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# MINIMUM CRITERIA FOR A PROFESSIONAL ENVIRONMENTAL ENFORCEMENT PROCESS

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## SUMMARY

Environmental enforcement agencies (inspectorates) in the Netherlands adopted a set of minimum criteria or quality standards that should be fulfilled by any inspectorate to ensure a professional enforcement process. These criteria are based upon an approach of total quality management: a professional process is reflected in professional people, policies, procedures, performance and products.

## 1 INTRODUCTION

From 2002 until 2005, a national project was carried out in the Netherlands by all environmental enforcement agencies (inspectorates) of the local, provincial and national governments to improve, or rather ensure, a "Professional environmental enforcement process" within all these agencies.

This project set minimum criteria for the professional enforcement process. Consequently all agencies in the Netherlands did a self-evaluation to determine to what extent they fulfilled these criteria on January 1, 2003. As was expected, not one of the approximately 550 agencies was completely professional. A vast majority of the inspectorates could not fulfil more than half of the minimum criteria. This created a perfect starting point for a collective improvement action. All agencies committed themselves to fulfil the criteria by the date of January 1, 2005. In January 2005, another self-evaluation was conducted, however results were unavailable.

This paper gives a summary of the appointed minimum criteria. In volume 2 of the proceedings the results of the final self-evaluation will be presented, together with a description of the project approach as a whole.

## 2 MINIMUM CRITERIA

The minimum criteria or quality standards are presented in four groups, comparable with the well-known "Deming circle" of Plan-Do-Check-Act, used in quality management schemes. The four groups are (1) targets and conditions; (2) strategy and working methods; (3) implementation and operation; and (4) evaluation. Each group consists of several criteria, summing up to 19 criteria:

### – Targets and Conditions

- Problem analysis.
- Priority setting and measurable targets.
- Guaranteeing human and financial resources.
- Organisational conditions.

### – Strategy and Working Methods

- Compliance strategy.
- Inspection strategy.
- Sanction strategy.
- Condoning strategy.
- Internal and external tuning.
- Protocols and working instructions.
- Protocols for communication,

information management, control and exchange.

#### —Implementation and Operation

- Inspection and enforcement programs.
- Size of inspection and enforcement capacity.
- Quality of inspection and enforcement capacity.
- Facilities supporting execution.

#### —Evaluation

- Quality assurance.
- Performance monitoring.
- Accountability of efforts, performance and results.
- Benchmarking and auditing.

These criteria are described in detail in below in the “Overview of Quality Standards.”

### 3 OVERVIEW OF QUALITY STANDARDS

This section provides an overview of quality standards. This description splits the criteria up in several elements of which some are minimum and some are optional. It should be noted that a criterion is fulfilled only if all minimum elements are fulfilled.

#### 3.1 Group 1: Targets And Conditions

##### 3.1.1 Problem Analysis

The inspectorate acts based on an analysis of the environmental problems, the effects of non-compliance and the expected rate of non-compliance, in order to steer its inspection and enforcement efforts.

- The analysis at least includes:
  - all installation related and non-installation related tasks and objects;
  - all environmental problems within the task of the inspectorate;
  - the possible effects of potential and actual offences;

-the frequency of these offences.

- Furthermore (amongst other things) could be considered:
  - a risk assets map.

##### 3.1.2 Priority setting and Measurable Targets

The inspectorate acts on the basis of priority setting of the inspection and enforcement task, elaborated in written inspection and enforcement targets per policy area and established in concrete, measurable inspection and enforcement targets.

- The priorities and targets at least include:
  - priorities, taking into account the problem analysis (standard 1.1) and the evaluations (standard 4.3);
  - a description of the inspection and enforcement target per policy area;
  - measurable indicators for all targets, including agreements on monitoring of those indicators.
- Furthermore (amongst other things) could be considered:
  - to make transparent the used methodology for prioritisation;
  - to formulate targets (and indicators), where possible, in terms of compliance behaviour and environmental progress.

##### 3.1.3 Guaranteeing Human and Financial Resources

The inspectorate takes care of adjustment between politically agreed inspection and enforcement targets and the employment of staff and use of financial means and guarantees this in the organisation.

- Guaranteeing human and financial resources at least includes:
  - a transparent system connecting politically approved inspection and enforcement priorities with inspection

and enforcement targets (standard 1.2) as well as with the deployment of personnel and other resources (standard 3.2);

- fixing in the budget of human and financial resources to be used for the execution of the inspection and enforcement task.

### 3.1.4 Organisational Conditions

The inspectorate acts based on an organisational set up and regulations that are necessary to achieve the inspection and enforcement targets that were set.

- The organisational arrangements at least include:
  - a separation of licensing activities on the one hand and inspection and enforcement activities on the other at staff level;
  - a circulation system for inspectors for companies with which there is a fixed inspection and/or enforcement relation;
  - document the powers, tasks and responsibilities;
  - procedures for contact and availability outside office hours;
  - document the management of inspectors with police-powers (if applicable);
  - arrangements for putting out to contract inspection tasks (if applicable).
- Furthermore (amongst other things) could be considered:
  - a separation of licensing activities and inspection and enforcement activities at organisation level.

