



Republika e Kosovës - Republika Kosova - Republic of Kosovo

**Komisioni i Pavarur për Miniera dhe Minerale
Nezavisna Komisija za Rudnike i Minerale
Independent Commission for Mines and Minerals**



Pursuant to article 24 paragraph 4, article 34 paragraph 4, article 41 paragraph 4, article 56, article 69, article 59 paragraph 1 and article 62 of the Law no. 03/L-163 on Mines and Minerals and article 34 of the Law No.04/L-158 on Amending and Supplementing the Law no.03/L-163 on Mines and Minerals, the Board of the Independent Commission for Mines and Minerals in the meeting held on 03/03/2016 hereby issues this:

ADMINISTRATIVE INSTRUCTION

(ICMM. AI. No. 02/2016)

ON SUPERVISION AND INSPECTION OF LICENSEES CONDUCTING MINING ACTIVITIES

CHAPTER I GENERAL PROVISIONS

Article 1

Purpose

1. The purpose of this Administrative Instruction is to regulate the supervision and inspection of the holders of the licenses issued by the Independent Commission for Mines and Minerals (hereinafter ICMM), which conduct mining activities.

Article 2

Scope

2. This Administrative Instruction shall be implemented by ICMM on supervision and inspection of the licensees for licenses issued according to Law no. 03/L-163 on Mines and Minerals as well as article 34 of Law No.04/L-158 on Amending and Supplementing the Law no.03/L-163 on Mines and Minerals and procedures, methods, forms, terms and duration of supervision and inspection are defined by it.

3. The ICMM shall carry out the supervision and inspection of licensees in order to ensure that mining operations are in compliance with the law, sublegal acts issued in accordance with the law and conditions and terms of licenses and permits issued by ICMM.

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Article 3

Definitions

1. Terms used in this Administrative Instruction have the following meanings:

- 1.1. **ICMM**-means the Independent Commission for Mines and Minerals;
- 1.2. **Licensee** – means the person or persons named and authorized by the license;
- 1.3. **Supervision** – means the review and control process of all works conducted by the licensees related to mining activities within the license they possess, including here the control of the annual periodic reports, supervision in the workplace, etc.
- 1.4. **Mining inspection** - means the inspection process of mining works by officials authorized to verify whether works and mining activities are in compliance with the applicable legislation and the license or work permit.
- 1.5. **Workplace** – means a place where the licensee/licensees develop their activity including all construction but also mechanical facilities and other work equipments.
- 1.6. **The inspection commission** – means a commission consisting of the inspector and the group of officials authorized by the Director of ICMM to conduct supervision and inspection.
- 1.7. **Work plan and program** – means the plan and program compiled by the inspection commission by which there are defined how the inspection will be conducted including the stages of inspection, method of inspection, the persons who will take part in the inspection and duties that they will perform.

Article 4

Authorization of the Inspection Commission

Inspection commissions within the ICMM are authorized to carry out supervision and inspection of the licensees, their authorizations derive from the Law no.03/L-163 on Mines and Minerals by which inspectors have for duty to supervise and inspect the mining activities,

to ensure compliance with applicable Laws and the conditions of the License or Permit given by ICMM.

Article 5

Responsibilities of the ICMM

1. ICMM has responsibilities in the inspection process that include but are not limited to the following:

- 1.1. To inform in writing the licensee that the inspection will be carried out 10 (ten) days prior to inspection and it requests to be made the necessary preparations for inspection.
- 1.2. Head of commission shall compile the inspection plan and program by foreseeing the duties of inspection commission and shall ensure that the same one is done in accordance with applicable laws.
- 1.3. To maintain records related to any stage of inspection, all inspected documents and for all remarks and violations he determines.
- 1.4. To register all inspections made and maintain reports for each inspection performed.
- 1.5. To coordinate with other state bodies to carry out the inspection, when the nature of the inspection requires such coordination.

Article 6

Responsibilities and duties of licensees

1. Licensees have their responsibilities in the inspection process that include but are not limited to the following responsibilities:

- 1.1. To contact the competent body after being sent the inspection notice and to coordinate inspection in advance.
- 1.2. To ensure that the work is ready for inspection at the specified time for inspection.
- 1.3. To ensure all necessary documents for inspection to be in the workplace and ready to be inspected,

- 1.4. To provide access to inspect the mine and all working equipment.
- 1.5. Notice of the competent body in cases when there are accidents at work, injuries of workers etc.

