



Progress report on the enforcement and implementation of manure policy

Autumn 2019 update

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Introduction

Since 2018, the Ministry of Agriculture, Nature and Food Quality, in cooperation with the Netherlands Enterprise Agency and the Netherlands Food and Consumer Product Safety Authority (NVWA), have committed to a more risk-oriented approach to the supervision and enforcement of manure regulations. This new approach is set out in the Enhanced Manure Enforcement Strategy. As part of the new way of working, the NVWA and the Netherlands Enterprise Agency have been developing a risk-oriented approach as of September 2018. The adoption of the Enhanced Manure Enforcement Strategy also satisfies a condition in the 2018–2019 derogation decision.

The 2018 results of the Enhanced Manure Enforcement Strategy are included in the wider 2018 progress report on the enforcement and implementation of manure policy, which was published in June 2019. Supplementary to the 2018 report, the provisional results of the Enhanced Manure Enforcement Strategy for the first half of 2019 are now being reported. Given that we have not yet reached the end of the calendar year, there are many checks yet to be carried out and results data are not yet available in full. A complete summary of the 2019 results will be included in the 2019 progress report on the enforcement and implementation of manure policy, which will be published in June 2020. This update will mainly highlight the risk-oriented enforcement activities and the automation process. Due to further developments in the data systems of the Netherlands Enterprise Agency and the NVWA, the 2018 figures can now be reported more clearly and exhaustively, as a result of which they are higher (in most cases) than the figures included in the 2018 progress report.

Context

In addition to the Enhanced Manure Enforcement Strategy, there are several current developments that have an effect on Dutch agriculture and form the context within which the Dutch manure policy operates.

Policy developments relating to agriculture

Firstly, the Minister of Agriculture, Nature and Food Quality presented her vision on Agriculture, Nature and Food Quality in September 2018. In doing so, she committed to a shift towards circular agriculture. This means committing to closing waste cycles and, as part of this, decreasing emissions.

The rethink of the manure policy, which was initiated earlier, is intended to assist in shaping the realisation of this vision. This rethink explores what the manure policy could look like in the future, with the intended outcome being a simpler system for both the farmer and government, as a result of which enforcement can be used more effectively. The Minister of Agriculture, Nature and Food Quality would like to announce the outline of the future manure policy before the end of the year.

Agreements have also been made in relation to agriculture within the framework of the national Climate Agreement. Part of these plans is that funds are set aside for the extensification of peat meadow areas. This includes the government making €100 million available for a voluntary cessation scheme (including the buying of rights) as part of this project. In addition, the Climate Agreement makes €100 million available for emissions reduction in livestock farming, with specific attention paid to farms that surround Natura 2000 areas.

A third, important project is the restructuring of the pig farming industry. The Pig Farming Closure Scheme focuses on reducing odour nuisance from pig farms in high livestock density areas by providing a subsidy for the definitive and irrevocable closure of pig farms that cause odour nuisance. As a consequence, the related pig production rights are voided and are therefore no longer available on the market. The size of the subsidy is determined by the scope of the pig production rights to be voided (expressed in pig units) and the loss of value of the production capacity used for the keeping of pigs (animal housing, manure and feed silos, and manure pits). The size of the pig stock will decrease as a result, and with it the production of manure and emissions such as odour, ammonia, greenhouse gases and particulate matter.

Shortly before the summer, the Council of State issued a ruling in relation to the Integrated Approach to Nitrogen. This ruling means that the operators of many planned projects (housing,

infrastructure, agriculture) are no longer allowed to use the Integrated Approach to Nitrogen to obtain a permit within the framework of nature legislation. Source measures are being examined to decrease nitrogen emissions and the associated deposits in order to improve the quality of nature and recommence the granting of permits in this way. On 25 September, the Remkes Committee made a number of recommendations at the invitation of the government. In relation to livestock farming, the Advisory Board on Regulatory Burden recommended a selective, area-specific and targeted reduction of ammonia emissions through the targeted acquisition or closure of farms with relatively high emissions or outdated housing systems in and near vulnerable Natura 2000 areas. The government responded to this recommendation in a letter to the House of Representatives on 4 October. This letter also indicated how the government viewed the opportunities for internal and external offsetting and in which cases this should also lead to the lapse of production rights.

Judgement of the Trade and Industry Appeals Tribunal (CBb)

In a judgement (ECLI:NLCBB:2018:187), the Trade and Industry Appeals Tribunal (CBb) ruled that, wrongfully, no insight was provided into the levels of precision that are applied in establishing violations and calculating fines. It is the CBb's opinion that businesses must be aware of such levels no later than the intention to impose a fine for a manure violation. This mainly involves fines that relate to pig and poultry farming. Following this judgement, the levels of precision that the Netherlands Enterprise Agency uses as part of its fines policy were published on the Netherlands Enterprise Agency website.

This judgement has also encouraged the Netherlands Enterprise Agency to be generally more transparent about its fines policy. The Netherlands Enterprise Agency is working on a comprehensive inventory of the fines policy that it has adopted within the framework of manure regulations. The latest inventory was published on the Netherlands Enterprise Agency website in October, so that the way in which fines for manure violations are determined is transparent to all. This also includes how the Netherlands Enterprise Agency deals with repeat violations. The documents already published by the Netherlands Enterprise Agency have revealed that various levels of precision are used:

- An 18% margin on phosphate fixation when pigs are fed on liquid feed¹
- A method for taking account of a nitrogen hole² for stabled animals
- A method for taking account of a settlement layer³ that remains in a pig manure storage facility
- Levels for the arrival and departure of weighed and sampled livestock manure, chemical fertiliser, other sampled organic fertilisers, stabled animals, weighed animal feed/coarse fodder and eggs

As a result of the judgement, the Netherlands Enterprise Agency had to revoke partly or fully 138 fines that were appealed in 2019, as well as nine dating back to 2017 and 129 to 2018. A decision to impose a fine can comprise several administrative findings. In addition, there were delays to checks in pig and poultry farming in particular, because fines could not be imposed for possible violations until the levels of precision had been clarified. In the meanwhile, the capacity for these checks had been used for checks in other sectors, such as cattle farming.

