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# INTRODUCTION GRANTING PERMITS IN THE PORT UNDER THE ENVIRONMENTAL ACT

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Introduction brochure  
permit granting process under  
the Environmental Act



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## INTRODUCTION

This brochure is intended to inform companies in the Rotterdam port area of the changes concerning granting permits when the Environmental Act (EA) takes effect. This brochure is specifically focused on the permit requirement for environmentally harmful activities (EHAs). An overview is given of what is provided for and of what has changed.

Under the EA, multiple permit requirements may apply to activities.

These permit requirements have been imposed by:

- the State in the EA, the Living Environment (Activities) Decree (BAL), and the Structures (Living Environment) Decree (BBL), for instance for activities concerning the environment, nature, construction, demolishing, mining, discharges into state-supervised water, national monuments, and environmental plan activity;
- the province in the spatial and environmental regulation, for instance with respect to groundwater remediation, the environment, or erosion;
- the municipality in the spatial and environmental plan, for instance with respect to construction, access roads, cutting down trees, the environment;
- the water authorities and the Directorate-General for Public Works and Water Management with respect to water activities, for instance discharging into the regional surface water.

This brochure is only about the permit requirement for the EHAs designated by the state in the BAL.



# 2

## MOST IMPORTANT CHANGES

The renewal of the system of environmental law involves changes for the applicant and for the authorities. This paragraph is about the most important changes for the permit granting process for EHAs in relation to the current regulations under the Environmental Permitting (General Provisions) Act (WABO).

An explanation of these changes is provided in paragraph 2.1.

1. The **regular procedure** is the basic principle. This means that the EA is focused on faster decision-making. In this way, the applicant decides which applications are submitted and in which order these applications are submitted.
2. The **indivisibility criterion** has been cancelled.
3. **The Intake Table, Environmental Table, and chain cooperation**  
The ideas of the EA entail that part of the assessment of initiatives takes place in the preliminary phase. Important aspects in this context are desirability, enabling, and **participation**. What this will look like in practice will be decided and developed at the Rijnmond Consultation.
4. The current term 'establishment' no longer applies, and is replaced by the term '**environmentally harmful activity**'. As a result, the permit requirement does no longer apply to the entire company but only to a part of the location of the EHA<sup>1</sup>.
5. **Content-specific and procedural link** between the environmental permit for the EHA and the **company fire brigade designation**.
6. **Relationship granting permits and the spatial and environmental plan**
7. The introduction of the **Digital System Environmental Act (DSEA)**. It replaces the existing points of contact, such as Ruimtelijkeplannen.nl, Omgevingsloket Online (environmental point of contact online), and the Activities Directive Internet Module.
8. **Health** is an integral criterion in the decision-making process under the EA.

\* To which (parts of the) environmentally harmful activities an environmental permit applies, is specifically indicated in the BAL. For all complex companies from Section 3.3 of the BAL, the entire company is subject to a permit.

## 2.1 EXPLANATION OF THE CHANGES

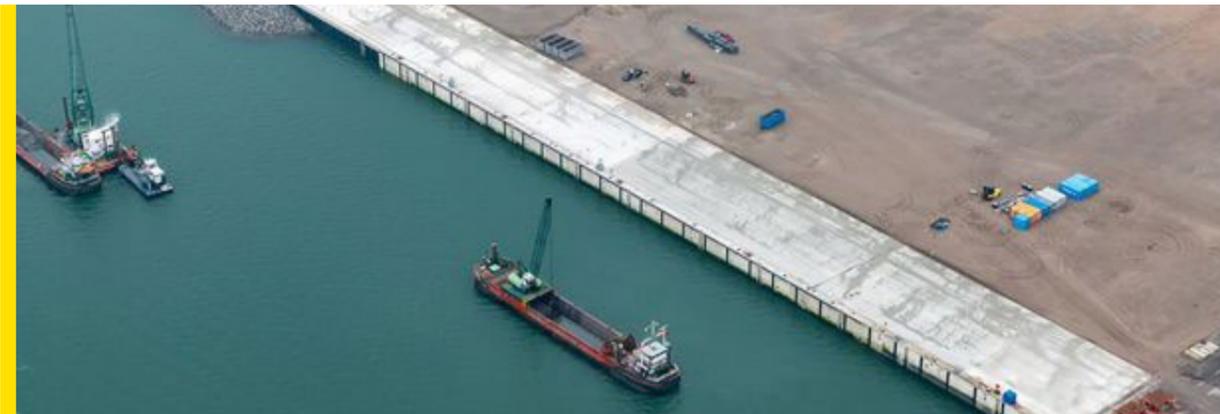
### 2.1.1. The procedure

#### What is going to change?

The basic principle in the EA is that environmental permits are prepared with the regular procedure. The decision term for the regular procedure is eight weeks. If advice with the consent of another body is required, the decision term will be twelve weeks. In addition, the competent authority can extend the term by six weeks, stating its motivation. It causes the emphasis to be more on the preliminary consultation.

