

## COMMISSION DECISION

of 29 November 2010

establishing a questionnaire to be used for reporting on the implementation of Directive 2008/1/EC of the European Parliament and of the Council concerning integrated pollution prevention and control (IPPC)

(notified under document C(2010) 8308)

(Text with EEA relevance)

(2010/728/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control <sup>(1)</sup>, and in particular Article 17 thereof,

Whereas:

- (1) Article 17(3) of Directive 2008/1/EC requires that reports on the implementation of the Directive and its effectiveness compared with other EU environmental instruments be established in accordance with the procedure laid down in Article 6 of Council Directive 91/692/EEC <sup>(2)</sup>.
- (2) Article 17(1) of Directive 2008/1/EC provides for the integration of the report on available representative data on limit values with the general implementation report.
- (3) Directive 91/692/EEC requires that the report be drawn up on the basis of either a questionnaire or outline drafted by the Commission with the assistance of the Committee set up in Article 6 of the Directive.
- (4) The first report covered the period 2000 to 2002 inclusive.
- (5) The second report covered the period 2003 to 2005 inclusive.
- (6) The third report covered the period 2006 to 2008 inclusive.

- (7) The fourth report will cover the period 2009 to 2011 inclusive.
- (8) In view of the experience gained in the implementation of Directive 2008/1/EC and in the use of previous questionnaires, the questionnaire for the period 2009 to 2011 needs to be adapted. For the sake of clarity Commission Decision 2006/194/EC <sup>(3)</sup> should be replaced.
- (9) The measures envisaged by this Decision are in accordance with the opinion expressed by the Committee in accordance with Article 6 of Directive 91/692/EEC,

HAS ADOPTED THIS DECISION:

*Article 1*

1. Member States shall use the questionnaire set out in the Annex for reporting on the implementation of Directive 2008/1/EC.
2. The reports to be submitted shall cover the period from 1 January 2009 to 31 December 2011.

*Article 2*

Decision 2006/194/EC is repealed.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 29 November 2010.

*For the Commission*

Janez POTOČNIK

*Member of the Commission*

<sup>(1)</sup> OJ L 24, 29.1.2008, p. 8.

<sup>(2)</sup> OJ L 377, 31.12.1991, p. 48.

<sup>(3)</sup> OJ L 70, 9.3.2006, p. 65.

## ANNEX

## PART 1

**QUESTIONNAIRE ON THE IMPLEMENTATION OF DIRECTIVE 2008/1/EC CONCERNING INTEGRATED POLLUTION PREVENTION AND CONTROL (IPPC)***General notes:*

This fourth questionnaire under Directive 2008/1/EC covers the period 2009 to 2011. In view of the experience gained in the implementation of the Directive and the information already obtained through the first three questionnaires, the present questionnaire focuses on the changes and progress made by Member States in the actual implementation of the Directive. As regards transposition aspects, the Commission will pursue all necessary actions to ensure full and proper transposition of the Directive into national laws, notably through diligent follow-up of infringement procedures.

This questionnaire does not change most of the aspects contained in Decision 2006/194/EC in order to ensure continuity and enable direct comparisons to be made to previous responses. In those cases where questions are similar to those of the previous questionnaires, reference can simply be made to previous answers where the situation is unchanged. If there have been new developments, these should be described in a new answer.

While answering the questionnaire on specific questions regarding general binding rules, or official guidelines issued by administrative bodies, please provide outline information on the type of rules or guidelines and web links or other means of accessing them, as appropriate.

The Commission intends to make use of the ReportNet platform (or its successor if this is the case) to make available to Member States an Electronic Reporting Tool based on this questionnaire. Accordingly, the Commission will strongly recommend its use for fulfilling this reporting requirement in order to reduce burdens and streamline the analysis of the responses.

**1. General description**

- 1.1. Have any significant changes been made since the last reporting period (2006 to 2008) to national or sub-national legislation and to the permitting system(s) that implement Directive 2008/1/EC? If so, describe these changes and the reasons for them, and provide references to the new legislation.
- 1.2. Have Member States experienced any difficulties in implementing the Directive 2008/1/EC due to limited availability or capacity of staff resources? If so, describe these difficulties as well as any plans to address them.

