European Union Network for the Implementation and Enforcement of Environmental Law

IMPEL REVIEW INITIATIVE (IRI)

"A voluntary scheme for reporting and offering advice to environmental authorities"

Final draft Report on the IRI that took place in Reykjavik, Iceland
14-17 March 2023

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Executive summary:

This is the second IRI in Iceland, the first having taken place in 2012. The review took place in Reykjavik at the Environment Agency Iceland (EAI) between 14-17 March 2023. It took the form of structured presentations from members of the Environment Agency Iceland followed by open question and answer sessions with the review team. The presentations are available in the Annexes.

This was the first IRI since the pandemic and the IRI Ambassadors team made some changes to the questionnaire that were tested in this review. The report is more streamlined and concise and focusses on the opportunities for development. There were many good practices identified (some highlighted in green in the report) and discussions had during the review that may not be included here. The review team revisited the opportunities for development from the first review during this IRI.

The scope of the IRI is mentioned in the Terms of Reference and focussed on the following areas:

- Strategic alignment
- Permitting and inspections
- Fish farming
- New industries

Opportunities for development highlights:

1. Ask the ministry to order a “State of the Environment” (all agencies involved) and use this to set more specific goals for the EAI
2. Set priorities within Permitting and Inspection (using a risk assessment tools)
3. Define SMART targets on the issues that have been prioritised so it is possible to monitor performance.
4. Be well prepared for new upcoming activities like CarbFix

The IRI team would like to thank the EAI for their excellent cooperation and involvement in the review process. The results of the review were presented at the end of the week, to both the EAI and to the Minister for Environment, Energy and Climate and representatives from the Ministry itself.

Disclaimer:

This report is the result of a project within the IMPEL network. The content does not necessarily represent the view of the national administrations.

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Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international non-profit association of the environmental authorities of the EU Member States, acceding and candidate countries of the European Union and EEA countries. The association is registered in Belgium and its legal seat is in Brussels, Belgium. IMPEL was set up in 1992 as an informal Network of European regulators and authorities concerned with the implementation and enforcement of environmental law. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. The core of the IMPEL activities concerns awareness raising, capacity building and exchange of information and experiences on implementation, enforcement and international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation.

During the previous years, IMPEL has developed into a considerable, widely known organisation, being mentioned in a number of EU legislative and policy documents, e.g. the 8th Environment Action Programme and the Recommendation on Minimum Criteria for Environmental Inspections.

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on both technical and regulatory aspects of EU environmental legislation. Information on the IMPEL Network is also available through its website at: www.impel.eu.

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1. Introduction

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."*
In the past the IRI was primarily focused on Inspections, nowadays the IRI covers the whole regulatory cycle.

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.
- 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.

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**.

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

2. Review Findings

2.1 Closing the regulatory Cycle

The main Priorities of the Ministry of the Environment, Energy and Climate are climate, energy, circular economy, safety of inhabitants and nature protection. The overarching priority is carbon neutrality by 2040. The policy of the Environment Agency of Iceland (EAI) has just been updated, it is a three-year policy and now more in line with government priorities. The priorities of the agency are climate, nature, circular economy and environmental quality. Respect for nature should be considered in all decisions. This also includes trying to also influence other organisations such as municipalities to take this approach.

The EAI rely on the annual plan and the three-year policy. The plan describes the development plan and information such as the number of inspections. The EAI suggests activities to be included in the three-year plan that is agreed by the Ministry. The three-year plan is updated annually in discussion with the Ministry.

The EAI measure progress against these priorities, for example on protected areas. Projects support delivery of these goals and staff can make suggestions on how to achieve them. Sometimes it is necessary to change course a little, for example extra requirements from the ministry relating to a priority (through a letter). This may require re-assigning staff or recruiting new people on temporary or part time contracts. **The EAI remains flexible in order to do this.** Resources more or less match the requirements. Funding is a mixture of direct funding from the ministry and income from charges.

There are 120 protected areas in Iceland. The EAI would like to have a state of the environment report that brings together the environmental status on different issues. They currently feed this back in meetings with ministry in informal way. Further closing the regulatory cycle and ensuring the goals and objectives are SMART would help. What goal are they trying to achieve with permitting? What tools does the EAI have to reach the overarching goal of Carbon neutrality? SDGs are incorporated to some extent in the goals in the annual and three-year plans.

Environmental outcome targets are not clear from the Ministry so they are not reflected in the activity of the inspection and permitting teams. Clear priorities would enable a risk assessment to focus on priorities. Feedback on performance on these targets could then be reported back to the Ministry. There is no formal mechanism in place to provide feedback by the authority on short comings in regulatory activities. Memorandums and suggestions are usually sent from the EAI Director to the Ministry and this can feed in to the three year plan. **A special group is being set up to coordinate this under quality control.** Feedback should be organised and go to all levels and parts of the cycle. This is done informally through the portal for new and existing legislation and the **EAI does give suggestions on what changes should be made.**

Legislation is developed and usually sent to the Agency for comments before publication**. A consultation portal for comments is open to public and agencies**. The draft bill then goes to the parliament. This process is open to the public and transparent. However it might be useful to set up a formal mechanism, between the EAI and the Ministry to give and receive feedback. **The EAI have an MS Teams site (Planner) that all staff have access to where they can see the activities, tasks and projects, link projects and allocate time.**

Planning should be done in advance, for new issues this is important. CarbFix (https://www.carbfix.com) is an example of a new and an emerging project that is coming up, as well as other climate/energy related projects so what are the lessons learned from past experience in other sectors/projects?