CHAPTER II

FORMS AND METHODS OF SUPERVISION AND INSPECTION

Article 7

Form and method of supervision

Supervision and control is done based on documentation submitted. This form of supervision shall be carried out by ICMM through the relevant departments that are obliged to review the periodic reports made by licensees who are obliged to report according to Law No. 03/L-163 on Mines and Minerals as well as article 34 of Law No.04/L-158 on Amending and Supplementing the Law no.03/L-163 on Mines and Minerals

Article 8

Form and method of Inspection

1. Inspection of the licensees shall be done in the workplace (mining site or exploration site) and it is a regular inspection of all work activities carried out by licensees or permits holders.
2. Inspection of the licensees or permits holders at workplace shall be done by inspection commissions consisting of one member or more members from relevant Departments, the Inspectorate, Geology, Survey, and Finance (Revenue) and if necessary any other member can take part.
3. In certain cases when the relevant department based on the work's specifics foresees necessary, it may appoint more than one member in the commission.

Article 9

Inspection Program and Plan

1. The Chief Inspector and the Heads of other Departments within the ICMM who are competent to inspect mining activities in Kosovo shall co-ordinately compile in the beginning

of each year an annual joint plan of regular inspections and shall submit it for approval to the Director of ICMM.

2. Inspection Commissions for licensees shall be appointed by the Director of ICMM with the proposals of the Heads of relevant Departments.

3. Each commission shall have the head of commission who must be from the Inspectorate Department and at least 3 (three) members from these Departments: Geology, Finance and Survey, and if necessary any other member can take part.

4. The heads of commission after they are appointed are obliged to compile a joint action plan and to divide duties in order to achieve faster and successful inspection based on Law No.03/L-163 on Mines and Minerals and this Administrative Instruction.

Article 10

Types of inspection

1. ICMM carries out these types of inspections:

- 1.1. Inspections of Mining Activities by Inspectorate of Mines;
- 1.2. Inspections of Mining Activities by Geology Department;
- 1.3. Inspections of Financial Activities by Finance Department;
- 1.4. Inspections of Mining Activities by Survey Department;
- 1.5. Any other inspection deems necessary according to the ICMM evaluation, and it can be done in those cases when it is foreseen by the commission decision.

Article 11

Inspection of activities by Inspectorate of Mines

1. Inspections organized by the Inspectorate Department are divided into:

- 1.1. Inspection of underground mines;
- 1.2. Inspection of open pits including the special operations permits;

1.1. These controls are carried out during a regular inspection in mines with underground activities:

- a) Control of the condition and safety at work,
- b) Control of technical documentation,
- c) Control of the main mining project,
- d) Control of technical projects,
- e) Control of simplified projects
- f) Verification of the mining field in relation to the license borders and projecting parameters,
- g) Control of books for supervision of machinery of lifting machines,
- h) Control of books for supervision of main ventilator,
- i) Control of the rescue team,
- j) Control of the main explosives storage facility,
- k) Control of ventilation paths
- l) Control of books to monitor microclimate measurement,
- m) Control of work instructions,
- n) Control of term to replace the ropes of lifting machines,
- o) Control of the decisions of workers,
- p) Control of the systematization of workers,
- q) Control of the documentation of technical personnel,
- r) Control of the qualifications of workers in the workplaces,
- s) Control of documentation of the systematic medical examination of workers,
- t) Control of norms and working equipment of workers,
- u) Control of documentation of the systematic medical examination of workers,
- v) Control of the workers bathroom,
- w) Control of the secondary exits,
- x) Control of the workplaces,
- y) Control of the corridors and transport routes,
- z) Control of compressor stations,
- aa) Control of the pumping stations,
- bb) Control of the electrical substation,
- cc) Control of the mining buildings - their security state,
- dd) Control of processing-flotation process,

1.2. These controls are carried out during a regular inspection in mines with surface activities:

- a) Control of the condition and safety at work,
- b) Control of technical documentation,

- c) Control of the main mining project,
- d) Control of technical projects,
- e) Control of simplified projects
- f) Verification of the mining field in relation to the license borders and projecting parameters,
- g) Control of books to monitor excavators and other mechanisms in the mining process,
- h) Control of work instructions,
- i) Control of the wardrobe of workers,
- j) Control of the systematization of workers,
- k) Control of the documentation of technical personnel,
- l) Control of the qualifications of workers in the workplaces,
- m) Control of documentation of the systematic medical examination of workers,
- n) Control of norms and working equipment of workers,
- o) Control of the workers bathroom,
- p) Control of the workplaces,
- q) Control of mechanism - technical condition of equipments and working tools,
- r) Control of the processing procedure.