We are currently investigating whether a transition can be made to a simpler fines policy that uses one or more general levels of precision that are comparable with the general level of precision that is used for traffic speeding violations. A simplified fines policy should result in the policy being transparent and readily acceptable for both businesses and the Netherlands Enterprise Agency. Advice on this has been sought from the Committee of Experts on the Fertilisers Act (CDM), which has in the first instance led to the exploration of a margin of error as regards three categories of

¹ A mixture of mixed feed, solid and liquid by-products and water. This mixture is prepared on the pig farm and then given to the animals.

² Nitrogen dissipates. The nitrogen calculation was introduced to take account of the difference between the phosphate/nitrogen ratio in the fixed, calculated production of manure by stabled animals and the manure from those animals determined to have been disposed of through sampling and analysis. As a result of this, the phosphate/nitrogen ratio in the manure disposed of is also determinative for the amount of manure that is considered to have been produced in that year.

³ A settlement layer with higher nitrogen and phosphate values can form in a manure storage facility for pig manure. As a result of the formation of a settlement layer, more nitrogen and phosphate could therefore be present in a manure storage facility than would appear from the use of the general rules for establishing the amount of phosphate and nitrogen in a manure storage facility.

animals (pigs, other stabled animals, and grazing livestock). In addition, options for improvement in making a greater distinction by repeat violations and business size are also being explored on the CDM's recommendation. The Minister of Agriculture, Nature and Food Quality is exploring these options as well as any changes to laws and regulations that these may require. The outcome will be presented in the first quarter of 2020.

Enhanced Manure Enforcement Strategy

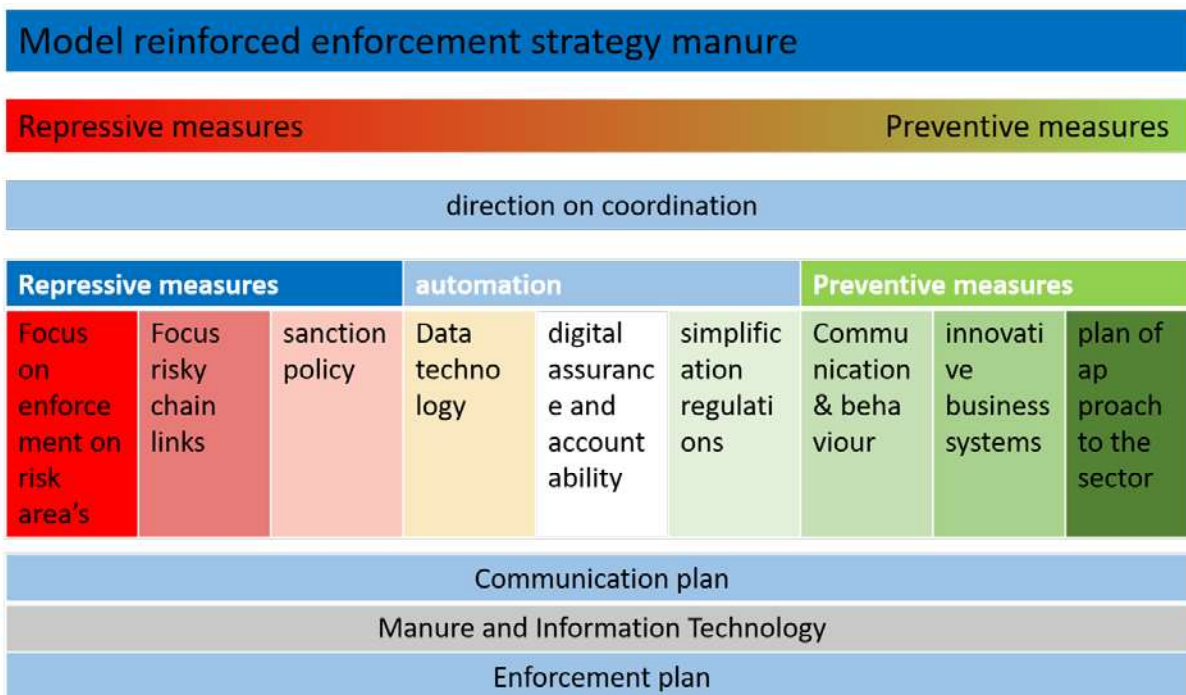


Figure 1: Schematic overview of the Enhanced Manure Enforcement Strategy

The Enhanced Manure Enforcement Strategy defines measures that should make the enforcement of the manure policy smarter and more effective (Figure 1). As part of the package of measures, the NVWA and the Netherlands Enterprise Agency have been developing a risk-oriented approach as of September 2018. Initially, this approach focuses on three defined at-risk areas: De Peel, Gelderse Vallei and Twente. This emphatically does not mean there will be no further supervision and enforcement in the rest of the Netherlands; the area-specific approach will be employed in addition to this. Within the area-specific enforcement, we have made a conscious decision for a joint approach with the Public Prosecution Service, the Police and regional partners, such as provinces, environment agencies and Dutch water boards. Eventually, this cooperation should bear fruit in an increased exchange of information and data files, improved analyses of at-risk businesses and a higher percentage of findings that are unacceptable.

