

FEAD responses

The responses only refer to the Waste Incineration (WI) Directive 2000/76/EC

European Commission IPPC Review

Streamlining Industrial Emissions Legislation and Possible Emissions Trading for NO_x and SO₂

European Commission Contract 070402/2005/420336/MAR/C4: Assessment of options to streamline legislation on industrial emissions and the interaction between the IPPC Directive and possible emission trading schemes for NO_x and SO₂

Study Questionnaire

Responses requested by: 1 May 2006

Entec



THE REGIONAL ENVIRONMENTAL CENTER
for Central and Eastern Europe

Oxera



**BURGES
SALMON**

Questionnaire - Streamlining industrial emissions legislation

The IPPC Review and this study

The European Commission has initiated a review of the IPPC Directive (96/61/EC). This follows a consultation process¹ on the possible future development of the Directive through which some stakeholders advocated changes to the current regime for legislation on industrial emissions, such as to bring about greater integration with other Directives or to enable emission trading for certain pollutants (particularly NO_x and SO₂).

As part of the IPPC review, a team of consultants (led by Entec and including IEEP, REC, CE, Burges Salmon and Oxera) has been asked to provide an assessment which will help the Commission develop plans and proposals concerning the possible evolution of industrial emissions legislation. This covers interaction of the IPPC Directive with other instruments and the EU's overall approach to controlling the environmental impacts of industry. Further information on the review and this assessment is available online at http://forum.europa.eu.int/Public/irc/env/ippc_rev/library.

This questionnaire is therefore being sent to request information which will provide a better understanding of how the IPPC Directive and other measures interact.

The information received will be used — along with the results of a literature review and the findings from around 15 specific case studies — in undertaking an assessment of the impacts of a number of possible options for streamlining industrial emissions legislation.

The assessment is looking to go beyond general statements or anecdotal comments on inconsistency, duplication and other possible difficulties. Therefore, wherever possible replies to this questionnaire are asked to provide clear, precise, practical and quantitative information illustrated by real examples. Only on the basis of such information can the problems, consequences and possible solutions be made clear, allowing the Commission to take informed action.

In order to help explain these issues better, we have included:

- A summary of some examples of perceived problematic interactions with the various industrial emissions legislation (Appendix A), as assessed by the study team to date. To the extent that the questionnaire asks questions on subjects already covered by this summary, respondents are asked to focus on providing specific information that further develops the assessment (either in agreement or disagreement with the summary provided), rather than repeating general points already identified. This may involve answering only selected questions rather than addressing all points in the questionnaire. The reader is therefore encouraged to read the whole document (including Appendix A) before responding to the questions.
- Examples of possible scenarios for 'streamlining' industrial emissions legislation, which are to be further developed and examined in more detail later in the study (Appendix B). You are invited to comment on the possible streamlining scenarios in this questionnaire. These will then be discussed further at the next meeting of the IPPC Review Advisory Group in May 2006.

¹ Commission Communication "On the Road to Sustainable Production: Progress in implementing Council Directive 96/61/EC concerning integrated pollution prevention and control", COM(2003) 354 final.

Legislation of interest

In addition to the IPPC Directive itself the legislation of immediate interest is key sector-specific or issue-specific industrial emissions legislation, the requirements of which may be given effect through the mechanism of the IPPC permitting regime. The legislation includes:

- The Large Combustion Plants (LCP) Directive 2001/80/EC²;
- **The Waste Incineration (WI) Directive 2000/76/EC³;**
- The Solvent Emissions (SE) Directive 1999/13/EC⁴; and
- The Landfill Directive 1999/31/EC⁵.

