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REPORT

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))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Holger Krahmer

(Recast – Rule 80a of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**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 protecting the environment, including groundwater, air and soil, and the public to a high degree. 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.

Justification

It should be pointed out that the use of BAT is a way to attain the directive's specific objectives; imposing limits should therefore be regarded as a general minimum requirement that does not in itself constitute an optimum, nor is it sufficient to make for the necessary reduction in pollution, environmental exposure, and the related health effects, whatever the state of the environment.

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.***

Justification

Organic solvents are source of pollution, sustainable production should rely on solvent free or water based techniques.

Amendment 3

Proposal for a directive

Recital 9

Text proposed by the Commission

(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.

Amendment

(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, monitoring requirements, ***and a list of the dangerous substances or preparations used as defined in Council Directive 67/548/EC 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 196, 16.8.1967, p. 1.

Justification

The permit should include the list of dangerous substances used in the installation concerned in order to increase the transparency on the use of these substances and provide for a proper basis to set permit conditions.

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***

Amendment

(11) In order to take into account certain specific circumstances, competent authorities should be able to ***lay down***

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.***

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.

Justification

In general the emission limit values set in the permits correspond to a maximum over a specific short period. They may therefore exceed emission levels associated with the best available techniques (as described in the BAT reference documents) and, despite everything, make it possible to achieve the emission levels associated with the best available techniques. The word 'resulting' must be added to take account of the difference between emission limit values associated with specific circumstances and emission levels associated with the best available techniques (indicated in the BAT reference documents), which represent an average value.

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 of activities.

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*** 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 or 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.***

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.***

Justification

The enforcement regimes have to be set by Member States.

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

Amendment

(18) ***Bearing in mind the provisions of the Aarhus Convention,*** 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

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.

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.

Justification

The aim of the amendment is to make reference to a specific EU document, which was drawn up in Aarhus on 25 June 1998 and concerns access to information, public participation in decision-making and access to justice in environmental matters.

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.

Justification

Titanium dioxide poses a toxicological threat, since it acts as an irritant to the skin, eyes and mucous membranes of the respiratory tract.

Amendment 9

Proposal for a directive Recital 26

Text proposed by the Commission

(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

Amendment

deleted

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.

Justification

The subsidiarity principle should be observed. In addition, the involvement of interest groups, for example industry experts, in the procedures is essential. Technical expertise is required in order to develop technically flawless and workable approaches.

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.

Justification

The aim is to clarify the provision and make it easier for the Member States to take legal sanctions against polluters.

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 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;***

Justification

The deletion of the final phrase by the Commission represents a breach of the Aarhus Convention and should therefore be reversed.

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;

Justification

Improves definition.

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 every activity that involves verifying that an installation complies with relevant environmental requirements;

Justification

The concept of ‘Environmental inspection’ is interpreted in various ways by different Member States. Therefore, a clear definition is needed for the uniform reporting on the implementation of the directive.

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 given with the intention to be used directly to set permit conditions.

Justification

A clear definition of ‘general binding rules’ is necessary.

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.

Justification

The proposed compromise is to make it clear that this is a possibility left to MS and that they are not forced to use this flexibility (for instance if their permitting organization could not allow such a system)

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 may 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 the 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 ***twenty-four 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;

Justification

It is questionable as to whether these measures are strictly necessary for some plant, such as combustion plant with a thermal input of between 20-50 MW (if brought within the scope of the recast Directive). The primary concern about these plants is about the impact of the emissions to air and a fully integrated approach to include measures to prevent and control of emissions to land and water (i.e. impacts of waste) we believe would be unnecessary.

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.

Justification

The baseline report should be requested only to bigger plants.

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 their developments.

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 – 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;

Justification

Retaining flexibility is key, so we recommend that the wording ‘if necessary’ be reinstated.

Amendment 29

Proposal for a directive

Article 15 – paragraph 1 – 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.

Justification

It is the operator who knows his process best, and he should be involved in determining the emission levels which can be achieved using the best available techniques.

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 68(a) 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 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.***

Justification

Paragraphs 2 and 3 relate to the setting of conditions in general binding rules and their review once a new BREF is published. Instead of re-opening the issues relating to BAT and permit review, this compromise proposes to make a direct link to the Articles on BAT and BREFs (Articles 15 and 16) and on permit review (Article 22).

