
LICENSING AND ENFORCEMENT AT MUNICIPAL AND PROVINCIAL LEVEL IN NORTH BRABANT: DEVELOPMENTS IN RECENT YEARS

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SUMMARY

This article examines the efforts made in recent years by municipalities in North Brabant (The Netherlands) and by the governing authority of the province itself to overcome the backlog in licensing and enforcement of the Environmental Management Act. Dutch central government has been contributing no less than 500 million guilders since 1990 to the efforts to eliminate these backlogs and to implement environmental responsibilities arising from the National Environmental Policy Plan. The funds are mainly used to recruit additional manpower to discharge these environmental responsibilities.

1 INTRODUCTION

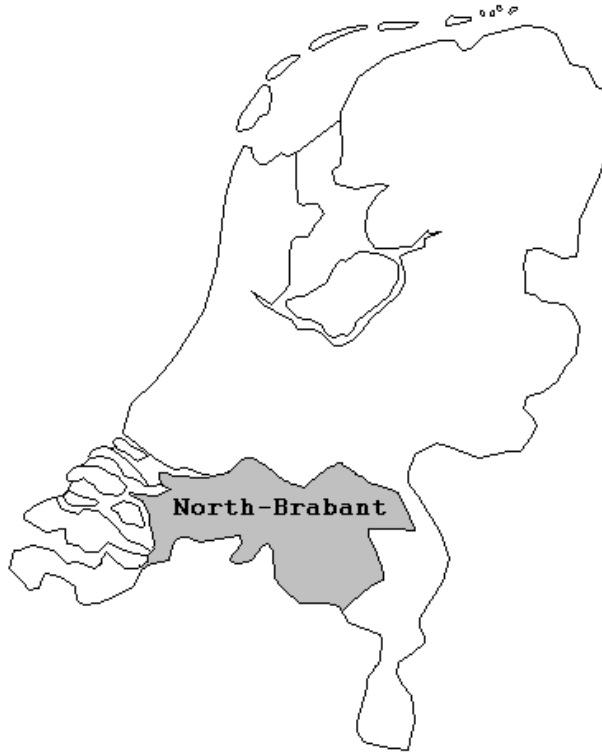
During the mid 1980s, environmental licensing and enforcement of licensing provisions and environmental regulations received increasing attention from municipalities and provinces in the Netherlands.¹ This growing attention was primarily a result of the recognition within political circles and society at large of the severity of the environmental problem in the Netherlands, which is so densely populated. At that moment there were major backlogs in licensing and enforcement by municipalities and provinces. To accelerate the work of eliminating these backlogs, central government is developing financial assistance schemes (see Section 2). These have been found to be of enormous assistance to these authorities in implementing environmental policy in an orderly manner.

The expectation is that virtually all companies subject to licensing in the Netherlands will have an adequate environmental licence by January 1, 1997, and that they will be regularly monitored, in accordance with agreed inspection schedules.

Since the end of the 1980s, municipalities have been working together in what are termed regional cooperative associations in implementing environmental policy. These are clusters of municipalities that work together on the environment and in other areas. The province of North Brabant has six such cooperative associations. One large municipality (central municipality) or a joint regional environmental centre provides support in terms of environmental technology, with licensing and enforcement as its main task. Cooperation plays an important and indispensable part in the implementation of environmental policy by municipalities. Regional cooperation on the environment is now something beyond dispute, and certainly in the province of North Brabant (Figure 1), which accommodates 120 municipalities varying in numbers of inhabitants from 2000 to almost 200,000.

Enforcement was given a major boost in 1991 by the setting-up of enforcement coordination centres, within the regional environmental centers or central municipalities. The task of enforcement against companies placing the heaviest load on the environment within the areas covered by the cooperative associations is implemented and coordinated from within

Figure 1. The province of North Brabant is situated in the Southern part of the Netherlands



these coordination centers. The aim is to achieve the greatest possible uniformity in enforcement. These efforts to achieve uniformity are not confined to the cooperative associations but also apply on a provincial and national scale. And when it comes to enforcement of environmental legislation, the centres cooperate with other municipalities, the province, the water quality management agencies, the Department of Public Prosecutions, the Police and the Inspectorate for the Environment.

2 A CLOSER ANALYSIS OF THE FINANCIAL ASSISTANCE SCHEMES IN THE NETHERLANDS

2.1 Introduction

At the end of the 1980s, central government developed financial assistance schemes in close consultation with the provinces and the Association of Netherlands Municipalities, with a view to overcoming the severe backlog in licensing and enforcement in companies. These schemes, the Administrative agreement on licensing and enforcement for provinces and the Contribution decree on the implementation of municipal environmental policy for municipalities, were designed to recruit extra staff for licensing and enforcement. The Contribution scheme

financing implementation of the National Environmental Policy Plan, which covered municipalities as well as provinces, was designed to enable these authorities to recruit extra manpower to implement environmental responsibilities — other than licensing and enforcement — arising from the National Environmental Policy Plans (ref. 1). The financial assistance schemes are discussed in further detail in the following sections.