The extended procedure of six months has become an exception and applies primarily to IPPC installations (Integrated Pollution Prevention and Control) and Seveso companies. In the extended procedure, the procedure can be extended by six weeks as well. Additionally, the permit by operation of law (lex silencio positivo) has been cancelled.

The supply of data with respect to the fire brigade designation is shifted to the preliminary phase. This means that in the stage of the application a company fire brigade report will have to be submitted to the safety region.



### 2.1.2 INDIVISIBILITY

#### What is going to change?

The indivisibility criterion is cancelled. This means that the applicant decides whether they apply for a permit for one or multiple activities and that they are also allowed to determine the order in which they apply for the permit. If other consents are required for an activity applied for, the competent authority has to point this out to the applicant.

Water activities should always be applied for separately from other activities. Applications for an EHA and a water activity with the same IPPC installation or a Seveso company need to be submitted simultaneously. Like in the current situation, an activity can only be started once all required permits have been granted. Every permit has its own assessment framework. If one permit has been granted, this does not mean that there is a better chance that the other permits will be granted as well.

#### There are several submission possibilities:

- One application for multiple activities. This means there is always one competent authority (with advice and possible consent of other bodies) and one permit, or
- multiple applications for multiple activities. This could mean that there are sometimes several competent authorities for those various permits.



### 2.1.3. INTAKE TABLE, ENVIRONMENTAL TABLE, CHAIN COOPERATION, AND PARTICIPATION

#### What is going to change in the cooperation?

Under the EA, good cooperation is even more important than before. Forms of cooperation are currently being developed for this. One of the best-known is the so-called Environmental Table.

Together with the municipalities the Association of Dutch Municipalities (VNG) has developed the Intake Table and the Environmental Table to realise a new way of granting permits. The municipalities are free to use these. It is expected, however, that municipalities will adjust their permit granting process to a lesser or greater extent to the form developed by the VNG. The idea of this form is that initiators first come to the Intake Table, where a strategic municipality or province team assesses whether the initiative is desirable. If an initiative is desirable, multiple experts (e.g. from spatial planning, environmental or construction) and chain partners (e.g. environmental service, safety region (see also point 5 of the explanation about the changes), Regional Health Service (GGD), the Directorate-General for Public Works and Water Management (RWS)) join the Environmental Table. Eventually, the initiative has to materialise at the Environmental Table in a way that the legal procedure for handling the application can take place quickly and smoothly.

Once it has become clear what this will look like in practice, this information will be shared with all companies in the region. This information will be included in the new 'guide to granting permits', which will replace the current guide after the EA has taken effect.

### What is going to change due to participation?

In this context, participation means collecting opinions about the intended project. By involving the environment in the project at an early stage, the support can be increased, and the chances of objections can be decreased. Participation may remove or reduce resistance. Therefore, it is wise for an initiator to use participation. This is most effective when some details are still unknown. The initiator can use the information from the participation to improve the quality of the initiative. After all, the initiator gets a good impression of what the environment thinks of the initiative and can adjust the initiative accordingly. Although the EA encourages initiators to use participation, it is formally not compulsory.

The initiator decides in which form it is used. When applying for an environmental permit, the initiator always has to indicate whether he/she has used participation and what the results are. If the initiator indicates he/she has used participation, the competent authority will have to handle the application. An environmental plan activity outside the plan is an exception. With respect to this activity, the city council can designate a category of cases in which participation is compulsory.

## 2.1.4. PERMIT REQUIREMENT AND NOTIFICATION OBLIGATION

### What is going to change?

Where this is possible, EA tries to prescribe general regulations.

If this is not possible, a permit requirement will apply. A permit will be required if:

- an obligation applies under international law;
- general regulations do not suffice to weigh up interests.

EHAs that are subject to government regulations, are designated in the BAL.

To which EHA a permit requirement applies, is also indicated.

See 'Guide to the permit requirement of EHAs in the port'.

