



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”

Report on the IRI that took place in the Azores, 21-25 May 2018

Report date: 3 October 2018



<b>Report title:</b> IRI Azores	<b>Report number</b>
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<b>Executive summary:</b> <p>The IRI Team appreciated the opportunity to review environmental arrangements, and in particular inspections, in the Azores, and welcomed and appreciated the full and open contribution of the IRA staff. IRIs benefit participants as well as hosts, and the team members recognised strengths and examples of good practice in the IRA approach. The objectives of the IRI process are to help benchmark current practices, assist continuous improvement, encourage capacity building, exchange experience, and spread good practice. In all these areas, the Azores IRI has been a success.</p> <p>The IRI team was impressed by the maturity of the inspectorate, which was set up only ten years ago, and by the staff who are obviously committed, well trained and highly professional. Overall, there is a planned and structured approach to inspections, supported by a custom-made data and information system. There is a flexible and proportionate approach to enforcement, which appears to be effective in many instances. And there is an extensive network of public bodies with related environmental responsibilities capable of increasing the resources available to the IRA.</p> <p>The IRI team identified a number of possible opportunities to enhance the efficiency and effectiveness of the IRA. For example, there is a general opportunity to improve consistency, transparency and accountability by developing a quality management framework setting out formal procedures and processes for the inspectorate’s key activities. The IRA could further enhance transparency by publishing inspection reports, compliance ratings and enforcement action, which would have the additional benefits of encouraging compliance and deterring non-compliance. And in the interests of making best use of information and resources, the IRA could consider reviewing its arrangements with other public environmental bodies with a view to sharing information (particularly in relation to permitting and inspection) and making best use of resources (particularly in relation to reporting and responding to compliance issues and environmental incidents).</p>	
<b>Disclaimer:</b>  This report is the result of a project within the IMPEL network. The content does not necessarily represent the view of the national administrations.	

## **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 7th 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](http://www.impel.eu).

# CONTENTS

<b>1.0</b>	<b>Introduction</b>	<b>5</b>
1.1	The IRI Scheme	5
1.2	Purpose of the IRI	5
1.3	Scope of the IRI in the Azores	5
1.4	Structure	5
<b>2.0</b>	<b>Part A - Regulatory framework for environmental protection in the Azores</b>	<b>8</b>
<b>3.0</b>	<b>Part C – Performing inspection tasks (Environmental Inspection Cycle)</b>	<b>12</b>
3.1	Internal engagement and co-ordination	12
3.2	Business planning	12
3.3	Quality management	13
3.4	Information and data systems	13
3.5	The inspection process	13
3.6	Compliance and enforcement	13
3.7	Training and development	14
3.8	Engagement and communication with operators	14
3.9	Making best use of resources	14
3.10	Incident response arrangements	15
3.11	Communications with the public	15
<b>4.0</b>	<b>Part D - Site visit</b>	<b>16</b>
<b>5.0</b>	<b>Detailed Findings</b>	<b>17</b>
5.1	Internal engagement and co-ordination	17
5.2	Business planning	18
5.3	Quality management	19
5.4	Information and data systems	19
5.5	The inspection process	20
5.6	Compliance and enforcement	20
5.7	Training and development	21
5.8	Engagement and communication with operators	21
5.9	Making best use of resources	21
5.10	Incident response arrangements	22
5.11	Communications with the public	22
<b>6.0</b>	<b>Conclusions</b>	<b>24</b>
<b>7.0</b>	<b>A vote of thanks</b>	<b>25</b>

## 1.0 Introduction

### 1.1 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), 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.”

### 1.2 Purpose of the IRI

The aims of the IRI 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 IMPEL member countries (“the level playing field”).

The IRI is an informal review, not an audit process. The IRI is intended to enable the environmental authority and 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.

### 1.3 Scope of the IRI in the Azores

The IRI focused principally on inspections in the Azores, carried out by the The Regional Inspectorate for the Environment (IRA). The IRI also considered arrangements for environmental permitting, managing incidents and emergencies, organisational capacity, and communication and co-operation with other public authorities.

### 1.4 Structure

#### 1.4.1 Pre-meeting

Two IMPEL representatives, Patricia Weenink-Driessen and Michael Nicholson, attended a pre-meeting with the Regional Inspector of the Regional Inspectorate for the Environment (IRA), Francisco Medeiros, and the Head of the Division of Inspection and Law Support (DIAJ), Elisabete Vieira, in the Azores on 20

and 21 March 2018. During the meeting, the participants agreed an outline schedule for the IRI and priority focus areas, including:

- Inspections
- Arrangements on environmental permitting
- Procedures around incident and emergency response
- Handling and management of environmental complaints
- Organisational capacity and resources
- Communication between public bodies with environmental responsibilities, including the environmental police and the permitting authority
- Planning and prioritisation of inspections
- Co-ordination with the work of the Nature inspectorate

### 1.4.2 IRI

The IRI itself took place in Ponta Delgada, São Miguel island, between 21 and 25 May 2018. The review took the form of structured presentations from members of the IRA, followed by open question and answer sessions with the review team. As well as the interviews and presentations, there was also a site visit to a power plant Seveso facility where two members of the IRI team joined local inspectors for a follow-up routine inspection.

