



IMPEL NETWORK

European Union Network for the Implementation
and Enforcement of Environmental Law

IMPEL REVIEW INITIATIVE (IRI)

**(“A voluntary scheme for reporting and offering advice
on inspectorates and inspections procedures”)**

Phase 3: Testing of the Review Scheme

2nd Review: Wexford, Ireland, 4-8 March 2002.

Co financed by the European Commission



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CONTENTS	Page
1. Executive Summary	1
2. Introduction	2
3. Pre-Review Meeting	5
4. Review and Main Findings	7
5. Industry Visit	24
6. Summary of Findings	25
7. Conclusions	29
8. Acknowledgements	29
9. Lessons for the Review Process	29
10. Abbreviations	30
Appendix 1. Terms of Reference for IRI Project	31
Appendix 2. Recommendation on Minimum Criteria for Environmental Inspection	39
Appendix 3. IRI Questionnaire and Guidance	47
Appendix 4. Terms of Reference for EPA, Ireland Review	63
Appendix 5. List of Participants in Review	69
Appendix 6. Numbers of IPPC Installations Regulated by EPA, Ireland.	70



1. EXECUTIVE SUMMARY

This report describes the results of the second review of Phase 3 of the IMPEL Review Initiative (IRI) Project. The project is designed to develop and test “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” in EU Member States. The scheme was proposed against a background of preparation of a European Parliament and Council Recommendation for providing Minimum Criteria for Environmental Inspections (MCEI) in the Member States, and in expectation of the need for arrangements to review its implementation. Further background was provided by Article 3 (2) of Decision No. 1600/2002/EC of the European Parliament and Council of 22nd July 2002 promoting improved standards of permitting and inspections. Terms of reference for the project were agreed at the Porto Plenary of IMPEL in May 2000. A Questionnaire and associated Guidance, for aiding consistency of such reviews, were developed in Phase 2 of the project and adopted at the Falun Plenary of IMPEL in June 2001.

This review was carried out in March 2002 by the kind co-operation of the Environmental Protection Agency (EPA), Ireland. A pre-review meeting was held in the offices of the EPA in Wexford on 5 February 2002. The nature of the review was discussed and practical arrangements made for it. This meeting reinforced the experience of the first review in confirming the value and necessity for such a pre-review meeting.

The report includes a brief description of Irish environmental law and the constitutional arrangements for implementing it. The Review Team noted that transposition of the IPPC Directive is currently in progress and that, for the time being, the EPA is implementing its provisions by direct administrative effect. The Review Team thus concluded that provisions for implementation of IPPC were covered, and that the arrangements for environmental inspections were broadly in line with the MCEI Recommendation, except perhaps for some aspects of enforcement action related to absence of powers to revoke permits and lack of arrangements for submission of routine inspection reports to operators.

The team also concluded that the EPA benefited from the implementation of a Quality Management System certified to ISO 9002 Standard and the provision of substantial information technology support of their regulatory, training, administrative and reporting functions. It is suggested that EPA consider producing high-level policy statements covering permitting, enforcement, inspection practice and the handling of public complaints. The findings of this review were broadly reinforced by separate discussions with a major site operator.

These findings are set out in terms of examples of good practice for other Member State Inspecting Authorities, and in terms of the opportunities for development by the host Inspecting Authority.

Further lessons for the review process were also noted and are recorded in the report.

2. INTRODUCTION

The Porto Plenary meeting of IMPEL, in May 2000, agreed Terms of Reference for a 2-year project designed to test “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”) that was first proposed at the previous Plenary in Helsinki, in November 1999. These Terms of Reference are attached at Appendix 1. They refer to a “Recommendation of the European Parliament and of the Council for Minimum Criteria for Environmental Inspections in the Member States” (MCEI). A copy of this is attached at Appendix 2.

The potential benefits foreseen from such a scheme were:

- Encouragement of capacity–building in EU Member State inspectorates.
- Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.
- Provision of advice to inspectorates (“candidate inspectorates”) who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.
- Spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).

The features considered necessary to deliver these benefits were seen as being:

- Well-defined scope of application.
- Practical and easily understood arrangements for scheduling, organising, funding, conducting and reporting on any review of a candidate inspectorate, and with minimal bureaucracy.
- Absence of any threat of self-incrimination or infraction proceedings arising specifically from application of the scheme.
- Control, by the candidate inspectorate, of dissemination of information arising from any review.
- Participation, by the candidate inspectorate, in selection of personnel to carry out any review.
- Effective follow-up arrangements for support of any candidate inspectorate seeking further advice or assistance on issues identified during the review.

- Effective arrangements for dissemination across Member States of training or educational material on lessons learnt and good practice identified during any review.

The agreed Terms of Reference proposed that the Regulatory Scope of this scheme be limited initially to arrangements for implementation of the IPPC Directive. To reflect the interests and activities of IMPEL they also proposed that, by agreement with the candidate inspectorate, the Organisational Scope of the scheme should include any or all of the following:

- The legal and constitutional bases of the inspectorate, including interfaces with other bodies such as Planning Authorities, and its related powers and duties. (i.e. “political independence / dependence”)
- Structure and managerial organisation, including funding arrangements, staffing and lines of authority and responsibility for regulatory and policy functions.
- Workload and associated resources.
- Qualifications, skills and experience of regulatory staff.
- Procedures for assessment of training needs and provisions for training and maintaining current awareness.
- Procedures, criteria and guidance for drafting of permits, for planning inspections, for subsequent assessment of compliance (“inspection”) and for enforcement action in cases of non-compliance.
- Arrangements for internal assessment of the quality of regulatory performance and for improvement if appropriate.
- Arrangements for reporting on inspectorate activities.

This scope addresses all aspects of inspectorate organisation, management and operation as implied by the agreed terms of reference for the project. These refer to “inspection and inspection procedures.” The first, third, sixth and last items of the above list address, specifically, the issues covered by the European Parliament and Council Recommendation on Minimum Criteria for Environmental Inspections.

The Terms of Reference proposed a three-phase development of the project, the second phase of which involved drafting of a questionnaire as a basis for reviews. First drafts of the questionnaire and associated guidance were discussed and revised at a seminar in London in October 2000. These were assessed again and tested for practicality, in a limited trial of the review process, in Nykøbing, Denmark on 22/24 February 2001. The report of that assessment and test proposed another version of the questionnaire and associated guidance, revised on the basis of experience of that trial.



The report, (“IMPEL Review Initiative (IRI) Phase 2: Assessment and Test of Questionnaire and Guidance), was adopted during the IMPEL Meeting of 18-20 June 2001 in Falun, Sweden, and the Questionnaire and Guidance are shown at Appendix 3.

The present third phase of the project is designed to test the review scheme by way of six reviews, over a period of two years, using the Questionnaire and Guidance developed in Phase 2. This report describes the result of the second of these reviews. It was undertaken by the kind co-operation of the Environmental Protection Agency (EPA), Ireland, the “Candidate Inspectorate”, at their Head Office in Wexford. The terms of reference for the review are attached at Appendix 4.

It should be noted that this report is the result within the IMPEL Network. The content does not necessarily represent the view of the national administrations or the Commission. The report was adopted during the IMPEL Meeting of 11-13 December 2002 at Copenhagen in Denmark.

3. PRE-REVIEW MEETING

In arrangements for trial reviews, agreed at an IRI project meeting in March 2001, it was recognised that appropriate preparation for IRI is of vital importance and that preparation should include the following elements to ensure its smooth running and greater efficiency:

- The objectives of IRI should be communicated directly to the host country well in advance of the review commencing.
- The review team-leader should visit the host country a few weeks in advance and brief the candidate inspectorate senior management.
- The review team-leader would agree, with the candidate inspectorate, the scope and conduct of the review, the composition of the review team, the nature of documentation / briefing material to be supplied by the candidate body (bearing in mind the need for minimal bureaucracy) and would make arrangements with the candidate inspectorate for any necessary security clearances and/or access to sensitive sites or documentation.
- The candidate inspectorate should then prepare and present the information required in an appropriate format and submit a copy to the review team-leader in advance of the IRI visit. If it is not possible to achieve this then the information required must be presented to the IRI team directly on their arrival to the host country.
- The review team-leader would be responsible for organising the review team, managing the review process (in the nature of a lead assessor for management systems) and for managing production of the review report.

The Reports of IRI Phase 2 and of the first IRI trial review in Mannheim had both confirmed the importance of such preparation, and emphasised the need for advance information in order to allow the review to concentrate on areas of special interest. The reports had also emphasised the importance of clarifying issues or questions in the Questionnaire that may not be clear, or even relevant, to the candidate inspecting authority. Martin Murray (IRI Project Manager and team leader for the EPA, Ireland Review) arranged a pre-meeting for this second trial review with Mr. Jim Moriarty of the EPA. The meeting took place in the Wexford offices of the EPA on 5 February 2002. In addition to Martin Murray and Jim Moriarty, the participants were Dr. Gerry Byrne, Licensing Technical Programme Manager of EPA, Mr. Dara Lynott and Mr. Larry Kavanagh, also of EPA, and Allan Duncan, Project Consultant.

Martin Murray summarised the objectives of the IRI Project, with particular reference to Recommendation III (4) of the MCEI Recommendations:

“In order to promote best practice across the Community, Member States may, in co-operation with IMPEL, consider the establishment of a scheme, under which Member States, report and offer advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States concerned on their findings.”

He emphasised the importance of this voluntary scheme as an effective alternative to some more formal requirement. He explained that the candidate inspectorate owned the IRI Review report and that publication of it, or parts of it, was at the discretion of the candidate inspectorate. He also reviewed the lessons of the first, Mannheim review.

The EPA requested that the review cover the full scope set out in the original project terms of reference and accepted the proposed composition of the Review Team, including an observer from Northern Ireland with experience of transboundary issues. Practical arrangements for the review were also discussed and agreed. These included arrangements for a site-visit to a chemical installation in order to see, at first hand, how the EPA inspectors conduct their business. This was partly in response to a lesson from the first review, which indicated that “There needs to be time during the review to get a closer feeling for the actual work of the inspectors and their products.” The review team leader stressed the IRI Review was distinct and separate to and should not be confused with the objectives of the IMPEL PEEP project.

The main business of the meeting was to review the Questionnaire and Guidance in order to clarify the nature of the responses expected and the information that would be useful for the Review Team to have in advance of the actual review. The team leader pointed out that the Questionnaire was a guide to discussion and that the real value of the review lay in having free discussion and exchange of ideas around the ten areas identified in the Questionnaire. One of the lessons of both the Phase 2 test in Denmark and of the first review in Mannheim was that freedom for such discussion was of benefit to the Candidate Inspectorate, to review team members and to the inspecting authorities they represented.

Subsequent experience during the review confirmed earlier experience that time is saved in the process of review by the opportunity to set a relaxed tone by way of the pre-review meeting, and to demonstrate that there is no need for detailed preparation of answers to individual questions in the Questionnaire prior to the IRI Review.

The pre-review meeting was also a useful opportunity to discuss the potential problem of language becoming a barrier to full participation in discussion. It was noted that English was not the first language of 4 members of the proposed Review Team. The English language during discussions therefore needed to be simple and not too fast. Also, where necessary, discussion and clarification of particular points could be carried out in some other appropriate language, with the relevant review team members translating the main points and conclusions for the record of the review.

The meeting concluded with agreement that information on Irish legislation and on the constitutional arrangements of the EPA should be sent to Review Team members in advance of the review. Subsequently, Jim Moriarty sent the relevant information to all Review Team members.

In conclusion, the experience of this pre-review meeting confirmed the requirement foreseen in the arrangements for trial reviews and the meeting was judged to have met all its objectives.

4. REVIEW AND MAIN FINDINGS

This test was conducted in the Wexford offices of the EPA, Ireland using the revised Questionnaire and Guidance shown in Appendix 3. The list of participants is at Appendix 5.

This report follows the structure of the revised Questionnaire, by sections, and summarises the main points of discussion in terms of:

- Information about the Inspectorate
- Examples of good practice
- Opportunities for development

Lessons for the review process are also identified and noted.

4.1 Constitutional Basis for Inspecting Authority.

Ireland is a unitary state with a centralised form of Government. The Department of Environment and Local Government (DoELG) is responsible for determining environmental policy and for preparation and execution of environmental legislation. The Environmental Protection Agency (EPA) is responsible for licensing and controlling a range of industries that includes installations scheduled in Annex 1 of the IPPC Directive. The EPA is also responsible for licensing waste disposal activities although this is carried out by a different Division from the one reviewed. Thirty-four Local Authorities issue single medium licences to smaller industries for wastewater discharges, emissions to air and smaller waste recovery activities.

The EPA (the Inspecting Authority) was established by the Environmental Protection Agency Act of 1992. This legislation also established the current Integrated Pollution Control (IPC) regulatory regime for permitting and regulating specified industrial and other processes with significant polluting potential. The First Schedule to that Act lists the activities to be included under the IPC regulatory system. This list includes the majority of IPPC installations. The regulatory roles undertaken by the EPA include licensing, inspection and enforcement. It is an independent agency and it reports directly to the Dail (Irish Parliament) by way of annual reports. The DoELG may not influence EPA permitting decisions although EPA may provide advice to that Department and to other Government Departments directly. Such advice may be as result of a request from that Department or at the initiative of the EPA. The EPA is supported by an Advisory Committee and has an additional Statutory responsibility for the oversight of the pollution control activities of the Local Authorities. The Agency is also responsible for preparing a report, every five years, on the quality and condition of the environment in Ireland.

The Agency has a Head Office in Wexford and five Regional Environmental Inspectorates. Inspectors responsible for implementing IPC are located at the Head Office and in two of the Regional Inspectorates. The Agency is managed by a Board of five (four Directors and a Director General) appointed by Government following a

recommendation from a selection panel of six people representing various aspects of Government, the Trades Unions and the public. The make up of the selection panel and selection process is set in legislation. It currently operates within a budget of 27M€ of which 11M€ is for salaries, 7M€ is for research and 5.4M€ is for IPC regulation. Of this 5.4M€, about 3.9M€ is recovered by way of cost recovery charging of operators for permits and for subsequent monitoring and compliance checking. Application fees for permits were set in licensing regulations and have been fixed since 1994. Other annual licence maintenance charges are set by the EPA Board and are subject to appeal by operators to that Board. Residual funding of EPA activities is by Government, from general taxation. The allocation of charges for monitoring and compliance checking of IPC processes is decided on a priority basis, as between industry sectors, by inspectors but ultimately final charges are set by the Board.

