

Appendix 1

Environmental Management Act

English translation of relevant parts

§ 7.4. The preparation of an environmental impact statement pertaining to a plan

Section 7.9

1. The competent authority must give notice of its intention to prepare a plan as soon as possible after it has conceived that intention and no later than the date on which it applies section 7.8; section 3:12, subsections 1 and 2 of the General Administrative Law Act apply mutatis mutandis.

2. The notification must state:

- a. that documents pertaining to the intention will be made public, specifying when and where;
- b. that an opportunity will be offered to state views concerning the intention, to whom the opportunity will be offered, the method of communication and the deadline;
- c. whether the Committee or another independent body will be given the opportunity to make recommendations about the intention; and
- d. whether section 7.11 is to be applied to the draft plan.

3. The notification must also state that the environmental impact statement includes an appropriate assessment in connection with the possible significant effects on a Natura 2000 area as referred to in section 1 (n) of the Nature Conservancy Act 1998, if that environmental impact statement pertains to:

- a. a plan designated pursuant to section 7.2, subsection 2, and an appropriate assessment must be made for that plan in connection with the possible significant effects on a Natura 2000 area;
- b. a plan as referred to in section 7.2a, subsection 1.

4. The notice must be placed in a publication in another country if there may be serious adverse effects on the environment in that other country.

[...]

§ 7.5. The plan

Section 7.11

1. If the procedure for developing a plan does not provide for the deposit of the draft plan for inspection or for an opportunity for everyone to state their views, notwithstanding that procedure:

- a. sections 3:11 and 3:12 of the General Administrative Law Act must be applied to the draft plan, and
- b. everyone must be given the opportunity to state their views on the draft pursuant to sections 3:15 and 3:16 of that Act.

2. If the environmental impact statement is not included in the draft plan:

- a. the statement must be included in the documents deposited for inspection pursuant to section 3:11 of the General Administrative Law Act,
- b. the statement must be included in the notice referred to in section 3:12 of that Act, and
- c. views as referred to in section 3:15 of that Act may also apply to the statement.

3. For the purposes of subsection 1 (a), if a statutory provision stipulates that a plan be adopted within a certain time limit which is shorter than that referred to in section 3:16 of the General Administrative Law Act, the time limit must be extended to at least the period referred to in section 3:16 of the General Administrative Law Act, plus two weeks.

[...]

Section 7.14

1. At least the following information must be provided in or with the plan:

- a. how account has been taken of the possible environmental effects of the activity to which the plan pertains, as described in the environmental impact statement;
- b. what consideration has been given to the alternatives described in the environmental impact statement;

- c. what consideration has been given to the views on the environmental impact statement expressed in relation to the draft plan;
 - d. what consideration has been given to the recommendations made by the Committee in accordance with section 7.12.
2. Where applicable, the plan must also state:
- a. what consideration has been given to any possible serious adverse transboundary environmental effects in the environmental impact statement or the recommendations referred to in section 7.12;
 - b. what consideration has been given to the results of the consultations referred to in section 7.38a, subsection 5.
3. With the plan, the competent authority must stipulate the deadline or deadlines for starting an investigation as referred to in section 7.39 and how it will carry out that investigation.
4. The person undertaking the activity proposed in the plan must give the competent authority, on request, any assistance or information which the authority reasonably requires to carry out the investigation referred to in subsection 3.

Section 7.15

1. If the procedure for developing a plan does not provide for:
 - a. public notification of an adopted plan, the plan must be made public in the manner provided for by section 3:42 of the General Administrative Law Act;
 - b. communication of the adopted plan by sending a copy to the Committee and those who stated their views during its preparation, it must be communicated as provided for in section 3:43 of the General Administrative Law Act.
2. If the environmental impact statement is not included in the plan, notice of it must be given at the same time as the plan.

[...]

Section 7.17

1. Unless section 7.16, subsection 3 has been applied, the competent authority must decide, within six weeks of the date of receipt, whether, in view of the serious adverse effects which the activity in question may have on the environment, an environmental impact report must be drawn up in preparation for the relevant decision.

[...]

4. The competent authority must make its decision known by:
 - a. giving notice in one or more daily papers or other newspapers or free local papers and, if it has been decided that no environmental impact statement is required, in the State Journal;
 - b. giving notice in a publication in another country if the activity may have serious adverse effects on the environment in that other country;
 - c. depositing it for inspection.