The IRI team presented their findings to the Regional Secretary for Energy, Environment and Tourism, Marta Guerreiro; her Assistant, Rui Monteiro; the Regional Inspector of the Regional Inspectorate for the Environment (IRA), Francisco Medeiros; and the Head of the Division of Inspection and Law Support (DIAJ), Elisabete Vieira.

The following representatives from the Azores contributed to the IRI:

Francisco Medeiros

Elisabete Vieira

Paulo Pires, Inspector

Luis Machado, Inspector

Monia Campelo, Lawyer

Rita Noia, Lawyer

Miguel Soares, internship in GIS

The IRI team consisted of representatives from the following IMPEL member countries:

**Team Leader:**

- Chris Dijkens (NL, Team Leader)

**Rapporteur:**

- Mark Wells (UK)

**Reviewers:**

- Ritianne Stellini-Galea (MT)
- Fabio Carella (IT)
- Aðalbjörg Birna Guttormsdóttir (IS)
- Rodney Allan (UK)

**Hosts:**

Project leader: Francisco Medeiros, Regional Inspector of the Regional Inspectorate for the Environment (IRA)



*From left to right: Rodney Allan, Ritianne Stellini-Galea, Aðalbjörg Birna Guttormsdóttir, Fabio Carella, Mark Wells, Chris Dijkens*

## 2.0 Part A - Regulatory framework for environmental protection in the Azores

This section outlines the geographical, economic, political and legal environments within which the environmental regulator operates and its relationships with the public, operators, government and other countries. The IRI team gained an understanding of the position, structure, responsibilities and powers of the authority, what decisions the authority takes, how and by whom.

### History and Geography

The Azores Islands are an archipelago of nine volcanic islands in the middle of the North Atlantic Ocean. They extend over an area of more than 600 km from St Maria Island in the South East to Flores Island in the North West.



The first Portuguese Sailors arrived at these uninhabited islands in 1432. The Portuguese Crown decided to settle the islands in 1439. With a total land area of only 2346 km<sup>2</sup>, but a sea Exclusive Economic Zone (EEZ) of 994 000 km<sup>2</sup>, the nine islands are now populated with a total of 246 000 inhabitants. São Miguel island is the most populated, with 137 000 inhabitants. The biggest city is Ponta Delgada, also in São Miguel, with around 50 000 inhabitants.



## **Industry and economy**

The main economic activity in the region is agriculture. Dairy milk farms are the most important sector, and there are numerous dairy milk factories in almost all the islands. Fishery is also an important economic sector. Many people work in the services sector and the public sector. Tourism has seen a significant increase, of 20% per year, over the past four years, and is becoming one of the main economic activities in the Region. In 2016, Gross Domestic Product (GDP) was € 3 927 m, and GDP per capita was € 11 806. The unemployment rate in 2018 was 8.9%.

## **Political administration**

Since 1976, the Azores has been an autonomous region integrated within the framework of the Portuguese Republic. It has its own government and autonomous legislature within its own political-administrative statute and organic law. Its governmental organs include The Legislative Assembly, a unicameral parliament composed of 52 deputies elected by universal suffrage for a four-year term; the Regional Government and Presidency, with parliamentary legitimacy, composed of a President, a Vice-President and seven Regional Secretaries responsible for day-to-day operations. The islands are subdivided into 19 local municipalities. Azorean politics is dominated by the two largest Portuguese political parties: the Social Democratic Party (PSD) and the Socialist Party (PS), the latter holding a majority in the Regional Legislative Assembly since 1996.

The Regional Government and the Regional Assembly can produce specific law for the region in most subjects, always under the umbrella of National and European Directives. Only Foreign Affairs, Justice and Defense are exclusively the competence of the Portuguese Republic Assembly in Lisbon.

The Regional Secretariat for Energy, Environment and Tourism therefore manages the environment at the Regional Autonomy level. This department can produce regional specific legislation for The Azores Region in the environment sector.

## **Organisation**

The IRA was established in 2008. The latest legislation supporting the IRA role is the *Decreto Legislativo Regional* (Regional Legislative decree) 23/2011/A.

The IRA is a service of the Regional Department of Energy, Environment and Tourism, with administrative autonomy. It is concerned with inspection and supervision of the environment, spatial planning and hydric resources applicable law. The IRA is independent and has technical autonomy on the use of its competencies.

