Miljøministeriet
Miljøstyrelsen

Eksperthjælp i forbindelse med miljøregulering af virksomheder

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Miljøstyrelsen vil, når lejligheden gives, offentliggøre rapporter og indlæg vedrørende forsknings- og udviklingsprojekter inden for miljøsektoren, finansieret af Miljøstyrelsens undersøgelsesbevilling.

Det skal bemærkes, at en sådan offentliggørelse ikke nødvendigvis betyder, at det pågældende indlæg giver udtryk for Miljøstyrelsens synspunkter.

Offentliggørelsen betyder imidlertid, at Miljøstyrelsen finder, at indholdet udgør et væsentligt indlæg i debatten omkring den danske miljøpolitik.

Indhold

Forord

Med henblik på en effektivisering af myndighedshåndteringen i forbindelse med godkendelsespligtige virksomheder, har Miljøstyrelsen igangsat en undersøgelse, der skal belyse mulighederne for forbedret adgang til eksperthjælp.

På grundlag af en behovsanalyse og analyse af udenlandske systemer for eksperthjælp, er der i undersøgelsen udarbejdet en række forlag til forbedrede systemer for eksperthjælp, som er blevet diskuteret med Miljøstyrelsen og andre aktører.

Undersøgelsen har været fulgt af en følgegruppe bestående af:

- Lone Kielberg (formand) og Bo Møller Gottlieb, Miljøstyrelsen
- Ulla Hansen Telcs, Dansk Industri
- Maria Lanng Pallisgaard, Kommunernes Landsforening
- Claus Werner Nielsen og Titti Kopp, COWI A/S

Undersøgelsen er gennemført i foråret 2010 af en arbejdsgruppe bestående af Claus Werner Nielsen (projektleder), Asger Vestergaard og Titti Kopp, COWI A/S.

1 Sammenfatning, forslag og anbefalinger

Behovet for ekspertydelser ved godkendelse af og tilsyn med industrivirksomheder har været stigende i de senere år, fordi der stilles stadig større krav til specialiseret teknisk viden og fordi der er et generelt tidspres på sagsbehandlingen.

Med henblik på en effektivisering af myndighedshåndteringen i forbindelse med godkendelsespligtige virksomheder, har Miljøstyrelsen igangsat en undersøgelse, der skal belyse mulighederne for forbedret adgang til eksperthjælp. Undersøgelsen er udført af COWI i foråret 2010.

Undersøgelsen er gennemført i tre hoveddele:

- Gennemførelse af en analyse af behovet for eksperthjælp i tilknytning til godkendelsespligtige virksomheder i Danmark. Gennem en spørgeskemaundersøgelse og interviews er kommunernes og virksomhedernes aktuelle brug af eksperthjælp belyst, og det er undersøgt, i hvilket omfang der udtrykkes behov for bedre adgang til eksperthjælp.

- Kortlægning og beskrivelse af udenlandske ordninger for eksperthjælp med henblik på at hente inspiration og trække på erfaringer fra andre EU medlemslande.

- Skitsering af mulige ordninger for eksperthjælp i Danmark samt anbefalinger til den videre proces. I denne del indgik en workshop med kommuner, virksomheder og Miljøstyrelsen, hvor en række forslag til ordninger blev diskuteret. En central del af overvejelserne har knyttet sig til, hvordan man effektiviserer brugen af den ekspertbase, som allerede findes.

Behovsundersøgelsen
For at undersøge behovet for eksperthjælp i tilknytning til arbejdet med miljøgodkendelser blev der udarbejdet et spørgeskema, som blev udsendt til 98 kommuner, 7 miljøcentre og 20 virksomheder. Det samlede antal respondenter var 56, hvoraf 6 ikke havde indhentet ekspertbistand i forbindelse med miljøbeskyttelse og derfor ikke kunne besvare spørgeskemaets øvrige spørgsmål.

Det fremgår af spørgeskemaundersøgelsen, at ekspertbistand bruges af såvel offentlige myndigheder og virksomheder og mest i forbindelse med udledning til spildevand, udledning til luft, risiko for forurening af jord og grundvand samt støj.

Næsten samtlige respondenter (97%), som modtager eksperthjælp, får bistand fra rådgivningsfirmaer, herunder tekniske og juridiske firmaer. Desuden modtager virksomheder, kommuner og miljøcentre også eksperthjælp fra offentlige myndigheder (43%), GTS-institutter (10%) og andre (12)%.

Af det samlede antal respondenter i undersøgelsen, som indhenter eksperthjælp, svarede 48%, at der var et behov for juridisk bistand mindre end 5 gan-

ge årligt, imens 40% svarede, at der var behov for juridisk bistand mere end 5 gange årligt. Af sammen gruppe svarede 56%, at der var behov for teknisk bistand mindre end 5 gange årligt og 40% svarede, at der var behov for teknisk bistand mere end 5 gange årligt.

Respondenterne i undersøgelsen refererede langt overvejende til manglende ressourcer (80%) samt manglende kompetencer (80%), på spørgsmålet om årsagen til, at de har valgt at indhente eksperthjælp.

Der var 15 kommuner og miljøcentre, som havde outsourcet godkendelse og tilsynsarbejdet til eksperter. Ud af de femten havde 67% haft ressourcepersoner i forvaltningen, imens 20% havde benyttet en telefonisk "hot line".

Ud af det samlede antal offentlige respondenter (40 kommuner og miljøcentre) mente omkring tre fjerdele, at de vil få brug for eksperthjælp til sagsbehandling samt ***ad hoc*** rådgivning i fremtiden. Lidt over halvdelen mente, at der bliver brug for teknisk assistance i fremtiden.

Nogle kommuner og miljøcentre har påpeget nye samarbejdsformer, som i fremtiden bør udvikles. Det er blandt andet blevet foreslået, at rådgivernes specifikke viden kunne videregives til sagsbehandlerne igennem gruppearbejde.

Kun en ud af de ti adspurgte virksomheder fik eksperthjælp ved hot line telefonassistance. Det eneste, som virksomhederne kunne ønske sig mere af, er rammeaftaler inden for miljø- og arbejdsmiljø. Dette blev ikke uddybet, men må antages at hænge sammen med et ønske om en let og hurtig adgang til eksperterne via forud fastlagte rammeaftaler, hvor raterne og de generelle betingelser for rådgivningen er aftalt.

Der er ikke via spørgeskemaundersøgelsen fremkommet konkrete ønsker og forslag til fremtidige eksperthjælpsordninger, der ikke eksisterer og bliver brugt i kommunerne allerede.

Med baggrund i spørgeskemaundersøgelsen er der gennemført en række dybdeinterviews, der i store træk bekræfter resultaterne af spørgeskemaundersøgelsen.

De danske kommuner, miljøcentre og virksomheder er generelt tilfredse med udbuddet af ekspertbistand i Danmark. Eksperthjælpen indhentes typisk på grund af et ***ad hoc***-behov, men behovet for eksperthjælp angives også at opstå med baggrund i en overordnet planlægning. Når inddragelsen sker efter overordnet planlægning er de typiske formål at afvikle sagspukler, overholde minimumstilsynsfrekvensen eller på grund af langtidssygdom i medarbejderstaben. Behovet for eksperthjælp dækkes gennem kollegaer, netværk samt indkøb af eksperthjælp uden for egne rækker.

Dybdeinterviewene afdækkede trods den overordnede tilfredshed med udbuddet og formen af eksperthjælpsordningerne i Danmark et bredt ønske om, at inddragelsen af eksperthjælp kunne systematiseres bedre, så den kunne være med til støtte op om det effektiviseringsbehov, som både virksomheder og kommuner i dybdeinterviewene på den efterfølgende workshop gav udtrykt for eksisterer i forbindelse med myndighedsbehandling inden for miljøområdet.

Udenlandske erfaringer

På basis af en indledende screening af systemer for eksperthjælp i en række EU lande blev der udvalgt fem lande eller delstater, som er undersøgt nærmere: Holland, Flandern, Irland, Skotland og Luxemburg. For hvert af landene eller delstaterne er der udarbejdet en beskrivelse af systemerne for miljøgodkendelser og eksperthjælp. Disse beskrivelser, som er udarbejdet af lokale konsulenter fremgår af bilag 1.

Af disse lande/delstater havde Holland og Flandern egentlige kompetencecentre som har til formål at stille informationer til rådighed i tilknytning til myndighedshåndteringen af godkendelsespligtige virksomheder. De øvrige lande havde forskellige systemer med et samspil af ekspertise hos myndigheder og hos rådgivningsvirksomheder/-centre.

I Holland er der to organisationer, som tilbyder information og serviceydelser i relation til miljøgodkendelser: Infomil og Helpdesk Water. Infomil tjener som ekspertcenter, som håndterer relevant information om BAT, miljørigtig teknologi, mm. og gør den tilgængelig via en helpdesk, udvekslingsdage, et nyhedsbrev og en hjemmeside. En styrke ved Infomil er, at organisationen kan give input til arbejdet med politikudvikling baseret på praktiske erfaringer fra helpdesken, og medarbejderne kan bruge deres viden om politikudvikling i deres råd til myndighederne. Det samlede årlige budget for Infomil er 6 mio. €, men dette dækker også aktiviteter, som ikke er knyttet til miljøgodkendelser og IPPC.