In regard to the MCEI recommendation on plans for environmental inspections, and recognising that this applies to all environmental inspections, the EPA have advised DoELG on the need for an overall, Member State plan which should include activities concerned with waste regulation and Local Authority pollution control as well as IPC. The EPA has produced a draft plan for IPC enforcement for 2002 as part of the overall plan. The Waste Division has compiled a similar plan. Being only a part of such an overall National plan, the IPC/Waste element is not intended for separate publication at this time. Annual reports on the IPC and Waste licensing activities in the previous year are published to inform the public about this aspect of the EPA's activities.

An Annual Report and Accounts is submitted to the Dail (Irish Parliament) after audit of the accounts by the Governments Comptroller and Auditor General. This is a publicly available document.

As regards to the role of the EPA in the development or improvement of legislation, there is no statutory requirement for the Agency to be consulted on matters related to their regulatory activities. There are informal arrangements, however, that allow for effective input from EPA on issues such as development of legislation for transposition of the IPPC Directive into domestic law, in addition to the advice provided on request to Government departments.

The Member State responsibility for dealing with Transboundary Issues, under Article 17 of the IPPC Directive, resides with the DoELG. The EPA, however, has a statutory duty to inform the Department of applications for permitting of installations that have the potential for negative Transboundary effects. The Department will notify the relevant Member States and, although there is no specific procedure agreed yet, the response will generally be sent back to EPA for any further clarification or discussion, and for consideration in the permitting process. No time is specified for a response from neighbouring Member States, which may cause delay in issue of permits.

Apart from the above Transboundary issue, the EPA has effective arrangements in place for exchange of information with competent authorities in other Member States. It is one of Four Agencies, together with the environmental agencies for Northern Ireland, for Scotland and for England and Wales, which meet regularly to liaise on IPPC matters. In addition, it has twice yearly liaison meetings, by way of bi-lateral



arrangements, with the environmental authority of Northern Ireland. The EPA is also active within the IMPEL Network and, in the context of advising Government Departments, is involved in the work of the Council of the Isles, which comprises the Governments of Ireland and the United Kingdom.

In the general context of constitutional arrangements it was noted that, under the planning legislation, specific provision is made for recognition of the role of An Taisce (the National Trust).

Examples of Good Practice.

- Annual review of compliance plans by inspectors, and reflection of compliance plan costs in cost-recovery across and within IPC sectors. (Groups of inspectors decide priorities for funding of monitoring and compliance checking as between IPC industrial sectors.)
- Advance preparation of detailed enforcement plan for IPC and Waste regulation.
- Independence demonstrated by the direct submission of the EPA Annual Report to the Dail, and by provision of advice directly to Government Departments.
- Arrangements for recovery of regulatory costs from operators are a good example of the “Polluter Pays Principle”.

Opportunities for Development.

- Publication of enforcement plan at beginning of plan year, after parliamentary approval, perhaps by way of inclusion in the Annual Report, in line with the MCEI Recommendation.
- Formalisation of arrangements for the EPA to input to development of relevant legislation and to its compliance cost assessment.
- Consideration of the development of consultation arrangements for the setting of fees and charges to recover the costs of monitoring and compliance checking of IPC processes, in order to improve transparency of the current system.
- Seek specification of a time limit from Government for responses from neighbouring Member States in consultation on Transboundary issues.
- EPA may wish to explore with the DoELG an increase in the Application Fees for IPC permits to reflect current costs and the additional work required under IPPC.
- Consideration of liaison arrangements with Government Departments other than the Department of Environment.

4.2 Legal Basis for Inspection Authority.

IPPC is currently implemented by direct administrative effect but will be implemented in due course by way of the legislation for IPC, as modified to give effect to the IPPC Directive. This is part of a relatively modern body of environmental law within Ireland, comprising arrangements for physical or spatial planning, control of water pollution and waste management as well as IPC. The principal laws and regulations that establish the environmental control regime for industrial installations in Ireland are as follows:

Document	Main Provisions
Planning and Developments Act, 2000	Approval or refusal of development permission and attachment of conditions to control emissions from developments other than IPC.
Water Pollution Act 1977 and amendment 1990	Stipulates Local Authority duties to control and prevent water pollution.
Air Pollution Act, 1987	Stipulates Local Authority duties to control air quality.
Environmental Protection Agency Act, 1992. First Schedule of the EPA Act 1992.	Licensing and regulation of industrial and other processes on the basis of IPC. List of activities to be included under the IPC system.
Environmental Protection Agency (Licensing) Regulations, 1994.	Establishes a licensing function covering every aspect of air, water, waste/soil and noise from specified activities.
Waste Management Act, 1996	Stipulates EPA duties to license and control waste disposal and recovery activities, and Local Authority duties to permit such activities.

The EPA has powers to issue permits, to check for compliance with permit conditions and to take a range of enforcement actions for processes that include all IPPC Annex 1 installations as well as some smaller processes. In this sense, it is vertically integrated. Noise from IPC processes is controlled by the IPC licence, but no other legislation on noise applies to non-IPC processes, other than the law covering basic nuisance and planning which are regulated by the Local Authorities. Remediation of historic contamination is also carried out as required under IPC permits.

IPC permits cover an entire site rather than specified activities or installations within a site. Since October 1999, IPC permits issued are designed to reflect IPPC Directive requirements, and include a requirement for annual environmental reports, but they may have to be replaced by IPPC permits when the IPPC Directive is transposed into domestic law.

The law allows the EPA to regulate all IPC processes including any operated by Government and by the Armed Forces. There are no exclusions in this regard.

The IPC legislation interacts primarily with the Planning and Development Law. Responsibilities for approving or refusing development permission reside with 89 Local Authorities. Development of Planning Law is a matter for the Minister. Appeals against Local Authority decisions is carried out by An Bord Pleanála. (The National Planning Appeals Board). EPA is the sole competent authority for assessing an environmental impact statement in so far as it relates to risks of environmental pollution from the activity. This is scheduled to change on March 11, 2002 however, and planning authorities will then have powers to refuse planning permission on grounds of environmental pollution. Under these arrangements it is possible for an IPC process to gain planning permission but fail to gain an IPC permit, and vice versa.

As regards implementation of the Seveso II Directive on IPC processes, responsibility lies with the Health and Safety Authority (HSA), with whom EPA have a Memorandum of Understanding covering areas of common interest. Proposals have also been made for joint EPA/HSA inspections on non-Seveso II sites to cover arrangements for prevention of accidents as required by the IPPC Directive.

Where there is a possibility of public health effects arising from emissions from an IPC process the EPA consults the relevant Health Authority and consideration is being given to a Memorandum of Understanding between EPA and these Authorities to cover this and other common or overlapping interests. Similarly, a Memorandum of Understanding between EPA and the Planning Appeals Body is being prepared.

The EPA is responsible for deciding what is BAT in all cases, and for setting Emission Limit Values (ELVs), in IPC permits. The Minister for the Environment has powers to set statutory ELVs, but has not exercised this power. The EPA sets ELVs in IPC permits on the basis of guidance on BATNEEC for IPC processes. This guidance includes reference to management, maintenance and supervision of plant and provides information on ELVs that are achievable with BATNEEC. Guidance documents are being updated to address BAT, as defined for IPPC, when relevant BREFs are available. ELVs for specific cases are then set having regard to the location of the installation, to local environmental conditions and to protection of relevant EQSs and public health. Any ELVs set must also respect standards set under any EC legislation (other Directives etc). In addition to ELVs and other conditions, EPA includes in IPC permits a requirement for an operator to have elements of an Environmental Management System (EMS) in place. This goes beyond the requirements of IPPC and it may be modified for smaller installations.

As part of the permitting procedure, applications are made available for public comment and the EPA is required to consult with various bodies, including Local Authorities. The Local Authorities are consulted, additionally, as sewerage undertakers, on conditions to be included if an IPC permit involves releases to their sewers and also because integrated IPC permits subsume Local Authority responsibilities and are regulated entirely by the EPA. The EPA has two months to produce a Proposed Determination (draft permit) from the receipt of a completed application. The draft permits that the EPA is minded to grant are also given to all those who made submissions and are made available to the public. Third parties are allowed a statutory three weeks and the relevant operator is allowed four weeks to make objections to the draft permit. Anyone may appeal to the Board of the EPA

against proposed licensing decisions made by that Board. Following the receipt of any objections, the EPA has four months to finalise the permit giving a total statutory time limit of seven months from receipt of an application for the issue of an IPC permit. This time limit can be extended if the operator has not submitted a complete application or if the EPA requires additional information. The average time from receipt of an application to the issue of a permit is around 12 months. In the event that no objection is received, then the draft permit becomes the final licence without alteration. In certain cases, an oral hearing may be held into the objections to a proposed licence. The decision to hold an oral hearing rests solely with the Agency which has absolute discretion in this matter. A hearing can only take place where a valid objection has been received

The DoELG has no statutory function in the permitting procedure, however any Government Department may make submissions or object as third parties. Further appeal beyond the level of the Board is available by way of Judicial Review. Judicial Review, however, deals only with matters relating to the decision-making process and not with the substance of the decision.

Generic appeals about Agency approach in implementing its licensing function from industry at large may be dealt with by way of discussion at EPA/Trade Association meetings, and similar arrangements apply to appeals by Non-Governmental Organisations (NGO's).

Public complaints are dealt with by ways of written procedures, and EPA experience is that a significant number of complaints are made directly to the European Commission. It was noted that EPA shares the widespread experience of some complaints coming from vexatious or persistent “grumblers” making demands on scarce resources that are disproportionate to any environmental effect.

In response to non-compliance with permit conditions, the EPA may apply sanctions which include written warnings, or “Section” notices which are statutory notifications to take measures, or where the need is justified

- i. Initiate a prosecution by way of the District Court
- ii. refer the case to the Director of Public Prosecutions for possible criminal prosecution in the higher courts or
- iii. Where an operator fails to shut down a facility voluntarily the Agency is required to obtain a High Court injunction to shut down an installation, even in the case of imminent risk of harm to the environment.

All of the above require the approval of the Board of the Agency. It was noted, however, that such an injunction is difficult to obtain but may be quickly granted. In any event, the Authority for Safety and Health has the necessary powers to require immediate shut down. Where the need arises, the EPA itself may initiate any necessary actions to remediate pollution and recover costs subsequently.

Examples of Good Practice.

- Publication of a draft permit for comment, before issue.

- Requirement in permit for annual environmental report, with reduction in requirement for subsidiary reporting.
- Requirements for elements of an EMS in IPC permits.
- Incorporation of IPPC Directive requirements by “direct effect” in the absence of implementing legislation.

Opportunities for Development.

- Consider opportunity, during introduction of IPPC legislation, to seek new or amended powers, e.g. for revocation of permits, increase in application fees and/or transfer of application fee-setting powers, and for requiring information for permitting.
- In the absence of statutory requirement to review permits within a specified period, and noting the grant of permits in perpetuity, the EPA might consider development of a policy for the review of permits.
- Consideration of need for formal procedure for informing the Competent Body in case of breach of permit conditions on an EMAS registered site.
- Progress development of MoUs with Local Authorities and other relevant bodies on issues of common or overlapping interest. Where appropriate, consideration to co-ordination of inspections.
- Consideration of the publication of an enforcement/prosecution policy.
- Although no difficulties have been experienced with their appeals system, the EPA may wish to consider developing a system that provides a measure of independence of the appeal function from the permit-granting function.

4.3 Organisational Structure and Management.

The IPC permitting and enforcement functions of the EPA are led by a Director for Licensing and Control, a member of the EPA Board, who is supported by a Technical Programme Manager and an Administration Programme Manager, all based in the Head Office at Wexford.

The Technical Programme Manager is supported by 36 IPC inspectors at four levels of seniority. These are located at the Head Office (16) and at two of the five EPA regional offices, Dublin (11) and Cork (9), under regional management. The Administrative Programme Manager is responsible for providing legal services, which are outsourced, as well as administration services and is supported by 17 members of staff. In addition, specialist analytical and monitoring services are available, by way

of laboratories at the Dublin, Cork, Kilkenny, Castlebar and Monaghan regional locations, as are a range of other services including substantial library facilities and Information Technology support. Where specific specialist skills are not available internally, they may be accessed by way of expert consultants or by direct recruitment if appropriate.

The Licensing and Control Division has a Quality Management System (QMS) certified to the ISO 9002 Standard in place, with a comprehensive set of procedures, guidance and standard documentation for all of the activities associated with permitting and enforcement. These are designed to secure effective and consistent implementation of the regulatory function. A complete list of QMS procedures was provided to the Review Team, together with a selection of specific documents on site inspection, emergency response, enforcement action, prosecution procedures and on dealing with complaints.

The regulatory policies, objectives and strategies of the EPA are established by the Board and promulgated periodically by way of a published “Statement of Strategy”. The current version, for 2000-2002, covers all areas of EPA business and sets broad objectives for each area by way of a “Corporate Goal” and “Key Performance Indicators”. As part of the responsibility of senior managers, under the QMS, detailed work programmes are prepared annually for internal use. In the case of the Licensing and Control Division, this is accompanied by the draft enforcement plan, intended for inclusion in an overall “Environmental Inspection Plan” as recommended by the MCEI, and a Quality Plan designed to secure delivery of the work programme to a satisfactory standard, under the QMS. The Waste Licensing Division has also prepared an enforcement plan for 2002.

Board decisions are communicated to staff, as are Divisional Memos giving details of new legislation, its implications, etc. Also, information is exchanged and shared within EPA by way of quarterly Divisional meetings and seminars and by way of an EPA INTRANET, which also provides access to a comprehensive enforcement database.

