**Information to operators and general public about rights & duties related to environmental inspection. Improving cooperation inspectors-operators**

*Project MK-10-IB-EN-01*

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**List of Acronyms**

|  |  |
| --- | --- |
| BATs | Best Available Techniques |
| BREFs  | Best Available Techniques Reference Document |
| EC  | European Commission  |
| EIA  | Environmental Impact Assessment  |
| ELV | Emission Limit Values |
| EMS | Environmental Management System |
| IC | Inspection Council |
| IED | Industrial Emissions Directive 2010/75/EU |
| IMPEL | European Union network for the implementation and enforcement of environmental law |
| IPPC  | Integrated Pollution Prevention and Control  |
| IPPC A/B permit | A/B integrated environmental permit (as defined in LoE) |
| LoE | Law on Environment |
| MoEPPPRTR  | Ministry for Environment and Physical Planning Pollutants Release and Transfer Register  |
| RMCEI | Recommendation 2001/331/EC of the European Parliament and the Council providing for minimum criteria for environmental inspections in the Member States |
| SEI  | State Environmental Inspectorate  |

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# Executive summary

This document contains a proposal for the structure and content of information to be made available on the website of the State Environmental Inspectorate and in a leaflet to provide relevant information on environmental inspections to industrial operators which are subjected to them. Potential contents for an additional website section with Frequently Asked Questions (FAQ) are as well presented. A proposal for the structure and content of a leaflet with a shorter version of the information is also included. The last chapter (3) of the document discusses potential ways to ensure a maximum dissemination of the materials prepared and to promote a good cooperation between inspectors and industrial operators.

# Information to be prepared for operators about rights & duties related to environmental inspection

1.
2.

## Information for operators in the website

The following conclusions about the structure and contents of the leaflet were drawn from the meeting with SEI inspectors and industrial operators (see the list of participants in Annex 1):

From the operators point of view it is necessary to elaborate and implement a dissemination and communication strategy regarding environmental inspections.

All the information of interest for the operators regarding environmental inspections will be made available in a document uploaded on the website of the SEI, which will become one of the sections of the website easily accessible by ticking on one tab of the main menu. The document is expected to include links to relevant legislation, guidance, factsheets, checklists etc. in order not to repeat texts or parts of texts already available in the website.

Operators agreed on the usefulness of issuing, in addition, a leaflet with a shorter version of the document mentioned in the previous paragraph.

Suggested text:

### Introduction

**Operators** carrying out activities likely to produce impacts on human health and in the different **environmental topics** (air, water, soil and ground water) through emissions of **pollutant substances**, greenhouse gases, noise and vibrations and the production of waste, must comply with environmental requirements set in the environmental legislation on the topics mentioned. Some of the operators hold specific **environmental permits** (e.g. IPPC-A, IPPC-B, Elaborates). In the case of **IPPC installations**, integrated environmental permits are issued, which include provisions and conditions on all environmental topics. The purpose of **inspections** is to check if the operator complies with the applicable legislation and with the conditions laid down in the permits where this is the case. IPPC-A installations and installations under the scope of Chapter XV of the Law on Environment on prevention and control of major accidents involving hazardous substances have additional requirements regarding inspections (e.g. frequency of routine inspections, planning of inspections, the obligation to make publicly available some information).

|  |
| --- |
| This text is not legally binding. For precise prescriptions, please refer to relevant sections of the Law on Environment, Law on Inspection Supervision, material Laws (Water, Waste, Air, Nature Protection…), available in the websites mentioned in section “Relevant documents” |

Here you can find information about

* [rights and obligations of the operator during the inspections (section 2.1.2)](#enlace1)
* [what can the inspector do during an inspection (section 2.1.3)](#enlace2)
* [description of an inspection site-visit (section 2.1.4)](#enlace3)
* [closure and follow-up of the inspection (section 2.1.5)](#enlace4)
* [relevant documents (section 2.1.6)](#enlace5)

On this website there is also a [section of Frequently Asked Questions (FAQs)](http://www.sei.gov.mk/page_en.asp?ID=8). Some of these questions are relevant for operators.

If you have some suggestions for improvement or you want to present good practices, please share this by the digital post box on the website of the SEI (d.blinkov@sei.gov.mk).

### Rights and obligations of the operator during inspections

The **rights** of the operator during inspections are:

* The operator has the right to give comments and notes to the minutes and remarks regarding the legality of the procedure of the inspection or the work of the inspector, as well as for the accuracy of the established facts and the actual situation, in written form with explanation of the reason and justification of the facts.
* The operator has the right not to accept to sign the inspection minutes if he disagrees with the facts that are listed in the minutes or report or if the previously mentioned right to provide remarks was denied to him, although the refusal of signing the minute or report does not obstruct the further performance of the inspection procedure.

The **obligations** of the operator during the inspections are:

* The operator is obliged to provide to the inspector an unobstructed performance of the inspection and to make available all the data and documents that are needed for the inspection.
* The operator is obliged to provide to the inspector all the required conditions for an unobstructed inspection and for establishing the facts of the actual situation.
* The operator is obliged to provide to the inspector, within the specified period, to be defined by the inspector, access to the premises, the products, the documents or any other items which are object of the inspection.
* The operator is obliged, upon a written request of the inspector, to stop the work during the inspection, if it is impossible for the inspector to perform the inspection in any other way and to establish the facts of the actual situation.
* The operator is obliged, upon a written request of the inspector and within the period of time specified in the request, to provide true and complete data, reports, materials or other documents which are necessary for the performance of the inspection[[1]](#footnote-1).