## **Missions and competences**

The mission of the IRA is to assure the monitoring, evaluation and promotion of legal compliance by public and private entities in areas of environment, spatial planning and hydric resources. It performs inspections and enforces compliance with applicable law. In particular, the IRA has the following competences:

- a. Perform inspections to enforce and compliance of environment legislation
- b. Provide technical opinions and recommendations
- c. Notify the regulated operator to take measures that prevent, correct or remove risks to the environment and human health or safety and ensure full and effective compliance
- d. To initiate legal action, make a legal case, and take final decisions in environmental administrative infraction processes

- e. Propose or order embargoes on construction works, and stop other actions that may violate full and effective compliance
- f. Diagnosis environmental issues and propose preventive measures
- g. Provide technical opinions about legal cases in environmental subjects or other areas from the Regional Secretary of Energy, Environment and Tourism
- h. Promote law studies intended to make environmental law more comprehensive the environmental law
- i. Perform other tasks in environmental law determined by competent authorities

### **Structure**

The Regional Inspector for the Environment is Head of Department, responsible for:

- a) Division of Inspection and Law Support (DIAJ)
- b) Administrative, financial and planning services

The IRA has inspection branches in Terceira, S. Miguel and Faial Island.

### **The Regional Inspector for the Environment**

The Regional Inspector is responsible for:

- a) Representing the IRA
- b) Supervising all the inspection action of IRA
- c) Establishing recommendations and preventive measures
- d) Managing operational services
- e) Deciding environmental administrative law infraction processes
- f) Submitting the annual program of activities
- g) Supervising and examining annual reports
- h) Supervising management of the IRA, and proposing necessary amendments
- i) Financial authorisation
- j) Procedures for purchasing goods and services or construction
- k) Hiring procedures
- l) Other functions assigned to it by law

### **Division of Inspection and Law Support (DIAJ)**

The DIAJ is responsible for:

- a) Determining, co-ordinating and performing inspections
- b) Proposing, imposing and guiding preventive and precautionary measures
- c) Reporting on infractions
- d) Technical opinions about inspection action reports
- e) Monitoring actions to secure full compliance
- f) Analysing and monitoring complaints received
- g) Providing legal and environmental technical advice
- h) Carrying out law studies and providing technical opinions
- i) Elaborating and participating in law projects regarding IRA activities
- j) Ensuring consistent application of IRA rules
- k) Organising and keeping current legal matters
- l) Preparing and instructing environmental administrative infraction process
- m) Maintaining a register of enforcement actions
- n) Maintaining the IRA website and other online services
- o) Other technical-law functions assigned to it by superiors
- m) Other functions assigned to it by superiors

### **Performing inspections**

Inspectors have autonomy and technical independence when performing inspections. Inspectors are responsible for:

- a) Planning, co-ordinating and conducting inspections
- b) Request documentation for examination where the inspection occurs
- d) Confiscate, or take certified copies of, documents relevant to investigation
- e) Ensuring the legality of inspections
- f) Notifying operators of measures to ensure full and effective compliance
- g) Producing reports, warnings, information, technical opinions, and recommendations
- h) Performing inspections on projects in execution
- i) Diagnosing environmental risks and proposing preventive measures
- j) Proposing measures to prevent or eliminate risk to the environment, health or safety
- k) Proposing measures to improve service performance
- l) Requesting collaboration of police forces when necessary, to ensure inspector safety
- m) Providing technical legal advice
- n) Other tasks requested by superiors

### **External relationships**

The IRA has a direct relationship with the Regional Directorate for the Environment (DRA), the permitting authority, and with all the enforcement and compliance forces with competence in environment law:

- The National Republican Guard – Nature and Environment Special Force (GNR – SEPNA)
- The Public Security Police (PSP)
- The Maritime Police (PM)
- The Vigilantes da Natureza (VN) a DRA Natural Parks service

All these entities are empowered to issue official infraction notices, the trigger to start an administrative environment law process, which is evidence in the enforcement action process. The Regional Inspector decides whether the notices are sufficient to start a case process and, if so, IRA lawyers develop the case and the Regional Inspector takes the final decision on enforcement.

The IRA co-operates with The General Environment Inspectorate (IGAMAOT) in Lisbon. As a Regional organisation, the IRA does not have responsibility for trans-boundary issues with other states, and this responsibility rests with IGAMAOT.

### **Legislation**

The IRA activity is based on Portuguese and European legislation on major subjects, subdivided into local or Regional legislation, covering:

- Air
- Water
- Waste
- Nature
- Spatial Planning

### **Regulated activities and industries**

Dairy milk farms are the most important activity with some environment impact. However, waste and illegal construction activities create more infractions. Noise and odor (from cow and/or pig farms) are also the subject of large numbers of complaints. The islands have 16 IPPC facilities and 11 SEVESO facilities.