However, other legislation that directly impacts upon the establishment or operation of major industrial plants, and/or is referred to in, itself refers to, or amends the IPPC Directive, is also of interest. This includes:

- The Greenhouse Gas Emissions Trading (GHG-ET) Directive 2003/87/EC⁶
- The Environmental Impact Assessment (EIA) Directive 85/337/EEC⁷;
- The Public Participation Directive 2003/35/EC⁸;
- The Seveso II or Control of Major Accident Hazards (COMAH) Directive 96/82/EC⁹;
- The Public Access to Environmental Information Directive 2003/4/EC¹⁰;
- The Standardised Reporting Directive 91/692/EEC¹¹;
- The Water Framework Directive 2000/60/EC¹²;
- The EPER Decision/E-PRTR Regulation;
- The proposed REACH Regulation¹³;
- The National Emission Ceilings (NEC) Directive 2001/81/EC¹⁴; and

² OJ L 309, 27.11.2001, p. 1.

³ OJ L 332, 28.12.2000, p. 91.

⁴ OJ L 85, 29.3.1999, p. 1.

⁵ OJ L 182, 16.7.1999, p. 1.

⁶ OJ L 275, 25.10.2003, p. 32 .

⁷ OJ L 175, 5.7.1985, p. 40, as amended by Directive 97/11/EC, OJ L 73, 14.3.1997, p. 5.

⁸ OJ L 156, 25.6.2003, p. 17.

⁹ OJ L 10, 14.1.1997, p. 13, as amended by Directive 2003/105/EC, OJ L 345, 31.12.2003, p. 97.

¹⁰ OJ L 41, 14.2.2003, p. 26.

¹¹ OJ L 377, 31.12.1991, p. 48.

¹² OJ L 327, 22.12.2000, p. 327.

¹³ COM (2003) 644 final, 29.10.2003.

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- Other measures such as those referred to in Annex II of the IPPC Directive.

The above list is not exhaustive, and respondents are invited to provide information on interactions with any other measures that they consider important.

Responses to the questionnaire

This question will initially be distributed to members of the IPPC Review Advisory Group. However, there may be other organisations or individuals that can provide useful, relevant information. If you believe that this is the case, we would be grateful if you could pass the questionnaire on to them and inform us that you have done so.

Responses to the questionnaire will be published on the IPPC Review website (see above).

Please return the completed questionnaire by 1 May 2006 to:

Tassos Shialis
Entec UK Limited
17 Angel Gate
City Road
London EC1V 2SH
Telephone/Fax: +44 (0) 20 7843 1433/1410
E-mail: Tassos.Shialis@entecuk.co.uk

Any queries or comments on the questionnaire should be addressed to Tassos Shailis (as above) or to:

Caspar Corden
Telephone/Fax: +44 (0) 20 7843 1432/1410
E-mail: caspar.corden@entecuk.co.uk

¹⁴ OJ L 309, 27.11.2001, p. 22.

Part A - Background information

1) Organisation name	FEAD - European Federation of Waste Management and Environmental Services
2) Contact person	Charlotte Bigum Lynaes
3) Address	Rue Philippe Le Bon, 15 B-1000 Brussels
4) Telephone	++32 02 732 32 13
5) E-mail	charlotte.lynaes@fead.be

NB: The comments below are only referring to the Waste Incineration (WI) Directive 2000/76/EC.

Part B - Consistency of definitions

A number of Directives contain definitions related to the installation, operator, facility, etc. Some of these definitions are the same in the different Directives, whereas others are different (sometimes deliberately so).

1) In your experience, have any differences in definitions caused any significant practical problems in implementing industrial emissions legislation?	No problem
2) If yes, please indicate for each problem experienced:	-
i) What the specific difficulties have been and who has been affected? Please provide evidence/examples of these difficulties.	-
ii) What, if any, additional resource requirements and/or costs have been required in order to deal with these difficulties.	-
iii) Any suggestions you have regarding how these difficulties could be resolved.	-
3) Have the differences in definitions of 'new' and 'existing' installations in different Directives (e.g. IPPC, LCP, SE Directives) caused significant practical problems?	No, the issue does not give rise to significant practical problems.
4) If yes to question (3), what have been the implications of these problems?	-
5) Do you have any further comments on the potentially problematic interactions identified in Appendix A? Are there any other interactions that you think should be considered? Please provide full details.	

Part C - Operative requirements

The IPPC and other Directives include various requirements on operators (such as on applications for permits, monitoring and reporting) and competent authorities. Some of these might result in significant costs. Poor integration of requirements between Directives could present unnecessary burdens.

