



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.05.1995

COM(95) 88 final - SYN 526

Amended proposal for a  
COUNCIL DIRECTIVE  
concerning Integrated Pollution Prevention and Control

(presented by the Commission pursuant to Article 189 a (2)  
of the EC-Treaty)

## Explanatory Memorandum

In accordance with Article 130 S, paragraph 1, of the EC Treaty, the Council consulted the European Parliament on the directive proposal concerning integrated pollution prevention and control (COM (93) 0423 - 00/0526 (SYN) )<sup>(1)</sup>. At its Plenary Session in December 1994 the European Parliament approved 57 amendments 25 of which were accepted by the Commission either in whole or in part.

The accepted and rejected amendments are commented as follows.

### Amendments accepted by the Commission.

Amendment 2 (Recital 11 a) and 16 (Article 2 a new) introduces the useful concept of "basic obligations of the operators". These amendments are partly accepted, with a simplification of the wording. This has resulted in the acceptance of amendment 26 (Article 8).

The part of amendment 8 (Article 2 (1) (b)) concerning the deletion of the exclusion of final products and radioactive substances is justified from a technical point of view. In particular radioactive substances are frequently utilized in activities listed in Annex I, and the protection of the environment against the damages caused by these substances is not directly covered by the Euratom Treaty.

The addition of light and vibrations included in amendment 9 (Article 2.(2)), is justified from a technical point of view for a definition already including heat and noise. Other proposed additions, in particular "non ionizing radiation or similar influences", would create confusion. The same addition, included in amendment 10, must consequently be introduced in Article 2(4).

The modification of the definition of "substantial change", as proposed by amendment 12 (Article 2(9)) aims at covering more exhaustively all types of important changes. It is accepted with a modification of the wording, allowing a useful distinction between "change" and "substantial change".

Amendment 41 (Annex I.1.1. a new) concerns nuclear plants. These plants also emit substances listed in Annex III. Furthermore, their impact on the environment is not directly covered by the Euratom Treaty. This amendment is therefore accepted, with modifications to the wording.

The first part of amendment 17 (Article 4), which allows a greater flexibility in the permitting procedure for existing installations, is accepted with a slight modification.

The first part of amendment 7 (Article 1), specifying the scope of the proposal, is accepted whereas its second part, placing the efficient use of raw materials, water and energy among the main objectives of the directive, is rejected.

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<sup>(1)</sup> JO C 311 du 17.11.1993, p. 6

Other amendments, partially or entirely accepted, bring useful technical complements (43, 44, 66, 47, 49, 53, 54, 55 concerning respectively Annex I 2.5 a new, 5.1, 6.1, 6.4, 6.7 a new, Annex III, 10 a new, 10 b new, 10 c new), juridical clarification and improvements (15, 36, 40 concerning respectively Article 2(12), Article 14 final paragraph new, Article 18), or clarification of the wording (3, 25, 27, 35 concerning respectively Recital 23, Article 8(3), Article 8(5), Article 14(1)).

#### Amendments rejected by the Commission

Amendments concerning the emission register (4, 31), and insurance against effects of pollution (28) are rejected because the Commission envisages the elaboration of specific instruments including these provisions.

Amendments relating to public health (21, 38), to the assessment of the effects (18), which are not appropriate in the context of the proposal, are not accepted.

Amendments relating to the fixation of emission limit value (5, 30 paragraph 1, 2, 3, amend.37) propose rules which are neither practicable nor justified, in particular the fixation of all these values at Community level.

Amendment 30 paragraph 4 provides for a complicated taxation system which is not appropriate in the context of the proposal.

The following amendments propose minor modifications or additions which are not relevant or do not bring any significant improvement to the text of the proposal: 1, 6, 11, 13, 14, 19, 22, 23, 24, 32, 33, 34, 42, 45, 46, 48, 50, 51, 52, 56.

Amendments 20 and 29 concern fundamental obligations of the operator. They are rejected to avoid any overlapping with the accepted amendment 16.

Amendment 39 is not compatible with Council decision 87/373/EEC of 13 July 1987<sup>(2)</sup>. The Commission, therefore, maintains Art. 17 of its original proposal creating a committee of an advisory nature.

In accordance with Article 189 A paragraph 2 of the EC Treaty, the Commission modifies as follows the text of its proposal concerning integrated pollution prevention and control, in order to include the accepted amendments into its proposal.