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.***

Justification

Paragraphs 2 and 3 relate to the setting of conditions in general binding rules and their

review once a new BREF is published. Instead of re-opening the issues relating to BAT and permit review, this compromise proposes to make a direct link to the Articles on BAT and BREFs (Articles 15 and 16) and on permit review (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.***

Justification

It is useful that the Member States inform the public concerned about developments in BREFs.

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 accordance with Article 19.

Amendment

(d) where **needed for compliance with Directive 2001/81/EC of the European 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 damage and to Directive 20./../EC of the European Parliament and of the Council establishing a framework for the protection of soil and amending

Amendment

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 damage **to Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against**

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.

*pollution and deterioration*¹, to Directive 2009/.../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 and amending Directive 2004/35/EC³ 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 OJL ...

² OJL ... (COM(2007)0051).

³ OJL ... (COM (2006)0232).

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 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-

Amendment

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

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.

The Commission **shall** establish criteria on

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 **eighteen 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 761/2001, or the implementation of equivalent eco-management systems.

The Commission **may** establish **further** criteria on the appraisal of the

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).

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).

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 any requirements under 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 paragraph

Text proposed by the Commission

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:

Amendment

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

(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;

Amendment

(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 Article 16 (3)*** 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 under points (a) to (g) shall be 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 paragraph

Text proposed by the Commission

Amendment

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

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

Justification

The proposal is to keep comitology but to stress that criteria (not measures) are adopted.

Amendment 57

Proposal for a directive
Article 33 – paragraph 6

Text proposed by the Commission

Amendment

6. Where a combustion plant is extended,

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

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

Justification

Minor extensions of a combustion plant should not be covered by this provision.

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.**

Justification

This text was deleted from the LCP Directive. It is added again for clarification purposes.

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 according to 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 information referred to in the first subparagraph.

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. ***Member States shall make available to the public a summary of the information provided.***

Justification

In order to provide all the necessary tools for the Commission to monitor the application of the Directive and in particular to assess how the derogations from BAT have been used, it is necessary to require that Member States report specific information on the use of this possibility. In addition, the data provided by Member States on the use of BAT and the levels of emissions should also serve the review of the BREFs. Summary reports of implementation should be provided to ensure the proper information of the public.

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.***

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 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

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).

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, set, by 31 December 2011 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 63

Proposal for a directive Annex I – paragraph 3

Text proposed by the Commission

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

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.

than **500 hours** per year shall not be included for the purposes of this calculation.

Justification

Instead of changing the threshold it is proposed to keep the threshold of 20 MW but to amend the 'de minimis rule' to exclude more small installations from the calculation.

Amendment 64

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

Text proposed by the Commission

(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.

Amendment

(c) operation of non-ferrous metal foundries producing cast metal products, with melting capacity exceeding 2,4 tonnes per day for lead and cadmium or 12 tonnes per day for all other metals.

Justification

The production of 'good' or 'bad casting' in an installation has the same environmental impacts. In addition, it would be difficult to implement a threshold expressed only in terms of 'good casting'. The drafting can therefore be improved to make the description of the scope more accurate and clearer without changing radically the current IPPC scope.

Amendment 65

**Proposal for a directive
Annex I – point 5.2 – introductory paragraph**

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.

Justification

Co-incineration is already included through the description of other activities such as cement production. It would however make sense to clarify that co-incineration is indeed covered (as it is already the case for hazardous waste under point 5.1(c))

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.

² OJ L 181, 4.7.1986.

Justification

In order to avoid overlap between legislation and ensure consistency, it is justified not to cover installations subject to the Directive 91/271/EC on Urban Waste Water Treatment. In addition, the amendment makes an appropriate reference to the Sludge Directive as regards the definition of ‘treated sludge’.

Amendment 67

Proposal for a directive Annex I – point 5.3 – subpoint 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 5.23 – subpoint e

Text proposed by the Commission

Amendment

(e) treatment of scrap metal.

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

Amendment 69

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

Text proposed by the Commission

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.

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

Justification

It is technically difficult at this stage to propose specific thresholds for the poultry species which are not mentioned (in practice only a very limited number of farms would be concerned by poultry species not mentioned in the Annex I, e.g. quails, ostriches, pheasants) or for mixed farms. As a compromise and in view of the very technical nature of the issue, the Commission should issue guidance.

