



| Basic information  |                     |
|--|---------------------|
| <p><b>2007/0286(COD)</b></p> <p>COD - Ordinary legislative procedure (ex-codecision procedure)<br/>Directive</p>   | Procedure completed |
| <p>Industrial emissions - Integrated pollution prevention and control. Recast</p> <p>Repealing Directive 1999/13/EC <a href="#">1996/0276(SYN)</a><br/> Repealing Directive 2001/80/EC <a href="#">1998/0225(COD)</a><br/> Repealing Directive 2000/76/EC <a href="#">1998/0289(COD)</a><br/> Repealing Directive 2008/1/EC <a href="#">2006/0170(COD)</a><br/> Amended by <a href="#">2022/0104(COD)</a></p> <p><b>Subject</b></p> <p>3.40 Industrial policy<br/> 3.70.02 Atmospheric pollution, motor vehicle pollution<br/> 3.70.04 Water control and management, pollution of waterways, water pollution<br/> 3.70.06 Soil pollution, deterioration<br/> 3.70.20 Sustainable development</p> |                     |





| Key players                        |   |   |  |                  |
|------------------------------------|---|---|--|------------------|
| European Parliament                | <b>Committee responsible</b>                                    |   | <b>Rapporteur</b>  | <b>Appointed</b> |
|                                    | <a href="#">ENVI</a> Environment, Public Health and Food Safety |   | <a href="#">KRAHMER Holger (ALDE)</a>  | 21/02/2008       |
|                                    |   |   | Shadow rapporteur<br><a href="#">GARDINI Elisabetta (PPE)</a><br><a href="#">ROSSI Oreste (PPE)</a><br><a href="#">WESTLUND Åsa (S&amp;D)</a><br><a href="#">EICKHOUT Bas (Verts/ALE)</a><br><a href="#">RIVASI Michèle (Verts/ALE)</a><br><a href="#">CALLANAN Martin (ECR)</a> |                  |
|                                    | <b>Former committee responsible</b>                             |   | <b>Former rapporteur</b>   | <b>Appointed</b> |
|                                    | <a href="#">ENVI</a> Environment, Public Health and Food Safety |   | <a href="#">KRAHMER Holger (ALDE)</a>  | 21/02/2008       |
|                                    | <b>Former committee for opinion</b>                             |   | <b>Former rapporteur for opinion</b>   | <b>Appointed</b> |
| <a href="#">JURI</a> Legal Affairs |   | The committee decided not to give an opinion. | 19/12/2007   |                  |
| Council of the European Union      | <b>Council configuration</b>                                    |   | <b>Meetings</b>  | <b>Date</b>      |
|                                    | Justice and Home Affairs (JHA)                                  |   | 3043   | 2010-11-08       |










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|---------------------|---|---------------------|------------|
|                     | <a href="#">Environment</a>                         | 2898                | 2008-10-20 |
|                     | <a href="#">Environment</a>                         | 2928                | 2009-03-02 |
|                     | <a href="#">Environment</a>                         | 2912                | 2008-12-04 |
|                     | <a href="#">Environment</a>                         | 2953                | 2009-06-25 |
|                     | <a href="#">Education, Youth, Culture and Sport</a> | 2993                | 2010-02-15 |
| European Commission | <b>Commission DG</b>                                | <b>Commissioner</b> |            |
|                     | <a href="#">Environment</a>                         | POTONIK Janez       |            |

| Key events |  |  |                         |
|------------|--|--|-------------------------|
| Date       | Event  | Reference  | Summary                 |
| 21/12/2007 | Legislative proposal published                           | <a href="#">COM(2007)0844</a><br> | <a href="#">Summary</a> |
| 10/04/2008 | Committee referral announced in Parliament, 1st reading  |  |                         |
| 20/10/2008 | Debate in Council  |  |                         |
| 04/12/2008 | Debate in Council  |  |                         |
| 22/01/2009 | Vote in committee, 1st reading                           |  | <a href="#">Summary</a> |
| 09/02/2009 | Committee report tabled for plenary, 1st reading         | <a href="#">A6-0046/2009</a>   |                         |
| 02/03/2009 | Debate in Council  |  | <a href="#">Summary</a> |
| 10/03/2009 | Decision by Parliament, 1st reading                      | <a href="#">T6-0093/2009</a>   | <a href="#">Summary</a> |
| 10/03/2009 | Results of vote in Parliament                            |                                 |                         |
| 10/03/2009 | Debate in Parliament                                     | <a href="#">CRE link</a>   |                         |
| 15/02/2010 | Council position published                               | <a href="#">11962/3/2009</a>   | <a href="#">Summary</a> |
| 11/03/2010 | Committee referral announced in Parliament, 2nd reading  |  |                         |
| 04/05/2010 | Vote in committee, 2nd reading                           |  | <a href="#">Summary</a> |
| 06/05/2010 | Committee recommendation tabled for plenary, 2nd reading | <a href="#">A7-0145/2010</a>   |                         |
| 06/07/2010 | Debate in Parliament                                     | <a href="#">CRE link</a>   |                         |
| 07/07/2010 | Decision by Parliament, 1st reading                      | <a href="#">T7-0267/2010</a>   | <a href="#">Summary</a> |
| 08/11/2010 | Act approved by Council, 2nd reading                     |  |                         |
| 24/11/2010 | Final act signed   |  |                         |
| 24/11/2010 | End of procedure in Parliament                           |  |                         |
| 17/12/2010 | Final act published in Official Journal                  |  |                         |

| Technical information         |  |
|-------------------------------|--|
| <b>Procedure reference</b>    | 2007/0286(COD)   |
| <b>Procedure type</b>         | COD - Ordinary legislative procedure (ex-codecision procedure) |
| <b>Nature of procedure</b>    | Recast   |
| <b>Legislative instrument</b> | Directive  |
|                               | Repealing Directive 1999/13/EC <a href="#">1996/0276(SYN)</a>  |

|                                   |   |
|-----------------------------------|---|
|                                   | Repealing Directive 2001/80/EC 1998/0225(COD)<br>Repealing Directive 2000/76/EC 1998/0289(COD)<br>Repealing Directive 2008/1/EC 2006/0170(COD)<br>Amended by 2022/0104(COD) |
| <b>Legal basis</b>                | Treaty on the Functioning of the EU TFEU 192-p1   |
| <b>Stage reached in procedure</b> | Procedure completed   |
| <b>Committee dossier</b>          | ENVI/7/00351  |

