:

- a. North Sea Canal, Afgesloten IJ and Amsterdam-Rijnkanaal;
- b. Grevelingenmeer;
- c. Veerse Meer;
- d. Volkerak-Zoommeer, Bathse Spuikanaal and Schelde-Rhine connection between the Volkerak-Zoommeer and the Kreekrak locks; and

- e. IJsselmeer, Ketelmeer, Vossemeer, Zwarte Meer, Markermeer, IJmeer, Buiten-IJ, Gooimeer, Eemmeer, Wolderwijd, Nijkerkernauw, Nuldernauw, Veluwemeer and Drontermeer.

Article 3.13

(exemption from registration)

The following water management structures or parts thereof are exempt from the obligation to create a register as intended in Article 2.39(1) of the Act:

- a. the bodies of surface water North Sea, Wadden Sea, Eems-Dollard, Westerschelde and IJsselmeer, including the Zwarte Meer and the Ketelmeer; and
- b. locations within the bodies of surface water managed by the State not designated as restricted areas relating to a water management structure managed by the State on the basis of Article 2.21(1) of the Act.

Article 3.14

(ranking in the event of water shortages)

1. In the event of a water shortage or impending water shortage, given the distribution of the available water across the social and ecological needs, the following ranking of needs must be taken into account in managing water systems:

- a. guaranteeing protection against flooding and preventing irreversible damage;
- b. public utilities;
- c. small-scale, high-quality use; and
- d. other needs.

2. With regard to the needs as intended in paragraph one (preamble and a), priority will be awarded successively to:

- a. the stability of flood defences;
- b. preventing shrinkage and settlement; and
- c. nature, in as much as relating to preventing irreversible damage.

3. With regard to the needs as intended in paragraph one (preamble and b), priority will be awarded successively to:

- a. drinking water supply in as much as relating to guaranteeing delivery security; and
- b. energy supply, in as much as relating to guaranteeing delivery security.

4. With regard to the needs as intended in paragraph one (preamble and c), given the aim of restricting social and economic consequences as far as possible, priority is awarded to:

- a. the temporary irrigation of capital-intensive crops; and
- b. the processing of industrial process water.

5. With regard to the needs as intended in paragraph one (preamble and d), given the aim of restricting social and economic consequences as far as possible, priority is awarded to:

- a. shipping;
- b. agriculture;
- c. nature, in as much as not relating to preventing irreversible damage.
- d. industry;
- e. water recreation;
- f. inland fishery;
- g. drinking water supply, other than the drinking water supply as intended in paragraph three (preamble and a);
- h. power supply, other than the energy supply as intended in paragraph three (preamble and b); and
- i. other interests.

Article 3.15

(disaster plans)

A disaster plan to be adopted by the manager as intended in Article 19.14 of the Act at least contains:

- a. an overview of the types of disaster than can occur in the water systems or parts thereof, including an inventory of the related risks;

- b. an overview of the measures to be taken, including the measures arising from the flood risk management plans applicable for those water systems, and the available equipment required for tackling the various disasters;
- c. an overview of the services, authorities and organisations that can be called in in the event of danger;
- d. a description of the moment at which and the way in which mayors of the municipalities and chairpersons of the security regions within which the water systems or part thereof are located are informed by the manager;
- e. an organisation chart for the disaster organisation of the manager;
- f. a notification and alarm procedure; and
- g. an overview demonstrating how the manager guarantees the quality of the disaster organisation.

Section 3.4 Design, construction and maintenance of public sewers and design and construction of water treatment plants

Article 3.16

(design, construction and maintenance of public sewers)

The municipal council will ensure that a public sewer is designed, built and maintained in such a way that:

- a. as far as possible it is dimensioned according to the properties, composition and quantity of wastewater;
- b. leaks are prevented as far as possible; and
- c. the number of overflows is kept as low as possible for the effective management of wastewater.

Article 3.17

(design and construction of water treatment plants)

1. In the design and construction of a water treatment plant by the water authority board or the municipal council, the requirements as intended in Article 10 of the Urban Wastewater Directive are met.

2. If the water authority board has charged another legal entity with the operation of a water treatment plant and part of that operation includes the design or construction of the water treatment plant, the water authority board will ensure that that legal entity meets the requirements as intended in Article 10 of the Urban Wastewater Directive, in the design and construction work.

Section 3.5 Noise caused by roads, railways and industrial estates

§ 3.5.1

General provisions

Article 3.18

(scope)

1. This Section applies to noise caused by roads, railways and industrial estates.

2. In application of this Section, noise sensitive buildings will be taken into account, which:

- a. are permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; and
- b. are fully or partially within a noise focus area.

3. Notwithstanding paragraph one, this Section does not apply to noise:

- a. at a noise sensitive building located on an industrial estate; or
- b. at non-noise sensitive facade.

4. Notwithstanding paragraph two, a noise sensitive building that is permitted for a non-planned environment plan activity on the basis of an environment plan or an environmental permit, for a period of not more than ten years, will not be eligible.

Article 3.19

(definitions)

For the application of this Section, the term houseboat should be taken to mean: floating structure with a residential function at a location designated within the environment plan as a mooring for a houseboat.

Article 3.20

(noise focus area)

1. A noise focus area is a location alongside a road or railway or in the vicinity of an industrial estate within which the noise may be higher than the standard value in L_{den} , as intended in Table 3.34.
2. The determination of the noise focus area is subject to the rules laid down by ministerial order.

Article 3.21

(noise sensitive buildings)

1. A noise sensitive building is a building or part of a building with:
 - a. a residential function and its alternative use functions;
 - b. an educational function and its alternative use functions;
 - c. a health function with bed area and its alternative use functions; or
 - d. a meeting function for child care with bed area and its alternative use functions.
2. Paragraph one does not apply to part of a building if the environment plan in that part of the building does not permit noise sensitive rooms, unless the building is a houseboat or caravan.
3. A noise sensitive building shall also be taken to mean a noise sensitive building that is not yet present but which may be built on the basis of the environment plan or an environmental permit for a non-planned environment plan activity.

Article 3.22

(noise sensitive rooms)

1. A noise sensitive room is an occupied room or occupied area in a:
 - a. residential function or meeting function that is an alternative use function of the residential function;
 - b. educational function;
 - c. healthcare function with bed area or meeting function that is an alternative use function of that healthcare function; or
 - d. meeting function for childcare with bed area.
2. Notwithstanding paragraph one (preamble and a), rooms on houseboats and in caravans are not viewed as noise sensitive.

Article 3.23

(where values apply)

Standard values and limit values for noise apply:

- a. at a noise sensitive building, other than a houseboat or caravan:
 1. at the facade, in the case of a noise sensitive building; and
 2. at the location where a facade may be erected, if relating to a new noise sensitive building to be built;
- b. at the boundary of the location for the placement of a houseboat or caravan, if relating to a houseboat or caravan; and
- c. in the noise sensitive room, if relating to a noise sensitive room.

Article 3.24

(determination of noise caused by roads and railways)

1. In determining the noise caused by a road or railway, for the noise properties of a road surface or a railway construction, the noise properties as averaged during the technical working life of that road surface or that railway structure.

2. In determining the noise caused by a railway, the noise caused by railway vehicles at railway marshalling yards:
 - a. for a mainline railway or a local railway designated by environment regulation; and
 - b. will not be included for a local railway, unless designated by environment regulation.
3. In determining the noise caused by a road or railway, the noise caused by all roads or railways forming part of that noise source type will be included.
4. In determining the noise at a noise reference point caused by a road or railway, a structure or building will be included, if it forms part of the noise source data belonging to the noise production ceiling.
5. The determination of the noise is subject to the rules laid down by ministerial order.

Article 3.25**(determining noise caused by industrial estates)**

1. If a noise sensitive building is located in the noise focus area of:
 - a. one industrial estate, the noise caused by that industrial estate will be included in determining the noise at that building; and
 - b. multiple industrial estates, the noise caused by those industrial estates will be included in determining the noise at that building.
2. In determining the noise at a noise reference point for an industrial estate, the following will be included:
 - a. the noise caused only by that industrial estate;
 - b. structures or building structures if they are part of the noise source data belonging to the noise production ceiling; and
 - c. the noise caused by activities other than residential activities performed on the industrial estate, and which are permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
3. In determining the noise caused by an industrial estate, the noise caused by the following will not be taken into consideration:
 - a. wind turbines, wind farms, civilian outdoor shooting ranges, military outdoor shooting ranges and military explosive ordnance sites;
 - b. activities for which the environment plan or an environmental permit for a non-planned environment plan activity guarantees that the long-term average assessment level $L_{Ar,LT}$ for the noise at a distance of 30 metres from the boundary of the location where the activity is performed, no longer contributes to the standard values as intended in Table 5.65.1, less 5dB;
 - c. the TT Circuit Assen and Circuit Park Zandvoort, for not more than 12 days per calendar year;
 - d. railway vehicles on railway marshalling yards that are part of a mainline railway or a local railway designated by environment regulation; and
 - e. through traffic on roads, waterways and railways.
4. The determination of the noise is subject to the rules laid down by ministerial order.

§ 3.5.2***Noise caused by municipal roads, local railways and water authority roads*****Article 3.26****(scope)**

This subsection applies to:

- a. paved municipal roads and water authority roads not forming a property as intended in the Traffic Regulations and Road Signs 1990, with a traffic intensity of more than 1,000 motor vehicles per day as a calendar year average; and
- b. local railways not designated by environment regulation.

Article 3.27**(value of the basic noise emission)**

1. The basic noise emission from a municipal road, water authority road or local railway is:
 - a. the noise emission in L_{den} from the road or railway in the first year for which the noise emission is determined on the basis of Article 11.46, for a road or railway existing at the moment of this Decree coming into effect; or

- b. the noise emission in L_{den} on which the decision to build or alter the road or railway was taken.
- 2. If a local railway is for the most part integrated or combined with a municipal road, the basic noise emission for that municipal road may be based on the noise caused by the municipal road and the local railway together.
- 3. The basic noise emission of a national trunk road or provincial road for which noise production ceilings have been laid down as environmental values, and the management of which is handed over to a municipality or a water authority and from a mainline railway which is designated by royal decree after the moment that this Decree comes into effect as a local railway, the noise emission on the basis of the noise source data belonging to the noise production ceiling applicable at the moment of transfer or designation.
- 4. The basic noise emission from a local railway designated by environment regulation and for which noise production ceilings have been laid down as environmental values and for which the designation is withdrawn by environment regulation, the noise emission is based on the noise source data accompanying the noise production ceiling applicable at the moment of the withdrawal.
- 5. The determination of the noise emission from a municipal road, water authority road or local railway is subject to the rules laid down by ministerial order.
- 6. The following can be employed as basic noise emissions from a municipal road, a local railway not designated by environment regulation or a water authority road:
 - a. a lower value than the noise emission as intended in paragraph one (a or b);
 - b. the noise emission on which the consideration is based, as intended in Article 3.28; or
 - c. a value arising from a change to the rules as intended in paragraph five.

Article 3.28

(consideration of measures based on the results of monitoring)

1. If the municipal executive or the executive board of a water authority determines, on the basis of monitoring as intended in Article 11.47 that the basic noise emission has been exceeded by more than 1.5 dB, the executive or executive board of a water authority will consider whether noise restricting measures or noise abatement measures must be taken, for a noise sensitive building at which the noise is more than 1.5 dB higher than in the situation to which the basic noise emission relates.
2. If the executive or the executive board determine, on the basis of that monitoring, that for the noise sensitive building as intended in paragraph one, a limit value has been exceeded, as intended in Table 3.35, which cannot be removed by the taking of the noise restricting measures as intended in paragraph one, the executive or executive board respectively will determine by decree whether and if yes which noise abatement measures must be taken on that building, subject to subsection 3.5.5.

§ 3.5.3

Noise caused by national trunk roads and mainline railways

Article 3.29

(acoustic quality of national trunk roads and mainline railways)

1. Unless dominant objections of a technical nature dictate otherwise, for the construction of national trunk roads designated by ministerial order or the replacement of the road surface on those roads, Our Minister of Infrastructure and Water Management will ensure that a road surface of very open asphalt concrete or at least an acoustically equivalent road surface is used.
2. The manager as intended in Article 1(1) of the Railways Act will ensure in respect of mainline railways designated by ministerial order, that:
 - a. unless dominant objections of a technical nature dictate otherwise, for the building or replacement a rail structure on that mainline railway, a structure of long-welded rail in a ballast bed on concrete sleepers on a body of sand, or at least an acoustically equivalent structure is used; and
 - b. that curves and points at a railway marshalling yard which in the judgement of Our Minister of Infrastructure and Water Management are relevant for the noise at noise

sensitive buildings, have a functioning rail conditioning system or that at least an acoustically equivalent technique is employed.

§ 3.5.4

Noise production ceilings as environmental values

§ 3.5.4.1

General provisions

Article 3.30

(scope of noise production ceilings as environmental values)

Subsection 3.54 applies to the determination of noise production ceilings as environmental values

§ 3.5.4.2

Determination of noise production ceilings as environmental values

Article 3.31

(determining noise reference points, noise source data and noise focus area)

In determining a noise production ceiling as an environmental value, the following are determined:

- a. the noise reference points;
- b. the noise source data; and
- c. the noise focus area.

Article 3.32

(noise reference points for roads and railways)

1. For a road or railway, the noise reference points are positioned at:

- a. a distance of not more than 60 m from the centre of the closest carriageway or the closest track, on both sides of the road or railway;
- b. a mutual separation of not more than 120 m; and
- c. a distance of 4 m above ground level.

2. If a building or structure is located alongside the road or railway that belongs to the road or railway which is included in the noise source data, noise reference points may be located at a greater distance than the distance as intended in paragraph one (a).

Article 3.33

(noise reference points for industrial estates)

1. For industrial estates, the noise reference points are located at:

- a. a distance of $0.5 \times \sqrt{S}$ from the boundary of the industrial estate laid down in the environment plan, whereby S is the surface area of the industrial estate, and whereby the distance is not less than 50 m and not more than 500 m;
- b. a mutual separation of not more than the distance determined according to a; and
- c. a distance of 4 m above ground level.

2. If necessary for restricting the noise at noise sensitive buildings, noise reference points may be added at a distance from the boundary of the industrial estate that is not greater than the distance determined according to paragraph one (a). Paragraph one (b and c) does not apply.

Article 3.34

(main rule for determining noise production ceiling)

1. In determining a noise production ceiling as an environmental value, the noise at a noise sensitive building may not be higher than the higher of the two following values:

- a. the standard value, as intended in table 3.34; or
- b. the noise subject to full utilisation of the noise production ceiling applicable at the moment of determination of the noise production ceiling as intended in the preamble.

Table 3.34 Standard value for noise at a noise sensitive building per noise source type

Noise source type	Standard value
Provincial roads National trunk roads	50 L _{den}
Municipal roads Water authority roads	53 L _{den}
Local railways Mainline railways	55 L _{den}
Industrial estates	50 L _{den}
	40 L _{night}

2. For an educational function and a meeting function for childcare with bed area and alternative use functions of both, the use of which during the night-time period is excluded in the environment plan:

- a. the values in L_{night} do not apply; and
- b. in table 3.34, 'L_{den}' will be read for: 'L_{de}'.

3. For a noise sensitive building as intended in Article 3.21(1)(b or d), the use of which is excluded during the evening period and night-time period in the environment plan:

- a. the values in L_{night} do not apply; and
- b. in table 3.34, 'L_{den}' will be read for: L_{day}'.

Article 3.35

(determination of noise production ceiling: exceeding maximum value)

1. In determining a noise production ceiling as an environmental value, the higher of the two values as intended in Article 3.34(1) may be exceeded if:

- a. no noise restricting measures can be taken in order to satisfy the higher of the two values;
- b. the exceeding of these values is restricted as far as possible by taking noise restricting measures; and
- c. the noise at noise sensitive buildings is not higher than the limit value as intended in table 3.35.

Table 3.35 Limit value for noise at a noise sensitive building per noise source type

Noise source type	Limit value
Provincial roads National trunk roads	65 L _{den}
Municipal roads Water authority roads	70 L _{den}
Local railways Mainline railways	70 L _{den}
Industrial estates	60 L _{den}
	50 L _{night}

2. Noise restricting measures will be considered if financially effective and in the absence of dominant objections of an architectural, traffic management, transport management, landscape or technical nature.

3. Determination of the financial effectiveness of noise restricting measures for national trunk roads and mainline railways is subject to subsection 3.5.4.4.

4. Notwithstanding paragraph one (b), noise restricting measures may be taken that limit the exceeding of the value to a lesser extent, but that do result in less cumulative noise.

5. Noise restricting measures should preferably be taken at source.

6. Article 3.34(2 and 3) applies accordingly, subject to the proviso that Table 3.35 is read for 'Table 3.34'.

Article 3.36**(determination of noise production ceiling: exceeding the limit value for provincial roads in built-up areas)**

For a provincial road located within a built-up area designated pursuant to the Road Traffic Act 1994, in determining a noise production ceiling as an environmental value, the limit value as intended in Table 3.35 may be exceeded by not more than 5dB, if the exceeding of that value cannot reasonably be avoided.

Article 3.37**(determination of noise production ceiling: exceeding the limit value if unavoidable)**

1. In determining a noise production ceiling as an environmental value, the limit value as intended in Table 3.35 or the value resulting from application of Article 3.36 may be exceeded if no noise restricting measures can be taken as intended in Article 3.35(2) in order to satisfy that value.
2. Exceeding of a value as intended in paragraph one is only permitted if:
 - a. no other measures than those intended in paragraph one can be taken in order to satisfy the value;
 - b. no amendment is possible to the environment plan in order to no longer permit the noise sensitive building; and
 - c. no agreement can be reached with the owner of the noise sensitive building concerning the taking of structural measures.
3. If a value as intended in paragraph one is exceeded:
 - a. the exceeding of the value must be limited as far as possible by taking noise restricting measures; and
 - b. national trunk roads or mainline railway lines will satisfy the acoustic quality as intended in Article 3.29 if these national trunk roads or mainline railways are the cause of the noise.
4. The measures as intended in paragraphs two and three will be taken into account if they are not unreasonably costly, and in the absence of substantial objections of an architectural, traffic management, transport management, landscape or technical nature.
5. Paragraphs two and three(b) and paragraph four do not apply to a noise sensitive building permitted subject to Article 5.78w, and at which the limit value is exceeded by not more than 5 dB, and the noise restricting measures as intended in paragraph three(a), Article 3.35(2) apply accordingly.

Article 3.38**(determination of the noise production ceiling: assessing the acceptability of cumulative noise)**

1. In application of Articles 3.35, 3.36 and 3.37, the acceptability of cumulative noise will be assessed.
2. The cumulative noise is the noise caused simultaneously by noise source types and other activities, added together with a rectification for differences in degree of nuisance.
3. In determining cumulative noise, under all circumstances, the following will be considered:
 - a. for a noise sensitive building in a noise focus area of a road, railway or industrial estate: the noise caused by that noise source type;
 - b. for a noise sensitive building within the 48 L_{den} noise contour or, in as much as the applicable noise contours are expressed in cost units, within the 20 Cost units noise contour of an airport for which on the basis of the Aviation Act, an airport layout decree, an airport decree or a foreign airport restricted area decree is required: the noise caused by the airport;
 - c. for a noise sensitive building at which the noise caused by a wind turbine or wind farm on an industrial estate is higher than 43 dB L_{den} : the noise caused by the wind turbine or that wind farm; and
 - d. for a noise sensitive building at which the noise caused by a civilian outdoor shooting range, a military outdoor shooting range or a military explosive ordnance site on an

industrial estate is higher than 50 dB $B_{S,dan}$; the noise caused by that outdoor shooting range or that explosive ordnance site.

4. The determination of the cumulative noise is subject to the rules laid down by ministerial order.

Article 3.39

(determination of the noise production ceiling: determination of combined noise)

1. In application of Articles 3.35, 3.36 and 3.37, the combined noise at the facade of the noise sensitive buildings is determined.
2. The combined noise is the noise caused simultaneously by noise source types and other activities, energetically added together without correction for differences in degree of nuisance.
3. Article 3.38(3) applies accordingly.
4. The determination of the combined noise is subject to the rules laid down by ministerial order.

Article 3.40

(determination of noise production ceiling: noise caused by Defence activities)

In determining a noise production ceiling as an environmental value for an environmental value for an industrial estate on which Defence tasks are performed, it is guaranteed that no restrictions will arise for the performance of those tasks.

Article 3.41

(determination of noise production ceiling: the taking of measures in the event of incorrect data in the noise register)

In determining a noise production ceiling as an environmental value, it may be determined that noise reduction or noise abatement measures must be taken if in permitting a noise sensitive building in a noise focus area, use was made of an item of data as intended in Article 11.52(1) which following admission proves to be incorrect. Article 3.35(2) applies accordingly.

Article 3.42

(determination of noise production ceiling: technical adjustments)

In determining a noise production ceiling as an environmental value, Article 3.34 does not apply if the noise production ceiling:

- a. is lowered in compliance with the reduction of the noise caused by a noise restricting measure added to the noise source data;
- b. is determined in connection with an amendment to the rules laid down by ministerial order for determination of the noise; or
- c. is determined in order to relocate a noise reference point to a location that satisfies Article 3.32 or 3.33(1).

Article 3.43

(determination of noise production ceiling: transfer of roads and railways)

In determining a noise production ceiling as an environmental value, Article 3.34 does not apply:

- a. to the transfer of a provincial road to the State or the transfer of a national trunk road to a province, if the noise production ceiling is determined in compliance with the noise source data accompanying the noise production ceiling applicable at the moment of transfer;
- b. to the designation of a local railway which is designated by environment regulation, as a mainline railway, if the noise production ceiling is determined in compliance with the noise source data accompanying the noise production ceiling applicable at the moment of the designation;
- c. to the designation of a mainline railway as local railway, if that railway is designated by environment regulation and the noise production ceiling is determined in compliance with the noise source data accompanying the noise production ceiling applicable at the moment of the designation;

- d. to the transfer of a municipal road or water authority road to the province or the State, if the noise production ceiling is determined in compliance with:
 - 1. the noise source data accompanying the basic noise emission as intended in Article 3.27(1)(a) and is increased by not more than 1,5 dB; or
 - 2. the noise source data accompanying the basic noise emission as intended in Article 3.27(1)(b);
- e. to the designation of a local railway, for which no noise production ceilings applied, on the basis of Article 2.13a(1)(preamble and b) of the Act or to the designation of a local railway, for which no noise production ceilings applied, as a mainline railway if the noise production ceiling is determined in compliance with:
 - 1. the noise source data accompanying the basic noise emission as intended in Article 3.27(1)(a) and is increased by not more than 1,5 dB; or
 - 2. the noise source data accompanying the basic noise emission as intended in Article 3.27(1)(b); or
- f. if following transfer or designation as intended in subsections a through to e, a change is made to a noise production ceiling alongside an adjacent road or railway or a road or railway located nearby, in compliance with the noise source data accompanying the applicable noise production ceilings

§ 3.5.4.3

Effect of noise production ceilings as environmental values

Article 3.44

(nature of the noise production ceiling as an environmental value)

A noise production ceiling as an environmental value is a result obligation.

Article 3.45

(measures or programme in the event of (impending) exceeding of the value)

1. Instead of complying with the obligation to establish a programme as intended in Article 3.10(1) of the Act, the following administrative bodies or organisations will take measures aimed at satisfying a noise production ceiling as an environmental value:
 - a. for roads designated by environment regulation: provincial executive;
 - b. for local railways designated by environment regulation: the manager designated on the basis of Article 18(1) of the Local Railways Act;
 - c. for roads designated by ministerial order: Our Minister of Infrastructure and Water Management; and
 - d. for mainline railways designated by ministerial order: the manager as intended in Article 1(1) of the Railways Act.
2. For an industrial estate, the municipal executive or, if Article 2.12a of the Act is applied, the provincial executive will implement Article 3.10 of the Act by:
 - a. taking measures aimed at satisfying a noise production ceiling as an environmental value; or
 - b. complying with the obligation as intended in Article 3.10(1) of the Act.

Article 3.46

(deviating time and deviating term for satisfying a noise production ceiling)

1. In establishing a noise production ceiling as an environmental value, it may be determined that the noise production ceiling is satisfied at the time when a change to the road, the railway or the industrial estate or a measure affecting the road, railway or industrial estate is realised.
2. In the case of special circumstances, for the establishment of a noise production ceiling as an environmental value, it may be determined that during a term of not more than five years, the noise production ceiling need not be satisfied. It may thereby be specified:
 - a. to what extent and for how long the noise production ceiling may be exceeded; or
 - b. that noise restricting or noise abatement measures must be taken.
3. Subsection 3.5.4.2 does not apply if in establishing a noise production ceiling, only the time as intended in paragraph one or the term as intended in paragraph two is determined.

§ 3.5.4.4

Financial effectiveness of noise restricting measures**Article 3.47****(scope)**

This subsection applies to the taking of noise restricting measures for national trunk roads and mainline railways.

Article 3.48**(definitions)**

For application of this subsection, the following definitions shall be taken to mean:

noise sensitive cluster: one or more neighbouring noise sensitive buildings that experience a significant reduction in the noise caused by a road or road or railway as a result of a contiguous noise restricting measure;

noise reduction: noise reduction as intended in Article 3.50;

measure point: unit of account expressing the costs for taking the noise restricting measure, determined according to rules laid down by ministerial order;

reduction point: unit of account for assessing the financial effectiveness of noise restricting measures for a noise sensitive cluster;

situation without measures: situation in which:

- a. a road or railway meets the requirements of Article 3.29; and
- b. no noise restricting measures are taken, subject to measure points.

Article 3.49**(determination of financial effectiveness)**

1. a noise restricting measure is financially effective if:

- a. the number of measure points is lower than the number of reduction points for the noise sensitive cluster for which the measure is intended; and
 - b. the measure results in a significant reduction in noise at the noise sensitive cluster.
2. Notwithstanding paragraph one, a noise restricting measure consisting of a structure or building is only financially effective if, whether or not in combination with measures at source, it results in a noise reduction at at least one noise sensitive building by at least 5 dB.

3. Notwithstanding paragraph one, a noise restricting measure is not financially effective if:

- a. it results in the greatest noise reduction for the noise sensitive cluster;
- b. the number of measure points for the measure is higher than the number of measure points for another noise restricting measure which results in an equivalent or almost equivalent noise reduction for the noise sensitive cluster; and
- c. in comparison with the other noise restricting measure, the additional measure points are not reasonably proportionate to the additional noise reduction achieved by the measure.

4. Notwithstanding paragraph one, a noise restricting measure consisting of a structure or building is not financially effective if the measure replaces an existing noise restricting measure consisting of a structure or building which:

- a. is not older than ten years;
- b. could not be made higher; and
- c. results in a noise reduction which is almost equal to that of the new structure or building.

5. Notwithstanding paragraph one through to four, the financial effectiveness of a noise restricting measure designated by ministerial order is determined by setting the actual costs of construction and maintenance of that measure against the noise reduction achieved by the measure, the number of noise sensitive buildings for which the measure is intended, and the resultant value of the noise.

Article 3.50**(determination of noise reduction)**

1. Noise reduction is the difference between:

- a. the noise at the noise sensitive building as intended in Article 3.21(1)(a) in the situation without measures; and

- b. the highest of the following three values:
 - 1. the noise at the noise sensitive building in the situation in which noise restricting measures have been taken;
 - 2. the noise at the noise sensitive building subject to the full utilisation of the noise production ceilings; and
 - 3. the standard value as intended in Table 3.34.
- 2. For application of paragraph one, a noise sensitive building as intended in Article 3.21(1)(a) is considered equivalent to: every 15 m of the facade of a noise sensitive building subjected to noise, as intended in Article 3.21(1)(b, c or d) per storey.

Article 3.51

(determination of reduction points for a noise sensitive cluster)

- 1. The number of reduction points for a noise sensitive cluster is the sum of the reduction points for all noise sensitive buildings as intended in Article 3.21(1)(a) in that noise sensitive cluster.
- 2. The number of reduction points per noise sensitive building as intended in paragraph one is the number as intended in Annex Va.
- 3. Article 3.49(2) applies accordingly to application of paragraphs one and two.

§ 3.5.5

Decision to establish noise abatement measures

Article 3.52

(decision on noise abatement measures; cases)

- 1. The following administrative bodies, in the relevant cases, will take a decision on whether, and if yes, which noise abatement measures must be taken on a noise sensitive building:
 - a. the municipal executive, if:
 - 1. based on the consideration as intended in Article 3.28 no noise restricting measures will be taken that reverse the exceeding of the basic noise emission or the limit value;
 - 2. in determining a noise production ceiling as an environmental value by an administrative body of the municipality, Article 3.35, 3.36, 3.37 or 3.41 is applied; or
 - 3. Article 5.78n, 5.78o or 5.78af(3) is applied in an environment plan or an environmental permit for an environment plan activity, and the noise at the facade of the noise sensitive building is higher than the noise at the time of application;
 - b. the executive board of a water authority, if based on the consideration as intended in Article 3.28 no noise restricting measures will be taken that reverse the exceeding of the basic noise emission or the limit value;
 - c. the provincial executive, if in determining a noise production ceiling by an administrative body of the province, Article 3.35, 3.36, 3.37 or 3.41 was applied; or
 - d. Our Minister of Infrastructure and Water Management, if in determining a noise production ceiling by a national administrative body, Article 3.35, 3.36, 3.37 or 3.41 is applied.
- 2. Notwithstanding paragraph one (a)(3^o), in the event of a project decision or an environmental permit for a non-planned environment plan activity of provincial or national importance, the decision is taken by the authority competent to take that decision or, if that is another Minister, by Our Minister of Infrastructure and Water Management.
- 3. Notwithstanding paragraph one (a, b and c) and paragraph two, the decision on a noise sensitive building located outside the territory of the municipality, the water authority or the province where the noise source is located, is taken by the municipal executive of the municipality where the building is located.

Article 3.53**(noise abatement measures)**

1. A decision to take noise abatement measures will be made if the noise in a noise sensitive room is higher than the limit value as intended in Table 3.53.

Table 3.53 Limit value in noise sensitive rooms (indoor value)

Building in the noise focus area of national trunk roads or mainline railways	Building in the noise focus area of municipal roads, water authority roads, provincial roads, local railways or industrial estates	Indoor value in Lden
Noise sensitive building for which the building permit was issued before 1 January 1982 and which is located adjacent to a road put into use before 1 January 1982 or adjacent to a railway put into use before 1 July 1987	Noise sensitive building for which the building permit was issued before 1 January 1982 for which subsection 12.1.6 has been or will be implemented or noise sensitive building previously remediated for the account of the State on the basis of the Noise Abatement Act due to the noise caused by roads or railways or dwelling as intended in Article 111b(1)(preamble and a) of the Noise Abatement Act and other noise sensitive buildings as intended in Article 2.5(preamble and b) of the Noise Abatement Decree, as those articles read before the decree came into effect	41
Noise sensitive building that has become noise sensitive due to a change to the use function and to which Article 5.23a(preamble and b) of the Environment Structures Decree applies		
Other noise sensitive building		36

2. Noise abatement measures result in a characteristic noise abatement of the external partition of a noise sensitive room which is at least 3 dB greater than the difference between the combined noise and the limit value, as intended in Table 3.53.

3. It may be decided to take no noise abatement measures that complies with paragraph two if there are substantial objections of a structural nature against the taking of those measures on condition that if other measures are possible to improve the noise abatement as far as possible, those other measures are taken.

4. It may be decided to take no or fewer noise abatement measures if:

- a. the owner of the noise sensitive building does not cooperate in the investigation into the noise in noise sensitive rooms inside his building and the necessary noise abatement measures;
- b. the owner does not cooperate in taking noise abatement measures;
- c. the noise sensitive building has shortcomings which prevent the taking of noise abatement measures, which shortcomings the owner has not repaired in good time;
- d. the noise sensitive building is likely to be compulsorily purchased or demolished within five years or the environment plan is likely to be altered within five years, such that noise sensitive buildings are no longer permitted at that location; or
- e. the noise caused by a noise source type in respect of which Article 3.35, 3.36 or 3.37 apply is at least 6 dB lower than the combined noise.

5. A shortcoming as intended in paragraph 4(c) will under all circumstances include:

- a. failure to meet the requirements of Chapter 3 of the Environment Structures Decree, in as much as relating to noise sensitive rooms or their accessibility;
- b. missing or decommissioned noise abatement provisions installed previously by government instruction; or
- c. such a degree of arrears of maintenance that this would reasonably prevent the taking of measures as intended in paragraphs two and three.

Article 3.54**(changing decision on noise abatement measures)**

A decision to take noise abatement measures will under all circumstances be changed into a decision to take no noise abatement measures if the owner of the noise sensitive building:

- a. withdraws permission for the taking of measures, previously granted by him; or
- b. fails to provide the cooperation necessary for the taking of the measures.

Section 3.6**Accidental discovery of pollution on or in the soil****Article 3.55****(highest permissible concentrations)**

The highest permissible concentrations of substances which in any case involve an unacceptable risk to health, as intended in Article 19.9a of the Act, are the concentrations as intended in Annex Vb, where the calculated concentration corresponds to the lifetime average exposure level of the maximum permissible risk to human health, expressed in a substance per kilogram of body weight per day.

Section 3.7**Protection of habitats and species****§ 3.7.1****General****Article 3.56****(taking account of economic, social, cultural and local circumstances)**

Without prejudice to the rules established in this Decree for tasks and authorities relating to nature conservation and management, in performing those tasks, an administrative body will take account of the economic, social and cultural interests and the specific regional and local circumstances.

Article 3.57**(measures for the preservation or recovery of habitats and species)**

1. The provincial executive responsible for taking measures necessary for:
 - a. the protection, conservation or recovery of biotopes and habitats in sufficient variety for all bird species naturally living in the wild, in the Netherlands, and in particular bird species referred to in Annex I to the Birds Directive, and the migratory bird species regularly occurring in the Netherlands, and not referred to in that Annex;
 - b. the preservation or recovery of a favourable conservation status of animal and plant species naturally occurring in the wild in the Netherlands, as referred to in Annexes II, IV and V to the Habitats Directive, of the natural habitats occurring in the Netherlands, as referred to in Annex I to the Habitats Directive, and of the habitats of species occurring in the Netherlands, as referred to in Annexes II, IV and V to the Habitats Directive; and
 - c. the preservation or recovery of a favourable conservation status of animal and plant species occurring naturally in the wild in the Netherlands threatened with extinction or running a special risk, as referred to in the Red Lists as intended in Article 2.19(5)(a) (3°) of the Act.
2. The measures as intended in paragraph one are harmonised in such a way with the measures by the provincial executives of the other provinces, that together with those measures, targets for the whole of the Netherlands can be achieved.

§ 3.7.2**Natura 2000 areas****Article 3.58****(requirements on designation decision)**

1. A decision to designate a Natura 2000 area as intended in Article 2.44(1) of the Act includes conservation goals under all circumstances for:
 - a. the habitats for bird species, in as much as necessary in implementation of the Birds Directive; or

- b. the natural habitats and habitats of species, in as much as necessary for the implementation of the Habitats Directive.
- 2. The geometric boundary of the area will be laid down in the decision.

Article 3.59**(conservation measures and appropriate measures)**

The provincial executive or, in those cases as intended in Article 2.19(4) of the Act, Our Minister as designated in Article 3.62, is responsible for taking the following measures necessary for achieving the conservation goals for a Natura 2000 area or that part of a Natura 2000 area under his task responsibility:

- a. conservation measures as intended in Articles 3(1) and (2)(b, c and d) and 4 (1)(first sentence) and (2) of the Birds Directive or Article 6(1) of the Habitats Directive; and
- b. appropriate measures as intended in Article 6(2) of the Habitats Directive, including:
 - 1. the decision to restrict or prohibit access to a Natura 2000 area on the basis of Article 2.45(1) of the Act;
 - 2. the actual actions as intended in Article 10.10b of the Act; and
 - 3. the installation in and around a Natura 2000 area of the necessary markers which announce the designation as a Natura 2000 area and the legal consequences thereof.

Article 3.60**(restricted access)**

- 1. Access to a Natura 2000 area will not be restricted or prohibited on the basis of Article 2.45(1) of the Act for the owner of a real estate property located in the area, or for parties with a commercial or personal user right, in as much as the restriction or the prohibition would seriously hinder access to that real estate property.
- 2. In a decision to restrict or prohibit access to a Natura 2000 area, the geometric boundary of the area to which the restriction or the prohibition applies will be laid down.

Article 3.61**(demarcation of the area for compensatory measures)**

If a compensatory measure as intended in Article 8.74b(2)(c) or 10.24(2)(c) provides for the development or improvement of habitats for birds, natural habitats or habitats for species outside a Natura 2000 area, Our Minister of Agriculture, Nature and Food Quality will ensure that these habitats are made a Natura 2000 area or part of a Natura 2000 area.

Article 3.62**(designation for measures responsible Ministers)**

Responsibility for taking measures for Natura 2000 areas or parts of Natura 2000 areas as intended in Article 2.18(1)(f)(2°) of the Act lies with:

- a. Our Minister of Infrastructure and Water Management, for a Natura 2000 area or part of a Natura 2000 area that is a body of surface water designated in Annex II(1) to the Environment Decree.
- b. Our Minister of Defence, for a Natura 2000 area or part of a Natura 2000 area that is used for military purposes;
- c. Our Minister of Agriculture, Nature and Food Quality:
 - 1. for a Natura 2000 area or part of a Natura 2000 area managed by one of Our other Ministers than those referred to sub a and b; or
 - 2. if relating to the measures as intended in Article 2.45(1) of the Act, for a Natura 2000 area or part of a Natura 2000 area managed by one of Our other Ministers than Our Minister of Agriculture, Nature and Food Quality.

§ 3.7.3***Special national nature conservation areas*****Article 3.63****(designation - cases in which)**

A decision to designate a special national nature conservation area as intended in Article 2.44(2) of the Act will only be taken if:

- a. the area is included on a list as intended in Article 4(1) of the Habitats Directive;
- b. the area is the subject of a procedure as intended in Article 5 of the Habitats Directive;

- c. habitats for birds, natural habitats or habitats of species are being developed or improved in the area for implementation of a compensatory measure as intended in Article 8.74b(2)(c) or 10.24(2)(c); or
- d. protection of the area is necessary for:
 - 1. preservation or recovery of biotopes and habitats for bird species living naturally in the wild in the Netherlands, as referred to in Annex I to the Birds Directive, and migratory bird species regularly occurring in the Netherlands referred to in that Annex; or
 - 2. the preservation or recovery of a favourable conservation status of the natural habitats, the habitats of species or the species referred to in Annex I, II, IV or V to the Habitats Directive, respectively.

Article 3.64**(requirements designation decision)**

1. A decision to designate a special national nature conservation area as intended in Article 2.44(2) of the Act contains conservation goals under all circumstances for:
 - a. the habitats for bird species, in as much as necessary in implementation of the Birds Directive; or
 - b. the natural habitats and habitats of species, in as much as necessary for the implementation of the Habitats Directive.
2. The geometric boundary of the area will be laid down in the decision.

Article 3.65**(restricted access)**

1. A decision to restrict or to prohibit access to a special national nature conservation area on the basis of Article 2.45(3 or 4) of the Act will be taken if necessary to achieve the conservation goals for that area.
2. Access will not be restricted or prohibited for the owner of a real estate property located in the area, or for parties with a commercial or personal user right, in as much as the restriction or the prohibition would seriously hinder access to that real estate property.
3. In the decision to restrict or prohibit access, the geometric boundary of the area to which the restriction or the prohibition applies will be laid down.

Article 3.66**(conservation measures)**

Actual actions as intended in Article 10.10b of the Act will be performed if necessary to achieve the conservation goals for a special national nature conservation area, and as necessary will include the installation in and around a special national nature conservation area of the necessary markings that announce the designation as a special national nature conservation area and the legal consequences thereof.

§ 3.7.4**Other provisions****Article 3.67****(provincial task exotics and feral animals)**

1. The provincial executive will ensure the performance of eradication measures, management measures and recovery measures as intended in Article 17, 19 and 20 of the invasive exotic species basic regulation relating to the species referred to in Annex VC.
2. The control of non-native animals, not belonging to the species referred to in Annex VC and the control of feral animals will only take place if necessary:
 - a. in the interest of protecting the wild flora and fauna and the conservation of the natural habitats;
 - b. to prevent serious damage in particular to crops, livestock farms, woodland, fishing grounds and waters and other forms of property;
 - c. in the interest of public health and public safety or other compelling grounds of considerable public interest;
 - d. to prevent damage or nuisance, including damage to sportsgrounds, shooting ranges, industrial estates, barracks or cemeteries;

- e. to prevent or control unnecessary suffering of diseased or lame animals; or
- f. in the public interest.

Article 3.68**(designation as a national park)**

1. Our Minister of Agriculture, Nature and Food Quality may designate an area as a national park, if:
 - a. it is a contiguous area with a surface area of at least 1,000 ha:
 1. containing one or more ecosystems not fundamentally harmed by human use;
 2. containing animal and plant species, geomorphological locations and habitats that represent a special scientific, educational and recreational interest; or
 3. that includes a landscape of great natural beauty;
 - b. the preservation of the fundamental characteristics of the area is guaranteed;
 - c. the area is open to visitors for educational, cultural and recreational purposes, whereby conditions and restrictions may be imposed on the opening with a view to preserving the fundamental characteristics of the area; and
 - d. the area is clearly distinguished from previously designated national parks.
2. Designation will only take place at the request of the provincial executive of the province or the provinces in which the area is located.

Article 3.69**(designation by competent body)**

1. Our Minister of Agriculture, Nature and Food Quality is the competent body for the implementation if its designation is required by an EU regulation or directive on:
 - a. the trade in or the possession for reasons other than sale or the transfer into or outside the territory of the Netherlands of animal, plants or their products; or
 - b. the introduction or spreading of invasive exotic species.
2. Paragraph one only applies if Our Minister of Agriculture, Nature and Food Quality has not appointed another body as competent body.

Article 3.70**(issuing of phytosanitary certificates and labels for cites)**

- Our Minister of Agriculture, Nature and Food Quality will on request issue:
- a. phytosanitary certificates for plants of species designated by ministerial order in compliance with Article 17(2) of the CITES implementing regulation; and
 - b. labels as intended in Articles 52(1) and 66(6) of the CITES implementing regulation.

Article 3.71**(recognition of examinations for the use of hunting rifle, birds of prey and duck decoys)**

1. Our Minister of Agriculture, Nature and Food Quality recognises an examination for a rifle hunting activity, an examination for a falconry activity and an examination for the use of a duck decoy only if the examinations meet the requirements in Articles 11.87 through to 11.90 of the Environmental Activities Decree.
2. Our Minister of Agriculture, Nature and Food Quality designates those examinations approved by the competent authority of another State and that are equivalent to an examination recognised by him.

Article 3.72**(recognition of an organisation for examinations for the use of hunting rifle, birds of prey and duck decoys)**

Our Minister of Agriculture, Nature and Food Quality recognises an organisation that holds examinations for a rifle hunting activity, examinations for a falconry activity and examinations for the use of a duck decoy only if that organisation meets the requirements in Article 11.91 of the Environmental Activities Decree.

Section 3.6 (gas incineration plants)

article 3.35

(designation of certification bodies gas incineration plants)

In this Section, the following shall be taken to mean:

- a. *Certificate, certification body and certification table:*
declaration of conformity, conformity assessment body and conformity assessment document as intended in Article 3(1) of the Housing Act;
- b. *Certificate holder:*
certificate holder as intended in Article 6.44 of the Environment Structures Decree.

Article 3.36

(designation of certification bodies)

1. Our Minister of the Interior and Kingdom Relations may on request designate a certification body for the issuing of certificates for a certification table designated on the basis of Article 3.37(1). The Minister will reach a decision with eight weeks following receipt of an application.
2. A certification body will only be designated if:
 - a. it is accredited in accordance with to NEN-EN-ISO/IEC 17065;
 - b. it has legal personality;
 - c. it is independent of the organisations, processes, services or products assessed by it;
 - d. it has sufficient knowledge and expertise and is equipped to correctly perform its tasks;
 - e. it operates an administration in which the details of the performance of its tasks are laid down in a systematic manner;
 - f. it is insured for legal liability for risks arising from the performance of its tasks;
 - g. it has an adequate complaints procedure;
 - h. it is capable of reaching decisions on letters of objection; and
 - i. it is capable of satisfying the reporting and information obligations on the basis of Article 10.14b of the Environment Decree.
3. A designation may be withdrawn or suspended if the certification body:
 - a. so requests;
 - b. suspends payment or is declared bankrupt; or
 - c. does not satisfy the regulations relating to the designation or the rules imposed or pursuant to this Section.
4. By ministerial order, further rules are imposed on the submission of an application and the data that must be issued with that application.
5. By ministerial order, further rules may be imposed on the grounds on which and the conditions according to which Our Minister of the Interior and Kingdom Relations may designate a certification body, may amend, refuse, suspend or withdraw the designation, the regulations that can be imposed on a designation and the term for which a designation can be issued or suspended.
6. By ministerial order, further rules may be imposed on the payment that a certification body may charge for the application for a certificate.

Article 3.37

(designation of certification tables)

1. Our Minister of the Interior and Kingdom Relations can designate certification tables on request. The Minister will reach a decision with eight weeks following receipt of the application.
2. A certification table will only be designated if it has been evaluated by the national accreditation body as intended in Article 2(1) of the Designation of National Accreditation Body (Appointment) Act and, in as much as applicable to the scope of the certification table, under all circumstances it contains requirements on the prevention of the release of carbon monoxide, in respect of:
 - a. the scope of the work to which the certification table relates;
 - b. the adequate performance of work as intended in Article 6.45(2)(a through to c) of the Environment Structures Decree;

- c. the adequate inspection of a gas incineration plant before that plant is commissioned;
 - d. the competence of the persons performing the work as intended in Article 6.45(2)(d) of the Environment Structures Decree, maintaining the level of knowledge required for this purpose and the manner in which that level of knowledge is assessed;
 - e. informing the certification body about the commissioning of gas incineration plants following completion of the work by the certificate holder;
 - f. the availability, use, maintenance and management of measuring instruments and other equipment used in performing the work;
 - g. the decommissioning of gas incineration plants if it is determined that carbon monoxide is released during use; and
 - h. the way in which employees must identify themselves to clients.
3. To be eligible for designation, a certification table also contains requirements on the supervision by the certification body of the performance in accordance with the requirements as intended in paragraph one. With that in mind, the certification table under all circumstances includes requirements on:
- a. the way in which certification bodies process data about and from certificate holders;
 - b. the method, frequency and scope of random inspections undertaken by the certification body of the work as intended in Article 6.45(1) of the Environment Structures Decree;
 - c. the method, frequency and scope of audits of the certificate holder undertaken by the certification body for assessment of the administrative quality system;
 - d. the way in which non-compliance with requirements by certificate holders is dealt with; and
 - e. the refusal of an application for a certificate or the suspension or withdrawal of a certificate if the application for the certificate or certificate holder respectively suspends payment or is declared bankrupt.
4. If a certification table relates only to work on flue gas exhaust facilities or combustion air supply facilities, the requirements referred to in paragraph two (d and e) do not apply, and notwithstanding paragraph two (c), the table may include a requirement that only the flue exhaust facilities or combustion air supply facilities and their connection to the other components of the gas incineration plant should be checked.
5. By ministerial order, further rules may be imposed on:
- a. the designation and content of certification tables;
 - b. the submission of a request for a designation of a certification table and the data that must be issued with an application; and
 - c. the grounds on which and conditions according to which Our Minister can designate a certification table, can amend, refuse, suspend or withdraw that designation, the regulations that can be imposed on a designation and the term for which a designation can be awarded or suspended.

Chapter 4 Programmes

Section 4.1 Programmes outside air quality

Article 4.1

(administrative body for programmes in the event of (impending) exceeding of the environmental value)

Notwithstanding Article 3.10(1) of the Act, the following administrative bodies will adopt a programme if it is likely that the relevant environmental values are not or will not be satisfied:

- a. provincial executive if relating to:
 1. the environmental values for sulphur dioxide as intended in Article 2.3(1) (preamble and c and d); or
 2. the environmental value for nitrogen oxides as intended in Article 2.4(2); and
- b. Our Minister of Infrastructure and Water Management if relating to:
 1. the environmental values for PM_{2,5}, as intended in Article 2.5(2)(preamble and b and c);
 2. the environmental values for ozone, as intended in Article 2.7; or
 3. the environmental values for sulphur dioxide, nitrogen oxides, volatile organic substances with the exception of methane, ammonia and PM_{2,5} as intended in Article 2.8a.

Article 4.2

(requirements on programmes in the event of (impending) exceeding of environmental value)

1. If it is likely that the environmental values as intended in Articles 2.3 through to 2.7 are not satisfied, a programme as intended in Article 3.10(1) of the Act will include the data as intended in Annex XV, part A of the Air Quality Directive.
2. If it is likely that the environmental values as intended Articles 2.3, 2.4, 2.5(1 and 2)(a and b) and 2.6 are not satisfied, a programme containing appropriate measures such that within the shortest possible period, the environmental values is satisfied.
3. A programme aimed at satisfying the following environmental values contains the measures as intended in that programme:
 - a. if relating to the environmental value for PM_{2,5} as intended in Article 2.5(2)(preamble and c): all necessary measures that do not result in disproportionate costs;
 - b. if relating to the environmental values for ozone:
 1. as intended in Article 2.7(1)(preamble and a and c): all necessary measures that do not result in disproportionate costs;
 2. as intended in Article 2.7(1)(preamble and b and d): cost-effective measures, if the environmental values are satisfied, as intended in Article 2.7(1)(preamble and a and c respectively); and
 - c. if relating to the environmental values for arsenic, cadmium, nickel and benzo(a) pyrene, as intended in Article 2.8(1): all necessary measures that do not result in disproportionate costs, in particular aimed at the largest emission sources.

Article 4.2a

(requirements on national NEC programme)

The national NEC programme contains the data and measures as intended in Article 6(1 and 2) of the NEC Directive in compliance with Annex III to that directive.

Section 4.2 Water programmes

§ 4.2.1

Content of programmes

Article 4.3

(water management programme)

A water management programme comprises:

- a. measures as intended in Article 11 of the Water Framework Directive;
- b. measures as intended in Articles 4(5) and 6(1) of the Groundwater Directive, in combination with Article 11 of the Water Framework Directive; and
- c. measures as intended in Article 7 of the Flood Risk Directive.

Article 4.4

(regional water programme)

1. A regional water programme under all circumstances lays down the social function drinking water extraction for regional waters used for the extraction of water intended for human consumption and from which more than 10 m³ of water are extracted daily or from which water is extracted for more than 50 people.

2. A regional water programme comprises the designation of:

- a. WFD bodies of surface water not managed by the State, whereby artificial or heavily altered WFD bodies of surface water are designated in compliance with Article 4(3) of the Water Framework Directive;
- b. bodies of groundwater; and
- c. water extraction locations located in a:
 1. WFD body of surface water; and
 2. body of groundwater.

3. A regional water programme comprises:

- a. measures as intended in Article 11 of the Water Framework Directive;
- b. measures as intended in Articles 4(5) and 6(1) of the Groundwater Directive, in combination with Article 11 of the Water Framework Directive; and
- c. objectives and measures as intended in Article 7 of the Flood Risk Directive.

4. The components of regional water programmes that implement the Water Framework Directive and the Flood Risk Directive form separate elements of that programme. Under all circumstances, these include the measures as intended in paragraph three (a through to c).

Article 4.4a

(good ecological potential in regional water programme)

If good ecological potential as intended in Article 2.12(1) is determined in a regional water programme for an artificial or heavily altered WFD body of surface water designated on the basis of Article 4.4(2)(a), given the physical circumstances arising from the artificial or heavily altered characteristics of the WFD body of surface water, this will take place:

- a. as far as possible in compliance with the definitions for the biological, hydromorphological and physical chemical quality elements of the good ecological status of the most comparable types of natural WFD bodies of surface water; and
- b. taking into account the definitions of good ecological potential as intended in Annex V, subsection 1.2, table 1.2.5 to the Water Framework Directive.

Article 4.5

(overview of status class regional water programme)

A regional water programme contains an overview of the status class per substance and quality element of each WFD body of surface water and body of groundwater, to which the programme relates, determined during the previous programme period.

Article 4.6

(river basin management plan)

A river basin management plan comprises:

- a. the information as intended in Annex VII to the Water Framework Directive and Articles 3(5 and 6), 4(4) and 5(4 and 5) and Annex II, part C to the Groundwater

Directive for the Dutch section of the catchment area districts Rhine, Maas, Schelde and Eems;

- b. the information as intended in Article 3(5) of the Priority Substances Directive and the inventory as intended in Article 5 to that directive; and
- c. and overview of the exceptions as intended in Article 6(3) of the Groundwater Directive used on the basis of Article 4.12(1)(c).

Article 4.7

(flood risk management plan)

1. A flood risk management plan complies with Article 7 of the Flood Risk Directive and contains the objectives and measures as intended in that Article for the Dutch section of the catchment area districts Rhine, Maas, Schelde and Eems.
2. The plan relates to flooding from sewer systems.

Article 4.8

(programme of measures marine strategy)

1. The programme of measures marine strategy adopted for Dutch marine waters satisfies Articles 13(1 through to 4)(7 and 8) and 14 of the Marine Strategy Framework Directive.
2. The programme contains the measures for achieving good environmental status as intended in Article 3.1 (preamble and b).

Article 4.9

(maritime spatial plan)

1. The maritime spatial plan relates to Dutch marine waters with the exception of coastal waters as intended in Article 2(7) of the Water Framework Directive or parts thereof that are classified by municipality or province, and in respect of which the maritime spatial plan states that the plan does not relate to those waters.
2. The aim of the maritime spatial plan, in compliance with Article 5 of the Maritime Spatial Planning Framework Directive, is to contribute to the targets referred to in that article.
3. The spatial and temporal distribution of existing and future activities and social functions in Dutch marine waters are identified in the maritime spatial plan, whereby without prejudice to Article 2(3) of the Maritime Spatial Planning Framework Directive, the relevant interactions of activities and social functions are taken into account.
4. The maritime spatial plan contains a reproduction of the procedural steps that have been or that will be taken to contribute to the targets as intended in Article 5 of the Maritime Spatial Planning Framework Directive, whereby account will be taken of relevant activities in and social functions of the marine waters. To that end, the maritime spatial plan under all circumstances contains a description of the way in which, in the framework of maritime spatial planning:
 - a. account has been taken of:
 1. the special features of the marine region of which the North Sea forms part;
 2. the relevant existing and future activities and social functions and their effect on the environment;
 3. natural resources;
 4. interaction between land and sea; and
 5. the ecological, economic, social and safety aspects;
 - b. efforts are made to promote cohesion between maritime spatial planning and other planning processes;
 - c. in compliance with Article 10 of the Maritime Spatial Planning Framework Directive, the use of the best available data and the exchange of information is organised, and how use has been made of the relevant instruments and resources; and
 - d. in compliance with Articles 11 and 12 of the Maritime Spatial Planning Framework Directive, cross-border cooperation has taken place.

Article 4.10

(national water programme)

1. For national waters, under all circumstances, the national water programme will lay down the following social functions:

- a. the social function drinking water extraction for national waters used for the extraction of water intended for human consumption and from which more than 10 m³ of water are extracted daily or from which water is extracted for more than 50 people.
- b. the social function shellfish water.
- 2. The national water programme includes the designation of:
 - a. WFD bodies of surface water managed by the State, whereby artificial or heavily altered WFD bodies of surface water are designated in compliance with Article 4(3) of the Water Framework Directive;
 - b. water extraction locations located in a WFD body of surface water, in as much as relating to a WFD body of surface water as intended in a; and
 - c. shellfish waters in the WFD bodies of surface water, as intended in a.
- 3. The national water programme includes:
 - a. measures as intended in Article 11 of the Water Framework Directive;
 - b. measures as intended in Articles 4(5) and 6(1) of the Groundwater Directive, in combination with Article 11 of the Water Framework Directive; and
 - c. objectives and measures as intended in Article 7 of the Flood Risk Directive.
- 4. The components of the national water programmes that implement the Water Framework Directive and the Flood Risk Directive form separate elements of that programme. Under all circumstances, these include the measures as intended in paragraph three.

Article 4.10a**(good ecological potential in the national water programme)**

If good ecological potential as intended in Article 2.12(1) is determined in the national water programme for an artificial or heavily altered WFD body of surface water designated on the basis of Article 4.10(2)(a), given the physical circumstances arising from the artificial or heavily altered characteristics of the WFD body of surface water, this will take place:

- a. as far as possible in compliance with the definitions for the biological, hydromorphological and physical chemical quality elements of the good ecological status of the most comparable types of natural WFD bodies of surface water; and
- b. taking into account the definitions of good ecological potential as intended in Annex V, subsection 1.2, table 1.2.5 to the Water Framework Directive.

Article 4.11**(overview of status class national water programme)**

The national water programme contains an overview of the status class per substance and quality element of each WFD body of surface water, to which the programme relates, determined during the previous programme period.

Article 4.12**(water programmes: exemptions and exceptions)**

1. For the targets and measures as intended in Articles 4.4(3)(a through to c) and 4.10(3) to be included in the regional water programmes and the national water programmes, use may be made of:
 - a. the possibilities for granting exemptions or permissions as intended in Article 11(3) (preamble and e)(final sentence) and (j) of the Water Framework Directive;
 - b. the possibilities of Article 6(2) of the Groundwater Directive; and
 - c. the possibility for applying exceptions as intended in Article 6(3) of the Groundwater Directive.
2. If use is made of an exception as intended in paragraph one (preamble and c), this will be recorded in the water programme.

Article 4.12a**(signalling parameter assessment of groundwater remediation)**

In assessing whether groundwater remediation of historical groundwater pollution is required as a measure in a water management programme, a regional water programme or the national water programme, account will be taken of the signalling parameters for groundwater quality as intended in Annex Vd.

§ 4.2.2 ***Programmes in relation to environmental values or other targets for the physical environment***

§ 4.2.2.1 ***WFD bodies of surface water***

Article 4.13 (environmental values and good ecological potential WFD bodies of surface water and water programmes)

1. Unless a possible exception as intended in Article 2.17(2 through to 5) or 2.18 applies, the implementation of a water management programme, a regional water programme and the national water programme for each of the WFD bodies of surface water designated on the basis of Article 4.4(2)(preamble and a) or 4.10(2)(preamble and a):
 - a. satisfy the environmental values as intended in Article 2.10(a); and
 - b. or good ecological status as intended in Article 2.11(1) or good ecological potential as intended in Article 2.12(1).
2. Notwithstanding paragraph one, with the implementation of the programme as intended in that paragraph, that applies to a period starting after 21 December 2021, the environmental value as intended in Article 2.10(1)(preamble and a) will be satisfied on 22 December 2027 in as much as relating to the substances duly specified in Annex III.

