

Finnish report – Implementation and application of the IPPC-directive

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General questions about the implementation and application of the IPPC-directive and the role of the courts

1. General part of the report

1. How many IPPC-plants are there in your country?

There were approximately 700 IPPC plants in Finland in 2007.

2. In what way are questions concerning the application of the IPPC-directive brought to court (litigation, application for a permit, appeal of a permit decision, application for a summons, criminal offence)?

Normally the application of the Directive in a Court is linked to appeals against *permit decisions* or decisions taken by *supervisory authorities*. Permit decisions are taken by administrative authorities, as are also decisions concerning use of administrative force (injunctions, rectification of a violation or negligence etc.). All of these decisions made under the Environmental Protection Act (EPA, 86/2000) can be appealed to Vaasa Administrative Court and further to the Supreme Administrative Court.

However, in the case of a criminal offence under the Penal Code, also an ordinary Court of law may resolve questions concerning the operation of IPPC plants.

3. Which authority (authorities) issues permits according to the IPPC-directive? How far has the integration according to the directive reached? Can, in your country, one authority issue an IPPC-permit comprising the total environmental impact of the polluting activity (water, air, land, waste etc) or does the company (the applicant) have to send applications to different authorities?

According to the EPA there are permit authorities at the *state level* and at the *municipal level*. Present permit authorities at the state level are *Environmental Permit Agencies* (3 in Finland, formed after the model of the previous Water Courts) and *Regional Environmental Centres* (13). From 2010 on, after a major reform of regional state administration, the two permit authorities merge into Regional Environmental Permit Authorities (4 in mainland Finland, the Åland Islands not being affected by the reform). At the municipal level the responsible authority is the *Municipal Environmental Protection Authority*, typically an Environmental Board.

The *competence* of the permit authorities is defined in the EPA and in the Environmental Protection Decree (EPD, 169/2000). Typically, large-scale plants belong to the competence of the Environmental Permit Agencies and minor plants to that of municipal authorities. The competences have not, however, been defined directly so that only the Environmental Permit Agencies would be responsible for permit applications of IPPC plants. For example, the permit for a large combustion plants (over 50 MW) will be issued by the Regional Environmental Centre - unless fuel power

exceeds 300 MW, in which case the permit application is decided by the Environmental Permit Agency. Waste incineration plants and animal production, in turn, lie exclusively within the competence of Regional Environmental Centres. After the administrative reform described above, the distinction will vanish and all IPPC plants fall under the competence of the new regional permit agencies.

An environmental permit under the EPA *comprises all elements of pollution control*, i.e. emissions into the air, discharges into waters, soil pollution, noise abatement, waste management etc. In this respect, the level of integration is high.

However, the operator may still need many more permits or other types of decisions before he can realise the project. For instance, building of the plant requires a building permit. The permit for an industrial plant can be issued only if a land use plan has been approved or an exemption of the planning obligation has been obtained. The operation of the plant may presuppose different technical permits etc. under the extensive chemicals legislation and safety regulations. If it is necessary for the realisation of the project to take water or groundwater or to make constructions in a water area, a permit under the Water Act may be needed. In certain cases this permit can be handled in the same procedure as the environmental permit; in these cases (so-called mixed projects) the Environmental Permit Agency is the competent authority.

4. Which authority or court hears appeals against IPPC-permits? What competence does the authority or court have to change/amend a permit? Can it for example decide about new or changed conditions? Can it just withdraw the permit or parts of the permit?

Vaasa Administrative Court, which was formed in 1999 by uniting the former Superior Water Court and Vaasa Provincial Court, is the only competent administrative Court to hear appeals against permit decisions under the EPA. This implies that even if a municipal civil servant has – on the basis of subdelegation – issued a permit, the appeals shall be directed to Vaasa Administrative Court. Hence, the answer to the first question is: *Vaasa Administrative Court* in the first instance and *the Supreme Administrative Court* in the last instance.

