

Regulation of the Minister for Housing and Spatial Planning of [PM date], No 2024-0000362233, amending the Regulation on the basic registration of subsoil with regard to the addition of two catalogues concerning the registration objects for environmental soil investigation and the Government Decree on soil pollution and the amendment of the catalogue on the groundwater monitoring well registration object

Minister for Housing and Spatial Planning,

Having regard to the Article 17, paragraph 1 of the Act on the Key Register of the Subsurface [Wet basisregistratie ondergrond];

Decree:

Article I

The Regulation on the Key Register of the Subsurface is amended as follows:

A

Article 11 is amended as follows:

1. In subsection (i), 'grondwaterstandsonderzoek' is replaced by 'grondwaterstandonderzoek'.
2. In subsection (q), 'grondwatergebruikssysteem' is replaced by 'grondwatergebruikstelsel'.
3. At the end of subsection (s), the word 'and' shall be deleted.
4. Replacing the stop at the end of subsection (t) with a semicolon, two subsections are added as follows:
 - u. environmental hygiene soil survey, included in Annex XXII to this Regulation; and
 - v. Government Decree on soil contamination, included in Annex XXIII to this Regulation.

B

Article 13 is amended to read as follows:

1. In paragraph 1, 'Article 10 of the Public Access of Government Act' is replaced by 'Article 5.1 of the Open Government Act'.
2. Paragraph 2 now reads:
 2. Paragraph 1 shall not apply to access by and disclosure to source holders if the data have been supplied through a secure digital link by or on behalf of a source holder.

C

In Article 15, 'Annexes I to XV' is replaced by 'Annexes I to XXIII'.

D

Annex VII is replaced by the annex included in Annex A to this Regulation.

E

After Annex XXI, two Annexes XXII and XXIII, included in Annexes B and C to this Regulation, are added.

Article II

1. Parts A and D of this Regulation enter into force on the date on which the Decree of [PM] amending the Decree on basic registration of subsoil in connection with the addition of the environmental quality registration domain enters into force.
2. Part B of this regulation shall enter into force on the date of entry into force of the PM Act amending the Basic Subsoil Registration Act in connection with the designation of drinking water undertakings as source holders and some other amendments.
3. Part C of this Regulation shall enter into force on 1 July 2025.

This Regulation and the explanatory notes shall be published in the Government Gazette.

Minister for Housing and Spatial Planning,

Mona Keijzer

Annex A to Article I(C)

Annex VII. to Article 11(f) of the Regulation on basic registration of subsoil

This Annex concerns the catalogue of the groundwater monitoring well registration object, version 1.1, with date 12 April 2024, and published on <https://docs.geostandaarden.nl/bro/vv-im-gmw-20240412/>.

Annex B to Article I(D)

Annex XXII to Article 11(u) of the Regulation on basic registration of subsoil

This Annex concerns the catalogue of the registration object for environmental soil survey, version 1.1, dated 13 June 2024, and published on <https://docs.geostandaarden.nl/bro/sad/>.

Annex C to Article I(D)

Annex XXIII. to Article 11(v) of the Regulation on basic registration of subsoil

This Annex concerns the catalogue of the registration object of the Government Decree on Soil Pollution, version 1.0, dated 13 June 2024, and published on <https://docs.geostandaarden.nl/bro/sld/>.

EXPLANATORY NOTES

I. General

1. Introduction

The Basic Soil Register Act (hereinafter BRO Act) came into effect on 1 January 2018. In the Basic Soil Register (below: 'BRO') contains information on the geological and pedological structure of the soil, resulting from investigations on subsurface structures, on rights of use and on authentic models regarding the subsoil. The Minister for Housing and Spatial Planning (hereinafter: VRO) is responsible for the establishment and management and monitors the use of the BRO. The Netherlands Organisation for Applied Scientific Research (below: TNO) carries out, on behalf of and under the responsibility of the Minister of VRO, the actual work relating to the establishment and administration of the BRO.

The BRO is part of the system of basic registers. Administrative bodies which, in the performance of a statutory duty or when undertaking activities, receive a source document designated in the Basic Soil Register Decree (hereinafter BRO Decree) in relation to the subsoil of the Netherlands or the continental shelf, supply that source document via the source owner portal. Administrative bodies are then required to consult the BRO whenever they need soil data. Citizens, businesses and government agencies may consult the BRO free of charge.

In the Basic Soil Registration Regulation (hereinafter: BRO Decree) the technical aspects of the Register are elaborated. This concerns the provision of source documents (via the source holder portal) and the requirements for the data to be delivered (catalogue of data standards), the technical and administrative set-up of the BRO, and access to and provision of data.

The catalogue defines for each source document (registration object) where the information listed in Chapter 3, section 2, of the BRO Act must be included and defines the quality requirements to be met by those data. The catalogues describe the data definition, possible values and quality of data per registration object.

