European Union Network for
the Implementation and Enforcement
of Environmental Law

IMPEL Review Initiative (IRI)
IRI Questionnaire

1. Introduction to the IRI Scheme

The IRI scheme is a voluntary scheme providing for informal reviews of environmental authorities in IMPEL Member countries. It was set up to implement **the European Parliament and Council Recommendation (2001/331/EC) providing for minimum criteria for environmental inspections (RMCEI)[1]**, where it states:

"Member States should assist each other administratively in operating this Recommendation. The establishment by Member States in cooperation with IMPEL of reporting and advice schemes relating to inspectorates and inspection procedures would help to promote best practice across the Community."

2. Purpose of the IRI

The aims of the IRI scheme are to:

* Provide advice to environmental authorities seeking an external review of their structure, operation or performance by experts from other IMPEL Member Countries for the purpose of benchmarking and continuous improvement of their organisation
* Encourage capacity building in environmental authorities in IMPEL Member Countries
* Encourage the exchange of experience and collaboration between these authorities on common issues and problems

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[1] **http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:118:0041:0046:EN:PDF**

- Spread good practice leading to improved quality of the work of environmental authorities and contributing to continuous improvement of quality and consistency of application of environmental law across the EU ("the level playing-field").

The IRI is an informal review, carried out by colleagues from IMPEL. It is not an audit. The IRI is intended to enable the environmental authority and the Review Team to explore how the authority carries out its tasks. It aims at identifying areas of good practice for dissemination together with opportunities to develop existing practice within the authority and authorities in other IMPEL Member Countries.

3. Scope of the IRI

The IRI uses a questionnaire to review the environmental authority against the requirements of the RMCEI. The **IMPEL "Doing the right things for permitting and Inspections"** Guidance Book has been used to help structure the questionnaire and the review. The Guidance Book was initially developed to support authorities in implementing the Industrial Emissions Directive and describes the different steps of the **Environmental Permitting and Inspection Cycle**.

When drafting the Terms of Reference for their IRI, the environmental authority decides on the precise scope of the review in accordance with its specific needs. The IRI is applicable to authorities involved in permitting and inspection or indeed both.

4. Use and content of this questionnaire

This questionnaire is based on the regulatory cycle and is a tool to supply the review team with adequate information on the work of the environmental authority and to stimulate discussion. The questionnaire format also provides an element of consistency between different reviews.

Part A of the questionnaire covers the institutional and legal as well as the organisation and management of the host authority. This should be completed as much as possible by the authority before the start of the review. Part B covers permitting activity and Part C focuses on how the authority carries out its inspection tasks. Part D covers a site visit if chosen by the host authority.
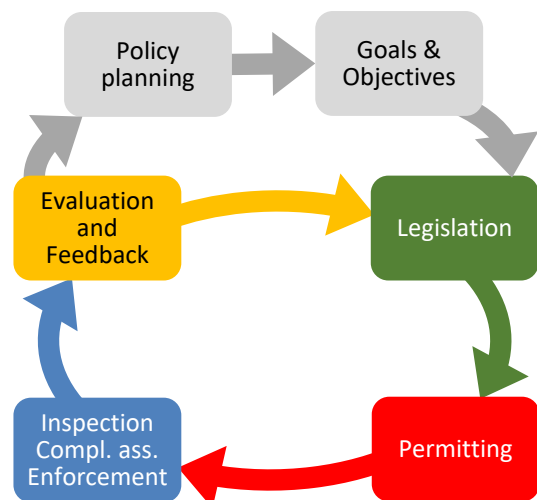
IRI Questionnaire

Part A – Defining the regulatory framework of environmental protection in the IMPEL member country.

Objective
To find out about the organisation of the environmental authority, the relevant legislation it complies with and relationships with the public, stakeholders, Government and other countries.

Guidance

The review team should gain an understanding about the position, structure and powers of the authority. They should find out who takes the decisions within the authority and how and by whom these decisions are prepared and executed.

The authority is invited to provide the review team with information on the topics covered in this part as much as possible prior to the review. By completing this section in advance, the review will not only be shorter but also enable more time for the review team to identify key issues to focus on during the review.

Topics on which the Authority is invited to provide information:

A1. Policy, Goals & objectives
- Give an overview of the main national, regional and other environmental policies applicable to the host organisation. Explain how *Goals & Objectives* set are linked to these policies.
- List the relevant EU Directives and national legislation to the scope of the IRI that the host organisation has responsibility for regulating.
- Identify the principle tasks of the host organisation and where relevant the legislation in which these tasks are laid down.