In the EPA, the Board is the ultimate authority for regulatory decisions but it may delegate many decisions, and has done so by way of formal procedures for “approval of matters arising from IPC Licence conditions.” These procedures specify the matters requiring specification or agreement by the EPA and the level of seniority to which the decision-making responsibility is delegated. These procedures are accompanied in the QMS system by a system of checking and quality assurance of delegated decisions and actions. Quality and consistency is further assured by the availability of standard permit conditions and templates, creation of Technical Working Groups concerned with specific industrial sectors, sectoral audits, guidance on specific technical issues and by staff training.

Provision is made in law for the Agency to recover regulatory costs by way of charges to operators in addition to permit application fees. These costs, including salary costs as a daily rate, are calculated by way of a standardised spreadsheet covering all regulatory activities. It is reviewed annually by inspectors for each installation under EPA control and is linked to a major database holding details of these installations.

The calculation recognises the workload for individual sites and reflects the inspector's experience of the environmental performance of the site. In this context, EMAS registration or the presence of a certified Environmental Management System, such as ISO 14001, may be regarded as a positive indicator of performance. The level of charges is set by the EPA Board on the basis of this information and on the total requirement for cost recovery, but the charges to individual installations still reflect their relative environmental performance, thus providing a financial incentive for good performance. These costs and the charging scheme are reviewed annually.

In addition, the EPA requires certain operators to maintain or guarantee availability of funds for dealing with environmental liabilities, including consequences of accidents, plant decommissioning and the management of long-term "residuals" such as contaminated land or waste disposal facilities. The scale of necessary funds is judged by external specialist consultants whose findings in the form of published reports are assessed by the EPA. Prosecution costs are also recovered, where possible, as are special costs arising, for example, from action taken by the EPA to remedy environmental harm caused by any identifiable party.

Examples of Good Practice.

- Enforcement database with details of all IPC installations and of associated permitting and enforcement activities.
- Implementation of QMS to ISO 9002 Standard.
- Multi-annual Board Strategy implemented by way of detailed annual work programmes and enforcement plans.
- Ability of Board to set charges for recovery of regulatory costs.
- Creation of sector-based technical Working Groups to assist in securing quality and consistency of regulation.

Opportunities for Development.

- Review geographical location of inspectors and administration staff with a view to enhancing the level of service to operators and the public.

4.4 Workload.

The EPA is currently responsible for control of 531 installations under IPC legislation. These are shown in Appendix 6, categorised by nearest IPPC Annex 1 equivalents. This number is expected to increase by approximately 350 with the introduction of IPPC to some agricultural and other activities that are currently below the threshold for inclusion in the EPA Act 1992 Schedule of IPC processes.

The Agency undertakes the full range of activities comprising “environmental inspection” as defined in Section II(2) of the MCEI Recommendation, except for revocation of permits in the case of non-compliance with EC legal requirements. There is no provision for this in the law implemented by the EPA, and forced closures must be carried out through the High Court. The EPA does not as a matter of routine send the operator copies of site inspections reports, although these are entered on the public register.

The frequency of general site inspection of IPC processes is at least once per year but it may be more frequent depending upon the site inspector’s judgement of the environmental performance of individual processes. One and a half person-days is allocated in work plans for each such inspection. In addition, there are separate site visits for the purpose of sampling, analysis or monitoring and one person-day is allocated for each such inspection. Audit inspections are carried out less frequently, at approximately three yearly intervals. These take three person-days, on average, and are carried out by two inspectors. The audit is led by an inspector who is not the usual site inspector.

The time taken for all the activities necessary to produce an IPC permit is estimated, for the purpose of work planning, to be about 60 person-days. As regards pre-application contact with operators, the EPA prefers to limit this to ensuring that the operators are informed by scoping out what is required to comply with the IPC legislation. It does not advise on the detailed contents of an application. This may be reflected in the substantial amount of time spent in seeking and receiving further information after the application is made, with the overall permitting process taking over 20 months in some cases, instead of the statutory 7 months. The time for the activities associated with monitoring, auditing and enforcement is estimated to be about 10 person-days per site per year on average. Fees for permit applications were set in the EPA (Licensing) Regulations of 1994 and have not been changed since then. The annual charges for monitoring and compliance are not published (apart from the first years charge which is included in the licence conditions) but audited financial accounts included in the EPA Annual Report show the overall revenues from IPC licensing activities as being over 3M€.

The ratio of inspector time spent on sites to the time spent in the office is determined by the pattern of activities shown in detailed work plans and is, broadly, about 1:4. The time required for unplanned or reactive inspection is regarded as unpredictable and no specific provision for this is made in work plans. The rate of complaint against sites controlled by EPA has fallen by 40% per site over two years to about 1500 per year in 2000, with most being concerned with the rendering of slaughterhouse wastes. Experience leads to provision in the annual work plans for a total of about 15 person-days to deal with about 1500 complaints.

The EPA took prosecutions against 15 IPC installations in 2000, and all were successful. 12 of the installations were in the Agriculture or Food and Drink sectors and 3 were in the Surface Coatings sector. All of the prosecutions were taken in the District Court and details are published in the Annual Report on IPC Licensing and Control for 2000.

Examples of Good Practice.

- Good level of resources for the regulatory function and its support.
- Comprehensive system for work planning and resource allocation.

Opportunities for Development.

- Encourage development of a “multi-annual” work programme for ensuring that all relevant site issues are reviewed over a period of time and to avoid the possible danger of “issue-blindness”.
- Consider use of time-recording system to analyse time spent on complaints in order to develop use of complaint data as an indicator of problem issues or problem sites and also to aid consideration of how to deal with persistent “grumblers”.
- Encourage development of time-recording system for analysis of time spent on administration and meetings.
- Analysis of reasons for extended period for issue of permits, beyond 7 months with a view to amending policies or procedures.

4.5 Qualifications, Skills and Experience.

EPA staff are characterised by a high level of technical expertise and practical experience. New recruits enter EPA at various levels of seniority. For the most junior inspectors, the only requirement is for an appropriate scientific or technical degree together with 2 years of relevant experience, which may include time spent on gaining a Masters degree or a Doctorate. Exceptionally, specific skills may be sought for a particular post, generally at more senior level. Selection for all posts is by way of open competition and existing staff must compete with external candidates. The selection panel generally consists of three people with a chairman who is independent of the EPA.

Before being allowed to practise independently, new recruits generally undergo “on-the-job” training by an EPA colleague, acting as a mentor. New arrangements are in place, however, to provide essential induction training. This may be by way of “self-training”, i.e. private study, including use of interactive CD-ROMs, supervised activity, and formal courses on specific subjects as required by his or her role. New inspectors are also required to conduct supervised inspections and audits to a satisfactory standard before being allowed to use their formal document of authorisation alone as a fully qualified inspector with right of access to IPC sites. This authorisation is signed by the Secretary of the EPA Board and is issued on the

recommendation of the Technical Programme Manager for Licensing and Control. No specific competencies are defined for such qualification but inspectors may be required to practise within a scope of activities defined by management.

In general, inspectors are expected to be able to undertake the full range of EPA regulatory duties, except in the case of specific, complex plants requiring particular expertise. In such cases inspectors may be assigned on the basis of their particular skills and experience. In any case, the collective skills of the Agency staff are available to individual inspectors if required. This is facilitated by way of a register of in-house skills on the EPA INTRANET, and by the fact that inspectors work in close-knit, co-operative teams where each is expected to maintain and contribute his or her particular specialist knowledge.

Under the Ethics in Public Office Act, inspectors are required to declare any shareholdings and any other interests relevant to their position as a Government servant. Difficulties that might arise from “issue-blindness”, for example, are generally avoided by way of the system of site audits, which brings fresh eyes to inspection of a site. As regards the possibility of “regulatory capture”, EPA inspectors maintain a culture of refusing more than minor hospitality from site operators and, in any case, the normal, relatively frequent reassignment of duties prevents development of any over-familiarity between the regulator and the regulated.

Examples of Good Practice.

- Register of in-house skills available on INTRANET.
- Requirement for recruits to have 2 years of relevant experience.
- Declaration of inspector interests under Ethics in Public Office Act.

4.6 Training.

Each EPA inspector has an annual appraisal, with mid-year review, by his or her line manager. This includes identification of any training needs including nil returns, which are then entered into personal training plans and into the overall requirement for training provision within EPA.

Appropriate training courses for IPPC inspectors have been identified for each of the different levels of inspector seniority, as a requirement of the EPA QMS, and a database maintains training records for each member of staff, with appropriate reminders of dates for refreshment of skills. There is, however, an outstanding issue about definition of the competencies necessary for implementing IPPC, and about the level of skill required and how to assess it. Training courses may be provided externally, internally with external trainers, and internally with internal staff. Further training may be provided by way of IMPEL exchanges for example, and by

attendance at external seminars and conferences. The practical limits on access to training are availability of inspector time and the corporate budget allocation for the training function. No specific arrangements are in place for assessing the effectiveness of training courses beyond continuing staff appraisal, but the relatively small size of the inspection staff allows informal, day-to-day assessment of the effects of training on staff competencies. The EPA also assists individual members of staff to gain further qualifications and it funds membership of one relevant professional institution.

The training programme is managed by 2 members of staff at EPA corporate level and by 1 other, part-time, in regard to Licensing and Control.

General staff awareness of relevant technical, policy and regulatory developments is maintained by discussion at quarterly meetings, where inspectors brief colleagues on issues arising from meetings, conferences, involvement in EC working groups such as BREF development, etc. It is also maintained at individual level by way of,

- Participation in IMPEL activities.
- Participation in EC BREF development.
- Access to information such Mail Lists, Journals, Library Circulars, Databases, etc.
- Training.
- Sponsorship of, and participation in research.
- Participation in development of National and EU law.
- Regular meetings with NGOs and industry representatives.

The EPA, as an organisation, is too young to have experience of mature inspectors becoming out of date and refusing to undergo training and refreshment of skills. It recognises the issue, however, and would plan to deal with it if necessary by way of a developing Performance Management and Development System.

Examples of Good Practice.

- System for identifying training needs and maintaining training records and plans.
- Sponsorship of membership of professional bodies.
- Approval of training records and requirements, including nil returns.

Opportunities for Development.

- Consideration of systems to confirm effectiveness of training arrangements

4.7 Procedures.

As part of the QMS, procedures for determining, issuing and reviewing permits are in place, together with related guidance and instructions. These procedures reflect the

pragmatism of the EPA in its dealings with industry. IPC permits can be reviewed within 3 years from issue either if significant new information comes to light or if initiated by the operator. Because the EPA is not allowed to revoke IPC permits, there is no procedure for this as such. If it becomes necessary to shut a process down, for reasons of environmental protection for example, the EPA must seek a High Court injunction. The procedure for this is partially covered by a QMS procedure for preparing material for all Court actions, but it would not be appropriate for any situation requiring urgent action. It was noted that permits for stand-alone IPPC landfills would be regulated by the Waste Licensing Division of the EPA.

Scheduling and planning of inspections according to the MCEI is part of the overall activity of work planning, which is a specific responsibility of senior managers under the QMS and is covered by a related QMS procedure. The conduct of routine inspections and non-routine inspections associated with accidents or emergencies are covered by QMS procedures which were seen by the Review Team. The procedure for routine site inspections does not include a requirement for copy of the inspection report to operators, although it is entered on the public register. The QMS applies only to the Licensing and Control Division, however, and activities of the Laboratory Service fall outside it. Hence, monitoring and surveillance visits are not covered by the ISO 9002 system, but they are generally certified under the ILAB scheme.

Processes associated with enforcement, including prosecution, are covered by regulatory and administrative procedures, but no specific guidance is provided on the enforcement policy to be applied. The general policy is described, however, in the Annual Report on IPC Licensing and Control where it is recorded that,

“enforcement is carried out in an escalating manner so that the enforcement action taken is in proportion to the seriousness of the non-compliance detected. This escalation begins with the issuing of Notifications of Non-Compliance leading to formal Section Notices and finally Prosecution. However, depending on the significance of the non-compliance, prosecution may be initiated immediately.”

This policy appears to be reflected in the observation that few prosecutions are contested and that, in recent times, only two have failed and then only on legal technicalities.

A QMS procedure is in place for management and monitoring of complaints, but it was noted that no specific provision is made for the EPA inspector personally to investigate a complaint and respond to the complainant. Nor is there guidance for the inspector if the response from the site subject to complaint is deemed unsatisfactory.

In compliance with the Freedom of Information Act, comprehensive site files are available in hard copy on a public register, and extracts may be copied from it. The entire register is held in the Head Office at Wexford and files relating to sites under their control are held in public registers in the Dublin and Cork Regional Offices. This is very resource intensive and it is planned to convert the information into electronic form as the volume of information increases with introduction of IPPC. Proposed Determinations and Permits are already in electronic form and are accessible on the

EPA website.

The procedure for dealing with accidents on IPC installations subject to the Seveso II Directive is covered by a formal Memorandum of Understanding between EPA and the HSA who have the primary responsibility for ensuring compliance with the Directive.

Examples of Good Practice.

- Quality of public register.
- Procedures available in electronic form on the INTRANET.

Opportunities for Development.

- Consider review of QMS arrangements for monitoring and surveillance visits carried out by the EPA Laboratory Service on behalf of Licensing and Control Division in order to demonstrate their independence, for evidential purposes.
- Review procedures and guidance for dealing with public complaints.
- Consideration of the development of arrangements for the provision of routine site-inspection reports to operators.
- The development of cross division procedures and guidance to ensure transparency and consistency in the regulation of IPPC landfills associated with another IPPC process, regulated by Licensing and Control Division, and stand-alone IPPC landfills regulated by Waste Licensing Division.

4.8 Standards and Guidance.

Standards and guidance for regulatory judgements are promulgated to inspectors by way of a system of QMS procedures that refer to relevant guidance documents, some of which are already available from external sources, e.g the German TA Luft. Other documents are prepared by way of sector-based Technical Working Groups, drawing on generally available technical information, research and the work of European and other international working groups, including BREFs and the results of IMPEL studies. Guidance may be process-specific or generic. In addition to such technical guidance, the EPA also provides guidance and standards for the structure and content of permits by way of sector-based permit templates and standard permit conditions.