2.2 Administrative agreement on licensing and enforcement (provinces)

The Administrative agreement on licensing and enforcement came into force in 1991. Its aim was to achieve a satisfactory level of licensing and enforcement of the Environmental Management Act by January 1, 1995 at the latest. A satisfactory level of implementation implies that all companies from that date have a licence which is adequate for the purpose and that they are then inspected in accordance with agreed inspection schedules. The financial resources made available in this context by the Ministry of Housing, Spatial Planning and the Environment are designed to strengthen the provinces' manning levels.

Research established at the end of the 1980s that the provinces were short on manpower by 32 million guilders if they were to be able to achieve and sustain a satisfactory level of licensing and enforcement. Central government is reimbursing 25 million guilders annually, by means of the Administrative agreement. The provinces themselves have to make up the shortfall — though not all of them have yet managed to do so.

2.3 Contribution decree on the implementation of municipal environmental policy (municipalities)

The Contribution decree on the implementation of municipal environmental policy (BUGM) came into force on January 1, 1990. The main objective of the scheme was to achieve a satisfactory level of licensing and enforcement of the Environmental Management Act by January 1, 1995 at the latest. With a view to achieving this objective, municipalities were able to apply under the provisions of the Contribution scheme for a basic financial contribution in the form of a fixed amount per inhabitant from the Minister of Housing, Spatial Planning and the Environment. The contribution was intended to be used for the recruitment of manpower for licensing and enforcement purposes. It is mandatory for municipalities with fewer than 70,000 inhabitants to cooperate. In return for this cooperation, they received an initial premium of 25% of the basic contribution. Central government made a total of around 50 million guilders per annum available for the scheme. The municipalities themselves were deemed to be contributing an equal amount from their own resources. The structural costs of implementation, excluding the elimination of existing backlogs, were estimated at over 100 million guilders per annum at the end of the 1980s.

2.4 Contribution scheme financing implementation of the National Environmental Policy Plan (municipalities and provinces)

The Dutch Government adopted the National Environmental Policy Plan and the National Environmental Policy Plan Plus (ref. 1) in 1989 and 1990 respectively. Those two plans resulted in a number of action points, in some cases quite comprehensive, for municipal environmental policy. The action points for municipalities are described in a framework plan, which sets out a whole range of environmental tasks, such as:

- the application of laws in areas other than licensing and enforcement, such as the provisions in the Housing Act regarding soil investigations and the prevention of construction on contaminated land;
- policy and implementation plans, such as a segregated collection and processing of organic household waste, a municipal sewerage plan and an action plan for energy conservation;
- setting good example, for example in producing environmental (including energy conservation) management systems; and
- the promotion of good communications and information, for example by applying good communication techniques in municipal plans and measures and the active provision of environmental information.

Implementing these action points presented a significant additional workload.

The Contribution scheme financing implementation of the National Environmental Policy Plan (FUN) came into force in 1991 to enhance implementation of the action points by municipalities. The Ministry of Housing, Spatial Planning and the Environment gave municipalities a fixed amount per resident, the total rising from 13 million in 1990 to 43 million in 1994. Municipalities were expected to earmark resources of their own for these environmental responsibilities over and above government funding. As with the Contribution scheme, the Financing scheme aims to foster cooperation between municipalities by financial means. The provinces have also received funds under this scheme to enable them to discharge provincial responsibilities under the National Environmental Policy Plan.

2.5 Follow-up contribution scheme for the development of municipal environmental policy (municipalities)

At the end of 1993 the Minister of Housing, Spatial Planning and the Environment decided to continue the two schemes for municipalities- the Contribution decree and the Financing scheme- for three years with effect from January 11, 1995 in the form of the Follow-up contribution scheme for the development of municipal environmental policy (VOGM). This decision was taken after research had revealed stagnation in implementing the Contribution decree and Financing schemes² After this three year period, the municipalities will be free as from 1 January 1998 to deploy the Follow-up funds as they see fit, including purposes other than the environment.

The Follow-up scheme is explicitly designed to add a quality dimension to the discharging of environmental responsibilities by municipalities. In the period covered by the Contribution scheme, the primary goal was to eliminate backlogs in licensing and enforcement (quantity in short). In the Follow-up scheme, implementation of the action points of the National Environmental Policy Plan has been simplified. Municipalities are obliged to make a selection from the action points for the purposes of implementing the responsibilities of the National Environmental Policy Plan. Government funding to the tune of 94 million guilders is available annually for the Follow-up scheme.

Environmental cooperation between municipalities, for example in the form of regional environmental centres, remains a major condition of eligibility for funds during the period of the Follow-up scheme.

3 THE INSPECTORATE FOR THE ENVIRONMENT AND ITS ROLE IN ASSISTANCE SCHEMES

The Inspectorate for the Environment is part of the Directorate-General for Environmental Management at the Ministry of Housing, Spatial Planning and the Environment. The Inspectorate monitors implementation of a large proportion of legislation relating to the environment. In other words, it ensures that all parties abide by the agreements that have been made to protect or enhance the environment. The Inspectorate works throughout the country from nine regional offices, with central control vested in the main branch in The Hague.