### 2.1.3. What can the inspector do during the inspection?

During the performance of the inspection the inspector in authorized to*:*

* Inspect general and special acts, files, documents, evidences and information related to the object of the inspection supervision and to ask from the subject of the supervision or his responsible employees to prepare necessary copies and documents. If such documents are originally in a foreign language, for them to be translated in to Macedonian in a Cyrillic alphabet and certified by a sworn court translator.
* Supervise the official premises and other facilities that are not used for living as well as transportation means and products.
* Inspect identification documents of persons for confirming their identity according to the law.
* Ask from the operator or from his employees a written or oral explanation regarding the issues related to the inspection supervision.
* Ask from operator or from his employees to submit all data they have available from their suppliers.
* Ask for professional opinion from independent institutions/consultants on specific issues when/if it is needed for the inspection supervision and execution.
* Request the operator to perform a further sampling through an accredited laboratory to cross-check monitoring results, or in case of incident/ accident. To take this sample is the responsibility of the inspector. When it is a sample not included as part of the sampling in the monitoring plan, this will be financed by the institution to which the inspector belongs. In case of accidents the second sample has to be paid by the operator. In this case the operator has to choose a certified laboratory from the website of the institute for accreditation of the Republic of Macedonia ([www.iarm.gov.mk](http://www.iarm.gov.mk)).
* Control the activities of the operator during sale of products or giving services.
* Provide audio and video recordings that could be used in the inspection supervision.
* Make an inventory list on the existing goods and products in the business premises and facilities.
* Provide other necessary evidences.

### 2.1.4. Description of an inspection site visit

#### 2.1.4.1. Frequency of the site visits

The **frequency of regular site visits** is based on a **risk assessment** calculated with a specific software (IRAM) used by inspectorates in the EU. This is also in line with the approach of the Inspection Council (IC) and EU legislation.

For assessing risks of industrial activities the following definition is used: The Risk of an activity in inspection planning is defined as the (potential) impact of the activity on the environment or the human health during periods of **non-compliance** with the regulations by law or permit conditions.

There are different methodologies to determine the risk. In Macedonia the **Integrated Risk Assessment Method (IRAM)** is used. The result of this risk assessment is a list of inspection objects with inspection frequencies of site visits. In this risk-based approach, most inspection effort will be focused on the objects with the highest risks (highest risk first). The detailed criteria and description of IRAM can be found in sections 2.3 and Annex 10 of the Manual for Planning, Inspection and Enforcement of Environmental Acquis available in the following link:

<http://sei.gov.mk/projects_page_mk.asp?ID=6>

The risk can be influenced by a set of factors, e.g. the **operator performance** (e.g. compliance behaviour and the implementation of a working Environmental Management System) is taken in account. This means that the frequency is partly determined by the performance of the operator.

In addition to the ordinary inspections, extraordinary or control (follow-up) inspections may be performed, as a function of complaints received, non-compliances detected during inspections, and incidents or accidents occurring in the installations.

#### 2.1.4.2. Different inspection modalities

Different inspection modalities may be carried out:

* Inspections to verify **compliance** with the integrated environmental permit of IPPC installations. Compliance with conditions related to all environmental topics are inspected as well as other conditions laid down in the permit regarding the implementation of the **best available techniques (BAT)** for IPPC-A installations, including energy efficiency, measures to reduce water and raw materials consumption, waste production, etc.
* Inspections to verify compliance with legislation or with specific permit conditions related to one (or more) environmental topic (e.g. waste).
* Coordinated inspections: during one inspection inspectors from several Inspectorates collaborate with each other, to verify compliance with legislation and conditions laid down in permits arising from different fields, mainly environment, labour, safety (e.g. installations under the scope of Chapter XV of the Law on Environment on prevention and control of major accidents involving **hazardous substances**) in order to streamline inspection procedures.

#### 2.1.4.3. Administrative check

In case an inspector has to check the administration during an inspection, it may be started by handing over a list with documents that the inspector wants to see. For ordinary inspections, the inspector will ask such list of documents before the inspection if possible. Some documents may be submitted by the operator following a request of the inspector to do it so within an established deadline.

During the administrative check, the following items can for example be verified:

* Identification of the person responsible for environmental issues and monitoring
* Operating hours of the installation
* Updated planimetry of the plant, indicating:
* Production lines
* Waste water treatment plant
* Waste water discharge points
* Air emissions points
* Waste storage areas
* Maintenance operations register;
* Waste input/output register and documents supporting waste shipments to authorized waste managers, including contracts, certificates, etc.
* Documents supporting data on power, water, fuel, raw materials consumption.
* **Self-monitoring**. Inspectors will focus in the following items:
* Checking if an operator does self-monitoring or not.
* Comparing if they do it in line with the permit, i.e. checking the frequency, parameters measured, equipment used (if it is a continuous monitoring such as in the case of big power plants, a presentation of results shown in real-time will be checked by the inspector, writing down in the report what has been seen).
* Checking if the reference methods for taking samples and making measurements and analysis were used.
* Checking whether an accredited laboratory did collection of samples and analysis.
* Checking if emission limit values are not breached - in case an operator submits reports to the inspection authority on a regular basis, this will be carried out during a desktop-study or during the site visit.
* Checking other relevant emission parameters - these are parameters that measure emission levels in an indirect way, e.g. amount of paint used, amount of fuel burnt; there might be also some parameters characterising the raw materials used that are crucial (e.g. percentage of sulphur in coal used as fuel) as they influence emission levels.
* Inspectors may decide to be on site when the samples are taken randomly to ensure it is done right.
* Communications to Competent Authority related to accidents and incidents.
* **Environmental Management System (EMS)** certificate or relevant documentation. If the EMS is prescribed in the permit, inspectors will check compliance with this condition and will focus on significant environmental aspects and on non-conformances found by auditors, their follow-ups and changes introduced in procedures to make sure such non-conformances will not happen again, keeping in mind that anyway the permit is the reference document.

