

NON AUTHORITATIVE TRANSLATION

Warning: Notwithstanding great care has been taken in translating these bye-laws, differences between the English and Dutch text may occur. In cases of disputes or discrepancies the Dutch text shall prevail.

Explanatory notes to the “Regionale Havenverordening Noordzeekanaalgebied 2010” (2010 Regional Port Bye-laws)

Section 1. General definitions and procedural rules

§ 1 General definitions

Article 1.1. Definitions

t. and mm: Captain / skipper

The definitions of the terms captain and skipper are broader than what they are understood to mean in practice. If the official captain or skipper is absent there is, according to this definition, always someone who acts in this capacity.

z. Public waters

The term "public" does not have any special legal meaning here in the way that it applies to public roads. The term public waters is used here in a literal sense and includes all waters which are accessible to the public or are open for any use for transport by water. Waters which belong to an owner other than the municipality or are let on a lease but which are actually used by shipping remain public. The public nature may be rescinded or restricted if the owner blocks or restricts the accessibility by means of actual measures.

II. Ship

The definition of the term ship includes all vessels, therefore also seagoing vessels. These bye-laws only distinguish between a seagoing vessel and an inland vessel if a different regime applies to seagoing vessels than to other vessels.

§ 2 General provisions regarding permits, exemptions and instructions

Article 1.2.5 Written or verbal permits or exemptions

In the case of a verbal decision (Article 1.2.5, paragraph 2) this must subsequently be confirmed in writing as soon as possible for the legal protection of third parties. In the wording of this paragraph the possibility has been added to omit this written confirmation if it may reasonably be assumed that no-one requires this. This addition prevents unnecessary juridification.

Article 1.2.8 Instructions

These bye-laws contain a large number of different operational acts for which it is important that the municipality may issue concrete instructions. This provision creates the possibility for this; the Harbour Master may implement this via a (sub)mandate. The basic principle is the possibility to mandate powers of an operational nature. This does not require any further legal regulations as the system of the Municipalities Act entails that it is virtually always allowed to give a mandate to an official.

Section 2. Provisions regarding the use and management of the port

Article 2.1 Signs

Traffic signs which contain a prohibition or an order may be announced pursuant to the BPR if this is in the interests of the provisions of Article 3 of the SVW. There may however be a need for regulation for reasons other than traffic management.

The use of signs pursuant to these bye-laws is therefore not based on the smooth handling of traffic on the water but on other motives, i.e.: regulation on the water, public order, safety and the environment. The term traffic signs is therefore not used in these bye-laws. The term "signs" is used for the purposes of distinction. This provision forms the basis upon which, inter alia, the berthing policy

can be implemented by means of the placement of signs or the announcement of regulations regarding berthing allocation in accordance with the applicable zoning framework.

Article 2.2 Nuisance

The increased activity on the water makes it necessary to be able to combat nuisance such as noise pollution and other bothersome conduct on the water. For the wording of this article the wording of the general municipal bye-laws was followed.

The second paragraph prescribes that where possible skippers must make use of shore-based public utilities such as electricity cabinets instead of their own generators. This prevents unnecessary noise pollution. The instructions may also relate to the manner in which a connection is made to a public utility, for example in order to prevent cables becoming tangled and the like.

Article 2.3 Use of (traffic) objects

Pursuant to Article 1.13 of the BPR traffic signs may, for example, not be used for mooring. The provision set forth here addresses not only captains or skippers but also swimmers or surfers. A second paragraph has been added to this article in order to prevent the incorrect use of mooring facilities.

Article 2.4 Use of locks and bridges

The purpose of this provision is to prevent the misuse of locks and bridges. The article prohibits a broad range of activities which can be undertaken on and from bridges and locks such as fishing, swimming or the storage of goods.

Article 2.5 Removal of obstacles

The purpose of this article is to prevent the unnecessary opening of bridges resulting in traffic on land becoming blocked. This is the case if the party concerned could itself take measures relatively easily thus enabling passage without the opening of a bridge.

