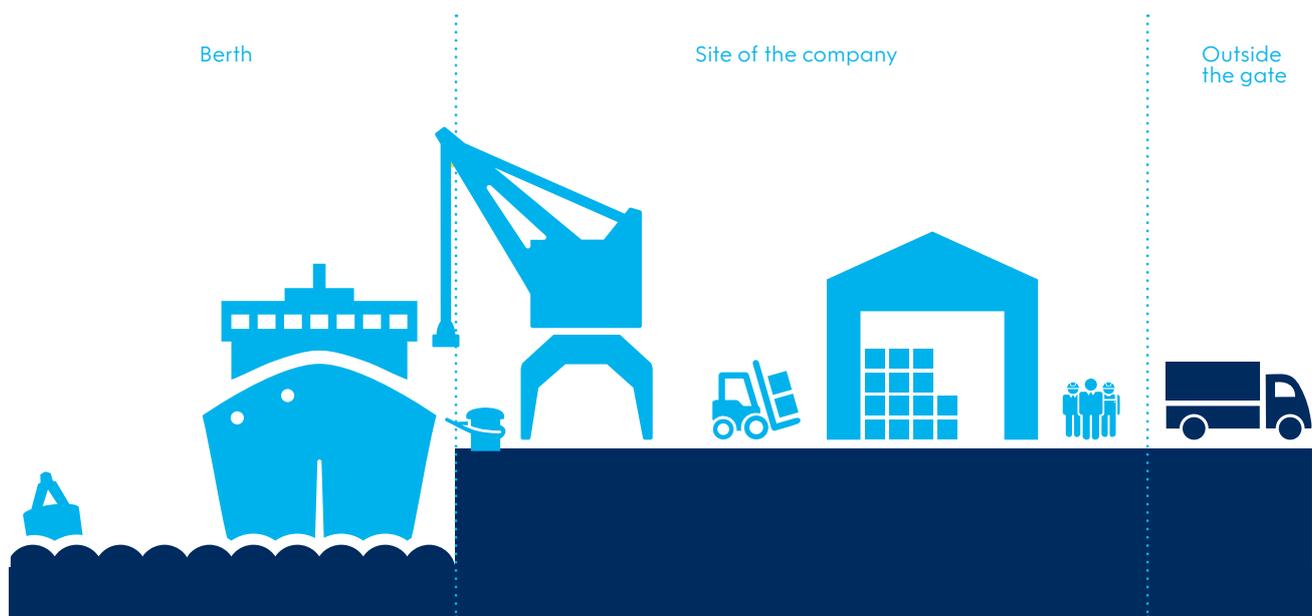

GUIDE TO PERMIT REQUIREMENT FOR ENVIRONMENTALLY HARMFUL ACTIVITIES IN THE PORT

Practical guide to help companies and authorities
navigate the permit requirement under the
Dutch Environment and Planning Act



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INTRODUCTION

With the entry into force of the Dutch Environment and Planning Act, the current term 'establishment' lapses and the term environmentally harmful activity is introduced. With this guide we aim to help companies and authorities in port and industrial areas to find their way in the new permit procedure. In this guide you will find answers to questions such as: when are environmentally harmful activities subject to a permit, when should functional support activities also be included in the permit and what geographical boundaries can the application be based on.

Here it is noted that additional rules might be applicable based on the spatial and environmental plan of the municipality, the spatial and environmental regulation of the province and/or the regulation of the water board authority that will have to be taken into account in the permit procedure. For example, a number of environmental issues has to be regulated in the spatial and environmental plan on the basis of the Environmental Quality Decree (Bkl): noise, external safety and vibrations. These rules are not included in this guide. It goes without saying that the environmentally harmful activity must also always comply with the general rules that can be set in the spatial and environmental plan, the spatial and environmental regulation or the water board regulation.

In addition, the so-called specific duty of care under the Living Environment Activities Decree (Bal) applies to all activities. This means that anyone who performs an environmentally harmful activity regulated in the Decree or discharges waste into the surface water or at a treatment plant regulated in the Decree and knows or can reasonably suspect that that activity may have an adverse effect on safety, health or the environment has the duty to ensure that these consequences are prevented, limited or reversed as far as possible, or the activity is not carried out if this can reasonably be requested. Customised rules can also be imposed.

We also draw your attention to the website '[Aan de slag met de Omgevingswet](#)' (getting started with the Environment and Planning Act), where the rules for activities that affect the physical environment are published.

1. IS THE RELEVANT ACTIVITY A 'COMPLEX BUSINESS ACTIVITY'?

There are approximately 1,500 complex business activities in the Netherlands, of which about 400 fall under the Seveso Directive (under current law under the Major Accidents Risk Decree 2015). There are also complex business activities that fall under the scope of the Industrial Emissions Directive or because of their environmental impact are classified as a complex business activity. The following business activities are defined as a complex business activity under the Bal (summarised)

- Seveso company (art. 3.50 through 3.53);
- Large-scale energy production (art. 3.54 through 3.56);
- Refineries (art. 3.57 through 3.59);
- Production of coke (art. 3.60 through 3.62);
- Gasification or liquefaction of coal or other fuels (art. 3.63 through 3.65);
- Operating an IPPC installation in the base metal industry (art. 3.66 through 3.68);
- Operating an IPPC installation in the minerals industry (art. 3.69 through 3.71);
- Operating an IPPC installation in the base chemicals industry (art. 3.72 through 3.74);
- Operating an IPPC installation in the paper industry, wood industry and textile industry (art. 3.75 through 3.77);
- Operating an IPPC installation for waste management purposes (art. 3.78 through 3.80);
- Operating an IPPC installation for the treatment of animal carcasses or animal waste (art. 3.81 through 3.83);
- Operating an IPPC installation for a landfill or extractive waste facility (art. 3.84 through 3.86);
- The incineration of waste in an IPPC installation (art. 3.87 through 3.89);
- Operating an environmentally harmful installation for large-scale manure treatment (art. 3.90 through 3.92).

In the case of complex business activities, all the activities performed at the location must be included in the permit, just like in the definition of 'establishment' within the meaning of the Environmental Management Act¹. The province is the competent authority for complex business activities.

¹ With the exception of the organisational link: this no longer exists under the Environment and Planning Act.

2. WHEN THE ACTIVITY IS NOT A 'COMPLEX BUSINESS ACTIVITY': UNDER WHICH INDUSTRY DOES THE ACTIVITY IN QUESTION FALL?

In section 3.4.1 through 3.11.6 of the Bal, environmentally harmful activities are classified by industry. These are activities that are often location-bound and generally involve several related activities that can have harmful effects on the environment. It is stated for each section which component of the environmentally harmful activities is subject to the permit requirement and which general rules apply. In many cases, the permit requirement for these environmentally harmful activities does not include the functional support activities.

3. DOES THE ACTIVITY REGARD A CROSS-INDUSTRY ACTIVITY?

Cross-industry activities are environmentally harmful activities that are performed as part of the business activities. This regards technical installations, such as storage tanks or cooling systems, among others, that can have harmful effects on the environment. For these activities, requirements have been set out in the Bal that limit the harmful effects on the physical environment.

The following cross-industry activities are common in port and industrial areas:

- Operating a combustion plant with a nominal thermal input power of more than 100 kW (art. 3.4 through 3.6);
- Operating a wet cooling tower (art. 3.7 and 3.8);
- Converting electrical energy into electromagnetic radiation energy with an electrical power of more than 4 kW (art. 3.0 and 3.10);
- Generating electricity with a wind turbine with a rotor diameter of more than 2 m (art. 3.11, 3.13 and 3.14);
- Operating a cold store (art. 3.15 through 3.17);
- Storing gases in a storage tank (art. 3.21 through 3.23);
- Storing liquids in a storage tank or tank container (art. 3.24 through 3.26);
- Storing hazardous substances in packaging (art. 3.27 through 3.29);
- Storing, repacking and processing fireworks or pyrotechnic articles for theatre use (art. 3.30 through 3.32);
- Storing explosive substances for civil use (art. 3.33 through 3.35);
- Storing, mixing, separating and compacting industrial or hazardous waste prior to collection or delivery (art. 3.39 through 3.40a);
- Placing industrial waste materials or hazardous waste materials on or in the soil outside landfills (art. 3.40b and 3.40c);
- Incinerating waste materials otherwise than in an IPPC installation (art. 3.40d through 3.40f);
- Operating a treatment facility for collected or delivered wastewater (art. 3.41 through 3.43);
- Operating an IPPC installation for treating the surface with solvents (art. 3.44 through 3.46);
- Capturing carbon dioxide for underground storage (art. 3.47 and 3.48);
- Cleaning up the soil (art. 3.48h and 3.48i);
- Storing, sieving, mechanical dewatering and mixing of soil or dredged material that is reusable without treatment (art. 3.48j through 3.48l);
- Applying soil or dredged material (art. 3.48o through 3.48q).

Here, too, whether there is a permit requirement and what the scope of this is, is stated for each section.