The EMS can give additional information about the overall environmental performance of the facility; in any case however the examination of the EMS cannot replace an environmental inspection.

* Monitoring plan included in the Environmental Impact Assessment (EIA) Decision and its last results and reports on compliance with conditions (if applicable).

#### 2.1.4.4. Physical inspection

Physical inspection includes visual inspection, evidence collection and taking samples.

For the inspectors’ personal safety he or she shall comply with the internal safety regulations of the entity inspected. These may include the need to wear a helmet or protective clothes (e.g when inspecting some part of a production line in food or chemical industry) as well as going only on special and dedicated paths in a factory. The operator is obliged to provide the inspector with the appropriate safety equipment if necessary.

##### 2.1.4.4.1. Visual inspection and evidence collection

While conducting a visual inspection the following locations are important:

* The direct surrounding of an installation to see if there are traces of pollution by the installation (e.g. abandoned waste, dust from air emissions, the presence of water streams that could be a recipient of waste water, proper separation systems of rainwater from polluted water).
* The production lines to see whether the installation is actually working during the visit and to what extent; this allows a first “visual” assessment of possible impacts on the environment.
* Emission points to air and water to check whether their number and positions are in line with the permit.
* All the required equipment used to protect the environment (e.g. air filters, the factory's wastewater treatment plant, barriers built to prevent leakages from storage tanks, measures for soil protection, etc.).
* Areas and buildings used for waste storage. In the case of hazardous waste all the safety measures protecting against leakages (if the barrels are closed, or if the waste is packed in a proper way preventing leakage to the groundwater) and uncontrolled disposal to the environment will be checked.

Note that at least in the case of an IPPC A installation a visual inspection will not only include **"end-of-pipe-techniques”** but also other aspects considered to be BAT like efficient energy use. This may include checking of issues such as energy efficiency equipment but also for example insulation layers on steam pipes.

Everything that can be found during inspections may be worth being collected and treated as **evidence** and must be attached to the report. Generally as “evidence” it is understood:

* Photographs, videos.
* Oral and written statements of the operator and the employees.
* Reports of sampling as well as reports from laboratory analysis.
* Notes/reports of visual inspection.
* Documents such as environmental reports, registries, results of self-monitoring. In case of infringements it is worth making copies and attaching them to the report, as they will serve as a proof in case of later proceedings.
* Protocols of interviews.

##### 2.1.4.4.2. Sampling and laboratory analysis

In case that the inspector, after analysing the permit conditions and monitoring reports related to monitoring and **sampling**, thinks that there is need to perform a further sampling to cross-check the monitoring results, or in case of incident/accident, then he or she may request the operator (through an **accredited laboratory**) to perform sampling in certain points. He or she will coordinate and overview the implementation of the sampling when the accredited laboratory staff comes to extract the samples.

If the operator, during the collection of samples for analysis, does not request a concurrent collection of a sample for a second analysis, he or she has no right to object the results of the analysis.

The operator may object the results of the analysis of the first sample via request to perform an analysis of the **second sample** (obtained at the same time and using the same means) within three days of the day of delivery of the results of the analysis of the first sample.

If the results of the analysis of the second sample do not conform to the results of the analysis of the first sample, the analysis of the second sample shall be considered legally valid.

The last precondition is that the analysis of the second sample cannot be delegated to the expert institution that performed the analysis of the first sample.

It might also happen that the inspector does not agree with the outcome of the analysis from the second sample. If this is the case, he or she may, within three days of receiving these results, request a so-called “super analysis” of a third sample (obtained at the same time and using the same means as the first). There are no written criteria for the “super analysis”, it will be performed according to the expert judgement of the inspector.

The second and the third analysis should be done by a certified laboratory different to the one having taken/analysed the first sample. If this is not available in the Republic of Macedonia the samples have to be sent to a certified laboratory outside the country. The cost for these analyses have to be covered by the institution to which the inspectors belongs.

Please note that an expert institution that made the previous analyses cannot perform the super analysis, unless there are no other institutions for performing these analyses and/or unless the inspector and operator agree to delegate the analysis to one of the institutions that already performed an analysis.

#### 2.1.4.5. Topics

The following topics may be inspected:

* Emissions to **air** (including greenhouse gases)
* Emissions to **water**
* Emissions to **soil and groundwater**
* **Noise** & **vibrations** emissions
* **Waste** input/output, storage and off-site transfers
* Consumption of energy, fuel, raw material, water and other resources

Note that at least in the case of an IPPC A installation a visual inspection will not include only the topics mentioned above but also the compliance with the integrated environmental permit regarding the implementation of Best Available Techniques (BAT) mentioned in the permit, e.g. energy efficiency: in doing so, the correct implementation and functioning of any BAT will be inspected (e.g. production process units, recycling systems etc.).

#### 2.1.4.6. Coordinated inspections

The Law on Inspection Supervision defines the situations when the implementation of **coordinated inspections** involving inspectors from several inspectorates (e.g. environment, labour, protection and rescue) are mandatory. In terms of administering such cases, the corresponding inspectorates are obliged to:

* Announce the inspection visit in advance.
* Consolidate the work plans and programmes and plan the coordinated inspections.
* Exchange experiences and consolidate opinions on the means and methods of work and other issues.
* Hold joint meetings, consultations, councils and other forms of joint cooperation.
* Inform other state bodies competent in the enforcement of the corresponding regulations, when the inspection services make some finding relevant to those regulations during the supervision.