Article 2.6 Minimum sailing speed

This provision provides the possibility to set a compulsory minimum sailing speed for the port. If a vessel sails too slowly this may be bothersome to commercial, ocean and inland shipping in the port. This article is an addition to the BPR which only include a provision regarding maximum sailing speeds.

Section 3. Provisions connected with the admission and mooring regimes.

§ 3.1 Provisions in the interests of public order, regulation, safety and the environment

Article 3.1.1 Admission to the port

This article regulates the policy for admission to the port: when, where and under which circumstances vessels which fall within the scope of this article have access to the port. For ocean shipping the nationally compulsory notification information pursuant to the RCLZ are used as a method of assessment and for inland shipping the compulsory notification information pursuant to the SVW/BPR. The periods referred to in the second paragraph are equal to those of the national notification legislation. The Municipal Executive may, with regard to local circumstances, request supplementary information.

The compulsory application pursuant to this article is also a relevant source of information for nautical port management. By way of the application it is also clear to everyone which regime applies in order to be allowed access to the port. The obligation referred to in the first paragraph is addressed to the skipper or captain or his representative. Most captains have their affairs handled by an intermediary.

For vessels carrying dangerous substances permission to be allowed access to the port must, in addition to the application pursuant to this article, also be requested from the Local Competent

Authority pursuant to the VBG. The RVGZ includes, for example, provisions for the berthing of seagoing vessels carrying certain dangerous substances.

The provisions of this article as well as of Articles 3.1.2 and 3.1.3 are therefore of a supplementary nature. In order to obtain permission certain information regarding dangerous substances must be reported. For practical reasons the decision regarding admission pursuant to the “Regionale Havenverordening Noordzeekanaalgebied 2010” (2010 Regional Port Bye-laws) and admission pursuant to the VBG will as far as possible take place simultaneously.

The notifications referred to in the RCLZ (STZ (Scheepvaartreglement Territoriale Zee – Territorial Sea Shipping Regulations: regulations falling under the SVW)) are necessary in order to determine whether a ship can partake in shipping traffic. The notifications as referred to in these bye-laws are necessary for the proper organisation in the port. The forms used pursuant to both Acts have been made equivalent to each other.

The fourth paragraph is an addition to the first paragraph of this article. It offers the possibility to set policy rules with regard to the berthing of vessels with certain types of cargo which could affect public order, regulation, safety and the environment.

Paragraph 5: Certain categories of seagoing vessel, for example fishing boats, do not need to submit any written notifications pursuant to the RCLZ. The Municipal Executive may also decide that these vessels do not need a berthing permit as referred to in the first paragraph of this article.

Article 3.1.2 Admission of combination carriers

The information which the captain (or his representative) of a combination carrier must report serves to determine whether the ship must be regarded as a tanker or a dry-cargo ship. This determines whether the ship may berth in or outside the oil port area, see Article 3.3.1. Prior to being able to berth at the requested location this check on the notification is carried out. The location of the slop tanks is important because there are (still) combination carriers with slop tanks between the cargo holds. With these it is possible that there are one or more unprotected tanks present. Unprotected means that this tank or these tanks is/are immediately adjacent to the cargo zone. If this tank/these tanks contain(s) cargo residues of combustible liquids whether or not mixed with water the ship may, subject to certain conditions, berth outside the oil port area in accordance with Article 3.3.1 paragraph 3 of the “Regionale Havenverordening Noordzeekanaalgebied 2010” (2010 Regional Port Bye-laws).

Article 3.1.3 Admission of radioactive material

This provision is necessary because these bye-laws do not stipulate any specific notification rules for vessels carrying radioactive material which fall under class 7.

Article 3.1.4 Mooring and unmooring of seagoing vessels

In the interests of safety in the port certain seagoing vessels must make use of boatman services. According to these bye-laws all vessels fully or partly loaded with dangerous substances or empty thereof must make use of boatman services. In accordance with the fourth paragraph certain exceptions may be made as with sea/river vessels. If upon arrival vessels must make use of the services of a pilot they must also make use of boatman services. An exemption may be granted for shifting a vessel or upon departure, this depends, inter alia, on the situation on the jetty. For vessels which are built for both navigation at sea and on rivers, for example certain Russian types of vessels, exemption may be granted from the use of boatman services, certainly upon departure.