| Documentation gateway   |           |  |            |                         |
|---|-----------|--|------------|-------------------------|
| European Parliament   |           |  |            |                         |
| Document type   | Committee | Reference  | Date       | Summary                 |
| Committee draft report  |           | <a href="#">PE407.661</a>  | 02/07/2008 |                         |
| Amendments tabled in committee                                  |           | <a href="#">PE412.187</a>  | 25/09/2008 |                         |
| Amendments tabled in committee                                  |           | <a href="#">PE412.328</a>  | 25/09/2008 |                         |
| Amendments tabled in committee                                  |           | <a href="#">PE412.329</a>  | 30/09/2008 |                         |
| Amendments tabled in committee                                  |           | <a href="#">PE412.169</a>  | 07/10/2008 |                         |
| Committee report tabled for plenary, 1st reading/single reading |           | <a href="#">A6-0046/2009</a>   | 09/02/2009 |                         |
| Text adopted by Parliament, 1st reading/single reading          |           | <a href="#">T6-0093/2009</a>   | 10/03/2009 | <a href="#">Summary</a> |
| Committee draft report  |           | <a href="#">PE430.626</a>  | 16/03/2010 |                         |
| Amendments tabled in committee                                  |           | <a href="#">PE439.995</a>  | 30/03/2010 |                         |
| Amendments tabled in committee                                  |           | <a href="#">PE439.994</a>  | 30/03/2010 |                         |
| Amendments tabled in committee                                  |           | <a href="#">PE440.003</a>  | 31/03/2010 |                         |
| Committee recommendation tabled for plenary, 2nd reading        |           | <a href="#">A7-0145/2010</a>   | 06/05/2010 |                         |
| Text adopted by Parliament, 2nd reading                         |           | <a href="#">T7-0267/2010</a>   | 07/07/2010 | <a href="#">Summary</a> |
| Council of the EU   |           |  |            |                         |
| Document type   |           | Reference  | Date       | Summary                 |
| Council statement on its position                               |           | <a href="#">05998/2010</a>   | 15/02/2010 |                         |
| Council position  |           | <a href="#">11962/3/2009</a>   | 15/02/2010 | <a href="#">Summary</a> |
| Draft final act   |           | <a href="#">00031/2010/LEX</a>   | 24/11/2010 |                         |
| European Commission   |           |  |            |                         |
| Document type   |           | Reference  | Date       | Summary                 |
| Document attached to the procedure                              |           | <a href="#">COM(2007)0843</a><br> | 21/12/2007 |                         |
| Document attached to the procedure                              |           | <a href="#">SEC(2007)1682</a><br> | 21/12/2007 |                         |
| Document attached to the procedure                              |           | <a href="#">SEC(2007)1679</a><br> | 21/12/2007 |                         |
| Legislative proposal  |           | <a href="#">COM(2007)0844</a><br> | 21/12/2007 | <a href="#">Summary</a> |
| Commission response to text adopted in plenary                  |           | <a href="#">SP(2009)3060</a>   | 04/06/2009 |                         |

|  |  |            |                         |
|--|--|------------|-------------------------|
| Commission communication on Council's position             | <a href="#">COM(2010)0067</a><br> | 23/02/2010 | <a href="#">Summary</a> |
| Commission opinion on Parliament's position at 2nd reading | <a href="#">COM(2010)0596</a><br> | 25/10/2010 | <a href="#">Summary</a> |
| Follow-up document   | <a href="#">COM(2013)0286</a><br> | 17/05/2013 | <a href="#">Summary</a> |
| Follow-up document   | <a href="#">COM(2015)0284</a><br> | 12/06/2015 |                         |
| Follow-up document   | <a href="#">COM(2017)0727</a><br> | 04/12/2017 | <a href="#">Summary</a> |
| Follow-up document   | <a href="#">COM(2020)0334</a><br> | 24/07/2020 |                         |
| Follow-up document   | <a href="#">SWD(2020)0181</a><br> | 23/09/2020 |                         |
| Follow-up document   | <a href="#">SWD(2020)0182</a><br> | 23/09/2020 |                         |
| Follow-up document   | <a href="#">COM(2021)0793</a><br> | 14/12/2021 |                         |

#### National parliaments

| Document type | Parliament /Chamber           | Reference                     | Date       | Summary |
|---------------|-------------------------------|-------------------------------|------------|---------|
| Contribution  | <a href="#">PT_PARLIAMENT</a> | <a href="#">COM(2010)0067</a> | 23/07/2010 |         |

#### Other institutions and bodies

| Institution/body | Document type                                  | Reference                    | Date       | Summary |
|------------------|--|------------------------------|------------|---------|
| ESC              | Economic and Social Committee: opinion, report | <a href="#">CES0047/2009</a> | 14/01/2009 |         |

#### Additional information

| Source               | Document                | Date |
|----------------------|-------------------------|------|
| National parliaments | <a href="#">IPEX</a>    |      |
| European Commission  | <a href="#">EUR-Lex</a> |      |
| European Commission  | <a href="#">EUR-Lex</a> |      |

#### Final act

[Directive 2010/0075](#)  
[OJ L 334 17.12.2010, p. 0017](#)

[Corrigendum to final act 32010L0075R\(01\)](#)  
[OJ L 158 19.06.2012, p. 0025](#)

[Summary](#)

# Industrial emissions - Integrated pollution prevention and control. Recast

2007/0286(COD) - 04/12/2017 - Follow-up document

The Commission presented a report on the implementation of Directive 2010/75/EU on industrial emissions and the final reports on its predecessor legislation.

The Industrial Emissions Directive (IED) is the **primary EU legal instrument to regulate industrial emissions** and aims to achieve significant benefits to the environment and human health, in particular through the mandatory application of Best Available Techniques (BAT).

This report summarises Member State reports covering the initial phase of implementation (2013) and outlines other associated work that has been carried out, reviews the Commission's current related activities and looks ahead to the future. Like the first Commission report under the IED, it also covers the final reports from Member States under the predecessor legislation.

**Predecessor legislation: no major compliance issues** with the predecessor legislation have come to light. Nevertheless, a few issues mentioned in relation to the Integrated Pollution Prevention and Control Directive (IPPCD) may warrant further investigation. Despite improvements, information reported remained incomplete, in particular numerical data related to the number of inspections. Several Member States reported insufficient staff to deal with tasks related to the IPPCD implementation.

Some difficulties were reported in relation to the interpretation of definitions, raising questions as to whether installations would fall outside the scope of the IPPCD after either having shut down a part of the process (partial closure of the installation) or having permanently reduced their production capacity.

**IED Implementation:** the Commission has received all Member States' national transposing legislation, and has assessed the completeness of transposition. The Commission has also assessed the conformity with the IED of the transposition measures adopted by all Member States. To date 21 bilateral dialogues were launched.

The Commission draws a number of conclusions from the information provided:

Firstly, the Commission considers that **the IED is a good example of better regulation**. It merged and simplified 7 pieces of EU legislation and created a rather unique, highly transparent and collaborative process for preparing BAT reference documents (BREFs). BREFs **contain BAT conclusions** that are given legal force by the adoption of Commission Implementing Decisions containing them. BAT conclusions provide the BAT framework for each sector, which must be taken into account by competent authorities when issuing permits. There are currently 31 BREFs and two reference documents covering the activities in Annex I of the IED. So far 13 of these BREFs have been updated under the IED.

While it is too early to see the practical results of the change to the IED, the report concludes that **progress is encouraging and trends in industrial emissions appear promising**.