## 3.0 Part C – Performing Inspection Tasks (Environmental Inspection Cycle)

The IRI team identified a number of areas of good practice, as well as opportunities for development, and these are summarised below in eleven key areas identified by the IRI team:

- Internal engagement and co-ordination
- Business planning
- Quality management
- Information and data systems
- The inspection process
- Compliance and enforcement
- Training and development
- Engagement and communication with operators
- Making best use of resources
- Incident response arrangements
- Communication with the public

### 3.1 Internal engagement and co-ordination

#### Good practices

1. The IRA mission is to assure compliance, and its vision is to protect the environment and contribute to the economy
2. Inspectors have extensive powers and responsibilities
3. The IRA publishes an annual plan and performance report
4. There is mobility of technical staff between Government bodies
5. There is a code of ethics for inspectors and some measures are taken to prevent issue blindness

#### Development opportunities

1. The IRA could engage more effectively in promoting legislative changes that would enhance its effectiveness
2. Clearer procedures would be helpful for determining whether cases are criminal or administrative, and determining administrative fines
3. Building on co-operation and co-ordination with GNR-SEPNA and DRA Surveillance would enhance the enforcement and incident response processes
4. Seeking opportunities for improving co-operation between the DRA permitting process and IRA inspection process would have benefits for both permitting and inspection
5. Regional legislation could be used to bring further clarity to levels of potential fines
6. Good internal communication and engagement between IRA staff and between the IRA and related public bodies is essential

### 3.2 Business planning

#### Good practices

1. The IRA has a planned and prioritised annual inspection programme aligned with the Regional environment plan
2. Campaigns are planned to address identified problem areas and new legislation

#### Development opportunities

1. When there is pressure on resources, it might be better to prioritise inspections based on risk, and focus on a smaller number of inspections but improve the quality

2. It would be good practice to record the staff time taken to conduct inspections in order to better inform workload planning and prioritisation
3. Engaging policy makers and permittees in setting the annual inspection programme would be beneficial
4. There may be potential for setting and reporting an annual operator compliance score, as is the practice in some other regulators, and basing charges in part on compliance performance
5. Non-IED site risks need prioritisation, and integrated risk assessment could help this process

### 3.3 Quality management: processes and procedures

#### Development opportunities

1. There would be benefits in considering formal procedures for key functions, such as:
  - Determining permit conditions
  - Checks on the technical competence of operators
  - Determining enforcement action
  - Potential for suspension of fines
  - Submission of cases to courts

### 3.4 Information and data systems

#### Good practices

1. The IRA has a new, purpose-designed, integrated database and workflow system in GESTIRA
2. The proposal to integrate GIS and GESTIRA systems will provide comprehensive integrated site information in one system

#### Development opportunities

1. Connecting the GESTIRA database to the permit database could enable automated feedback from inspections

### 3.5 The inspection process

#### Good practices

1. Most inspections are integrated, covering all environmental aspects
2. Templates are in place for both the inspection process and reports
3. Inspectors have the legal capability to audit and verify operator self-monitoring data

#### Development opportunities

1. Inspectors need the capability to verify operator self-monitoring through sampling and analysis, to support their legal power
2. To protect public resources, permits should state that if analysis/research is needed in the event of a non-compliance or environmental incident, this will be at the operator's expense
3. Rotating officers and sites is one simple way to help avoid issue blindness
4. Cross-training, including shadowing more experienced officers, is one way of enhancing resilience in the inspector team

### 3.6 Compliance and enforcement

#### Good practices

1. Significant fine levels are available to the IRA to deter and punish non-compliance
2. Simple enforcement measures, such as warning letters, are effective in addressing the majority of non-compliances

3. The potential to suspend fines provided action is taken and conditions met, is a useful tool
4. The IRA can ensure operators pay costs for remediating their environmental damage, even in parallel with criminal case

#### **Development opportunities**

1. A policy and procedure would make the enforcement process more transparent and accountable, and examples are available from other regulators such as SEPA
2. Clarifying, publicising and recording any mitigating circumstances which might reduce a penalty, such as self-reporting an incident or co-operating in an investigation, could help drive up compliance in the longer term
3. Publishing penalties, balanced with promoting good practice, can help drive up compliance

### **3.7 Training and development**

#### **Good practices**

1. The IRA can determine its own training requirements, and staff are entitled to up to 100 hours of additional time off for personal training priorities

#### **Development opportunities**

1. Consider structured training programme for inspectors
2. Need targeted training programme, including keeping up to date with BAT, and participate in exercises
3. Clear requirements and curriculum

### **3.8 Engagement and communication with operators**

#### **Good practices**

1. The IRA has published an Environment Manual to help operators understand the regulatory process, supported by an email newsletter and clarification sessions with groups of operators
2. Inspection reports are shared with some operators, helping them understand and address non-compliance and drive up compliance

#### **Development opportunities**

1. Operator clarification sessions are a real benefit and should be maintained, and could be particularly helpful for sectors with a poor compliance record
2. Inspection reports could be sent to all operators as a matter of course, preferably by email, within a target timescale, for example within 10 working days of the inspection

