

LAW ENFORCEMENT ON MILITARY SITES IN THE NETHERLANDS

HUISMAN, FRED

Head of the enforcement taskgroup on military affairs of the Inspectorate, Ministry of Housing, Spatial Planning and the Environment, Inspectorate for the Environment, IPC 680, Rijnstraat 8, Postbus 30945, 2500 GX The Hague, The Netherlands, Tel. 31-70-3394126, Fax 31-70-3391299, e-mail address: F.Huisman@IMH-HI.DGM.minvrom.nl

SUMMARY

In the Netherlands the Ministry of Defence has about 300 sites on which to carry out its essential activities. For about 150 military sites (1/1/1998) there is a municipal competence to hand out permits and to carry out law-enforcement. The other 150 sites have a special importance in respect to the security of the country. These sites are called 'classified-sites'. This paper deals with the law-enforcement toward these sites for which the Minister of the Environment is the competent authority to hand out permits and to carry out law-enforcement. Most information about permits, procedures and results of law-enforcement is not made public because of confidentiality. Because of the involvement of two Ministries and confidentiality, law-enforcement on these sites has a specific approach. This paper presents some background information, some special topics of the approach, and some results.

1 SOME INFORMATION ABOUT MILITARY SITES

The military sites that are under the authority of the Minister of the Environment are important in the main task of the Ministry of Defense. The Dutch Environmental Management Act deals with the types of sites shown in figure 1. The number of sites within the Netherlands are also mentioned.

NAME / TYPE OF MILITARY SITE	NUMBER OF SITES (1998)
NAVAL BASE	1
AIR BASE	11
KASERNE	14
FUEL TRANSPORT AND STORAGE	14
AMMUNITION STORAGE	38
COMMUNICATION AND COMMAND CENTRE	27
SHOOTING AREAS	22
RAILWAY	8
SPECIAL CATEGORY *	15
TOTAL	150

* sites that were placed under the jurisdiction of the Minister of the Environment on special request of the Minister of Defense

Figure 1 Sites dealt with in the Dutch Environmental Management Act

During the last five years, the number of sites residing under the jurisdiction of the Minister of the Environment has become less (from 250 to 150) because of a change in the authority of municipalities.

2 LAW - ENFORCEMENT UNTIL 1995

2.1 Law-enforcement on military sites

Since the seventies there has been (some) law-enforcement towards the military sites. In the beginning there were about 250 sites and there was just one person to write or prepare permits and one person to carry out law-enforcement. Both persons were screened by the Department of National Security Service because of the confidentiality of the information to be used. To make this workable, having just 2 persons for 250 sites, there was an agreement between the two Ministries that the Ministry of Defence would attach the necessary regulations to the application for a permit. In this way, permitting could take place after a brief check and thereby could be done by one person.

Law-enforcement by one person for so many sites was mainly carried out by the higher management within the Ministry of Defence not residing on the sites but at department level. The sites were visited infrequently as, for instance, when severe incidents had occurred.

2.2 Dutch policy on permitting and law-enforcement

In that time the municipalities and provinces hardly renewed permits and frequently did not inspect the sites. In the year 1989 the Dutch government decided that within a period of about five years the practice of permitting and law-enforcement had to reach a justifiable level. In this respect permitting and law-enforcement towards the military sites which fell under the jurisdiction of the Minister of the Environment herself were also examined.

Several investigations took place to get a good view of the environmental situation on the sites, the contents of the permits and the number of employees needed to be able to carry out permitting and law-enforcement activities on the same level as the municipalities and provinces were supposed to undertake.

2.3 Results of the investigations on military sites

In the years 1994 and 1995 investigations took place on all 220 sites at that time residing under the Minister of the Environment. A checklist with about 250 questions was used to make an inventory of the presence of the facilities and measures taken in conformity with the permit, the present situation and organizational measures in respect to the implementation of an environmental management system.

The results can be summarized as follows. The environmental situation was poor and clearly not at the necessary level. The main issues were inadequate protective measures in the field of soil pollution and insufficient care in handling dangerous substances. A lot of activities were encountered that were not mentioned in the permit (and therefore illegal) and an implementation process for an environmental management system in many cases was not noticeable.

Looking at these results and the complexity of the activities taking place on several sites it was concluded that it was a necessity to expand the number of employees needed to take care of permitting and law-enforcement activities at the Ministry of the Environment. It was decided that permitting capacity should be expanded from 1 to 3 employees and that enforcement capacity should expand from 1.5 to 6-7 employees.

3 NEW APPROACH

3.1 Standard procedures

With the use of the renewed insight in the environmental situation on the military sites, standardized procedures were adopted for law-enforcement. Normally in the Netherlands there is a 2-step approach when non-compliance is found. The first step is an official warning-letter towards the management of the site. The second step can be a fine or closing down of the specific activity in cases where one has not obeyed the demands mentioned in the warning letter. Both steps are reported to the public-prosecutor who can take legal steps.