In particular the EPA co-operates with the environmental agencies from England and Wales, Scotland and Northern Ireland in production of technical guidance documents for IPPC regulation, and in related research. This guidance is published in hard copy

and electronically, via the EPA website at “www.epa.ie”. It is disseminated internally via the EPA INTRANET. Formal guidance on regulatory standards is supplemented internally by information exchanged by way of sector-based discussion groups and the quarterly meetings as well as by the normal interaction by inspectors operating within a small organisation.

External communication of standards and guidance to operators in connection with regulatory matters, including applications for permits, is generally carried out through meetings with Trade Associations and employers groups. Such guidance is also given to operators by way of generic pre-application discussions in sector groups. Where necessary pre-application discussions are held with individual operators. These arrangements are complemented by web-based consultations. The EPA has found that the website has facilitated response to public enquiries.

Currently, the EPA guidance on BATNEEC is in the process of revision to recognise the need for guidance on BAT for IPPC regulation.

Although the EPA advises Government in its own right, the EPA Board itself is advised by an Advisory Committee comprised of members appointed by Government to represent the social partners of the Agency. In addition, the EPA may employ expert consultants to advise on specific issues.

Examples of Good Practice.

- The EPA use of a well-structured INTRANET and a website for dissemination of a very wide range of information.
- Published EPA documents are sold at a cost subsidised by the Agency.

4.9 Performance Assessment

Work activity is reviewed twice-yearly against the Key Performance Indicators promulgated by the EPA Board. Mid and year-end reports of progress are made to the Board by senior management who take any necessary corrective action. The quality of permits and of related actions is checked by way of systems specified for the QMS system. Analogous arrangements are in place for checking the quality of enforcement-related actions. The quality of site inspection is assured by way of arrangements for site audits carried out by teams. Such audits are led by an inspector other than the site-inspector.

The results of these checks and audits are reviewed by senior management who are required to take any necessary corrective action under the QMS. Audit reports, like ordinary site inspection reports are entered on the public register and are open to scrutiny by the public and any other interested parties. They are also sent to the site operator.

The environmental impact of the regulatory process is judged, in part, by the results of

the environmental and surveillance programme undertaken by the EPA Environmental Management and Planning Division. Trend analysis of the results is used by managers to set priorities for work programmes. This is essentially a “bottom-up” approach which reflects the requirements of the EPA Mission Statement and associated goals. In addition, the EPA commissioned independent research to assess, by cost-benefit analysis, the environmental effects of introduction of IPC regulation. This showed a net benefit.

There was limited evidence to demonstrate consideration of “far field” environmental impacts in the setting of work programmes. The EPA identified the potential future use of the PER to influence future prioritisation in this regard.

General feed-back on the operation of EPA licensing and control is obtained by way of regular meetings between the EPA and Trade Associations and employers groups.

Examples of Good Practice.

- Commissioning of independent research to assess the effects of introduction of new regulation.
- Feedback on EPA operations from customers.
- Selection and use of Key Performance Indicators for performance assessment.

Opportunities for Development.

- Consideration of revision of Key Performance Indicators to reflect objectives for reduction of environmental impact in both the near and far fields.

4.10 Reporting

All information on EPA regulatory activities is accessible to the public, either by way of public registers or the Freedom of Information Act, except for commercially confidential material and information relating to prosecutions in progress. Appeals concerning commercially confidential material or with-holding of information relating to prosecutions in progress may be made by way of an independent Data Commissioner.

The EPA also publishes a range of reports covering its licensing and control activities as specified in the QMS system. The main reports include:

- Annual report of the EPA to the Dail (Irish Parliament).
- Annual report of activities of the Licensing and Control Division. A separate Waste Licensing Division report is also issued.
- Annual monitoring and surveillance reports.

- Bi-annual State of the Environment report.

In addition, the EPA website is used to promulgate a wide range of regulatory information as it is generated. This includes proposed determinations of permits, issued permits, lists of publications and up to date technical guidance.

Responsibility for Member State reporting to the EC, as recommended in the MCEI, lies with DoELG on behalf of the Irish Government. EPA provides information for this purpose on request. In due course this will include information for the European Polluting Emmissions Register (EPER) derived from the existing EPA PER, which has been modified to match the requirements of the EPER. The relevant information is now being drawn from the Annual Environmental Reports provided by licensed operators through a reporting requirement within the IPC permits.

The EPA produces a wide range of subsidised publications, which are listed monthly on the website. 250 copies of each new publication are provided free of charge to appropriate Government Departments and local libraries. A quarterly Newsletter is sent on request to a mailing list of about 6000 people. EPA information is also included in DoELG publications, together with information from other Government bodies. EPA also participates in programmes of environmental seminars for schools, universities and business leaders.

Examples of Good Practice.

- Provision of subsidised reports.
- Provision of quarterly newsletter.
- Use of annual environmental reports for effective collation and reporting of data on releases to the environment.
- Use of electronic publishing and the web-site for promulgation of information.

Opportunities for Development.

- Consideration of mechanisms for feed-back to operators on their annual environmental report (See Section 5, below.)

5. INDUSTRY VISIT.

As part of this review the IMPEL Review Team visited an IPC regulated activity. Discussions with the company independently of EPA were beneficial and helped to crystallise the views of the review team. The main points were:

- The Review Team’s perception of the EPA as an independent regulator was confirmed by industry.
- Industry supports the EPA cost-recovery charging arrangements.
- There are some concerns about uncertainty created by the delay in transposition of the IPPC Directive, but industry supports the direct administrative implementation of the IPPC Directive by EPA.
- Industry would like more feedback from EPA on Annual Environmental Reports provided as a requirement of IPC permits.
- Industry would like to see more high-level statements of policy summarising EPA objectives in the field of permitting, enforcement (including prosecution), inspection and the handling of complaints.
- There is some concern about the independence of EPA internal appeal arrangements against the grant of permits at the Board Level.
- Industry was complimentary about the skills and knowledge of EPA inspectors.

6. SUMMARY OF FINDINGS

Examples of good practice, and opportunities for development by the EPA, Ireland are collated below. (The sub-section number, in brackets, identifies each source.)

Examples of Good Practice.

- Annual review of compliance plans by inspectors, and reflection of compliance plan costs in cost-recovery across and within IPC sectors. (Groups of inspectors decide priorities for funding of monitoring and compliance checking as between IPC industrial sectors.) (4.1)
- Advance preparation of detailed enforcement plan for IPC and Waste regulation. (4.1)
- Independence demonstrated by the direct submission of the EPA Annual Report to the Dail (Irish Parliament) and by provision of advice directly to Government Departments. (4.1)
- Arrangements for recovery of regulatory costs from operators are a good example of the “Polluter Pays Principle”. (4.1)
- Publication of a draft permit for comment, before issue. (4.2)

- Requirement in permit for annual environmental report, with reduction in requirement for subsidiary reporting. (4.2)
- Requirements for elements of an EMS in IPC permits. (4.2)
- Incorporation of IPPC Directive requirements by “direct effect” in the absence of implementing legislation. (4.2)
- Enforcement database with details of all IPC installations and of associated permitting and enforcement activities. (4.3)
- Implementation of QMS to ISO 9002 Standard. (4.3)
- Multi-annual Board Strategy implemented by way of detailed annual work programmes and enforcement plans. (4.3)
- Ability of Board to set charges for recovery of regulatory costs. (4.3)
- Creation of sector-based Technical Working Groups to assist in securing quality and consistency of regulation. (4.3)
- Good level of resources for the regulatory function and its support. (4.4)
- Comprehensive system for work planning and resource allocation. (4.4)
- Register of in-house skills available on INTRANET. (4.5)
- Requirement for recruits to have 2 years of relevant experience. (4.5)
- Declaration of inspector interests under Ethics in Public Office Act. (4.5)
- System for identifying training needs and maintaining training records and plans. (4.6)
- Sponsorship of membership of professional bodies. (4.6)
- Approval of training records and requirements, including nil returns. (4.6)
- Quality of public register. (4.7)
- Procedures available in electronic form on the INTRANET. (4.7)
- The EPA use of a well-structured INTRANET and a website for dissemination of a very wide range of information. (4.8)
- Published EPA documents are sold at a cost subsidised by the Agency. (4.8)
- Commissioning of independent research to assess the effects of introduction of new regulation. (4.9)

- Feedback on EPA operations from customers. (4.9)
- Selection and use of Key Performance Indicators for performance assessment. (4.9)
- Provision of subsidised reports. (4.10)
- Provision of quarterly newsletter. (4.10)
- Use of annual environmental reports for effective collation and reporting of data on releases to the environment. (4.10)
- Use of electronic publishing and the web-site for promulgation of information. (4.10)

Opportunities for Development.

- Publication of enforcement plan at beginning of plan year, after parliamentary approval, perhaps by way of inclusion in the Annual Report, in line with the MCEI Recommendation. (4.1)
- Formalisation of arrangements for EPA input to development of relevant legislation and to its compliance cost assessment. (4.1)
- Consideration of the development of consultation arrangements for the setting of fees and charges to recover the costs of monitoring and compliance checking of IPC processes, in order to improve transparency of the current system. (4.1)
- Seek specification of a time limit from Government for responses from neighbouring Member States in consultation on Transboundary issues. (4.1)
- EPA may wish to explore with the DoELG an increase in the Application Fees for IPC permits to reflect current costs and the additional work required under IPPC. (4.1)
- Consideration of liaison arrangements with Government Departments other than the Department of Environment. (4.1)
- Consider opportunity, during introduction of IPPC legislation, to seek new or amended powers, e.g. for revocation of permits, increase in application fees and/or transfer of application fee-setting powers, and for requiring information for permitting. (4.2)
- In the absence of statutory requirement to review permits within a specified period, and noting the grant of permits in perpetuity, the EPA might consider development of a policy for review of permits. (4.2).

- Consideration of need for formal procedure for informing the Competent Body in case of breach of permit conditions on an EMAS registered site. (4.2)
- Progress development of MoUs with Local Authorities and other relevant bodies on issues of common or overlapping interest. Where appropriate, consideration to co-ordination of inspections. (4.2)
- Consideration of the publication of an enforcement/prosecution policy. (4.2)
- Although no difficulties have been experienced with their appeals system, the EPA may wish to consider developing a system that provides a measure of independence of the appeal function from the permit-granting function. (4.2)
- Review geographical location of inspectors with a view to enhancing the level of service to operators and the public. (4.3)
- Encourage development of a “multi-annual” work programme for ensuring that all relevant site issues are reviewed over a period of time and to avoid the possible danger of “issue-blindness”. (4.4)
- Consider use of time-recording system to analyse time spent on complaints in order to develop use of complaint data as an indicator of problem issues or problem sites and also to aid consideration of how to deal with persistent “grumblers”. (4.4)
- Encourage development of time-recording system for analysis of time spent on administration and meetings. (4.4)
- Analysis of reasons for extended period for issue of permits, beyond 7 months with a view to amending policies or procedures. (4.4)
- Consideration of systems to confirm effectiveness of training arrangements. (4.6)
- Consider review of QMS arrangements for monitoring and surveillance visits carried out by the EPA Laboratory Service on behalf of Licensing and Control Division in order to demonstrate their independence, for evidential purposes. (4.7)
- Review procedures and guidance for dealing with public complaints. (4.7)
- Consider provision of routine site-inspection reports to operators. (4.7)
- The development of cross-divisional procedures and guidance to ensure transparency and consistency in the regulation of IPPC landfills associated with another IPPC process, regulated by Licensing and Control Division, and stand-alone IPPC landfills regulated by Waste Licensing Division. (4.7)
- Consideration of revision of Key Performance Indicators to reflect objectives for

reduction of environmental impact in both the near and far fields. (4.9)

- Consideration of mechanisms for feed-back to operators on their annual environmental report. (4.10)

7. CONCLUSIONS

The Review Team noted that transposition of the IPPC Directive is currently in progress and that, for the time being, the EPA is implementing its provisions by direct administrative effect. The Review Team thus concluded that provisions for implementation of IPPC were covered, and that the arrangements for environmental inspections were broadly in line with the MCEI Recommendation, except perhaps for some aspects of enforcement action related to absence of powers to revoke permits and lack of arrangements for submission of routine inspection reports to operators

The team also concluded that the EPA benefited from the presence of a Quality Management System certified to ISO 9002 Standard and from provision of substantial information technology support of their regulatory, training, administrative and reporting functions. It is suggested that EPA consider producing high-level policy statements covering permitting, enforcement, inspection practice and the handling of public complaints.

The findings of this review were broadly reinforced by separate discussions with a major site operator.

The Review Team recognised and recorded examples of good regulatory practice and, based on their own experience, have suggested opportunities for development that EPA may wish to consider.

8. ACKNOWLEDGEMENTS

The project management wishes to thank the representatives of the EPA, Ireland and the Review Team members from Belgium, Germany, Northern Ireland, Spain, and Sweden for their constructive participation in this trial. It also wishes to thank their respective organisations and the Directorate-General Environment of the European Commission for their support.

9. LESSONS FOR THE REVIEW PROCESS.

- Candidate inspectorate should be encouraged in pre-review meeting NOT to prepare too much by way of formal presentations for the review.
- Consider widening scope of trial beyond IPPC regulation for Candidate Inspectorates with relatively small IPPC workload.

- Include mid-review site visit in review programme.
- Ensure that travel arrangements do not curtail time for pre-review meeting.

10. ABBREVIATIONS.

BAT	Best Available Technique. (Under IPPC).
BATNEEC	Best Available Technique Not Entailing Excessive Cost. (Under IPC).
BREF	BAT Reference Document.
DoELG	Department of Environment and Local Government.
ELV	Emission Limit Value.
EMAS	Environmental Management and Assessment Scheme.
EMS	Environmental Management System
EPA	Environmental Protection Agency, Ireland.
EPER	European Pollution Emissions Register.
EQS	Environmental Quality Standard.
HSA	National Authority for Occupational Safety and Health.
ILAB	Irish Laboratory Certification System.
IPC	Integrated Pollution Control. (Under EPA Act, 1992).
IPPC	Integrated Pollution Prevention and Control. (Under EC Directive.)
IRI	IMPEL Review Initiative.
MCEI	(Recommendation on) Minimum Criteria for Environmental Inspections.
MoU	Memorandum of Understanding.
NGO	Non-Governmental Organisation.
PEEP	(IMPEL) Project on Environmental Enforcement Practices.
PER	Pollution Emissions Register.
QMS	Quality Management System.