1) Do industrial installations generally have a single permit covering all or most industrial emissions legislation or separate permits covering different Directives? Please give concrete and as detailed as possible examples.	In most of the FEAD Members' countries, waste treatment installations have a single permit covering all or most industrial emissions legislation. It is our assessment that only one permit is the best solution.
2) Based on (1), if more than one permit:	
i) Do you think that the time and expense required in applying for, and operating under these permits could be reduced by combining the requirements?	Yes we do think that the requirements should be combined in one single permit approved by the competent authority but not by merging the directives
ii) If so, which requirements could be combined? For example, could information supplied in one permit application and/or permit be used in another and, if so, what information?	No as there should be only one permit issued
iii) What do you estimate the cost and time savings associated with such a change would be? How does this compare to the current costs of implementing the legislation?	-
iv) What are the constraints or factors (whether in EU legislation itself or at domestic level) that prevent a single permitting system from being applied?	Political factors
3) Do different Directives place different requirements upon installations for monitoring compliance? For example, are different types of monitoring required or different frequencies under IPPC as compared to other Directives?	We have not found any discrepancy on parameters to be monitored and frequencies of monitoring between the WID which [in article 11] gives precise requirements and IPPC Dir which [in Article 9 (5)] mentions the necessity to have requirements but does not provide further guidelines.
4) If yes to (3), please provide as much detail as possible, highlighted by specific examples on:	-
i) What are these different requirements?	-
ii) Do they relate to the provisions of EU legislation or to the way this legislation is implemented at the national level?	-
iii) What additional burden does this present for the operator?	-
5) Where installations are inspected separately for different industrial emissions legislation (by one or more competent authorities), what are the barriers to reducing the regulatory burden (e.g. by combining inspections)?	In Germany and Austria installations are inspected separately by several authorities, the barriers to reducing the regulatory burden (e.g. by combining inspections) are political and the number of directives will thus not have any impact.

<p>6) The IPPC Directive requires that BAT-based permit conditions be applied at every relevant installation (taking into account local conditions) whereas the WI, LCP and SE Directives set maximum permissible emission limit values. In your experience, where one of these 'sectoral' Directives applies, to what extent does the existence of the sectoral emission limits influence the determination of the BAT-based limits under IPPC? With what approximate frequency does the application of IPPC lead to stricter requirements? Please provide examples.</p>	<p>WI Directive and WI BREF well complement each other; no further changes are required.</p> <p>The relationship between ELVs and BAT performances is very well explained in Chapter 5 (BAT) of WI BREF, page 432: "compliance with ELVs set in permits and legislation naturally results in operational levels [emission levels associated with the use of BAT] below those ELV.</p> <p>At present every new incinerator (i.e. 100 %) is permitted with some ELVs stricter than required by the WID. However, the stricter ELVs are not identical in every incinerators as it depends on local conditions as set out in the IPPC</p>
<p>7) Several Directives include a requirement to involve and/or consult with the public and other organisations e.g. during application for and granting of permits or at other key stages. Could the administrative burden and costs to installations and to authorities be reduced by combining these requirements?</p>	<p>For the waste treatment industry the requirements for the different directives are combined by the authorities, therefore it is not needed to combine the directives</p>
<p>8) If yes to 7), how could these costs be reduced and what would be the associated cost savings?</p>	
<p>9) What constraints are there that could prevent these requirements from being combined?</p>	
<p>10) Do you have any further comments on the potentially problematic interactions identified in Appendix A? Are there any other interactions that you think should be considered? Please provide full details.</p>	<p>Appendix A, Table 1: The issues raised in Table 1 do not cause problems for waste incineration in practice. The implementation of WID is finished.</p> <p>Appendix A, Table 4: The potentially problematic interactions identified for the WID reflect theoretical problems not supported by practice:</p> <ol style="list-style-type: none"> 1) Never heard of such a problem 2) FEAD is in favour of the level playing field when it concerns the different ELVs for different types of fuel 3) The third concern does not reflect the reality, because operators of hazardous waste incinerators do not aim in practice to by-pass the regulations 4) WI is not currently under GHG ETS. The definition of "biomass" might be in future homogenized, but not at the cost of dramatic changes in the current legislation.