Within the risk-oriented enforcement, intermediary businesses will also be viewed as a risk group whose activities, by and large, take place across area boundaries. The selection of businesses within this group will be risk-oriented, with a custom-made joint action plan applying for each. The objective of this approach is an increase in compliance by intermediary businesses. This approach should also indirectly contribute to improved compliance by the primary businesses (chain approach), because they, as clients, can be included in the investigation (spin-off). Investigations of intermediary businesses and their client base are complex and time-consuming. As a result, checks are carried out over a prolonged period of time. In 2019, the NVWA has stepped up its commitment to major fraud investigations, while the Netherlands Enterprise Agency has been trying to build up a dossier of evidence on the basis of minor violations. Together, these constitute a comprehensive approach for this risk group.

In addition to risk-oriented enforcement, the Enhanced Manure Enforcement Strategy has also led to a commitment to manure I(C)T projects that focus on automation and the easing of the regulatory burden. Essential to the checks is the realisation of real-time insight into manure

transport movements and the setting up of a control room and competence centre in 2020. This should have a substantially positive impact on supervision and compliance within the manure domain. It provides opportunities for active enforcement instead of subsequent enforcement (regarding a closed financial year).

Area-specific enforcement and the intermediary sector

Reading guide for the tables with check results

Physical checks

The physical check results relate to the activities of the NVWA. The results are categorised by type of check as used by the NVWA in its systems. There are two categories that were only used as a separate label in the system in 2018.

- The columns for the period 2017–2019 present the total number of checks per type of check in a specific area. These are split into check results that were found to be acceptable and those found to be unacceptable.
- The results found to be unacceptable were forwarded to the Netherlands Enterprise Agency or dealt with by a fine, an order subject to a penalty for non-compliance (LOD) or a telephone/written warning. The amount of the fine imposed is part of the fine that is shown for the administrative checks.
- The checks shown in the columns were carried out in the inspection year concerned (2017, 2018 or 2019). In terms of content, however, they could also relate to activities in previous inspection years.
- Several findings may have been established during each individual check.

Administrative checks

Administrative checks usually relate to the activities of the Netherlands Enterprise Agency. The results are categorised by type of business based on the Standard Yield determination by Statistics Netherlands. The Standard Yield is an economic measure for the size of an agricultural business, based on the average yield achieved per crop or animal category on an annual basis and expressed in euros. The largest economic portion per business determines which category it falls into. The Standard Yield and the combined return classification by the Netherlands Enterprise Agency relate to 2018. The classification for 2018 was also used for the allocation of findings and amounts in the years 2017 and 2019. Findings or amounts were allocated to a classification as recognised in 2018. Below is a brief explanation of the categories used:

- **Cattle:** farms with dairy farming, other cattle, veal calves, rose veal calves and grazing livestock.
 - **Pigs:** farms with breeding pigs and/or fattening pigs.
 - **Poultry:** farms with broilers, laying hens, parent animals, turkeys, ducks reared for meat and other poultry.
 - **Arable farms:** farms with land for arable farming, horticulture and/or ornamental crops.
 - **Mixed farms:** farms with poultry and pigs or poultry and dairy cattle.
 - **Other manure-producing businesses:** businesses with horses, sheep, goats or other stabled animals.
 - **Other businesses:** businesses with little or no economic activity in 2018, businesses that ceased operating in 2018, greenhouse horticulture, feed suppliers and businesses that were transferred in 2018.
 - **Intermediary:** intermediary businesses that are officially registered with the Netherlands Enterprise Agency.
-
- The columns for the period 2017–2019 present the total number of checked findings per type of business in a specific area. These are divided into findings that were found to be acceptable and findings found to be unacceptable.
 - The findings found to be unacceptable were dealt with by a fine, an order subject to a penalty for non-compliance (LOD) or a telephone/written warning. The corresponding fine is shown under the category 'Fine imposed'.
 - The number of established findings and the amount of the fine imposed pertain to the inspection year concerned, but can also relate to activities in previous inspection years.
 - Several findings may have been established per individual business and several fines may have been imposed.

Results for De Peel

De Peel Physical check results		2018			First half of 2019		
Type of check		Total checks	Acceptable	Unacceptable	Total checks	Acceptable	Unacceptable
Independent sampling					16	15	1
Manure transport					36	30	6
Derogation		74	53	21	22	20	2
Various components of the Use of Fertilisers Decree		80	76	4	219	202	17
Business inspection and derogation		28	21	7	40	20	20
Business inspections		63	26	37			
Administrative obligations of farms		1	0	1			
Total		246	176	70	333	287	46

Table 1: Physical check results – De Peel

De Peel Administrative check results	Total number of businesses in the region	2017			2018			First half of 2019					
		Total findings	Accep- table	Unac- ceptable	Fine imposed	Total findings	Accep- table	Unac- ceptable	Fine imposed	Total findings	Accep- table	Unac- ceptable	Fine imposed
Cattle farm	2,829	250	80	170	€519,010	169	51	118	€846,903	189	43	146	€2,190,329
Pig farm	1,397	140	81	59	€138,365	126	39	87	€1,541,321	82	5	77	€13,640
Poultry farm	421	8	4	4	€1,000	10	1	9	€1,000	28	3	25	€2,100
Arable farm	2,807	82	29	53	€25,834	109	10	99	€124,704	57	10	47	€13,922
Mixed farms	136	36	21	15	€14,583	54	26	28	€373,322	12	1	11	€300
Other manure- producing businesses	945	54	6	48	€23,284	65	6	59	€239,693	54	3	51	€13,440
Other businesses	1,046	29	13	16	€43,517	63	9	54	€63,737	60	16	44	€4,990
Intermediary business	387	358	68	290	€76,420	287	65	222	€1,202,380	793	106	687	€122,060
Total	9,968	957	302	655	€842,013	883	207	676	€4,393,060	1,275	187	1,088	€2,360,781