I Flandern huser Det Flamske Teknologiske Institut, VITO det flamske BAT videncenter med 10-20 medarbejdere og det flamske Energi og Miljø Informations System (EMIS). Det flamske BAT videncenter indsamler viden om miljøvenlige teknikker, udarbejder BAT sektorrapporter for den flamske region, evaluerer BAT for de enkelte industrielle sektorer, og formulerer BAT anbefalinger for de flamske myndigheder, for sektorer og virksomheder og for andre myndigheder i Europa. BAT centret betjener en helpdesk og udvikler og vedligeholder en BAT database og IT værktøjer. Der peges på, at fordelen ved at have et BAT center er at al information er centraliseret, offentligt tilgængeligt, konsistent, genkendeligt, mm. og informationen kan dermed danne grundlag for et effektivt samspil mellem de flamske myndigheder og de relevante industrisektorer. Gennem videnskabelige netværk og deltagelse i europæiske forskningsprojekter er VITO involveret i europæisk politikudvikling og beslutningsprocesser og denne involvering på europæisk plan giver også fordele i relation til VITOs samarbejde med de lokale myndigheder.

I begge tilfælde er der tale om organisationer, som foruden at betjene en helpdesk og formidle viden, selv opbygger betydelig teknisk kompetence i form af et ekspertcenter.

Resultat af workshop med aktører

Der var generel enighed om, at der var et meget stort behov for at styrke effektiviseringsindsatsen ved sagsbehandlingen hos myndighederne.

Det blev foreslået gjort ved at opbygge eller udvide databaser, hvor der kan hentes samlet viden og systematisere denne efter hovedlinjerne i kommunernes kvalitetsstyringssystem. En mulighed er at udvide Danmarks Miljøportal med en ekspertbearbejdet database med kvalitetsparadigmer og udvalgte afgørelser, der afspejler praksis på de forskellige sagsbehandlingsområder.

Der er behov for vidensdeling omkring paradigmer, procedure og afgørelser, så hver kommune ikke skal udvikle sit eget eller er afhængig af egne netværk.

Der var generelt en meget positiv indstilling over for en styrkelse af BAT indsatsen. Opfordringen var dog, at man gjorde et grundigt arbejde fra Miljøstyrelsen med at undersøge præcis, på hvilke områder at implementeringen halter - og hvad grunden er - for at kunne målrette indsatsen.

Der var en god interesse for etablering af en helpdesk især i tilknytning til tekniske spørgsmål. Der er dog lidt uenighed omkring betydningen af, om ordningen bliver gratis. Alle var dog enige om, at det er meget vigtigt, at man kan få et hurtigt svar i forbindelse med sagsbehandlingen og en sådan ordning kunne være med til at lette adgangen hertil. Det skulle dog være en ordning uden for mange mellemled, idet "one stop - shopping" (spørgsmål og svar/hos samme ekspert) er et vigtigt element, således at der umiddelbart kan henvises videre, hvis helpdesken ikke kan give svar på spørgsmålet.

Referencelaboratorierne blev fremhævet som gode, idet man her kan man få eksperthjælp hurtigt, effektivt og gratis. Referencelaboratorierne kunne eventuelt i højre grad vejlede omkring fastsættelse af vilkår, renseteknikker, BAT, osv.

Forslag til forbedringer

1. BAT centre

Baseret på de svar, som er indkommet og diskussionerne på workshoppen, synes der ikke at være behov for opbygningen af et egentligt, samlet kompetencecenter for BAT. Der kunne dog godt være behov for kompetencecentre indenfor udvalgte temaer i stil med det, der allerede kendes fra Landbruget og Lynette-fællesskabet. De udenlandske erfaringer peger på, at der ved opbygning af kompetencecentre samles en stor viden på et sted, og at der eksempelvis gennem dette, opbygges tilstrækkelig kompetence til at kunne agere på europæisk plan i forhold til BAT, og også at kunne levere BAT ekspertbistand på højt niveau. Men der er ikke udtrykt behov for opbygningen af større kompetencecentre i stil med VITO i Flandern eller Infomil i Holland.

Virksomhederne nævner behovet for en forenklet brug af de eksisterende kompetencer gennem rammeaftaler. Ligeledes kan der peges på muligheden for at udbygge de kompetencer, der allerede ligger hos referencelaboratorierne til også at omfatte vejledning omkring fastsættelse af vilkår, renseteknikker, BAT, osv.

2. Help-desk/hot line

Der er udtrykt ønske om en helpdesk/hot line i relation til juridiske og tekniske spørgsmål, som kan levere hurtig assistance og henvise spørgeren til, hvor relevant viden kan findes eller henvise direkte til en teknisk ekspert. Det er ikke entydigt, om der er behov for en gratis service. Der findes forskellige muligheder, som kan overvejes:

Placering af en helpdesk kunne være i Miljøstyrelsens regi, eller den kan etableres hos et af Miljøstyrelsens referencelaboratorier. Alternativt kan den placeres på skift hos private rådgivere/teknologisk Institut.

Ved placering i Miljøstyrelsen vil det forventes, at den som udgangspunkt er gratis. Hos referencelaboratorierne eller hos private rådgivere kan den evt. finansieres ved en klippekortordning, hvor alle kommuner betaler et fast årligt

bidrag, og herved får ret til et vist tidsrum af telefon rådgivning. Udover dette tidsrum vil rådgivningen afregnes til en fast aftalt timepris via f.eks. en rammeaftale. Alternativt vil nogle rådgivere måske kunne acceptere at yde telefonassistance uden beregning inden for en fast defineret ramme, hvis det giver kontakt til potentielle kunder.

3. Paradigma/skabelon samling

Der er generelt interesse i at opbygge en ekspertbearbejdet database med kvalitetsparadigmer og udvalgte afgørelser. Der opbygges i dag samlinger af individuelle paradigmer og afgørelser i de kommunale kvalitetsstyringssystemer, men der er behov for at få kvalitetssikrede og ensartede materialet. Udover høj kvalitet vil dette sikre en ensartet sagsbehandling imellem de forskellige regioner i Danmark. Her findes også forskellige muligheder:

Samlingen kunne etableres på Miljøportalen, men der er udtrykt bekymring om brugervenligheden, som bør forbedres. En anden mulighed er Miljøstyrelsens hjemmeside, hvor der allerede i dag findes forskellige hjælpeværktøjer for kommunernes sagsbehandling. En tredje mulighed er en understøtning af udbygning af Schultz' lovservice, som mange kommuner er tilsluttet, og som allerede i dag indeholder en del hjælpematerialer, som bruges i de kommunale kvalitetsstyringssystemer.

Det er også væsentligt, at samlingen holdes opdateret efterhånden, som lovgivningen ændres, hvilket kunne tale for en placering hos Schultz' lovservice.

Juridisk vurdering af forslagene

Der er foretaget en vurdering af de forvaltningsretslige konsekvenser af forslagene i kapitel 5, og det kan på baggrund heraf konkluderes, at der ikke er nogen umiddelbare forvaltningsretlige problemer ved de 3 forslag. De foreslåede former for eksperthjælpsordninger indeholder ikke i deres grundstruktur elementer af myndighedsudøvelse. Dette kan dog være tilfældet, såfremt den rene ad-hoc rådgivning vedrørende BAT-centre eller hotline udvides med mere sagsforberedende elementer, som kan være indeholdt i f.eks. en yderligere forfølgelse af målsætningen om "one stop- shopping".

Anbefalinger til den videre proces

Det foreslås, at Miljøstyrelsen udarbejder et overblik over, hvor der findes ekspertviden indenfor de forskellige brancher og temaer i Danmark, med henblik på at udpege supplerende BAT centre. Med udgangspunkt i dette overblik, bør det overvejes, om der er behov for at udpege flere centre, som kan servicere kommunerne i forbindelse med miljøgodkendelser. Samtidig bør det overvejes, om et af disse centre kan huse en helpdesk ordning til hurtig assistance med sagsbehandling. Analysen af, hvor ekspertviden findes i dag, vil kunne bruges som udgangspunkt for at udarbejde kontaktlister til relevante eksperter, som kan bruges af en eventuel helpdesk. Ved udarbejdelsen af disse lister kan der også trækkes på DANAKs akkreditering af tekniske eksperter indenfor de forskellige NACE koder. Desuden bør det tages en dialog mellem Miljøstyrelsen, KL, Schultz' lovservice og Miljøportalen om udvikling og vedligeholdelse af en paradigma/skabelon samling.

2 Conclusion, proposal and recommendation

There has been a growing demand for the services of experts in connection with approvals for and supervision of industrial companies in recent years, which is due to an increasing need for specific technical expertise and a general time pressure in case administration.