Administrative Courts - Vaasa Administrative Court and the Supreme Administrative Court – have *wide powers to change and amend the permit*. They can change limit values set in the permit conditions, amend the permit by new conditions and repeal the permit partly (e.g. in some peat production cases permits have been partly repealed for instance on nature conservation grounds or because of emissions of particulate matter if the production field is close to the neighbouring settlement). Of course the Court has to be careful so as not to change the permit totality in a manner that would make it impossible to realise the project specified in the permit application. In such a case, it is often more practicable to repeal the permit decision and to remand the case back to the permit authority – if the Court does not find that the project cannot at all fulfill the preconditions required by the EPA (section 42). Actually, the only principal restraint for Courts is that they cannot grant a permit if the application has been disallowed. In such a case, the decision of the permit authority has to be repealed and the case remanded back to the competent administrative authority.

5. Who – in addition to the operator of the plant - can bring a case concerning IPPC-matters to court by appealing against an IPPC-permit? What about for example people living in the neighbourhood, NGOs and authorities on different administrative levels (local, regional, national)? What kinds of obstacles are there for them to bring a case to court; for instance different kinds of procedural costs?

The right to appeal against a permit decision belongs to 1) those whose rights or interests the decision may affect (e.g. people living in the area that is to a relevant extent affected by the plant in question by noise, emissions of particles, smell, or discharges into waters in which case the relevant effect can extend as far as several kilometres), 2) registered associations or foundations whose purpose is to promote environmental protection, health protection or nature conservation or the amenity of living environment in the area affected by operations (i.e. NGOs, irrespective of how long they have been existing and how many members they have), 3) the municipal authority in whose area the environmental impacts occur, 4) the Regional Environmental Centre and the Municipal Environmental Authorities of the municipality in question and of municipalities on whose area the environmental impacts occur (i.e. authorities responsible for public interest which, at the same time, are supervisory authorities under the EPA), and 5) other authorities safeguarding public interest in matters within their sphere of activity (e.g. fisheries authorities).

Procedural costs in Finnish Administrative Courts are low. The appellant has to pay a fee (fee of procedure) of 89 euro in the Administrative Court and 223 euro in the Supreme Administrative Court. There is no obligation to hire a lawyer, and even laymen can make successful appeals in the administrative judicial procedure. According to section 33 of the Administrative Judicial Procedure Act the Court is responsible for reviewing the matter. Where necessary, it shall inform the party or the administrative authority that made the decision of the additional evidence that needs to be presented. The Court shall on its own initiative obtain evidence in so far as the impartiality and fairness of the procedure and the nature of the case so require. In addition to this, the risk to be obliged to pay the opposite party's procedural costs is in practice low. If a neighbour appeals against a permit decision he or she will only in exceptional cases (if the appeal is manifestly illfounded and only serves a purpose to halt the project without any real interest) be obliged to reimburse the operators costs.

The administrative authority that resolves a permit application will charge the applicant a fee that, in principle, covers the administrative costs for the decision. The fee may vary from a few hundred euros to tens of thousands, depending on the scope of the application.

6. On what basis is decided what is considered to be the best available technique (BAT) in a certain case? What is the role of the BREF documents?

There are *legal definitions*, based on the IPPC Directive, in the EPA and the EPD. According to section 3 (Definitions) of the EPA, best available technique refers to methods of production and treatment that are as efficient and advanced as possible and technologically and economically feasible, and to methods of designing, constructing, maintenance and operation with which the pollutive effect of activities can be prevented and most efficiently reduced. A technique is technologically and economically feasible when it is generally available and may be applied in the relevant field at a reasonable cost. More detailed provisions concerning the factors to be taken into account when defining the best available technique shall be laid down by decree. These criteria are included in section 37 of the EPD. Of the 12 factors enumerated in the section the following ones can be mentioned: the hazard level of employed substances and the scope for using less hazardous alternatives; the quality and consumption of raw materials used; energy efficiency; developments in technology and natural science; and information on best available techniques published by the EC Commission or international bodies.

