



Fédération Européenne des Activités de la Dépollution et de l'Environnement
European Federation of Waste Management and Environmental Services
Europäische Föderation der Entsorgungswirtschaft

FEAD position paper Review of the Integrated Pollution Prevention and Control (IPPC) Directive

October 2007

FEAD is the European Federation which represents the European waste management industry. Our members are national waste management associations, which have an approximate 60% share in the household waste market and handle more than 90% of industrial and commercial waste in Europe, with a collective annual turnover of approximately € 50 billion.

We have 19 members from 18 EU Member States and Norway. FEAD represents companies with activities in all forms of waste management. These companies employ over 300 000 people who operate around 3 000 controlled landfills, 1 350 recycling and sorting centres, 1 000 composting sites and 350 incinerators and play an important role in the determination of the best environmental option for waste management problems.

FEAD welcomes the opportunity to comment on the on-going review of the IPPC Directive.

Better Regulation

The principle of streamlining legislation can be supported, provided this reduces the administrative burden for operators and does not lead to a reduction in environmental standards. FEAD supports the greater clarification and coherence envisaged by better regulation but **better regulation** is not necessarily less regulation and FEAD is committed to protection of the environment and human health.

The option of integrating sectoral directives in the IPPC Directive, and thereby creating a framework Directive, is however an extremely complex exercise, which we currently oppose as sufficient time has not been provided completely to assess all impacts and to consult business in depth on envisaged consequences and methodology. We fear that such integration would lead to **deregulation** rather than better regulation and to adverse impact on the environment and human health. Given the importance of the subject, FEAD asks the Commission to undertake more rigorous consultation and also to provide more information and evidence explaining why the Commission believes urgent and comprehensive revision of the IPPC Directive and sectoral Directives should be pursued.

Better enforcement and **harmonisation** are the main drivers towards an environmental level playing field across Europe and FEAD supports in principle the introduction of minimum standards. FEAD is of the opinion that Member States, local authorities and the waste management industry need more time to implement the IPPC Directive and linked guidance documents (Incineration and Waste Treatment BREFs). It is worth mentioning that the deadline for implementation of the current IPPC Directive for existing installations is 30 October 2007. With a track record of applying the current text, a proper assessment of the functioning of the Directive then becomes possible and FEAD regards the period until 2010 as an implementing phase. This means that the time has not yet come to introduce significant new requirements. In order to facilitate the implementation further, the remit and performance of IMPEL (EU Network for the Implementation and Enforcement of Environmental Law) as well as the European Environment Agency should be strengthened to enhance training of regulators in the interpretation of BREFs and writing permits¹.

¹ **Example of the application of the BAT principle**

Some of our members illustrated how the IPPC Directive is implemented by competent authorities.

APOH, Slovakia
ARS, Romania
ASELIP, Spain
AVFALL NORGE, Norway
AVFALL SVERIGE, Sweden

BDE, Germany
CAOH, Czech Republic
ESA, UK
FEBEM-FEGE, Belgium
FISE, Italy

FLEA, Luxembourg
FNADE, France
IWMA, Ireland
JLY, Finland

KSZGYSZ, Hungary
PASEPPE, Greece
PIGO, Poland
VA, Netherlands
VÖEB, Austria

The Waste Incineration Directive and the IPPC Directive

FEAD is deeply concerned about possible integration of the Waste Incineration Directive into the IPPC Directive and associated potential broad revision of the content of the Waste Incineration Directive. Our sector has adapted to the current strict provisions of the Waste Incineration Directive and will constantly prioritise improved environmental impacts on top of the very significant investments we have already made. Apart from a few technical issues, mainly on monitoring dealt with by guidance at national level, we have identified no significant problems which could justify a complete change to the Waste Incineration Directive which has been operational and successfully applied in totality since 2006 and should be maintained.

Best Available Techniques (BATs) versus Emission Limit Values (ELVs)

To safeguard continuously the environment and for Member States and industry to have a manageable system, it is of the utmost importance that the distinction between BATAELs (Best Available Techniques Associated Emission Levels) and ELVs is maintained. BATAELs are prepared by individual sectors, integrating economic and local conditions. They are not designed to become ELVs.