EXAMPLE

COMPLEX BUSINESS ACTIVITY: THE SEVESO-COMPANY



Hazardous substances are present in one or more Seveso installations at a location. §3.3.1 of the Bal applies to these. The tank storage activities of liquid bulk terminals in the port of Rotterdam almost always fall into this category, given the quantities. Companies where hazardous substances are only stored for a short time as part of the transport are not covered by the rules for Seveso-companies. This regards, for example, container terminals.

Due to the broad definition of the term Seveso company all activities at the location are included. The cross-industry activities are also included.

The following activities are schematically part of the permit application:



Location

Activities that are part of the environmentally harmful activity

Part of the permit application

The permit application includes:

- the presence of and the loading/unloading activities of the vessel moored at berth;
- the activities in the Seveso and/or IPPC installation and/or storage in tanks, including the associated infrastructure and activities at the location;
- all activities at the location including the loading/unloading activities of trucks/wagons.

The transportation of freight and persons outside the location of the environmentally harmful activity is not one of the purposes of the environmentally harmful activity under the Bal and is not included in the permit application. The environmental effects of transportation outside the location of the environmentally harmful activity can be regulated in the spatial and environmental plan.

The following articles apply to this activity:

§ 3.3.1 Seveso company

Article 3.50 (classifying environmentally harmful activities)

1. Operating a Seveso establishment is classified as an environmentally harmful activity as referred to in Article 2.1.
2. The classification does not include:
 - a. environmentally harmful activities by the Dutch or an allied armed forces on military sites or sites with a military object as referred to in Article 5.150, first paragraph, of the Environmental Quality Decree;
 - b. the storage of hazardous substances outside a Seveso company for the transportation of substances or freight, as referred to in Article 3, paragraph ten, of the Seveso Directive, for a short period of time and pending subsequent shipment to a known recipient;
 - c. operating a pipeline outside a Seveso company for hazardous substances, as referred to in Article 3, paragraph ten, of the Seveso Directive, with the associated facilities;
 - d. the exploration for and production of minerals;
 - e. the underground storage of gas in the North Sea; and
 - f. the deposit of industrial or hazardous waste materials at a landfill, including the underground storage of waste materials, with the exception of:
 - 1 °. chemical and thermal processing activities and storage associated therewith, involving hazardous substances as referred to in Article 3, paragraph ten, of the Seveso Directive; and
 - 2 °. operational facilities for the disposal of residues containing hazardous substances as referred to in Article 3, paragraph ten, of the Seveso Directive.

Article 3.51 (classifying activities subject to a permit)

1. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit, applies to the environmentally harmful activity, as referred to in Article 3.50.
2. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph.

Article 3.52 (general rules)

When performing the activity referred to in Article 3.50, the rules on:

- a. a Seveso company, as referred to in section 4.2; and
- a. a petrol terminal, as referred to in section 4.105, must be complied with.

And the articles from section 3.2 of the Bal (articles 3.4 to 3.48) regarding the industry-transcending activities performed at the location.



At a terminal ores are brought in, stored and then removed, by sea and inland vessels and to a limited extent by rail or by road. The activity falls under the 'storage and transport, wholesale and container terminal' industry (§3.8.6). The storage of ores is classified as an environmentally harmful activity subject to a permit in Article 3.286. In this example it is assumed that no cross-industry activities are performed at the location.

The following activities are schematically part of the permit application:



 Location

 Activities that are part of the environmentally harmful activity

 Part of the permit application



EXAMPLE
**TERMINAL FOR STORAGE
AND TRANSSHIPMENT
OF ORES**

The permit application includes:

- the presence of and the loading/unloading activities of the vessel moored at berth;
- the storage of the ores and the related operations;
- the transport activities at the location incl. the loading and unloading activities of trucks/railway wagons.

The transportation of freight and persons outside the location of the environmentally harmful activity is not one of the purposes of the environmentally harmful activity under the Bal and is not included in the permit application. The environmental effects of transportation outside the location of the environmentally harmful activity can be regulated in the spatial and environmental plan.

The following articles apply to this activity:

§ 3.8.6 Storage and transport, wholesale and container terminal

Article 3.285 (classifying environmentally harmful activities)

1. The following are classified as environmentally harmful activities as referred to in Article 2.1 for the transport of substances or freight:
 - a. storage of substances or freight;
 - b. maintenance, repair and cleaning of motorised vehicles or machines; and
 - c. parking vehicles, semi-trailers or trailers for dangerous substances as referred to in Article 3.27, first paragraph, under a, b or c.
2. The classification also includes other environmentally harmful activities performed at the same location that functionally support the storage, maintenance, repair, cleaning or parking.
3. The classification does not include:
 - a. a parking area that is part of a public road or stretch of road or a parking area open to public traffic; and
 - b. the activity, as referred to in the first paragraph, under a, if it only consists of the storage of chemicals or fuels in storage tanks, as referred to in paragraph 3.8.2, for trading purposes or for transport.

Article 3.286 (classifying activities subject to a permit)

1. The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activities referred to in Article 3.285, insofar as it regards:
 - a. the storage of coal, ores or ore derivatives;
 - b. the parking of vehicles, semi-trailers or trailers carrying hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, for longer than 24 hours;
 - c. the parking of more than three vehicles, semi-trailers or trailers for hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c;
 - d. the fumigation or degassing of containers;
 - e. refuelling vehicles or machines with LNG;
 - f. refuelling vehicles or machines with hydrogen;
 - g. the unpackaged bulk storage of more than 1 kg of solid hazardous substances in:
 - 1°. ADR class 4.1, 4.2 of 4.3;
 - 2°. ADR class 5.1;
 - 3°. ADR class 6.1;
 - 4°. ADR class 6.2;
 - 5°. ADR class 8; or
 - 6°. ADR class 9, which pollute the aquatic environment;
 - h. the storage of hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, in a container;
 - i. the storage of fireworks or pyrotechnic articles for theatrical use, for a short period of time and pending subsequent shipment to a known recipient;
 - j. the storage of explosive substances in ADR class 1 by a party other than the Netherlands or an allied armed force, for a short period of time and pending subsequent shipment to a known recipient; or
 - k. the storage of hazardous substances as referred to in Article 3, paragraph ten, of the Seveso Directive, outside a Seveso company, in a quantity of at least the threshold value as referred to in Annex I, section 1 or section 2, to the Seveso Directive, subject to the notes to that Annex, for a short period of time and pending subsequent shipment to a known recipient.
2. The prohibition also applies for other environmentally harmful activities involving hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, that are performed:
 - a. at the same location as the activities referred to in the first paragraph, under b through k; or
 - b. at the same location as an environmentally harmful activity, as referred to in Article 3.16, 3.22, 3.25, 3.28, 3.31, 3.34 or 3.37.
3. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph up to and including the third paragraph.

Article 3.287 (general rules)

1. When performing the activities referred to in Article 3.285, the rules on:
 - a. maintaining and repairing combustion engines, motorised vehicles, aircraft, vessels or machines, as referred to in section 4.22;
 - b. refuelling and storing LPG, as referred to in section 4.35;
 - c. refuelling and storing LNG, as referred to in section 4.36;
 - d. refuelling CNG, as referred to in section 4.37;
 - e. refuelling and storing hydrogen, as referred to in section 4.38;
 - f. refuelling on a small scale, as referred to in section 4.39;
 - g. refuelling on a large scale, as referred to in section 4.40;
 - h. a car wash or washing area, as referred to in section 4.44;
 - i. storing end-of-life vehicles, as referred to in section 4.48;
 - j. storing freight, as referred to in section 4.104;
 - k. parking vehicles, semi-trailers or trailers carrying dangerous substances, as referred to in section 4.106; and
 - l. loading and unloading of vessels or floating machines, as referred to in section 4.107, must be complied with.
2. When performing the activities referred to in Article 3.285, the rules on discharging cooling water, as referred to in section 4.110, must be complied with if the activity has not been classified as being subject to a permit in this chapter.
3. The rules on energy saving, as referred to in section 5.4.1, must also be complied with, unless the activity or part of the activity has been classified as being subject to a permit in Article 3.286.

What are the functional support activities at this location:

Which environmentally harmful activities are not part of the core activity 'the storage of coal, ores or ore derivatives' and are performed at the same location? This regards, for example:

- The activities in the office building with a canteen or in the workshop for maintenance of the equipment;
- The fuel provisions for own equipment;
- A parking area.

These activities would not be present at this location if the core activity did not take place. However, the functional support activities have not been classified as part of the permit requirement for the storage of ores and therefore do not need to be included in the permit application. For a number of these activities, a notification obligation applies in the context of the Bal.

