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Committee on the Environment, Public Health and Food Safety

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*****I**

DRAFT 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: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0844),
 - having regard to Articles 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 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 (A6-0000/2008),
- 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 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 Commission.

¹ OJ C 77, 28.3.2002, p. 1.

Amendment 1

Proposal for a directive Recital 15

Text proposed by the Commission

(15) In order to take account of developments in the best available techniques or other changes regarding the changes to an installation, permit conditions should be reconsidered regularly and, where necessary, updated, **in particular where the Commission adopts a new or updated BAT reference document.**

Amendment

(15) In order to take account of developments in the best available techniques or other changes regarding the changes to an installation, permit conditions should be reconsidered regularly and, where necessary, updated.

Or. de

Justification

The overly frequent updating of permit conditions, with the resulting need to refit or upgrade installations, cannot be reconciled with operators' investment cycles.

Amendment 2

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 keeping with the requirements laid down in Community and national liability law.**

Or. de

Justification

In contrast to water and air, inputs do not spread widely through soil. The margin for error in soil analyses is more than 100% on average, so that the results of such tests are of little practical value. Very closely-spaced tests are needed, therefore, to produce repeatable and reliable results. However, such tests can in turn damage impermeable layers in the subsoil and lead to the contamination of groundwater layers which are otherwise protected.

Amendment 3

Proposal for a directive

Recital 26

Text proposed by the Commission

Amendment

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

deleted

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.

Or. de

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 4

**Proposal for a directive
Article 3 - point 7 a (new)**

Text proposed by the Commission

Amendment

7a. 'Change in operation' means a change in the nature or functioning, or an extension, of an installation or combustion plant, waste incineration plant or waste co-incineration plant which may have negative effects on the environment;

Or. de

Justification

The distinction between 'change in operation' and 'substantial change' has proved its worth in practice and should therefore be retained.

Amendment 5

Proposal for a directive Article 3 - point 8

Text proposed by the Commission

8. 'substantial change' means a change in the nature or functioning, or an extension, of an installation or combustion plant, waste incineration plant or waste co-incineration plant which may have significant negative effects on humans or the environment;

Amendment

8. 'substantial change' means a change in the **operation**, nature or functioning, or an extension, of an installation or combustion plant, waste incineration plant or waste co-incineration plant which may, **in the opinion of the competent authority**, have significant negative effects on humans or the environment;

Or. de

Justification

The distinction between 'change' and 'substantial change' has proved its worth in practice and should therefore be retained. In addition, it should be made clear that the competent authority must decide whether a substantial change has occurred or not.

Amendment 6

Proposal for a directive Article 3 - point 9 - letter c a (new)

Text proposed by the Commission

Amendment

(ca) in determining the best available techniques, special consideration should be given to the items listed in Annex III;

Or. de

Justification

In addition to the BAT reference documents, further information is available, for example that published by international public organisations, which can be used as a criterion in determining the best available techniques. The deletion of this section of text by the Commission should be reversed.

Amendment 7

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 any requirements under national law shall be deemed to have an interest;***

Or. de

Justification

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

Amendment 8

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, ***industrially proven*** technique that, if commercially developed, could provide a ***comparable or*** higher general level of protection of the environment or ***comparable or*** higher cost savings than existing best available techniques;

Or. de

Justification

Techniques should have proved their value in industrial or commercial use, since successful testing under laboratory conditions or in pilot projects does not necessarily guarantee

satisfactory results in daily use. In addition, consideration should also be given to the use of novel techniques which provide comparable levels of environmental protection or cost savings.

Amendment 9

Proposal for a directive Article 3 – point 15

Text proposed by the Commission

Amendment

15. 'baseline report' means quantified information on the state of soil and groundwater contamination by dangerous substances;

deleted

Or. de

Justification

The aim of the IPPC directive is to prevent damage to the environment. Following the definitive cessation of activities, the Member States' legal provisions should be the yardsticks used to determine that the condition of the site is consistent with the future use for which it has been earmarked. If remediation is required, the relevant measures should be tailored to that future use and be based on an assessment of the risks to human health and the environment.

Amendment 10

Proposal for a directive Article 3 – point 26

Text proposed by the Commission

Amendment

26. 'waste incineration plant' means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes if the substances resulting from the treatment are subsequently incinerated;

26. 'waste incineration plant' means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes, **such as pyrolysis, gasification or plasma processes**, if the substances resulting from the treatment are subsequently incinerated;

Justification

Clarification that other thermal treatments, such as pyrolysis, gasification or plasma processes, are also covered.

