

# ENVIRONMENTAL COMPLIANCE AND ENFORCEMENT INDICATORS IN THE NETHERLANDS

VAN DER SCHRAAF, ANGELIQUE A.A. and VAN DER PLAS, JAN

Ministry Of Housing, Spatial Planning and the Environment\*

## 1 INTRODUCTION

The final purpose of an environmental policy is reducing the load on the environment and eliminating harmful effects on humans, animals and vegetation. Legislation is one of the tools to reduce the effects. In the Netherlands there are about 600 pieces of environmental legislation in which the Inspectorate for Housing, Spatial Planning, and the Environment has a task to enforce compliance.

In order to get a grip on which task should be performed with priority and which not, and how to enforce compliance in a smart way, the Inspectorate has developed a Compliance Strategy. This Compliance Strategy is based on risk and compliance indicators, as well as knowledge of reasons for non-compliance. The strategy can be seen as a way to make compliance transparent and to use the newly developed indicators for several purposes: doing the right things (priority setting), doing the things right ('smart' enforcement) and for accountability.

## 2 THE COMPLIANCE STRATEGY

Compliance in the Dutch Compliance Strategy is seen as the behaviour that a regulatee shows in response to regulatory requirements. The keyword is behavior. Compliance enforcement is focused on changing the behaviour of the regulatee so he or she will comply according to the requirements in the legislation.

A regulatee has certain reasons to respond positively or negatively to regulation. The negative responses are summarised in the so-called *Table of eleven*, a broadly accepted and used list of reasons for non-compliance in the Netherlands. When compliance behaviour and the reasons for non-compliance are known, it is possible for inspectors to enforce compliance in a smart way (to be effective and efficient).

One of the first activities for the Compliance strategy was the identification of all the pieces of environmental legislation. Next, the regulatees were identified for each piece of environmental legislation. On this regulatee-level the present state of risks and compliance behaviour were identified and classified in risk and compliance indicators. The level of the compliance indicators was estimated and is based on expert knowledge. The compliance indicator is a measure for non-compliance. There are 4 classes of compliance gap-indicators: good (90-100%, class 1), sufficient (90-80%, class 2), mediate (80-60%, class 3) and bad (< 60%, class 4). The compliance indicator is a measure of the necessary compliance efforts the Inspectorate has to make.

Risk indicators were developed in the same way: risks were estimated in several expert workshops per piece of environmental legislation per regulatee. The estimates were based on the aspects of public health, safety, sustainability and social factors in event the Inspectorate should not enforce compliance. There are also 4 classes of risk indicators distinguished: very high, ++ (= class 4); high, + (= class 3); mediate +/- (= class 2); and low, - (= class 1).

When the risk indicators and the compliance indicators per legislation form are put in a 2 x 2 matrix, a forceful tool is available to indicate priorities and non-priorities. Classes 3 and 4 are indicated as high risks/high non-compliance; classes 1 and 2 as low risks and low non-compliance. See figure 1.

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\* Post box 16191, 2500 BD The Hague, The Netherlands, tel. #31-703393939, fax: #31-703391299, email: [angelique.vanderschraaf@minvrom.nl](mailto:angelique.vanderschraaf@minvrom.nl), [jan.vanderplas@minvrom.nl](mailto:jan.vanderplas@minvrom.nl)

**Figure 1. Risk and Compliance Matrix**



### 3 EXPERT MEETING

Indicators are estimated following the Delphi Method: several expert meetings were held to ensure the estimates of the experts were objective. The expert panels were supplied with several pieces of monitoring indicator data:

Inputs:

- # of compliance promotion officers (policymakers).
- # of compliance enforcement officers.
- investments in training, IT, sampling etc. (in €).
- # of days planned for compliance: promotion and enforcement.

Outputs:

- # of compliance promotion campaigns.
- # of inspections.
- # of prosecutions.
- # and height of penalties.
- # of days realised for compliance: promotion and enforcement.

Intermediate outcomes:

- Compliance rates.
- Risk rates.

Final Outcome:

- Ambient load of pollutants in air and water by a Pollutant Release and Transfer Register system
- Environmental effects monitoring in the yearly **State of the Environment** and **State of Nature** reports of the State Institute for Public Health and The Environment. *The final outcome indicators are of course input for the next expert meeting.*

All indicators are tools the expert can use to give his or her impression on the state of compliance and enforcement of Dutch environmental legislation and thereby develop a base for decision making for compliance management.

In the Inspectorate Year programme 2004, objectives have been set for reducing compliance gaps for several priority tasks. The challenge will be to find effective ways to reach the established objectives. Within the Compliance Strategy programme there are secondary programmes to support this challenge. A special programme was set up to provide the inspectors with sophisticated tools to reach the objectives (Smart Enforcement). In this programme, toolboxes will be designed per reason for non-compliance to establish an ideal intervention mix to enforce compliance. Another supporting programme will indicate whether the results are within reach of the policy objectives (compliance evaluation: ex-ante and ex-post).