According to section 4 (General principles) of the EPA, the best available technique shall be used in all activities that pose a risk of pollution. Negligence to obey this general principle cannot, however, immediately and as such, lead to injunctions or criminal sanctions. On the contrary,

activities liable to an environmental permit are under an obligation to use the best available techniques (section 43 subsection 3 sentence 2): Permit conditions concerning the prevention and limitation of emissions shall be based on the best available technology, without specifying a certain set techniques to be used. In legal practice this has been confirmed to be the minimum standard of performance in spite of the fact that the first sentence of the subsection in question could be understood to allow a more lenient standard. In addition, the preconditions for granting a permit (section 42 of the Act) shall in any case be fulfilled; using the best available techniques is not necessarily enough to obtain a permit.

Obviously, the interpretation on what is BAT in a given case has to be based on these statutory starting points. In practice, the BREF documents play an important role when assessing if a given technical solution meets the standard of BAT. The significance of BREF documents has been acknowledged in some published decisions of the Supreme Administrative Court (see e.g. SAC 2007:19 and SAC 2.11.2006 nr 2912). In the last mentioned case the Court reasoned as follows: In the BREF document data on best available technology concerning pulp and paper industries were available. When setting permit conditions, the Document was one source of information to assess the best available technology presupposed from an industrial plant. Because of differences in circumstances and between different plants the Document as such did not aim to define what the requirement of the best available technology would presuppose in a given case. Even otherwise the emission limit values should in individual cases be issued on the basis of an overall consideration, but so that the requirement of the best available technology would, at any rate, be met.

7. Is there a time limit for the IPPC-permit, or is the permit valid forever? Is the permit holder obliged to apply for a new permit after a certain time period? Can a supervisory authority issue injunctions, which go further than the conditions of the permit as regards environmental matters? Under what circumstances can a supervisory authority request a review of the permit and its conditions?

Depending on the matter concerned, environmental permits are issued either until further notice or for a fixed period (section 52, subsection 1 of the EPA). In practice, most permits for permanent activities are “valid forever”, but their conditions shall be examined after a fixed period of time (see below). However, the provision does not prohibit the permit authority to limit the time frame of the permit. Most often permits for a fixed period are granted for activities which are planned to be operated only for a certain time (e.g. stone crushing plants) or when the environmental impacts are exceptionally difficult to assess in advance and the constructions for operation can be removed relatively easily (e.g. cage fish farming). The main difference between these two types of permits is the sphere of reconsideration after the relevant time period. If the permit is valid until further notice, reconsideration shall normally be restricted to permit conditions. In contrast, the permit for a fixed period can be completely reconsidered concerning the location of the plant or the recipient where the discharge into waters takes place and so on, including the possibility to reject the application.

A permit granted for a fixed period expires when the period ends, unless otherwise stipulated in the permit decision (section 55, subsection 1 of the EPA). Typically, the permit includes a condition which requires the permit holder to apply for a new permit within a certain time frame, if he wants to carry on the activity also after the expiry date of the permit.

Permits granted until further notice must set the date by which an application for the review of permit conditions must be made and specify any reports that must be submitted by that time, unless such a stipulation is manifestly unnecessary (section 55, subsection 2 of the EPA). In practice, almost every permit will be reviewed at an interval of four to ten years, depending on the nature of

the activity and its environmental impact etc.

In addition, reviewing of the permit conditions is possible on application by a supervisory authority, a relevant authority protecting a public interest or a party suffering harm. Review shall take place on grounds fixed in section 58, subsection 1 of the EPA. The decision is made by the authority that has granted the permit; the case shall, as appropriate, be processed similarly to a permit application. The grounds for amending a permit are:

- 1) pollution or risk thereof caused by the activity is materially different than was expected,
- 2) the activity has a consequence prohibited in the EPA (e.g. pollution of groundwater),
- 3) emissions may be reduced considerably without undue cost due to advances in the best available technology,
- 4) circumstances have changed substantially since the granting of the permit, or
- 5) it is necessary for the observation of provisions issued for the purpose of fulfilling an international obligation binding on Finland.

In practice, only few cases concerning the amendment of a permit have been pending. This is probably because of the regular review of permit conditions (section 55, subsection 2 of the EPA). In extreme cases it is also possible to revoke the permit (section 59 of the Act), but no such cases have been reported to us.