The Inspectorate reviews and fosters progress in implementation of environmental policy, including licensing and enforcement via municipalities and provinces. Each year, they have to submit an Environmental Report in order to give account of progress in implementation of environmental policy. On behalf of the Minister, the Inspectorate assesses whether this progress in individual municipalities and provinces is sufficient for continued eligibility for environmental subsidies. Agreements are reached with any municipalities or provinces that are lagging behind, often in the form of action plans, with a view to achieve a satisfactory level of meeting environmental responsibilities within the foreseeable future. Apart from assessing the annual environmental reports, the Inspectorate performs studies on its own account into implementation of the various environmental responsibilities by municipalities and provinces, particularly into the quality of licensing and enforcement in various categories of companies.

4 DEVELOPMENTS IN LICENSING AND ENFORCEMENT IN THE MUNICIPALITIES OF NORTH BRABANT

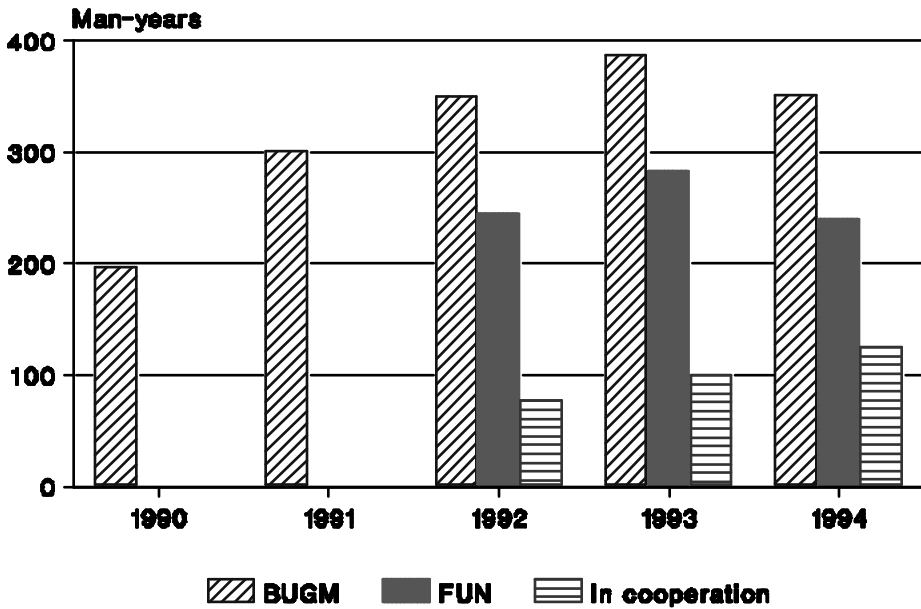
4.1 Staffing levels

As a result of the Contribution (BUGM) and the Financing (FUN) assistance schemes, the staffing capacity for discharging environmental responsibilities has increased enormously. Figure 2 illustrates this increase in municipalities in the province of North Brabant for licensing and enforcement (BUGM) and for tasks arising from the National Environmental Policy Plan and the National Environmental Policy Plan Plus (FUN). Approximately 75% of total BUGM capacity is deployed on licensing and 25% on enforcement.

The number of municipal civil servants dedicated to the environment in North Brabant has tripled since 1990. At present there are no fewer than 600 staff members working daily on the environment in North Brabant. Approximately 20% (some 120 people) operate from a regional environmental centre or a central municipality. The staffing capacity on a cooperative basis rose somewhat in 1994, whilst there was a slight fall in the deployment of staff on the Contribution scheme (BUGM) and the Financing scheme (FUN). After 1994, a slight rise is forecast in personnel capacity for implementing the Contributory scheme. These additional hands will be used to improve the quality of licensing and enforcement. After the remaining backlogs in licensing and enforcement have been eliminated, the excess capacity is expected to be used in implementing other environmental tasks (compare Section 2.5, the Follow-up - VOGM scheme). Attention will particularly focus on the quality of discharging environmental responsibilities.

In general, manning levels would appear to be sufficient for tackling environmental policy with sufficient vigor. The Inspectorate does still have some concerns about a group of municipalities who are lagging behind, and who have too little capacity to discharge

Figure 2. Available staffing capacity for implementing municipal environmental policy (BUGM, FUN) in North Brabant(3)



Source: BUGM and FUN annual reports

environmental responsibilities in terms of quality as well as quantity to an appropriate level. Furthermore, there are a number of cases in which little or too little use is made of the specialists available within the regional environmental centre or central municipality.

4.2 Eliminating backlogs in licensing

In the province of North Brabant there are about 60,000 companies (16% of the total number of companies in the Netherlands) for which the municipalities are the competent authority (responsible for licensing and enforcement). These companies are classified into four categories by environmental load. Examples of this classification are given in Table 1.

Companies in the Categories 2, 3 and 4 need a licence under the Environmental Management Act. The small businesses of Category 1, placing less of a load on the environment, have to fulfil the regulations of an Environmental Management Decree.