**2. Numbers of installations and permits (Article 2(3) and 2(4) and Article 4)**

- 2.1. Give details of the numbers of installations as defined by Directive 2008/1/EC and permits by activity type at the end of the reporting period, using the template and notes laid down in Part 2.
- 2.2. Identification of IPPC installations. If available, please provide a link to publicly accessible up-to-date information containing the names, location and main activity (Annex I) of the IPPC installations in your Member State. If such information is not publicly available, please submit a list of all individual installations operating at the end of the reporting period (names, location and main IPPC activity). If such a list were not available, please provide an explanation on why this is the case.

**3. Permit applications (Article 6)**

- 3.1. Describe any general binding rules, guidance documents or application forms produced to ensure that applications contain all the information required by Article 6, either generally or in relation to specific issues (e.g. methodology for the assessment of significant emissions from installations).

**4. Coordination of the permitting procedure and conditions (Articles 7 and 8)**

- 4.1. Describe any changes made since the last reporting period in the organisational structure of the permitting procedures, in particular concerning the levels of competent authorities and distribution of competencies.

- 4.2. Are there any particular difficulties in ensuring full coordination of the permitting procedure and conditions as required by Article 7, especially where more than one competent authority is involved? Describe any legislation or guidance documents produced on this issue.
- 4.3. What legal provisions, procedures or guidance are used to ensure that competent authorities refuse to grant a permit in cases where an installation does not comply with the requirements of Directive 2008/1/EC? If available, give information on the numbers and circumstances in which permits have been refused.
5. **Appropriateness and adequacy of permit conditions (Article 3(1)(d) and (f), Article 9 and Article 17(1) and (2))**
- 5.1. Describe any general binding rules or specific guidelines for competent authorities that have been issued on the following issues:
1. the procedures and criteria for setting emission limit values and other permit conditions;
  2. the general principles for the determination of best available techniques;
  3. the implementation of Article 9(4).
- 5.2. Issues related to the BAT Reference Documents (BREFs) established pursuant to Article 17(2) of Directive 2008/1/EC:
1. How, in general terms, is the information published by the Commission pursuant to Article 17(2) taken into account generally or in specific cases when determining best available techniques?
  2. How are the BREFs concretely used for setting permit conditions?
  3. Are the BREFs (or part of them) translated?
  4. How useful, as a source of information for determining emission limit values, equivalent parameters and technical measures based on the best available techniques, is the information published by the Commission pursuant to Article 17(2)? How could it be improved?
- 5.3. Other issues relating to permit conditions:
1. Have environmental management systems been taken into account in setting permit conditions? If so, how?
  2. What types of permit conditions or other measures have typically been applied for the purposes of Article 3(1)(f) (site restoration upon definitive cessation of activities) and how have they been implemented in practice?
  3. What types of permit conditions relating to energy efficiency have typically been determined (Article 3(1)(d))?
  4. Has the possibility set in Article 9(3) to choose not to impose requirements relating to energy efficiency been used and, if so, how has this been implemented?
6. **Available representative data (Article 17(1))**
- 6.1. Provide available representative data on the limit values laid down for specific categories of activities listed in Annex I to Directive 2008/1/EC, and, if appropriate, on the best available techniques from which those values are derived, as well as on the associated environmental performance.

The Commission will suggest guidance for responding to this question targeting two particular sectors. The reported data will be assessed to compare, as far as possible, the limit values set, the performance achieved and, where available, the BAT-associated emission levels in BREFs.

**7. General binding rules (Article 9(8))**

- 7.1. For which categories of installations and which requirements, if any, have general binding rules been established, as provided for by Article 9(8)? Provide reference to the general binding rules. What form do such rules take (e.g. who establishes them and what legal status do they have)? When applying such rules, is provision still made for taking into account the local factors (mentioned in Article 9(4))?
- 7.2. If known, how many installations (either as an absolute number or a percentage) were subject to these rules by the end of the reporting period?

**8. Environmental quality standards (Article 10)**

- 8.1. Have cases arisen where Article 10 applies and the use of best available techniques is insufficient to satisfy an environmental quality standard (as defined in Article 2(7))? If so, give examples of such cases and the additional measures taken.

**9. Changes to installations (Article 12 and Article 2(10))**

- 9.1. How do competent authorities decide in practice, pursuant to Article 12, whether a 'change in operation' may have consequences for the environment (Article 2(10)), and whether such a change is a 'substantial change' that 'may have significant negative effects on human beings or the environment' (Article 2(11))? Give reference to relevant legal provisions, guidance or procedures.