§ 4.2.2.2 ***Bodies of groundwater***

Article 4.14 (environmental value body of groundwater and water programmes)

Unless a possible exception as intended in Article 2.17(2 through to 5) or 2.18 applies, the implementation of a regional water programme for each of the bodies of groundwater designated therein on the basis of Article 4.4(2)(preamble and b) will satisfy the environmental values as intended in Article 2.13(1) and 2.14(1).

§ 4.2.2.3 ***Other targets for the physical environment***

Article 4.15 (no decline in status of status)

1. The implementation of a water management programme, a regional water management programme and the national water programme will prevent:
 - a. decline in the chemical status and decline in the ecological status of each of the WFD bodies of surface water designated on the basis of Article 4.4(2)(preamble and a) or 4.10(2)(preamble and a);
 - b. a decline in the good ecological potential determined on the basis of Article 2.12 for an artificial WFD body of surface water or heavily altered WFD body of surface water designated on the basis of Article 4.4(2)(preamble and a) or 4.10(2)(preamble and a); and
 - c. decline in the chemical status and decline in the quantitative status of each of the bodies of groundwater designated on the basis of Article 4.4(2)(preamble and b).
2. The obligation to prevent decline in the status of a WFD body of surface water or body of groundwater as intended in paragraph one will be complied with if a substance or quality element for which on the basis of this Decree, an environmental value as intended in Article 2.10(1), 2.11(1), 2.13(1) or 2.14(1) apply for water:
 - a. has remained in the same status class or has achieved a higher class; or
 - b. has not worsened to the lowest status class.
3. Paragraph two applies in as much as relating to substances for which this is specified in Annex III, effective from 22 December 2021.

Article 4.16 (possible exceptions no decline)

1. Exceptions to achieving the targets as intended in Article 4.15(1) may only be made in those cases intended in paragraphs two and three.
2. Paragraph one applies to a temporary decline in cases where:

- a. the decline is the result of circumstances arising due to a natural cause or force majeure, and which are exceptional or which could not be reasonably foreseen, in particular extreme flooding and long periods of drought or are the consequence of circumstances caused by accidents which could not reasonably be foreseen;
 - b. the conditions contained in Article 4(6, 8 and 9) of the Water Framework Directive are met; and
 - c. the motivation for the body of water is included in the next national water programme, if relating to national waters, or in the next regional water programme, if relating to regional waters.
3. Paragraph one also applies to cases in which:
- a. non-prevention of decline is the consequence of:
 - 1. new changes to the physical properties of a WFD body of surface water;
 - 2. changes to the level of bodies of groundwater; or
 - 3. the non-prevention of decline from very good status of a WFD body of surface water to good status is the consequence of new sustainable activities;
 - b. the conditions in Article 4 (7, 8 and 9) of the Water Framework Directive are met; and
 - c. the motivation for the body of water is included in the national water programme, if relating to national waters, or in the regional water programme, if relating to regional waters.

Article 4.17**(reversing significant and upward trends)**

1. If the outcome of implementation of a regional water programme in each of the bodies of groundwater designated on the basis of Article 4.4(2)(preamble and b) is that no significant and persistent upward trends as intended in Article 2(3) of the Groundwater Directive occur in the concentrations of WFD pollutants, groups of WFD pollutants or indicators of WFD pollution, that generate a significant risk of damage for:
 - a. the quality of an aquatic or terrestrial ecosystem;
 - b. health; or
 - c. lawful use, actual or potential, of the water environment.
2. A significant and persistent upward trend generates a significant risk of damage if the start point for a trend reversal is or threatens to be exceeded, and the required measures as intended in Article 5(2) of the Groundwater Directive are not taken.
3. The start point for the trend reversal amounts to 75% of the concentrations as intended in Annex IV, tables A and B.

Article 4.18**(special obligation reversal of significant and upward trends)**

1. In respect of reaching the target as intended in Article 4.17(1) for the percentage as intended in paragraph three of that Article, an exception will be made in the event of a situation as intended in Annex IV, part B, point 1(a, b or c) to the Groundwater Directive.
2. The motivation is included in the regional water programme.

Article 4.19**(no bacterial contamination of shellfish water)**

With the implementation of the national water programme, each of the WFD bodies of surface water designated in that programme on the basis of Article 4.10(2)(preamble and c) designated as shellfish water, the outcome will be that no bacterial contamination is present on a scale that can be harmful to health.

§ 4.2.2.4**Water extraction locations****Article 4.20****(environmental values water extracted at a water extraction location in a WFD body of surface water and water programmes)**

Unless a possible exception as intended in Article 2.17(2 through to 5) or 2.18 applies, the implementation of a water management programme, a regional water programme and the national water programme will satisfy the environmental value as intended in Article 2.15(1) for each of the water extraction locations located in a WFD body of surface water

designated in that programme on the basis of Article 4.4(2)(preamble and c) or 4.10(2) (preamble and b).

Article 4.21

(improvement of the quality and no decline in quality due to reduced treatment efforts)

1. With the implementation of a water management programme, a regional water programme and the national water programme, any lowering of the level of treatment of the extracted water required for the preparation of water intended for human consumption, the aim will be to improve the quality of each:
 - a. WFD body of surface water or body of groundwater containing a water extraction location located in a WFD body of surface water or water extraction location located in a body of groundwater, designated on the basis of Article 4.4(2)(preamble and c) or 4.10(2)(preamble and b); and
 - b. WFD body of surface water from which, following bank infiltration, water is extracted at a water extraction location located in a WFD body of surface water designated on the basis of Article 4.4(2)(preamble and c) or 4.10(2)(preamble and b).
2. With the implementation of a programme as intended in paragraph one, for each WFD body of surface water or body of groundwater containing a water extraction location located in a WFD body of surface water or water extraction location located in a body of groundwater, designated on the basis of Article 4.4(2)(preamble and c) or 4.10(2) (preamble and b), decline in the quality of that body of water will be prevented, whereby the risk arises that the level of treatment of the extracted water used in the preparation of water intended for human consumption must be raised.

Section 4.3

Action plans noise

Article 4.22

(plan limit)

1. An action plan as intended in Articles 3.6(1), 3.8(1) and 3.9(1)(b) of the Act contains a plan limit in L_{den} and in L_{night} for noise load on noise sensitive buildings.
2. The plan limit can be different for different categories of cases.
3. The action plan will specify which measures are being considered, or are being implemented to prevent or reverse violations of the plan limit.

Article 4.23

(action plan noise municipality)

1. An action plan as intended in Article 3.6(1) of the Act under all circumstances includes:
 - a. a description of the noise sources as intended in that Article section, located within the municipal territory;
 - b. a list of the bodies responsible for managing those noise sources;
 - c. a description of the legal framework for noise load from those noise sources;
 - d. a summary of the data contained in the noise load map or noise load maps on which the action plan is based;
 - e. a description of the policy for the next five years and, in as much as reasonably possible, for the subsequent five years, for limiting the noise load in L_{den} and the noise load in L_{night} caused by the affected noise source or noise sources;
 - f. an overview of important infrastructural works planned during the next five years and other important spatial developments that influence the noise nuisance situation;
 - g. an overview of measures at source and source measures existing or in preparation or in implementation for the affected noise source or noise sources;
 - h. an overview of an assessment of the number of residents of dwellings that suffer nuisance or serious nuisance from noise as a consequence of the affected noise source or noise sources or whose sleep is disrupted by said noise source or noise sources;
 - i. a plan for the proposed measures for reducing the noise load in L_{den} and the noise load in L_{night} over the next five years, whereby a relationship is established with the

- plan limit and an estimate is given of the effect of the measures on the number of residents of dwellings as intended in h;
- j. financial information about the proposed measures, in as much as available and public;
 - k. the situations in which the maximum permissible noise load on the basis of the Aviation Act or the standard value as intended in Tables 3.34 and 5.78 is exceeded;
 - l. the situations in which the limit value as intended in Tables 3.35 and 5.78u is exceeded;
 - m. an overview of proposed measures to satisfy the noise production ceilings as environmental values laid down in the environment plan;
 - n. an evaluation of the implementation and the results of the previous action plan; and
 - o. a brief summary of the elements as intended in a through to m.
2. The action plan also contains;
- a. the report of the results of the monitoring as intended in Article 11.45(4)(a) and the way in which the result obligation as intended in Article 3.44 has been complied with;
 - b. an overview of the noise production ceilings as environmental values laid down in the environment plan, in which Article 3.37 is implemented;
 - c. a description of the developments of the source policy and other relevant developments that could influence the noise production ceilings as intended in b;
 - d. a motivation of whether the developments as intended in c, give grounds for withdrawal or amendment of the noise production ceilings as intended in b;
 - e. the conclusions based on the results of the monitoring as intended in Article 11.45; and
 - f. an overview of proposed measures to satisfy the noise production ceilings as environmental values laid down in the environment plan.
3. In the description of the policy as intended in paragraph one (e), under all circumstances, the protection of silent areas will be considered, namely:
- a. the areas designated as silent areas in the environment plan; and
 - b. areas in which the physical environment requires special protection in connection with noise.
4. The determination of the number of residents of dwellings that suffer nuisance or serious nuisance as a result of one or more noise sources or whose sleep is disrupted by those sources as intended in paragraph one (h) is subject to rules laid down by ministerial order.

Article 4.24

(action plan noise province)

1. An action plan as intended in Article 3.8(1) of the Act contains a description of the noise sources within the provincial territory as intended in that Article section, and the elements as intended in Article 4.23(1)(b through to n) and a brief summary of the noise sources and elements.
2. In the description of the policy as intended in Article 4.23(1)(e), under all circumstances, the protection of silent areas will be considered, namely:
 - a. the silent areas designated on the basis of Article 7.11(1)(a) by environment regulation; and
 - b. areas in which the physical environment requires special protection in connection with noise, which under all circumstances include the areas designated as such by the environment plan and which are located within an agglomeration designated by ministerial order.
3. The action plan also contains:
 - a. the report of the results of the monitoring as intended in Article 11.45(4)(b) and the way in which the result obligation as intended in Article 3.44 has been complied with;
 - b. an overview of the noise production ceilings designated as environmental values on the basis of Article 2.12(a)(1) and 2.13(a)(1) of the Act, whereby Article 3.37 is applied;
 - c. a description of the developments of the source policy and other relevant developments that could influence the noise production ceilings as intended in b;

- d. a motivation of whether the developments as intended in c, give grounds for withdrawal or amendment of the noise production ceilings as intended in b;
- e. the conclusions based on the results of the monitoring as intended in Article 11.45; and
- f. an overview of the proposed measures to satisfy the noise production ceilings designated as environmental values on the basis of Article 2.12(a)(1) and 2.13(a)(1) of the Act.

Article 4.25

(action plan national)

1. An action plan as intended in Article 3.9(1)(b) of the Act contains a description of the noise sources as intended in that Article section, and contains the elements as intended in Article 4.23(1)(b through to n) and a brief summary of the noise sources and elements.
2. In the description of the policy as intended in Article 4.23(1)(e), under all circumstances, the protection of silent areas will be considered, namely:
 - a. the silent areas designated on the basis of Article 7.11(1)(a) by environment regulation; and
 - b. the areas designated as such by the environment plan and which are located within an agglomeration designated by ministerial order.
3. In adopting the action plan, the results of an evaluation of the application of Article 3.29 will be included.
4. The action plan will state whether there is an intention to adjust the noise production ceilings for roads managed by the State and mainline railways, according to the policy for limiting the noise load from the affected noise source or noise sources.
5. The action plan also contains:
 - a. the report of the results of the monitoring as intended in Article 11.45(4)(c) and the way in which the result obligation as intended in Article 3.44 has been complied with;
 - b. an overview of the noise production ceilings designated as environmental values on the basis of Article 2.15(2) of the Act, whereby Article 3.37 is applied;
 - c. a description of the developments of the source policy and other relevant developments that could influence the noise production ceilings as intended in b;
 - d. a motivation of whether the developments as intended in c, give grounds for withdrawal or amendment of the noise production ceilings as intended in b;
 - e. the conclusions based on the results of the monitoring as intended in Article 11.45;
 - f. an overview of proposed measures to satisfy the noise production ceilings designated as environmental values on the basis of Article 2.11(a) of the Act.
 - g. a validation of the calculated values contained in the report as intended in Article 10.42(b)(2 and 3) of the Environment Decree, for the noise, calculated by an independent expert, whereby the validation is based among others on random measurements;
 - h. planning of the remediation measures for national trunk roads and mainline railways for the next five years; and
 - i. an overview of the noise production ceilings designated as environmental values on the basis of Article 2.15(2) of the Act, that are amended on the basis of developments in source policy.

Section 4.4

§ 4.4.1

Article 4.26

Programmes nature

Management plan Natura 2000

(management plan Natura 2000)

A management plan Natura 2000 as intended in Article 3.8(3) or 3.9(3) of the Act, taking account of the conservation goals as intended in Article 3.58 (1) under all circumstances contains a description for the Natura 2000 area of:

- a. conservation measures considered necessary, as intended in Articles 3(1) and (2)(b, c and d) and 4 (1)(first sentence) or (2) of the Birds Directive and Article 6(1) of the Habitats Directive;
- b. the necessary appropriate measures as intended in Article 6(2) of the Habitats Directive; and
- c. the intended results of the measures as intended in a and b.

§ 4.4.2

Programme nitrogen reduction and nature improvement

[Reserved]

§ 4.4.3

Municipal programme approach nitrogen

Article 4.29

(municipal programme approach nitrogen)

1. The municipal executive may adopt a programme which:
 - a. relates to existing urban areas, an existing commercial estate or a port and industrial area;
 - b. is aimed at:
 1. sustainable spatial and economic development of that area; and
 2. reduction of nitrogen deposition by activities in that area or habitats in Natura 2000 areas sensitive to nitrogen;
 - c. contains provisions about the decision on an application for an environmental permit for a Natura 2000 activity that causes nitrogen deposition in natural habitats of species and habitats of species in a Natura 2000 area sensitive to nitrogen deposition; and
 - d. as the case arises, provides for a distribution of the space available for nitrogen deposition, given the conservation goals for the Natura 2000 areas, as intended in Article 3.58(1) across the Natura 2000 activities in the area to which the programme relates.
2. The programme will only be adopted if:
 - a. it is designated on the basis of Article 3.15 of the Act;
 - b. for Natura 2000 activities to which the programme relates, it is made certain on the basis of an appropriate assessment as intended in Article 8.74b that these activities will not harm the natural characteristics of the Natura 2000 area;
 - c. monitoring and adjustment of the programme are provided, in such a way that the outcome of the assessment as intended in b can still reasonably be used as a basis at the moment of the decision on the application for an environmental permit for those activities; and
 - d. the adoption takes place together with the provincial executive.

§ 4.4.4

Programme on permit-exempt Natura 2000 activities or flora and fauna activities

Article 4.30

Programme on permit-exempt Natura 2000 activities or flora and fauna activities

1. A programme that designates permit-exempt Natura 2000 activities as intended in Article 11.18(1) of the Environmental Activities Decree, complies with Articles 11.18(2) and 11.21 of that Decree.
2. A programme specifying permit-exempt flora and fauna activities:
 - a. as intended in Article 11.41(1) of the Environmental Activities Decree relating to birds of species as intended in Article 1 of the Birds Directive complies with Articles 11.41(2) and 11.44(1) of that decree;
 - b. as intended in Article 11.49(1) of the Environmental Activities Decree relating to animals or plants of species referred to in Annex IV to the Habitats Directive, Annex I

- or II to the Bern Convention or Annex I to the Bonn Convention complies with Articles 11.49(2) and 11.52(1) of that decree;
- c. as intended in Article 11.55(1) of the Environmental Activities Decree relating to animals or plants of species referred to in Annex IX to that decree complies with Articles 11.55(2) and 11.58(1) of that decree.

Chapter 5 Environment plans

Section 5.1 Instruction rules with a view to the balanced allocation of functions to locations

§ 5.1.1

General provisions

Article 5.1

(scope)

This Section applies to the setting of rules in the environment plan as intended in Article 4.2(1) of the Act.

Article 5.1a

(services directive)

An environment plan complies with Article 14(preamble and 5) of Directive 2006/123/EC of the European Parliament and the Council of 12 December 2006 on services in the European market (OJEU 2006, L376).

Article 5.1b

(definition)

For the application of this Section, the term houseboat should be taken to mean: floating structure with a residential function at a location designated within the environment plan as a mooring for a houseboat.

§ 5.1.2

Guaranteeing safety

§ 5.1.2.1

General provisions

Article 5.2

(safety risks of fires, disasters and crises)

1. In an environment plan, for the risks of fires, disasters and crises as intended in Article 10(a and b) of the Security Regions Act, account will be taken of the interest of:
 - a. preventing, limiting and tackling those risks;
 - b. the possibilities for people to reach safety in the event of such risks; and
 - c. medical assistance as intended in Article 1 of that Act.
2. Paragraph one has no effect on the specific rules on guaranteeing safety as stated in sections 5.1.2.2 through to 5.1.2.7.

Article 5.3

(scope buildings and locations)

1. Sections 5.1.2.2 through to 5.1.2.6 apply to the permitting of limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations in connection with the external safety risk of an activity as intended in those sections, permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
2. Limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations are buildings and locations as intended in Annex VI.
3. A limited vulnerable, vulnerable and very vulnerable building and a limited vulnerable and vulnerable location will also be taken to mean a building and location as intended in Annex VI which is not yet present, but which is permitted on the basis of the environment plan or an environmental permit for a non-planned environment plan activity.

Article 5.3a

(grandfather clause)

1. Article 5.2 does not apply in as much as activities are already legally performed at a location or are permitted at the moment of that provision coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.

2. The provisions in subsection 5.1.2.2 do not apply to limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations in as much as they were already legally permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environment plan activity, and were present on 1 April 2015, if relating to the risk of an unusual occurrence caused by the activity as intended in Annex VII(C).
3. A location for outdoor events for at least 5,000 persons in as much as already legally permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environmental activity at the moment of subsection 5.1.2.2 coming into effect and which up to that time was designated as a limited vulnerable object is designated as a limited vulnerable location if relating to the risk of an unusual occurrence caused by an activity which at that time was legally performed or permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
4. A building with a health function without bed area that is already legally permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environmental activity at the moment of subsection 5.1.2.2 coming into effect and which up to that time was designated as a limited vulnerable object is designated as a limited vulnerable building if relating to the risk of an unusual occurrence caused by an activity which at that time was legally performed or permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.

§ 5.1.2.2

Safety in respect of the storage, production, use and transport of dangerous substances and wind turbines

Article 5.4

(scope of activities)

1. This subsection also applies to the permitting at location of an environmentally harmful activity as intended in Annex VII in connection with the external safety risk for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
2. Articles 5.7(1) and 5.11(1) apply accordingly to permitting a risk-enhancing structure in the immediate vicinity of a pipeline as intended in Article 3.101 (1)(a through to d) of the Environmental Activities Decree.

Article 5.5

(functional relationship)

Articles 5.7 and 5.11(1 and 2) do not apply to the location-specific risk of an activity for limited vulnerable and vulnerable buildings and limited vulnerable and vulnerable locations where an activity as intended in Annex VII is performed, or which enjoys a functional relationship with an activity as intended in that Annex.

Article 5.6

(location-specific risk)

The location-specific risk is the risk of death of an unprotected person who is continually present outside the boundary of the location where an activity is performed, as a direct consequence of an unusual occurrence caused by that activity.

Article 5.7

(location-specific risk: vulnerable buildings and locations and very vulnerable buildings)

1. In an environment plan, a limit value for the location-specific risk of an activity will be taken into account of not more than 1:1,000,000 per year for vulnerable and very vulnerable buildings and vulnerable locations.
2. Paragraph one does not apply to permitting vulnerable and very vulnerable buildings and vulnerable locations in connection with the external safety risk of inland waters that

form part of the basic network, with the exception of shipping routes, the Amsterdam-Rhine Canal and the Lek Canal.

3. Paragraph one does not apply to vulnerable and very vulnerable buildings at a location:
 - a. located parallel to a tunnel; or
 - b. above a tunnel through which the transport of flammable gases in bulk volumes and explosive substances is not permitted.

Article 5.8

(location-specific risk: distances)

1. Article 5.7 is complied with by taking into account the following distances for the activities specified in the duly specified sections of Annex VII:
 - a. parts A and B: the distance designated for that activity;
 - b. part C: the distance to the locations designated by ministerial order; and
 - c. parts D and E: a calculated distance.
2. Notwithstanding paragraph one (preamble and a), the following distances may be taken into account for the activities designated in the duly designated parts of Annex VII:
 - a. part A: the distance for which permission is granted as intended in Article 4.7 of the Act, if the permission relates to an equivalent measure relating to that distance; and
 - b. part B (2 or 3): a calculated distance.
3. If the distance as intended in paragraph one (b) only covers part of the width of the road, the railway or the inland waterway, the environment plan will not permit any vulnerable or very vulnerable buildings and vulnerable locations above the full width.
4. If a road or railway that forms part of the basic network consists partially of a tunnel through which the transport of flammable gases in bulk quantities or explosive substances is permitted, the environment plan will not permit any vulnerable and very vulnerable buildings or vulnerable locations above that section.
5. Calculation of the distance is subject to the rules laid down by ministerial order.

Article 5.9

(location-specific risk: up to where distances apply)

1. The distances as intended in Article 5.8 apply:
 - a. for very vulnerable buildings and vulnerable buildings other than houseboats or caravans: up to the facade;
 - b. for new vulnerable and very vulnerable buildings to be built: up to the location where a facade is permitted;
 - c. for vulnerable locations: up to the boundary of the location for the residence of persons; and
 - d. for houseboats and caravans: up to the boundary of the location for the placement of that houseboat or that caravan.
2. The distances apply for very vulnerable buildings also up to the boundary of the location for the residence of persons outside the building, if relating to the risk of an unusual occurrence caused by an activity as intended in Annex VII(A)(1a), (B), (C), (D)(2) and (E)(2 through to 13).

Article 5.10

(location-specific risk: temporary exception vulnerable buildings and locations)

1. Notwithstanding Article 5.7, in an environment plan, a limit value for the location-specific risk of an activity may be taken into account of not more than 1:100,000 per year:
 - a. for vulnerable buildings and vulnerable locations;
 - b. during a period of not more than three years from the date:
 1. on which the building or location is permitted; or
 2. from the start of the activity; and
 - c. if after that period, Article 5.7 is complied with.
2. Paragraph one will be complied with by taking into account the calculated distance. Calculation of the distance is subject to the rules laid down by ministerial order. The distance applies to the boundary as intended in Article 5.9.

Article 5.11**(location-specific risk: limited vulnerable buildings and locations)**

1. In an environment plan, account is taken of a standard value for the location-specific risk of an activity of 1:1,000,000 per year for limited vulnerable buildings and limited vulnerable locations.
2. Notwithstanding paragraph one, if relating to the generation of electricity with a wind turbine with a rotor diameter of more than 2 m, as intended in Article 3.11 of the Environmental Activities Decree, a limit value for the location-specific risk will be taken into account of not more than 1:100,000 per year.
3. Paragraph one will under all circumstances be complied with by taking into account the distances as intended in Article 5.8.
4. Paragraph two will be complied with by taking into account the calculated distance. Calculation of the distance is subject to the rules laid down by ministerial order.
5. The distances apply up to the boundary as intended in Article 5.9.

Article 5.11a**(location-specific risk: limited vulnerable buildings and locations, exceptions for the basic network)**

1. Article 5.11(1) one does not apply to permitting limited vulnerable buildings and limited vulnerable locations in connection with the external safety risk of inland waters that form part of the basic network, with the exception of shipping routes, the Amsterdam-Rhine Canal and the Lek Canal.
2. Article 5.11(1) does not apply to limited vulnerable buildings and limited vulnerable locations at a location:
 - a. located parallel to a tunnel; and
 - b. above a tunnel through which the transport of flammable gases in bulk volumes and explosive substances is not permitted.
3. If a road or railway that forms part of the basic network consists partially of a tunnel through which the transport of flammable gases in bulk quantities or explosive substances is permitted, in the environment plan account will be taken of a standard value for the location-specific risk of the activity of 1:1,000,000 per year for limited vulnerable buildings and limited vulnerable locations above that section.

Article 5.12**(focus areas for external safety risks: categories)**

1. A fire focus area is the location bounded by the distance where, as a consequence of an unusual occurrence that results in a pool fire or jet fire, the thermal radiation is not more than 10 kW/m².
2. An explosion focus area is the location bounded by the distance where, as a consequence of an unusual occurrence that results in:
 - a. a Boiling Liquid Expanding Vapor Explosion (BLEVE), the thermal radiation is not more than 35 kW/m²; or
 - b. an explosion other than sub a, the overpressure is not more than 10 kPa.
3. A toxic cloud focus area is the location bounded by the distance where, as a consequence of an unusual occurrence that results in a toxic cloud, persons in a building die as a consequence of exposure to the maximum concentration of a dangerous substance determined by ministerial order during the duly designated period.
4. Notwithstanding paragraph three, a toxic cloud focus area for the application of this subsection is bounded by a distance of 1.5 km from the location within the boundary of the activity, determined in accordance with the rules laid down by ministerial order, as if the distance as intended in subsection three is greater than 1.5 km.

Article 5.13**(focus areas for external safety risks: boundaries)**

1. The distances as intended in Article 5.12 for the following activities are designated in the duly designated components of Annex VII:
 - a. parts A (1a and 7), B (2 and 5), C and E(9, 10 and 13): the distance designated for the activity; and
 - b. parts D (2) and E(2 through to 9, 11 and 12): a calculated distance.

2. Notwithstanding paragraph one (preamble and a), the distance calculated, if relating to an activity as intended in Annex VII(B)(2) and if for that activity, the distance for the location-specific risk as intended in Article 5.8(2)(b) is calculated.
3. Calculation of the distance is subject to the rules laid down by ministerial order.
4. If relating to an activity as intended in Annex VII(C), fire focus areas and explosion focus areas are the locations designated by ministerial order.

Article 5.14

(focus areas and fire and explosion regulations areas)

1. A fire regulation area and an explosion regulations area are the locations:
 - a. that can be designated in an environment plan if a fire focus area or explosion focus area is permitted at those locations; and
 - b. where for a structure, the requirements in Article 4.90(1) of the Environment Structures Decree apply.
2. In an environment plan:
 - a. a fire focus area is designated as a fire regulation area; and
 - b. an explosion focus area is designated as an explosion regulations area.
3. Notwithstanding paragraph two, in an environment plan, the designation of a fire or explosion regulations area can be waived, or a smaller fire or explosion regulation area may be designated. This does not apply to a location in a fire or explosion focus area where a very vulnerable building is permitted.
4. In an environment plan, the geometric boundary of a fire regulation area and of an explosion regulations area will be laid down.
5. Paragraph two (preamble and a)(3 and 4) do not apply if relating to an activity as intended in Annex VII(C) for which a location is designated by ministerial order as a fire regulation area.

Article 5.15

(focus areas for external safety risks: group risk)

1. In an environment plan, for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations within a fire focus area, an explosion focus area and a toxic cloud focus area, account is taken of the risk of death of a group of ten or more persons per year as a direct consequence of an unusual occurrence caused by an activity.
2. Paragraph one is under all circumstances complied with if an environment plan within a focus area:
 - a. permits no limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations; or
 - b. where the environment plan permits limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations, guarantees:
 1. that measures are taken to protect persons in those buildings and at those locations; or
 2. that the number of persons generally present or the time that they are present in those buildings and at those locations is limited.

Article 5.15a

(grandfather clause)

Article 5.15 does not apply:

- a. in as much as activities are already legally performed at a location or are permitted at the moment of that provision coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; or
- b. to limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations in as much as they are already legally permitted at a location at the moment of that provision coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.

Article 5.16**(risk area external safety: designation and effect)**

1. A risk area external safety is the location that can be designated in an environment plan, if within that area activities are permitted as intended in Annex VII(E)(3 to 5.2, 6 through to 9 and 11 through to 13)
2. In an environment plan, the geometric boundary of a risk area external safety is laid down.
3. In an environment plan, for the boundary of a risk area external safety, a limit value for the location-specific risk will be taken into account of not more than 1:1,000,000 per year, with the exception of the risk of an activity as intended in Annex VII(C) and (D)(2).
4. Paragraph three will be complied with by taking into account the distances as intended in Article 5.8 to the boundary of a risk area external safety.
5. Articles 5.7 and 5.11 do not apply to the location-specific risk of a activity in a risk area external safety. Article 5.15 does not apply to a fire focus area, an explosion focus area or a toxic cloud focus area in as much as located within a risk area external safety.

Article 5.17**(risk area external safety: restrictions)**

In as much as an environment plan applies to a risk area external safety:

- a. limited vulnerable buildings and limited vulnerable locations can be permitted if already permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity at the moment of designation of the area;
- b. limited vulnerable or vulnerable buildings and limited vulnerable or vulnerable locations can be permitted which in the judgement of the competent authority are necessary for the area or for an activity permitted within the area; and
- c. no very vulnerable buildings are permitted.

§ 5.1.2.3***Impediment area pipeline for dangerous substances*****Article 5.18****(impediment area pipeline for dangerous substances)**

An impediment area for a pipeline is the location on both sides of a pipeline as intended in Article 3.101(1)(a through to d) of the Environmental Activities Decree, measured from the centreline of the pipeline up to a distance of:

- a. 5 m; or
- b. 4 m if natural gas is transported through the pipeline, at a pressure of 1,600 to 4,000 kPa.

Article 5.19**(impediment area pipeline for dangerous substances: restrictions)**

In as much as an environment plan applies to an impediment area pipeline:

- a. the environment plan will not permit:
 1. vulnerable buildings, unless they have a functional relationship with that pipeline; and
 2. very vulnerable buildings; and
- b. the environment plan guarantees that the safety of the pipeline is not threatened through permitting:
 1. other structures than those intended in a; and
 2. activities that could influence the integrity and functioning of the pipeline, with the exception of excavation work as intended in Article 1(1) of the Interchange (aboveground and underground networks) Act.

§ 5.1.2.4

Safety regarding the storage, repackaging and processing of fireworks and theatrical pyrotechnic articles

Article 5.20

(fireworks and theatrical pyrotechnic articles)

This subsection also applies to the permitting at a location of the storage, repackaging or processing of fireworks or theatrical pyrotechnic articles as intended in Article 3.30 of the Environmental Activities Decree in connection with the external safety risk for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.

Article 5.21

(fireworks: distances)

1. In an environment plan, for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations, the distance as intended in Article 4.1042(1)(preamble and b) of the Environmental Activities Decree will be taken into account, in as much as that distance as intended in paragraph one (preamble and b) or paragraph two of that article applies.
2. Paragraph one does not apply to limited vulnerable and vulnerable buildings and limited vulnerable and vulnerable locations that have a functional relationship with an activity as intended in Article 5.20.

Article 5.22

(fireworks: to where distances apply)

1. The distances as intended in Article 5.21(1) apply:
 - a. for limited vulnerable, vulnerable and very vulnerable buildings: up to the boundary of the location for the residence of persons outside the building; and
 - b. for limited vulnerable and vulnerable locations: up to the boundary of the location for the residence of persons.
2. Notwithstanding paragraph one (preamble and a), the distances apply for:
 - a. limited vulnerable and vulnerable buildings located at a distance of more than 10 m from the boundary of the location for the residence of persons outside the building: up to 10 m from the location where a facade may be placed; and
 - b. limited vulnerable and vulnerable buildings if relating to houseboats or caravans: up to the boundary of the location for the placement of that houseboat or that caravan.

Article 5.23

(explosion focus areas fireworks)

Explosion focus areas for fireworks for an activity as intended in Article 3.31(1) of the Environmental Activities Decree are the locations bounded by the distances as intended in Annex VIII(A and B).

Article 5.24

(explosion focus areas fireworks: restrictions)

1. An environment plan permits no limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations within an explosion focus area fireworks.
2. Paragraph one does not apply to limited vulnerable and vulnerable buildings and limited vulnerable and vulnerable locations that have a functional relationship with an activity as intended in Article 3.31(1) of the Environmental Activities Decree.
3. The distances as intended in Article 5.23 apply up the boundary as intended in Article 5.22.

Article 5.25

(explosion focus areas fireworks: exception)

1. Notwithstanding Article 5.24(1), an environment plan can permit limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations within an explosion focus area if:
 - a. the thermal radiation as a consequence of fire at the boundary of the location for the residence of persons outside the building is not more than 10 kW/m²; and

- b. resistance to the outbreak and propagation of fire between the door opening of a storage location or a buffer storage location for fireworks or pyrotechnic articles and limited vulnerable, vulnerable and very vulnerable buildings is at least 60 minutes.
2. Paragraph one applies in as much as relating to:
- a. the storage, repackaging or processing of more than 10,000 kg of fireworks of category F1, F2 or F3; or
 - b. the storage or processing of theatrical pyrotechnic articles whether or not together with fireworks of category F1, F2 or F3.

§ 5.1.2.5

Safety regarding the processing and storage of explosive substances for civilian use and at military objects

Article 5.26

(scope explosive substances for civilian use)

1. Articles 5.28 through to 5.30 also apply to the permitting at a location of the following activities in connection with the external safety risk for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity:
- a. the storage of explosive substances of ADR class 1, as intended in Article 3.33 of the Environmental Activities Decree; or
 - b. the operation of an IPPC installation for producing explosives as intended in Articles 3.72(1)(f) and 3.73(1) of the Environmental Activities Decree.
2. Article 5.27 also applies to permitting an activity as intended in paragraph one(a).

Article 5.27

(explosive substances for civilian use: distances for storage)

1. In an environment plan, for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations, the distance as intended in Article 4.1051(1)(preamble and b) and (2)(preamble and b) of the Environmental Activities Decree will be taken into account, in as much as that distance as intended in paragraph one (preamble and b), paragraph two (preamble and b) or paragraph three of that article applies.
2. The distances apply up to the boundary as intended in Article 5.9.

Article 5.28

(civilian explosion focus areas)

Civilian explosion focus areas A, B and C for the activities as intended in Article 5.26 are:

- a. the locations bounded by:
 - 1. in as much as relating to the storage in a structure with components adjoining the outside air of not more than 23 cm brickwork or less than 20 cm concrete: the distances for the storage of substances in the ADR classes as intended in Annex IX(A through to C); and
 - 2. in as much as relating to the storage in any other way: the distance determined in compliance with the NATO Guidelines for the Storage of Military Ammunition and Explosives (AASTP-1); or
- b. if relating to activities at the locations referred to in Annex IX(D), the geometric boundary of which is laid down by ministerial order: the areas of which the geometric boundary is laid down by ministerial order, around those locations.

Article 5.29

(civilian explosion focus areas: restrictions)

1. An environment plan does not permit:
- a. within a civil explosion focus area A:
 - 1. limited vulnerable, vulnerable and very vulnerable buildings;
 - 2. limited vulnerable and vulnerable locations;
 - 3. trunk roads, motorways, railways, waterways or carparks for more than 10 motor vehicles; and

4. agricultural activities that require a more than incidental presence of several persons;
 - b. within a civilian explosion focus area B:
 1. limited vulnerable, vulnerable and very vulnerable buildings;
 2. limited vulnerable and vulnerable locations; and
 - c. within a civilian explosion focus area C: buildings in which as a rule a large number of persons are present for a large part of the day, with:
 1. curtain walling; and
 2. large glass areas.
2. Paragraph one does not apply to limited vulnerable and vulnerable buildings and limited vulnerable and vulnerable locations that have a functional relationship with an activity as intended in Article 5.26.
3. Paragraph one applies to limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations up to the boundary as intended in Article 5.9.

Article 5.30**(civilian explosion focus areas: grandfather clause)**

1. Article 5.29(1) does not apply to activities or works in a civilian explosion focus area A, B and C in as much as:
- a. already legally performed at a location or permitted at the moment of that provision coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; and
 - b. in an environment plan a limit value for the location-specific risk is taken into account of:
 1. not more than 1:1,000,000 per year for vulnerable and very vulnerable buildings and vulnerable locations; and
 2. not more than 1:100,000 per year for limited vulnerable buildings and limited vulnerable locations.
2. Paragraph one(b) will be complied with by taking into account the calculated distance. Calculation of the distance is subject to the rules laid down by ministerial order. The distance applies to limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations up to the boundary as intended in Article 5.9.

Article 5.31**(scope for the storage and processing of explosive substances and objects at military objects)**

Articles 5.32 through to 5.34 apply to permitting at a location the storage and processing of substances and objects of ADR class 1 by Dutch or allied armed forces as intended in Article 3.332 of the Environmental Activities Decree, in connection with the external safety risks for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations that are permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.

Article 5.32**(military explosion focus areas)**

Military explosion focus areas A, B and C for the activity as intended in Article 5.31 are:

- a. the location bounded by the distance determined in compliance with the NATO Guidelines for the Storage of Military Ammunition and Explosives (AASTP-1); and
- b. the locations referred to in Annex X, the geometric boundary of which is laid down by ministerial order.

Article 5.33**(military explosion focus areas: restrictions)**

1. Article 5.29(1) applies accordingly to military explosion focus areas A, B and C.
2. Paragraph one does not apply to limited vulnerable and vulnerable buildings and limited vulnerable and vulnerable locations that have a functional relationship with an activity as intended in Article 5.31.

3. Paragraph one applies to limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations up to the boundary as intended in Article 5.9.

Article 5.34

(military explosion focus areas: grandfather clause)

1. Article 5.33(1) does not apply to activities or works in a military explosion focus area A, B and C in as much as:

- a. already legally performed at a location or permitted at the moment of that provision coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; and
- b. in an environment plan a limit value for the location-specific risk is taken into account of not more than 1:100,000 per year for limited vulnerable, vulnerable and very vulnerable buildings and vulnerable and limited vulnerable, vulnerable and limited vulnerable buildings.

2. Paragraph one(b) is/will be complied with by taking into account the determined distance. Determination of the distance is subject to the rules laid down by ministerial order. The distance applies to limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations up to the boundary as intended in Article 5.9.

§ 5.1.2.6

Safety around airports

[Reserved]

§ 5.1.2.7

Safety of infrastructure around Seveso establishments

Article 5.35

(infrastructure around Seveso establishments)

In permitting a trunk road, motorway or mainline railway, the consequences of the operation of a Seveso establishment as intended in Article 3.51(1) of the Environmental Activities Decree for the safety for road users and passengers will be considered.

§ 5.1.3

Protection of water interests

§ 5.1.3.1

General provisions

Article 5.36

(grandfather clause)

The provisions in subsections 5.1.3.2, 5.1.3.3, 5.1.3.4 and 5.1.3.5 do not apply in as much as activities:

- a. are already legally performed at a location or are permitted at the moment of those provisions coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; or
- b. are permitted on the basis of a project decision or environmental permit that has come into effect for a non-planned environment plan activity, adopted or issued respectively by a national administrative body.

Article 5.37

(weighing of the water interest)

1. In an environment plan, account is taken of the consequences for the management of water systems. For an interpretation of those consequences, the opinions of the administrative body responsible for the management of those water systems are taken into account.

2. Paragraph one does not affect the specific rules specified in subsection 5.1.3 concerning elements of water systems in the environment plan.

§ 5.1.3.2

Primary flood defences

Article 5.38

(no obstacles for primary flood defences)

1. In as much as a primary flood defence is subject to an environment plan, in permitting activities, it is guaranteed that no obstacles occur for the preservation, maintenance or strengthening of the primary flood defence.
2. In as much as an environment plan applies to an area designated pursuant to Article 2.20(1) of the Act or by environment regulation or water authority regulation, adjacent to a primary flood defence where rules apply for protection of the primary flood defence about activities that have or can have consequences for that primary flood defence, paragraph one applies accordingly.
3. In as much as the primary flood defence is a sandy primary flood defence within the coastal foundation as intended in Article 5.39, in permitting activities, it will also be guaranteed that the sand volume within the primary flood defence and the area as intended in paragraph two is permanently preserved.

§ 5.1.3.3

Coast

Article 5.39

(designation coastal foundation)

The coastal foundation is the location reproduced on the maps in Annex XI and the geometric boundary of which is laid down by ministerial order.

Article 5.40

(building inside the coastal foundation)

1. An environment plan permits no building activities in as much as the environment plan applies to a location:
 - a. within the coastal foundation; and
 - b. located outside urban areas.
2. Paragraph one does not apply to building activities relating to:
 - a. structures for temporary or seasonal activities;
 - b. one-time extension of the ground surface of an existing structure by not more than 10%, counting from 30 December 2011;
 - c. structures of public interest that cannot be placed in urban areas, whereby the following structures will under all circumstances be designated as structures of public interest for:
 1. telecommunication facilities and emergency services;
 2. the exploration, production, storage and transport of oil, gas and water, the transport of electricity and small-scale generation of electricity with a wind turbine; and
 3. water management and nature management;
 - d. structures that contribute to the reinforcement of the sandy part of the coastal foundation;
 - e. buildings and structures that are not buildings for recreational overnight accommodation or buildings for recreational daytime accommodation where drinks are served, food and drinks for consumption are prepared or served or where recreational activities take place.
3. Paragraph one does not apply in as much as rules have been laid down in environment plans that deviate from that paragraph on the basis of Article 7.2 by environment regulation from the Province of Fryslân, for the Frisian Wadden Islands.

§ 5.1.3.4

Large rivers**Article 5.41****(designation river bed of large rivers)**

1. The river bed of large rivers is the location in the rivers reproduced on the map in Annex XII bounded by the outside crest line of the primary flood defence or the line of the floodwater-retaining land of those rivers, the geometric boundary of which is laid down by ministerial order.
2. The wetted area of the river bed of the large rivers is the part of the river bed, the geometric boundary of which is laid down by ministerial order.
3. The retaining area of the river bed of the large rivers is the part of the river bed, the geometric boundary of which is laid down by ministerial order.

Article 5.42**(designation of reservation areas for large rivers)**

1. The reservation areas for the long term for the branches of the Rhine are the locations consisting of the retention area in the Rijnstrangen, the floodwater channel at Deventer, the Brakel dyke replacement, the Oosterhout dyke replacement, the Loenen dyke replacement and the floodwater channel at Varik-Heesselt, the geometric boundary of which is laid down by ministerial order.
2. The reservation areas for the long term for the Maas are the locations consisting of the Bokhoven dyke relocation, the Kraaijbergse Plassen dyke relocation, the Kraaijbergse Plassen-west retention area, the Keent Zuid retention area at Reek, the Overasselt dyke replacement retention areas, the Alem dyke replacement, the Moordhuizen dyke replacement, the Hedel dyke replacements and the Bergsche Maas north bank dyke replacements, the geometric boundary of which is laid down by ministerial order.

Article 5.43**(general criteria for permitting activities)**

In as much as an environment plan applies to the river bed of the large rivers, in permitting activities, it is guaranteed that:

- a. the river is used safely and effectively;
- b. actual obstacles to the expansion of the discharge capacity of the river are avoided; and
- c. a rise in the water level or a reduction in the retention capacity of the river is avoided or mitigated as far as possible.

Article 5.44**(small, temporary and necessary activities in the river bed)**

In as much as an environment plan applies to a river bed for the large rivers, as a rule the environment plan can under all circumstances permit the following activities:

- a. activities for which no environmental permit for a restricted area activity is required for a water management structure managed by the State;
- b. activities for river management and river widening;
- c. temporary activities; and
- d. activities of lesser potamological importance.

Article 5.45**(activities in the retaining part of the river bed)**

1. In as much as an environment plan applies to the retaining part of the river bed of the large rivers, in addition to the activities as intended in Article 5.44, the environment plan can also permit other activities, on condition that a reduction in the retaining capacity of the river as a result of those activities is compensated for.
2. In that case, the environment plan includes the measures for compensating for the reduction in the retaining capacity.

Article 5.46**(activities in the wetted part of the river bed)**

1. In as much as an environment plan applies to the wetted part of the river bed of the large rivers, in addition to the activities as intended in Article 5.44, the environment plan may only permit the following activities, on condition that any water level rise in the river as a result of those activities is compensated for:

- a. the construction or alteration of water management structures;
- b. the construction of facilities for improved and safe management of professional or recreational shipping.
- c. the construction of combined heat and power generation plants;
- d. the establishment or expansion of transshipment companies or the creation of transshipment facilities, if the activity is linked to transport by river;
- e. the construction or alteration of shipyards or professional or pleasure craft and specifically related activities as intended in Article 3.144 of the Environmental Activities Decree;
- f. the layout and management or improvement of nature;
- g. improvement of the water quality;
- h. expansion or alteration of existing brickworks;
- i. the layout of facilities for water recreation or extensive floodplain recreation;
- j. the extraction of surface minerals;
- k. the layout of facilities of large public interest that cannot be realised outside the river bed;
- l. activities with a substantial commercial interest for existing soil-bound farms that cannot be realised outside the river bed;
- m. a change to a use function within existing buildings;
- n. activities for the preservation of cultural heritage, in particular known or demonstrably expected archaeological monuments; and
- o. activities that on balance are of more benefit to the river at a potamologically acceptable location.
- p. the layout of facilities for agricultural landscape or comparable management of the river bed;
- q. the preservation or recovery of landscape elements or cultural heritage;
- r. renewable energy supply for existing facilities in the river bed; and
- s. the layout of facilities for electricity generation through solar or wind energy that cannot reasonably be realised outside the river bed.

2. An environment plan that permits activities as intended in paragraph one contains the measures that compensate for the consequences for the water level or, if part o applies, that create more space for the river.

Article 5.47**(no large-scale or capital-intensive developments)**

In as much as an environment plan applies to the reservation areas for the long term for the Rhine branches or the Maas, the environment plan permits no large-scale or capital-intensive developments that could hinder the taking of river-widening measures.

§ 5.1.3.5***IJsselmeer area*****Article 5.48****(designation IJsselmeer area)**

The IJsselmeer area is the location consisting of the bodies of surface water referred to in Article 3.12(e), the geometric boundary of which is laid down by ministerial order.

Article 5.49**(restrictions on land reclamation and structures)**

1. In as much as the IJsselmeer area is subject to an environment plan, the environment plan permits no land reclamation and building activities.

2. Paragraph one does not apply to land reclamation and building activities for developments aimed at overflowable nature and the necessary protective management

structures, projects in the framework of dyke and coastal reinforcement and projects of national importance for wind energy.

3. Paragraph one also does not apply to land reclamation and building activities with a total surface area per municipality of not more than:

- a. 350 ha for the municipality of Amsterdam for the IJburg project phase two;
- b. 700 ha for the municipality of Almere, of which:
 1. not more than 12 ha in the Gooimeer for the Hoogtij project; and
 2. remaining surface area in the Markermeer for the Schaalsprong Almere project;
- c. 150 ha for the municipality of Lelystad for residential functions, related activities and a transshipment dock;
- d. 35 ha for the municipality of Harderwijk for the Harderwijk Waterfront project;
- e. 17 ha for the municipality of Fryske Marren, of which:
 1. not more than 7 ha for a temporary working island for the extraction of sand for concrete and building sand; and
 2. not more than 10 ha for the development of nature or other functions than the development of nature, if those other functions tie in with existing building;
- f. 10 ha for the municipalities of Edam-Volendam and Gooise Meren for the development of nature or other functions than the development of nature, if those other functions tie in with existing building; and
- g. 5 ha for other municipalities than those referred to in a through to f, for the development of nature or other functions than the development of nature, if those other functions tie in with existing building.

4. In application of paragraph three, the number of hectares will be calculated in respect of the permitted possibilities on the basis of the zoning plan valid on 22 December 2009, assuming the municipal division applicable on that date or, for municipalities established after that date, assuming the municipal division applicable at the moment of this provision coming into effect.

§ 5.1.4

Protecting health and the environment

§ 5.1.4.1

Quality of the outside air

Article 5.50

(air quality in road tunnels, trunk roads and motorways)

1. This article applies to the permitting of the following activities:
 - a. the construction of a road tunnel tube, with a tunnel tube length as intended in Annex I to the Environment Structures Decree of at least 100 m;
 - b. a change to a road tunnel tube whereby the tunnel tube length increases by at least 100 m; or
 - c. the construction of a trunk road or motorway.
2. If the activities result in an increase in the concentration of nitrogen dioxide or PM₁₀ in the outside air, the following environmental values must be taken into account in the environment plan:
 - a. the environmental value for nitrogen dioxide as intended in Article 2.4(1)(b); and
 - b. the environmental values for PM₁₀ as intended in Article 2.5(1).
3. Calculation of the concentration of nitrogen dioxide or PM₁₀ are subject to the rules laid down by ministerial order.

Article 5.51

(air quality in focus areas)

1. This article applies to the permitting of the following activities:
 - a. the construction or alteration of roads, waterways and railways or their use, not being an activity as intended in Article 5.50(1); or
 - b. the environmentally harmful activities in respect of which rules are imposed in the Environmental Activities Decree with a view to limiting air pollution.
2. The focus areas for both nitrogen dioxide and particulate matter are the following agglomerations the location of which is designated by ministerial order.

- a. Amsterdam/Haarlem;
 - b. 's-Gravenhage/Leiden;
 - c. Rotterdam/Dordrecht;
 - d. Utrecht; and
 - e. Eindhoven.
3. The focus areas for particulate matter are the following municipalities:
- a. Asten;
 - b. Barneveld;
 - c. Bernheze;
 - d. Ede;
 - e. Leudal;
 - f. Nederweert;
 - g. Scherpenzeel; and
 - h. Venray.
4. If the activities result in an increase in the concentration of one of the following substances in the outside air, in a duly designated focus area, the duly designated environmental values are taken into account in an environment plan:
- a. in an focus area for both nitrogen dioxide and particulate matter:
 - 1. the environmental value for nitrogen dioxide as intended in Article 2.4(1)(b); and
 - 2. the environmental values for PM₁₀ as intended in Article 2.5(1); and
 - b. in an focus area for particulate matter: the environmental values for PM₁₀ as intended in Article 2.5(1).
5. Calculation of the concentration of nitrogen dioxide or PM₁₀ are subject to the rules laid down by ministerial order.

Article 5.52**(exempted locations air quality)**

Article 5.50 and 5.51 do not apply in as much as relating to an increase in the concentration of nitrogen dioxide or PM₁₀ in the outside air at:

- a. a location to which the public has no access and where there is no permanent housing; or
- b. the carriageway of roads and the median of roads, unless pedestrians normally have access to the median.

Article 5.53**(air quality not to a meaningful extent)**

1. Articles 5.50 and 5.51 do not apply in as much as permitting activities results in an increase in the calendar year average concentration in the outside air of both nitrogen dioxide and PM₁₀ of 1.2 µg/m³ or less, unless relating to the operation of a livestock farm as intended in Article 3.200 of the Environmental Activities Decree:

- a. from which the emission of PM₁₀ from the animal accommodation exceeds 800 kg per year; and
- b. at a location in the following municipalities, the geometric boundary of which is laid down by ministerial order:
 - 1. Asten;
 - 2. Barneveld;
 - 3. Deurne;
 - 4. Ede;
 - 5. Nederweert;
 - 6. Renswoude; and
 - 7. Scherpenzeel.

2. In determining the level rise, the rise caused by the use of the roads, waterways and railways from and to the location where the activity is performed will be added together.

3. In the case of multiple activities, the rise caused by those activities will be added together, in as much as the expected date of the start of the activities is in a period of five years following adoption of the environment plan, in as much as relating to a rise due to the use of roads as a consequence of the permitting of activities which:

- a. make use of or will use the same access road; and
- b. are or will be adjacent or are located in each other's immediate vicinity, up to a distance of not more than 1,000 m, whereby activities that do not contribute more than $0.1 \mu\text{g}/\text{m}^3$ to the concentration are not considered.

Article 5.54

(standard cases air quality not to a meaningful extent)

The approval of activities will under all circumstances result in an increase in the calendar year average concentration of nitrogen dioxide and PM_{10} van $1.2 \mu\text{g}/\text{m}^3$ or less as intended in Article 5.53 in as much as relating to a rise as a consequence of permitting:

- a. buildings with a office function and its alternative use function, with:
 - 1. a single access road: a gross surface area of not more than $100,000 \text{ m}^2$; or
 - 2. two access roads: equal traffic distribution and a gross surface area of not more than $200,000 \text{ m}^2$;
- b. buildings with a residential function and alternative use function, with:
 - 1. a single access road: not more than 1,500 dwellings; or
 - 2. two access roads: not more than 3,000 dwellings;
- c. buildings with an office function and buildings with a residential function and alternative use functions of those use functions, with:
 - 1. a single access road: the number of dwellings time 0.0008 and a gross surface area of office functions and alternative use functions thereof in square metres times 0.000012 that added together is less than or equal to 1.2 ; or
 - 2. two access roads: a proportional number of dwellings and a proportional gross surface area of office functions;
- d. the cultivation of crops of under glass, as intended in Article 3.205 of the Environmental Activities Decree, in as much as relating to:
 - 1. unheated greenhouses; or
 - 2. heated greenhouses not larger than 2 ha ;
- e. the cultivation of crops in the outside air and the treatment of crops immediately before or following cultivation, as intended in Article 3.208 of the Environmental Activities Decree;
- f. the cultivation of crops in a building other than a greenhouse as intended in Article 3.211 of the Environmental Activities Decree, in as much as relating to:
 - 1. forcing chicory; or
 - 2. the cultivation of edible mushrooms; or
- g. the operation of a railway marshalling yard as intended in Article 3.295b of the Environmental Activities Decree, in as much as relating to the start of the activity or a change which results in an increase in the number of diesel traction hours of not more than $7,500$ per year.

§ 5.1.4.2

Noise caused by activities

§ 5.1.4.2.1

General provisions

Article 5.55

(scope)

- 1. Subsection 5.1.4.2 applies to permitting:
 - a. an activity other than residential at a location that causes noise at a noise sensitive building permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; or
 - b. a noise sensitive building at which noise is caused by an activity other than residential noise which is permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
- 2. Notwithstanding paragraph one, subsection 5.1.4.2:
 - a. does not apply to noise sensitive buildings located fully or partially on an industrial estate the noise production ceilings for which are determined as environmental values;

- b. does not apply to the noise at a non-noise sensitive facade;
- c. with the exception of Article 5.58 and 5.59 does not apply to a noise sensitive building that is permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity, for a period of not more than ten years;
- d. does not apply to the noise caused by activities performed on an industrial estate for which the noise production ceilings are determined as environmental values, with the exception of wind turbines, wind farms, civilian outdoor shooting ranges, military outdoor shooting ranges and military explosive ordnance sites;
- e. does not apply to the noise caused by railway vehicles at railway marshalling yards that are part of a mainline railway or a local railway designated by environment regulation; and
- f. does not apply to through traffic on roads, waterways and railways.

Article 5.56 [lapsed]

Article 5.57 [lapsed]

Article 5.58 **(multiple activities viewed as a single activity)**

For application of this subsection, the following will be viewed as a single activity:

- a. an activity as intended in Sections 3.3 through to 3.11 of the Environmental Activities Decree; or
- b. if relating to other activities than those intended in a, multiple activities performed at the same location and which:
 - 1. are directly related and technically related; or
 - 2. are mutually functionally supporting.

Article 5.59 **(noise caused by activities - taking into account and acceptability)**

1. In an environment plan, noise caused by activities at noise sensitive buildings is taken into account.
2. An environment plan ensures that the noise caused by an activity at noise sensitive buildings is acceptable.
3. Determining the noise caused by activities at noise sensitive buildings is subject to the rules laid down by ministerial order.

Article 5.60 **(where values apply)**

An environment plan specifies that the values for the noise caused by an activity:

- a. apply at a noise sensitive building, other than a houseboat or caravan:
 1. at the facade, in the case of a noise sensitive building; and
 2. at the location where a facade may be erected, if relating to a new noise sensitive building to be built;
- b. at a houseboat or caravan apply at the boundary of the location for the placement of that houseboat or that caravan; and
- c. in a noise sensitive room apply in the noise sensitive room.

Article 5.61 **(functional relationship)**

If an environment plan contains values about the noise caused by an activity, the environment plan determines that those values do not apply to the noise caused by that activity at a noise sensitive building that has a functional relationship with that activity.

Article 5.62 **(past functional relationship)**

If an environment plan contains values about the noise caused by an activity:

- a. in the agricultural sector as intended in Articles 3.200, 3.205, 3.208, 3.211, 3.215, 3.218, 3.221 or 3.225 of the Environmental Activities Decree;
- b. performed on a commercial estate; or
- c. in the hospitality sector;

the environment plan may determine that those values do not apply to the noise caused by that activity at a noise sensitive building that in the past was functionally related to that activity.

§ 5.1.4.2.2

Noise caused by activities other than specific activities

Article 5.63

(scope)

1. This subsection applies to the noise at a noise sensitive building caused by activities, with the exception of:

- a. activities as intended in subsection 5.1.4.2.3; and
- b. activities performed on an industrial estate for which noise production ceilings are designated as environmental values.

2. Notwithstanding paragraph one, with the exception of Article 5.73, this subsection does not apply to:

- a. activities performed primarily in public outdoor space;
- b. events:
 1. that do not take place at an event location; or
 2. that are not festivities as intended in Article 5.68; and
- c. noise that is not representative for an activity.

Article 5.64

(relationship to acceptability)

1. Article 5.59(2) is complied with by application of Article 5.65.

2. Notwithstanding paragraph one, Article 5.59(2) can be complied with by application of Article 5.66, 5.67, 5.68, 5.69, 5.70 or 5.71.

Article 5.65

(standard values and limit values for noise sensitive rooms within in-built and adjoining noise sensitive buildings)

1. An environment plan contains:

- a. as its values the standard values as intended in Table 5.65.1 for permissible noise caused by an activity at a noise sensitive building; and
- b. as its values the limit values as intended in Table 5.65.2 for the permissible noise in noise sensitive rooms inside in-built and adjoining noise sensitive buildings.