Amendment 11**Proposal for a directive****Article 4 – paragraph 2 – subparagraph 1***Text proposed by the Commission*

(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**.

Amendment

(2) A permit may cover **one** or more installations or parts of installations operated by the same operator on the same site.

If a permit covers one or more installations, each installation must meet the requirements laid down in this Directive.

Justification

A single permit should not cover several sites used by an operator, since this might give rise to problems in determining which authority is responsible for which site.

Amendment 12**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

An installation or combustion plant, waste incineration plant or waste co-incineration plant ***may only be operated by a natural or legal person whose responsibility for that task has been notified to the competent authority.***

Justification

Responsibility, in particular as regards the operator's obligations under this directive, must be clearly allocated. In addition, if it is to enforce the directive the competent authority needs to be able to liaise with a natural or legal person with actual responsibility for a plant or installation.

Amendment 13**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 a report on compliance with the permit conditions, **in which connection the permit or the generally binding rules shall stipulate that reports must be submitted at least every 36 months**;

Justification

Annual reporting would impose a bureaucratic burden on both operators and the authorities without generating practical benefits for the environment.

Amendment 14**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

Amendment

In cases of a breach causing **an immediate** danger to human health or the environment and as long as compliance is not restored in accordance with point (b) of the first subparagraph, **or until such time as suitable measures are taken to deal with the causes of the breach**, the operation of

plant shall be suspended.

the installation or combustion plant, waste incineration plant or waste co-incineration plant shall be suspended.

Or. de

Justification

The amendment establishes consistency with other employment protection rules, in which the suspension of the operation of a plant is linked to the immediate nature of the danger to human health. Suspending the operation of the plant may have a more adverse impact on the environment than efforts to carry out repairs whilst the plant is still running.

Amendment 15

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 keeping with the requirements laid down in*** Article 23(2) and (3).

Or. de

Justification

The aim of the IPPC directive is to prevent damage to the environment. Following the definitive cessation of activities, the Member States' legal provisions should be the yardsticks used to determine that the condition of the site is consistent with the future use for which it has been earmarked. If remediation is required, the relevant measures should be tailored to that future use and be based on an assessment of the risks to human health and the environment.

Amendment 16

Proposal for a directive

Article 13 – paragraph 1 – letter k

Text proposed by the Commission

(k) the main alternatives to the proposed

Amendment

(k) where appropriate, the main

technology, techniques and measures studied by the applicant in outline.

alternatives to the proposed technology, techniques and measures studied by the applicant in outline.

Or. de

Justification

The study of alternatives and the inclusion of details of those alternatives in the permit application generates unnecessary red tape and slows down the application procedure.

Amendment 17

Proposal for a directive Article 14

Text proposed by the Commission

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

(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.***

Amendment

(1) On the ***basis of the*** results of the information exchange referred to in Article 29, the BAT reference documents shall in particular describe the best available techniques, the associated emission ***and consumption*** levels and associated monitoring, remediation of the site ***following closure of the installation*** and the emerging techniques, giving special consideration to the criteria listed in Annex III.

(1a) Notwithstanding the provisions of paragraph 4 and Article 68, on completion of the information exchange provided for in paragraph 1 and on the basis of the BAT reference document the

Commission shall lay down measures to limit emissions (emission limit values, equivalent parameters or technical measures) and monitoring and compliance requirements as minimum requirements for the activity in question.

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).

If necessary, the Commission shall review and update the measures to limit emissions.

(1b) Once the Commission has submitted to the committee set up pursuant to Article 69(2) a draft of the measures to be taken pursuant to paragraph 2, and once a deadline for the delivery of an opinion has been set pursuant to the second sentence of Article 5a(2) of Decision 1999/468/EC, it shall publish the BAT reference document.

(1c) On the basis of the relevant BAT reference documents, the Commission shall adapt Parts 1 and 2 of Annex V, Parts 3, 4 and 5 of Annex VI, Parts 2, 3, 4 and 5 of Annex VII and Parts 1 and 3 of Annex VIII by laying down measures to limit emissions as minimum requirements.

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).