A2. Organisation
- *Structure: please see IMPEL website: Mapping of the Regulatory Agencies.*
- Describe how the host organisation is funded and provide a breakdown of the costs of its activities.

A3. External Relations
- Describe how the general public and stakeholders are involved in decision making within the legislative formation process.
- Identify what provisions & procedures for the general public and stakeholders exist on access to environmental information.

A4. Accidents and Environmental Incidents

• Describe the procedures and processes that are in place for accidents and environmental incidents. Who is responsible for what and what cooperation and coordination systems are in place to manage relations between different organisations?

The objective of this part of the questionnaire is to find out the criteria and procedures for permitting and how this is put into practice. This part of the questionnaire is structured according to the different steps of the Environmental Permitting Cycle from the IMPEL "Doing the right things" Guidance Book. The cycle is shown at the right.
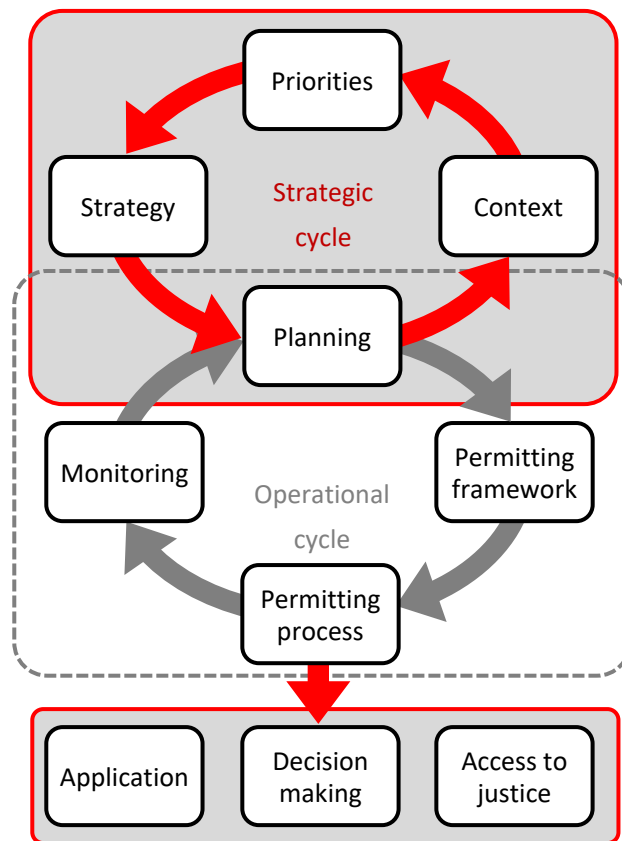

B1. Strategic cycle

Objective
To find out the criteria and procedures for setting priorities, defining strategies and developing a work plan for permitting and how this is put into practice.

B1.1. Describing the context

Guidance

The review team should gain an understanding what factors define the scope and what information should be gathered for describing the context of the authority.

Note: the step of describing the context will partly have been covered in part A of this questionnaire.
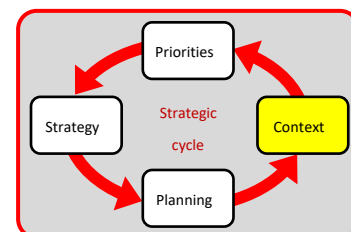
- What areas and activities are important factors for defining the scope of the tasks and responsibilities of the authorities?
- What information is collected to help describe the context in which the authority performs its tasks? How is this information collected?

B1.2. Setting priorities

Guidance

The review team should gain an understanding on how the authority sets priorities in relation to the work of the permitting department.
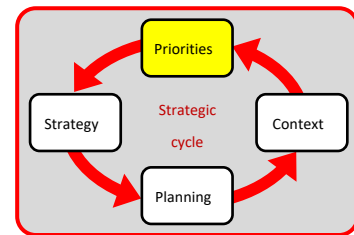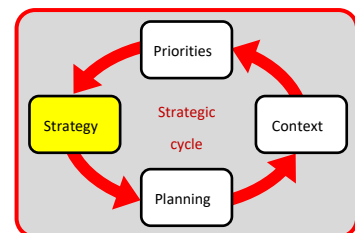
Topics to consider
- What procedure is used for setting priorities?
- Is a model or assessment tool used to set these priorities?
- What factors are used to rank permit applications that are received?
- How is the outcome of the assessment used in the development of the work plan?
- How are the resources of the authority included in this process?
- What are the numbers and time spend on permitting activities per year by type or category of applications and or installations?