In order to improve the efficiency of the authorities' case administration of companies subject to authorisation procedures, the Danish Environmental Protection Agency initiated an investigation into the potential for improved access to expert services. The investigation was carried out by COWI in the spring of 2010.

The investigation has three main parts:

- Analysis of the demand for expert services amongst companies in Denmark subject to authorisation. Based on a questionnaire and interviews, the current use of expert services by local authorities and companies was investigated and the extent of the demand for improved access to expert services was assessed.

- Definition and description of foreign expert services with the goal of finding inspiration and drawing on the experiences of other EU member countries.

- Outline of possible expert services arrangements in Denmark and recommendations for the future. This part included a workshop with the local authorities, companies and the Danish Environmental Protection Agency, where a number of proposals to the expert services arrangements were discussed. One of the main concerns was the more efficient use of existing expert teams.

Assessment of demand

To assess the demand for expert services in relation to environmental approvals, a questionnaire was prepared and distributed to 98 municipalities, seven environmental centres and 20 companies. The total number of respondents was 56, of which six had not sought expert assistance in connection with environmental protection and were therefore unable to answer some of the questions.

The results from the questionnaire show that expert services are used by public authorities as well as companies and that they are used mostly in connection with the discharge of waste water, emissions to the air, risk of soil pollution , ground water pollution, and noise.

Almost all of the respondents (97 %) using expert services are assisted by consulting companies, including technical and legal companies. In addition, companies, municipalities and environmental centres also use the services of ex-

perts from public authorities (43 %), the GTS institutes (Advanced Technology Group) (10 %) and other (12 %).

Of the total number of respondents receiving expert assistance, 48 % stated that they generally needed legal services less than five times annually and 40 % stated that they needed legal services more than five times annually. Of this group, 56 % stated that they needed technical services less than 5 times annually and 40 % answered that they needed technical services more than 5 times annually.

When asked why they had decided to seek expert assistance, a substantial portion of respondents said that there was a lack of resources (80 %) and a lack of competencies (80 %).

Fifteen municipalities and environmental centres had outsourced approvals and supervision work to experts. Of the 15 municipalities, 67 % had in sourced consultants qualified in the field, whereas 20 % had used a telephone hotline.

Of the total number of public-sector respondents (40 municipalities and environmental centres) around three quarters said that they would need expert assistance for case administration and ad-hoc consultancy in the future. A little over half said that they would need technical assistance in the future.

Some municipalities and environmental centres stressed that new kinds of working relationships should be developed. As an example, it was suggested that consultants' specialist knowledge could be shared with case workers through group work.

Only one of the 10 companies surveyed used expert services provided via telephone hot-lines. The only area in which companies would have liked more help was in the provision of framework agreements on the environment and health and safety. There was no further elaboration of this; however, it is assumed that it is based on a request for prompt, convenient access to expert services via predetermined framework agreements under which the fee rates and general conditions of the consultancy services have been determined.

The questionnaire did not give rise to any specific requests and proposals for expert assistance arrangements which do not already exist and are used by the municipalities.

Based on the questionnaire, a number of in-depth interviews were carried out, which generally confirm the results of the questionnaire study.

Danish municipalities, environmental centres and companies are generally satisfied with the expert services available in Denmark. Expert services are typically sought ad-hoc, however, the need for expert services also arises as part of general planning. When services are provided as part of general planning, typical reasons include addressing an accumulation of cases, observing the minimum supervision frequency and long-term illness of staff. The demand for expert services is covered by colleagues and networks and through purchase of external expert services.

In spite of overall satisfaction with the scope and types of expert services arrangements in Denmark, the in-depth interviews with companies and municipalities at the subsequent workshop revealed a general desire for improved

systematization of the involvement of expert services to help meet the demand for improved efficiency in connection with case administration by the local authorities within the environmental area.

Experience in other countries

Based on a preliminary screening of expert assistance systems in a number of EU countries, five countries or states were selected for further examination: the Netherlands, Flanders, Ireland, Scotland and Luxembourg. For each of these countries or regions, a description of the environmental approval systems and expert services systems was prepared by local consultants. These descriptions can be found in Appendix 1.

Of the countries/regions mentioned, the Netherlands and Flanders had actual centres of expertise aimed at making information available in connection with the authorities' case administration of companies subject to approval procedures. The other countries had different systems with a combination of expert services from authorities and from consultancy companies/centres.

In the Netherlands there are two organizations offering information and services in relation to environmental approvals: Infomil and Helpdesk Water. Infomil is a centre of expertise handling relevant information about BAT, environmentally friendly technology, etc., making it available via a help desk, exchange days, a newsletter and a homepage. One of Infomil's strengths is that the organization can contribute to the work on policy development based on experience in dealing with help desk queries. Employees can use their knowledge of policy development in their advisory services to the authorities. Infomil's total annual budget is 6 million euro which also covers activities not associated with environmental approvals and IPPC.

In Flanders, the Flemish BAT knowledge centre with 10-20 employees and the Flemish Energy and Environmental Information System, EMIS, are located in VITO (the Flemish technological institute). The Flemish BAT knowledge centre collects information on environmentally friendly techniques, prepares BAT sector reports for the Flemish region, assesses BAT for the individual industry sectors and formulates BAT recommendations for the Flemish authorities, sectors and companies and for other authorities in Europe. The BAT centre operates a help desk and develops and maintains a BAT database and IT tools. It has been pointed out that the advantage of having a BAT centre is that all information is centralized, available to the public, consistent and recognizable and can thus form the basis of efficient interaction between the Flemish authorities and the relevant industry sectors. Through scientific networks and participation in European research projects, VITO is involved in European policy development and decision-making processes and this involvement at European level also offers advantages in relation to VITO's cooperation with the local authorities.

In both cases, the organizations, in addition to operating a help desk and communicating knowledge, build up considerable technical competencies in the form of a centre of expertise.

Outcome of workshop with stakeholders

It was generally agreed that there is a significant need for strengthening the efforts aimed at improving the efficiency of case administration by the authorities.

It was suggested that increased efficiency could be obtained by developing or expanding databases from which information can be retrieved and systematised according to the main principles of the authorities' quality management systems. One possibility is to add a database to the Danish Nature & Environmental Portal (Danmarks Miljøportal) containing quality paradigms and selected case studies edited by experts which will then reflect practices within the various different case administration areas. There is a need for sharing knowledge of paradigms, procedures and decisions in order to ensure that each municipality does not have to develop its own material or is dependent on its own network.

Generally, there was a positive attitude towards strengthening the BAT effort. However, the Danish Environmental Protection Agency was urged to thoroughly examine instances where the implementation has not been successful – and reasons – in order to target the effort.

There was widespread interest in establishing a help desk, in particular for technical questions. However, there is some disagreement on the significance of whether the service should be free of charge. Everyone agreed, however, that it is very important to be able to get answers to case administration questions quickly and that a help desk could be one way of improving the possibility of a quick response. The service should not have too many intermediate links, however, as the 'one-stop resource' (questions to and answers/from the same expert) is an important element that should also ensure that it is possible to redirect questions if the help desk is unable to provide an immediate answer.

The reference laboratories were singled out for praise because they offer expert assistance in a timely and efficient manner and do so free of charge. The reference laboratories' role in the assessment of conditions, treatment techniques, BAT, etc could potentially be enhanced.

Proposals for improvements

1. BAT centres

Based on the answers received and the discussions at the workshop, there does not seem to be a need for building up an actual common centre of expertise for BAT. However, there may be a need for centres of expertise on selected themes similar to the provision already in place in the agricultural sector and the "Lynettefællesskabet" (Denmark's largest waste water centre). Experience abroad suggests that by building up competence centres, a large amount of knowledge is gathered in one place and as a result, sufficient qualifications are acquired in order to handle BAT at European level and moreover to offer BAT expertise at a high level. But no one expressed a need for building up a large expert centre similar to VITO in Flanders or Infomil in the Netherlands.

The companies mention the demand for simplified use of the existing competencies through framework agreements. Similarly, there is the possibility of developing the existing competencies of reference laboratories to include advice on the establishment of terms and conditions, treatment techniques, BAT, etc.

2. Help desk/hotline

There is a demand for a help desk/hotline service for legal and technical questions that can provide prompt assistance and refer the person to the place where he/she may find the relevant information or refer the person directly to

a technical expert. It is not clear whether there is a need for a free service. There are different possibilities to consider:

The help desk could be located at the Danish Environmental Protection Agency, or at one of the reference laboratories of the Environmental Protection Agency. Alternatively, it could be located in turns at private consultants/the Danish Technological Institute .

By locating the help desk at the Environmental Protection Agency, it is to be expected that the service will initially be free of charge. If located with the reference laboratories or private consultants, the help desk may be financed as a special arrangement, where all municipalities pay a fixed annual fee in return for a fixed amount of time of telephone consultancy. Extra consultancy beyond this time will be invoiced for example at a fixed, pre-determined hourly rate via a framework agreement. Alternatively, some consultants may be willing to provide telephone assistance without charge within a fixed, defined framework if it results in contact with potential customers.