8. Is the choice of the localisation of an IPPC-plant considered in the same process as the IPPC-permit and the conditions for the permit? Or is the localisation decided in a separate process according to another legislation? In that case; which comes first, the decision on the localisation or the IPPC-permit?

The permit authority reviews the application for operation on the proposed site and has little authority to consider alternative locations. Thus, on a regional or national level, localisation is decided irrespectively of the environmental licensing procedure. On a broad scale, localisation of industrial plants is guided by municipal land use planning decisions and, on a local scale very much depends on the activity of the applicant.

The permit authority has the choice to reject or approve the proposed activity on the proposed site. Alternative locations can be considered to a limited extent (e.g. if a farmer has at his disposal a piece of land where the pig farm could be located so as to minimise pollution, compared with the proposed site). In this narrow sense, localisation of an IPPC plant is considered in the same procedure as the permit and its conditions. The system does not recognise a separate procedure where e.g. a politically elected body, such as the Cabinet or a Ministry, could make a decision concerning localisation of IPPC plants. However, there are specific systems for decision-making concerning nuclear power plants.

Land use planning has a considerable impact on the localisation of IPPC plants, and land planning is interlinked with certain provisions of the EPA (see below). Also the EIA procedure (see below) should be mentioned, even if no decisions are made in this procedure where the overall environmental impacts of the activity are assessed. In practice, the findings made in the EIA procedure may still have a considerable impact on choosing the localisation between several alternatives.

Principles of choice of localisation are included in section 6 of the EPA. Activities posing a risk of pollution must be located so that they will not cause pollution or pose a risk thereof and so that pollution can be prevented, whenever feasible. Three criteria shall be taken into account when the

suitability of a location is being assessed, namely:

- 1) the nature of the activity, the probability of pollution occurring and the accident risk,
- 2) the present and future land use indicated in a legally binding land use plan for the area and its surroundings and the plan provisions that concern the area, and
- 3) other possible locations in the area.

Section 6 is, at least in principle, applied to all polluting activities, irrespective of whether a permit is necessary or not. In section 42 (Preconditions for granting a permit), subsection 2, of the EPA land use planning is directly linked to the permit procedure. Activities must not be located in conflict with a detailed local plan. In addition, the provisions of section 6 apply to location. This means that an activity can be granted a permit, even if there is no detailed land use plan, but the permit may not be granted in conflict with such a plan. Also general land use plans (master plans) may have an effect on the localisation, even if contradiction with a master plan does not as such constitute an obstacle for granting a permit.

9. Are the EIA-directive (Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, 85/337/EEC) and the IPPC-directive implemented in the same legislation in your country, so that you in one single process get a permit that fulfils the demands of both directives? If not so; how is the EIA-directive implemented? For example in a special legislation, in planning and building legislation or otherwise?

The EIA Directive has been implemented through special legislation, whereas the IPPC Directive has been implemented in the Environmental Protection Act. The EIA Directive has been implemented by a framework Act on the Environmental Impact Assessment Procedure (468/1994). The EIA Act, in turn, is crosslinked with other environmental legislation. E.g. when an EIA is necessary, an environmental permit may not be granted if an Environmental Impact Statement (EIS) has not been attached to the permit application files.

This solution is based on the fact that the EPA covers only projects causing environmental pollution. Obviously, there are many other types of projects falling under other legislation than the general act on pollution control (= the EPA), such as water management projects, mines, roads and railroads. An EIA may be required also for such projects and, hence, the EIA Act is linked also to the Water Act, the Mines Act, the Roads Act and the Railroads Act etc.

It must be emphasised that in Finland the EIA legislation has been passed to fulfil the requirements set in the EIA Directive. Environmental impact caused by projects not requiring an EIA shall also, of course, be reported and evaluated, but this is part of the ordinary permit procedure. If an EIA referred to in the Directive is necessary, a separate EIA procedure precedes the environmental permit procedure. The EIA procedure ends when the Coordinating Authority (Regional Environmental Centre) gives its opinion concerning the EIS. This implies that the procedure does not lead to a decision, which could be subject to appeals. The EIS and opinions will be attached to permit applications of the project. The data and materials collected within the EIA procedure can be used as a basis in the relevant permit procedures.