Article 12

Geological Inspection

1. Geological inspection- is a part of the regular inspection of activities and geological exploration and mining of minerals from the licensees.

2. The following controls are carried out during a geological inspection:

- a) Inspection whether it fulfils the conditions foreseen by the license, for exploration conducted.
- b) Made drilling;
- c) Drilled soil layers, with their detailed records,
- d) Identified mineral resources,
- e) Results of all geological, geochemical and geophysical studies,
- f) Results of all analysis or identification of minerals,
- g) The geological interpretation of data taken based on subparagraphs a) to d)
- h) Other activities conducted by the licensee dealing with exploration program and mining project,

- i) Storage and maintenance in good conditions of each core sample taken based on the license in order that it is clearly identified the date and place of its extraction,
- j) Copies of all maps, geological reports, including interpretations, copies of analyzes of ores, aerial photographs, log books for ores, analyzes and tests and all other data obtained and compiled by the licensee provided with license respectively with exploitation-mining area.
- k) Inspection of detailed geological exploration based on preliminary geological exploration
- l) Inspection of detailed geological exploration of raw materials and field for construction, based on the exploration permit and according to it.
- m) Compilation of the project and elaboration of geological exploration and technical control, respectively the execution of the required organizations.
- n) Inspection of exploration works according to project and geological exploration program submitted.
- o) Inspection of management by persons who fulfil the conditions foreseen to carry out exploration works and skills of workers for performing duties.
- p) Inspection of exploration works in allowed areas.
- q) Inspection of geological exploration by respecting certain technical measures, regulations of standards and contemporary methods of geology science.
- r) Inspection of bookkeeping records on the extracted quantity of raw materials, the purpose of exploitation of raw materials and identification of other ores which existence is verified.
- s) Inspection whether it is exceeded the allowed quantity of minerals for exploration and inspection of the minerals extracted whether during exploration works they go in production.
- t) Keep the book on the state of raw materials reserves.
- u) Keeping the necessary geological documentation of the done geological work and keeping them in accordance with this sublegal act.

Article 13

Financial Inspection

1. Financial inspection is a part of the regular inspection of companies conducting mining activities and that are licensed, these inspections focus on:

- a) Financial records relating to the work of mining activities and books of accounts and other financial records.
- b) Financial condition of the entity that is the licensee and his ability to pay the debts,

- c) Payment of royalty and respecting the agreement to pay royalty (if there is an agreement),
- d) Inspection of the sales procedure of certain ore, for which the company has a license,
- e) Evidence on the exploited mineral quantity for which it has a license,
- f) Control of operating expenditures and investment expenditures,
- g) Accuracy of calculating the quantity sold and benefits according to certain contract and comparison with periodic report,
- h) Identification of transactions between companies or other trading companies,
- i) Identification of any financial problem.

Article 14

Survey Inspection

1. Survey Inspection- is a part of the regular inspection of companies conducting mining activities and that are licensed, this type of inspection focuses on the following inspections:

- a) Inspection and control of borders of license area with high precision,
- b) Measurement and presentation of the situation of the field according to the degree of reduction that are required,
- c) Inspection of underground survey points,
- d) Measurement of exploited quantities of mineral resources,
- e) Other necessary survey inspections.

Article 15

Extraordinary Inspections

1. ICMM has the right to make extraordinary inspections and without warning when there are information or it is suspected that the licensee is carrying out activity against the Law No.03/L-163 on Mines and Minerals (amended by Law No. 04/L-158).

2. Extraordinary inspections by the ICMM Inspectorate can be carried out with the initiation of the ICMM Board, Director, Chief Inspector or as well by the State Prosecutions and NGOs.

CHAPTER III

OTHER PROVISIONS

Article 16
Duration of inspection

1. Inspections shall be carried out efficiently in order to carry them out in the shortest time and to reduce the long stay in mining site.
2. Time of inspection shall be determined based on the inspection plan depending on the conditions of the license and the mining activity of the licensee and are specified in the inspection decision.
3. The Commission appointed for inspection must perform intensive work every day in order to carry out the inspection for the shortest time.
4. Time of inspection may be extended in cases when the objectives set by the inspection plan are not achieved.

