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NOTE

from: General Secretariat
to: Permanent Representatives Committee/Council
Subject: Proposal for a Directive of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast)
– Outcome of the European Parliament's first reading
(Strasbourg, 9 to 12 March 2009)

I. INTRODUCTION

The Rapporteur, Mr Holger KRAHMER (ALDE – DE) tabled eighty amendments on behalf of the Committee on the Environment, Public Health and Food Safety (amendments 1-80). In addition, the IND/DEM political group tabled fifteen amendments (amendments 81-95), the ALDE political group tabled four amendments (amendments 96-99), the Greens/EFA political group tabled fourteen amendments (amendments 100-113) and the EPP/ED political group tabled twenty-two amendments (amendments 114-135). Various MEPs tabled a further nine amendments (amendments 136-144).

II. DEBATE

The Rapporteur opened the debate, which took place on 10 March 2009, and:

- welcomed the prospect of a reduction in administrative costs. The burden of form-filling on power plant administrators would be reduced. Inspections would be more targeted to priority risk areas;
- called for abandoned sites to be restored to the best possible state, but argued that it would be excessive to require them to be restored to their original state;
- agreed that slurry is a critically important substance, but stated that it is an agricultural and not an industrial by-product;
- noted that the generation of electricity from waste gases resulting from steel production presents some valuable opportunities, but also noted that there are times when the economic costs involved would be prohibitive; and
- regretted the fact that the EPP/ED political group had at the last moment decided that it could not support the compromise agreement and had instead tabled a whole raft of new amendments. The other Shadow Rapporteurs had by contrast shown themselves to be reliable negotiation and discussion partners.

Commissioner DIMAS stated that the Commission's proposal would simplify legislation and help to reduce emissions. Both the environment and industry would benefit.

Speaking on behalf of the EPP/ED political group, Mr Marcello VERNOLA (EPP/ED - IT):

- welcomed the Commission's proposal, but stated that the current macroeconomic circumstances were not perhaps the most appropriate for the introduction of legislation that would impose new requirements on industry; and
- noted the Rapporteur's criticism of the EPP/ED political group's proposed compromises, but stated that there was a widespread desire within the Parliament to modify the Commission's proposal. He regretted the fact that the Rapporteur and the Shadow Rapporteurs had not met to discuss their respective positions.

Speaking on behalf of the PES political group, Mr Guido SACCONI (PES - IT):

- supported the Rapporteur's compromise proposals; and
- warned that some of the tabled amendments - for example, regarding Integrated Pollution Prevention and Control (IPPC) and on the application of best available techniques for Large Combustion Plants (LCPs) - would weaken the proposed Directive.

Speaking on behalf of the ALDE political group, Mr Chris DAVIES (ALDE - UK):

- stated that the principle of the original IPPC Directive was to secure maximum environmental benefit for minimal cost whilst also leaving as much flexibility as possible to industry and to Member States. That principle was being abused, however, for many Member States have interpreted best available techniques (BAT) in a manner not intended by the Commission. He therefore supported the Rapporteur's call for the setting of a minimum standard. It would be wrong for a Member State that has invested in ensuring that its industry is meeting high environmental standards to be undermined by other Member States that have not been prepared to make the same investments;

- called for emission performance standards to be introduced for large coal and gas plants which emit great quantities of carbon dioxide. He suggested that concerns about global warming had not perhaps been so acute at the time when the IPPC Directive was adopted; and
- noted that the United Kingdom is quite likely to suffer severe electricity shortages from the end of 2015 due to the closure of many old coal-fired power plants. He was personally ready to negotiate at second reading a derogation for older LCPs to allow them to be operate longer – but only provided that new LCPs are not constructed which would result in high carbon dioxide emissions for decades to come. The counterparty for this derogation would have to be a genuine commitment from Member States to take the measures needed to reduce carbon dioxide emissions.

Speaking on behalf of the Greens/EFA political group, Mr Claude TURMES (Greens/EFA – LU):

- supported the promotion of BATs which would benefit health, the environment and the competitiveness of European industry. It is time for Europe to take advantage of the huge global market for green processing;
- argued that the European safety net would reduce dumping possibilities for certain governments;
- called for improvements on monitoring and on citizens' access to documents; and
- stated that the Shadow Rapporteur for the EPP/ED political group had negotiated compromises with the Rapporteur and the Shadow Rapporteurs in a good way. He stated that life and politics are about trust and that he could not understand why the EPP/ED Shadow Rapporteur, having such a good knowledge of the dossier, should give in to MEPs such as Caroline Jackson who, he asserted, do not care for health or competitiveness. He stated that it is a shame that the EPP/ED was no longer a reliable negotiating partner.

Speaking on behalf of the IND/DEM political group, Mr Johannes BLOKLAND (IND/DEM – NL)

- stated that power plants need to be as strictly regulated as other types of industrial plant; and
- called for incinerators to be subject to the same emissions criteria as other combustion plants.

Mrs Christa KLAB (EPP/ED – DE):

- argued that livestock holdings should not fall within the scope of the Directive because they are not industrial plants; and
- stated that Member States should not gain a competitive advantage by undercutting the efforts of other Member States to protect the environment.

Mrs Fiona HALL (ALDE – UK):

- expressed her concern that a Directive that is essentially intended to regulate heavy industry nevertheless contains, buried within its main text and in the annex, a number of provisions that directly affect farmers; and
- regretted the fact that the Committee on Agriculture and Rural Development had not been given an opportunity to express its opinion. Some of the proposals that affect farmers were quite inappropriate. In particular the requirements on manure and slurry would duplicate the Nitrates Directive and the Water Framework Directive. The lower thresholds on poultry would draw small family farms into a complex regulatory framework designed to control global industrial giants.

Dr Caroline JACKSON (EPP/ED – UK):

- asked how:
 - it could be ensured that the laws which the European Union adopts are actually applied in practice; and
 - how the Parliament could legislate without knowing the cost of the measures it wishes to introduce;
- stated that the Rapporteur wanted to introduce a universal system of uniform emission limits which would have to be worked out in a huge bureaucratic exercise that would take at least eight years. No one knows how much this would cost;
- with reference to high-emission industries and standards based on BATs, called for support for amendment 134 which would leave the implementation of such measures to the discretion of Member States. That would be realistic and affordable, and would respect the subsidiarity principle;

- expressed the hope that, if the European safety net is adopted, the Council and the Commission would put pressure on the Parliament to have an impact assessment carried out on the idea. She wondered whether there exists the will to make such an EU-wide system work. In her view all the evidence so far demonstrates that the Member States lack that will. The Member States would not support a European environment inspectorate, but want to stick with national enforcement agencies. The right approach is not to invent a huge new bureaucracy that will never come into existence, but instead to invest the money saved in improving the morale of national enforcement agencies so that they play their part in helping to put European law into practice;
- called for support for amendment 129 which would exempt stand-by generators in health-care facilities from pollution controls that would treat them as if they were operating continuously. That amendment would save money at a critical time for healthcare budgets;
- called for support for those amendments on LCPs that would save the United Kingdom from the prospect of power cuts. Citizens already have enough reasons to blame the European Union;
- in response to Mr Turmes' attack on her, stated that the first reading is not a time for compromise, but rather a time to exchange and discuss amendments and ideas. She was opposed to compromises that prevent discussion; and
- commended to the following parliament the current Rule 55 which would permit a renewed first reading of this very important proposal for a Directive. It seemed wrong to her to hold the first reading in the old parliament and the second reading (without a first reading) in the new parliament.