Figure 3 shows that the backlog in licensing in North Brabant in 1988 was around 45%, in other words only some 55% of companies subject to licence had a licence of a satisfactory standard. Vigorous efforts have been made since 1990 and the backlog has been

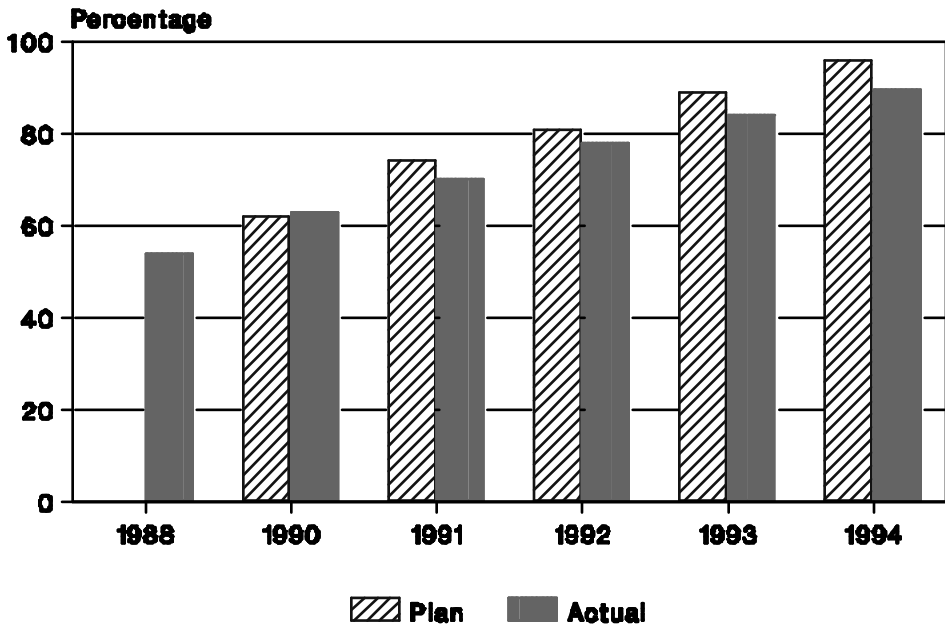
Table 1. Classification of companies into categories by environmental load

Categories (number of companies)	Examples of classification
Category 1 (21,000)	bakeries, butcher's shops, office buildings, schools, hairdressers, cemeteries
Category 2 (26,000)	intensive stock-farming, repair shops (garages, etc.), catering industry, cleaning firms, clothing industry, petrol stations
Category 3 (11,000)	wool and cotton mills, printing industry, small metal engineering works, photo and film laboratories, hospitals, swimming pools, crematories, wood preservation industry, transporters
Category 4 (2,000)	abattoirs, breweries, animal fodder industry, chemicals industry, tanneries, paper manufacturing industry, rubber and plastic processing, dairy industry

largely eliminated: at the end of 1994 89% of companies had a satisfactory licence. The municipalities had not succeeded, however, in entirely eliminating the backlog by January 1, 1995, the target date set forth in the Contribution decree (BUGM).

The percentage of satisfactory licences at the end of 1994 does not, however, say much about the quality of licences. For example, a study carried out in 1994 by the Inspectorate for the Environment in North Brabant (ref. 2) indicated that little if anything had been done to put any flesh on the expanded scope of the Environmental Management Act. The Environmental Management Act⁴, which came into force in 1993, offers greater scope for protecting the environment compared to previous environmental legislation. For example, the licence must look at prevention, reuse, storage and disposal of wastes, and to the sparing use of energy and raw materials. The licensing authority is permitted to include logistics measures in the licence in order to restrict car mobility.

Figure 3. Percentages of satisfactory licenses (planned in advance and subsequently achieved) among municipalities in North Brabant



Source: BUGM annual reports

There was insufficient attention paid to prevention or reuse of wastes in 79% of municipal licences investigated. In 87% of licences there was little or no attention to energy conservation (and no licence refers to the sparing (re-)use of raw materials) and in 91% of licences the traffic-generating impact of the establishment is not included in the picture.

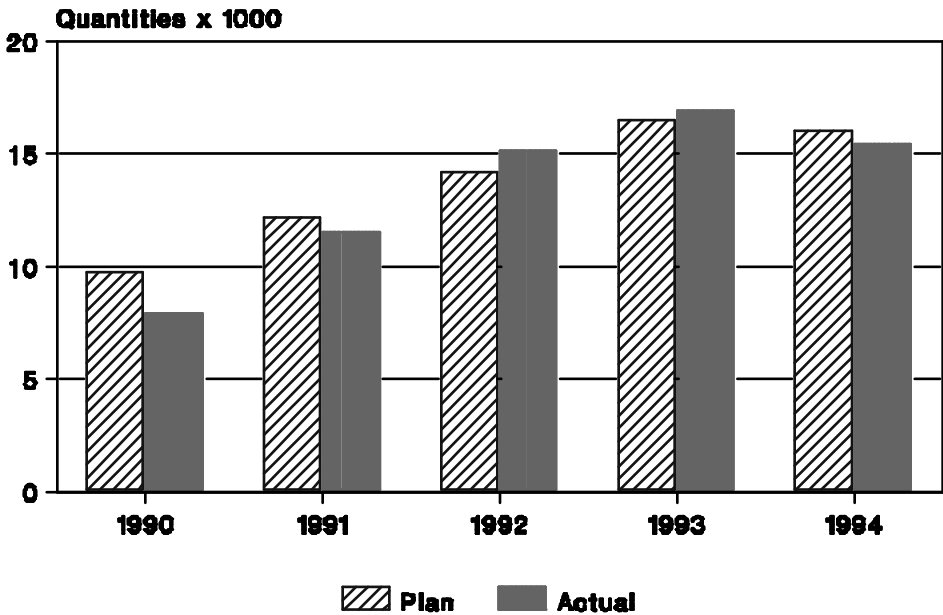
In response to the new opportunities created by the Environmental Management Act, the Inspectorate for the Environment in North Brabant published a brochure (ref. 3) in 1995 with the aim of assisting licensing authorities in applying the expanded scope of the Environmental Management Act. The brochure explained what opportunities now existed.