Part D - Reporting by Member States to the Commission

This part of the questionnaire concerns reporting to the Commission by Member States, not reporting by industry. Therefore, only Member States are requested to complete this section. However, we welcome comments from other stakeholders.

The IPPC and other Directives include requirements for Member States to report to the Commission on implementation of the various Directives. These include, for example, the IPPC, SE, WI, Seveso II, Water Framework and NEC Directives.

Part of the remit of this study is to consider whether these requirements are coherent and consistent in terms of coverage, data to be reported and timing.

1) Do the various reports required by the legislation involve duplication/multiplication of effort in collation of information from regulators and/or industry? Please give concrete and as detailed as possible examples. Do you use possible synergies between reporting exercises to streamline the collection and analysis of data required under various pieces of legislation?	-
2) Could the consistency of information required in these reports be improved? For example, would it be preferable for all reports to be required at the same time in order to allow information to be shared?	-
3) Do you see any potential for the reporting requirements under different Directives to be combined?	-
4) If so, what requirements for what Directives could be covered? Please provide specific examples of the aspects that could be combined.	-
5) Are there any parts of the information requested in these reports that you feel are not necessary for an understanding of the implementation of the Directives? If so, please indicate what information and why you think that this is not essential.	-
6) In the case of reporting on the basis of a questionnaire prepared by the Commission (e.g. under the IPPC, WI, SE, Seveso II Directives), do you find the reporting frequency (3 years) appropriate, too frequent or not frequent enough? What alternative reporting frequency would you suggest and why?	-
7) Do you have any further comments on the potentially problematic interactions identified in Appendix A? Are there any other interactions that you think should be considered? Please provide full details.	-

Part E - Potential for emissions trading in NO_x and SO₂

The IPPC Directive has already been amended to provide for emissions trading in greenhouse gases. A number of organisations and Member States have suggested that increased provision should be made for trading in emissions of NO_x and/or SO₂ at the national or EU level. This will be assessed in this study. At this stage, we are seeking to identify any further sources of information that could inform this assessment.

FEAD does not (yet) have a position on this issue.

1) To what extent has IPPC influenced considerations by your organisation regarding the possible introduction of NO _x /SO ₂ emissions trading schemes?	-
2) Please provide details of any relevant reports or assessments of the advantages and disadvantages of introducing emissions trading on top of IPPC (i.e. trading only beyond compliance with BAT-based emission limit values) or partially in place of it (i.e. removing the requirement for BAT-based emission limit values for particular pollutants).	-
3) What are your views on the extent to which provision of increased scope for emissions trading could affect implementation of IPPC, including its overall integrated approach and protection of the local environment?	-

Part F – Possible streamlining scenarios and other issues

Please, find our detailed comments on the streamlining scenarios in the covering letter to this questionnaire.

1) Do you have any comments on, or information that would support assessment of, the possible streamlining scenarios outlined in Annex B?	<p>In the first place FEAD stresses that the implementation deadline for the existing IPPC Directive is 30 October 2007. Secondly the existing directive has not yet been translated into all 20 official languages of the EU. Thirdly several new Member States urgently request assistance in order to implement the current directive. It requires enormous expenses to assist the national authorities and administrations in training staff to carry out the implementation of the current directive. However, it is very important that all Member States are acting at the same level. Against this backdrop it would be premature to revise the existing directive.</p> <p>With respect to WID its implementation was to be completed by Member States by December 2005, only 6 months ago. At present available experience is insufficient in order to identify potentially problematic interactions between IPPC and WI directives.</p>
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<p>2) Please provide details of any scenarios you would like to see modified, removed or added to the list. Please provide your reasoning for any suggestions and details of any information that could be used to support the assessment.</p>	<p>FEAD supports option 1 [Do nothing] unless a proven need of clarification has been identified calling for specific amendments.</p> <p>Option 3 [Integration of sector/media specific legislation into a single framework directive] is not acceptable to FEAD. Little discrepancies (e.g., definitions) between different, but well functioning regulations do not justify the attempt to merge legislation which implies substantial administrative and technical burdens.</p>
<p>3) Please provide details of any other issues you would like to raise in relation to this questionnaire or the study as a whole.</p>	<p>FEAD repeats its demand for a seat in the Advisory Group in order to deliver and receive the significant input.</p>