Table 2: Administrative check results – De Peel

Results for Gelderse Vallei

Gelderse Vallei Physical check results		2018			First half of 2019		
Type of check		Total checks	Acceptable	Unacceptable	Total checks	Acceptable	Unacceptable
Independent sampling					4	4	0
Manure transport					18	18	0
Derogation		36	29	7	13	11	2
Various components of the Use of Fertilisers Decree		7	6	1	14	13	1
Business inspection and derogation		9	7	2	14	6	8
Business inspections		23	13	10			
Administrative obligations of farms		0	0	0			
Total		75	55	20	63	52	11

Table 3: Physical check results – Gelderse Vallei

Gelderse Vallei Administrative checks	Total number of businesses in the region	2017			2018			First half of 2019		
		Total findings	Acceptable	Unacceptable	Total findings	Acceptable	Unacceptable	Total findings	Acceptable	Fine imposed
Cattle farm	1,417	92	34	58	92	28	64	64	6	€291,775
Pig farm	207	6	4	2	14	8	6	9	0	€5,550
Poultry farm	191	16	7	9	13	3	10	13	1	€1,600
Arable farm	287	2	0	2	11	1	10	2	0	€600
Mixed farms	127	33	16	17	43	7	36	3	0	€703,859
Other manure-producing businesses	286	10	3	7	15	0	15	13	2	€3,300
Other businesses	131	1	1	0	8	2	6	13	4	€2,000
Intermediary business	72	76	14	62	156	18	138	114	23	€113,100
Total	2,718	236	79	157	352	67	285	231	36	€1,121,784
										€31,700

Table 4: Administrative check results – Gelderse Vallei

Results for Twente

Twente Physical checks	2018			First half of 2019		
Type of check	Total checks	Acceptable	Unacceptable	Total checks	Acceptable	Unacceptable
Independent sampling				4	4	0
Manure transport				6	6	0
Derogation	74	68	6	8	5	3
Various components of the Use of Fertilisers Decree	3	3	0	19	13	6
Business inspection and derogation	28	23	5	11	5	6
Business inspections	8	3	5			
Administrative obligations of farms	1	1	0			
Total	114	98	16	48	33	15

Table 5: Physical check results – Twente

Twente Administrative checks	Total number of businesses in the region	2017			2018			First half of 2019					
		Total findings	Accep- table	Unac- ceptable	Fine imposed	Total findings	Accep- table	Unac- ceptable	Fine imposed	Total findings	Accep- table	Unac- ceptable	Fine imposed
Type of business													
Cattle farm	1,873	85	37	48	€38,546	58	24	34	€99,898	45	16	29	€11,719
Pig farm	215	35	24	11	€9,092	17	0	17	€73,690	13	0	13	€2,400
Poultry farm	79	5	3	2	€944	0	0	0	€0	7	3	4	€300
Arable farm	625	16	6	10	€1,800	16	0	16	€2,600	24	6	18	€3,500
Mixed farms	65	12	6	6	€300	18	2	16	€74,386	11	2	9	€39,905
Other manure- producing businesses	305	7	3	4	€1,300	24	1	23	€6,200	6	0	6	€2,200
Other businesses	163	6	2	4	€300	9	2	7	€2,000	9	3	6	€0
Intermediary business	72	39	14	25	€5,700	127	16	111	€25,140	223	17	206	€30,600
Total	3,397	205	95	110	€57,982	269	45	224	€283,913	338	47	291	€90,623

Table 6: Administrative check results – Twente

Results for the rest of the Netherlands

Rest of the Netherlands Physical checks		2018			First half of 2019		
Type of check		Total checks	Acceptable	Unacceptable	Total checks	Acceptable	Unacceptable
Independent sampling					14	14	0
Manure transport					256	232	24
Derogation		525	449	76	209	174	35
Various components of the Use of Fertilisers Decree		67	58	9	75	71	4
Business inspection and derogation		148	135	13	48	18	30
Business inspections		27	11	16			
Administrative obligations of farms		4	2	2			
Total		771	655	116	602	509	93

Table 7: Physical check results – Rest of the Netherlands

Rest of the Netherlands Administrative checks		2017			2018			First half of 2019		
Type of business	Total number of businesses in the region	Total findings	Acceptable	Unacceptable	Fine imposed	Total findings	Acceptable	Unacceptable	Fine imposed	Total findings
Cattle farm	18,952	957	270	687	€617,772	766	208	558	€2,466,176	487
Pig farm	1,165	66	32	34	€88,357	69	16	53	€905,085	42
Poultry farm	648	34	11	23	€4,900	24	1	23	€15,110	24
Arable farm	14,365	185	66	119	€27,400	557	16	541	€71,997	387
Mixed farms	246	47	27	20	€6,571	73	28	45	€507,078	7
Other manure-producing businesses	4,701	156	39	117	€38,878	131	17	114	€27,919	103
Other businesses	4,810	416	70	346	€255,102	478	98	380	€513,904	437
Intermediary business	684	501	107	394	€102,849	886	111	775	€1,092,189	994
Total	45,571	2,362	622	1,740	€1,141,829	2,984	495	2,489	€5,599,459	2,481
										404
										2,077
										€155,395
										€712,693

Table 8: Administrative check results – Rest of the Netherlands

Results of checks not dependent on location (intermediary businesses)