Article 3.1.5 Provision of boatman services

Boatman services include in any case the mooring and unmooring of seagoing vessels. The issue of a permit for boatman services depends on the fulfilment of requirements of professional competence, quality and availability. The permit requirements are set forth in detail in a separate policy framework. In the interests of safety and in view of the fact that vessels arrive and depart twenty-four hours a day whereby the vessels are bound by fixed arrival and departure times, it is necessary that boatman services can be called upon at all times. The Municipal Executive may refuse a permit in the case that no round-the-clock services can be provided.

Article 3.1.7 Having a vessel ready for operation

In comparison to the oil port area a more flexible regime applies to seagoing and inland vessels outside the oil port area with regard to having a vessel in working order provided that the VBG do not stipulate any rules in this respect. This may be the case with regard to certain dangerous substances. Certain tankers or combination carriers may in specific cases berth outside the oil port area pursuant to Article 3.3.1, paragraphs 2 and 3. This makes it necessary that these vessels must, in cases of emergency, be able to vacate their berths as soon as possible. The second and fourth paragraphs stipulate explicit measures for this. For inland vessels not used or intended for the transport of liquids or gases in bulk such an obligation is not included; these vessels are smaller and can be shifted more easily. The requirements for vessels in the oil port area have been set in connection with the dangers in this area. All vessels which are moored in the oil port area also fall within the scope of Article 3.4.3, paragraph 1.

Article 3.1.8 Shifting of vessels other than at own request

Vessels may lie in the way if, for example, an emergency on land or on the water must be combated. Vessels themselves may also run risks due to an emergency. In addition, reasons of public order and other reasons may require that a vessel be shifted (temporarily). For example, during Sail, the houseboats which are berthed in the area must be shifted for the duration of the event.

The possibility of shifting for works on municipal property is self-evident.

The authority to apply administrative coercion and the regulations for the application of administrative coercion are included in the Gemeentewet (the Dutch Municipalities Act) and the Algemene wet bestuursrecht (the Dutch General Administrative Law Act). In this respect the principle applies – with the exception of cases of urgency – that the offender must first be given the opportunity to bring an end to the violation himself.

If the offender does not comply with the notice, the ship may be shifted at the expense of the offender. The second paragraph offers the possibility to shift a ship without the prior notification of the party involved. Should this situation arise, then there is no question of a violation and therefore no basis for the application of administrative coercion. The costs of shifting the ship will therefore not be recovered. The situation where the captain or skipper or entitled party is unknown will arise in the event that they cannot reasonably be traced.

Due to its urgent nature the authority of the Municipal Executive set out in the second paragraph will be mandated to the Harbour Master.

§ 3.2 Protection of public waters, safety and the environment

Article 3.2.1 Rebuilding, repair, maintenance or scrapping activities

This provision applies to rebuilding, repair, maintenance or scrapping works which take place in or extend to public waters, the port and the port area. As safety and the environment are at issue with these activities, all these activities have been classified under the prohibitory provision. The basic principle is that such activities must be carried out at a shipyard in accordance with a permit pursuant to the Wet Milieubeheer (the Dutch Environmental Management Act).

On the basis of this article operational conditions may be attached to activities which do not fall under a Wet Milieubeheer (the Dutch Environmental Management Act) permit.

The prohibition does not apply to activities from which no danger, damage or hindrance can be expected.

Article 3.2.2 Release of substances and the like

This article is important in connection with the nuisance which could occur as a result of dust, smoke, soot and the like. In most cases the special statutes will not offer a solution if due to the emission of dust, gases, vapours and the like effects on the surroundings are perceivable. The Wet Milieubeheer (the Dutch Environmental Management Act) provides for air pollution but does not provide adequate support for preventative measures against nuisance or hindrance to the users of the port in cases of the incidental release of dust, smoke, soot and the like. This article provides a basis for taking action if, for example, a vessel emits black soot into the air via its chimney.