Mrs Avril DOYLE (EPP/ED – IE):

- argued that any weaknesses in the Nitrates and Water Framework Directives regarding pig, poultry and dairy activities should be addressed by amending those pieces of legislation. The compliance costs would outweigh the benefits of their inclusion in the currently proposed Directive;

- stated that the EU ETS operation does not at present prevent design lock-in of unnecessary pollution in many new high-cost and high-emission installations, particularly new coal-fired plants. These LCPs often have an operating life of over forty years and therefore have a major impact on the realisation of overall climate goals;
- stressed industry's need for legislative certainty; and
- called for stricter emission limits over a shorter timetable. The ETS alone will not be enough to cut emissions to the level needed to avoid a two-degree increase in global average temperatures.

Mrs Glenis WILLMOTT (PES – UK) stated that she supported the aims of simplifying and clarifying the current legislation, but that she also had three primary concerns:

- the Commission's proposal would greatly increase the scope of the Directive in certain areas;
- the minimum requirements for LCPs would pose significant problems for parts of the British power sector. She had been informed that similar concerns were held by Poland, France, Italy, Spain and some other eastern and southern Member States. A temporary derogation would be required to avoid putting in jeopardy national emissions reduction plans and national energy security; and
- she was opposed to European Safety Net because she feared that minimum emissions limit values would become the default values. This would work against the full application of the more ambitious BATs and would at the same time greatly increase implementation costs.

Mrs Zuzana ROITHOVÁ (EPP/ED - CZ):

- noted that non-European competitors such as China and Brazil would not be subject to the restrictions contained in the proposed legislation; and
- expressed her regret that the Commission had not conducted a study on the likely impact on employment.

Commissioner DIMAS once more took the floor and:

- welcomed the support received from the Parliament for the strengthening of the application of Best Available Techniques (BATs) and the status of the BREF documents;
- stated that the Commission could accept at least in part or in principle many amendments that help to clarify the text of the Commission's proposal or to improve transparency in the development of the BREFS and in the permitting and enforcement practices of Member States;
- stated that he shared the concerns regarding the need to avoid the misuse of flexibility in setting permit conditions. Minimum requirements can be very useful and necessary tools to tackle specific problems where certain sectors have not taken the necessary steps to implement BATs, but the systematic setting of minimum requirements is not necessary and risks creating an additional administrative burden for little environmental gain. Minimum standards should therefore only be set when this is the only way to implement BATs better;
- recalled that BATs for large combustion plants were agreed in 2006 and that the Commission believes that minimum criteria should be applied from 2016. The measures put in place for the sector must bring it into line with BAT as soon as possible and facilitate the achievement of the objectives set out in the Thematic Strategy on Air Pollution;
- stressed the importance of the fact that the Commission's proposal introduces minimum provisions for inspection, review of permit conditions and compliance reporting. The changes in this regard would ensure the proper implementation of BATs and reduce distortions in competition. The Commission would be extremely vigilant on this issue; and
- regarding the thresholds for intensive agricultural farms, noted that the same threshold is currently applied for all poultry regardless of species – even though different species have different environmental impacts. The proposed new thresholds had been set on the basis of the environmental impact of each different species. The new thresholds would bring a limited number of extra farms within the scope of the Directive. They would also reduce ammonia emissions in a cost-efficient manner to meet the objectives of the Thematic Strategy on Air Pollution.

The Rapporteur once more took the floor and:

- called on British MEPs to be ready to compromise at second reading; and
- regretted the fact that the dossier was simply too complex to permit the negotiation of an agreement in first reading.

III. VOTE

When it voted on the proposal on 10 March 2009, the plenary adopted 86 amendments (amendments 1-73, 75-80, 93, 97, 114-115, 117, 129 and 133)

The Commission stated that it could support fully, in part or in principle amendments 1, 5-8, 12-14, 16, 18-21, 27, 34-37, 40, 42-44, 46, 48-56, 58-62, 64-66, 68-69, 71-73, 75 and 79.

The Commission stated that it could not support amendments 2-4, 9-11, 15, 17, 22-26, 28-33, 38-39, 41, 45, 47, 57, 63, 67, 70, 76-78, 80, 93, 97, 114-115, 117, 129 and 133.

The text of the amendments adopted and the European Parliament's legislative resolution are annexed to this note.

Industrial emissions (integrated pollution prevention and control) (recast) *I**

European Parliament legislative resolution of 10 March 2009 on the proposal for a directive of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (recast) (COM(2007)0844 – C6-0002/2008 – 2007/0286(COD))

(Codecision procedure: recast)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0844),
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0002/2008),
 - having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
 - having regard to the letter of 10 September 2008 from the Committee on Legal Affairs to the Committee on Environment, Public Health and Food Safety in accordance with Rule 80a(3) of its Rules of Procedure,
 - having regard to Rules 80a and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Legal Affairs (A6-0046/2009),
- A. whereas, according to the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission, the proposal in question does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance,
1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the Legal Services of the European Parliament, the Council and the Commission and incorporating the technical amendments approved by the Committee on Legal Affairs and as amended below;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and the Commission.

¹ OJ C 77, 28.3.2002, p. 1.

Amendment 1

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Compliance with the emission limit values provided for in this Directive should be regarded as a necessary but insufficient condition for meeting the objectives of preventing and reducing pollution and achieving a high level of protection of the environment, including groundwater, air and soil, and of the public. In order to meet those objectives, it may be necessary to lay down more stringent limit values for the polluting substances covered by this Directive, the emission values for other substances and environmental components, and other appropriate conditions.

Amendment 2

Proposal for a directive Recital 5

Text proposed by the Commission

Amendment

(5) In order to guarantee the prevention and control of pollution, each installation should operate only if it holds a permit or in the case of certain installations and activities using organic solvents, only if it holds a permit or if it is registered.

(5) In order to guarantee the prevention and control of pollution, each installation should operate only if it holds a permit or in the case of certain installations and activities using organic solvents, only if it holds a permit or if it is registered. ***The overall use of organic solvents should be minimised.***

Amendment 3

Proposal for a directive Recital 9

Text proposed by the Commission

Amendment

(9) The permit should include all the necessary measures to achieve a high level of protection for the environment as a

(9) The permit should include all the necessary measures to achieve a high level of protection for the environment as a

whole and should also include emission limit values for polluting substances, appropriate requirements to protect the soil and groundwater *as well as* monitoring requirements. The conditions of the permit should be set on the basis of best available techniques.

whole and should also include emission limit values for polluting substances, appropriate requirements to protect the soil and groundwater, monitoring requirements *and a list of the dangerous substances or preparations used as defined in Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances*¹. The conditions of the permit should be set on the basis of best available techniques.

¹ *OJ L 196, 16.8.1967, p. 1.*

Amendment 4

Proposal for a directive Recital 11

Text proposed by the Commission

(11) In order to take into account certain specific circumstances, competent authorities should be able to *grant derogations to allow* emission limit values to exceed the emission levels associated with the best available techniques as described in the BAT reference documents. *Such derogations should be based on well defined criteria and should not exceed emission limit values set out in this Directive.*

Amendment

(11) In order to take into account certain specific circumstances, competent authorities should be able to *lay down* emission limit values, *equivalent parameters, or technical measures resulting in emission levels that may* exceed the emission levels associated with the best available techniques as described in the BAT reference documents.