Or. de

Justification

The information exchange in connection with the drafting of the BAT reference documents (Seville Process) should be retained unchanged. However, in the Commission draft binding emission limit values are to be laid down on the basis of the BAT reference document, an arrangement which would necessarily lessen the willingness of the industry to participate in the process. The process of laying down limit values, which, as a European safety network,

may on no account be exceeded by an installation, should therefore be dealt with in a comitology procedure.

Amendment 18

Proposal for a directive

Article 15 – paragraph 1 – letter d

Text proposed by the Commission

Amendment

(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; ***deleted***

Or. de

Justification

Groundwater protection is dealt with under Community law. Soil protection is being brought within the scope of Community law and many Member States have already incorporated soil protection provisions into their national law. More detailed requirements concerning groundwater and soil protection will create unnecessary duplication.

Amendment 19

Proposal for a directive

Article 16 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

1. The emission limit values for polluting substances shall apply at the point where the emissions leave the installation, and any dilution prior to that point shall be disregarded when determining those values.

1. The emission limit values for polluting substances shall ***normally*** apply at the point where the emissions leave the installation, and any dilution prior to that point shall be disregarded when determining those values.

Or. de

Justification

The word 'normally', which appears in the current version of the directive, should be retained. The current wording has proved its worth and takes account of the need to make provision for individual exceptions.

Amendment 20

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

Taking account of the technical characteristics of the installation in question, its geographical location and local environmental conditions, the competent authority shall ***lay down measures to limit emissions*** (emission limit values, ***equivalent parameters or technical measures***) ***and monitoring and compliance requirements in such a way that the resulting emission levels for the installation*** do not exceed the emission levels associated with the best available techniques as described in the BAT reference documents.

Or. de

Justification

The competent authority should set emission limit values on the basis of the BAT reference documents in such a way that emissions from the installation when it is running normally meet the requirements laid down in the BAT reference document. The values laid down under the European safety network must be complied with. Monitoring and compliance requirements are introduced in order to make for technical uniformity and clarity in connection with the emission limit values.

Amendment 21

Proposal for a directive

Article 16 – paragraph 3 – subparagraph 1

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.

Amendment

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, **lay down measures to limit emissions (emission limit values, equivalent parameters or technical measures) and monitoring and compliance requirements in such a way that the resulting emission levels for the installation** exceed the emission levels associated with the best available techniques as described in the BAT reference documents.

Or. de

Justification

In exceptional cases the competent authority may set emission limit values in such a way that emissions from the installation exceed the emission levels laid down in the BAT reference documents. The limit values laid down under the European safety network must be complied with.

Amendment 22

Proposal for a directive

Article 16 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Those emission limit values shall however not exceed the emission limit values set out

Amendment

Those emission limit values shall however not exceed the emission limit values set out in **Article 14(2) or, where applicable,** in

in Annexes V to VIII, *where applicable*.

Annexes V to VIII.

Or. de

Justification

In exceptional cases the competent authority may set emission limit values in such a way that emissions from the installation exceed the emission levels laid down in the BAT reference documents. The limit values laid down under the European safety network must be complied with.

Amendment 23

**Proposal for a directive
Article 16 – paragraph 4**

Text proposed by the Commission

Amendment

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

deleted

Or. de

Justification

The rules do not cover the installations referred to in this paragraph.

Amendment 24

**Proposal for a directive
Article 18 – paragraph 2 – subparagraph 2**

Text proposed by the Commission

Amendment

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

Member States shall ***lay down the measures to limit emissions referred to in the*** general binding rules (emission limit values or equivalent parameters or technical measures) ***and monitoring and***

available techniques as described in the BAT reference documents.

compliance requirements in such a way that the resulting emission levels for the installation do not exceed the emission levels associated with the best available techniques as described in the BAT reference documents.

Or. de

Justification

See justification for the amendments to Article 16. Reference to Article 22: the legal impact of updated BAT reference documents should be the same in States which lay down permit conditions and those which lay down general binding rules.

Amendment 25

**Proposal for a directive
Article 18 – paragraph 3 – subparagraph 2**

Text proposed by the Commission

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

Where the Commission ***publishes*** a new or updated BAT reference document, ***Article 22(3) shall apply accordingly.***

Or. de

Justification

See justification for the amendments to Article 16. Reference to Article 22: the legal impact of updated BAT reference documents should be the same in States which lay down permit conditions and those which lay down general binding rules.