[...]

Section 7.18

The person who wishes to undertake an activity designated pursuant to section 7.2, subsection 1 (b) must draw up an environmental impact statement if:

- a. the competent authority has decided that an environmental impact statement must be drawn up in preparation for the decision;
- b. he has submitted a statement as referred to in section 7.16, subsection 3.

Section 7.19

1. If the competent authority wishes to undertake an activity designated pursuant to section 7.2, subsection 1 (b), it must at the earliest possible stage take a decision on whether, because of the serious adverse effects that the activity may have on the environment, an environmental impact report must be drawn up in preparation for the decision designated pursuant to subsection 4 of that section. Section 7.17, subsections 2 and 3 apply mutatis mutandis.

[...]

4. The competent authority must make its decision known by:
 - a. giving notice in one or more daily papers or other newspapers or free local papers and, if it has been decided that no environmental impact statement is required, in the State Journal;

- b. giving notice in a publication in another country if the activity may have serious adverse effects on the environment in that other country;
 - c. depositing it for inspection.
- [...]

Section 7.23

[...]

2. Environmental impact assessments must be written in the Dutch language. When making the recommendations referred to in section 7.26 or 7.27, the competent authority may give the person undertaking the activity permission to write the report in another language to be designated therein. The summary referred to in subsection 1 (i) must always be written in Dutch. If an activity, in the preparation of which an environmental impact report must be drawn up, may have serious adverse effects on the environment in another country, the person undertaking the activity must send the competent authority, at its request and within a period to be stipulated in that request, a summary of the report in the national language of the area of that country where the activity may have serious adverse effects.

[...]

Section 7.27

[...]

6. Notification must be given in a publication in another country if there may be serious adverse effects on the environment in that country. The person wishing to undertake the activity must submit to the competent authority, at its request and within a period to be stipulated in that request, a translation of the notification in the national language of the area of that country where the activity may have serious adverse effects.

[...]

Section 7.29

[...]

2. If an activity may have serious adverse effects on the environment in another country, public notice of the application and the environmental impact report must be given in a publication in that country.

Section 7.30

1. If the procedure for arriving at the decision provides for public notification of the draft decision, public notice of the environmental impact report must be given at the same time, except in cases as referred to in section 7.29.
2. Subsection 1 applies mutatis mutandis to public notification in a publication in another country if the activity may have serious adverse effects on the environment in that country.

Section 7.37

[...]

2. The decision must also state:
 - a. what consideration has been given to any recommendations made by the Committee in accordance with section 7.32, subsection 5, in conjunction with section 7.12;
 - b. if applicable, what consideration the environmental impact report has given to possible serious adverse transboundary environmental effects; and
 - c. if applicable, what consideration has been given to the results of the consultations referred to in section 7.38a, subsection 5.

[...]

§ 7.11. Activities with possible transboundary environmental effects

Section 7.38a

1. If the information gathered in the framework of this Chapter shows that the proposed activity may have serious adverse effects on the environment of another country, the government of that country or an authority designated by that government must be notified as soon as possible.

2. Without prejudice to subsection 1, if an activity proposed in a plan may have serious adverse effects on the environment in another country, the following must be provided to the government of that country or an authority designated by that government in that country:
 - a. the draft plan and, if not contained in the draft plan, the environmental impact report, at the same time as they are deposited for inspection in the Netherlands;
 - b. the adopted plan and, if not contained in that plan, the environmental impact report, at the same time as they are made public in the Netherlands.
3. Without prejudice to subsection 1, if an activity proposed in a decision may have serious adverse effects on the environment in another country, the following must be provided to the government of that country or an authority designated by that government in that country:
 - a. the application referred to in section 7.28, or the draft decision as well as the environmental impact report and, if applicable, recommendations as referred to in section 7.26 or 7.27, at the same time as they are deposited for inspection in the Netherlands;
 - b. the decision and the environmental impact report at the same time as they are made public in the Netherlands.
4. Section 3:16, subsections 1 and 2 of the General Administrative Law Act and sections 7.9, subsection 2 (c), section 7.25 or section 7.27, subsection 4 apply mutatis mutandis to the bodies that the competent authority of the other country has designated for that purpose by virtue of their specific responsibility for environmental matters. The documents referred to in subsections 2 and 3 must also be sent to these bodies.
5. The documents to be supplied pursuant to subsection 2 or 3 serve as the basis for consultations with administrative authorities in the country concerned on any serious adverse effects that the activity may have on the environment in that country, and the measures being considered to prevent or limit those effects.
6. The competent authority is charged with the tasks arising from the application of subsections 1 to 4. The competent authority must supply information and also send the documents provided pursuant to subsections 2 and 3 to Our Minister; these documents also serve as the basis for the consultations, referred to in subsection 5, to be held by the competent authority.
7. Our Minister is charged, in a general sense, with maintaining contacts with the government of the other country and is involved in consultations at government level if the consultations on a proposed activity between the competent authority and the administrative authorities of that country have not led to the desired outcome.
8. Further rules concerning the provisions of subsections 2 to 5 may be laid down by ministerial order.