Not dependent on location Physical checks Type of check	2018			First half of 2019		
	Total checks	Acceptable	Unacceptable	Total checks	Acceptable	Unacceptable
Intermediary business	69	35	34	56	37	19
Co-fermentation	7	6	1	1	1	0
Manure transport	1,186	1,107	79	162	140	22
Export of manure	177	169	8	34	26	8
Independent sampling	353	342	11	35	31	4
Total	1792	1659	133	288	235	53

Table 9: Results of physical checks not dependent on location

Explanation

Check results – De Peel

The provisional results of checks in De Peel (Tables 1 and 2) show that the supervision and enforcement activities by the NVWA and the Netherlands Enterprise Agency since the Enhanced Manure Enforcement Strategy came into effect in the area had intensified in relation to previous years. Both the number of physical and the number of administrative checks were higher in the first half of 2019 than the total in 2017 and 2018. These numbers will increase further in the second half of 2019 as a result of ongoing cases. Most of the physical checks were for various components of the Use of Fertilisers Decree, particularly for the timely sowing of a catch crop. The administrative checks revealed a significant increase in the number of findings checked in relation to intermediary businesses. This is in line with the risk-oriented approach of the Enhanced Manure Enforcement Strategy. For the checks on intermediaries, the Netherlands Enterprise Agency mainly focused on minor and repeat violations to compile a dossier. These violations incur lower fines, which is reflected in the total amount of fines. The dossier compiled in this way contributes to any eventual revocation of the registration of the intermediary business.

As a result of the CBB judgement, there were fewer physical and administrative checks in De Peel as well, particularly on pig farms. Here, the capacity was shifted to checks in cattle farming. Many farms were checked as a result of what is known as 'spin-off' from checks into intermediary businesses. This resulted in a significant increase in the amount of fines incurred from farms in this category in the first half of 2019.

The first half of 2019 saw additional investments to further enhance the cooperation with regional partners. Among other things, the way in which the various responsibilities relating to supervision during the application of manure is organised in practice was examined. Better coordination between parties should lead to more effective enforcement and improved compliance. In addition, NVWA and the Netherlands Enterprise Agency – in cooperation with their partners – carried out administrative checks on formerly agricultural businesses, in consultation with municipalities and environment agencies. The municipalities and environment agencies were under the impression that a number of these businesses could still be active. Based on various public data sources, the Netherlands Enterprise Agency conducted administrative checks on 888 formerly agricultural businesses in East Brabant and North Limburg. The locations involved were checked to see if they were keeping cattle, pigs or chickens. In addition, the arrival and departure of livestock manure was analysed. This revealed that further checks were required at 16 businesses. The results of these are not yet known. Another 20 joint inspections in De Peel are still planned for 2019.

Check results – Gelderse Vallei

The provisional results of checks in Gelderse Vallei in 2019 (Tables 3 and 4) show that the trend from 2018 is continuing. The intensity of supervision in this area has increased since the Enhanced Manure Enforcement Strategy came into effect. The administrative checks here had a strong focus on minor and repeat violations by intermediary businesses. Cooperation in this region started in late 2018/early 2019 with the first joint checks. The businesses for the joint checks were selected by inspectors from all partners involved. There was a conscious choice to start the cooperation in Gelderse Vallei on a small scale in order to allow a sound examination of the tailored approach had

to be offered in this area in comparison with the approach in De Peel. The experiences from 2019 will be processed and included in a long-term working plan. This plan will assure the cooperation and the associated coordination structure. The regional enforcement partners will adopt the plan in November, after which the activities in this area can be rolled out in full. The CBb judgement had an effect on the selection of businesses to be checked in Gelderse Vallei as well.

Check results – Twente

The results of the checks in Twente (Tables 5 and 6) show that the number of physical checks in this area was below expectations. The explanation for this is that an important regional partner, the Twente environment agency, recently underwent a merger and reorganisation. The organisation needed time to put its house in order, as a result of which it proved impossible to start the joint approach in this area in full. The NVWA is dependent on developments at the regional partners. In the meantime, it has been established that the intensive cooperation, the process of selection and the joint checking of businesses can commence in early 2020. The results of the checks revealed that the number of administrative checks had increased in this area. This area also saw a strong focus on intermediary businesses. The CBb judgement resulted in a different selection of primary businesses in Twente as well.

Check results – Rest of the Netherlands

In addition to those three at-risk areas, the NVWA and the Netherlands Enterprise Agency supervision and enforcement activities also targeted the other parts of the Netherlands. The results of the checks (Tables 7 and 8) show that supervision and enforcement activities were at the same level as in previous years. The first half of the year already saw a large number of checks on the derogation conditions and the transport of manure. In 2019, as in previous years, the NVWA has to check at least 5% of derogation farms physically. Most of the derogation checks will have been completed by late 2019/early 2020. As in the other areas, the administrative checks in the rest of the Netherlands were mainly focused on intermediary businesses and business sectors that were not affected by the CBb judgement. Although the Enhanced Manure Enforcement Strategy prioritises the at-risk areas, the Ministry of Agriculture, Nature and Food Quality, the NVWA and the Netherlands Enterprise Agency are at pains to ensure that there is no adverse effect on supervision in other areas of the Netherlands.

Check results – checks not dependent on location (intermediary businesses)

The NVWA categorises some checks as not dependent on location (Table 9). These are mainly physical checks of intermediary businesses that, because of the characteristics of intermediary businesses, operate across area boundaries and therefore cannot be linked to a specific region in the NVWA's system. The results of the administrative checks of intermediary businesses have already been discussed in the previous paragraphs and show an increase in the number of findings checked for this risk group throughout the Netherlands. For these checks, the Netherlands Enterprise Agency mainly focused on minor and repeat violations to allow a dossier to be compiled. The NVWA focused on major cases involving intermediary businesses and their client base (spin-off). These checks are complex and time-consuming and are therefore carried out over a prolonged period of time. This approach should eventually contribute to improved compliance by both intermediary businesses and primary businesses. Compared with 2018, the large difference in the field of manure transport can be explained because all transport movements were classified as not dependent on location in 2018, whereas in 2019 they were, by and large, classified within the various at-risk areas.