Amendment 26

**Proposal for a directive
Article 20**

Text proposed by the Commission

Member States shall ensure that the

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.

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

The Commission shall ensure that the BAT reference documents are translated into all the official languages of the Union. The document shall be available to all authorities at the same time in the relevant official language.

Or. de

Justification

The translation of the BAT reference documents into the official languages of the Union is a precondition for their effective use.

Amendment 27

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 ensure that the competent authority, where necessary, reconsiders and updates the permit conditions for the installations concerned, ***taking account, in individual cases, of investment cycles.***

Or. de

Justification

The undertakings concerned must be guaranteed legal and planning certainty.

Amendment 28

Proposal for a directive Article 22 - paragraph 4 - letter 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 *without generating disproportionately high costs*;

Or. de

Justification

It does not make sense to force operators of industrial installations to carry out incremental upgrading or refitting of their installations if the likely environmental benefit does not justify the work involved or can be achieved only at a disproportionately high cost.

Amendment 29

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-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure

Amendment

deleted

with scrutiny referred to in Article 69(2).

Or. de

Justification

Groundwater is dealt with under Community law. Soil protection is being brought within the scope of Community law and many Member States have already incorporated soil protection provisions into their national law. More detailed groundwater and soil protection requirements would create unnecessary duplication. The soil condition report called for in this paragraph will impose costs on operators without generating benefits for the environment. Installations in which dangerous substances are used must anyway be monitored on the basis of existing provisions.

Amendment 30

**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 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, ***in keeping with the relevant requirements of national law and Community law, the competent authority shall ensure that the site does not pose any significant risk to human health and the environment. The remediation aim shall be determined by means of a risk-based approach, taking account of the intended future use of the site to be remediated.***

Or. de

Justification

Soil remediation should be carried out in accordance with a risk-based approach and take account of the intended future use of the site.

Amendment 31

Proposal for a directive Article 23 - paragraph 4

Text proposed by the Commission

Amendment

4. Where the operator is not required to prepare a baseline report referred to in paragraph 2, the operator shall take the necessary measures upon definitive cessation of the activities to ensure that the site does not pose any significant risk to human health and the environment. **deleted**

Or. de

Justification

Article 23(4) is combined with Article 23(3).

Amendment 32

Proposal for a directive Article 24

Text proposed by the Commission

Amendment

Reporting on compliance **deleted**

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.

Or. de

Justification

Article 8(3) and Article 24 are contradictory. Article 8 calls for a report on compliance with the permit conditions, whereas Article 24 stipulates that that report should include a comparison between the operation of the installation and the BAT reference documents. In that connection, only the permit conditions are directly relevant to the operator since only

non-compliance with those conditions can give rise to penalties. A more detailed comparison is legally irrelevant.

Amendment 33

Proposal for a directive

Article 25 - Paragraph 4 - Subparagraph 2

Text proposed by the Commission

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

Amendment

Those programmes shall include at least one site visit every **36** months, for each installation, unless those programmes are based on a systematic appraisal of the environmental risks of the particular installations concerned.

Or. de

Justification

The call for annual inspections is excessive, since it would create a parallel with the requirements under the Seveso II Directive. Environmental risks are determined by the nature of the individual installation, its location and the geographical characteristics of that location. It should be left to the Member States to assess and deal with those risks. The directive should take account of existing European eco-management programmes.

Amendment 34

Proposal for a directive

Article 25 - paragraph 4 - subparagraph 3

Text proposed by the Commission

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

Amendment

These programmes shall reward participation by 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 by a reduction in the frequency of inspections.

Or. de

Justification

The call for annual inspections is excessive, since it would create a parallel with the requirements under the Seveso II Directive. Environmental risks are determined by the nature of the individual installation, its location and the geographical characteristics of that location. It should be left to the Member States to assess and deal with those risks. The directive should take account of existing European eco-management programmes.

Amendment 35

Proposal for a directive

Article 25 - paragraph 4 - subparagraph 4

Text proposed by the Commission

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

The results of the environmental review provided for in Article 3(2) of Regulation (EC) No 761/2001 or checks on compliance with the requirements of eco-management systems shall be regarded as inspections pursuant to paragraph 5 of this Article.