Amendment 70

Proposal for a directive
Annex I – point 6.9

Text proposed by the Commission

Amendment

6.9 Preservation of wood and wood products with a production capacity exceeding **75 m³** per day.

6.9 Preservation of wood and wood products with a production capacity exceeding **50 m³** per day.

Amendment 71

Proposal for a directive

Annex V – Part 1 – point 2 – paragraph following table

<i>Text proposed by the Commission</i>	<i>Amendment</i>
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 SO ₂ of 800 mg/Nm ³ .	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 SO ₂ of 800 mg/Nm ³ .

Justification

Allowing ‘peak’ operating plants using liquid fuels to have a less stringent ELV for SO₂ would avoid the need to have secondary abatement measures installed for these plants as primary measures (in particular the use of liquid fuels with < 0,5% sulphur) will be sufficient in all cases. Due to their limited number of operating hours per year, their environmental impact is rather limited. For liquid fuel fired plants, the derogation should be restricted to plants of less than 500 MW as these have to comply already with more stringent ELVs under the LCP Directive.

Amendment 72

Proposal for a directive

Annex V – Part 1 – point 4 – paragraphs following table

<i>Text proposed by the Commission</i>	<i>Amendment</i>
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/Nm ³ .	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 mg/Nm ³ .
Combustion plants using solid fuels with a rated thermal input of 500 MW or more, which were granted a permit before 1 July	Combustion plants using solid or liquid fuels and with a rated thermal input of 500 MW or more, which were granted a permit

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.

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.

Justification

Allowing 'peak' operating plants using liquid fuels to have a less stringent ELV for NO_x, as proposed in the compromise, would avoid the need to have secondary abatement measures (in particular selective catalytic reduction or SCR) installed for these plants, as primary measures (in particular adjustments to the combustion process) will be sufficient. Due to their limited number of operating hours per year, their environmental impact is rather limited.

Amendment 73

Proposal for a directive

Annex V – Part 1 – point 5 – point 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 74

Proposal for a directive

Annex V – Part 1 – point 5 – point 4 a (new)

Text proposed by the Commission

Amendment

(4a) Gas turbines which were granted a permit before 27 November 2002 and which do not operate more than 1 500 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 150 mg/Nm³.

Amendment 75

Proposal for a directive

Annex V – Part 2 – point 5 point 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.

Justification

Gas engines for generating electricity are often in direct competition with gas turbines. Allowing 'emergency' gas engines to be exempted from the ELVs ensures that they are treated equally with gas turbines. For these plants, operating a very limited number of hours and functioning only in 'emergency' cases, applying secondary abatement measures (in particular selective catalytic reduction or SCR) would lead to high costs with very little environmental benefit, given the limited number of operating hours per year.

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 .

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.

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.

Justification

The Commission proposal introduced the requirement to monitor CO continuously only for combustion plants firing gaseous fuels as for these plants an ELV has been defined in Annex V. Competent authorities need to define monitoring requirements in the permits in line with BAT (article 17). As CO may be considered as a relevant parameter for all combustion plants

in order to control the combustion process, it is important to have continuous monitoring in place

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 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.

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.

Justification

The Commission proposal allows additional flexibility when compared to the LCP BREF.

Whereas the BREF BAT levels reflect daily averages, Annex V requires the ELVs to be met on a monthly basis. In addition, daily average values cannot exceed 110% of the ELV and 95% of hourly averages over 1 year shall not exceed more than twice the ELVs. The Commission proposal makes no distinction between pre-2016 and post-2016 plants. While keeping the same compliance rules for new and existing plants, it is necessary to align them with the BAT conclusions of the BREF which are based on daily averages and not monthly averages.

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.***

Justification

The Commission proposal foresees specific cases where no requirements of HCl, HF and SO₂ can be required by competent authorities. The compromise proposal takes into account the amendments, which removed the additional proposed flexibility.

The Commission proposal furthermore foresees specific cases where NO_x can be subject to periodic measurements instead of continuous measurements. Several amendments proposed to remove the additional proposed flexibility.

Amendment 79

Proposal for a directive

Annex VI – Part 6 – point 2.6 – introductory paragraph

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 or electronic waste, nor waste containing chlorinated compounds is being treated.

