

IPPC/IED and NEC

The relation between individual industrial emissions and emission ceilings



The objectives: IPPC/IED

Article 1 IPPC (2008/1/EC) /IED:

'To achieve a high level of protection of the environment taken as a whole'.



The objectives: NEC

Article 1 NEC (2001/81/EC):

'to improve the protection in the Community of the environment and human health against risks of adverse effects from acidification, soil eutrophication and ground-level ozone and to move towards the long-term objectives of not exceeding



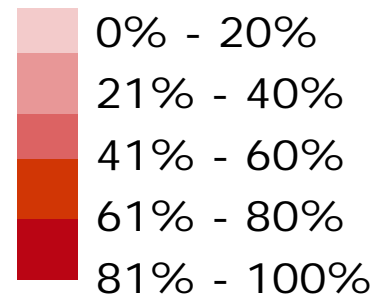
critical levels and loads and of effective protection of all people against health risks from air pollution'.



High level of protection in EU?



Share of ecosystems with a too high level of nitrogen deposition in 2020



Source: IIASA 2008 Baseline emission projections for the Gothenburg protocol
© Nexpri, 2008



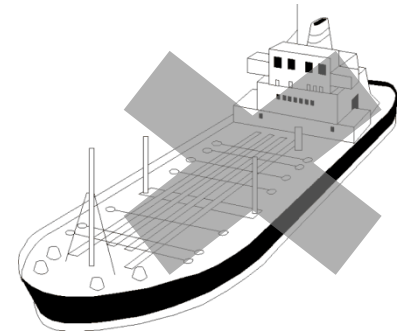
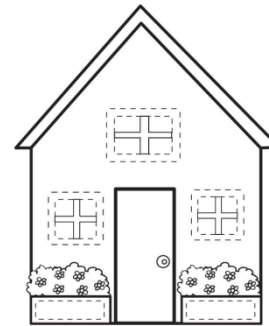
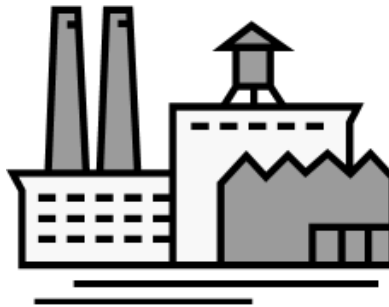
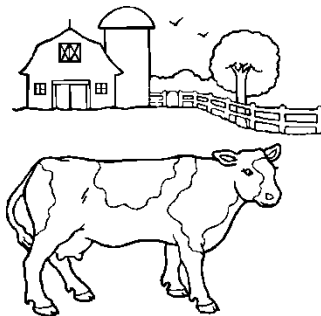
The instruments: IPPC/IED

Permits, for installations to prevent, reduce and as far as possible eliminate pollution arising from industrial activities.



The instruments: NEC

National emission ceilings, taking the years 2010 and 2020 as benchmarks, to limit the annual national emissions of the pollutants SO₂, NO_x, VOC and NH₃.



(Tentative)
Dutch annual emissions

| | Nox | NMVOs | NH3 | SO2 | PM10 |
|------|----------------|-------|-----|-----|------|
| | <i>kiloton</i> | | | | |
| 1990 | 560 | 463 | 253 | 192 | 71 |
| 1995 | 462 | 325 | 196 | 129 | 51 |
| 2000 | 389 | 232 | 155 | 73 | 40 |
| 2001 | 379 | 208 | 147 | 74 | 38 |
| 2002 | 369 | 197 | 142 | 68 | 38 |
| 2003 | 368 | 184 | 138 | 64 | 36 |
| 2004 | 350 | 173 | 137 | 66 | 35 |
| 2005 | 340 | 178 | 137 | 65 | 35 |
| 2006 | 325 | 168 | 137 | 64 | 34 |
| 2007 | 304 | 165 | 137 | 60 | 34 |
| 2008 | 296 | 165 | 130 | 51 | 33 |
| 2009 | 270 | 158 | 130 | 35 | 31 |

| | | | | | |
|----------------------------|-----|-----|-----|----|------------------------|
| 2010 ceilings (NEC) | 260 | 185 | 128 | 50 | <i>no ceiling 2010</i> |
|----------------------------|-----|-----|-----|----|------------------------|