Protocols are being developed to implement such coordinated inspections regarding labour, environment and protection and rescue inspections carried out to check compliance with legislation on prevention and control of major accidents involving hazardous substances.

### 2.1.5. Closure and follow-up of the inspection

#### 2.1.5.1 Observations, minutes and signing

At the end of the inspection site visit the inspector organizes a closure meeting. During this meeting the inspector gives his or her observations and writes them down in a brief “report”, the **minutes**, and **signs** them. The minutes are also submitted to the operator who is asked to sign the minutes in case of agreement. If an operator refuses to sign the minutes, the inspector shall state the reasons for refusal.

However, when due to the scope and complexity of the inspection supervision, or its nature and circumstances minutes cannot be drafted during the inspection supervision, the minutes are drafted in the offices of the inspection service within three days of the supervision, outlining the reasons for the delay. Also a copy of the minutes is submitted to the operator for signing. If an operator does not react to the submitted minutes or fails to return a signed copy to the inspector within eight days of the day of receiving the minutes, it is considered that the operator agrees with the minutes of the inspection. If an operator refuses to sign the minutes, the inspector shall state the reasons for refusal.

#### 2.1.5.2. Decision

If during the inspection the inspector determines that a law or other rule has been breached, he or she has to issue a so-called Decision:

Two parallel procedures may be defined in the **Decision**:

* Set of instructions to the operator about measures to be taken with corresponding deadlines. The inspector shall prepare the decision, based on facts determined during the inspection, no later than eight days from the completion of the inspection.

Depending on the kind of breach detected, the inspector may request the start of a misdemeanour procedure, a mediation procedure or a criminal case.

In minor cases, an exchange of letters may prove sufficient. The inspector might write a letter requesting an explanation of a particular issue and the operator should have to reply. If the reply is satisfactory this should end the matter.

In exceptional circumstances, to remove an immediate life-endangering or health-endangering situation, the inspector may determine inspection measures with an oral decision during the site visit, when he or she assesses that it is necessary. In such cases, the inspector is obliged to prepare a written decision within three days from the day of making the oral decision.

An appeal may be lodged against the inspector’s decision within eight days from the day of receiving the decision, if no shorter term has been determined by law.

#### 2.1.5.3. Conclusion

The procedure of inspection is ended by drafting a **conclusion**. The conclusion is used to resolve issues of procedure arising during the inspection. A written conclusion is not issued only for exports of goods, where the control has not started in the Republic of Macedonia (in which case only the so-called template D4 is fulfilled).

The conclusion has to be sent to the operator within eight days. If the operator is not satisfied with the conclusion, he or she has the right to appeal it.

If during the inspection no faults are determined or the faults determined are removed during the inspection, i.e. until the drafting of the conclusion, the inspector is obliged to issue a conclusion to cease the procedure.

### 2.1.6. Relevant documents

#### 2.1.6.1. Legislation

On the ‘Legislation’ section of the website of the State Environmental Inspection (SEI) (<http://www.sei.gov.mk/page_en.asp?ID=2>) there is relevant legislation available.

The relevant legislation includes the following:

* Law on Environment
* Law on Inspection Supervision
* Law on Waters
* Law on Nature Protection
* Law on Protection from Environmental Noise
* Law on Ambient Air Quality
* Law on Waste Management
* Law on management of batteries and accumulators and waste batteries and accumulators
* Law on management of packaging and packaging waste
* Law on management of electrical and electronic equipment and waste electrical and electronic equipment
* Law on Genetically Modified Organisms
* Law on Control of emissions of volatile organic compounds resulting from use of petrol .- Law on administrative procedure
* Law on misdemeanor
* Criminal Code Law on criminal procedure
* Law establishing a State Commission for decisions in the second instance in the area of the inspection supervision and misdemeanor procedures

Additionally, on the website of the Ministry of Environment and Physical Planning (<http://www.moepp.gov.mk>) there are also links to relevant legislation. Information about Rulebooks is available on de website of the Official Gazette ([www.slvesnik.com.mk](http://www.slvesnik.com.mk))

#### 2.1.6.2. Inspection factsheets and checklists

Templates of inspection **checklists** have been prepared as a tool to help inspectors do their work when they visit installations of some sectors. In addition to such checklists have been prepared **sector factsheets** that give a brief introduction to the sector and of its main environmental impacts. Such documents can be downloaded from the following link: <http://sei.gov.mk/projects_page_mk.asp?ID=6> .

#### 2.1.6.3. Other relevant links

- Inspection Council (IC): <http://is.gov.mk/>

- Economic Chamber of Commerce of Macedonia: [Стопанска комора на Македонија](http://www.mchamber.org.mk/%28S%28hafukr552hz4h4jk2ikqrhz1%29%29/default.aspx?lId=2)

- International Chambers of Commerce of Macedonia: [ICC Macedonia | National Committees | Worldwide Membership | ICC - International Chamber of Commerce](http://www.iccwbo.org/Worldwide-Membership/National-Committees/ICC-Macedonia/)

- Macedonian Chambers of Commerce: <http://sojuzkomori.org.mk/en/>

- Economic Chamber of North-West Macedonia: <http://oemvp.org/en/>

- Organization of Employers of Macedonia: [Organization of Employers of Macedonia](http://www.orm.org.mk/index.php?lang=en)

- Association of the units of local self-government of the Republic of Macedonia (ZELS): [Заедница на единиците на локална самоуправа на Република Македонија](http://www.zels.org.mk/Default.aspx)