EXPLANATORY STATEMENT

Environmental protection on the basis of an integrated approach to the issuing of permits for installations

The aim of the proposal for a directive is to review and consolidate in one single text seven separate directives on industrial emissions.

This legislative procedure will affect 52 000 industrial installations in Europe, which account for a major proportion of pollutant emissions in Europe and are to some degree responsible for the failure to achieve the targets laid down in the thematic strategy on the prevention of air pollution.

The Commission proposal provides for an integrated approach with the aim of ensuring that environmental aspects are taken into account, in the most comprehensive and balanced way possible, when permits are issued for installations. One of the aims of the proposal is to impose effective limits on emissions through the employment of best available techniques (BATs); accordingly more stringent rules stipulating their use are to be introduced. Distortions of competition in the Community, caused by disparities in the transposition of the existing legislation, are to be remedied at the same time.

Your rapporteur supports the Commission's strategy. The integrated approach is welcome, as are the more stringent provisions governing the use of best available techniques. The amendments seek to strengthen the provisions of the directive and safeguard against their misinterpretation, to simplify transposition, and to do away with unnecessary red tape.

European safety network

The aim of the first fundamental proposed change is to retain in its current form the valuable information exchange between interest groups, such as the industry and non-governmental organisations ('Seville Process'), as part of the process of describing the best available techniques. The result of this process will still be the BAT reference document.

The introduction of legally binding emission limit values is welcome. The Commission proposal provides for limit values to be determined directly on the basis of the BAT reference documents. This is not workable in practice and would result in undesirable political influence being exerted on the Seville Process. The second fundamental change proposed by your rapporteur therefore provides for the setting-up of a comitology committee subject to parliamentary scrutiny, which will have the task of laying down measures to limit emissions in the form of minimum requirements. The minimum requirements will form a European safety network whose rules may not be breached by any installation.

At the level of the competent authorities on the spot, measures to limit emissions are laid down for individual installations which are designed to result in emission levels which on average meet the requirements laid down in the BAT reference documents, with some leeway

so that proper account can be taken of local circumstances. This provision is intended to deal with the problem that spikes in emission values which may exceed the levels associated with the descriptions of the best available techniques may occur during normal operations, for example when an installation is started up. On no account, however, may the ceilings imposed by the European Safety Network be exceeded.

This proposal strikes a balance between the introduction of European standards relating to the issuing of permits for industrial installations and allowing Member States vitally needed leeway to take account of the technical characteristics of a given installations, its geographical location and local environmental conditions.

Curbing administrative costs

One of the Commission's aims in revising the directive, and one which your rapporteur fully supports, is to reduce red tape. A series of amendments seek to improve the revision proposal in this respect: they provide for the relaxation of rigid rules concerning inspections of installations and of the requirement that operators should submit reports on compliance with permit conditions. These less stringent provisions will also benefit the competent authorities, since they will be able to use their resources where they are needed, for example focusing on installations which require closer scrutiny from the point of view of environmental safety.

In addition, your rapporteur has tabled amendments designed to strengthen Parliament's role in connection with future amendments of non-essential provisions of the directive, to ensure that Commission decisions take due account of the views of external experts and to make the economic implications of such decisions transparent.

In contrast, extensions to the scope of the directive should be reversed in cases where the likely environmental benefits do not justify the costs. The same applies to stringent provisions on soil and groundwater protection, matters which are already dealt with at Community or national level.

ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

COMMITTEE ON LEGAL AFFAIRS
CHAIRMAN

Ref.: D(2008)53399

Mr Miroslav OUZKÝ
Chairman of the Committee on Environment,
Public Health and Food Safety
ASP 05F69
Brussels

Subject: ***Proposal for a directive of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (recast version)***
 (COM(2007)844 – C6 0002/2008 – 2007/0286(COD))

Dear Sir,

The Committee on Legal Affairs, which I am honoured to chair, has examined the proposal referred to above, pursuant to Rule 80a on Recasting, as introduced into the Parliament's Rules of Procedure by its Decision of 10 May 2007.

Paragraph 3 and 4 of that Rule reads as follows:

'(3) If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible.

In such a case, over and above the conditions laid down in Rules 150 and 151, amendments shall be admissible within the committee responsible only if they concern those parts of the proposal which contain changes.