The Commission aims to **support Member States** in ensuring effective application of the IED, in particular through:

- organising **workshops** with Member States and other relevant stakeholders;
- supporting **networks of national competent authorities** (whose tasks include issuing permits, and ensuring that installations are correctly operated) so as to ensure comparable, harmonised approaches at national level in line with the legislation;
- the approach taken to **enforcement under the IED**, creates strong rights for citizens to have access to relevant information and to participate in the permit process. The Commission would mainly intervene in the event of systemic failings, or where breaches have a very significant environmental impact.

**Next steps:** the Commission's focus in the next 4 years is on finalising BAT conclusions for all industrial sectors, monitoring the use of flexibilities relating to the Large Combustion Plants (LCP) Directive and pro-actively supporting Member States with implementation.

In addition, the Commission considers it appropriate to **reflect** how the work on IED implementation should evolve in the longer term and at what point it would be appropriate to take stock of achievements and to consider the scope for improvement.

By 2020, the Commission will have received further reports from Member States and most BAT conclusions will have been adopted. Furthermore, most of the LCP transitional arrangements will be close to their final deadlines. This would appear to be an appropriate time to consider the launch of a full evaluation of the IED.

# Industrial emissions - Integrated pollution prevention and control. Recast

2007/0286(COD) - 24/11/2010 - Final act

**PURPOSE:** to improve the effectiveness of legislative provisions in force in regard to the prevention and reduction of industrial emissions by guaranteeing a high level of environmental protection, by reducing unnecessary administrative charges and limiting as much as possible distortions to competition in the EU.

**LEGISLATIVE ACT:** Directive 2010/75/EU of the European Parliament and the Council on industrial emissions (integrated pollution prevention and control).

**CONTENT:** the Council adopted a revised directive concerning industrial emissions in order to reduce emissions of pollutants that are harmful to the environment and which are linked to cancer, asthma and acid rain. Having accepted all the European Parliament's amendments adopted in second reading on 7 July 2010, the Council approved the adoption of this legal act.

The Industrial Emissions Directive seeks to prevent and reduce air, water and soil pollution caused by industrial installations. It regulates the emissions of a series of pollutants, including sulphur dioxide, nitrogen oxides, dust particles, asbestos and heavy metals. The Directive is aimed at improving local air, water and soil quality, not at mitigating the global warming effects of some of these substances.

There are currently 52 000 installations covered by this text in sectors such as metal production, chemicals production, pork and poultry production, waste incineration and large combustion plants. The recast revises and merges seven separate existing Directives related to industrial emissions into a single Directive with a single legal framework with a view to reducing administrative burdens.

**Best Available Techniques (BATs):** the revision will permit the better harmonised and stricter implementation of emission limits based on the cleanest available technology, or 'best available technique' throughout the EU. It would not be possible to diverge from this standard unless the technical characteristics and local conditions would give rise to **disproportionately higher costs compared with the environmental benefits**. The key content of the necessary technical documents (BAT conclusions) shall be made available in all the EU official languages.

The BAT reference documents will be drafted, reviewed, and where appropriate, updated through an exchange of information with stakeholders. In order to ensure an effective and active exchange of information resulting in high-quality BAT reference documents, the Commission should establish a forum that functions in a transparent manner.

**Authorisation of installations:** in order to ensure 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 is registered. In order to facilitate the granting of permits, Member States should be able to set requirements for certain categories of installations in general binding rules. Operators should submit permit applications containing the information necessary for the competent authority to set permit conditions. The permit should include all the measures necessary to achieve a high level of protection of the environment as a whole and to ensure that the installation is operated in accordance with the general principles governing the basic obligations of the operator. The permit should also include emission limit values for polluting substances, or equivalent parameters or technical measures, appropriate requirements to protect the soil and groundwater and monitoring requirements. Permit conditions should be set on the basis of best available techniques.

The Directive contains provisions concerning general binding rules, the review of authorisation conditions, environmental inspections and access to information.

**Large combustion plants:** the recast also tightens the emission limits for nitrogen oxides, sulphur dioxide and dust from power stations and large combustion plants in petrol refineries and in the metal industry.

On the Council's demand, there is a provision whereby new installations are required to use the best available technique from 2012, i.e. four years earlier than had been initially proposed. Existing plants will have to comply with this requirement from 2016. However, a transitional period has been provided for: until 30 June 2020, Member States may draw up and implement a transitional national plan, allowing for a gradual decrease in emission limits for nitrogen oxides, sulphur dioxide and dust. Installations the closure of which is planned before the end of 2023 or that operate for fewer than 17 500 hours after 2016 are exempt from these rules.

The Commission will examine whether it is necessary to draw up Union-wide limit values and to amend emission limit values laid down in Annex V for certain large combustion plants, in view of the revision and updating of relevant BAT reference documents. In this regard, the Commission shall take into account the specificity of the energy systems of refineries.

**Review:** by 7 January 2016, and every 3 years thereafter, the Commission shall submit a report reviewing the implementation of the Directive. The Commission's report shall include an assessment of the need for Union action through the establishment or updating of Union-wide minimum requirements for emission limit values and for rules on monitoring and compliance for activities within the scope of the BAT conclusions adopted during the previous three-year period, on the basis of the following criteria: a) the impact of the activities concerned on the environment as a whole; and b) the state of implementation of best available techniques for the activities concerned. The assessment shall consider the opinion of the forum established under this Directive.

The report shall be accompanied, if appropriate, by a legislative proposal. Where the assessment identifies such a need, the legislative proposal shall include provisions establishing or updating Union-wide minimum requirements for emission limit values and for rules on monitoring and compliance assessment for the activities concerned.

## Industrial emissions - Integrated pollution prevention and control. Recast

2007/0286(COD) - 10/03/2009 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 402 votes to 189, with 54 abstentions, a legislative resolution amending, under the first reading of the codecision procedures, the proposal for a directive of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control).

The main amendments are as follows:

**Obligation to hold a permit:** the Commission's proposal provides 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. The Parliament makes it clear that this is a possibility left to Member States and that they are not forced to use this flexibility. Moreover, MEPs propose that a single natural or legal person shall be identified to take the responsibility for meeting the obligations of the Directive.

**Compliance with the permit conditions:** MEPs propose that the operator provides the competent authority with the relevant data on compliance with the permit conditions at least every 24 months, which shall be made available on the internet without delay.

**Permit applications:** if the activity involves dangerous substances in significant amounts, permit applications shall include a baseline report providing information on those substances.

**BAT (best available techniques) reference documents and exchange of information:** 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; (b) the best available techniques used, associated monitoring and their developments.

The Commission shall establish an Information Exchange Forum, **guidance** for the exchange of information and publish an evaluation report in this regard. It shall publish the result of the information exchange as a new or updated BAT reference document. The revision of the BAT reference documents shall be finalised within eight years of the publication of the previous version.

**Emission limit values, equivalent parameters or technical measures:** the amended text stipulates that 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.

**By derogation,** and in exceptional cases, BAT associated emission levels may be exceeded. 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. 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.