Table 5.65.1 Standard value permissible noise at a noise sensitive building

	07.00 – 19.00 hours	19.00 – 23.00 hours	23.00 – 07.00 hours
Long-term average assessment level $L_{Ar,LT}$ as a consequence of activities	50 dB(A)	45 dB(A)	40 dB(A)
Maximum noise level L_{Amax} caused by propulsion noise for means of transport	–	70 dB(A)	70 dB(A)
Maximum noise level L_{Amax} caused by other peak noises	–	65 dB(A)	65 dB(A)

Table 5.65.2 Limit value for permissible noise in noise sensitive rooms within in-built and adjoining noise sensitive buildings

	07.00 – 19.00 hours	19.00 – 23.00 hours	23.00 – 07.00 hours
Long-term average assessment level $L_{Ar,LT}$	35 dB(A)	30 dB(A)	25 dB(A)
Maximum noise level L_{Amax} caused by propulsion noise for means of transport	–	55 dB(A)	55 dB(A)
Maximum noise level L_{Amax} caused by other peak noises	–	45 dB(A)	45 dB(A)

2. If an environment plan permits an activity on an commercial estate designated in the environment plan, notwithstanding paragraph one (preamble and a), for the long-term average assessment level $L_{Ar,LT}$ for noise and the maximum noise level L_{Amax} caused by the activity at noise sensitive buildings on that commercial estate, the environment plan may contain as values the standard values as intended in Table 5.65.1, raised by 5 dB(A).
3. If an environment plan permits an activity in an agricultural area designated in the environment plan, notwithstanding paragraph one (preamble and a), in combination with Table 5.65.1 (row one), for the long-term average assessment level $L_{Ar,LT}$ for noise caused by that activity at noise sensitive buildings within that agricultural area, the environment plan may contain as values the standard values as intended in Table 5.65.1 (row one), reduced by 5 dB(A).
4. If an environment plan permits a houseboat, notwithstanding paragraph one (preamble and a) and paragraph three, for the long-term average assessment level $L_{Ar,LT}$ for noise and the maximum noise level L_{Amax} caused by the activity on that houseboat, the environment plan may contain as values the standard value as intended in Table 5.65.1, raised by 5 dB(A):
 1. if the location was zoned for a houseboat before 1 July 2012, or
 2. if the location was designated before 1 July 2012 in a municipal regulation to be occupied by a floating residential function and was zoned for a houseboat before 1 July 2022, or if the presence of a houseboat is permitted in an environment plan before 1 July 2022.
5. Determination of the noise for which an environment plan contains a value as intended in paragraph one (preamble and b) is subject to the rules laid down by ministerial order.

Article 5.66

(flexibility - deviation from limit values)

1. Given the nature or location of the activity or cumulation, an environment plan may contain other values than the standard values as intended in Article 5.65(preamble and a) (2, 3 or 4).
2. An environment plan only contains higher values on the basis of paragraph one if:
 - a. this does not result in exceeding the limit values as intended in Table 5.66, in noise sensitive rooms within noise sensitive buildings, other than within in-built and adjoining noise sensitive buildings; or
 - b. at the moment of this Decree coming into effect, a higher value applied for an activity on the basis of the environment plan, an environmental permit or a customised instruction for an activity, and the value is not higher than the limit value, namely the value that was permitted on the basis of the environment plan, the environmental permit or the customised instruction.

Table 5.66 Limit value permissible noise in noise sensitive rooms within noise sensitive buildings other than within in-built and adjoining noise sensitive buildings

	07.00 – 19.00 hours	19.00 – 23.00 hours	23.00 – 07.00 hours
Long-term average assessment level $L_{Ar,LT}$	35 dB(A)	30 dB(A)	25 dB(A)
Maximum noise level L_{Amax} caused by propulsion noise for means of transport	--	55 dB(A)	55 dB(A)
Maximum noise level L_{Amax} caused by other peak noises	--	45 dB(A)	45 dB(A)

3. Paragraph two (preamble and a) does not apply to noise sensitive buildings if:
 - a. there are substantial, structural objections to the taking of measures on the facade necessary for ensuring that the building satisfies the limit values as intended in Table 5.66 on condition that, if other measures are possible to improve the noise resistance as far as possible, those other measures are taken;

- b. the owner does not cooperate in the investigation into the noise in noise sensitive rooms inside his building and the necessary noise abatement measures; or
 - c. the owner does not cooperate in taking noise abatement measures.
4. For application of paragraph two, the following will not be taken into consideration:
- a. noise caused by the deployment of motor vehicles or helicopters for urgent medical assistance, accident prevention, fire fighting, ice control measures and clearing the road following an accident; and
 - b. non-amplified human voice noise.
5. An environment plan may contain higher values than the limit values as intended in Article 5.65(preamble and b) if at the moment of this Decree coming into effect, a higher value applied for an activity on the basis of the environment plan, an environmental permit or a customised instruction. The value is not higher than the limit value, namely the value that was permitted on the basis of the environment plan, the environmental permit or the customised instruction.
6. Calculation of the noise in noise sensitive rooms within noise sensitive buildings is subject to the rules laid down by ministerial order.

Article 5.67**(flexibility - values of maximum noise level in the daytime period)**

Given the nature or location of the activity, for the period from 07.00 to 19.00 hours, for noise sensitive buildings or noise sensitive rooms within in-built or adjoining noise sensitive buildings, an environment plan may contain a maximum noise level L_{Amax} as a consequence of that activity.

Article 5.68**(flexibility - values do not apply to festivities)**

Notwithstanding Article 5.65, an environment plan may specify that the values contained in the environment plan do not apply on specific days or parts of days in connection with the celebration of:

- a. festivities specified in the environment plan; or
- b. festivities that take place at the location where the activity is performed, during a maximum of twelve days per year.

Article 5.69**(flexibility - exemptions from where values apply)**

Notwithstanding Article 5.60, an environment plan may specify that the values for the noise caused by an activity at a noise sensitive building apply at a location that is located closer to the activity than:

- a. the facade as intended in Article 5.60(a)(1°);
- b. the location as intended in Article 5.60(a)(2°); or
- c. the boundary as intended in Article 5.60(b).

Article 5.70**(flexibility – no values)**

Notwithstanding Article 5.65, given the nature or location of the activity, an environment plan may fully or partially contain no values.

Article 5.71**(flexibility - other rules than values)**

Instead of the values as intended in Article 5.65, an environment plan may contain other rules.

Article 5.72**(limitation of flexibility military sites)**

1. For activities near or on a military site or a site with a military object as intended in Article 5.150(1), subject to Article 5.66(1), and environment plan may only contain higher values.
2. For activities near or on a military site or a site with a military object as intended in Article 5.150(1), Articles 5.67 and 5.69 do not apply.
3. If in addition to or instead of the values, an environment plan contains rules about noise, these do not refer to activities as intended in paragraph one.

Article 5.72a**(rules on activities that can cause a considerable level of noise)**

1. An environment plan may specify that an activity as intended in Article 5.78b(1)(b and c) will not be performed.
2. Paragraph one does not apply if an environment plan or an environmental permit for a non-planned environment plan activity for an activity as intended in that paragraph guarantees that the long-term average assessment level $L_{Ar,LT}$ for the noise at a distance of 50 metres from the boundary of the location where the activity is performed, no longer contributes to the standard values as intended in Table 5.65.1.

Article 5.73**(exceptions noise sources)**

1. An environment plan specifies that the values contained in the environment plan for noise caused by an activity at noise sensitive buildings or in noise sensitive rooms do not apply to:
 - a. the noise caused by the deployment of motor vehicles or helicopters for urgent medical assistance, accident prevention, fire fighting, ice control measures and clearing the road following an accident; and
 - b. non-amplified human voice noise, unless it is music or mixed with music.
2. If in addition to or instead of the values, an environment plan contains rules about noise, these do not refer to activities as intended in paragraph one(a).

§ 5.1.4.2.3***Noise caused by specific activities*****Article 5.74****(wind turbines and wind farms)**

1. An environment plan that permits the generation of electricity with a wind turbine or wind farm contains as value the standard value 47 dB L_{den} and 41 dB L_{night} for the permissible noise caused by the activity at a noise sensitive building.
2. Notwithstanding paragraph one, the environment plan may contain higher or lower values. An environment plan may only contain lower values if specified given the cumulation with the noise caused by another wind turbine or another wind farm, or given the special nature of the area.
3. An environment plan contains no other rules about noise at a noise sensitive building caused by the generation of electricity with a wind turbine or wind farm than the values contained in the environment plan on the basis of paragraph one or two.

Article 5.75**(wind turbines and wind farms - relationship with acceptability)**

1. Article 5.59(2) is complied with by application of Article 5.74(1).
2. Notwithstanding paragraph one, Article 5.59(2) can be complied with by application of Article 5.74(2).

Article 5.76**(civilian outdoor shooting ranges, military shooting ranges and military explosive ordnance sites)**

1. This Article applies to the noise at a noise sensitive building caused by the operation of the following facilities located in the outside air or in a building without a closed roof or with an open side:
 - a. civilian shooting range where firearms are fired; or
 - b. military shooting range or military explosive ordnance site on a military site as intended in Annex XIII.
2. An environment plan that permits an activity as intended in paragraph one contains as value the standard value 50 dB $B_{s,dan}$ for the permitted noise caused by the activity at a noise sensitive building.
3. Notwithstanding paragraph two, an environment plan for the operation of a:
 - a. civilian shooting range as intended in paragraph one(a) may contain a lower value; or
 - b. for military shooting ranges or military explosive ordnance sites as intended in paragraph one(b), may contain a higher value, on condition that higher value is not higher than:

1. 60 dB B_{s,dan} for military shooting ranges or military explosive ordnance sites subject to Article 3.335 of the Environmental Activities Decree; and
 2. 55 dB B_{s,dan} for other military shooting ranges and military explosive ordnance sites.
4. An environment plan contains no other rules about noise at a noise sensitive building caused by an activity as intended in paragraph one than the values contained in the environment plan on the basis of paragraph two or paragraph three.

Article 5.77**(civilian outdoor shooting ranges, military outdoor shooting ranges and military explosive ordnance sites - relationship with acceptability)**

1. Article 5.59(2) is complied with by application of Article 5.76(2).
2. Notwithstanding paragraph one, Article 5.59(2) can be complied with by application of Article 5.76(3).

Article 5.78

[lapsed]

§ 5.1.4.2a**Noise caused by roads, railways and industrial estates****§ 5.1.4.2a.1****General provisions****Article 5.78****(scope)**

1. Subsection 5.1.4.2a applies to a noise sensitive building permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity and that is located fully or partially in a noise focus area of:
 - a. roads, roads, railways and industrial estates with noise production ceilings;
 - b. local railways without noise production ceilings; and
 - c. paved municipal roads and water authority roads without noise production ceilings, not forming a property as intended in the Traffic Regulations and Road Signs 1990, with a traffic intensity of more than 1,000 motor vehicles per day as a calendar year average.
 - d. with the exception of Article 5.78s(1 and 2), subsection 5.1.4.2a does not apply to a noise sensitive building that is permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity, for a period of not more than ten years.
2. Article 5.60 applies accordingly.

Article 5.78a**(value of the noise)**

1. In application of subsection 5.1.4.2a, the noise:
 - a. at roads, railways and industrial estates with noise production ceilings as environmental values: is the noise subject to full utilisation of the noise production ceiling; and
 - b. at roads and railways without noise production ceilings as environmental values: is the noise in a normative year for traffic on that road or railway.
2. In determining the noise caused by roads and railways without noise production ceilings as environmental values, the noise caused by all roads or railways forming part of that noise source type will be taken into account.
3. In determining the noise caused by a municipal road or a local railway for which Article 3.27(2) applies, the noise caused by that municipal road and that railway together will be taken into consideration.
4. The determination of the noise is subject to the rules laid down by ministerial order.

Article 5.78b**(designation of activities that can cause a considerable level of noise)**

1. Activities that can cause a considerable level of noise as intended in Article 2.11a of the Act are:
 - a. the activities as intended in Annex VIII to the Environmental Activities Decree;

- b. the simultaneous use of one or more electric motors or combustion engines with a combined installed motor output of 15 MW or more, whereby in determining the joint output, the following are not considered:
 - 1. electric motors and combustion engines with an output of 0.25 Kw or less;
 - 2. electric motors and combustion engines present temporarily;
 - 3. electric motors used in a building or part of a building with a residential function for that building; and
 - 4. electric motors on bridges, viaducts, traffic tunnels and other underground structures for the transport of persons or goods and movable flood defences; and
 - c. the use of transformers not installed in an enclosed building with a maximum simultaneously available electric power of 200 MVA or more.
2. Paragraph one does not apply to activities for which the environment plan or an environmental permit for a non-planned environment plan activity guarantees that the long-term average assessment level $L_{Ar,LT}$ for the noise at a distance of 50 metres from the boundary of the location where the activity is performed, no longer contributes to the standard values as intended in Table 5.65.1.

§ 5.1.4.2a.2

Noise caused by industrial estates with noise production ceilings as environmental values

Article 5.78c

(scope)

1. This subsection applies to the noise caused by activities on an industrial estate other than activities as intended in subsection 5.1.4.2.3, for which on the basis of Article 2.11a or 2.12a of the Act, noise production ceilings have been determined as environmental values.
2. In this subsection, an industrial estate shall also be taken to mean another site for which on the basis of Article 2.11(1) of the Act, noise production ceilings have been determined as environmental values.

Article 5.78d

(determining noise production ceiling industrial estate)

Determination of a noise production ceiling as an environmental value for an industrial estate is subject to subsection 3.5.4.

Article 5.78e

(determination of the boundary of an industrial estate in an environment plan)

The boundary of an industrial estate for which noise production ceilings are determined as environmental values is laid down in the environment plan.

Article 5.78f

(rules on activities - satisfying noise production ceilings)

An environment plan contains rules on activities aimed at satisfying noise production ceilings determined as environmental values for an industrial estate.

Article 5.78g

(limitation of flexibility on military sites)

1. An environment plan for an activity near or on a military site or a site with a military object as intended in Article 5.150(1) contains no values lower than the standard values as intended in Article 5.65.1, raised by 5 dB, for the permissible noise caused by the activity at a distance of 50 m from the boundary of the location where the activity is performed. Article 5.58 applies accordingly.
2. If in addition to or instead of the values, an environment plan contains rules about noise, these do not refer to activities as intended in paragraph one.

Article 5.78h

(exceptions noise sources)

1. If an environment plan contains values for noise caused by an activity, the environment plan determines that these do not apply to:

- a. the noise caused by the deployment of motor vehicles or helicopters for urgent medical assistance, accident prevention, fire fighting, ice control measures and clearing the road following an accident; and
 - b. non-amplified human voice noise, unless it is music or mixed with music.
2. If in addition to or instead of the values, an environment plan contains rules about noise, these do not refer to activities as intended in paragraph one(a).

§ 5.1.4.2a.3

Noise caused by roads and local railways without noise production ceilings as environmental values

Article 5.78i

(scope)

1. This subsection applies to the noise caused by:
- a. paved municipal roads and water authority roads not forming a property as intended in the Traffic Regulations and Road Signs 1990, with a traffic intensity of more than 1,000 motor vehicles per day as a calendar year average; and
 - b. local railways not designated by environment regulation.
2. This subsection does not apply to the noise at a non-noise sensitive facade.

Article 5.78j

(change to municipal road, water authority road or local railway)

1. For the application of this subsection, a change to a municipal road or water authority road shall be taken to mean:
- a. the relocation of one or more carriageways by more than 2 m;
 - b. the raising or lowering of the carriageways by more than 1 m;
 - c. an increase in the number of carriageways, not in the form of turning lanes and acceleration and deceleration lanes;
 - d. replacement of a road surface by a less quiet road surface; or
 - e. the removal of noise restricting measures consisting of works or structures at the roadside.
2. For the application of this subsection, a change to a local railway will be taken to mean:
- a. the relocation of one or more tracks by more than 2 m;
 - b. the raising or lowering of one or more tracks by more 1 m;
 - c. an increase in the number of tracks;
 - d. the replacement of a track construction by a less quiet track construction; or
 - e. the removal of noise restricting measures consisting of works or structures alongside the railway site.

Article 5.78k

(change to the use of a local railway)

1. For application of this subsection, a change to the use of a local railway shall be taken to mean a change that results in an increase in noise emission by more than 1.5 dB due to:
- a. increasing the maximum speed;
 - b. replacing the rolling stock with less quiet rolling stock; or
 - c. increasing the train intensity.
2. The increase in noise emission is determined by comparing the situation after the change in a normative year for that railway, with the situation in that same year, without the change.

Article 5.78l

(noise in noise focus area - taking into account and acceptability)

1. In an environment plan, account is taken of the noise caused by roads and railways at noise sensitive buildings.
2. An environment plan ensures that the noise caused by the municipal road, water authority road or local railway at noise sensitive buildings is acceptable in a noise focus area.
3. In application of paragraph one, at least Article 5.78p will be complied with.

4. Paragraph two will be complied with by application of Article 5.78m.
5. Notwithstanding paragraph four, paragraph two can be complied with by application of Article 5.78n or 5.78o.

Article 5.78m**(construction or alteration of municipal road, water authority road or local railway or change in use of local railway)**

1. An environment plan that permits the construction of a municipal road, water authority road or local railway ensures that the noise at noise sensitive buildings is not higher than the standard value as intended in Table 3.34.
2. An environment plan that permits a change to a municipal road, water authority road or local railway or a change to the use of a local railway ensures that the noise at noise sensitive buildings is not higher than the higher of the following two values:
 - a. the standard value, as intended in table 3.34; and
 - b. the noise at those noise sensitive buildings at the time of amendment to the environment plan.
3. If Article 3.27(2) is applied, for the noise caused by the municipal road and local railway together, the standard value for municipal roads as intended in Table 3.34 applies.

Article 5.78n**(exceeding standard value or increase)**

1. An environment plan that permits the construction of or change to a municipal road, water authority road or local railway or that contains rules concerning a change to the use of a local railway, can provide for the noise at noise sensitive buildings to exceed the higher of the two values as intended in Article 5.78m(2), if
 - a. no noise restricting measures can be taken in order to satisfy the higher of the two values;
 - b. the exceeding of the higher of the two values is restricted as far as possible by taking noise restricting measures; and
 - c. the noise at noise sensitive buildings is not higher than the limit value as intended in table 3.35.
2. Noise restricting measures as intended in paragraph one will be considered if financially effective and in the absence of dominant objections of an architectural, traffic management, transport management, landscape or technical nature.
3. If Article 3.27(2) is applied, for the noise caused by the municipal road and local railway together, the limit value for municipal roads as intended in Table 3.35 applies.

Article 5.78o**(exceeding limit values due to substantial interests)**

In application of Article 5.78n, an environment plan may permit more noise than the limit values as intended Table 3.35 if justified by substantial economic interests or substantial other social interests.

Article 5.78p**(assessment of acceptability of cumulative noise)**

In application of Articles 5.78n and 5.78o, the acceptability of cumulative noise on the noise sensitive building will be assessed.

Article 5.78q**(determining combined noise)**

In application of Articles 5.78n and 5.78o, the combined noise at the facade of the noise sensitive buildings is determined in the environment plan.

§ 5.1.4.2a.4***Noise sensitive buildings in noise focus area*****Article 5.78****(scope)**

1. This subsection applies to the permitting noise sensitive buildings in a noise focus area.
2. This subsection does not apply to noise sensitive buildings in as much as they are already legally permitted at a location on the basis of an environment plan or an

environmental permit for a non-planned environment plan activity at the moment of amendment to the environment plan.

Article 5.78s

(noise in noise focus area - taking into account and acceptability)

1. In an environment plan, the noise caused by roads, railways and industrial estates at noise sensitive buildings in a noise focus area will be taken into account.
2. An environment plan ensures that the noise caused by a road, railway or industrial estate at noise sensitive buildings is acceptable in a noise focus area.
3. In application of paragraph one, at least Article 5.78ac will be complied with.
4. Paragraph two will be complied with by application of Article 5.78t.
5. Notwithstanding paragraph four, paragraph two can be complied with by application of Article 5.78u, 5.78v, 5.78w, 5.78x, 5.78y or 5.78aa.

Article 5.78t

(main rule permitting noise sensitive building)

1. An environment plan that permits a new noise sensitive building ensures that the noise at that building is not higher than the standard value as intended in Table 5.78t.

Table 5.78t Standard value noise sensitive buildings

Noise source type	Standard value
Provincial roads National trunk roads	50 L _{den}
Municipal roads Water authority roads	53 L _{den}
Local railways Mainline railways	55 L _{den}
Industrial estates	50 L _{den}
	40 L _{night}

2. If Article 3.27(2) is applied, for the noise caused by the municipal road and local railway together, the standard value for municipal roads as intended in Table 5.78t applies.
- +++3. For a noise sensitive building as intended in Article 3.21(1)(b or d), the use of which is excluded during the night-time period in the environment plan:
 - a. the values in L_{night} do not apply; and
 - b. in table 5.78t 'L_{den}' reads 'L_{de}'.
4. For a noise sensitive building as intended in Article 3.21(1)(b or d), the use of which is excluded during the evening period and night-time period in the environment plan:
 - a. the values in L_{night} do not apply; and
 - b. in table 5.78t 'L_{den}' reads L_{day}'.

Article 5.78u

(exceeding standard value)

1. An environment plan that permits a new noise sensitive building can provide for the noise at that building to be higher than the standard value as intended in Table 5.78t, if:
 - a. no noise restricting measures can be taken in order to satisfy the standard value;
 - b. the exceeding of the standard value is restricted as far as possible by taking noise restricting measures; and
 - c. the noise at noise sensitive buildings is not higher than the limit value as intended in table 5.78u.

Table 5.78u Limit value noise sensitive buildings

Noise source type	Limit value
Provincial roads National trunk roads	60 L _{den}
Municipal roads Water authority roads	70 L _{den}
Local railways Mainline railways	65 L _{den}
Industrial estates	55 L _{den}
	45 L _{night}

2. If Article 3.27(2) is applied, for the noise caused by the municipal road and local railway together, the limit value for municipal roads as intended in Table 5.78u applies.
3. Noise restricting measures as intended in paragraph one will be considered if financially effective and in the absence of dominant objections of an architectural, traffic management, transport management, landscape or technical nature.
4. Article 5.78t(3 and 4) applies accordingly, on condition that/subject to the proviso that Table 5.78u is read for 'Table 5.78t'.

Article 5.78v**(exceeding limit value in the case of replacement new building)**

An environment plan that permits a noise sensitive building can provide for the noise at that building to be higher than the limit value as intended in Table 5.78u, if:

- a. the limit value is not exceeded by more than 5 dB;
- b. the building is permitted at a location in replacement of a noise sensitive building existing at the moment of adoption of the environment plan; and
- c. the number of noise sensitive buildings with more noise than the limit value as intended Table 5.78u does not rise fundamentally.

Article 5.78w**(exceeding limit value in the event of function change)**

An environment plan that permits a noise sensitive building as a result of a change to a use function of an existing structure that is not a noise sensitive building, can provide for the noise at the building to be higher than the limit value as intended in Table 5.78u if the limit value is not exceeded by more than 5 dB.

Article 5.78x**(exceeding limit value in the event of port-based activities)**

An environment plan that permits a noise sensitive building in the noise focus area of an industrial estate at which port-based activities are necessarily performed in the outside air can provide for the noise at that building to be higher than the limit value as intended in Table 5.78u, if:

- a. this value is not more than 5 dB higher than the limit value;
- b. the noise at the building is to a considerable extent determined by those port activities; and
- c. the building is permitted:
 1. in the framework of a restructuring or planned intensification of an area existing prior to the amendment to the environment plan mainly with buildings with a residential function;
 2. adjacent to a contiguous area existing at the moment of amendment to the environment plan comprising primarily buildings with a residential function, and if it involves only a limited expansion of that area; or
 3. in an area that is subject to transformation.

- Article 5.78y** (exceeding limit value; non-noise sensitive facade with structural measures)
1. An environment plan that permits a noise sensitive building can provide for the noise at that building to be higher than the limit value as intended in Table 5.78u, if structural measures can be taken on the facade of the noise sensitive building at which the limit value is exceeded, which:
 - a. consist of an external partition that contains no openable parts other than as part of a shared passage; or
 - b. ensure that the noise at the openable parts in the external partition immediately adjoining the occupied area is not higher than the limit value.
 2. In application of paragraph one, it is determined in the environment plan that the facade is a non-noise sensitive facade with structural measures.
- Article 5.78z** (exceeding limit value - measures)
1. Articles 5.78v, 5.78w, 5.78x and 5.78y are only applied if:
 - a. no noise restricting measures can be taken in order to satisfy the limit value as intended in Table 5.78u; and
 - b. the exceeding of the limit value is restricted as far as possible by taking noise restricting measures; and
 2. Noise restricting measures as intended in paragraph one will be considered if financially effective and in the absence of dominant objections of an architectural, traffic management, transport management, landscape or technical nature.
- Article 5.78aa** (exceeding of limit value due to substantial interests; non-noise sensitive facade)
1. An environment plan that permits a noise sensitive building can provide for the noise at that building to be higher than the limit value as intended in Table 5.78u, if:
 - a. justified by substantial economic interests or substantial other social interests; and
 - b. no other measures than those as intended in Article 5.78z are eligible for ensuring that the limit value for noise, as intended in Table 5.78u is satisfied.
 2. In application of paragraph one, it is determined in the environment plan that the facade is a non-noise sensitive facade.
- Article 5.78ab** (interest of a low noise facade)
1. In application of Article 5.78u, the interest of protecting health by means of a low noise facade will be taken into account.
 2. In application of articles 5.78v, 5.78w, 5.78x, 5.78y and 5.78aa, the interest of protecting health by means of a low noise facade will be taken into account.
- Article 5.78ac** (assessing the acceptability of cumulative noise)
- In application of Articles 5.78u, 5.78v, 5.78w, 5.78x, 5.78y and 5.78aa, the acceptability of the cumulative noise on the noise sensitive building will be assessed.
- Article 5.78ad** (determining combined noise)
- In application of Articles 5.78u, 5.78v, 5.78w, 5.78x, 5.78y and 5.78aa, the combined noise on the facade of the noise sensitive buildings is determined and laid down in the environment plan.
- § 5.1.4.2a.5** *Indirect acoustic effects of changing traffic*
- Article 5.78ae** (scope)
1. This subsection applies to the noise caused by:
 - a. paved municipal roads and water authority roads not forming a property as intended in the Traffic Regulations and Road Signs 1990, with a traffic intensity of more than 1,000 motor vehicles per day as a calendar year average; and

- b. local railways not designated on the basis of Article 2.13a(1) of the Act.
2. This subsection does not apply to:
- a. a road or railway subject to subsection 5.1.4.2.3;
 - b. a change to a road or railway or the use of a railway subject to subsection 5.1.4.2.3 on the basis of Article 5.78j or 5.78k; and
 - c. the noise at a non-noise sensitive facade.

Article 5.78af**(indirect acoustic effects)**

1. An environment plan that causes an increase in traffic intensity on a road or railway ensures that the noise caused by that road or railway at noise sensitive buildings does not increase by more than 1.5 dB as a consequence of the increase in traffic intensity.
2. The increase in noise is determined by comparing the situation after the change in a normative year for that road or railway, with the situation in that same year, without the change.
3. An environment plan can provide for the noise to increase by more than 1.5 dB if:
 - a. no noise restricting measures can be taken to prevent that increase;
 - b. the increase in noise is limited as far as possible by taking noise restricting measures; and
 - c. the noise at noise sensitive buildings is not higher than the limit value as intended in Article 3.35.
4. Noise restricting measures as intended in paragraph three will be considered if financially effective and in the absence of dominant objections of an architectural, traffic management, transport management, landscape or technical nature.
5. In application of paragraph three, the acceptability of cumulative noise on the noise sensitive building will be assessed.

Article 5.78ag**(exceeding of limit value due to substantial interests)**

In application of Article 5.78af, an environment plan may permit more noise than the limit values as intended Table 3.35 if justified by substantial economic interests or substantial other social interests.

§ 5.1.4.2a.6***Indirect acoustic effects of changes to noise transfer*****Article 5.78ah****(scope)**

1. This subsection applies to changes in the noise focus area of a road, railway and industrial estate that have consequences for noise transfer.
2. This subsection does not apply to the noise at a non-noise sensitive facade.

Article 5.78ai**(indirect acoustic effects of changes in the noise focus area)**

In an environment plan that permits a change to the noise transfer in a noise focus area, for noise sensitive buildings which experience a significant increase in noise as a result of that change, a determination is made whether:

- a. noise restricting measures will be taken to prevent or as far as possible limit the increase in noise; or
- b. noise abatement measures will be taken to satisfy the limit value as intended in Table 3.53.

§ 5.1.4.3***Noise around airports***

[Reserved]

§ 5.1.4.4

Article 5.79

Vibrations

(scope)

1. This subsection applies to permitting:

- a. at a location of an activity other than residential, the vibrations at a frequency of between 1 and 80 Hz caused in a vibration sensitive room in a vibration sensitive building, permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; or
 - b. a vibration sensitive building in which vibrations at a frequency of between 1 and 80 Hz are caused by an activity other than residential, permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
2. Notwithstanding paragraph one, this subsection:
- a. does not apply to a vibration sensitive room in a vibration sensitive building that is fully or partially located on an industrial estate for which noise production ceilings have been determined as environmental values;
 - b. with the exception of Article 5.82 and 5.83 does not apply to a vibration sensitive building that is permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity, for a period of not more than ten years;
 - c. with the exception of Articles 5.82 through to 5.85, does not apply to:
 1. activities performed primarily in public outdoor space; and
 2. events that do not take place at an events location; and
 - d. does not apply to through traffic on roads, waterways and railways.

Article 5.80

(vibration sensitive buildings)

1. A vibration sensitive building is a building or part of a building with a:

- a. residential function and its alternative use functions;
- b. educational function and its alternative use functions;
- c. health functions with bed area and its alternative use functions; or
- d. meeting function for child care with bed area and its alternative use functions.

2. Paragraph one does not apply to part of a building if the environment plan in that part does not permit any vibration sensitive rooms.

3. Notwithstanding paragraph one (preamble and a), houseboats and caravans are not vibration sensitive buildings.

Article 5.81

(vibration sensitive rooms)

A vibration sensitive room is an occupied room or an occupied area in a:

- a. residential function or meeting function that is an alternative use function of the residential function;
- b. educational function;
- c. healthcare function with bed area or meeting function that is an alternative use function of that healthcare function; or
- d. meeting function for childcare with bed area.

Article 5.82

(multiple activities viewed as a single activity)

For application of this subsection, the following will be viewed as a single activity:

- a. an activity as intended in Sections 3.3 through to 3.11 of the Environmental Activities Decree; or
- b. if relating to other activities than those intended in a, multiple activities performed at the same location and which:
 1. are directly related and technically related; or
 2. are mutually functionally supporting.

Article 5.83**(vibrations caused by activities - taking into account and acceptability)**

1. In an environment plan, vibrations caused by activities in vibration sensitive rooms of vibration sensitive buildings are taken into account.
2. An environment plan ensures that vibrations caused by an activity in vibration sensitive rooms of vibration sensitive buildings are acceptable.

Article 5.84**(functional relationship)**

If an environment plan contains values for vibrations caused by an activity, the environment plan determines that those values do not apply to the vibrations caused by that activity in vibration sensitive rooms of a vibration sensitive building that have a functional relationship with that activity.

Article 5.85**(past functional relationship)**

If an environment plan contains values for vibrations caused by an activity:

- a. in the agricultural sector as intended in Articles 3.200, 3.205, 3.208, 3.211, 3.215, 3.218, 3.221 or 3.225 of the Environmental Activities Decree;
- b. performed on a commercial estate; or
- c. in the hospitality sector;

the environment plan may determine that those values do not apply to the vibration caused by that activity in vibration sensitive rooms of a vibration sensitive building that in the past was functionally related to that activity.

Article 5.86**(relationship to acceptability)**

1. Article 5.83(2) is complied with by application of Articles 5.87(1) and 5.87a(1).
2. Notwithstanding paragraph one, Article 5.83(2) can be complied with by application of Article 5.87(3), 5.87a(3), 5.88 or 5.89.

Article 5.87**(standard values for continuous vibrations)**

1. For the permissible continuous vibrations caused by an activity in vibration sensitive rooms, an environment plan contains as values the standard values as intended in Table 5.87.

Table 5.87 Standard values permissible continuous vibrations in vibration sensitive rooms

Type	Standard value	
	07.00 – 23.00 hours	23.00 – 07.00 hours
A ₁ vibration strength V _{max}	0.1	0.1
A ₂ vibration strength V _{max}	0.4	0.2
A ₃ vibration strength V _{max}	0.05	0.05

2. In application of paragraph one, the environment plan determines that:
 - a. continuous vibrations satisfy the values for those vibrations contained in the environment plan as intended under A₁; and
 - b. if a value as intended in a is not satisfied: continuous vibrations satisfy the values contained in the environment plan under A₂ and A₃.
3. Notwithstanding paragraph one, the environment plan may contain a higher value if at the moment of this Decree coming into effect, a higher value applied for an activity on the basis of the environment plan, an environmental permit or a customised instruction. The value is not higher than the limit value, namely the value that was permitted on the basis of the environmental permit or the customised instruction.
4. Determination of the vibrations for which the environment plan contains a value as intended in paragraph one or, notwithstanding that paragraph, a higher or lower value, is subject to the rules laid down by ministerial order.

Article 5.87a**(standard values for repeatedly occurring vibrations)**

1. For the permissible repeatedly occurring vibrations caused by an activity in vibration sensitive rooms, an environment plan contains as values the standard values as intended in Table 5.87a.

Table 5.87a Standard values for permissible repeatedly occurring vibrations in vibration sensitive rooms

Type	Standard value	
	07.00 – 23.00 hours	23.00 – 07.00 hours
A ₁ vibration strength V _{max}	0.2	0.2
A ₂ vibration strength V _{max}	0.8	0.4
A ₃ vibration strength V _{max}	0.1	0.1

2. In application of paragraph one, the environment plan determines that:
- repeatedly occurring vibrations satisfy the values for those vibrations contained in the environment plan as intended under A₁; and
 - if a value as intended in a is not satisfied: repeatedly occurring vibrations satisfy the values contained in the environment plan under A₂ and A₃.
3. Notwithstanding paragraph one, the environment plan may contain a higher value if at the moment of this Decree coming into effect, a higher value applied for an activity on the basis of the environment plan, an environmental permit or a customised instruction. The value is not higher than the limit value, namely the value that was permitted on the basis of the environmental permit or the customised instruction.
4. Determination of the vibrations for which the environment plan contains a value as intended in paragraph one or, notwithstanding that paragraph, a higher or lower value, is subject to the rules laid down by ministerial order.

Article 5.88**(deviation from standard values activity on commercial estate up to the limit value)**

- Notwithstanding Articles 5.87(1 and 3) and 5.87a(1 and 3), an environment plan may contain higher or lower values.
- An environment plan only contains higher values on the basis of paragraph one if:
 - relating to an activity performed on a commercial estate designated in the environment plan; and
 - those values are not higher than the limit values, namely the values as intended in Tables 5.87 and 5.87a, multiplied by a factor of 1.8.

Article 5.89**(deviation from standard value and limit value)**

If justified by substantial economic interests or substantial other social interests, an environment plan may contain other values than:

- the standard values as intended in Article 5.87(1) or 5.87a(1);
- the limit value as intended in Article 5.87(3) or 5.87a(3) or;
- the limit value as intended in Article 5.88(2)(b).

§ 5.1.4.4a**Cast shadow of wind turbines****Article 5.89a****(scope)**

- This subsection applies to permitting:
 - a wind turbine with a rotor diameter of 2 m or more as intended in Article 3.11 of the Environmental Activities Decree, causing a cast shadow in occupied rooms of a cast shadow sensitive building, permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; or

- b. a cast shadow sensitive building in which a cast shadow is caused by a wind turbine as intended under a, permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
- 2. Notwithstanding paragraph one, with the exception of Article 5.89c, this subsection does not apply to cast shadow sensitive buildings permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity for a period of not more than ten years.

Article 5.89b**(cast shadow sensitive buildings)**

1. A cast shadow sensitive building is a building or part of a building with a:
 - a. residential function and its alternative use functions;
 - b. educational function and its alternative use functions;
 - c. health function with bed area and its alternative use functions; or
 - d. meeting function for child care with bed area and its alternative use functions.
2. A cast shadow sensitive building shall also be taken to mean a cast shadow sensitive building that is not yet present but which may be built on the basis of the environment plan or an environmental permit for a non-planned environment plan activity.

Article 5.89c**(taking into account and acceptability)**

1. In an environment plan, account is taken of the shadow cast by wind turbines in occupied rooms of cast shadow sensitive buildings.
2. An environment plan ensures that the shadow cast by a wind turbine in occupied rooms of cast shadow sensitive buildings is acceptable.

Article 5.89d**(functional relationship)**

If an environment plan contains rules on the shadow cast by a wind turbine, the environment plan determines that those rules do not apply to the shadow cast in occupied rooms of a cast shadow sensitive building that has a functional relationship with that wind turbine.

Article 5.89e**(past functional relationship)**

If an environment plan contains rules about the shadow cast by a wind turbine in respect of an activity:

- a. in the agricultural sector as intended in Articles 3.200, 3.205, 3.208, 3.211, 3.215, 3.218, 3.221 or 3.225 of the Environmental Activities Decree; or
- b. performed on an commercial estate,

the environment plan may determine that those rules do not apply to the shadow cast by that wind turbine in occupied rooms of a cast shadow sensitive building that in the past was functionally related to that activity.

Article 5.89f**(acceptable cast shadow)**

1. Article 5.89c(2) is under all circumstances complied with if an environment plan that permits a wind turbine determines that in occupied rooms of a cast shadow sensitive building located at a distance of less than twelve times the rotor diameter of the wind turbine, the shadow cast by the wind turbine cannot occur for more than twenty minutes per day on average on seventeen days per year.
2. The distance is measured from a point at the axis height of the wind turbine:
 - a. up to the facade of a cast shadow sensitive building; and
 - b. up to the boundary of the location for the placement of a houseboat or caravan.

§ 5.1.4.5

Soil quality

§ 5.1.4.5.1

Permitting a building activity at a soil sensitive location**Article 5.89g****(scope)**

1. This subsection applies to a soil sensitive building, namely:
 - a. a building or part of a building that is in contact with the soil, in as much as it is likely that persons will be present for an uninterrupted period of more than two hours per day; or
 - b. a houseboat or caravan.
2. An accompanying structure as intended in Annex I to the Environment Structures Decree, of not more than 50 m² is not viewed a soil sensitive building.

Article 5.89h**(definition soil sensitive location)**

Under all circumstances, the following are viewed as soil sensitive locations:

- a. the location at which a soil sensitive building is permitted on the basis of an environment plan or an environmental permit for an environment plan activity;
- b. a contiguous garden immediately adjacent to a building as intended under a, or a contiguous site adjacent to that garden; or
- c. a garden or site immediately adjacent to a houseboat or caravan permitted on the basis of an environment plan or an environmental permit for an environment plan activity.

Article 5.89i**(value permissible soil quality)**

1. An environment plan contains values for the permissible quality of the soil for the building of a soil sensitive building at a soil sensitive location for the substances specified in Annex XIIIa that represent a threat to health, expressed in milligrams per kilogram of dry matter from the soil.
2. For each area or for each use function, an environment plan may contain different values for the permissible quality of soil sensitive locations.

Article 5.89j**(value permissible soil quality: exposure)**

1. In determining the values as intended in Article 5.89i, the intervention values for soil quality as intended in Annex IIA to the Environmental Activities Decree are taken into account.
2. An environment plan may contain higher values than the values as intended in Annex IIA to the Environmental Activities Decree. A higher value than the intervention value is a calculated concentration that equates to:
 - a. the lifelong average exposure level of the maximum permissible human risk as intended in Annex Vb to this Decree, expressed in micrograms per kilogram of body weight per day; and
 - b. the exposure level of the concentrations in air or unacceptable inconvenience caused by odour nuisance, as intended in Annex XIIIb to this Decree, expressed in micrograms of substances per cubic meter.
3. The limit value as intended paragraph two is calculated for each location and for the most sensitive use function.
4. Calculation of the limit value is subject to the rules laid down by ministerial order.

Article 5.89k**(measures in the case of exceeding the value for permissible soil quality)**

An environment plan determines that the building of a soil sensitive building at a soil sensitive location, in the event of exceeding of a value as intended in Article 5.89i(1), is only permitted if the remediation or other protective measures specified in the environment plan are taken.

Article 5.89ka**(environmental permit for a soil sensitive building at a soil sensitive location)**

1. If it is determined in an environment plan that it is forbidden to build a structure without an environmental permit, rules are imposed in the environment plan that specify that the environmental permit for a soil sensitive building at a soil sensitive location in the event of exceeding of a value as intended in Article 5.89i(1) that ensure that the environmental permit is only issued if it is plausible that the remediation or other protective measures specified in the environment plan will be taken.
2. The environment plan specifies that the application for an environmental permit as intended in paragraph one must be accompanied by the following data and documents:
 - a. the surveys as intended in subsection 5.2.2 of the Environmental Activities Decree, unless relating to a location designated in the environment plan where exceeding of a value as intended in Article 5.89i(1) can reasonably be excluded; and
 - b. if the value as intended in Article 5.89i(1) is exceeded: data and documents that make it plausible that a remediation or other protective measure will be taken, unless relating to a location designated in the environment plan where an exceeding of a value as intended in Article 5.89i can be reasonably excluded.

Article 5.89l**(notification of building activity)**

1. An environment plan specifies that it is prohibited to build a soil sensitive building at a soil sensitive location without due notification at least four weeks before the start of building.
2. A notification must be signed and at least include:
 - a. the surveys as intended in subsection 5.2.2 of the Environmental Activities Decree;
 - b. the name and address of the party performing the building activity;
 - c. the address at which the building activity will be performed; and
 - d. the date; and
 - e. in the event of exceeding of a value as intended in Article 5.89i(1): data and documents that make it plausible that a remediation or other protective measure will be taken.
3. Paragraph two (a and e) does not apply to locations designated in the environment plan where an exceeding of a value as intended in Article 5.89i(1) can be reasonably excluded.
4. This article does not apply if an environmental permit is required for the building activity on the basis of the environment plan.

Article 5.89m**(commissioning following measures on contaminated soil)**

An environment plan determines that in the event of exceeding of a value as intended in Article 5.89i(1), a soil sensitive building or part of that building at a soil sensitive location may only be commissioned following the building activity after the municipal executive has been informed about the way in which the remediation or other protective measures as intended in Article 5.89k have been taken.

§ 5.1.4.5.2**Aftercare****Article 5.89n****(aftercare)**

An environment plan determines that the following measures must be preserved, maintained or replaced specifying how and within what term:

- a. a cover layer as intended in Article 4.1241 of the Environmental Activities Decree applied during the remediation of the soil by means of a cover layer, that took place on the basis of Article 4.1241 of the Environmental Activities Decree, the environment plan, an environmental permit or a customised instruction; and
- b. temporary protection measures that do not remove the source of pollution but that do prevent exposure to that pollution, in connection with an accidental find as intended in Article 19.9a of the Act.

§ 5.1.4.5.3

Designation of soil management areas and classification of land soil in soil function classes

Article 5.89o

(designation of soil management areas)

1. In an environment plan, one or more soil management areas may be designated for the deviation by means of a customised rule or customised instruction from the quality requirements for:
 - a. the application of soil or dredge spoil on or in the land soil as intended in Articles 4.1273, 4.1275, 4.1277 or 4.1279 of the Environmental Activities Decree; or
 - b. the application on or in the land soil in an application area designated by ministerial order of mining rubble or mixed mining rubble, as intended in Articles 4.1289 and 4.1291 of the Environmental Activities Decree.
2. Soil management areas are designated with a view to ensuring that soil or dredge spoil, in a case as intended in paragraph one (a) or mining rubble or mixed mining rubble in a case as intended in paragraph one (b), excavated within the designated area, can be reapplied within that area in such a way that on the scale of the area, a good result is achieved from the point of view of the economic use of resources and the efficient management of waste.
3. The geometric boundary of the designated soil management area is laid down in the environment plan.

Article 5.89p

(classification of land soil in soil function classes)

1. In an environment plan, the land soil is classified in soil function classes for:
 - a. the application of soil or dredge spoil as intended in Article 4.1265 of the Environmental Activities Decree; and
 - b. the application in the application area designated by ministerial order of mining rubble or mixed mining rubble as intended in Article 4.1281 of the Environmental Activities Decree.
2. In the classification in soil function classes, the function allocated to the location in the environment plan is taken into account.
3. The land soil can be classified in the soil function classes agriculture/nature, residential and industry, as intended in Article 25d(4)(c) of the Soil Quality Decree.

§ 5.1.4.6

Odour

§ 5.1.4.6.1

General provisions

Article 5.9o

(scope)

1. Subsection 5.1.4.6 applies to permitting:
 - a. an activity other than residential at a location that causes odour at an odour sensitive building permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; or
 - b. an odour sensitive building at which odour is caused by an activity other than residential which is permitted at a location on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
2. Notwithstanding paragraph one, subsection 5.1.4.6, with the exception of Article 5.92, does not apply in respect of the odour caused by an activity at an odour sensitive building permitted for a term of less than ten years.

Article 5.91

(odour sensitive buildings)

1. An odour sensitive building is under all circumstances a building or part of a building with a:
 - a. residential function and its alternative use functions;
 - b. educational function and its alternative use functions;
 - c. health function with bed area and its alternative use functions; or

- d. meeting function for child care with bed area and its alternative use functions.
- 2. Paragraph one does not apply to part of a building as intended in that paragraph if in that part, the environment plan does not permit a:
 - a. residential function;
 - b. educational function;
 - c. healthcare function with bed area;
 - d. meeting function for childcare with bed area.
 - e. meeting function that is an alternative use function of a residential function; or
 - f. meeting function that is an alternative use function of a healthcare function with bed area.
- 3. An odour sensitive building will also be taken to mean a building that is not yet present but which may be built on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
- 4. The environment plan may designate other odour sensitive buildings or parts of buildings, on condition of primary use as residence for persons.
- 5. In the environment plan, subsection 5.1.4.6 can be applied accordingly to locations where by the primary use is residence for persons.

Article 5.92**(odour caused by activities - taking into account and acceptability)**

1. The odour caused by activities at odour sensitive buildings will be taken into account in an environment plan.
2. An environment plan ensures that the odour caused by an activity at odour sensitive buildings is acceptable.

Article 5.93**(where values apply)**

1. An environment plan specifies that the values for the odour caused by an activity at an odour sensitive building apply:
 - a. at the facade, in the case of an odour sensitive building;
 - b. at the location where a facade may be erected, if relating to a new odour sensitive building to be built; and
 - c. notwithstanding sections a and b, if relating to a houseboat or caravan, at the boundary at the location for the placement of that houseboat or that caravan.
2. Notwithstanding the provisions of paragraph one in the environment plan, an environment plan may determine that the values for the odour caused by an activity at odour sensitive buildings apply at a location that is positioned closer to the activity than the facade as intended in paragraph one(a), the location as intended in paragraph one(b) or the boundary as intended in paragraph one(c).
3. An environment plan that contains values through application of Article 5.91(5) for the odour caused by an activity at a location, determines that those values apply at the boundary of the location.

Article 5.94**(up to where distances apply)**

1. Distances that must be taken into account in an environment plan or that are contained in an environment plan due to the odour caused by an activity at odour sensitive buildings apply:
 - a. up to the facade, in the case of an odour sensitive building;
 - b. up to the location where a facade may be erected, if relating to a new odour sensitive building to be built; and
 - c. notwithstanding sections a and b, if relating to a houseboat or caravan, up to the boundary at the location for the placement of that houseboat or that caravan.
2. Distances that must be taken into account in an environment plan based on application of Article 5.91(5) or that are contained in an environment plan based on application of Article 5.91(5) due to the odour caused by an activity at a location apply up to the boundary of that location.

Article 5.95**(functional relationship)**

1. If an environment plan contains values or distances for the odour caused by an activity, the environment plan determines that those values or distances do not apply to the odour from that activity at an odour sensitive building that has a functional relationship with that activity.
2. The distances as intended in subsections 5.1.4.6.3 and 5.1.4.6.4 do not apply if the odour sensitive building has a functional relationship with the activity.

Article 5.96**(past functional relationship)**

1. If an environment plan contains values or distances for odour caused by an activity:
 - a. in the agricultural sector as intended in Articles 3.200, 3.205, 3.208, 3.211, 3.215, 3.218, 3.221 or 3.225 of the Environmental Activities Decree;
 - b. performed on a commercial estate; or
 - c. in the hospitality sector,
 the environment plan may determine that those values or distances do not apply to the odour from that activity at an odour sensitive building that in the past was functionally related to that activity.
2. The distances as intended in subsections 5.1.4.6.3 and 5.1.4.6.4 may be discounted if relating to an activity as intended in paragraph one (a, b, or c) and the odour sensitive building previously enjoyed a functional relationship with that activity.

Article 5.97**(building contour odour)**

1. An environment plan that contains rules on the basis of subsections 5.1.4.6.2, 5.1.4.6.3 or 5.1.4.6.4 designates one or more building contours odour. The geometric boundary of a building contour odour is laid down in the environment plan.
2. An environment plan as intended in paragraph one designates a building contour odour around urban areas.
3. Notwithstanding paragraph two, urban green at the periphery of the built-up area of an urban area or ribbon development alongside roads, waterways or flood defences may be included in the building contour.

§ 5.1.4.6.2***Odour caused by the operation of water treatment plants*****Article 5.98****(scope)**

This subsection applies to the odour at an odour sensitive building caused by the operation of a water treatment plant as intended in Article 3.173 of the Environmental Activities Decree.

Article 5.99**(relationship to acceptability)**

1. Article 5.92(2) is complied with if Article 5.100(1) is applied.
2. Notwithstanding paragraph one, Article 5.92(2) can be complied with by application of Article 5.100, 5.101, 5.102 or 5.103.

Article 5.100**(limit value operation of a water treatment plant)**

1. An environment plan that permits the operation of a water treatment plant, contains a value for the permissible odour caused by that activity at an odour sensitive building the limit value as intended in Table 5.100.1.

Table 5.100.1 Limit value permissible odour ou_E/m^3 as 98th percentile caused by a water treatment plant at an odour sensitive building

Activity	Odour sensitive building	Limit value
The operation of a water treatment plant	Located within the building contour odour, other than on an industrial estate for which noise production ceilings are laid down as environmental values or a commercial estate	0.5 ou_E/m^3
	Located: <ul style="list-style-type: none"> - on an industrial estate for which noise production ceilings are laid down as environmental value: - a commercial estate; or - outside the building contour odour 	1 ou_E/m^3

2. If relating to odour caused by the operation of a water treatment plant established before 1 February 1996 and for which, on 1 February 1996, a permit was effective and irrevocable on the basis of Article 8.1 of the Environmental Management Act, an environment plan may contain a value that is higher than the limit value as intended in paragraph one, on condition that value is not higher than the limit value as intended in Table 5.100.2.

Table 5.100.2 Limit value permissible odour ou_E/m^3 as 98th percentile caused by a water treatment plant established before 1 February 1996 on an odour sensitive building

Activity	Odour sensitive building	Limit value
The operation of a water treatment plant established before 1 February 1996	Located within the building contour odour, other than on an industrial estate for which noise production ceilings are laid down as environmental values or a commercial estate	1.5 ou_E/m^3
	Located: <ul style="list-style-type: none"> - on an industrial estate for which noise production ceilings are laid down as environmental value: - on a commercial estate, or - outside the building contour odour 	3.5 ou_E/m^3

3. Calculation of the odour for which an environment plan contains a value as intended in paragraph one or notwithstanding that paragraph, a higher or lower value, is subject to the rules laid down by ministerial order.

Article 5.101**(flexibility - deviation from limit value in the case of cumulation or local circumstances)**

Given the nature or location of the activity or cumulation, an environment plan may contain a value that is lower than the limit value as intended in Article 5.100(1 or 2).

Article 5.102**(flexibility - deviation from limit values in the event of substantial social interests)**

If justified by substantial economic interests or substantial other social interests, an environment plan may contain a value that is higher than the limit value applicable for the water treatment plant as intended in Article 5.100 (1 or 2).

Article 5.103**(no limit value in the case of specific odour sensitive buildings)**

An environment plan that permits the operation of a water treatment plant determines that the values included in the environment plan on the basis of Articles 5.100(1), 5.101 and 5.102, and the distances or other rules that, as the case arises, are included over and above those values in the environment plan for the odour caused by that activity, do not apply to the odour caused by the operation of a water treatment plant for which up to 1 January 2011 an environmental permit was applicable and irrevocable, on the basis of Article 2.1(1)(preamble and e) of the General Provisions for Environmental Law Act, at odour sensitive buildings which:

- a. at the moment of issuing of the environmental permit as intended in the preamble were not present, and were built before this Decree coming into effect; or
- b. were not viewed as odour sensitive in the environmental permit as intended in the preamble.

§ 5.1.4.6.3***Odour caused by the keeping of farm animals in animal accommodation*****Article 5.104****(definitions)**

For application of this subsection, the following definitions shall be taken to mean:

keeping of farm animals: operation of a livestock farm as intended in Article 3,200 of the Environmental Activities Decree, with the exception of keeping fur animals;

farm animals with odour emission factor: farm animals for which an emission factor for odour is laid down by ministerial order, and which fall within one of the following animal categories:

- a. pigs, chickens, sheep or goats;
- b. if kept for meat production:
 1. cattle up to 24 months;
 2. turkeys;
 3. ducks; or
 4. guinea fowl;

farm animals without odour emission factor: farm animals for which no emission factor for odour is laid down by ministerial order, with the exception of fur animals.

Article 5.105**(scope)**

This subsection applies to the odour at an odour sensitive building caused by the keeping of farm animals, in as much as the activity is performed in animal accommodation.

Article 5.106**(odour from farm animals with odour emission factor - relationship to acceptability and grandfather clause in respect of distance from facade of animal accommodation to odour sensitive building)**

1. Article 5.92(2) is complied with for the odour caused by the keeping of farm animals with odour emission factor, if the following are applied:

- a. Article 5.109(1), 5.109a, 5.110 or 5.111; and
- b. Article 5.116.

2. Article 5.92(2) is also complied with by maintaining a distance that is smaller than the distance to be taken into account on the basis of Article 5.116 between an activity permitted before the amendment to the environment plan and an odour sensitive building admitted prior to that amendment, if the environment plan determines that at that location:

- a. the odour at an odour sensitive building caused by the keeping of farm animals with odour emission factor may not increase; and
- b. the number of farm animals with odour emission factor per animal category may not increase.

3. Notwithstanding paragraph one and paragraph two, Article 5.92(2) can be complied with by application of Article 5.109(2 or 3) or 5.117.

Article 5.106a**(odour from farm animals with odour emission factor - relationship to acceptability and grandfather clause)**

1. Article 5.92(2) is complied with for the odour caused by the keeping of farm animals without odour emission factor, if the following are applied:
 - a. Article 5.112(1) or 5.115; and
 - b. Article 5.116.
2. Article 5.92(2) is also complied with by maintaining a distance that is smaller than the distance to be taken into account on the basis of Article 5.112(2), 5.115 or 5.116 between an activity permitted before the amendment to the environment plan and an odour sensitive building permitted prior to that amendment, if the environment plan determines that at that location the number of farm animals without odour emission factor per animal category may not increase.
3. Notwithstanding paragraph one and paragraph two, Article 5.92(2) can be complied with by application of Article 5.112(2 or 3) or 5.117.

Article 5.107**(from where distances apply)**

A distance as intended in this subsection applies from the emission point as intended in Article 4.806(2) of the Environmental Activities Decree.

Article 5.108**(concentration areas)**

1. A concentration area is under all circumstances area I and area II as intended in Annex I to the Fertilisers Act.
2. An environment plan may designate a concentration area. In that case, the geometric boundary of a concentration area is laid down in the environment plan.

Article 5.109**(odour from farm animals with odour emission factor - standard value and limit value)**

1. An environment plan that permits the keeping of farm animals with odour emission factor includes as value for the permissible odour caused by that activity at an odour sensitive building the standard value as intended in Table 5.109.1.

Table 5.109.1 Standard value permissible odour ou_E/m^3 as 98th percentile caused by the keeping of farm animals with odour emission factor at an odour sensitive building

Odour sensitive building	Standard value
Located within the building contour odour and outside a concentration area	2.0 ou_E/m^3
Located within the building contour odour and within a concentration area	3.0 ou_E/m^3
Located outside the building contour odour and outside a concentration area	8.0 ou_E/m^3
Located outside the building contour odour and within a concentration area	14.0 ou_E/m^3

2. The environment plan may include a lower or higher value than the standard value, on condition that value is not higher than the limit value as intended in Table 5.109.2.

Table 5.109.2 Limit value permissible odour ou_E/m^3 as 98th percentile caused by the keeping of farm animals with odour emission factor at an odour sensitive building

Odour sensitive building	Limit value
Located within the building contour odour and outside a concentration area	8.0 ou_E/m^3
Located within the building contour odour and within a concentration area	14.0 ou_E/m^3
Located outside the building contour odour and outside a concentration area	20.0 ou_E/m^3
Located outside the building contour odour and within a concentration area	35.0 ou_E/m^3

3. In the case of an odour sensitive building that has ceased to have a functional relationship with an animal accommodation in its immediate vicinity, the environment plan may include a higher value than the limit value as intended in paragraph two.

4. Calculation of the odour for which the environment plan includes a value as intended in paragraph one or notwithstanding that paragraph, a value that is higher or lower than that value, is subject to the rules laid down by ministerial order.

Article 5.109a

(odour from farm animals with odour emission factor - grandfather clause on value)

1. If an environment plan includes a value on the basis of Article 5.109 for a location that is lower than the value that applied immediately prior to the amendment to the environment plan and the odour at that location at that time is legally higher than the lower value, the environment plan determines that that lower value does not apply if at that location the odour at an odour sensitive building caused by the keeping of farm animals with odour emission factor does not increase and the number of farm animal with odour emission factor per animal category does not increase.

2. Paragraph one also applies if the environment plan for a location includes a value on the basis of Article 5.109 that is higher than the value that applied immediately prior to the amendment to the environment plan and the odour at that location at that time is legally higher than that higher value.

3. For cases as intended in paragraph one and paragraph two, the environment plan determines that expansion of an animal accommodation with farm animals with odour emission factor or the number of farm animals with odour emission factor is only permitted if:

- a. an odour load reducing measure is taken; and
- b. the total odour following expansion is not higher than the average of the value included in the environment plan and the odour that the activity was legally permitted to cause immediately prior to the taking of the measure.

Article 5.110

(odour from farm animals with odour emission factor - distance to odour sensitive building with functional relationship or further no functional relationship on or after 19 March 2000)

Articles 5.109(1 and 2) and 5.109a do not apply if in an environment plan that permits the keeping of farm animals with odour emission factor, for a location at least the distance up to the following odour sensitive buildings as intended in Table 5.110 is taken into account:

- a. an odour sensitive building with a functional relationship with an animal accommodation in the immediate vicinity of that accommodation; or
- b. an odour sensitive building that on or after 19 March 2000 ceased to have a functional relationship with an animal accommodation in its immediate vicinity.

Table 5.110 Distance to an odour sensitive building with functional relationship or no further functional relationship on or after 19 March 2000 in the case of odour caused by keeping farm animals with odour emission factor

Odour sensitive building with functional relationship or functional relationship up to 19 March 2000	Distance
Located within the building contour odour	100 m
Located outside the building contour odour	50 m

Article 5.111

(odour farm animals with odour emission factor - distance to space for space dwelling)

Articles 5.109(1 and 2) and 5.109a do not apply if in an environment plan that permits the keeping of farm animals with odour emission factor, for a location at least the distance up to the following odour sensitive buildings as intended in Table 5.111 is taken into account:

- a. an odour sensitive building with a residential function that was built on or after 19 March 2000:
 1. at a location that at that time was used for keeping farm animals in animal accommodation;
 2. in connection with the complete or partial decommissioning of animal accommodation; and
 3. in connection with the demolition of animal accommodation or farm buildings for functional support activities; and
- b. an odour sensitive building that was already present before 19 March 2000 at a location where an odour sensitive building as intended under a has been built.