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<sup>(2)</sup> JO L197 du 18.7.1987, p.33

COUNCIL DIRECTIVE

concerning Integrated Pollution Prevention and Control

ORIGINAL TEXT

MODIFIED TEXT

Recital 11a (new)

Whereas the operator bears responsibility for managing the environmental consequences of his activity during the entire service life of his installation and must himself attain an active strategy which contributes to improving of environmental protection on an appropriate and ongoing basis.

Recital 23

Whereas in order to inform the public about the operation of installations and the potential effect on the environment and to ensure the transparency of the licensing process throughout the Community, information relating to the application for a permit, the permit itself and associated monitoring data should be available to the public

Whereas in order to inform the public about the operation of installations and the potential effect on the environment and to ensure the transparency of the licensing process throughout the Community, the public must have access, prior to any decision, to information relating to the application for a permit and hence the permit itself and associated monitoring data.

Article 1

The purpose of this directive is to provide for measures and procedures to prevent, wherever practicable, or to minimize emissions from industrial installations within the Community, so as to achieve a high level of protection for the environment as a whole.

The purpose of this directive is to provide for measures and procedures to prevent, wherever practicable, or to minimize emissions from industrial installations referred to in Annex I within the Community, so as to achieve a high level of protection for the environment as a whole.

Article 2 (1) (b)

(b) "preparation" means mixture or solutions composed of two or more substances, but excluding final products, radioactives substances and preparations and genetically modified organisms.

(b) "preparation" means mixtures or solutions composed of two or more substances, but excluding genetically modified organisms.

Article 2 (2)

2. "pollution" means the introduction by human activity, directly or indirectly, of substances, preparations, heat or noise into the environmental media of air, water or land which may contribute to or cause : hazards to human health, harm to living resources or ecosystems or materials property or the

2. "pollution" means the introduction by human activity, directly or indirectly of substances, preparations, heat, noise, light or vibrations into the environmental media of air, water or land which may contribute to or cause : hazards to human healths, harm to living resources or ecosystems or material property or

impairment of or interference with amenities and other legitimate uses of the environment.

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#### Article 2 (4)

4. "emission" means:

- (a) a release of a substance, preparation, heat or noise to air or water (an emission to sewer being considered an emission to water); and
- (b) the deposit, storage or disposal of substances or preparation in or on land which may contribute to or cause pollution.

4. "emission" means:

- (a) a release of a substance, preparation, heat, noise, light or vibrations to air or water or to land ; and
- (b) the deposit, storage or disposal of substances or preparations in or on land which may contribute to or cause pollution.

#### Article 2 (9)

"substantial change" means an increase of 5% or more in the total amount, specific rate or concentration of emissions of any of those substances and preparations listed in annex III, as compared to those allowed under a permit or any emission of any of the substances or preparations listed in annex III which is not included in the conditions of the permit

(a) "change in operation" means a change in the characteristics, nature or method of operation or the extension of the installation which leads to a departure from the conditions of the permit or which may affect the requirements for the granting of the permit.

(b) "substantial charge" means a change in operation as referred to in subparagraph (a) which may have adverse effects on human beings or the environment.

#### Article 2 (12)

12. "existing installations" means an installation in operation before 1 July 1995 or built or permitted under existing legislation before that date ; "new installation" means an installation permitted and built after that date.

12. "existing installation" means an installation in operation before 1 July 1995 or built or permitted under existing legislation before that date, without prejudice to the Community directives specifically laid down for specific installation ; "new installation" means an installation permitted and built after that date.

## Article 2a (new)

### Basic obligations of the operator

Member States shall ensure that the operator of an installation authorized according to this directive is under an obligation to operate his installation in such a way that :

-appropriate preventive measures are taken against pollution;

-waste is prevented or recycled where it is technically feasible and economically viable

-energy, water and natural resources are rationally utilized; :

-the necessary measures are taken to prevent accidents and limit their consequences to human beings and the environment.

Member States shall ensure that the operator takes the appropriate measures in order to avoid harms to the human beings and the environment at the time when the installation has permanently ceased operation.

## Article 4

Member States shall ensure that no existing installation shall be operated later than 30 June 2005, without a permit issued in accordance with this Directive, unless this is otherwise stated in specific Community legislation. Where environmental quality standards or, where they do not exist, relevant guidelines already recommended by the World Health Organization are being breached, existing installations shall be given priority in undergoing this licensing procedures.