Appendix 1

TERMS OF REFERENCE FOR IRI PROJECTS

No	Name of project
	<i>IMPEL Review Group</i>
<i>Project Manager</i>	<i>Martin Murray, Environment Agency, United Kingdom.</i>

1. Scope

1.1. Background

The Helsinki Plenary Meeting of IMPEL, in December 1999, requested that proposals be drawn up for “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”). This was against the background of preparation of a European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in the Member States and the expectation that further recommendations would follow on Minimum Criteria for Inspector Qualifications and for Inspector Training.

The Council of the European Union adopted its Common Position on the proposal for a recommendation on 20 March 2000 (5684:00). III(3) of the Common Position says:

“In order to promote best practice across the Community, Member States may, in cooperation with IMPEL, consider the establishment of a voluntary scheme, under which Member States report and offer advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States on their findings.”

IMPEL is willing to take this forward and too foresees the eventual need for arrangements to review implementation of such recommendations and proposes a voluntary scheme for the purpose.

The potential benefits of such a scheme might include:

- Encouragement of capacity–building in EU Member State inspectorates.*
- Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.*

- *Provision of advice to inspectorates (“candidate inspectorates”) who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.*
- *The spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).*

Necessary features of any scheme designed to deliver these benefits would include:

- *a well-defined scope of application.*
- *Practical and easily understood arrangements for scheduling, organising, funding, conducting and reporting on any review of a candidate inspectorate, and with minimal bureaucracy.*
- *Absence of any threat of self-incrimination or infraction proceedings arising specifically from application of the scheme.*
- *Control, by the candidate inspectorate, of dissemination of information arising from any review.*
- *Participation, by the candidate inspectorate, in selection of personnel to carry out any review.*
- *Effective follow-up arrangements for support of any candidate inspectorate seeking further advice or assistance on issues identified during review.*

Effective arrangements for dissemination across Member States of training or educational material on lessons learnt and good practice identified during any review.

1.2. Definition

The draft recommendation in the Common Position referred to above (5684/00) would apply to “all industrial and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.”(Section II, 1a.). This scope would include all IPPC processes and other lesser processes which, in many Member States, are regulated by a variety of bodies at local level.

It was to exclude the complication of having so many bodies that the initial regulatory scope of the EC Network of Enforcement Agencies (the precursor of IMPEL) was limited to regulation of “major industrial processes”. For the same reason it is proposed that the Regulatory Scope of this scheme be limited initially to regulation of IPPC processes.

It is also proposed for the purposes of review of candidate inspectorates and to reflect the interests and activities of IMPEL that, by agreement with the candidate inspectorate, the Organisational Scope of the scheme should include any or all of the following:

- *The legal and constitutional bases of the inspectorate, including interfaces with other bodies such as Health and Safety inspectorates, and its related powers and duties. (i.e. “political independence / dependence”)*
- *Structure and managerial organisation, including funding, staffing and lines of authority and responsibility for regulatory and policy functions.*
- *Workload, by number of IPPC processes and Annex I category.*
- *Qualifications, skills and experience of regulatory staff.*
- *Procedures for assessment of training needs and provisions for training and maintaining current awareness.*
- *Procedures, criteria and guidance for drafting of permits, for scheduling inspections, for subsequent assessment of compliance (“inspection”) and for enforcement action in cases of non-compliance.*
- *Arrangements for internal assessment of the quality of regulatory performance and for improvement if appropriate.*
- *Arrangements for reporting on inspectorate activities.*

<p>1.3. Objective of project</p>	<p><i>To devise and test a voluntary scheme for reporting and offering advice on Member State inspectorates and inspection procedures that incorporates the features outlined in Section 1.1 and delivers the associated benefits.</i></p>
<p>1.4. Product(s)</p>	<p><i>In addition to the benefits listed in Section 1.1, tangible products will include,</i></p> <ul style="list-style-type: none"> • <i>Written reports of reviews for candidate inspectorates,</i> • <i>Relevant extracts from review reports, as agreed with candidate inspectorates, for dissemination to IMPEL members and the EC,</i> • <i>Training and Educational material on “lessons learnt” and on examples of good practice for incorporation into training schemes of Member State inspectorates.</i>

2. Structure of the project

2.1. Participants	<i>All IMPEL Members who wish to participate.</i>
2.2. Project team	<i>It is proposed that the project team be composed of IMPEL Members who wish to participate, or their representatives, and that work is coordinated initially by Dr. Allan Duncan of the Environment Agency, Chairman of the original IMPEL Working Group 2.</i>
2.3. Manager Executor	<p><i>Mr. Martin Murray will be responsible for monitoring and supervision of the project on behalf of IMPEL.</i></p> <p><i>It is proposed to develop the project in three stages as follows,</i></p> <ul style="list-style-type: none"> • <i>Design of arrangements for scheduling reviews, for selecting review teams, for managing and supporting reviews, for reporting results of reviews, lessons learnt, etc. and for allocating associated costs.</i> • <i>Drafting of a questionnaire to be used as the basis for reviews. (It is assumed from experience of the Project on Environmental Enforcement Practices (PEEP) and of the Senior Labour Inspectors' Committee (SLIC) voluntary reviews that this will be essential for consistency between reviews.)</i> • <i>Testing of the scheme by way of six reviews over a period of two years. (Continued operation of the scheme at the rate of three reviews per year would result in a repeat period of five years for review of any candidate inspectorate, assuming all 15 Member States participated in turn.)</i>
2.4. Reporting arrangements	<i>The results of the first two stages of the project will be reported directly to IMPEL, for approval. Arrangements for reporting on test reviews will depend on results of the first stage of the project, particularly in regard to any provision for control by the candidate inspectorate over dissemination of review details.</i>

3. Resources required

3.1 Project costs	<p><i>Each of the first two stages of the project will involve a maximum of two meetings of those IMPEL members who wish to participate, or their representatives. It is proposed that meetings are conducted in English, and no interpretation is required, the costs will be limited to travel and subsistence costs of participants.</i></p> <p><i>We estimate that the costs for the first two stages would be 60 000 Euro.</i></p> <p><i>The costs of the third, test stage would be estimated when arrangements for reviews are designed. This would include the production of a report describing the proposed system These costs would be put to IMPEL when the results of the first two stages are submitted for approval. It would be proposed to share the costs between the Commission and participants in the review scheme.</i></p>
3.2. Fin. from Com.	<p><i>Given that the project arises from a proposal for EU legislation. We are seeking the maximum 80% subsidy from the Commission. in the first two stages of the project, in the current financial year, plus the costs of six test reviews over a two year period.</i></p>
3.3. Fin. from MS (and any other)	<p><i>Costs of time plus a contribution towards the costs of travel and subsistence of personnel volunteered for the first two stages and for review teams in the third stage of the project, together with those external costs, such as consultancy, associated with any review of their own inspectorate.</i></p>
3.4. Human from Com.	<p><i>None</i></p>
3.5. Human from MS	<p><i>3 person-day per participant for each of the first two stages plus approximately 5 person-days for any review team participant in the third stage.</i></p>

4. Quality review mechanisms

- *The quality and success of this project will be judged directly by IMPEL on the basis of reports to Plenary meetings by the Project Manager.*

5. Legal base

5.1. Directive/ Regulation/ Decision	<i>In the short term, The European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in Member States and, in due course, those on Inspector Qualifications and Training.</i>
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6. Project planning

6.1. Approval	<i>For consideration at IMPEL Plenary on 23 May 2000.</i>
(6.2. Fin. Contributions)	<i>As incurred.</i>
6.3. Start	<i>As soon as possible after approval.</i>



Appendix 2.

RECOMMENDATION ON MINIMUM CRITERIA FOR ENVIRONMENTAL INSPECTION.

II

(Acts whose publication is not obligatory)

EUROPEAN PARLIAMENT AND COUNCIL

RECOMMENDATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 4 April 2001

providing for minimum criteria for environmental inspections in the Member States

(2001/331/EC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾, and in the light of the joint text approved by the Conciliation Committee on 8 January 2001,

Whereas:

- (1) The resolution of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, of 1 February 1993 on a Community programme of policy and action in relation to the environment and sustainable development ⁽⁴⁾ and the Decision of the European Parliament and the Council on its review ⁽⁵⁾ emphasised the importance of implementation of Community environmental law through the concept of shared responsibility.
- (2) The Commission Communication of 5 November 1996 to the Council of the European Union and the European Parliament on implementing Community environmental law, in particular paragraph 29 thereof, proposed the

establishment of guidelines at Community level in order to assist Member States in carrying out inspection tasks, thereby reducing the currently-existing wide disparity among Member States' inspections.

- (3) The Council in its resolution of 7 October 1997 on the drafting, implementation and enforcement of Community environmental law ⁽⁶⁾ invited the Commission to propose, for further consideration by the Council, in particular on the basis of the work of the European Union network for the implementation and enforcement of environmental law (IMPEL), minimum criteria and/or guidelines for inspection tasks carried out at Member State level and the possible ways in which their application in practice could be monitored by Member States, in order to ensure an even practical application and enforcement of environmental legislation, and the Commission's proposal has taken into account a paper produced by IMPEL in November 1997 and entitled 'Minimum Criteria for Inspections'.
- (4) The European Parliament by its resolution of 14 May 1997 on the Commission's Communication called for Community legislation on environmental inspections, and the Economic and Social Committee and the Committee of the Regions gave favourable opinions on the Commission's Communication and stressed the importance of environmental inspections.
- (5) Different systems and practices of inspection already exist in Member States and should not be replaced by a system of inspection at Community level, as was considered in the Council resolution of 7 October 1997, and Member States should retain responsibility for environmental inspection tasks.

⁽¹⁾ OJ C 169, 16.6.1999, p. 12.

⁽²⁾ OJ C 374, 23.12.1999, p. 48.

⁽³⁾ Opinion of the European Parliament of 16 September 1999 (OJ C 54, 25.2.2000, p. 92), Council Common Position of 30 March 2000 (OJ C 137, 16.5.2000, p. 1) and Decision of the European Parliament of 6 July 2000 (not yet published in the Official Journal). Decision of the European Parliament of 1 February 2001 and Council Decision of 26 February 2001.

⁽⁴⁾ OJ C 138, 17.5.1993, p. 1.

⁽⁵⁾ OJ L 275, 10.10.1998, p. 1.

⁽⁶⁾ OJ C 321, 22.10.1997, p. 1.

- (6) The European Environment Agency can advise the Member States on developing, setting up and extending their systems for monitoring environmental provisions and can assist the Commission and the Member States in monitoring environmental provisions by giving support in respect of the reporting process, so that reporting is coordinated.
- (7) The existence of inspection systems and the effective carrying out of inspections is a deterrent to environmental violations since it enables authorities to identify breaches and enforce environmental laws through sanctions or other means; thus inspections are an indispensable link in the regulatory chain and an efficient instrument to contribute to a more consistent implementation and enforcement of Community environmental legislation across the Community and to avoid distortions of competition.
- (8) There is currently a wide disparity in the inspection systems and mechanisms among Member States in terms not only of their capacities for carrying out inspection tasks but also of the scope and contents of the inspection tasks undertaken and even in the very existence of inspection tasks in a few Member States, and this is a situation which cannot be considered satisfactory with reference to the objective of an effective and more consistent implementation, practical application and enforcement of Community legislation on environmental protection.
- (9) It is necessary, therefore, to provide, at this stage, guidelines in the form of minimum criteria to be applied as a common basis for the performance of environmental inspection tasks within the Member States.
- (10) Community environmental legislation obliges Member States to apply requirements in relation to certain emissions, discharges and activities; minimum criteria on the organisation and carrying out of inspections should be met in the Member States, as a first stage, for all industrial installations and other enterprises and facilities whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law.
- (11) Inspections should take place taking into account the division of responsibilities in the Member States between authorisation and inspection services.
- (12) In order to make this system of inspections efficient, Member States should ensure that environmental inspections activities are planned in advance.
- (13) Site visits form an important part of environmental inspection activities.
- (14) The data and documentation provided by industrial operators registered under the Community eco-management and audit scheme could be a useful source of information in the context of environmental inspections.
- (15) In order to draw conclusions from site visits, regular reports should be established.
- (16) Reporting on inspection activities, and public access to information thereon, are important means to ensure through transparency the involvement of citizens, non-governmental organisations and other interested actors in the implementation of Community environmental legislation; access to such information should be in line with the provisions of Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment ⁽¹⁾.
- (17) 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.
- (18) Member States should report to the Council and the Commission on their experience in operating this recommendation and the Commission should regularly inform the European Parliament.
- (19) The Commission should keep the operation and effectiveness of this recommendation under review and report thereon to the European Parliament and the Council as soon as possible after the receipt of the Member States' reports.
- (20) Further work by IMPEL and Member States, in cooperation with the Commission, should be encouraged in respect of best practices concerning the qualifications and training of environmental inspectors.
- (21) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, and given the differences in inspection systems and mechanisms in the Member States, the objectives of the proposed action can best be achieved by guidance set out at Community level.
- (22) In the light of the experience gained in the operation of this recommendation and taking account of IMPEL's further work, as well as of the results of any schemes provided for in this recommendation, the Commission should, upon receipt of Member States' reports, give consideration to developing the minimum criteria in terms of their scope and substance and to making further proposals which might include a proposal for a directive, if appropriate,

⁽¹⁾ OJ L 158, 23.6.1990, p. 56.

HEREBY RECOMMEND:

I

Purpose

Environmental inspection tasks should be carried out in the Member States, according to minimum criteria to be applied in the organising, carrying out, following up and publicising of the results of such tasks, thereby strengthening compliance with, and contributing to a more consistent implementation and enforcement of Community environmental law in all Member States.