### **3.9 Making best use of resources**

1. The IRA has a good local relationship with GNR-SEPNA, and this could be developed to good effect as GNR-SEPNA is a potentially very effective resource
2. The noise assessment equipment available to the IRA should be re-certificated as it is an effective environmental monitoring tool

### **Development opportunities**

1. The IRA could consider making arrangements to guarantee access to sampling and monitoring equipment and vehicles, including those operated by other organisations, to enhance its capacity to audit operator returns and respond effectively to incidents

## **3.10 Incident response arrangements**

### **Development opportunities**

1. It would be helpful to clarify roles and responsibilities for incident response between public bodies in order to better co-ordinate response and make best use of available resources and expertise
2. Simplifying and clarifying the complaints notification and triage procedure would enhance incident response efficiency and effectiveness
3. The IRA should consider establishing a formal out-of-hours on-call system to help ensure an effective response to incidents, particularly those at regulated sites

## **3.11 Communication with the public**

### **Good practices**

1. The Regional Council for Sustainable Development and the Environment is a potentially beneficial vehicle for public engagement via NGOs

### **Development opportunities**

1. Celebrating good practice, publishing compliance levels and enforcement action, and making inspection reports publicly available would all have potential to enhance transparency and accountability, while fostering public confidence
2. A policy and process for communicating and information sharing and publishing would help guide this work and make best use of IRA resources



## 4.0 Part D - Site visit

Two members of the IRI team, Ritianne Stellini-Galea (MT) and Aðalbjörg Birna Guttormsdóttir (IS), joined local inspectors for a routine follow-up inspection of a Seveso power plant facility.

The site receives one inspection per year, and most inspections are un-announced. The operation has ISO 14001 (Environmental Management) and 9001 (Quality Management) certification and is subject to an Environmental Management System. There have been no public complaints recently, compliance has improved and the operation is currently compliant.

The IRI members noted that the inspectors were not in possession of the permit, and did not have advance sight of recent revisions to the wastewater section of the permit, and had to request both from the operator. The IRI members noted that, based on the information from the inspectors, this is a usual practice. The permit includes a waste management plan, but the plan is not verified other than an assessment by the inspector. The site is subject to ongoing and spot monitoring. Inspectors are not able to inspect monitoring equipment, only the monitoring results. The IRI members noted that the inspectors could not complete their report on site, but only once the inspectors had returned to their office. The operators informed the IRI members that, in general, they have a positive relationship with the IRA, and benefit from advice and guidance received from the inspector and learn from good practice elsewhere.

The IRI members noted some areas of good practices and some development opportunities:

### Good practices

- The inspectors demonstrated a professional attitude and approach
- The inspectors promoted good practice to the operator, who took these suggestions on board

### Development opportunities

- It would help the inspectors prepare and conduct the inspection if they were in possession of full permit documentation in advance
- There is scope to improve co-operation and co-ordination between the permitting and inspection authorities
- There is some potential to enhance community engagement and education, for example through displaying an information board on the boundary fence to make it easier for the public to contact the operator or the inspectorate

## 5.0 Detailed Findings

### 5.1 Internal engagement and co-ordination

#### Good practices

1. The Azores environmental inspectorate, IRA, was established in 2008, so it is impressive that it has established itself so effectively in a period of less than ten years
2. The Mission of the IRA is to provide assurance of regulatory compliance by operators, but its vision recognises the link between the environment and the economy in setting out its commitment to contribute both to protecting environment and supporting the economy
3. IRA inspectors have a wide range of powers and responsibilities, giving them the potential to be very effective in driving up compliance
4. IRA inspectors provide feedback to the permitting authority, DRA, in their reports, and permits usually are amended if required as a result of inspection findings
5. The IRA publishes an annual report on its activities, providing an opportunity for stakeholders and the wider public to enhance their awareness and understanding of what the IRA does and what it has achieved.
6. Feedback is always provided to people making environmental complaints to the IRA, which enhances public confidence and encourages the public to report environmental issues and non-compliances
7. There is a bilateral co-operation protocol between the IRA and IGAMAOT in Portugal, through which support is available to the IRA to efficiently enhance its effectiveness
8. There is mobility of technical specialist staff between Government bodies in the Azores, which helps retain expertise and make the most effective use of available resources
9. The IRA has a code of ethics and principles for inspectors that promotes and ensures high professional and ethical standards in the work of the inspectorate
10. Some measures are taken by the IRA to prevent the problems of regulatory capture or issue blindness by its inspectors
11. The performance of all public servants in the Azores, which includes IRA staff, is formally evaluated every two years, which provides some assurance of effectiveness
12. The IRA undertakes its high level annual business planning through the QUAR integrated evaluation tool, and the plan is published online, along with the IRA annual performance report, enhancing the transparency and accountability of its activities
13. The IRI sets and reports performance indicators, along with an explanation of its performance levels