B1.3. Defining strategies

Guidance

The review team should gain an understanding on how the authority defines her strategies and how they are communicated.
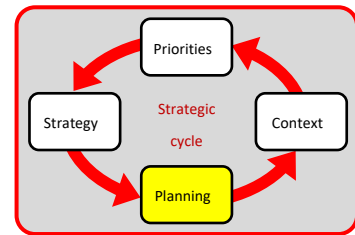
Topics to consider
- What goals and objectives have been set by either national level or by the own organisation that need to be achieved?
- Are these goals and objectives translated in activities, plans or strategies?

- What strategies are in place? (e.g. how to apply BAT, reviewing existing permits, objectives or targets for certain companies or industrial sectors, encouraging and facilitating eco-innovations, relationship between permitting and inspection, transparency and visibility, internal and external communication).

B1.4. Planning

<u>Guidance</u>

The review team should gain an understanding on how the authority develops a work plan for her permit officers and how plans are annually reviewed and revised.

Topics to consider
- What are the procedures for developing the annual work plan for the permit officers?
- How is the available resources allocated between the different tasks of a permit officers?
- What are the procedures for reviewing and revising the annual work plan?
- How are the results of the previous work plan taken on board?
- How are findings on the performance of the authority in the previous year(s) taken into account?

## B2. Operational Cycle

> **Objective**
> To find out what conditions are in place to enable permit officers and other staff to issue permits and other decisions; how the permitting procedure is carried out; how data is stored, used and communicated; and how the performance, environmental and other outcomes is assessed.

B2.1. Permitting framework

Guidance

The review team should gain understanding on how the authority supports and ensures permitting officers to do their work in an efficient and effective way. This should be done by checking which conditions are in place and how good quality of work is ensured.

Note: some issues may already be dealt with in part A or B of this questionnaire.
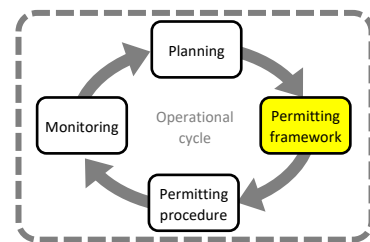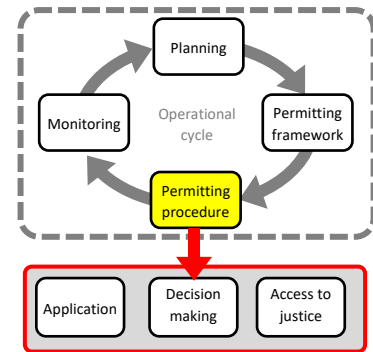
Topics to consider

- What provisions, arrangements with regard to equipment, handbooks, information technology etc. are developed to make sure that work can be executed effectively, efficiently, professionally and consistently?

- What are in general the qualifications, skills and experience required of permit officers and legal and administrative staff?

- How are awareness and knowledge of technical, policy and regulatory developments maintained and skills kept up to date?

- What training arrangements are in place and how is the result of training evaluated?

- What guidance is given to permit officers to help them issue permits?

- Does the permit officer have access to any advisory body or any other external, independent source of advice?

- Protocols for communication with the public (access to information) and with operators.

- Information management (e.g. information systems) and information exchange (within the organisation and with partner organisations).

- Awareness of relevant technical, policy and regulatory developments maintained within the authority.

B2.2. Permitting procedure

Guidance

The review team should gain understanding on how the permit procedure works; what the main steps are what the role and responsibility of the permit officers and other staff are.
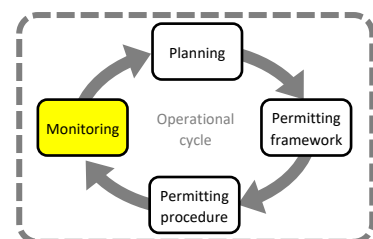
Topics to consider

- What are the main steps in the application phase (e.g. initiative of the application; pre-application discussion; application form; annexes; submission and intake; checking application; notification; public participation; type of procedure; fees)?
- What are the time-lines of the different steps?
- What is the task and responsibility of the permit officers and of other staff?
- What are the main steps in the decision making phase (e.g. environmental impact assessment; appropriate assessment; advise and consultancy, boundaries of installations; cost benefit; derogations; BAT assessment and setting conditions; use of general binding rules; draft decision; enforceability check; notification; public participation; fees)?
- What are the time-lines of the different steps?
- What are the main steps in the access to justice phase (e.g. views, objection; appeal; judging)?
- What are the time-lines of the different steps?
- What is the task and responsibility of the permit officers and of other staff?