2. Content of this Regulation

The BRO Decree has been supplemented by two registration objects from the environmental quality registration domain, which establishes the corresponding catalogues. In addition, this Regulation amends the existing catalogue on the registration object of groundwater monitoring well.

Finally, Article 13 has been amended, on the one hand, with two technical corrections and on the other to clarify it.

2.1 Two new catalogues

The two new registration objects concern:

- Environmental hygiene soil survey (Site Assessment Data or SAD from the category of investigations) and
- government decree on soil contamination (Soil Legal Decisions or SLD in the category of rights of use).

These registration objects have great potential to be reused.

SAD deals with the quantitative examination of the nature and levels of contaminants in the soil.

SLD concerns data from a competent authority when assessing and/or handling soil contamination. Until 1 January 2024, the Law on soil protection (hereinafter: WBB) was applicable. This law was incorporated into the Environmental and Planning Act (OW) on that date. The purpose of the WBB was to clean up the soil. The aim of the OW is to make the soil suitable for the intended activity.

As a result of the transition from the WBB to the Environment and Planning Act, three categories of data within SLD are possible from 1 January 2024.

- Originated before 1 January 2024 under the WBB regime, closed and thus static. If necessary, these data are transferred to a competent authority of a municipality, if the competent authority was under the Provincial Executive of a Province ('warm transfer').
- Originated before 1 January 2024 under the regime of the WBB, not yet resolved and continued under the transitional law under the regime of the WBB.
- Created after 1 January 2024 under the regime of the Environmental and Planning Act.

A government decree on soil contamination shall lay down:

- the status of the contamination (WBB);
- identified contamination contours (WBB);
- remediation services or excavation obligation (WBB and the Environment and Planning Act);
- after-care contours with any restrictions on use (WBB).

Decrees imposing an after-care obligation in case of residual contamination (final bullet) are also recorded in the basic register of public law restrictions (BRK-PB). As the BRK-PB contains only a selection of data on after-care, the decisions are recorded with more data in the MSP due to the need in the field of work.

Of these two registration objects, the two catalogues in Annexes XXII and XXIII determine the data definition, the possible values and the quality to be met by the data.

2.2 An amended catalogue

Catalogues change from time to time by changing insights and circumstances. This is currently the case with a previously established catalogue:

VII Groundwater monitoring well (GMW).

The content of the amendments is limited in scope. The amendments concern the measurement of groundwater wells and some changes to the well code; furthermore, the possibility of establishing a link to exploration and facilitating the registration of wells beyond national borders; in addition, non-disclosure of geometry of groundwater monitoring wells can now be indicated, and the various forms of filter protection have been extended. Finally, several minor change requests have been processed and the editorial part of the catalogue has been supplemented and adapted to new developments (including the intended addition of drinking water companies as source holders).

The catalogues and amendments to these have been developed through cooperation between all parties involved in the relevant information chain. These include public authorities (municipalities, provinces, water boards), the business community (engineering and consulting firms) and scientific institutes (TNO, WENR¹). There is broad agreement on the amendments.

2.3 Technical amendment and clarification of Article 13

In Article 13(1), a reference to Article 10 of the Public Access to Government Act previously in force had not yet been replaced by a reference to Article 5.1 of the Open Government Act currently in force. This has been corrected.

In addition, in paragraph 2, the term ‘administrative authority’ has been replaced by ‘source holder’ in order to take account of the legislative proposal by which the drinking water undertakings are added as source holders of the BRO. Finally, paragraph 2 has been amended to clarify that data in a confidential category that are supplied are blocked by everyone but remain accessible to source holders if they need it for the performance of their duties. This was always intended.

3. Impact on regulatory burden

3.1 Citizens and businesses

As regards the addition of the two new catalogues, no significant administrative burden on industry is expected. Industry is only indirectly affected, i.e. if, for example, an engineering firm is hired by an administrative body and the engineering firm carries out work on behalf of the administrative body and which is also for the benefit of the BRO. However, the engineering firm then receives a fee from the administrative authority for those activities.

As regards the amendment of catalogue VII, it does not have any significant impact on administrative bodies and drinking water undertakings, unlike the requirements for the recording of data that the catalogue entails.

The entire Regulation has no regulatory impact on citizens.

3.2 Administrative bodies

For the governing bodies: reduce the regulatory pressure impact of the new registration objects. They will have to implement the delivery and use of this data in their working processes and IT systems, or authorise these activities to contractors. The vast majority of the source holders have already achieved this process in the context of the introduction of the first four tranches. The extension to environmental soil research and governmental decisions on soil contamination should complement or update these processes.