10. Suppose an existing IPPC-plant wants to double its production and that this will be done by duplicating most of the process equipment. The plant will thus consist of an old and a new line of production, but some equipment that is necessary for environment protection will be parted so that it is used by both lines. The application concerns only the increase of production (the new line) and not the whole production (both old and new line). How does the permit authority handle this situation? Does it issue a permit concerning only the increased production (the new line)? Or does

it demand a new application concerning the whole production (old and new line)? Or what? (See article 12.2.) This question can be considered in light of the EIA-directive, which demands the assessment of a project as a whole (and no cutting of the salami!).

First of all, an environmental permit is required for any alteration of an activity that increases emissions or the effects thereof or any other material alteration of an activity for which a permit has already been granted (section 28, subsection 3, of the EPA). The provision is said to compare to article 2, points 10 and 11 of the IPPC Directive; also article 12, paragraph 2 was referred to in the *travaux préparatoires*. However, no permit is required, if the alteration does not increase environmental impacts or risks and the alteration does not require revision of the permit (e.g. in order to make supervision of the activity possible, the activity has to compare to the ramifications of the permit). This exception cannot, for instance, be applied when the fuel of a combustion plant will be changed from oil to natural gas even if it would reduce emissions into the air. The requirements for emission reduction vary according to the fuel and the best available techniques to be used have to be assessed according to the fuel(s), which will be used.

When the EPA entered into force, existing activities did not, as a rule, have to apply for a new permit. However, there were many exceptions to this rule. In case the modification of a plant or a process required a permit according to section 28(3) of the EPA, a new permit application was to cover the whole activity. This provision is directed to guarantee that permits under previous legislation will be updated when operation changes.

There is not a comparable, explicit rule concerning the coverage of the permit, if an activity already having an EPA-permit will be altered. However, given the interpretative effect of the IPPC Directive and the objectives of the EPA, it should be evident that the discretion of the permit authority is not restricted exclusively to the “new part” of the activity. The totality of environmental impacts of the whole activity can and shall be taken into account. But in cases where a minor change in operation of the plant only has effects, say, on the noise levels in the neighbourhood, the permit authority shall not reassess the whole activity and its permit conditions even if an application to alter the permit has been lodged.

Also more generally the starting point of the EPA is that the permit decision shall cover the relevant activity as a whole. This is reflected, i.a., in the definition of “activity that poses a threat of environmental pollution” in section 3, subsection 1, point 2 of the Act. The definition covers founding or use of an installation and any activity that is technically and operationally incorporated into the installation. Case SAC 2007:89 concerned an environmental permit application to build a so-called stabilisation field. The field would be constructed by using contaminated soil transported from other sites. Afterwards, a centre for treatment of contaminated soils would be located in the area. An EIA concerning the centre had been made. The waste treatment entity belonged to the sphere of application of the IPPC Directive. Taking into account the interpretative effect of Article 2, paragraph 3 of the Directive, the stabilisation field was considered to be technically and operationally an integral part of the waste treatment activity to be located on the site. Hence, the field together with the treatment centre constituted an activity posing a threat of environmental pollution, referred to in section 3, subsection 1, point 2 of the EPA. Therefore, the environmental permit granted to build the stabilisation field was repealed, because the permit application of the field could not be decided as a separate case, decoupled from the application of the treatment centre for contaminated soils.

11. Can the permit authority decide on conditions based on BAT, even if the application only describes environment protection measures that are less strict? How does the authority handle

applications that are not based on BAT?

As mentioned above under 6, the EPA presupposes that emission limit values shall be based on BAT. It is a minimum standard, but of course the assessment of what is BAT in a given situation varies. The authority may, for instance, provide more stringent emission limit values than was proposed by the operator. Also an administrative Court may, on the appeals of the victims of pollution, NGOs or authorities, change a limit value issued by the permit authority into a more strict direction.