3. Paradigms/templates

There is a general interest in building up a knowledge database reviewed by experts with quality paradigms and selected decisions. Such resources already contain individual paradigms and decisions within the quality management systems of the municipalities. There is, however, a requirement for quality-controlled and uniform material. In addition to ensuring high quality, a reviewed knowledge database would ensure uniform case administration across the different Danish regions. There is also a number of different possibilities here:

The resource could be made available via the Danish Nature & Environment Portal, but there has been concern about user-friendliness. Another possibility is the homepage of the Danish Environmental Protection Agency, which already offers a number of different supplementary materials for case administration by municipalities. A third possibility is to provide support for the development of Schultz' legal assistance (a legal information portal) to which many municipalities are connected, and which already contains a substantial amount of ancillary material used for the municipal quality management systems.

In addition, it is also important that the collection is updated continuously as rules and legislation change. This could be an argument in favour of placing the collection with Schultz' legal assistance.

Legal assessment of the proposals

A thorough assessment was made of the legal impacts of the proposals described in Section 5, and based on that assessment it is concluded that the three proposals do not present any immediate legal problems. The suggested types of expert services arrangements do not in their basic structure contain elements authoritative powers. However, this may be the case if the ad-hoc consultancy services, provided by BAT centres or hotlines, begin to include more case administration elements, which can be a result of a further pursuit of the objective from "one-stop resources".

Recommendations for the future

It is proposed that the Danish Environmental Protection Agency prepares an overview of places providing expert knowledge within the different trades and themes in Denmark, with the goal of creating additional BAT centres. Based

on this overview, it should be considered whether there is a need for creating more centres that provide services to the municipalities in connection with environmental approvals. In addition, it should be considered whether one of the centres can operate a help desk providing fast assistance and case administration. The analysis of where the expert knowledge is located today may be used as a basis for the preparation of contact lists of relevant experts able to provide assistance to a potential help desk. For the preparation of those lists, DANAK's accreditation of technical experts within the different NACE codes may be useful. Moreover, the Danish Environmental Protection Agency, the National Association of Local Authorities (Kommunernes Landsforening), Schultz' legal assistance and the Danish Nature & Environmental Portal should discuss the development and maintenance of a paradigm/ template collection.

3 Indledning

Baggrund
Miljølovgivningen for virksomheder bliver i dag i vid udstrækning fastlagt i EU. Det indebærer, at lovgivningen på mange måder er kompliceret og kan være vanskelig at overskue for både miljømyndigheder og virksomheder. Bagsiden kan være, at der kan opstå uklarhed for både virksomheder og miljømyndigheder, hvor fokus i miljøgodkendelserne skal ligge. I nogle miljøgodkendelser vil bæredygtighedsaspektet være fremtrædende; i andre vil hensynet til naboer være det altafgørende.

Regeringen vedtog i forbindelse med nedlæggelse af amterne en lov om, at kommunerne skal etablere et kvalitetsstyringssystem for sagsbehandlingen på natur- og miljøområdet. Formålet med loven er at sikre faglig kvalitet, effektivitet og ensartethed i sagsbehandlingen samt at sikre borgernes og virksomhedernes tillid til og tilfredshed med sagsbehandlingen. Det kan være en udfordring at leve op til dette mål.

I Danmark er der en lang tradition for at benytte eksperter til løsning af udvalgte opgaver i forbindelse med myndighedernes sagsbehandling. Ekspertassistancen kan antage forskellige former, der spænder fra specialiseret eksperthjælp til outsourcing af hovedparten af godkendelses- og tilsynsopgaverne.

Behovet for ekspertydelser ved godkendelse og tilsyn af industrivirksomheder er vokset i de senere år, fordi der stilles stadig større krav til specialiseret teknisk viden, og fordi der er et generelt tidspres på sagsbehandlingen. Det skyldes bl.a. indførelse af BAT krav på større virksomheder og kommunernes overtagelse af sagsbehandling på mange store virksomheder ved kommunalreformen i 2007.

På grund af IPPC direktivet er den danske model for integrerede miljøgodkendelser blevet gennemført i hele Europa og yderligere skærpet med BAT kravet.

Denne undersøgelse
Undersøgelsen er opdelt i 3 hoveddele, henholdsvis:

1. Gennemførelse af en analyse af behovet for eksperthjælp i Danmark

2. Kortlægning og beskrivelse af udenlandske ordninger for eksperthjælp på miljøområdet i Europa

3. Skitsering af mulige ordninger for eksperthjælp i Danmark samt anbefalinger til den videre proces hen imod etablering af en eller flere sådanne ordninger i Danmark. Forslag til mulige ordninger har været diskuteret med aktører på en workshop.

4 Undersøgelse af behovet for eksperthjælp

Formålet med undersøgelsen af behovet for eksperthjælp er at afdække, hvilke erfaringer kommuner, miljøcentre og virksomheder har med at anvende eksperthjælp til løsning af opgaver i relation til miljøreguleringen af virksomheder i Danmark.

Formålet er videre at afdække behovet for at etablere ordninger, hvor miljømyndigheder eller virksomheder kan få gode råd og eksperthjælp i særlige vanskelige problemstillinger i relation til godkendelse af og tilsyn med virksomheder.

Begreberne "eksperter" og "eksperthjælp" er blevet defineret bredt i undersøgelsen. Begreberne dækker alle former for ekstern bistand til løsning af opgaver relateret til efterlevelse og sikring af overholdelse af miljøbeskyttelseslovgivningen i Danmark. Det spiller i den forbindelse ingen rolle, hvorledes indhentelse af eksperthjælp er finansieret, herunder om regningen i sidste ende betales af myndighederne eller virksomhederne. Det er primært behovet og begrundelserne for indhentelse af ekspertbistand, der søges afdækket ved undersøgelsen.

Behovsundersøgelsen består af en spørgeskemaundersøgelse, som er fulgt op med en række dybdeinterviews af kommuner, miljøcentre og virksomheder. Endelig afholdtes en workshop med det formål at diskutere nogle af de løsningsforslag, der blev udarbejdet på grundlag af behovsundersøgelsen. Resultaterne af workshoppen er rapporteret selvstændigt i kapitel 6.

4.1 Spørgeskemaundersøgelsen

4.1.1 Usikkerhed i forbindelse med tolkningen af data

Besvarelserne af spørgeskemaet er gennemført af 56 respondenter. Ud af de 56 respondenter, havde 6 ikke indhentet miljøekspertise, hvilket bevirkede, at de ikke kunne besvare de øvrige spørgsmål og derfor blev frasorteret i behandlingen af resultaterne. Det reelle antal respondenter på de øvrige spørgsmål var således 40 kommuner/miljøcentre og 10 virksomheder. I de følgende figurer repræsenterer disse 50 respondenter således det, som angives som ”samlede antal respondenter”.

For kommuner og miljøcentre har 38% af den samlede population (98 kommuner og 7 miljøcentre) indhentet miljøekspertise og besvaret spørgeskemaet. Dette er en nogenlunde tilfredsstillende svarprocent. Ikke desto mindre er udsagnskraften i denne undersøgelse begrænset af, at antallet af respondenter stadig er lavt. Der er således en usikkerhed forbundet med resultaterne, og resultaternes tendenser kan bero på tilfældigheder. Der vil dog altid være usikkerheder i en undersøgelse af denne art.

Tolkning af svarene fra de 10 virksomheder er forbundet med stor usikkerhed, og værdien af den del af undersøgelsen er således lav. Antallet af respondenter

er for smått til, at resultaterne med sikkerhed kan siges at være et udtryk for forhold og holdninger i den samlede population af virksomheder omfattet af miljøregulering i Danmark.

Usikkerheden afhænger af andelen, som har afgivet et svar, samt af hvor mange der har afgivet det enkelte svar. De ovenstående usikkerheder skal tages i betragtning, når overordnede tendenser og sammenhænge analyseres og sammenholdes med interviewundersøgelsen og den kvalitative analyse.

4.1.2 Generelle Data

Ekspertbistand - på hvilke områder og hvor ofte?
Det fremgår af spørgeskemaundersøgelsen, at ekspertbistand i forbindelse med miljøbeskyttelse bruges mest i forbindelse med udledning til spildevand, udledning til luft, risiko for forurening af jord og grundvand samt støj (se Figur 1).