Amendment 5

Proposal for a directive Recital 16

Text proposed by the Commission

(16) It is necessary to ensure that the operation of an installation does not lead to a deterioration of the quality of soil and groundwater. Permit conditions should therefore include the monitoring of soil and groundwater and the *operator should* remediate the site upon definitive cessation

Amendment

(16) It is necessary to ensure that the operation of an installation does not lead to a *significant* deterioration of the quality of soil and groundwater. *Where necessary and appropriate*, permit conditions should therefore include the monitoring of soil and groundwater and the *requirement to*

of activities.

remediate the site upon definitive cessation of activities, *in accordance with the requirements laid down in Community and national law. As soon as Community legislation amending Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage¹ or new legislation on the protection of soil enters into force, the Commission should review the provisions on the protection of soil and groundwater provided for in this Directive in order to ensure consistency and to avoid overlap.*

¹ OJ L 143, 30.4.2004, p. 56.

Amendment 6

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) In order to ensure an effective implementation and enforcement of this Directive, operators should regularly report on compliance with permit conditions to the competent authority. Member States should ensure that the operator and the competent authority take necessary measures in a case of non-compliance with this Directive and provide for a system of environmental inspections.

Amendment

(17) In order to ensure an effective implementation and enforcement of this Directive, operators should regularly report on compliance with permit conditions to the competent authority. Member States should ensure *that operators comply with those conditions and* that the operator and the competent authority take necessary measures in a case of non-compliance with this Directive and provide for a system of environmental inspections. *It is for the Member States to determine the most appropriate enforcement regimes, including how emission limit values should be complied with.*

Amendment 7

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Effective public participation in decision-making is necessary to enable the public to express, and the decision-maker to take account of, opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken. Members of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.

Amendment

(18) ***Bearing in mind the provisions of the Aarhus Convention¹***, effective public participation in decision-making is necessary to enable the public to express, and the decision-maker to take account of, opinions and concerns which may be relevant to those decisions, thereby increasing the accountability and transparency of the decision-making process and contributing to public awareness of environmental issues and support for the decisions taken. Members of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being.

¹ ***Convention on access to information, public participation in decision-making and access to justice in environmental matters of 1998.***

Amendment 8

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) Installations producing titanium dioxide can give rise to significant pollution into air and water. In order to reduce these impacts, it is necessary to set at Community level more stringent emission limit values for certain polluting substances.

Amendment

(24) Installations producing titanium dioxide can give rise to significant pollution into air and water ***and may pose a toxicological threat.*** In order to reduce these impacts, it is necessary to set at Community level more stringent emission limit values for certain polluting substances.

Amendment 9

Proposal for a directive

Recital 26

Text proposed by the Commission

Amendment

(26) In particular, power should be conferred on the Commission to establish criteria for the granting of derogations from the emission levels associated with the best available techniques as described in the BAT reference documents and for the determining of the frequency of periodic monitoring and of the content of the baseline report, as well as the criteria to be used for the appraisal of environmental risks. Power should also be conferred on the Commission to adopt measures concerning the development and application of emerging techniques, to set in certain cases an average emission limit value for sulphur dioxide, to set the date from which continuous measurements of the emissions to air of heavy metals, dioxins and furans shall be carried out, to establish the type and format of the information to be made available by the Member States to the Commission on the implementation of this Directive and to adapt Annexes V to VIII to scientific and technical progress. In the case of waste incineration plants and waste co-incineration plants, this may include the establishment of criteria to allow derogations from continuous monitoring of total dust emissions. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, or to supplement this Directive by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

deleted

Amendment 10

Proposal for a directive Recital 27

Text proposed by the Commission

(27) Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.

Amendment

(27) ***In accordance with the ‘polluter pays’ principle***, Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.

Amendment 11

Proposal for a directive Recital 32 a (new)

Text proposed by the Commission

Amendment

(32a) In order to address the significant problems raised by the emissions of dioxins, furans and other relevant polluting substances emitted by installations producing pig iron and steel and, in particular, sintering iron ore, the procedure laid down in this Directive should be applied to such installations as a priority and in any event by 31 December 2011.

Amendment 12

Proposal for a directive Article 3 – point 9 a (new)

Text proposed by the Commission

Amendment

(9a) ‘best available techniques associated emission levels’ (‘BAT-AELs’) means a range of emission levels resulting from the application, in normal operating conditions, of the best available techniques as described in the BAT reference documents and expressed in the form of an average over a given period of time and under given reference

conditions;

Amendment 13

Proposal for a directive Article 3 – point 12

Text proposed by the Commission

(12) ‘the public concerned’ means the public affected or likely to be affected by, or having an interest in, the taking of a decision on the issuing or the updating of a permit or of permit conditions;

Amendment

(12) ‘the public concerned’ means the public affected or likely to be affected by, or having an interest in, the taking of a decision on the issuing or the updating of a permit or of permit conditions; ***for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting the requirements of any relevant national law shall be deemed to have an interest;***

Amendment 14

Proposal for a directive Article 3 – point 13

Text proposed by the Commission

(13) ‘emerging technique’ means a novel technique for an industrial activity that, if commercially developed, ***could*** provide a higher general level of protection of the environment or higher cost savings than existing best available techniques;

Amendment

(13) ‘emerging technique’ means a novel technique for an industrial activity that, if ***industrially proven and*** commercially developed, ***would*** provide a higher general level of protection of the environment or ***at least the same level of protection and*** higher cost savings than existing best available techniques;

Amendment 15

Proposal for a directive Article 3 – point 15

Text proposed by the Commission

(15) ‘baseline report’ means quantified information on the state of soil and groundwater contamination by dangerous substances;

Amendment

(15) ‘baseline report’ means quantified information on the state of soil and groundwater contamination by ***significant amounts of relevant*** dangerous substances;

Amendment 16

Proposal for a directive Article 3 – point 17 a (new)

Text proposed by the Commission

Amendment

(17a) ‘environmental inspection’ means any activity that involves verifying that an installation complies with relevant environmental requirements;

Amendment 17

Proposal for a directive Article 3 – point 34 a (new)

Text proposed by the Commission

Amendment

(34a) ‘general binding rules’ means limit values or other conditions, defined in environmental legislation, at least at sector level, that are laid down with the intention to be used directly to set permit conditions.

Amendment 18

Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

Amendment

2. A permit may cover two or more installations or parts of installations operated by the same operator on the same site or on different sites .

Where a permit covers two or more installations, each installation shall comply with the requirements of this Directive.

2. Member States may provide that a permit may cover two or more installations or parts of installations operated by the same operator on the same site or on different sites.

Where a permit covers two or more installations, each installation shall comply **individually** with the requirements of this Directive.

Amendment 19

Proposal for a directive
Article 5

Text proposed by the Commission

Two or more natural or legal persons *may* be the joint operator of an installation or combustion plant, waste incineration plant or waste co-incineration plant, or *may* be the operators of different parts of an installation or plant.