EXAMPLE

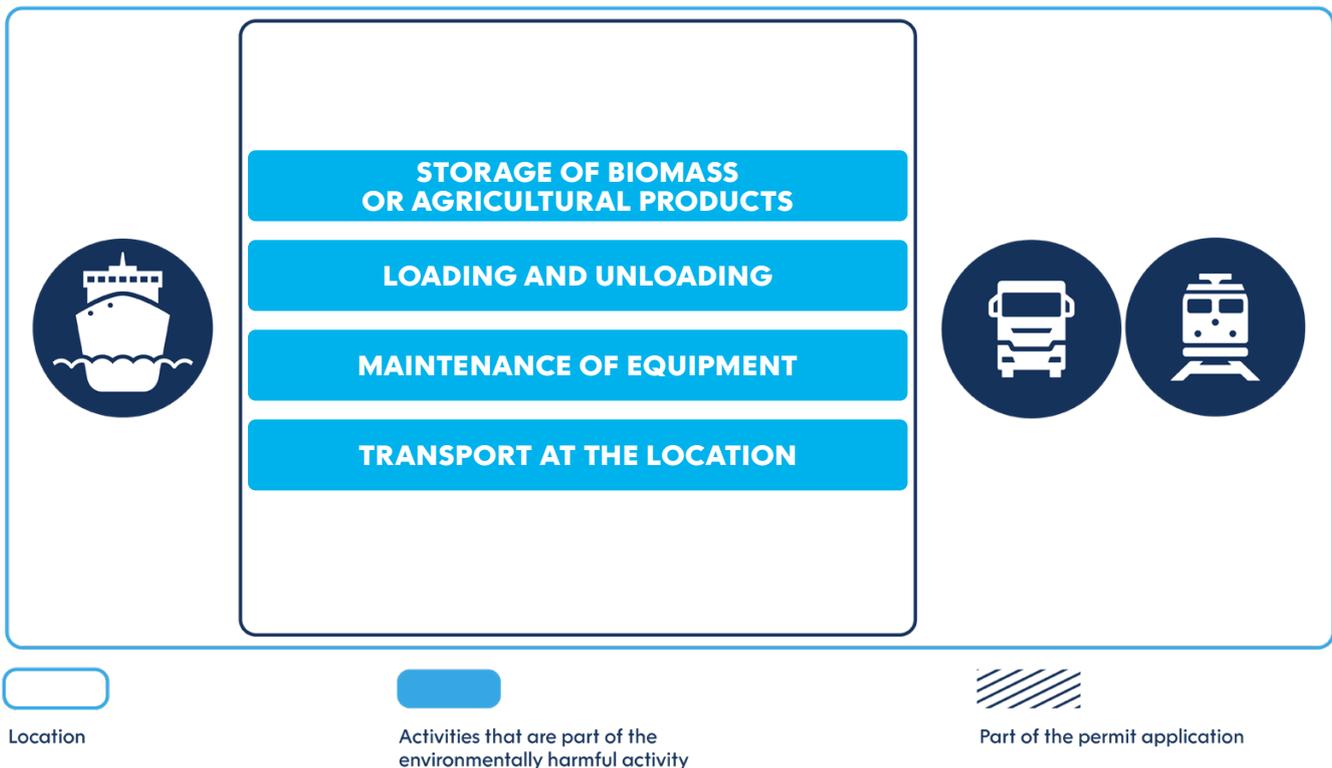
TERMINAL FOR THE STORAGE AND TRANSSHIPMENT OF AGRI-BULK



At a terminal, biomass and/or agricultural products are brought in, stored and then removed, by sea and inland vessels and to a limited extent by rail or by road. The activity falls under the 'storage and transport, wholesale and container terminal' industry (§3.8.6). The storage of biomass and agricultural products is not classified as an environmentally harmful activity subject to a permit in Article 3.286. The business activities must therefore comply with the general rules, at the very least with the general rules set out in §4.104 and §4.107.

In this example it is assumed that no cross-industry activities are performed at the location.

Schematically, the following activities take place at the location:



No permit application is needed. However, a notification should be submitted under the general rules.

The following articles apply to this activity:

§ 3.8.6 Storage and transport, wholesale and container terminal

Article 3.285 (classifying environmentally harmful activities)

1. The following are classified as environmentally harmful activities as referred to in Article 2.1 for the transport of substances or freight:
 - a. storage of substances or freight;
 - b. maintenance, repair and cleaning of motorised vehicles or machines; and
 - c. parking vehicles, semi-trailers or trailers for hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c.
2. The classification also includes other environmentally harmful activities performed at the same location that functionally support the storage, maintenance, repair, cleaning or parking.
3. The classification does not include:
 - a. a parking area that is part of a public road or stretch of road or a parking area open to public traffic; and
 - b. the activity, as referred to in the first paragraph, under a, if it only consists of the storage of chemicals or fuels in storage tanks, as referred to in paragraph 3.8.2, for trading purposes or for transport.

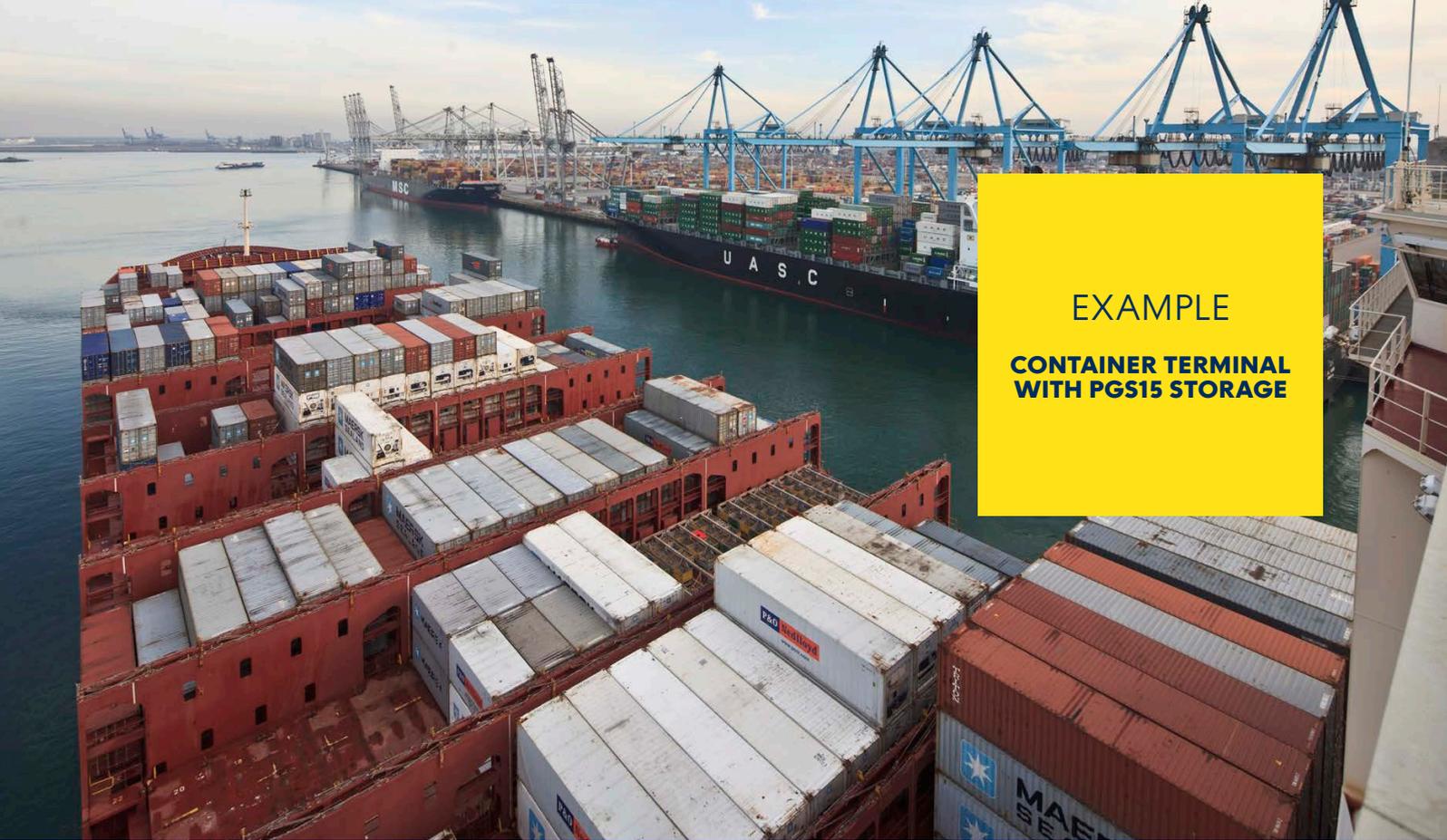
Article 3.286 (classifying activities subject to a permit)

1. The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activities referred to in Article 3.285, insofar as it regards:
 - a. the storage of coal, ores or ore derivatives;

- b. the parking of vehicles, semi-trailers or trailers carrying hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, for longer than 24 hours;
 - c. the parking of more than three vehicles, semi-trailers or trailers for hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c;
 - d. the fumigation or degassing of containers;
 - e. refuelling vehicles or machines with LNG;
 - f. refuelling vehicles or machines with hydrogen;
 - g. the unpackaged bulk storage of more than 1 kg of solid hazardous substances in:
 - 1°. ADR class 4.1, 4.2 of 4.3;
 - 2°. ADR class 5.1;
 - 3°. ADR class 6.1;
 - 4°. ADR class 6.2;
 - 5°. ADR class 8; or
 - 6°. ADR class 9, which pollute the aquatic environment;
 - h. the storage of hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, in a container;
 - i. the storage of fireworks or pyrotechnic articles for theatrical use, for a short period of time and pending subsequent shipment to a known recipient;
 - j. the storage of explosive substances in ADR class 1 by a party other than the Netherlands or an allied armed force, for a short period of time and pending subsequent shipment to a known recipient; or
 - k. the storage of hazardous substances as referred to in Article 3, paragraph ten, of the Seveso Directive, outside a Seveso company, in a quantity of at least the threshold value referred to in Annex I, section 1 or section 2, to the Seveso Directive, subject to the notes to that Annex, for a short period of time and pending subsequent shipment to a known recipient.
2. The prohibition also applies for other environmentally harmful activities involving hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, that are performed:
 - a. at the same location as the activities referred to in the first paragraph, under b through k; or
 - b. at the same location as an environmentally harmful activity, as referred to in Article 3.16, 3.22, 3.25, 3.28, 3.31, 3.34 or 3.37.
 3. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph up to and including the third paragraph.

