Manual of European Environmental Policy

The following pages are a section from the Manual of European Environmental Policy written by the Institute for European Environmental Policy.

The Manual was published by Earthscan/Routledge from 2010 to 2012. It was designed as an on on-line interactive reference work and annual printed versions were also produced.

This section is the text of the Manual as published in 2012. It is therefore important to note the following:

- The contents have not been updated since 2012 and no guarantee is given of the accuracy of the contents given potential subsequent developments.
- The sections include links to external websites (e.g. to legal texts). These links continue to work as long as those links are not broken by those websites.
- The sections also include the original links that enabled interactivity within the published on-line version of the Manual. These links no longer work.

The Manual should be cited as follows:

Farmer, A.M. (2012) (Editor). Manual of European Environmental Policy. 1043pp. Routledge, London.

Overview of EU policy: Industrial pollution

Legislation regulating the environmental performance of industry at Community level has grown from a piece-meal collection of laws addressing individual issues to a regulatory framework that is much more all encompassing.

Early legislation was adopted to ensure the adequate function of the single market. There was also not an initial desire to seek to regulate industry as an end in itself, but to tackle specific environmental problems. The first two major Directives aimed at industrial performance were adopted in the 1970s.

The first action programme of 1973 set out what became known as the 'sectoral approach' for tackling environmental problems of industry and identified three industrial sectors for legislative attention – the paper pulp industry, the iron and steel industry and the titanium dioxide industry.

The Dangerous Substances Directive 76/464/EEC was adopted to reduce the discharges of specified substances to water. These were predominantly from industrial sources and the Directive was needed to ensure a common market for industry in the Community as higher standards were being required under the Rhine Convention for some industrial sites. This Directive (and its daughters) introduced emission limit values for specific substances and for specific types of industry. The first daughter Directive aimed at a specific industrial sector was adopted in 1982.

Directive 78/176/EEC (and its subsequent amendments) on waste from the titanium dioxide industry was the only Directive adopted to take forward the 'sectoral approach' of the first action programme. It is the first Directive focused on a specific industrial sector. Importantly, although the major driver for development of the Directive was a dispute between France and Italy over waste discharges to the sea, the Directive does not focus only on discharges to water, but also addresses emissions to air and solid waste disposal. A proposed Directive on the paper pulp sector (COM(74)2256 OJ C99 2.5.75) failed to make any progress and the sectoral approach did not progress as before (although the daughter Directives of 76/464/EEC follow the sectoral approach, such as mercury from the chloralkali industry).

The next major development in the environmental Regulation of industry at Community level was the adoption of Directive 84/360/EC on emissions from industrial plants. Unlike much of the pressure in the 1970s being driven by a concern over water pollution, this Directive owed its existing to concern over air pollution and, in particular, the problems of acid deposition. The pressure for this Directive came from the Federal Republic of Germany. Concern over the effect of air pollution on forests in Germany led it to submit a memorandum to the Council in June 1982 asking for greater priority to be given to a basic Directive on air pollution prevention, and asking that a proposal from the Commission be submitted before the end of 1982. The subject was discussed at Environment Councils in June and December of that year. The Commission responded to the German memorandum with a proposal in April 1983. The main elements of this were the requirement for Member States to give prior authorizations to plants likely to cause air pollution and particularly those in a specified list covering the most polluting types of plants. Certain conditions were to be met before authorizations were given. One of these was to require all appropriate measures to be taken 'in accordance with the state of the art'. The Directive as agreed followed the main lines of

the proposal. The principal changes were the replacement of the phrase 'state of the art' by 'the best available technology not entailing excessive costs'; the fixing of emission limits to be agreed unanimously instead of by qualified majority; the requirement that such limits should take account of the nature, quantities and harmfulness of the emissions, in addition to being based on the best available technology not entailing excessive costs; and the omission of five categories of food processing plants. The implementing date was also postponed by three years to 30 June 1987.

Although there was some integration of pollution control with regard to titanium dioxide plants, Community legislation for pollution control in the 1980s was largely still based on individual environmental media (air, water, soil). The fourth Action Programme of 1987 discussed the need for a more integrated approach, but this did not include the suggestion that authorization (or permitting) of industrial plants should cover discharges to all the media together. The idea of an EC Directive requiring integrated permitting of industrial plant was first made at a conference in Brussels in November 1988 organized by the Institute for European Environmental Policy and the Conservation Foundation (Washington). This was followed by a report written for the Commission by the Institute which reviewed the possibilities for integration at EC level and recommended an 'integrated permitting Directive' as the most fruitful first step. This recommendation was immediately accepted by the DG Environment but drafting was delayed because Commissioner Ripa di Meana wanted the eco-management and audit (EMAS) scheme developed first.

Early drafts of what became the Integrated Pollution Prevention and Control Directive 96/62/EC called it 'integrated permitting' with the title of the adopted version being taken from the OECD Council Act of 1991. During negotiations there was a conflict between Germany and the United Kingdom, also involving other Member States, about whether 'best available techniques' (BAT) should be such that emission limit values should be uniform throughout the Community or whether they can vary depending on local circumstances, with Germany wanting them uniform. In the Directive as adopted, BAT is qualified in Article 9(4) so that emission limit values, while based on BAT, shall take account of the geographical location of the plant and local environmental conditions.

In 2005 the Commission launched a series of studies examining the implementation of the IPPC Directive 96/61/EC, the impact of IPPC on competitiveness, coherence with other EU legislation, the impacts of possible technical amendments and the potential for Member State action to go 'beyond' mere compliance with the Directive. These provided information to support the review process of the Directive, which the Commission officially launched in its 2005 report on the implementation of IPPC. As a result of the review, a revision of the IPPC Directive (now recast as Directive 2008/1/EC) was proposed by the Commission in December 2007 (COM(2007)844). This revision was adopted as the Industrial Emissions Directive 2010/75/EU and integrates six previous pieces of legislation into the revised IPPC Directive, namely the Large Combustion Plant Directive 2001/80/EC, the Waste Incineration Directive 2000/76/EC, the Solvents Emissions Directive 1999/13/EC and three Directives relating to emissions from the titanium dioxide industry (78/176/EEC, 82/883/EEC and 92/112/EEC). An aim of the new Directive is to reduce administrative costs for authorities and operators and to increase environmental and health benefits.

This Chapter, therefore, includes the legislation relating to industrial pollution control, including the overarching Industrial Emissions Directive 2010/75/EU, IPPC Directive 2008/1/EC, the Major Accident Hazards Directive 96/82/EC, the EMAS Regulation (EC) No

1221/2009 and Directives addressing specific industrial sources, such as waste incinerators, titanium dioxide plants, large combustion plants and users of solvents