**10. Reconsideration and updating of permit conditions (Article 13)**

- 10.1. Is the frequency of reconsideration and, where necessary, updating of permit conditions (Article 13) specified in national or sub-national law, or determined by other means, such as time limits in permits? If so, what are those other means? Give reference to relevant legislation, guidance or procedures.
- 10.2. What is the representative frequency for the reconsideration of permit conditions? In cases of differences between installations or sectors, provide illustrative information if available.
- 10.3. What does the process of reconsidering and updating permit conditions consist of? How is the provision to reconsider permit conditions in cases of substantial changes in the best available techniques implemented? Give reference to relevant legislation, guidance or procedures.

**11. Compliance with permit conditions (Article 14)**

- 11.1. How is the requirement of Article 14 that operators regularly inform authorities of the results of release monitoring implemented in practice? Give reference to any specific regulations, procedures or guidelines for competent authorities on this subject.
- 11.2. Is a periodic monitoring report submitted by all operators? Provide information on the representative frequency for the submission of such information. In cases of differences between sectors, provide illustrative information if available.
- 11.3. If not already submitted in the reporting under the Recommendation providing for minimum criteria for environmental inspections in the Member States, please provide the available information as regards installations falling under the scope of Directive 2008/1/EC, on the following issues:
  1. the main elements which an environmental inspection performed by Competent Authorities may constitute of (description);
  2. the total number of site visits by competent authorities during the reporting period (number);
  3. the total number of installations where such site visits took place during the reporting period (number);

4. the total number of site visits during which emission measurements and/or sampling of waste by or on behalf of the competent authorities took place during the reporting period (number);

5. the types of actions (e.g. sanctions or other measures) taken as a result of accidents, incidents and non-compliance with permit conditions during the reporting period (description).

#### 12. Information and participation of the public (Articles 15 and 16)

12.1. What, if any, significant changes have there been since the last reporting period to transposing legislation providing for information and participation of the public in the permit procedure, as required by Directive 2008/1/EC (Articles 15 and 16)? What has been the effect upon competent authorities, permit applicants and the public concerned of these requirements?

#### 13. Transboundary cooperation (Article 18)

13.1. Have there been instances in the reporting period of the use of Article 18 requirements in respect of transboundary information and cooperation? Provide examples illustrative of the general procedures used.

#### 14. Effectiveness of the Directive

14.1. How do Member States generally view the effectiveness of Directive 2008/1/EC, inter alia, in comparison with other EU environmental instruments? Based on relevant studies and analysis, if available, what have been the estimated environmental benefits and costs (including administrative and compliance costs) of implementing the Directive 2008/1/EC? Give references to these studies and analyses.

#### 15. General observations

15.1. Are there any particular implementation issues that give rise to concerns in your Member State? If so, please specify.

### PART 2

#### TEMPLATE FOR RESPONSE TO QUESTION 2.1

INSTALLATION TYPE		A. INSTALLATIONS		B. SUBSTANTIAL CHANGES	C. PERMIT RECONSIDERATION AND UPDATE	
Code	Main activity operated in the installation as set out in Annex I to Directive 2008/1/EC	1. Number of installations	2. Number of installations covered by a permit which is in full compliance with the IPPC Directive	3. Number of substantial changes undertaken during the reporting period without a permit according to Article 12(2)	4. Number of installations for which the IPPC permit has been reconsidered during the reporting period in accordance with Article 13	5. Number of installations for which the IPPC permit has been updated during the reporting period in accordance with Article 13
1.	<b>Energy</b>					
1.1.	Combustion					
1.2.	Mineral oil and gas refining					
1.3.	Coke ovens					
1.4.	Coal gasification and liquefaction					
2.	<b>Metals</b>					
2.1.	Metal ore roasting/sintering					
2.2.	Producing pig iron or steel					
2.3(a)	Hot-rolling mills					
2.3(b)	Smitheries					
2.3(c)	Applying fused metal coats					
2.4.	Foundries					
2.5(a)	Producing non-ferrous crude metals					