Article 3.287 (general rules)

1. When performing the activities referred to in Article 3.285, the rules on:
 - a. maintaining and repairing combustion engines, motorised vehicles, aircraft, vessels or machines, as referred to in section 4.22;
 - b. refuelling and storing LPG, as referred to in section 4.35;
 - c. refuelling and storing LNG, as referred to in section 4.36;
 - d. refuelling CNG, as referred to in section 4.37;
 - e. refuelling and storing hydrogen, as referred to in section 4.38;
 - f. refuelling on a small scale, as referred to in section 4.39;
 - g. refuelling on a large scale, as referred to in section 4.40;
 - h. a car wash or washing area, as referred to in section 4.44;
 - i. storing end-of-life vehicles, as referred to in section 4.48;
 - j. storing freight, as referred to in section 4.104;
 - k. parking vehicles, semi-trailers or trailers carrying dangerous substances, as referred to in section 4.106; and
 - l. loading and unloading of vessels or floating machines, as referred to in section 4.107, must be complied with.
2. When performing the activities referred to in Article 3.285, the rules on discharging cooling water, as referred to in section 4.110, must be complied with if the activity has not been classified as being subject to a permit in this chapter.
3. The rules on energy saving, as referred to in section 5.4.1, must also be complied with, unless the activity or part of the activity has been classified as being subject to a permit in Article 3.286.



EXAMPLE
CONTAINER TERMINAL WITH PGS15 STORAGE

This regards a location for the storage and transshipment of containers, including containers containing hazardous substances. At the terminal, containers are brought in, stored and subsequently removed by water, by rail and by road. There is also a workshop, fuel facility, facility rooms, with office and a PGS15 storage facility at the location.

Container Terminals that store and tranship hazardous substances are specifically exempted in the Seveso Directive, as a result of which they are not included in the category Seveso company. These stevedoring activities fall under the 'storage and transport, wholesale and container terminal' industry (§3.8.6). The handling of hazardous substances is classified as an environmentally harmful activity subject to a permit in Article 3.286.

The cross-industry activity 'storage of hazardous substances in packaging (art. 3.27 t/m 3.29)' is also performed at this location. This regards the storage in the PGS15 storage facility. Because the storage of hazardous substances in containers involves large quantities, this environmentally harmful activity will require a permit. This means that the storage in the PGS15 storage facility must be included in the environmental permit as part of the environmentally harmful activity of the container terminal. If the threshold values under the Seveso Directive are exceeded with the storage in the PGS15 storage facility, the entire location (so including the container terminal) becomes a Seveso company (see previous example). This is not assumed in this example.

The containers for hazardous substances that are loaded or unloaded are included in the permit application from the container terminal in question. The containers for hazardous substances on board a moored vessel that are not handled are not included in the permit application for the terminal.

The following activities are schematically part of the permit application:



Location

Activities that are part of the environmentally harmful activity

Part of the permit application

The permit application includes:

- the presence of and the loading/unloading activities of the vessel moored at berth of containers in which hazardous substances are transported;
- the storage of the containers for hazardous substances and all related operations at the location;
- the storage in the PGS15 storage facility and all related operations at the location;
- the loading/unloading activities of containers for hazardous substances.

The transportation of freight and persons outside the location of the environmentally harmful activity is not one of the purposes of the environmentally harmful activity under the Bal and is not included in the permit application. The environmental effects of transportation outside the location of the environmentally harmful activity can be regulated in the spatial and environmental plan.

The following articles apply to this activity:

§ 3.8.6 Storage and transport, wholesale and container terminal

Article 3.285 (classifying environmentally harmful activities)

1. The following are classified as environmentally harmful activities as referred to in Article 2.1 for the transport of substances or freight:
 - a. storage of substances or freight;
 - b. maintenance, repair and cleaning of motorised vehicles or machines;
 - c. parking vehicles, semi-trailers or trailers for hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c.
2. The classification also includes other environmentally harmful activities performed at the same location that functionally support the storage, maintenance, repair, cleaning or parking.

3. The classification does not include:
 - a. a parking area that is part of a public road or stretch of road or a parking area open to public traffic; and
 - b. the activity, as referred to in the first paragraph, under a, if it only consists of the storage of chemicals or fuels in storage tanks, as referred to in paragraph 3.8.2, for trading purposes or for transport.

§ 3.2.9 Storing hazardous substances in packaging

Article 3.27 (classifying environmentally harmful activities)

1. The storage of the following is classified as an environmentally harmful activity as referred to in Article 2.1:
 - a. hazardous substances in ADR class 2, 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1, 6.2 or 8;
 - b. hazardous substances in ADR class 9 that pollute the aquatic environment; or
 - c. hazardous substances in the acute toxicity hazard class, category 1, 2 or 3, as referred to in Part 3 of Annex I to the CLP Regulation.
2. The classification does not include:
 - a. the environmentally harmful activities that are classified in the articles 3.21, 3.24 and 3.36; and
 - b. the storage of less than:
 - 1°. 1 kg of hazardous substances in ADR class 5.2, 6.1, packaging group I, 6.2, category II or I2, or 8, packaging group I;
 - 2°. 25 kg liquid hazardous substances in ADR class 3, packaging group I or II;
 - 3°. 25 l of toxic or corrosive gases in ADR class 2;
 - 4°. 125 l flammable gases in ADR class 2 in gas cylinders; and
 - 5°. 1,000 kg in total of the hazardous substances referred to in the first paragraph.

§ 3.8.6 Storage and transport, wholesale and container terminal

Article 3.286 (classifying activities subject to a permit)

1. The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit, applies to the environmentally harmful activities referred to in Article 3.285, insofar as it regards:
 - a. the storage of coal, ores or ore derivatives;
 - b. the parking of vehicles, semi-trailers or trailers carrying hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, for longer than 24 hours;
 - c. the parking of more than three vehicles, semi-trailers or trailers for hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c;
 - d. the fumigation or degassing of containers;
 - e. refuelling vehicles or machines with LNG;
 - f. refuelling vehicles or machines with hydrogen;
 - g. the unpackaged bulk storage of more than 1 kg of solid hazardous substances in:
 - 1°. ADR class 4.1, 4.2 of 4.3;
 - 2°. ADR class 5.1;
 - 3°. ADR class 6.1;
 - 4°. ADR class 6.2;
 - 5°. ADR class 8; or
 - 6°. ADR class 9, which pollute the aquatic environment;
 - h. the storage of hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, in a container;
 - i. the storage of fireworks or theatrical pyrotechnic articles, for a short period of time and pending subsequent shipment to a known recipient;
 - j. the storage of explosive substances in ADR class 1 by a party other than the Dutch or an allied armed forces for a short period of time and pending subsequent shipment to a known recipient; or
 - k. the storage of hazardous substances as referred to in Article 3, paragraph ten, of the Seveso Directive, outside a Seveso

company, in a quantity of at least the threshold value referred to in Annex I, section 1 or section 2, to the Seveso Directive, subject to the notes to that Annex, for a short period of time and pending subsequent shipment to a known recipient.

2. The prohibition also applies for other environmentally harmful activities involving hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, that are performed:
 - a. at the same location as the activities referred to in the first paragraph, under b through k; or
 - b. at the same location as an environmentally harmful activity, as referred to in Article 3.16, 3.22, 3.25, 3.28, 3.31, 3.34 or 3.37.
3. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph up to and including the third paragraph.

§ 3.2.9 Storing hazardous substances in packaging

Article 3.28 (classifying activities subject to a permit)

The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit, applies to the environmentally harmful activity, referred to in Article 3.27, insofar as it regards the storage of the following in a storage area:

- a. more than 1,500 l of toxic or corrosive gases in ADR class 2 in gas cylinders;
- b. hazardous substances in ADR class 5.2, type A of B;
- c. hazardous substances in ADR class 5.2, type C through F, for which, according to ADR, temperature control is required;
- d. more than 1,000 kg of hazardous substances in ADR class 5.2, type C through F, for which, according to ADR, no temperature control is required;
- e. more than 1,000 kg of hazardous substances in ADR class 6.1, packaging group I;
- f. more than 1,000 kg of hazardous substances in ADR class 8, packaging group I;
- g. more than 1,500 litres of liquefied gases in the acute toxicity hazard class, category 1, 2 or 3, as referred to in Annex I, section 3, to the CLP regulation, in gas cylinders; or
- h. 10,000 kg or more of hazardous substances, as referred to in Article 3.27, first paragraph, under a, b or c.