## Section of FAQs in website

This section includes the following sections and Frequently Asked Questions:

1. FAQs of interest to operators:
	1. Which kinds of installations need to be inspected?
	2. Will I be inspected by an inspector at central level (SEI) or at local level?
	3. How often will I be inspected?
	4. Which kinds of ordinary inspections are possible?
	5. What kind of information will be checked during inspections?
	6. Can non-compliances detected during inspection be solved within a period of time without a misdemeanour, or a mediation procedure or a criminal case being started?
	7. Which kind of penalties may arise if non-compliances are detected?
	8. Which benefits arise from implementing an environmental management system (EMS)?
	9. May decisions taken by inspectors be appealed?
2. FAQs of interest to the general public
	1. I have seen or suspect about an environmental infringement by a company or individual, who should I inform?
	2. Which information do I have to report about the case of infringement?
	3. I would like to learn more about the environmental performance of a company, how can I do that?

### FAQs of interest to operators

* Which kinds of installations need to be inspected?

You (as operator) have to check if the activities you carry out in your installations are included among those listed in the Annex 1 (IPPC-A activities) and Annex 2 (IPPC-B activities) of the Ordinance on determining the activities of the installations requiring an integrated environmental permit, i.e., adjustment permit with an adjustment plan and time schedule for submission of application of adjustment permit with an adjustment plans (Official Gazette of Republic of Macedonia no. 89/05). In case they are included, your installations will be subjected to inspections. If they are not included, you have to additionally check if they are included among the 2 Ordinances defining operations requiring an Elaborate, either issued by MoEPP (Official Gazette No. 80/09 and 36/12) or by the Local Self-Government Units (Official Gazette No. 80/09 and 32/12). If they are included, they will be also subjected to inspections. Elaborates are approved (or not) by the Administration for Environment or by the Local Self-Government Units. All Ordinances mentioned are available at <http://www.moepp.gov.mk>.

* Will I be inspected by an inspector at central level (SEI) or at local level?

Inspections in installations listed as IPPC-A activities and those subjected to Elaborates issued by the Administration for Environment will be inspected by inspectors from the State Environmental Inspectorate (SEI), as well as for the case of activities listed as IPPC-B which are located inside a nature protected area. Inspections to installations listed as IPPC-B activities located outside of nature protected areas and those subjected to Elaborates issued by the Local Self-Government Units will be inspected by the Authorized inspectors for Environment of the Local Self-Government Units except those located in a protected area, which will be inspected by SEI inspectors.

For waste management activities, to know if you are going to be inspected by an inspector from SEI or from the Local Self-Government Units, please consult the relevant waste management legislation, namely the Law on Waste and related secondary legislation, available at <http://www.moepp.gov.mk> .

* How often will I be inspected?

For regular (planned) inspections, installations (IPPC-A, IPPC-B and Elaborates) will be inspected regularly with a frequency based on a risk assessment calculated with a specific software (IRAM) used by inspectorates in the EU. The result of this risk assessment is a list of installations with the frequencies (at least 1 visit every 1 to 3 years for IPPC-A) of regular site visits. The frequency will be higher in installations representing the highest risks. The risk is influenced by a set of factors. Operator performance (e.g. compliance behaviour and the implementation of a working Environmental Management System) is taken into account and it therefore determines partly the frequency of inspections. Detailed criteria and description of the IRAM software are given in sections 2.3 and Annex 10 of the Inspection Manual available at <http://sei.gov.mk/projects_page_mk.asp?ID=6>. In addition to the ordinary inspections, extraordinary or control (follow-up) inspections may be performed, as a function of complaints received, non-compliances detected during inspections, and incidents or accidents occurring in the installations.

* Which kinds of ordinary inspections are possible?

Regarding the environmental topics (air, water, soil, groundwater, waste, noise, vibrations, odour), the following kinds of inspections can be performed:

* + Inspections of IPPC installations to verify compliance with the permit, taking into account all environmental topics. Additionally the implementation of the Best Available Techniques (BAT) will be checked for IPPC-A installations.
	+ Inspections to verify compliance with legislation or specific permits related to one or a few (but not all) environmental topics (e.g. waste).
	+ Coordinated inspections: during one inspection inspectors from several Inspectorates collaborate with each other, mainly environment, labour, safety (e.g. to installations under the scope of Chapter XV of the Law on Environment on prevention and control of major accidents involving hazardous substances) in order to streamline inspection procedures.

Regular inspections require site visits but in some cases, if the purpose of the inspection is a documentary check, an administrative inspection based on a desktop-study may be enough.

* What kind of information will be checked during inspections?

Physical inspection includes visual inspection, evidence collection and taking samples, to determine if operators comply with the permit conditions and/or applicable legislation. The administrative inspection or administrative check involves the reviewing of all documents to check compliance. When conducting a visual inspection, inspectors will visit key locations and inspect the relevant devices (e.g. emission sources to air and water, filters/ treatment plants, waste storage facilities). In the case of IPPC-A installations the inspection can also focus on equipment considered as BAT such as energy efficiency devices, recycling systems. Evidence includes photographs, statements by employees, documents, etc. Sampling/analysis follows established procedures and protocols and must involve accredited laboratories.

* Can non-compliances detected during inspection be solved within a period of time without a misdemeanour, or a mediation procedure or a criminal case being started?

Operators can solve non-compliances detected by inspectors and included in the decision within the deadline set in it. If solved within the deadline, the corresponding misdemeanour, mediation procedure or criminal case will not be started.

* Which kind of penalties may arise if non-compliances are detected?