It can be concluded on the one hand that the municipalities of North Brabant have performed well by granting licences to 89% of companies, but on the other that the environment should be afforded better protection and at a higher quality level.

4.3 Eliminating backlogs in enforcement

The granting of licences is of course important, but equally important is compliance with the licensing regulations by the companies. Compliance is to some extent achieved by regular company checks (preventive enforcement). National reference standards have been set for the frequency of these checks. For example, Category 4 companies (see Table 1) must be checked twice a year, Category 3 companies once every 2 years, Category 2 companies once every 5 years and Category 1 companies once every 10 years.

Figure 4. Number of multi media company checks (planned in advance and subsequently achieved) in municipalities in North Brabant



Source: BUGM annual reports

Figure 4 shows that the number of company checks by municipalities in North Brabant has doubled since the start of the 1990s.

In 1994, 97% of the checks to be performed on the basis of the reference figure, around 15,000, were actually carried out. In itself this is a good result, but here, too, the number of checks says little about the quality of the checks themselves or the degree of compliance with licensing regulations by companies.

A study carried out by the Inspectorate for the Environment in North Brabant in 1995 showed that the enforcement procedures agreed by municipalities in the province of North Brabant are by no means applied in all cases. It was concluded on the basis of this enforcement study that the deadlines imposed by municipalities for the ending of infringements are frequently exceeded, reinspections are by no means always carried out and the recommendations submitted to municipal executives on the basis of the visits paid were by no means always complete. What is clear is that as a result situations which are undesirable in terms of environmental protection continue to exist for an unnecessarily long period.

In summary, now that municipal enforcement performance would appear to be just about in order in terms of quantity, the quality of this performance must be brought up to the same level. As previously indicated, regional environmental cooperation is an important and necessary instrument here. The forms this could actually take include a knowledge concentration (expertise available to more municipalities), regional coordination of enforcement and availability and exchange of enforcement data.

5 DEVELOPMENTS IN LICENSING AND ENFORCEMENT IN THE PROVINCE OF NORTH BRABANT

5.1 Developments regarding companies and staffing capacity

As from 1991, the province of North Brabant has received an annual government

Table 2. Classification of companies for which the province of North Brabant is the competent authority

Categories (number of companies)	Examples of classification
Category industry (193)	large textile industry, glass-works, ship building yards, electricity producers, heavy chemicals industry, concrete goods plants
Category waste (471)	car wreck dealers, shredders, refuse incinerators, refuse dumps, waste recycling plants
Category sundry (21)	wastewater treatment installations, marshalling-yards

contribution under the Administrative agreement on licensing and enforcement for the purposes of ensuring that a satisfactory level of licensing and enforcement is permanently achieved. At present, this contribution is almost 3 million guilders per annum. The province contributes an annual amount of over 3 million guilders from its own resources. The provincial contribution went up to over 4 million as from 1995.

The companies falling under the jurisdiction of the province can be divided into three categories, namely industry, waste and sundry. Examples of these three categories are given in Table 2. All these companies need a licence under the Environmental Management Act.

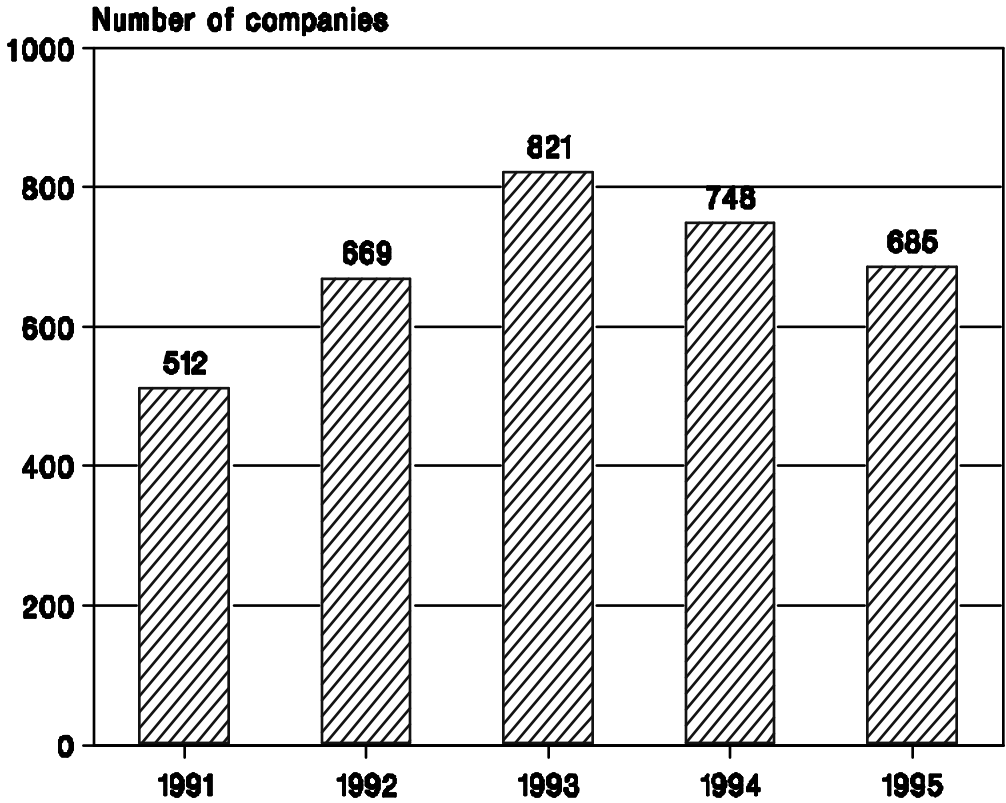
Companies falling under the jurisdiction of the province impose in general a heavier burden on the environment than companies where the municipality is the competent authority.