The EAI are working on a system where operators can upload their own monitoring data directly into a database which will make state of the environment reporting easier (Currently data is mostly uploaded as pdfs). The EAI needs to become a more data driven organisation in order to close the regulatory cycle.

Opportunities for development - Closing the regulatory cycle

- Ask the ministry to order a "State of the Environment" (all agencies involved)
- Use State of the Environment to set more specific goals for the Authority (EAI)
- Use these goals to align the organisation - allocate the resources where they are most needed to achieve the goals.
- Set priorities within Permitting and Inspection (using a risk assessment tools)
- Define SMART targets on the issues that have been prioritised so its possible to monitor performance
- Evaluate the performance and report to the ministry.
- Set up a formal mechanism to give and receive feedback

Conditions:

- Focus on becoming a more data driven organisation
- EAI needs to be a more flexible and learning organisation
- Develop roadmaps for new upcoming projects (e.g. Carbfix and other climate related projects), learn what happened with other emerging projects, e.g. aquaculture.
  Legislation and plans first in place.

2.2 The Legal Framework

Context

The Major relevant EU legislation is Industrial Emissions Directive (IED), Water Framework Directive (WFD), Landfill Directive, Carbon Capture and Storage (CCS), Management of Mining Waste and the Regulation on Ship Recycling. The national legislation implements most of the EU legislation and the original acts are updated and amended but keep the original date. [Full list in presentation in Annex A] They are not looking to combine legislation as is being done in some countries now.

The Ministry is currently working on a review of national legislation. This could clarify the permit review requirements and also consider the charges for reviews (this would require a change in the Act) and would align with the polluter pays principle. Annual fees could also be considered.

Hygiene and pollution prevention Act

Pollution permits are issued and inspections are based on the Act. The annexes of the Act list the activities that require a permit. All permits are given for a limited time, for a specific period of 16 years. After this they are reviewed and a new one may be issued. The health authorities (LHI) issue permits for some sectors. In IED, permits should be reviewed within four years after new BAT conclusions are published.

If there is for example new technology or if the law has changed, the permit can be reviewed and updated. A review can be initialised by the operator or the agency due to change of circumstances or change of BAT conclusions. The operator is required to notify the supervisory body of changes. There are no procedures in how to make changes to the permits, this process might not be clear for the operators.

The EAI inspects activities that have received permits from the agency (and activities that should have a permit) Permits can be suspended but not be revoked under IED (this changed in 2019). Treatment of waste permits can be revoked. There can sometimes be problems getting the right information from operators and the coercive measures to get these are not often used due to manpower issues. The EAI can impose administrative fines on individuals or legal entities that violate certain provisions. The health authorities can't do this and would have to ask the EAI to do this. The fines are variable.

For fish farming, a permit from the EAI and an operating permit form the Icelandic Food and Veterinary Authority (IFVA) are required to operate. Some companies apply for permits from only one agency, maybe to secure a site even though they need two to operate. There was significant revision to the act in 2014 and 2019. There is always some overlap between permits. Some complaints from operators about inspections from different authorities, the focus of the inspections may be different, but the operator sometimes doesn't understand the need for this. In some areas, for example treatment of sea lice, there is an overlap of scope. If the data collected is not shared however there may be duplication of requests**.** Some sort of portal to share collected information between authorities could be useful.

Legislative formation process

There is a process in place for when environmental accidents happen and the process the operator should follow. Incidents can be reported through general line (112) and also the EAI if during office hours, but the EAI is not normally a first responder. The environmental liability act covers environmental damage and repair. The operator must provide a plan of action and after review, the EAI gives the operator instructions for improvements. Sometimes they have external technical review to support this. It may not be clear to the operator what the requirements on environmental liability are as these may not be mentioned in detail in the permit procedures (for older permits).

An operator should review permit before agreement with the EAI. In the IRI from 2012 it was suggested that IPPC inspections should be completely carried out by the EAI and this has been done. There was a question on fish processing and there are different approaches in different countries - this will be further reviewed in Iceland.

There is a complex relationship between the EAI and the Local Health Authorities (LHI) although **cooperation between them is good**. More regular training for inspectors from both authorities was suggested in the last IRI but has not been done, mainly due to other work pressures**.** A national inspection plan\national training academy could be considered to cover both authorities (and others). There is informal cooperation but it could be clearer where responsibilities lie. Joint inspections have not yet been carried out although inspection reports have been shared. If there is a disagreement on roles, responsibilities or how something should be handled the ministry decides. Overlap in the legislative landscape remains **but there is an ongoing review of this.**

Regulation of geothermal sites is done by the LHI even though many of these are very large sites with a big environmental impact. These could be regulated by the EAI. For water abstraction, the National Energy Authority- is competent but the LHI regulate environmental impacts but so does the EIA up to some extent through the Water Framework Directive. The same goes for hydropower plants.