Or. de

Justification

The call for annual inspections is excessive, since it would create a parallel with the requirements under the Seveso II Directive. Environmental risks are determined by the nature of the individual installation, its location and the geographical characteristics of that location. It should be left to the Member States to assess and deal with those risks. The directive should take account of existing European eco-management programmes.

Amendment 36

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 confirmed report shall be** made publicly available **by the competent authority** within **12** months after the inspection takes

place.

Or. de

Justification

Environmentally relevant information should be made available to the public in accordance with the Aarhus Convention. However, a period of time for consultations should be allowed prior to publication of the report.

Amendment 37

**Proposal for a directive
Article 26 - paragraph 1 - letter d**

Text proposed by the Commission

Amendment

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

Or. de

Justification

Neither the Aarhus Convention nor the EC rules implementing that Convention contain this provision.

Amendment 38

**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.

Or. de

Justification

Neither the Aarhus Convention nor the EC rules implementing that Convention provide for the proposed exceptions to the rules governing access to information and public participation in the permit award procedure.

Amendment 39

**Proposal for a directive
Article 26 - paragraph 3 - introductory section**

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 has been taken, the competent authority shall make available to the public the following information:

Or. de

Justification

Neither the Aarhus Convention nor the EC rules implementing that Convention contain this provision.

Amendment 40

**Proposal for a directive
Article 26 - paragraph 3 - letter 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

Amendment

(e) how the emission limit values included in the permit have been determined in relation to the best available techniques and associated emission levels as described

reference documents;

in the BAT reference documents;

Or. de

Justification

Neither the Aarhus Convention nor the EC rules implementing that Convention contain this provision.

Amendment 41

**Proposal for a directive
Article 26 - paragraph 3 - letter 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 permits as referred to in Article 22(1), (3) and (4);

Or. de

Justification

Neither the Aarhus Convention nor the EC rules implementing that Convention contain this provision.

Amendment 42

**Proposal for a directive
Article 29 – letter a**

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

The outcome of the information exchange includes a description of the best available techniques, so that the original wording from Directive 96/61/EC (IPPC Directive), and thus the established process for the exchange of information ('Seville Process'), should be retained.

Amendment 43

Proposal for a directive Article 29 – letter b

Text proposed by the Commission

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

Amendment

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

Or. de

Justification

The outcome of the information exchange includes a description of the best available techniques, so that the original wording from Directive 96/61/EC (IPPC Directive), and thus the established process for the exchange of information ('Seville Process'), should be retained.

Amendment 44

Proposal for a directive Article 29

Text proposed by the Commission

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

Amendment

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 associated with BATs, pollution, consumption and nature of raw materials, use of energy or generation of waste;

(b) the **best available** techniques used,

monitoring, and their developments.

associated monitoring, and their developments.

Or. de

Justification

The outcome of the information exchange includes a description of the best available techniques, so that the original wording from Directive 96/61/EC (IPPC Directive), and thus the established process for the exchange of information ('Seville Process'), should be retained.

Amendment 45

**Proposal for a directive
Article 30**

Text proposed by the Commission

Member States shall establish incentives for operators to develop and apply emerging techniques.

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

(a) the type of industrial activities for prioritised development and application of emerging techniques;

(b) indicative targets for Member States regarding the development and application of emerging techniques;

(c) the tools to assess the progress made in developing and applying emerging techniques.

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

Member States shall establish incentives for operators to develop and apply emerging techniques.

Or. de

Justification

Legislation on the issuing of permits for installations should not include provisions on the development and use of emerging technologies. Provisions stipulating how Member States should implement research and development policy breach the subsidiarity principle.

Amendment 46

Proposal for a directive Article 31 – letter j a (new)

Text proposed by the Commission

Amendment

(ja) process furnaces

Or. de

Justification

The exception for process furnaces is needed, because most of these installations cannot meet the limit values, in particular for nitrogen oxides, laid down in Annex V. Technical adjustments would be out of proportion to the problem, since the costs would outweigh the likely environmental benefits.

Amendment 47

Proposal for a directive Article 32 – paragraph 1

Text proposed by the Commission

Amendment

1. Where the waste gases of two or more separate combustion plants **are** discharged through a common stack, the combination formed by such plants shall be considered as a single combustion plant and their capacities added.

1. Where, **taking technical and economic factors into account**, the waste gases of two or more separate combustion plants **can be** discharged through a common stack, the combination formed by such plants shall be considered as a single combustion plant and their capacities added.

