
COOPERATION BETWEEN LEVY-INSPECTORS AND ENFORCEMENT INSPECTORS: A MORE EFFECTIVE WAY OF ENFORCEMENT

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SUMMARY

In 1994 an investigation was carried out by the Dutch Court of Audit on the control policy of the levy-system of the Pollution of Surface Water Act by Rijkswaterstaat.

It showed that -according to the Court- the control policy was not clear about the whole range of possible financial revenues for the State. A special action showed that there is a cost-effective way to get more certainty of the possible revenues.

Also it showed that more communication leads to a more intensive cooperation between levy-inspectors and enforcement-inspectors and so to a more effective way of enforcement.

1 INTRODUCTION

1.1 Water Management in The Netherlands

The Netherlands is an area of 34,000 square kilometers where land and water meet. A large part of the land is artificially developed, cultivated by people and made suitable for living, building, agriculture and horticulture, industry and recreation.

The many dikes, locks, pumping stations, flood barriers, canals and ditches keep the Netherlands habitable. Without these water engineering works more than half the country (where more than half of our fifteen million people live and work) would not exist.

National government and the Water Boards are largely responsible for the important aspects of water management. Nowadays this goes a lot further than constructing dikes and building pumping stations. The activities of the Water Boards are now much more closely related to other activities which include land-use planning, nature conservation and environmental protection, and recreation, etc.

The National Government is largely concerned with legislation, policy-making and funding. However, national government also handles the licensing of the larger polluters, the subject of this paper.

1.2 Water Management: Organization

The Water Boards are responsible for local and regional water management. This is stated in the Constitution and the Water Authorities Act.

The provincial authorities are able to set up and abolish Water Boards, determine the water management tasks which have to be done by each Water board, the area in which it will work, the structure of the governing body and how its members will be chosen. The Province also supervises the work and the finances of the Water boards.

The national government, which has authority over the Provinces, is the final body which is responsible for proper water management throughout the country. The government (in particular the Minister of Transport, Public Works and Water management) is responsible for water management affairs of national concern, the main water system or State waters: the North Sea and the Wadden Sea, the major rivers, the water in the estuaries and the Delta Works. The Ministry of Transport, Public Works and Water management has its own executive body for this: the Directorate-General for public works and water management, Rijkswaterstaat. This Directorate-General is responsible for policy-making, legislation, policy-evaluation and maintenance of the main water system.

1.3 Water Quality Management

The tackling of water pollution problems actually started well after the Pollution of Surface Water Act was put into operation in 1970. This law forbids the discharge of polluted substances into surface water without a license. Besides that, the law includes a charge system according to 'the polluter pays principle'. The pollution index is based on the content of organic pollution measured in Biological Oxygen Demand or Chemical Oxygen Demand and the content of heavy metals.

In 1970 water quality management mainly meant making sure that water was clean enough for people to use again. The water should be suitable for conversion to drinking water, for use in agriculture, horticulture and in industry. Nowadays the water authorities are responsible for water as part of the ecosystem; i.e. water must be clean enough for the plants and animals which live in it. Nevertheless water management is still occupied with reducing water pollution. A lot is being done to reduce waste water. The discharge of industrial and other wastewater has been reduced by the use of strict controls as stated in discharge permits. These measurements have resulted in better water quality. Besides licensing and enforcement, the use of 'the polluter pays principle' has had a great influence on the results that have been gained until now.

1.4 Water Quality Management by Rijkswaterstaat

Carrying out water quality management of the State waters by Rijkswaterstaat means licensing, enforcement and levying. Approximately 225 men and women are taking care of that task. They are responsible for 3600 discharges of waste water varying from households to complex industries. Besides that some 150 men and women work on policy making, evaluation, research and monitoring water quality.

During the last ten years the public and political attention to enforcement of environmental acts and licenses has grown .

Before that enforcement did not draw as much attention as licensing and levying. Now the instrument of enforcement is just as important as licensing.

Enforcement of the Pollution of Surface Water Act for the State Waters by Rijkswaterstaat is carried out by about 100 men and women from the regional offices. Enforcement is now based on national policies and the results are reported back to the members of Parliament.

Enforcement of environmental laws is thereby an organizational and substantial responsibility of national and local government.

Each year Rijkswaterstaat makes 7,000 visits to industries, takes about 12,000 samples of wastewater and has the laboratory in Lelystad make more than 82,000 analyses.

2 LEVIES

2.1 Renewed Attention to Levying

An important element within the framework of the Pollution of Surface Water Act was and still is, the levy system according to 'the polluter pays principle'. From the beginning in 1970, polluters, mostly households and industries, have been paying for water quality management in the Netherlands. As mentioned before, the pollution index is based on organic pollution and heavy metals. From the seventies until now households and industries which discharge into State waters, have paid levies of more than 2 billion Dutch guilders.