§ 3.8.6 Storage and transport, wholesale and container terminal

Article 3.287 (general rules)

1. When performing the activities referred to in Article 3.285, the rules on:
 - a. maintaining and repairing combustion engines, motorised vehicles, aircraft, vessels or machines, as referred to in section 4.22;
 - b. refuelling and storing LPG, as referred to in section 4.35;
 - c. refuelling and storing LNG, as referred to in section 4.36;
 - d. refuelling CNG, as referred to in section 4.37;
 - e. refuelling and storing hydrogen, as referred to in section 4.38;
 - f. refuelling on a small scale, as referred to in section 4.39;
 - g. refuelling on a large scale, as referred to in section 4.40;
 - h. a car wash or washing area, as referred to in section 4.44;
 - i. storing end-of-life vehicles, as referred to in section 4.48;
 - j. storing freight, as referred to in section 4.104;
 - k. parking vehicles, semi-trailers or trailers carrying dangerous substances, as referred to in section 4.106; and
 - l. loading and unloading of vessels or floating machines, as referred to in section 4.107, must be complied with.
2. When performing the activities referred to in Article 3.285, the rules on discharging cooling water, as referred to in section 4.110, must be complied with if the activity has not been classified as being subject to a permit in this chapter.
3. The rules on energy saving, as referred to in section 5.4.1, must also be complied with, unless the activity or part of the activity has been classified as being subject to a permit in Article 3.286.

§ 3.2.9 Storing hazardous substances in packaging

Article 3.29 (general rules)

When performing the activity referred to in Article 3.27, the rules on:

- a. the storage of hazardous substances in packaging, referred to in section 4.98, if the activity has not been classified as being subject to a permit in Article 3.28; and
- a. the storage of hazardous substances in packaging, referred to in section 4.99, if the activity has not been classified as being subject to a permit in Article 3.28, must be complied with.

What are the functional support activities at this location:

Which environmentally harmful activities are not part of the core activity 'the storage of hazardous substances in a container' and are performed at the same location? This regards, for example:

- the activities in the office building with a canteen or in the workshop for maintenance of the equipment;
- the fuel or charging facility for the equipment;

These activities would not be present at this location if the core activity did not take place. However, the functional support activities have not been classified as part of the permit requirement and therefore do not need to be included in the permit application.

For a number of these activities, a notification obligation applies in the context of the Bal.



EXAMPLE
EMPTY DEPOT

This regards a location for the temporary storage of empty (uncleaned) containers. At the terminal, containers are brought in, stored and subsequently removed, mainly by road. There is also a workshop for repair work and re-working, limited cleaning, facility areas and an office at the location. The empty (uncleaned) containers are treated as freight here. They are not machines.

The activity falls under the 'storage and transport, wholesale and container terminal' industry (§3.8.6). The storage of empty containers that have not contained hazardous substances is not classified as an environmentally harmful activity subject to a permit in Article 3.286. The operations regarding these activities should comply with the general rules and with the specific duty of care. The storage of empty containers that have contained hazardous substances is subject to a permit in accordance with Article 3.286.

At the location, the cleaning of storage tanks, packaging, vehicles or containers for hazardous substances also takes place. §3.8.11 of the Bal applies to this.

The following activities are schematically part of the permit application:



The permit application includes:

- the presence of containers used to transport hazardous substances on vessels moored at the quay, and the loading/unloading activities related to these containers;
- the transport and the storage at the location of empty containers in which hazardous substances have been transported;
- the cleaning of containers and the vehicles in which the hazardous substances are transported;
- the loading/unloading activities of empty containers for hazardous substances.

The transportation of freight and persons outside the location of the environmentally harmful activity is not one of the purposes of the environmentally harmful activity under the Bal and is not included in the permit application. The environmental effects of transportation outside the location of the environmentally harmful activity can be regulated in the spatial and environmental plan.

The following articles apply to this activity:

§ 3.8.6 Storage and transport, wholesale and container terminal

Article 3.285 (classifying environmentally harmful activities)

1. The following are classified as environmentally harmful activities as referred to in Article 2.1 for the transport of substances or freight:
 - a. storage of substances or freight;
 - b. maintenance, repair and cleaning of motorised vehicles or machines;

- c. parking vehicles, semi-trailers or trailers for hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c.
- 2. The classification also includes other environmentally harmful activities performed at the same location that functionally support the storage, maintenance, repair, cleaning or parking.
- 3. The classification does not include:
 - a. a parking area that is part of a public road or stretch of road or a parking area open to public traffic; and
 - b. the activity, as referred to in the first paragraph, under a, if it only consists of the storage of chemicals or fuels in storage tanks, as referred to in paragraph 3.8.2, for trading purposes or for transport.

Article 3.286 (classifying activities subject to a permit)

1. The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activities referred to in Article 3.285, insofar as it regards:
 - a. the storage of coal, ores or ore derivatives;
 - b. the parking of vehicles, semi-trailers or trailers carrying hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, for longer than 24 hours;
 - c. the parking of more than three vehicles, semi-trailers or trailers for hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c;
 - d. the fumigation or degassing of containers;
 - e. refuelling vehicles or machines with LNG;
 - f. refuelling vehicles or machines with hydrogen;
 - g. the unpackaged bulk storage of more than 1 kg of solid hazardous substances in:
 - 1°. ADR class 4.1, 4.2 of 4.3;
 - 2°. ADR class 5.1;
 - 3°. ADR class 6.1;
 - 4°. ADR class 6.2;
 - 5°. ADR class 8; or
 - 6°. ADR class 9, which pollute the aquatic environment;
 - h. the storage of hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, in a container;
 - i. the storage of fireworks or pyrotechnic articles for theatrical use, for a short period of time and pending subsequent shipment to a known recipient;
 - j. the storage of explosive substances in ADR class 1 by a party other than the Netherlands or an allied armed force, for a short period of time and pending subsequent shipment to a known recipient; or
 - k. the storage of hazardous substances as referred to in Article 3, paragraph ten, of the Seveso Directive, outside a Seveso company, in a quantity of at least the threshold value referred to in Annex I, section 1 or section 2, to the Seveso Directive, subject to the notes to that Annex, for a short period of time and pending subsequent shipment to a known recipient.
2. The prohibition also applies for other environmentally harmful activities involving hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, that are performed:
 - a. at the same location as the activities referred to in the first paragraph, under b through k; or
 - b. at the same location as an environmentally harmful activity, as referred to in Article 3.16, 3.22, 3.25, 3.28, 3.31, 3.34 or 3.37.
3. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph up to and including the third paragraph.

Article 3.287 (general rules)

1. When performing the activities referred to in Article 3.285, the rules on:
 - a. maintaining and repairing combustion engines, motorised vehicles, aircraft, vessels or machines, as referred to in section 4.22;
 - b. refuelling and storing LPG, as referred to in section 4.35;
 - c. refuelling and storing LNG, as referred to in section 4.36;
 - d. refuelling CNG, as referred to in section 4.37;

- e. refuelling and storing hydrogen, as referred to in section 4.38;
 - f. refuelling on a small scale, as referred to in section 4.39;
 - g. refuelling on a large scale, as referred to in section 4.40;
 - h. a car wash or washing area, as referred to in section 4.44;
 - i. storing end-of-life vehicles, as referred to in section 4.48;
 - j. storing freight, as referred to in section 4.104;
 - k. parking vehicles, semi-trailers or trailers carrying dangerous substances, as referred to in section 4.106; and
 - l. loading and unloading of vessels or floating machines, as referred to in section 4.107, must be complied with.
2. When performing the activities referred to in Article 3.285, the rules on discharging cooling water, as referred to in section 4.110, must be complied with if the activity has not been classified as being subject to a permit in this chapter.
 3. The rules on energy saving, as referred to in section 5.4.1, must also be complied with, unless the activity or part of the activity has been classified as being subject to a permit in Article 3.286.

§ 3.8.11 Cleaning of storage tanks, packaging, vehicles or containers for hazardous substances

Article 3.300 (classifying environmentally harmful activities)

1. The following are classified as environmentally harmful activities as referred to in Article 2.1:
 - a. the internal cleaning of storage tanks or packaging in which hazardous substances as referred to in Article 3.27, first paragraph, under a, b of c, have been stored, at a location other than the location at which the storage tanks were located or the packaging was used; and
 - c. the internal cleaning of vehicles, semi-trailers, trailers, tank containers or bulk containers in which hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c have been transported.
2. The classification also includes other environmentally harmful activities performed at the same location that support the internal cleaning activities.

Article 3.301 (classifying activities subject to a permit)

1. The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit, applies to the environmentally harmful activities referred to in Article 3.300, insofar as it regards:
 - a. storage tanks or packaging in which hazardous substances as referred to in Article 3.27, first paragraph, under a, b of c, have been stored, at a location other than the location at which the storage tanks were located or the packaging was used; or
 - b. semi-trailers, trailers, tank containers or bulk containers in which hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c have been transported.
2. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph.

Article 3.302 (general rules)

When performing the activities referred to in Article 3.300, the rules on:

- a. substances of very high concern, as referred to in section 5.4.3, insofar as the activity is classified as being subject to a permit in Article 3.301; and
- b. emissions into the air, as referred to in section 5.4.4, insofar as the activity is classified as being subject to a permit in Article 3.301, must be complied with.

