
“GAS FREE”: ENFORCEMENT OF THE PESTICIDES ACT IN THE NETHERLANDS

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SUMMARY

The Inspectorate for Housing, Spatial Planning and the Environment is responsible for the enforcement governing of the regulations governing the use and management of gas-forming pesticides and has been intensifying this enforcement since the end of 1998. It carried out a total of 263 checks in 1999 and 2000, in close collaboration with the National Police Force of the Amsterdam harbor and river police. These checks took place before, during and after fumigation, the administrations of the companies also being examined. Four hundred and seventy-five violations were discovered. Official reports were drawn up in 65 of these cases and the execution of 23 fumigations was forbidden for various reasons.

1 INTRODUCTION

The Inspectorate supervises compliance with the Pesticides Act regarding the application of non-agricultural pesticides (biocides). Substances such as methyl bromide and agents that produce phosphoretted hydrogens are acceptable for the treatment of stocks of raw materials by means of fumigation in the Netherlands. The term ‘fumigation’ is understood to mean the application of a (chemical) pesticide, which is, and remains, gaseous at the prevailing temperature and pressure and which is deadly for the organism to be controlled in the concentration applied for the duration of the fumigation.

Methyl bromide and phosphoretted hydrogen are very dangerous, toxic pesticides. Furthermore, methyl bromide has detrimental effects on the ozone layer. Very

strict regulations are therefore attached to the use of these substances in the Netherlands. Fumigation with the above mentioned substances must be conducted by experts within the meaning of the Pesticide Act and may only take place with respect to goods referred to in the legal instructions for use, unless the goods are intended for export to a country that prescribes that goods be fumigated prior to import.

Objects that are fumigated include:

1. containers, empty or loaded with various goods;
2. silos containing grain;
3. buildings;
4. stacks (loose goods covered with foil), with sacking and boxes;
5. bulk cargoes in inland craft;

6. empty ships' holds;
7. trailers, with various goods; and
8. empty airplanes.

A range of different goods and containers are treated in this way. For example, for the Dutch market, the following goods are regularly fumigated: cacao, rice, grains, animal feeds, groundnuts and buckwheat. These products usually originate from tropical areas in South America, Africa and South East Asia. They are processed by Dutch companies, and then packaged and marketed. The goods in bulk loads and in containers are also regularly fumigated in the country of origin. This means that these gases are regularly released during unloading in the Netherlands, exposing employees, other parties who may be involved, and the environment to risks. The Inspectorate carried out a total of 263 checks in 1999 and 2000, in close collaboration with the National Police Force's Amsterdam harbor and river police. These checks took place before, during and after fumigation, the records of the companies also being examined.

2 METHOD

The Inspectorate checked the following aspects:

1. notification of the authorities by the company wishing to carry out a fumigation;
2. the necessity of control;
3. whether an alternative form of control is possible;
4. the goods to be fumigated;
5. the nature of the packaging material;
6. the gas-tightness of the objects;
 7. the temperature of the goods to be fumigated;
 8. evidence of export;
 9. dosages;
10. means of injection of gas;
11. presence of a gas plan;
12. applicable requirements with regard to distance;

13. signed declaration from surrounding companies;
14. prescribed warning signals;
15. the use of personal protection;
16. giving the all clear, "gas free", for objects; and
17. the register of pesticides.

Checks were carried out as a response to the reports received by the Inspectorate. In a number of cases, however, checks were carried out at the request of companies, prior to notification of the Inspectorate of intended fumigation, in order to determine whether permission for fumigation could be granted. In the latter cases there have not, of course, been any violations (as yet). On the contrary, these checks served to prevent them.

Samples were also taken of the goods that had been reported as requiring fumigation if it was not clear whether fumigation was absolutely necessary. Sometimes samples were also taken after fumigation and sent to the Pest Control Research and Reference Centre in Wageningen for analysis. If the need for fumigation could not be demonstrated, fumigation was not allowed to take place. In 1999 and 2000, 105 and 58 samples were taken respectively.

3 RESULTS AND CONCLUSIONS

The Inspectorate carried out a total of 263 checks in 1999 and 2000, and 475 violations were discovered and official reports were prepared in 65 of these cases. Fumigation was forbidden, for various reasons, in 23 cases. A criminal investigation was carried out at two companies at the request of the public prosecutor. In 1999 provisional measures were issued against one fumigation company and two fumigation officers by the public prosecutor.

In a number of cases interventions were made during incidents that took place because cargoes fumigated abroad had not been safely degassed and which posed health risks for people in the vicinity. In one case this led to the immediate evacuation

of the eleven people on board five inland craft, the cargo of which had a very high concentration of hydrogen phosphide (phosphine). The enforcement has led to a large decrease in the number of fumigations which take place in the Netherlands: in 1999 and 2000 the Inspectorate received 563 and 350 reports of intended fumigations respectively. In the course of 1999/2000, two companies stopped fumigating. One of the companies gave the strict enforcement as the reason and the other ended fumigating activities partly as a result of a criminal investigation.

The Inspectorate has pointed out various bottlenecks and has brought the bottlenecks regarding the regulations for methyl bromide to the attention of the

Pesticides Approval Committee with the request that it remove the bottlenecks by adjustment of the legal instructions for use. In other cases, the Inspectorate will ask the responsible policy-making department to take measures. It is of particular importance that the Pesticides Act is adjusted in such a way that cargoes and containers that are imported into the Netherlands 'under gas' also fall under the authority of the Pesticides Act. The current manner of working with gas-forming pesticides, particularly in the case of loads and containers which enter the Netherlands 'under gas' and the limitations of the Pesticides Act can result in unacceptable risks for man and environment, and limit the possibilities available for the government to respond.