II

Scope and definitions

1. (a) This recommendation applies to environmental inspections of all industrial installations and other enterprises and facilities, whose air emissions and/or water discharges and/or waste disposal or recovery activities are subject to authorisation, permit or licensing requirements under Community law, without prejudice to specific inspection provisions in existing Community legislation.
- (b) For the purposes of this recommendation, all the installations and other enterprises and facilities referred to in point (a) are 'controlled installations'.
2. For the purposes of this recommendation, 'environmental inspection' is an activity which entails, as appropriate:
 - (a) checking and promoting the compliance of controlled installations with relevant environmental requirements set out in Community legislation as transposed into national legislation or applied in the national legal order (referred to hereinafter as 'EC legal requirements');
 - (b) monitoring the impact of controlled installations on the environment to determine whether further inspection or enforcement action (including issuing, modification or revocation of any authorisation, permit or licence) is required to secure compliance with EC legal requirements;
 - (c) the carrying out of activities for the above purposes including:
 - site visits,
 - monitoring achievement of environmental quality standards,
 - consideration of environmental audit reports and statements,
 - consideration and verification of any self monitoring carried out by or on behalf of operators of controlled installations,
 - assessing the activities and operations carried out at the controlled installation,

- checking the premises and the relevant equipment (including the adequacy with which it is maintained) and the adequacy of the environmental management at the site,
- checking the relevant records kept by the operators of controlled installations.

3. Environmental inspections, including site visits, may be:

- (a) routine, that is, carried out as part of a planned inspections programme; or
- (b) non-routine, that is, carried out in such cases in response to complaints, in connection with the issuing, renewal or modification of an authorisation, permit or licence, or in the investigation of accidents, incidents and occurrences of non-compliance.

4. (a) Environmental inspections may be carried out by any public authority at either national, regional or local level, which is established or designated by the Member State and responsible for the matters covered by this recommendation.

(b) The bodies referred to in point (a) may, in accordance with their national legislation, delegate the tasks provided for in this recommendation to be accomplished, under their authority and supervision, to any legal person whether governed by public or private law provided such person has no personal interest in the outcome of the inspections it undertakes.

(c) The bodies referred to in points (a) and (b) are defined as 'inspecting authorities'.

5. For the purposes of this recommendation, an 'operator of a controlled installation' is any natural or legal person who operates or controls the controlled installation or, where this is provided for in national legislation, to whom decisive economic power over the technical functioning of the controlled installation has been delegated.

III

Organisation and carrying out of environmental inspections

1. Member States should ensure that environmental inspections aim to achieve a high level of environmental protection and to this end should take the necessary measures to ensure that environmental inspections of controlled installations are organised and carried out in accordance with points IV to VIII of this recommendation.

2. Member States should assist each other administratively in carrying out the guidelines of this recommendation by the exchange of relevant information and, where appropriate, inspecting officials.

3. To prevent illegal cross-border environmental practices, Member States should encourage, in cooperation with IMPEL, the coordination of inspections with regard to installations and activities which might have significant transboundary impact.

4. In order to promote best practice across the Community, Member States may, in cooperation with IMPEL, consider the establishment of a scheme, under which Member States report and offer advice on inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States concerned on their findings.

IV

Plans for environmental inspections

1. Member States should ensure that environmental inspection activities are planned in advance, by having at all times a plan or plans for environmental inspections providing coverage of all the territory of the Member State and of the controlled installations within it. Such a plan or plans should be available to the public according to Directive 90/313/EEC.

2. Such plan or plans may be established at national, regional or local levels, but Member States should ensure that the plan or plans apply to all environmental inspections of controlled installations within their territory and that the authorities mentioned in point II(4) are designated to carry out such inspections.

3. Plans for environmental inspections should be produced on the basis of the following:

- (a) the EC legal requirements to be complied with;
- (b) a register of controlled installations within the plan area;
- (c) a general assessment of major environmental issues within the plan area and a general appraisal of the state of compliance by the controlled installations with EC legal requirements;
- (d) data on and from previous inspection activities, if any.

4. Plans for environmental inspections should:

- (a) be appropriate to the inspection tasks of the relevant authorities, and should take account of the controlled installations concerned and the risks and environmental impacts of emissions and discharges from them;
- (b) take into account relevant available information in relation to specific sites or types of controlled installations, such as reports by operators of controlled installations made to the authorities, self monitoring data, environmental audit information and environmental statements, in particular those produced by controlled installations registered according to the Community eco-management and audit scheme (EMAS), results of previous inspections and reports of environmental quality monitoring.

5. Each plan for environmental inspections should as a minimum:

- (a) define the geographical area which it covers, which may be for all or part of the territory of a Member State;
- (b) cover a defined time period, for example one year;
- (c) include specific provisions for its revision;
- (d) identify the specific sites or types of controlled installations covered;
- (e) prescribe the programmes for routine environmental inspections, taking into account environmental risks; these programmes should include, where appropriate, the frequency of site visits for different types of or specified controlled installations;
- (f) provide for and outline the procedures for non-routine environmental inspections, in such cases in response to complaints, accidents, incidents and occurrences of non-compliance and for purposes of granting permission;
- (g) provide for coordination between the different inspecting authorities, where relevant.

V

Site visits

1. Member States should ensure that the following criteria are applied in respect of all site visits:

- (a) that an appropriate check is made of compliance with the EC legal requirements relevant to the particular inspection;
- (b) that if site visits are to be carried out by more than one environmental inspecting authority, they exchange information on each others' activities and, as far as possible, coordinate site visits and other environmental inspection work;
- (c) that the findings of site visits are contained in reports made in accordance with point VI and exchanged, as necessary, between relevant inspection, enforcement and other authorities, whether national, regional or local;
- (d) that inspectors or other officials entitled to carry out site visits have a legal right of access to sites and information, for the purposes of environmental inspection.

2. Member States should ensure that site visits are regularly carried out by inspecting authorities as part of their routine environmental inspections and that the following additional criteria are applied for such site visits:

- (a) that the full range of relevant environmental impacts is examined, in conformity with the applicable EC legal requirements, the environmental inspection programmes and the inspecting bodies' organisational arrangements;
- (b) that such site visits should aim to promote and reinforce operators' knowledge and understanding of relevant EC legal requirements and environmental sensitivities, and of the environmental impacts of their activities;

- (c) that the risks to and impact on the environment of the controlled installation are considered in order to evaluate the effectiveness of existing authorisation, permit or licensing requirements and to assess whether improvements or other changes to such requirements are necessary.
3. Member States should also ensure that non-routine site visits are carried out in the following circumstances:
- (a) in the investigation by the relevant inspecting authorities of serious environmental complaints, and as soon as possible after such complaints are received by the authorities;
- (b) in the investigation of serious environmental accidents, incidents and occurrences of non-compliance, and as soon as possible after these come to the notice of the relevant inspecting authorities;
- (c) where appropriate, as part of the determination as to whether and on what terms to issue a first authorisation, permit or licence for a process or activity at a controlled installation or the proposed site thereof or to ensure the compliance with the requirements of authorisation, permit or licence after it has been issued and before the start of activity;
- (d) where appropriate, before the reissue, renewal or modification of authorisations, permits or licences.

VI

Reports and conclusions following site visits

1. Member States should ensure that after every site visit the inspecting authorities process or store, in identifiable form and in data files, the inspection data and their findings as to compliance with EC legal requirements, an evaluation thereof and a conclusion on whether any further action should follow, such as enforcement proceedings, including sanctions, the issuing of a new or revised authorisation, permit or licence or follow-up inspection activities, including further site visits. Reports should be finalised as soon as possible.
2. Member States should ensure that such reports are properly recorded in writing and maintained in a readily accessible database. The full reports, and wherever this is not practicable the conclusions of such reports, should be communicated to the operator of the controlled installation in question according to Directive 90/313/EEC; these reports should be publicly available within two months of the inspection taking place.

VII

Investigations of serious accidents, incidents and occurrences of non-compliance

Member States should ensure that the investigation of serious accidents, incidents and occurrences of non-compliance with EC legislation, whether these come to the attention of the

authorities through a complaint or otherwise, is carried out by the relevant authority in order to:

- (a) clarify the causes of the event and its impact on the environment, and as appropriate, the responsibilities and possible liabilities for the event and its consequences, and to forward conclusions to the authority responsible for enforcement, if different from the inspecting authority;
- (b) mitigate and, where possible, remedy the environmental impacts of the event through a determination of the appropriate actions to be taken by the operator(s) and the authorities;
- (c) determine action to be taken to prevent further accidents, incidents and occurrences of non-compliance;
- (d) enable enforcement action or sanctions to proceed, if appropriate; and
- (e) ensure that the operator takes appropriate follow-up actions.

VIII

Reporting on environmental inspection activities in general

1. Member States should report to the Commission on their experience of the operation of this recommendation two years after the date of its publication in the *Official Journal of the European Communities*, using, to the extent possible, any data available from regional and local inspecting authorities.
2. Such reports should be available to the public and should include in particular the following information:
- (a) data about the staffing and other resources of the inspecting authorities;
- (b) details of the inspecting authority's role and performance in the establishment and implementation of relevant plan(s) for inspections;
- (c) summary details of the environmental inspections carried out, including the number of site visits made, the proportion of controlled installations inspected (by type) and estimated length of time before all controlled installations of that type have been inspected;
- (d) brief data on the degree of compliance by controlled installations with EC legal requirements as appears from inspections carried out;
- (e) a summary, including numbers, of the actions taken as a result of serious complaints, accidents, incidents and occurrences of non-compliance;
- (f) an evaluation of the success or failure of the plans for inspections as applicable to the inspecting body, with any recommendations for future plans.

IX

Review and development of the recommendation

1. The Commission should review the operation and effectiveness of this recommendation, as soon as possible after receipt of the Member States' reports mentioned in point VIII above, with the intention of developing the minimum criteria further in terms of their scope in the light of the experience gained from their application, and taking into account any further contributions from interested parties, including IMPEL and the European Environment Agency. The Commission should then submit to the European Parliament and the Council a report accompanied, if appropriate, by a proposal for a directive. The European Parliament and the Council will consider such a proposal without delay.

2. The Commission is invited to draw up, as quickly as possible, in cooperation with IMPEL and other interested parties, minimum criteria concerning the qualifications of environmental inspectors who are authorised to carry out inspections for or under the authority or supervision of inspecting authorities.

3. Member States should, as quickly as possible, in cooperation with IMPEL, the Commission and other interested parties, develop training programmes in order to meet the demand for qualified environmental inspectors.

X

Implementation

Member States should inform the Commission of the implementation of this recommendation together with details of environmental inspection mechanisms already existing or foreseen not later than twelve months after its publication in the *Official Journal of the European Communities*.

Done at Luxembourg, 4 April 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

B. ROSENGREN

Appendix 3

IMPEL IRI REVIEW QUESTIONNAIRE AND GUIDANCE.

1. Introduction

This questionnaire and its integral guidance is designed to help the volunteer inspecting authority (Candidate Inspectorate) to describe, in its own words, the systems and procedures in place for delivery of those parts of the IPPC Directive for which they are responsible. This is not an audit process but is intended to meet recital 17 European Parliament and Council Recommendation (2001/331/EC)

(17) 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

This questionnaire must be read in conjunction with the guidance. The completed questionnaire is intended to aid the Candidate Inspectorate and Review Team by the supply of core information in preparation for IRI Review. The response to the questionnaire will inform the review and should be seen in this light.

The guidance and questionnaire is also intended only as an aid for Review Teams in eliciting essential information and to provide an element of consistency between different reviews.

The questionnaire is structured in sections with open questions. The guidance assists by expanding on the goals the sections are intended to achieve.

2. Purpose

The output from the questionnaire together with the Review process are intended to enable the Candidate Inspectorate and Review Team to explore their regulatory system. The review process is intended to identify areas of good practice for dissemination together with opportunities to develop existing practice within the Candidate Inspectorate and Member States.

The purpose of this voluntary scheme is to examine the arrangements within which the Candidate Inspectorate operates. The arrangements are explored using this guidance and the questionnaire, with the objective of delivering the following benefits, which were foreseen in the agreed Terms of Reference for the project with particular relevance to the Recommendation (2001/331/EC) and IPPC:

- Encouragement of capacity–building in EU Member State inspectorates.
- Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange of experience and on development and dissemination of good practice in environmental regulation.
- Provision of advice to inspectorates (“candidate inspectorates”) who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.
- Spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU (“the level playing-field”).

Against this background the Review Teams should be looking for evidence of a comprehensive and effective regulatory system for implementation of the relevant parts of the IPPC Directive.

3. How to use the Questionnaire

This questionnaire should be read in conjunction with the guidance. The guidance supports the questionnaire by describing the objective of each section and includes some supporting information. The output from the questions together with the IRI Review process are intended to enable the Candidate Inspectorate and Review Team to explore the idealised regulatory system. The IRI Review Process is intended to identify areas of good practice for dissemination together with opportunities for improvement to existing practice within the Candidate Inspectorate and Member State.

The questionnaire is structured in sections with open questions. The guidance is intended to assist by expanding on the goals the sections are intended to achieve. The Reference to Article in the Related Article column refers to the Minimum Inspection Criteria Recommendation.