General binding rules were discussed, these are used by LHI, but specific conditions are included in all EAI permits. They are not allowed for IED installations for the whole facilities. Aquaculture permits could be suitable for general binding rules but these would need to be developed in the right way and would warrant further consideration.

It seems as if is not possible for the EAI to refuse a permit on the basis of the environmental impact (if the activity is not illegal) shown in the EIA. Refusal based on standards (i.e., Water Framework Directive) has not been made clear in legislation. A clear vision/ goals on environmental standards would provide a basis to refuse permits based on environmental impacts.

The Planning Authority is the coordinating authority for the EIA and sends the EIA to relevant authorities for comments. The EAI make an independent assessment of the EIA taking these comments in to account and gives an opinion. The EAI points out problems that could arise or missing legal points to the planning authority but does not give conditions to include. Then they give an opinion considering what should be included. Two people in the permitting team mostly work on reviews (and also spatial planning) and **there is a buddy system** for them so they are paired with the person who will write the permit. Legally it's no longer possible to have a decision on the EIA. Any objections from stakeholders on the EIA will have come in the decision phase of the permit. This is also the reason why there are a lot of appeals against permits.

The operator can also apply for a permit before the EIA report is finalised or there is a decision from the planning authority. This happens with sea pens where companies want to secure a location. This can cause problems, as an application can be submitted and then clock is ticking for the 8 months target and the EIA might not be finalised until the end of the process. Applications without EAI decision could be rejected?

The 8 months is not legally binding timeframe for the EAI but one they use within their own quality management system.

Opportunities for Development – Legal Framework

Revision of the 1998 Hygiene and pollution prevention act is needed;

- Make it possible to:
    - Revoke permits
    - Differentiate in the lifetime of permits (by sector)
    - Simplify permitting by introducing GBR (e.g. fish farms and other non IED)
    - Refuse a permit based on environmental impacts

- Changing of the roles and competences. Some sites now fall under the LHI while knowledge and expertise is really needed to regulate these sites. In some cases clarification of the roles are needed

EIA: Permitting procedure starts directly after the EIA is issued (without a decision). EIA could therefore be the reason of appeals against permits.

Fish farms

- Both the EAI and IFVA issue permits for fish farms and there may be some overlap of scope, even if the focus is different.
- There is good cooperation but not an integrated approach
- Joint inspections have been conducted up to some extent after legal changes were made. That process was not successful.

Other sectors

- Large Thermo and hydropower plants fall under LHI, considering the impact to the environment the competence should be under EAI

Accidents and incidents

- Combination between permit procedures on Incidents and Accidents and Act Environmental Liability. Check if there are cases (older permits) where this could be unclear for the operator

2.3 Capacity building

The Agency is a young and diverse organisation. There are 120 people working at the agency and an educational and training programme is in place for new staff. **There is a theme each year with presentations/ discussions** organised by the HR lead. They have a contact/buddy for support in their team. Training on the job for each individual as well as a general induction programme and training development. Much is digital which has been strengthened during the pandemic in trying to provide the same support for all staff in the 12 areas where the agency operates from. Training for staff is tailored to their experience and the needs of the position.

Priorities and development plan is discussed with manager once a year. International visits for learning do sometimes take place.

The EAI organise separate training for the public health authorities. IED Annex 4 activities are inspected by LHI and health inspectors are required to do a course to be able to do this. Courses are operated by the EAI. These are being further developed on specific topics and to have more content available online. Some joint training with LHI and Port Authorities happens on specific topics. A national approach to training for permitting and inspection for civil servants could be useful. This would have to be properly resourced by the Ministry. Train the trainer programmes could be developed. There could be a big gain for management in becoming more flexible. Training for staff across the organisation would support movement across the organisation. There is no specific training for permitters so this is still an opportunity for development. A training needs assessment could be beneficial to better understand the requirements of the organisation. It is unclear what the risk is for the EAI if the work of the LHI is not performed in a proper way.

Due to the small size of the organisation, staff can move between departments and try different roles. This is supported by the organisation and can help retain staff due to being able to try new challenges. This is normally initiated by the member of staff. This helps broaden perspective.

At specific times of the (Spring to Autumn) they have more seasonal staff, for example rangers. They are trained in January and they work for the season. All staff are bought together twice a year.

There is a national policy to allow staff to be based in any part of the country, regardless of their role. There are offices in different towns that staff can drop in and use.

Transparency is important and inspection plans are normally online (2023 plan still to be published). The challenge may be to make this information more accessible\understandable to the public.

External relations and meeting are well documented but not published. There is a wide range of international cooperation, in networks and organisations. Also reporting requirements through conventions. The EEA focal point is in the EAI.

ISO 9001/14001 accredited and staff can be asked to participate in audits.