#### Development opportunities

1. There is potential for the IRA to engage proactively in proposing changes to legislation that would enhance the effectiveness of environmental protection in general, and the regulatory process in particular
2. The IRA makes no charge to operators for its inspection activity, but it could consider the potential for setting such a charge both to implement and broaden the 'polluter pays' principle and to increase the financial resources available to the inspectorate
3. There is a legal requirement for financial penalties to be returned to the inspectorate and the IRA should seek to ensure that this does happen, to further increase the financial resources available to it
4. The GNR-SEPNA and DRA Surveillance have roles which overlap with those of the IRA in terms of inspection, enforcement notices and incident response; so it would be beneficial to clarify the relative roles and responsibilities of all three organisations and consider opportunities to enhance

co-ordination through Memoranda of Understanding and joint training and exercising to make the best use of available systems, services and resources

5. It is important that the permitting and inspection processes work in a fully integrated manner, even if they are undertaken in different organisations, so enhancing co-operation between DRA and the IRA, including facilitating direct access by the IRA to permits, permit changes, reports and correspondence, would better inform the inspection process
6. Inspection targets should be based on environmental outcomes, and public bodies could then establish a common strategy for achieving those outcomes
7. Although fine levels for environmental non-compliances are set nationally at a Portuguese level, there is flexibility to use regional legislation in the Azores set the criteria for determining fine levels and this should be used to clarify and simplify the range of penalties and when they would apply
8. Close and frequent engagement with the Environment Secretary in developing and delivering the IRA's objectives would help ensure IRA outcomes are achieved, and support strategic Government objectives
9. The QUAR business planning system is common to all Azores government bodies, so it has great potential to ensure integration and co-ordination if relevant bodies engage collectively and co-operatively in the plan development process
10. Outcome measures are considered more meaningful and powerful than activity measures, so the IRA could consider developing more outcome measures and targets in its annual plan (such as compliance rates or take-up of advice and guidance), and reporting on these in its annual report
11. There are inherent risks if related services and functions operate in silos, so there are real potential benefits if environmental Directors could meet and work more as an integrated team
12. It is important to ensure good internal communication and engagement between the IRA and related public bodies to help ensure a coherent and co-ordinated approach to permitting, inspection and enforcement, and clarify the incident response process to help ensure incidents are more efficiently and effectively managed
13. It is important to ensure good internal communication and engagement between staff in the IRA to help ensure co-operation and co-ordination, and effective team-working

## 5.2 Business planning

### Good practices

1. It is important to undertake a risk assessment of sites and operators in order to make the best use of available resources by targeting inspector effort, so IMPEL welcomes the IRA's commitment to using its Integrated Risk Assessment Method (IRAM) tool
2. The annual inspection programme is planned and prioritised to integrate with the Regional environment plan, which should help the IRA deliver more effectively against wider commitments
3. The focusing of inspector effort through campaigns in problem areas and in support of the implementation of new legislation helps to ensure limited resources are used to best effect

### Development opportunities

1. It is important that the inspectorate maintains a comprehensive, accurate database of all permitted sites so it can effectively assess risk and prioritise and plan its inspections, so close co-operation with the DRA is essential
2. An effective and accurate work time recording system would be beneficial in setting charges and supporting resource requests
3. When there is pressure on limited resources, it may be more effective to reduce number of inspections but improve their quality, and consider when it would be beneficial for two officers to

undertake an inspection, and record the time taken so that workload planning can be more accurately prioritised

4. In order to help ensure integration and co-ordination in the setting of the inspection programme, it might be beneficial for the IRA to seek to enhance its engagement with policy makers and permittees in the process
5. To enhance transparency and clarity, and support workload planning, it might be helpful for the IRA to produce a comprehensive annual inspection plan
6. There may be benefits in terms of accountability and public confidence if the IRA developed an annual compliance score for operators, and published an annual compliance report
7. IRAM is a useful risk assessment tool, and there may be scope to use it to assess non-IED sites as these need prioritisation to make the best use of inspector resources

### 5.3 Quality management: processes and procedures

#### Development opportunities

1. A clear procedure for determining and recording what enforcement action the IRA should take in relation to non-compliance, such as fine levels, would help ensure consistency, transparency and accountability
2. Clear criteria and a robust procedure for determining and recording when and how fines should be suspended should be put in place to help ensure consistency, transparency and accountability
3. A clear procedure for determining whether non-compliances should be referred to the Court would help ensure consistency, transparency and accountability
4. There would be benefits in considering establishing a comprehensive quality management system for the IRA to clarify procedures and help ensure consistency, transparency and accountability