Code	Main activity operated in the installation as set out in Annex I to Directive 2008/1/EC	1. Number of installations	2. Number of installations covered by a permit which is in full compliance with the IPPC Directive	3. Number of substantial changes undertaken during the reporting period without a permit according to Article 12(2)	4. Number of installations for which the IPPC permit has been reconsidered during the reporting period in accordance with Article 13	5. Number of installations for which the IPPC permit has been updated during the reporting period in accordance with Article 13
2.5(b)	Smelting non-ferrous metals					
2.6.	Surface treatment of metals and plastic					
3.	<b>Minerals</b>					
3.1.	Producing cement or lime					
3.2.	Producing asbestos					
3.3.	Manufacture of glass					
3.4.	Melting minerals					
3.5.	Manufacture of ceramics					
4.	<b>Chemicals</b>					
4.1.	Producing organic chemicals					
4.2.	Producing inorganic chemicals					
4.3.	Producing fertilisers					
4.4.	Producing plant health products/biocides					
4.5.	Producing pharmaceuticals					
4.6.	Producing explosives					
5.	<b>Waste</b>					
5.1.	Disposal or recovery of hazardous waste					
5.2.	Incineration of municipal waste					
5.3.	Disposal of non-hazardous waste					
5.4.	Landfills					
6.	<b>Other</b>					
6.1(a)	Producing pulp					
6.1(b)	Producing paper and board					
6.2.	Pretreatment or dyeing of fibres or textiles					

Code	Main activity operated in the installation as set out in Annex I to Directive 2008/1/EC	1. Number of installations	2. Number of installations covered by a permit which is in full compliance with the IPPC Directive	3. Number of substantial changes undertaken during the reporting period without a permit according to Article 12(2)	4. Number of installations for which the IPPC permit has been reconsidered during the reporting period in accordance with Article 13	5. Number of installations for which the IPPC permit has been updated during the reporting period in accordance with Article 13
6.3.	Tanning hides and skins					
6.4(a)	Slaughterhouses					
6.4(b)	Treatment and processing of food products					
6.4(c)	Treatment and processing of milk					
6.5.	Disposal or recycling of animal carcasses					
6.6(a)	Intensive rearing of poultry					
6.6(b)	Intensive rearing of production pigs					
6.6(c)	Intensive rearing of sows					
6.7.	Surface treatment using organic solvents					
6.8.	Producing carbon or electro-graphite					
6.9.	Capture of CO <sub>2</sub> streams (Directive 2009/31/EC of the European Parliament and of the Council)					
Totals						

*Explanatory notes to the template:*

Except where indicated otherwise, the figures should reflect the situation as it is at the end of the reporting period (31 December 2011).

The collection of data in this template will be based in the 'number of installations' and the 'number of substantial changes' using the operational definitions of 'installation' in Article 2(3) and 'substantial change' in Article 2(11) of the Directive 2008/1/EC.

The 'installation type' refers to the main activity operated in the installation. Installations should only be reported under one single activity, also where several IPPC activities are being operated within the installation.

Further guidance and explanation in relation to the data sought in the Table are given in notes below. Member States are requested to complete the Table as far as possible.

**A. NUMBER OF INSTALLATIONS**

1. Number of IPPC installations: total number of installations (both existing and new) operating in the Member States at the end of the reporting period regardless of the status of their permitting.

2. Number of installations covered by a permit which is in full compliance with the Directive: total number of IPPC installations covered by one or more permits granted in accordance with the IPPC Directive (including pre-IPPC permits which have been reconsidered/updated) regardless of when the permit(s) had been issued or whether the permit has been reconsidered, updated, or amended/renewed due to any reason.

For counting the number of installations to be reported Member States shall consider the status of the permit(s) covering each installation at the end of the reporting period. Please note that the numbers refer to installations, not permits (acknowledging that one installation may be covered by several permits and vice versa).

Consistency rule: 1 minus 2 shall be equal to the number of installations which are not covered by a fully compliant IPPC permit for any reason (procedure not concluded, not full coverage of all activities, etc.). Where this figure is different from zero, this indicates a potential breach of the IPPC provisions.

#### B. SUBSTANTIAL CHANGES

3. Number of substantial changes undertaken during the reporting period without a permit according to Article 12(2): number of substantial changes known to the competent authorities which were effectively implemented by the operators without a permit as required pursuant to Article 12(2).

Where this figure is different from zero, this indicates a potential breach of the IPPC provisions.

#### C. PERMIT RECONSIDERATION AND UPDATE

4. Number of IPPC installations for which the IPPC permit has been reconsidered during the reporting period in accordance with Article 13: total number of installations covered by one or more permits which have been reconsidered in accordance with Article 13.
  5. Number of IPPC installations for which the IPPC permit has been updated during the reporting period in accordance with Article 13: total number of installations covered by one or more permits which have been updated in accordance with Article 13.
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