The number of companies falling under the jurisdiction of the province of North Brabant has experienced tremendous growth since the early 1990s (Figure 5). The major growth in 1991 and 1992 was caused almost exclusively by a sharp rise in the number of companies collecting, treating and processing wastes. As a result of jurisprudence and legislative modifications, many of these companies in those years have changed competent authority, from municipality to province and from central government to province. The decline in the number of companies since 1993 has mainly been caused by company closures within the waste sector.⁵

The trends in manning levels for licensing and enforcement in recent years is shown in Figure 6.

On the basis of the number of companies as at 1 January 1995, the province of North Brabant ought to have 65 licensing officers and 25 preventive enforcement officers. The reality is, however, that in early 1995 the province had 55 licensing officers and 7 preventive enforcement officers. The shortage of enforcement officers can partly be explained by the fact that the province of North Brabant has given priority to licensing in recent years. Apart from

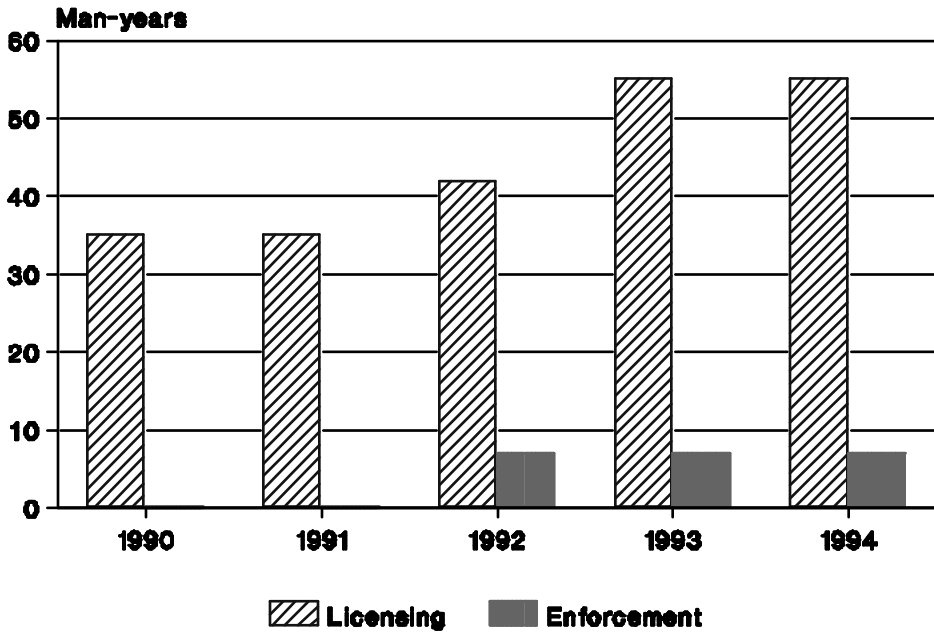
Figure 5. Developments regarding number of companies in the province of North Brabant



Source: Adm. agreement annual reports

their own staffing capacity, consultancies have been deployed to support licensing activities. Extra licensing and enforcement officers are expected to be recruited at the end of 1995 and early 1996.

Figure 6. Available staffing capacity for licensing and enforcement in the province of North Brabant