On the other hand, if the total environmental impact by the plant in question and other polluting activities exceeds an acceptable level (see section 41, subsection 1, and 42, subsection 1, of the EPA), even the use of BAT is not enough. If the operator cannot employ (even) stricter protection measures than could be required by using the BAT standard, the permit application shall be disallowed.

12. If there are national general rules on emission standards that do not match BAT, how are they applied by the permit authority?

General rules on emission standards are often based on EU Directives. They are nationally implemented by Decrees of the Cabinet. If emission standards because of technical progress do not any longer meet the general criteria of BAT, the standards should, in the first place, be reviewed. While this cannot always be the case, it shall be guaranteed that emission limit values issued in environmental permits still meet the requirement of BAT, as provided in the IPPC Directive.

According to section 51 of the EPA, a permit condition (e.g. an emission limit value) may be more strict than a specific environmental protection requirement included in a Decree issued under the EPA or the Waste Act in four situations:

- 1) for the purpose of meeting the preconditions for granting a permit (see e.g. section 42, subsection 1 of the EPA, implying e.g. that no harm to health, other significant environmental pollution or risk thereof or pollution of groundwater will result)
- 2) to ensure that environmental quality requirements issued by Decree are met (obviously, even using BAT, not to talk about aged emission standards, must not lead to violation of environmental quality standards)
- 3) to protect waters (this exception is motivated by the previous lenient standard of EU Directives concerning discharges into waters), and
- 4) in order to comply with the best available techniques, if this option is laid down in a provision of a Decree to implement an EU Directive.

The last point seems to presuppose that the applicable Decree contains an explicit provision, which allows the authority to issue a more stringent emission limit value in the permit if the emission standard laid down in the Decree (and the Directive implemented through the Decree) does not compare to BAT. Such a provision is included e.g. in the Decree implementing the LCP (Large Combustion Plants) Directive, whereas that kind of a provision is missing e.g. from the Decree implementing the Waste Incineration Directive. In legal practice, though, the interpretative effect of the IPPC Directive has led to decisions (e.g. SAC 2007:19), where it has been proclaimed that emission limit values in environmental permits shall always be based on BAT as a minimum. Permit conditions may not be based on outdated emission standards, irrespective of whether the Decree in question allows a deviation or not.

13. How do existing industries meet the demands of the IPPC-directive in your country? Who has

the responsibility to make sure that the requirements are met? Is it the supervisory authority, the operator of the plant or someone else? What are the consequences if an existing industry does not meet the requirements? Can it be closed? Or is a certain time period accepted before measures? How long? (See article 5.)

When the EPA entered into force in March 2000, all IPPC plants had to apply for a new integrated permit according to the EPA by the end of 2003 or 2004, depending on the category of the activity. The duty to lodge a permit application is based directly on law and rests, of course, with the operator. If a permit application is not filed within the fixed time, supervisory authorities may issue an order to lodge an application. Administrative force can be used (conditional fines or even threat of suspending operations).

If a permit cannot be granted for the activity even by using strict permit conditions etc. and the permit application, hence, would be disallowed, the activity may not be continued. In this, somewhat theoretical, situation the supervisory authority, again, shall order the activity to cease. In practice, the substantive standards of the EPA do not differ greatly from the previous legislation and standards of performance concerning IPPC-scale-plants. This means that the EPA did not inflict such a radical pressure on existing activities that the issue of closing activities would have been relevant.

There are, though, some examples of plants that have been closed down because of environmental legislation (e.g. some gasoline stations and fur farms located in important groundwater areas and some peat production sites). If operators have wished to alter their activity or the time for reviewing of a former Water Act permit (peat production) is due and the permit application has been disallowed by a decision that has gained legal force, supervisory authorities can order the activities to be ceased. The authorities can use administrative force. There are no fixed time limits in law about how long an existing activity may be continued.

14. Which authority is supervising IPPC-plants? How often do inspections take place? What enforcement policy do they have (warnings, injunctions, sanctions and so on)? Which type of sanctions can be applied in case of violations?

