

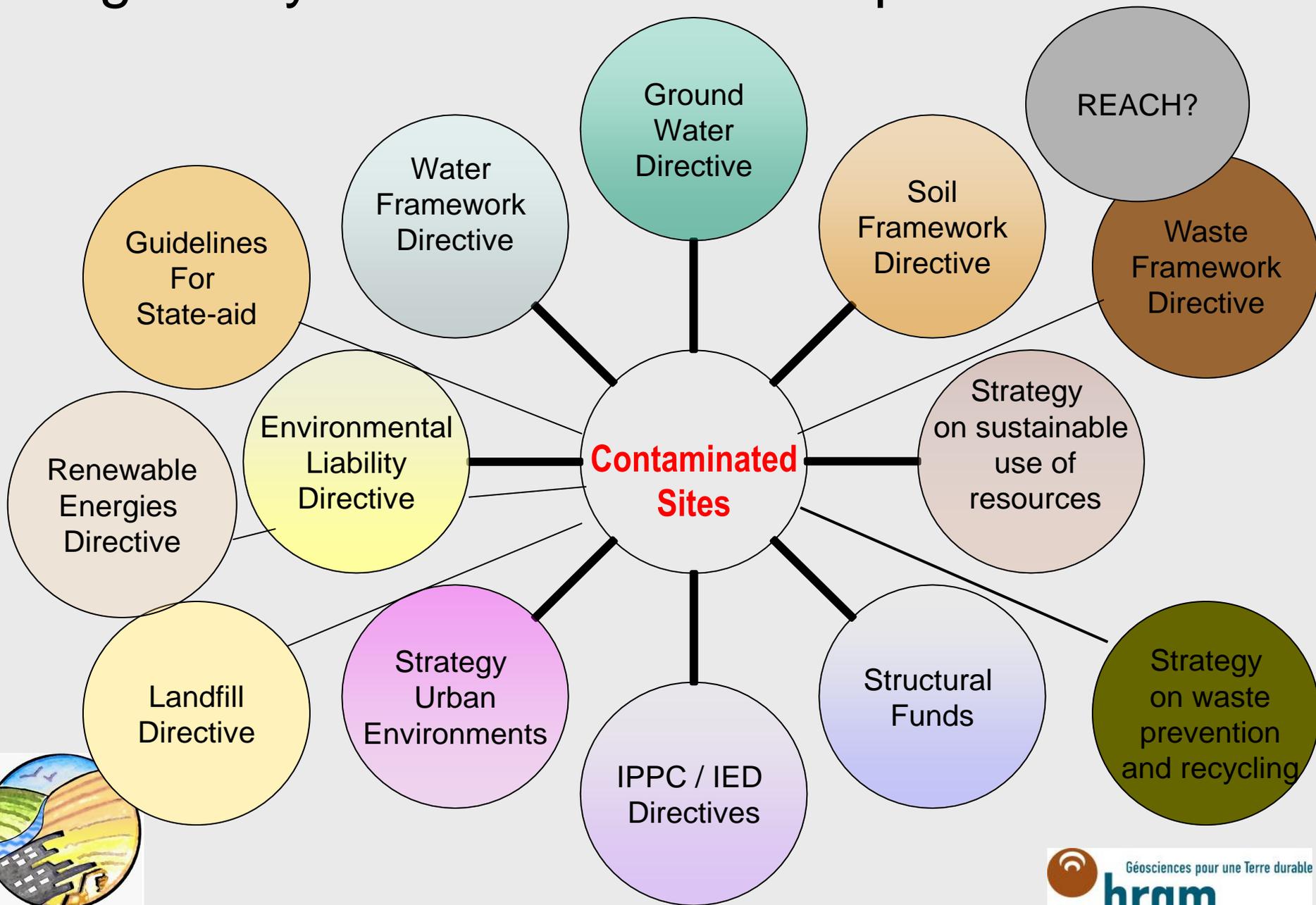
The IPPC Recast / IED Directive

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LYON - FRANCE



Regulatory environment at European level



General information

- Started as IPPC recast, ended as industrial emissions dir.
- revises and merges 7 existing directives in 1 (IPPC, large combustion plants, TiO₂)
- EC Proposal: 21 December 2007
- Europ. Parliament / Primary reading: 10 March 2009
- European Council: 23 February 2010
- European Parliament / 2nd reading 7 July 2010
- European Council: 8 November 2010
- Date of Publication: end of December 2010
- Implementation by MS + 2 years