Waste-to-energy plants are designed and operated to meet ELVs specified in the Waste Incineration Directive. These ELVs have themselves been developed on the basis of Best Available Techniques (BATs) for installations. Such fixed emission limit levels in plant permits must both be consistently achievable and ensure sound environmental and health protection. Using the upper levels of the BATAELs in the BREF document to fix ELVs in permits is asking the plant operator to operate under unnecessary pressure with the risk of losing control over environmental and economic aspects of the operation. Any requirement for more stringent standards would have to be justified in relation to resulting environmental gains and be in line with the BAT principles.

We acknowledge that BREFs could be clarified and better applied in Member States². Indeed, this evidences the complexity of the documents and the necessity to grant sufficient implementation time. The BREFs do and should play an important role in the permits and FEAD agrees that deviations must be justified. However, making the BREFs legally binding would not be helpful as the BREFs are, and can only usefully be construed as, descriptive. For instance, the low operating values given in chapter 5 of the Waste Incineration BREF were achieved by individual plants according to particular parameters (e.g. dust or HCl) and cannot provide any guarantees that practical operating parameters would always secure operation at or below such values. It cannot be assumed that one plant can meet all the low values at the same time and on a permanent basis. Should an operational limit be made mandatory, this would mean that in order to constantly guarantee them, the real operational limits would have to be dramatically reduced as peaks would have to be taken into account. By providing some flexibility, BAT also helps to ensure that local conditions do not prevent competition on an equal footing between installations within the internal market.

If the Waste Incineration Directive were, against our very strong advice, incorporated into a new IPPC Directive, it would also be necessary to ensure that smaller facilities which fall below the current IPPC threshold were not exempted from requirements to limit emissions: at the moment, all energy recovered from waste must comply with WID, regardless of the technology employed.

In one case, the plant operator does comply with the objective of the BAT 62 on energy efficiency but the competent authority refuses to grant a permit for the enlargement of the installation. The competent authority interprets this BAT in a way that the operator should also secure a market for heat delivery. If the operator cannot comply with this demand, BAT 62 is not fulfilled in their interpretation. Other companies face the same interpretation problems on this specific BAT.

This example illustrates that BAT principles are arbitrarily implemented and competent authorities need better to understand the meaning of BREFs and BAT.

² FEAD believes the consultation process for developing BATs in reference documents could be further improved in order to increase the general quality of BREFs.

Scope

The concepts of an integrated approach and level playing field have consistently been strongly supported by the European waste management industry. A common regulatory framework for waste management activities across Europe is indeed welcome. FEAD therefore supports a widening of the scope to all waste management activities. Exemptions to the IPPC Directive should only be considered for operations which are small enough not to pose any risk to the environment and where they will not impact on competitiveness. In any case, providing exemptions from the IPPC Directive would not mean that facilities could operate without any regulatory control, rather that the level of regulatory control may be reduced or simplified in proportion to the level of risk posed by the activity. Again, we do not believe that such exemptions should apply to recovery of energy from waste.

Consultation process

Our sector also feels strongly that the consultation procedure on the IPPC review did not allow an adequate exchange on several complicated aspects and that it is much more important for the Commission to get its proposals right than to rush out a proposal in 2007 that might prove to be misconceived.

Integrating sectoral Directives into the IPPC Directive is complex and there are potentially conflicting elements:

- whether (and which) technical requirements of the sectoral Directives should be incorporated into the IPPC Directive, and which should be treated under a BREF rather than ELVs
- whether some BREF notes need to be revised to incorporate technical issues currently treated in sectoral Directives
- whether technical issues moved from the sectoral Directives to the BREFs become non-binding
- whether sectoral ELVs should lie in the IPPC Directive or in the respective BREFs
- how to relate a capacity *de minimis* or threshold as implied in the IPPC Directive to a sectoral Directive like the Waste Incineration Directive which covers all plants irrespective of size and location. Exceptions for smaller scale activities, essentially a two tier approach, would encourage operators to construct plants just below the threshold, with potentially negative impacts on the environment.

FEAD very strongly advises the Commission that such aspects need to be carefully assessed and discussed in detail with stakeholders before a proposal is published.