Table 5.111 Distance to space for space dwelling in the case of odour caused by the keeping of farm animals with odour emission factor

Space for space dwelling	Distance
Located within the building contour odour	100 m
Located outside the building contour odour	50 m

Article 5.112

(odour farm animals without odour emission factor - distance and lower limit distance to odour sensitive building)

1. In an environment plan that permits the keeping of farm animals without odour emission factor, up to an odour sensitive building, at least the distance as intended in Table 5.112.1 is taken into account.

Table 5.112.1 Distance to an odour sensitive building with odour in the case of odour caused by the keeping farm animals without odour emission factor

Odour sensitive building	Distance
Located within the building contour odour	100 m
Located outside the building contour odour	50 m

2. In the environment plan, a distance may be maintained that is smaller than the distance as intended in paragraph one, on condition that distance is not smaller than the lower limit for the distance as intended in Table 5.112.2.

Table 5.112.2 Lower limit deviating distance to an odour sensitive building in the case of odour caused by the keeping farm animals without odour emission factor

Odour sensitive building	Lower limit distance
Located within the building contour odour	50 m
Located outside the building contour odour	25 m

3. In the case of an odour sensitive building that has ceased to have a functional relationship with animal accommodation in its immediate vicinity, a distance may be maintained in the environment plan that is smaller than the lower limit for the distance as intended in paragraph two.

Article 5.115

(odour farm animals without odour emission factor - distance to space for space dwelling)

Notwithstanding Article 5.112, in an environment plan that permits the keeping of farm animals without odour emission factor, at least the distance as intended in Table 5.115 to the following odour sensitive buildings will be taken into account:

- a. an odour sensitive building with a residential function that was built on or after 19 March 2000:
 1. at a location that at that time was used for keeping farm animals in animal accommodation;
 2. in connection with the complete or partial decommissioning of animal accommodation; and
 3. in connection with the demolition of animal accommodation or farm buildings for functional support activities; and
- b. an odour sensitive building that was already present before 19 March 2000 at a location where an odour sensitive building as intended under a has been built.

Table 5.115 Distance to space for space dwelling in the case of odour caused by the keeping of farm animals without odour emission factor

Space for space dwelling	Distance
Located within the building contour odour	100 m
Located outside the building contour odour	50 m

Article 5.116

(odour farm animals with and without odour emission factor - distance from facade of animal accommodation to odour sensitive building)

1. Notwithstanding Article 5.109 through to 5.115, in an environment plan that permits the keeping of farm animals, to an odour sensitive building, at least the distance as intended in 5.116 is taken into account.

Table 5.116 Distance from facade of animal accommodation to odour sensitive building in the case of odour caused by the keeping of farm animals with odour emission factor and farm animals without odour emission factor

Odour sensitive building	Distance
Located within the building contour odour	50 m
Located outside the building contour odour	25 m

2. Notwithstanding Article 5.107, the distance as intended in paragraph one from the facade of animal accommodation applies.

Article 5.117**(flexibility - deviation from limit value and deviation from lower limit distance)**

If justified by substantial economic interests or substantial other social interests, notwithstanding:

- a. Article 5.109(2), an environment plan can include a higher value than the limit value, as intended in that paragraph; or
- b. Article 5.110, 5.112(2) or 5.116(1), a distance may be maintained in an environment plan that is smaller than the distance as intended in those Articles.

§ 5.1.4.6.4**Odour caused by other agricultural activities****Article 5.118****(relationship to acceptability)**

1. Article 5.92(2) is complied with if Articles 5.120(2), 5.121(2), 5.122(2), 5.123(2), 5.124(2), 5.125(2) or 5.126(2) are applied.
2. Notwithstanding paragraph one, Article 5.59(2) can be complied with by application of Article 5.127.

Article 5.120**(odour from storage of solid manure, champost and thick fraction - distance)**

1. This article applies to the following activities:

- a. the operation of a livestock farm as intended in Article 3.200 of the Environmental Activities Decree;
- b. the cultivation of crops in outside air as intended in Article 3.208 of the Environmental Activities Decree;
- c. the cultivation of crops in a building as intended in Article 3.211 of the Environmental Activities Decree;
- d. the storage of substances and the maintenance, repair and cleaning of vehicles or equipment for agricultural contracting, as intended in Article 3.215 of the Environmental Activities Decree; and
- e. the treatment of animal manure and the fermentation of vegetable material as intended in Article 3.225 of the Environmental Activities Decree.

2. In an environment plan that permits the storage of solid manure with a total volume of not more than 600 m³, champost or thick fraction as intended in Article 4.835 of the Environmental Activities Decree, in the case of an activity as intended in paragraph one, from the storage location at least the distance as intended in Table 5.120 is taken into account.

Table 5.120 Distance to an odour sensitive building in the case of odour caused by the storage of solid manure with a total volume of not more than 600 m³, champost or thick fraction.

Storage of solid manure with a total volume of not more than 600 m ³ , champost or thick fraction	Distance
Odour sensitive building located within the building contour odour	100 m
Odour sensitive building located outside the building contour odour	50 m

Article 5.121**(odour caused by the storage of used substrate material of vegetable origin - distance)**

1. This article applies to the following activities:

- a. the cultivation of crops of under glass, as intended in Article 3.205 of the Environmental Activities Decree;
- b. the cultivation of crops in outside air as intended in Article 3.208 of the Environmental Activities Decree;
- c. the cultivation of crops in a building as intended in Article 3.211 of the Environmental Activities Decree; and

- d. the storage of substances and the maintenance, repair and cleaning of vehicles or equipment for agricultural contracting, as intended in Article 3.215 of the Environmental Activities Decree.
2. In an environment plan that permits the storage of used substrate material as intended in Article 4.848 of the Environmental Activities Decree, in as much as relating to used substrate material of vegetable origin, in the case of an activity as intended in paragraph one, from the storage location at least the distance as intended in Table 5.121 is taken into account.

Table 5.121 Distance to an odour sensitive building in the case of odour caused by the storage of used substrate material of vegetable origin

Storage of used substrate material of vegetable origin	Distance
Odour sensitive building located within the building contour odour	100 m
Odour sensitive building located outside the building contour odour	50 m

Article 5.122

(odour caused by the storage of silage and solid supplementary feed - distance)

1. This article applies to the following activities:
- the operation of a livestock farm as intended in Article 3.200 of the Environmental Activities Decree; and
 - the storage of substances and the maintenance, repair and cleaning of vehicles or equipment for agricultural contracting, as intended in Article 3.215 of the Environmental Activities Decree.
2. In an environment plan that permits the storage of silage or solid supplementary feed as intended in Article 4.841 of the Environmental Activities Decree, in the case of an activity as intended in paragraph one, from the storage location at least the distance as intended in Table 5.122 is taken into account.

Table 5.122 Distance to an odour sensitive building in the case of odour caused by the storage of silage or solid supplementary feed

Storage of silage or solid supplementary feed	Distance
Uncovered storage	50 m
Covered storage	25 m

3. Paragraph two does not apply to bales of cattle feed packed in plastic film

Article 5.123

(odour caused by the storage of slurry, digestate and thin fraction - distance)

1. This article applies to the following activities:
- the operation of a livestock farm as intended in Article 3.200 of the Environmental Activities Decree;
 - the storage of substances and the maintenance, repair and cleaning of vehicles or equipment for agricultural contracting, as intended in Article 3.215 of the Environmental Activities Decree; and
 - the treatment of animal manure and the fermentation of vegetable material as intended in Article 3.225 of the Environmental Activities Decree.
2. In an environment plan that permits the storage of slurry, digestate or thin fraction in a slurry basin as intended in Article 4.855 of the Environmental Activities Decree, with a combined surface area of not more than 750 m² or a combined volume of not more than 2,500 m³, in the case of an activity as intended in paragraph one, from the slurry basin, at least the distances as intended in Table 5.123 are taken into account.

Table 5.123 Distance to an odour sensitive building in the case of odour caused by the storage of slurry, digestate or thin fraction in a slurry basin with a combined surface area of not more than 750 m² or a combined volume of not more than 2,500 m³

Storage of slurry, digestate or liquid fraction in a slurry basin	Distance to an odour sensitive building	
	Without functional relationship with animal accommodation in the immediate vicinity	With functional relationship with animal accommodation in the immediate vicinity
Combined surface area less than 350 m ²	50 m	25 m
Combined surface area 350 m ² to 750 m ³	100 m	50 m

Article 5.124

(odour caused by a facility for biological treatment of animal manure before or after fermentation - distance)

1. This Article applies to the treatment of animal manure and the fermentation of vegetable material as intended in Article 3.225 of the Environmental Activities Decree.
2. In an environment plan that permits a facility for the biological treatment animal manure before or after fermentation, as intended in Article 4.864 of the Environmental Activities Decree, with a capacity of not more than 25,000 m³ per year of animal manure, in the case of an activity as intended in paragraph one, from the facility at least the distance as intended in Table 5.124 is taken into account.

Table 5.124 Distance to an odour sensitive building in the case of odour caused by a facility for the biological treatment of animal manure before or after fermentation

Facility for the biological treatment of animal manure before or after fermentation	Distance
Odour sensitive building located within the building contour odour	100 m
Odour sensitive building located outside the building contour odour	50 m

Article 5.125

(odour from the composting or storage of green waste - distance)

1. This article applies to the following activities:
 - a. the operation of a livestock farm as intended in Article 3.200 of the Environmental Activities Decree;
 - b. the cultivation of crops of under glass, as intended in Article 3.205 of the Environmental Activities Decree;
 - c. the cultivation of crops in outside air as intended in Article 3.208 of the Environmental Activities Decree;
 - d. the cultivation of crops in a building as intended in Article 3.211 of the Environmental Activities Decree;
 - e. the storage of substances and the maintenance, repair and cleaning of vehicles or equipment for agricultural contracting, as intended in Article 3.215 of the Environmental Activities Decree; and
 - f. the storage of substances and maintenance, repair and cleaning of vehicles or equipment for the maintenance of the public space, as intended in Article 3.250 of the Environmental Activities Decree.
2. In an environment plan that permits the composting or storage of green waste as intended in Article 4.879 of the Environmental Activities Decree, in the case of an activity as intended in paragraph one, up to an odour sensitive building, at least the distance as intended in Table 5.125 is taken into account. The distance applies from the compost heap or the storage location for green waste.

Table 5.125 Distance to an odour sensitive building in the case of odour caused by the composting or storage of green waste

Composting or storage of green waste	Distance
Odour sensitive building located within the building contour odour	100 m
Odour sensitive building located outside the building contour odour	50 m

Article 5.126**(grandfather clause)**

1. This Article applies to the storage of solid manure or chompost as intended in Article 5.120, the storage of substrate material as intended in Article 5.121, the storage of silage or solid supplementary feed as intended in Article 5.122 and the composting of green waste as intended in Article 5.125, if:

- a. the distance between an activity as intended in paragraph one and an odour sensitive building on 1 January 2013 was legally smaller than the distance as intended in Article 5.120(2), 5.121(2), 5.122(2) or 5.125(2).
- b. the storage or composting already took place before 1 January 2013; and
- c. relocation of the storage location or compost heap cannot reasonably be demanded.

2. This article also applies to the storage of slurry, digestate or thin fraction in a slurry basin as intended in Article 5.123(1), if:

- a. the distance between an activity as intended in paragraph one and an odour sensitive building on 1 January 2013 was legally smaller than the distance as intended in Article 5.123(2).
- b. the slurry basin was established before 1 January 2013; and
- c. relocation of the slurry basin cannot reasonably be demanded.

3. In an environment plan that permits an activity as intended in paragraph one or two:

- a. the legally smaller distance as intended in paragraph one or paragraph two is taken into account; and
- b. it is determined that measures or provisions will be taken that ensure that the odour is acceptable.

Article 5.127**(flexibility - deviation from distances)**

In an environment plan, a distance may be maintained that is smaller than the distance as intended in Article 5.120(2), Article 5.121(2), Article 5.122(2), Article 5.123(2), Article 5.124(2) or Article 5.125(2)

§ 5.1.5**Protection of landscape or architectural values and cultural heritage****§ 5.1.5.1****General provisions****Article 5.128****(grandfather clause)**

The provisions in subsections 5.1.5.2 and 5.1.5.3 do not apply in as much as activities:

- a. are already legally performed at a location or are permitted at the moment of those provisions coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity; or
- b. are permitted on the basis of a project decision or environmental permit that has come into effect for a non-planned environment plan activity, adopted or issued respectively by a national administrative body.

§ 5.1.5.2**Coast****Article 5.129****(preserving free horizon)**

An environment plan permits no activities that form a hindrance to the view of the free horizon from the average high waterline with a sea view.

§ 5.1.5.3

PKB Wadden Sea and Wadden area**Article 5.129a****(designation of PKB Wadden Sea and Wadden area)**

1. The PKB (Planological Core Decision) Wadden Sea is the location shown on the map in Annex XIIIc, the geometric boundary of which is laid down by ministerial order.
2. The Wadden Area is the location shown on the map in Annex XIIIc, the geometric boundary of which is laid down by ministerial order.

Article 5.129b**(landscape core qualities and characteristic cultural heritage)**

1. The landscape core qualities identified for the PKB Wadden Sea are the peace, scope, open horizon and undisturbed nature including darkness.
2. The following are identified as characteristic cultural heritage of the PKB Wadden Sea:
 - a. historical shipwrecks, drowned and silted-over settlements and mining remains, and other archaeological monuments present in the PKB Wadden Sea;
 - b. sea dykes and the related historical sluices;
 - c. land reclamation works;
 - d. the system of sand drift dykes;
 - e. the system of historical navigation and drainage channels;
 - f. markers; and
 - g. the entire Afsluitdijk.

Article 5.129c**(activities with possible significant adverse impact)**

In as much as the Wadden area is subject to an environment plan, the environment plan permits no activities that individually or in combination with other activities can have significant adverse impact for the landscape core qualities of the PKB Wadden Sea or the cultural heritage of the PKB Wadden Sea, unless;

- a. there are no realistic alternatives available for the activity;
- b. substantial reasons of great public interest, including interests of social or economic nature, interests relating to the protection of health, public safety or accessibility, justify permitting the activity or in the event of fundamentally favourable effects for the environment; and
- c. the adverse impact is limited as far as possible.

Article 5.129d**(non permitted activities)**

1. In as much as the PKB Wadden Sea is subject to an environment plan, the environment plan does not permit the following activities:
 - a. the building of a wind turbine;
 - b. the construction or seaward expansion of a port or yacht marina, with the exception of:
 1. a limited seaward expansion of a yacht marina on a Wadden Island, if the expansion is necessary for safety or accessibility, and there is no other appropriate solution;
 2. a seaward relocation of the ferry port in the municipality of Den Helder; and
 3. a seaward expansion of the port of the municipality of Harlingen, if expansion of that port within the dyke is not reasonably possible;
 - c. construction or seaward expansion of a commercial estate;
 - d. other building activities than those as intended in a, b and c, with the exception of the building of:
 1. a structure that is necessary for the safety of shipping;
 2. a structure for alternative mussel seed sources;
 3. a structure for adequate drainage of the mainland;
 4. a wadden guard post, if relating to a location that cannot be monitored from the mainland or a Wadden Island;
 5. a temporary structure as intended in Annex I to the Environment Structures Decree for scientific research and monitoring;

- 6. a structure for activities as intended in b(1° through to 3°) and f(1° and 2°) and
 - 7. a structure replacing an existing structure in as much as relating to a structure of a similar nature or size and similar character;
 - e. the polder, the embankment or dyking of parts of the PKB Wadden Sea;
 - f. the extraction of minerals by dredging the seabed, with the exception of:
 - 1. the extraction of sand produced during maintenance and incidental deepening of navigation channels and in the case of building activities permitted in accordance with this Article; and
 - 2. the extraction of shells below 5 m below the Amsterdam Ordnance Datum (NAP); and
 - g. parking a drilling rig or other offshore installation.
2. Activities permitted in the environment plan, as intended in paragraph one (preamble and b)(1° through to 3°), (d)(1° through to 6°) and f(1° and 2°) are accordingly subject to Article 5.129c.
3. In as much as a location directly contiguous to the Wadden Sea is subject to an Environment plan, paragraph one (preamble and b and c) applies accordingly.

Article 5.129e

(mining activities)

1. In as much as the PKB Wadden Sea is subject to an environment plan, the Natura 2000 area Wadden Sea, designated on the basis of Article 2.44(1) of the Act, the world heritage Wadden Sea or the Wadden Islands, the environment plan permits no mining activities for the exploration or extraction of minerals.
2. Paragraph one does not apply to the installation, alteration, testing, maintenance, repair or decommissioning of a borehole, or encouraging prevention via a borehole, with a mobile mining operation, as intended in Article 4.1116 of the Environmental Activities Decree, at a location at which a mining operation for the exploration or production of minerals is located that was legally present at the time when this Decree came into effect.
3. An environment plan that permits mining operations for the exploration or production of minerals as intended in Article 1(e and f) of the Mining Act on the mainland, in as much as located in the Wadden area and not located in the PKB Wadden Sea, the Natura 2000 areas Wadden area and North Sea strip or the World Heritage Wadden Sea as designated on the basis of Article 2.44(1) of the Act, determines that mining operations for the exploration and production must be integrated in the landscape in such a way that those mining operations do not detract from the openness of the landscape.
4. Paragraph one does not apply to mobile mining operations in as much as relating to the installation, alteration, maintenance, repair or decommissioning of a borehole at a location at which a mining operation for the exploration or production of minerals is located that was legally present at the time when this Decree came into effect.

Article 5.129f

(other permitted activities)

1. In as much as the Wadden area is subject to an environment plan, that environment plan:
 - a. does not permit the construction of a civilian airport; and
 - b. only permits the expansion of the airports in the municipalities of Texel and Ameland if necessary for aviation safety.
2. In as much as the Wadden area is subject to an Environment plan, with the exception of the PKB Wadden Sea, and permits building activities, the environment plan determines:
 - a. for building activities in urban areas that the maximum permissible height for structures ties in with the height of existing buildings; and
 - b. for building activities outside urban areas that the maximum permissible height for structures and the nature and purposes of new buildings tie in with the nature of the surrounding landscape.
3. Notwithstanding paragraph two(preamble and a), an environment plan determines for building activities in the urban area of the municipalities of Den Helder, Harlingen, Delfzijl

and Eemshaven that new structures must be integrated in the architectural structure of that urban area.

§ 5.1.5.4

Article 5.129g

Ladder for sustainable urbanisation

(careful use of space and combatting vacancy)

1. This article applies to an urban development that consists of the development or expansion of a commercial estate, a port location, a house building location, offices, a retail facility or other urban facility and that is sufficiently substantial.
2. In as much as an environment plan provides for a new urban development, with a view to the interest of careful use of space and combatting vacancy, the following will be taken into account in the environment plan:
 - a. the need for the urban development; and
 - b. if the urban development is planned outside the urban area or outside the urban green at the periphery of the built-up urban area: the possibilities of fulfilling the need within that urban area or within that urban green at the periphery of the built-up urban area.
3. In application of paragraph two (b), the urban area will not be taken to include an urban development for which:
 - a. an environmental permit for an environment plan activity is required on the basis of the environment plan; and
 - b. paragraph two has not yet been applied.
4. If an environment plan provides for the establishment of a service as intended in Article 1 of the Services Act and the assessment of the need for an urban development relates to the economic need, market demand or potential or current economic consequences of that establishment, the exclusive aim of that assessment is to determine whether the establishment of a service is in compliance with a balanced allocation of functions to locations.

§ 5.1.5.5

Article 5.130

Cultural heritage and world heritage

(preservation of cultural heritage)

1. An environment plan takes into account the interest of preservation of cultural heritage, including known or demonstrably expected archaeological monuments.
2. With a view to the interest of preservation of cultural heritage, in an environment plan, under all circumstances, rules are imposed to protect eligible cultural heritage, whereby the following principles will be taken into account:
 - a. preventing the defacement, damage or demolition of protected monuments and archaeological monuments on the basis of the environment plan;
 - b. preventing the relocation of protected monuments or parts of protected monuments on the basis of the environment plan, unless urgently required for the preservation of those monuments;
 - c. encouraging the use of monuments, if necessary by altering those monuments, taking account of the monumental values;
 - d. preventing damage to:
 1. the environment of national monuments, provisionally protected national monuments and monuments protected on the basis of the environment plan, in as much as those monuments are thereby defaced or damaged; and
 2. the character of village and urban conservation areas or cultural landscapes protected in the environment plan through the demolition of existing buildings, the construction of new buildings or other important changes; and
 - e. conservation and preservation of archaeological monuments, preferably in situ.
3. In the interest of archaeological monument preservation, in an environment plan it is also possible:

- a. to impose rules about requirements on research into the archaeological value of a location or the method of performing excavations or archaeological supervision of other activities that result in soil disruption; and
 - b. cases will be designated in which research into the archaeological value of a location or the imposition of obligations with that purpose may be waived.
4. If in an environment plan rules are imposed on performing archaeological research, the environment plan specifies that those rules do not apply to activities with a surface area of less than 100 m².
5. Notwithstanding paragraph four, another surface area may be laid down in an environment plan.

Article 5.131**(preservation of world heritage)**

In an environment plan, the importance of the preservation of exceptional universal value of world heritage will be taken into account.

§ 5.1.6***Preservation of space for future functions*****§ 5.1.6.1*****General provisions*****Article 5.132****(grandfather clause)**

1. The provisions in subsections 5.1.6.2 and 5.1.6.3 do not apply in as much as activities are already legally performed at a location or are permitted at the moment of that provision coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.

2. The provisions in subsections 5.1.6.2, 5.1.6.3, 5.1.6.4 and 5.1.6.5 do not apply in as much as activities are permitted on the basis of a project decision or environmental permit that has come into effect for a non-planned environment plan activity, adopted or issued respectively by a national administrative body.

§ 5.1.6.2***Trunk roads, motorways and mainline railways*****Article 5.133****(designation of reservation areas for trunk roads, motorways and mainline railways)**

1. Reservation areas for the expansion or construction of a trunk road, motorway or mainline railway are the locations designated by ministerial order, the geometric boundary of which is laid down by ministerial order.

2. The width of a reservation area for the expansion of a trunk road or motorway is measured from the outside edge line and has the following maximum dimensions:

- a. 34 m on both sides of the road for possible expansion with a single carriageway in each direction;
- b. 38 m on both sides of the road for possible expansion with two carriageways in each direction;
- c. 41 m on both sides of the road for possible expansion with three carriageways in each direction; or
- d. 45 m on both sides of the road for possible expansion with four carriageways in each direction.

Article 5.134**(no building activities)**

1. In as much as a reservation area for the expansion or construction of a trunk road, motorway or mainline railway is subject to an environment plan, the environment plan permits no building activities.

2. Paragraph one does not apply to a building activity relating to a structure permitted for a period of not more than five years.

§ 5.1.6.3

Pipelines of national importance

Article 5.135

(pipelines of national importance)

This subsection applies to pipelines other than pipelines for the transport of substances in connection with the exploration or production of minerals, that form part of the transprovincial network of pipelines intended or used for the transport over long distances of:

- a. natural gas, if the pipeline has an external diameter of at least 45.7 cm and a pressure of at least 4,000 kPa; or
- b. substances or products as intended in Article 3.101(1)(b, c and d) of the Environmental Activities Decree, if the pipeline has the diameter and pressure as intended in those components.

Article 5.136

(designation of reservation areas for pipelines of national importance)

1. Reservation areas for the construction of pipelines of national importance are those locations designated by ministerial order and the geometric boundary of which is laid down by ministerial order. The maximum width of a reservation area is 70 m, unless relating to a reservation area crossing a national water.
2. On both sides of a reservation area is a search area for the construction of pipelines of national importance with a width of 250 m, measured from the outward boundary of the reservation area.

Article 5.137

(further elaboration location reservation area)

In an environment plan, the location of a reservation area for the construction of pipelines of national importance can be further elaborated, on condition that the reservation area:

- a. remains within the search area as intended in Article 5.136(2);
- b. ties in with the reservation area for the construction of pipelines of national importance in the adjacent municipalities; and
- c. has a width equal to the width of the reservation area over the majority of that area.

Article 5.138

(no obstacles to the construction of pipelines)

1. In as much as a reservation area for the construction of pipelines of national importance is subject to an environment plan as intended in Article 5.136(1) or a reservation area the location of which is further elaborated as intended in Article 5.137, the environment plan permits no activities that could represent an obstacle to the construction of a pipelines of national importance.
2. Under all circumstances, the following are identified as obstacles:
 - a. building activities with the exception of the building of a structure necessary for the construction, maintenance or preservation of a pipeline of national importance;
 - b. the construction of a paved road or paved track or a railway along the length of the reservation area;
 - c. the excavation of a ditch in the length of the reservation area;
 - d. the construction of a flood defence or adjacent area where to protect the flood defence, rules apply relating to activities that have or could have consequences for that defence, in the length of the reservation area;
 - e. the installation of a pipeline other than a pipeline of national importance, or an underground high-voltage connection or an underground system of pipes in the length of the reservation area;
 - f. forestation; and
 - g. use as a landfill for waste or as a site for the permanent storage of soil or other substances or items.

Article 5.139**(construction of pipelines of national importance)**

1. An environment plan only permits the construction of a pipeline of national importance:
 - a. within a reservation area for the construction of pipelines of national importance as intended in Article 5.136(1) or a reservation area the location of which is further elaborated as intended in Article 5.137; and
 - b. in such a manner that the pipeline is located at least 5 m from the outer boundary of the reservation area, measured from the centreline of the pipeline.
2. Paragraph one does not apply if the start and finish point of a pipeline is located outside a reservation area and the pipeline establishes as far as possible a direct connection between the reservation area and that start or finish point.

§ 5.1.6.4**Project Mainport development Rotterdam****Article 5.140****(designation of construction areas Maasvlakte 2 and compensation)**

1. The construction area for Maasvlakte 2 is the location in the North Sea directly to the west of and contiguous with the former coastline existing on 20 November 2006, at the location of the port area of Rotterdam, the geometric boundary of which is laid down by ministerial order.
2. The construction area for compensation of open dry dune and wet dune valley is the location known as the Natura 2000 area Spanjaards Duin, located along the coastline of Delfland, adjacent to 's-Gravenzande, the geometric boundary of which is laid down by ministerial order.
3. The construction area for compensation of marine nature is the location in the Voordelta, comprising the shallow sea area of the Zeeland and Zuid-Hollandse Delta equal to an area of approx. 40,000 ha, the geometric boundary of which is laid down by ministerial order.

Article 5.141**(functions construction area Maasvlakte 2)**

1. In as much as the construction area for Maasvlakte 2 is subject to an environment plan, the environment plan comprises the functional designation port and industrial estate for an area of land of not more than 1,000 ha net issuable land.
2. In as much as the construction area for Maasvlakte 2 is subject to an environment plan, for locations for which the environment plan contains the functional designation port and industrial estate, the environment plan permits no other activities than deep sea and directly related activities, except in special circumstances.

Article 5.142**(no obstacles to the layout and development of nature)**

1. In as much as the construction area for compensation of open dry dune and wet dune valley is subject to an environment plan, the environment plan permits no activities that could represent an obstacle to the layout and development of 100 ha of dune.
2. In as much as the construction area for compensation of marine nature is subject to an environment plan, the environment plan permits no activities that could represent an obstacle to the layout and development of 31,250 ha of marine nature.

Article 5.143**(designation of nature and recreation areas)**

1. The public access nature and recreation area Midden-IJsselmonde is the location known as the Buitenland van Rhoon, located in the municipality of Albrandswaard, the geometric boundary of which is laid down by ministerial order.
2. The public access nature and recreation area Schiebroekse en Zuidpolder is the location known as the Vlinderstrik, located to the north of the municipality of Rotterdam, the geometric boundary of which is laid down by ministerial order.
3. The public access nature and recreation area Schiezone is the location located to the north of the municipality of Rotterdam, the geometric boundary of which is laid down by ministerial order.

Article 5.144**(nature and recreation area Midden-IJsselmonde)**

1. In as much as the nature and recreation area Midden-IJsselmonde is subject to an environment plan, the environment plan only permits:
- a. high-value arable nature and open air recreation;
 - b. agricultural activities in as much as they contribute to high-value arable nature and open air recreation;
 - c. the preservation of any landscape elements and cultural heritage present; and
 - d. lines for telecommunication or pipelines for the transport of gases, liquids or electricity.
2. Notwithstanding paragraph one, at the site of the nature and recreation area Midden-IJsselmonde an environment plan can permit those activities that were already permitted at that location before 30 December 2011, if on that date:
- a. one or more buildings were already present at that location;
 - b. for the construction of a building at that location, an environmental permit for the construction of a structure was issued; or
 - c. an application for an environmental permit as intended under b was submitted, and that environmental permit was issued after that date.

Article 5.145**(nature and recreation area Schiebroekse en Zuidpolder)**

In as much as the nature and recreation area Schiebroekse en Zuidpolder is subject to an environment plan, the environment plan permits nature and recreation for a total surface area of approx. 100 ha.

Article 5.146**(nature and recreation area Schiezone)**

In as much as the nature and recreation area Schiezone is subject to an environment plan, that environment plan permits nature and recreation for a total surface area of approx. 50 ha.

§ 5.1.6.5***Parallele Kaagbaan*****Article 5.147****(designation reservation area parallele Kaagbaan)**

The reservation area parallele Kaagbaan is the location in the municipality of Haarlemmermeer to the south of the Kaagbaan and adjacent to Schiphol-Rijk, the geometric boundary of which is laid down by ministerial order.

Article 5.148**(restrictions reservation area parallele Kaagbaan)**

1. In as much as the reservation area parallele Kaagbaan is subject to an environment plan, the environment plan permits no other activities than activities permitted before 1 February 2014.
2. Paragraph one does not apply to:
- a. the construction of a road in accordance with the Boerenlandvariant route, as intended in the notification about the Agreement conditions for the construction of the Boerenlandvariant N201; and
 - b. temporary activities permitted up to 1 January 2024.

§ 5.1.7

Protecting the condition and functioning of infrastructure and facilities against adverse impact from activities

§ 5.1.7.1

General provisions

Article 5.149

(grandfather clause)

1. The provisions in subsections 5.1.7.2 and 5.1.7.3 with the exception of Articles 5.157 and 5.159, 5.1.7.4, 5.1.7.5 and 5.1.7.6 do not apply in as much as activities are already legally performed at a location or are permitted at the moment of that provision coming into effect, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity.
2. The provisions in subsections 5.1.7.2, 5.1.7.3 and 5.1.7.4 do not apply in as much as activities are permitted on the basis of a project decision or environmental permit that has come into effect for a non-planned environment plan activity, adopted or issued respectively by a national administrative body.

§ 5.1.7.2

National defence and national security

Article 5.150

(designation of military sites and sites with a military object)

1. Military sites and sites with a military object are the locations referred to in Annex XIV(A), the geometric boundary of which is laid down by ministerial order.
2. Unsafe areas at military shooting ranges are the locations referred to in Annex XIV(B), the geometric boundary of which is laid down by ministerial order.
3. Areas where structures can disrupt military transmitting and receiving installations are those locations referred to in Annex XIV(C), the geometric boundary of which is laid down by ministerial order.
4. Areas that include a military low-flying route for fighter and transport aircraft are the locations referred to in Annex XIV(D), the geometric boundary of which is laid down by ministerial order.
5. Areas where structures can disrupt radar images are locations within a radius of 75 km around the radar stations referred to in Annex XIV(E), the geometric boundary of which is laid down by ministerial order.

Article 5.151

(no obstacles to military sites and objects)

In as much as a military site or a site with a military object is subject to an environment plan, the environment plan permits no activities that could form an obstacle to the use of that site or object.

Article 5.152

(no obstacles to training and shooting areas)

In as much as an unsafe area at a military shooting range is subject to an environment plan, the environment plan permits no activities that could represent an obstacle to the use of that area as a training and shooting area.

Article 5.153

(no obstacles to military transmission and receiving installations)

In as much as an area in which structures can disrupt a military transmission and receiving installation is subject to an environment plan, the environment plan does not permit the building of structures with a height of more than 22 m from ground level.

Article 5.154

(no obstacles to low-flying routes for fighter and transport aircraft)

In as much as an area that contains a low-flying route for fighter and transport aircraft is subject to an environment plan, the environment plan does not permit the building of structures with a height of more than 40 metres from ground level.

Article 5.155**(no obstacles to military radar images)**

1. In as much as a areas in which structures can disrupt the radar image are subject to an environment plan, the environment plan does not permit:
 - a. structures within a radius of 15 km from the radar, that exceed the maximum height of structures as intended in the table in Annex XIV(E); and
 - b. building of wind turbines within a radius of 15 to 75 km from the radar, with a tip height that exceeds the maximum height of wind turbines as intended in the table in Annex XIV(E);
2. If at a location multiple areas as intended in paragraph one (preamble and b) overlap, and different maximum heights apply, the lowest height will prevail.
3. It can be determined in an environment plan that it is forbidden without an environmental permit to build structures or wind turbines that are higher than the maximum height as intended in paragraph one, if rules are imposed that intend that the environmental permit will only be issued if those structures and wind turbines respectively have no unacceptable consequences for the radar image.

§ 5.1.7.3**Electricity supply****Article 5.156****(designation of locations for electricity supply)**

1. Locations for large-scale electricity generation with one or more electricity production installations with a combined capacity of at least 500 MW and the related works and infrastructure, with the exception of nuclear power plants and electricity production installations that generate electricity from wind energy, are the locations referred to in Annex XIV(A), the geometric boundary of which is laid down by ministerial order.
2. Locations for a nuclear power plant are the locations referred to in Annex XVI(B), the geometric boundary of which is laid down by ministerial order.
3. Locations for a high-voltage connection with a voltage of at least 220 kV are the routes between the locations referred to in Annex XV(C), the geometric boundary of which is laid down by ministerial order, and the routes between a location for large-scale electricity generation and the high-voltage grid with a voltage of at least 220 kV.

Article 5.157**(guarantee locations for large-scale electricity generation)**

In as much as a location for large-scale electricity generation is subject to an environment plan, the environment plan permits large-scale electricity generation, ensures sufficient space for that activity and contains no rules that restrict the use of installations for large-scale electricity generation.

Article 5.158**(guarantee locations for nuclear power plants)**

In as much as a location for a nuclear power plant and the area within a radius of 1 km around that location are subject to an environment plan, the environment plan does not permit:

- a. the building of buildings with a residential function, if as a consequence the number of residents in the area exceeds 5,000; and
- b. the building or realisation of other vulnerable or very vulnerable buildings or vulnerable locations with the exception of a nuclear power plant at the location of vulnerable or very vulnerable buildings or vulnerable locations that in the judgement of the competent authority are necessary for the area, or for an activity permitted within the area.

Article 5.159**(guarantee high-voltage connection)**

1. In as much as a location for a high-voltage connection with a voltage of at least 220 kV is subject to an environment plan, the environment plan contains the route of that high-voltage connection and permits use as a high-voltage connection and the related switchgear and transformer stations and other facilities necessary for the high-voltage connection.

2. An environment plan designates no other route for high-voltage connections with a voltage of at least 220 kV.
3. Notwithstanding paragraph two, the environment plan can designate another route for the high-voltage connection, on condition that:
 - a. the high-voltage connection as such is maintained in the environment plan;
 - b. the altered route ties in with the route for the high-voltage connection in the adjacent municipalities; and
 - c. the change has no adverse impact for the manager of the national high-voltage grid that is disproportionate to the interests served by the alteration of the route.
4. Paragraph one applies accordingly to the altered route.

§ 5.1.7.4

Article 5.160

National waterways

(designation of exemption areas national waterways)

A national water, with the exception of the North Sea, the Wadden Sea, the Westerschelde and the IJsselmeer, that is a waterway, has an exemption area on both sides of that waterway with a width that depends on the dimensions of the maritime traffic on the waterway, but that is not more than 50 m, the geometric boundary of which is laid down by ministerial order.

Article 5.161

(preventing obstacles to shipping)

In as much as a national water as intended in Article 5.160 that is a waterway or an exemption area as intended in that Article is subject to an environment plan, the environment plan takes into account the interest of preventing obstacles to:

- a. the safe and smooth passage of shipping in width, height and depth;
- b. lines of sight of the crew and navigation equipment present on the ship;
- c. contact between shipping and operation and guidance objects;
- d. access to the waterway for emergency services; and
- e. performance of management and maintenance of the waterway.

§ 5.1.7.5

Article 5.161a

Communication, navigation and peripheral equipment for civil aviation

(obstacles to communication, navigation and peripheral equipment civil aviation)

1. Areas where structures can disrupt communication, navigation and peripheral equipment outside Schiphol or other civilian airports of national and regional importance, are the locations referred to in Annex Xva, the geometric boundary of which is laid down by ministerial order.
2. In as much as an area as intended in paragraph one is subject to an environment plan, the environment plan will permit no structures that exceeds the maximum permissible height for structures as intended in Annex Xva.
3. In as much as an area as intended in paragraph one is subject to an environment plan, the environment plan will permit no wind turbines with a tip height that exceed the maximum permissible height for structures and wind turbines as intended in Annex Xva.
4. It can be determined in an environment plan that it is forbidden without an environmental permit to build structures or wind turbines that are higher than the maximum height as intended in paragraph two and paragraph three respectively, if rules are imposed that intend that the environmental permit will only be issued if those structures and wind turbines respectively have no unacceptable consequences for the equipment, as intended in paragraph one.
5. Articles 5.150(5) and 5.155 apply accordingly to the location around radar stations as referred to in Annex XIV(F).

§ 5.1.7.6***National cycling and walking routes*****Article 5.161b****(preservation of national cycling and walking routes)**

In as much as an environment plan provides for new developments that could dissect national cycling and walking routes as referred to in Annex XVI, the importance of the preservation of these cycling and walking routes will be taken into account in the environment plan.

§ 5.1.7a***Use of structures*****Article 5.161c****(designation of house building categories)**

1. An environment plan that permits building activities for which the costs must be recovered on the basis of Article 13.11(1) of the Act may contain rules about the categories of homes to be realised, in as much as relating to:

- a. social rented housing, namely rented housing with a starting rent below the limit as intended in Article 13(1)(a) of the Rent Subsidy Act;
- b. social owner occupier housing, namely owner occupier housing with a purchase price with no additional costs payable by the purchaser of not more than the cost limit as intended in the Conditions and Standards for the National Mortgage Guarantee;
- c. liberalised housing for mid-level rental, namely rented housing with a starting rent price of at least the amount as intended in Article 13(1)(a) of the Rent Subsidy Act, and not more than the annually indexed start rent specified in the environment plan; and
- d. housing that may only be built subject to private commission.

2. An environment plan that contains rules as intended in paragraph one (preamble and a, b or c) determines that the use of the relevant housing as social rent housing, social owner occupier housing and liberalised housing for mid-level rent respectively will be maintained for a target group described in the environment plan for a term specified in the environment plan.

3. The term as intended in paragraph two amounts to:

- a. for social rented housing: at least ten years following first occupation; and
- b. for social owner occupier housing: at least one year and at most ten years following first occupation; and
- c. for liberalised housing for mid-level rent: at least ten years following first occupation.

4. An environment plan that contains rules as intended in paragraph one (preamble and d) ensures that building activities as intended in Article 13.11(1) of the Act on Plots of Land for Private Commission will be performed by a citizen or group of citizens organised as a non-profit legal entity, or pursuant to an agreement which:

- a. acquires at least a real right to the use of the land; and
- b. has full authority and is responsible for the use of the land and the design and construction of the housing.

§ 5.1.8***Encouraging access to public outdoor space for people*****Article 5.162****(access to public outdoor space)**

In as much as an environment plan provides for new developments with consequences for the layout of public outdoor space, the environment plan takes the interest of encouraging access to public outdoor space for persons with a functional disability into account.

Section 5.2 Instruction rules on the performance of tasks for the physical environment

- Article 5.163 (preventing obstacles to use and management of mainline railway infrastructure and national trunk roads)**
In an environment plan to which the mainline railway infrastructure or a road managed by the State is subject, no rules are imposed that form obstacles to the use, maintenance, improvement or renewal of that infrastructure.
- Article 5.164 (local railways within transport regions)**
1. This Article applies to local railways within the areas designated on the basis of Article 20(3) of the Passenger Transport Act 2000.
2. In the environment plan, the geometric boundary is laid down for the restricted area within which the licence obligation for a restricted area activity applies in accordance with the designation of this area on the basis of Article 12 of the Local Railways Act by the executive board of the public body as intended in Article 20(3) of the Passenger Transport Act 2000.
- Article 5.165 (discharge of industrial wastewater into the public sewer)**
If industrial wastewater not originating from an environmentally harmful activity designated in Chapter 3 of the Environmental Activities Decree is discharged into the public sewer, an environment plan only permits that discharge if the requirements of Annex I (Section C) to the Urban Wastewater Directive are met.
- Article 5.165a (building contour hunting)**
In an environment plan, for application for Article 11.71(4) and 11.76(3)(preamble and a) of the Environmental Activities Decree, a building contour hunting is designated contiguous to an urban area and contiguous to river development alongside roads, waterways or flood defences.
- Article 5.165b (building contour logging)**
In an environment plan, for application for Article 11.111(2)(preamble and a) of the Environmental Activities Decree, a building contour logging is designated contiguous to urban areas.

Section 5.3 Exemption

- Article 5.166 (exemption of instruction rules environment plan)**
Our Minister of the Interior and Kingdom Relations, as the case arises in consultation with Our Minister affected, may at the request of the municipal executive grant an exemption from the rules in subsections 5.1.3.2, 5.1.3.3, 5.1.3.4, 5.1.3.5, 5.1.5.2, 5.1.5.3, with the exception of Articles 5.129d(1)(a and g) and 5.129e(1 and 2), 5.1.6.2, 5.1.6.3, 5.1.6.4, 5.1.6.5 and 5.1.7 and Article 5.163.
- Article 5.167 (exemption remains valid)**
1. An exemption granted for a decision to adopt a project decision applies as exemption for a later change to an environment plan, in as much as that change permits that which was permitted on the basis of the project decree.
2. An exemption granted for a decision to issue an environmental permit for a non-planned environment plan activity applies as exemption for:
a. harmonising the environment plan with that environmental permit; and
b. a later change to an environment plan in as much as that change permits that which was permitted on the basis of an amendment to the environment plan as intended under a.

Chapter 6 Water authority regulations

Article 6.1

(instruction rule discharges)

In as much as a water authority regulation imposes rules on a discharge activity into a body of surface water managed by the water authority, the requirements as intended in Articles 10 and 11 (preamble and g) of the Water Framework Directive will be taken into account in the water authority regulation.

Article 6.2

(assessment rules activity with consequences for body of water)

1. This article applies to a water authority regulation that specifies that it is forbidden without an environmental permit to perform an activity that can have consequences for a WFD body of surface water or a body of groundwater.

2. The water authority regulation specifies that the issuing of an environmental permit may under no circumstances mean that, taking into account the water management programmes, the regional water programmes, the river basin management plans, the flood risk management plans and the national water programme, that relate to the WFD body of surface water or body of groundwater in question:

- a. the environmental values as intended in Article 2.10(1), 2.11(1), 2.13(1), 2.14(1) and 2.15(1), as the case arises in combination with the term as intended in Article 2.18(1) are not satisfied;
- b. a good ecological potential as intended in Article 2.12(1) is not achieved, as the case arises in combination with the term as intended in Article 2.18(2); and
- c. a less strict target as intended in Article 2.17(2) (preamble and d) is not achieved.

3. Paragraph two does not apply:

- a. in as much as relating to the environmental value as intended in Article 2.10(1), if failure to satisfy that environmental value is caused by a source of pollution located outside the Netherlands, and Article 2.17(3) has been applied; or
- b. if failure to satisfy an environmental value or failure to achieve good ecological potential or a less strict target is the consequence of:
 1. new changes to the physical properties of a WFD body of surface water or changes in the status of a body of groundwater; and
 2. Article 2.17(4) has been applied.

4. The water authority regulation specifies that the issuing of the environmental permit may also not mean that the objective of preventing decline in the chemical and ecological status of the WFD bodies of surface water and the chemical status and quantitative status of bodies of groundwater as intended in Article 4.15(1) are not achieved.

Article 6.3

(designation soil management areas)

1. In a water authority regulation, one or more soil management areas may be designated for the deviation by means of a customised rule or customised instruction from the quality requirements for:

- a. the application of soil or dredge spoil in a body of surface water as intended in Articles 4.1273, 4.1275, 4.1277 or 4.1279 of the Environmental Activities Decree; or
- b. the application in a body of surface water designated by ministerial order of mining rubble or mixed mining rubble as intended in Articles 4.1289 and 4.1291 of the Environmental Activities Decree.

2. Soil management areas are designated with a view to ensuring that soil or dredge spoil, in a case as intended in paragraph one (a) or mining rubble or mixed mining rubble in a case as intended in paragraph one (b), excavated within the designated area, can be reapplied within that area in such a way that on the scale of the area, a good result is achieved from the point of view of the economic use of resources and the efficient management of waste.

3. The geometric boundary of the designated soil management area is laid down in the water authority regulation.

Chapter 7 Environment regulations

Section 7.1 Instruction rules with a view to the balanced allocation of functions to locations

Article 7.1

(general)

Section 5.1 applies accordingly to an environment regulation in as much as that regulation contains the rules as intended in Article 4.2(2) of the Act.

Section 7.1a Instruction rules with a view to protecting water interests

Article 7.1a

(core qualities coastal foundation)

1. The coastal foundation is the location as intended in Article 5.39.
2. By environment regulation, in the interest of protecting and preserving the core qualities of the coastal foundation, rules are imposed on rules in environment plans as intended in Article 4.2(1) of the Act, in as much as relating to buildings and structures as intended in Article 5.40(2)(e).
3. The core qualities of the coastal foundation include:
 - a. clear view and large scale;
 - b. the natural dynamism of the coastline;
 - c. robust water status;
 - d. the contrast between compact built-up centres and extensive unbuilt areas;
 - e. the contrast between the coastal foundation and the hinterland;
 - f. coast-specific cultural heritage in dunes areas and the hinterland;
 - g. specific characteristics of coastal towns in relation to the hinterland; and
 - h. specific use qualities.

Article 7.2

(building within the coastal foundation Frisian Wadden Islands)

By environment regulation, the province of Fryslân can impose rules for the Frisian Wadden Islands on environment plans that deviate from Article 5.40(1).

Section 7.2 Instruction rules with a view to preservation of world heritage and cultural heritage

Article 7.3

(designation and boundary of world heritage and heritage on the Provisional World Heritage List)

1. Droogmakerij de Beemster is the location known as the De Beemster polder, located in the territory of the province of Noord-Holland, the geometric boundary of which is laid down by ministerial order.
2. The Stelling van Amsterdam is the location known as the former defensive line around Amsterdam, located in the territory of the provinces of Noord-Holland and Utrecht, the geometric boundary of which is laid down by ministerial order.
3. Nieuwe Hollandse Waterlinie is the location known as the former defensive line Nieuwe Hollandse Waterlinie, that runs from Muiden to Woudrichem, and ends at Werkendam, and which is located in the territory of the provinces of Noord-Holland, Utrecht, Gelderland, Zuid-Holland and Noord-Brabant, the geometric boundary of which is laid down by ministerial order.
4. Romeinse Limes is the location known as a series of archaeological monuments of the former Roman Empire, that runs from Katwijk aan Zee to the border with Germany, across the territory of the provinces of Zuid-Holland, Utrecht and Gelderland, the geometric boundary of which is laid down by ministerial order.

5. Koloniën van Weldadigheid is the location known as a series of agricultural colonies established by the Maatschappij van Weldadigheid, located on the territory of the provinces of Drenthe, Overijssel and Fryslân, the geometric boundary of which is laid down by ministerial order.

Article 7.4

(core qualities)

1. Core qualities of world heritage and heritage on the Provisional World Heritage List as intended in Article 7.3 are the essential characteristics of the landscape and cultural heritage present, described in outline in the interest of the preservation of exceptional universal value of world heritage in Annex XVII.
2. The core qualities are further elaborated by environment regulation.
3. By environment regulation, in the interest of preserving and strengthening the core qualities of the world heritage and heritage on the Provisional World Heritage List, rules are imposed on:
 - a. rules in environment plans as intended in Article 4.2(1) of the Act; and
 - b. project decisions as intended in Article 2.23(1)(preamble and a)(4°) of the Act.
4. Under all circumstances, the rules mean that no activities are permitted that harm the core qualities.

Section 7.3

Instruction rules with a view to nature conservation

§ 7.3.1

Netherlands Nature Network

Article 7.5

(scope)

Articles 7.6 through to 7.8 do not apply to:

- a. national waters referred to in Annex II(1)(A) to the Environment Decree, with the exception of the flood meadows of the rivers belonging to the national waters and the Brabantse, Dortsche and Sliedrechtse Biesbosch; and
- b. the Lauwersmeer, the Veerse meer, the Vuile Gat in the Haringvliet and the sea channel to the Haringvliet, known as the Slijkgat.

Article 7.6

(designation and boundary of Netherlands nature network)

1. By environment regulation, the areas that form the Netherlands nature network as intended in Article 2.44(4) of the Act are designated and its geometric boundary is laid down.
2. The military sites OT De Haar, OT De Vlasakkers, OT Havelte West, OT Leusderheide, OT Marnewaard and OT Oirschotse Heide referred to in Annex XIV(A), the geometric boundary of which is laid down by ministerial order, do not form part of the Netherlands nature network.

Article 7.7

(fundamental characteristics and values)

1. By environment regulation, the fundamental characteristics and values of the areas as intended in Article 7.6(1) are laid down.
2. The fundamental characteristics and values, that may also include potential nature values and the necessary required soil and water conditions are determined, under all circumstances taking into account the objectives as intended in Article 2.18(1)(g) of the Act.

Article 7.8

(protection regime)

1. By environment regulation, in the interest of the protection, preservation, improvement and development of the fundamental characteristics and values of the Netherlands nature network, rules are imposed on:
 - a. rules in environment plans as intended in Article 4.2(1) of the Act; and

- b. project decisions as intended in Article 2.23(1)(preamble and a)(4°) of the Act.
2. Under all circumstances, the rules ensure that the quality and surface area of the Netherlands nature network do not decline, that the cohesion between the areas of the nature network is maintained and that, if within the nature network activities are permitted that can have adverse impact on the fundamental characteristics or values of the nature network, that impact is compensated for in time in such a way that the quality, area and cohesion of the nature network is maintained.
3. With regard to military sites and sites with a military object as intended in Article 5.150(1) within the Netherlands nature network, by environment regulation, rules are only imposed that ensure that timely compensation takes place of adverse impact for the nature network caused by site paving and building activities on those sites.

§ 7.3.2

Environment regulation with permit-exempt Natura 2000 activities or flora and fauna activities

Article 7.8a

(environment regulation with permit-exempt Natura 2000 activities or flora and fauna activities)

1. An environment regulation that designates permit-exempt Natura 2000 activities as intended in Article 11.19 of the Environmental Activities Decree complies with Article 11.21 of that decree.
2. An environment regulation that designates permit-exempt flora and fauna activities:
 - a. as intended in Article 11.42 of the Environmental Activities Decree relating to birds of species as intended in Article 1 of the Birds Directive complies with Article 11.44(1) of that decree;
 - b. as intended in Article 11.50 of the Environmental Activities Decree relating to animals or plants of species referred to in Annex IV to the Habitats Directive, Annex I or II to the Bern Convention or Annex I to the Bonn Convention complies with Article 11.52(1) of that decree;
 - c. as intended in Article 11.56 of the Environmental Activities Decree relating to animals or plants of species referred to in Annex IX to that decree complies with Article 11.58(1) of that decree.

Section 7.4

Instruction rules on the performance of tasks for the physical environment

Article 7.9

(preventing obstacles to use and management of mainline railway infrastructure and national trunk roads)

An environment regulation contains no rules that hinder the use, maintenance, improvement or renewal of the mainline railway infrastructure or a road managed by the State.

Article 7.10

(local railways outside transport regions)

1. This Article applies to local railways outside the areas designated on the basis of Article 20(3) of the Passenger Transport Act 2000.
2. In an environment regulation the geometric boundary of the restricted area relating to local railways are laid down.

Article 7.10a

(designation of roads and railways for noise production ceilings)

1. In an environment regulation, for the designation of noise production ceilings as environmental values, as least those provincial roads will be designated with a traffic intensity of more than 1,000 motor vehicles per day, average over a calendar year.
2. In an environment regulation, only local railways as intended in Article 2.13a(1)(b) of the Act may be designated in as much as not integrated or combined with parts of a road.

Article 7.11**(quiet areas and groundwater protection areas)**

1. An environment regulation under all circumstances includes rules about:
 - a. preventing or restricting noise load in the areas designated in the environment regulation; and
 - b. the protection of the quality of the groundwater as a result of water extraction in the areas designated in the environment regulation.
2. An environment regulation contains no rules as intended in paragraph one (preamble and a) regarding the prevention or restriction of noise load caused by the use of explosive substances and objects on a military shooting range or military explosive ordnance site.

Article 7.12**(assessment rules activity with consequences for body of water)**

1. This article applies to an environment regulation that specifies that it is forbidden without an environmental permit to perform an activity that can have consequences for a WFD body of surface water or a body of groundwater.
2. The environment regulation specifies that the issuing of an environmental permit may under no circumstances mean that, taking into account the water management programmes, the regional water programmes, the river basin management plans, the flood risk management plans and the national water programme, that relate to the WFD body of surface water or body of groundwater in question:
 - a. the environmental values as intended in Article 2.10(1), 2.11(1), 2.13(1), 2.14(1) and 2.15(1), as the case arises in combination with the term as intended in Article 2.18(1) are not satisfied;
 - b. a good ecological potential as intended in Article 2.12(1) is not achieved, as the case arises in combination with the term as intended in Article 2.18(2); and
 - c. a less strict target as intended in Article 2.17(2)(preamble and d) is not achieved.
3. Paragraph two does not apply:
 - a. in as much as relating to the environmental value as intended in Article 2.10(1), if failure to satisfy that environmental value is caused by a source of pollution located outside the Netherlands, and Article 2.17(3) has been applied; or
 - b. if failure to satisfy an environmental value or failure to achieve good ecological potential or a less strict target is the consequence of:
 1. new changes to the physical properties of a WFD body of surface water or changes in the status of a body of groundwater; and
 2. Article 2.17(4) has been applied.
4. The environment regulation specifies that the issuing of the environmental permit may also not mean that the objective of preventing decline in the chemical and ecological status of the WFD bodies of surface water and the chemical status and quantitative status of bodies of groundwater as intended in Article 4.15(1) are not achieved.

Article 7.13**(other rules ranking in the event of water shortage)**

1. By environment regulation, further rules may be imposed for regional waters concerning the ranking as intended in Article 3.14(4 and 5).
2. By environment regulation, the ranking as intended in Article 3.14(4 and 5) can be declared accordingly applicable to the available groundwater.

Section 7.5**Instruction rules on the provincial assessment rules for an environmentally harmful activity****Article 7.14****(environment regulation assessment environmentally harmful activity)**

Article 4.22(2) of the Act applies accordingly to the imposition of rules in an environment regulation as intended in Article 5.19(1) of the Act on issuing or refusing an environmental permit for an environmentally harmful activity.

Section 7.7

Exemption

Article 7.15

(exemption instruction rules environment regulation)

Our Minister of the Interior and Kingdom Relations, as the case arises in consultation with Our Minister affected, may at the request of the provincial executive grant an exemption from the rules in subsections 5.1.3.2, 5.1.3.3, 5.1.3.4, 5.1.3.5, 5.1.5.2, 5.1.5.3, with the exception of Articles 5.129d(1)(a and g) and 5.129e(1 and 2), 5.1.6.2, 5.1.6.3, 5.1.6.4, 5.1.6.5 and 5.1.7 and Article 7.9.

Chapter 8 Environmental permits

Section 8.1 Environmental permit environment plan activity

§ 8.1.1 *Assessment rules application environmental permit environment plan activity*

§ 8.1.1.1 *General assessment rules application environmental permit environment plan activity*

Article 8.o (scope and intention)

This Section applies to environment plan activities that are not exempt from a permit on the basis of Article 2.15f of the Environment Structures Decree, and is included with a view to the objectives of that Act.

Article 8.0a (assessment rules environment plan activity general)

1. In as much as an application for an environmental permit relates to an environment plan activity, if relating to an activity for which it is determined in the environment plan that it is forbidden to perform this activity without an environmental permit, the environmental permit will be issued if the activity is not in violation of the rules laid down in the environment plan on this issuing of the environmental permit.

2. In as much as an application for an environmental permit relates to a non-planned environment plan activity, the environmental permit will only be issued with a view to a balanced allocation of functions to locations.

§ 8.1.1.2 *Specific assessment rules application environmental permit environment plan activity*

Article 8.ob (continued effect of instruction rules, instructions, preparatory decisions and project decisions - non-planned environment plan activity, not of provincial or national importance)

1. In as much as an application for an environmental permit relates to a non-planned environment plan activity other than an environment plan activity of provincial or national importance, the assessment of the application is accordingly subject to:

- a. the rules of Chapter 5;
- b. the rules on environment plans imposed on the basis of Article 2.22 of the Act; and
- c. instructions issued about environment plans on the basis of Article 2.33 and 2.34 of the Act.

2. An environmental permit as intended in paragraph one will be refused if:

- a. the environment plan activity would result in a situation that is not permitted on the basis of a rule or instruction as intended in paragraph one;
- b. the environment plan activity relates to a protection rule in the environment plan; or
- c. the environment plan activity forms an obstacle to implementation of a project for which a project decision has been adopted by a provincial or the national administrative body.

3. Paragraph two (preamble and c) only applies during the term as intended in Article 4.19a(3) of the Act.

4. If Article 2.32(1) of the Act is applied in a rule on environment plans imposed on the basis of Article 2.22, a request for exemption from the imposed rule as intended in that paragraph may also be submitted by Our Minister affected.

Article 8.oc**(continued effect of instruction rules, instructions, preparatory decisions and project decisions - non-planned environment plan activity of provincial importance)**

1. In as much as an application for an environmental permit relates to a non-planned environment plan activity of provincial importance, the assessment of the application is accordingly subject to:
- a. the rules of Chapter 5;
 - b. the rules on environment plans imposed on the basis of Article 2.22 of the Act, in as much as they also apply to a project decision adopted by the provincial executive; and
 - c. the rules on a project decision imposed on the basis of Article 2.22 of the Act, that is adopted by the provincial executive in as much as intended to ensure implementation of Section 7.2 or 7.3 and in as much as they are other rules than the rules on environment plans as intended in b; and
 - d. instructions issued about environment plans on the basis of Article 2.34 of the Act.
2. An environmental permit as intended in paragraph one will be refused if:
- a. the environment plan activity would result in a situation that is not permitted on the basis of a rule or instruction as intended in paragraph one;
 - b. the environment plan activity relates to a protection rule in the environment plan imposed by a preparatory decision of a provincial or national administrative body; or
 - c. the environment plan activity forms an obstacle to implementation of a project for which a project decision has been adopted by a national administrative body.
3. Paragraph two (preamble and c) only applies during the term as intended in Article 4.19a(3) of the Act.