Supervisory authorities under the EPA are Regional Environmental Centres and Municipal Environmental Protection Authorities. Supervisory competences and obligations remain in the hands of the same authority, which has issued the permit. This is, however, true with the exception that Regional Environmental Centres supervise also plants falling under Environmental Permit Agencies' competence; Environmental Permit Agencies are exclusively decision-making bodies. However, the Agencies have competence to handle applications e.g. by victims of pollution concerning the use of administrative force.

There are specific provisions in the EPA concerning the supervisory authorities' powers and rights concerning inspections (right to obtain information, access to site of operation, right to take samples etc.). The Ministry of the Environment may issue provisions concerning inspections and organization of supervision (section 95 of the EPA). The intervals between inspections vary depending on the type of activity, the operator and the supervisory authority.

The supervisory authorities usually make annual supervision schemes, where frequency of inspection is graded according to the nature of operations. E.g. Uusimaa Environmental Centre has drafted an annual plan for supervision, where plants have been divided into four groups reflecting the necessity of supervision. Installations belonging to group 1 will be inspected (at least) annually,

and those belonging to group 4 once during the permit review period. When acute disturbance situations occur or when reports by neighbours of the plant etc. call for it, the inspectors may visit plants beyond regular times. In 2008 the Centre was in charge of supervision of 542 plants under the EPA, 76 of which were IPPC plants. In all, 8,5 person years were used for supervision of these EPA plants. A responsible inspector has been appointed for every plant.

Normally, supervisory authorities first try to give advice or recommendations to rectify defects, unless they may cause imminent risks. If the operator does not voluntarily obey the advice, the permit authority or supervisory authority may prohibit the operator from continuing or repeating the illegal way of operation or order the operator to fulfill its duties. Also restoration of a polluted environment can be ordered. The rectification order is most often intensified by a threat of a fine (a conditional fine): if e.g. a certain discharge into waters will not be ceased by a fixed date, the operator can be ordered to pay a certain sum of money. Alternatively, a threat of having an omission corrected at the expense of the defaulting operator, or of suspending operations, can be used.

Violations of legislation, permit conditions etc. is also punishable. It is up to the supervisory authority to report the crime to police for investigation. Criminal sanctions can only be passed by ordinary Courts of law.

2. Tannery example

Finnish tanneries are small and probably all are below the IPPC limit of 12 tonnes/d hide production. By Finnish practice, the tannery would need an environmental permit regulating emission of pollutants as well as other permits. To construct the factory, a building permit would be needed, where questions of landscape impact, traffic and neighbourhood disturbance would be regulated. Handling and storing some of the tannery chemicals would require a chemicals licence regulating safety aspects. Also the factory power plant might require a separate environmental permit regulating storage of fuel and emissions into air.

Abbreviations:

EPA = the Environmental Protection Act 4.2.2000/86

EPD = the Environmental Protection Decree 18.2.2000/169

EIA = Environmental Impact Assessment

EIAA = the Environmental Impact Assessment Act 10.6.1994/468

GDEIA = the Government Decree on EIA 17.8.2006/713

LUBA = the Land Use and Building Act 5.2.1999/132

(some unofficial translations of the Acts are available in English at www.finlex.fi)

2.1 Which authorities will review the application and issue the permit?

By the EPD, industrial hide tanning and fur manufacturing require an EPA permit regardless of capacity. The permit application is resolved by the Regional Environmental Centre.

2.2 Will EIA be included?

A formal (mandatory) EIA is required for activities listed in the GDEIA, where tanneries are not included. Additionally, by a special provision of the EIAA, the Regional Environmental Centre may request an EIA for activities not on the list. An EIA may be requested on special grounds laid down

in the GDEIA on the basis of the EIA Directive. These criteria imply that an activity posing a risk of considerable environmental impacts, comparable to those listed in the GDEIA (and Annex I to the Directive), taking into account of the scale, impact or exceptionally vulnerable nature of the surroundings, can constitute an obligation to perform an EIA procedure. EIA might be requested in the tannery example case, since the IPPC tannery would be a very big one under Finnish circumstances.