Environmental and safety legislation relates to establishments and offers no basis for taking action in cases as referred to here; this provision therefore provides a supplementary regulation.

Article 3.2.3 Substances or objects in public waters

The purpose of this article is to be able to take measures as quickly as possible if such an emergency arises. The alertness imposed upon the polluter and the person who has knowledge of such an incident must contribute to this. The idea is also expressed that the polluter is responsible for the consequences of his actions. This article will of course only prove its usefulness if environmental legislation does not offer an adequate solution for the problems which have arisen. In particular consideration must be given here to *Wet verontreiniging oppervlaktewateren* (the Dutch the Pollution of Surface Waters Act) and the *Wet Milieubeheer* (the Dutch Environmental Management Act). Rules under or pursuant to these Acts usually impose obligations on persons who operate establishments or on permit holders to report unforeseen discharges and to take measures. This article is therefore of a supplementary nature.

Article 3.2.4 Ship-to-ship transfer of other liquid substances in bulk

For environmental reasons it is desirable that certain non-dangerous or hazardous liquid substances in bulk such as molasses do not end up in the water. The article concerns both transshipment between an seagoing tanker and an inland tanker and transshipment between seagoing tankers or inland tankers. The detailed rules referred to in the third paragraph concern, inter alia, the completion of a checklist.

Article 3.2.5 Fumigation

Fumigation operations can take place in a shed but also on board a vessel. Fumigation involves cargo and spaces which must be decontaminated or cleared of vermin. The notification is important because the person who will carry out the fumigation operations is not aware of other vessels which are berthed or will berth during the fumigation operations in the proximity of the fumigation location. There may be risk-increasing circumstances.

The Harbour Master has an overview of the berthing arrangement and can, also in view of the weather conditions, determine whether the fumigation activities can be carried out. He can also determine whether a certain berth can be used by others due to such activities.

The manner in which the fumigation activities must be carried out and the safety distances to be observed are provided for on the basis of the *Wet gewasbeschermingsmiddelen en biociden* (the Dutch Crop Protection Agents and Biocides Act).

Article 3.2.6 Cargo treated with fumigants

This article regulates how to deal with vessels with cargo that has been treated with fumigants. The rules stipulated in the *Wet gewasbeschermingsmiddelen en biociden* (the Dutch Crop Protection Agents and Biocides Act) and in Article 3.2.5 of these Bye-Laws apply to fumigants which are used in the Netherlands. This article regulates how to deal with vessels of which the cargo has been treated with fumigants abroad. Pursuant to the RCLZ the information in this respect must be reported prior to arrival of the vessel in the port.

Pursuant to the *Wet gewasbeschermingsmiddelen en biociden* (the Dutch Crop Protection Agents and Biocides Act) experts have been appointed or recognised who, inter alia, issue certificates regarding the concentration of fumigants in spaces.

Vessels of which the cargo has been treated with agents which release gases for decontamination of the cargo regularly enter the port. Sometimes these agents are still active or the concentration of the fumigant is such that the treated spaces of the vessel are not yet sufficiently free of fumigants. In order to determine whether a vessel can berth safely an expert as referred to above must first determine the concentration of the fumigant applied. If the concentration is below the threshold limit value of the fumigant applied the vessel can berth safely at the berth. If the concentration is above the threshold limit value of the fumigant applied the vessel may moor at the berth subject to certain conditions. The second paragraph provides the possibility for this. One of the conditions is that the expert creates a safe berth by having measures taken. If at the requested berth no safe berth can be created the vessel will have to divert to another, safe, berth. If this is not available the vessel will have to return to sea.

Furthermore, the safety at a berth where unloading operations are to be carried out is, in general, only guaranteed if measurements have shown that the concentration of the fumigant does not exceed the threshold limit value. In addition the required safety during unloading of the cargo may in certain cases

also be guaranteed by taking certain measures. Paragraph 3 enables the Municipal Executive to lay down further rules.

Article 3.2.7 Cleaning of tankers

Notification of cleaning and gasfreeing operations is essential in order to be able to give the necessary instructions.