[Guide helps companies with respect to permit applications port area - Getting started with the Environmental Act](#)



## 2.1.5. SPECIFIC AND PROCEDURAL LINK BETWEEN THE ENVIRONMENTAL PERMIT FOR THE EHA AND THE COMPANY FIRE BRIGADE DESIGNATION

### What is going to change?

If a company wants to perform an EHA, it has to take measures to prevent unusual incidents and limit the consequences of these. Despite these measures, an activity can still jeopardise public safety, for instance when a fire or accident occurs. In such case, a company can be designated by the safety region board to have a company fire brigade at its disposal.

The categories of companies that can be designated by the safety region to have a company fire brigade at their disposal, remain unchanged.

### The most important categories that can be designated include:

1. the Seveso company;
2. companies where short-term storage takes place with respect to transport while awaiting subsequent shipment;
3. railway yards.

With the introduction of the EA, a link between the environmental permit for the EHA and the company fire brigade designation (Article 31 of the Safety Region Act) is implemented. With respect to this link, the safety region has been designated as a legal adviser for the environmental permit for several EHAs. Additionally, the term for issuing the company fire brigade designation is linked to granting the environmental permit for an EHA.

### This link for process and content has consequences for companies designated and to be designated:

- If a company already has a company fire brigade designation and if the permit application has consequences for the company fire brigade designation, the company will be held to submit a company fire brigade report to the safety region board, at the same moment at which it submits the permit application to the competent authority (Article 7.4, first paragraph of the Safety Region Decree (BVR)).
- If a company has not been designated yet, the safety region will, as soon as it receives from the competent authority EA a request for advice about the permit application, assess if the activities applied for lead to a special hazard to public safety. If this is the case, the safety region will ask the submitter of the application as soon as possible to submit a company fire brigade report.

As the company fire brigade report has to be submitted early in the process, it is important for the competent authority, the environment service and the company to be at the table as early as possible to discuss the relationship between the EHAs to be applied for and the company fire brigade designation. This means that in the preliminary consultation it has to be discussed which EHAs will be performed and which measures are taken to prevent unusual incidents and limit the consequences of these. Using these details, the safety region can assess if a company fire brigade report has to be submitted to the safety region simultaneously with the application for an environmental permit.

2 Article 7.1 of the Safety Region Decree

3 Pursuant to Article 4.33 of the Environmental Decree (ED)

4 This is as soon as possible after the request for advice on the basis of Article 4.33 of the Environmental Decree (see Article 7.2, second paragraph of the Safety Region Decree).





## 2.1.6. RELATIONSHIP GRANTING PERMITS AND THE SPATIAL AND ENVIRONMENTAL PLAN

### What is going to change?

The spatial and environmental plan has a wider scope than the zoning plan, because an environmental plan does not have the limits of ‘proper spatial planning’, but it will include regulations for the entire physical living environment. It allocates functions to locations in a balanced way and includes regulations about activities, for instance. These are activities that have or may have consequences for the physical living environment.

When an application is assessed and an EHA permit is granted, the rules from the environmental plan have to be taken into account. Various environmental standards previously included in the permit, such as those concerning noise, vibrations and smell, are included in the environmental plan. The application has to be tested against the relevant regulations in the environmental plan. Consequently, the environmental plan plays an important part in assessing whether there is ‘significant environmental pollution’ by an EHA. The competent authority for the environmental permit for the EHA has to motivate how the regulations in the environmental plan have influenced the decision content. The regulations can also be a reason to connect the conditions with the environmental permit or even to refuse the environmental permit. In exceptional cases, it is also possible to grant an environmental permit that deviates from the regulations of the environmental plan. In such cases it will be expected that the situation can be aligned with the environmental plan.

### There are several ways to do this:

- With a deviation possibility included in the environmental plan, an environmental plan activity within the plan;
- Via an authority to impose a customised rule;
- If these possibilities are not available: via a permit for an environmental plan activity outside the plan or incidental cases with a change of the environmental plan.

