



Decree of the Flemish Government amending the Decree of the Flemish Government of 1 June 1995 laying down general and sectoral provisions on environmental health, the Decree of the Flemish Government of 12 December 2008 implementing Title XVI of the Decree of 5 April 1995 laying down general provisions on environmental policy and Title III of the VLAREM of 16 May 2014

Legal bases

This Decree is based on:

- the Decree of 5 April 1995 laying down general provisions on environmental policy, Article 5.2.1(1) and Article 5.4.1(1), inserted by the Decree of 25 April 2014 and Article 16.1.2, 1°(f), inserted by the Decree of 21 December 2007;
- the Decree of 16 January 2004 on cemeteries and funeral services, Article 15(1) (1).

Procedural requirements

The following procedural requirements have been met:

- The Inspectorate of Finance gave its opinion on 17 January 2024.
- The preliminary draft of this Decree of the Flemish Government was published from xx xx xxxx to xx xx xxxx on the website of the Environment Department, and was also available for inspection during that period. During the aforementioned period, anyone was able to submit comments.
- The Environment and Nature Council of Flanders provided the opinion xxx on xxx.
- The Social and Economic Council of Flanders provided the opinion xxx on xxx.
- The Strategic Advisory Council on Agriculture and Fisheries provided the opinion xxx on xxx.
- The Flemish supervisory committee for the processing of personal data provided the opinion xxx on xxx.
- The Data Protection Authority provided the opinion xxx on xxx.
- The Environmental Effects team made a decision on the MER screening plan on xxx.
- This draft was notified to the European Commission on xxx, pursuant to Article 5 of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.
- Pursuant to Article 84(1)(1), 2° of the Council of State Acts, coordinated on 12 January 1973, the Council of State issued Opinion xxx on xxx.

Promoters

This Decree is proposed by the Flemish Minister of Justice and Enforcement, Environment, Energy and Tourism.

After deliberations,

THE FLEMISH GOVERNMENT HEREBY DECREES THE FOLLOWING:

Chapter 1. Amendments to the Decree of the Flemish Government of 1 June 1995 laying down general and sectoral provisions on environmental health

Article 1. In Article 1.1.2 of the Decree of the Flemish Government of 1 June 1995 laying down general and sectoral provisions on environmental health, last amended by the Decree of the Flemish Government of 8 December 2023, in the DEFINITIONS ELECTROMAGNETIC WAVES (Chapter 2.14 and 6.10), point 13° shall be replaced with the following:

‘13° azimuth: direction towards which the directional transmitting antenna is directed (0° = north, 90° = east, 180° = south, 270° = west);’.

Article 2. Article 5.1.0.1 of the same decree, amended by the Flemish Government Decree of 19 January 1999, is amended as follows:

1° in paragraph 1, the phrase ‘Subsection 1.2’ shall be replaced with the phrase ‘Section 1’;

2° paragraph 2 is removed.

Article 3. Article 5.2.2.8.6 of the same decree, as amended by the Decrees of the Flemish Government of 28 November 2003, 7 March 2008, 10 February 2017 and 3 May 2019, is removed.

Article 4. In Article 5.2.4.1.12(1), of the same decree, inserted by the Decree of the Flemish Government of 12 May 2006 and amended by the Decrees of the Flemish Government of 16 May 2014, 21 September 2018 and 3 May 2019, the following amendments are made:

1° in paragraph 2, the words ‘of the VLAREL’ shall be replaced with the words ‘of the VLAREL approved for the sampling in question,’;

2° a paragraph is inserted between paragraphs 2 and 3, reading:

‘If the operator carries out the sampling of the waste, it shall carry out the approval of that sampling in accordance with the Code of Good Practice for self-monitoring of sampling waste. The above approval shall be valid for a maximum of 3 years.’;

3° in paragraph 4, the phrase ‘of the VLAREL’ shall be replaced with the phrase ‘of the VLAREL approved for the relevant tests’.

Article 5. In Article 5.20.2.1 of the same decree, replaced by the Decree of the Flemish Government of 7 June 2013, the words ‘1.1 and 20.1.2’ shall be replaced with the words ‘20.1.2(a)’.

Article 6. In Article 5.20.2.7(2) of the same decree, inserted by the Decree of the Flemish Government of 23 April 2004, replaced by the Decree of the Flemish Government of 7 June 2013 and last amended by the Decree of the Flemish Government of 3 May 2019, the first paragraph is removed.