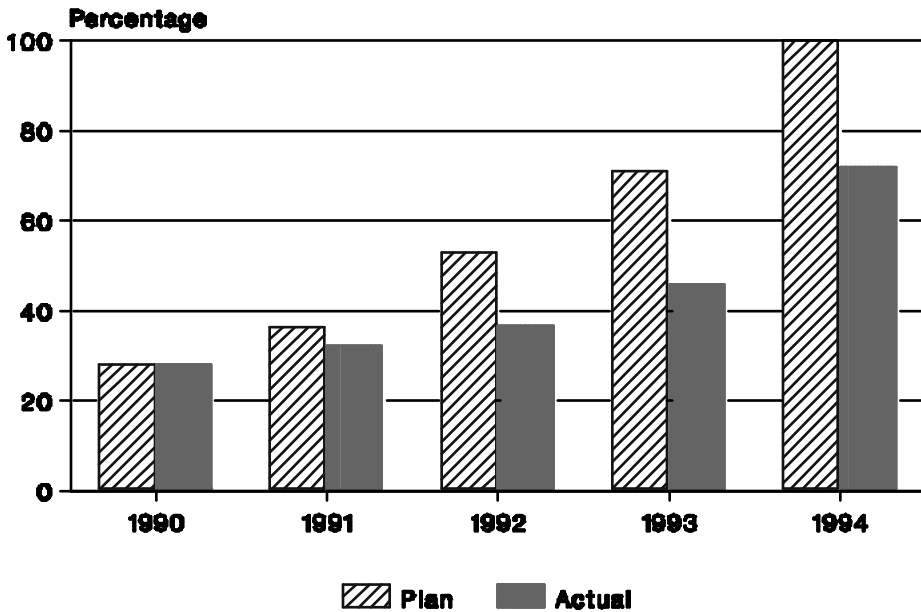
Source: Adm. agreement annual reports

5.2 Eliminating the licensing backlog

In early 1991, 28% of the former provincial companies had a satisfactory licence (see Figure 7). To achieve the satisfactory level of licensing in time, 72% of the companies (approximately 500) in North Brabant had to acquire a new licence by 1 January 1995.

The province and the Inspectorate for the Environment in North Brabant concluded in early 1995, however, that despite all the efforts, the province had failed to eliminate the backlog in time: at the end of 1994, 72% of all companies had a satisfactory licence.⁶ Among the group of industrial companies, the licensing backlog was relatively small (19%) and greatest among the group of waste companies (32%). The province will only be able to eliminate the backlog in its entirety by 1996 at the latest by recruiting additional manpower for licensing in the short term.

Figure 7. Percentages of satisfactory licences (planned in advance and subsequently achieved) in the province of North Brabant



Source: Adm. agreement annual reports

Generally speaking, in terms of quality, licences granted by the province of North Brabant in the nineties range between acceptable and good.

5.3 Eliminating the enforcement backlog

As a result of the province giving priority in recent years to eliminating the backlog in licensing, little attention has been paid to licence enforcement. To a significant degree, enforcement has been handled by licensing officers by “keeping a finger on the pulse” during their periodical company visits for licensing purposes. This form of monitoring can best be described as “promoting compliance.”

The province of North Brabant intends to separate licensing and enforcement more explicitly by entrusting enforcement to the regional cooperative associations. A start was made in 1993 by transferring enforcement of some categories of companies (car wreck dealers, shredders, concrete goods plants and crushing plants).

The route adopted by the province for separating licensing and enforcement in staffing terms is generally endorsed. Here, the licensing officer endeavors to achieve the optimum climate of consultation with the company by adopting the position of a discussion partner. The enforcement officer, on the other hand, is regarded by the company more as an adversary, which may disrupt the climate of consultation. However, effective coordination between regional enforcement and provincial licensing remains vital.

5.4 What next?

The Minister of Housing, Spatial Planning and the Environment indicated at the end of 1995 on the basis of the joint study by the provinces and the Inspectorate for the Environment (ref. 4) that the provinces have made significant progress in improving licensing and enforcement. However, further efforts were needed in a number of provinces, including North Brabant, if they were to achieve a satisfactory level of licensing and enforcement within the foreseeable future (by January 1, 1997 at the latest).

The province of North Brabant gave an undertaking that, in consultation with the Inspectorate for the Environment, it would draw up an action plan in the near future, describing how it proposed to achieve a satisfactory level of enforcement by January 1, 1997.

Not just the quantity but also the quality of implementation are aspects that demand explicit attention in the years ahead. The provinces are currently developing quality criteria for licensing and enforcement in conjunction with the Directorate-General for Environmental Management and the Inspectorate for the Environment.⁷

6 CONCLUSIONS

In general, a solid basic position for achieving further improvements in implementing environmental policy, particularly in terms of quality, is now within reach for the municipalities of North Brabant. One point that should be made is that quality improvements will in all probability require greater efforts and more discipline on the part of executive and administrative staff than the quantitative BUGM catchup operation for licensing and enforcement. Sundry recent inspections have revealed that "dotting the i's and crossing the t's" is something that remains to be done but "where there's a will, there's a way."

The province of North Brabant must continue to make solid endeavors in terms of quantity and quality, and in quality in particular when it comes to enforcement. If, however, provincial licensing is in order, and monitoring — separate from licensing — is exercised by regional enforcement officers, the basis exists for paying greater heed to the quality of implementation.

ENDNOTES

1. There are three tiers of government in the Netherlands: national, provincial (12 provinces) and local (620 municipalities). Each tier has its own powers by virtue of various acts of Parliament, including environmental legislation. The cornerstone of environmental legislation, the Environmental Management Act, makes municipalities the licensing and enforcement authority (in short: the competent authority) for what are generally the lighter categories of companies. The provinces are the competent authority for the heavier categories of companies such as companies that treat or process waste and large complex chemical companies.
2. One of the things to emerge from the study was that several municipalities needed between one and two years longer to achieve a satisfactory level of licensing and enforcement. Furthermore, the quality achieved in discharging the two responsibilities in 1993 left a lot to be desired and it was found that municipalities were lagging behind in implementing their responsibilities under the National Environmental Policy Plan.