Or. de

Justification

Clarification of the intended force of the provision. The wording of the Commission proposal

would make it possible to circumvent the rules by building one stack per installation.

Amendment 48

Proposal for a directive Article 43 – paragraph 5

Text proposed by the Commission

5. The **Commission** shall, as soon as appropriate measurement techniques are **available** within the Community, **set the date from which** continuous measurements of the emissions to air of heavy metals and dioxins and furans shall be carried out.

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

5. The **competent authority** shall, as soon as appropriate measurement techniques are **standardised** within the Community, **lay down in the permit whether** continuous measurements of the emissions to air of heavy metals and dioxins and furans shall be carried out.

Or. de

Justification

Standardised measurement techniques can ensure that results are comparable and that emission limit values are workable.

Amendment 49

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 Annex 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

On the basis of **the information exchange provided for in Article 29** the Commission **may submit to the European Parliament and the Council suitable proposals concerning the adaptation of** Parts 3 and 4 of Annex V, Parts 1, 2, 6, 7 and 8 of Annex VI, Parts 1, 5, 6, 7 and 8 of Annex VII and Parts 2 and 4 of Annex VIII to scientific and technical progress.

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

Or. de

Justification

The adaptation of the annexes should be subject to democratically legitimate scrutiny by the European Parliament and the Council.

Amendment 50

**Proposal for a directive
Article 69 a (new)**

Text proposed by the Commission

Amendment

Article 69a

The Commission shall, inter alia, involve the interest groups which took part in the information exchange provided for in Article 29 in the preparation of implementing provisions and revisions of parts of the Directive. Opinions shall be forwarded to the committee referred to in Article 69(1). The Commission shall report on the opinions it receives.

Or. de

Justification

Information exchange with interest groups is essential to the directive and must be retained when decisions are taken under comitology.

Amendment 51

Proposal for a directive Article 69 b (new)

Text proposed by the Commission

Amendment

Article 69b

Proposals submitted to the committee referred to in Article 69(1) for a decision shall undergo an impact assessment.

Or. de

Justification

An impact assessment is necessary with a view to identifying in good time comitology decisions which would entail a disproportionate amount of work.

Amendment 52

Proposal for a directive Article 73 – paragraph 1

Text proposed by the Commission

Amendment

1. In relation to installations referred to in Annex I, in points 1.2, 1.3, 1.4, 2.1 to 2.4, points (a) and (b) of point 2.5, points 2.6, 3, 4.1 to 4.6, 5.1, 5.2, points (a) and (b) of point 5.3, point 5.4, points (a) and (b) of point 6.1, points 6.2 to 6.5, points (b) and (c) of point 6.6, points 6.7 and 6.8 as well as installations referred to in point 1.1 with a rated thermal input of 50 MW or more and installations referred to in point (a) of point 6.6 with more than 40 000 places for poultry and which are in operation and hold a permit or which have submitted a complete application for a permit before the date referred to in Article 71(1), provided that those installations are put into operation no later than one year after that date, Member States shall apply the laws, regulations and administrative

1. In relation to installations referred to in Annex I, in points 1.2, 1.3, 1.4, 2.1 to 2.4, points (a) and (b) of point 2.5, points 2.6, 3, 4.1 to 4.6, 5.1, 5.2, points (a) and (b) of point 5.3, point 5.4, points (a) and (b) of point 6.1, points 6.2 to 6.5, points (b) and (c) of point 6.6, points 6.7 and 6.8 as well as installations referred to in point 1.1 with a rated thermal input of 50 MW or more and installations referred to in point (a) of point 6.6 with more than 40 000 places for poultry and which are in operation and hold a permit or which have submitted a complete application for a permit before the date referred to in Article 71(1), provided that those installations are put into operation no later than one year after that date, Member States shall apply the laws, regulations and administrative

provisions adopted in accordance with Article 71(1) from [day/month/year (e.g. **1 January 2014** i.e. **3** years after entry into force).

provisions adopted in accordance with Article 71(1) **at the latest** from [day/month/year (e.g. **1 January 2016** i.e. **5** years after entry into force).

The deadline referred to in paragraph 2 shall apply to installations which, at the time this Directive enters into force, meet the requirements laid down in the directives referred to in Article 72.

Or. de

Justification

The deadlines for transposition into national law should be adjusted to take account of the impact to be achieved and the costs involved.