## 2.1.7. DIGITAL SYSTEM ENVIRONMENTAL ACT (DSEA)

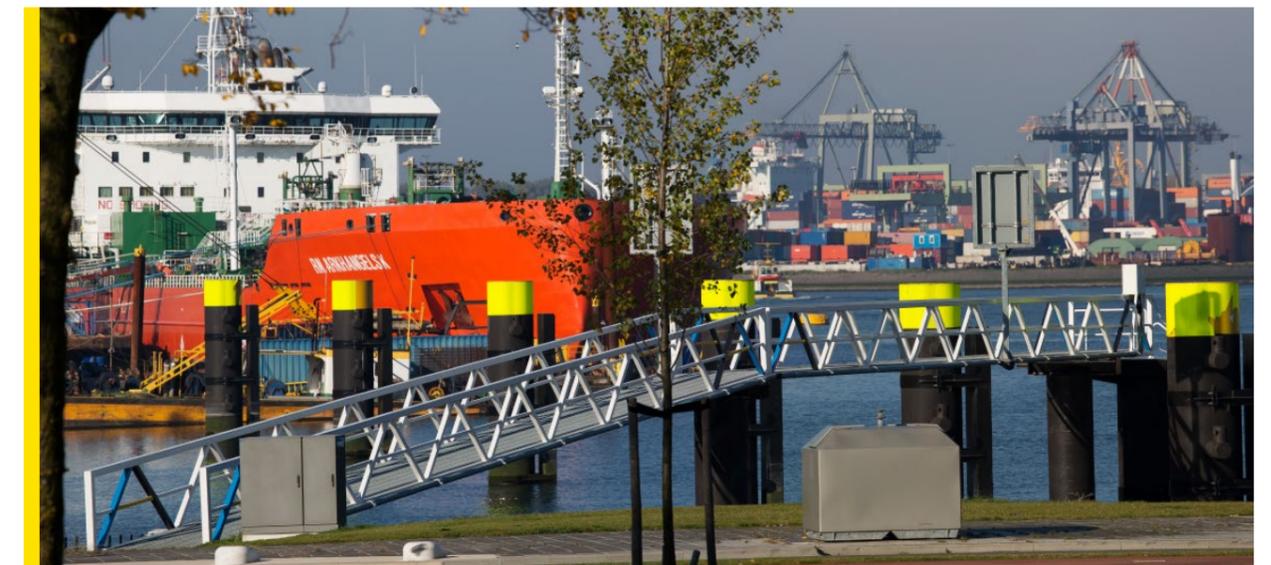
### What is going to change?

The DSEA supports the execution of the EA. One of the parts of the DSEA is the Environmental Point of Contact, a digital point of contact where initiators and parties involved can see at a glance what is permitted in the physical living environment. The DSEA is the central place where all digital information about the physical living environment comes together.

### The Environmental Point of Contact offers the following possibilities:

- Applying for permits, submitting notifications, and providing information;
- Seeing which rules apply at a certain location. The environmental documents in the DSEA are the basis for this. This includes environmental visions, regulations and plans, project decisions, and programmes;
- In the future: finding information about the quality of the living environment, such as information about water or air quality and noise levels.

The DSEA replaces the existing points of contact, such as Ruimtelijkeplannen.nl, Omgevingsloket Online (environmental point of contact online) and the Activities Directive Internet Module.



## 2.1.8. HEALTH IS AN INTEGRAL CRITERION IN THE DECISION-MAKING PROCESS

### What is going to change?

The social interest of ‘public health’ has more explicitly become part of spatial planning. In the environmental plan, the competent authority will at least take the interest of protecting and promoting health into account when allocating functions in a balanced way. Realising and maintaining a healthy physical living environment comprises the promotion of health in addition to health protection. The rules of the environmental plan can therefore pertain to this as well. Examples include noise measures as well as an environment in which active mobility is stimulated, heat stress is reduced, or cool spots are offered.



## THE (EXTENSIVE) EA PERMIT PROCESS IN STEPS

Under the EA, the focus is on good preparation before a permit procedure is started, so that the procedure can be efficient.

What the preparation will look like, is not clear yet. An example is discussed below. The new 'guide to granting permits' will include all practical information about this preparation. The guide will appear before the EA takes effect, and it will be distributed on a wide scale.

### 1. Preliminary phase

An environmental permit for an EHA can be required when the business activities change or when new business activities are started up. In the preliminary phase, the company has to investigate whether a permit requirement applies and which obligations apply. In the event of a permit requirement, it should be established how participation will be put into practice. Whether the company will do this, and if so, how it will do this, is up to the company. There is no specific procedure for this.

### 2. Preliminary consultation

When the company has completed the preparations and it has become clear that a permit is required, the company (that applies for the permit) presents the plans and way in which the company is going to show what the effects on the environment will be. This can be discussed at the preliminary consultation (depending on the nature of the change). At this consultation, it is also discussed what information may still need to be collected, for example to gain more insight into the best available techniques (BATs), or whether the company has to submit a company fire brigade report (see also 'Explanation of the changes').