## 3.2 Group 2: Strategy and Working Methods

### 3.2.1 Compliance Strategy

The inspectorate acts based on a compliance strategy, containing the instruments with which compliance should be reached and the role of inspection and

enforcement within that.

- The compliance strategy at least includes:
  - an inspection and enforcement strategy, consisting of:
    - an inspection strategy as mentioned in standard 2.2;
    - a sanction strategy as mentioned in standard 2.3;
    - a condoning strategy as mentioned in standard 2.4;
    - a strategy for the use of other instruments, other than inspection and enforcement.

### 3.2.2 Inspection Strategy

The inspectorate acts based on an inspection strategy, containing which inspection modalities can be distinguished and which the basic work processes are at each of them.

- The inspection strategy at least includes:
  - routine visits, including their frequency and incidental visits;
  - the inspection of administrations and documents and the inspection on reaching environmental quality standards;
  - investigation and verification of self monitoring arrangements, that are carried out by or on behalf of the installation itself;
  - supply of information and written report.
- Furthermore (amongst other things) could be considered:
  - carrying out in-depth investigation in the form of audits or quick-scans.

### 3.2.3 Sanction Strategy

The inspectorate acts based on a sanction strategy, containing the basic approach for administrative and criminal follow-up in case of non-compliance.

- The sanction strategy at least includes:

- a coherent administrative – criminal approach towards offenders of environmental legislation;
- an appropriate reaction to the non-compliance found;
- a stringent reaction in case of continued non-compliance;
- an arrangement for reactions to non-compliance by the own organisation and other authorities;
- transparency in setting terms to do away with (standard) offences and to the heaviness of the sanctions to be imposed for these offences.

### 3.2.4 Condoning Strategy

The inspectorate acts based on a condoning strategy, of which sanctions against violators can temporary be dropped.

- The condoning strategy at least includes:
  - an explicit adoption of the terminology, contents and procedure of the condoning policy drawn up by the Dutch national government.

### 3.2.5 Internal and External Tuning

In the preparation and execution of its inspection and enforcement tasks, the inspectorate takes care of internal and external tuning.

- The internal tuning at least includes:
  - tuning with the license writer(s);
  - tuning with other relevant departments and persons inside the organisation.
- The external tuning at least includes:
  - arrangements on co-operation with other relevant organisations involved in environmental inspection and enforcement;
  - arrangements about situations where more than one organisation is competent to inspect or enforce at the same time;
  - arrangements about cases where

more than one organisation is competent to inspect or enforce consecutively (chain control).

- Furthermore (amongst other things) could be considered:
  - broadening the programming of the own inspection and enforcement task towards co-operation.

### 3.2.6 Protocols and Working Instructions

The inspectorate acts based on protocols for internal and external tuning on the preparation and execution of its tasks.

- The protocols at least include:
  - a working-out in procedures and/or work instructions of all obliged elements mentioned in standards 2.1 – 2.5.
- Furthermore (amongst other things) could be considered:
  - a working-out of the general compliance strategy in specific inspection and enforcement handbooks, wherever meaningful;
  - a working-out of the general inspection strategy in specific inspection plans.

### 3.2.7 Protocols for communication, information management, information control and information exchange

The inspectorate acts based on protocols for communication, information management, information control and information exchange on inspection results, announced or imposed sanctions and condoning decisions.

- The protocols at least include:
  - the communication on inspection results, sanctions and condoning decisions;
  - the information management of inspection results, sanctions and condoning decisions;
  - the operational information exchange internally and with other inspection

and enforcement organisations of inspection results, sanctions and condoning decisions.

### 3.3 Group 3: Implementation and Operation

#### 3.3.1 Inspection and Enforcement Programs

The inspectorate acts based on an inspection and enforcement program, to which the internal organisation is or has been adjusted.

- Inspection and enforcement programs at least include:
  - a clear coherence/connection with the priorities set under standard 1.2 and with the targets;
  - a description of the actual inspection and enforcement activities and the capacity needed for them;
  - the elaboration of the inspection and enforcement program in an actual work planning for all parts of the organisation that are involved.
- Furthermore (amongst other things) could be considered:
  - the elaboration of the inspection and enforcement program in an actual work planning at the level of individual staff members.

#### 3.3.2 Size of Inspection and Enforcement Capacity

The inspectorate has sufficient human resources, and/or financial resources to hire staff capacity for the execution of inspection and enforcement tasks.

- Sufficient inspection and enforcement capacity at least includes:
  - insight in the capacity that is actually available;
  - sufficient capacity to carry out the inspection and enforcement program mentioned under standard 3.1.