### 5.4 Information and data systems

#### Good practices

1. The new, integrated database and workflow system, GESTIRA, is a real benefit to the IRA in focusing its workload planning and recording and making available comprehensive data including planned inspections, inspections carried out, and non-compliances
2. The ambition to develop the GIS system for use by the IRA will bring real benefits in supporting and integrating workload planning
3. The IRA has proposed shared folders or a shared database with the permitting authority, DRA, which has the potential to improve integration and co-ordination of the overall permitting and inspection process
4. Information is exchanged digitally within the IRA and with other public bodies, and shared folders and an intranet are in place, which increases efficiency and reduces waste
5. The proposal to integrate the GIS and GESTIRA systems will enable access to comprehensive, integrated site information in a single system, and has the potential to significantly improve workload planning and recording
6. The IRA GIS system has the potential to be public facing, which would bring real benefits in transparency and public access to information, and such a system already exists in the DRA as an example

#### Development opportunities

1. The potential exists to connect the GESTIRA comprehensive inspections database to the DRA permitting database, and such a development has the potential to significantly enhance efficiency, improve integration and co-ordination, and automate the inspection feedback process

## 5.5 The inspection process

### Good practices

1. Most of the inspections undertaken by the IRA are integrated inspections covering all environmental aspects of the permit, which makes efficient use of inspector time
2. The inspectorate makes use of templates for the inspection process and report, which helps ensure a comprehensive inspection and consistent reporting
3. A guidance handbook is provided for inspectors, which helps ensure a consistent approach to inspections
4. Although there is clear guidance and a template, there is also some flexibility in the type of inspection undertaken, which allows inspectors to be responsive to individual circumstances
5. The IRA inspectors have legal powers to audit and verify the self-monitoring and reporting undertaken by operators, which should provide assurance of compliance

### Development opportunities

1. Arrangements should be put in place for inspectors to have access to permits and permit amendments ahead of inspections, and not need to request these from operators
2. Although a template is available, it might be beneficial to go further and set out a structured formal inspection procedure to ensure consistency and completeness
3. Although inspectors have the power to verify operator monitoring they do not have the capability, so it would be beneficial to develop the capability of inspectors to undertake sampling and analysis to enhance assurance of compliance
4. There are examples (such as in Malta and Iceland) of permit conditions requiring operators to pay for additional monitoring and analysis required in the event of a non-compliance or accidental release, and this could be considered in the Azores
5. Rather than allocating inspectors to sites, it might be beneficial to consider rotating site inspectors to reduce the risk of regulatory capture or issue blindness
6. With a limited number of inspectors available, it might enhance resilience if inspectors built skills and experience relating to each other's work areas

## 5.6 Compliance and enforcement

### Good practices

1. The national Government of Portugal has prescribed significant penalties for a range of non-compliances which should act as both deterrent and punishment, and the Azores Government has a degree of discretion in how these penalties are applied in reality, which allows for a degree of proportionality and flexibility to suit particular circumstances
2. The simple enforcement measure of a warning letter appears to be effective in resolving around 50% of non-compliances, which represents an efficient and effective use of IRA resources
3. The power to suspend fines pending specific action within a prescribed timescale seems to be effective in driving corrective action and is a useful tool available to the IRA
4. The IRA has a degree of flexibility in the application of enforcement actions, which allows for a responsive and proportionate approach considered most effective for individual circumstances
5. The IRA has powers to impose clean-up costs on operators, if necessary in parallel with a criminal case, which helps ensure environmental remediation and applies the 'polluter pays' principle
6. The IRA demonstrates an understanding of the social and economic implications of regulation, which helps ensure an appropriate balance between environmental, economic and social considerations in decision-making

### **Development opportunities**

1. Examples of enforcement policies and procedures are available (such as from Scotland), which could help the IRA in developing a consistent and transparent enforcement process
2. Celebrating good practice encourages compliance and publicising penalties discourages non-compliance, so it might be beneficial for the IRA to do both
3. Some regulators establish and publish an overall annual compliance rating for operators, which helps provide public assurance of compliance while deterring non-compliance; this might be an approach worth considering in the Azores
4. Flexibility is helpful, but risks being seen as inconsistency, so it would be helpful for the IRA to set out clear criteria for making decisions when it is exercising its discretion over enforcement action

## **5.7 Training and development**

### **Good practices**

1. The IRA can determine its own training requirements and delivery, and this power is established in law; and all staff are entitled to up to an additional 100 hours away from work to undertake training specific to their personal requirements (although the training itself is not paid for)

### **Development opportunities**

1. It might be worth considering the development of a structured curriculum and training programme to ensure a comprehensive and consistent approach to training for inspectors
2. A targeted training programme, including technical content and participating in incident and emergency response exercises, would be beneficial in ensuring inspectors keep up to date with BAT and inter-agency procedures

## **5.8 Engagement and communication with operators**

### **Good practices**

1. The inspectorate has published a detailed Environment Manual to help ensure operators understand the requirements of environmental regulation, and has followed this up with an email newsletter and clarification sessions with groups of operators
2. The IRA enjoys a generally positive relationship with operators, and is often considered an advisor as well and not only an enforcement authority
3. Inspection reports are shared with some operators to ensure their awareness of both their compliance and any issues of non-compliance