Article 17
Implementation of inspection

1. Inspection commission will carry out inspections in the planned days. If in those days the whole inspection can not be achieved to be carried out then in compliance with article 15 paragraph 4 of this Administrative Instruction it may be extended for an additional term until full implementation of the inspection.
2. After carrying out the inspection, the inspection commission will give a positive report if mining activities and work by the holder is conducted in compliance with the law and the license or permit.
3. If during the inspection the licensee failed to comply with the rules and criteria foreseen by law, license or permit, the inspection commission presents its remarks in the report and requires from the licensee to make the necessary improvements and to avoid violations made.

Article 18
Number of inspections and annual inspections plan

1. The Chief Inspector is obliged to compile an annual inspections plan where it shall be determined which enterprises should be inspected, the Board must be informed for inspection plan and it shall be approved by Director.

1.1. The annual inspector plan shall include all enterprises or licenses as following:

1.2.1. Ten 10 enterprises or licenses (2 enterprises or licenses for each region) from the second year of obtaining the license until the fifth year 5.

1.2.2. Ten 10 enterprises or licenses (2 enterprises or licenses for each region) from the last or penultimate year of the closure of a license

1.2.3. At least two 2 enterprises or licenses with underground mining activity;

1.2.4. At least two 2 enterprises or licenses with largest activity of annual production or with largest surface of the license.

2.. In the annual inspections plan the enterprises according to paragraphs 4.2.3 to 4.2.5 shall plan inspection within first six 6 months of the calendar year and their reports shall be made before the last quarter with recommendations, and before the end of the year the report shall be finalized.

3. In cases when the criteria are not fulfilled foreseen in paragraphs 4.2, then Chief Inspector shall apply a system of selecting enterprises for inspection in a real base of approximation of the criteria.

4. The Director with a decision may increase the number of enterprises or licenses for inspection in the annual inspections plan.

5. The ICMM is obliged to inspect the enterprise at least once within the term of license.

6. Annual Inspection Plan shall be approved by the ICMM Board.

Article 19

Termination of Operations

1. Inspection Commission may issue an order to terminate mining activity and the work of the licensee in the following cases:

- 1.1. Mining activity and work which is being conducted cause a direct risk to health and safety at work;
- 1.2. Works and mining activities are being conducted in violation of the applicable legislation and with the license or permit;
- 1.3. Mining activities are being carried out of the license area.
- 1.4. When the commission is interfered by the licensee or any third person and preventive measures are not taken by the licensee where the inspection shall be done.

Article 20

Minutes and Inspection Report

1. Inspection Commission must keep records in the form of minutes during the inspection being carried out.
2. Upon completion of the inspection, the final document identifying the work done and the results of inspections is Inspection Report.
3. Draft of the inspection report is sent to the licensee for comments on possible omissions.
4. The licensee is obliged to give comments on the draft report within the term of 7 days.
5. Inspection Commission within five (5) days after receipt of comments according to paragraph 4 of this article shall compile the final report and the same one shall submit to the Director of ICMM.

Article 21

Recommendations of Inspection Commission

1. The Commission, based on the applicable legislation, the results of inspection and the real state determined by the inspection report, can give the following recommendations in the final report:

- a) To avoid identified omissions and weaknesses in the term set by the Commission.
- b) To terminate the work until avoidance of remark.
- c) To suspend or take the license because of essential violations of the law and license conditions.
- d) To penalize the licensee for the identified violations.
- e) To terminate the further geological exploration.

Article 22

Administrative fines

ICMM in accordance with applicable law and the relevant Administrative Instruction for administrative fines shall determine the procedures, methods and amount of fines for identified violations.

Article 23

Review of the Appeals

1. All licensees have the right to submit an appeal to the decisions taken based on this Administrative Instruction.
2. The appeal is addressed to the Director of ICMM for review within the term of 7 days after taking the decision.

Article 24

Transitional provisions

1. This administrative instruction shall enter into force 8 days after its publication in the Official Gazette of the Republic of Kosovo.
2. Upon the entry into force of this Administrative Instruction, it is abrogated the Administrative Instruction No.003/ICMM/09 dated 08.09.2009.

Musa Shabani

Chairman of the Board

Independent Commission for Mines and Minerals