This means that the notification must be submitted at the time that the decision is made to commence preparations for the activities or at the time that the decision is made to commission third parties for this. Permission must have been obtained from the Local Competent Authority for the cleaning, gasfreeing and flushing of the tanks of a seagoing tanker in accordance with the RVGZ. The RVGZ provide the possibility to regulate these operations via local regulations. The ADNR regulates the gasfreeing for inland tankers carrying dangerous substances. In these cases the Harbour Master is the competent authority as to where the cleaning activities with regard to dangerous substances may take place. This article is also necessary for the hazardous and other substances to which the above-mentioned regulations do not apply and which may be harmful to the environment.

The general possibility for the giving of instructions creates the possibility to take into account local hindrance and safety problems with regard to the execution of cleaning operations.

Article 3.2.8 Notification of issue of certificates

An expert may carry out inspections by virtue of the Arbeidsomstandighedenbesluit (the Dutch Working Conditions Provisions), the Wet gewasbeschermingsmiddelen en biociden (the Dutch Crop Protection Agents and Biocides Act) or by virtue of these Bye-Laws.

The importance of this article lies in the fact that certain operations may only take place after the Harbour Master has verified that an inspection has taken place of which the result is such that in the opinion of the expert and/or the Harbour Master the operations can take place safely.

Article 3.2.9 Bunkering and delivery of slops

The term slops shall be deemed to mean liquid waste which is generated as a result of normal operations on a vessel. This shall also include the water and/or oil residues from an engine room; the so-called bilge water.

Article 3.2.10 Loading and discharging of dry bulk cargo at mooring buoys

On the basis of judicial precedent that loading and discharging operations of dry bulk cargo from vessels at or on mooring buoys cannot be regarded as an establishment under the Wet Milieubeheer (the Dutch Environmental Management Act), a number of regulations have been formulated on the basis of which exemption can be granted under the direction of the Public Prosecutor in consultation with the Province of Noord-Holland and the Port Consultative Committee. Nautical and environmental requirements must be set for these operations. These regulations may be adopted as further rules (referred to in the third paragraph) by order of the Municipal Executive.

This article applies to all public buoys.

§ 3.3 Dangerous and hazardous substances

Article 3.3.1 Berthing rules for tankers and combination carriers

This provision together with the provisions regarding berthing alongside tankers and the placement of warning signs reflects the fixed berthing policy.

Tankers carrying dangerous substances must in principle berth in the oil port area; only under extremely stringent conditions (paragraphs 2 and 3) may permission be granted to berth elsewhere. In accordance with the RVGZ, inter alia cargo vessels (seagoing vessels) carrying dangerous substances or tankers carrying dangerous substances in liquid form must request permission for berthing from the Local Competent Authority 24 hours in advance. The BPR also stipulate berthing rules. These are however rules for berthing a vessel in the proximity of another vessel carrying certain dangerous substances in the interests of traffic management. This provision also applies to inland vessels and dangerous substances not included in the BPR.

The regulation therefore constitutes a supplement to this.

Article 3.3.2 Loading and discharging of combination carriers

In continuation of the previous article where berthing is provided for, this article regulates how the loading and discharging of combination carriers must be carried out. The information which a captain - or his representative - must provide regarding a combination carrier pursuant to Article 3.1.2 of these Bye-Laws serves to determine whether the vessel must be regarded as a tanker or as a dry cargo vessel. The experts referred to here are the experts referred to in this respect earlier in these Bye-Laws. The inspection referred to is a so-called combination carrier inspection. This inspection must be carried out in order to determine whether the vessel may berth at the berth requested by the applicant and whether the vessel may unload her cargo. If this is not the case a different berth is allocated. The inspection also serves to determine whether further conditions must be attached to the berthing. If a combination carrier has been converted into a bulk carrier the captain, shipping company or representative must submit written proof of this, for example a copy of the valid classification certificate of the vessel. If this shows that the vessel may no longer sail as a combination carrier the inspection as referred to in paragraph 2 under a is not necessary. As regards repair works the vessel will continue to fall under the Arbeidsomstandighedenbesluit (the Dutch Working Conditions Provisions) and an inspection may be required by virtue of these regulations.