In total, 114 intermediary businesses underwent physical inspections in 2019. Among these, 68 addresses were selected for an investigation into manure storage facilities: 42 addresses in De Peel, four addresses in Gelderse Vallei, five addresses in Twente and 17 addresses elsewhere in the Netherlands. The other 46 intermediary businesses were selected using different selection criteria.

Before the end of 2019, 10 co-fermenting installations will be subject to a physical check.

Registration of intermediary businesses

The number of new intermediary businesses registered was 111 in 2017, 134 in 2018 and 49 in the first half of 2019 (see Table 10). The number of rejected applications was five in 2017, six in 2018 and 18 in the period up to 20 September 2019. This increase in the number of rejections in 2019 is largely attributable to the fact that there have been strict controls on 'single registrations' since 2019. This means that the agricultural side of the business and its intermediary activities may no longer be registered under one and the same client number.

	2017	2018	First half of 2019
Applications submitted	116	140	67
Rejected	5	6	18
Registered	111	134	49

Table 10: Newly registered intermediary businesses

Checks on intermediary businesses by the NVWA and the Netherlands Enterprise Agency can eventually lead to the registration being revoked, as a result of which an intermediary business is no longer allowed to transport livestock manure or have it transported on its behalf. This also forbids the processing of livestock manure to meet the manure processing obligation. The Netherlands Enterprise Agency can reject or revoke the registration of an intermediary business if there is a significant risk that the registration is being or will be used to violate regulations. This mainly concerns violations in the following areas:

- Trading and transporting manure
- Accounting for the arrival and departure of manure
- Determining the amount of manure (weighing and sampling methods)
- Meeting the administrative obligations of intermediary businesses
- Storing manure
- Processing and preparing livestock manure

The Netherlands Enterprise Agency publishes an updated list of registered and removed intermediary businesses each month⁴. In 2017, the registration of one business was revoked. In 2018, four registered intermediary businesses were investigated, with part of the investigations running on into 2019. In all four cases, advice was requested from the National Public Administration Probity Screening Agency. As of 21 August 2019, an investigation from 2018 has resulted in the revocation of the registration of one intermediary business. In 2019, seven investigations of intermediary businesses have been launched so far to see if there is a significant risk that the registration is being or will be used to violate regulations.

⁴ <https://www.rvo.nl/onderwerpen/agrarisch-ondernemen/mestbeleid/mest/mestadministratie-en-registratie/administratie-intermediair>

Results for the Netherlands – Total

Total for the Netherlands		2017 ⁵		2018		First half of 2019	
Physical checks	Type of check	Total checks	Acceptable	Unacceptable	Total checks	Acceptable	Unacceptable
	Co-fermentation farms	19	14	5	7	6	1
	Export of manure	112	75	37	177	169	8
	Intermediary business	44	22	22	69	35	34
	Independent sampling	46	42	4	353	342	11
	Manure transport	1,086	908	178	1,186	1,107	79
	Derogation	1,080	987	93	709	599	110
	Various components of the Use of Fertilisers Decree	1,086	988	98	157	143	14
	Business inspection and derogation	614	266	348	213	186	27
	Business inspections				121	53	68
	Administrative obligations of farms				6	3	3
Total		4,087	3,302	785	2,998	2,643	355
						1,116	218

Table 11: Physical check results for the Netherlands – Total

Total for the Netherlands Administrative check results Type of business	Total number of businesses in NL	2017			2018			First half of 2019					
		Total findings	Acceptable	Unacceptable	Fine imposed	Total findings	Acceptable	Unacceptable	Total findings	Acceptable	Unacceptable		
Cattle Pigs Poultry	25,071	1,384	421	963	€1,200,318	1,085	311	774	€3,704,751	785	165	620	€2,685,8
	2,984	247	141	106	€237,114	226	63	163	€2,525,645	146	6	140	€21,5
	1,339	63	25	38	€8,044	47	5	42	€17,710	72	8	64	€7,2
Arable farming	18,084	285	101	184	€55,034	693	27	666	€199,901	470	52	418	€57,6
Mixed farms Other manure-producing businesses Other businesses	574	128	70	58	€34,246	188	63	125	€1,658,645	33	5	28	€40,5
	6,237	227	51	176	€65,462	235	24	211	€277,112	176	23	153	€25,1
	6,150	452	86	366	€298,919	558	111	447	€581,642	519	89	430	€36,9
Intermediary	1,215	974	203	771	€206,269	1,456	210	1,246	€2,432,809	2,124	326	1,798	€321,0
Total	61,654	3,760	1,098	2,662	€2,105,405	4,488	814	3,674	€11,398,215	4,325	674	3,651	€3,195,7

Table 12: Administrative check results for the Netherlands – Total

⁵ At a national level, physical check results can only be compared with 2017 because there was no regional approach prior to 2018 and the inspections were also not recorded in the system in that way.