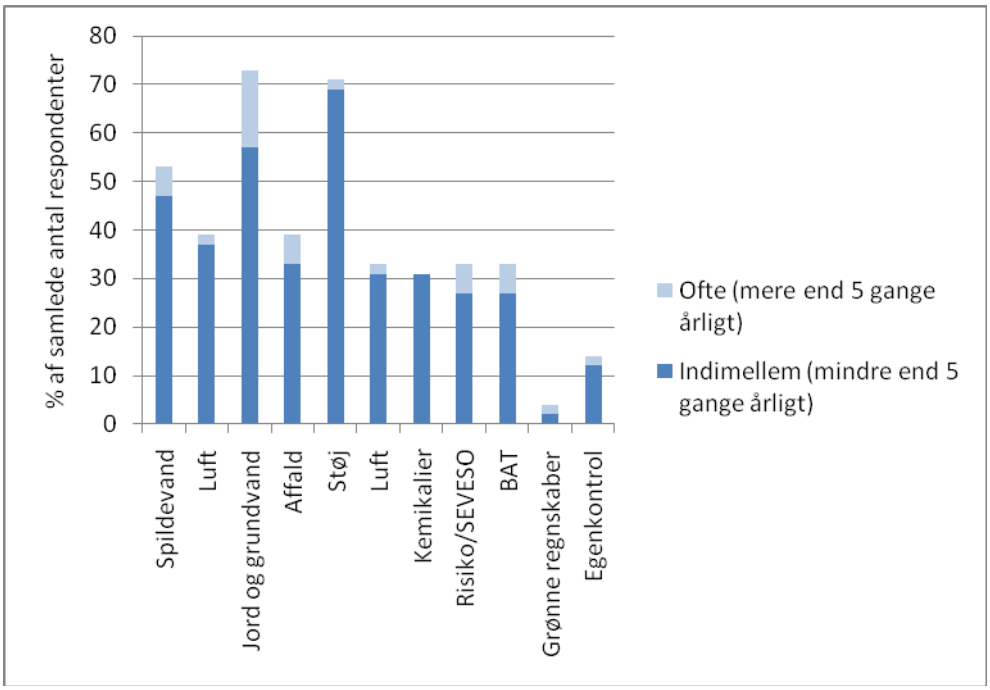
I forbindelse med rådgivning inden i relation til udledning til spildevand får 53% af de adspurgte ekspertbistand årligt.

Ud af den samlede mængde respondenter får 39% ekspertbistand årligt til udledning af luft.

73% af de adspurgte får årlig eksperthjælp til forurening af jord og grundvand og 16% får eksperthjælp mere end 5 gange årligt.

Yderligere får 47% af de adspurgte eksperthjælp på et eller flere andre områder. Disse områder inkluderer bistand til miljøgodkendelser af hav- og landbrug, dambrugstilsyn, revision af IPPC- miljøgodkendelser/afgørelser og tilsyn, meddelelse af overgangsplaner, jf. deponeringsbekendtgørelsen og miljøgodkendelse af asfaltvirksomhed med VVM-pligt, Miljøgodkendelser af landbrug, indsatsplaner for vandværker, husdyrsager, genanvendelse af restprodukter, råstoffer og godkendelse af kap. 5 virksomheder samt tilsyn med disse, virksomhedstilsyn, varmeplan, spildevandsplan, klimaplan og vandforsyningsplan.

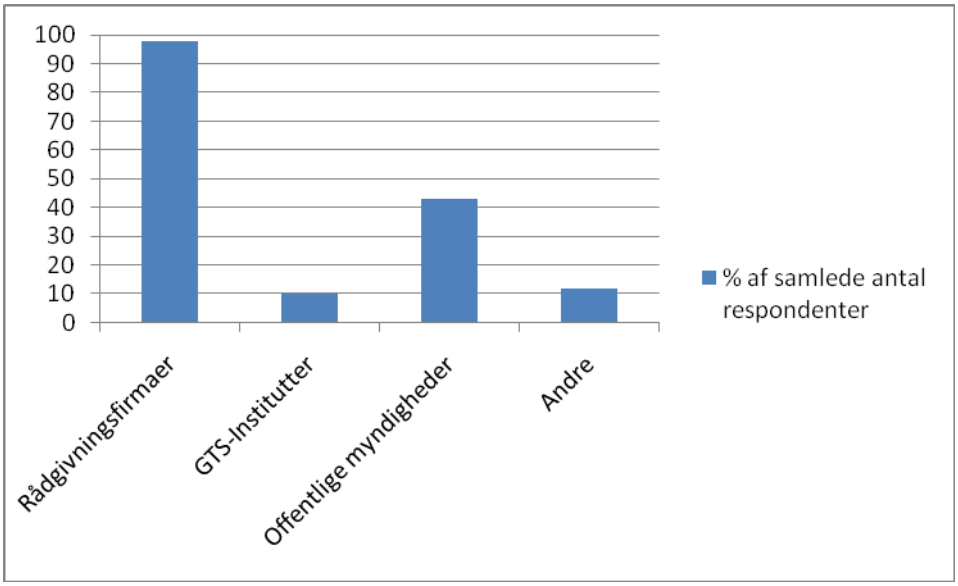
Omkring 1/3 af de adspurgte får ekspertbistand til risiko/SEVESO, men til dette skal bemærkes, at det kun er hver tredje kommune i Danmark der har risikovirksomheder. Resultatet kunne derfor tyde på, at en meget stor del af disse kommuner får ekspertbistand vedrørende risikoforhold. Da spørgsmålet om, hvorvidt kommunen har risikovirksomheder, ikke har indgået i spørgeskemaet, er det på baggrund af undersøgelsen dog ikke muligt at opnå et præcist billede af, hvor mange af kommunerne med risikovirksomheder, der bruger ekspertbistand til sagsbehandlingen vedrørende risikoforhold.



Figur 1 Frekvens af ekspertbistand fordelt på emneområder

Hvorfra indhentes eksperthjælp?

Næsten samtlige respondenter i spørgeskemaundersøgelsen, som modtager eksperthjælp, får bistand fra rådgivningsfirmaer, herunder tekniske og juridiske firmaer. Desuden modtager virksomheder, kommuner og miljøcentre også eksperthjælp fra GTS-institutter (10%), offentlige myndigheder (43%) og andre (12)%.



Figur 2 Brug af eksperthjælp fordelt på aktører

Når respondenterne har indhentet eksperthjælp fra offentlige myndigheder, er det typisk fra andre kommunale kollegaer eller netværk samt Miljøstyrelsen, Miljøcentre, By- og Landskabsstyrelsen.

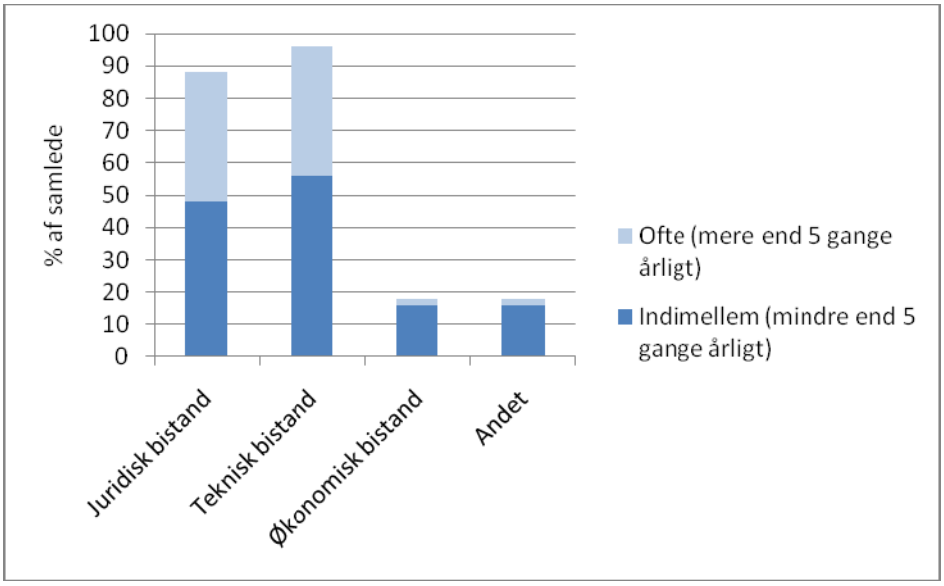
Fagområder

Af det samlede antal respondenter i undersøgelsen mente 48%, at der var et behov for juridisk bistand mindre end 5 gange årligt, mens 40% mente, at der

var behov for juridisk bistand mere end 5 gange årligt. Samlet mente knap 90% således, at der var et tilbagevendende behov for ekspertbistand af juridisk indhold.

Teknisk bistand omfatter biologer, ingeniører, geologer, laboranter mv. Ud af det samlede antal respondenter i undersøgelsen (som indhenter eksperthjælp), mente henholdsvis 56% og 40%, at der var behov for teknisk bistand indimellem eller ofte. Samlet mente 96%, at der var et tilbagevendende behov for ekspertbistand af teknisk karakter.