**Monitoring requirements:** MEPs consider that periodic monitoring should 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.

**Inspections:** 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. 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.

**Minimum requirements:** in order to reduce widespread recourse to exemptions, which lead to market distortions, MEPs propose that the Commission shall, within 12 months of the publication of a BAT reference document, set emission limit values as well as monitoring and compliance requirements as minimum requirements. Such minimum requirements shall be directed to significant environmental impacts of the activities or installations concerned, and shall be based on best available techniques associated emission levels (BAT-AEL).

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 producing pig iron and steel and, in particular, sintering iron ore. Member States may set stricter emission limit values for dioxin and furan emissions. These measures shall be adopted in accordance with the regulatory procedure with scrutiny (comitology).

**Medium-sized combustion plants:** MEPs broadly agree with a Commission proposal to bring medium-sized combustion plants (between 20 and 50 MW), within the rules, but want to exclude installations (below 50 MW) which operate for **no more than 500 hours/year**.

MEPs also changed the annexes, which set specific permit conditions for types of industrial activity. For example, when calculating the total rated thermal input of installations for **combustion plants used in healthcare facilities**, only the normal running capacity shall be included for the purposes of this calculation.

**Reducing the administrative burden and better informing the public:** several other amendments aim to reduce administrative burdens, relax rules on reporting and inspections, and improve the information to the public.

## Industrial emissions - Integrated pollution prevention and control. Recast

2007/0286(COD) - 25/06/2009

The Council reached **political agreement** with a view to the subsequent adoption of a common position concerning the recast of the Directive on integrated pollution prevention and control.

The IPPC Directive seeks to prevent and control, in a coordinated way, pollution of the air, water and soil resulting from emissions from industrial installations. It regulates emissions of a wide range of pollutants, including sulphur and nitrogen compounds, dust particles, asbestos and heavy metals. The Directive is aimed at improving local air, water and soil quality, not at mitigating the global warming effects of some of these substances. Emissions of carbon dioxide are not covered by IPPC.

The Council discussed in particular the issue of large combustion plants (LCPs), i.e. power plants as well as combustion installations in oil refineries and the metal industry. In order further to reduce pollution from these sources, the Commission had proposed tightening the existing emissions limits for them by bringing them into line with current Best Available Techniques (BAT) by 2016. BAT refers to the most effective and available emission reduction technology, as documented in European BAT Reference Documents (BREFs).

The Council agreed to apply current BAT to new LCPs earlier than proposed by the Commission, namely within two years after the entry into force of the Directive. Existing LCPs would have to apply current BAT from 2016, but the agreement foresees a transition period: until the end of 2020, Member States may define transitional national plans capping emissions of certain pollutants (NO<sub>x</sub> and/or SO<sub>2</sub> and/or dust). These annual ceilings must decline between 2016 and 2020 and meet levels associated with current BAT at the end of 2019.

Combustion plants firing indigenous coal or lignite, which cannot comply with the emission limits for SO<sub>2</sub>, can alternatively apply the minimum rate of desulphurisation. This rate remains at 96% for LCPs with a rated thermal input of over 300 MW.

The political agreement also contains provisions concerning LCPs with specific characteristics that are crucial to energy security in some Member States.

## Industrial emissions - Integrated pollution prevention and control. Recast

The Commission accepted in full, in part or in principle 47 of the 85 amendments adopted by Parliament in its first reading. **32 of these 47 amendments are reflected, at least in part,** in the Council's position at first reading. The Commission accepted amendments, either fully or in principle or in part, which would clarify the context of the proposal and are consistent with the general objective of the proposal. These include changes to improve the provision of information to the public in line with the approach taken in the Commission's proposal to increase transparency in permitting, enforcement and compliance.

The Commission rejected amendments which would alter the nature of the proposal, such as amendments that would reduce the scope of the provisions setting minimum requirements for large combustion plants. It also rejected amendments that would create legal confusion, would lead to difficulties in implementation or would be inconsistent with the core elements of the proposal.

The Commission details the **32 amendments which have been incorporated to varying degrees in the Council's position** at first reading. It notes that **12 amendments were rejected by the Commission but have been incorporated in full, in part or in principle in the Council's position at first reading.** These include provisions on soil protection and on the monitoring of soil and groundwater. The Commission also notes that it rejected the amendment on the setting of emission limit values on the basis of it being inconsistent with one of the core principles of the Commission's proposal, significantly weakening the level of environmental protection. The amendment is incorporated in part and in principle in the common position with regard to the requirements to ensure that emission levels associated with BAT are not exceeded, and the Commission accepts this. It further notes that it rejected an amendment concerning an increase of the limit values for NO<sub>x</sub> emissions for certain large combustion plants as this would lower the environmental ambition of the proposal but this has been included in principle in the Council's position at first reading in a way that is acceptable.

**15 amendments were accepted in full, in part or in principle by the Commission but not incorporated in the Council's common position.** These amendments relate to language in the recitals, reporting on compliance, informing the competent authority following the cessation of activities, inspection reporting, definition of the public concerned, emerging techniques, monitoring, provision of information to the public, amendment of Annexes, establishment of new additional minimum requirements through regulatory committee procedure and establishment of guidance concerning intensive rearing of poultry.

Lastly, **26 amendments were rejected by both institutions.**

The Council proposed the following main changes to the Commission's proposal:

**Information exchange on Best Available Techniques (BAT):** the Council's common position maintains the principle and content of the information exchange proposed by the Commission but adds provisions on the role of the forum while providing more details on the drawing up process and content of the BAT reference documents. The Commission agrees with the inclusion of these additional provisions, which are consistent with the current BAT reference document drawing up process. However, the Commission regrets that the Council provides for the adoption of non-binding guidance via regulatory committee procedure since the Commission has its own autonomous right under the Treaty to do so. The Council's common position cannot affect this right, and a declaration is annexed to the Communication.

**Procedure for adopting BAT conclusions:** the Council provides for the adoption of the BAT conclusions (parts of the BAT reference documents laying down in particular the BAT-associated emission levels) via a regulatory procedure. However, in the Council political agreement, the regulatory procedure with scrutiny had been proposed. The Commission does not share the views of the Council that Article 291 TFEU is the most appropriate legal basis for the adoption of the measures regarding decisions on the BAT conclusions. Those measures are of general application and seek to supplement the basic act with certain new non-essential elements. As a result, their adoption should fall under the procedure of delegated acts (Article 290 TFEU) and a declaration is annexed to this document.

The Commission also notes that the changes introduced by the Council will require additional tasks to be carried out by the Commission, increasing the resources to be allocated by the Commission for the procedure for drawing up and adopting the BAT reference documents.

**Emission limit values in relation to emission levels associated with the BAT:** the Council provides greater flexibility for competent authorities to set emission limit values while ensuring that emissions do not exceed the emission levels associated with the BAT as described in the BAT conclusions. The Commission regrets these changes but can accept this approach since the necessary safeguards have been introduced through monitoring and reporting requirements to ensure compliance with the expected environmental objectives. The derogation, in specific cases, from the application of Article 15(3) based on certain criteria is maintained but the Commission regrets that the possibility of specifying these criteria through regulatory committee procedure is replaced by the establishment of guidance. However, in order to reach an agreement, the Commission can accept this approach.