Article 8.od**(continued effect instruction rules, instructions and preparatory decisions - non-planned environment plan activity of national interest/importance)**

1. In as much as an application for an environmental permit relates to a non-planned environment plan activity of national importance, the assessment of the application is accordingly subject to:
- a. the rules as intended in Article 9.1(2);
 - b. Articles 9.2 and 9.3; and
 - c. instructions issued about environment plans on the basis of Article 2.34(4) of the Act.
2. An environmental permit as intended in paragraph one will be refused if:
- a. the environment plan activity would result in a situation that is not permitted on the basis of a rule, article or instruction as intended in paragraph one; or
 - b. the environment plan activity relates to a protection rule in the environment plan imposed by a preparatory decision of a national administrative body.

Article 8.oe**(continued effect customised rule - non-planned environment plan activity)**

In as much as an application for an environmental permit relates to a non-planned environment plan activity that relates to a customised rule in the environment plan, in assessing whether Article 8.0a(2) is complied with, the rules applicable for imposing that customised rule will be taken into account.

Section 8.2**Environmental permit restricted area activity relating to infrastructure****Article 8.1****(scope and intention)**

1. This Section applies to restricted area activities requiring a permit with relation to:
- a. a road managed by the State as intended in Chapter 8 of the Environmental Activities Decree;
 - b. a railway as intended in Chapter 9 of the Environmental Activities Decree;
 - c. an airport as intended in Chapter 10 of the Environmental Activities Decree; and

- d. a mining installation in a water management structure as intended in subsections 6.2.7a and 7.2.4 of the Environmental Activities Decree.
2. This Section is included with a view to protecting the status and functioning of infrastructure against adverse impact from activities.

Article 8.2

(assessment rules restricted area activity)

1. In as much as an application for an environmental permit relates to a restricted area activity relating to:
- a. a road;
 - b. a railway;
 - c. an airport; or
 - d. a mining installation in a water management structure;
- as intended in Article 8.1, the environmental permit will only be issued if the activity is in consistent with the interest of protecting the status and functioning of that structure or object against adverse impact from activities.
2. The interest of protecting the status and functioning of that structure of object against adverse impact from activities include the works and objects as intended in paragraph one (a and b) and the interest of removing of removing or altering those structures or objects.

Article 8.3

(custom demarcation)

- In as much as an application for an environmental permit relates to a restricted area activity relating to:
- a. a road managed by the State, the imposition of regulations on the environmental permit is subject accordingly to Article 8.13 of the Environmental Activities Decree;
 - b. a railway, the imposition of regulations on the environmental permit is subject accordingly to Article 9.16 of the Environmental Activities Decree; and
 - c. a mining installation in a water management structure, the imposition of regulations on the environmental permit is accordingly subject to Article 6.56f and 7.47 of the Environmental Activities Decree.

Section 8.3

Environmental permit building activity

§ 8.3.1

Assessment rules application environmental permit building activity

Article 8.3a

(scope and intention)

This Section applies to building activities requiring a permit as intended in Article 2.15d of the Environment Structures Decree, and is included with a view to guaranteeing safety, protecting health and sustainability and usability.

Article 8.3b

(assessment rules building activity)

1. In as much as an application for an environmental permit relates to a building activity that includes the building of a new structure, the environmental permit will only be issued if it is plausible that the rules of Chapter 4 and Section 7.1 of the Environment Structures Decree and the customised rules imposed on the basis of Article 4.7 of that decree in the environment plan are complied with.
2. In as much as an application for an environmental permit relates to a building activity that includes the renovation or relocation of an existing structure, the environmental permit will only be issued if it is plausible that the rules of Chapter 5 and Section 7.1 of the Environment Structures Decree are complied with.

§ 8.3.2

Regulations environmental permit building activity

Article 8.3c

(regulations on postponed application requirements)

1. At the request of the applicant, a regulation will be imposed on the environmental permit for a building activity which means that the data and documents designated by ministerial order only have to be issued at the latest three weeks before the start of the implementation of the part of the building activity to which those data and documents relate.

2. If in the judgement of the competent authority, the building activity duly provides grounds, a regulation may be imposed on the environmental permit for that activity which means that the data and documents designated by ministerial order only have to be issued at the latest three weeks before the start of the implementation of the part of the building activity to which those data and documents relate.

Article 8.3d

(custom demarcation)

In as much as an application for an environmental permit relates to a building activity, Articles 4.5, 4.6, 7.5 and 7.23 of the Environment Structures Decree apply accordingly to the imposition of regulations on the environmental permit.

Article 8.3e

(further restriction regulations building activity)

Unless relating to a regulation as intended in Article 8.3c or a regulation that can be imposed on an environmental permit for a building activity on the basis of Article 8.3d, only regulations of an administrative nature may be imposed on the environmental permit.

Section 8.4

Environmental permit mining activity

Article 8.4

(scope and intention)

This Section applies to mining activities requiring a permit as intended in subsections 6.2.5 and 7.2.9 of the Environmental Activities Decree and is included with a view to guaranteeing the safety and balanced allocation of functions to locations.

Article 8.5

(assessment rules mining activity)

1. In as much as an application for an environmental permit relates to a mining activity as intended in Articles 7.66(preamble and a) and 7.67(preamble and a) of the Environmental Activities Decree, the environmental permit will only be issued if:

- a. combined use of the existing mining installation is not possible; and
- b. restrictions on visibility caused by the new mining installation are minimised.

2. In as much as an application for an environmental permit relates to a mining activity as intended in Articles 7.66(preamble and a) and 7.67 (preamble and b) of the Environmental Activities Decree, the environmental permit will only be issued if the activity is consistent with the interests of:

- a. the performance of defence tasks and the safe performance of related activities, in as much as relating to a training and shooting area designated and geometrically bounded by ministerial order.
- b. shipping and the safety of shipping in as much as relating to a part of the sea with high levels of maritime traffic, designated and geometrically bounded by ministerial order; or
- c. the interests of electricity generation based on wind in a wind farm and the safety of the wind farm in as much as relating to an area designated in a plot decree or a preparatory decree as intended in Article 3(1) or 9(1) of the Offshore Wind Energy Act, respectively.

3. In as much as an application for an environmental permit relates to a mining activity as intended in Articles 7.66(preamble and b) and 7.67 (preamble and c) of the Environmental

Activities Decree, the environmental permit will only be issued if the activity is consistent with the interests of:

- a. the performance of defence tasks and the safe performance of related activities, in as much as relating to a training and shooting area designated and geometrically bounded by ministerial order.
- b. shipping and the safety of shipping in as much as relating to a approach area, designated and geometrically bounded by ministerial order; or
- c. shipping and the safety of shipping in as much as relating to an anchor area close to a port of call, designated and geometrically bounded by ministerial order.
4. In as much as an application for an environmental permit relates to a mining activity as intended in Articles 6.45(preamble and a) and 6.46(preamble and a) of the Environmental Activities Decree, paragraph two (preamble and a) applies accordingly.
5. In as much as an application for an environmental permit relates to a mining activity as intended in Articles 6.45(preamble and b) and 6.46(preamble and b) of the Environmental Activities Decree, paragraph three (preamble and a) applies accordingly.

Article 8.6

(custom demarcation)

In as much as an application for an environmental permit relates to a mining location activity in a body of surface water managed by the State, Articles 6.56f and 7.47 of the Environmental Activities Decree applies accordingly to the imposition of regulations on the environmental permit.

Section 8.5

Environmental permit environmentally harmful activity

§ 8.5.1

Assessment rules application environmental permit environmentally harmful activity

§ 8.5.1.1

General assessment rules application environmental permit environmentally harmful activity

Article 8.7

(scope and intention)

This Section applies to environmentally harmful activities requiring a permit as intended in Chapter 3 of the Environmental Activities Decree and is included with a view to guaranteeing safety, and protecting health and the environment.

Article 8.8

(designation environmentally harmful activities pursuant to the Bibob Act)

Environmentally harmful activities as intended in Article 5.1(2)(preamble and b) of the Act will be designated as environmentally harmful activities as intended in Article 5.31(1) of the Act.

Article 8.9

(assessment rules environmentally harmful activity general)

1. In as much as an application for an environmental permit relates to an environmentally harmful activity, the environmental permit will only be issued if the following criteria are satisfied:

- a. environmental pollution caused by the activity is prevented entirely or if this is not possible, mitigated;
- b. emissions into the air, the water and the soil and the creation of waste as a result of the activity are prevented or if this is not possible mitigated in order to achieve a high level of protection of the environment as a whole;
- c. all appropriate preventive measures are taken against environmental pollution;
- d. the best available techniques eligible for the activity are applied;
- e. no significant environmental pollution is caused;
- f. energy is used efficiently;

- g. the necessary measures are taken to prevent accidents and to limit the consequences of accidents; and
 - h. at the time of definitive termination of the activity, the necessary measures are taken to prevent or to limit any risk of environmental pollution caused by the activity for the site where the activity was performed, if necessary in order to once again make the site suitable for future use.
2. In assessing the application, Article 10.14 and 10.29a of the Environmental Management Act will be taken into account.
 3. In assessing whether the environmentally harmful activity satisfies the criterion as intended in paragraph one (preamble and e), in determining whether there is significant environmental pollution, under all circumstances the environment plan, environmental permits for non-planned environment plan activities, the water authority regulation and the environment regulation will be taken into account.
 4. In assessing whether the environmentally harmful activity satisfies the criteria as intended in paragraph one (preamble and a through to e), the information documents as intended in Annex XVIII(B) will also be taken into account.

Article 8.10

(determining best available techniques)

1. In assessing whether the environmentally harmful activity satisfies the criterion as intended in Article 8.9(1)(preamble and d), in determining the best available techniques, the BAT conclusions and information documents as intended in Annex XVIII(A) will also be taken into account.
2. If an environmentally harmful activity is not subject to any BAT conclusions or if the applicable BAT conclusions do not deal with all possible environmental consequences of the activity, in determining the best available technique, under all circumstances the following will be taken into account.
 - a. application of techniques that cause little waste;
 - b. application of substances that are less harmful than the substances or mixtures as intended in Article 3 of the CLP Regulation;
 - c. the development of techniques for recovery and reuse of the emitted and used substances and waste;
 - d. comparable processes, devices or methods of operation that have been successfully tested in practice;
 - e. progress of technology and the development of scientific knowledge;
 - f. the nature, consequences and scope of the emissions;
 - g. the expected date and expected time at which the activity was started;
 - h. the time necessary to apply a better technique;
 - i. the consumption and nature of the raw materials, including water, and the energy efficiency;
 - j. the necessity of preventing or restricting to a minimum the adverse impact of the emissions and the risks for the environment;
 - k. the necessity of preventing accidents and limiting their consequences for the environment; and
 - l. the information documents as intended in Annex XVIII(A).

Article 8.10a

(determination of measures in connection with accidents)

1. In assessing whether the environmentally harmful activity satisfies the criterion as intended in Article 8.9(1)(preamble and g), in determining the measures necessary to prevent accidents and to limit the consequences of accidents, under all circumstances the following will be taken into account.
 - a. in as much as relating to the risks of fires, disasters and crises as intended in Article 10(a and b) of the Security Regions Act, the interest of:
 1. preventing, limiting and tackling fires, disasters and crises;
 2. the possibilities for people to reach safety in the event of such risks; and
 3. medical assistance to persons as intended in Article 1 of the Security Regions Act.

- b. the standard value for the location-specific risk of the activity of 1:1,000,000 per year for limited vulnerable buildings and limited vulnerable locations; and
 - c. the risk of death of a group of ten or more persons per year as a direct consequence of an unusual occurrence caused by the activity for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations within a fire focus area, an explosion focus area and a toxic cloud focus area, in as much as that area is not located within a risk area external safety.
2. The assessment as intended in paragraph one (b) is accordingly subject to Article 5.11(3 through to 5).
 3. The assessment as intended in paragraph one (c) is accordingly subject to Articles 5.12 and 5.13.
 4. Paragraph one (preamble and b and c) does not apply in as much as an application for an environmental permit relates to an activity as intended in Article 8.14(1), 8.15(1) and 8.16(1).

Article 8.11**(assessment rules environmentally harmful activity other general)**

1. In application of subsection 8.5.1, locations and buildings in the proximity of the environmentally harmful activity will be taken into account that comply with the environment plan, environmental permits for non-planned environment plan activities and the environment regulation.
2. In as much as an environment regulation contains rules about the issuing or refusal of an environmental permit for an environmentally harmful activity as intended in Article 5.19(1) of the Act, the environmental permit will only be issued if in compliance with those rules.

§ 8.5.1.2***Specific assessment rules application environmental permit environmentally harmful activity*****Article 8.12****(assessment rules activity external safety risks)**

1. This Article applies in as much as an application for an environmental permit relates to environmentally harmful activities as intended in Annex VII(B and E).
2. The environmental permit will only be issued if a limit value for the location-specific risk of the activity is taken into account of not more than 1:1,000,000 per year for vulnerable and very vulnerable buildings and vulnerable locations.
3. The assessment of the application is accordingly subject to Articles 5.3 through to 5.6, 5.8 through to 5.10 and 5.11 (2 through to 5).
4. Paragraph two does not apply to the location-specific risk of an activity in a risk area external safety.

Article 8.13**(assessment rules Seveso establishment)**

1. In as much as an application for an environmental permit relates to the operation of a Seveso establishment as intended in Article 3.51(1) of the Environmental Activities Decree, the environmental permit will only be issued if sufficient distance to a Natura 2000 area is taken into account or other appropriate measures are taken.
2. In assessing the application, it is determined whether the risk of a major accident or its consequences may be increased by the geographical situation or the location of that establishment in respect of other Seveso establishments.

Article 8.14**(assessment rules fireworks and theatrical pyrotechnic articles)**

1. This Article applies in as much as an application for an environmental permit relates to the storage, repackaging or processing of fireworks and theatrical pyrotechnic articles as intended in Article 3.31(1) of the Environmental Activities Decree.
2. The environmental permit will only be issued if no limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations are permitted within an explosion focus area for fireworks as intended in Article 5.23.

3. Paragraph two does not apply to limited vulnerable and vulnerable buildings and limited vulnerable and vulnerable locations that have a functional relationship with an activity as intended in paragraph one.
4. The assessment of the application is accordingly subject to Articles 5.22, 5.24(3) and 5.25.

Article 8.15**(assessment rules explosive substances for civilian use)**

1. This Article applies in as much as an application for an environmental permit relates to:
 - a. the storage of explosive substances of ADR class 1, as intended in Article 3.34 of the Environmental Activities Decree; or
 - b. the operation of an IPPC installation for producing explosives as intended in Articles 3.72(1)(f) and 3.73(1) of the Environmental Activities Decree.
2. The environmental permit will only be issued if within civilian explosion focus areas A, B and C as intended in Article 5.28, no activities or structures as intended in Article 5.29(1) are permitted.
3. The assessment of the application is accordingly subject to Articles 5.29(2 and 3) and 5.30.

Article 8.16**(assessment rules storage and processing of explosive substances and objects at military objects)**

1. This Article applies in as much as an application for an environmental permit relates to the storage and processing of substances or objects of ADR class 1 by the Dutch or allied armed forces as intended in Article 3.32 of the Environmental Activities Decree.
2. The environmental permit will only be issued if within military explosion focus areas A, B and C as intended in Article 5.32, no activities or structures as intended in Article 5.29(1) are permitted.
3. The assessment of the application is accordingly subject to Articles 5.33(2 and 3) and 5.34.

Article 8.17**(assessment rules environmentally harmful activity air quality)**

1. In as much as an application for an environmental permit relates to an environmentally harmful activity that results in an increase in the concentration in the outside air of the following substances, the environmental permit will only be issued if the following environmental values are taken into account:
 - a. the environmental values for sulphur dioxide as intended in Article 2.3;
 - b. the environmental value for nitrogen dioxide as intended in Article 2.4(1);
 - c. the environmental value for nitrogen oxides as intended in Article 2.4(2);
 - d. the environmental values for PM₁₀ as intended in Article 2.5(1).
 - e. the environmental value for PM_{2.5} as intended in Article 2.5(1)(A);
 - f. the environmental value for benzene as intended in Article 2.6(1);
 - g. the environmental value for lead as intended in Article 2.6(2); and
 - h. the environmental value for carbon monoxide as intended in Article 2.6(3).
2. Paragraph one does not apply:
 - a. in as much as the increase in the concentration in the outside air of the substances as intended in that paragraph applies to:
 1. a location to which the public has no access and where there is no permanent housing; or
 2. the carriageway of roads and the median of roads, unless pedestrians normally have access to the median; or
 - b. if the performance of the activity results in an increase in the calendar year average concentration of nitrogen dioxide or PM₁₀ of 1.2 µg/m³ or less.
3. Paragraph two(b) does not apply if relating to the operation of an IPPC installation for the keeping of poultry or pigs as intended in Article 3.201 of the Environmental Activities Decree, or the operation of an other environmentally harmful installation as intended in Article 3.202 of that decree:

1. from which the emission of PM₁₀ from the animal accommodation exceeds 800 kg per year; and
2. at a location as intended in Article 5.53(1)(b).
4. In determining the increase in the concentration in the outside air, the increase caused by the use of the roads, waterways and railways from and to the location where the activity is performed will be added together.
5. The calculation of the concentration of the substances as intended in paragraph one is subject to the rules laid down by ministerial order.

Article 8.18

(assessment rules environmentally harmful activity noise - limit value noise sensitive rooms in the case of activities other than specific activities)

1. This Article applies in as much as an application for an environmental permit relates to an environmentally harmful activity, other than an activity as intended in Article 5.74 or 5.76, that can cause more noise at noise sensitive buildings than the standard values as intended in Article 5.65(1)(preamble and a)(2,3,4).
2. The environmental permit will only be issued if the noise caused by that activity within noise sensitive rooms in noise sensitive buildings does not exceed the limit values as intended in Article 5.66(2).
3. Paragraph two does not apply if:
 - a. the activity or the noise sensitive building are located on an industrial estate for which noise production ceilings are laid down as environmental values; or
 - b. on the basis of an environment plan or an environmental permit for a non-planned environment plan activity, the noise sensitive building is permitted for a period of not more than ten years.
4. Paragraph two also does not apply if at the moment of this Decree coming into effect, a higher value applies for the activity than the limit values as intended in Article 5.66(2) on the basis of the environment plan, an environmental permit or a customised instruction. In that case, the environmental permit will only be issued if the noise caused by the activity does not exceed that higher value.
5. Paragraph two does also not apply if:
 - a. there are substantial structural objections to the taking of measures on the facade necessary for ensuring that the building satisfies the limit values, on condition that, if other measures are possible to improve the noise resistance as far as possible, those other measures are taken;
 - b. the owner does not cooperate in the investigation into the noise in noise sensitive rooms inside his building and the necessary noise abatement measures; or
 - c. the owner does not cooperate in taking noise abatement measures.

Article 8.19

(assessment rules environmentally harmful activity noise - limit values at military outdoor shooting ranges and military explosive ordnance sites)

1. This Article applies in as much as an application for an environmental permit relates to the use by the Dutch or allied armed forces of:
 - a. explosive substances and objects in ADR class 1, at a shooting range or combination of shooting ranges as intended in Article 3.335(1)(preamble and a) of the Environmental Activities Decree, if the shooting range or combination of shooting ranges is located in the outside air or in a building without closed cover or with an open side; or
 - b. explosive substances and objects in ADR class 1, at an explosive ordnance site as intended in Article 3.335(1)(preamble and c) of the Environmental Activities Decree.
2. The environmental permit will only be issued if the noise caused by that activity at noise sensitive buildings is not higher than 60 dB B_{s,dan}.
3. Paragraph two does not apply if, on the basis of an environment plan or an environmental permit for a non-planned environment plan activity, the noise sensitive building is permitted for a period of not more than ten years.

4. The calculation of the noise as intended in paragraph two is subject to the rules laid down by ministerial order.

Article 8.20

(assessment rules environmentally harmful activity noise, vibrations and odour in the case of functional relationship)

In as much as an application for an environmental permit relates to an environmentally harmful activity that causes noise, vibrations or odour, in the assessment of that noise, those vibrations or that odour, account will not be taken of the noise, the vibrations or the odour at a noise sensitive, vibration sensitive or odour sensitive building which:

- a. has a functional relationship with the activity, but on the basis of the Environmental Activities Decree does not form part of that activity; or
- b. in the past had a functional relationship with the activity for which, on the basis of Article 5.62, 5.85 or 5.96(1 or 2), it is determined in the environment plan or an environmental permit for a non-planned environment plan activity, that the values or distances as intended in those Articles do not apply.

Article 8.21

(assessment rules environmentally harmful activity ammonia and livestock farming)

In as much as an application for an environmental permit relates to the operation of an IPPC installation for the keeping of poultry or pigs as intended in Article 3.201 of the Environmental Activities Decree, or the operation of an other environmentally harmful installation as intended in Article 3.202 of that decree, in as much as that activity is performed in animal accommodation, in assessment of the application, account will only be taken of the consequences of the emission of ammonia by that animal accommodation or for areas sensitive to acidification that are sensitive to the effects of ammonia, if rules on those questions as intended in Article 5.19(1) of the Act, are laid down in the environment regulation.

Article 8.22

(assessment rules environmentally harmful activity consequences for water systems)

1. In as much as the application for an environmental permit relates to an environmentally harmful activity that can have consequences for water systems, and in as much as relating to the protection of the environment, the environmental permit will only be issued if the activity is consistent with the interest of:

- a. preventing and where necessary minimising flooding, water nuisance and water shortages;
- b. protecting and improving the chemical and ecological quality of water systems;
- c. fulfilling the societal functions of water systems.

2. In application of paragraph one, the water management programmes, regional water management programmes, river basin management plans, flood risk management plans and the national water programme relating to the WFD body of surface water or body of groundwater in question will be taken into account.

Article 8.23

(assessment rules environmentally harmful activity indirect discharge)

In as much as an application for an environmental permit relates to an environmentally harmful activity as a result of which wastewater or other waste is introduced to a facility for the collection and transport of wastewater, the environmental permit will only be issued if the environmentally harmful activity is consistent with the interest of protecting the effective operation of that facility and the water treatment plant to which wastewater is transported from the facility and if the processing of the sludge from that plant or from a public sewer is not hindered.

- Article 8.24** (assessment rules environmentally harmful activity geological storage of carbon dioxide)
 In as much as an application for an environmental permit relates to the operation of an IPPC installation for combustion as intended in Article 3.55 of the Environmental Activities Decree, with a nominal electric power output of 300 MW or more, the environmental permit will only be issued if in the assessment of the application it is determined whether the capture and compaction of carbon dioxide and the transport of carbon dioxide to a suitable storage location is technically and economically feasible.
- Article 8.25** (assessment rules environmentally harmful activity waste incineration plants or waste co-incineration plants)
 In as much as an application for an environmental permit relates to the operation of an IPPC installation for the removal or useful application of waste from a waste incineration plant or a waste co-incineration plant as intended in Article 3.88 of the Environmental Activities Decree, the environmental permit will only be issued if the waste incineration plant or waste co-incineration plant and the accompanying sites are designed in such a way that the unauthorised and accidental release of pollutants onto or into the soil or into a body of surface water is prevented.
- Article 8.25a** (assessment rules environmentally harmful activity landfills for only dredge spoil on land)
 In as much as an application for an environmental permit relates to the operation of an IPPC installation or another environmentally harmful installation for the dumping of waste as intended in Articles 3.84(1)(a or b) and 3.85(1) of the Environmental Activities Decree, in as much as only dredge spoil is dumped, and the installation is not located in a body of surface water, the environmental permit will only be issued if:
- a. the dredge spoil is not hazardous waste; and
 - b. a geohydrological isolation system can be installed.
- § 8.5.2** *Regulations environmental permit environmentally harmful activity*
- § 8.5.2.1** *General regulations environmental permit environmentally harmful activity*
- Article 8.26** (regulations on emission limit values)
 1. Regulations are imposed on an environmental permit that contain emission limit values for the substances as intended in Annex II to the Industrial Emissions Directive, and for other substances that may be released in significant quantities, and that can cause environmental pollution either directly or by transfer between water, soil and air.
 2. Determination of the emission limit values is based on the emissions at the point where they leave the source, as the case arises following cleaning.
 3. The emission limit values are determined without taking into account possible previous dilution.
 4. In determining the emission limit values for substances in wastewater transferred to a facility for the collection and transport of wastewater, account can be taken of the effect of the water treatment plant to which that facility is connected, if no further adverse impact for the environment can be expected.
- Article 8.27** (emission levels associated with best available techniques)
 1. The emission limit values as intended in Article 8.26(1) guarantee that under normal operating conditions, the emissions do not exceed the emission levels associated with the best available techniques as determined in BAT conclusions and are expressed for the same or shorter periods and for the same reference conditions as the emission levels associated with the best available techniques.

2. Notwithstanding paragraph one, higher emission limit values may be determined or emission limit values determined that are expressed in other periods and reference conditions.
3. The emission levels associated with the best available techniques relate to the bandwidth of emission levels obtained in normal operating conditions making use of the best available technique or a combination of best available techniques as described in the BAT conclusions, expressed as an average over a specified period, in specific reference conditions.
4. If regulations are imposed on the environmental permit on the basis of a best available technique that is not described in one of the BAT conclusions as intended in Article 8.10(2), paragraph one and two and Article 8.26 apply accordingly.
5. If the BAT conclusions as intended in Article 8.10(2) do not contain emission levels associated with the best available techniques, in application of paragraph four, a level of environmental protection will be achieved that is equivalent to that of the best available techniques, as described in the BAT conclusions.

Article 8.28

(regulations on less strict emission limit values)

1. Regulations may be imposed on an environmental permit that mean that, notwithstanding Article 8.27(1,2,3,4,5) and without prejudice to Article 8.30(3), in specific cases less strict emission limit values are imposed, if achieving the emission limit values associated with the best available techniques would result in excessively higher costs in relation to the environmental gains, as a consequence of:
 - a. the geographical location or the local environmental conditions at the place where the activity is performed; or
 - b. the technical characteristics of the activity.
2. The assessment of whether the costs are disproportionately high in relation to the environmental gains will take place in accordance with the rules laid down by ministerial order.

Article 8.29

(regulations on specific subjects)

1. Regulations are imposed on an environmental permit concerning:
 - a. the protection of the soil and the groundwater and the regular maintenance of facilities and the monitoring of measures taken to prevent emissions into the soil and the groundwater, based on a systematic evaluation of the risk of environmental pollution;
 - b. preventing the occurrence of waste and wastewater or, if that is not possible, the effective management and monitoring of waste substances and waste water;
 - c. preventing and as far as possible limiting environmental pollution that may be caused by starting up and shutting down, leaks, disruptions, short shutdowns, definitive business closure or other special operating conditions;
 - d. preventing or as far as possible limiting large-scale or cross-border environmental pollution; and
 - e. assessing compliance with the emission limit values.
2. For the assessment of compliance with the emission limit values, it is sufficient to refer to the rules contained in the Environmental Activities Decree.

Article 8.30

(regulations on stricter conditions best available techniques)

1. Regulations with stricter conditions may be imposed on an environmental permit than the conditions that are achieved by making use of the best available techniques as described in the BAT conclusions.
2. In application of paragraph one, Article 8.10(2) applies accordingly.
3. If to satisfy an environmental value as intended in Article 2.5(1)(preamble and a through to c) of the Act, stricter conditions must apply than can be achieved by application of the best available techniques, regulations with additional conditions are imposed on the

environmental permit, without prejudice to other measures which may be taken in order to satisfy the environmental values.

Article 8.31

(regulations on technical measures and equivalent parameters)

1. Regulations may be imposed on an environmental permit that mean that technical measures are taken or equivalent parameters achieved, whereby the use of specific techniques or technologies is not specified.
2. In application of paragraph one:
 - a. the technical measures or equivalent parameters result in protection of the environment equivalent to application of Article 8.26 and 8.27; and
 - b. regulations may be imposed on the environmental permit which mean that:
 1. a report will be issued to the competent authority concerning implementation of the technical measures required according to those regulations; or
 2. the duly specified data will be recorded, collected or calculated to determine the extent to which environmental pollution is caused, that the regulations were intended to prevent or limit.
3. If regulations are imposed on an environmental permit as intended in paragraph two (preamble and b), Articles 8.33(1)(preamble and b) and 8.34(1) will apply accordingly.

Article 8.32

(other regulations)

1. Regulations may be imposed on an environmental permit which mean that:
 - a. other data are recorded, collected or calculated than the data as intended in Articles 8.29(1)(preamble and b) and 8.31 to determine the extent to which the activity causes environmental pollution;
 - b. research is carried out into the possibilities for further protection of the environment than provided for by the other regulations imposed on the environmental permit;
 - c. recorded, collected or calculated data and studies are recorded, stored, reported or provided;
 - d. requirements on competence are met;
 - e. written instructions are issued by the licence holder to prevent actions in contravention of the environmental permit, the regulations imposed on the permit or contained in the Environmental Activities Decree, and compliance with those instructions is supervised; and
 - f. an environmental protection system or elements of such a system are introduced and complied with, with a view to improving overall environmental performance.
2. The environmental protection system as intended in paragraph one (preamble and f) is the section of the general management system that contains the organisation structure, planning, responsibilities, practices, procedures, processes and resources necessary for the development, the implementation, realisation, testing and enforcement of the plans and the policy for the environmental performance, as officially specified by the highest management level of the affected organisation, including compliance with regulations on the physical environment and any undertaking for continuous improvement of the environmental performance.

Article 8.33

(regulations on monitoring)

1. Regulations are imposed on an environmental permit which mean that:
 - a. it is determined by appropriate requirements for monitoring or in some other way whether the regulations as intended in Articles 8.26 through to 8.31 are complied with, specifying the measurement method, the frequency and the procedure for assessing the data obtained in that determination; and
 - b. the data obtained in that determination as intended in a, are regularly issued to the competent authority, at least once a year.
2. The determination as intended in paragraph one(a) is based on the relevant BAT conclusions and information documents as intended in Annex XVIII(A).

3. If regulations are imposed on an environmental permit in which emission limit values as intended in Article 8.27(2) are included:
- a. regulations are imposed on the environmental permit which mean that the results of the monitoring:
 1. are available for the same period and reference conditions as for the emission levels associated with the best available techniques;
 2. are reported regularly or at least annually in an overview that permits a comparison with the emission levels associated with the best available techniques; and
 3. are reproduced in an overview that permits a comparison with the emission levels associated with the best available techniques; and
 - b. the results of the monitoring of the emissions are assessed at least annually, to determine whether the emissions in normal operating conditions would be higher than the emission levels associated with the best available techniques as intended in Article 8.27(3).

Article 8.34**(regulations relating to the PRTR report)**

1. Notwithstanding Article 8.33(1)(preamble and b), no regulations are imposed on an environmental permit concerning the data to be made available, if those data are contained in a PRTR report.
2. In as much as an application for an environmental permit relates to an activity as intended in Annex I to the PRTR Regulation, a regulation may be imposed on the environmental permit that includes the obligation to issue data about emissions in the PRTR report, at a lower aggregation level than required on the basis of Article 5.10(1) of the Environmental Activities Decree, if necessary for the quality assessment as intended in Article 9, second paragraph of the PRTR Regulation.
3. A regulation may be imposed on an environmental permit for an activity as intended in Annex I to the PRTR Regulation that includes the obligation to include data about the subjects odour or noise in the PRTR Report.

Article 8.35**(other term of validity regulations, innovation)**

- Regulations may be imposed on an environmental permit which mean that during a period of not more than nine months, the regulations designated therein do not apply for the testing or use of a new technique which, if it were to be commercially developed:
- a. may result in a higher or at least equivalent level of protection for the environment; and
 - b. may generate greater cost savings than the existing best available techniques for that activity.

§ 8.5.2.2***Specific regulations environmental permit environmentally harmful activity, with the exception of noise, soil protection landfills and extractive waste facilities*****Article 8.36****(regulations waste incineration plant or waste co-incineration plant)**

Regulations are imposed on an environmental permit relating to the operation of an IPPC installation for the removal or useful application of waste in a waste incineration plant or waste co-incineration plant as intended in Article 3.88 of the Environmental Activities Decree, concerning the temperature and the flow of the discharged wastewater.

Article 8.37**(regulations on geological storage of carbon dioxide)**

If it is determined in the assessment as intended in Article 8.24 that the capture, compression and transport of carbon dioxide is viable, a regulation will be imposed on the environmental permit that means that at the location of the combustion plant, a suitable storage location will be released or kept free for storage.

Article 8.38**(regulations on domino effects Seveso establishment)**

If it is determined in the assessment as intended in Article 8.13(2) that the risk of a major accident or its consequences may be greater due to the location of the Seveso establishment in respect of other Seveso establishments, a regulation will be imposed on the environmental permit that means that that Seveso establishment is designated as a facility as intended in Article 9(1) of the Seveso Directive.

Article 8.39**(regulations and useful application or removal of waste)**

Regulations are imposed on an environmental permit relating to the useful application or removal of waste as intended in subsection 3.2.13, 3.2.14, 3.2.15, 3.2.17, 3.3.10, 3.3.11, 3.3.12 or 3.3.13 or Section 3.5 of the Environmental Activities Decree, which mean that:

- a. the following are registered:
 1. designated waste substances that can be usefully applied or removed: according to quantity, nature and origin;
 2. substances that are used or consumed in the useful application or removal of that waste: according to nature and quantity;
 3. substances, preparations and other products including waste that are created during the useful application or removal: according to nature and quantity;
 4. the way in which the waste substances as intended in 3^o are usefully applied or removed; and
 5. substances, preparations and other products that are discharged in connection with the environmentally harmful activity, if created during the useful application or removal: according to their nature and quantity; and
- b. the registered data as intended in a(5^o) are kept for at least five years.

§ 8.5.2.3**Specific regulations environmental permit environmentally harmful activity - noise****Article 8.40****(regulations environmentally harmful activity noise - voice and emergency services)**

No regulations are imposed on an environmental permit for an environmentally harmful activity that causes noise in noise sensitive rooms in built-in or adjoining noise sensitive buildings or at noise sensitive buildings, which mean that:

- a. values are set for non-amplified human voice; or
- b. the rules are imposed on the deployment of motor vehicles or helicopters for urgent medical assistance, accident prevention, fire fighting, ice control measures and clearing the road following an accident.

Article 8.41**(regulations environmentally harmful activity noise - wind turbines and wind farms)**

Regulations will only be imposed on an environmental permit relating to the generation of electricity with a wind turbine with a rotor diameter of more than 2 m, in as much as relating to a wind farm with 3 or more wind turbines as intended in Article 3.13 of the Environmental Activities Decree, which mean that the noise caused by that activity at noise sensitive buildings must be lower than 47 dB L_{den} and 41 dB L_{night} , if specified given:

- a. cumulation with the noise caused by another wind turbine or another wind farm; or
- b. given the special nature of the area.

Article 8.42**(regulations environmentally harmful activity noise - military shooting ranges and military explosive ordnance sites)**

1. No regulations will be imposed on an environmental permit relating to the use of explosive substances and objects in ADR class 1 by the Dutch or allied armed forces at a shooting range or combination of shooting ranges as intended in Article 3.335(1) (preamble and a) of the Environmental Activities Decree, which mean that the noise caused by that activity at noise sensitive buildings must be lower than 50 dB $B_{s,dan}$ if the

shooting range or combination of shooting ranges is located in the outside air or in a building without closed cover or with an open side.

2. No regulations will be imposed on an environmental permit for an environmentally harmful activity relating to the use of explosive substances and objects in ADR class 1 by the Dutch or allied armed forces on an explosive ordnance site as intended in Article 3.335(1)(preamble and c) of the Environmental Activities Decree, which mean that the noise caused by that activity at noise sensitive buildings must be lower than 50 dB B_{5,dan}.

Article 8.43

(regulations environmentally harmful activity noise - military sites)

No regulations will be imposed on an environmental permit relating to the operation of a military seaport, the operation of a military airport or the storage and processing or the use of explosive substances or objects in ADR class 1 by the Dutch or allied armed forces, as intended in Articles 3.324, 3.327, 3.332 and 3.335(1)(preamble and b) of the Environmental Activities Decree, which mean that the noise caused by that activity at noise sensitive buildings must be lower than the standard values as intended in Article 5.65(1)(preamble and a)(2,3 or 4).

§ 8.5.2.4

Specific regulations environmental permit environmentally harmful activity - soil protection landfills, other than for only dredge spoil

Article 8.44

(scope of application regulations soil protection landfills)

This subsection applies to an environmental permit relating to the operation of an IPPC installation for the disposal of waste or the operation of another environmentally harmful installation for the dumping of industrial waste or hazardous waste at a landfill as intended in Articles 3.84(1)(preamble and a and b) and 3.85(1) of the Environmental Activities Decree, other than:

- a. the operation of a landfill where only dredge spoil is dumped; and
- b. the operation of a landfill where:
 1. the dumping of waste was ended before 1 March 1995; or
 2. on or after 1 March 1995, only waste was dumped for the application of a top seal on the landfill and the dumped volume amounts to not more than 0.3 m³ of waste per m² landfill surface.

Article 8.46

(regulations on competence and training)

Regulations are imposed on an environmental permit concerning the competence and training of the party operating the landfill and the persons employed at the landfill.

Article 8.47

(regulations in connection with groundwater level)

1. Regulations are imposed on an environmental permit that mean that the dumping of waste is carried out in such a way that the dumped waste, following settlement of the soil, is located at least the following distance above the expected average highest groundwater level:
 - a. 0.7 m; or
 - b. 0.5 m if a capillary interrupting layer of gravel of at least 0.2 m is applied as part of the bottom seal.
2. If it is no longer possible to comply with the regulations as intended in paragraph one, notwithstanding that paragraph, regulations may be imposed on the environmental permit which mean that civil engineering or geohydrological measures must be taken that guarantee sufficiently that the groundwater cannot come into with the dumped waste.
3. The average highest groundwater level is the mathematical average groundwater level over at least eight consecutive years of the three highest groundwater levels per hydrological year from 1 April through to 31 March of the subsequent calendar year.
4. Regulations are imposed on an environmental permit that mean that at the site where dumping was or is carried out, a survey will be carried out into the sensitivity of the soil for settlements under the influence of the landfill and the geohydrological situation.

5. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:

- a. the bottom seal, as intended in paragraph one (b);
- b. determination of the average highest groundwater level as intended in paragraph one; and
- c. implementation of the surveys as intended in paragraph four.

Article 8.48

(regulations on bottom and top seal)

1. Regulations are imposed on an environmental permit which mean that a bottom seal is present at the underside of the dumped waste, which prevents pollutants from the dumped waste entering the soil.

2. If a bottom seal contributes insufficiently to the necessary protection of the soil because due to the geohydrological situation specific to the landfill there is no sufficient geohydrological barrier of at least 0.5 m, regulations will be imposed on the environmental permit which mean that civil engineering or geohydrological measures must be taken which prevent pollutants from the dumped waste entering the soil, which guarantee an adequate level of protection.

3. If a bottom seal can no longer be applied, regulations will be imposed on the environmental permit which mean that the civil engineering or geohydrological measures specified in that permit must be taken to prevent pollutants from the dumped waste spreading into the soil.

4. If paragraph one, two or three is applied, regulations will be imposed on the environmental permit which mean that as quickly as technically possible but at the latest after a period designated in the regulation of not more than 30 years following the application of the bottom seal, as intended in paragraph one, or the taking of the measures as intended in paragraph two or three, a top seal is applied at the surface of the dumped waste, that guarantees an adequate level of protection and prevents water infiltrating into the dumped waste.

5. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning the requirements that are imposed on the bottom seal as intended in paragraph one, the civil engineering or geohydrological measures as intended in paragraph two and three, and the top seal as intended in paragraph four.

Article 8.49

(regulations on percolate)

Regulations are imposed on an environmental permit which mean that percolate is captured, collected and subsequently purified or discharged in such a way that there is no risk of soil pollution.

Article 8.50

(regulations on underground landfills)

If an environmental permit relates to a landfill where waste is placed deep underground, regulations are imposed on the environmental permit which mean that:

- a. in as much as applicable, the provisions as intended in Annex A to Council Decision 2003/33/EC of 19 December 2002, establishing criteria and procedures for the acceptance of waste at landfills in compliance with Article 16 and Annex II to Directive 1999/31/EC regarding the dumping of waste (OJEC 2003, L11) will be taken;
- b. the waste will be placed deep underground in compliance with Annex A to the Decision as intended in a; and
- c. it is guaranteed that at that landfill, a report is present with a safety assessment, that complies with Annex A(2.5) to the decision as intended in a.

Article 8.51

(regulations on useful application in excavated spaces)

If an environmental permit as intended in Article 3.40c or Article 3.85 of the Environmental Activities Decree relates to the return of extractive waste in an excavated space created during aboveground or underground extraction, with the aim of restoring the site and once again making it suitable for future use, under all circumstances,

regulations will be imposed on the environmental permit which mean that the parties replacing the extractive waste will take the appropriate measures as intended in Article 10(1) of the Extractive Waste Directive.

Article 8.52

(regulations on asbestos)

1. Regulations are imposed on an environmental permit which mean that:
 - a. provisions are taken to prevent asbestos-bearing waste becoming mixed with other waste;
 - b. asbestos-bearing waste that is not soundly packaged must be covered at the end of each working day in such a way that no spreading of fibres can take place;
 - c. asbestos-bearing waste that is not packaged or covered must be kept moist so that no spread of fibres can take place;
 - d. the dump area for asbestos-bearing waste is covered before that waste is accessed by equipment;
 - e. at the landfill, no other activities than landfill activities are performed as a result of which asbestos fibres from the dumped waste can escape;
 - f. it is guaranteed that an overview is present at the landfill of locations where asbestos-bearing waste has been dumped, and data are present showing how those locations are screened to prevent human contact with asbestos-bearing waste;
 - g. if a declaration as intended in Article 8.47(3) of the Environmental Management Act has been issued: the overview as intended in f is submitted; and
 - h. if relating to an environmental permit for a landfill for non-hazardous waste: asbestos-bearing waste is dumped in a sector or part of a sector with a specified height, intended for asbestos-bearing waste.
2. Paragraph one also applies to products in which asbestos is processed as intended in Annex I to the Environment Structures Decree, and for asbestos dust.

Article 8.53

(regulations on landfill gas)

1. Regulations are imposed on an environmental permit which mean that:
 - a. from the moment of establishment of the landfill, provisions are taken and applied to capture and to process any landfill gas escaping from the landfill;
 - b. the landfill gas as intended in a is used for flared; and
 - c. the composition and atmospheric pressure of the gas emission is measured.
2. If it is indicated in the application that the landfill gas will be flared, regulations are imposed on the environmental permit which mean that the flare installation meets the following requirements:
 - a. the exit temperature is at least 900°C;
 - b. the residence time of incineration gases in the flare is at least 0.3 seconds; and
 - c. the flare is of the closed type.
3. Paragraph two does not apply to a flare installation exclusively used during maintenance inspections and disruptions of the facilities as intended in paragraph one (a).
4. Paragraphs one through to three do not apply if, according to the composition of the mass of the landfill package, it can be sufficiently demonstrated that the facilities as intended in paragraph one(a) are insufficiently effective.
5. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning on the regulations to be imposed on an environmental permit concerning the content, frequency and location of the measurements as intended in paragraph one (c).

Article 8.54

(regulations on reversibility of provisions)

Regulations are imposed on an environmental permit which mean that the dumping is carried out in such a way that the dumped waste and the provisions taken at the landfill can be reversed without fundamental damage to the soil.

Article 8.55**(regulations on the groundwater control system)**

1. Regulations are imposed on an environmental permit which mean that:
 - a. a sound monitoring system is present, according to which the status of the soil can be investigated, consisting of:
 1. drainage tubes installed horizontally, below the average lowest groundwater level; and
 2. upstream from the landfill, at least one groundwater sampling tube installed in the groundwater and downstream at least two groundwater sampling tubes; and
 - b. the sampling and determination of the status of the soil for each drainage tube or groundwater sampling tube can be performed individually.
2. Regulations are imposed on an environmental permit which mean that in the groundwater sampling tubes, the groundwater level is measured for the soil at the location where dumping has been or is being carried out.
3. Notwithstanding paragraph one, if the installation of the provisions as intended in paragraph one (preamble and a)(1°) is technically not possible, regulations will be imposed on the environmental permit which mean that an equivalent level of protection is guaranteed as provided by those provisions and that a sound monitoring system is present to be able to investigate the status of the soil, consisting of:
 - a. downstream from the landfill, a number of groundwater sampling tubes installed in the groundwater, as specified in the regulation but at least numbering two; and
 - b. upstream from the landfill, at least one groundwater sampling tube installed in the groundwater.
4. The average lowest groundwater level is the mathematical average groundwater level over at least eight consecutive years of the three lowest groundwater levels per hydrological year from 1 April through to 31 March of the subsequent calendar year.
5. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:
 - a. determination of the average lowest groundwater level as intended in paragraph one; and
 - b. the frequency with which and the way in which the groundwater level as intended in paragraph two is measured.

Article 8.56**(regulations on bodies of surface water)**

1. Regulations are imposed on an environmental permit which mean that the volume and composition of a body of surface water present in the vicinity of the landfill is determined or sampled, respectively.
2. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning the frequency and the method of determining and sampling bodies of surface water as intended in paragraph one.

Article 8.57**(regulations on compliance, investigation and reporting)**

1. Regulations are imposed on an environmental permit which mean that:
 - a. on a number of occasions per year, as specified in that permit, a determination is made of whether the regulations imposed on the basis of Article 8.47 on the environmental permit are complied with;
 - b. the soil protection measures taken at the landfill are inspected; and
 - c. an investigation is carried out into the status of the soil beneath the landfill.
2. Regulations are imposed on an environmental permit which mean that the following results will be submitted to the competent authority at least once a year:
 - a. the results of the inspection and the investigation as intended in paragraph one;
 - b. the results of the determination and sampling of the volume and composition respectively of the bodies of surface water present in the vicinity of the landfill as intended in Article 8.56;
 - c. the results of the measurements of the composition and atmospheric pressure of the gas emission as intended in Article 8.53; and

- d. the results of the measurements of the level and composition of the groundwater as intended in Articles 8.47 and 8.55.
- 3. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:
 - a. the inspection of the soil protection measures as intended in paragraph one (b); and
 - b. the investigation into the status of the soil beneath the landfill as intended in paragraph one (c).

Article 8.57a**(regulations on urgent plan in outline)**

1. Regulations are imposed on an environmental permit which mean that an urgent plan in outline will be drawn up.
2. The outline urgent plan will specify:
 - a. in which cases and how an intervention point will be determined;
 - b. how it is determined whether an intervention point has been reached;
 - c. which measures must be taken if the intervention point is reached, to prevent the spread of pollutants or to reverse the soil pollution caused; and
 - d. the term within which the measures as intended in c must be taken.
3. The intervention point is the point at which a significant deterioration of the groundwater quality occurs.
4. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning the measures as intended in paragraph two (preamble and c) in as much as these are geohydrological measures.

Article 8.57b**(regulations on when intervention points are reached)**

1. Regulations are imposed on an environmental permit which mean that an intervention point specified for the landfill is reached if:
 - a. standard values are exceeded; and
 - b. the exceeding as intended in a is confirmed.
2. Regulations are imposed on an environmental permit which mean that notwithstanding the regulations as intended in paragraph one, the intervention point is not reached if the confirmation as intended in paragraph one (b) shows that the exceeding of values is not caused by the landfill.
3. Regulations are imposed on an environmental permit which mean that reference measurement points and monitoring measurement points are specified.
4. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:
 - a. standard values as intended in paragraph one (a);
 - b. the confirmation as intended in paragraph one (b); and
 - c. the determination of the reference measurement points and monitoring measurement points as intended in paragraph three.

Article 8.58**(regulations on reaching intervention points and elaborated urgent plan)**

- Regulations are imposed on an environmental permit which mean that if an intervention point specified for the landfill is reached:
- a. the exceeding of the intervention point is immediately reported to the competent authority; and
 - b. in consultation with the competent authority, within a specified period, an elaborated urgent plan is drawn up, on the basis of the urgent plan in outlines, as intended in Article 8.57a(1).

Article 8.59**(regulations on inspection)**

1. Regulations are imposed on an environmental permit which mean that:
 - a. before dumping is carried out for the first time, thereafter and immediately after a top seal as intended in Article 8.48 is applied:

1. a determination is made of whether the regulations imposed on the environmental permit on the basis of Article 8.47 are complied with;
 2. the soil protection measures taken at the landfill are inspected;
 3. the technical condition of those measures is investigated;
 4. the percolate is analysed; and
 5. an investigation is carried out into the status of the soil beneath the landfill;
- b. the results of the inspection, the investigation and the analysis are presented in such a way that they provide a clear insight into the manageability of the situation;
- c. the results of the inspection, the investigation and the analysis are transmitted as quickly as possible to the competent authority; and
- d. the results of the inspection, investigation and analysis are stored for at least five years.
2. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:
- a. the way in which and the frequency with which the inspection, approval, investigation and analysis as intended in paragraph one (a)(1° through to 4°) are carried out; and
 - b. the investigation into the status of the soil beneath the landfill as intended in paragraph one (a)(5°).

Article 8.59a**(sampling, sample pre-treatment and analysis)**

Regulations are imposed on an environmental permit which mean that sampling, sample pre-treatment and analysis of the samples of the groundwater, the percolate and the surface water are carried out in accordance with the current state of the art.

Article 8.60**(regulations on well maintained status)**

Regulations are imposed on an environmental permit which mean that:

- a. the soil protection measures taken at the landfill are kept in a well-maintained status and as necessary recovered; and
- b. if recovery is not possible, replacement measures are taken, which prevent groundwater coming into contact with the dumped waste.

Article 8.61**(stricter regulations)**

Notwithstanding Articles 8.46 through to 8.60, regulations with stricter conditions may be imposed on an environmental permit than intended in those articles if:

- a. the landfill is located in a groundwater protection area as intended in Article 7.11(1)(b);
- b. the landfill is at a location with a deep groundwater level, a high groundwater flow rate or a thick aquifer;
- c. the landfill is in an area designated in the environment plan with a view to the protection of health and the environment, protection of the soil or prevention of serious adverse impact for health due to the use of the soil; or
- d. particular risks exist in connection with the nature of the waste such that the dumping of that waste will have adverse impact on the quality of the soil.

Article 8.62**(term and validity of regulations)**

Regulations are imposed on an environmental permit relating to the operation of an IPPC installation for the dumping of waste or the operation of another environmentally harmful installation for the dumping of industrial waste or hazardous waste at a landfill as intended in Articles 3.84(1)(preamble and a and b) and 3.85(1) of the Environmental Activities Decree, where on or after 1 September 1996 waste is dumped, which mean that the regulations imposed on the basis of Article 8.48(4), 8.49, 8.57 through to 8.57b, 8.59, 8.59a and 8.60 of this Decree will be imposed on the environmental permit after the environmental permit has lost its validity, will still remain in force until the landfill is declared closed on the basis of Article 8.47 of the Environmental Management Act.

§ 8.5.2.5

Specific regulations environmental permit environmentally harmful activity - soil protection landfills exclusively for dredge spoil on land**Article 8.62a****(scope of application regulations soil protection landfills for exclusively dredge spoil on land)**

1. This subsection applies to an environmental permit for an environmentally harmful activity relating to the operation of an IPPC installation for the dumping of waste or the operation of another environmentally harmful installation for the disposal of industrial waste or hazardous waste at a landfill as intended in Articles 3.84(1)(preamble and a and b) and 3.85(1) of the Environmental Activities Decree, and in as much as:

- a. exclusively dredge spoil is dumped at the landfill; and
- b. the landfill is not located in a body of surface water.

2. This Subsection does not apply to:

- a. object removed individually from or out of the waterbed, objects that can reasonably be removed from the dredge spoil during dredging and objects that are removed from the dredge spoil after dredging;
- b. the waterbed is extracted with a view to application as a raw material;
- c. the waterbed is not taken from a body of surface water;
- d. dredge spoil that has been dewatered or matured with a view to application as soil, in as much as the rules on the application of soil or dredge spoil as intended in subsection 4.124 of the Environmental Activities Decree are complied with; and
- e. substances and products created by the treatment or application of dredge spoil, with the exception of the residue from that treatment.

Article 8.62b**(regulations on competence and training)**

Regulations are imposed on an environmental permit concerning the competence and training of the party operating the landfill and the persons employed at the landfill.

Article 8.62c**(regulations on preventing exceeding of standard values for groundwater)**

1. Regulations are imposed on an environmental permit which mean that the following measures are taken if a calculation shows that the standard value for the groundwater as intended in Annex XVIII a will be exceeded outside the permissible affected area:

- a. the application of an organic matter-rich mineral layer on the bottom or banks of the landfill; or
- b. the application of a geohydrological isolation system to prevent the intervention point being reached.

2. Regulations are imposed on an environmental permit which mean that the measures as intended in paragraph one prevent exceeding of the standard value for groundwater as intended in Annex XVIII a, outside the permissible affected area.

3. The permissible affected area is the area directly outside the landfill, within which an assessment is made of whether the intervention point is reached.

4. Notwithstanding paragraph one and two, regulations may be imposed on an environmental permit which mean that other measures must be taken, if it is demonstrated or made sufficiently plausible that these measures are equally sustainable and equivalent, and that the intervention point is not reached within the permissible area of influence, and the standard value for the groundwater outside the permissible affected area is not exceeded.

5. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:

- a. determination of the permissible affected area as intended in paragraph three; and
- b. determination of whether the intervention point is reached within permissible affected area.

Article 8.62d**(regulations on geohydrological isolation systems)**

1. Regulations are imposed on an environmental permit which mean that the application and operation and continuation of a geohydrological isolation system remains possible.
2. Regulations are imposed on an environmental permit which mean that:
 - a. if a geohydrological isolation system is installed, this system is kept well maintained and if necessary repaired; and
 - b. water pumped up using a geohydrological isolation system is captured, collected and treated or discharged in such a way that there is no risk of pollution of the soil or the groundwater.

Article 8.62e**(regulations on the cover layer)**

Regulations are imposed on an environmental permit which mean that following the ending of the landfill work, if necessary a cover layer with a thickness of at least 1 m is applied to the dumped dredge spoil.

Article 8.62f**(regulations on dredge spoil)**

1. Regulations are imposed on an environmental permit in which the following is specified:
 - a. the permitted area of origin of the dredge spoil;
 - b. the class, classes or degree of pollution of the dredge spoil that may be dumped at the landfill;
 - c. the total quantity of dredge spoil that may be dumped at the landfill, expressed in tonnes of dry matter and density; and
 - d. the maximum height to which landfilling is permitted.
2. Regulations are imposed on an environmental permit which specify the specific conditions according to which deviation from the regulations as intended in paragraph one (a and b) is permitted, following notification of the competent authority.
3. Regulations are imposed on an environmental permit which mean that:
 - a. the volume of dredge spoil per surface unit is as large as possible; and
 - b. the least polluted dredge spoil will be placed as far as possible on the bottom and along the banks of the landfill.

Article 8.62g**(regulations on monitoring systems surface water and groundwater)**

1. Regulations are imposed on an environmental permit which mean that a sound monitoring system is present, which can be used to investigate the level and quality of the groundwater and the quantity and quality of the surface water in the immediate vicinity of the landfill.
2. Regulations are imposed on an environmental permit which mean that the monitoring system is under all circumstances able to determine:
 - a. whether and to what extent pollutants are spread in the surface water and the groundwater in the vicinity of the landfill; and
 - b. whether the intervention point will be or has been reached.
3. Regulations are imposed on an environmental permit which mean that in designing the monitoring system, the following has been taken into account:
 - a. the design of the geohydrological isolation system as intended in Article 8.62d;
 - b. the measures to prevent exceeding as intended in Article 8.62c(1); and
 - c. the permissible affected area as intended in Article 8.62c(2, 3 and 4).

Article 8.62h**(regulations on monitoring of surface water)**

1. Regulations are imposed on an environmental permit which mean that:
 - a. an inventory is carried out according to which the location, scope and properties of the surface water are determined, which is located in the potential scope of influence of the landfill; and
 - b. parameters in the surface water as intended in a are measured at the measurement points specified in the regulations.

2. Given the characteristics of the landfill, the imposition of regulations on the environmental permit as intended in paragraph one (preamble and b) may be waived.
3. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:
 - a. the frequency of the inventory as intended in paragraph one (a) and the measurements as intended in paragraph one (b); and
 - b. determination of the measurement points as intended in paragraph one (b).

Article 8.62i**(regulations on monitoring groundwater)**

1. Regulations are imposed on an environmental permit which mean that the level of the groundwater within and in the immediate vicinity of the landfill will be determined as far as possible at the reference points and monitoring measurement points specified in the regulations.
2. Regulations are imposed on an environmental permit in which the following is specified:
 - a. which parameters are measured in the groundwater;
 - b. at what depths at the soil sampling will take place at each measurement point;
 - c. that the parameters as intended in a will as far as possible be measured at the reference points and the monitoring measurement points as intended in paragraph one; and
 - d. that the measurements will be performed in a set period of the year.
3. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:
 - a. the frequency of the determination of the level of the groundwater as intended in paragraph one;
 - b. the way in which the reference points and the monitoring measurement points as intended in paragraph one will be determined; and
 - c. the frequency of the measurements as intended in paragraph two (c).

Article 8.62j**(regulations on starting the dumping of dredge spoil)**

- Regulations are imposed on an environmental permit which mean that no dredge spoil will be dumped before:
- a. following an inspection of the landfill, the competent authority has informed the party operating the landfill that the regulations imposed on the environmental permit on the basis of Articles 8.62c through to 8.62f have been complied with;
 - b. the concentration of each parameter as intended in Article 8.62i(2) has been determined at at least three of the measurement points specified in the regulations; and
 - c. the party operating the landfill has presented the competent authority with evidence that on the basis of Article 8.6 of the Environment Decree, financial security has been provided or an equivalent provision made.

Article 8.62k**(regulations on urgent plan in outline)**

Regulations are imposed on an environmental permit which mean that an urgent plan in outline will be drawn up, in which those measures are specified which must be taken if an intervention point is reached.