In the case of law-enforcement on military sites there is a 3-step approach. In the first step the non-compliance is mentioned in writing and a time schedule is given to end the non-compliance. If one doesn't reach these demands, the 2-step approach (warning, closing down/fine) as mentioned is followed. The explanation why the Ministry of Defence is given more possibilities to end the non-compliance is caused by the fact that the Minister of Defence is also responsible for the Dutch environmental policy and may be expected to show a good self-regulation.

3.2 Law-enforcement in the period 1996-1997

In this period all the military sites (1997: 176) were inspected focusing on the following aspects:

- Measures for preventing soil contamination, in storage-facilities and working areas.
- Activities without adequate permits.
- Compliance on using of CFC's, cooling and cleaning substances.
- Disposal of asbestos.
- The use of cadmium.
- Adequate measures on using environmental substances.

The results of the project in 1996 and 1997 were:

<u>Activity</u>	<u>1996</u>	<u>1997</u>
Site visits	80	96
Second visits		70
Enforcement letters	65	150
Warning letters	10	5
Complaints*	15	25
Advise on licenses	18	20

*mainly on noise

In two cases successful enforcement actions were taken and one shooting range was closed.

Because the permits were very old, about one third were older than 30 years, there were not many prescriptions in most permits that could be used for adequate law-enforcement. That is why non-compliance was approached with the use of care-prescriptions as mentioned in several environmental Acts (Environmental Management Act, Soil Prevention Act, Act on Dangerous Substances).

Subsequently, steps were also taken to get the permitting authority and the Department of Defence to renew several permits.

The conclusion is that most of the military sites show non-compliance on most of the inspection-items. Because of the law-enforcement letters, mostly using the first step of the 3-step approach, the attention of the military sector is drawn towards compliance and environmental care to prevent non-compliance. What hurts the military sector most is operational damage, negative publicity and possible political questions on environmental aspects in the military sector.

To Summarize: the attention of the military sector has been drawn toward environmental protection and implementation of environmental care is actually now taking place.

3.3 Law-enforcement from 1998

Starting with the years before a strategy was developed to help (force) the military sector by means of law-enforcement to reach an acceptable level of environmental protection, several steps were taken to stress the importance of implementing environmental care-systems and self-regulation.

3.3.1 Prioritizing of the sites

The different sites were prioritized based on environmental importance. Important sites are visited every year, less important sites every two years and unimportant sites every five years. An overview is shown in Figure 2.

NAME/TYPE OF MILITARY SITE	NUMBER OF SITES	TOTAL WORKLOAD FOR ONE INSPECTION (DAYS)	FREQUENCY OF INSPECTION (INSPECTIONS/ YEAR)*
NAVAL BASE	1	30	1
AIR BASES	11	6	1
KASERNE	14	4	1
FUEL TRANSPORT AND STORAGE	14	3	0.5
AMMUNITION STORAGE	38	3	0.5
COMMUNICATION AND COMMAND CENTRE	27	2	0.2
SHOOTING AREAS	22	3	0.2
RAILWAY	8	3	0.2
SPECIAL CATEGORY**	15	4	0.5
TOTAL	150		

* a frequency of 0.2 means that 20% of the number of sites in this category will be inspected in one specific year

** sites that were placed under the jurisdiction of the Minister of the Environment on special request of the Minister of Defense

Figure 2 An overview of site visits

3.3.2 Standardization of law-enforcement

The inspections took place using checklists/guidelines on specific items. Several subjects were chosen to look at, for instance 15 questions are asked on underground fuel-storage tanks.

Also new items are introduced like waste disposal and some old items are withdrawn because of a good level of compliance (like CFC's).

3.3.3 Projects

Some projects are introduced to inspect some sites on higher detail. An example is the inspection on storage facilities of dangerous substances like chemicals. The information gathered is used to get a view on the quality of the present (and mostly recent-build) facilities. In this way the inspectorate and the Ministry of Defence get information on the overall quality of new build facilities and the level of environmental performance. This information is meant for the higher management level of the Inspectorate and the Ministry of Defence and can be used for strategic planning. Of course non-compliance is identified for the sites, drawing attention to the law-enforcer using the 3-step approach mentioned above.

3.3.4 Permits on headlines

The Inspectorate in an experiment on a military site to develop a goal-oriented permit, focused on the main activities also initiated and is participating in having implemented an environmental management system. Subsequently an altered approach for the law-enforcement will be developed.

3.4 Covenant

The policy and permitting authorities of the Ministry of Environment are negotiating with the Ministry of Defence to draw up a covenant to set environmental goals with a time schedule and yearly reports. This can accelerate implementation of self-regulation within the Ministry of Defence and her sites.

4 CONCLUSIONS

The military sector will take responsibility towards the environment especially when it is important for the continuity of military operations. Adequate law-enforcement is very important to keep the attention of the military sites on environmental issues. Due to the political status of the military sector and the organizational structure of the military sector the implementation of more self regulation, for instance environmental care systems, have a high potential to reach higher performance and could justify a different approach to law-enforcement. Within The Netherlands this change is accelerated by the introduction of more goal oriented permits and a different approach of law-enforcement. To be fully implemented and integrated in the organization and the thinking of people this change will take several years to fully reach an acceptable level.