Appendix A

Examples of potential problem interactions

The tables below provide a **summary** of **some** of the main concerns identified by previous commentators and stakeholders¹⁵ in relation to interaction of the IPPC Directive with other legislation as well as some comments by the authors of this report, including the implications for this study and possible streamlining of legislation.

Consideration is given first to potentially problematic interactions that are relevant to several Directives and then to interactions that are relevant to specific Directives.

Table 1 Potentially problematic interactions relevant to several Directives

Issue raised and reference	Comments
<p>LCP and WI Directive limit values are sometimes interpreted as a uniform standard to be applied or a specification of BAT, leading to application of sub-optimal techniques (e.g. in the absence of any local environmental quality concerns).</p> <p>However, BAT requirements and associated emission limits under IPPC may go beyond what is demanded by the LCP Directive. Similarly, the potential to introduce a national emission reduction plan under LCP Directive has raised concerns by some Member States regarding implementation in parallel with IPPC (Entec review of LCP Directive national plans for DG Environment).</p>	<p>As the Commission noted in its 2003 Communication, where an installation is subject to both the rules of the IPPC Directive and limit values under other Directives, these limit values are minimum requirements. These Directives should thus provide a guarantee against the possible abuse of the inherent flexibility of the IPPC Directive.</p> <p>This issue has already been considered to some extent in the recent IMPEL questionnaire and in the 2005 Dresden conference.</p>
<p>There are differences between IPPC and e.g. LCP and WI Directives regarding what installations are 'new' and 'existing'. Likewise, the different timescales for implementation of emission limit values for the different Directives may cause problems in implementation for regulatory authorities and for operators.</p>	<p>This is only reportedly a problem for some Member States and, to some extent, depends upon the way in which the legislation is implemented at a national/regional level.</p> <p>It may also only represent a problem for most Member States in the short term, not within the timescales for implementation of findings arising from the IPPC review.</p> <p>However, this may represent an ongoing issue in that several Member States have transition periods for the LCP Directive. In addition, it may represent a learning point for any future sector-related legislation and may also represent an area where further guidance could be provided to regulatory authorities.</p>

¹⁵ Sources of information include, for example IPPC implementation reports and responses to the 2003 consultation; findings of the IMPEL network; the Dutch ENAP project; the 2005 Dresden conference on *the Road to Sustainable Production in the Enlarged EU - IPPC*; and the UK and DG Enterprise Better Regulation initiatives.

Issue raised and reference	Comments
<p>There are specific requirements for monitoring by operators in some Directives that may be different to the monitoring requirements considered appropriate under the IPPC Directive (which is generally less prescriptive). These include LCP, SE, WI, Landfill, GHG-ET Directives and EPER/PRTR.</p>	
<p>The LCP and WI Directives cover a "plant" whereas IPPC covers an "installation".</p>	
<p>There are separate requirements for Member States to report to the Commission on implementation of a number of other Directives as well as for IPPC. These include SE, LCP, WI, Seveso II/COMAH, Water Framework and National Emission Ceilings Directives.</p>	<p>This applies to several Directives with reports often required e.g. every three years. Since there are many areas where the coverage of the Directives is different (sites covered by one Directive and not the other), there are practical reasons for having separate reporting requirements.</p>

Table 2 Potentially problematic interactions for the Large Combustion Plants Directive