If non-compliances detected by inspectors during inspections are not solved within the deadline established in the decision, a misdemeanour or mediation procedure will be started. As established in the Articles 212 f, 212 g and 212 h of the Law on Environment (available at at <http://www.sei.gov.mk/page_en.asp?ID=2>), misdemeanours are classified into 3 categories:

* For misdemeanours of category I, a fine in an amount of 3.000 € in denar countervalue for the legal person is established, although if certain circumstances concur it could be up to 15.000 € in denar countervalue. Fines for the responsible official and natural persons are also provided in an amount of 500 € to 700 € in denar countervalue. For instance, if in the procedure for verification of measuring devices, no devices and instruments are used or they are not maintained in proper functioning condition, this is considered a misdemeanour of category I.
* For misdemeanours of category II, a fine in an amount of 6.000 € for the legal person is established, although if certain circumstances concur it could be up to 22.000 € in denar countervalue. Fines for the responsible, official and natural persons are also provided in an amount of 500 € to 800 € in denar countervalue. For instance, if monitoring is not performed in accordance with the integrated environmental permit, this is considered a misdemeanour of category II.
* For misdemeanours of category III, a fine in an amount of 70.000 to 100.000 € for the legal person is established, although if certain circumstances concur it could be up to 150.000 € in denar countervalue. Fines for the responsible and official persons are also provided in an amount of 5.000 € to 13.000 € in denar countervalue. For instance, if the emissions of substances determined in the permit are not released in accordance with the specified limit values, this is considered a misdemeanour of category III.
* Which benefits arise from implementing an environmental management system (EMS)?

Besides the direct benefits derived from implementing an EMS, such as a better management of the risk of the installation, it improves the operator’s performance factor when assessing the risk to calculate the frequency of inspections, so that an operator with an EMS will be most probably inspected with a lower frequency.

* May decisions taken by inspectors be appealed?

An appeal may be lodged against the inspector’s decision within eight days from the day of receiving the decision, if no shorter term has been determined by law.

### FAQs of interest to the general public

* I have seen or suspect about an environmental infringement by a company or individual, who should I inform?

You should contact 2 places, sending the information described in the following question:

* The sector for inspection of the municipality where the incident took place.
* The State Environment Inspectorate.
* Which information do I have to report about the case of infringement?

You have to complete the template that you can download from this link, and send it to the following email addresses:

* For the case of the State Environmental Inspectorate: d.blinkov@sei.gov.mk
* For the case of the sector for inspection of the municipality where the incident took place: please see the list available in this document, and send it to the corresponding email address.
* I would like to learn more about the environmental performance of a company, how can I do that?
* You can visit the State Inspectorate’s website (<http://sei.gov.mk>) where the inspection acts are published and you can be informed about the inspections performed so far: a summary of the inspection report containing the main findings is published.
* You can also be informed about the company’s environmental conditions (described in the relevant permit) by visiting the website of the Ministry of Environment and Physical Planning (<http://www.moepp.gov.mk>)
* An insight to company’s releases of pollutants can be found in the Pollutants Release and Transfer Register (PRTR) when it will become operational for Macedonia (<http://prtr.ec.europa.eu/#/home>).

## Leaflet

### Introduction

Operators carrying out activities likely to produce impacts on human health and in the different environmental topics, must comply with environmental requirements provided in the environmental legislation on these topics. Some of them hold specific environmental permits. In the case of IPPC-A and IPPC-B installations, integrated environmental permits are issued, which include provisions and conditions on all environmental topics. The purpose of inspections is to check if the operator complies with the applicable legislation and with the conditions laid down in the permits. IPPC-A installations under the scope of Chapter XV of the Law on Environment on prevention and control of major accidents involving hazardous substances have additional requirements regarding inspections.

This leaflet contains summarized information about:

* Rights and obligations of the operator during the inspections
* What can the inspector do during an inspection
* Description of an inspection site-visit
* Closure and follow-up of the inspection
* Where to find relevant documents and more information

### Rights and obligations of the operator during inspections

**The rights** of the operator during inspections **include**:

* The right to give comments and notes to the minutes.
* The right not to accept to sign the minutes if he disagrees with the facts, although this refusal does not obstruct the further performance of the inspection procedure.
* To request a concurrent 2nd sample for each sample taken/requested by the inspector.
* To submit an appeal against the inspector’s decision (within eight days from the day of receiving the decision).

**The obligations** of the operator during the inspections **include**:

* To provide all necessary updated documentation needed for the execution of the inspection: self-monitoring records/reports, production process schemes/lines, topography of the facility (positions of treatment plants/air emission points/waste water discharge pipelines/waste storage facilities/raw material loading areas), Environmental Management System certificate, communications to authorities about incidents/accidents, mass balance records, waste inputs/outputs register, documentation of transboundary shipment of wastes, supporting data on power/fuel, water, raw materials consumption, maintenance operations register.
* To be available for being interviewed during the inspection and to answer the relevant questions honestly and clearly.
* To answer any complementary questions relevant to the facility’s operation (working hours, number of employees, names of suppliers, marketing of the products etc.).
* To allow any staff member of the company to be interviewed following the inspector’s request.
* To provide access to the premises and to the products handling area for the inspector.
* To perform sampling in certain points (through an accredited laboratory) following the inspector’s instructions.
* To stop the work during the inspection, if it is impossible in another way to perform the inspection.
* To sign the minutes of the inspection if there is no disagreement about the facts stated.