Opportunities for development – Capacity building

- Develop a national training programme for permitting and inspection for civil servants
- Training programme should be based on a training needs assessment and linked to the priorities of the ministry
- Develop a train the trainer programme so EAI staff can actively contribute to this programme
- Ask the ministry to support with resources and to coordinate this process
- Facilitate the mobilisation of staff
- Define the risks for EAI when LHI doesn't do their work in a proper way. Use trainings to eliminate these risks.
- Publish documents on stakeholders meetings

2.4 Permitting

Context

Iceland is an EEA-EFTA member so Regulations/ Directives are not directly transposed but implemented through the EEA agreement.

An audit of fish farms was carried out and publicised. There was a big negative reaction to this report and to the sea pen fish farming industry and regulation of this industry presents a challenge. This was felt by other members of the team. More NGOs have been established with the aim of protecting the environment. Almost all permits for sea-based fish farming are bought before the Environmental and Natural Resources Board of Appeal (UUA). A major concern for the NGOs is genetic mixing. The marine fisheries institute (MFI) also give an opinion and WFD requirements are considered.

Up until now there has been no spatial planning of fish farms. Only last week this was changed and **there is now a spatial plan for marine areas in place.** There then needs to be an EIA to assess the feasibility of this location. The conditions in the permit could be very restrictive if the risks are high. Most permits relate additional farms in existing sites. Sites are all in Fjords or on land. Permits now relate to maximum biomass.

Locations and capacities of sites can be checked online and is available to the public [landupplysingar.mast.is]. The Minister of food asked for the audit and has started working groups on specific topics so there is political will to look into this but from another area/ministry and the EAI gives the permits.

There was a change in legislation where The Food and veterinary Inspectorate was supposed to also do the environmental inspections. At first the EIA did joint inspections with them to train them up to some extent but then they were assigned to make checklists for the food and veterinary authority to use for environmental inspections. Further initiatives are being planned. A clear approach with an ultimate objective for fish farming in Iceland would be desirable and the EAI would be consulted.

There are very big aluminium and silicon smelters in Iceland. Waste management sites are mostly landfills. There are some Intensive pig and poultry sites. The **draft permits are put online and can be commented upon**, then the page is updated with the decision.

Setting priorities

- First in first out but also subjective evaluation, but no model in place. Review of permits due to new BAT conclusions.
- Environmental outcome - Companies in high-risk business, IED
- Companies without permit
- Policy drivers - Political pressure/ Climate action plan
- Client demand – Aquaculture (big demand)
- Green investments - CarbFix was highlighted as an interesting project to fix CO2 mixed with water, pumped into basalt rock, that reacts to create secondary minerals. There is a political interest in this project.

There is an annual financial plan but not a work plan for issuing permits. A model could help to prioritise these applications. Also, it helps to demonstrate how decisions are made and could help with reprioritising (due to extra tasks) and budget. It would help new staff and continuity if there should be a link between IED and BAT conclusions in the software, so EAI is notified when permits need to be reviewed.

In 2021

- 24 new permits were issued
- 12 permits were changed by companies request
- From complete and admissible application to issued permit the EAI aims for no more than 240 days
- 75% of permits were within that time limit

In 2022

- 18 new permits were issued
- 12 permits were changed by companies request
- 77% of permits were within time limit

Added requirement that if extra documents are requested and not provided then the application can be rejected. They have a checklist to ensure the documents are provided but not to assess the quality. **Scotland will share a copy of the checklist they give to operators to tell them what is required with the application** (for fish farms).

Costs are directly recovered for time spent working on applications and the permitting team is expected to be cost neutral. General pre application guidance is often not included in these costs. Hours are billed to each application and the applicant is kept in the loop about progress. Milestones in the applications trigger communications.

The EAI has a plan for updating all the permits for ferrosilicon and aluminium smelters (and at the same time removing dilution zone from the permits) 3 specific permitting officers, a new one has been hired specifically to cover CCS. One general support and one ½ of role and one lawyer. There are expert teams in the EAI where the permitting team can discuss the applications with technical staff.

Planning

Annual financial plans are heavily based on the work from last year. The estimations are made on how many permits will be issued in the coming year and is based on the work force but not on estimated number of applications which is difficult to predict. **A new CCS permitter has been recruited this year**. More might be necessary due to the volume of applications (aquaculture). There is a model for estimated hours spent on different tasks. The inspection team has an accurate version of this. There are no billable hours for working on reviews. There is no subsistence charge for permits, but **inspections are also chargeable.**

Charges can be changed with justification. Fees for applications are paid in advance at a standard rate (for example 40 hours for IED) and then extra hours are billable. An opportunity for development could to consider different approaches to being budget neutral. There are big pressures and a struggle to maintain staff. **An IMPEL comparison project on the approaches to charging might help inform this week.**

The number of staff seems low considering the workload and there is a risk with staff focussing on one issue. Flexibility of the organisation is an important aspect that needs attention.

There was a discussion about position of permitting and inspection in the EAI, close cooperation is important and it can be in the same department but different teams. The permit is a toolbox for the inspector. If it aligns strategies and priorities and there is information exchange then different institutional setups are ok. The feeling from the last IRI was that it should be in different departments but this can be organised in a way suited to the culture of the country. The main feature is that the permitter/inspector shouldn't be the same person.