Amendment

Member States may provide that two or more natural or legal persons *are entitled to* be the joint operator of an installation or combustion plant, waste incineration plant or waste co-incineration plant, or *to* be the operators of different parts of an installation or plant. *A single natural or legal person shall be identified to take the responsibility for meeting the obligations of this Directive.*

Amendment 20

Proposal for a directive
Article 8 – point 1

Text proposed by the Commission

(1) that the operator provides the competent authority with *a report* on compliance with the permit conditions at least every twelve months;

Amendment

(1) that the operator provides the competent authority with *the relevant data* on compliance with the permit conditions at least every *24 months, which shall be made available on the internet without delay. In the event that a breach of permit conditions has been identified by an inspection in accordance with Article 25, the reporting frequency shall be increased to at least once every* twelve months;

Amendment 21

Proposal for a directive
Article 9 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In cases of a breach causing danger to human health or the environment and as long as compliance is not restored in accordance with point (b) of the first subparagraph, the operation of the installation or combustion plant, waste incineration plant or waste co-incineration plant shall be suspended.

Amendment

In cases of a breach causing *significant* danger to human health or the environment and as long as compliance is not restored in accordance with point (b) of the first subparagraph, the operation of the installation or combustion plant, waste incineration plant or waste co-incineration

plant shall be suspended.

Amendment 22

Proposal for a directive Article 12 – point 8

Text proposed by the Commission

(8) the necessary measures are taken upon definitive cessation of activities to avoid any risk of pollution and return the site of operation to *the* state *defined* in accordance with Article 23(2) and (3).

Amendment

(8) the necessary measures are taken upon definitive cessation of activities to avoid any risk of pollution and return the site of operation to *a satisfactory* state in accordance with *the requirements laid down in* Article 23(2) and (3).

Amendment 23

Proposal for a directive Article 13 – paragraph 1 – point e

Text proposed by the Commission

(e) where applicable, a baseline report;

Amendment

(e) if the activity involves dangerous substances in significant amounts, a baseline report providing information on those substances;

Amendment 24

Proposal for a directive Article 13 – paragraph 1 – point h

Text proposed by the Commission

(h) measures for the prevention and recovery of waste generated by the installation;

Amendment

(h) *where necessary*, measures for the prevention and recovery of waste generated by the installation;

Amendment 25

Proposal for a directive
Article 13 – paragraph 1 – point k

Text proposed by the Commission

(k) the main alternatives to the proposed technology, techniques and measures studied by the applicant in outline.

Amendment

(k) the main **relevant** alternatives to the proposed technology, techniques and measures studied by the applicant in outline.

Amendment 26

Proposal for a directive
Article 13 – paragraph 1 – subparagraph 2

Text proposed by the Commission

An application for a permit shall also include a non-technical summary of the details referred to in the first subparagraph

Amendment

An application for a permit shall also include a non-technical summary of the details referred to in the first subparagraph **and, where applicable, a baseline report.**

Amendment 27

Proposal for a directive
Article 14

Text proposed by the Commission

BAT reference documents

1. The Commission shall **adopt BAT reference documents based on the results of the information exchange referred to in Article 29.**

Amendment

BAT reference documents **and exchange of information**

1. The Commission shall **organise exchanges of information between the Member States, representatives of their relevant competent authorities, operators and providers of techniques representing the industry concerned, non-governmental organisations promoting environmental protection, and the Commission in relation to the following:**

(a) the performance of installations as regards emissions, pollution, consumption and the nature of raw materials, use of energy and generation of waste; and

(b) the best available techniques used, associated monitoring and developments concerning the BATs.

The Commission shall establish an Information Exchange Forum comprised of Member States, representatives of their relevant competent authorities, the representatives of the industries concerned and non-governmental organisations promoting environmental protection for the organisation of the exchange of information referred to in this paragraph.

The Commission shall establish guidance for the exchange of information including relating to the collection of data and the determination of the content of BAT reference documents. The Commission shall publish an evaluation report in this regard. That report shall be made accessible on the internet.

1a. The Commission shall publish the result of the information exchange referred to in paragraph 1 as a new or updated BAT reference document.

2. The BAT reference documents shall in particular describe the best available techniques, the associated emission levels and associated monitoring, the monitoring of soil and groundwater and remediation of the site and the emerging techniques, giving special consideration to the criteria listed in Annex III. The Commission shall **review and update** the BAT reference documents *as appropriate*.

2. The BAT reference documents shall in particular describe the best available techniques, the associated emission levels, **consumption levels** and associated monitoring, the monitoring of soil and groundwater and remediation of the site and the emerging techniques, giving special consideration to the criteria listed in Annex III, **finalising the revision within eight years of the publication of the previous version**. The Commission shall **ensure that the BAT conclusions of the BAT reference documents are made available in the official languages of the Member States. On request of a Member State, the Commission shall make available the entire BAT reference document in the requested language.**

Amendment 28

Proposal for a directive
Article 15 – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) appropriate requirements ensuring protection of the soil and groundwater and measures concerning the management of waste generated by the installation;

Amendment

(b) *if necessary*, appropriate requirements ensuring protection of the soil and groundwater and measures concerning the management of waste generated by the installation;

Amendment 29

Proposal for a directive
Article 15 – paragraph 1 – subparagraph 2 – point d

Text proposed by the Commission

(d) requirements of periodic monitoring in relation to dangerous substances likely to be found on site having regard to the possibility of soil and groundwater contamination at the site of the installation;

Amendment

(d) requirements of periodic monitoring in relation to *relevant* dangerous substances likely to be found *in significant amounts* on site having regard to the possibility of soil and groundwater contamination at the site of the installation;

Amendment 30

Proposal for a directive
Article 15 – paragraph 4

Text proposed by the Commission

4. Where an installation or part of an installation is not covered by BAT reference documents or where those documents do not address all the potential environmental effects of the activity, the competent authority shall determine the best available techniques for the installation or activities concerned, based on the criteria listed in Annex III, and shall set the permit conditions accordingly.

Amendment

4. Where an installation or part of an installation is not covered by BAT reference documents or where those documents do not address all the potential environmental effects of the activity, the competent authority, *in consultation with the operator*, shall determine *the emission levels which can be achieved using* the best available techniques for the installation or activities concerned, based on the criteria listed in Annex III, and shall set the permit conditions accordingly.

Amendment 31

Proposal for a directive
Article 16 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The competent authority shall set emission limit values *that do not exceed the emission levels associated with the best available techniques as described in the BAT reference documents.*

Amendment

The competent authority shall set emission limit values *and monitoring and compliance requirements to ensure that the BAT associated emission levels are not exceeded.*

Emission limit values may be supplemented by equivalent parameters or technical measures provided that an equivalent level of environmental protection can be achieved.

Amendment 32

Proposal for a directive
Article 16 – paragraph 3

Text proposed by the Commission

3. By derogation from the second subparagraph of paragraph 2, the competent authority may, in *specific* cases, *on the basis of an* assessment of the environmental and economic costs and benefits taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions, set emission limit values *that exceed the emission levels associated with the best available techniques as described in the BAT reference documents.*

Those emission limit values shall however not exceed the emission limit values set out in Annexes V to VIII, *where applicable.*

Amendment

3. By derogation from the second subparagraph of paragraph 2, the competent authority may, in *exceptional* cases *which result from the* assessment of the environmental and economic costs and benefits taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions, set emission limit values, *equivalent parameters or technical measures, and monitoring and compliance requirements in such a way that BAT associated emission levels may be exceeded.*

Those emission limit values, *equivalent parameters or technical measures* shall however not exceed the emission limit values set out *in accordance with Article 68a or, where applicable,* in Annexes V to VIII.