What are the functional support activities at this location:

Which environmentally harmful activities are not part of the core activity 'cleaning of storage tanks, packaging, vehicles or containers for hazardous substances' and are performed at the same location?

This regards, for example:

- the activities in the workshop;
- the activities in the office building with a canteen;
- the fuel or charging facility for the equipment;

However, the functional support activities have not been classified as part of the permit requirement and therefore do not need to be included in the permit application. For a number of these activities, a notification obligation applies in the context of the Bal.



EXAMPLE

TERMINAL WITH TANK STORAGE

This regards a location where chemicals or fuels are stored in tanks. This tank storage takes place for trade purposes or for the transport of this freight to a known recipient. The majority of the liquid bulk storage terminals in the Rijnmond region fall under the complex business activity 'Seveso company' (see the previous example). Nonetheless, we are providing this example of a terminal with a small amount of tank storage that falls under the 'fuel trade and tank storage operations' industry (§3.8.2; art. 3.268 to 3.270). The handling of hazardous substances is classified as an environmentally harmful activity subject to a permit in Article 3.269.

Such storage almost always also involves the cross-industry activity 'storage tank for liquids and tank container or packaging that is used as a storage tank for liquids' (§3.2.8; Articles 3.24 to 3.26). This environmentally harmful activity is partly subject to a permit requirement and must be included in the permit application.

The hazardous substances that are loaded and unloaded must be included in the permit application from the terminal in question. The hazardous substances on board a moored vessel that are not handled do not need to be included in the permit application for the terminal.

The following activities are schematically part of the permit application:



Location

Activities that are part of the environmentally harmful activity

Part of the permit application

The permit application includes:

- the presence of and the loading/unloading activities of the vessel moored at berth;
- the storage of the hazardous substances and all related operations at the location;
- the loading/unloading activities related to the hazardous substances.

The transportation of freight and persons outside the location of the environmentally harmful activity is not one of the purposes of the environmentally harmful activity under the Bal and is not included in the permit application. The environmental effects of transportation outside the location of the environmentally harmful activity can be regulated in the spatial and environmental plan.

The following articles apply to this activity:

Article 3.268 (classifying environmentally harmful activities)

1. The storage of chemicals or fuels in storage tanks for trading purposes or for transport is classified as an environmentally harmful activity as referred to in Article 2.1.
2. The classification also includes other environmentally harmful activities performed at the same location that functionally support the storage.

Article 3.24 (classifying environmentally harmful activities)

An environmentally harmful activity as referred to in Article 2.1 is the storage in a storage tank with a capacity of more than 250 l or a tank container or packaging that is used as a storage tank and has a capacity of more than 250 l, or:

- a. liquid hazardous substances in ADR class 3;
- b. liquid hazardous substances in ADR class 4.2;
- c. liquid hazardous substances in ADR class 4.3;
- d. liquid hazardous substances in ADR class 5.1;
- e. liquid hazardous substances in ADR class 5.2;
- f. liquid hazardous substances in ADR class 6.1;
- g. liquid hazardous substances in ADR class 8;
- h. liquid hazardous substances in ADR class 9 that pollute the aquatic environment;
- i. liquid hazardous substances in the acute toxicity hazard class, category 1, 2 or 3, as referred to in Part 3 of Annex I to the CLP Regulation;
- j. oils or greases; or
- k. brine.

Article 3.269 (classifying activities subject to a permit)

The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activities referred to in Article 3.268, insofar as it regards environmentally harmful activities involving hazardous substances as referred to in Article 3.27, first paragraph, under a, b or c, that are performed at the same location as an environmentally harmful activity, as referred to in Articles 3.16, 3.22, 3.25, 3.28, 3.31, 3.34 or 3.37.

Article 3.25 (classifying activities subject to a permit)

1. The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activities referred to in Article 3.24, insofar as it concerns the storage:
 - a. of liquid hazardous substances in ADR class 3;
 - b. of liquid hazardous substances in ADR class 4.2;
 - c. of liquid hazardous substances in ADR class 4.3;
 - d. of liquid hazardous substances in ADR class 5.2;
 - e. of liquid hazardous substances in ADR class 6.1;
 - f. of liquid hazardous substances in ADR class 8, packaging group I;
 - g. of liquid hazardous substances in the acute toxicity hazard class, category 1, 2 or 3, as referred to in Part 3 of Annex I to the CLP Regulation; or
 - h. in a storage tank with a capacity of more than 150 m³ or a tank container or packaging that is used as a storage tank and has a capacity of more than 150 m³.
2. The prohibition referred to in the first paragraph, opening words and under a, does not apply to:
 - a. the storage in an underground storage tank;
 - b. the storage of gas oil, diesel or heating oil with a flash point of 55 °C or higher; or
 - a. the storage in a storage tank that:
 - 1°. has a capacity of 300 l or less; and
 - 2°. is not filled from a tank car.
3. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph, opening words and under c through f.

Article 3.270 (general rules)

1. When performing the activity referred to in Article 3.268, the rules on:
 - a. refuelling on a small scale, as referred to in section 4.39;
 - b. refuelling on a large scale, as referred to in section 4.40;
 - c. the filling of gas cylinders with propane or butane, as referred to in section 4.101;
 - d. storing freight, as referred to in section 4.104;
 - e. a petrol terminal, as referred to in section 4.105;
 - f. parking vehicles, semi-trailers or trailers for hazardous substances, as referred to in section 4.106; and
 - g. loading and unloading of vessels or floating machines, as referred to in section 4.107, must be complied with.
2. The following rules on:
 - a. energy saving, as referred to in section 5.4.1, unless the activity or part of the activity has been classified as being subject to a permit in Article 3.269; and
 - b. substances of very high concern, as referred to in section 5.4.3, insofar as the activity is classified as being subject to a permit in Article 3.269, must also be complied with.

Article 3.26 (general rules)

1. When performing the activity referred to in Article 3.24, the rules on:
 - a. the storage of in flammable liquids other than diesel in overground storage tanks, as referred to in section 4.93, if the activity has not been classified as being subject to a permit in Article 3.25, first paragraph, under f;
 - b. the storage of diesel, oxidizing, corrosive or aqua-toxic liquids or oils, grease or brine, in overground storage tanks, as referred to in section 4.94, if the activity has not been classified as being subject to a permit in Article 3.25, first paragraph, under f;
 - c. the storage of diesel, oxidizing, corrosive or aqua-toxic liquids or oils, grease or brine, in a tank container or packaging used as a storage tank, as referred to in section 4.95, if the activity has not been classified as being subject to a permit in Article 3.25, first paragraph, under f;
 - d. the storage of inflammable liquids other than diesel in underground storage tanks, as referred to in section 4.96, if the activity has not been classified as being subject to a permit in Article 3.25, first paragraph, under f; and
 - e. the storage of diesel, oxidising, corrosive or aqua-toxic liquids or oils, grease or brine, in underground storage tanks, as referred to in section 4.97, if the activity has not been classified as being subject to a permit in Article 3.25, first paragraph, under f, must be complied with.
2. The rules on substances of very high concern, as referred to in section 5.4.3, must also be complied with insofar as the activity is classified as being subject to a permit in Article 3.25, first or third paragraph.
3. The first paragraph, opening words and under a through e, does not apply to the storage of liquid hazardous substances in the acute toxicity hazard class, category 1, 2 or 3, as referred to in Part 3 of Annex I to the CLP Regulation.

Article 3.271 (data and documents)

1. At least four weeks before the start of the activity, as referred to in Article 3.268, the competent authority, as referred to in section 2.2, must be provided with data and documents about:
 - a. the boundary of the location where the activity is performed; and
 - b. the expected start date of the activity.
2. At least four weeks before the boundary changes, the changed data will be provided to the competent authority.

What are the functional support activities at this location:

Which environmentally harmful activities are not part of the core activity 'the storage of chemicals or fuels in storage tanks for trading purposes or for transport' and are performed at the same location?

This regards, for example:

- the activities in the office building with a canteen or in the workshop for maintenance of the equipment.

These activities would not be present at this location if the core activity did not take place. The functional support activities have not been classified as part of the permit requirement. Therefore they do not need to be included in the permit application. For a number of these activities, a notification obligation applies in the context of the Bal.



EXAMPLE
CHEMICAL COMPANY

In this example, the activities regard the gasification or liquefaction of fuels. As a result, §3.3.5 of the Bal applies, and the activities are complex activities regarding the 'gasification or liquefaction of coal or other fuels'. Therefore all the activities at the location need to be included in the permit application. This is apparent from the description of the permit requirement in Article 3.64. The cross-industry activities are also included.

It regards a location where chemicals, fuels or waste/residual products such as feedstock or semi-finished products are supplied and removed by water, rail, pipelines or road. This freight is converted into chemicals through a chemical or gasification process. The freight and products are stored in tanks.

The following activities are schematically part of the permit application:



Location

Activities that are part of the environmentally harmful activity

Part of the permit application

The permit application includes:

- the presence of and the loading/unloading activities of the vessel moored at berth;
- the storage of the chemicals and fuels;
- all other activities at the location including the loading/unloading activities of trucks/wagons.