Performing permitting tasks / Operational Cycle

Permitting framework

The team uses work procedures to make sure that work can be executed effectively, efficiently, professionally and consistently. There is a quality handbook that has been simplified and a checklist alongside. The general qualification for permit officers is master's degree in natural science, environment science, public administration or engineering. For lawyers, a master's degree in law is required. Most permitters have a background in geology or chemicals.

As mentioned, staff are encouraged to participate in continuing education and a training schedule is set up and discussed with the head of department and discussed annually.

There is a weekly permitting meeting and cooperation with other teams when needed, for example inspectors or technical specialists. Peer reviewing by a buddy and the lawyer. **All the permits issued have been looked at by the team so there is a collective work. Work and tasks are tracked online** (MS planner) and discussed in the team at these meetings. In ongoing activities, the inspector is always involved in the process. This gives an awareness of issues and progress and is helpful if staff are on leave/ move on.

The performance indicators for the team are that permits are issued on time and that the number of permits that are declared void after issue (Output indicators). Four permits were partially voided in 2022. Many appeals relate to aquaculture. The checklist is updated after appeals. The permitting team has its own lawyer that works on these issues as this is a major work.

Most appeals are of a procedural nature. The decision on the Environmental Impact Assessment (EIA) is also often appealed, either by the operator if an EIA is required or by NGOs if it isn't. For big sites where an EIA is required the appeal would be later in the process once the permit has already be drafted**.**
The permitting procedure is not published but a short description of what is required is available if you start the application procedure. It might be helpful to have the permitting procedures online although a lot of support has already been given by the EAI to the LHI on providing this for their permitted activities.

Templates are used for letters sent and saved centrally. The newest permit is used as a template. This seems to work well as templates were becoming outdated quickly. As the team are all involved in each permit they believe the risk of missing issues is minimised, although it may still exist. Many organisations have standard

text blocks for each activity. These are reviewed by an inspector, permitter and lawyer and updated but don't need to be considered further when the permit is issued. Consideration of standard text boxes for permits could benefit the EAI.

There is no advisory body or any external, independent source of advice. Finding this is difficult in a small country. Time and resource pressures are so tight it is hard to find time to seek advice/ guidance from other sources. (IMPEL etc). They would like to make more time for this.

Internal information exchange is handled through MS programmes, Communication outside the organisation is stored on an electronic filing system called GoPro. Another system called Filemaker is used when permits are handed over to the inspection team. This has been scheduled to be phased out for some years but is still currently being used. This might be used for billing but the documents needed to be uploaded manually to the website for the public. **Deadlines on tasks can be included in Planner and on GoPro** but this system is not so smart. Environmental data is not stored on these systems but the information is stored in PDFs which are time consuming to search through. A timeline could be used to flag when additional information is required/ track the status of these requests.

Permitting procedure - Application

Applications are mostly initiated by the operators, sometimes from the EAI if permits changed due to BATc implementation or if findings during an inspection cause the operator to seek a change. As IED permits are time limited (16 yrs), there might be less administrative burden with indefinite permits with regular reviews.

The EAI have set their own limit of 8 months for determination of permits. The informal goal is all applications within this time frame. Pre-application discussions are not mandatory and are the exception rather than the rule. The file manager makes a case in the filing system and alerts the team manager. They decide the responsible permit officer. The documents are given a name based on the phase in the permit procedure and the GoPro system sets up the nomenclature.

Cases where companies are contacted for more information are listed as on hold. They are starting to consider cancelling applications if no responses come back. The system is not providing accurate figures on days the application is in process/ in hold. **The team record their time spent on different activities** and can see a breakdown of activities and hours (through Power BI), including team activities and it shows billable time.

A first application check could be done by administrative staff and it could be rejected if not complete. This would save time for the permitting team and can also have a positive effect on behaviour of applicants to consider all the requirements. Aquaculture applications have to conform with the conditions from the Aquaculture act for example on risk assessment. There is no dilution zone around the fish farm and different approaches were seen among the review team members. **A further exchange maybe useful among interested IMPEL members, either through informal exchange, a specific project or ongoing IRI support.**

Types of procedure are not very clearly defined in the legislation. The EAI could set out some timeframes for permit procedures and make this an official document.

Decision making

There is **consultation with inspectors to gather information on complaints, incidents or other pertinent issues when considering conditions for the draft permit.** Relevant teams in the EAI are also consulted and for aquaculture it is compulsory to consult with the Food and Veterinary Agency (MAST) and the Marine and Freshwater Institute (Hafró)

Installations are usually bound by the address or land number for the technical units, and gps coordinates at sea for aquaculture. The relationship of the sea pens and other activities such as sailing and fishing were discussed but are not major issues in Iceland.

As far as they are aware, derogations from BAT-AELs have not been granted in any permits in Iceland. The possibility of derogation from BAT in terms of activity (example given relating to side effects of meeting BAT) rather than cost was considered, this is also an issue in other countries and cost benefit ratio would be a key factor. The IMPEL factsheet for the combined guidance for IED permitting and inspections was referenced. This could be another topic for further discussion.