Article 3.3.3 Mooring alongside tankers

The purpose of this provision is the prevention of dangerous situations. The second paragraph enables the granting of an exemption. Safety is not at issue with all types of vessels when mooring alongside tankers; in particular, this is not always the case if berthing is only for a short period and there is no question of cargo operations.

The third paragraph includes an obligation for the captain or skipper because he – being familiar with the regime for vessels carrying dangerous substances – is the obvious person to prevent that vessels berth alongside his tanker.

Article 3.3.4 Relocation of dangerous substances

The VBG set rules for certain operations with regard to certain dangerous substances. This provision is an addition to these regulations. It specifies in which cases permission is required to be allowed to move dangerous substances or residues of such substances; the term relocation includes all activities with dangerous substances. The purpose of the provisions regarding damaged packaging referred to in the first paragraph, under d, is to fill the gap in the Wet vervoer gevaarlijke stoffen (the Dutch Carriage of Dangerous Goods Act) and the regulations based thereon. These provide rules from the moment that the goods are offered for transport by land or water. Prior to this and after the goods have been transported, all manner of things may have happened to the dangerous substances. It may, for example, occur that the unloading of packaged dangerous substances takes place without it having been discovered that these were not provided with the prescribed labelling. The provisions of the first paragraph, under d and e, and the provisions of the second paragraph prevent that no-one can be held responsible for this. The second paragraph therefore stipulates that the person who takes receipt of packaged dangerous substances is responsible for the correct labelling. The granting of an exemption will in general depend on whether or not danger, damage or hindrance can be prevented.

Article 3.3.5 Ship-to-ship transfer of liquid dangerous and/or hazardous substances in bulk

Direct loading and discharging activities between vessels without the involvement of a terminal is considered to be so-called direct ship-to-ship transfer. This transfer of liquid dangerous or hazardous substances in bulk does not fall within the scope of the Wet Milieubeheer (the Dutch Environmental Management Act) permit of an establishment. In consultation with the province Noord-Holland it has been agreed that in such cases the Harbour Master may grant exemption on the basis of the bye-laws. Specific conditions are attached to the exemption per type of cargo in order to guarantee the safe and environmentally responsible handling of the cargo. Ship-to-ship transfer may also take place at a public buoy. In such a case the Harbour Master allocates the location and sets the conditions under which the transshipment may take place. This has also been coordinated with the Province Noord-Holland. This requires the inclusion of a provision with regard to the ship-to-ship transfer of liquid hazardous substances in bulk between vessels. This also creates the possibility to set further rules. The article relates to transshipment between seagoing tankers and inland tankers and to transshipment between seagoing tankers or inland tankers.

Article 3.3.6 Transhipment between a tanker and a shore-based installation

Pursuant to the VBG there are no rules which provide for the safety during the transhipment of liquid dangerous and hazardous substances and gases in bulk between a seagoing tanker and a shore-based installation. The sector itself (Oil Companies International Marine Forum) has drawn up voluntary rules for this. The rules relate to the safe transport, handling and storage of liquid dangerous and hazardous substances and gases in bulk in port areas.

The article provides for this by referring to these rules.

These rules are included in the International Safety Guide for Oil Tankers and Terminals (Fifth edition 2006), or as subsequently amended. This publication contains a safety checklist which must be completed and signed prior to commencement of loading or discharging operations. The completion and signing of and compliance with the rules contained in this safety checklist must take place under the responsibility of the captain of the ship and the person responsible from the shore-based installation. The safety checklist referred to is known and used worldwide. By prescribing this safety checklist this use is followed.

For the transhipment between an inland tanker and a shore-based installation the rules and a safety checklist have been laid down pursuant to the *Wet vervoer gevaarlijke stoffen* (the Dutch Carriage of Dangerous Goods Act).

Article 3.3.7 Creation of dangerous situations

The first paragraph of this article provides for those situations where safety and environmental legislation offer no solution. This paragraph, just as the provision regarding the release of dust, smoke, soot and the like, acts as a safety net.