Member States shall ensure that no existing installations shall be operated later than 30 June 2005, without a permit issued in accordance with this Directive, or a permit meeting the substantive requirements of its articles 2a, 8, 9 and 13 unless this is otherwise stated in specific Community legislation. Where environmental quality standards or, where they do not exist, relevant guidelines already recommended by the World Health Organization are being breached, existing installations shall be given priority in undergoing this licensing procedure.

## Article 8 (3)

The permit shall contain suitable monitoring requirements, specifying the measurement methodology, frequency and evaluation procedure and an obligation to supply the competent authority with data required for checking compliance with the permit. The permit shall also require that tests on emissions carried out by the operation or by third parties

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be certified by an independent test laboratory which conforms to EN standard 45001.

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Article 8 (4)

The permit shall contain conditions to the effect that, when the installation has permanently ceased operation, all measures shall be taken in order to ensure that no harm to the environment occurs.

deleted

Article 8 (5)

The permit shall contain conditions concerning the failure/breakdown of pollution control equipment, and emission limit values for other than normal operation conditions, such as running in, start-up and shut-down but shall not contain provisions interfering with the need to protect the safety and security of the workforce.

The permit shall contain conditions concerning the failure/breakdown of pollution control equipment, and emission limit values for other than normal operating conditions, such as commissioning, start-up and shut-down but shall not contain provisions interfering with the need to protect the safety and security of the workforce.

Article 14 (1)

Member States shall take the necessary measures to ensure that applications for permits and for substantial changes are available for an appropriate period of time to the public which will have the right to comment on them before the competent authority reaches its decision. That decision, including a copy of the permit, and any subsequent revisions to it, shall also be available to the public.

Member States shall take the necessary measures to ensure that applications for operating permits and for substantial changes are available for an appropriate period of time to the public. The public will have the right to comment on them before the competent authority reaches its decision. That decision, including a copy of the permit, and any subsequent revisions to it, shall also be available to the public.

Article 14 , final paragraph (new)

A charge may be made for supplying information under the Article and Article 10, but it must be reasonable and may not exceed the cost of the administration required to supply the information.

## Article 18

This Directive shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Community legislation. Those measures shall be notified to the Commission.

1. This Directive shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Community legislation. Those measures shall be notified to the Commission.

2. Member States may take other protection measures than those prescribed in this Directive, on condition that these measures are compatible with existing Community law. They may in particular:

-define areas which are particularly polluted or which should be specially protected and forbid the construction of certain categories of installations or make their operation subject to considerations additional to the requirement to use that best available techniques;

-use economic instruments where appropriate;

-require categories of installations, in addition to those listed in Annex I, to be subject to the provisions of this Directive;

-consider other substances and preparations, in addition to those listed in Annex III, as polluting substances.

3. Member States notify to the Commission of the measures which are adopted in application of the present Article. On the basis of this information the Commission shall examine whether there is a need to take action at Community level and present where appropriate useful proposals to the Council.

Annex I, point 1.1 a (new)

1.1.a Nuclear installation, aspects not covered by the Euratom Treaty

Annex I, point 2.5 a (new)

2.5a Installations for the recycling of metal scrap

Annex I, point 5.1.

5.1. Installations for the treatment by incineration of solid and liquid waste which is not hazardous

Installations for the treatment by incineration of hazardous or non hazardous solid and liquid waste



Annex I, point 6.1

6.1. Plants for the manufacture of pulp (including integrated pulp, paper and board mills) with a production capacity of 10000 tonnes or more a year and plants for the manufacture of paper and board with a production capacity of 25000 tonnes or more a year.

6.1. Plants for the manufacture of pulp (including integrated pulp, paper and board mills) with a production capacity of 10000 tonnes or more a year and plants for the manufacture of paper and board with a production capacity of 10000 tonnes or more a year.

Annex I, point 6.4.

6.4. Installations for the canning of processing of food employing more than 50 persons

6.4. Installations for the processing of food emitting or likely to emit substances and preparations listed in the appropriate section of Annex III and which may cause pollution.

Annex I, point 6.7. a (new)

6.7.a. Installations in which surfaces are plated with metals electrolytically or chemically

Annex III, 'Water', point 10 a (new)

10a. Pesticides and biocides, with the exception of those which are rapidly converted into substances which are biologically harmless

Annex III 'Water' point 10 b (new)

10b. Substances contained in washing and cleaning products : perborates, polycarboxylates, nonyl phenols

Annex III 'Water', point 10 c (new)

10c. Complexing agents : NTA, EDTA, DTPA

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