Member States shall ensure that the public concerned is given early and effective opportunities to participate in the decision-making process relating to the grant of the derogation referred to in this paragraph.

When emission limit values, equivalent parameters and technical measures are established in accordance with this paragraph, the reasons for allowing emission levels to deviate from BAT associated emission levels, as described in the BAT reference documents, shall be documented and justified in an annex to the permit conditions.

The Commission may establish criteria for the granting of the derogation referred to in this paragraph.

Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

The Commission may establish criteria for the granting of the derogation referred to in this paragraph.

Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

Amendment 114

Proposal for a directive Article 16 – paragraph 4

Text proposed by the Commission

4. Paragraphs 2 and 3 shall apply to the spreading of livestock manure and slurry outside the site of the installation referred to in point 6.6 of Annex I. ***Member States may include those requirements in measures other than a permit.***

Amendment

4. Paragraphs 2 and 3 shall apply to the spreading of livestock manure and slurry outside the site of the installation referred to in point 6.6 of Annex I, ***with the exception of areas included within the scope of Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources.***¹

¹ OJ L 375, 31.12.1991, p. 1.

Amendment 33

Proposal for a directive Article 17 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Without prejudice to the first subparagraph, periodic monitoring shall be carried out at least once every ***seven years***.

Amendment

Without prejudice to the first subparagraph, periodic monitoring shall be carried out at least once every ***five years for groundwater and ten years for soil,***

unless such monitoring is based on a systematic appraisal of the risk of contamination.

Amendment 34

Proposal for a directive Article 18 – paragraph 2

Text proposed by the Commission

2. General binding rules shall be based on the best available techniques, without prescribing the use of any technique or specific technology.

Member States shall ensure that general binding rules contain emission limit values, or equivalent parameters or technical measures, that do not exceed the emission levels associated with the best available techniques as described in the BAT reference documents.

Amendment

2. General binding rules shall be based on the best available techniques, without prescribing the use of any technique or specific technology *in order to ensure compliance with Articles 15 and 16.*

Amendment 35

Proposal for a directive Article 18 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that general binding rules are kept up to date with developments in the best available techniques.

Where the Commission adopts a new or updated BAT reference document, Member States shall, within four years of publication, where necessary, reconsider and update the general binding rules for the installations concerned.

Amendment

3. Member States shall ensure that general binding rules are kept up to date with developments in the best available techniques *in order to ensure compliance with Article 22.*

Amendment 36

Proposal for a directive

Article 20

Text proposed by the Commission

Member States shall ensure that the competent authority follows or is informed of developments in best available techniques and of the publication of any new or revised BAT reference documents.

Amendment

Member States shall ensure that the competent authority follows or is informed of developments in best available techniques, and of the publication of any new or revised BAT reference documents, **also informing the public concerned.**

Amendment 37

Proposal for a directive

Article 22 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Where the Commission **adopts** a new or updated BAT reference document, Member States shall, within four years of publication, ensure that the competent authority, **where necessary**, reconsiders and updates the permit conditions for the installations concerned.

Amendment

3. Where the Commission **publishes** a new or updated BAT reference document, Member States shall, within four years of publication, ensure that the competent authority reconsiders and, **where necessary**, updates the permit conditions for the installations concerned.

Amendment 38

Proposal for a directive

Article 22 – paragraph 4 – point b

Text proposed by the Commission

(b) **developments** in the best available techniques allow for the significant reduction of emissions;

Amendment

(b) **significant changes** in the best available techniques allow for the significant reduction of emissions;

Amendment 39

Proposal for a directive

Article 22 – paragraph 4 – point d

Text proposed by the Commission

(d) where **it is necessary to comply** with an environmental quality standard in

Amendment

(d) where **needed for compliance with Directive 2001/81/EC of the European**

accordance with Article 19.

Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants¹ or with an environmental quality standard in accordance with Article 19.

¹ *OJ L 309, 27.11.2001, p. 22.*

Amendment 40

Proposal for a directive Article 23 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage¹ and to Directive 20.../EC of the European Parliament and of the Council establishing a framework for the protection of soil and amending Directive 2004/35/EC the competent authority shall ensure that the permit conditions imposed to ensure the respect of the principle set out in point (8) of Article 12 are implemented upon definitive cessation of activities.

Amendment

1. Without prejudice to Directive 2004/35/CE, **to Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration¹, to Directive 2008/99/EC of the European Parliament and of the Council on the protection of the environment through criminal law²** and to Directive 2009.../EC of the European Parliament and of the Council establishing a framework for the protection of soil ³ the competent authority shall ensure that the permit conditions imposed to ensure the respect of the principle set out in point (8) of Article 12 are implemented upon definitive cessation of activities.

¹ *OJ L 372, 27.12.2006, p. 19.*

² *OJ L 328, 6.12.2008, p. 28.*

³ *OJ L*

Amendment 41

Proposal for a directive Article 23 – paragraph 2

Text proposed by the Commission

2. Where the activity involves the use, production or release of dangerous substances having regard to the possibility

Amendment

2. Where the activity involves the use, production or release of **relevant amounts** of dangerous substances having regard to

of soil and groundwater contamination at the site of the installation, the operator shall prepare a baseline report before starting operation of an installation or before a permit for an installation is updated. That report shall contain the quantified information necessary to determine the initial state of the soil and the groundwater.

The Commission shall establish criteria on the content of the baseline report.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

the possibility of soil and groundwater contamination at the site of the installation, the operator shall prepare a baseline report before starting operation of an installation or before a permit for an installation is updated. That report shall contain the quantified information necessary to determine the initial state of the soil and the groundwater ***with regard to significant amounts of dangerous substances***.

The Commission shall establish ***the general*** criteria on the content of the baseline report.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

Amendment 42

Proposal for a directive Article 23 – paragraph 3

Text proposed by the Commission

3. Upon definitive cessation of the activities, the operator shall assess the state of the soil and groundwater contamination by dangerous substances. Where the installation has caused any pollution by dangerous substances of soil or groundwater compared to the initial state established in the baseline report referred to in paragraph 2, the operator shall remediate the site and return it to that initial state.

Amendment

3. Upon definitive cessation of the activities, the operator shall ***inform the competent authority and*** assess the state of the soil and groundwater contamination by dangerous substances. Where the installation has caused any pollution by dangerous substances of soil or groundwater compared to the initial state established in the baseline report referred to in paragraph 2, the operator shall remediate the site and return it to that initial state.

Amendment 43

**Proposal for a directive
Article 24**

Text proposed by the Commission

Reporting on compliance

The **report** on compliance referred to in point (1) of Article 8 shall include a comparison between the **operation of the installation, including the level of emissions**, and the best available techniques as described in the BAT reference documents.