4. Questionnaire

Question	Related Article
<p><u>1. CONSTITUTIONAL BASIS FOR INSPECTORATE</u></p> <p>Objective</p> <ul style="list-style-type: none"> • To establish how the Member State allocates responsibilities for technical policy, socio-economic policy and any related political issues associated with IPPC. • To understand how the Candidate Inspectorate is constituted within the Member State. • To understand the Candidate Inspectorates role in the interface between technical regulatory issues and related political or socio-economic issues in the Member State. <p>Guidance</p> <p>The response to the questionnaire should enable the Review Team and Candidate Inspectorate to examine:</p> <ul style="list-style-type: none"> • The Member State system for specifying the remit of the Candidate Inspectorate, for reviewing its performance, and for ensuring that the Candidate Inspectorate is funded to provide effective service delivery that is stable year-on-year • Member State arrangements allowing the Candidate Inspectorate to comment upon relevant legislation and to suggest changes for improvement of the overall system for delivering the IPPC Directive. • The funding split between central taxation, local taxation and direct charging. • Arrangements for communicating with neighbouring Member States e.g. Article 17 of the IPPC Directive and notification and promoting exchange of information and staff between Inspectorates from the MCEI. <p>Questions</p> <p>1.1 What is constitutional relationship between the Inspectorate and its Member State (MS)?</p>	<p>III(1)</p>

Question	Related Article
<p data-bbox="236 398 799 434"><u>2. LEGAL BASIS FOR INSPECTORATE.</u></p> <p data-bbox="236 472 373 508">Objective</p> <ul data-bbox="236 546 1197 808" style="list-style-type: none"> • To establish an understanding of the legal basis of the Candidate Inspectorate within its Member State. • To gain an understanding of those parts of IPPC for which the Candidate Inspectorate is the competent authority together with an explanation of the types of installations and operators covered. • To establish the roles of the candidate Inspectorate in enforcement of IPPC permit conditions and prosecution. <p data-bbox="236 846 373 882">Guidance</p> <p data-bbox="236 920 1197 1137">It is for the Member State to ensure that responsibilities for all requirements of the IPPC Directive are appropriately allocated within the Member State, e.g. as between the Candidate Inspectorate and other competent authorities. It would be helpful also to understand how those types of installations not covered by the Candidate Inspectorate are regulated and how the relevant bodies interact.</p> <p data-bbox="236 1176 1197 1393">The response to the questionnaire should enable the Review Team to establish a clear picture of where IPPC overlaps or interacts with other legislation. This should identify areas where there may be conflicting legislative requirements and how the relevant responsibilities are allocated and co-ordinated to ensure that IPPC requirements are not compromised by other considerations.</p> <p data-bbox="236 1431 632 1467">It should include a description</p> <ul data-bbox="236 1505 1197 1843" style="list-style-type: none"> • of the powers, duties and sanctions available to the Inspectorate to secure compliance with all requirements of the relevant legislation, and to the necessary standards • of where, in the Member State, the ultimate authority for determining the content of permits lies, • of how the public is involved and what happens if an operator or the public appeals against a decision by the Candidate Inspectorate. • Systems used by the Candidate Inspectorate to resolve legislative conflict <p data-bbox="236 1881 1197 1955">The Review team should be exploring transparency and clarity of arrangements.</p>	<p data-bbox="1217 398 1291 434">III(1)</p>

<p>Questions</p> <p>2.1 What legislation does your Inspectorate apply to IPPC-related activities?</p> <p>2.2 What is the scope of this legislation? (In terms of Installations/Sectors covered.)</p> <p>2.3 To whom does the legislation apply/not apply? (Industry, Government, Armed Forces, etc)</p> <p>2.4 With what other main pieces of legislation does IPPC interact? (Planning, Health and Safety, Seveso II Directive, Freedom of Information etc)</p> <p>2.5 How are responsibilities divided between bodies responsible for interacting legislation and how are differences resolved if they occur?</p> <p>2.6 What powers and duties are given to the Inspectorate to set and apply permit conditions in relation to Emission Limit Values, EQS, BAT, etc.</p> <p>2.7 Summarise appeal provisions within the Inspectorate</p> <p>2.8 Are there provisions for appeal to higher authority, by operators or the public, against Inspectorate decisions?</p> <p>2.9 How is the public involved in the regulatory process? (From application to grant of permit, through inspection to enforcement)</p> <p>2.10 What administrative and legal sanctions are available to Inspectorate in cases of non-compliance with the IPPC permit?</p>	<p>III(2)</p>
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Question	Related Article
<p data-bbox="236 398 1193 472"><u>3. ORGANISATION STRUCTURE AND MANAGEMENT OF INSPECTORATE</u></p> <p data-bbox="236 546 373 584">Objective</p> <p data-bbox="236 618 1193 696">To establish how the Candidate Inspectorate is organised, staffed and managed.</p> <p data-bbox="236 768 373 806">Guidance</p> <p data-bbox="236 840 1193 952">The response to the questionnaire should enable the Review Team and Candidate Inspectorate to explore how the Candidate Inspectorate secures the:</p> <ul data-bbox="236 987 1193 1176" style="list-style-type: none"> <li data-bbox="236 987 1193 1066">• Effective and consistent setting of high-level objectives, strategies and priorities and their internal and external communication <li data-bbox="236 1099 1193 1176">• Effective and consistent delivery of all activities associated with implementation of the IPPC Directive <p data-bbox="236 1211 1193 1400">And to allow the Review Team and Candidate Inspectorate to gain an understanding how and where, within the Inspectorate or Member State, final regulatory decisions are taken i.e. across the full spectrum of complexity of regulatory issues and installation, for example from individual permit conditions to the issue of complex permits.</p> <p data-bbox="236 1435 1193 1579">The information submitted should include information on and a description of any systems, if relevant, for calculating the costs of Candidate Inspectorate activities. This should take into account the “polluter pays principle”.</p>	

Questions

3.1 Outline the Management System used by the Inspectorate and identify any use of formal and informal systems (e.g. ISO9001/2)

3.2 Using a chart/diagram describe the organisational structure of the Inspectorate, with associated staff numbers. Identify the resource e.g. person equivalent or the number of staff involved in IPPC by highlighting relevant parts of the chart/diagram

3.3 How are Inspectorate regulatory policies, objectives, strategies and priorities set and communicated (internally and externally)?

3.4 How are Inspectorate regulatory activities (policy-making, standard setting, research, permitting, inspection, enforcement, reporting and public consultation and guidance) organised and managed and how are resources allocated?

3.5 Where are regulatory decisions taken within the organisation? Is this responsibility delegated?

3.6 How are the costs of Inspectorate activities calculated, allocated reviewed and revised?

Question	Related Article
<p><u>4. WORKLOAD</u></p> <p>Objective</p> <p>To understand the workload of the Candidate Inspectorate and the arrangements for its effective delivery.</p> <p>Guidance</p> <p>The response to the questionnaire should enable the Review Team and Candidate Inspectorate to explore how the Candidate Inspectorate secures the:</p> <ul style="list-style-type: none"> • Effective and consistent setting of high-level objectives, strategies and priorities and their internal and external communication • Effective and consistent delivery of all activities associated with implementation of the IPPC Directive <p>The response should allow the Review Team and Candidate Inspectorate to gain an understanding of how and where, within the Inspectorate or Member State, final regulatory decisions are taken i.e. across the full spectrum of complexity of regulatory issues and installations, for example from individual permit conditions to the issue of complex permits.</p> <p>The information submitted should include information on and a description of any systems, if relevant, for calculating the costs of Candidate Inspectorate activities. This should take into account the “polluter pays principle”.</p>	<p>IV, V</p>

Questions

4.1 How many IPPC installations in each Annex 1 category are, or will be, regulated by the Inspectorate?

4.2 Which of the elements of “environmental inspection”, as defined in Article II, Section 2 of the European Parliament and Council Recommendation (2001/331/EC) on providing for minimum criteria for environmental inspections in the Member States (MCEI), are carried out by the Inspectorate?

4.3 How frequently are/will installations be inspected, by IPPC Annex 1 category?

4.4 What time is allocated for each such inspection?

4.5 How does the Inspectorate forecast the time required for:

- Producing a permit
- Maintaining a permit
- Undertaking enforcement action

4.6 Outline any charges levied by the Member State or Inspectorate:

- for a permit?
- to maintain a permit?
- For monitoring/sampling?

4.7 What determines the ratio of time spent on installations to time in the office on IPPC Regulation?

4.8 What determines the ratio of time spent on planned (routine) inspection to non-routine (unplanned) inspection? Unplanned inspections include reactive work e.g. complaints, incident investigation inspection.

4.9 How many enforcement actions and prosecutions are taken per year, by Annex 1 category, and what penalties (fines, imprisonment) are available and made?

4.10 What pre-application contact is made with operators to ensure they are informed and prepared to comply with IPPC and how is this reflected in the work required for issuing and granting permits?

4.11 How does the Inspectorate plan and prioritise its workload to make best use of the available resources?

Question	Related Article
<p><u>5. QUALIFICATIONS, SKILLS, EXPERIENCE</u></p> <p>Objective</p> <p>To understand the qualifications, skills and experience required by inspectors undertaking IPPC regulation within the Candidate Inspectorate; both on appointment and during their career.</p> <p>Guidance</p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore and understand:</p> <ul style="list-style-type: none"> • How Inspectors qualifications, skills and experience are reviewed and recorded e.g. in personal development plans • How senior management is assured that individual members of staff are appropriately qualified for the tasks to which they are assigned • The Candidate Inspectorate’s approach to regulatory ethics e.g. “the declaration of interests”, the problems of regulatory blindness through over-familiarity with installations and their operators, and possibility of corruption on the part of inspectors or those who issue permits. <p>Questions</p> <p>5.1 What qualifications, skills and experience are required of new entrants to the Inspectorate and how are new entrants selected?</p> <p>5.2 What additional qualifications, skills, and experience are required before practise of permitting, inspection or enforcement?</p> <p>5.3 How are qualifications, skills and experience matched to regulatory duties and by whom?</p> <p>5.4 Are teams of inspectors or individual inspectors expected to cover all IPPC sectors or to specialise in some of them?</p> <p>5.5 Are inspectors warranted or accredited for their duties? If so how?</p> <p>5.6 How does the Inspectorate avoid “regulatory capture”, “undeclared interests” or “issue-blindness”?</p>	

Question	Related Article
<p><u>6. TRAINING FOR IPPC</u></p> <p>Objective</p> <p>To understand any systems the Candidate Inspectorate may use for identifying training requirements against the skills necessary for IPPC service delivery, for providing training and for checking that training has been successful.</p> <p>Guidance</p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore and understand:</p> <ul style="list-style-type: none"> • Systems used within the Candidate Inspectorate for maintaining awareness of technical, policy and regulatory developments and for ensuring that skills of experienced staff are kept up-to-date e.g. continuous professional development (CPD) • Systems used for the continued accreditation/warranting of inspectors and any linkages to participation in skill's assessment and any relevant training requirements e.g. continuous professional development. • Any use of internal or external secondment or exchange programmes to other inspectorates, industry, or accreditation bodies • The quality of the training arrangements <p>Questions</p> <p>6.1 Are training requirements of individual inspectors assessed against necessary qualifications, skills and experience, If so how and by whom?</p> <p>6.2 Is training provided? If so how and by whom?</p> <p>6.3 Is the success, or otherwise, of training subsequently assessed?</p> <p>6.4 Is awareness of relevant technical, policy and regulatory developments maintained within the Inspectorate? If so how?</p> <p>6.5 Are the skills of experienced inspectors refreshed If so how?</p> <p>6.6 Is acceptance of regular assessment of qualifications, skills and experience and successful participation in any necessary training programme a condition of continuing to practice as a regulator?</p>	

Question	Related Article
<p><u>7. PROCEDURES.</u></p> <p>Objective</p> <p>To understand the system of procedures including work instructions covering activities associated with implementation of the IPPC Directive.</p> <p>Guidance</p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore the:</p> <ul style="list-style-type: none"> • system of procedures are used by the Candidate Inspectorate • the coverage of the procedures linked to implementation of IPPC • extent to which procedures are used for tasks identified by the MCEI Recommendation • how the procedures recognise links to other legislative regimes e.g. Seveso II <p>Questions</p> <p>7.1 Are procedures, systems or instructions are in place for:</p> <ul style="list-style-type: none"> • Determining, issuing, reviewing and revoking permits? • Scheduling and planning inspections according to the MCEI? • Conducting routine inspections according to the MCEI? • Conducting non-routine inspections according to the MCEI? (Including those associated with accidents and emergencies.) • Taking enforcement action? • Making information available to the public? • Dealing with accidents on IPPC installations subject to the Seveso II Directive? 	<p>IV</p> <p>V(1,2)</p> <p>V(1,3), VII</p> <p>(VII)</p> <p>VI(1,2)</p>

Question	Related Article
<p><u>8. STANDARDS AND GUIDANCE.</u></p> <p>Objective</p> <p>To understand the criteria the candidate Inspectorate applies in making regulatory decisions and how these are communicated internally (to staff) and externally (to the public and industry and central government).</p> <p>Guidance</p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore the Inspectorate's:</p> <ul style="list-style-type: none"> • guidance to staff on criteria against which regulatory judgements are to be made • provision of technical guidance and how this is produced/agreed/reviewed/revised • provision of advice on BAT for IPPC installations • system for communicating both criteria and guidance to industry and the public • use and access to independent sources of advice e.g. Scientific Committees <p>Questions</p> <p>8.1 How are standards and guidance for regulatory judgements in permitting, inspecting and enforcement established and communicated? (Both internally and externally.)</p> <p>8.2 What technical guidance, e.g. on BAT for IPPC processes, is available? (internally and externally)</p> <p>8.3 How is such guidance produced and how often is it reviewed/revised?</p> <p>8.4 Does the Inspectorate have access to any Advisory Body or any other external, independent source of advice?</p>	

Question	Related Article
<p><u>9. PERFORMANCE ASSESSMENT.</u></p> <p>Objective</p> <p>To understand how the Candidate Inspectorate assesses the quality, consistency of its performance as a regulator and the environmental impact of its activities.</p> <p>Guidance</p> <p>The response to the questionnaire should enable the Candidate Inspectorate and Review Team to explore the Inspectorate's:</p> <ul style="list-style-type: none"> • system for assessment of the of the Candidate Inspectorate's performance, • arrangements for review of results by senior management • feed-back mechanisms for incorporating relevant lessons or actions into programmes for improved performance. • Approach to the review of permits <p>Questions</p> <p>9.1 Does the Inspectorate have systems to assess the quality and consistency of its regulatory activities? If so how is it done and how often?</p> <p>9.2 How and by who are the results of any such assessments reviewed?</p> <p>9.3 How is the environmental impact of the regulatory process assessed?</p> <p>9.4 How are the results of any assessment incorporated into management action on procedures, training programs, guidance, work planning etc?</p>	

Question	Related Article
<p><u>10. REPORTING.</u></p> <p>Objective</p> <p>To understand how the Candidate Inspectorate:</p> <ul style="list-style-type: none"> • Reports its activities to the public • Provides information to the Member State, • Supplies information to the European Commission e.g. for the Member State’s obligations to report progress on the implementation of the Recommendation on Minimum Criteria for Environmental Inspections. <p>Guidance</p> <p>The response to the questionnaire should enable the candidate Inspectorate and Review Team to explore:</p> <p>The Inspectorate’s systems for, and relationship to the Member State and European Community’s systems and requirements for the provision of environmental information. The types of information made available, e.g. annual report, inspection reports, sampling data, enforcement and prosecution data</p> <p>Questions</p> <p>10.1 What systems are used to report the Inspectorate’s regulatory activities, to whom and how often?</p> <p>10.2 What information does the Inspectorate make available to the MS for the purpose of their “reporting on environmental inspection activities in general”?</p> <p>10.3 What information does the Inspectorate make available directly to the public and how is it organised, funded and managed? (e.g. Pollution Emissions Register.)</p>	<p>VI(1,2)</p> <p>VIII(1,2)</p>

Appendix 4

TOR FOR EPA, IRELAND REVIEW.