**Assessment of powers to be conferred on the Commission in relation to Article 41 (rules for combustion plants) and Article 48(5) (monitoring of certain emissions from waste incineration plants):** the Commission does not share the views of the Council that Article 291 TFEU is the most appropriate legal basis for the adoption of the measures prescribed in Articles 41 and 48(5). Those measures are of general application and seek to supplement the basic act with certain new non-essential elements. As a result, their adoption should fall under the procedure of delegated acts (Article 290 TFEU) and a declaration is annexed to this Communication.

**Reconsideration of permits:** the Council maintains the proposed obligation for competent authorities to reconsider and, where necessary, update permit conditions after the publication of a decision on BAT conclusions. However, the Council extends the time period from four to five years after such publication. The Commission regrets this change but can accept it since the time extension is limited and the actual frequency of permit reconsideration will remain unchanged.

**Soil protection:** the Council's common position contains additional requirements on the prevention of soil and groundwater contamination to be included in permit conditions. The approach of setting minimum frequencies for the monitoring of soil and groundwater is retained but less frequent monitoring may be set by competent authorities based on a systematic appraisal of the risk of contamination. The Council maintains the provisions relating to the establishment of baseline reports and the requirements upon cessation of activities while introducing some flexibility for implementation of the provisions. While the Commission would prefer its original proposal, the changes are considered acceptable since they do not jeopardise the key principles of the proposal.

**Inspections:** the Council retains the approach of the proposal with the certain changes. The determination of the period between two site visits to an installation has to be set on the basis of a systematic appraisal of the environmental risks (in the proposal, the appraisal of the risks was required only to derogate from the obligation of an annual site visit). This period cannot be longer than one or three years for installations posing respectively the



highest and the lowest risks. The Commission considers that this requirement is useful as it provides safeguards for the setting of frequency for site visits. Although the Commission regrets the removal of the regulatory committee procedure for setting the criteria on the appraisal of the risks, it considers that the criteria laid down in the Council's common position are appropriate.

**Start date for new large combustion plants:** the Council brings forward the date of application of the standards for new large combustion plants from 2016 to two years after the date of entry into force of the Directive. The Commission agrees with this date since the new standards have been considered BAT for new plants since 2006 and these plants can technically and economically comply with these new limits.

**Temporary flexibilities for existing large combustion plants:** the Council introduces the following temporary flexibilities:

- while the date of entry into effect of the revised emission limit values remains 1 January 2016, Member States may implement until the end of 2020 a transitional national plan on condition that the total emissions of the plants covered by the plan do not exceed annual ceilings decreasing in a straight line between 2016 and 2019. From 2019 the ceiling remains the same until the end of 2020;
- possible exemption from compliance with the revised emission limit values for the following types of plants: until the end of 2023, for plants with a limited lifetime (not more than 20 000 operating hours);
- until the end of 2019, for plants being part of small isolated systems; until the end of 2023, for district heating plants fulfilling certain specific conditions.

While the Commission would prefer these derogations not to be included, it can accept these provisions introduced to reach an agreement since the derogations are transitional and the environmental integrity of the proposal is maintained while facilitating Member States' efforts to bring large combustion plants into line with BAT as soon as possible.

**Specific requirements for certain large combustion plants:** the Council lays down different emission limit values for plants operating a limited number of hours (not more than 1 500 hours annually) and introduces minimum desulphurisation rates for plants which are not able to meet the emission limit values for SO<sub>2</sub>, even when BAT is applied, due to the specific characteristic of the indigenous solid fuels being used. The Commission considers that these provisions are useful and justified to address the specific technical issues raised while maintaining the environmental integrity of the proposal.

**Aggregation rules for combustion plants:** the Council introduces a 'de minimis' threshold of 15 MW for the application of the aggregation rules. As a result, small individual units will be excluded from the determination of the total capacity of a combustion plant composed of several units discharging through a common stack. The Commission regrets that the Council is thus weakening the application of the aggregation rules but can accept a 'de minimis' threshold of 15 MW since it would concern small plants with limited environmental impacts.

**Review clause for certain large combustion plants:** the Council introduces a clause for the Commission to review the need to amend and establish limit values

for certain specific combustion plants which are not subject to minimum standards or for which the minimum requirements of the current legislation could not be revised due to the lack of updated information on BAT and, if appropriate, to make a legislative proposal by the end of 2013. The Commission supports this review clause since the outcome of the revision of the relevant BAT reference documents could be taken into account as part of the review process.

**Scope:** the Commission proposed extending the scope of the current legislation in relation to certain activities. The Council's position at first reading does not include the proposed extension in relation to the combustion of fuels in installations with a total thermal input between 20 and 50 MW and to intensive livestock rearing. Furthermore, the Council modifies the proposed scope with regard to waste management activities and the manufacturing of ceramic products. It also removes the proposed requirement for the spreading of manure to be based on BAT. While the Commission would prefer its original proposal for the extension of the scope and its proposed provision on manure management, the changes are acceptable in view of the introduction of a review clause on these specific issues.

**Trading in NO<sub>x</sub> and SO<sub>2</sub> emissions:** the Council introduces a recital on the exploration of the possibilities for market-based instruments such as trading in NO<sub>x</sub> and SO<sub>2</sub> emissions. This reflects the assessment being undertaken by the Commission without prejudging its outcome.

**Exercise of the delegation and objection to delegated acts (Articles 76 and 78):** in line with its Communication on the implementation of Article 290 TFEU, the Commission favours the delegation of powers for an indeterminate period of time but can accept the approach of the Council (5-year period with tacit renewal). Furthermore, the Commission regrets that the Council introduces a time limit of three months for the Council and the European Parliament to object to the delegated act. The Commission favours a time limit of two months which can be extended by one month on the initiative of the European Parliament or the Council. This would help to increase the efficiency of the procedures without undermining the principle of a total period of three months.

**Consultation of experts in the preparatory work for the adoption of delegated acts:** the Commission does not support the recital on the consultation of experts in the preparatory phase of delegated acts. The Commission considers that expert groups cannot have a formal institutional role. Therefore provisions as regards the involvement of experts in the preparation of delegated acts cannot be included in the basic acts.

The Commission concludes that the changes introduced by the Council are acceptable, since they are consistent and build upon the Commission's proposal, except certain assessments made by the Council regarding the conferral of powers on the Commission, as provided by Articles 290 and 291 (TFEU). Thus, the **Commission objects to the Council's position at first reading** which was adopted unanimously on 15 February 2010.

## Industrial emissions - Integrated pollution prevention and control. Recast

2007/0286(COD) - 21/12/2007 - Legislative proposal

**PURPOSE:** to revise and merge seven separate existing Directives related to industrial emissions into a single Directive (integrated pollution prevention and control).