The phrase "in the proximity of" cannot be accurately defined. It will, on the one hand, depend upon the nature and hazardousness of the substance and on the other hand upon the concrete circumstances whether a situation as referred to in the first paragraph exists. In practice it appears that the criteria contained in the first paragraph provide sufficient support for the prevention of danger, damage or hindrance.

Article 3.3.8 Storage in transit of dangerous substances

The definition of the term "storage in transit" with respect to the term "storage" from the *Wet Milieubeheer* (the Dutch Environmental Management Act) is set out in the definition contained in Article 1.1. The storage in transit of dangerous substances must be regarded as a temporary interruption of transport. There is not always an immediate connection between one mode of transport and the next. This provision is an addition to the *Wet vervoer gevaarlijke stoffen* (the Dutch Carriage of Dangerous Goods Act). The RVGZ do not stipulate any further rules for the interruption of the transport referred to here. The RVGZ refer in this respect to the segregation and stowage requirements for seagoing vessels according to the IMO IMDG Code. Against this background it has been decided to follow the segregation and stowage requirements of the IMDG Code for the regulation of this subject matter; this provision is an adaptation to the local situation.

Article 3.3.9 Placing of units

The provision of assistance is meant in a broad sense here. This may include the emergency vehicles of the fire service and the health and police and environmental services as well as the vehicles of the manager of the port site involved which are deployed for assistance. In the case of accidents with dangerous substances the wind direction in particular is important. This determines the approach route which must as far as possible be windward. The purpose of the second paragraph is to regulate this.

Article 3.3.10 Loading and unloading from tanks as referred to in transport legislation on the quay

The first paragraph refers to those situations for which the *Wet Milieubeheer* (the Dutch Environmental Management Act) or the *Wet vervoer gevaarlijke stoffen* (the Dutch Carriage of Dangerous Goods Act) does not provide. Exemption may be granted from the prohibition referred to in the first paragraph in the case that safety or otherwise can be guaranteed.

Article 3.3.11 Accidents and danger

This article is the equivalent of Article 3.2.3 regarding the notification of substances and objects which end up in public waters.

Article 3.3.13 Non-intrinsically safe equipment

This provision has been included in connection with the increasing use of mobile telephones and digital cameras both on shore and on board vessels. This equipment is often of a non-intrinsically safe type and must therefore be switched off with a view to safety. The fixed equipment on board a vessel does not fall under the scope of this article, this is regulated in the SOLAS convention. The situation current as per 1 April 2004 as regards the electrical requirements with which the other equipment must comply is Publication 92 (Electrical Installation in Vessels) from the International Electrotechnical Commission.

§ 3.4 Oil port area

Article 3.4.1 Oil port area

Pursuant to Article 3.4.2, paragraph 1, it is prohibited to be or sail in the oil port area unless it concerns a tanker or combination carrier which must moor in the oil port area pursuant to Article 3.3.1. It is therefore necessary for the Municipal Executive to designate the oil port area.

Article 3.4.2 Access to the oil port area

Due to the increased risk in the oil port area more stringent requirements apply here in the interests of safety. The possibility of an exemption included in the third paragraph is primarily intended for supply traffic.

There are several possibilities to become eligible for an exemption:

It may be demonstrated that the ship is suitable for navigation in the oil port area. A document certifying this from the Scheepvaart Inspectie (Netherlands Shipping Inspectorate) must be submitted to the Harbour Master. If this document cannot be submitted it will be checked whether the ship complies with the requirements set by the Harbour Master. If a ship needs to be in the oil port once, e.g. a crane pontoon, a once-only exemption may be granted.

The granting of the exemption and the operational instructions to be issued will depend upon whether the ship has a certificate, complies with the requirements of the Harbour Master or needs to be in the oil port area once in order to carry out the requested activities there.