The transportation of freight and persons outside the location of the environmentally harmful activity is not one of the purposes of the environmentally harmful activity under the Bal and is not included in the permit application. The environmental effects of transportation outside the location of the environmentally harmful activity can be regulated in the spatial and environmental plan.

The following articles apply to this activity:

§ 3.3.5 Gasification or liquefaction of coal or other fuels

Article 3.63 (classifying environmentally harmful activities)

1. The following are classified as environmentally harmful activities as referred to in Article 2.1:
 - a. operating an IPPC installation for the gasification or liquefaction of coal or other fuels, referred to in category 1.4 of Annex I to the Industrial Emissions Directive;
 - b. operating another environmentally harmful installation for the gasification or liquefaction of coal or other fuels;
 - c. operating another environmentally harmful installation for the briquetting or rolling of coal or lignite; and
 - d. operating another environmentally harmful installation for making coal products or solid smokeless fuel.

2. The classification also includes other environmentally harmful activities performed at the same location that functionally support these operations.

Article 3.64 (classifying activities subject to a permit)

1. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activity, as referred to in Article 3.63.
2. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph.

Article 3.65 (general rules)

When performing the activities referred to in Article 3.63, the rules on:

- a. the final soil investigation, as referred to in section 5.2.1, insofar as it concerns the operation of an IPPC plant;
- b. the PRTR report, as referred to in section 5.3.1, insofar as it concerns the operation of an IPPC installation for the gasification or liquefaction of coal, as referred to in category 1.4, under a, of Annex I to the Industrial Emissions Directive;
- c. substances of very high concern, as referred to in section 5.4.3; and
- d. emissions into the air, as referred to in section 5.4.4, must be complied with.



EXAMPLE
INDEPENDENT
WASTEWATER
TREATMENT PLANT

From a legal point of view, there are two types of independent wastewater treatment plants: complex plants (type 1) and non-complex plants (type 2). Type 1 and 2 are treatment facilities that are primarily intended to treat wastewater from third parties. Both plants fall under Appendix 1 of the Industrial Emissions Directive (IED) and are regarded in the Bal as treatment facilities (not as technical treatment plants).

TYPE 1 COMPLEX TREATMENT FACILITY

This regards a plant falling under categories 5.1 and 5.3 of Annex I of the IED. The core activity of the company comprises:

- the removal or recovery of hazardous waste with a capacity of more than 10 tons per day by means of biological treatment and/or physico-chemical treatment;
- the disposal of non-hazardous waste with a capacity of more than 50 tons per day by means of the biological and/or physico-chemical treatment of wastewater (not being a technical treatment plant);
- the recovery, or a combination of recovery and removal, of non-hazardous waste with a capacity of more than 75 tons per day by means of biological treatment of wastewater (not being a technical treatment plant).

As a result, the activities are complex activities and §3.3.10 'Waste management at IPPC installations' of the Bal applies. All the activities at the location need to be included in the permit application. The cross-industry activities are also included.

The treated wastewater is discharged into a wastewater sewer, the soil, a body of surface water or a technical treatment plant. Depending on the discharge route, the discharge might be an environmentally harmful activity. The company at this location can receive the waste by road, water or pipeline.

The following activities are schematically part of the permit application:




Location


Activities that are part of the environmentally harmful activity


Part of the permit application

The permit application includes:

- the presence of and the loading/unloading activities of the vessel moored at berth;
- the storage of the waste;
- the cleaning of the wastewater in an IPPC installation;
- the storage of chemicals for cleaning the wastewater;
- all other activities at the location;
- the loading/unloading activities of trucks/wagons.

The transportation of freight and persons outside the location of the environmentally harmful activity is not one of the purposes of the environmentally harmful activity under the Bal and is not included in the permit application. The environmental effects of transportation outside the location of the environmentally harmful activity can be regulated in the spatial and environmental plan.

The following articles apply to this activity:

§ 3.3.10 Waste management at IPPC installations

Article 3.78 (classifying environmentally harmful activities)

1. The following are classified as environmentally harmful activities as referred to in Article 2.1:
 - a. operating an IPPC installation for the removal or recovery of hazardous waste, referred to in category 5.1 of Annex I to the Industrial Emissions Directive;
 - b. operating an IPPC installation for the removal or recovery of non-hazardous waste, referred to in category 5.3 of Annex I to the Industrial Emissions Directive;
 - c. operating an IPPC installation for the temporary storage of hazardous waste, referred to in category 5.5 of Annex I to the Industrial Emissions Directive; and
 - d. operating an IPPC installation for the underground storage of hazardous waste, referred to in category 5.6 of Annex I to the Industrial Emissions Directive.
2. The classification also includes other environmentally harmful activities performed at the same location that functionally support these operations.

Article 3.79 (classifying activities subject to a permit)

1. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activity, as referred to in Article 3.78.
2. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph.

Article 3.80 (general rules)

1. When performing the activity referred to in Article 3.78, the rules on the shredding of end-of-life vehicles, as referred to in section 4.48a, must be complied with.
2. The following rules on:
 - a. the final soil investigation, as referred to in section 5.2.1, insofar as it concerns the operation of an IPPC installation;
 - b. PRTR, as referred to in section 5.3.1, insofar as this regards:
 - 1°. the recovery or removal of hazardous waste if 10 ton or more hazardous waste is received;
 - 2°. the removal of non-hazardous waste when there is a capacity of 50 ton or more per day;
 - c. substances of very high concern, as referred to in section 5.4.3; and
 - d. emissions into the air, as referred to in section 5.4.4, must also be complied with.

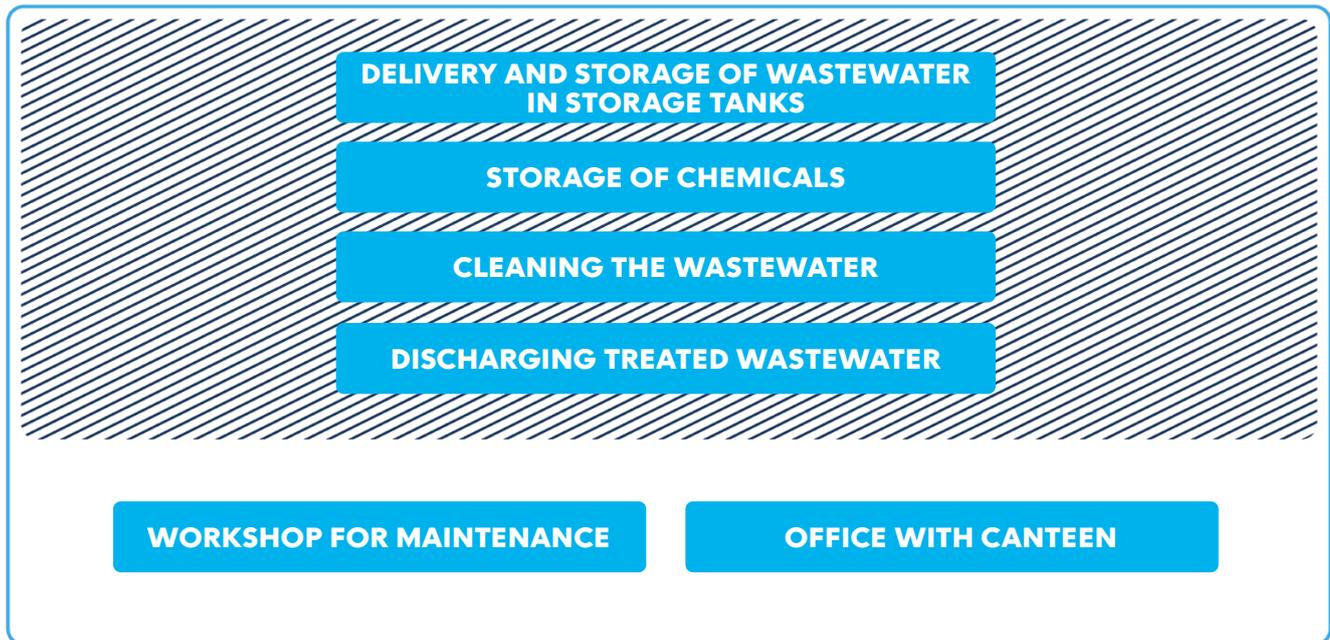
TYPE 2 NON-COMPLEX TREATMENT FACILITY

This regards the operation of a treatment facility for the treatment of wastewater originating from plants falling under Chapter II of the IED. Chapter II applies to the activities specified in Annex I insofar as they reach the capacity thresholds specified in that Annex. The treated wastewater is discharged into a wastewater sewer, the soil, a body of surface water or a technical treatment plant. Depending on the discharge route, the discharge might be an environmentally harmful activity. This takes place through pipelines.

The activity falls under the cross-industry activity 'treatment facility for collected or delivered wastewater' (§3.2.17). This means that only the IPPC installation is subject to a permit requirement (Article 3.41 under a), or the treatment facility if there is no IPPC installation (Article 3.41 under b).

In this example, we assume that the company will receive the wastewater through pipelines.