However, amendments to the parts which have remained unchanged may be admitted by way of exception and on a case-by-case basis by the chairman of the above committee if he considers that this is necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments. Such reasons must be stated in a written justification to the amendments.

(4) If the committee responsible for legal affairs considers that the proposal entails substantive changes other than those which have been identified as such in the proposal, it shall propose that Parliament reject the proposal and it shall inform the committee responsible that it has done so.

In such a case the President shall request the Commission to withdraw the proposal. If the Commission does so, the President shall hold the procedure to be superfluous and shall inform the Council accordingly. If the Commission does not withdraw the proposal, Parliament shall refer the matter back to the committee responsible for the subject matter, which shall consider it in accordance with the normal procedure.'

Following the opinion of the Legal Service, whose representatives participated in the meetings of the Consultative Working Party examining the recast proposal, and in keeping with the recommendations of the Draftsperson, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such in the proposal, in the opinion or hereinafter and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance.

Pursuant to Rules 80a(2) and 80(3), the Committee on Legal Affairs considered that the technical adaptations suggested in the opinion of the abovementioned Working Party were necessary in order to ensure that the proposal complied with the codification rules and that they did not involve any substantive change to the proposal.

In addition, following the recommendations of the Draftsperson and pursuant to Rules 80a(2) and 80(3), the Committee on Legal Affairs considered that the following provisions, which had already been marked with double strikethrough, should be identified by using the grey-shaded type used for marking substantive changes:

- Art. 3, No. 12, deletion of the second sentence *'for the purpose of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest'*;
- Art. 12, No 8, deletion of the words *'state defined in accordance with Article 23(2) and (3)'*;
- in Article 29, the words *'between'* and *'on best available techniques, associated monitoring, and developments in them...'*.

Without prejudice to the application of Rule 80a (4) of the Parliament's Rules of Procedure on future occasions, the Committee on Legal Affairs considered that the points listed above complied with the recasting and codification rules provided that they were reviewed pursuant to Rules 80a(2) and 80(3).

In conclusion, at its meeting of 8-9 September 2008, the Committee on Legal Affairs decided to recommend that your Committee, as the committee responsible, proceed to examine the proposal in question in keeping with the above suggestions and in accordance with Rule 80a.

Yours faithfully,

Giuseppe GARGANI

ANNEX: OPINION OF THE CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES OF THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION



CONSULTATIVE WORKING PARTY
OF THE LEGAL SERVICES

Brussels,

OPINION

FOR THE ATTENTION OF

**THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION**

**Proposal for a directive of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control)
COM(2007) 844 final of 21.12.2007- 2007/0286 (COD)**

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party, consisting of the respective legal services of the European Parliament, the Council and the Commission, met on 16, 22, 24 and 31 January, 13 February and 3 April 2008 for the purpose of examining the aforementioned proposal submitted by the Commission.

At those meetings¹, an examination of the proposal for a directive of the European Parliament and of the Council recasting Council Directive 78/176/EEC of 20 February 1978 on waste from the titanium dioxide industry, Council Directive 82/883/EEC of 3 December 1982 on procedures for the surveillance and monitoring of environments concerned by waste from the titanium dioxide industry, Council Directive 92/112/EEC of 15 December 1992 on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry, Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control, Council Directive 1999/13/EC of 11 March 1999 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations, Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of

¹ The Consultative Working Party had at its disposal the English, French and German language versions of the proposal and worked on the basis of the English version, being the master-copy language version of the text under discussion.

waste and 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 resulted in the Consultative Working Party's establishing, by common accord, as follows.

(1) It was acknowledged that after the date on which the recast proposal was submitted to the legislative authority Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control was **repealed and replaced by** Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (Codified version)¹. As a consequence thereof, all references made to Directive 96/61/EC in the recast text should be understood as references being made to Directive 2008/1/EC.

