

DAILY NEWS to Members: 20/04/2007 by Anna Törner

COMMISSION PUBLISHES GUIDANCE FOR INTERPRETATION OF INTEGRATED POLLUTION PREVENTION AND CONTROL DIRECTIVE

The European Commission recently released fresh guidance to industry and regulators on interpreting key elements of the EU's 1996 Integrated Pollution Prevention and Control (IPPC) Directive. The informal guidelines advocate a wide interpretation of central definitions, e.g. "installation" and "operator", which would tend to increase the number of plants covered by the law.

The IPPC Directive, currently under review, aims to achieve a high level of protection of the environment as a whole in an integrated and balanced way. All installations covered by Annex I of the Directive are required to obtain an authorisation (permit) from relevant authorities. The permits must be based on the concept of *Best Available Techniques* (BAT). As of October 1999, the Directive applied to all *new* installations whilst *existing* (pre-1999) installations will need to comply with the obligations by 30 October this year at the latest. The BAT reference document for large combustion plants (BREF LCP), officially published in July 2006, was strongly opposed by EURELECTRIC as, in our view, the document tended to ask for 'best ever performance' rather than *Best Available Techniques*.

In the new guidance - which is separate from the series of more formal IPPC reference documents (BREFs) - the Commission's Environment Directorate sets out its view on the meaning of fundamental concepts in the 1996 Directive, clarifying *inter alia* the concept of installation capacity, an important factor determining whether an installation is covered by the IPPC regime. Other sections of the guidance address more specific questions in different industrial sectors.

Current law defines an installation as a "stationary technical unit" where industrial activities are carried out. The new guidance says firms and regulators should err towards interpreting this as representing the whole extent of a plant, rather than just the parts of it where IPPC-listed activities occur. Similarly, the word "operator" should be interpreted widely as covering various combinations of multiple operators operating different parts of a single installation.

The guidance builds on previous Commission responses to *frequently asked questions* from stakeholders. It has been issued after governments began to raise practical questions as they inched towards implementing the law. However, the document remains unofficial and makes clear that in the event of disputes the European Court of Justice's interpretation of the IPPC provisions will be final. In the meanwhile, the Commission has launched a public consultation until 18 June that will feed into the review of the IPPC Directive for which a new proposal is expected in December this year.