No	Name of project
	<i>Report on the Irish Environmental Protection Agency (EPA) IRI Review</i>
<i>Project Manager</i>	<i>Mr. Iain Maclean, Environmental Protection Agency (EPA), Ireland</i>

1. Scope

1.1. Background	<p><i>The Helsinki Plenary Meeting of IMPEL, in December 1999, requested that proposals be drawn up for “a voluntary scheme for reporting and offering advice on inspectorates and inspection procedures” (the “scheme”). This was against the background of preparation of a European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in the Member States and the expectation that further recommendations would follow on Minimum Criteria for Inspector Qualifications and for Inspector Training.</i></p> <p><i>In March 2001 the IRI Working Group finalised a proposal for the voluntary scheme and sought candidate Inspectorates to undertake the review process. The “IRI Review Guidance and Questionnaire” was approved at the IMPEL Meeting at Falun in June 2001.</i></p> <p><i>Germany hosted the first full review in October 2001. Ireland also volunteered to act as a candidate inspectorate and held the second full review in March 2002.</i></p> <p><i>The Recommendation of the European Parliament and of the Council providing for minimum criteria for environmental inspections in the Member States (2001/331/EC) says in recommendation III (4).</i></p> <p style="text-align: center;"><i>“In order to promote best practice across the Community, Member States may, in co-operation with IMPEL, consider the establishment of a scheme, under which Member States report and offer advice on Inspectorates and inspection procedures in Member States, paying due regard to the different systems and contexts in which they operate, and report to the Member States concerned on their findings.”</i></p> <p><i>The potential benefits of this scheme include:</i></p> <ul style="list-style-type: none"> <i>• Encouragement of capacity–building in EU Member State inspectorates.</i> <i>• Encouragement of further collaboration between EU Member State inspectorates on common issues or problems, on exchange</i>
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	<p><i>of experience and on development and dissemination of good practice in environmental regulation.</i></p> <ul style="list-style-type: none"> • <i>provision of advice to candidate inspectorates who may be seeking an external view of their structure, operation or performance by trusted, knowledgeable and independent counterparts for the purpose of benchmarking and continuous improvement of their organisation.</i> • <i>the spread of good practice leading to improved quality of inspectorates and inspections, and contributing to continuous improvement of quality and consistency of application of environmental law across the EU.</i>
<p>1.2. Definition</p>	<p><i>The project has, in essence, three key objectives to be delivered in one final report</i></p> <ul style="list-style-type: none"> • <i>to compile the findings of the week-long review from March 4th to 8th into a concise, accurate format in line with the IMPEL questionnaire</i> • <i>to present both examples of “good practice” and “opportunities for development” for the Irish EPA which were identified by the Review Team</i> • <i>to draw some conclusions for the IRI review process so that future reviews in Belgium, Spain and France can incorporate these in their Terms of Reference</i> <p><i>The Ireland Review was carried out under the chairmanship of Martin Murray from the UK Environment Agency and included participants from Spain, Belgium, Germany and Sweden as well as an observer from Northern Ireland. An expert rapporteur, Dr. Allan Duncan, was employed as a consultant to record the discussions as they evolved. This was crucial to the success of the project as it enabled the Review Team to be free and probing in their questioning. Dr. Duncan is to prepare a report on the Irish Review and submit to the Irish EPA.</i></p>
<p>1.3. Objective of project</p>	<p><i>The project is being undertaken in order to prepare a detailed report on the IRI review of the Irish Environmental Protection Agency (EPA) conducted in accordance with the “IRI Review Guidance and Questionnaire” approved at the IMPEL Meeting at Falun in June 2001.</i></p> <p><i>The benefits of the project are tri-fold;</i></p> <ol style="list-style-type: none"> 1. <i>The Irish EPA will benefit from an expert review of its systems and procedures with particular focus on conformity with the Minimum Criteria for Environmental Inspections 2001/331/EC. In particular, opportunities for development will be identified and examined by the Irish EPA.</i> 2. <i>Terms of Reference for future IRI reviews can take into account</i>

	<p><i>the lessons for the IRI review process that will be included in the report</i></p> <p>3. <i>Other Member States will benefit through the dissemination of the report through the IMPEL network.</i></p>
1.4. Product(s)	<p><i>Tangible products will be;</i></p> <ul style="list-style-type: none"> • <i>A written report of the review for the candidate inspectorate, Relevant extracts from the review report, as agreed with the Irish EPA, for dissemination to IMPEL members and the EC; this will include material which might be considered for incorporation in the Guidance, Education and Training Schemes of other Member States Inspectorates.</i>

2. Structure of the project

2.1. Participants	<p><i>The review team consisted of 5 participants from 5 Member States. The team was led by Martin Murray from the United Kingdom Environment Agency. Participants from Germany, Belgium, Spain and Sweden also took part. Germany hosted the first full review in October 2001 and Belgium and Spain are due to host the next two reviews. This provided an additional focus in that the participants were very active in discussions during the week.</i></p> <p><i>Dr. Allan Duncan, previously involved in the development of the IRI review process, acted as the consultant expert rapporteur to the review team.</i></p>
2.2. Project team	<p><i>This project is limited to the preparation of the final report. Dr. Allan Duncan, the consultant expert rapporteur, is the key individual involved. Mr. Martin Murray, who chaired the IRI Review Working Group will assist in the preparation of the final report.</i></p> <p><i>In the Irish EPA, personnel to be involved include Iain Maclean, Director of the Licensing & Control Division, Dr. Gerry Byrne, Programme of the Licensing & Control Division and James Moriarty, an Inspector in the Division. All three were extensively involved during the week long review.</i></p>
2.3. Manager Executor	<p><i>Mr Iain Maclean of the Irish EPA will be responsible for monitoring and supervision of the Ireland IRI project on behalf of IMPEL. The report will be submitted to the June 2002 IMPEL Plenary in Santiago de Compostella, Spain. The report will be quality assured prior to the Impel Plenary by the IRI Review Working Group.</i></p>
2.4. Reporting arrangements	

	<p><i>The results of the Review will be reported by the project manager via the IRI working group to the IMPEL Plenary for approval.</i></p> <p><i>The Report will follow the Template Structure shown in Attachment 1 and will include:</i></p> <ul style="list-style-type: none"> • <i>A written report of the review background, participants and expenditure.</i> • <i>Relevant extracts from review reports, as agreed with candidate inspectorates, for dissemination to IMPEL members and the EC,</i> • <i>Training and Educational material on “lessons learnt” and on areas of good practice for dissemination to IMPEL Members</i>
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3. Resources required

<p>3.1 Project costs</p>	<p><i>The project will involve the following;</i></p> <ul style="list-style-type: none"> • <i>the costs of the contractor (6 man Days at €500) is estimated at €3,000.</i> • <i>the production of the report in text suitable for publication on the IMPEL web-site at €1,500.</i> <p><i>We estimate that the costs for the preparation and production of the Ireland IRI review report would be €4,500. Personnel costs from the candidate inspectorate are not included in this assessment.</i></p>
<p>3.2. Fin. from Com.</p>	<p><i>It should be noted that the project arises from EU Legislation and that the IRI Review itself from March 4th through 8th required a substantial financial commitment from the Irish EPA.</i></p> <p><i>Accordingly, the costs of the consultant in preparation of the review report and of the publishing costs is sought from the Commission towards the costs outlined in Section 3.1.</i></p> <p><i>This amounts to €4,500 of which €3,600 (80%) is sought from the Commission.</i></p>
<p>3.3. Fin. from MS (and any other)</p>	<p><i>Costs of time plus the costs of travel and subsistence of participants in the review team.</i></p>
<p>3.4. Human from Com.</p>	<p><i>None required.</i></p>
<p>3.5. Human from MS</p>	<p><i>The breadth of issues dealt with in the questionnaire required that</i></p>

	<p><i>significant personnel resources from the candidate inspectorate were required for the review itself in March. This resource has already been provided. The Irish EPA is happy to provide the necessary personnel to the finalisation of review report</i></p>
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4. Quality review mechanisms

- The quality and success of this project will be judged by the Candidate Inspectorate, the IRI Working Group and directly by IMPEL on the basis of reports to Plenary meetings by the Project Manager and the Chairman of the IRI Review Working Group*

5. Legal base

<p>5.1. Directive/Regulation/ Decision</p>	<p><i>The European Parliament and Council Recommendation on Providing Minimum Criteria for Environmental Inspections in Member States (2001/331/EC) and, in due course, those on Inspector Qualifications and Training.</i></p> <p><i>In particular, Point 111.4 of the MCEI (reproduced in Section 1.1 above) refers to the production of reports.</i></p>
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6. Project planning

<p>6.1. Approval</p>	<p><i>For consideration as soon as possible.</i></p> <p><i>The aim is to have the finalised report prepared for approval at IMPEL Meeting at Santiago de Compostela, Spain, on 5-7 June 2002,</i></p>
<p>6.3. Start</p>	<p><i>Work on finalising the report can commence immediately after approval. The review itself was completed in March 2002.</i></p>

Attachment 1

IMPEL IRI REVIEW

DRAFT REPORT STRUCTURE

1.0 Executive Summary

2.0 Introduction

2.1 Background – From the TOR for the Review

2.2 Objective – From the TOR

2.3 Scope – From the TOR

2.4 Structure – Dates of: Pre-meeting with Review Team Leader, Dates of Review

3.0 Regulatory Arrangements

Summary description of Regulatory Structure in Member State and Role of Candidate Inspectorate

4.0 Main Findings

4.1 Legal and Constitutional Arrangements

4.2 Structure and Management Of Inspectorate

4.3 Workload

4.4 Qualification and Training

4.5 Procedures and Regulatory Decision Making

4.6 Performance Assessment and Reporting

5.0 Summary of Findings

6.0 Conclusions

7.0 Appendices

Appendix 1 - TOR

Appendix 2 - Summary of information submitted in advance of the Review

8.0 Participants

9.0 References

Appendix 5

LIST OF PARTICIPANTS IN REVIEW.

Peter Askman	Naturvårdsverket, Stockholm, Sweden.
Chiqui Barrechequeren	Conselleria de Medio Ambiente, Xunta de Galicia, Santiago, Spain.
Fred Dietzel	Staatliche Gewerbeaufsichtsamt Mannheim, Baden-Württemberg, Germany.
Jean Pierre Janssens	Brussels Institute for Management of the Environment.
Ken Ledgerwood	Environment and Heritage Service, Northern Ireland.
Martin Murray	Environment Agency, England and Wales. (Project Manager)
Allan Duncan	Environmental Consultant, UK
Iain Maclean	Environmental Protection Agency, Ireland.
Gerry Byrne	Environmental Protection Agency, Ireland.
Gerry Carty	Environmental Protection Agency, Ireland.
Jonathan Derham	Environmental Protection Agency, Ireland.
Lawrence Kavanagh	Environmental Protection Agency, Ireland.
Dara Lynott	Environmental Protection Agency, Ireland.
James Moriarty	Environmental Protection Agency, Ireland.
Kieran O'Brien	Environmental Protection Agency, Ireland.
Tom Stafford	Environmental Protection Agency, Ireland.
Brendan Wall	Environmental Protection Agency, Ireland.

Appendix 6

NUMBERS OF IPPC INSTALLATIONS REGULATED BY EPA, IRELAND. (By Annex 1 category).

Category		Number
1.1	Combustion Installations (> 50 MW).	8
1.2	Mineral oil and gas refineries.	1
2.2	Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tonnes per hour.	1
2.3 (c)	Application of protective fused metal coats with an input exceeding 2tonnes of crude steel per hour.	11
2.4	Ferrous Metal Foundries.	2
2.5(a)	Installations for the production of non-ferrous crude metals from ore.	7
2.6	Surface Treatment of Metals and Plastics.	21
3.1	Cement production.	15
3.3	Glass and glass fibre production.	3
3.4	Melting of mineral substances.	1
3.5	Manufacture of Ceramic products.	4
4.1	Production of Organic Chemicals.	57
4.2	Production of Inorganic Chemicals.	8
4.3	Chemical installation for the production of phosphorous.	3
4.4 & 4.5	Plant health products and biocides, Pharmaceutical production.	55
6.1(b)	Pulp from timber or other fibrous materials.	6
6.2	Plants for the pre-treatment or dyeing of fibres or textiles.	19
6.3	Tanning of hides and skins.	3
6.4(a)	Slaughterhouses with a carcase production capacity greater than 50 tonnes per day.	34
6.4(b)	Treatment and processing intended for the production of food.	4
6.4(c)	Treatment and processing of milk.	10
6.5	Disposal and recycling of animal carcasses.	22
6.6(a)	Poultry or pig rearing: 40,000 places for poultry.	3
6.6 (b&c)	2000 places for production pigs, 750 places for sows	52
6.7	Installations for the surface treatment of substances, objects or products using organic solvents	85
<u>Total.</u>		<u>435 Installations</u>

Note: There are some differences between the activities listed under the EPA Act 1992, Schedule 1, and under the IPPC Directive, Annex 1. The total number of installations actually regulated under the EPA Act 1992 is **531**.