The following activities are schematically part of the permit application:




Location


Activities that are part of the
environmentally harmful activity


Part of the permit application

The permit application includes:

- the delivery and storage of wastewater through pipelines;
- the cleaning of the wastewater in an IPPC installation;
- the storage of chemicals for cleaning the wastewater;
- the discharging of the treated waste water into a wastewater sewer, the soil, a body of surface water or a technical treatment plant.

The following articles apply to this activity:

§ 3.2.17 Treatment facility for collected or delivered wastewater

Article 3.41 (classifying environmentally harmful activities)

The following are classified as environmentally harmful activities as referred to in Article 2.1:

- a. operating an IPPC installation for the treatment of wastewater, as referred to in category 6.11 of Annex I to the Industrial Emissions Directive; and
- b. operating a treatment facility for the treatment of collected or delivered wastewater, for a purpose other than to perform the tasks, referred to in Article 2.16, first paragraph, under 1°, 2° and 3°, and the third paragraph of the Act.

Article 3.42 (classifying activities subject to a permit)

The following are classified as environmentally harmful activities as referred to in Article 2.1:

1. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit, applies to the environmentally harmful activities as referred to in Article 3.41.
2. The prohibition, referred to in Article 5.1, second paragraph, of the Act, to perform a discharge activity into a body of surface water without an environmental permit applies to the discharge into a body of surface water of wastewater originating from the environmentally harmful activity, as referred to in the first paragraph.

Article 3.43 (general rules)

When performing the activities referred to in Article 3.41, the rules on:

- a. PRTR, as referred to in section 5.3.1, insofar as the activity has been classified as being subject to a permit in Article 3.42 in conjunction with Article 3.41, first paragraph, under a; and
- b. substances of very high concern, as referred to in section 5.4.3, insofar as the activity is classified as being subject to a permit in Article 3.42 in conjunction with Article 3.41, first paragraph, under a, must be complied with.

What are the functional support activities at this location:

Which environmentally harmful activities are not part of the core activity 'treatment facility for collected or delivered wastewater' and are performed at the same location? This regards, for example:

- the activities in the office building with a canteen or in the workshop for maintenance of the equipment;

These activities would not be present at this location if the core activity did not take place. However, the functional support activities have not been classified as part of the permit requirement and therefore do not need to be included in the permit application. For a number of these activities, a notification obligation applies in the context of the Bal.

EXAMPLE

MULTIFUEL GAS STATION WITH LNG AND LPG



This regards a gas station where petrol, diesel, LNG, CNG, hydrogen and LPG are provided for refuelling. The gas station also has a shop. The location can only be accessed by road. It falls under the 'gas station' industry (§3.8.10). With regard to the gas station, only the component involving the refuelling of vehicles or machinery with LNG or hydrogen is subject to a permit. Refuelling with petrol, diesel, CNG and LPG falls under the general rules set out in §3.8.10.

The storage of petrol and diesel is a cross-industry activity (§3.2.8) and falls under the general rules. Supplying the tanks also falls under these rules.

The storage of hydrogen, CNG, LNG and LPG in storage tanks as referred to in §3.2.7 is also a cross-industry activity. Storage tanks for hydrogen, CNG and LNG are subject to a permit (Article 3.22). Storage tanks for LPG are not subject to a permit and fall under the general rules, as referred to in §4.35 'tanks and storage of LPG'. For this activity, a notification obligation applies in the context of the Bal.

The following activities are schematically part of the permit application:



The permit application includes:

- supplying LNG, CNG and/or hydrogen by tank wagons;
- the storage of LNG, CNG and/or hydrogen at the location;
- the refuelling of vehicles with LNG or hydrogen.

The transportation of freight and persons outside the location of the environmentally harmful activity is not one of the purposes of the environmentally harmful activity under the Bal and is not included in the permit application. The environmental effects of transportation outside the location of the environmentally harmful activity can be regulated in the spatial and environmental plan.

The following articles apply to this activity:

§ 3.8.10 Gas station

Article 3.296 (classifying environmentally harmful activities)

1. Providing the possibility to refuel to motorised vehicles or machines is classified as an environmentally harmful activity as referred to in Article 2.1.
2. The classification also includes other environmentally harmful activities performed at the same location that functionally support the providing of the possibility to refuel.

Article 3.297 (classifying activities subject to a permit)

The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activities referred to in Article 3.296, insofar as it concerns the refuelling of vehicles or machines with:

- a. LNG; or
- b. hydrogen.

Article 3.298 (general rules)

1. When performing the activity referred to in Article 3.296, the rules on:
 - a. refuelling and storing LPG, as referred to in section 4.35;
 - b. refuelling and storing LNG, as referred to in section 4.36;
 - c. refuelling CNG, as referred to in section 4.37;
 - d. refuelling and storing hydrogen, as referred to in section 4.38;
 - e. refuelling on a small scale, as referred to in section 4.39;
 - f. refuelling on a large scale, as referred to in section 4.40; and
 - g. a car wash or washing area, as referred to in section 4.44, must be complied with.
2. The rules on energy saving, as referred to in section 5.4.1, must also be complied with, unless the activity or part of the activity has been classified as being subject to a permit in Article 3.297.

§ 3.2.7 Storage tank for gases

Article 3.21 (classifying environmentally harmful activities)

The following are classified as environmentally harmful activities as referred to in Article 2.1:

- a. the storage of toxic, corrosive, flammable or oxidising gases that have been compressed into liquids in ADR class 2 in a storage tank with a capacity of more than 150 l;
- b. the storage of asphyxiant gases that have been compressed into liquids in ADR class 2 in a storage tank with a capacity of more than 300 l; and
- c. the storage of asphyxiant gases in the acute toxicity hazard class, category 1, 2 or 3, as referred to in Annex I, section 3, to the CLP regulation, in a storage tank with a capacity of more than 150 l.

Article 3.22 (classifying activities subject to a permit)

1. The prohibition referred to in Article 5.1, second paragraph, of the Act, to perform an environmentally harmful activity without an environmental permit applies to the environmentally harmful activities referred to in Article 3.21, insofar as it concerns the storage of:
 - a. toxic or corrosive gases in ADR class 2;
 - b. gases in the acute toxicity hazard class, category 1, 2 or 3, as referred to in Part 3 of Annex I to the CLP Regulation.
 - c. more than 13 m³ propane or propylene in a storage tank;
 - d. propane or propylene, if propane or propylene is tapped off in the liquid phase;
 - e. flammable gases in ADR class 2, with the exception of propane or propylene; or
 - f. more than 100 m³ oxidising gases in ADR class 2; or
 - g. propane or propylene in more than two storage tanks.
2. The prohibition does not apply for:
 - a. the storage of LPG, as referred to in Article 4.472, second paragraph; or
 - b. the storage of liquefied fermentation gas, as referred to in section 4.88.

Article 3.23 (general rules)

1. When performing the activities referred to in Article 3.21, the rules on:
 - a. the storage of propane or propylene in storage tanks, as referred to in section 4.91, if the activity has not been classified as being subject to a permit in Article 3.22; and
 - b. the storage of oxidising and asphyxiant gases in storage tanks, as referred to in section 4.92, if the activity has not been classified as being subject to a permit in Article 3.22, must be complied with.
2. The rules on substances of very high concern, as referred to in Section 5.4.3, must also be complied with insofar as the activity is classified as being subject to a permit in Article 3.22, first paragraph.

Additional rules arising under the municipal spatial and environmental plan:

When the Environment and Planning Act enters into force, a number of government regulations that currently apply to activities will be included as a 'dowry' in the temporary part of the spatial and environmental plan of municipalities via the Environment and Planning Act Implementation Decree. This applies, among others, to refuelling with LPG. For these activities, a permit for an environmental plan activity is required. The municipality must decide what to do with this permit requirement before 2029. Until then, the following rules apply.

Environment and Planning Act Implementation Decree, Article 2.3.25.6 (Environmental permit for refuelling with LPG)

1. It is prohibited to refuel vehicles or machines with LPG and to store LPG without an environmental permit.
2. The following information and documents must be provided with an application for an environmental permit:
 - a. the number of storage tanks present;
 - b. the coordinates of:
 - 1°. the refuelling location;
 - 2°. the aboveground pipe carrying the liquid;
 - 3°. the connection points of that pipe and the pump;
 - 4°. the aboveground storage tank; and
 - 5°. the fuel pump.
 - c. the fire hazard area and the explosion hazard area, as referred to in Article 5.12 of the Decree on the Quality of the Living Environment;
 - d. the maximum volume of LPG to be stored; and
 - e. an estimate of the throughput of LPG in m³ per year.

What are the functional support activities at this location:

Which environmentally harmful activities are not part of the core activity 'providing the possibility to refuel motorised vehicles or machines' and are performed at the location? This regards, for example:

- the activities in the shop;
- a washing area and parking area for cars.

These activities would not be present at this location if the core activity did not take place. The functional support activities have, however, not been classified as part of the permit requirement insofar as it regards refuelling vehicles or machines with LNG or hydrogen. For a number of these activities, a notification obligation applies in the context of the Bal.



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Deltalinqs

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Environment and Planning Act information desk: <https://aandeslagmetdeomgevingswet.nl/over-ons/informatiepunt/>

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

Or visit: www.dcmr.nl