### **Development opportunities**

1. The operator clarification sessions are good practice, and the IRA should seek to ensure that this approach continues
2. All operators should be aware of the findings of inspections of their activities, so it might be helpful to them if the IRA sends inspection reports to all operators

## **5.9 Making best use of resources**

### **Good practices**

1. There is a good local relationship between the IRA and GNR-SEPNA (the National Guard), which is well resourced, which potentially makes significant additional resource available to the inspectorate

2. Environmental inspectors in the Azores have noise assessment equipment which could help respond to noise nuisance complaints at regulated sites and ensure compliance (although staff and the equipment are not currently certificated for its use)

#### **Development opportunities**

1. Access to vehicles is not always reliable or sufficient, which reduces the mobility of IRA inspectors, so it would be worth exploring a system which guarantees access to vehicles and ensures inspector mobility
2. Building the capability of inspectors to carry out environmental monitoring and analysis (through training, and access to equipment and services) would enhance both the auditing of operator monitoring returns and the IRA's capability to respond to complaints and incidents
3. There are a number of organisations with a role in environmental compliance and incident response in the Azores, and it would help ensure effective delivery and response if the IRA made arrangements and agreements to make use of the resources available through other organisations

### **5.10 Incident response arrangements**

#### **Development opportunities**

1. There are a number of organisations with responsibilities for incident response in the Azores, and limited capacity within the IRA, so it would be helpful to clarify roles and responsibilities of all organisations involved and seek to ensure effective communication and co-ordination between these public authorities
2. There are several routes through which the public can report incidents and make complaints, so it could make that process more effective if the process was simpler and clearer for users, along with a clear approach to the triage procedure for initial notifications
3. There is no guarantee that IRA staff would be available to respond to an incident outside normal office hours, and it would be worth considering an effective response to how incidents are responded to out of hours can be guaranteed

### **5.11 Communication with the public**

#### **Good practices**

1. The IRA website includes a form for members of the public to submit complaints about operator compliance or environmental incidents
2. The Regional Council for Sustainable Development and the Environment is a valuable vehicle for engaging with the public through NGOs
3. Recognise benefits of making complaints information public
4. Media contact all has to go through Secretary's press assistant

#### **Development opportunities**

1. Publishing enforcement activity would both act as a deterrent of non-compliance as well as creating transparency and providing assurance to the public of the activities of the inspectorate
2. Ensuring good feedback from the Regional Council for Sustainable Development would encourage public engagement and provide assurance that issues raised are being addressed
3. Making the inspection, compliance and complaints record of operators public would encourage compliance as well as providing transparent public information and assurance regarding the operation of the inspectorate

4. The IRA annual performance report might be enhanced through the use of infographics, which could then be used more widely in public communications, for example through social media
5. Effective communication is an important function for an environmental inspectorate, and developing a communications strategy and plan might help ensure the IRA communicates successfully with its many stakeholders and audiences
6. Some regulators establish and publish an overall annual compliance rating for operators, which helps provide public assurance of compliance while deterring non-compliance; this might be an approach worth considering in the Azores



## 6.0 Conclusions

The IRI team appreciated the opportunity to explore environmental regulation arrangements in the Azores, and the openness and support of the IRA team. The IRI team was impressed by the maturity of the inspectorate, which was set up only ten years ago, and by the staff who are obviously committed, well trained and highly professional. Overall, there is a planned and structured approach to inspections, supported by a custom-made data and information system. There is a flexible and proportionate approach to enforcement, which appears to be effective in many instances. And there is an extensive network of public bodies with related environmental responsibilities capable of increasing the resources available to the IRA.

The IRI team identified a number of possible opportunities to enhance the efficiency and effectiveness of the IRA. For example, there is a general opportunity to improve consistency, transparency and accountability by developing a quality management framework setting out formal procedures and processes for the inspectorate's key activities. The IRA could further enhance transparency by publishing inspection reports, compliance ratings and enforcement action, which would have the additional benefits of encouraging compliance and deterring non-compliance. And in the interests of making best use of information and resources, the IRA could consider reviewing its arrangements with other public environmental bodies with a view to sharing information (particularly in relation to permitting and inspection) and making best use of resources ( particularly in relation to reporting and responding to compliance issues and environmental incidents). Inspection targets could be set on environmental outcome and a common strategy can then be elaborated between authorities on how to achieve those outcomes.

## 7.0 A vote of thanks

As Team Leader for this IRI, I would like to extend my thanks personally, and on behalf of the IRI Team, for the support and assistance afforded by the staff of the IRA, which helped to make the IRI both a rewarding and enjoyable process, and I hope a useful one for the Azores environmental inspectorate.

**Chris Dijkens**  
**IMPEL IRI Azores Team Leader**  
**3 October 2018**