Article 7. In Article 5.43.2.41 of the same decree, inserted by the Flemish Government Decree of 27 October 2017, paragraph 2 shall be replaced with the following:

‘The operator of one or more combustion plants with a rated thermal input of 1 MW or more, or a person authorised by the operator, shall register the combustion plants with the instruments made available to them by the Department of Environment. The data from combustion plants with a rated thermal input exceeding 1 MW to 50 MW shall be registered by 31 December 2025.’;

Article 8. In Article 5.58.1 of the same decree, inserted by the Decree of the Flemish Government of 19 January 1999, the phrase ‘referred to in Section 58’ shall be replaced with the words ‘, stated Section 58, 1°’.

Article 9. The following amendments are made to 6.10.2.2 of the same decree, inserted by the Decree of the Flemish Government of 16 December 2011 and replaced by the Decree of the Flemish Government of 10 June 2022:

1° Section 2 shall be replaced with the following:

‘(2). By way of derogation from paragraph 1, for stationary transmitting antenna referred to in Article 6.10.2.1, paragraph 1, no certificate of conformity shall be required for operation, provided that the free distances from the safety zone have at least the dimensions set out in the following table:

EIRP (W)	<3	<10	11	12	13	14	15	16	17	18	19	20
distance (m)	Exemption from notification except SAWAP	Exemption from application certificate	3.5	3.5	3.5	3.5	3.5	4	4	4	4	4

In paragraph 1, SAWAP shall be understood to mean: the small-area wireless access points or small-area wireless access points, referred to in Article 2(23) of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018, establishing the European Electronic Communications Code.

For frequencies above 400 MHz, a correction of the distances may be applied in relation to the reference levels at the frequency in question as in the table in Article 6.10.2.1(1). A certificate of conformity is always required for average outputs above 20 W.

In the case of exemption, the operator shall submit a notification prior to operation via the website of the section responsible for environmental pollution of electromagnetic waves as referred to in Article 6.10.2.2bis. A certificate of conformity is always required for average outputs above 20 W.'

2° in paragraphs 3, 5 and 6, the phrase 'Article 6.10.2.2bis(2)' shall be replaced with the phrase 'Article 6.10.2.2bis'.

Article 10. In Annex 1 to the same decree, inserted by the Decree of the Flemish Government of 27 November 2015 and last amended by the Decree of the Flemish Government of 8 December 2023, the following amendments are made:

1° Section 16.12 shall be replaced with the following:

16.12.	Installations used for geological storage in accordance with the Decree of 8 May 2009 on deep subsoil, or Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and 2008/1/EC and Regulation (EC) No 1013/2006 of the European Parliament and of the Council:						
1°	capturing carbon dioxide flows	1	N				
2°	capturing carbon dioxide flows from installations indicated by an X in the fourth column of the classification list	1	N,X				
3°	capturing greenhouse gases from installations identified by a Y in the fourth column of the classification list	1	N,Y _k				

2° Section 30.1 shall be replaced with the following:

30.1	Establishments for mechanical treatment of mineral products: (The following activities and establishments do not fall under this section: limited mechanical activities, such as sorting or sifting of soil materials, listed in Section 60, 61 or 63; mechanical treatment establishments for inert waste resulting from the execution of road or demolition works (see Sections 2.2.2, (a), (b) or (h))						
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	1° with an installed total driving force of:						
	5 kW to 10 kW						
	more than 10 kW to 200 kW	3					
	from 200 kW	2	T	N			
	2° a crushing or sieving plant, other than this, specified in point 1°	1	T	N			
		2	T	N			

’;

3° Section 58 shall be replaced with the following:

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58.	Crematoria and other disposal of the dead						
	1° crematoria;	1	G	N			
	2° Alkaline hydrolysis	1		N			

’.

Chapter 2. Amendments to the Flemish Government Decree of 12 December 2008 implementing Title XVI of the Royal Decree of 5 April 1995 laying down general environmental policy provisions

Article 11. Article 1 of Annex VII to the Decree of the Flemish Government of 12 December 2008 implementing Title XVI of the Decree of 5 April 1995 laying down general provisions on environmental policy, replaced by the Decree of the Flemish Government of 7 September 2018 and last amended by the Decree of the Flemish Government of 8 December 2023, is amended as follows:

1° the following rows shall be removed:

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5.2.2.8.6(1)	The operator of a licensed waste oil storage facility provides a bank guarantee to the credit of the Public Flemish Waste Company.
5.2.2.8.6(3)	The bank guarantee may be issued subject to the agreement of the Public Flemish Waste Company if, in accordance with the provisions of this Regulation and the requirements of the environmental permit for the operation of the classified establishment or activity, all waste oils have been removed from the establishment and the operator no longer supplies new waste oils in the establishment.