2.3 Is localization tried in the environmental permit process?

See the discussion under part 1, question 8 above.

In a strict sense, if the question refers to wide powers to find an optimal location, the answer is no. The environmental permit required by the EPA concerns only emissions that are liable to cause pollution of the environment, risk to ground water, health hazard to humans or excessive disturbance to neighbours. The permit authority considers the activity on the proposed site and has limited powers to consider alternative localization of the plant (see section 6 subsection 2 point 3 of the EPA, referred to in part 1, question 8 above).

For a new plant, localization would be the issue in the building permit issued under the LUBA, but there again, effects on the environment are secondary. However, a building permit must not be granted in conflict with a (detailed) land use plan, which implies that land use planning under the LUBA is highly relevant concerning the localization.

2.4 Procedural costs

The applicant is required to pay a fee for the permit decision. The fee corresponds, on principle, to the amount of authority work that is required. The estimated fee for a tannery (requiring 20-35 workdays) is 8 610 euros (Ministry of Environment Decree on regional environmental authority fees 1387/2006). See also the discussion under part 1, question 5 above.

2.5 Opinion of other authorities

The permit authority shall, by the EPA, inform relevant authorities of the application. In the tannery case, such authorities would be at least

- municipal authorities concerned with effects on the community and on the environment,
- regional fisheries authorities concerned with the effects of possible water pollution on fish.

2.6 Public participation

The permit authority is required to inform concerned parties and the public about the application. We refer to the discussion of legal standing under part 1, question 5 above. Anybody whose interests are affected by the activity under consideration may express his/her opinion and make claims regarding the permit decision. NGOs with a purpose of protecting nature that are active in the area have standing in the permit procedure.

Statements are usually made in writing, either by post or e-mail. The permit authority may also have a public hearing, where oral statements can be made.

2.7 Permit conditions

Conditions concerning tanning technology – yes

Conditions concerning cleaning technology – yes

Limit values for waste water – yes

Limit values for air pollutants – yes

Disposal of solid waste – yes

Noise limits – yes

Energy consumption limits – yes; permit conditions concerning energy efficiency can be issued, but limits to energy consumption as such would be questionable.

Transport conditions – to limit neighbourhood disturbance, traffic limits (time of day, transport route) may be imposed.

Use of chemicals – the permit will state which chemicals and their amounts that are to be used in production.

Monitoring conditions – monitoring of production, emissions and the effects of emissions is prescribed in the permit. Approval of a detailed monitoring scheme for emissions and effects may be delegated to the regional environment or fisheries authorities.

Postponing of conditions – operation conditions and emission limits must be laid down in the permit. The permit authority has, on certain conditions, the power to amend permit provisions and to tighten e.g. emission limits even while the licence is valid (see part 1, question 7).

2.8 Chromium emission limit

The tanning industry BREF document states that, after biological treatment, the chromium content of tannery waste water is less than 1 mg/l. The older HELCOM recommendation 16/7, adopted in 1995 (Basic principles in waste water management in the tannery industry, http://www.helcom.fi/recommendations/en_GB/rec16_7/), states that emissions should not exceed 0,075kg Cr/tonne of raw hides as an annual mean or 1,5 mg Cr /l as a daily mean in discharged waste water. Both documents have been referred to by Finnish permit authorities.

There are at present no normative values for chromium emissions to surface waters or for chromium in waste water treated in municipal sewage plants. In practice, the emission limit for Cr would be set on the basis of what is practically attainable at the plant in question, judged from the material supplied by the applicant and from experiences from other plants. The Cr emission limit would probably be set as 0,5 - 1,0 mg Cr/l in effluent waste water both for emissions to surface water or to municipal sewage treatment.

2.9 Right of appeal

Parties, certain NGOs and authorities have the right of appeal against an environmental permit decision (see part 1, question 5). Appeals may be filed to the Vaasa Administrative Court, or, on the Åland islands, to the Administrative Court of Åland. The decision of the administrative court may be appealed in the Supreme Administrative Court.