Main Changes

- New industrial activities covered (20-50 MW combustion plants, wood production, ...)
- Revision of emission limits: Stricter limits for nitrogen oxides and sulphur dioxide (by 2016)
- Transitional national plans for large combustion plants (including fossil fuel power stations, waste incineration plants, waste co-incineration plants) by July 2020 to meet the rules
- To **receive a permit**, installations covered by IPPC rules must apply “Best Available Techniques” (BATs) to optimise their all-round environmental performance.
- **Emissions to air, soil or water**, as well as noise and safety are all considered
- **New Site closure and remediation** procedures
- Better administrative control / integration



Article 3 - Definitions

- (18) "**baseline report**" means information on the state of soil and groundwater contamination by relevant hazardous substances;
- (19) "**groundwater**" means groundwater as defined in Article 2(2) of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy;
- (20) "**soil**" means the top layer of the Earth's crust situated between the bedrock and the surface. The soil is composed of mineral particles, organic matter, water, air and living organisms;



Article 11 *General principles governing the basic obligations of the operator*

- (a) all appropriate **preventive measures** are taken against pollution;
- (b) the **best available techniques** are applied;
- (c) **no significant pollution** is caused;
- (d+e) generation of waste is prevented in accordance with Directive 2008/98/EC; Waste hierarchy +where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment;
- (g) the necessary measures are taken to **prevent accidents** and limit their consequences;
- (h) the **necessary measures are taken upon definitive cessation of activities to avoid any risk of pollution and return the site of operation to the satisfactory state defined in accordance with Article 22.**



Article 12

Applications for permits

An application for permit includes a description of the following:

- (e) where applicable, a **baseline report** in accordance with Article 22(2);
- (f) the nature and quantities of **foreseeable emissions** from the installation into each medium as well as identification of significant effects of the emissions on the environment;
- (g) the proposed technology and other techniques for preventing or, where this is not possible, reducing emissions from the installation;
- (i) further measures planned to comply with the general principles of the basic obligations of the operator as provided for in Article 11;
- (j) **measures planned to monitor emissions** into the environment;



Article 12 / Baseline report

- where activity involves use, production or release of relevant hazardous substances and having regard to the possibility of soil and groundwater contamination
- before starting operation of an installation or before a permit of installation is updated for the first time
- available existing information on soil and groundwater measurements or new soil and groundwater measurements
 - **The EC shall establish guidance on the content**



Article 14

Permit conditions

1. Member States shall ensure that the permit includes all measures necessary for compliance with the requirements of Articles 11 and 18.

Those measures shall include at least the following:

(b) appropriate requirements ensuring protection of the soil and groundwater and measures concerning the monitoring and management of waste generated by the installation;

(e) appropriate requirements for the regular maintenance and surveillance of measures taken to prevent emissions to soil and groundwater pursuant to point (b) and appropriate requirements concerning the periodic monitoring of soil and groundwater in relation to relevant hazardous substances likely to be found on site and having regard to the possibility of soil and groundwater contamination at the site of the installation;

(f) measures relating to conditions other than normal operating conditions such as start-up, leaks, malfunctions, momentary stoppages and definitive cessation of operations;



Article 16
Monitoring requirements

2. The **frequency of the periodic monitoring** referred to in Article 14(1)(e) shall be determined by the competent authority in a permit for each individual installation or in general binding rules.

Without prejudice to the first subparagraph, periodic monitoring shall be carried out at least once **every five years for groundwater and ten years for soil**, unless such monitoring is based on a systematic appraisal of the risk of contamination.



IPPC Review - IED / Discussion points

- **Periodic monitoring**
 - periodic monitoring not for all installations, for **dangerous substances likely to be found ...**;
 - frequency of at least every 5 years (GW), 10 years (soils)
 - **Monitoring of soil and groundwater and BREF-documents**
 - How to tackle monitoring of soil and groundwater and remediation of the site in BREF-documents?
 - *Substantial incremental?*
- + monitoring of IPPC plant integrity**



Article 22 - Site closure - Para 2...