Amendment

Comparison of emissions with best available techniques associated emission levels

The **relevant data** on compliance **with the permit conditions** referred to in point (1) of Article 8 shall include a comparison between the emissions and the best available techniques **associated emissions levels** as described in the BAT reference documents. ***That relevant data shall be made accessible on the internet without delay.***

Amendment 44

**Proposal for a directive
Article 25 – paragraph 4**

Text proposed by the Commission

4. Based on the inspection plans, the competent authority shall regularly draw up inspection programmes, determining the frequency of site visits for different types of installations.

Those programmes shall include at least one site visit every **twelve months**, for each installation, **unless** those programmes are based on a systematic appraisal of the environmental risks of the particular installations concerned.

Amendment

4. Based on the inspection plans, the competent authority shall regularly draw up inspection programmes, determining the frequency of site visits for different types of installations.

Member States shall ensure that a sufficient number of skilled persons are available to carry out the inspections.

Those programmes shall include at least one **random** site visit every **18 months**, for each installation. ***This frequency shall be increased to at least every six months if an inspection has identified a case of non-compliance with the permit conditions.***

Where those programmes are based on a systematic appraisal of the environmental risks of the particular installations concerned, ***the frequency of site visits may be lowered to a minimum of one every 24 months.***

The systematic appraisal of the environmental risks shall be based on

objective criteria such as:

(a) the record of the operators' compliance with the conditions of the permit;

(b) the impacts of the installation on the environment and human health;

(c) the participation of the operator in the Community eco-management and audit scheme (EMAS), pursuant to Regulation (EC) No 761/2001¹, or the implementation of equivalent eco-management systems.

The Commission *shall* establish criteria on the appraisal of the environmental risks.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

The Commission *may* establish *further* criteria on the appraisal of the environmental risks.

Those measures designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

¹ *Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (OJ L 114, 24.4.2001, p. 1).*

Amendment 45

Proposal for a directive Article 25 – paragraph 6

Text proposed by the Commission

6. Non-routine inspections shall be carried out to investigate serious environmental complaints, serious environmental accidents, incidents and occurrences of non-compliance as soon as possible and, where appropriate, before the issue, reconsideration or update of a permit.

Amendment

6. Non-routine *random* inspections shall be carried out to investigate serious *and qualified* environmental complaints, serious environmental accidents, incidents and occurrences of non-compliance *or facts that seriously affect human health* as soon as possible and, where appropriate, before the issue, reconsideration or update of a permit.

When carrying out such a non-routine inspection, the competent authorities may require operators to provide information in order to investigate the content of an

accident, incident or occurrence of non-compliance, including health statistics.

Amendment 46

Proposal for a directive Article 25 – paragraph 7 – subparagraph 2

Text proposed by the Commission

The report shall be notified to the operator concerned *and* made publicly available within *two months* after the inspection takes place.

Amendment

The report shall be notified to the operator concerned *within two months. The report shall be* made publicly available *on the internet by the competent authority* within *four months* after the inspection takes place.

Amendment 47

Proposal for a directive Article 26 – paragraph 1 – point d

Text proposed by the Commission

(d) *adoption of general binding rules as provided for in Articles 7 and 18.*

Amendment

(d) *updating a permit or permit conditions for an installation where a derogation is to be granted in accordance with Article 16(3).*

Amendment 48

Proposal for a directive Article 26 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Non-governmental organisations promoting environmental protection and meeting the requirements of any relevant national law shall be deemed to have an interest.

Amendment 49

Proposal for a directive
Article 26 – paragraph 2

Text proposed by the Commission

Amendment

2. Points (a) and (b) of paragraph 1 shall not apply where all of the following conditions are met:

deleted

(a) the new installation or substantial change is subject to Directive 85/337/EEC;

(b) general binding rules cover all of the necessary permit conditions;

(c) there is no need to impose any stricter requirements to comply with Article 19.

Amendment 50

Proposal for a directive
Article 26 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. When a decision on granting, reconsideration or updating of a permit, ***or on the adoption or updating of general binding rules*** has been taken, the competent authority shall make available to the public the following information:

3. When a decision on granting, reconsideration or updating of a permit has been taken, the competent authority shall make available to the public without delay the following information:

Amendment 51

Proposal for a directive
Article 26 – paragraph 3 – point e

Text proposed by the Commission

Amendment

(e) how the ***emission limit values included in the permit or the general binding rules*** have been determined in relation to the best available techniques and associated emission levels as described in the BAT reference documents;

(e) how the ***permit conditions referred to in Article 15*** have been determined in relation to the best available techniques and associated emission levels as described in the BAT reference documents;

Amendment 52

Proposal for a directive
Article 26 – paragraph 3 – point f

Text proposed by the Commission

(f) where a derogation is granted in accordance with Article 16(3), the reasons for that derogation and the conditions imposed;

Amendment

(f) where a derogation is granted in accordance with Article 16(3), the *specific* reasons for that derogation *based on the criteria laid down in that paragraph* and the conditions imposed;

Amendment 53

Proposal for a directive
Article 26 – paragraph 3 – point g

Text proposed by the Commission

(g) the result of the reconsideration *of general binding rules as referred to in Articles 18(3) and* of permits as referred to in Article 22(1), (3) and (4);

Amendment

(g) the result of the reconsideration of permits as referred to in Article 22(1), (3) and (4);

Amendment 54

Proposal for a directive
Article 26 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States shall ensure that the information referred to in points (a) to (g) is made available on the internet without delay.

Amendment 55

Proposal for a directive
Article 29

Text proposed by the Commission

Amendment

Article 29

deleted

Exchange of information

The Commission shall organise an exchange of information with Member

States, the industries concerned and non-governmental organisations promoting environmental protection on the following:

(a) the performance of installations in terms of emissions, pollution, consumption and nature of raw materials, use of energy or generation of waste;

(b) the techniques used, associated monitoring, and their developments.

Amendment 56

Proposal for a directive

Article 30 – paragraph 2 – introductory part

Text proposed by the Commission

For the purpose of the first subparagraph, the Commission shall adopt *measures to determine* the following:

Amendment

For the purpose of the first subparagraph, the Commission shall adopt the following *criteria*:

Amendment 133/rev

Proposal for a directive

Article 31 - paragraph 2 a (new)

Text proposed by the Commission

Amendment

Articles 32, 33 and 36 shall not apply to combustion installations when these are covered by a sector-specific BAT reference document and when they are excluded from the scope of the Large Combustion Plant BAT reference document.

Amendment 57

Proposal for a directive

Article 33 – paragraph 6

Text proposed by the Commission

6. Where a combustion plant is extended, the emission limit values specified in part 2 of Annex V shall apply to the part of the plant affected by the change and shall be

Amendment

6. Where a combustion plant is extended *by at least 20 MW*, the emission limit values specified in part 2 of Annex V shall apply to the part of the plant affected by

set in relation to the rated thermal input of the entire combustion plant.

the change and shall be set in relation to the rated thermal input of the entire combustion plant.

Amendment 58

Proposal for a directive Article 35 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the monitoring of air polluting substances is carried out in accordance with Part 3 of Annex V.

Amendment

1. Member States shall ensure that the monitoring of air polluting substances is carried out in accordance with Part 3 of Annex V. ***Member States may require that such monitoring be carried out at the operator's expense.***

Amendment 59

Proposal for a directive Article 67 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Member States shall ensure that information is made available to the Commission on the implementation of this Directive, on representative data on the emissions and other environmental effects, on emission limit values and on the application of best available techniques in accordance with Articles 15 and 16.