[Section 7.38b repealed]

[Section 7.38c repealed]

Section 7.38d

If another country thinks it may suffer serious adverse environmental effects as the result of an activity in the Netherlands proposed in a plan or decision, the competent authority or Our Minister must apply section 7.38a, subsections 1 to 5 at the request of that country, having regard to the division of tasks between the competent authority and Our Minister referred to in section 7.38a, subsections 6 and 7.

Section 7.38e

If another country may suffer serious adverse environmental effects as a result of an activity in the Netherlands proposed in a plan or decision, Our Minister may determine that the competent authority must not adopt that plan or decision until Our Minister has had the opportunity, for 13 weeks after the deadline for stating views on the draft plan, the application or the draft decision, to send the competent authority the outcome of the consultations referred to in section 7.38a, subsection 7.

[Section 7.38f repealed]

Section 7.38g

If a proposed activity in another country may have serious adverse effects on the environment in the Netherlands, Our Minister must maintain contacts with that country if no contacts on a proposed activity have been established between the administrative authorities directly involved in the

Netherlands and the administrative authorities in the other country or if the contacts have not led to the desired outcome.

[...]

Section 8.40

1. Rules needed to protect the environment from the harmful effects which establishments can have thereon may be laid down by or pursuant to order in council. It may be specified that rules laid down therein apply only in categories of cases specified therein.

2. A decision establishing an order in council as referred to in subsection 1 must in any event take account of:

- a. the existing state of the environment, in so far as establishments belonging to the categories concerned may have an effect thereon;
- b. the effects on the environment which establishments belonging to the categories concerned may have, including any combined effects;
- c. developments which may reasonably be expected with regard to establishments belonging to the categories concerned, and with regard to the location or possible location of such establishments, which are important for environmental protection;
- d. the scope for protecting the environment by preventing the adverse effects on the environment which establishments belonging to the categories concerned may cause, or minimising them if they cannot be prevented;
- e. current environmental quality requirements laid down pursuant to or in accordance with section 5.1 or in Schedule 2 for environmental compartments which the categories of establishment concerned may affect;
- f. any financial and economic consequences which may reasonably be expected to arise from the order.

An explanatory note to the order in council must indicate how these aspects were taken into account in the preparation of the order.

3. The rules laid down by or pursuant to section 2.22, subsections 2 and 3 of the Environmental Permitting (General Provisions) Act regarding the activities of establishments as referred to in section 2.1, subsection 1 (e) of that Act, as well as section 2.23, section 2.30, subsection 1, section 2.31, subsection 1 (b), section 2.33, subsection 1 (b) and section 4.1 of that Act apply mutatis mutandis to the rules referred to in subsection 1, with the proviso that the only form of financial security that may be required is liability insurance against damage arising from any adverse effects that the establishment may have on the environment.

4. This division and the provisions based on it also apply to establishments that may have harmful effects on the environment within the exclusive economic zone in so far as this is laid down by an order in council as referred to in subsection 1.

[...]