B2.3. Performance monitoring

Guidance

The review team should gain understanding on what systems are in place to measure the performance of the authority, what is measured and how the produced data are used.

- What performance indicators are used in the authority?
- Does the authority differentiate between outcome and output driven objectives or indicators
- Are outcome driven objectives or indicators related to environmental quality
- What data is collected? How is it collected, assessed and used?

B3 Evaluation and feedback

Guidance

The review team should gain understanding on what systems are in place to measure the performance of the authority, what is measured and how the produced data are used.
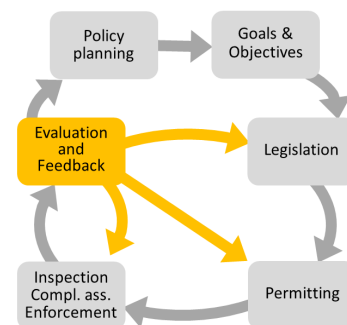

Topics to consider

- Is there a mechanism in place provide feedback by the authority on short comings in regulatory activities of other relevant environmental authorities?

  For example:
  - Inspection activities
  - Practicability and enforceability checks of permit conditions
  - Policy making (including legislation)
  - Permitting activities of other authorities?
- Are checklists used for feedback?
- How is feedback organised?

Part C – Inspection activities

The objective of this part of the questionnaire is to find out the criteria and procedures for inspections and how this is put into practice. This part of the questionnaire is structured according to the different steps of the Environmental Inspection Cycle from the IMPEL "Doing the Right Things" Guidance Book. The cycle is shown on the right.
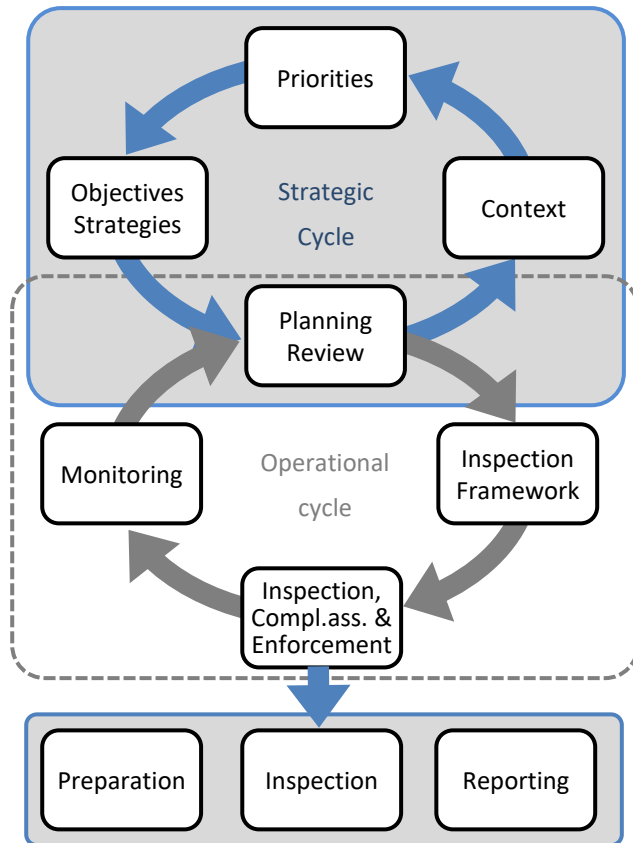

C1. Strategic cycle

Objective
To find out the criteria and procedures for planning of inspections and how this is put into practice.

C1.1. Describing the context

Guidance

The review team should gain an understanding what factors define the scope and what information should be gathered for describing the context of the authority.

*Note: the step of describing the context will partly have been covered in part A of this questionnaire.*
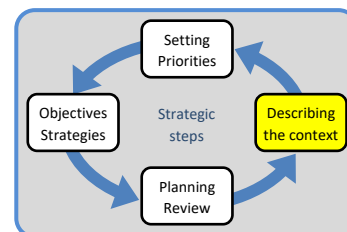
Topics to consider
- What areas and activities are important factors for defining the scope of the tasks and responsibilities of the authorities?
- What information is collected to help describe the context in which the authority performs its tasks? How is this information collected?

