

Towards the new Industrial Emissions Directive

CAK BREF KO meeting

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Concerns with the status quo

The Commission's review identified the following key areas of concern:

- **Insufficient implementation of BAT**
- **Limitations with regard to compliance, enforcement and environmental improvements**
- **Unnecessary administrative burdens** due to complexity and inconsistency of parts of legal framework
- **Insufficient scope and unclear provisions** to achieve the Thematic Strategy objectives (air, waste, soil)

COM Proposal for an Industrial Emissions Directive

Recast Proposal - COM(2007) 844 final, 21.12.2007

- The Commission's proposal for a Directive on industrial emissions **recast into one single act the IPPC and 6 other 'sectoral' Directives**
- Key elements
 - strengthening of BAT and the role of the BREFs
 - new minimum emission limit values for Large Combustion Plants
 - Simplification and reduction of unnecessary administrative burden
 - Minimum provisions on inspection, review of permit conditions and reporting on compliance
 - Introduction of some new activities and provisions on soil & groundwater protection to help meeting Thematic Strategies objectives

State of play in EU institutions

- **EP: 1st reading vote in plenary in March 2009 (Rapporteur Mr Holger Kraemer (ALDE-DE))**
- **Council: political agreement under CZ Presidency in June 2009**

Key Parliamentary Amendments

- The proposal of the Commission **to strengthen the application of BAT and the role of the BREFs** is generally supported.
- A key new proposal was introduced (the so-called **European Safety Net**) to allow the Commission to establish, through Comitology, minimum requirements for all industrial sectors based on the BREFs.
- Other issues such as soil protection, inspection, update of permits, reporting and public access to information generally remain close to the Commission's Proposal.
- Additional amendments relate mainly to scope of the Directive e.g. no extension of the scope for poultry, limited BAT-based manure land-spreading

Political Agreement on Role of BAT/BREFs in permitting

1. **BAT Conclusions shall be the reference** for setting the permit conditions (Art 14(3))
2. **ELVs, equivalent parameters and technical measures shall be based on BAT**, without prescribing the use of any technique or specific technology (Art 15(2))
3. **ELVs shall be set to ensure that, under normal operating conditions, emissions do not exceed the BAT AELs** as laid down in the decisions on BAT conclusions through either of the following (Art 15(3)):
 - a) **setting ELVs that do not exceed BAT AELs**
with ELVs expressed for the same or shorter periods of time and under the same reference conditions as BAT AELs
 - b) **setting different ELVs**
in terms of values, periods of time and reference conditions
and CA to assess annually results of emission monitoring
to ensure that emissions under normal operating conditions have not exceeded BAT AELs

Political Agreement on Role of BAT/BREFs in permitting

4. **By way of derogation CA may, in specific cases, set ELVs deviating from Art 15(3)** on the basis of an assessment of the environmental and economic costs and benefits, taking into account: (Art 15(4))
 - the technical characteristics of the installation concerned
 - its geographical location and
 - the local environmental conditions
5. CA to provide the **reasons for applying Art 15(4)** including the result of the assessment and the justification for the conditions imposed + **information has to be made available to the public** (Art 24(2))
6. COM may establish **guidance** specifying the criteria to be taken into account for the application of Art 15(4)
7. CA to **re-assess** the application of derogation as part of each reconsideration of the permit conditions (Art 15(4) and Art 21)

Political Agreement on LCP

Level of ambition maintained but more flexibility introduced

Strengthened Emission Limit Values

for existing and new plants as compared to LCP Directive

→ aligned with BAT levels from the LCP BREF (2006)

Impacts: net benefits from emission reduction are
€7-28 billion per year including the annual reduction of
premature deaths by 13 000

Council Political Agreement: LCP flexibilities

- **Implementation date for New plants: 2012 instead of 2016**
- Implementation for Existing plants: 1 January 2016 retained but certain temporary flexibilities added
- Possibility to have a Transitional National Plan 2016 – 2020 – similar to the NERP under the LCP Directive
- **Opt-out derogations**: plants operating less than 20.000 hours and stopping operation before end 2023
- **Specific derogations** (islands, District heating plants, specific fuels)
- **Review clause** (end 2013 for COM to propose revised limit values for certain types of plants to be based on new BREFs)

Political Agreement on enforcement and compliance

Level of ambition maintained

1. Inspections

- Inspection plans and programmes for IPPC installations (risk based approach)
- At least 1 site visit every year (highest risks) - every 3 years (lowest risks)

2. Review of permit conditions

- Permits to be reconsidered within **5 years** of the adoption of a new/revised BREF and, if necessary, to be updated

3. Reporting by operators to verify compliance

- at least annually

Political Agreement on soil protection

Key principles maintained with some additional flexibility

1. Preventive measures

- Stricter provisions on surveillance measures

2. Monitoring of soil and groundwater

- At least every 5 (soil) to 10 (groundwater) years unless systematic appraisal of the risks

3. Baseline report

- Return after cessation of activities to state described in the baseline report => no deterioration policy
- Concept retained with some flexibility added for implementation (e.g. “significant pollution”)

Next steps

- COM Proposal (December 2007)
- EP: 1st reading (March 2009)
- Council: political agreement (June 2009)
- **EP: 2nd reading (beginning 2010)**
 - Level of flexibility to deviate from BAT levels
 - LCP
- **End of co-decision (foreseen around the end of 2010)**

For more information...

- **DG ENV industrial emissions website**
<http://ec.europa.eu/environment/air/pollutants/index.htm>
- **CIRCA website on the IPPC review (study reports)**
http://circa.europa.eu/Public/irc/env/ippc_rev/library
- **European IPPC Bureau (BREFs)**
<http://eippcb.jrc.es/pages/FActivities.htm>
- **Status in co-decision – PreLex**
http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=196594