Article 8.62l**(regulations on when intervention points are reached)**

1. Regulations are imposed on an environmental permit which mean that the intervention point is reached if:
 - a. within the permissible affected area as intended in Article 8.62(c)(3), the concentration of one or more substances at a monitoring measurement point is equal to or greater than the signal value for that substance, plus the standard value for the groundwater as intended in Annex XVIIIa;

- b. the exceeding of the concentration as intended in a is confirmed by a repeat measurement; and
 - c. an investigation has been performed into the cause of the exceeding of the concentration as intended in a, or the term specified by carrying out an investigation in the environmental permit has expired.
2. Regulations are imposed on an environmental permit which mean that notwithstanding the regulations as intended in paragraph one, the intervention point is not reached if the investigation as intended in paragraph one (c) shows that the exceeding of values is not caused by the landfill.
3. Regulations are imposed on an environmental permit about the way in which a term within which the repeat measurement as intended in paragraph one (b) and the investigation as intended in paragraph one (c) are performed.
4. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning:
- a. determination of the signal value as intended paragraph one (a); and
 - b. the repeat measurement as intended in paragraph one (b).

Article 8.62m

(regulations on reaching intervention points and elaborated urgent plan)

Regulations are imposed on an environmental permit which mean that if an intervention point specified for the landfill is reached:

- a. the competent authority is immediately notified; and
- b. an elaborated urgent plan is drawn up on the basis of the urgent plan in outline, as intended in Article 8.62k, in consultation with the competent authority, within the period specified in the environmental permit, which under all circumstances specifies:
 - 1. which measures will be taken within the duly specified term to:
 - i. prevent the concentration of the substance in question outside the permissible affected area as intended in Article 8.62c(3) becoming equal to or greater than signal value for those substances, plus the standard value for the groundwater as intended in Annex XVIIIa; and
 - ii. reversing the situation as intended in i, if this situation has already occurred; and
 - 2. how and within what term it is possible to check whether the measures as intended in 1° have had the intended effect.

Article 8.62n

(regulations on reporting)

- 1. Regulations are imposed on an environmental permit which mean that the results of the measurements as intended in Articles 8.62h(1)(b) and 8.62i(2) and the determination as intended in Article 8.62i(1) are kept.
- 2. Regulations are imposed on an environmental permit which mean that the following results will be submitted to the competent authority at least once a year:
 - a. the results of the measurements, observations and inspection as intended in paragraph one;
 - b. the volume of dredge spoil dumped at the landfill over the course of the previous year, expressed in tonnes of dry matter and density;
 - c. the height to which dredge spoil has been dumped;
 - d. the surface area covered by dredge spoil;
 - e. the landfill method employed;
 - f. the area of origin of the dumped dredge spoil;
 - g. the class or degree of contamination of the dumped dredge spoil;
 - h. the consolidation behaviour in the landfill; and
 - i. the remaining capacity at the landfill, expressed in tonnes of dry matter and density.

Article 8.62o**(regulations on sampling and analysis)**

Regulations are imposed on an environmental permit which mean that sampling, sample pre-treatment and analysis of the samples of the groundwater and the surface water are carried out in accordance with the current state of the art.

§ 8.5.2.6**Specific regulations environmental permit environmentally harmful activity - extractive waste facilities****Article 8.63****(scope of application regulations extractive waste facilities)**

1. This subsection applies to environmentally harmful activities relating to the operation of another environmentally harmful installation for the dumping or collection of extractive waste in an extractive waste facility as intended in Articles 3.84(1)(preamble and c) and 3.85(1) of the Environmental Activities Decree, than:

- a. the injection of water and the reinjection of pumped groundwater, as intended in Article 11(3)(j)(dash 1 and 2) of the Water Framework Directive, if permitted pursuant to that Article; and
- b. the dumping of non-hazardous, non-inert extractive waste unless dumped in an extractive waste facility category A.

2. Unless storage takes place in an extractive waste facility category A or an extractive waste facility for waste designated as hazardous waste in the extractive waste management plan as intended in Article 5 of the Extractive Waste Directive, Articles 8.64 through to 8.70 of this Decree and subsection 8.2 and Title 17.1A of the Environmental Management Act do not apply to the storage of:

- a. non-hazardous, non-inert extractive waste, during a period of not more than ten years;
- b. non-hazardous waste originating from prospecting, during a period of not more than three years;
- c. non-contaminated soil;
- d. waste from the extraction, handling and storage of turf; and
- e. inert extractive waste.

Article 8.64**(regulations on amendment or revision of an extractive waste management plan)**

Regulations are imposed on an environmental permit which mean that:

- a. the extractive waste management plan as intended in Article 5 of the Extractive Waste Directive is amended in the event of far-reaching changes to the structure or the operation of the extractive waste facility or the dumped waste, as a result of which in the judgement of the competent authority serious adverse impact can arise for health or the environment;
- b. the extractive waste management plan is revised every five years; and
- c. an amendment or revision of the extractive waste management plan is submitted to the competent authority.

Article 8.65**(regulations on competence and training)**

Regulations are imposed on an environmental permit concerning competency and the training of the party operating the extractive waste facility and the persons employed at the extractive waste facility.

Article 8.66**(regulations on layout, alteration or construction of an extractive waste facility)**

1. Regulations are imposed on an environmental permit which mean that:

- a. the extractive waste facility must be laid out or built in compliance with the design approved by the competent authority; and
- b. following completion of the extractive waste facility and prior to its being put into use, a report is submitted to the competent authority stating:

1. the way in which the management of the layout and construction took place;
 2. deviations from the specifications implemented during the work and the revision drawings relating to those deviations; and
 3. the results of an inspection of the soundness and physical stability of the completed extractive waste facility.
2. Paragraph one applies accordingly to changes to the extractive waste facility.
3. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning monitoring as intended in paragraph one (preamble and b)(3°).

Article 8.67

(regulations on management and maintenance of an extractive waste facility)

1. Regulations are imposed on an environmental permit which mean that:
 - a. the extractive waste facility is managed and maintained in such a way that the physical stability is guaranteed and pollution or contamination of soil, air, bodies of surface water or groundwater and damage to the landscape are prevented or mitigated as far as possible;
 - b. contaminated water or percolate is captured, collected and treated or disposed of in such a way that there is no risk of contamination of the soil or the groundwater;
 - c. erosion caused by wind or water is prevented, if technically possible and economically viable;
 - d. periodic inspections of the extractive waste facility by competent persons employed at the extractive waste facility ensure that the facility complies with the regulations imposed on the environmental permit; and
 - e. measures are taken when the results of the inspection, as intended in d, indicate instability or pollution of the water or the soil.
2. The environmental permit is subject to the regulation that the data from the inspection as intended in paragraph one (d) together with the permit documentation must be stored for at least five years in order to ensure the appropriate transfer of information if the environmental permit subsequently applies to another party than the applicant or the permit holder.

Article 8.68

(regulations on reporting extractive waste facility)

1. Regulations are imposed on an environmental permit which mean that the party operating the extractive waste facility must send to the competent authority a report based on the collected data, at least once a year:
 - a. to demonstrate that the regulations of the environmental permit are complied with; and
 - b. to increase knowledge of the behaviour of the waste and the extractive waste facility.
2. The competent authority can require the party operating the extractive waste facility to have the data on the basis of which the report is drawn up subsequently validated.
3. Rules are laid down by ministerial order on the regulations to be imposed on an environmental permit concerning the validation as intended in paragraph two.

Article 8.69

(other regulations on prevention)

1. Regulations are imposed on an environmental permit which mean that:
 - a. in compliance with the Water Framework Directive, a deterioration in the condition of the water is prevented, by:
 1. evaluation of the potential formation of percolate, including the contaminating components of the percolate, from the dumped waste both during operation and following the closure of the extractive waste facility;
 2. determining the water balance of the extractive waste facility;
 3. preventing or mitigating the generation of percolate and the contamination of bodies of surface water, the groundwater or the soil by waste; and

4. collecting the contaminated water and percolate from the extractive waste facility and treating it until the applicable requirements for discharge are met;
 - b. the party operating the extractive waste facility will take the necessary measures to prevent or to limit substance and gas emissions as far as possible; and
 - c. the party operating the extractive waste facility, if extractive waste is replaced in an excavated space created by aboveground or underground mining and which is permitted to become flooded following closure:
 1. takes the necessary measures to prevent or to limit as far as possible any deterioration in the condition of the water and soil contamination; and
 2. provides the competent authority with the information necessary for ensuring that the Environmental Activities Decree and the Water Framework Directive are complied with.
2. Notwithstanding paragraph one (a)(2°) or (3°), application of that paragraph may be waived, or other regulations may be imposed on the environmental permit if, on the basis of an assessment of the environmental risks, and taking the Water Framework Directive into account, it is determined that:
- a. the collection and treatment of percolate is not necessary; or
 - b. the extractive waste facility represents no potential hazard to bodies of surface water, the soil or the groundwater.
3. A regulation will be imposed on an environmental permit for the dumping of extractive waste in a receiving body of water, not created for the disposal of extractive waste, which means that the party operating the extractive waste facility must satisfy the applicable provisions in the Water Framework Directive.

Article 8.70**(regulations for an extractive waste facility category A)**

Regulations are imposed on an environmental permit for an extractive waste facility category A which mean that the party operating the extractive waste facility:

- a. will implement the prevention policy for major accidents as intended in Article 6 of the Extractive Waste Directive;
- b. in the event of major accidents and other occurrences, will immediately take measures in compliance with the internal emergency plan as intended in Article 6 of the Extractive Waste Directive, as far as possible to prevent or limit adverse impact for health or the environment, including cross-border impact; and
- c. will appoint a safety manager who is responsible for:
 1. introduction and operation of the safety management systems as intended in Article 6 of the Extractive Waste Directive; and
 2. implementation of periodic supervision of the prevention policy for major accidents.

§ 8.5.2.6a***Specific regulations environmental permit environmentally harmful activity - transfer onto or into the soil of sewage sludge*****Article 8.70a****(scope of application regulations on sewage sludge)**

This subsection applies to an environmental permit for an environmentally harmful activity relating to the transfer onto or into the soil of sewage sludge originating from water treatment installations for domestic or urban wastewater.

Article 8.70b**(regulations on sewage sludge)**

Regulations are imposed on an environmental permit which mean that exclusively sewage sludge may be transferred onto or into the soil which may be traded on the basis of Chapter III of the Manure Act Implementation Decree.

Article 8.70c**(regulations about the location)**

Regulations are imposed on an environmental permit which mean that the transfer of sewage sludge onto agricultural land may only take place in as much as the values for one or more of the substances present in the agricultural land as intended in Table 8.70c are not exceeded.

Table 8.70c Limit values

Substance	Limit value
Cadmium	Not more than $0.4 + 0.007 (L + 3H)$ mg/kg ds
Chromium	Not more than $50 + 2 L$ mg/kg ds
Copper	Not more than $15 + 0.6 (L + H)$ mg/kg ds
Mercury	Not more than $0.2 + 0.0017 (2 L + H)$ mg/kg ds
Nickel	Not more than $10 + L$ mg/kg ds
Lead	Not more than $50 + 0.6 (L + H)$ mg/kg ds
Zinc	Not more than $50 + 1.5 (2 L + H)$ mg/kg ds
Arsenic	Not more than $15 + 0.4 (L + H)$ mg/kg ds

L = % clay (*lutum*)

H = % organic matter

Article 8.70d**(regulations on the moment of transfer onto or into the soil)**

Regulations are imposed on an environmental permit which mean that the transfer of sewage sludge onto:

- a. grassland or pastureland will not take place in the period when this land is grazed;
- b. farmland with feed crops will not take place if harvest is due to take place within three weeks;
- c. farmland with vegetable or fruit planting, other than fruit tree planting, will not take place in the growth period of the vegetables or the fruit; and
- d. farmland for the cultivation of vegetables or fruit to be consumed raw, will not take place less than ten months before harvest.

Article 8.70e**(regulations on the quantity)**

1. Regulations are imposed on an environmental permit which mean that:

- a. the sewage sludge is transferred onto agricultural land in the same calendar year as the year in which a crop was cultivated;
- b. the quantity of liquid sewage sludge to be transferred onto agricultural land is not greater than:
 1. two tonnes of dry matter per hectare per year on arable land; and
 2. one tonne of dry matter per hectare per year on grassland;
- c. the quantity of sewage sludge to be transferred onto agricultural land is not greater than:
 1. four tonnes of dry matter per hectare per two years on arable land; and
 2. two tonnes of dry matter per hectare per two years on grassland; and
- d. during the periods as intended in b and c, the land use for the hectares in question remains unchanged.

2. For application of paragraph one (b and c), the situation on 15 May of a calendar year in which sewage sludge is used is decisive for whether the land is arable land or grassland.

If a crop is not cultivated on 15 May but during the course of the calendar year, the application of paragraph one (b and c), the land is considered arable land.

Article 8.7of**(regulations on supplementary conditions)**

Regulations are imposed on an environmental permit on the transfer onto or into the soil of sewage sludge:

- a. in the case of specific weather, geological and physical conditions;
- b. in the case of irrigation or sprinkling of the soil; and
- c. during specified periods.

Article 8.7og**(regulations on sampling and analysis)**

1. Regulations are imposed on an environmental permit which mean that before the sewage sludge is transferred onto or into the soil, the soil is sampled and analysed.

2. Regulations are imposed on an environmental permit which mean that a report of the sampling and analysis of drawn up, that must be stored for at least ten years following sample taking.

3. Rules are laid down by ministerial order on the imposition of regulations on an environmental permit concerning the method and frequency of sampling and analysis as intended in paragraph one and the report as intended in paragraph two.

§ 8.5.2.7***Restrictions regulations environmental permit environmentally harmful activity*****Article 8.71****(greenhouse gas emissions or energy consumption)**

1. If relating to an activity to which the prohibitions contained in Article 16.5 of the Environmental Management Act also relate, no regulations will be imposed on an environmental permit:

- a. which mean an emission limit value for the direct emission of greenhouse gases, unless necessary for guaranteeing that no significant environmental pollution is caused in the immediate vicinity of the activity; and
- b. to encourage the economic use of energy in that activity.

2. If regulations are imposed on the environmental permit as intended in paragraph one, those regulations expire.

Article 8.72**(CO₂ or energy consumption)**

1. If relating to an activity as intended in Article 15.51 of the Environmental Management Act, no regulations will be imposed on an environmental permit:

- a. which mean an emission limit value for the direct emission of CO₂, unless necessary for guaranteeing that no significant environmental pollution is caused in the immediate vicinity of the activity; and
- b. to encourage the economic use of energy in the activity.

2. If regulations are imposed on an environmental permit as intended in paragraph one, those regulations expire.

Article 8.73**(transfer of waste to or from the province)**

No regulations are imposed on an environmental permit which restrict or exclude the transport of waste to or from the province.

Article 8.74**(custom demarcation)**

Articles 2.23, 4.8, 4.31, 4.35, 4.37, 4.46, 4.56, 4.59, 4.65, 4.74, 4.106, 4.442, 4.451, 4.506, 4.609, 4.612, 4.1077, 4.1083, 4.1296, 4.1341, 5.71, 5.14 and 5.16 of the Environmental Activities Decree apply accordingly to the imposition of regulations on an environmental permit.

Section 8.6 Environmental permit natura 2000 activity and flora and fauna activity

§ 8.6.1

Natura 2000 activities

Article 8.74a

(scope and intention)

This subsection applies to Natura 2000 activities requiring a permit and is included with a view to nature conservation.

Article 8.74b

(assessment rules Natura 2000 activity)

1. In as much as an application for an environmental permit relates to a Natura 2000 activity, the environmental permit will only be issued if the appropriate assessment as intended in Article 16.53c (1) of the Act provides the security that the project will not impair the natural characteristics of the area.
2. Notwithstanding paragraph one, despite the fact that the appropriate assessment does not provide the necessary security, the environmental permit will still be issued if the following conditions are met:
 - a. there are no alternative solutions;
 - b. the project is necessary for imperative reasons of major public interest, including reasons of a social or economic nature; and
 - c. the necessary compensatory measures are taken to guarantee that the overall cohesion of Natura 2000 is preserved.
3. If the project can have significant consequences for a priority type of natural habitat of a priority species in a Natura 2000 area, notwithstanding paragraph two (b), the condition applies that the project is necessary for:
 - a. arguments relating to health, public safety or fundamentally favourable effects for the environment; or
 - b. other imperative reasons of major public interest, if the procedure for Article 10.6d of the Environment Decree is applied.

Article 8.74c

(supplementary assessment rule in the case of nitrogen deposition due to temporary activities)

[Reserved]

Article 8.74d

(municipal programme approach nitrogen)

1. In as much as an application for an environmental permit relates to a Natura 2000 activity subject to a municipal programme as intended in Article 4.29, the environmental permit will only be issued if the Natura 2000 activity complies with the provisions contained in the programme.
2. Paragraph one does not apply to a project decision which stipulates that:
 - a. the project decision applies as an environmental permit for a Natura 2000 activity; and
 - b. paragraph one does not apply to that project decision.

Article 8.74e

(specific assessment rules in the case of use of the register of nitrogen deposition capacity)

1. An environmental permit for a Natura 2000 activity that causes nitrogen deposition in habitats susceptible to nitrogen in a Natura 2000 area may be issued making use of the nitrogen deposition capacity included in the nitrogen deposition capacity register as intended in Article 11.71. The nitrogen deposition capacity used will be allocated to the Natura 2000 activity in the environmental permit.
2. The nitrogen deposition capacity allocated for one hectare of a habitat susceptible to nitrogen is equivalent to the highest nitrogen deposition on that hectare which can be caused by the activity in a year.

3. Paragraph one only applies to Natura 2000 activities:
- a. relating to the construction of homes not connected to a distribution grid for natural gas, including the realisation of the utility services, water management measures and infrastructure that are necessary and relate directly to the housing project, and provisions necessary for a good living climate;
 - b. to which the following project decisions relate:
 1. A1/A28 Hoevelaken junction;
 2. A4 Haaglanden – N14;
 3. A6 Almere Buiten Oost – Lelystad;
 4. A12/A27 Utrecht Orbital;
 5. A27 Houten – Hooipolder;
 6. A58 Eindhoven – Tilburg; or
 7. A58 Sint Annabosch – Galder; or
 - c. which belong to a category of activities designated by ministerial order.
4. The nitrogen deposition capacity will only be allocated in as much as:
- a. previously already reserved for the Natura 2000 activity by registration of the reservation in the nitrogen deposition capacity register; and
 - b. not exceeding the nitrogen deposition capacity available in the nitrogen deposition register.
5. At the moment of reservation or allocation, the available nitrogen deposition capacity for one hectare of a habitat sensitive to nitrogen in a Natura 2000 area is the nitrogen deposition capacity for that hectare contained in the register at the moment of determination of the relevant version of the register, less the nitrogen deposition capacity that was reserved or allocated to other projects up to the moment of reservation or allocation, and less the nitrogen deposition capacity that has once again become available following amendment or withdrawal of a reservation or an environmental permit for a Natura 2000 activity or which has once again become available after an activity is completed. For application of this paragraph, the details as intended in Article 11.70(2) will be assumed.

Article 8.74f (specific assessment rules in the case of use of the nature bank register)
[Reserved]

Article 8.74g (regulation on compensation)
A regulation will be imposed on an environmental permit which is issued in compliance with Article 8.74b(2) for a Natura 2000 activity, which contains the obligation to take compensatory measures as intended in Article 8.74b(2)(c).

Article 8.74h (regulation in the case of municipal programme approach nitrogen)
The regulations and restrictions as adopted in the municipal programme as intended in Article 4.29 will be imposed on an environmental permit that is issued in compliance with Article 4.29 for a Natura 2000 activity.

§ 8.6.2 *Flora and fauna activities*

Article 8.74i (scope and intention)
This subsection applies to flora and fauna activities and is included with a view to nature conservation.

Article 8.74j (assessment rules flora and fauna activity: species Birds Directive)
1. In as much as an application for an environmental permit relates to a flora and fauna activity as intended in Article 11.37(1), 11.38(1), 11.39(1) or 11.40 of the Environmental Activities Decree, the environmental permit will only be issued if:

- a. there is no other satisfactory solution than performing the activity;
- b. the activity is necessary:

1. in the interest of public health or public safety;
 2. in the interest of the safety of air traffic;
 3. to prevent major damage to crops, livestock, woodland, fishery or waters;
 4. to protect flora and fauna;
 5. for research or education, the release or reintroduction of species or for the related culture; or
 6. to permit the selective capture, the possession or other sensible use of specific birds, in small numbers and under strictly controlled conditions; and
- c. the activity does not result in a deterioration in the conservation status of this species.
2. In as much as an application for an environmental permit relates to a flora and fauna activity as intended in Article 11.37(1) of the Environmental Activities Decree for restricting the size of a population of birds, in application of paragraph one (preamble and b), only those interests as intended in that part (under 1° through to 4°) will be taken into account.
3. An environmental permit as intended in paragraph two will only be issued to a fauna management unit, unless there is no necessity for a fauna management unit to intervene in the performance of the activity. In that case, an environmental permit may also be issued to a game management unit or others.
4. An environmental permit for a flora and fauna activity as intended in Article 11.40(preamble and b) of the Environmental Activities Decree relating to the use of motorboats on the open sea will only be issued if the conditions as referred to in Annex IV(b)(second dash)(second sentence) to the Birds Directive are met.

Article 8.74k

(assessment rules flora and fauna activity: species Habitats Directive)

1. In as much as an application for an environmental permit relates to a flora and fauna activity as intended in Article 11.46(1), 11.47(1) or 11.48(1) of the Environmental Activities Decree, the environmental permit will only be issued if:
- a. no other satisfactory solution exists for performing the activity;
 - b. the activity is necessary:
 1. in the interest of protecting the wild flora or fauna or in the interests of the conservation of the natural habitats;
 2. to prevent serious damage in particular to crops, livestock farms, woodland, fishing grounds or waters or other forms of property;
 3. in the interest of public health, public safety or other imperative reasons of major public interest, including reasons of a social or economic nature and including fundamentally favourable effects for the environment;
 4. for research and education, repopulation or reintroduction of these species, or for the necessary culture, including the artificial propagation of plants; or
 5. to permit the capture or possession, under strictly controlled circumstances, in a selective manner and within the specified boundaries and restrictions, of the number of specific animals of the designated species determined in the environmental permit or the limited picking or possession of the number of specific plants of the designated species determined in the environmental permit, respectively; and
 - c. the activity does not detract from the goal of permitting the continued existence of the populations of the species in question in their natural habitat, in a favourable conservation status.
2. In as much as an application for an environmental permit relates to a flora and fauna activity as intended in Article 11.46(1) of the Environmental Activities Decree for restricting the size of a population of animals of species as intended in that paragraph, in application of paragraph one (preamble and b), only the interests as intended in that part (1°, 2° and 3°) will be taken into account.
3. An environmental permit as intended in paragraph two will only be issued to a fauna management unit, unless there is no necessity for a fauna management unit to intervene in the performance of the activities. In that case, an environmental permit may also be issued to a game management unit or others.

Article 8.74l**(assessment rules flora and fauna activity: other species)**

1. In as much as an application for an environmental permit relates to a flora and fauna activity as intended in Article 11.54 of the Environmental Activities Decree, the environmental permit will only be issued if:
 - a. no other satisfactory solution;
 - b. the activity is necessary:
 1. in the interest of protecting the wild flora or fauna or in the interests of the conservation of the natural habitats;
 2. to prevent serious damage in particular to crops, livestock farms, woodland, fishing grounds or waters or other forms of property;
 3. in the interest of public health, public safety or other imperative reasons of major public interest, including reasons of a social or economic nature and including fundamentally favourable effects for the environment;
 4. for research and education, repopulation or reintroduction of these species, or for the necessary culture, including the artificial propagation of plants; or
 5. to permit the capture or possession, under strictly controlled circumstances, in a selective manner and within the specified boundaries and restrictions, of the number of specific animals of the designated species determined in the environmental permit or the limited picking or possession of the number of specific plants of the designated species determined in the environmental permit, respectively;
 6. in the framework of the spatial structure or development of areas, including the subsequent use of the structured or developed area;
 7. to prevent damage or nuisance, including damage to sportsgrounds, shooting ranges, industrial estates, barracks or cemeteries;
 8. to limit the size of the population of animals living in the wild, in connection with damage caused regularly by these animals locally and in the surrounding area or in connection with the maximum resilience of the area in which the animals are present;
 9. to prevent or control unnecessary suffering of diseased or lame animals; or
 10. in the framework of permanent management or maintenance in agriculture or forestry;
 11. in the framework of the permanent management or maintenance of navigation channels, waterways, flood defences, water management structures, banks, airports, roads, railways or embankments, or in the framework of nature management;
 12. in the framework of the permanent management or maintenance of the landscape qualities of a particular area; or
 13. in the public interest; and
 - c. the activity does not detract from the goal of permitting the continued existence of the populations of the species in question in their natural habitat, in a favourable conservation status.
2. In as much as an application for an environmental permit relates to a flora and fauna activity as intended in Article 11.54(1) of the Environmental Activities Decree for restricting the size of a population of animals of species as intended in that paragraph, in application of paragraph one (preamble and b), only the interests as referred to in that part (1°, 2°, 3°, 7°, 9° and 13°) will be taken into account.
3. An environmental permit as intended in paragraph two will only be issued to a fauna management unit, unless there is no necessity for a fauna management unit to intervene in the performance of the activities. In that case, an environmental permit may also be issued to a game management unit or others.

Article 8.74m**(assessment rules flora and fauna activity: supplementary feeding)**

In as much as an application for an environmental permit relates to a flora and fauna activity as intended in Article 11.60 of the Environmental Activities Decree, the environmental permit will only be issued:

- a. under exceptional weather conditions; or
- b. in the event of a temporary natural food shortage threatening the welfare of the animals.

Article 8.74n**(assessment rules flora and fauna activity: release of animals or animal eggs)**

1. In as much as an application for an environmental permit relates to a flora and fauna activity as intended in Article 11.61(1) of the Environmental Activities Decree, the environmental permit will only be issued if:

- a. Article 8.74l(1)(a and b) is complied with; and
- b. the release of the animals or animal eggs does not detract from the aim of permitting the continued existence of indigenous flora and fauna in the natural habitat, in a favourable conservation status.

2. If relating to reintroduction of species, the environmental permit will only be issued if paragraph one (a and b) is complied with, and:

- a. the release of the animals or animal eggs contributes to the conservation of a threatened species, the functioning of the ecosystem or the completeness of the ecosystem;
- b. the possibility of spontaneous establishment or recovery of the threatened species of the ecosystem within 20 years is excluded, or if not excluded, there are urgent ecological reasons to not wait for spontaneous establishment of the species or recovery;
- c. the habitat of the species in question originally included the Netherlands or parts of the Netherlands;
- d. there is sufficient likelihood of the establishment of a permanent population of the species in question;
- e. monitoring of the effects of the reintroduction is guaranteed; and
- f. the interests of social support for nature conservation, nature education and the acquisition of knowledge of nature have been taken into consideration.

Article 8.74o**(regulation flora and fauna activity species Birds Directive: general)**

Regulations are imposed on an environmental permit for a flora and fauna activity as intended in Article 11.37(1), 11.38(1), 11.39(1) or 11.40 of the Environmental Activities Decree, which include:

- a. the means, installations or methods for capture or killing;
- b. the time and location for which the environmental permit applies;
- c. the species of birds or their nests, bedgrounds or eggs, for which the environmental permit applies; and
- d. the way in which the risk for the preservation of bird stocks is limited.

Article 8.74p**(regulation species Birds Directive: permitted means)**

1. The means specified in an environmental permit for a flora and fauna activity as intended in Article 11.37(1), 11.38(1), 11.39(1) or 11.40 of the Environmental Activities Decree may only be:

- a. rifles;
- b. dogs, with the exception of long dogs;
- c. demonstrably bred hawks (*Accipiter gentilis*), peregrine falcons (*Falco peregrinus*) and Harris's hawks;
- d. box traps;
- e. cages;
- f. catch nets;

- g. duck decoys;
 - h. bal-chatri; and
 - i. blunt arms, edged weapons or pointed weapons.
2. An environmental permit relating to the use of a Harris's hawk is subject to the regulation that the party using the Harris's hawk is in possession of an environmental permit for a falconry activity.
3. An environmental permit relating to the use of a bal-chatri is subject to the regulation that thereby:
- a. no use will be made of live decoy animals;
 - b. it is guaranteed in advance that the bal-chatri is under permanent supervision of an expert; and
 - c. caught animals are not kept imprisoned for unnecessarily long and are not unnecessarily injured.
4. An environmental permit relating to the use of blunt arms, edged weapons or pointed weapons is subject to the regulation that the use of these means is only permitted:
- a. for the killing of injured birds in distress;
 - b. by persons who demonstrably have the necessary knowledge and skills to perform this activity humanely and effectively; and
 - c. if no alternative means is reasonably available, with fewer possible negative consequences for the welfare of the animal.

Article 8.74q

(regulation species Birds Directive: permitted methods or installations)

1. The methods or installations for the capture or killing of birds specified in an environmental permit for a flora and fauna activity as intended in Article 11.37(1), 11.38(1), 11.39(1) or 11.40 of the Environmental Activities Decree may only be:
- a. killing by means permitted or exempt pursuant to the Plant Protection Products and Biocides Act, including the use of all means or installations necessary for applying those means;
 - b. capture by means of mustering, which under all circumstances will include the use of the catch pen in combination with a means as intended in a;
 - c. capture or killing using decoys;
 - d. capture or killing using a means with which decoy noises can be made;
 - e. killing by rifle, thereby acting notwithstanding Articles 11.76, 11.79, 11.80 and 11.83 of the requirements imposed in the Environmental Activities Decree, on the basis of a customised instruction or customised rule, relating to:
 - 1. the size of the hunting ground;
 - 2. The use of means on or with the rifle such as a silencer, an artificial light source, a provision for illuminating the prey, a sight with image converter, an electronic image intensifier or another instrument for shooting at night.
 - 3. the ammunition; or
 - 4. the use of the rifle:
 - i. before sunrise or after sunset;
 - ii. within the building contour hunting designated in an environment plan as intended in Article 5.165a, or sites immediately contiguous to the building contour;
 - iii. within the demarcation circle of a duck decoy;
 - iv. from on or inside a moving vehicle; or
 - v. from an aircraft;
 - f. killing by means of cervical dislocation; and
 - g. capture or killing using bait.
2. A permit instruction relating to the capture or killing using decoy may only relate to live decoys if:
- a. relating to magpies, jackdaws, crows, geese, ducks or sparrows used for the capture of magpies, jackdaws, crows, geese, ducks or sparrows with catch cages, box traps or catch nets;

- b. the birds are bred;
 - c. the catch cages and box traps are manufactured in such a way that in the cage or trap no physical contact is possible between the decoy and the animal to be caught;
 - d. the birds are not crippled or blinded; and
 - e. the birds have sufficient food, water, air, shelter and freedom of movement.
3. An environmental permit relating to the use of the method of cervical dislocation is subject to the regulation that the use of this method is only permitted:
- a. for the killing of injured birds in distress, of the size smaller than or equal to ducks;
 - b. by persons who demonstrably have the necessary knowledge and skills to perform this activity humanely and effectively; and
 - c. if no alternative means is reasonably available, with fewer possible negative consequences for the welfare of the animal.

Article 8.74r**(regulation flora and fauna activity species Habitats Directive and other species: permitted means)**

1. Regulations regarding the means to be used are imposed on an environmental permit for a flora and fauna activity as intended in Article 11.46(1), 11.48 or 11.54 of the Environmental Activities Decree.
2. If the environmental permit is issued due to an interest as intended in Article 8.74j(1)(b) (3°) or 8.74l(1)(b)(2°), only means are specified that prevent or if not possible limit as far as possible the negative consequences for the welfare of animals.

Article 8.74s**(regulation flora and fauna activity species Habitats Directive and other species: not beating large game)**

Regulations are imposed on an environmental permit for a flora and fauna activity as intended in Article 11.54 of the Environmental Activities Decree, relating to the killing and capture of wild boar, roe deer, fallow deer or red deer, which specify:

- a. that this may not be performed by means of beating; and
- b. whether and if yes, subject to which conditions a method is permitted, whereby one person deliberately disrupts wild boar with the aim of driving these animals into the field of fire of one rifle bearer, such that the rifle bearer can kill the animals, and whereby no dog is deployed.

Section 8.7a**Environmental permit rifle hunting activity****Article 8.74t****(assessment rules rifle hunting activity)**

1. An environmental permit for a rifle hunting activity is only issued if the applicant:
 - a. has successfully completed the examination for a rifle hunting activity recognised by Our Minister of Agriculture, Nature and Food Quality or that is recognised by the competent authority of another State and is designated by Our Minister of Agriculture, Nature and Food Quality as equivalent to the examinations recognised by him;
 - b. has reached the age of eighteen years;
 - c. is holder of the hunting rights to a hunting ground that meets with the requirements imposed thereon, as intended in Article 11.76 of the Environmental Activities Decree, and is a member of the game management unit within which the hunting ground is located or has permission from a holder of the hunting rights with that membership to perform the hunt on his hunting ground;
 - d. has submitted a valid proof of the insurance as intended in Article 11.78 of the Environmental Activities Decree;
 - e. has cooperate in the investigation specified by Our Minister of Justice and Security on the basis of Article 6a(1)(b) of the Arms and Ammunition Act; and
 - f. was personally present at the inspection by the chief constable of the facilities for the storage of arms and ammunition at the address of the applicant.

2. An environmental permit for a rifle hunting activity will be refused, despite meeting the requirements as intended in paragraph one, if:

- a. there are grounds for assuming that the applicant will abuse the authority to possess a rifle and ammunition, the authority to perform a hunting activity or the authorities accruing to him in the framework of the management of populations of animals living in the wild or control of animals causing damage, or will make such use of those authorities that he could represent a danger to himself, public order or security;
- b. there are grounds for assuming that the applicant will be negligent in acting as a good huntsman, in performing the hunting activity;
- c. the applicant has been denied authority to perform the hunting activity in a legal judgement which has become enforceable, and the period during which that authority was withdrawn has not yet expired;
- d. in the two years prior to the application for an environmental permit for a rifle hunting activity, the applicant has been convicted of a criminal act due to violation of the provisions in or pursuant to the Act or due to behaviour as intended in Article 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.13, 2.14 or 2.15 of the Animals Act, a punishment order has been issued against him or if due to violation of the provisions in or pursuant to the Articles of the Animals Act, an administrative penalty has been imposed on him, as intended in Article 8.7 of that Act; or
- e. in the eight years prior to the decision on the application, the applicant has been convicted by a legal judgement which has become irrevocable due to committing a crime as described in Articles 92, 95, 95a, 108 through to 110, 115 through to 117, 121, 121a, 123 through to 124a, 131, 140 through to 141a, 142, 157, 164, 166, 168, 170, 179, 180, 242 through to 247, 248f, 249, 250, 273f, 274, 279, 281 through to 282b, 284 through to 285b, 287 through to 292, 300 through to 303, 307, 312, 317, 350, 352 of 381 through to 387 of the Dutch Criminal Code, a crime on the basis of the Arms and Ammunition Act or a crime on the basis of the Opium Act.

3. For the calculation of the period of eight years as intended in paragraph two(e), the period in which an unconditional custodial sentence has been served will not count.

4. Notwithstanding paragraph one (preamble and a), an environmental permit for a rifle hunting activity will not be refused if the applicant has not successfully passed an examination for the rifle hunting activity if, due to the successful passing of a hunting examination recognised pursuant to the Hunting Act:

- a. in the period 1 January 1977 through to 31 March 2002, a game licence was issued as intended in the Hunting Act; or
- b. in the period 1 April 2002 through to 30 September 2004, a game licence was issued as intended in the Flora and Fauna Act.

5. Paragraph one (preamble and e and f) does not apply if the applicant still has a valid environmental permit for a rifle hunting activity unless in the judgement of the chief constable, application of those parts is necessary for assessment of whether there is a situation as intended in paragraph two (a).

Article 8.74u

(deviation applicant without place of residence in the Netherlands)

Article 8.74t(1)(preamble and c) does not apply if the applicant for an environmental permit for a rifle hunting activity:

- a. has no place of residence in the Netherlands; and
- b. sufficiently demonstrates that he is entitled to perform a hunting activity in the country in which he has his home or place of residence.

Article 8.74v

(regulation for applicant without place of residence)

If Article 8.74u is applied, an environmental permit for a rifle hunting activity will be subject to the regulation that when using the rifle, the holder is in the company of a holder of a valid environmental permit for a rifle hunting activity resident in the Netherlands.

Section 8.6b

Environmental permit falconry activity

Article 8.74w

(assessment rules falconry activity)

1. An environmental permit for a falconry activity is only issued if the applicant:
 - a. has successfully completed the examination for a falconry activity recognised by Our Minister of Agriculture, Nature and Food Quality or that is recognised by the competent authority of another State and is designated by Our Minister of Agriculture, Nature and Food Quality as equivalent to the examinations recognised by him; and
 - b. has reached the age of eighteen years;
2. An environmental permit for a falconry activity will be refused, despite meeting the requirements as intended in paragraph one, if:
 - a. there are grounds for assuming that the applicant will abuse the authority to possess a bird of prey, the authority to perform a hunting activity or the authorities accruing to him in the framework of the management of populations of animals living in the wild and tackling damage, or will make such use of those authorities that he could represent a danger to himself, public order or security;
 - b. there are grounds for assuming that the applicant will be negligent in acting as a good huntsman, in performing the hunting activity;
 - c. the applicant has been denied authority to perform the hunting activity in a legal judgement which has become enforceable, and the period during which that authority was withdrawn has not yet expired;
 - d. in the two years prior to the application for an environmental permit for a falconry activity, the applicant has been convicted of a criminal act due to violation of the provisions in or pursuant to the Act or due to behaviour as intended in Article 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.13, 2.14 or 2.15 of the Animals Act, or a punishment order has been issued against him or if due to violation of the provisions in or pursuant to the Articles of the Animals Act, an administrative penalty has been imposed on him, as intended in Article 8.7 of that Act; or
 - e. in the eight years prior to the decision on the application, the applicant has been convicted by a legal judgement which has become irrevocable due to committing a crime as described in Articles 92, 95, 95a, 108 through to 110, 115 through to 117, 121, 121a, 123 through to 124a, 131, 140 through to 141a, 142, 157, 164, 166, 168, 170, 179, 180, 242 through to 247, 248f, 249, 250, 273f, 274, 279, 281 through to 282b, 284 through to 285b, 287 through to 292, 300 through to 303, 307, 312, 317, 350, 352 of 381 through to 387 of the Dutch Criminal Code, a crime on the basis of the Arms and Ammunition Act or a crime on the basis of the Opium Act.
3. For the calculation of the period of eight years as intended in paragraph two(e), the period in which an unconditional custodial sentence has been served will not count.
4. Notwithstanding paragraph one (preamble and a), an environmental permit for a falconry activity' will not be refused if due to the successful passing of a hunting examination recognised pursuant to the 1936 Birds Act:
 - a. in the period 1 January 1977 through to 31 March 2002, a licence was issued as intended in the 1936 Bird Act; or
 - b. in the period 1 April 2002 through to 30 September 2004, a licence was issued as intended in the Flora and Fauna Act.

Article 8.74

(applicant without place of residence in the Netherlands)

If an applicant for an environmental permit for a falconry activity has no place of residence in the Netherlands, an environmental permit for a falconry activity will only be issued if the applicant sufficiently demonstrates that he is entitled to perform the hunting activity in the country in which he has his home or place of residence.

Article 8.74y**(regulation for applicant without place of residence)**

If Article 8.74x is applied, an environmental permit for a falconry activity will be subject to the regulation that when using the bird of prey, the holder is in the company of a holder of a valid environmental permit for a falconry activity resident in the Netherlands.

Section 8.7**Environmental permit earth removal activity****§ 8.7.1****Assessment rules application environmental permit earth removal activity****Article 8.75****(scope and intention)**

This section applies to earth removal activities not designated as permit-exempt activities in subsection 6.2.2 or 7.2.2 or Section 16.2 of the Environmental Activities Decree, and is included with a view to the objectives of the Act.

Article 8.76**(assessment rules earth removal activity)**

1. In as much as an application for an environmental permit relates to an earth removal activity, the environmental permit will only be issued if the activity is consistent with the objectives of the Act.
2. The environmental permit will under all circumstances be refused if:
 - a. it is not plausible that the earth removal activity is safe and stable both during its performance or thereafter;
 - b. it is insufficiently guaranteed that following completion of the earth removal activity, the area will be well laid out and managed; or
 - c. the layout of the location does not tie in with the function allocated to that location in the environment plan or a function that is made possible by an environmental permit for a non-planned environment plan activity.
3. In assessing the application, under all circumstances the consequences of the earth removal for water systems will be taken into account.
4. If for a combination of activities for which an environmental permit for an earth removal activity is required, an environmental permit is also required for another activity, the grounds for issuing or refusing the environmental permit for that activity are not part of the grounds for extension or refusal of the environmental permit for the earth removal activity.

§ 8.7.2**Regulations environmental permit earth removal activity****Article 8.77****(regulations earth removal activity)**

1. Regulations may be imposed on an environmental permit which mean that:
 - a. for the performance of the earth removal, a work plan is submitted and that for the work plan, permission is required from an administrative body designated in the regulation; and
 - b. in the manner described therein, an indication is given of whether the regulations are complied with and the data thereby obtained are made available to the competent authority.
2. Regulations may be imposed on an environmental permit with a view to palaeontology.
3. Article 8.81 applies accordingly.

Article 8.78**(custom demarcation)**

In as much as an application for an environmental permit relates to an earth removal activity in a body of surface water managed by the State, Articles 6.14 and 7.14 of the Environmental Activities Decree apply accordingly to the imposition of regulations on the environmental permit.

Section 8.8 Environmental permit national monument activity

§ 8.8.1

Assessment rules application environmental permit national monument activity

Article 8.79

(scope and intention)

This Section relates to national monument activities not designated as permit-exempt activities in Chapter 13 of the Environmental Activities Decree and is contained with a view to preservation of cultural heritage.

Article 8.80

(assessment rules national monument activity)

1. In as much as an application for an environmental permit relates to a national monument activity, the environmental permit will only be issued if the activity is in compliance with the interest of monument preservation.
2. In the decision on the application, the following principles will be taken into account:
 - a. preventing the defacement, damage to or demolition of monuments and archaeological monuments;
 - b. preventing the relocation of monuments or parts of monuments, unless urgently required for the preservation of those monuments;
 - c. encouraging the use of monuments, if necessary by altering those monuments, taking account of the monumental values; and
 - d. conservation and preservation of archaeological monuments, preferably in situ.

§ 8.8.2

Regulations environmental permit national monument activity

Article 8.81

(regulations on archaeological monument preservation)

In the interest of the archaeological monument preservation, under all circumstances regulations may be imposed on an environmental permit for a national monument activity relating to an archaeological monument, which contain an obligation to:

- a. take technical measures that mean that archaeological monuments can be preserved in situ;
- b. perform excavations as intended in Article 1.1 of the Heritage Act;
- c. have any activity resulting in soil disruption supervised by an expert in the field of archaeological monument preservation who satisfies the qualification to be imposed on those regulations; and
- d. perform an excavation or archaeological supervision in a specific manner, if that manner is in compliance with Article 5.4(1 and 2) of the Heritage Act.

Article 8.82

(regulations on relocation built monuments)

Regulations are imposed on an environmental permit for a national monument activity that involves the partial or complete relocation of a monument that is a structure, concerning the preventive measures to be taken for the dismantling, relocation and rebuilding of the structure, at the new location.

Section 8.9 Environmental permit water activity

§ 8.9.1 *General assessment rules application and general regulations environmental permit water activity*

§ 8.9.1.1 *Assessment rules application environmental permit water activity*

Article 8.83

(scope and intention)

1. This Section applies to the following water activities:
 - a. restricted area activities requiring a permit relating to a water management structure as intended in Chapters 6 and 7 of the Environmental Activities Decree;
 - b. restricted area activities requiring a permit relating to an installation other than a mining installation, in a water management structure as intended in Chapter 7 of the Environmental Activities Decree;
 - c. discharge activities into a body of surface water requiring a permit as intended in Chapters 3, 6 and 7 of the Environmental Activities Decree;
 - d. discharge activities into a water treatment plant requiring a permit as intended in Chapter 3 of the Environmental Activities Decree;
 - e. dumping activities into the sea not designated as permit-exempt activities in subsection 7.2.8 of the Environmental Activities Decree; and
 - f. water extraction activities requiring a permit as intended in Chapter 6 or Section 16.1 of the Environmental Activities Decree.
2. This Section is included with a view to guaranteeing safety, protecting health and the environment, management of water systems and the long-term securing of the public drinking water facility.

Article 8.84

(assessment rules water activity)

1. In as much as an application for an environmental permit relates to a water activity as intended in Article 8.83(1), the environmental permit will only be issued if the activity is consistent with the interest of:
 - a. preventing and where necessary minimising flooding, water nuisance and water shortages;
 - b. protecting and improving the chemical and ecological quality of water systems;
 - c. fulfilling the societal functions of water systems.
2. In assessing the application, the water management programmes, regional water management programmes, river basin management plans, flood risk management plans and the national water programme relating to the WFD body of surface water or body of groundwater in question will be taken into account.
3. Issuing the environmental permit may under no circumstances mean that:
 - a. the environmental values as intended in Article 2.10(1), 2.11(1), 2.13(1), 2.14(1) and 2.15(1), as the case arises in combination with the term as intended in Article 2.18(1) are not satisfied;
 - b. a good ecological potential as intended in Article 2.12(1) is not achieved, as the case arises in combination with the term as intended in Article 2.18(2); and
 - c. a less strict target as intended in Article 2.17(2)(preamble and d) is not achieved.
4. Paragraph three does not apply:
 - a. in as much as relating to the environmental value as intended in Article 2.10(1), if failure to satisfy that environmental value is caused by a source of pollution located outside the Netherlands, and Article 2.17(3) has been applied; or
 - b. if failure to satisfy an environmental value or failure to achieve good ecological potential or a less strict target is the consequence of:
 1. new changes to the physical properties of a WFD body of surface water or changes in the status of a body of groundwater; and
 2. Article 2.17(4) has been applied.

5. The issuing of the environmental permit may under all circumstances also not mean that the objective of preventing decline in the chemical and ecological status of the WFD bodies of surface water and the chemical status and quantitative status of bodies of groundwater as intended in Article 4.15(1) are not achieved.

§ 8.9.1.2

General regulations environmental permit water activity

Article 8.85

(regulations water activity)

Regulations may be imposed on an environmental permit concerning the removal, compensation for or mitigation following the end of the activity of the adverse impact for the water system caused by the activity or the ending of that activity.

§ 8.9.2

Specific assessment rules application specific regulations environmental permit water activity

§ 8.9.2.1

Specific assessment rules application environmental permit water activity

Article 8.86

(specific intentions)

1. Article 8.88 is also included with a view to protecting the status and functioning of infrastructure against adverse impact from activities.
2. Article 8.90 is also included with a view to the objectives of the Act.
3. Article 8.91 is also included with a view to preservation of cultural heritage.

Article 8.87

(assessment rules dumping activity at sea)

In as much as an application for an environmental permit relates to a dumping activity at sea, the environmental permit will only be issued if the activity is in compliance with the London Protocol and the Oskar Treaty.

Article 8.88

(assessment rules discharge activity into a body of surface water or discharge activity into a water treatment plant)

1. In as much as an application for an environmental permit relates to a discharge activity into a water treatment plant, the environmental permit will only be issued if the activity is consistent with the interest of the protection and effective functioning of the water treatment plant.
2. In as much as an application for an environmental permit relates to a discharge activity into a body of surface water or a discharge activity into a water treatment plant, Articles 8.9(1 and 2), 8.10 and 8.13(1) apply accordingly.
3. In assessing the application in accordance with Article 8.9(1)(preamble and a through to e), the information documents as intended in Annex XVIII(B) will also be taken into account.

Article 8.89

(assessment rules water extraction activity)

1. In as much as an application for an environmental permit relates to a water extraction activity, the environmental permit will only be issued if the activity is consistent with the carrying function of the water system.
2. In as much as an application for an environmental permit relates to the transfer into the soil of water, to supplement the groundwater, in combination with the extraction of groundwater by a facility intended for that purpose, whereby the water to be transferred into the soil originates from a body of surface water, the environmental permit will only be issued if the substances in the water to be transferred into the soil occur:
 - a. in lower concentrations than indicated for those substances in Annex XIX(A); or
 - b. as intended in Annex XIX(B) if those substances are not indicated in Annex XIX(A) and those substances are present in such limited quantities and concentrations that the risk of deterioration of the quality of the groundwater is excluded.

3. Notwithstanding paragraph two(a), the environmental permit may be issued and for one or more substances a higher concentration as intended in that part may be permitted for a period to be designated in the environmental permit, if:
- a. the soil condition or soil type is such that there is no risk of contamination of the groundwater, if water is transferred into the soil in which those substances occur in higher concentrations; or
 - b. regulations are imposed on the environmental permit that negate the risk of contamination of the groundwater occurring by the transfer into the soil of water in which those substances occur in those higher concentrations.

Article 8.90**(assessment rules restricted area activity relating to a water management structure)**

1. In as much as an application for an environmental permit relates to a restricted area activity relating to a water management structure that takes place outside the provincial and municipal allocated area, the environmental permit may be refused if the activity is contrary to the objectives of the Act.
2. In as much as for a combination of activities for which an environmental permit for a restricted area activity as intended in paragraph one is required, an environmental permit is also required for another activity than a water activity, the grounds for issuing or refusing the environmental permit for those other activities are not part of the grounds for issuing or refusing the environmental permit for the earth removal activity.
3. In as much as an application for an environmental permit relates to a restricted area activity relating to a water management structure, in as much as relating to the building, installation, placement, alteration or maintenance of an artificial island, an installation or a facility as intended in Article 7.17(1)(preamble and b) of the Environmental Activities Decree, in an area that is designated by ministerial order as a part of the sea with heavy traffic and which is geometrically bounded, the environmental permit will only be issued if the activity is consistent with the interests of shipping and the safety of shipping.

§ 8.9.2.2***Specific regulations environmental permit water activity*****Article 8.91****(regulations restricted area activity relating to a water management structure)**

In as much as an application for an environmental permit relates to a restricted area activity relating to a water management structure that is performed outside the provincial and municipal designated area, Article 8.81 applies accordingly to the imposition of regulations on the environmental permit.

Article 8.92**(regulations discharge activity into a body of surface water or discharge activity into a water treatment plant)**

In as much as an application for an environmental permit relates to a discharge activity into a body of surface water or a discharge activity into a water treatment plant, regulations are imposed on that permit that are necessary to realise the measures included in a water management programme, a regional water programme or the national water programme for that body of surface water or that water treatment plant, if Article 4.5 of the Act is applied.

Article 8.93**(regulations discharge activity into a body of surface water or discharge activity into a water treatment plant)**

The imposition of regulations on an environmental permit for a discharge activity into a body of surface water or a discharge activity into a water treatment plant applies accordingly to Articles 8.26 through to 8.35, whereby the information documents as intended in Annex XVIII(C) are taken into account.

Article 8.94**(regulations water extraction activity with infiltration)**

1. An environmental permit for a water extraction activity relating to the transfer into the soil of water to supplement the groundwater, in combination with the extraction of groundwater by a facility intended for that purpose, whereby the water to be transferred into the soil originates from a body of surface water is subject to regulations concerning:
 - a. the quality of the water to be transferred into the soil;
 - b. the management of the hydrological situation;
 - c. ending of the transfer into the soil of the water; and
 - d. inspecting the quality of the groundwater.
2. A regulation as intended in paragraph one(a) under all circumstances means that there is no risk of contamination of the groundwater.
3. A regulation as intended in paragraph one(b) under all circumstances means that the spread of the water to be transferred into the soil is managed as far as possible, in order that the water to be transferred into the soil can for the most part once again be extracted.
4. A regulation as intended in paragraph one(c) under all circumstances means that an evaluation of the consequences of the transfer into the soil of water for the quality of the soil is carried out, followed by a planned approach to termination of the activity as intended in paragraph one and negating any adverse impact.

Article 8.95**(regulations dumping activity at sea)**

An environmental permit for a dumping activity at sea is subject to regulations in compliance with the London protocol and the Oskar Treaty.

Article 8.96**(custom demarcation)**

1. In as much as an application for an environmental permit relates to a discharge activity into a body of surface water or a discharge activity into a water treatment plant, the imposition of regulations on that environmental permit applies accordingly to Articles 2.23, 4.65, 4.106, 4.609 and 4.612 of the Environmental Activities Decree.
2. In as much as an application for an environmental permit relates to a restricted area activity relating to a water management structure managed by the State, a discharge activity into a body of surface water managed by the State or a water extraction activity in a body of surface water managed by the State, the imposition of regulations on that environmental permit is accordingly subject to Articles 6.14 and 7.14 of the Environmental Activities Decree.
3. In as much as an application for an environmental permit relates to a restricted area activity relating to an installation in the North Sea or a dumping activity at sea, the imposition of regulations on that environmental permit is accordingly subject to Article 7.14 of the Environmental Activities Decree.

Section 8.10**Updating, amendment and withdrawal****§ 8.10.1****General grounds for updating, amendment and withdrawal****Article 8.97****(general grounds - authority to amend regulations and withdraw environmental permit)**

1. The competent authority can amend the regulations on an environmental permit or withdraw an environmental permit on the grounds designated in this chapter on the basis of which the environmental permit for that activity could have been refused.
2. Paragraph one does not apply to an environmental permit for a building activity.
3. The competent authority will only apply the authority to withdraw as intended in paragraph one if amendment of the regulations imposed on the environmental permit is not sufficient.

§ 8.10.2

*Specific grounds for updating, amendment and withdrawal***Article 8.97a****(obligation to amend regulations or withdraw environmental permit environment plan activity based on contravention of instruction rules or instructions without grandfather clause)**

1. This Article applies if an environment permit for a permanent non-planned environment plan activity as intended in Article 4.17 of the Act, other than an environmental permit for a non-planned environment plan activity of provincial or national importance, has been irrevocable for five years and an environment plan cannot be brought into compliance with that environmental permit on the basis of:

- a. a rule from Chapter 5;
- b. a rule on the basis of Article 2.22 of the Act on the environment plan; or
- c. an instruction as intended in Article 2.33 or 2.34 of the Act.

2. The competent authority will withdraw the environmental permit if:

- a. the rule or instruction as intended in paragraph one applies to activities which are legally performed on the basis of that environmental permit or are permitted at the time at which the rule or instruction comes into effect; and
- b. the activity cannot reasonably be permitted by:
 1. an amendment to the regulations imposed on the environmental permit;
 2. an amendment to the environment plan; or
 3. an exemption as intended in Article 2.32 of the Act.

3. If in the rule or the instruction as intended in paragraph one, a term is set within which an environment plan must be amended, that expires earlier than the term of five years as intended in that paragraph, within the term set in that rule or instruction, paragraph two will be applied.

Article 8.97b**(obligation to amend regulations or withdraw environmental permit environment plan activity of provincial importance due to contravention of instruction rules or instructions without grandfather clause)**

1. This Article applies if an environment permit for a permanent non-planned environment plan activity of provincial importance as intended in Article 4.17 of the Act has been irrevocable for five years and an environment plan cannot be brought into compliance with that environmental permit on the basis of:

- a. a rule from Chapter 5;
- b. a rule on the basis of Article 2.22 of the Act on the environment plan that on the basis of Article 8.ob(2) applies to a non-planned environment plan activity of provincial importance; or
- c. an instruction as intended in Article 2.34 of the Act.

2. The competent authority will withdraw the environmental permit if:

- a. the rule or instruction as intended in paragraph one applies to activities which are legally performed on the basis of that environmental permit or are permitted at the time at which the rule or instruction comes into effect; and
- b. the activity cannot reasonably be permitted by:
 1. an amendment to the regulations imposed on the environmental permit;
 2. an amendment to the environment plan; or
 3. an exemption as intended in Article 2.32 of the Act.

3. If in the rule or the instruction as intended in paragraph one, a term is set within which an environment plan must be amended, that expires earlier than the term of five years as intended in that paragraph, within the term set in that rule or instruction, paragraph two will be applied.

Article 8.97c**(obligation to amend regulations or withdraw environmental permit environment plan activity of national importance due to contravention of instruction rules or instructions without grandfather clause)**

1. This Article applies if an environment permit for a permanent non-planned environment plan activity of national importance as intended in Article 4.17 of the Act has been irrevocable for five years and an environment plan cannot be brought into compliance with that environmental permit on the basis of:

- a. a rule on the basis of Article 2.22 of the Act on the environment plan or an instruction as intended in Article 2.33 of the Act;
- b. an instruction as intended in Article 2.34(4) of the Act; or
- c. a rule in Chapter 5 that on the basis of Article 8.0b(3) applies to a non-planned environment plan activity of national importance.

2. The competent authority will withdraw the environmental permit if:

- a. the rule or instruction as intended in paragraph one applies to activities which are legally performed on the basis of that environmental permit or are permitted at the time at which the rule or instruction comes into effect; and
- b. the activity cannot reasonably be permitted by:
 1. an amendment to the regulations imposed on the environmental permit;
 2. an amendment to the environment plan; or
 3. an exemption as intended in Article 2.32 of the Act.

3. If in the rule or the instruction as intended in paragraph one, a term is set within which an environment plan must be amended, that expires earlier than the term of five years as intended in that paragraph, within the term set in that rule or instruction, paragraph two will be applied.

Article 8.98**(specific grounds - obligation to review environmental permit in connection with new BAT conclusions or new LAP)**

1. Within four years following the announcement of new or revised BAT conclusions about the main activity of the IPPC installation, the competent authority for an environmental permit for an environmentally harmful activity or a discharge activity into a body of surface water or a discharge activity into a water treatment plant will review whether the regulations imposed on the environmental permit comply with those new BAT conclusions, other BAT conclusions and the information documents as intended in Annex XVIII(A) that have been determined or reviewed since the awarding of the environmental permit or its last assessment.

2. Within one year after the waste management plan as intended in Article 10.3 of the Environmental Management Act has come into effect, the competent authority for an environmental permit for an environmentally harmful activity or a discharge activity into a body of surface water or a discharge activity into a water treatment plant will review whether the environmental permit satisfies the minimum high value of processing of individual waste substances or categories of waste as described in the waste management plan.

Article 8.99**(specific grounds - obligation to amend regulations)**

1. The competent authority will amend the regulations imposed on environmental permit for a dumping activity at sea, an environmentally harmful activity or a discharge activity into a body of surface water or a discharge activity into a water treatment plant if as a consequence of application of Article 5.38(1) of the Act, it becomes clear that the environmental pollution caused by that activity:

- a. can be further restricted by the development of the technical possibilities for environmental protection; or
- b. must be further restricted by the development of the quality of the environment.