2. Where the activity involves the use, production or release of relevant hazardous substances and having regard to the possibility of soil and groundwater contamination at the site of the installation, the operator shall prepare and submit to the competent authority a **baseline report** before starting operation of an installation or before a permit for an installation is updated for the first time after ...^{*}. The baseline report shall contain the information necessary to determine the state of the soil and the groundwater so as to make a quantified comparison with the state upon definitive cessation of activities provided for under paragraph 3.

^{*} OJ: Two years after the date of entry into force of this Directive.



IPPC Review - IED / Installations with Baseline Report

- upon definite cessation, ***state of soil and groundwater contamination must be assessed***
- ***significant pollution compared to base line report***, measures to return the site to state of base line report
- ***technical feasibility may be taken in to account***
- significant risk to human health or environment as result of permitted activities carried out before first update of the permit; measures must be taken so that contamination ceases to pose such a risk
 - Remediation to baseline
 - And if baseline is not enough, additional measures based on risk approach.



IPPC Review - IED / Discussion points

- Baseline report
 - Using available existing data or new measurements (qualified information)?
 - Technical feasibility for determining significant incremental of contamination for Soil and GW?
 - Grid? Risk-based?
 - Used for determination of the ‘initial state’ (art. 22)
 - Before starting operation of an installation or before a revision of the operation permit
 - can we still speak about initial state when updating a permit
 - which content? <-> *Soil Status Report of the Soil Protection directive*



Para 3

“ Upon definitive cessation of the activities, the operator shall assess the state of the soil and groundwater contamination by relevant hazardous substances used, produced or released by the installation. Where the installation has caused significant pollution of soil or groundwater by relevant hazardous substances compared to the state established in the baseline report referred to in paragraph 2, the operator shall take the necessary measures to address that pollution so as to return the site to that state. For that purpose, the technical feasibility of such measures may be taken into account.

Without prejudice to the first subparagraph, upon definitive cessation of the activities, and where the contamination of soil and groundwater at the site poses a significant risk to human health or the environment as a result of the permitted activities carried out by the operator before the permit for the installation is updated for the first time after ...* and taking into account the conditions of the site of the installation established in accordance with Article 12(1)(d), the operator shall take the necessary actions aimed at the removal, control, containment or reduction of relevant hazardous substances, so that the site, taking into account its current or approved future use, ceases to pose such risk.”



IPPC Review - IED / Discussion points

- **Remediation to initial state from baseline report**
 - zero-tolerance as a principle
 - how to deal with small elevation of concentrations not reaching remediation standards?
 - what with update of a permit?
 - only risk approach when baseline report wasn't necessary
 - does this imply that all operators have to conduct a soil investigation at definitive cessation?



Para 4

4. Where the operator is not required to prepare a baseline report referred to in paragraph 2, the operator shall, upon definitive cessation of the activities, take the necessary actions aimed at the removal, control, containment or reduction of relevant hazardous substances, so that the site, taking into account its current or approved future use, ceases to pose any significant risk to human health or the environment due to the contamination of soil and groundwater as a result of the permitted activities and taking into account the conditions of the site of the installation established in accordance with Article 12(1)(d).



IPPC Review - IED / Installations without Baseline Report

- upon definite cessation, necessary measures must be taken so that the site ceases to pose a significant risk to human health or the environment due to the contamination of soil and groundwater as a result of the permitted activities
 - **Risk based approach**
 - **For the substances of relevance!**



IPPC Review - IED / Main concerns from Industry

- More uncertainties into site closure and transfer
- Rules now are not tested fully yet – only had IPPC for a few years
- Regulatory inconsistencies – totally down to inspectorates interpretation
- Fundamentally different to our risk based approach to remediation
- how technically to assess difference between baselines
- Future, they can see the site closure process being extended further from decommissioning, to demolition, and then into site restoration.



IPPC Review - IED / one of the elements of the Soil Protection Strategy

- 4 pillars:
 - (1) framework legislation with protection and sustainable use of soil as its principal aim;
 - Revision of the Sewage Sludge Directive, the IPPC / IED Directive, the Waste Framework Directive
 - Integration of Soil Provisions in the Renewable Energies Directive
 - (2) integration of soil protection into other policies
 - Biodiversity, Climat Change, Rural development Plans, etc.
 - (3) closing the recognised knowledge gap by Community and national research programmes;
 - (4) increasing public awareness of the need to protect soil



- Merci, Thanks for your



- More information on www.commonforum.eu

