

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/Nm³.

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 SO₂ 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.