Permit is drafted:

- Standard form
    - Consists of conditions and requirements
        - Activities allowed and location
        - Listing conditions when permit should be reviewed
    - Emission limits/measuring/environmental monitoring plan
    - Legal basis and expiration date
    - Annexes with measuring plans
    - GPS coordinates

When draft permits are published the monitoring plan is also published and the result both are published. A third party does the sampling and monitoring (always in aquaculture and often in other industries/ sometimes the company itself). Impartiality of these third parties requires consideration. They are contracted by the companies and the inspectors have to check the data in detail. The companies should be accredited. **There is a relevant IMPEL project on operator self-monitoring that could support the EAI here.**

The EAI does some air quality monitoring but not related to installations. There is a public website for this information. Water quality monitoring and soil monitoring is done and a database for this information is in the process of being developed.

The draft is sent to the applicant, and they can comment. The draft and comments are then discussed at the weekly meeting. The **draft - along with application form/information, EIA information, monitoring plan, base-line report, and sometimes links to BREF/BATc is then published on the EAI website** (as well as the announcement of the public meeting if applicable). Encourage municipalities to publish it also but no other

social media channels used. Draft permits- could specify the standard conditions and specific conditions. This would mean less burden for the inspector in checking the draft.

It was suggested that the permit officer join the inspector for the first inspection as it can be a useful learning experience (in some cases).

Access to justice

Comments can be given on the draft permit and the comments should be addressed in the explanation report in the annex. The Environmental and Natural Resources Board of Appeal (ÚUA) deal with decisions relating to permits. Any parties with a legitimate interest and NGOs can appeal. The verdict of the UUA is considered in detail by the EAI. Rulings are analysed and noted for future activities of the EAI.
The next stage is the Court and anyone with a legal interest can appeal. Above this the Ombudsman can deal with complaints lodged about decisions, procedures and conduct. The conclusions are not legally binding but are normally followed.

Performance monitoring

The performance indicators for the team are that permits are issued on time and the number of permits that are declared void after issue**.** The EAI have considered other indicators and how to make them more SMART. It would be useful to define indicators on the basis of environmental outcomes. This will make it easier to monitor the work of the operator.

Opportunities for development – Permitting

- Performance indicators are on output, Outcome targets are missing?
- For permit template the newest permit is used. There is a risk in this procedure. Working on standard text blocks per activity could take out this risk. Small committee of permitting, lawyer and inspectors review regular bases.
- Use an administrative officer to check the formal part of the application (complete etc). Communication with the operator can also be done by the adm. officer.
- Use timelines when asking for additional information.
- Norway and Scotland are using dilution zones for fish farms (100 mtr and more) this information should be further exchanged to Iceland
- The types of procedure for applications should be defined more clearer .
- Software GoPro doesn't store data on emissions etc or environment.
- Draft permit – specify the conditions that are standard so the inspector (and other experts) do not have to review these conditions.
- Joint first inspection with permitting officer and inspectors in case of difficult installations and or permits.
- There should be a link between IED installations and BAT conclusions in the software so EAI is notified when permits needs to be reviewed.

2.5 Inspection

Describing the context

The scope is defined in legislation where EAI is the competent authority. The **public can report information to the EAI which can be incorporated into the scope of the inspection**. Risk assessment is the key factor for setting priorities, new permits, environmental concerns and operator compliance are also considered.

Setting priorities

Before 2019, there were categories and inspection frequency based on risk. They used the IRAM tool in 2019 to further develop a risk assessment. This works well in some cases (fish farming) but needs refinements. There is a feeling it does not accurately reflect the risk perceived by the EAI. Risk assessment is specific for each sector and site specific within that. The criteria used in the risk assessment are;

- Releases to water air and soil
- Location with respect to protected areas and populated areas
- Employee training
- Review of data from the operator and the operator uses it
- Attitude of the operator
- Accessibility and general organization on site
- Environmental management system
- Size of the installation
- Compliance

Risk level is weighted in three levels and this could be increased to make it more accurate. There is public pressure to inspect companies regularly and companies want inspections to prove they are performing well.

The outcome of the risk assessment is used to create the inspection schedule. Average time is based on the type and size of installation. 5% of inspections are routine unannounced and they would like to increase this level to 10%. At the moment they contact the company if there is a complaint and ask for an answer, sometimes they inform the local authorities, and sometimes they inspect but they would also like to visit and check more. Most inspections are announced.

There are 6 ½ inspectors and 9 people in the inspection team covering approximately 220 sites. Usually, one inspector and two for bigger facilities carry out inspections. Non-routine inspections are not scheduled in the yearly plan as these can take more time. Announced inspections are given one week notice (in the procedures of the EAI). There is a template for the inspection report but not a checklist. The national plan sets the priorities for the inspections each year and they would like this to be for three years. The amount of unannounced inspections has gone up since the last review. They choose each year some topics from the permit to inspect against. These can be sector themes or specific problems identified in previous inspections. Some topics are checked in all inspections. It could be useful to differentiate between routine announced and unannounced inspections and non-routine inspections to ensure alignment of terms with IED.