#### 3.3.3 Quality of Inspection and

#### Enforcement Capacity

The inspectorate has sufficient expertise, and/or financial resources to hire expertise for the execution of inspection and enforcement tasks and stimulates the development of knowledge and skills.

- Sufficient expertise at least includes:
  - insight in the necessary expertise in terms of knowledge, skills and attitude;
  - a training plan, including the determination of time and financial resources needed to execute the plan.
- Furthermore (amongst other things) could be considered
  - determination and commitment to the necessary expertise in job descriptions and/or in a staff formation plan;
  - periodical checks of the desired level of expertise.

#### 3.3.4 Facilities Supporting Execution

The inspectorate has sufficient quantitative and qualitative resources and provisions that make it possible to execute its tasks in a legal, administrative, information technological and environmental technological way.

- Facilities supporting execution at least include:
  - an automated system for planning, programming and progress monitoring of the inspection and enforcement task;
  - an automated system for the registration and monitoring of both installation related and non installation related inspection and enforcement tasks;
  - those provisions that are needed for the execution of the inspection and enforcement task, from a point of view of information, environment, legal provisions and administration;
  - a good level of maintenance and calibration of the equipment and instruments being used.

### 3.4 Group 4: Evaluation

#### 3.4.1 Quality Assurance

The inspectorate acts based on a system of internal assurance (description, assessment and improvement) of the way in which inspectors carry out their work.

The system of quality assurance at least includes:

- a process description of the way in which inspectors have to carry out their work;
  - method to check the assurance of the execution of the process descriptions;
  - improvement mechanisms to facilitate the adjustment of process descriptions.
- Furthermore (amongst other things) could be considered:
- Designate a quality assurance co-ordinator / apply official quality care system;
  - External check of the process descriptions;
  - certification of the process descriptions.

#### 3.4.2 Performance Monitoring

The inspectorate acts based on systematic monitoring of the inspection and enforcement process and its results and effects.

- Monitoring at least includes:
- The own indicators belonging to targets and/or priorities;
  - the monitoring of the results of the inspection and enforcement activities in terms of numbers concerning:
    - executed inspections;
    - detected offences;
    - administrative actions (sanctions);
    - criminal actions (sanctions).
- Furthermore (amongst other things) could be considered:
- the own indicators belonging to targets and/or priorities.

#### 3.4.3 Accountability of Efforts, Performance and Results

The inspectorate has a system of internal and external accountability about the inspection and enforcement process and its results and effects.

- The accountability at least includes:
- a report on the own indicators concerning the targets and/or priorities formulated by the inspectorate itself;
  - a report on the agreements made with other inspecting organisations;
  - an evaluation of the inspection and enforcement results leading to improvements in the policy process, the regulatory cycle and the inspection and enforcement policy;
  - feedback on the results and recommendations.
- Furthermore (amongst other things) could be considered:
- a (special) version of the accountability report for the public.

#### 3.4.4 Benchmarking and Auditing

The inspectorate develops a system to externally compare, test and judge its efforts, its organisation and the results of its inspection and enforcement.

- (Amongst other things) could be considered:
- the inspectorate compares itself with colleague organisations;
  - benchmarking as a specific task for one of the staff members inside the inspectorate.

The set of quality standards mainly consists of minimum elements, but some are to be regarded as optional elements. These optional elements contain suggestions for improvements that can influence the quality of inspection and facilitate the implementation of the minimum elements, but they are not mandatory. In the elaboration the optional elements are always preceded by the construction: “furthermore

(among other things) could be considered.”

To evaluate whether a specific element has been met by an agency, three general preconditions must be fulfilled. These are legitimacy, availability and topicality.

- Statement of minimum element for legitimacy: The statement is deemed legitimate for the agency and its staff members, if the responsible politicians (policy plans, budgets) or the responsible management have determined an approved it.
- Statement of minimum element for availability: The statement is deemed available, if it was documented in a traceable way in a separate document/file or as part of a more extensive document/file or as a system of elements originating from several documents/files.
- Statement of minimum element for topicality: It is difficult to define unambiguously when the statement is up to date. This depends on the tasks and the organisational structure of the agency. Per element, however the agency will have to show what it considers ‘topical’ and whether it fulfils this.

The quality standards are applicable whatever accents an agency has in its activities: inspection of industrial facilities,

controlling hazardous substances or waste shipment, dealing with non-point sources of pollution or any other kind of situations that are in breach of environmental requirements. However, each field of activity might deserve separate assessment to determine whether quality standards are met in this particular field.

A professional environmental enforcement process, fulfilling all minimum criteria, guarantees

- professional people
- professional policies
- professional procedures
- professional performance
- professional products.

A professional environmental enforcement process gives a maximum contribution to the compliance of environmental regulations and to environmental outcome.

#### 4 REFERENCE

Klein, W. “Minimum criteria for a professional environmental enforcement process” (in English), 2002, available at <http://www.lim-info.nl/professionalisering>. Additional material (in Dutch) on the Dutch project is available at <http://www.lim-info.nl/professionalisering>.