Check results – Total for the Netherlands

Component	Organisation	2017 Achieved	2018 Budgeted	2018 Achieved	2019 Budgeted	First half of 2019 Achieved
Area-specific enforcement	NVWA	N/A	20,000	30,733	20,000	7,706
	Netherlands Enterprise Agency	N/A	3,000	1,317	15,500	6427
Intermediary & co-fermentation	NVWA	22,510	29,000	17,304	23,500	9,390
	Netherlands Enterprise Agency	3,500	7,500	6,391	10,000	7614
Derogation	NVWA	29,750	19,125	38,382	20,000	8,896
	Netherlands Enterprise Agency	3,000	4,500	5,422	4,500	3210
Hours achieved, but not linked⁶	NVWA					6,500
Total number of hours	NVWA and the Netherlands Enterprise Agency	56,060	83,125	99,549	93,500	49,743

Table 13: Summary of hours – NVWA and the Netherlands Enterprise Agency

Table 13 shows the hours that the NVWA and the Netherlands Enterprise Agency spent on the various components of the Enhanced Manure Enforcement Strategy and derogation in 2018 and 2019. The requirement for at least 5% physical and administrative checks on derogation conditions, as set out in the derogation decision, will be satisfied in 2019 as well. As already highlighted in the 2018 progress report, more hours were spent in 2018 than initially budgeted. A further capacity increase is envisaged for 2019, of which the Netherlands Enterprise Agency and the NVWA already achieved almost 50,000 hours in the first half of 2019. This trend is expected to continue throughout all of 2019. The Netherlands Enterprise Agency will spend much of the remaining capacity on derogation checks, reports of transfers of businesses and checks on the combined return. Together with its regional partners, the NVWA has yet to conduct 20 joint checks in De Peel. Following a claim by *Varkens in Nood* (Pigs in Need) that several million pigs are in the Netherlands illegally, it announced a project to arrive at a state of compliance in the pig farming sector. This will start in 2020 and will consist of conducting animal rights inspections on pig farms.

Tables 11 and 12 show the results of the administrative and physical checks in 2017 and 2018 and show the provisional results for 2019. The summary already shows good results for administrative checks in the first half of 2019. The additional capacity that was deployed in the first half of 2019 based on the Enhanced Manure Enforcement Strategy resulted in the checking of more findings and an increase in the number of violations (unacceptable findings). The area-specific approach appears to be working well in this field. This has led to a significant increase in the number of findings at intermediaries in particular. The risk-oriented approach to this group therefore appears to be having the desired effect.

The number of physical checks in the first half of 2019 remained below expectations. So far, the additional capacity has not resulted in the desired increase in the number of physical checks. In practice, the efficient organisation of area-specific enforcement in cooperation with the regional partners has taken more time and energy than anticipated. This had consequences for the deployment of the available capacity in the first half of 2019. In addition, significant capacity has been invested in the automation process. Nevertheless, the combination of these processes ensures that physical checks will be carried out more effectively and efficiently in the future, which will eventually contribute to the increased likelihood of being caught and increased compliance. In addition to the NVWA's current efforts and capacity, it is currently recruiting 20 FTE inspectors to work specifically in the manure domain. These inspectors will be trained over a period of four to

⁶ These hours have been achieved within the framework of the Enhanced Manure Enforcement Strategy, but have not yet been linked to the correct component in the system.

five months, after which they will be operational. This will provide a major stimulus to the physical checks within the framework of the Enhanced Manure Enforcement Strategy. Additionally, the majority of the derogation checks will take place in the final quarter of 2019.

The summary also reflects the consequences of the CBb judgement. As a result of the judgement, the risk-oriented approach to pig farms could only be implemented in part. The number of checks, investigated findings and the fine amount for this target group was therefore lower in the first half of 2019. However, it is clear to see that the capacity was used for investigations in relation to cattle farmers.

In relation to intermediaries, the Netherlands Enterprise Agency and the NVWA have agreed that the Netherlands Enterprise Agency will concentrate more on investigating administrative findings in 2019. These investigations are smaller scale and will take up less time, providing an opportunity to act against repeat offenders. The fine amounts for violations are lower. The effect can clearly be seen in the checks on intermediary businesses in 2019 (higher number, lower total amount). Conversely, in 2019 the NVWA concentrated on more major cases relating to intermediary businesses. Businesses that used the services of an intermediary business were also included in the investigation (spin-off). These checks are complex and time-consuming and are therefore carried out over a prolonged period of time.

Automation

In addition to risk-oriented enforcement, the Enhanced Manure Enforcement Strategy has also led to a commitment to manure IT projects that focus on automation and the easing of the regulatory burden. This section delves deeper into the progress of the implementation of the new technology track of the Enhanced Manure Enforcement Strategy (Manure IT).

Integrated approach

Implementation of the Enhanced Manure Enforcement strategy started as long ago as September 2018. This was incorporated in an enforcement plan for 2019, which was compiled jointly by the NVWA and the Netherlands Enterprise Agency for the first time. A project structure was set up for the automation track and the Ministry of Agriculture, Nature and Food Quality appointed a project manager. In June 2019, it was observed that a project focusing solely on automation does not do sufficient justice to the problem. A proper embedding of new technology also requires changes to the organisation and staff training. In September 2019, a programme structure containing a number of projects that concretely tie in with each other was set up to implement the Enhanced Manure Enforcement Strategy more effectively. The programme is being led at management team level by managers from the Ministry of Agriculture, Nature and Food Quality, the NVWA and the Netherlands Enterprise Agency. The progress of the projects, which are being further developed integrally under the new integrated approach, is explained below.

A single, general rule for all manure transports

According to the current general rule for manure transports, livestock manure must be transported by an intermediary business registered with the Netherlands Enterprise Agency using approved AGR/GPS equipment. When manure is loaded or unloaded, a message is sent to the Netherlands Enterprise Agency. NVWA inspectors can see these loading and unloading messages in real time on their monitors. In addition, the freight must be weighed, sampled and analysed by an accredited laboratory. Within 30 working days of the transport having taken place, the transporter must submit details of the Transport Certificate for Livestock Manure (VDM) electronically to the Netherlands Enterprise Agency. In addition to these VDM details, the Netherlands Enterprise Agency receives AGR/GPS loading and unloading messages from intermediary businesses and registers all intermediary businesses, their vehicles and sampling and packaging equipment.