**PROPOSED ACT:** Directive of the European Parliament and of the Council.

**BACKGROUND:** Council Directive 96/61/EC on integrated pollution prevention and control (IPPC) covers some 52 000 installations. Emissions to air from these installations represent a large share of total emissions of key pollutants and far exceed the objectives set out in the Thematic Strategy on Air Pollution. Industrial activities also lead to other significant environmental impacts (for example on water, soil and waste).

An integrated approach taking into account cross-media effects in permitting is therefore essential. The central element of such an approach is the implementation of Best Available Techniques (BAT). Given the shortcomings of the legislation in force, the level of application of BAT in the EU is not that set by the IPPC Directive. Furthermore, the levels of compliance with the current legislation and its application vary from one Member State to another and the complexity of the existing legal framework results in unnecessary costs for the industry. These problems must be dealt with in order to maintain equality between industries, while guaranteeing higher levels of protection for the environment and human health.

The review process began at the end of 2005 and is based on an extensive programme of studies and continuous consultation with stakeholders. These studies led to a clearer and more coherent definition of the Directive which merges the current IPPC Directive and six sectoral Directives into a new single Directive on industrial emissions.

**CONTENT:** the new proposed Directive aims to address the shortcomings of the legislation in force on industrial emissions.

The scope of application of the present Directives has not been changed. The proposal applies to activities listed in Annex I (corresponding to the scope of the current IPPC Directive) and in Part 1 of Annex VII (corresponding to the scope of the current VOC Solvents Directive), to combustion plants, to waste incineration plants and waste co-incineration plants and to installations producing titanium dioxide. However, the present scope of Annex I has been slightly amended to include some additional activities such as combustion installations between 20 and 50 MW, the preservation of wood and wood products and the production of wood panels.

The proposal is structured in seven chapters:

- Chapter I is the general umbrella part setting common provisions applying to all industrial activities covered by this Directive;
- Chapter II covers activities set out in Annex I and lays down special provisions for those activities by amending the current requirements of the IPPC Directive;
- Chapters III to VI contain minimum technical requirements for large combustion plants, waste incineration plants, solvents installations and titanium dioxide installations, respectively;
- Chapter VII contains provisions on competent authorities, reporting by Member States, committee, penalties and the standard closing provisions.

Specifically, the proposal:

- lays down provisions to strengthen and clarify the use of BAT; possible derogations, together with their justification, should be based on well defined criteria and made available to the public;
- introduces a new requirement to monitor periodically the soil and groundwater on the site of the installations;
- lays down more specific provisions to ensure an effective implementation and enforcement of the Directive;
- introduces a requirement for permit conditions to be reconsidered and, where necessary, updated after the adoption of a new or updated BAT Reference Document;
- introduces requirements for Member States to provide for a system of environmental inspections;
- clarifies requirements regarding site closure and remediation after cessation of activities;
- sets more stringent emission limit values, aligned with best available techniques, for large combustion and pollutant plants;
- introduces some further derogations to the current minimum requirements for monitoring of certain emissions generated by waste incineration plants and waste co-incineration plants;
- introduces some more stringent emission limit values for certain polluting substances and reporting requirements for installations producing titanium dioxide.

## **Industrial emissions - Integrated pollution prevention and control. Recast**

2007/0286(COD) - 25/10/2010 - Commission opinion on Parliament's position at 2nd reading

At its Plenary Session on 7 July 2010, the European Parliament adopted a compromise package agreed with the Council in the hope of reaching a second reading agreement on the Directive of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control).

These amendments concern in particular:

- the method for adopting Best Available Technique (BAT) conclusions and the flexibility granted to competent authorities to deviate from such conclusions in setting emission limit values;
- the provision of temporary flexibilities to the Large Combustion Plant sector for compliance with the revised emission limit values applicable to such plants;
- a mechanism to allow the Commission to propose new minimum requirements including emission limit values for activities based on the environmental impact and state of implementation of best available techniques;
- clarification of provisions concerning general binding rules, the review of permit conditions, inspections and access to information.

The Commission accepts the compromise package as it is in line with the overall purpose and general characteristics of the proposal.

## **Industrial emissions - Integrated pollution prevention and control. Recast**

2007/0286(COD) - 15/02/2010 - Council position

The European Parliament adopted 85 amendments to the Commission proposal. More than half (44) are acceptable to the Council and it has therefore included them in its common position (wholly, in part, or in principle). The Council did not accept the other 41 amendments because their added value was unclear or because they were not consistent with other parts of the common position. The common position also includes a number of changes other than those envisaged in the European Parliament's first-reading opinion.

**Parliamentary amendments included in the common position:** these include the following:

- a reference to the Århus Convention in the recitals;
- clarification of the definition of "emission levels associated with the best available techniques" (BAT-AELs);
- clarification of the definitions of "the public concerned" and of "emerging technique";
- the common position refers throughout the text, to "relevant hazardous substances" rather than to "dangerous substances";
- clarification of the definition of "environmental inspections";
- permits applying to more than one installation or more than one operator are an option;
- clarification of the organisation of the information exchange on BAT;
- the common position reflects the requirements to ensure that emission levels associated with BAT are not exceeded;
- instead of making a reference to "exceptional cases" to limit derogations from BAT-AELs as Parliament wanted, the common position would require the competent authority to make public the reasons for any derogation;
- incorporation in full of the amendment on monitoring of soil and groundwater;
- simplification of the provisions relating to the use of general binding rules;
- provision for BREFs to be made available to the public;
- clarification on the updating of permit conditions;
- reference to the Groundwater Directive in the text;
- the common position lists criteria permitting a systematic appraisal of installations' environmental risks. However, Parliament provided for the option of less frequent inspections, and the Council requires that the interval between inspections is risk-based in all cases;
- consistency with obligations under the Århus Convention;
- clarification on information to the public is appropriate. The common position also requires the publication on the internet of the most important information;
- amendment on reporting by Member States to the Commission on the setting of emission limit values;
- clarification of the scope in relation to non-ferrous metal foundries;
- Annex I (scope) is broadly consistent with some of the amendments made by the European Parliament;
- Annex V (combustion plants) is consistent with the amendment concerning the derogation for plants using liquid fuels. The common position also includes a derogation for solid fuels, but other than as proposed in the amendment. Annex V is also broadly consistent with Parliament's amendments.
- Annex VI (waste incineration plants and waste co-incineration plants) is partly consistent with Parliament's amendment but the common position retains a two-year interval for the monitoring of emissions of heavy metals.

**Amendments not included in the common position:** 41 amendments were not included in the common position for the following reasons:

- certain amendments are not consistent with the purpose of recitals agreed interinstitutionally (to justify the body of the legal act) or with the wording of standard recitals;

- others are not consistent with some of the changes that the Council has introduced, as set out below;

- some amendments are, in the Council's view, superfluous or could create legal confusion and others do not provide clarification or added-value. The common position does not reflect Parliamentary amendments which would, in certain cases, delay annual reporting by operators. In addition, the Council considers that a period of four months for making an inspection report publicly available is too long. It also considers Commission guidance more appropriate than binding criteria for the development and application of emerging techniques.