3. The "BUGM" and "FUN" bars in the figure show total manning levels. The capacity shown by the "in cooperation" bar indicates the proportion of this total capacity deployed on a cooperation basis.
4. A brief summary of the statutory framework of the Environmental Management Act in relation to licensing is shown in the annex to this article.
5. In the interests of the effective collection, treatment and processing of wastes, it was deliberately decided that these activities should be handled by companies which were healthy in economic terms and in their approach to environmental protection. In practice, many companies are unable to achieve this, which has resulted in company closure in many cases.
6. The national figure for the 12 Dutch provinces at the end of 1994 was 77% for the average percentage of licences granted. The range was 52-91%.
7. A few Acts -which are also to be regarded as environmental legislation — have not been integrated in the Environmental Management Act. This means that companies which carry out activities which fall under said Acts must have a separate licence for these activities. This applies, for example, in the case of the Surface Waters Pollution Act (in respect of the discharge of waste water), the Nuclear Energy Act (in respect of the use of radioactive materials) and the Groundwater Act (with regard to the abstraction of groundwater).

REFERENCES

References 2 through 4 are only available in the Dutch language.

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3. Hoe ver reikt de Wm-vergunning? Mogelijkheden voor de toepassing van de verruimde reikwijdte Wet milieubeheer, Regional Inspectorate for the Environment, North Brabant, February 1995.
4. Landelijk Handhavingsproject uitvoering Bestuursvereenkomst vergunningverlening en handhaving door de provincies in 1994, Inspectorate for the Environment, Enforcement of Environmental Laws, 1995/102.

ANNEX: LEGISLATIVE FRAMEWORK OF THE ENVIRONMENTAL MANAGEMENT ACT

The Environmental Management Act came into force in the Netherlands in March 1993. This new environmental Act integrates the former Nuisance Act, the Air Pollution Act, the Noise Abatement Act, the Waste Substances Act and the Chemical Waste Act. Whereas, in the past, some companies had to have three or four environmental licences, a single integrated permit under the Environmental Management Act⁷ now suffices.

The Environmental Management Act offers new possibilities for environmental protection (expanded scope), which go beyond those previously available under the former individual acts. Waste prevention, efficient use of energy and raw materials and restriction of traffic to and from the company are all aspects which can be regulated in the licence granted to a company under the Environmental Management Act. The alara - as low as reasonably achievable - principle is also new.

The new possibilities under the Environmental Management Act are discussed briefly below.

Waste prevention

Companies are obliged to take account of prevention, reuse, storage and disposal of waste and to give substance to these in practice. Measurement and recording of raw materials, ancillary materials and wastes, as well as of the sources where waste originates, give insight into the possibilities for prevention within a company. Prevention must preferably be tackled by measures directed at the source (the production process).

Raw materials consumption and energy saving

The Environmental Management Act offers the possibility of making the licence contingent on energy saving and responsible use of raw materials and ancillary materials.

Efficient use of raw materials and energy is of direct commercial economic interest since unnecessary loss of raw materials and energy depresses company profits. In addition, the unnecessary use of raw materials and energy is in conflict with the aim of sustainable use of the environment.

Measurement and recording of raw material and energy consumption are the first steps towards savings. More detailed investigation can then reveal specific economy measures to be taken. The implementation of the measures can be laid down in a plan of approach.

Traffic-restriction of people and goods

The authority granting the licence is able to lay down logistics measures and measures to restrict the use of vehicles.

Regulations relating to the transportation of persons or goods can be incorporated only in those cases where the traffic gives rise to a nuisance affecting the immediately surrounding area. A further requirement is that the regulations relate to circumstances over which the company has control. These include, for example, the delivery of goods and materials and the dispatch of products and waste. The company has no direct control over the means of transport used by staff to travel to work. However, the company can offer company transport for employees, in order to restrict the nuisance caused to the surrounding area as far as possible.

The alara principle

Under the Environmental Management Act, first of all an attempt must be made to prevent adverse consequences for the environment by imposing restrictions in the licence. Insofar as the adverse consequences cannot be prevented, regulations must be incorporated which provide the greatest possible protection against said consequences, unless this cannot reasonably be demanded. The greatest possible protection of the environment implies that the licence is made subject to measures (techniques, processes or organizational measures) which are based on what is known as best technical means, i.e. the best techniques or measures which are available.

If regulations or provisions which offer the greatest possible level of protection cannot reasonably be demanded, the Environmental Management Act allows for deviation from these. In such cases, however, the company must clearly demonstrate that said measures are technically not feasible or are not feasible from the standpoint of business economics. The specification of best practicable means, i.e. the techniques which can best be applied, must be regarded as a minimum requirement.

The alara principle is proving to be one of the most difficult aspects in practice. In particular, the interpretation of the concept of reasonably is proving a headache for the authorities responsible for granting the licences. It will be up to jurisprudence in particular to provide more clarity with regard to the interpretation of this term in the years to come.