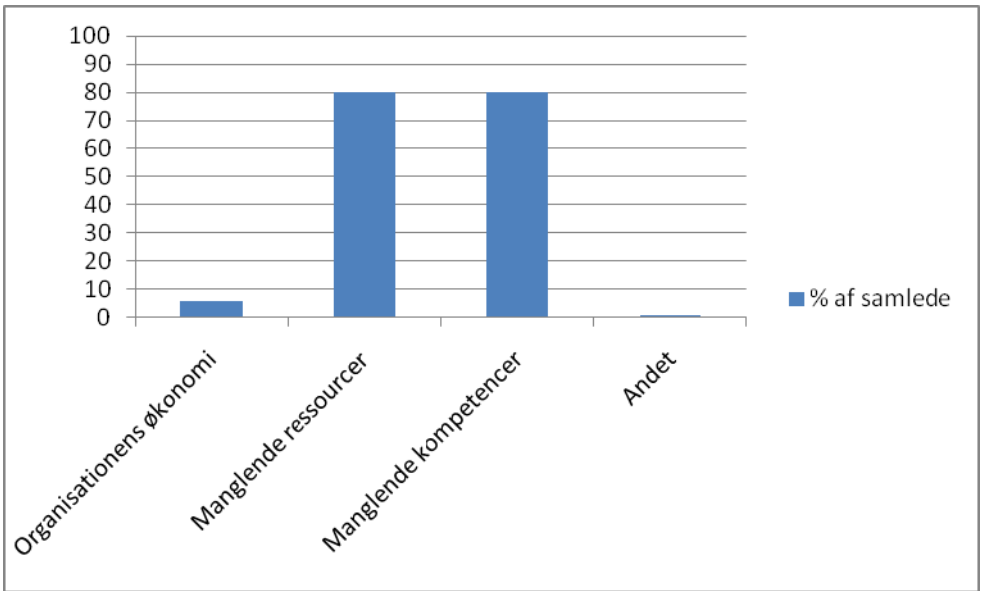
I forhold til juridisk og teknisk bistand, så mente væsentligt færre respondenter, at der var behov for økonomisk og anden form for bistand (20% af respondenterne i begge tilfælde).



Figur 3 Behov for eksperthjælp fordelt på fagområder

Årsagen til at bruge eksperthjælp

Respondenterne i undersøgelsen refererer langt overvejende til manglende ressourcer samt kompetencer, når de bliver spurgt om årsagen til, at de valgte at indhente eksperthjælp. Det udspecificeres, at eksperthjælp i høj grad bruges til at dobbelttjekke afgørelser samt til hjælp med at fortolke lovgivningen.

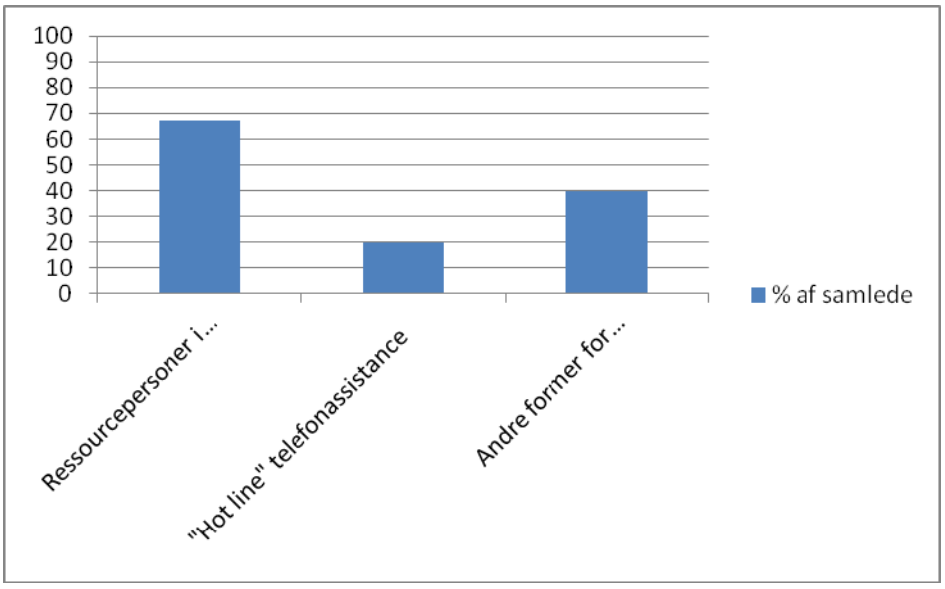


Figur 4 Årsag til brug af ekspertbistand

4.1.3 Kommuner og miljøcentre

Typer af outsourcing

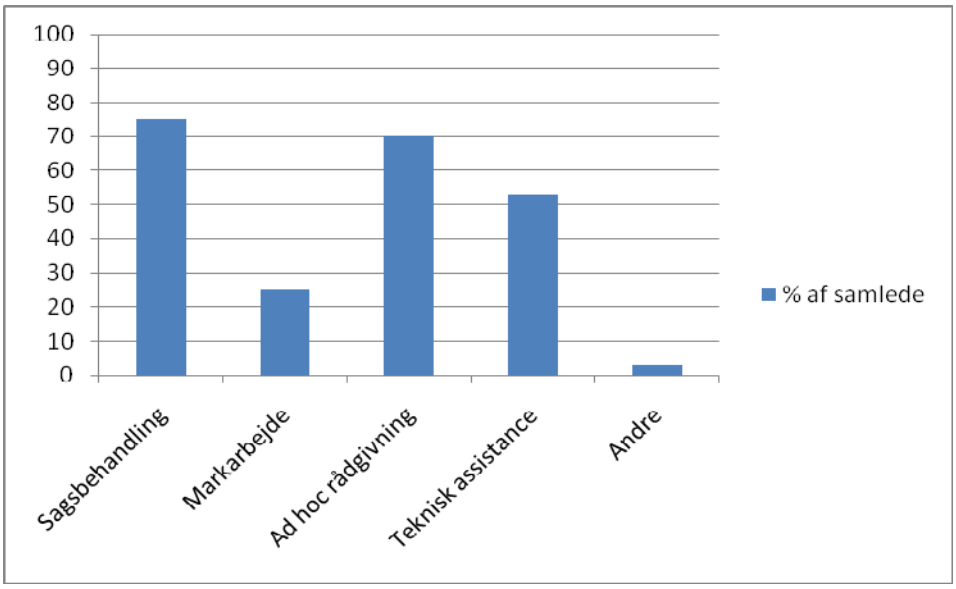
Der var 15 kommuner og miljøcentre, som har outsourcet godkendelse og tilsynsarbejdet til eksperter. Ud af de femten har 67% haft ressourcepersoner i forvaltningen, imens 20% har benyttet en telefonisk "hot line".



Figur 5 Indhentede typer af outsourcing i kommuner og miljøcentre

Samarbejdsformer i fremtiden

Ud af det samlede antal offentlige respondenter (40 kommuner og miljøcentre) mener omkring tre fjerdele, at de vil få brug for sagsbehandling samt ad hoc rådgivning i fremtiden. Lidt over halvdelen mener, at der bliver brug for teknisk assistance i fremtiden.



Figur 6 Behov for samarbejdsformer i fremtiden

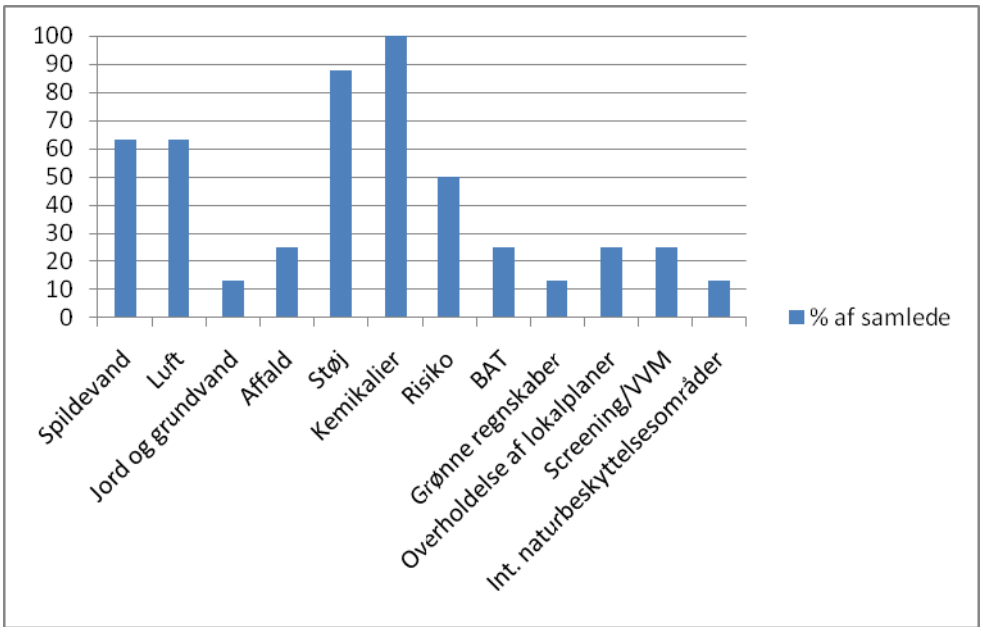
Nye samarbejdsformer, der bør udvikles
Nogle kommuner og miljøcentre har påpeget nye samarbejdsformer, som i fremtiden bør udvikles. Det blev blandt andet foreslået, at rådgivernes specifikke viden kunne videregives til sagsbehandlerne igennem gruppearbejde. Dermed sikres det, at sagsbehandlerens kompetencer udvides, og at der ikke nødvendigvis skal indkøbes rådgivningsbistand til en tilsvarende opgave senere. Det sikres samtidig, at der er en god basisforståelse til senere opfølgning i sagen (f.eks. ved tilsyn med eller revision af tilladelser/godkendelser). Som led i gruppearbejdet, kunne man eksperimentere med tættere samarbejde mellem rådgivere og sagsbehandlere i aktuelle sager. Workshops er en mulighed, hvor problemer og løsningsforslag gennemdiskuteres. Rådgiver skal være bedre til at træne og lære fra sig, og kunden skal modtage læring, imens opgaven løses. Et andet forslag lød på sparring, hvor rådgiver tilbyder sin viden i sagsbehandlingen, typisk på det juridiske område, og dermed bidrager med 'on-the-job training'.