The Council feels that the **amendment of the annexes through comitology** should be restricted to technical provisions and, in particular, that co-decision is the appropriate procedure for the amendment of emission limit values. It did not accept amendments providing for the setting of legally binding emission limit values through Comitology. It was also concerned that this could lead to excessive reliance on the values so set, rather than the application of BAT, as well as to an increased administrative burden.

**Other changes included in the common position:** the changes of substance compared to the Commission's initial proposal concern principally: (a) the scope of the Directive; (b) the BREF adoption procedure; and (c) combustion plants.

**Scope:** the initial Commission proposal would have widened the scope of the Directive by lowering some thresholds and including in Annex I some activities previously not covered by the IPPC regime. The Council has reversed this in cases where it did not share the Commission's view that the environmental benefits would justify the costs of widening the scope. This concerns in particular the thresholds for combustion plants and for intensive farming and the requirement for manure spreading to be based on BAT. The Council has instead inserted a review clause (Article 73). It has also included a de minimis threshold of 15 MW for the calculation of the total rated thermal input of combustion plants subject to Chapter III, considering it disproportionate to include in the scope small plants with limited environmental impact.

**Adoption of BREFs and BAT conclusions:** the common position provides for the adoption of decisions (through the regulatory procedure with scrutiny) on BAT conclusions containing the key elements of BREFs. This ensures the involvement of all Member States in the adoption procedure and provides for scrutiny by the European Parliament and the Council and ensures that the crucial parts of BREFs are translated into all official EU languages, while avoiding the undue administrative burden of translating all parts of BREFs (which are lengthy and technical documents).

**Combustion plants:** the common position differs from the Commission's initial proposal in three main ways:

(i) the date of application of the standards to new combustion plants would be 2 years after entry into force rather than 1 January 2016, since new plants should have no problem immediately applying the current BAT established in 2006;

(ii) to take account of certain local conditions, costs in certain specific circumstances, and risks regarding the security of energy supply, the Council added a number of derogations for combustion plants in Articles 31 to 35 to provide flexibility:

- in the case of combustion plants firing indigenous solid fuels, the possibility of applying a desulphurisation rate rather than emission limit values for SO<sub>2</sub>;
- to allow Member States to implement a 'transitional national plan' for certain combustion plants by applying decreasing annual ceilings for total emissions from participating plants between 2016 and 2020 instead of individual emission limit values;

- until 2023, for plants which will operate for a limited time before closure and for certain district heating plants; and
- until 2019, for plants which are part of small isolated systems;

(iii) the common position also introduces a review clause regarding certain specific combustion plants and provides for the existing emission limit values under Directive 2001/80/EC to continue to apply pending the possible adoption of new standards through co-decision.

**Other changes:** competent authorities would have 5 years to reconsider permits (instead of 4) after publication of a decision on BAT conclusions. The text includes some additional requirements to prevent soil and groundwater pollution, but also provides greater flexibility regarding baseline reports and site closure. To ensure proportionality and a high level of environmental protection, the article on environmental inspections provides for the period between site visits to reflect a systematic appraisal of environmental risks, while also defining a minimum frequency.

The Council believes that the common position represents a balanced package. It looks forward to constructive discussions with the European Parliament with a view to the early adoption of the Directive.

## Industrial emissions - Integrated pollution prevention and control. Recast

2007/0286(COD) - 02/03/2009

The Council held a public exchange of views on the recast of the directive on integrated pollution prevention and control. The discussion focused on four key issues:

**The role of European Best Available Techniques reference documents (BREFs):** many delegations supported strengthening the role of European BAT reference documents in determining permit conditions, particularly as regards emission limit values.

Many delegations also wished to keep the present procedures for preparing and adopting BREFs. Delegations were also in favour of more transparency in the setting of emission limit values. At the same time, many ministers stressed that competent authorities should be able to deviate from BREFs when justified due to specific local conditions.

**Minimum requirements:** the European Parliament might propose the introduction of minimum requirements for further activities covered by the proposed directive, but not yet subject to such obligations. Some ministers welcomed this idea, while others said that this could lead to negative effects on the environment.

As minimum requirements would represent higher emissions levels than BAT, the introduction of further minimum requirements could in fact increase divergence from BAT in permits. Others pointed out that the introduction of further minimum requirements could increase the administrative burden.

**Large combustion plants:** some delegations supported the Commission's proposals to bring emissions from existing large combustion plants (including power plants) into line with current BAT by 2016. A number of others underlined the cost of retrofitting existing installations and expressed concern that the investments involved could impact the security of energy supply.

Given that many Member States have recently upgraded their combustion plants to comply with current legislation, they asked for a longer phase-in of BAT. A third group of delegations could accept the implementation of BAT by 2016, provided that there is a certain transitional flexibility.

**Scope of the directive:** a large number of delegations stressed that they did not agree with the Commission's view that the benefits would justify the costs of extending the scope of the directive to include combustion plants with a rated thermal input of between 20 and 50 MW. They also pointed out that such plants are already subject to environmental regulation. Reservations on including certain types of waste and industrial farming were also voiced.

The views expressed by ministers will guide the preparation of a political agreement within the Council that could be obtained at the next Environment Council in June 2009.

## Industrial emissions - Integrated pollution prevention and control. Recast

2007/0286(COD) - 07/07/2010 - Text adopted by Parliament, 2nd reading

The European Parliament adopted by 639 votes to 35, with 10 abstentions, a legislative resolution on the Council's position at first reading for adopting a directive of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (recast).

The Parliament adopted its position at second reading in accordance with the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the Council's position at first reading as follows:

**Best Available Techniques (BAT) reference documents and exchange of information:** the guidance on the collection of data and the drawing up of BAT reference documents shall take account of the opinion of the forum, established by the Commission) composed of representatives of Member States, the industries concerned and non-governmental organisations promoting environmental protection.

The Commission shall obtain and make publicly available the opinion of the forum on the proposed content of the BAT reference documents and ensure that BAT conclusions are made available in all the official languages of the Union.

**Permit conditions:** Member States shall ensure that the permit includes all measures necessary for compliance with the requirements of the Directive. Permit conditions should include appropriate measures to prevent emissions to soil and groundwater and regular surveillance of those measures to avoid leaks, spills, incidents or accidents occurring during the use of equipment and during storage. The competent authority may set **stricter permit conditions** than those achievable by the use of the best available techniques as described in the BAT conclusions. Member States may set rules under which the competent authority may set such stricter conditions.

Where an activity or a type of production process carried out within an installation is not covered by any of the BAT conclusions or where those conclusions do not address all the potential environmental effects of the activity or process, the competent authority shall, **after prior consultations with the operator**, set the permit conditions on the basis of the best available techniques that it has determined for the activities or processes concerned.