There are logistical challenges for unannounced inspections - Inspectors can't access aquaculture sites for example as they don't have their own boats and have to rely on the operator for transport.
Alternatives to the dependence on the operator for boats for aquaculture inspections could be explored. (Coast guards etc) and the EAI could explore the use of drones.

Enforcement actions after inspections have on average taken place 14 times per year and mostly after a formal warning. This is given in a written notice with a three week deadline and fines can be allocated.
The inspection report is sent to the operator and they have two weeks to respond with comments.

C1.3 Defining objectives and strategies

The inspection objectives, targets and strategies are defined with legislation, policy and within the EAI inspection team before each year. The objectives for 2023 are to introduce to operators guidelines on contaminated soil and map out possible contaminated locations in relation to the installations and to introduce a new tariff for the collection of the EAIs inspection fee. These relate to the priority of the EAI and are reflected in the inspection plan. **An inspection manual is available in pdf** and shows all aspects about working for the inspection team, including file storage and use, team meetings and buddy system, inspection plan, how non compliances are dealt with, request to travel, ethics, safety guidebook etc.

Other strategies to ensure compliance should be considered – for example external meetings with associations for industry and operators. Communications about environment and public health. Categorising non-compliant sites has been done (put online with smiley faces for good compliance) but could be more strategically focussed. The operators liked this but there was an issue about past compliance and how to include them into the compliance system. It was suggested that, like in the risk assessment, it could cover the last 4 years and only operators with a good history would get the smiley face. Other techniques for compliance promotion could be considered, such as the approach in Ireland of naming the poor performers (quarterly).

Using certification to drive and change behaviours could be a useful approach for aquaculture for example. There is cooperation between the EAI and LHI and they use their specialists to check on minor issues for example waste and nuisance, where an inspector might not be needed.

There are different types of non-compliance and effective measures. There is categorising in the way the EAI acts in the case of non-compliance and this is used when considering administrative fines and other approaches. Considering the attitude of the operator could be more formalised and included in the risk assessment as this might alter the approach of the EAI to the operators. This would cover cases where operators want to comply but made a mistake. The approach is decided on with the inspector and lawyer and the appropriate response agreed.

There is a national inspection plan also including the activities of the LHI. The sites are divided between the inspectors and they plan their own inspections. Hours are recorded. A common platform for inspectorates to share information on inspections could be useful and may help avoid duplication.

An Excel sheet is used for inspection scheduling. It contains site, risk assessment and whether there is an inspection planned that year. How many hours it should take, filing locations etc. There is another version with the sites that will be inspected, considering time for enforcement actions and whether it has been completed.

The focus of the inspection is set for the year, from within the team but with influences from outside, such as the Ministry. They would like to have a three year focus to make it strategically aligned with the Ministry. The LHI are independent authorities.

The inspection schedule is quite advanced. The plan has been used but needs to be developed further for future years as a strategic document that explains the problems faced and the approaches used to tackle them. This is recommended to be published and it was done for 2021. This will help prioritise activities, especially in the case that new priorities come from the Ministry. The plan was based on IMPEL guidance and this can be used again for future plans. IMPEL can help with this.

Evaluation and feedback

Inspection schedules are reviewed once a year and updated on the basis of the risk assessment throughout the year. The schedule is approved by department director on a weekly decision-making meeting. Results and information on inspections are included in the yearly report. The report should include whether the schedule has been carried out.

Operational cycle

Work processes are in place that are followed during inspections and enforcement activities and are on (from the quality handbook and also in the guidance) the intranet. It contains points to consider relating to the installations, contact requirements, insurance requirements etc Dealing with resistance is covered in the quality handbook and also will be part of a new safety handbook that is being developed.

Administrative fines or handing over to the police is decided by the EAI. **They can give administrative fines**, normally after the event for environmental damage. They have daily fines that can be applied per day (limited per day not by period) until the non compliance is rectified. The operator can appeal, to the UUA first and then court, as in the permitting example.

They can shut an installation but not revoke the permit. Revocation of a permit could be another tool to use but this would only be in extreme cases. Handing a case over to the police can be difficult as they don't have the experience to deal with these environmental issues. There are examples in Europe when an inspector has two hats and can make criminal reports if it is announced to the operators that it will happen this way.

Improving cooperation with inspectors, judges, prosecutors and police is a key priority in Europe. There will be a conference in September from these networks in tackling environmental crime.

Inspection reports are made in Filemaker and the final version is stored in GoPro. These are then published online. Inspection findings go into an Excel file. A lawyer gets the inspection reports and completes this file with details on the results and types of findings (by sector and installations) and any improvements required.

This can be filtered. It contains location, number of non-compliances, non-compliance in the permit conditions (limit exceedance etc), comments, reminders, GoPro number, improvement plan. Most relate to data requirements. Good practices/ or observations are put in the report but not recorded here. These good practices might be discussed in the team. If the permit needs to be revised it would be put in the report and the permitting team would be notified. A time limit would be set.

There are programmes and IT solutions that could support and help speed up this process from the current way of completing and sharing spreadsheets. It would help in making management decisions and to make data more presentable, to have data on these topics more readily available. The EAI could check different systems used by IMPEL members and chose what could support them best.