Initially levying and licensing was much more important than enforcement.

In the eighties political attention focusing on an environmental scandal emphasized the importance of a good operating system of enforcement. Everywhere in the country new sections were created for the enforcement of the Pollution of Surface Water Act. Because enforcement follows naturally from licensing the attention paid to levying became of secondary importance.

Policy is executed by the levy-inspectors of the technical institute RIZA of Rijkswaterstaat which is situated in Lelystad.

In 1994 an investigation by the Dutch Court of Audit on the policies for the levy-system of the Pollution of Surface Water Act by Rijkswaterstaat showed that according to the Court the policy in regard to monitoring and oversight of the levy system was inadequate. It did not give enough oversight of the whole range of possible financial revenues for the State.

The level of assessment is based on the analyses of the waste water by Rijkswaterstaat but also on an application form returned by the polluters.

The consequence of this is that there is a certain risk of fraud and possible uncertainty of the revenues for the State. This uncertainty must be limited as much as possible by an adequate control policy.

As a result of the research of the Court of Audit, levying has again got the attention it deserves.

2.2 'Action Storage'

In 1995 and 1996 'Action Storage' was carried out to investigate the effectiveness of the control policy of the Surface Water Pollution Act by Rijkswaterstaat and to investigate if intensification is a cost-effective way to obtain more certainty about the possible range of revenues.

2.2.1 Execution

The investigation was executed in seven companies of the same industry. Within this sector Rijkswaterstaat expected the highest risk of fraud. All the companies were asked for their cooperation without informing them completely about the purpose of this action. The application forms of the seven companies are all based on their own measurements.

Sampling-apparatus of Rijkswaterstaat were placed during a longer period so that it was impossible to hold up the discharge of the waste water. These sampling-apparatus were placed in a closet that was locked. Those closets, sampling-apparatus and tubes were all sealed. Of course the pieces of apparatus were as far as possible operating independently

of the companies, for instance making use of batteries. The waste water as well as the surface water was sampled continuously. At different moments the discharge measurements of the companies were checked with measurements by Rijkswaterstaat.

2.2.2 Results

Normally the total load of pollution of those seven companies together amount to 10,000 Inhabitants Equivalents. The returns of the companies were corrected to a total of 14,500 Inhabitants Equivalents due to this special investigation. This means an extra income for the Dutch State of fl. 250,000. The direct costs amounted to fl. 100,000.

The yield of the levy with these companies was increased by 45 percent. Take notice of the fact that more than half of it can be attributed to one of the seven companies alone. If you keep this in mind it proves that this cannot be an average for the total yield of all industries in the Netherlands.

During the preparation and execution of this action the industries were visited frequently by levy-inspectors as well as by enforcement-inspectors of the regional offices of Rijkswaterstaat. This intensive cooperation revealed for both inspectors unknown situations. Apart from the fact that some industries appeared to be so complex that only after an intensive and total investigation could differences from a normal situation be detected. Meanwhile appointments have been made to continue this cooperation between levy-inspectors and enforcement-inspectors.

Levy- and enforcement-inspectors have different responsibilities. During the execution of this action it became clear that a gray zone existed. It was for instance not obvious who was responsible for the communication with the company. Since then the responsibilities have been described and a course book has been written with special attention to enforcement-inspection and the issuing of permits. During the summer of 1997 eighty percent of people concerned have taken a special course

In certain cases there was not enough information on the normal conduct of businesses to determine differences. This was due to the fact that these companies were not visited enough. Since then, the frequency of visits to more risky companies has been increased to a more acceptable level.

During this 'Action Stage' it appeared that important information about the conduct of businesses was not only gained by the regular contact persons but also from employees present on the site/on the work floor. Those are often less suspicious and more open than the official representative of the company.

In summary, actions like this form an important addition to the normal and routine-controls by the regional offices of Rijkswaterstaat.

3 CONCLUSIONS

Special targeted intense investigations in which activities for selected targets are undertaken over an extended period of time are both financially and otherwise a success. Especially the learning process of the regional offices and the RIZA was of great value. With the newly obtained knowledge more specific targeted monitoring and enforcement are possible.

The costs are relatively high. Due to the intensity it is not to be expected that the costs of further actions will be lower. The obtained knowledge and experience cannot be quantified in monetary terms, but is certainly valuable.

Since then Rijkswaterstaat has decided that these kinds of actions have to be part of the control policy for the levy-system of the Surface Water Pollution Act.

The more intensive communication between the enforcement-inspectors of the regional offices and the levy-inspectors of the RIZA in Lelystad has led to a more effective cooperation between those two parts of Rijkswaterstaat.