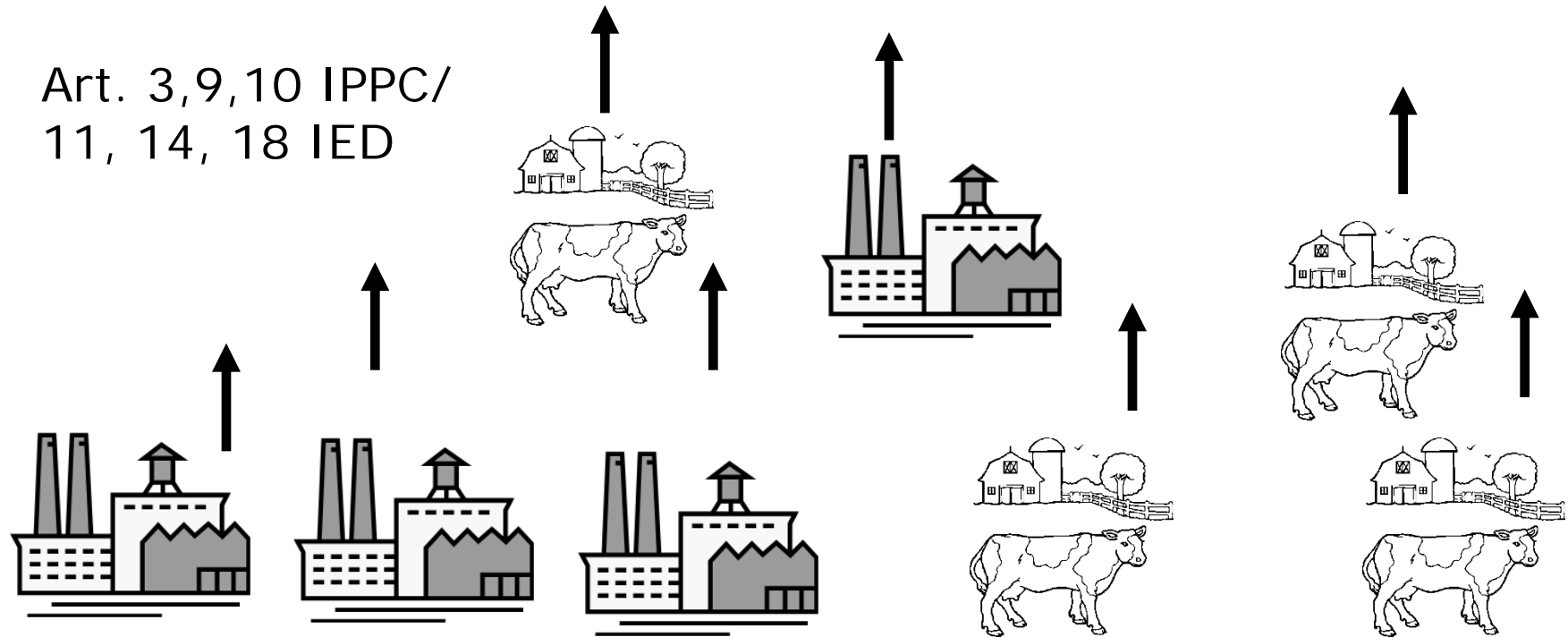
Source: Emissieregistratie.

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When IPPC meets NEC...

Art. 4, 5 NEC



Preliminary rulings (1)

Dutch Council of State (highest administrative court) in November 2007 (BIOX Rotterdam and BIOX Vlissingen):
no need for more stringent ELVs, because there is no reason to assume that the emission ceilings will be breached by these permits in 2010.



Preliminary rulings (2)

Dutch Council of State in May 2009 (E.On, Electrabel, RWE Power): not plausible that Dutch policy and measures are sufficient to prevent that the national emission ceilings will be exceeded. Several questions on the interpretation of Community law. Refers for preliminary rulings to the Court of Justice (C-165, 166, 167/09).



Questions (1)

In short:

- 1) Does the obligation of interpretation in conformity with directives imply that NEC should be taken into account when deciding on a IPPC-permit?
- 2) What duties does the MS have until 31 December 2010?
- 3) Does the MS have the discretion not to refuse the permit, but to adopt other measures?



Questions (2)

- 4) Can a private individual bring the issue of compliance before an national court?
- 5) Can an individual rely directly on Art. 4 NEC?
- 6) Is an individual entitled:
 - a) To claim that the MS should adopt a package of measures?
 - b) To claim measures in specific cases?
 - and c) is the extent to which the installation contributes of significance?



IED more clear?

- Art. 5 (8 IPPC): 'Without prejudice to other requirements laid down in national or Union law (Community legislation)..'
- Art. 18 (10 IPPC): stricter conditions (than BAT) when required by EQS
- Art. 21.5 (c) (13 IPPC): reconsideration and update, where it is necessary to comply with a new or revised EQS
- No explicit link.



Towards a healthy Europe

That needs:

- measures in all sectors
- a margin
- new ceilings (NEC 2020)

**Run the Brussels
minimarathon on
10 October with EEB!**



Stichting Natuur en Milieu

The Netherlands Society for Nature and Environment

P.O. Box 1578, 3500 BN Utrecht NL

Hamburgerstraat 28a, Utrecht

The Netherlands

T. +31 (0)30 233 1328

F. +31 (0)30 233 1311

m.robessin@natuurenmilieu.nl

www.natuurenmilieu.nl

www.eeb.org