2. The competent authority for an environmental permit for an environmentally harmful activity or for a discharge activity into a body of surface water or a discharge activity into a

water treatment plant will amend the regulations imposed on that environmental permit, if this is necessary given the result of the assessment as intended in:

- a. Article 8.98(1): within four years following the announcement of new or revised BAT conclusions about the main activity of the IPPC installation; or
 - b. Article 8.98(2): within one year after the waste management plan as intended in Article 10.3 of the Environmental Management Act has come into effect.
3. Developments as intended in paragraph one will under all circumstances have taken place if:
- a. no BAT conclusions apply, but important changes in the best available techniques enable a considerable restrictions of the emissions;
 - b. the environmental pollution caused by the activity is such that the emission limit values included in the regulations imposed on the environmental permit must be amended or new emission limit values must be included in those regulations;
 - c. the necessity of preventing accidents requires the application of other techniques; or
 - d. on the basis of Article 8.30, a new or revised environmental value as intended in Article 2.15(1)(a through to c) of the Act must be complied with.
4. If in application of Article 8.28, less strict emission limit values are laid down, in application of paragraph one and two, compliance with the conditions of that Article will be reassessed.
5. In application of paragraph one and two(a), if necessary, the competent authority will impose regulations on the environmental permit which serve to apply other techniques than those about which data or documents have been issued pursuant to Article 16.55(2) of the Act or with the application for the environmental permit.

Article 8.100

(specific grounds - obligation to withdraw environmental permit environmentally harmful activity and discharge activity into a body of surface water or discharge activity into a water treatment plant)

The competent authority will withdraw the environmental permit for an environmentally harmful activity, a discharge activity into a body of surface water or a discharge activity into a water treatment plant if:

- a. through application of Article 8.99(2), it is not reasonably possible that the relevant best available technique will be applied; or
- b. relating to a landfill as intended in Article 8.47 of the Environmental Management Act or a waste facility as intended in Article 1.1 of the Act and the landfill or dump facility respectively are declared closed on the basis of Article 8.47 of the Act.

Article 8.101

(specific grounds – authority to amend regulations environmental permit environmentally harmful activity, discharge activity into a body of surface water or discharge activity into a water treatment plant)

The competent authority may under all circumstances amend the regulations of an environmental permit for an environmentally harmful activity, a discharge activity into a body of surface water or a discharge activity into a water treatment plant in connection with the taking of appropriate preventive measures to protect health as intended in Article 4.22(2)(b) of the Act.

Article 8.102

(specific grounds – authority to withdraw environmental permit environmentally harmful activity, discharge activity into a body of surface water or discharge activity into a water treatment plant)

1. The competent authority may under all circumstances withdraw an environmental permit for an environmentally harmful activity, a discharge activity into a body of surface water or a discharge activity into a water treatment plant in connection with:
 - a. the effective management of waste; or
 - b. the non-taking of appropriate preventive measures to protect health as intended in Article 4.22(2)(b) of the Act.

2. The competent authority will only apply the authority to withdraw if amendment of the regulations of the environmental permit is not sufficient.

Article 8.103

(specific grounds withdrawal or amendment of environmental permit for activities affecting nature)

1. The competent authority will under all circumstances withdraw an environmental permit for a Natura 2000 activity or amended environmental permit for a Natura 2000 activity if necessary in implementation of Article 6(2) of the Habitats Directive.
2. The competent authority may withdraw an environmental permit for a flora and fauna activity, a rifle hunting activity or a falconry activity if the holder of the environmental permit is irrevocably convicted, after the permit has been issued:
 - a. for a violation of a rule laid down in subsections 11.2.2 through to 11.2.10 of the Environmental Activities Decree or a customised instruction or a customised rule laid down in respect of those subsections or if a punishment order is issued against him therefor;
 - b. for actions in contravention of another environmental permit for a flora and fauna activity, a rifle hunting activity or a falconry activity; or
 - c. for behaviour as intended in Article 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.10, 2.13, 2.14 or 2.15 of the Animals Act, if a punishment order has been issued against him or if due to violation of the provisions in or pursuant to the Articles of the Animals Act, an administrative penalty has been imposed on him, as intended in Article 8.7 of that Act.

Article 8.104

(specific grounds withdrawal of environmental permit for rifle hunting activities and falconry activities)

1. The competent authority for an environmental permit for a rifle hunting activity will under all circumstances withdraw that environmental permit if:
 - a. the data issued upon application for that environmental permit were so incorrect or incomplete that if the correct data had been issued, the permit would have been refused;
 - b. it emerges that the civil liability, as intended in Article 11.78 of the Environmental Activities Decree, is no longer covered taking into account the provisions in or pursuant to that Article and Article 11.78(2 through to 7) of that decree.
 - c. the holder has misused arms or ammunition or abused the authority to possess arms or ammunition, or if there are other indications that he can no longer be entrusted with the possession of arms or ammunition.
 - d. after the issuing of the environmental permit for a rifle hunting activity, the holder has been irrevocably convicted for committing a crime as described in Articles 92, 95, 95a, 108 through to 110, 115 through to 117, 121, 121a, 123 through to 124a, 131, 140 through to 141a, 142, 157, 164, 166, 168, 170, 179, 180, 242 through to 247, 248f, 249, 250, 273f, 274, 279, 281 through to 282b, 284 through to 285b, 287 through to 292, 300 through to 303, 307, 312, 317, 350, 352 of 381 through to 387 of the Dutch Criminal Code, a crime on the basis of the Arms and Ammunition Act or a crime on the basis of the Opium Act; or
 - e. the holder is in possession of a magazine for a firearm as intended in Article 10(1) of the Directive (EU) 2017/853 of the European Parliament and the Council of 17 May 2017 amending Council Directive 91/477/EEC on the control of the acquisition and possession of weapons (OJEU 2017 L 137/22), without having the appropriate leave or exemption on the basis of the Arms and Ammunition Act.
2. Paragraph one (preamble and a) applies accordingly to an environmental permit for a falconry activity.
3. The competent authority for an environmental permit for a rifle hunting activity or a falconry activity can withdraw that environmental permit, if:
 - a. there are grounds to assume that the holder is abusing his authority to perform the hunting activity;

- b. the holder has been negligent in performing the hunting activity as a good huntsman;
or
- c. there are grounds to assume that the holder is abusing his authorities in the framework of managing populations of animals living in the wild and controlling animals causing damage.

Chapter 9 Project decisions

Section 9.1 General provisions

Article 9.1

(instruction rules project decision)

1. Section 5.1 with the exception of subsection 5.1.5.4 and Article 5.165 apply accordingly to a project decision that is adopted by the executive board of a water authority or provincial executive.
2. Subsections 5.1.1 and 5.1.2, Article 5.37, Subsection 5.1.4, Articles 5.129d(1)(a and g) and 5.129e(1 and 2), Subsections 5.1.5.5, 5.1.7a and 5.1.8 and Article 5.165 apply accordingly to a project decision adopted by one of Our Ministers.
3. Notwithstanding paragraph one, Subsection 5.1.3.2 does not apply to a project decision that is adopted for the construction, relocation or, reinforcement of a primary flood defence.

Article 9.2

(instruction rules for world heritage and heritage on the Provisional World Heritage List)

1. No project decision will be adopted by one of Our Ministers for the implementation of a project that damages the core qualities of world heritage and heritage on the Provisional World Heritage List as intended in Article 7.4(1).
2. In a project decision adopted by one of Our Ministers, the further elaborated core qualities as intended in Article 7.4(2) will be taken into account.

Article 9.3

(instruction rules for Netherlands nature network)

1. No project decision will be adopted by one of Our Ministers for the implementation of a project within the Netherlands nature network that could have adverse impact for the fundamental characteristics and values of the nature network as intended in Article 7.7(1) unless it is guaranteed that this impact will be compensated for in good time, such that the quality, area and composition of the nature network is preserved.
2. For areas within the Netherlands nature network consisting of military sites or sites with a military purpose as intended in Article 5.150(1), paragraph one only applies in as much as a project decision relates to site paving and building activities on those sites.

Article 9.3a

(deviation from rules in water authority regulation or environment regulation)

1. If with application of Article 5.53(3 or 4) of the Act, rules in a water authority regulation as intended in Article 6.1 are not applied, the requirements as intended in Articles 10 and 11(3)(preamble and g) of the Water Framework Directive will be taken into account.
2. If with application of Article 5.53(3 or 4) of the Act, rules in a water authority regulation as intended in Article 6.2(2) or in an environment regulation as intended in Article 7.12(2) are not applied, Article 8.84(2, 3, 4, 5) will apply accordingly.

Section 9.2 Exemption

Article 9.4

(exemption instruction rules project decision)

Our Minister of the Interior and Kingdom Relations, as the case arises in consultation with Our Minister affected, may at the request of the executive board of a water authority or the provincial executive grant an exemption from the rules in subsections 5.1.3.2, 5.1.3.3, 5.1.3.4, 5.1.3.5, 5.1.5.2, 5.1.5.3, with the exception of Articles 5.129d(1)(a and g) and 5.129e(1 and 2), 5.1.6.2, 5.1.6.3, 5.1.6.4, 5.1.6.5 and 5.1.7.

Chapter 10 Special instruments and instruction rules

Section 10.1 Exchange decisions and decisions on monetary settlements

§ 10.1.1 *General provisions*

Article 10.1 (agricultural land and nature sites)

1. Provisions in this Section that relate to agricultural land apply accordingly to land on which any form of agriculture can be immediately performed.
2. Provisions in this Section that relate to woodland apply accordingly to heathland, peat moorland sites, sand drifts, dune sites, tidal land, salt marshes, tidal marshes, reedbeds and low peat marshland, in as much as not land on which any form of agriculture can be immediately performed.

§ 10.1.2 *Exchange decisions*

Article 10.2 (agricultural market value)

1. For each land reparcelling block, the provincial executive will set the agricultural market value of land on the basis of the price level for agricultural land sold in the year prior to the presentation of the draft exchange decision in the land reparcelling block.
2. If in a land reparcelling block in the year prior to the presentation of the draft exchange decision no sales of agricultural land took place, the provincial executive will set the agricultural market value on the basis of the price for which in that year comparable land outside the land reparcelling block was sold.
3. If in a land reparcelling block in the year prior to the presentation of the draft exchange decision insufficient sales of agricultural land took place, the provincial executive will set the agricultural market value on the basis of the price for which in that year land was sold within the land reparcelling block and the price for which comparable land outside the land reparcelling block was sold.

Article 10.3 (boundary of built plot in the case of allocation of neighbouring plot)

In an exchange decision, in the allocation of a neighbouring plot, the boundary of a plot on which a building stands will not be adjusted if, for the owner or user of the building, that would result in a disproportionate restriction in the use of the building.

Article 10.4 (exchangeability of watercourses, ponds and linear landscape elements)

1. In an exchange decision, the following are exchangeable for zero contribution:
 - a. a watercourse with a top width of at least 5 m;
 - b. a pond with a surface area of at least 25 m²; and
 - c. a linear landscape element consisting of timber vegetation with an average width of at least 5 m.
2. In an exchange decision, the following are exchangeable as adjacent land:
 - a. a watercourse with an average top width of less than 5 m;
 - b. a pond with a surface area of less than 25 m²; and
 - c. a linear landscape element consisting of timber vegetation with an average width of less than 5 m.
3. In an exchange decision, for the entire land reparcelling block, for watercourses, ponds or linear landscape elements, another width or surface area may be employed than the widths and surface areas as intended in paragraphs one and two, if necessary for efficient land reparcelling, due to the specific characteristics of that land reparcelling block.

- Article 10.5** (exchangeability roads with public character)
In an exchange decision, a public road as intended in Article 4 of the Roads Act and a road that otherwise has a public character is entirely exchangeable at zero contribution.
- Article 10.6** (exchangeability road withdrawn from public traffic)
In an exchange decision, a public road as intended in Article 4 of the Roads Act is exchangeable if in accordance with the structuring decision, that road will be withdrawn from public traffic.
- Article 10.7** (exchangeability watercourse of which public use expires)
In an exchange decision, a watercourse with public use is exchangeable if in accordance with the structuring decision, that public use expires.
- Article 10.8** (ranking exchangeability of land for woodland, nature or agricultural nature management)
1. In an exchange decision, land located in an area for which on the basis of Article 2 of the Framework Act, EZK and LNV subsidies or a provincial regulation subsidy is or can be awarded for nature management or agricultural nature management is exchangeable.
2. If no subsidy for nature management or agricultural nature management has been awarded, in the exchange decision, the following ranking will be taken into account for the exchange of the land in question:
a. exchange with agricultural land acquired for the preservation, planting or development of woodland or with agricultural land for which the owner or lease holder is willing to submit an application for a subsidy as intended in paragraph one; and
b. exchange with other agricultural land.
3. If a subsidy for nature management has been awarded, in the exchange decision, the affected land will be exchanged with agricultural land acquired for the preservation, planting or development of woodland or agricultural land for which a subsidy for nature management has been awarded to the land owner or lease holder.
4. If a subsidy for agricultural nature management has been awarded, in the exchange decision, the affected land will be exchanged with agricultural land for which a subsidy for agricultural nature management has been awarded to the owner or lease holder.
5. If a subsidy for nature management has been awarded and a legal entity according to public law has obtained an obligation as intended in Article 252 of Book 6 of the Dutch Civil Code for the land in question in an agreement to preserve, plant or develop woodland, and the land is located at a location to which in the environment plan a function for nature or woodland has not been allocated or in accordance with a draft of that plan no such function will be allocated, the land, notwithstanding paragraph three, will be exchanged with land for which a similar obligation has also been acquired or with land located at a location to which a function for nature or woodland has been allocated in the environment plan, or according to a draft of that plan such a function will be allocated.
- Article 10.9** (not-exchangeable land in the case of soil pollution)
The following are not exchangeable in an exchange decision:
a. land where prior to an activity, a soil survey as intended in Articles 5.7b through to 5.7e of the Environmental Activities Decree will be undertaken, but has not yet been concluded; and
b. land with a quality above the intervention value for soil quality as intended in Annex IIA to the Environmental Activities Decree, if the location has not been remediated in accordance with the Soil Protection Act, the Environmental Activities Decree, the environment plan, a customised instruction or an environmental permit.

Article 10.10**(non-exchangeable land)**

The following are not exchangeable in an exchange decision:

- a. land with exceptionally poor culture status;
- b. land with a very uneven ground level;
- c. heathland, peat moorland sites, sand drifts, dune sites, tidal land, salt marshes, tidal marshes, reedbeds and low peat marshland not in use as agricultural land;
- d. plots excavated too deep;
- e. land on which sports or recreation grounds are located;
- f. land on which railways are located;
- g. the following land for which a replanting obligation applies on the basis of Section 11.3 of the Environmental Activities Decree:
 1. land with timber vegetation larger than 10 are; and
 2. land on which timber vegetation larger than 10 are once stood; and
- h. orchards and other land with multiyear crops.

Article 10.11**(effective use and ranking for allocation)**

1. In an exchange decision, the rights to plots will be awarded to rights holders in such a way that effective use of the plots is encouraged.
2. In the allocation, the following ranking will be taken into account:
 - a. allocation aimed at the greatest possible concentration of plots around the farm plot;
 - b. allocation aimed at the greatest possible concentration of plots around a domestic plot;
 - c. allocation aimed at the shortest possible distance between farm buildings and the plots; and
 - d. allocation aimed at the shortest possible distance between the home and the plots.

Article 10.12**(merger of plots)**

In an exchange decision, plots that serve a single user will not be merged if that merger for the owner in question will result in disproportionate fragmentation of his property.

Article 10.13**(alterations to boundary of domestic of farm plot)**

In an exchange decision, in the allocation of the right to a domestic or farm plot, the boundary of the plot will not be adjusted if this would result for the owner or user in disproportionate restriction of the use of a building.

Article 10.14**(discount percentage)**

An exchange decision indicates the percentage by which the total surface area of all land included in the land reparaelling block has been reduced, on the basis of Article 12.29 of the Act.

Article 10.15**(easements and old rights in rem)**

1. In an exchange decision, easements will be maintained or established if the reallocation or implementation of work cannot compensate for the need met by these rights.
2. In an exchange decision, rights *in rem* as intended in Article 150(1) of the New Dutch Civil Code (Transition) Act will be upheld in as much as not contrary to the interests of the land use.

Article 10.16**(provisions on the taking into use of plots)**

1. In an exchange decision, in the provisions on the taking into use of the plots, as intended in Article 12.24(1)(f) of the Act, the interests of effective implementation of the work and effective use of the plots will be taken into account.
2. If an exchange decision provides for the temporary taking into use of a plot, it is determined that that plot will be taken into use by the owner to whom the right to the plot is allocated.

3. Notwithstanding paragraph two, an exchange decision determines that a plot will be temporarily taken into use by another owner than the owner to whom the right to the plot is allocated, if necessary:

- a. for the balanced distribution of the temporary possibilities of use within the land reparcelling block; or
- b. to prevent a disproportionate disadvantage for the other owner.

§ 10.1.3

Decisions on monetary settlements

Article 10.17

(costs and compensation)

A decision on monetary settlements contains all costs attributable to the affected owners, and all compensation awardable, including costs and compensation agreed with owners of land located outside the land reparcelling block.

Article 10.18

(recording the condition of land and other real estate property estimate)

1. In a decision on monetary settlements, in the estimate as intended in Article 12.38(1) of the Act, the condition of the land and other real estate will be laid down according to one or more of the factors as intended in paragraph two (a and b) and one or more of the factors as intended in paragraph two (c through to g).

2. The factors are:

- a. access to domestic plots, farm plots or field plots;
- b. the water management condition of plots;
- c. the plot concentration;
- d. the distance from the field plots to the farm plot;
- e. the number of plots per farm;
- f. the size of the plots; and
- g. the shape of the plots.

Article 10.19

(items for set-off)

1. In a decision on monetary settlements, set-off items may be included between:

- a. the individual owners involved in the exchange decision; and
- b. the combined owners in the land reparcelling block and the individual owner involved in an exchange decision.

2. Set-off items will under all circumstances include:

- a. the presence of buildings, standing crops and obstacles, including bunkers, high-voltage masts, cables and pipelines;
- b. the value of buildings, structures, planting and timber vegetation;
- c. the general compensation in money for the contribution of land for the discount as intended in Article 12.29 (preamble and c or d) of the Act;
- d. the overall compensation in money for the contribution of plots with a small area;
- e. the settlement and waiving of limited rights, the right to rent and the burdens as intended in Article 12.35(1) of the Act;
- f. the buying out of land reallocation, restructuring, reconstruction and land use rights as intended in Article 12.35(1) of the Act;
- g. the establishment of limited rights as intended in Article 12.35(2) of the Act;
- h. other than agricultural values;
- i. the retrieval of costs in connection with land not classified in the quality class agriculture/nature on the basis of Article 25d of the Soil Quality Decree; and
- j. compensation if in the implementation of work no replacement land can be issued in temporary use.

Article 10.20

(reference moments set-off items)

1. In a decision on monetary settlements, for the set-off items relating to a right recorded in public registers and the valuation of the factors as intended in Article 1018, the situation at the first moment as intended in Article 16.125(2) of the Act will be assumed.

2. In a decision on monetary settlements, in valuation of the set-off items relating to the growing status of the soil, the situation at the moment of plot exchange will be assumed.
3. In a decision on monetary settlements, in valuation of the other set-off items, in as much as the amount of the set-off item has not been agreed, the situation at the time of the presentation of the draft exchange decision will be assumed.

Article 10.21**(valuation factors)**

In a decision on monetary settlements, the factors as intended in Article 10.18 will be valued in order to calculate the contribution payable by an owner towards the costs as intended in Article 13.9(4) of the Act.

Article 10.22**(valuation of set-off items)**

1. In a decision on monetary settlements, the set-off items will be valued on the basis of the generally accepted value.
2. A set-off item arising from the transfer of a good or a right to another owner will be estimated at the same value for the contributing owner and the owner awarded the good or the right, unless another valuation is necessary due to the special circumstances of the case.

Article 10.23**(cost sharing)**

1. A decision on monetary settlements will include the costs to be charged for each owner.
2. These costs consist of the sum of:
 - a. the balance of the set-off item; and
 - b. the total of the amounts of money allocated to them according to the factors as intended in Article section 10.18 multiplied by the outcome of the division of the total of the costs allocated to the owners by the total of all amounts determined on the basis of those factors.
3. If the value change as a result of the factors as intended in Article 10.18 is determined according to a system of points, in the decision on monetary settlements, for the application of paragraph two (b), the value of a point is converted into an amount of money by dividing the total of the costs attributable to the owners by the total of points allocated to the owners.

Section 10.2**Plans natura 2000****Article 10.24****(appropriate assessment plans Natura 2000)**

1. A plan as intended in Article 6(3) of the Habitats Directive will only be adopted if the appropriate assessment as intended in Article 16.53c(1) of the Act guarantees that the plan will not harm the natural characteristic of the Natura 2000 area.
2. Notwithstanding paragraph one, if the appropriate assessment does not provide the necessary guarantee, the plan may still be adopted if the following conditions are met:
 - a. there are no alternative solutions;
 - b. the project is necessary for imperative reasons of major public interest, including reasons of a social or economic nature; and
 - c. the plan contains the necessary compensatory measures to guarantee that the overall cohesion of Natura 2000 is preserved.
3. Notwithstanding paragraph two (preamble and b), if the plan can have significant consequences for a priority type of natural habitat or a priority species in a Natura 2000 area, the condition applies that the plan is necessary due to:
 - a. arguments relating to human health, public safety or fundamentally favourable effects for the environment; or
 - b. other imperative reasons of major public interest, if the procedure for Article 10.6d of the Environment Decree is applied.

Chapter 11 Monitoring and information

Section 11.1 Guaranteeing safety

§ 11.1.1 External safety risks

§ 11.1.1.1 Data collection

Article 11.1

(responsibility data collection external safety risks)

The following administrative bodies collect data about external safety risks:

- a. the competent authority that decides on an application for an environmental permit or to which a report is submitted as intended in the Environmental Activities Decree, if relating to:
 1. an activity as intended in Annex VII(A)(B)(D)(1) and (E)(1 through to 10 and 12 and 13).
 2. the storage, repackaging or processing of fireworks or theatrical pyrotechnic articles as intended in Article 3.31(1) of the Environmental Activities Decree; and
 3. the storage of explosive substances of ADR class 1, as intended in Article 3.34 of the Environmental Activities Decree;
- b. Our Minister of Economic Affairs and Climate Policy, if relating to the installation and operation of a mining installation as intended in Article 3.320 of the Environmental Activities Decree, in as much as relating to the production, storage, processing or preparing for transport of dangerous substances as intended in Annex VII(E)(11.1) or the preparation or alteration of a borehole with a mobile mining installation as intended in Annex VII(E)(11.2);
- c. Our Minister of Infrastructure and Water Management if relating to:
 1. the basic network;
 2. the operation of a pipeline, as intended in Article 3.101(1)(a through to d) of the Environmental Activities Decree; and
 3. the storage and processing of substances and objects in ADR class 1.1 or 1.2 or more than 50 kg NEM in substances or objects in ADR class 1.3, by the Dutch or allied armed forces as intended in Article 3.332 of the Environmental Activities Decree;
- d. the Authority for Nuclear Safety and Radiation Protection if relating to the operation of a facility for which a permit has been issued on the basis of Article 15 (preamble and b) of the Nuclear Energy Act;
- e. the municipal council or competent authority that decides on an application for an environmental permit for a non-planned environment plan activity, if relating to external safety risks of an activity as intended in Articles 5.23, 5.28 and 5.32 and Annex VII for limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations; and
- f. the municipal executive, the executive board of the water authority and provincial executive if relating to the transport of dangerous substances on roads managed by the municipality, the water authority or the province, that do not belong to the basic network and if the location-specific risk on the axis of the road is higher than 1:1,000,000 per year.

Article 11.2

(data collection external safety risks general)

The administrative bodies as intended in Article 11.1 collect the following data:

- a. the location where an activity as intended in Article 5.23, 5.28 and 5.32 or Annex VII is to be performed or where an activity is performed for which a permit has been issued on the basis of Article 15 (preamble and b) of the Nuclear Energy Act;

- b. if relating to an activity as intended in Article 5.23, 5.28 or 5.32 or Annex VII(A), (B), (C.), (D)(1) or (E), or for which a permit has been issued on the basis of Article 15 (preamble and b) of the Nuclear Energy Act, in as much as applicable:
 - 1. the company name;
 - 2. the name and address of the party performing the activity or part of the activity;
 - 3. the date on which the environmental permit for the activity was issued or was most recently amended or for which a notice as intended in the Environmental Activities Decree was submitted, in as much as the environmental permit or the notification relates to external safety risks;
 - 4. the nature of the risk;
 - 5. the chemical name and the CAS number and in as much as known the UN number of the normative substance for the risk or the name of the normative category of substances for the risk; and
 - 6. the data as intended in 4° and 5°, for the normative substance for the toxic risk and the normative substance for the risk of fire or explosion;
- c. in as much as the administrative body is responsible for collecting the data, as intended in a and b, and the data as intended in Articles 11.3 through to 11.7: the date of the last amendment of those data; and
- d. if Article 5.10 is applied: the distance to the location where the location-specific risk is 1:100,000 per year, calculated in accordance with the rules laid down by ministerial order.

Article 11.3

(data collection environmentally harmful activity, other than mining, basic network and pipelines with dangerous substances)

The competent authority as intended in Article 11.1(a) collects the following data:

- a. if relating to an activity as intended in Annex VII(A)(B): the distance for the location-specific risk as intended in the table included with that activity;
- b. if relating to an activity as intended in Annex VII(A)(1a and 7), B(2 and 5) and E(9, 10 and 13): the distance for the fire, explosion or toxic cloud focus area, as intended in the table included with that activity;
- c. if relating to an activity as intended in Annex VII(D)(1) and (E)(1): the distance to the locations where the location-specific risk is not more than 1:100,000 and 1:1,000,000 per year, calculated in accordance with the rules laid down by ministerial order;
- d. if relating to an activity as intended in Annex VII(E)(2 through to 9, 12 and 13): the distance to the locations where the location-specific risk is not more than 1:1,000,000 per year, 1:10,000,000 per year and 1:100,000,000 per year, calculated in accordance with the rules laid down by ministerial order;
- e. if relating to an activity as intended in Annex VII(E)(2 through to 8, 9 in as much as applicable and 12): the distance for the fire, explosion or toxic cloud focus area calculated in accordance with the rules laid down by ministerial order;
- f. the characteristics of an activity as intended in Annex VII(A)(B) and (E)(9 and 10) as intended in the table included with that activity, in as much as applicable;
- g. the characteristics of an activity as intended in Annex VII(E)(2 through to 8, 9 in as much as applicable, 10 and 12), for the calculation of the location-specific risk and the fire, explosion and toxic cloud focus area;
- h. the location of an explosion focus area for fireworks as intended in Article 5.23; and
- i. the location of a civilian explosion focus area as intended in Article 5.28.

Article 11.4

(data collection mining)

Our Minister of Economic Affairs and Climate Policy collects the following data if relating to the operation of a mining installation as intended in Annex VII(E)(11):

- a. the distance to the locations where the location-specific risk is not more than 1:1,000,000 per year, calculated in accordance with the rules laid down by ministerial order, if relating to the operation of a mining installation as intended in Annex VII(E)

- (11.1) and the installation or alteration of a borehole with a mobile mining installation as intended in Annex VII(E)(11.2); and
- b. the distance for the fire, explosion or toxic cloud focus area, calculated in accordance with the rules laid down by ministerial order, if relating to the operation of a mining installation as intended in Annex VII(E)(11.1).

Article 11.5

(data collection basic network, pipelines with dangerous substances, military objects and nuclear installations)

1. Our Minister of Infrastructure and Water Management collects the following data:
- a. if relating to the basic network:
1. the distance determined by ministerial order where the location-specific risk is not more than 1:1,000,000 per year; and
 2. the distance for the fire or explosion focus area as intended in Annex VII(C);
- b. if relating to the operation of a pipeline, as intended in Article 3.101(1)(a through to d) of the Environmental Activities Decree;
1. the distance to the locations where the location-specific risk is not more than 1:1,000,000 per year, calculated in accordance with the rules laid down by ministerial order;
 2. the distance for the fire, explosion or toxic cloud focus area, calculated in accordance with the rules laid down by ministerial order;
 3. the external diameter of the pipeline in millimetres;
 4. the maximum operating pressure in kilopascal;
 5. the wall thickness of the pipe in millimetres;
 6. the location of the top of the pipeline in respect of ground level in centimetres;
 7. the material type of the pipeline; and
 8. the characteristics of the pipeline for the calculation of the location-specific risk and the fire, explosion and toxic cloud focus area; and
- c. the location of a military explosion focus area as intended in Article 5.32.
2. The Authority for Nuclear Safety and Radiation Protection collects the following data if relating to a facility for which a permit is issued on the basis of Article 15(b) of the Nuclear Energy Act:
- a. the data as intended in Article 11.2(a through to c); and
- b. the distance to the locations where the location-specific risk is not more than 1:1,000,000 per year, calculated in accordance with the rules laid down by ministerial order.

Article 11.6

(data collection buildings and locations)

The municipal council or competent authority that decides on an application for an environmental permit for a non-planned environment plan activity collects data on the locations of limited vulnerable, vulnerable and very vulnerable buildings and limited vulnerable and vulnerable locations permitted in the environment plan or the environmental permit for a non-planned environment plan activity respectively.

Article 11.7

(data collection roads other than the basic network)

The municipal executive, the executive board of the water authority and provincial executive collect data on external safety risks from the transport of dangerous substances as intended in Article 1 of the Transport of Dangerous Substances Act, on roads managed by the municipality, the water authority or the province respectively, if relating to roads that do not belong to the basic network and if the location-specific risk at the axis of the road is higher than 1:1,000,000 per year.

§ 11.1.1.2

Data management**Article 11.8****(register of external safety risks)**

1. There is a national register of external safety risks.
2. The register is managed by Our Minister of Infrastructure and Water Management.
3. The register is universally accessible by electronic means.
4. The register contains:
 - a. the data as intended in Articles 11.2 through to 11.7; and
 - b. data about the locations at which the activities are performed in respect of which data are included in the register as intended in a, with an indication of:
 1. the distances for the location-specific risk;
 2. the location of the fire, explosion and toxic cloud focus area, in as much as applicable;
 3. the location of the explosion focus area for fireworks as intended in Article 5.23;
 4. the location of the civilian explosion focus area as intended in Article 5.28; and
 5. the location of the military explosion focus area as intended in Article 5.32.

§ 11.1.2

Water safety

§ 11.1.2.1

Monitoring and data collection water safety**Article 11.9****(monitoring environmental values for the safety of primary flood defences)**

1. Monitoring for the environmental value as intended in Article 2.0c takes place by determining the hydraulic load and strength of a dyke section by measurements, calculations and models in accordance with the rules laid down by ministerial order.
2. The executive board of the water authority and Our Minister of Infrastructure and Water Management are responsible for implementation of the monitoring if the environmental value relates to a section of dyke managed by the water authority or the State, respectively.

Article 11.10**(monitoring environmental values safety other than primary flood defences managed by the State)**

1. Monitoring for the environmental value as intended in Article 2.0i takes place by determining the water retaining capacity of a dyke section by measurements, calculations and models in accordance with the rules laid down by ministerial order.
2. Our Minister of Infrastructure and Water Management is responsible for implementation of the monitoring.

Article 11.11**(monitoring other parameters for notification safety of primary flood defences)**

1. By monitoring, for notification of whether measures are necessary for the safety of primary flood defences, the following are monitored:
 - a. the risk of loss of water retaining capacity of a dyke section as a result of which the area protected by the dyke section floods in such a way and to such an extent that it results in fatalities or substantial economic damage, as intended in Annex II(B) (column 6); and
 - b. the risk of loss of water retaining capacity of a dyke section as a result of which the hydraulic load on the subsequent section of dyke is substantially increased, as intended in Annex II(B)(column 7).
2. Monitoring takes place by determining the hydraulic load and strength of a section of dyke in the current condition by means of measurements, calculations and models in accordance with the rules laid down by ministerial order.

3. The executive board of the water authority and Our Minister of Infrastructure and Water Management are responsible for implementation of the monitoring in respect of a section of dyke managed by the water authority or the State, respectively.

Article 11.12

(data collection compliance ledger large rivers)

Our Minister of Infrastructure and Water Management collects data on the extent to which the ledger drawn up for the large rivers is complied with.

Article 11.13

(data collection coastline)

Our Minister of Infrastructure and Water Management collects data about the location of the coastline.

Article 11.14

(data collection about flood hazard maps and flood risk maps)

1. The provincial executive collects data about flood hazard as intended in Article 6(3 and 4) of the Flood Risk Directive.
2. The provincial executive collects data about flood risks as intended in Article 6(5) of the Flood Risk Directive.
3. The data do not relate to flooding sewers.

§ 11.1.2.2

Reports water safety

Article 11.15

(report on safety of primary flood defences)

1. The executive board of the water authority and Our Minister of Infrastructure and Water Management prepare a report every twelve months on the general hydrological status of the primary flood defences managed by the water authority and the State, respectively.
2. The report contains:
 - a. the results of the monitoring for the environmental values as intended in Article 2.0c and the other parameters as intended in Article 11.11(1); and
 - b. as the case arises, that another parameter as intended in Article 11.11(1) has been exceeded.

Article 11.16

(report ledger large rivers)

Our Minister of Infrastructure and Water Management prepares a report every twelve months on the data as intended in Article 11.12.

§ 11.1.2.3

Maps water safety

Article 11.17

(flood hazard maps and flood risk maps)

1. The provincial executive draws up a flood hazard map and a flood risk map.
2. The flood hazard map reproduces the data as intended in Article 11.14(1).
3. The flood risk map reproduces the data as intended in Article 11.14(2).
4. Under all circumstances, the maps are drawn up every two years for adoption of the flood risk management plan.

Article 11.18

(maps basic coastline)

Our Minister of Infrastructure and Water Management draws up maps of the coastline as intended in Article 20.17(1)(b) of the Act, on which that coastline is reproduced.

Section 11.2 Environment and health

§ 11.2.1 Quality of the outside air

§ 11.2.1.1 Monitoring and data collection

Article 11.19 (monitoring environmental values air quality directive and airborne dangerous substances directive)

1. Monitoring for the environmental values for the quality of outside air as intended in Articles 2.3 through to 2.8 takes place by measurements and calculations in accordance with the rules laid down by ministerial order.
2. Notwithstanding paragraph one, the monitoring for the environmental values for benzene as intended in Article 2.6(1) takes place only on the basis of calculations.
3. Our Minister of Infrastructure and Water Management is responsible for implementation of the monitoring.

Article 11.20 (exception monitoring environmental values air quality directive)

The assessment of whether the environmental values for the quality of the outside air as intended in Articles 2.3 through to 2.7 are satisfied will not take place at:

- a. a location to which the public has no access and where there is no permanent housing; or
- b. the carriageway of roads and the median of roads, unless pedestrians normally have access to the median.

Article 11.21 (monitoring environmental values NEC directive)

1. Monitoring for the environmental values for the quality of the outside air as intended in Article 2.8a takes place by the drawing up for those substances of the national emission inventories and national emission projections as intended in Article 8(1 and 2) of the NEC Directive in accordance with the method as intended in Article 9 and Annex V to that Directive.
2. Our Minister of Infrastructure and Water Management is responsible for implementation of the monitoring.
3. For the assessment of whether the environmental values are satisfied, the following emissions are not considered:
 - a. emissions from aircraft outside the landing and take-off cycle;
 - b. emissions from international shipping; and
 - c. emissions of nitrogen oxides and volatile organic substances with the exception of methane, from activities covered by categories 3B and 3D as intended in the guidelines accompanying the Convention on Long-range Transboundary Air Pollution (Treaty Series 1983, 84).
4. For application of this Article, the following definitions apply:
 - a. *landing and take-off cycle*: the cycle that includes taxiing following landing and prior to departure, roll-out, takeoff, approach and landing and all other manoeuvres of the aircraft that take place below an altitude of 3,000 feet; and
 - b. *international shipping*: transport by sea and in coastal waters by vessels of all flags, with the exception of fishing vessels, departing from the territory of one country and arriving in the territory of another country.

Article 11.22 (data collection air quality by municipalities, provinces and the State)

1. The municipal executive of a municipality the territory of which is located in a focus area as intended in Article 5.51(2 and 3) and the provincial executive of the province the territory of which is located in that area will collect data for the monitoring of concentrations of:
 - a. nitrogen dioxide as intended in Article 2.4(1)(preamble and b); and
 - b. PM₁₀, as intended in Article 2.5(1).

2. The data relate to:
 - a. the use of roads managed by the municipality and the province respectively; and
 - b. the operation of an IPPC installation for keeping poultry or pigs or the keeping of farm animals as intended in Article 3.200 of the Environmental Activities Decree.
3. Our Minister of Infrastructure and Water Management collects the following data:
 - a. the average concentrations of sulphur dioxide, nitrogen dioxide, PM_{2,5}, PM₁₀, benzene, lead and carbon monoxide on a scale level of 1 by 1 km, with:
 1. data from the previous calendar year; and
 2. the expected concentration for the subsequent calendar years up to and including the year 2030;
 - b. the rectifications for duplications of the local contributions from roads managed by the State to the average concentrations of nitrogen dioxide, PM_{2,5} and PM₁₀ on a scale level of 1 by 1 km, with:
 1. data from the previous calendar year; and
 2. the expected rectifications for the subsequent calendar years up to and including the year 2030;
 - c. the meteorological data from the previous calendar year and the ten-year average meteorological data; and
 - d. data about terrain roughness on a scale of 1 by 1 km.

Article 11.23

(monitoring other parameters air quality)

1. The following are monitored:
 - a. the annual average concentrations in the outside air of:
 1. the chemical compounds of PM_{2,5}, which under all circumstances include sulphate, nitrate, sodium, potassium, ammonia, chloride, calcium, magnesium, elementary carbon and organic carbon;
 2. volatile organic substances;
 - b. the annual average background concentrations in the outside air of:
 1. arsenic, cadmium, mercury, nickel and benzo(a)pyrene; and
 2. other relevant polycyclic aromatic hydrocarbons than benzo(a)pyrene, including under all circumstances benzo(a)anthracene, benzo(b)fluoranthene, benzo(j)fluoranthene, benzo(k)fluoranthene, indeno(1,2,3-cd)pyrene and dibenzo(a,h)anthracene;
 - c. the annual average deposition of:
 1. arsenic, cadmium, mercury, nickel and benzo(a)pyrene; and
 2. the other polycyclic aromatic hydrocarbons as intended in b(2°);
 - d. the total annual anthropogenic emissions of sources located in the Netherlands of the following substances:
 1. cadmium, mercury and lead; and
 2. persistent organic pollutants, namely polycyclic aromatic hydrocarbons, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene indeno(1,2,3-cd)pyrene, dioxin/furan, polychlorobiphenyls and hexachlorobenzene;
 - e. the negative impact of pollution of the outside air on ecosystems.
2. Monitoring will take place by measurements and calculations in accordance with the rules laid down by ministerial order.
3. Our Minister of Infrastructure and Water Management is responsible for implementation of the monitoring.

§ 11.2.1.2

Data management and access to data quality outside air

Article 11.24

(register directive medium-sized combustion plants)

1. There is a national register of medium-sized combustion plants.
2. The register is managed by Our Minister of Infrastructure and Water Management.
3. The register is universally accessible by electronic means.

4. The register contains under all circumstances the data as intended in Article 4.1327 of the Environmental Activities Decree.
5. The data are recorded in the register from the day on which a notification is received or an environmental permit issued.

§ 11.2.2

Article 10.14a

*Quality of the indoor air*¹

(register certification gas incineration appliances)

1. There is a national register in the field of certification of work on gas incineration installations.
 2. The register is managed by Our Minister of the Interior and Kingdom Relations.
 3. The register is universally accessible by electronic means.
 4. The register contains details of certification bodies and certification tables as intended in Article 3.35(a) of the Environmental Quality Decree and data issued by the certification bodies about certificate holders as intended in Article 6.44 of the Environment Structures Decree.
- By ministerial order, further rules are laid down relating to the data included in the register.

Article 10.14b

(data and documents)

1. If a certification body as intended in Article 3.35(a) of the Environmental Quality Decree becomes bankrupt or is awarded a moratorium, they will duly inform Our Minister of the Interior and Kingdom Relations without delay.
2. The certification body will issue data about certificate holders as intended in Article 6.44 of the Environment Structures Decree to the Minister for the national register, as intended in Article 10.14a.
3. On request, the certification body will issue to the Minister all information necessary for the performance of his tasks, free of charge.
4. The certification body will send a report to the Minister, each year, of the work undertaken, the legality and the effectiveness of that work over the past calendar year and the notifications as intended in Article 6.46 of the Environment Structures Decree. By ministerial order, further rules may be laid down with regard to this report.
5. The national accreditation body as intended in Article 2(1) of the National Accreditation Body (Appointment) Act will notify the Minister of the withdrawal or suspension of an accreditation for a certification body.
6. By ministerial order, further rules can be laid down on the exchange of information between certification bodies and the exchange of information between certification bodies and the Minister.

§ 11.2.3

Water quality

§ 11.2.3.1

Monitoring and data collection Water Framework Directive

Article 11.27

(monitoring other parameters water quality)

The following are monitored:

- a. the condition for each quality element of an artificial or heavily altered WFD body of surface water, broken down for the type of WFD body of surface water;
- b. the substances on the attention substance list as intended in Article 8 ter(1) of the Priority Substances Directive;
- c. the indicators that represent a potential threat to the quality of water from WFD bodies of surface water or bodies of groundwater extracted for the preparation of water intended for human consultation;
- d. the trends of concentrations of substances in bodies of groundwater;

¹ The Supplementary Noise Decree reserves this subsection. This subsection is still to be numbered by the Quality Assurance Decree.

- e. *Escherichia coli* or other indicators in shellfish water;
- f. the concentrations of pollutants from existing contamination plumes in a body of groundwater for which additional trend assessments as intended in Article 5(5) of the Groundwater Directive are needed; and
- g. the parameters needed for monitoring for further investigation in cases as intended in Annex V(1.3.3) of the Water Framework Directive.

Article 11.28

(determining monitoring programme Water Framework Directive with method monitoring)

1. Our Minister of Infrastructure and Water Management will determine a monitoring programme Water Framework Directive.
2. The monitoring programme contains the method of monitoring for:
 - a. the status of a body of water per substance and quality element for the assessment of the environmental values as intended in Articles 2.10(1), 2.11(1), 2.13(1), 2.14(1) and 2.15(1); and
 - b. the other parameters as intended in Article 11.27.
3. For the elaboration of the method of monitoring the parameters as intended in Article 11.27(f and g), the monitoring programme will be determined for:
 - a. for WFD bodies of surface water: the administrative bodies authorised on the basis of Articles 4.2(1)(a) and 4.4(1)(a) of the Environment Decree to issue an environmental permit for a discharge activity onto a body of surface water; and
 - b. for bodies of groundwater: provincial executive.

Article 11.29

(further requirements method of monitoring in monitoring programme Water Framework Directive)

1. The aim of the monitoring programme is to obtain a coherent overall picture of the water status within the Dutch part of the river basin districts Rhine, Maas, Schelde and Eems.
2. The monitoring programme will:
 - a. designate the monitoring points; and
 - b. elaborate the indicators as intended in Article 11.27(c and e) and identify the substances as intended in Article 11.27(d).
3. The monitoring programme contains the method of:
 - a. assessing whether for an artificial or heavily altered WFD body of surface water, the good ecological potential as intended in Article 2.12(1) is satisfied;
 - b. assessing whether at the end of the programme period the target of no decline in the status of a body of water as intended in Article 4.15(1) is achieved, during the programme period;
 - c. assessing whether the target of reversing significant and upward trends as intended in Article 4.17(1) is achieved;
 - d. assessing whether the target of no bacterial contamination of shellfish water as intended in Article 4.19 is achieved; and
 - e. assessing whether the targets of improving and the target of no decline in the quality of bodies of water in relation to water extraction locations as intended in Article 4.21 are achieved.
4. The monitoring programme is determined in compliance with the Water Framework Directive, the Groundwater Directive, the Priority Substances Directive and Commission Directive 2009/90/EC of 31 July 2009 laying down, pursuant to Directive 2000/60/EC of the European Parliament and the Council technical specifications for chemical analysis and monitoring of water status (OJEU 2009, L 201).

Article 11.30**(determination and classification status class in monitoring programme Water Framework Directive)**

1. The monitoring programme contains the method of:
 - a. determining the status class of a body of water per substance and quality element; and
 - b. classification of a WFD body of surface water or a body of groundwater in a status class, whereby the classification in a status class complied with:
 1. for a WFD body of surface water: the lowest status class of the chemical status, the ecological status or the ecological potential;
 2. for a body of groundwater, the lowest status class of the quantitative status or the chemical status.
2. The monitoring programme provides for the determination and classification as intended in paragraph one, in the following status classes:
 - a. for a WFD body of surface water:
 1. for the chemical status: a good chemical status and no good chemical status;
 2. for the ecological status: very good ecological status, good ecological status, moderate ecological status, poor ecological status and bad ecological status; and
 3. for ecological potential: good ecological potential, moderate ecological potential, poor ecological potential and bad ecological potential; and
 - b. for a body of groundwater:
 1. for the quantitative status: good quantitative status and poor quantitative status; and
 2. for the chemical status: good chemical status and poor chemical status.

Article 11.31**(requirements data provision in monitoring programme Water Framework Directive)**

The monitoring programme contains requirements on the provision of the monitoring results and their assessment by the executive board of the water authority and provincial executive to Our Minister of Infrastructure and Water Management.

Article 11.32**(testing monitoring programme Water Framework Directive)**

The monitoring programme is tested and as necessary adjusted if an environmental value as intended in Article 2.10(1), 2.11(1), 2.13(1), 2.14(1) or 2.15(1) is not satisfied, or if a good ecological potential as intended in Article 2.12 or a target as intended in Article 4.15(1), 4.17(1) 4.19 or 4.21 is not reached.

Article 11.33**(implementation monitoring of monitoring programme Water Framework Directive)**

1. The administrative bodies authorised on the basis of Articles 4.2(1)(a) and 4.4(1)(a) of the Environment Decree to issue an environmental permit for a discharge activity onto a body of surface water are responsible for implementation of the monitoring in accordance with the monitoring programme for WFD bodies of surface water.
2. Provincial executives are responsible for implementation of the monitoring in accordance with the monitoring programme for bodies of groundwater.

Article 11.34**(data collection protected areas Water Framework Directive)**

The municipal executive, the executive board of a water authority, provincial executive, Our Minister of Agriculture, Nature and Food Quality and Our Minister of Infrastructure and Water Management collect as data the protected areas as intended in Annex IV to the Water Framework Directive in as much as those protected areas are under their management.

Article 11.35**(data collection drawing up river basin management plan)**

The executive board of a water authority, provincial executive and Our Minister of Infrastructure and Water Management collect the necessary data for drawing up river basin management plans as intended in Article 4.6 for the water systems under their management.

Article 11.36**(data collection analyses and assessment Article 5 of the Water Framework Directive)**

1. The municipal council collects the necessary data for the analyses and assessment as intended in Article 5 of the Water Framework Directive in as much as relating to the collection and transport of urban wastewater.
2. The executive board of a water authority, provincial executive and Our Minister of Infrastructure and Water Management collect the necessary data for the analysis and assessment as intended in Article 5 of the Water Framework Directive for the water systems under their management.
3. The administrative bodies as intended in paragraph one perform the analyses and assessment as intended in Article 5 of the Water Framework Directive, for their share.

Article 11.37**(data collection progress implementation of measures)**

The executive board of a water authority, provincial executive and Our Minister of Infrastructure and Water Management collect data concerning the progress of the implementation of the measures as intended in Articles 4.3(1)(preamble and a), 4.4(3) (preamble and a), 4.10(3)(preamble and a) and 6.1 for the water systems under their management.

§ 11.2.3.2***Monitoring Marine Strategy Framework Directive*****Article 11.38****(monitoring Marine Strategy Framework Directive)**

1. Monitoring is used to monitor the environmental status of Dutch marine waters.
2. Monitoring takes place by means of measurement, sampling, counting or the collection of data in some other way.
3. In preparation for the programme of marine strategy measures and in implementation of paragraph one and two, in consultation with Our Minister of Agriculture, Nature and Food Quality, Our Minister of Infrastructure and Water Management draws up the monitoring programme as intended in Article 11(1 and 2) of the Marine Strategy Framework Directive.
4. In consultation with Our Minister of Agriculture, Nature and Food Quality, Our Minister of Infrastructure and Water Management is responsible for implementation of the monitoring.

§ 11.2.3.3***Data collection Urban Wastewater Directive*****Article 11.39****(data collection regarding collection, transport and treatment of urban wastewater and disposal of sludge)**

The competent authority responsible for a water treatment plant collects data about the status regarding the collection, transport and treatment of urban wastewater and the disposal of sludge.

§ 11.2.3.4***Data management Water Framework Directive*****Article 11.40****(register protected areas Water Framework Directive)**

1. There are one or more registers of the protected areas as intended in Article 11.34.
2. The register or registers are managed by Our Minister of Infrastructure and Water Management in compliance with Article 6 of the Water Framework Directive.
3. The register is constantly updated.

§ 11.2.3.5

Reports Water Framework Directive

Article 11.41

(report other parameters water quality)

The executive board of a water authority, provincial executive and Our Minister of Infrastructure and Water Management draw up a report on the results of the monitoring of the other parameters for water quality as intended in Article 11.27.

§ 11.2.3.6

Reports Urban Wastewater Directive

Article 11.42

(report regarding collection, transport and treatment of urban wastewater and disposal of sludge)

Our Minister of Infrastructure and Water Management draws up a report on the status of the collection, transport and treatment of urban wastewater and the disposal of sludge as intended in Article 11.39, as issued by the competent authority responsible for a water treatment plant on the basis of Article 10.35(1) of the Environment Decree.

§ 11.2.4

Quality of the bathing site

Article 11.43

(monitoring of environmental value bathing sites)

1. The monitoring for the environmental value for bathing sites as intended in Article 2.19 takes place by means of sampling, measurement, calculation and analysis of the percentile values of intestinal enterococci and Escherichia coli in accordance with the rules laid down by ministerial order.
2. The manager of the body of surface water in which the bathing site is located is responsible for implementation of the monitoring.

Article 11.44

(monitoring other parameters bathing site)

1. At a bathing site, the following are monitored by monitoring of:
 - a. possible excess growth of cyanobacteria;
 - b. trend towards excess growth of macroalgae or marine phytoplankton; and
 - c. bathing water pollution by tar-like residues, glass, plastic, rubber or other waste.
2. Monitoring of the possible excess growth of cyanobacteria takes place in compliance with the Blue Green Algae Protocol.
3. Monitoring of bathing water pollution as intended in paragraph one (preamble and c) takes place by visual inspection.
4. The manager of the body of surface water in which the bathing site is located is responsible for implementation of the monitoring.

§ 11.2.5

Noise

§ 11.2.5.1

Monitoring and data collection

Article 11.45

(monitoring noise production ceilings as environmental values)

1. Monitoring for noise production ceilings as environmental values takes place by calculating the noise at noise reference points in accordance with the rules laid down by ministerial order.
2. For the assessment of whether the noise production ceilings as environmental values applicable for a road or railway are satisfied, a noise restricting measure consisting of a structure or building will only be included if it is part of the noise source data accompanying the noise production ceiling and is present.
3. In assessing whether the noise production ceilings as environmental values for an industrial estate are satisfied, a structure or building will only be included if present.
4. The following administrative bodies or organisations are responsible for implementing the monitoring:
 - a. the municipal executive for industrial estates:

- b. provincial executives for roads and local railways designated by environment regulation and for industrial estates for which the provincial council has imposed noise production ceilings as environmental values;
- c. Our Minister of Infrastructure and Water Management for roads designated by ministerial order; and
- d. the manager as intended in Article 1(1) of the Railways Act for mainline railways designated by ministerial order.

Article 11.46

(data collection basic noise emission)

1. The municipal executive collects details for the basic noise emission of:
 - a. municipal road; and
 - b. local railways in as much as not designated by environment regulation.
2. The executive board of the water authority collects data for the basic noise emission from water authority roads.
3. The data will be collected at the latest by the time determined by Royal Decree:
 - a. for the basic noise emission in the year in which this Article comes into effect, for:
 1. municipal roads and water authority roads with a traffic intensity of 4,500 motor vehicles or more per day;
 2. local railways; and
 3. municipal roads and local railways for which, subject to Article 3.27(2), the basic noise emission is based on the noise caused by those municipal roads and the associated local railways together; and
 - b. for the basic noise emission at the latest in the year 2026 for municipal roads and water authority roads with a traffic intensity of more than 1,000 but fewer than 4,500 motor vehicles per day.
4. Under all circumstances, the data include:
 - a. the noise source data; and
 - b. the noise focus area.
5. The traffic intensity of roads and local railways, as intended in paragraph three (a) will be counted or calculated. The traffic intensity of roads as intended in paragraph three (b) will be counted, calculated or estimated.

Article 11.47

(monitoring other parameters noise caused by municipal roads, water authority roads and local railways without noise production ceilings)

1. By means of monitoring, the difference between the noise emission in L_{den} and the basic noise emission from municipal roads, water authority roads and local railways is monitored, in as much as not designated by environment regulation.
2. The difference between the noise emission and the basic noise emission is calculated for:
 - a. roads with a traffic intensity of 4,500 motor vehicles or more per day; and
 - b. local railways
3. The difference between the noise emission and the basic noise emission is calculated or estimated for roads with a traffic intensity of fewer than 4,500 motor vehicles per day.
4. The following administrative bodies are responsible for implementing the monitoring:
 - a. the municipal executive for municipal roads and local railways in as much as not designated by environment regulation; and
 - b. the executive board of the water authority for water authority road.
5. The calculation of the noise emission and estimate of the difference between the noise emission and the basic noise emission are subject to rules laid down by ministerial order.

Article 11.48

(data collection for monitoring)

For the implementation of the monitoring, the municipal executive and the executive board of a water authority will under all circumstances collect the noise source data and the related data.

Article 11.49**(data collection important roads, railways and airports)**

1. The provincial executive will keep records of:

- a. the roads or parts of roads, not being roads managed by the State, on which in the subsequent calendar year a vehicle is expected to pass on more than three million occasions;
- b. the railways or parts of railways, not being mainline railways or railways located in an agglomeration designated by ministerial order, on which in the subsequent calendar year a train is expected to pass more than 30,000 times; and
- c. on which civilian airports of regional importance, in the subsequent calendar year, more than 50,000 aircraft movements are expected to take place, not including training flights with light aircraft.

2. Our Minister of Infrastructure and Water Management will record at which other civil airports of national importance, in the subsequent calendar year, more than 50,000 aircraft movements are expected to take place, not including training flights by light aircraft.

Article 11.50**(data collection for noise load maps)**

1. The municipal executive of a municipality that belongs to an agglomeration designated by ministerial order will collect data on the noise load L_{den} and noise load L_{night} caused by:

- a. roads and railways as intended in Article 3.6(1)(a and b) of the Act;
- b. airports as intended in Article 3.6(1)(c) of the Act in as much as the noise load within the municipality is more than 55 dB L_{den} or 50 dB L_{night} ; and
- c. an activity or combination of activities as intended in Article 3.6(1)(d) of the Act in as much as relating to:
 1. activities performed on an industrial estate for which noise production ceilings have been specified as environmental values and the noise caused by that industrial estate is more than 55 dB L_{den} or 50 dB L_{night} ;
 2. activities in an area for which in the environment plan for the long-term average assessment level $L_{Ar,LT}$ for noise a higher value is set than the standard value as intended in Article 5.65(1)(preamble and a),(2)(3)(4) and the noise load caused by those activities on surrounding noise sensitive buildings can be more than 55 dB L_{den} or 50 dB L_{night} ;
 3. activities outside an area as intended in 2° and the highest permitted noise load caused by those activities is more than 55 dB L_{den} or 50 dB L_{night} ;

2. The provincial executive will collect data on the noise load L_{den} and noise load L_{night} caused by important roads, important railways and important civil airports of regional importance published on the basis of Article 10.40(2)(a) of the Environment Decree.

3. Our Minister of Infrastructure and Water Management will collect data about the noise load L_{den} and noise load L_{night} caused by roads and railways as intended in Article 3.9(1)(b) (1° and 2°) of the Act, Schiphol Airport as intended in Article 3.9(1)(b)(3°) of the Act and the other important civil airports of national importance published on the basis of Article 10.40(2)(b) of the Environment Decree.

4. Data collection takes place by calculating:

- a. the noise load L_{den} and noise load L_{night} caused by the noise sources as intended in paragraphs one through to three, in the calendar year prior to that of the determination of a noise source map; and
- b. the number of noise sensitive buildings and residents of dwellings exposed to the values of the noise load L_{den} and noise load L_{night} laid down by ministerial order.

5. Calculation of the noise load L_{den} and noise load L_{night} are subject to the rules laid down by ministerial order.

§ 11.2.5.2

Data management

Article 11.51

(noise register)

1. There is a national noise register.
2. The noise register is managed by Our Minister of Infrastructure and Water Management.
3. The noise register is universally accessible by electronic means.

Article 11.52

(content of noise register)

1. The noise register under all circumstances contains the following data:
 - a. For the noise caused by roads, railways and industrial estates with noise production ceilings as environmental values:
 1. the value of the noise production ceiling;
 2. an indication of the decision according to which the noise production ceiling was determined;
 3. the location of the noise reference point;
 4. the noise source data;
 5. the noise focus area;
 6. the noise at a noise reference point as intended in Article 11.45(1) for each calendar year;
 7. for roads and railways, the calendar year to which the noise source data relate;
 - b. for the noise caused by roads and railways with a basic noise emission:
 1. the value of the basic noise emission per road, railway or part thereof;
 2. the noise source data;
 3. the noise focus area;
 4. the difference between the noise emission L_{den} and the basic noise emission as intended in Article 11.47;
 5. the calendar year to which the noise source data relate;
 - c. for the noise caused by aviation: the 48 L_{den} noise contour, the 20 Cost units noise contour and the 1 dB L_{den} noise contours located within those contours;
 - d. for the noise caused by a wind turbine or a wind farm on an industrial estate: the noise source data; and
 - e. for the noise caused by a civilian outdoor shooting range, a military outdoor shooting range or a military explosive ordnance site on an industrial estate:
 1. the area within which the noise is higher than 50 dB $B_{s,dan}$; and
 2. the 1 dB $B_{s,dan}$ noise contours located within those contours.
2. The data as intended in paragraph one (a)(4°) cannot be derived to activities if relating to information classified as state secret as intended in the Information Protection Regulation Decree of the Government Special Information Agency 2013 (VIRBI 2013).
3. The data as intended in paragraph one will be recorded without delay in the noise register following receipt by Our Minister of Infrastructure and Water Management.