Amendment

1. Member States shall ensure that information is made available to the Commission on the implementation of this Directive, on representative data on the emissions and other environmental effects, on emission limit values and on the application of best available techniques in accordance with Articles 15 and 16 ***and on the derogations granted in accordance with Article 16(3).***

Amendment 60

Proposal for a directive Article 67 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall develop and regularly upgrade national information systems to make available in an electronic format the

Amendment

Member States shall develop and regularly upgrade national information systems to make available in an electronic format the

information referred to in the first subparagraph.

information referred to in the first subparagraph. *Member States shall make available to the public a summary of the information provided.*

Amendment 61

Proposal for a directive Article 68

Text proposed by the Commission

On the basis of best available techniques the Commission shall *adapt Parts 3 and 4 of Annexe V, Parts 1, 2, 6, 7 and 8 of Annex VI, Parts 1, 5, 6, 7 and 8 of Annex VII and Parts 2 and 4 of Annex VIII to scientific and technical progress.*

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

Amendment

1. On the basis of the best available techniques as described in the BAT reference documents concerned, the Commission shall, within 12 months of the publication of a BAT reference document in accordance with Article 14, based on the BAT conclusions in the BAT reference document, adjust Annexes V, VI, VII, VIII by setting emission limit values as minimum requirements. Emission limit values may be supplemented by equivalent parameters or technical measures and monitoring and compliance requirements provided that an equivalent level of environmental protection can be achieved.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

2. Before the adoption of the implementing measures referred to in the first paragraph, the Commission shall consult the relevant industry and non-governmental organisations promoting environmental protection and shall report on the outcome of the consultations and how they have been taken into account.

Amendment 62

Proposal for a directive Article 68 a (new)

Text proposed by the Commission

Amendment

Article 68a

Minimum requirements

1. Without prejudice to Article 68, the Commission shall, within 12 months of the publication of a BAT reference document in accordance with Article 14, based on the BAT conclusions in the BAT reference document, set emission limit values as well as monitoring and compliance requirements as minimum requirements. Emission limit values may be supplemented by equivalent parameters or technical measures where an equivalent level of environmental protection can be achieved by such equivalent parameters.

Such minimum requirements shall be directed to significant environmental impacts of the activities or installations concerned, and shall be based on BAT-AEL.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

2. Before the adoption of the implementing measures referred to in the first paragraph, the Commission shall consult the relevant industry and non-governmental organisations promoting environmental protection and shall report on the outcome of the consultations and how they have been taken into account.

3. In accordance with paragraphs 1 and 2, the Commission shall, in particular, by 31 December 2011 set emission limit values as well as monitoring and compliance requirements for dioxins and furans emitted by installations carrying out the activities referred to in points 2.1 and 2.2

of Annex I.

Member States or their competent authorities may set stricter emission limit values for dioxin and furan emissions.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 69(2).

Amendment 129/rev

Proposal for a directive Annex I - paragraph 1 a (new)

Text proposed by the Commission

Amendment

When calculating the total rated thermal input of installations referred to in point 1.1. for combustion plants used in healthcare facilities, only the normal running capacity shall be included for the purposes of this calculation.

Amendment 63

Proposal for a directive Annex I – paragraph 3

Text proposed by the Commission

Amendment

When calculating the total rated thermal input of installations referred to in point 1.1, combustion plants with a rated thermal input below 50 MW and operating no more than **350 hours** per year shall not be included for the purposes of this calculation.

When calculating the total rated thermal input of installations referred to in point 1.1, combustion plants with a rated thermal input below 50 MW and operating no more than **500 hours** per year shall not be included for the purposes of this calculation.

Amendment 64

Proposal for a directive Annex I – point 2.5 – point c

Text proposed by the Commission

Amendment

(c) operation of non-ferrous metal foundries producing cast metal products,

(c) operation of non-ferrous metal foundries producing cast metal products,

with ***a production*** capacity ***of good castings*** exceeding 2,4 tonnes per day for lead and cadmium or 12 tonnes per day for all other metals.

with ***melting*** capacity exceeding 2,4 tonnes per day for lead and cadmium or 12 tonnes per day for all other metals.

Amendment 117

Proposal for a directive Annex I – point 3.5

Text proposed by the Commission

3.5. Manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day ***or*** with a setting density per kiln exceeding 300 kg/m³

Amendment

3.5. Manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tonnes per day ***and*** with a setting density per kiln exceeding 300 kg/m³

Amendment 65

Proposal for a directive Annex I – point 5.2

Text proposed by the Commission

5.2. Incineration of non-hazardous waste with a capacity exceeding 3 tonnes per hour.

Amendment

5.2. Incineration ***and co-incineration*** of non-hazardous waste with a capacity exceeding 3 tonnes per hour.

Amendment 66

Proposal for a directive Annex I – point 5.3 –point b

Text proposed by the Commission

(b) physico-chemical treatment;

Amendment

(b) physico-chemical treatment; ***with the exclusion of activities covered by Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment¹ and which result only in treated sludge, as defined in Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture². This exclusion applies only in cases where at least the same level of***

environmental protection would be achieved as under this Directive;

¹ OJ L 135, 30.5.1991, p. 40.

² OJ L 181, 4.7.1986, p. 6.

Amendment 67

Proposal for a directive Annex I – point 5.3 – point d

Text proposed by the Commission

(d) treatment of slags and ashes;

Amendment

(d) treatment of slags and ashes *not covered by other categories of industrial activities*;

Amendment 68

Proposal for a directive Annex I – point 5.3 – point e

Text proposed by the Commission

(e) treatment of scrap metal.

Amendment

(e) treatment of scrap metal *in shredders*.

Amendments 93 and 115

Proposal for a directive Annex I – point 6.6 – point a

Text proposed by the Commission

(a) 40000 places for *broilers or 30 000 places for laying hens or 24 000 places for ducks or 11 500 places for turkeys*

Amendment

(a) 40000 places for *poultry*

Amendment 69

Proposal for a directive Annex I – point 6.6 – paragraph 2

Text proposed by the Commission

In cases of other poultry species than referred in point (a) or different types of species referred in points (a), (b) and (c) reared on the same installation, the threshold shall be calculated on the basis of

Amendment

In cases of other poultry species than referred in point (a) or different types of species referred in points (a), (b) and (c) reared on the same installation, the threshold shall be calculated on the basis of

equivalent nitrogen excretion factors compared to the thresholds set above.

equivalent nitrogen excretion factors compared to the thresholds set above. ***The Commission shall establish guidance on the calculation of the thresholds and the determination of equivalent nitrogen excretion factors.***

Amendment 70

Proposal for a directive Annex I – point 6.9

Text proposed by the Commission

6.9 Preservation of wood and wood products with a production capacity exceeding 75 m^3 per day.

Amendment

6.9 Preservation of wood and wood products with a production capacity exceeding 50 m^3 per day.

Amendment 71

Proposal for a directive Annex V – Part 1 – point 2 – paragraph following table

Text proposed by the Commission

Combustion plants using ***solid*** fuels which were granted a permit before 27 November 2002, and which do not operate more than 1500 hours per year (rolling average over a period of five years), shall be subject to an emission limit value for SO₂ of 800 mg/Nm³.