C1.2. Setting priorities

Guidance
The review team should gain an understanding on how the authority sets priorities by performing a risk assessment, which results in a list of installations or activities that are ranked and classified.
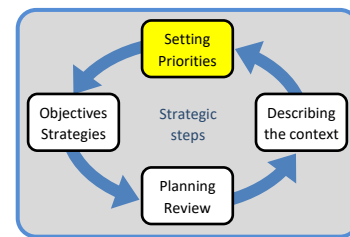
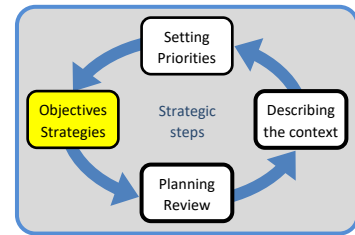Topics to consider
- What procedure is used for setting priorities?
- What procedure is used to assess risks related to activities or installations? What risk criteria are used? What information is collected on risks during the previous planning step of describing the context?
- How are the outcomes of the risk assessment used in the planning of the inspections? Are risks ranked and activities and installations subsequently?
- How are the resources of the authority included in this process?
- Has the average amount of time been determined for carrying out different types of inspection activities (time needed for performing a certain type of routine inspection, including preparation, traveling, site visit and reporting)?
- How much time is allocated for administrative and legal support?
- How much time is allocated for follow up actions (e.g. enforcement actions)?
- What is the ratio of time spent on planned (routine) inspection to non-routine (unplanned) inspection? Unplanned inspections include reactive work, e.g., responding to complaints, investigating incidents and accidents.
- Numbers and time spend on enforcement actions and prosecutions taken per year by type or category activities or installations and types of penalties (fines, imprisonment).

C1.3. Defining objectives and strategies

<u>Guidance</u>

The review team should gain an understanding on how the authority defines her qualitative and/or quantitative objectives, inspections targets and strategies and how they are communicated.
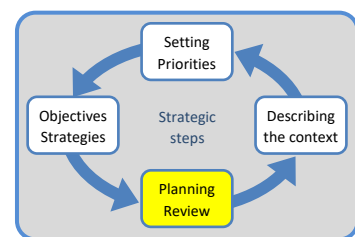
Topics to consider

- How are inspection objectives, targets and strategies defined? How are these related to the prioritised activities or installations?
- What are the objectives and targets for 2016?
- What inspection strategies have been developed and why? How will they contribute to achieving the inspection targets?
- What communication strategies have been developed?

C1.4. Planning and review

<u>Guidance</u>

The review team should gain an understanding on how the authority develops an inspection plan and inspection programme / schedules; how available resources is allocated between inspection enforcement and other activities such as dealing with complaints; and how review and revision of plans and programmes works.

Topics to consider

- What are the procedures for developing, reviewing and revising inspection plans and inspection schedules? How are the results of the previous planning steps taken on board? How are findings on the performance of the Inspectorate in the previous year(s) taken into account?

C2. Operational Cycle

> **Objective**
>
> To find out what conditions are in place to enable inspectors and other staff to carry out inspection activities; how the routine and non-routine inspection activities are actually carried out and reported and follow up is initiated; how inspection data is stored, used and communicated; and how the performance, environmental and other outcomes are assessed.

C2.1. Inspection framework

Guidance:

The review team should gain an understanding on how the authority supports inspectors to carry out their work in an efficient and effective way. This should be done by examining what tools and resources are in place and how good quality work is ensured.

Note: some issues may already be dealt with in part A or B of this questionnaire.
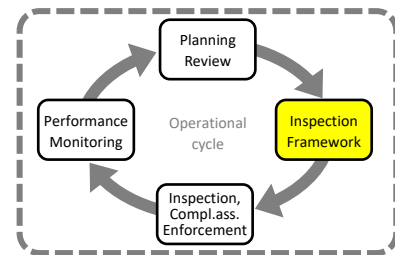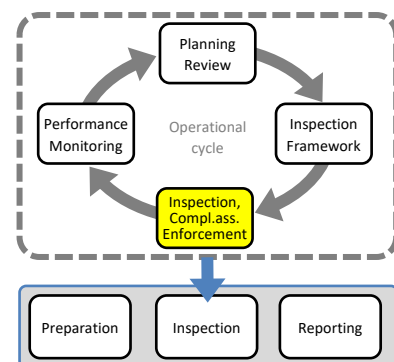
Topics to consider