### What can the inspector do during an inspection

During the performance of the inspection the inspector in authorized to*:*

* Inspect general and special acts, files, documents, evidences and information related to the object of the inspection.
* Supervise the official premises and other facilities that are not used for living as well as transportation means and products.
* Inspect identification documents of persons for confirming their identity according to the law.
* Ask from the operator or from his employees a written or oral explanation
* Ask from operator or from his employees to submit all data that have available of their suppliers.
* Ask for professional opinion when it is needed.
* Request the operator to perform a further sampling through an accredited laboratory to cross-check monitoring results, or in case of incident/ accident.
* Provide audio and video recordings.
* Make an inventory list on the existing goods and products.
* Provide other necessary evidences.

Regarding the collection of samples, the inspector has also some obligations, including the collection a maximum of 3 samples (the first for analysis, the second for second analysis at the request of the operator and the third for super analysis), the sealing and properly marking of samples, the drafting of a report on the collection and the submission of samples without delay to the appropriate expertise institution at the request of the operator.

### Types of inspection

1. Integrated inspection: checking compliance with all permit conditions
2. Compliance with legislation or with specific permit conditions related to one (or more) environmental topic (e.g. waste)
3. Coordinated inspections: inspectors from several Inspectorates collaborate with each other, to verify compliance with legislation and conditions laid down in permits arising from different fields, mainly environment, labour, safety (e.g. installations under the scope of Chapter XV of the Law on Environment on prevention and control of major accidents involving hazardous substances).

### Topics that may be inspected

* Emissions to air including greenhouse gases.
* Emissions to water.
* Emissions to soil and groundwater.
* Noise & vibrations emissions.
* Waste input/output, storage and off-site transfers.
* Consumption of energy, fuel, raw material, water and other resources.
* Proper implementation of best available techniques (BAT) in the production process, for those BATs specified in the environmental permit

### Frequency of inspection site visits

The frequency of ordinary site visits is based on a risk assessment calculated with a specific software (IRAM) used by inspectorates in the EU. In this risk-based approach, most inspection effort will be focused on the activities/installations with the highest risks (highest risk first).

The risk can be influenced by a set of factors. One of the important factors is the performance of the operator. That means that meeting the permit’s conditions is reduces the possibility of frequent inspections.

In addition to the ordinary inspections, extraordinary or control (follow-up) inspections may be performed, as a function of complaints received, non-compliances detected during inspections, and incidents or accidents occurring in the installations.

### Possible contents of an inspection site visit

#### 1. Administrative check (examination/collection of documentation)

In case an inspector has to check the administration, the following items will be for example verified:

* Identification of the person responsible for environmental issues and monitoring.
* Documentation described in “Rights and obligations of the operator during inspections”.

#### 2. Interviews (operator + other staff members)

#### 3. Physical inspection

For the inspectors’ personal safety he or she shall comply with the internal safety regulations of the entity inspected. These may include the need to wear a helmet or protective clothes (e.g when inspecting some part of a production line in food or chemical industry) as well as going only on special and dedicated paths in a factory. The operator is obliged to provide the inspector with the appropriate safety equipment if necessary.

While conducting a visual inspection important locations include the direct surrounding of the installation, the production lines, the emission points to air and water, all required equipment used to protect the environment (e.g. air filters) and areas and buildings used for waste storage.

Everything that can be found during inspections may be worth being collected and treated as evidence (e.g. photographs, videos and documents such as environmental reports, registries, results of self-monitoring, sampling reports, etc.).

For sampling there is a special procedure. For the operator it is important to take into account that he or she may ask for an extra sample. This allows him or her to object to the results of the analysis if he or she does not agree with the outcome of the analysis from the first sample.

#### 4. Observations, minutes and signing

At the end of the inspection site visit the inspector presents his observation by preparing minutes. The inspector signs them, and the operator is also asked to sign the minutes. If the operator agrees with the findings he or she should sign the minutes. If an operator refuses to sign the minutes, the inspector shall state the reasons for refusal.

Sometimes it is not possible to sign the minutes on site. The inspector has to send them within three days after the inspection to the operator, including the reasons behind the delay. If the operator does not react to the inspector within eight days, it is considered that the operator agrees with the minutes of the inspection. And if an operator refuses to sign the minutes, the inspector shall state the reasons for refusal.

### Follow-up of the inspection (in cases of non compliance)

#### Decision

If during the inspection the inspector determines that a law or other rule has been breached, he or she has to give a set of instructions about measures with the corresponding dealines. The inspector shall prepare the decision, based on facts determined during the inspection, no later than eight days from the completion of the inspection. Depending on the kind of breach detected, the inspector may request the start of a misdemeanour procedure, a mediation procedure or a criminal case.

In exceptional circumstances, to remove an immediate life-endangering or health-endangering situation, the inspector may determine inspection measures with an oral decision during the site visit, when he or she assesses that it is necessary. In such cases, the inspector is obliged to prepare a written decision within three days from the day of making the oral decision.

An appeal may be lodged against the inspector’s decision within eight days from the day of receiving the decision, if no shorter term has been determined by law.

#### Conclusion

The procedure of inspection finalises by drafting a **conclusion**. The conclusion is used to resolve issues of procedure arising during the inspection. A written conclusion is not issued only for exports of goods, where the control has not started in the Republic of Macedonia.

The conclusion has to be sent to the operator within eight days. If the operator is not satisfied with the conclusion, he or she has the right to appeal it.

### More information and relevant documents

More detailed information, relevant documents (e.g. legislation) and interesting links are on the website of the State Environmental Inspectorate, [www.sei.gov.mk](http://www.sei.gov.mk) , where there is as well a frequently asked questions (FAQ) section and a digital post box for suggestions and to give input on good practices (d.blinkov@sei.gov.mk). You can also find there multiple inspection factsheets and checklists of different sectors, which the inspectors use for inspections.