Amendment

Combustion plants ***with a rated thermal input of less than 500 MW*** using ***liquid*** fuels which were granted a permit before 27 November 2002, and which do not operate more than 1500 hours per year (rolling average over a period of five years), shall be subject to an emission limit value for SO₂ of 800 mg/Nm³.

Amendment 72

Proposal for a directive Annex V – Part 1 – point 4 – paragraphs following table

Text proposed by the Commission

Combustion plants using solid fuels with a rated thermal input not exceeding 500 MW which were granted a permit before 27 November 2002 and which do not operate more than 1500 hours per year as a rolling average over a period of five years, shall be subject to an emission limit value for NO_x of 450 mg/Nm³.

Amendment

Combustion plants using solid ***or liquid*** fuels ***and*** with a rated thermal input not exceeding 500 MW which were granted a permit before 27 November 2002 and which do not operate more than 1500 hours per year (as a rolling average over a period of five years), shall be subject to an emission limit value for NO_x of 450

Combustion plants using solid fuels with a rated thermal input of 500 MW or more, which were granted a permit before 1 July 1987 and which do not operate more than 1500 hours per year as a rolling average over a period of five years, shall be subject to an emission limit value for NO_x of 450 mg/Nm³.

mg/Nm³.

Combustion plants using solid *or liquid* fuels *and* with a rated thermal input of 500 MW or more, which were granted a permit before 1 July 1987 and which do not operate more than 1500 hours per year as a rolling average over a period of five years, shall be subject to an emission limit value for NO_x of 450 mg/Nm³.

Amendment 97

Proposal for a directive Annex V – Part 1 – point 5 – table

Text proposed by the Commission

5. Emission limit values (mg/Nm³) for NO_x and CO for gas fired combustion plants

	NO _x	CO
Gas fired boilers	100	100
Gas turbines (including CCGT), using natural gas as fuel	50	100
Gas turbines (including CCGT), using other than natural gas as fuel	90	100
Gas engines	100	100

Amendment

5. Emission limit values (mg/Nm³) for NO_x and CO for gas fired combustion plants

	NO _x	CO
Gas fired boilers	100 <i>For plants (as referred to in Article 4(1) and 4(3) of Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants) for the use of blast furnace gas and / or coke oven gas, for nitrogen</i>	100

	<i>dioxide and nitrogen monoxide, measured as nitrogen dioxide, an emission limit value of 135 mg/Nm³ shall apply</i>	
Gas turbines (including CCGT), using natural gas as fuel	50	100
Gas turbines (including CCGT), using other than natural gas as fuel	90	100
Gas engines	100	100

Amendment 73

Proposal for a directive

Annex V – Part 1 – point 5 – note 4 – paragraph 3

Text proposed by the Commission

Gas turbines for emergency use that operate less than 500 hours per year are not covered by the emission limit values set out in this point . The operator of such plants shall record the used operating time.

Amendment

Gas turbines *or gas engines* for emergency use that operate less than 500 hours per year are not covered by the emission limit values set out in this point. The operator of such plants shall record the used operating time.

Amendment 75

Proposal for a directive

Annex V – Part 2 – point 5 – note 2 – paragraph 3

Text proposed by the Commission

Gas turbines for emergency use that operate less than 500 hours per year are excluded from the emission limit values set out in this point . The operator of such plants shall record the used operating time.

Amendment

Gas turbines *or gas engines* for emergency use that operate less than 500 hours per year are not covered by the emission limit values set out in this point. The operator of such plants shall record the used operating time.

Amendment 76

Proposal for a directive
Annex V – Part 3 – point 1

Text proposed by the Commission

1. The concentrations of SO₂, NO_x and dust in waste gases from each combustion plant with a rated thermal input of 100 MW or more shall be measured continuously .

The concentration of CO in waste gases from combustion plants firing gaseous fuels with a rated thermal input of 100 MW or more shall be measured continuously.

Amendment

1. The concentrations of SO₂, NO_x, **CO** and dust in waste gases from each combustion plant with a rated thermal input of 100 MW or more shall be measured continuously.

Amendment 77

Proposal for a directive
Annex V – Part 4 – point 1

Text proposed by the Commission

1. In the case of continuous measurements, the emission limit values set out in Parts 1 and 2 shall be regarded as having been complied with if the evaluation of the measurement results indicates, for operating hours within a calendar year, that all of the following conditions have been met :

(a) no validated *monthly* average value exceeds the relevant emission limit values set out in Parts 1 and 2;

(b) no validated daily average value exceeds 110 % of the relevant emission limit values set out in Parts 1 and 2;

(c) in cases of combustion plants composed only of boilers using coal with a rated thermal input below 50 MW, no validated daily average value exceeds 150 % of the relevant emission limit values set out in Parts 1 and 2,

(d) 95 % of all the validated hourly average values over the year do not exceed 200 % of the relevant emission limit values set out

Amendment

1. In the case of continuous measurements, the emission limit values set out in Parts 1 and 2 shall be regarded as having been complied with if the evaluation of the measurement results indicates, for operating hours within a calendar year, that all of the following conditions have been met :

(a) no validated *daily* average value exceeds the relevant emission limit values set out in Parts 1 and 2;

(d) 95 % of all the validated hourly average values over the year do not exceed 200 % of the relevant emission limit values set out

in Parts 1 and 2.

The validated average values are determined as set out in point 10 of Part 3.

For the purpose of the calculation of the average emission values, the values measured during the periods referred to in Article 33(4) and (5) and Article 34 as well as during the start-up and shut-down periods shall be disregarded.

in Parts 1 and 2.

Amendment 78

Proposal for a directive Annex VI – Part 6 – point 2.5

Text proposed by the Commission

2.5. The competent authority may decide not to require continuous measurements for HCl, HF and SO₂ in waste incineration plants or waste co-incineration plants and require periodic measurements as set out in point 2.1(c) *or no measurements* if the operator can prove that the emissions of those pollutants can under no circumstances be higher than the prescribed emission limit values.

The competent authority may decide not to require continuous measurements for NO_x and require periodic measurements as set out in point 2.1(c) in existing waste incineration plants with a nominal capacity of less than 6 tonnes per hour or in existing waste co-incineration plants with a nominal capacity of less than 6 tonnes per hour if the operator can prove on the basis of information on the quality of the waste concerned, the technologies used and the results of the monitoring of emissions that the emissions of NO_x can under no circumstances be higher than the prescribed emission limit value.

Amendment

2.5. The competent authority may decide not to require continuous measurements for HCl, HF and SO₂ in waste incineration plants or waste co-incineration plants and require periodic measurements as set out in point 2.1(c) if the operator can prove that the emissions of those pollutants can under no circumstances be higher than the prescribed emission limit values. ***This derogation shall not be applied in cases of burning mixed waste from different sources.***

Amendment 79

Proposal for a directive

Annex VI – Part 6 – point 2.6 – introductory part

Text proposed by the Commission

2.6. The competent authority may decide to require *less than two measurements* per year *or no measurements* for heavy metals and for dioxins and furans in the following cases:

Amendment

2.6. The competent authority may decide to require *only one measurement* per year for heavy metals and for dioxins and furans in the following cases:

Amendment 80

Proposal for a directive

Annex VI – Part 6 – point 2.6 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the operator can prove that neither electric nor electronic waste, nor waste containing chlorinated compounds is being treated.