**Emission limit values:** by way of derogation, the competent authority may, in specific cases, **set less strict emission limit values**. Such a derogation may apply only where an assessment shows that the achievement of emission levels associated with the best available techniques as described in BAT conclusions would lead to disproportionately higher costs compared to the environmental benefits due to: (a) the geographical location or the local environmental conditions of the installation concerned; or (b) the technical characteristics of the installation concerned.

Competent authorities shall in any case ensure that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved.

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

**Environmental inspections:** the amended text stipulates that if an inspection has identified an important case of non-compliance with the permit conditions, an additional site visit shall be carried out within six months.

The systematic appraisal of the environmental risks shall be based, inter alia, on the participation of the operator in the Union eco-management and audit scheme (EMAS), pursuant to Regulation (EC) No 1221/2009. The Commission may adopt guidance on the criteria for the appraisal of environmental risks.

Following each site visit, the competent authority shall prepare a report describing the relevant findings regarding compliance of the installation with the permit conditions and conclusions on whether any further action is necessary. The report shall be notified to the operator concerned within two months. It shall be made publicly available within four months of the site visit taking place.

**Combustion plants:** the Directive shall also apply to gas engines.

- **Desulphurisation rate:** for combustion plants which are co-incinerating waste, and which cannot comply with the Cproc values for sulphur dioxide set out in points 3.1 or 3.2 of Part 4 of Annex VI due to the characteristics of the indigenous solid fuel, Member States may, instead of those Cproc values, apply the minimum rates of desulphurisation set out in Part 5 of Annex V, in accordance with the compliance rules set out in Part 6 of that Annex. If Member States apply those minimum rates of desulphurisation, Cwaste as referred to in point 1 of Part 4 of Annex VI shall be equal to 0 mg /Nm<sup>3</sup>.

The Commission shall review by 31 December 2019 the possibility of applying minimum rates of desulphurisation set out in Part 5 of Annex V taking into account in particular the best available techniques and benefits obtained from reduced SO<sub>2</sub> emissions.

For the first year where Article 31 (desulphurisation rate) is applied, the technical justification of the non-feasibility of complying with the emission limit values shall also be reported.

- **Transitional National Plan:** during the period from **1 January 2016 to 30 June 2020**, Member States may draw up and implement a transitional national plan covering combustion plants which were granted the first permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003. The transitional national plan shall also contain provisions on monitoring and reporting that comply with the implementing rules, as well as the measures foreseen for each of the plants in order to ensure timely compliance with the emission limit values that will apply **from 1 July 2020**.

- **Limited life time derogation:** during the period from **1 January 2016 to 31 December 2023**, combustion plants may be exempted from compliance with the emission limit values and with the rates of desulphurisation, where applicable, and from their inclusion in the transitional national plan provided that the following conditions are fulfilled: (a) the operator of the combustion plant undertakes, in a written declaration submitted by 1 January 2014 at the latest to the competent authority, not to operate the plant for more than **17 500 operating hours**, starting from 1 January 2016 and ending no later than 31 December 2023;

- **District heating plants:** until **31 December 2022**, a combustion plant may be exempted from compliance with the emission limit values and the rates of desulphurisation provided that certain conditions are fulfilled.

**Review:** the report from the Commission shall include an assessment of the need for Union action through the establishment or updating of Union-wide minimum requirements for emission limit values and rules on monitoring and compliance for activities within the scope of the BAT conclusions adopted during the previous three-year period, on the basis of the following criteria: (a) the impact of the activities concerned on the environment as a whole; and (b) the state of implementation of best available techniques for the activities concerned.

The report shall be accompanied by a legislative proposal where appropriate. Where the assessment referred to in the second subparagraph identifies such a need, the legislative proposal shall include provisions establishing or updating Union-wide minimum requirements for emission limit values and rules on monitoring and compliance assessment for the activities concerned.

## **Industrial emissions - Integrated pollution prevention and control. Recast**

2007/0286(COD) - 17/05/2013 - Follow-up document

The Commission presents a report on the reviews it has undertaken under Directive 2010/75/EU on industrial emissions (the IED) regarding emissions from intensive livestock rearing and combustion plants. It recalls that during the legislative process a significant amount of time was dedicated to consideration of the scope of the Directive. Whilst the latter remained relatively unchanged, it was concluded that a number of activities warranted further scrutiny with regard to their potential to cause pollution and the possible courses of action to address such pollution. This resulted in review clauses being included, in particular in Article 30(9) and Article 73. The report addresses those reviews.

**Intensive livestock rearing:** the Commission has noted that cattle rearing, covering all aspects of the raising of cows including feeding and manure management, presently leads to air emissions of about 1 500 kt/year of ammonia (41% of total EU) and 7 000 kt/year methane (2% of total EU). However, it is clear that emissions from the cattle sector should not be considered in isolation from other animal farm types. Consequently, recognising that the largest emission reductions relate to manure management the Commission considers that a further in-depth examination of the possibilities for reducing emissions from the spreading of manure for all farm types should identify those aspects that offer the highest benefit-to-cost ratio in tackling emissions, paying particular attention to potential compliance and administrative burden costs for the farming sector and the need for such costs to be proportionate to the potential benefits. **Further studies will be completed** with a view to determining if and how ammonia emissions should be controlled at EU level, in particular through revisions to the [National Emission Ceilings Directive](#), a review of which will be completed in 2013 as part of the wider review of the [Thematic Strategy on Air Pollution](#) and associated legislation.

Furthermore, the results of the Commission's review finds that whilst varying the capacity thresholds between different poultry species and mixed species farms based on their environmental impact may be beneficial in terms of environmental outcome, the emission potential reduction is very limited. This conclusion supports the Commission's original review undertaken under Directive 2008/1/EC concerning integrated pollution prevention and control. However, given the recent adoption of the IED, a further change to the relevant Annex I activity descriptions would lead to a period of uncertainty for farmers whilst the outcome of the ordinary legislative procedure was being negotiated. Therefore, the Commission considers that **the existing thresholds for poultry farms subject to the IED should remain unchanged.**

**Combustion of fuels in installations with a total rated thermal input below 50 MW:** the data showed that many Member States already regulate these plants to some extent, and a consideration of the applicable legislation in Member States has helped to identify where environmental benefits may be highest as a result of implementing EU wide minimum emission limits. A clear potential for cost-effective abatement of air emissions was demonstrated and options for potential regulatory action will be further assessed in an impact assessment that will support the on-going review of the Thematic Strategy on Air Pollution.

**Combustion plants of 50 MW and more:** the Commission considers that there is no need to amend existing or establish new EU-wide emission limit values at this stage given that:

- it is envisaged that by the end of 2014, the Commission will have adopted the best available techniques (BAT) conclusions covering these plants. After this, Member States will have four years to reconsider and where necessary update the permits to ensure that BAT is correctly implemented.
- where the reporting on the implementation of the IED by Member States shows a deficit in BAT uptake for the installations concerned, the Commission will submit a report to the European Parliament and Council as required under the Directive and may initiate the establishment or updating of the EU-wide minimum requirements.