Issue raised and reference	Comments
<p>Potential exemptions from emission limit values or options to apply less stringent values may create confusion for operators (and regulators) given that these do not remove a requirement to apply BAT-based permit conditions (identified in review of legislation).</p>	
<p>Unlike IPPC, the LCP Directive does not take into account the site-specific circumstances of each plant (UK Better Regulation Initiative).</p>	<p>This is true, though there is scope for alternative approaches (e.g. NERP) to be implemented at the national level.</p> <p>The LCP Directive standards are intended to be minimum requirements (see above). However, this does not preclude some installations potentially facing significant cost burdens for compliance.</p>

Table 3 Potentially problematic interactions identified for the Solvent Emissions Directive

Issue raised and reference	Comments
<p>The coverage of installations under the SE Directive is different to that under IPPC (identified in several sources).</p>	<p>The SE Directive addresses a specific environmental issue whereas IPPC is targeted at the environment as a whole. Therefore, this may be a justification for the difference in size and type of installation covered. It is not clear what practical difficulties (if any) result from the differences in coverage.</p>

Issue raised and reference	Comments
<p>The activities covered and definition of 'installation' under certain legislation (e.g. SE Directive) is different from that under IPPC. Therefore, separate permits may be used to address the requirements for different Directives (and activities) on a single site. These may include separate monitoring and reporting requirements and may thus result in additional burdens for regulators and operators as compared to situations where a single permit is used.</p>	<p>It may be the case that this issue is essentially a product of Member States' implementation of these and other Community Directives, rather than an unavoidable consequence of the Directives themselves. For example, in Member States where a permit is issued for a 'site' as a whole (rather than just the activities undertaken), the requirements of both Directives can be taken into account in unison.</p>

Table 4 Potentially problematic interactions identified for the Waste Incineration Directive

Issue raised and reference	Comments
<p>A concern has been raised that firms may choose to burn fuel rather than waste when they are below the 50MW threshold in order to avoid the requirements of both the WI and IPPC Directives.</p>	<p>Is there any evidence available to support this happening in practice, and what are the overall implications?</p>
<p>A concern has been raised that installations covered by IPPC may choose not to co-incinerate waste in order to avoid also being covered by the WI Directive (and associated monitoring requirements). This might create a disbenefit for the environment given that such co-incineration may in fact be desirable in some circumstances when considering impacts on the environment as a whole.</p>	<p>Is there any evidence available to support this happening in practice, and what are the overall implications?</p>
<p>The coverage of installations may lead to apparent disparities in the stringency of controls applied. For example, a hazardous waste incinerator that is not covered by IPPC, because it is below the threshold, may need to comply with less strict emission limits than a municipal waste incinerator that is covered by IPPC (Dresden conference 2005).</p>	<p>In this example, the hazardous waste incinerator would be subject only to the requirements of the WI Directive, while the municipal waste incinerator could be subject to stricter requirements under IPPC. A Member State could, as a matter of national policy, extend the consideration of possible stricter standards to the (smaller) hazardous waste incinerator. It is also not clear whether this issue occurs in reality and what practical difficulties (if any) could result from it.</p>
<p>The definitions of 'biomass' in the WI and GHG-ET Directives are different, potentially meaning that separate permits are required.</p>	

Table 5 Potentially problematic interactions identified for the Landfill Directive

Issue raised and reference	Comments
There is reportedly some confusion in the case of landfill activities where the IPPC Directive overlaps with the Landfill Directive with respect to the degree of applicability of BAT to these activities. This has reportedly led to substantial practical difficulties in permitting landfill activities (UK's first IPPC implementation report).	The Landfill Directive indicates that the "relevant requirements" of the IPPC Directive shall be fulfilled if the requirements of the Landfill Directive are deemed to be complied with. The uncertainty may be over what IPPC "relevant requirements" are satisfied in this respect, or what scope or requirement remains for additional controls to be specified.