Over the course of time, a number of exceptions have been created to the aforementioned general rule, allowing transports of manure to be reported incompletely or subsequent to the event. This applies, for instance, to short-distance transports or transports of mushroom compost. Simultaneous with the introduction of digital and real-time accounting in the autumn of 2020, the times when these exceptions will lapse will be laid down by law. This is a far-reaching measure. In November 2019, an external agency will be tasked with building an app that will allow the

government to make the transition from the exception to compliance with the general rule as easy as possible for those involved. Due to the impact of the measure, a later effective date will probably be required for eliminating the exception for farmer-to-farmer transport.

Chain management

As an initial step, submitting a paper copy of the VDM was banned in April 2019. An overview of the chain has now been created and the required information determined for each step. The law is being amended accordingly. The minimum timetable for amending the law, consultation and notification runs until autumn 2020. The idea is that from autumn 2020, manure transporters submit a pre-arrival notification, loading and unloading message and a GPS message during the journey and that the transfer of manure is conditional on a signature. To make this possible within a period of just over six months, radical changes to the necessary internal systems will be required. The table below shows the time frame for these changes.

Phase	Phase duration	Phase complete
Preparation of draft legislation and draft decision	Three months	Early December 2019
Privacy impact assessment and coordination with data protection officer	One month	Early January 2020
Internet consultation	One month	Early February 2020
Regulatory burden test (Advisory Board on Regulatory Burden), implementation and enforceability test (Netherlands Enterprise Agency/NVWA), personal data test (Dutch Data Protection Authority)	Two months (partially overlapping with internet consultation)	Early March 2020
Legislation test of draft decision	Three weeks (largely overlapping with test period)	Late March 2020
Decision by Council of Ministers on draft decision	Two weeks	Mid-April 2020
Notification	Three months	Mid-July 2020
Advice from Council of State on draft decision and further report	Three months (in parallel with notification)	Mid-July 2020
Adoption and publication of decision and legislation	One week	Late July 2020
Time needed for implementation (building of IT instrument to keep data protection officer informed)	Three months	Late October 2020
Entry into force		1 November 2020

Table 14: Time frame for change of legislation

Netherlands Enterprise Agency and NVWA facilities

The NVWA and the Netherlands Enterprise Agency are cooperating on the further optimisation of the way in which risks are analysed. A control room for data entry checks and rapid response and a competence centre for in-depth analysis and longer-term developments is being set up for this.

In the control room, the consistency of incoming data will be analysed. This can lead to feedback to the data submitter and/or a rapid response from the NVWA. In the competence centre, data analysts and subject matter experts are brought together and equipped with instruments for conducting in-depth analyses and detecting risks for the longer term. More work on risk analyses, new data technology and improved coordination between the NVWA and the Netherlands Enterprise Agency has been ongoing since September 2018. The conclusion here is that an integrated working method is needed and that the ways in which the NVWA and the Netherlands Enterprise Agency work will have to change from a more reactive to a more active type of enforcement.

The project has revealed that setting up a control room and competence centre involves much more than an automation project. Not only do the software and hardware require a drastic

transformation, but the organisation needs to be restructured as well, including the allocation of staff and the interaction with operatives in the field. There has been an integral approach to this component since September 2019. Within the programme structure as it exists as of September, it is expected that a proof of concept will be available at the end of 2019 and that we can work on-the-job on further developments to have the control room operational within a year.

Sharing data in the region

In De Peel, there has been an intensive process to enable the exchange of data between the various supervisory bodies. A correct legal basis for this exchange of data is essential. A great deal of coordination was needed to reach formal agreements on the exchange of data. The formal exchange of data for supervisory and enforcement purposes is a basic condition for joint operations. Risk analyses form the basis for the further elaboration of risk-oriented cooperation in the region. The main point for attention is that the General Data Protection Regulations (GDPR) must be complied with. A draft cooperation agreement was discussed in an administrative consultation meeting between regional managers and the Ministry of Agriculture, Nature and Food Quality on 21 October 2019. Based on the experiences gained in De Peel, we expect that the formulation of a cooperation agreement will be done more quickly in the other two regions. Table 13 provides a summary of all information deliveries to regional partners by the Netherlands Enterprise Agency.

Cooperation partners	Number of deliveries in 2017	Number of deliveries in 2018 ⁷	Number of deliveries 2019 ⁸
Environment agency	22	20	37
Police	6	8	6
NVWA	21	30	9
Dutch water boards	157	158	107
Dutch Tax and Customs Administration	27	21	59
Municipalities	16	18	15
Provinces	7	18	9
Directorate-General for Public Works and Water Management	12	12	8
Total	268	285	250

Table 15: Information requests to the Netherlands Enterprise Agency from cooperation partners

Digital tracking of transports: provisions by the sector

In addition to the mandatory government measures to track manure transports digitally in real time, the sector itself systematically provides for the linking of business information to government files. The linking of the various data files, including the work systems of businesses, makes it harder to manipulate data. The project plan for this was adopted for the first phase of the project in an administrative consultation meeting between sector organisations and the Ministry of Agriculture, Nature and Food Quality on 3 October 2019. Based on the initial exploratory phase, the Ministry of Agriculture, Nature and Food Quality and the sector will decide on the progress of the second phase.

⁷ The June 2019 progress report contains the numbers for 2018, specifying that these numbers relate to the three at-risk areas. This is incorrect: they are the totals for all of the Netherlands.

⁸ 1 January 2019–1 September 2019