Article 3.4.3 Having a ship ready to sail in the oil harbour area

This article applies to all vessels in the oil port area and insofar as it is not regulated in the RVGZ. For reasons of safety every vessel which lies in the oil port area must be able to depart immediately or in cases of emergency external assistance must be able to be provided as soon as possible. In the oil port area there are not only vessels carrying dangerous substances. A tanker carrying molasses or a vessel which forms part of the supply traffic must also be in working order at all times.

These rules correspond with normal practice. Due to the nature of the oil port area – the presence of an increased risk – this regulation regarding vessels having to be in working order which is more stringent than Article 3.1.7 is necessary.

Article 3.4.4 Mooring in the oil port area

In the Noordzeekanaal area there is only a limited number of tugboats available. It regularly occurs that all tugboats are busy with the provision of tugboat services. The consequence of this is that if a tugboat is ordered for assistance on an ad-hoc basis, it can sometimes take several hours before a tugboat becomes available. This has certain consequences for tankers. In the case of spreading fire on a port site it may in connection with safety be necessary to shift the tankers moored there quickly. For this reason it is necessary that tankers moor "with the fore in the direction of the Noordzeekanaal". In the case of an emergency a tanker can leave the risk area in an oil port area under its own power and as soon as possible without extensive manoeuvres.

Non-compliance with the obligation to be able to depart sailing forwards directly in the direction of the Noordzeekanaal has been made possible in the second paragraph of this article if the ship is berthed at a shipyard, a vessel repair facility, at a buoy berth or to buoys.

It often occurs that tankers do not lie with the fore ship in the direction of the Noordzeekanaal in connection with repairs at a shipyard, these ships may still have dangerous substances on board. This situation must be excluded from the obligation stipulated. By adding the above provisions to the article almost all situations are covered where it is conceivable that a tanker will not moor with the fore ship in the direction of the Noordzeekanaal.

Should an exemption from the obligation stipulated in this article nevertheless be necessary, then this may be applied for.

Article 3.4.5 Smoke and fire

The activities which are prohibited pursuant to the first paragraph, opening lines, under a, may include more than the rebuilding, repair or scrapping activities which are curbed in Article 3.2.1. Due to the fact that the oil port area is a more dangerous area it is necessary to attach more stringent rules to such activities.

Article 3.4.6 Oil-containing fibres

The substances referred to in this provision could under certain circumstances combust spontaneously; in the interests of safety these substances must be handled carefully in the oil port area.

§ 3.5 Reception of ship's waste and cargo residues

This section contains additional stipulations to the WVVS and the decisions taken pursuant to this Act. Pursuant to this Act the port manager must ensure an adequate facility suitable for the reception of ship's waste and other hazardous substances or residues of hazardous substances originating from vessels which normally call in at the port concerned. A port reception facility must be such that the vessels which make use of it are not caused any unnecessary delay. The articles which deal with the reception facilities, are of an executive, supplementary and local nature.

The European Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues has led to amendment of the WVVS. The most important amendment is that the port manager must develop a Port Waste Plan for his port to be approved by the Minister. The most important parts of this plan consist of the description of procedures (operational and administrative) for the proper and smooth delivery of ship's waste and other hazardous substances or residues of such substances and the determination of tariffs and delivery rights.

Pursuant to the Wet Milieubeheer (the Dutch Environmental Management Act) a company requires a permit to be allowed to take receipt of ship's waste and other hazardous substances or residues of hazardous substances. The obligation which is set forth in the "Regionale Havenverordening Noordzeekanaalgebied 2010" (2010 Regional Port Bye-laws) to also have a designation is therefore of a supplementary nature. The Municipal Executive may attach further conditions to the designation.

Article 3.5.1 Designation of companies with reception facilities

The stipulations and restrictions included in this provision are necessary for the regulation of the responsibility for the efficient reception and storage of hazardous substances.

Article 3.5.2 Publication of the companies designated pursuant to Article 3.5.1

This provision provides transparency for users as to which hazardous substances can be delivered to which company and envisages to prevent any embezzlement with this. Publication will generally take place in the usual manner in trade journals, almanacs and the like.

Article 3.5.3 Notification of delivery

The Municipal Executive may, for example, adopt a notification form.