- Authorisations and competencies, protocols and working instructions for routine and non-routine inspections.
- Procedures for issuing notices, imposing sanctions etc.
- Inspection and enforcement handbooks.
- Protocols for communication with the public (access to information) and with operators
- Information management (e.g. information systems) and information exchange (within the organisation and with partner organisations).
- Systems for planning, programming and monitoring.
- Equipment (e.g. sampling equipment, computers, means of transport, means of communication).
- Qualifications of staff
    - Qualifications, skills and experience required for inspectors and administrative and legal staff
    - Procedures for recruitment of inspectors
    - Inspector's ethics. Combating issue-blindness.
- Training
    - Procedures for assessment of training needs including training requirements of individual inspectors against necessary qualifications, skills and experience

- o Procedures for training inspection staff including the training of new policy, legislation and technical developments and the refreshment of skills and knowledge of existing staff
- o Evaluation of results of training
- o Opportunities for secondment or exchange of inspectors to other relevant environmental authorities.
- Awareness of relevant technical, policy and regulatory developments maintained within the Inspectorate.
- Guidance
  - o What technical and other guidance is available to help staff perform inspection activities?
  - o Access to any advisory body or any other external, independent source of advice.

C2.2. Inspection, Compliance assessment and Enforcement
Guidance

The review team should gain an understanding on how inspections are executed; what the role and responsibility of the inspectors and other staff are.
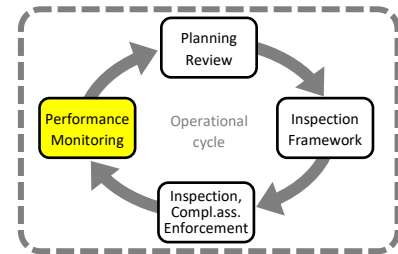

Topics to consider

- Announced and unannounced routine inspection activities (e.g. site visits; requesting data from operators) when are they performed and how?
- Communication on inspection activities with the operator of an installation.
- Communication on inspection activities with other inspecting authorities.
- Inspections related to issuing new or revised permits.
- Communication on inspection activities and with the permitting authority; content and quality of permits in relation to inspection activities.
- Conducting non-routine inspections associated with complaints, accidents and emergencies.
- Taking enforcement action.
- Making information on inspections carried out available to the public.
- Dealing with accidents on installations subject to the Seveso II Directive.
- Dealing with the complaints, including for example SEVESO accidents.

- Systems used to collect and store data on the Inspectorate's activities. Use of these data. Target audiences.

C2.3. Performance monitoring

Guidance

The review team should gain understanding on what systems are in place to measure the performance of the authority, what is measured and how the data produced is used.

Topics to consider

- What performance indicators are used in the authority; what data is collected? How is it collected, assessed and used?
- Evaluation of output and the environmental outcome of inspection activities. Use of this information in the Environmental Inspection Cycle.

C3 Evaluation and feedback

Guidance

The review team should gain understanding on what systems are in place to measure the performance of the authority, what is measured and how the data produced is used.
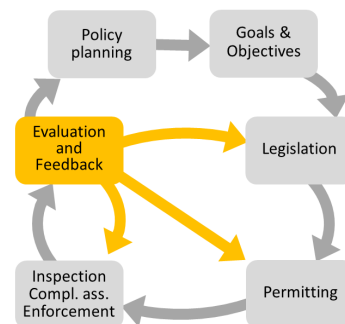

Topics to consider

- Is there a mechanism in place to provide feedback by the authority on shortcomings in the regulatory activities of other relevant environmental authorities, for example:
  - Permitting activities within the authority (if any) and of other authorities
  - Practicability and enforceability checks of permit conditions
  - Policy making (including legislation)?
- Are checklists used for feedback?
- How is feedback organised?

Part D – Site Inspection

A site inspection can be a useful way to confirm the Review Team's understanding of the regulatory system and work of the environmental authority. It is not compulsory and will add an extra ½ day to the review but previous reviews have shown it to be a useful addition.

Objective

To gain an understanding of, 1) the relationship between the environmental authority and industry and how this works in practice and, 2) how the procedures mentioned in part C work in practice.

Guidance

The host authority will select a site to inspect in cooperation with the Review Team Leader. The review team (one, maximum two persons and which should run parallel to the rest of the review) are able to inspect the site and then discuss the site's regulation with the operator and environmental authority. If the host authority agree it can be useful for the review team to talk to the operator without the authority present so they can give an honest evaluation of the relationship. Details of the operator and discussions will remain confidential.

Topics to consider

- The relationship between the environmental authority and the operator.
- Understanding of the process used to determine non-compliance.
- Frequency of visits of the authority to the site.
- Coordination with other relevant authorities in inspection/ permitting tasks.
- Management systems used by the operator.