Section 21.6

1. The current national environmental policy plan must be taken into account when drafting, amending or withdrawing an order in council pursuant to this Act.
2. A recommendation for an order in council pursuant to section 5.1, subsection 1 or section 5.3, subsection 3 must be made to Us by Our Minister and, in so far as aspects of environmental policy are concerned which fall under their responsibility, by Our Minister of Transport, Public Works and Water Management and Our Minister of Agriculture, Nature and Food Quality and, in so far as the criminal enforcement of the provisions laid down by or pursuant to this Act or the other Acts referred to in section 18.2, subsection 1 (a) are concerned, Our Minister of Justice. A recommendation for an order in council pursuant to section 9.2.3.2 must be made to Us by Our Minister of Health, Welfare and Sport, with the agreement of Our Minister and of Our Minister of Social Affairs and Employment.
3. A recommendation for an order in council pursuant to Division 2.2, Chapter 7 or Division 14.2 must be made to Us by Our Minister, Our Minister of Agriculture, Nature and Food Quality and Our Minister of Education, Culture and Science. A recommendation for an order in council pursuant to Title 12.1 must be made to Us by Our Minister and in so far as it concerns aspects of environmental policy which fall

under their responsibility, by Our Minister of Transport, Public Works and Water Management, Our Minister of Agriculture, Nature and Food Quality and Our Minister of Economic Affairs. If one or more establishments are involved which fall under the jurisdiction of Our Minister of Defence, a recommendation for an order in council in accordance with section 12.1, subsection 2, section 12.4 and section 12.5 must be made to Us with his agreement.

4. A draft order in council pursuant to section 1.1, subsection 1, 3, 6, 7 or 8, section 2.2, subsection 3, section 5.1, subsection 1, section 5.2b, subsection 5, section 5.3, subsection 1, section 7.2, subsection 1, section 8.40, section 8.49, subsection 5, section 9.2.1.3, subsection 2, section 9.2.1.4, section 9.2.2.1, subsection 1, section 9.2.3.2, section 9.2.3.3, subsection 4, section 9.5.2, section 10.2, subsection 2, section 10.22, subsection 2, section 10.28, subsection 1, section 10.29, subsection 1, section 10.32, section 10.41, subsections 1 and 2, section 10.42, subsection 1, section 10.43, subsection 1, section 10.44, subsection 3, section 10.46, subsection 1, section 10.47, subsection 1, section 10.48, subsection 1, section 10.51, subsection 1, section 10.52, subsection 1, section 10.54, subsection 3, section 10.61, subsection 1, section 11.1, subsection 1, section 11.3, subsection 1, section 11.11, subsection 2. Section 11.29, subsection 4, section 12.10, subsection 2, section 12.12, subsections 2 and 4, section 12.13, subsections 2 and 3, section 12.16, subsection 3, section 12.20a, subsection 1, section 12.29, section 15.13, subsection 1, section 15.32, subsection 1 or 2, section 15.46, subsection 5, section 17.7 or section 21.4 must be presented to both Houses of the States General and published in the Government Gazette. All persons must be given the opportunity to submit written comments on the draft to Our Minister within a period to be stated therein of at least four weeks.
5. An order in council as referred to in subsection 4 must be sent to both Houses of the States General after it has been drawn up. It takes effect no sooner than four weeks from the date of issue of the Bulletin of Acts and Decrees in which it appears. An order in council drawn up pursuant to section 5.1, subsection 1 enters into force on a date laid down by royal decree not earlier than four weeks from the date on which it was sent to both Houses of the States General unless, within this period, the wish is expressed by or on behalf of one of the Houses of the States General, or by at least one fifth of the number of members of one of the Houses laid down by the Constitution, that the subject matter of the order in council should be regulated by statute. In that event, a Bill to this effect must be submitted as soon as possible and the order in council must be withdrawn without delay.
6. Whatever may be regulated pursuant to this Act by order in council must nevertheless be regulated by ministerial order if the rules only entail implementation of treaties or decisions of international organisations which are binding upon the Netherlands, unless proper implementation requires the amendment of an order in council or the Act. If amendment of an order in council is necessary, this must be brought to the notice of both Houses of the States General at the same time as the recommendation is put before Us, together with a statement of the reasons therefor and an abstract of the proposed order in council. The draft of a ministerial order as referred to in the first sentence must be sent to both Houses of the States General at least four weeks before the order is issued. Subsections 2 and 3 apply *mutatis mutandis* to the issue of a ministerial order.
7. Subsections 2 to 5 and the second, third and fourth sentences of subsection 6 do not apply to an order in council pursuant to section 8.40 in so far as it relates solely to establishments which have been designated as mines pursuant to section 1 of the Mining Act. In this case, the proposal for an order in council must be made to us by Our Minister of Economic Affairs. If the first sentence of subsection 6 is applied in this case, the ministerial order must be issued by Our Minister of Economic Affairs.