’;

2° the rows

6.10.2.2(2)(2), first sentence	In the case of exemption, the operator shall submit a notification prior to operation via the website of the section responsible for environmental pollution of electromagnetic waves as referred to in Article 6.10.2.2bis(2).
6.10.2.2(2), last sentence	A certificate of conformity is always required for average effective isotropic radiated power (EIRP) above 20 W.
6.10.2.2(3)(2), first sentence	In the case of exemption, the operator shall submit a notification prior to operation via the website of the section responsible for environmental pollution of electromagnetic waves as referred to in Article 6.10.2.2bis(2).
6.10.2.2(3), last sentence	A certificate of conformity is always required for average effective isotropic radiated power (EIRP) above 20 W.
6.10.2.2(5), last sentence	For those antennas, the operator shall submit a notification prior to operation via the website of the section responsible for environmental pollution of electromagnetic waves referred to in Article 6.10.2.2bis(2).
6.10.2.2(6)	For radio-relay systems, prior to operation, the operator shall submit a notification via the website of the section responsible for environmental pollution of electromagnetic waves referred to in Article 6.10.2.2bis(2).

are replaced by the following rows:

6.10.2.2(2)(4), first sentence	In the case of exemption, the operator shall submit a notification prior to operation via the website of the section responsible for environmental pollution of electromagnetic waves as referred to in Article 6.10.2.2bis.
6.10.2.2(2), last sentence	A certificate of conformity is always required for average outputs above 20 W.
6.10.2.2(3)(3), first sentence	In the case of exemption, the operator shall submit a notification prior to operation via the website of the section responsible for environmental pollution of electromagnetic waves as referred to in Article 6.10.2.2bis.
6.10.2.2(3), last sentence	A certificate of conformity is always required for average outputs above 20 W.
6.10.2.2(5), last sentence	For those antennas, the operator shall submit a notification prior to operation via the website of the section responsible for environmental pollution of electromagnetic waves referred to in Article 6.10.2.2bis.
6.10.2.2(6)	For radio-relay systems, prior to operation, the operator shall submit a notification via the website of the section

	responsible for environmental pollution of electromagnetic waves referred to in Article 6.10.2.2bis.
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Chapter 3. Amendments to Title III of the VLAREM 16 May 2014

Article 12. In Article 3.4.1.1(1), paragraph 1, and (2) of Title III of the VLAREM of 16 May 2014, inserted by the Decree of the Flemish Government of 11 December 2015 and amended by the Decree of the Flemish Government of 27 October 2017, the phrase '30.3.4°' shall be replaced with the phrase '30.2.4°'.

Article 13. In Article 3.11.1.1(1), paragraph 1, of the same decree, inserted by the Decree of the Flemish Government of 9 March 2018, the words ', 9.5.d and 9.5.e' shall be replaced with the words 'and 9.5.d'.

Article 14. Article 3.14.1.1(1), paragraph 1, of the same decree, inserted by the Flemish Government Decree of 19 June 2020, is amended as follows:

1° in point 1°, the phrase 'and Section 2.4.3 and 2.4.5' shall be replaced with the words ', Section 2.4.3, Section 2.4.5 and Section 28.5';

2° in point 2(b), the phrase ', and Section 2.4.3 and 2.4.5' shall be replaced with the phrase ', Section 2.4.3, Section 2.4.5 and Section 28.5'.

Chapter 3. Final provisions

Article 15. An application for an environmental permit or a report with regard to Section 16.12, Section 30.1 or Section 58 submitted before the date of entry into force of Articles 8 and 10 of this Decree shall be examined and decided on based on the classification list set out in Annex 1 to the Decree of the Flemish Government of 1 June 1995, laying down general and sectoral provisions on environmental health, in force on the day on which the application or notification was submitted.

Article 16. Article 4 of this Decree shall enter into force 2 years after the entry into force of this Decree.

Article 17. Articles 8 and 10 of this Decree shall enter into force on a date set by the Flemish Minister responsible for the environment and nature and no later than 1 April 2026.

Article 18. The Flemish Minister responsible for the environment and nature is in charge of the implementation of this Decree.

Brussels, ... (date).

The Minister-President of the Flemish Government,

Jan JAMBON

The Flemish Minister of Justice and Enforcement, Environment, Energy and
Tourism,

Zuhal Demir