Table 6 Potentially problematic interactions identified for the Seveso II / COMAH Directive

Issue raised and reference	Comments
The Seveso II Directive refers to an establishment as the whole area under the control of an operator, as well as to specific installations. This compares to the IPPC Directive which does not (necessarily) extend to cover an entire establishment (identified in review of legislation).	
There are potentially duplicative information requirements in terms of submissions under the Seveso II and IPPC Directives (identified in review of legislation).	Where information submitted under Seveso II is directly applicable to IPPC, this information may be attached to an IPPC permit application. However, there are some examples of the need to provide information (and to address in practice) similar but related issues under both regimes. An example includes the need to prevent accidents under IPPC in a context that may be interpreted as broader than that under the Seveso II Directive. This is not necessarily a failing of either Directive but it is an issue that could be considered in further detail as part of one of the case studies for this project.
There is a prescriptive requirement for inspections under the Seveso II Directive (identified in review of legislation), which may differ from the approach to inspections considered most appropriate under the IPPC Directive.	
The requirements for revisiting the conditions of operation of installations are more prescriptive than those for permits under IPPC (based on review of legislation).	

Table 7 Potentially problematic interactions identified for the Environmental Impact Assessment Directive

Issue raised and reference	Comments
Thresholds for and definitions of installations under the EIA Directive sometimes differ from those under the IPPC Directive (identified in review of legislation).	<p>Whilst this is true, it may be entirely appropriate given that the two Directives are aimed at different issues in some respects (e.g. the EIA Directive has a broader coverage: land-use planning and construction-phase issues for installations).</p> <p>For some sectors covered by both Directives, however, the reasons for differences in thresholds and definitions, and the implications, are unclear.</p>
The extent of analysis of impacts required under EIA is similar to but often wider than that included under IPPC (identified in review of legislation).	<p>At the Member State level, there is the potential for a co-ordinated approach to analysis and provision of information, with information generated for EIA potentially also applicable under IPPC. The EIA Directive also allows a single procedure to satisfy its requirements and those of the IPPC Directive together.</p>

Table 8 Potentially problematic interactions identified for certain chemicals legislation (Existing Substances Regulation and proposed REACH regulation)

Issue raised and reference	Comments
The main problematic interaction identified between existing chemicals legislation and IPPC relates to the legislative interface between risk reduction strategies proposed for priority substances under the Existing Substances Regulation and measures to implement these through IPPC (German UBA).	<p>This issue is to some extent solved in practice at present through the taking into consideration of the recommendations for risk assessment and risk management in review of BREF documents. However, there may be a gap in the legislation in this regard and risks that these recommendations are not put into practice.</p> <p>The proposed implementation of REACH provides the opportunity to take these types of issue into account. There may also be an opportunity to achieve coherence through ensuring that appropriate mechanisms are in place under IPPC to help better realise the substance-specific issues and information resulting from chemicals risk assessments and risk reduction strategies.</p>

Table 9 Potentially problematic interactions identified for the Water Framework Directive

Issue raised and reference	Comments
Where IPPC-regulated installations emit Water Framework Directive priority substances, the current BAT requirements may not be sufficient to achieve e.g. a cessation or phasing out of discharges, emissions and losses (based on review of legislation).	There may exist the potential for the consideration of Water Framework Directive priority substances to be made more explicit through the implementation of the IPPC regime. In addition, Article 10 of the IPPC Directive requires stricter conditions than those based on BAT where necessary to meet an environmental quality standard.
The Water Framework Directive places controls on impoundment of water in addition to abstraction and discharges. IPPC covers only abstraction and discharges. This may cause problems for certain Member States in relation to integration of impoundment controls under the WFD into existing permits (highlighted by a Member State).	This may mainly reflect the implementation of the legislation in the Member States.
There are separate substances for which emission limit values need to be developed under the Water Framework Directive, as well as quality objectives and standards that need to be met. It may be unclear how the Water Framework Directive controls should be implemented through the IPPC regime given that the procedure for doing so is not made explicit (based on review of legislation).	This should be provided for at the Member State level. However, the link with IPPC could potentially be made more specific in the context of IPPC itself.
Where data suggest that Water Framework Directive objectives may not be met, there is a requirement to examine and potentially review permit conditions. There may be problems in demonstrating environmental need for further emissions reductions (beyond BAT) at the site-specific level in order to meet the Water Framework Directive environmental quality standards (based on review of legislation).	In practice, it is unclear why this should represent a problem given that the only difference relates to the additional need to consider noise and vibration under IPPC and the focus on aquatic ecosystems under the Water Framework Directive.