Monitoring requirements are set out in the permit but monitoring is executed by the operator not the inspection team. The data is sent to the EAI. It could be useful for the EAI to be notified when the monitoring is taking place, so that an inspector could be there to check if it is happening under normal permit conditions.

A **new programme on comparative compliance sampling** (monitoring to check accuracy of the company monitoring) will be carried out again after a previous 3-year project found some mixed results. It is thought that the companies will not oppose to carry the cost of this, as there has been a lot of public scrutiny of the industries. The Agency will aim to have foreign companies conduct the sampling as there aren't accredited companies in Iceland

Monitoring should be from an accredited body using set standards and this could be mentioned in the permit conditions. The EAI currently doesn't have a say in who the company chooses, but the overall monitoring plan is approved by the Agency.

Air quality data is collected at a range of locations and this could help guide the inspector to look at a particular day of monitoring data from the companies. The air quality team monitor this data and they could develop alarms when limits are exceeded and this would support the work of the permitting and inspection teams.

Work processes are in place for recruitment of inspectors. They should have a masters degree or equivalent. No procedure is in place for training needs for inspectors. Space could be made by the EAI for its staff to go through training when required. There are plans to restart visits to other countries for inspectors to learn from other approaches.

There are no other relevant national agencies for inspectors to exchange but they cooperate with the LHI and are starting to cooperate with the National Energy Authority and the Food and Veterinary Agency (MAST). There is a national move from 15 agencies to 3 agencies so discussions on cooperation have begun.

Specialists are called in to give advice on specific topics. For example air quality advice on Aluminium smelters.

Inspection, compliance assessment and enforcement

Inspectors plan their inspections for the year, in accordance with the Inspection schedule. Operators are required to hand in an annual summary report and relevant environmental information. Routine inspections are announced at least one week prior to the site visit. Non-routine visits are announced the day prior or not at all. The EAI could use a flexible approach to notice for inspections. It could be mentioned in the introduction for the yearly plan that they will do unannounced inspections and there should be a responsible person to receive them. Could do an unannounced meeting for the inspection but have a meeting online after if the person isn't there. Out of hours inspections and also weekend inspections could be discussed further if it would add value. This may require planning/ resourcing of overtime.

Complaints come in an online portal for complaints, from emails and calls and occasional visits to the EAI. This can be done anonymously. Complaints could also be collected by apps. They are not categorised when received and this could be useful. They don't have a 24 hour service and emergencies are handled through the police line 112. There were 118 complaints relating to 10 installations in 2020. The file manager puts all complaints in GoPro and then the complaints are sent to the relevant inspector to action. There are timescales for responding but not a legal timeframe. 262 complaints were received last year through the website and calls on top of this. Complaints are also included in the end of year report.

Incidents and accidents. The EAI must be informed as soon as possible by an operator (normally emails / sometime calls) and then they investigate the possible environmental actions. This is stipulated in the permit. They are not the first responder and normally 112 would be used first for accidents. The people at 112 have a system in place and will inform relevant EAI contact in case they should be involved and if they need advice.

The EAI is part of a consultation group concerning the SEVESO II Directive. Inspections should be joint and coordinated with all relevant authorities.

Performance monitoring

New performance monitoring indicators have been established just recently and will be reviewed every year:

- The ratio of operators that have no open findings (non-compliances)
- The ratio of findings that end in enforcement

These indicators are hard to define in terms of the impact of the inspection team on the outputs. The need for outcome focussed indicators is agreed.

The time limit is 45 days from the site visit until the final report is published. The average time for 2022 was 42 days.

Evaluation and feedback

There is a formal consultation group on environmental quality with the EAI and the LHI. Other links are internal.

Opportunities for development – Inspections

- Use of inspection strategies:
    - Make more use of compliance promotion
    - Differentiate between announced and unannounced inspections
    - Inspect in weekend or in the evenings
    - Explore new innovations to inspect (cooperation with IMPEL members)
- In some cases the authority is too dependent on the assistance of the operator to inspect: explore new ways to become less dependent (e.g. boats, drones)
- Data storage – develop software that will support the inspection and enforcement process and also stores inspection, compliance and environmental data
- Explore a common platform for inspectorates to exchange information
- Risk Assessment tool doesn't give the correct outcome and needs to be designed differently
- Include the human factor in your intervention strategy
- There is an inspection programme but not an inspection plan for 2023
- Sharing the compliance data with permitting is not yet done.
- Assure the authority is notified when a measurement (monitoring) is going to take place to check if this is done during normal process conditions. This could be arranged in the permit or the monitoring plan.
- Use of apps to receive complaints from public?
- Categorise the complaints by urgency?
- SEVESO sites – no combined inspections are taken place

2.6 Further Cooperation

There were a number of areas identified during the review where further cooperation with IMPEL and other organisations/ programmes could be beneficial to the EAI. These include:

- Cooperation with IMPEL members, for example cooperation with Norway and Scotland on Aquaculture
- IRI gives the opportunity for further support and follow up
- Participation in relevant IMPEL projects
- Access to EU funded programmes
- Continue/ strengthen Nordic collaboration