Amendment 53

Proposal for a directive Article 73 – paragraph 2

Text proposed by the Commission

2. In relation to installations referred to in Annex I, in point (c) of point 2.5, points (c), (d) and (e) of point 5.3, point (c) of point 6.1, points 6.9 and 6.10 as well as installations referred to in point 1.1 with a rated thermal input below 50 MW and installations referred to in point (a) of point 6.6 with less than 40 000 places for poultry and which are in operation before the date referred to in Article 71(1), Member States shall apply the laws, regulations and administrative provisions adopted in accordance with Article 71(1) from [day/month/year (e.g. **1 July 2015** i.e. **4.5** years after entry into force).

Amendment

(2. In relation to installations referred to in Annex I, in point (c) of point 2.5, points (c), (d) and (e) of point 5.3, point (c) of point 6.1, points 6.9 and 6.10 as well as installations referred to in point 1.1 with a rated thermal input below 50 MW and installations referred to in point (a) of point 6.6 with less than 40 000 places for poultry and which are in operation before the date referred to in Article 71(1), Member States shall apply the laws, regulations and administrative provisions adopted in accordance with Article 71(1) **at the latest** from [day/month/year (e.g. **1 July 2017** i.e. **6.5** years after entry into force).

Or. de

Justification

The deadlines for transposition into national law should be adjusted to take account of the impact to be achieved and the costs involved. Installations which are being operated in accordance with the law when this directive enters into force cause less environmental pollution and display better advance performance.

Amendment 54

**Proposal for a directive
Annex I – paragraph 1.1**

Text proposed by the Commission

1.1 Combustion of fuels in installations with a total rated thermal input of **20 MW** or more.

Amendment

1.1 Combustion of fuels in installations with a total rated thermal input of **50 MW** or more.

Or. de

Justification

The IPPC directive seeks to cover industrial activities which are of particular relevance to the environment. Lowering the performance threshold would not be consistent with that aim and would impose burdens out of proportion to the likely environmental benefits.

Amendment 55

**Proposal for a directive
Annex I – paragraph 6.6 – letter a**

Text proposed by the Commission

(a) 40 000 places for **broilers or 30 000 places for laying hens or 24 000 places for ducks or 11 500 places for turkeys**

Amendment

(a) 40 000 places for **poultry**

Or. de

Justification

The IPPC directive seeks to cover industrial activities of particular relevance to the environment. Lowering the rearing capacity thresholds would not be consistent with that aim

and would impose disproportionately stringent requirements on this area of the farming industry.

Amendment 56

Proposal for a directive Annex III – paragraph 11 a (new)

Text proposed by the Commission

Amendment

11a. The information published by the Commission pursuant to Article 16(2) or by international public organisations;

Or. de

Justification

Information published by international public organisations should be taken into account when determining best available techniques. The wording from the existing text should be retained.

Amendment 57

Proposal for a directive Annex V – Part 1 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

If, by virtue of the properties of the fuel, the emission limit values indicated above cannot be met, in the case of installations with an effective rated output of up to 100 MWth a desulphurisation rate of at least 60% shall be achieved, and in the case of installations with an effective rated output of between 200 MWth and 300 MWth an emissions limit value of 400 mg Nm³ and a desulphurisation rate of at least 35%.

Or. de

Justification

Given the high natural sulphur content of domestic coal, as under the current rules it should

be possible to specify an ambitious desulphurisation rate, since limit values cannot be met. The rules are largely irrelevant to SO₂ emissions in the Community, but have great economic significance for the regions concerned.

Amendment 58

Proposal for a directive

Annex V – paragraph 2 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

If, by virtue of the properties of the fuel, the emission limit values indicated above cannot be met, in the case of installations with an effective rated output of up to 300 MWth an emissions limit value of 300 mg/Nm³ for sulphur dioxide or a desulphurisation rate of at least 92% shall be achieved. In the case of installations with an effective rated output of more than 300 MWth, a desulphurisation rate of at least 95%, combined with a maximum permissible emissions limit value of 400 mg/Nm³, shall apply.

Or. de

Justification

Given the high natural sulphur content of domestic coal, as under the current rules it should be possible to specify an ambitious desulphurisation rate, since limit values cannot be met. The rules are largely irrelevant to SO₂ emissions in the Community, but have great economic significance for the regions concerned.

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.