§ 11.2.5.3

Maps

Article 11.53

(obligation to draw up noise load maps)

1. The municipal executive of a municipality that belongs to an agglomeration designated by ministerial order will draw up noise load maps for the noise sources as intended in Article 11.50(1).
2. Provincial executives will draw up noise load maps for the noise sources as intended in Article 11.50(2).
3. Our Minister of Infrastructure and Water Management will draw up noise load maps for the noise sources as intended in Article 11.50(3).

- Article 11.54** (reproduction of data on noise load maps)
Noise load maps under all circumstances reproduce those data as intended in Article 11.50(4) and quiet areas as intended in Articles 4.23(2) and 4.24(2).
- § 11.2.6 **PRTR**
- § 11.2.6.1 **General provisions**
- Article 11.55** (definitions)
For application of subsection 11.2.6 the following definitions apply:
competent authority: administrative body as intended in Article 11.56;
activity: activity as intended in Annex I to the PRTR Regulation.
- § 11.2.6.2 **Data collection**
- Article 11.56** (designation of administrative bodies data issuing PRTR)
The administrative body authorised to decide on application for an environmental permit for an environmentally harmful activity as intended in Annex I to the regulation is designated as the body as intended in Article 2(2) of the PRTR Regulation.
- Article 11.57** (quality assessment PRTR report)
1. The competent authority assesses the quality of the PRTR report at the latest by 30 June of the calendar year following the reporting year.
2. At the latest on the date as intended in paragraph one, the competent authority may declare that the PRTR report does not comply with Article 5.10, 5.12 or 5.13 of the Environmental Activities Decree.
3. The competent authority may postpone the release of the statement for a maximum of three months.
4. After the date as intended in paragraph one or, if paragraph three applies, after the date specified by that application, the competent authority can still declare that the PRTR report does not meet the requirements if:
a. the report contains incorrect or incomplete data; or
b. the report is incorrect in some other way and the party submitting the report is aware or should be aware of that fact.
5. The authority as intended in paragraph four expires five year after the end of the reporting year.
- Article 11.58** (non-timely submission PRTR report)
If a PRTR report is not submitted on time, at the latest on 30 September of the calendar year following the reporting year, the competent authority may declare that no PRTR report has been submitted.
- Article 11.59** (coming into effect of statement of non compliant or non-timely submitted report)
A statement as intended in Article 11.57(2 or 4) or 11.58 comes into effect from the day on which four weeks have expired since the day on which that statement was announced. If during that term, a request for a temporary order is submitted to the competent court, the statement will not come into effect before that request has been decided on.
- Article 11.60** (confidentiality of data)
1. At the request of the party performing the activity, or following an official request, the competent authority may decide that certain of the data contained in a PRTR report will not be issued to Our Minister of Infrastructure and Water Management. Article 10 of the Dutch Government Information (Public Access) Act (*Wet Openbaarheid van Bestuur*) applies accordingly.

2. An official decision as intended in paragraph one will be taken at the latest on 30 September of the calendar year following the reporting year.
3. A decision as intended in paragraph one will come into effect starting from the day on which four weeks have expired since the day on which the decision was announced. If during that term, a request for a temporary order is submitted to the competent court, the decision will not come into effect before that request has been decided on.

Article 11.61**(data collection diffuse sources)**

Our Minister of Infrastructure and Water Management collects data on emissions by pollutants from diffuse sources as intended in Article 2(preamble and 9) of the PRTR protocol, in as much as the inclusion of those data in the PRTR is practicable. The data also contain information about the method employed for collecting the data.

§ 11.2.6.3**Data management****Article 11.62****(PRTR)**

1. There is a PRTR that contains data about the emission and transfer of pollutants.
2. The PRTR is managed by Our Minister of Infrastructure and Water Management in compliance with Article 5 of the PRTR protocol.
3. The PRTR is universally accessible by electronic means.

Article 11.63**(minimum content PRTR)**

1. The PRTR contains:
 - a. the data issued and statements reported to Our Minister of Infrastructure and Water Management in compliance with Article 10.44 of the Environment Decree; and
 - b. the data collected in compliance with Article 11.61 about emissions of pollutant from diffuse sources, in as much as those data contain a sufficient degree of spatial detailing;
2. If data are included in the PRTR about emissions of pollutants from diffuse sources, the method according to which those data were collected will also be specified.
3. If the competent authority has not issued to Our Minister of Infrastructure and Water Management data contained in the PRTR report subject to Article 10.45 of the Environment Decree, the PRTR contains:
 - a. the type of information that has been kept confidential;
 - b. in a case as intended in Article 10.45(3) of the Environment Decree: the name of the group of pollutants to which the pollutant that has been kept confidential belongs;
 - c. the ground for exception from Article 10 of the Government Information (Public Access) Act on the basis of which the decision to keep the information confidential was taken; and
 - d. the summary of the arguments supporting the decision to keep information confidential.

Section 11.3**Preservation of cultural heritage and world heritage****§ 11.3.1****Data collection****Article 11.64****(data collection environmental permits national monument activity)**

The municipal executive and, in as much as a national monument or provisionally protected national monument is located outside the provincial and municipally designated area, Our Minister of Education, Culture and Science, collect the following data on environmental permits for a national monument activity:

- a. the date of the environmental permit;
- b. the reference of the environmental permit;

- c. the location of the national monument or provisionally protected national monument to which the environmental permit relates and the relevant land registry data of that location; and
- d. the nature of the activity for which the environmental permit was issued.

§ 11.3.2

Article 11.65

Data management

(register environmental permits national monument activity)

1. There are registers of environmental permits for a national monument activity.
2. A register as intended in paragraph one is managed by the municipal executive or, if a national monument or a provisionally protected national monument is located outside the provincially and municipally designated area, by Our Minister of Education, Culture and Science.
3. The registers are public.
4. The registers under all circumstances contain the data as intended in Article 10.64.
5. The data as intended in Article 10.64 are recorded in the register within one week following the day on which the environmental permit is issued.

Section 11.4

Tackling climate change

Article 11.66

(monitoring greenhouse gases)

1. By means of monitoring, the emissions of greenhouse gases as intended in Annex V, part 2 of the Governance Regulation of the energy union are monitored.
2. Monitoring takes place for those greenhouse gases by drawing up the greenhouse gas inventories as intended in Article 26 of the Governance Regulation of the energy union, and the national inventory system as intended in Article 37 of that Regulation.
3. Our Minister of Economic Affairs and Climate Policy is responsible for implementation of the monitoring.

Section 11.5

Nature

Article 11.67

(monitoring conservation status and targets)

1. The following are monitored:
 - a. the conservation status of:
 1. the bird species referred to in Annex I to the Birds Directive, and the migratory bird species regularly occurring in the Netherlands not referred to in that Annex;
 2. the natural habitats and habitats of species referred to in Annexes I and II to the Habitats Directive; and
 3. the animal and plant species referred to in Annexes IV and V to the Habitats Directive; and
 - b. the progress of the efforts to reach the targets from the Birds Directive and Habitats Directive.
2. Our Minister of Agriculture, Nature and Food Quality is responsible for implementation of the monitoring of the conservation status for the habitats and species.
3. Our Minister of Agriculture, Nature and Food Quality and provincial executives together are responsible for the monitoring of the progress of the efforts to reach the targets from the Birds Directive and Habitats Directive.

Article 11.68

(monitoring environmental value nitrogen deposition)

[Reserved]

Article 11.69**(collection of data programme nitrogen reduction and nature improvement)**

[Reserved]

Article 11.70**(registration of nitrogen deposition capacity)**

1. Our Minister of Agriculture, Nature and Food Quality collects data about the nitrogen deposition capacity expressed in mol nitrogen per hectare per year, available for the Natura 2000 activities as a consequence of the reduction of nitrogen deposition in Natura 2000 areas due to the following source measures:

- a. the reduction of the speed limit for national trunk roads as a consequence of the decision Our Minister of Infrastructure and Water Management of 19 December 2019, reference RWS-2019/45657, Netherlands Government Gazette 2019, 71032).
- b. the irreversible closure of a pig farming location on the basis of Article 4(1) of the Subsidy Scheme for the financial incentives to halt pig farming; and
- c. other measures designated as source measures by ministerial order, for application of this Article.

2. The competent authority that subject to Article 8.74e decides on an application for an environmental permit for a Natura 2000 activity that causes nitrogen deposition at nitrogen-sensitive habitats in a Natura 2000 area, by using the nitrogen deposition capacity as intended in paragraph one, will collect the following data:

- a. reservations of nitrogen deposition capacity with a view to allocation to environmental permits for Natura 2000 activities and the expiry of those reservations;
- b. the allocated nitrogen deposition capacity for environmental permits for a Natura 2000 activity;
- c. the nitrogen deposition capacity once again made available following an amendment or withdrawal of a reservation or an application for an environmental permit for a Natura 2000 activity or following the ending of that activity; and
- d. the conversion of nitrogen deposition capacity allocated in a void environmental permit for a Natura 2000 activity into nitrogen deposition capacity reserved for the affected Natura 2000 activity.

3. Notwithstanding paragraph two, the administrative body which on the basis of Article 4.25 or 4.31 of the Environment Decree has decided to approve the proposed decision on the application for an environmental permit or that on the basis of Article 4.37 of that decree or Article 16.16(4) of the Act has determined that approval is not required, is responsible for the data collection as intended in paragraph two, if nitrogen deposition capacity is reserved for or allocated in a decision on the application for that environmental permit, to be taken or taken by another administrative body.

4. For application of this Article, Natura 2000 activity will be taken to mean a Natura 2000 activity as intended in Article 8.74e.

Article 11.71**(register nitrogen deposition capacity)**

1. There is a register of nitrogen deposition capacity.
2. The register is managed by Our Minister of Agriculture, Nature and Food Quality.
3. The register contains the data as intended in Article 11.70.
4. The register is constantly updated.
5. Our Minister of Agriculture, Nature and Food Quality includes not more than 70% of the reduction of nitrogen deposition due to a source measure as intended in Article 11.70(1) in the register, as nitrogen deposition capacity. The percentage is not more than 100% if the nitrogen deposition capacity is intended for the issuing of environmental permits for a Natura 2000 activity for projects that complied with the conditions of Article 2.12 of the Nature Conservation Decree, as that decree read on 31 December 2019.
6. Our Minister of Agriculture, Nature and Food Quality will only include nitrogen deposition capacity that is the result of reduction of the nitrogen deposition by a source measure in the register:

- a. if for that measure a statutory regulation, a decision or an agreement is required: after that regulation or decision has come into effect or the agreement has come into force;
- b. in as much as the reduction of nitrogen deposition can be accurately recorded, with certainty; and
- c. if enforcement of the statutory regulations or agreed conditions and restrictions relating to the source measure is sufficiently ensured.

Article 11.72**(registration of reservations register nitrogen deposition capacity)**

1. Reservations of nitrogen deposition capacity as intended in Article 8.74e(4) are registered in the order in which the applications for an environmental permit for a Natura 2000 activity are received.
2. If Our Minister of Infrastructure and Water Management intends to use nitrogen deposition capacity for a project decision as intended in Article 8.74e(3)(b), which is obtained as a result of the reduction of the speed limit on national trunk roads as intended in Article 11.70(1)(a), he will temporarily reserve that capacity for a period of not more than two months. He may extend this term by not more than two months.
3. In as much as the same nitrogen deposition capacity is required for both one or more housing projects and a project decision as intended in paragraph two, Our Minister of Infrastructure and Water Management will only convert the temporary reservation into a definitive reservation following application of Article 2.2 of the Act.

Article 11.73**(collection of data insurance hunting rifle)**

The chief constable collects the data contained in the policy of the insurance as intended in Article 11.78 of the Environmental Activities Decree.

Chapter 12 Transitional law

Section 12.1 Transitional law noise

§ 12.1.1

Noise production ceilings industrial estates

Article 12.1

(definitions)

For application of this subsection, the following definitions shall be taken to mean: *present industrial estate* industrial estate as intended in Article 3.6 of the Noise Act Supplementing the Environment and Planning Act;

limit value Noise Abatement Act:

- a. higher value as intended in Article IX of the Supplementary Decree Noise Environment and Planning Act; and
- b. limit value of 50 dB(A) day value at each point of the external boundary of a noise focus area as intended in Article 12.7(2).

Article 12.2

(first noise production ceilings for a present industrial estate)

1. Notwithstanding Articles 3.34, 3.35 and 3.37 through to 3.40, a noise production ceiling as intended in Article 3.6(2 and 3) of the Noise Act Supplementing the Environment and Planning Act will be determined as an environmental value on the basis of the noise production on that industrial estate that is permitted in the case of maximum utilisation of the limit value in the Noise Abatement Act.
2. In determining the noise production as intended in paragraph one:
 - a. noise rules that form part of the rules from the environment plan for that industrial estate; and
 - b. the following provisions adopted for that industrial estate will be taken into account:
 1. zone management plan as intended in Article 164 of the Noise Abatement Act and applicable at the moment of the Noise Act Supplementing the Environment and Planning Act coming into effect; and
 2. programme as intended in Article 3.6(5) of the Noise Act Supplementing the Environment and Planning Act;
 - c. environmental permits for an environmentally harmful activity as intended in Article 5.1(2)(preamble and b) of the Act and the regulations imposed on those permits will be taken into account.
3. If due to application of paragraph two(a or d), the noise at a reference point becomes higher than the noise intended in paragraph one, in the case of maximum utilisation of the limit values of the Noise Abatement Act, the noise production ceiling will be determined in accordance with paragraph one, and for that noise production ceiling, Article 3.46(2) will apply.
4. A noise production ceiling determined subject to paragraph one as an environmental value, at the moment that production ceiling is determined will be:
 - a. reduced by the noise caused by railway vehicles on railway marshalling yards as intended in Article 3.24(2)(a); and
 - b. increased by the noise caused by moored vessels or floating equipment if that noise was not previously included in determining the limit values of the Noise Abatement Act.

Article 12.3

(existing industrial estate to which reasonable summation has been applied)

1. If in determining a limit value in the Noise Abatement Act, a deduction has been applied as intended in Article 2.3(2) of the Calculation and Measurement Regulations Noise 2012, in application of Article 12.2(1), the limit value will be raised by the value of the deduction.
2. If in application of Article 12.2(1), in the case of an existing industrial estate a deduction is applied as intended in Article 2.3(2) of the Calculation and Measurement Regulations

Noise 2012, the noise production ceiling determined as the environmental value for that industrial estate as determined in application of Article 12.2 in determining the noise production ceiling, the same deduction will be applied.

Article 12.4

(other time and other term within which the noise production ceiling is complied with)

1. If at the moment of application of Article 12.2(1) for the existing industrial estate a noise reduction plan applied as intended in Article 67 of the Noise Abatement Act, in determining the noise production ceiling as an environmental value as specified on the basis of Article 12.2(1), it is specified that during the term referred to in that noise reduction plan, the noise production ceiling need not be complied with.
2. If Article 12.3(2) is applied, notwithstanding Article 3.44, during a period of not more than five years, the noise production ceiling need not be complied with, whereby the noise production ceiling may be exceeded by not more than the value of the deduction.

§ 12.1.2

Noise production ceilings mainline railways

Article 12.5

(first noise production ceilings for mainline railways with the noise caused by railway vehicles on railway marshalling yards)

1. Notwithstanding Articles 3.34, 3.35, 3.37 through to 3.40, Our Minister of Infrastructure and Water Management will alter a noise production ceiling recalculated on the basis of Article 3.2(1) of the Noise Act Supplementing the Environment and Planning Act, for a mainline railway, by the noise permitted at the moment that this decree comes into effect, caused by railway vehicles on railway marshalling yards that form part of the mainline railway.
2. The changing of the noise production ceiling is subject to the rules laid down by ministerial order.

§ 12.1.3

Noise production ceilings provincial roads

Article 12.6

(first noise production ceilings for existing provincial roads)

1. Notwithstanding Articles 3.34 through to 3.40, a noise production ceiling as intended in Article 3.5 of the Noise Act Supplementing the Environment and Planning Act is the historical noise production calculated by the provincial council relating to the calendar year in which the Noise Act Supplementing the Environment and Planning Act comes into effect, a calendar year that is at least five years prior to that moment or an average of several of those calendar years, at the noise reference points duly designated by them, raised by 1.5 dB.
2. Notwithstanding paragraph one and notwithstanding subsection 3.5.4.2, the noise production ceiling, as intended in Article 3.5 of the Noise Act Supplementing the Environment and Planning Act, may be determined on the basis of:
 - a. a decision on construction or reconstruction of a road;
 - b. recently taken spatial decisions; or
 - c. the data from paragraph one, whereby the effect of a silent road surface if constructed without this having been necessary on the basis of the Noise Abatement Act, cannot be taken into account.
3. Paragraph two (b and c) is only applied if the consequences for the physical environment are considered acceptable.

§ 12.1.4

Noise focus area

Article 12.7

(temporary noise focus area)

1. If Article 3.2(1) of the Noise Act Supplementing the Environment and Planning Act is applied, the noise focus area will also be determined.

2. Until Article 3.5(2) of the Noise Act Supplementing the Environment and Planning Act is applied, the noise focus area of a provincial road is the noise zone as intended in Article 74 of the Noise Abatement Act.

3. Until Article 3.6(2) of the Noise Act Supplementing the Environment and Planning Act is applied, the noise focus area of an industrial estate is the noise zone determined pursuant to Article 40 of the Noise Abatement Act.

§ 12.1.5

Permit-exempt structures and permit-exempt use for accommodation in connection with informal care

Article 12.8

(permit-exempt buildings and informal care housing dowry not noise sensitive)

In application of Section 3.5 and subsections 5.1.4.2a.2, 5.1.4.2a.3, 5.1.4.2a.5 and 5.1.4.2a.6, a noise sensitive building will not be taken into account if relating to:

- a. an accompanying structure that is only permitted on the basis of Article 22.36 (preamble and a)(1° or 2°) of the temporary part of the environment plan, as intended in Article 22.1(c) of the Act; or
- b. a structure in which accommodation is only permitted in connection with informal care, on the basis of Article 22.36 (preamble and c) of the temporary part of the environment plan, as intended in Article 22.1(c) of the Act.

Article 12.9

(exclusion of permit-exempt non-realised building and use options of grandfather clause)

1. Notwithstanding Article 5.78r(2), subsection 5.1.4.2a.4 does apply to:

- a. an accompanying structure as intended in Article 22.36(a)(1°) of the temporary part of the environment plan, as intended in Article 22.1(c) of the Act, that is not built at the moment of adoption of the environment plan;
- b. an accompanying structure as intended in Article 22.36(a)(2°) of the temporary part of the environment plan, as intended in Article 22.1(c) of the Act; and
- c. accommodation in connection with informal care as intended in Article 22.36(c) of the temporary part of the environment plan.

2. Paragraph one does not apply in as much as relating to accommodation in connection with informal care existing at the time of adoption of the environment plan, if it is determined in the environment plan that only that form of housing is permitted.

Article 12.10

(existing informal care housing permanently not noise sensitive)

In application of Section 3.5 and subsections 5.1.4.2a.2, 5.1.4.2a.3, 5.1.4.2a.5 and 5.1.4.2a.6, a noise sensitive building that was taken into use before the date as intended in Article 22.4 of the Act, for accommodation in connection with informal care, and where only that form of housing is permitted, will not be taken into account.

§ 12.1.6

Remediation of noise caused by infrastructure municipality, water authority and province

Article 12.11

(scope)

1. This subsection applies to noise sensitive buildings recorded on the list as intended in Article 15.2 of the Environment Decree.
2. This subsection also applies to noise sensitive buildings recorded in the programme as intended in Article 12.12, 12.13 and 12.13a respectively, if:
 - a. those noise sensitive buildings are recorded on the basis of Article 88 of the Noise Abatement Act, as it read before 1 January 2007, or Article 4.17 of the Noise Abatement Decree, as it read before 1 July 2012, within the term specified in those Articles; and

- b. the noise caused by the provincial road, water authority road, municipal road or local railway at those buildings is less than 5 dB lower than the noise as intended in Article 15.2(2) of the Environment Decree.
- 3. In application of paragraph two, Article 15.2(3) of the Environment Decree applies accordingly.
- 4. Article 3.23 applies accordingly.

Article 12.12**(remediation noise infrastructure municipality)**

1. A programme as intended in Article 22.18(1) of the Act contains noise restricting measures aimed at limiting the noise at the buildings listed below, in as much as located in the noise focus area of a municipal road or a local railway not designated by environment regulation, to not more than:
 - a. 70 dB for the buildings as intended in Article 15.2(2)(d) of the Environment Decree; and
 - b. 65 dB for the buildings, as intended in Article 12.11(2).
2. If insufficient noise restricting measures can be taken to comply with paragraph one, the municipal executive will take a decision as intended in Article 2.43 of the Act. Articles 3.53 and 3.54 apply accordingly, whereby in determining the combined noise, the noise caused by the municipal road or local railway will be increased by 1.5 dB.
3. Notwithstanding paragraph two, the decision on a building location on the territory of another municipality will be taken by the municipal executive of that municipality.

Article 12.13**(remediation noise infrastructure water authority)**

1. A programme as intended in Article 22.18(2) of the Act contains noise restricting measures aimed at limiting the noise at the buildings listed below, in as much as located in the noise focus area of a water authority road, to not more than:
 - a. 70 dB for the buildings as intended in Article 15.2(2)(d) of the Environment Decree; and
 - b. 65 dB for the buildings, as intended in Article 12.11(2).
2. If insufficient noise restricting measures can be taken to comply with paragraph one, the executive board of the water authority will take a decision as intended in Article 2.43 of the Act. Articles 3.53 and 3.54 apply accordingly, whereby in determining the combined noise, the noise caused by the water authority road will be increased by 1.5 dB.
3. Notwithstanding paragraph two, the decision on a building location on the territory of another water authority will be taken by the municipal executive of that municipality where the building is located.

Article 12.13a**(remediation noise infrastructure province)**

1. A programme as intended in Article 22.18(3) of the Act contains noise restricting measures aimed at limiting the noise at the buildings listed below, in as much as located in the noise focus area of a provincial road or a local railway designated by environment regulation, to not more than:
 - a. 70 dB for the buildings as intended in Article 15.2(2)(d) of the Environment Decree if the noise originates from a provincial road located within a built-up area determined pursuant to the Road Traffic Act 1994, or of a local railway;
 - b. 65 dB for the buildings as intended in Article 15.2(2)(b) of the Environment Decree if the noise originates from a provincial road located outside the built-up area;
 - c. 65 dB for the buildings as intended in Article 12.11(2) if the noise originates from a provincial road located within the built-up area or from a local railway; and
 - d. 60 dB for the buildings as intended in Article 12.11(2) if the noise originates from a provincial road located outside the built-up area;
2. If insufficient noise restricting measures can be taken to comply with paragraph one, the provincial executive will take a decision as intended in Article 2.43 of the Act. Articles 3.53 and 3.54 apply accordingly.

3. Notwithstanding paragraph two, the decision on a building location on the territory of another province will be taken by the municipal executive of that municipality where the building is located.

Article 12.13b

(conditions noise restricting measures)

For application of Articles 12.12 through to 12.13a, noise restricting measures will be considered if financially effective and in the absence of dominant objections of an architectural, traffic management, transport management, landscape or technical nature.

Article 12.13c

(reduction of noise production ceiling)

If application of Article 12.13a results in a reduction of the noise at a noise sensitive building, the noise production ceilings determined as environmental values will be reduced in accordance with the effect of the noise restricting measures as intended in Article 12.13a(1).

Article 12.13d

(remediation combined with determination or amendment or noise production ceiling)

1. In the event of a decision to determine noise production ceilings as environmental values as intended in Article 2.13a(1) of the Act, and if Article 12.13a(1) has not yet been applied, in that decision, the noise restricting measures can also be determined to comply with Article 12.13a(1).
2. In the adoption of the decision as intended in paragraph one, the noise at the noise sensitive buildings as intended in Article 12.13a(1) may not be higher than the values indicated in that Article.
3. If insufficient noise restricting measures can be taken to comply with Article 12.13a(1), the provincial executive will take a decision as intended in Article 2.43 of the Act. Articles 3.53 and 3.54 apply accordingly.

§ 12.1.7

Non-noise sensitive facades

Article 12.13e

(non-noise sensitive facade on the basis of old law)

Section 3.5 and subsections 5.1.4.2, 5.1.4.2a.3, 5.1.4.2a.5 and 5.1.4.2a.6 do not apply to:

- a. an architectural structure that was not viewed as a facade on the basis of Article 1b(4) of the Noise Abatement Act;
- b. a facade for which according to the City and Environment Interim Act, the statutory standards for noise were deviated from.

Article 12.13f

(new non-noise sensitive facades in the case of provincial roads and industrial estates)

If in application of Article 3.5(1) or 3.6(1) of the Noise Act Supplementing the Environment and Planning Act, use is made of Article 1b(4) of the Noise Abatement Act, it is determined for the architectural structure that this is a non-noise sensitive facade with architectural measures.

Article 12.13g

(non-noise sensitive facade adapted from temporary part of environment plan)

1. It is determined in the environment plan that:
 - a. an architectural structure that was not viewed as a facade on the basis of Article 1b(4) of the Noise Abatement Act is a non-noise sensitive facade with architectural measures;
 - b. a facade for which according to the City and Environment Interim Act, the statutory standards for noise were deviated from, is a non-noise sensitive facade.
2. Paragraph one may be set aside if the noise at the facade is not higher than the limit value as intended in Table 5.78u.

§ 12.1.8

Stricter limit values

Article 12.13h

(stricter limit values)

1. An environment plan that permits a noise sensitive building in the noise focus area of a mainline railway can provide for the noise at that building to be higher than the limit value as intended in Table 5.78u, if:

- a. this value is not more than 3 dB higher than the limit value; and
- b. for that building, an acoustic survey is performed before 1 January 2021.

2. An environment plan that permits a noise sensitive building within a built area determined pursuant to the 1994 Road Traffic Act in the noise in the noise focus area of national trunk road that is not a highway or motorway can provide for that the noise at that building to be higher than the limit value as intended in Table 5.78u, if:

- a. this value, following application of the deduction as intended in Article 110g of the Noise Abatement Act is not more than 3 dB higher than the limit value; and
- b. for that building, an acoustic survey is performed before 1 January 2021.

3. This Article expires 10 years after the date that this decree comes into effect.

§ 12.1.9

Activities industrial estates

Article 12.13i

(transitional law activities industrial estates)

In Articles 5.55(2)(a and d), 5.63(b), 5.79 (2)(a), 5.100(1 and 2) and 8.18(3)(a) 'Industrial estate for which noise production ceilings have been determined as environmental values' will also be taken to mean an industrial estate present at the time when this decree comes into effect as intended in Article 12.1, until around that industrial estate, noise production ceilings have been determined as environmental values pursuant to Article 12.2 and the decision according to which those noise production ceilings are determined has come into effect.

§ 12.1.10

Noise wind turbines and wind farms

Article 12.13j

(temporary instruction rule noise wind turbines and wind farms)

Until a moment to be determined by royal decree, the environment plan for a wind turbine or wind farm contains no lower values in connection with cumulation of the noise from a wind turbine or wind farm that belongs to a combination of activities for which a permit came into effect and was irrevocable or was notified, up to 1 January 2011.

§ 12.1.11

Repair of shortcomings in recalculation and initial setting of noise production ceilings

Article 12.13k

(repair of shortcomings in recalculation and initial setting of noise production ceilings)

1. If a shortcoming in a decision as intended in Article 3.2(1), 3.5(2) or 3.6(2 and 3) of the Noise Act Supplementing the Environment and Planning Act is repaired, Articles 3.34 through to 3.39 do not apply.

2. In that decision, it is determined whether noise restricting or noise abatement measures will be taken, if in permitting noise sensitive buildings in a noise focus area use is made of a shortcoming as intended in paragraph one. Articles 3.53 and 3.54 apply accordingly.

§ 12.1.12

Maintaining noise production ceilings former mainline railways

Article 12.13l

(maintaining noise production ceilings local railway arising due to conversion to mainline railway)

1. If in an environment plan for a local railway located within an area designated on the basis of Article 20(3) of the Passenger Transport Act 2000 and for which previous noise production ceilings were determined on the basis of the Environmental Management Act, noise production ceilings are determined for the first time as environmental values:
 - a. this will be carried out in compliance with the noise source data accompanying the previously set noise production ceilings;
 - b. Article 3.2(1, 3 and 4) of the Noise Act Supplementing the Environment and Planning Act apply accordingly.
2. If an environment plan contains noise production ceilings as environmental values for a railway as intended in paragraph one:
 - a. the obligation to take measures as intended in Article 3.45(1) and the obligation to monitor as intended in Article 11.45(1) lies with the body specified on the basis of Article 18(1) of the Local Railways Act;
 - b. Articles 3.28 and 11.47 do not apply;
 - c. any change to the local railway or its use, as intended in Articles 5.78j and 5.78k, subsection 3.5.4.2 apply accordingly, and Articles 5.78l through to 5.78q do not apply.
3. If the noise production ceilings as environmental values as intended in paragraph one and two are scrapped, the obligation to take measures as intended in paragraph two(a) continues to exist until it has been implemented.

Section 12.2

Transitional law odour caused by keeping fur animals in animal accommodation

Article 12.14

(scope and period of validity)

1. This Section applies to the odour at an odour sensitive building caused by the keeping of farm animals as intended in Article 3.200 of the Environmental Activities Decree, in as much as:
 - a. that activity is performed in animal accommodation; and
 - b. it relates to breeding bitches of mink.
2. This Section expires on 1 January 2024.

Article 12.15

(functional relationship, past functional relationship and building contour)

1. For application of Articles 5.95(2) and 5.96(2), in the place of ‘Subsubsections 5.1.4.6.3 or 5.1.4.6.4’, read ‘Subsection 5.1.4.6.3 or 5.1.4.6.4 or Section 12.2’.
2. For application of Article 5.97(1), in the place of ‘the Subparagraphs 5.1.4.6.2, 5.1.4.6.3 or 5.1.4.6.4’ read ‘Subsection subsection, 5.1.4.6.2, 5.1.4.6.3 or 5.1.4.6.4 or Section 12.2’.

Article 12.16

(relationship with acceptability and grandfather clause)

1. Article 5.92(2) is complied with if the following are applied:
 - a. Article 12.18(1 or 2), 12.19(1) or 12.20; and
 - b. Article 12.21.
2. Article 5.92(2) is also complied with by maintaining a distance that is smaller than the distance to be maintained on the basis of Article 12.18(3), 12.19(2) or 12.20 or 12.21 between an activity permitted before the amendment to the environment plan and an odour sensitive building permitted prior to that amendment, on condition that the environment plan determines that at that location the number of farm animals without odour emission factor per animal category may not increase.
3. Notwithstanding paragraph one and paragraph two, Article 5.92(2) can be complied with by application of Article 12.18(3 or 4), 12.19(2 or 3) or 12.22.

Article 12.17

(from where distances apply)

Article 5.107 applies accordingly.

Article 12.18

(distance and lower limit distance to odour sensitive building)

1. In an environment plan, from the emission point as intended in Article 4.806(separation²) of the Environmental Activities Decree to an odour sensitive building, at least the distance as intended in Table 12.18 will be taken into account.

Table 12.18 Distance to an odour sensitive building in the case of odour caused by keeping breeding bitches of mink

Number of breeding bitches of mink, not including young	Distance to odour sensitive building, located within the building contour odour	Distance to odour sensitive building located outside the building contour odour	
		Ammonia emission greater than 0.25 kg per year per animal place as intended in Annex I to the Environmental Activities Decree	Ammonia emission less than or equal to 0.25 kg per year per animal place as intended in Annex I to the Environmental Activities Decree
1–1,000	175 m	100 m	75 m
1,001–1,500	200 m	125 m	100 m
1,501–3,000	225 m	150 m	125 m
3,001–6,000	250 m	175 m	150 m
6,001–9,000	275 m	200 m	175 m

2. If more than 9,000 breeding bitches of mink, not including young, are kept, the distance as intended in Table 12.18 will be increased by 25 m per additional 3,000 breeding bitches of mink.

3. In the environment plan, a distance may be maintained that is smaller than the distance as intended in paragraph one or two, on condition that distance is not smaller than half the distance as intended in those paragraphs.

4. In the case of an odour sensitive building that has ceased to have a functional relationship with an animal accommodation in its immediate vicinity before 19 March 2000, a distance may be maintained in the environment plan that is smaller than the lower limit for the distance as intended in paragraph three.

Article 12.19

(distance and lower limit distance to - distance to odour sensitive building with functional relationship or further no functional relationship on or after 19 March 2000.

1. Notwithstanding Article 12.18, in an environment plan at least the distance as intended in Table 12.19.1 to the following odour sensitive buildings will be taken into account:
- a. an odour sensitive building with a functional relationship with an animal accommodation in the immediate vicinity of that accommodation; or
 - b. an odour sensitive building that on or after 19 March 2000 ceased to have a functional relationship with an animal accommodation in its immediate vicinity.

Table 12.19.1 Distance to an odour sensitive building with functional relationship or no further functional relationship on or after 19 March 2000 in the case of odour caused by keeping breeding bitches of mink

Odour sensitive building with functional relationship or further no functional relationship on or after 19 March 2000	Distance to an odour sensitive building
Located within the building contour odour	100 m
Located outside the building contour odour	50 m

2. In the environment plan, a distance may be maintained that is smaller than the distance as intended in paragraph one to a building as intended in paragraph one(a) on condition that distance is not smaller than half the distance as intended in Table 12.19.2.

Table 12.19.2 Lower limit deviating distance to an odour sensitive building with functional relationship to odour caused by the keeping of breeding bitches of mink

Odour sensitive building	Lower limit distance
Located within the building contour odour	50 m
Located outside the building contour odour	25 m

3. In the environment plan, a distance may be maintained that is smaller than the lower limit for the distance as intended in paragraph two to an odour sensitive building as intended in paragraph one (b).

Article 12.20

(distance tot space for space dwelling)

Article 5.115 applies accordingly.

Article 12.21

(distance facade animal accommodation to odour sensitive building)

Article 5.116 applies accordingly.

Article 12.22

(flexibility - deviation from lower limit distance)

Article 5.117 (preamble and b) applies accordingly.

Article 12.23

(accordingly applicable declaration)

1. In as much as an application for an environmental permit relates to non-planned environment plan activity, Articles 12.14 through to 12.22 apply to a to the assessment of the application.

2. An environmental permit as intended in paragraph one will be refused if the environment plan activity is not in compliance with the Articles intended in that paragraph.

3. Articles 12.14 through to 12.22 apply accordingly to a project decision.

Section 12.3

Transitional law noise military airfields

Article 12.24

(scope)

1. This subsection applies to:

- a. the military airfield De Peel/luitenant-generaal Bestkazerne;
- b. the military airfield Gilze-Rijen;
- c. the military airfield Woensdrecht; and
- d. the foreign military airfield Geilenkirchen.

2. This subsection applies to:

- a. the airfields as intended in paragraph one (a through to c) until for the airfields in question, an airport decision on the basis of the Aviation Act is adopted and has come into effect; and
- b. the airfield Geilenkirchen until a decision restricted area foreign airfields on the basis of the Aviation Act is adopted and has come into effect.

Article 12.25

(designation noise zones and obstacle management areas military airfields)

1. Noise zones for military airfields are the locations designated and geometrically bounded in Article 2.1(4) of the Regulation General Rules Spatial Planning as they read before the Environment and Planning Act came into effect.

2. Obstacle management areas for military airfields are the locations designated and geometrically bounded in Article 2.1(5) of the Regulation General Rules Spatial Planning as they read before the Environment and Planning Act came into effect.

Article 12.26

(spatial restrictions noise zones and obstacle management areas military airfields)

1. In as much as an environment plan is applicable to a noise zone for a military airfield, the noise zones determined on the basis of the Aviation Act and the Noise Abatement Act will be taken into account.

2. In as much as an environment plan applies to an obstacle management area for military airfields, the maximum permissible height of objects in, on or above the ground in that area is in compliance with Article 16 of the Military Airports Decree.

Section 12.4

Other transitional law

Article 12.27

(transition phase Section 5.2)

At the latest two years after this decree comes into effect, the competent authority will implement Article 5.164.

Article 12.28

(temporary assessment rules earth removal activity)

Article 8.76(2)(c) does not apply to an application for an environmental permit for an earth removal activity if:

- a. the rules for that location form part of a temporary part of the environment plan as intended in Article 22.1(a) of the Act, and those rules do not provide for a ruling for the proposed layout of the location following completion of the earth removal; or
- b. the environmental permit for a non-planned environment plan activity that permits the earth removal has been applied for prior to the Act coming into effect and the regulations of that permit do not provide for a ruling for the proposed layout of the location following completion of the earth removal.

Article 12.29

(obligation to withdraw permit environment plan activity)

The obligation on the basis of Article 8.97a(2) of this decree does not apply until the time specified by royal decree as intended in Article 22.5(2) of the Act, unless there is a rule or instruction in which a term is set as intended in Article 8.97a(3) of this decree.

Article 12.30

(obligation to withdraw permit environment plan activity of provincial importance)

The obligation on the basis of Article 8.97b(2) of this decree does not apply until the time specified by royal decree as intended in Article 22.5(2) of the Act, unless there is a rule or instruction in which a term is set as intended in Article 8.97b(3) of this decree.

Article 12.31

(obligation to withdraw permit environment plan activity of national importance)

The obligation on the basis of on the basis of Article 8.97c(2) of this decree does not apply until the time specified by royal decree as intended in Article 22.5(2) of the Act, unless there is a rule or instruction in which a term is set as intended in Article 8.97c(3) of this decree.

Chapter 13 Concluding provisions

Article 13.1

(coming into effect)

This Decree comes into effect on a date to be determined by Royal Decree, which may be set differently for the various articles of parts of articles.

Article 13.2

(citation title)

This Decree may be cited as: Environmental Quality Decree

Annex I to article 1.1 of this decree (glossary)

A. Definitions

For application of this Decree and the provisions based on it, unless otherwise specified, the following definition shall apply:

<i>24-hour care</i>	24-hour care as intended in Annex I to the Environment Structures Decree;
<i>demonstrably expected archaeological monuments</i>	archaeological monuments to be expected on the basis of archaeological, geotechnical or historical information at a location;
<i>natural gas</i>	natural gas as intended in Annex I to the Environmental Activities Decree;
<i>ADR class</i>	ADR class as intended in Annex I to the Environmental Activities Decree;
<i>basic noise emission</i>	basic noise emission as intended in Article 3.27;
<i>basic network</i>	basic network as intended in Article 11 of the Transport of Dangerous Substances Act;
<i>BAT conclusions</i>	document with the conclusions about best available techniques as adopted in compliance with Article 13(5 and 7) of the Industrial Emissions Directive;
<i>bed area</i>	bed area as intended in Annex I to the Environment Structures Decree;
<i>manager of the body of surface water</i>	a. the executive board of the water authority if relating to regional waters; or b. Our Minister of Infrastructure and Water Management if relating to national waters;
<i>limited vulnerable building</i>	building as intended in Annex VI(A);
<i>limited vulnerable location</i>	location as intended in Annex VI(B);
<i>storage location for fireworks or theatrical pyrotechnic articles</i>	storage location for fireworks or theatrical pyrotechnic articles as intended in Annex I to the Environmental Activities Decree;
<i>meeting function</i>	meeting as intended in Annex I to the Environment Structures Decree;
<i>meeting function for child care</i>	meeting function for child care as intended in Annex I to the Environment Structures Decree;
<i>aboveground storage tank</i>	aboveground storage tank as intended in Annex I to the Environmental Activities Decree;
<i>biocides</i>	biocides as intended in Annex I to the Environmental Activities Decree;
<i>soil function class</i>	soil function class as intended in Annex I to the Environmental Activities Decree;
<i>farmland</i>	farmland as intended in Annex I to the Environmental Activities Decree;
<i>fire focus area</i>	noise focus area as intended in Article 5.12(1);
<i>fire compartment</i>	fire compartment as intended in Annex I to the Environment Structures Decree;

<i>fire regulation area</i>	fire regulation area as intended in Article 5.14(1 and 5);
<i>gross floor surface</i>	gross floor surface as intended in Annex I to the Environment Structures Decree;
<i>buffer storage location for fireworks or theatrical pyrotechnic articles</i>	buffer storage location for fireworks or theatrical pyrotechnic articles as intended in Annex I to the Environmental Activities Decree;
<i>pipeline of national importance</i>	pipeline as intended in Article 5,135;
<i>bunker station</i>	bunker station as intended in Annex I to the Environmental Activities Decree;
<i>continuous vibrations</i>	vibrations present for a long period of time in respect of the largest vibration time;
<i>animal accommodation</i>	animal accommodation as intended in Annex I to the Environmental Activities Decree;
<i>digestate</i>	digestate as intended in Annex I to the Environmental Activities Decree;
<i>dyke section</i>	section of a flood defence subject to an environmental value;
<i>thick fraction</i>	thick fraction as intended in Annex I to the Environmental Activities Decree;
<i>slurry</i>	slurry as intended in Annex I to the Environmental Activities Decree;
<i>thin fraction</i>	thin fraction as intended in Annex I to the Environmental Activities Decree;
<i>emission limit value</i>	emission limit value as intended in Annex I to the Environmental Activities Decree;
<i>explosion focus area</i>	explosion focus area as intended in Article 5.12(2);
<i>explosion regulations area</i>	explosion regulations area as intended in Article 5.14(1);
<i>building</i>	building as intended in Annex I to the Environment Structures Decree;
<i>use function</i>	use function as intended in Annex I to the Environment Structures Decree;
<i>cumulative noise</i>	cumulative noise as intended in Article 3.38;
<i>noise $B_{s, dan}$</i>	shooting noise at a location during all day, evening and night-time periods in a year, calculated in accordance with the rules laid down by ministerial order;
<i>noise focus area</i>	noise focus area as intended in Article 3.20;
<i>noise load L_{den}</i>	noise load or other noise value at a location caused by a source over all periods from 07.00 to 19.00 hours and from 19.00 to 23.00 hours and from 23.00 to 07.00 hours in a year as described in Annex I(1) to the Environmental Noise Regulation;
<i>noise load L_{den}</i>	noise load or other noise value at a location caused by a source over all periods from 23.00 to 07.00 hours in a year as described in Annex I(2) to the Environmental Noise Regulation;
<i>noise load map</i>	noise load map as intended in Article 20.17(1) of the Act;
<i>noise restricting measure</i>	measure that reduces noise at a noise sensitive building;

<i>noise source data</i>	data designated by ministerial order required for determining the noise caused by a noise source type;
<i>noise source type</i>	the total of noise sources consisting of: <ul style="list-style-type: none"> a. municipal roads b. local railway designated by environment regulation; c. local railways not designated by environment regulation; d. water authority roads; e. provincial roads; f. national trunk roads; g. mainline railways; or h. industrial estates;
<i>noise sensitive building</i>	noise sensitive building as intended in Article 3.21;
<i>noise sensitive room</i>	noise sensitive room as intended in Article 3.22;
<i>low noise facade</i>	facade which as compared with other facades in a noise sensitive building suffers relatively low noise load;
<i>noise reference point</i>	location where a noise production ceiling applies;
<i>noise abatement measure</i>	measure at a noise sensitive building to restrict the noise in the building;
<i>municipal road</i>	road managed by a municipality;
<i>odour sensitive building</i>	odour sensitive building as intended in Article 5.91;
<i>plant protection product</i>	plant protection product as intended in Annex I to the Environmental Activities Decree;
<i>cumulative noise</i>	cumulative noise as intended in Article 3.39;
<i>healthcare function</i>	healthcare function as intended in Annex I to the Environment Structures Decree;
<i>toxic cloud focus area</i>	toxic cloud focus area as intended in Article 5.12(3);
<i>good ecological potential</i>	good ecological potential as intended in Article 2(23) of the Water Framework Directive;
<i>good ecological status</i>	good ecological status as intended in Article 2(22) of the Water Framework Directive;
<i>good quantitative status</i>	good quantitative status as intended in Article 2(28) of the Water Framework Directive;
<i>grassland</i>	grassland as intended in Annex I to the Environmental Activities Decree;
<i>groundwater remediation</i>	groundwater remediation as intended in Annex I to the Environmental Activities Decree;

<i>favourable conservation status of a natural habitat</i>	conservation status of a natural habitat in respect of which the following applies: <ol style="list-style-type: none"> a. the natural distribution area of the habitat and the surface area of that habitat within that area are stable or increasing; b. the specific structure and functions necessary for long-term conservation exist and are expected to continue existing in the foreseeable future; and c. the conservation status of the species typical for that habitat is favourable;
<i>favourable conservation status of a species</i>	conservation status of a species for which the following applies: <ol style="list-style-type: none"> a. population dynamic data reveal that the species in question is still a viable component of the natural habitat in which it occurs, and is expected to remain so in the long term; b. the natural distribution area of that species is not declining and does not appear to be declining within the foreseeable future; and c. a sufficiently large habitat exists and will probably continue to exist to preserve the population of that species in the long term;
<i>repeatedly occurring vibration</i>	short-term vibration with a repetitive character;
<i>domestic plot</i>	plot of land with a dwelling;
<i>inert extractive waste</i>	non-flammable extractive waste not undergoing any significant physical, chemical or biological changes and that comply with the criteria as intended in Article 1(1 and 2) of Commission Decision no. 2009/359/EC of the European Commission of 30 April 2009 completing the definition of inert waste in implementation of Article 22(1)(f) of Directive 2006/21/EC of the European Parliament and the Council concerning the management of waste from extractive industries (OJEU 2009, L 110);
<i>intervention point</i>	intervention point as intended in Article 8.57a;
<i>office function</i>	office function as intended in Annex I to the Environment Structures Decree;
<i>WFD body of surface water</i>	body of surface water as intended in Article 2(10) of the Water Framework Directive;
<i>WFD pollutant</i>	pollutant as intended in Article 2(31) of the Water Framework Directive, in particular substances as intended in Annex VIII to that Directive;
<i>WFD pollution</i>	pollution as intended in Article 2(33) of the Water Framework Directive;
<i>artificial WFD body of surface water</i>	a WFD body of surface water created through human activities;
<i>vulnerable building</i>	building as intended in Annex VI(C);
<i>vulnerable location</i>	location as intended in Annex VI(D);
L_{de}	quantity for determining the noise at a location over all periods from 7.00 to 19.00 hours and 19.00 to 23.00 hours in a year by adding L_{day} and $L_{evening}$, whereby in the same manner as for the determination of the L_{den} weighting is applied over the length of the periods and $L_{evening}$ is increased by 5 dB;
L_{den}	quantity for determining the noise at a location over all periods from 07.00 to 19.00 hours, from 19.00 to 23.00 hours and from 23.00 to 07.00 hours in a year as described in Annex I(1) to the Environment Noise Directive;
L_{day}	quantity for determining the noise at a location over all periods from 07.00 to 19.00 hours in a year as described in Annex I(1) to the Environment Noise Directive;

L_{evening}	quantity for determining the noise at a location over all periods from 19.00 to 23.00 hours in a year as described in Annex I(1) to the Environment Noise Directive;
L_{night}	quantity for determining the noise at a location over all periods from 23.00 to 07.00 hours in a year as described in Annex I(1) to the Environment Noise Directive;
<i>agricultural soil</i>	agricultural soil as intended in Annex I to the Environmental Activities Decree;
<i>farm plot</i>	plot with a building or a complex of buildings for agricultural activities;
<i>agricultural land</i>	agricultural land as intended in Annex I to the Environmental Activities Decree;
<i>farm animal</i>	farm animal as intended in Annex I to the Environmental Activities Decree;
<i>long-term average assessment level</i> $L_{Ar,LT}$	the average of the fluctuating levels of the locally occurring noise, measured during a specified period and laid down and assessed in accordance with the rules laid down by ministerial order;
<i>maritime spatial plan</i>	plan as intended in Article 4(3) Maritime Spatial Planning Framework Directive;
<i>maritime spatial planning</i>	process in the framework of which human activities in marine areas are analysed and organised in order to achieve ecological, economic and social targets;
<i>maximum noise level</i> L_{Amax}	maximum noise level measured in the setting «F» or «fast» as determined and assessed in accordance with the rules laid down by ministerial order;
<i>slurry basin</i>	slurry basin as intended in Annex I to the Environmental Activities Decree;
<i>mining spoil</i>	mining spoil as intended in Annex I to the Environmental Activities Decree;
<i>environmental pollution</i>	direct or indirect introduction by human activities of substances, vibrations, heat or noise into the air, water or soil that can damage the health of humans or the quality of the environment, can cause damage to material goods or can harm or prevent the perception value of the environment or other legal environmental use;
<i>motor vehicle</i>	motor vehicle as intended in Article 1 of the Traffic Regulations and Road Signs 1990;
<i>national water programme</i>	national water programme as intended in Article 3.9(2)(d) of the Act;
<i>alternative use function</i>	alternative use function as intended in Annex I to the Environment Structures Decree;
NEM	NEM as intended in Annex I to the Environmental Activities Decree;
<i>non-noise sensitive facade with structural measures</i>	non-noise sensitive facade that subject to Article 5.78y(2), 12.13f or 12.13g(1) is classified as such;
OU_E	quantity of odour substances which upon evaporation in 1 m ³ of neutral gas under standard conditions generates a physiological reaction in a panel that is equal to a reaction that occurs at 123 µg n-butanol, evaporated 1 m ³ neutral gas under standard conditions;
<i>educational function</i>	educational function as intended in Annex I to the Environment Structures Decree;

<i>underground storage tank</i>	underground storage tank as intended in Annex I to the Environmental Activities Decree;
<i>percolate</i>	liquid escaping from dumped solid waste or other solid substances or that has been in contact with such waste;
PGS	PGS as intended in Annex I to the Environmental Activities Decree;
<i>location-specific risk</i>	risk as intended in Article 5.6;
PM ₁₀	fine particulate matter with an aerodynamic diameter of not more than 10 µm;
PM _{2,5}	fine particulate matter with an aerodynamic diameter of not more than 2.5 µm;
<i>priority species</i>	species designated as such in Annex II to the Habitats Directive;
<i>priority type natural habitat</i>	type of natural habitat designated as such in Annex I to the Habitats Directive;
<i>programme of measures marine strategy</i>	programme of measures marine strategy as intended in Article 5(2) (preamble and b) in combination with Article 13(2) of the Marine Strategy Framework Directive;
<i>provincial road</i>	road managed by a province;
PRTR	register as intended in Article 20.11 (preamble and a) of the Act;
<i>PRTR report</i>	report as intended in Annex I to the Environmental Activities Decree;
<i>theatrical pyrotechnic article</i>	theatrical pyrotechnic article as intended in Annex I to the Environmental Activities Decree;
<i>theatrical pyrotechnic article of category T1</i>	theatrical pyrotechnic article of category T1 as intended in Annex I to the Environmental Activities Decree;
<i>theatrical pyrotechnic article of category T2</i>	theatrical pyrotechnic article of category T2 as intended in Annex I to the Environmental Activities Decree;
<i>regional water programme</i>	regional water programme as intended in Article 3.8(2) of the Act;
<i>lane</i>	lane as intended in Article 1 of the Traffic Regulations and Road Signs 1990;
<i>national trunk road</i>	road managed by the State;
<i>carriageway</i>	carriageway as intended in Article 1 of the Traffic Regulations and Road Signs 1990;
<i>Seveso establishment</i>	Seveso establishment as intended in Annex I to the Environmental Activities Decree;
<i>cast shadow sensitive building</i>	cast shadow at a sensitive building as intended in Article 5.89b;
<i>urban area</i>	architectural combination of buildings for housing, service provision, commercial activity, retail trade and hospitality permitted on the basis of an environment plan or an environmental permit for a non-planned environment plan activity, together with the accompanying public or sociocultural facilities and infrastructure, with the exception of urban green at the periphery of that built-up area and ribbon development alongside roads, waterways or flood defences;

<i>solid sewage sludge</i>	solid sewage sludge as intended in Annex I to the Environmental Activities Decree;
<i>heavily altered WFD body of surface water</i>	WFD body of surface water that has changed fundamentally due to physical changes as a consequence of human activities;
<i>nitrogen oxides</i>	nitrogen oxides as intended in Annex I to the Environmental Activities Decree;
<i>river basin management plan</i>	river basin management plan as intended in Article 3.9(2)(a) of the Act;
<i>substrate material</i>	substrate material as intended in Annex I to the Environmental Activities Decree;
<i>vibration sensitive building</i>	vibration sensitive building as intended in Article 5.8o;
<i>vibration sensitive room</i>	vibration sensitive room as intended in Article 5.8i;
<i>vibration strength V_{max}</i>	maximum vibration strength as determined in accordance with the rules laid down by ministerial order;
<i>vibration strength V_{per}</i>	average vibration strength over an assessment period as determined in accordance with the rules laid down by ministerial order;
<i>type of natural WFD body of surface water</i>	river, lake, transitional water or coastal waters as intended in Annex II(1.2) to the Water Framework Directive;
<i>external partition</i>	external partition as intended in Annex I to the Environment Structures Decree;
<i>solid supplementary feed</i>	solid supplementary feed as intended in Annex I to the Environmental Activities Decree;
<i>solid manure</i>	solid manure as intended in Annex I to the Environmental Activities Decree;
<i>field plot</i>	plot that is neither a home or farm plot;
<i>occupied area</i>	occupied area as intended in Annex I to the Environment Structures Decree;
<i>occupied room</i>	occupied room as intended in Annex I to the Environment Structures Decree;
<i>mixed mining spoil</i>	mixed mining spoil as intended in Annex I to the Environmental Activities Decree;
<i>packaging group</i>	packaging group as intended in Annex I to the Environmental Activities Decree;
<i>liquid sewage sludge</i>	liquid sewage sludge as intended in Annex I to the Environmental Activities Decree;
<i>volatile organic compound</i>	volatile organic compound as intended in Annex I to the Environmental Activities Decree;
<i>Provisional World Heritage List</i>	list with heritage proposed by the Netherlands to UNESCO for placement on the World Heritage List;
<i>water intended for human consumption</i>	water intended for human consumption as intended in Article 2 (preamble and 37) of the Water Framework Directive;
<i>habitat sensitive to nitrogen</i>	habitat sensitive to nitrogen for bird species, natural habitats and habitats of species for which a conservation target applies;

<i>fireworks</i>	fireworks as intended in Annex I to the Environmental Activities Decree;
<i>fireworks in category F1</i>	fireworks of category F1 as intended in Annex I to the Environmental Activities Decree;
<i>fireworks in category F2</i>	fireworks of category F2 as intended in Annex I to the Environmental Activities Decree;
<i>fireworks in category F3</i>	fireworks of category F3 as intended in Annex I to the Environmental Activities Decree;
<i>fireworks in category F4</i>	fireworks of category F4 as intended in Annex I to the Environmental Activities Decree;
<i>water management programme</i>	water management programme as intended in Article 3.7 of the Act;
<i>water authority road</i>	road managed by a water authority;
<i>waterbed</i>	waterbed as intended in Annex I to the Environmental Activities Decree;
<i>water extraction location</i>	extraction point for water used for the preparation of water intended for human consumption or a combination of such extraction points;
<i>Act</i>	Environment and Planning Act;
<i>extractive waste facility category A</i>	extractive waste facility classified in category A by the competent authority, in accordance with the criteria imposed in Annex III to the Extractive Waste Directive, and the criteria as intended in Articles 1 through to 9 of Commission Decision no. 2009/337/EC of 20 April 2009 on the definition of the criteria for the classification of waste facilities in compliance with Annex III of Directive 2006/21/EG of the European Parliament and the Council concerning the management of waste from extractive industries (OJEU 2009, L 102);
<i>residential function</i>	residential function as intended in Annex I to the Environment Structures Decree;
<i>residential building</i>	residential building as intended in Annex I to the Environment Structures Decree;
<i>caravan</i>	<i>caravan</i> as intended in Annex I to the Environment Structures Decree;
<i>very vulnerable building</i>	building as intended in Annex VI(E);
<i>sewage sludge</i>	sewage sludge as intended in Annex I to the Environmental Activities Decree;
<i>major accident</i>	major accident as intended in Annex I to the Environmental Activities Decree;
<i>bathing water management measures</i>	measures as intended in Article 2(7) of the Bathing Water Directive taken in respect of bathing sites;
<i>bathing water pollution</i>	presence of microbiological contamination or other organisms or waste that damage the bathing water quality and represent a risk to the health of bathers as intended in Articles 3.7, 3.8 and 11.44 and in Annex I, column A to the Bathing Water Directive.

B. Regulations, guidelines/directives and decisions

For application of this Decree and the provisions based thereon, the following shall be taken to mean

<i>Cites Implementing Regulation</i>	Commission Regulation (EC) no. 865/2006 of 6 May 2006 laying down detailed rules concerning the implementation of Council Regulation (EC) no. 338/97 on the protection of species of wild fauna and flora by regulating trade therein (OJEU 2006, L 166);
<i>CLP Regulation</i>	Regulation (EC) no. 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC and amending Regulation (EC) no. 1907/2006 (OJEU 2008, L 353);
<i>PRTR protocol</i>	the Protocol established on 21 May 2003 on registers relating to the emission and transfer of pollutants (Trb. 2007, 95).

Notice

This text is based up the following official publications in Dutch:

- Besluit kwaliteit leefomgeving ([Stb. 2018, 292](#))
- Invoeringsbesluit Omgevingswet ([Stb. 2020, 400](#))
- Aanvullingsbesluit geluid Omgevingswet ([Stb. 2020, 557](#))
- Aanvullingsbesluit bodem Omgevingswet ([Stb. 2021, 98](#))
- Aanvullingsbesluit natuur Omgevingswet ([Stb. 2021, 22](#))
- Aanvullingsbesluit grondeigendom Omgevingswet ([Stb. 2020, 532](#))
- Besluit, houdende wijziging van het Besluit algemene regels ruimtelijke ordening (kustfundament, grote rivieren, radarstations en hoogspanningsverbindingen) ([Stb. 2020, 204](#))
- Besluit houdende wijziging van het Bouwbesluit 2012, het Besluit bouwwerken leefomgeving, het Besluit kwaliteit leefomgeving en het Omgevingsbesluit in verband met de introductie van een stelsel van certificering voor werkzaamheden aan gasverbrandingsinstallaties ([Stb. 2020, 348](#)).²

This document is a courtesy translation and not an official legal document. The Dutch texts contain the applicable legislation.

Contact

postbusomgevingswet@minbzk.nl

² The following subsequent modifications (and any later modifications) have not yet been translated and added tot this consolidated version:

- Besluit tot wijziging van het Bal, Bkl en Ob in verband met de implementatie van de vaststelling van BBT-conclusies voor grote stookinstallaties en omzetting van de regels over toiletlozingen van pleziervaartuigen en de monitoring van luchtkwaliteit ([Stb. 2021, 200](#)).
- Besluit tot wijziging van enkele algemene maatregelen van bestuur (stikstofreductie en natuurverbetering) ([Stb 2021, 287](#))

Published by the

**Ministry of the Interior and
Kingdom Relations**

P.O. Box 20011 | 2500 EA The Hague
The Netherlands
www.rijksoverheid.nl

June 2021