(2) The following parts of text of the recast proposal should have been identified by using the grey-shaded type used for marking substantive changes:

- in point (5) of Article 3, the wording '*Emission limit values may also be laid down for certain groups, families or categories of substances*', which has already been marked with double strikethrough;
- in Article 4(2), first subparagraph, the words '*or on different sites*';
- in Article 9(2), second subparagraph, the words '*or the environment*' (having been presented between adaptation arrows);
- in Article 35(1), the final sentence '*Member States may require that such monitoring shall be carried out at the operator's expense*' (having been already marked with double strikethrough);
- in Article 43(2), the final sentence '*Calibration has to be done by means of parallel measurements with the reference methods at least every three years*' (already marked with double strikethrough);
- in Annex I, point 1.4, the words '*Coal*' (already marked with double strikethrough) and '*fuels*';
- in Annex I, the entire wordings of point 5.1.(h) and of point 5.1.(k);
- in Annex I, point 6.4(b)(ii), the expression '*average value on a quarterly basis*' (already marked with double strikethrough);
- in Annex V, Part 1, point 2, the words '*Coal and lignite*', '*Biomass*' and '*Peat*';
- in Annex V, Part 1, point 5, note (4), the words '*and CO*'.

(3) In point (26) of Article 3, the word '*if*' preceding the expression '*the substances*' should have been presented between adaptation arrows.

(4) It was acknowledged that in Article 26(3), introductory wording, the words '*shall inform the public*' and '*and*' have been marked with double strikethrough by mistake. The said words should be re-introduced, and that introductory wording should consequently read as follows: '*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 inform the public and shall make available to the public the following information:*'.

(5) In Article 38(2)(a)(i), the reference made to '*Article 3(21)*' should read as a reference to Article 3(20).

(6) In Article 47(4)(b), the words '*or co-incineration*' should have been presented between adaptation arrows.

(7) In Annex V, Part 1, point 4, the indication '(2)', which precedes a part of text having been

¹ OJ L 24 of 29.1.2008, p. 8.

marked with double strikethrough, should have been marked with double strikethrough as well.

(8) In Annex V, Part 3, point 3, the word '*per*' should have been presented between adaptation arrows (together with the word '*once*').

(9) In Annex VI, Part 3, point 1, the indication '*in Point 2.7 of Part 5*' should be adapted so as to read '*in Point 2.7 of Part 6*').

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such therein or in the present opinion. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing text, without any change in its substance.

C. PENNERA
Jurisconsult

J.-C. PIRIS
Jurisconsult

C.-F.DURAND
actg. Director General

PROCEDURE

Title	Industrial emissions (integrated pollution prevention and control) (recast version)		
References	COM(2007)0844 – C6-0002/2008 – 2007/0286(COD)		
Date submitted to Parliament	21.12.2007		
Committee responsible Date announced in plenary	ENVI 10.4.2008		
Committee(s) asked for opinion(s) Date announced in plenary	JURI 10.4.2008		
Not delivering opinions Date of decision	JURI 9.9.2008		
Rapporteur(s) Date appointed	Holger Krahmer 21.2.2008		
Discussed in committee	8.4.2008	26.5.2008	9.9.2008
Date adopted	22.1.2009		
Result of final vote	+: 43 -: 10 0: 5		
Members present for the final vote	Adamos Adamou, Georgs Andrejevs, Liam Aylward, Maria Berger, John Bowis, Frieda Brepoels, Hiltrud Breyer, Martin Callanan, Dorette Corbey, Magor Imre Csibi, Chris Davies, Avril Doyle, Mojca Drčar Murko, Edite Estrela, Jill Evans, Anne Ferreira, Karl-Heinz Florenz, Alessandro Foglietta, Elisabetta Gardini, Satu Hassi, Jens Holm, Marie Anne Isler Béguin, Caroline Jackson, Dan Jørgensen, Christa Klač, Holger Krahmer, Urszula Krupa, Marie-Noëlle Lienemann, Peter Liese, Jules Maaten, Marios Matsakis, Linda McAvan, Riitta Myller, Péter Olajos, Miroslav Ouzký, Vladko Todorov Panayotov, Dimitrios Papadimoulis, Vittorio Prodi, Frédérique Ries, Guido Sacconi, Daciana Octavia Sârbu, Amalia Sartori, Horst Schnellhardt, Richard Seeber, Bogusław Sonik, María Sornosa Martínez, Bart Staes, Anja Weisgerber, Glenis Willmott		
Substitute(s) present for the final vote	Iles Braghetto, Philip Bushill-Matthews, Christofer Fjellner, Jutta Haug, Robert Sturdy, Andres Tarand		
Substitute(s) under Rule 178(2) present for the final vote	Daniel Cohn-Bendit, Constanze Angela Krehl, Bernhard Rapkay		