On the basis of the preliminary consultation (possibly with multiple discussion moments in the case of complex permits), the company draws up the draft application. The preliminary consultation can include multiple contact moments. A report is drawn up of the arrangements made. Conducting a good preliminary consultation is important, for instance to prevent details to be provided from being incomplete. If the competent authority has to request for these details at a later stage, time will be lost.

### **3. Draft application assessment**

With respect to the preliminary consultation, the company has the option to draw up a draft application and the related investigations/annexes, which will then be assessed by the competent authority. Next, a reaction (with the assessment) to this draft application is sent to the initiator.

### **4. Submitting application via DSEA**

The applicant submits the application to the DSEA. As from that moment, the application is formally considered submitted, and the statutory terms apply. See the [regular procedure](#) or [extended procedure](#) for further information.

### **5. Assessing definitive application for completeness and admissibility**

The competent authority and the other authorities/chain partners involved assess the application for completeness. The application has to meet the stipulations of Section 4:2 of the Dutch General Administrative Law Act (AWB) and Chapter 7 of the Environmental Regulation. If this is necessary, the applicant will be asked for supplementary details. In that case, the term for handling the application will be suspended. The applicant sees to the supplementary details. Any comments from the competent authority concerning the application submitted will be included. In the event of an incomplete application, the competent authority may decide not to handle the application any further. In that case, the entire procedure will stop.

### **6. Third-party advice**

The mayor and aldermen will always be the adviser for an environmental permit for an EHA, if it is issued by another competent authority. In the EA, it is also stipulated that with certain EHAs the competent authority has to ask for advice or advice with consent from another (administrative) body before it grants an environmental permit. The safety region has been designated as the legal adviser for a large number of EHAs where safety risks are involved. Additionally, the Inspector-General Living Environment and Transport can be designated as an adviser. With both of these bodies, it is about the regular advisory powers rather than advice with consent. Advice with consent is only necessary in a limited number of cases.

See [Advice and consent in the Environmental Act - Information point Living Environment \(iplo.nl\)](#)

### **Assessment Regulation Medical Assistance**

Medical assistance to persons is a new aspect that should be taken into account under the EA with respect to granting a permit for an EHA. This criterion offers the possibility that the deployment of medical assistance in the event of a fire, disaster or crisis is included in the assessment when an EHA is applied for. To this end, advice will have to be sought from the safety region/Municipal Medical Assistance Organisation in the Region (GHOR).

### **7. (Draft) permit**

When the application is complete, the competent authority draws up the environmental permit. In the case of an [extended procedure](#), a draft permit is drawn up first, which is available for inspection for six weeks.

In many cases, it is discussed with the applicant in advance. Anybody (including the applicant) can put forward his/her views about it. These views can be taken into account in the final decision-making. With an extended procedure, the environmental permit takes effect at the moment at which the draft permit is made available for inspection and not after the term of appeal has expired, like under the Environmental Permitting (General Provisions) Act (WABO). This is a new element of the EA. If there is a chance of irreversible consequences, the competent authority has the obligation to cause the permit to take effect after four weeks. This applies to both the extended procedure and the regular procedure.

### **8. Legal protection**

An objection can be raised against an environmental permit that has been prepared via a regular procedure, with the administrative body that has granted the permit. A permit that has been granted via an extended procedure can be appealed against (and interim injunction can be lodged) with the court. See [Consultation and legal protection - Information point Living Environment \(iplo.nl\)](#)