4.1.4 Virksomheder

I alt blev 20 virksomheder inviteret til at deltage i spørgeskemaundersøgelsen, virksomhederne blev udvalgt over et bredt snit af store (IPPC) og små og mellemstore virksomheder (SMV), fordelt over landsdelene og produktionsområder. Af produktion kan nævnes olie&gas, asfalt, proceskemi, fødevarer og bioscience/biotech.

Der var ti virksomheder, som svarede på spørgeskemaet. Besvarelserne er afgivet af et bredt udsnit af virksomheder indenfor meget forskellige brancher. Det er primært de store IPPC virksomheder, der har besvaret spørgeskemaet, men også enkelte SMV har besvaret.

Emneområder
Der var otte ud af ti virksomheder, som indikerede, hvilke områder de havde modtaget ekspertbistand på. Spildevand, luft, støj og kemikalier er de emneområder, hvor flest virksomheder har fået ekspertbistand.



Figur 7 Emneområder hvor virksomheder indhenter eksperthjælp

De former for eksperthjælp, der typisk er blevet anvendt af virksomhederne, er tekniske rådgivningsfirmaer (89%) samt juridisk bistand (56%).

Hot line assistance
Kun en ud af de ti adspurgte virksomheder får eksperthjælp ved hot line telefonassistance.

Årsagerne til brug for eksperthjælp
Der blev angivet 4 årsager til brugen af eksperthjælp.

Nye sagsbehandlere i kommunerne blev angivet, som en af årsagerne til brugen af eksperthjælp. Endvidere opstår behovet på grund af stadig mere krævende og kompliceret lovgivning.

Det blev også angivet som et problem, at der sættes færre ressourcer i form af medarbejdere i virksomheden af til at udføre opgaverne. Endelige blev det angivet, at det har en betydning for brugen af eksperthjælp, at myndighederne bruger konsulenter.

Virksomhederne efterspørger
Det eneste, som virksomhederne kunne ønske sig mere af, er rammeaftaler inden for miljø- og arbejdsmiljø. Dette blev ikke uddybet, men må antages at hænge sammen med et ønske om en let og hurtig adgang til eksperterne via forud fastlagte rammeaftaler, hvor raterne og de generelle betingelser for rådgivningen er aftalt.

4.2 Konklusion på spørgeskemaundersøgelsen

Det kan konkluderes, at spørgeskemaundersøgelsen bekræfter, at der er behov for eksperthjælp, og at denne i vidt omfang benyttes både af myndigheder og virksomheder. Det er særligt inden for støj, luft, jord og spildevand, at behovet i øjeblikket er til stede. Der er ikke via spørgeskemaundersøgelsen fremkommet konkrete ønsker og forslag til fremtidige eksperthjælpsordninger, der ikke allerede eksisterer og bliver brugt i kommunerne allerede.

Konkluderende kan det med baggrund i spørgeskemaundersøgelsen siges, jf. dog de spørgeskematekniske bemærkninger under pkt. 2, at behovet for eksperthjælp er der, og at eksperterne samt en fornuftig samarbejdsform kan findes, når behovet opstår.

4.3 Dybdeinterviews

Med baggrund i spørgeskemaundersøgelsen er der gennemført en række dybdeinterviews, der i store træk bekræfter resultaterne af spørgeskemaundersøgelsen. Besvarelserne i dybdeinterviewene fremgår af Bilag 1.

De danske kommuner, miljøcentre og virksomheder er generelt tilfredse med udbuddet af ekspertbistand i Danmark. Eksperthjælpen indhentes typisk på grund af et ***ad hoc***-behov f.eks. fordi en særlig type miljøgodkendelse skal udstedes, spidskompetencer inden for f.eks. støj eller spildevand skal behandles, eller der opstår særlige klagesager, som kræver særlig juridisk ekspertise. Behovet for eksperthjælp angives også at opstå med baggrund i en overordnet planlægning, for at afvikle sagspukler, overholde minimumstilsynsfrekvensen eller på grund af langtidssygdom i medarbejderstaben.

Behovet dækkes gennem kollegaer, netværk samt indkøb af eksperthjælp. Det blev påpeget, at det er et problem i forhold til at bruge de ekspertiser, som Miljøstyrelsen råder over, at Miljøstyrelsens reaktionshastighed er for lang, samt at styrelsen ikke kan yde rådgivning vedrørende konkrete sager.

Dybdeinterviewene afdækkede trods den overordnede tilfredshed med udbuddet og formen af eksperthjælpsordningerne i Danmark et bredt ønske om, at inddragelsen af eksperthjælp kunne systematiseres bedre, så den kunne være med til støtte op om det effektiviseringsbehov, som både virksomheder og kommuner i dybdeinterviews og på den efterfølgende workshop gav udtryk for eksisterer i forbindelse med myndighedsbehandling inden for miljøområdet.

5 Kortlægning af udenlandske systemer for eksperthjælp

Med henblik på at hente inspiration og trække på erfaringer fra andre EU medlemslande er der gennemført en undersøgelse af systemer for eksperthjælp, hvor miljømyndigheder eller virksomheder kan få gode råd og eksperthjælp i særlige vanskelige problemstillinger i relation til godkendelse af og tilsyn med virksomheder.

Hensigten har været på baggrund af erfaringerne fra de øvrige lande i Europa at belyse, om det er muligt at indføre tilsvarende ordninger eller ordninger, der er tilpasset de danske forhold. Disse overvejelser beskrives nærmere som en del af diskussionerne i relation til mulige forbedrede ordninger i Danmark i kapitel 1.

På basis af en indledende screening af systemer for eksperthjælp i en række EU lande er der udvalgt fem lande eller delstater, som er undersøgt nærmere: Holland, Flandern, Irland, Skotland og Luxemburg. For hvert af landene eller delstaterne er der udarbejdet en beskrivelse af systemerne for miljøgodkendelser og eksperthjælp. Disse beskrivelser, som er udarbejdet af lokale konsulenter fremgår af bilag 1.

I det følgende kapitel er systemerne kort beskrevet med fokus på:

- Organisering af myndighedsarbejdet og systemer for eksperthjælp.
- Finansiering af systemerne og ressourceforbrug fordelt på aktører.
- Erfaringer med ordningen og overvejelser vedrørende nye eller ændrede ordninger.

Miljølovgivning og myndighedsarbejdet i de enkelte lande er nærmere beskrevet i bilagene, og der henvises til disse for nærmere detaljer.

I Holland, Flandern og Luxemburg er der dedikerede IPPC-relaterede ressourcecentre, og det er fra disse lande de i denne sammenhæng mest interessante erfaringer kan hentes.

5.1 Holland

5.1.1 Organisering af myndighedsarbejdet og systemer for eksperthjælp

To instanser er i Holland ansvarlige for miljøgodkendelse af industrivirksomheder i henhold til Miljøloven: kommuner og provinsmyndigheder. Hertil kommer de regionale vandmyndigheder, som udsteder godkendelse i henhold til Vandloven. Der er flere hundrede kommuner, provinsmyndigheder og regionale vandmyndigheder som er involveret i godkendelse af såvel IPPC som ikke-IPPC virksomheder. Der er i Holland 2443 virksomheder med IPPC installationer, heraf er ¾ inden for jordbruget.

Tilsammen imødekommer de to miljøgodkendelser – udstedt i henhold til de to respektive love – kravene i IPPC Direktivet.

Implementeringen af BAT i hollandsk lovgivning omfatter tre trin:

- Sammenligning af BREFs med eksisterende hollandsk lovgivning og politik.
- Samråd med industri og kompetente myndigheder.
- Implementering i de hollandske retningslinjer for luftemissioner (NeR) og retningslinjerne fra kommissionen for integreret vandregulering (CIW).

De hollandske myndigheder skelner ikke mellem IPPC og ikke-IPPC installationer, og BREF dokumenter bruges som informationskilder i relation til miljøgodkendelser af alle installationer, dog således at der skeles til størrelsen af installationen.