Companies will provide data on environmental soil research directly to the BRO (as data provider on behalf of the administrative body) as part of a research mandate from an administrative body. These companies will have to comply with the requirements of the BRO. The one-off regulatory burden stems in particular from the adaptation of work processes, the creation of the necessary software, the linking of the different software systems and the provision of the existing data to the BRO. Structural regulatory burden

¹ WENR stands for ‘Wageningen Environmental Research, part of the University of Wageningen’. WENR produces, inter alia, the soil map included in the BRO, the groundwater mirror depth model and the geomorphological map.

stems from the provision of data, the maintenance of software systems and the examination of feedback reports.²

There is no such regulatory burden for the object of the governmental decree on soil contamination: only administrative bodies provide data on this issue.

4. Advice and consultation

The draft catalogues for the two registration objects in the environmental quality domain are available from 21 February to 3 April 2024 at [Basisregistratieondergrond.nl](https://basisregistratieondergrond.nl).

The results have been partially incorporated into the catalogue and answered through a response document. The responses to the SAD and SLD catalogues explaining the processing can be found at:

- <https://www.bro-productomgeving.nl/bpo/latest/milieuhygienisch-bodemonderzoek-sad>
- <https://www.bro-productomgeving.nl/bpo/latest/overheidsbesluit-milieukwaliteit-sld>.

Contact has been made with a number of speakers to address specific points.

The replacement of catalogue VII has been determined with the public authorities, businesses and other stakeholders involved. This also involved a separate consultation process for the catalogue. The draft catalogue was available for inspection from 1 December 2023 to 19 January 2024 at: [Basisregistratieondergrond.nl](https://basisregistratieondergrond.nl).

Approximately 48 responses to the GMW catalogue were received. Of these, 27 have been included in the catalogue. All responses explaining the processing have been published on the BRO product environment. These can be found at <https://www.bro-productomgeving.nl/bpo/latest/grondwatermonitoringput-gmw>.

The draft regulation was submitted to the Advisory Board on Regulatory Pressure Review (ATR). The ATR PM.

5. Notification

The draft Regulation was submitted to the European Commission (notification number <? >) on <datum?> as a result of Article 5(1) 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 (OJ L 241, 2015). [Response from the Commission]

6. Entry into force

The entry into force of this Regulation was determined differently for different parts of the scheme.

As regards the catalogue of the registration object groundwater monitoring well to be amended, this amendment shall enter into force on 1 January 2025. This is a fixed moment of change, and it is known to source holders that changes to catalogues enter into force.

The amendment to Article 13 is partly linked to the PM Act amending the Basic Subsoil Registration Act in connection with the designation of drinking water undertakings as source holders and some other amendments, namely the replacement of the term 'administrative authority' with 'source holder', is linked to the designation of the drinking-water companies as source holders in that Bill. Therefore, the entry into force of the amendment to Article 13 was determined at the time of the entry into force of that legislative proposal.

Finally, as regards the two new catalogues for the time of entry into force, the date of entry into force of the present Decision is aligned.

² Report *Environmental soil quality data in the BROEcorys*, 13 July 2023. See [Basisregistratieondergrond.nl](https://basisregistratieondergrond.nl).

The timing of entry into force deviates from the requirement of the minimum entry period and the fixed dates of change, which is justified for the amended Catalogue and the two new catalogues because the source holders are already aware of the changes and the new catalogues and do not require additional time. The amendment to Article 13 concerns a technical amendment, and therefore there is no need for a phasing-in period or entry into force at a fixed time of change.

II. Explanatory Notes by Article

Article I

Part A

Article 11 of the BRO Regulation governs adoption of the BRO catalogue. First, part A corrects orthographical errors in subsections (i) and (q). 'Grondwaterstandonderzoek' should have been 'grondwaterstandonderzoek' and 'grondwatergebruikssysteem' should have been 'grondwatergebruiksstelsel' in accordance with the BRO Decree and Annexes X and XVIII to the BRO Regulation. This has been corrected.

Second, Part A adds to Article 11 the two new registration objects added by the BRO Decree. This concerns the registration objects for environmental soil research and governmental decree on soil contamination. For a more detailed explanation, see Section 2.1 of the general part of this note.

Part B

See Section 2.3 of the general part of the explanatory memorandum for an explanation of this change.

Part C

In the mutual recognition provision in Article 15, the reference to the Annexes has been updated to refer to all Annexes. Moreover, all annexes may contain technical requirements.

Part D

This Part amends Annex VII, which includes the catalogue for the registration object groundwater monitoring well. For the changes, see Section 2.2 of the general part of this explanatory note.

Part E

This part adds two Annexes XXII and XXIII, catalogues for the registration objects for environmental soil research and government decree on soil contamination. For further details, please refer to Section 2.1 of the general part of these explanatory notes.

Article II

This article governs the entry into force of this Regulation. For a more detailed explanation, see Chapter 6 of the General Part of this Explanatory Note.

Minister for Housing and Spatial Planning,

Mona Keijzer