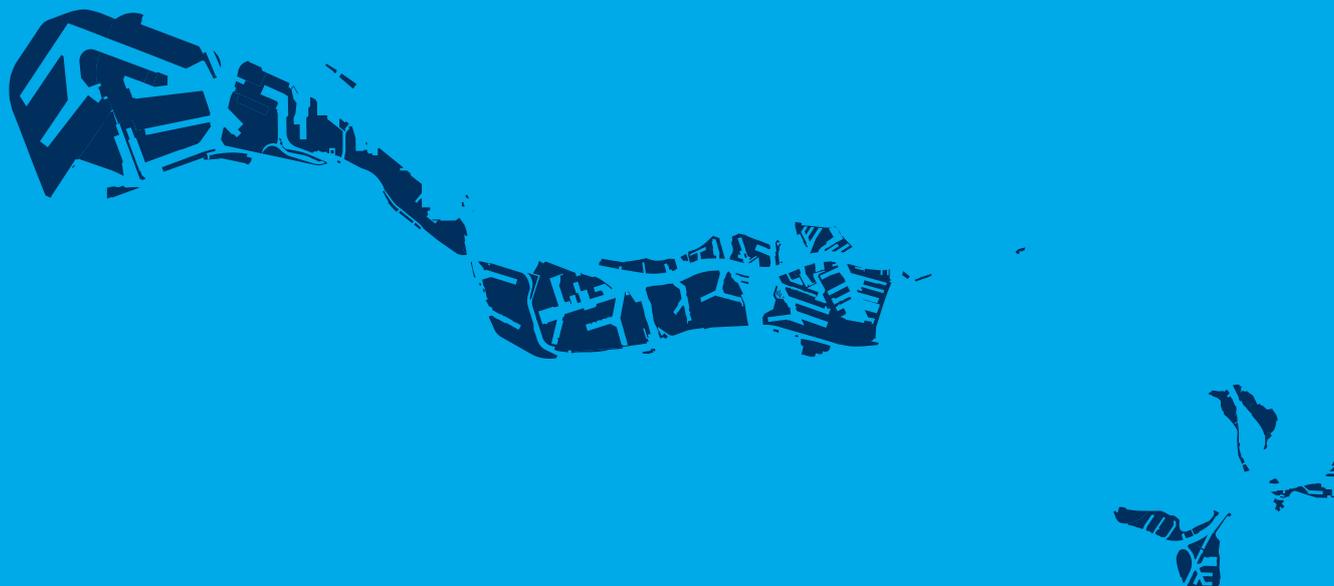
## RESPONSIBILITY FOR HEALTH IN RELATION TO THE PERMIT

When allocating functions (in the environmental plan) in a balanced way, the competent authority will at least take the interest of protecting and promoting health into account (Article 2.1, paragraph 4). For companies in the port area, no official policy currently applies for protecting and promoting health. Competent authorities are in the process of drawing up and adopting various policy documents in which the responsibility for public health is provided for. These documents include the Rotterdam Environmental Vision, Noise, Soil and Environmental Safety memoranda, and the Facet Zoning Plan Noise (FBG). These policy documents also have an effect in the region. In due course, protecting and promoting public health will be safeguarded in the environmental plan and other EA instruments (e.g. a programme), both in the municipality of Rotterdam and the municipalities in the region. When more information becomes available about this and specific health aspects are laid down, these will be included in the guide. This does not alter the fact that with a new initiative initiators, from the moment at which the EA takes effect, are held to make every effort to substantiate that a healthy physical living environment and a good environmental quality is protected and promoted. They have the responsibility to take measures to prevent adverse consequences for other people's health or, if this is not possible, limit or undo the consequences or omit the respective activity to the extent that this can reasonably be demanded.

## 4.1 LIST OF ABBREVIATIONS

<b>AIM</b>	Activities Directive Internet Module (Activiteitenbesluit Internet Module)
<b>AWB</b>	Dutch General Administrative Law Act (Algemene wet bestuursrecht)
<b>BAL</b>	Living Environment (Activities) Decree (Besluit Activiteiten Leefomgeving)
<b>BBL</b>	Structures (Living Environment) Decree (Besluit Bouwwerken Leefomgeving)
<b>BVR</b>	Safety Region Decree (Besluit Veiligheidsregio's)
<b>B&amp;W</b>	Mayor and aldermen (Burgemeester en Wethouders)
<b>DSEA</b>	Digital System Environmental Act
<b>GGD</b>	Regional Health Service (Gemeentelijke Gezondheidsdienst)
<b>GHOR</b>	Municipal Medical Assistance Organisation in the Region (Geneeskundige Hulpverleningsorganisatie in de Regio)
<b>IPPC</b>	Integrated Pollution Prevention and Control
<b>ED</b>	Environmental Decree
<b>EA</b>	Environmental Act
<b>EHA</b>	Environmentally harmful activity
<b>RWS</b>	Directorate-General for Public Works and Water Management (Rijkswaterstaat)
<b>VNG</b>	Association of Dutch Municipalities (Vereniging Nederlandse Gemeenten)
<b>WABO</b>	Environmental Permitting (General Provisions) Act (Wet algemene bepalingen omgevingsrecht)





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### **Would you like to know more, or do you have any questions about the Environmental Act?**

Information point Environmental Act:

<https://aandeslagmetdeomgevingswet.nl/over-ons/informatiepunt/> and [www.iplo.nl](http://www.iplo.nl)

Infomil knowledge centre: <https://www.infomil.nl/onderwerpen>

Or visit: [www.dcmr.nl](http://www.dcmr.nl)