Table 10 Potentially problematic interactions identified for the Greenhouse Gas Emissions Trading Directive

Issue raised and reference	Comments
The amendment to the IPPC Directive to facilitate emissions trading allows MS to choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting CO ₂ on the site. However, there is a concern that this may have led to a reduction in the stringency of energy efficiency requirements applied to installations more broadly (i.e. not just their combustion activities or other units emitting CO ₂) (cited in several sources).	It is unclear how this has caused problems in practice. This also raises issues relevant to the consideration of possible emissions trading in other substances.

Issue raised and reference
Comments

Table 11 Potentially problematic interactions identified for the Public Participation Directive

Issue raised and reference
Comments

The IPPC Directive has already been amended to take into account the implications of this Directive. However, there is a potential for burdens on regulators, operators and the public where there are requirements to involve the public under several different regimes where this is done separately for each regime (identified based on review of legislation).

Table 12 Potentially problematic interactions identified for the European Pollutant Emissions Register / Pollutant Release and Transfer Register

Issue raised and reference
Comments

The PRTR Regulation refers to the 'facility' which is not covered by the IPPC Directive (based on review of legislation).

This may raise issues for the provision of relevant information on emissions under PRTR in that the data reported under IPPC (the installation) may not cover emissions from the whole facility in relation to the PRTR.

The PRTR Regulation refers to 'releases' as compared to 'emissions' under IPPC (based on review of legislation).

Appendix B

Possible streamlining scenarios

Based on the results of a literature review, the project team has identified the following possible streamlining scenarios. These are not necessarily the final streamlining scenarios to be assessed in this study – which are to be further developed and examined in more detail as the work progresses – but nevertheless they give a flavour of the possibilities and a basis for initial reactions.

Option 1: Do nothing. Continued use of the IPPC Directive, separate existing sectoral Directives setting emission limit values and possible further sectoral Directives in the future, without change to other present legislation.

Option 2: Removal of certain requirements from sectoral Directives and increased reliance upon BAT-based conditions. This could involve removing certain requirements of the LCP, WI and SE Directives that are seen to be frequently in conflict with IPPC, for those sites that are also covered by the IPPC Directive (e.g. smaller sites covered by the SE Directive would not be affected). The intention would be to achieve a better balance of environmental, social and economic impacts. For example, this could mean the removal of monitoring/reporting requirements that may be duplicative or removal of the requirement to apply the sector-specific emission limit values in some cases. In the latter case, those IPPC-regulated sites would then be required to apply BAT-based permit conditions taking account of local factors, which may be more or less stringent than the emission limit values, at an installation-by-installation level.

Option 3: Integration of sector/media-specific legislation (WI, LCP, SE Directives) into a single framework Directive. This would include differential requirements for different types of sites (e.g. those installations subject only to the SE Directive, for example, would not be subject to all IPPC requirements). This would provide for a single permitting regime with potential for greater integration of requirements on permit application/variation, monitoring, inspections. It would also allow for more explicit consideration of what constitutes BAT, as compared to the prescribed limit values under the current sectoral Directives. This scenario could also potentially be made broader, to include aspects of other Directives where they also apply to IPPC installations (e.g. aspects of EIA, Seveso II, GHG-ET).

Option 4: Guidance and/or legislative changes to promote clarity and cost savings. This could include (as an illustrative list):

- Making explicit legislative links between IPPC and other legislation that seeks to use IPPC as a vehicle to deliver other goals (particularly chemicals legislation and the Water Framework Directive).
- Harmonising requirements for revisiting permits, undertaking inspections and for operators undertaking monitoring and reporting to the authorities.
- Clarifying definitions of e.g. installation and providing for greater guidance on possible combination of requirements under a single regime at the national level.

Option 5: Provision to facilitate emission trading of industrial emissions of NO_x or SO₂. This would provide for emissions trading either within Member States or among specific Member States.

These options are not necessarily mutually exclusive. For example, option 3 could be combined with option 4 and several of the options could be combined with option 5.