# Proposals for strategy to disseminate the leaflet & improve communication inspectors-operators

1.

## Conclusions about communication & dissemination strategy from meeting with SEI inspectors and industrial operators

There was a discussion about the most appropriate time for the dissemination of the leaflet. There were two proposals:

* Once the leaflet is available, it could be emailed to all operators involved
* The leaflet could be attached to the inspection notification letter sent to each operator before site visits.

Other proposals were made by the operators to ensure a good communication between inspection authorities and them:

* Keep channels of communication with the Chambers of Commerce (there are 3), which have subclusters.
* Call an informative meeting whenever new legislation or obligations are in place, including a brief explanation of main changes in (SEI’s or MoEPP’s) website.
* Organise training upon request of operators, either for a group of companies or a smaller group.
* Organise a yearly “open-day” with inspectors, to enhance specially communication and build trust with residents living in the neighbourhood of the installations.
* Call meetings to discuss interpretation of IPPC permit conditions and enforcement, with operators, inspectors and permit writers, to ensure optimisation of permits and common understanding on the meaning of the conditions stated in permits.

## Strategy to disseminate the leaflet & improve communication between inspectors and operators

### Strategy to disseminate the leaflet (and the information on the website)

* As soon as the content of the information for the website is approved by the involved stakeholders it should be uploaded on the website of the SEI, latest in April 2016. Stakeholders, e.g. chambers of commerce and ZELS, could be informed about this new available information for the operators of sites being subject to environmental inspection.
* As soon as the form and the content of the leaflet is approved by the involved participants it could be sent to all IPPC installation operators, latest in April 2016. The pdf of the leaflet could be also placed on the website of the SEI within the section with the information about environmental inspections. The leaflet could be also sent to all stakeholders of interest like:
	+ Chambers of commerce
	+ Organisation of Employers of Macedonia (ORM)
	+ Ministry of Environment and Physical Planning (e.g. IPPC Department)
	+ Inspection Council (IC)
	+ Association of the units of local self-government (ZELS)
	+ Regional Development Centers
	+ Union of Judges and Prosecutors
	+ Other potential relevant stakeholders
* The leaflet has to be prepared in electronic form and hard copy
* When the inspector sends the announcement letter to the operator he could also add a link to the webpage with some background information about the leaflet (or attach it).

### Strategy to improve the communication between the operators and the inspectors

* The most important request by industry during the meeting held was that they want to be updated about major changes in legislation by the Ministry of Environment and Physical Planning and the State Environmental Inspectorate. A second request from the operators is to put this information on the website of the State Environmental Inspectorate.

*Action by SEI: Organizing a meeting with the industry after a major change in legislation is applied, update the website accordingly and send also a newsletter to the operators about the changes*

*When: After new legislation is applied*

* There is diversity in the interpretation of the prescriptions in the IPPC–permits by the inspectors. Also the permits are often not drafted keeping coherence with each other in the way the conditions are established. The recently developed sector documents (inspections factsheets, checklists) could help the inspectors to unify their approach and understanding.

*Action by SEI: Disseminate the sectoral inspections factsheets/checklists to all inspectors and start the discussions on how to handle certain cases (enforcement strategy/plan). Also invite members of MoEPP’s IPPC Unit to these discussions, because they are responsible for permits drafting/issuing.*

*When:*

* + *First circulate the new sector documents (inspection factsheet + checklist) as soon as they are ready.*
	+ *Then select for every month one of the sector documents (inspection factsheet + checklist) and have a discussion with the inspectors about how to enforce or an enforcement strategy within the different sectors. Also invite members of MoEPP’s IPPC Unit. This action could start as soon as the first sector documents are finalized.*
* There is a need for training of the operators on aspects of industrial pollution control. This is an internal matter of the relevant companies. However SEI could play a supportive role by providing guidance through the dissemination of the sector factsheets/checklists: the factsheets/checklists could be a useful starting point for a better communication between the inspectors and the operators.

*Action by SEI: Send the sector documents to the different operators of the different sectors as soon as they are finalised.*

*When: This could start just after the sector documents are discussed and agreed between the inspectors and the permit writers.*

* During the meeting the suggestion was made to organize “open days”. These days have to be organised by the operators for the residents who live in the neighbourhood of the installations. Inspectors could also join these meetings. The operators could show what they do to reduce the nuisance caused by the installations and the residents can raise their questions (and eventual complains). The inspector could explain the legislation. The aim is to create more understanding and communication between them.

*Action by operators: Invite the people and some inspectors to these “open days”.*

*When: This can always be done. Only keep in mind that, when there is an escalation between the operator and his neighbours, a mediator also should be invited.*

# Annex 1: List of participants in the meeting with SEI inspectors and industrial operators

* 1. ***Industrial operators:***
* Monika Uler-Zefik, OKTA A.D. Skopje
* Elena Ivanovska-Vidinova, Makstil A.D. Skopje
* Emil Jordanov, GD Granit A.D.
* Franche Bezhoska, GD Granit A.D.
* Valerija Milanova, Arcelor-Mittal
* Hrisanti Angelovska, EVN Macedonia
	1. ***SEI inspectors:***
* Darko Blinkov
	1. ***Twinning project RTA:***
* César Seoánez
	1. ***Twinning project short time experts:***
* Marc du Maine (NL)
* Iñaki Bergareche (ES)
1. Ordinance on determining the activities of the installations requiring an integrated environmental permit, i.e., adjustment permit with an adjustment plan and time schedule for submission of application of adjustment permit with an adjustment plans (Official Gazette of RM no. 89/05) [↑](#footnote-ref-1)