Der er to organisationer, som tilbyder information og serviceydelser i relation til miljøgodkendelser: Infomil og Helpdesk Water.

Infomil

Infomil[1] blev etableret 1995 i et samarbejde mellem 4 organisationer: Ministeriet for bolig, fysisk planlægning og miljø (VROM), Økonomiministeriet, sammenslutningen af nederlandske kommuner og sammenslutningen af provinsmyndigheder.

Infomil tjener som formidler mellem forskellige myndigheder og målgrupper i Holland.

Infomil har tre hovedopgaver:

- At stille information til rådighed vedrørende opnåelse af godkendelser i henhold til Miljøloven.
- A lette samspillet mellem myndigheder og målgrupper vedrørende fastlæggelse af BAT og formulere retningslinjer for BAT.
- At tjene som ekspertcenter, som håndterer relevant information om BAT, miljørigtig teknologi, mm. og gør den tilgængelig. Har bl.a. til opgave at støtte integreringen af BREFs i de hollandske guidelines for luftemissioner.

Infomil har adgang til et omfattende netværk af godkendelsesudstedende myndigheder, brancheorganisationer, nationale myndigheder, interesseorganisationer og internationale kontakter.

Infomil anvender følgende redskaber:

- En helpdesk som besvarer spørgsmål vedrørende implementering af miljølovgivningen (bortset fra spørgsmål vedrørende vand som varetages af Helpdesk Water). Helpdesken er i dag begrænset til offentlige

[1] http://www.infomil.nl/uk/

myndigheder - tidligere kunne den også benyttes af konsulenter og virksomheder.

- Udvekslingsdage, hvor ansatte i kommuner og provinsmyndigheder kan mødes og udveksle erfaringer og diskutere med de nationale myndigheder.

- Et nyhedsbrev, som udgives fire gange om året.

- En hjemmeside, hvor man bl.a. kan hente brochurer, rapporter, tjeklister mm. Én af de serviceydelser, der tilbydes, er et søgemodul, hvor man kan søge efter BAT i de forskellige BREF dokumenter. Systemet bruges af de forskellige myndigheder, industrien og konsulenter.

Ud over disse serviceydelser udvikler og vedligeholder Infomil forskellige standardtekster, som kan benyttes ved udarbejdelse af miljøgodkendelser. Standardteksterne stilles til rådighed for alle myndigheder, virksomheder og konsulenter. De fleste kommercielle IT-værktøjer til udarbejdelse af miljøgodkendelser anvender disse standardtekster.

Infomil har også opgaver, der ikke er knyttet til miljøgodkendelser og IPPC. Informil giver således også rådgivning i relation til REACH og bæredygtig udvikling.

Helpdesk Water
Helpdesk Water er etableret af i et samarbejde mellem den hollandske stat, kommuner, provinsmyndigheder og regionale vandmyndigheder. Helpdesk Waters vigtigste opgave er at besvare spørgsmål fra folk som professionelt er involveret i politikudvikling, regulering og sikkerhed inden for vandområdet. Helpdesken kan benyttes af såvel myndigheder som konsulenter og virksomheder. Omkring 15% af spørgsmålene, som behandles af helpdesken, vedrører miljøspørgsmål. Ud over at drive en helpdesk publicerer organisationen et digitalt nyhedsbrev, har en hjemmeside og organiserer kurser.

"Svar til virksomheder"
Med midler fra Økonomiministeriet er der en særlig service til virksomheder: "Svar til virksomheder". Denne service dækker meget mere end miljøspørgsmål og giver adgang til hjemmesider og information, som stilles til rådighed af alle statsinstitutioner. Helpdesken hjælper primært med at finde den rigtige information på nettet.

5.1.2 Finansiering af systemerne og ressourceforbrug fordelt på aktører.

Infomil finansieres hovedsageligt af VROM. Budgettet fastlægges for et år af gangen. Det samlede årlige budget er 6 mio. €, men dette dækker også aktiviteter, som ikke er knyttet til miljøgodkendelser og IPPC. Der er for 2010 afsat 0,4 mio € specifikt til aktiviteter knyttet til IPPC installationer, af disse vil 80% blive anvendt på støtte til politikudvikling og udvikling af BAT og BREF dokumenter, mens de øvrige 20% anvendes på informationsudveksling.

I særlige tilfælde udfører Informil særlige opgaver betalt af andre myndigheder.

Helpdesk Water finansieres primært af Ministeriet for transport, offentlige arbejder og vandregulering (V&W) under et langtidsprogram. Det årlige budget er 0,2 mio € og hertil kommer 10 medarbejdere finansieret af Generaldi-

rektoratet for offentlige arbejder og vandregulering. Som nævnt udgør spørgsmål vedrørende miljøgodkendelser kun en lille del af aktiviteterne.

5.1.3 Erfaringer og overvejelser vedrørende nye eller ændrede ordninger

En styrke ved Infomil er, at organisationen kan give input til arbejdet med politikudvikling baseret på praktiske erfaringer fra helpdesken, og medarbejderne kan bruge deres viden om politikudvikling i deres råd til myndighederne. En svaghed er den stærke afhængighed af VROM og det forhold, at budgetterne er fastlagt for kun et år ad gangen. Infomil samler den tilgængelige viden og erfaring i relation til komplekse situationer, eksempelvis IPPC installationer. Ved at koncentrere denne viden inden for én organisation, frem for at sprede den ud på mange konsulenter, sikres en bedre kvalitet i rådgivningen.

Miljøgodkendelsessystemerne i Holland vil i 2010 samles til ét system - en såkaldt "Wabo" godkendelse. Wabo godkendelserne skal administreres af omkring 30 regionale Wabo kontorer, som vil være ansvarlige for både IPPC og ikke-IPPC installationer. Herved mindskes antallet af medarbejdere i offentlige myndigheder, som varetager miljøgodkendelser, og det diskuteres i øjeblikket, om dette vil påvirke behovet for Infomils helpdesk.

5.2 Flandern

5.2.1 Organisering af myndighedsarbejdet og systemer for eksperthjælp

I Belgien foregår en væsentlig del af miljøreguleringen på delstatsniveau, mens områder som fødevaresikkerhed og strålebeskyttelse varetages af de føderale myndigheder.

I Flandern er der tre klasser af miljøgodkendelser:

- Klasse 1 godkendelser, som inkluderer IPPC installationer, udstedes af en såkaldt "Permanent deputation" i hver af delstatens 5 provinser,
- klasse 2 godkendelser udstedes af de 308 kommuner, mens
- klasse 3 ansøgninger blot skal notificeres til kommunerne.

Til at vejlede om den "permanente deputation" er der i hver provins etableret en provinsiel godkendelseskomite, som består af repræsentanter for provinsrådet, en række rådgivningsinstitutioner, to eksperter udpeget på grundlag af deres tekniske og videnskabelige ekspertise og en repræsentant for kommunerne.

Den "permanente deputation" fungerer også som ankeinstans i forhold til klasse 2 godkendelser, mens den relevante flamske minister fungerer som ankeinstans i forhold til klasse 1 godkendelser. Der er etableret en regional godkendelseskomite til at rådgive ministeren bestående af repræsentanter for miljøgodkendelsesdivisionen i miljødepartementet, repræsentanter for de permanente rådgivningsmyndigheder, repræsentanter for ikke-permanente rådgivningsmyndigheder samt to eksperter, som er udpeget af ministeren på grundlag af deres tekniske og videnskabelige ekspertise. Der er således tekniske eksperter med i alle komiteerne.

Såvel de provinsielle godkendelseskomiteer og den regionale godkendelseskomite mødes mindst én gang om måneden.

Den kompetente myndighed, den flamske miljøgodkendelsesdivision har udarbejdet en IPPC handlingsplan 2009-2015. Alle identificerede IPPC installationer i Flandern skal i perioden 2009-2015 gennemgås af miljøgodkendelsesdivisionen på basis af BAT undersøgelser, IPPC tjeklister og miljøkvalitetsmål. For hvert af BREF dokumenterne er der blevet udarbejdet en tjekliste, som kan bruges som et vejledningsdokument ved kontrol i relation til miljøgodkendelser. Tjeklisten kan bruges som basis for diskussioner mellem den godkendende myndighed og operatøren og giver et overblik over:

- Forebyggende foranstaltninger og rensningsteknikker.
- Foranstaltninger i relation til unormal drift.
- Teknikker til at undgå eller begrænse produktionen af affald og foranstaltninger til begrænsning af energiforbrug.
- Foranstaltninger til undgåelse af ulykker og begrænse konsekvenserne heraf.
- Foranstaltninger i tilfælde af at aktiviteten er stoppet.

Ekspertise inden for det flamske miljødepartement
Al teknisk personale i det flamske miljødepartement er repræsenteret i en eller flere ekspertarbejdsgrupper inden for departementet. Medlemmerne af arbejdsgruppen specialiserer sig i et særligt område og følger udviklingen i BAT inden for deres område. Det forventes især, at eksperterne kan give specialiseret teknisk assistance til de relevante arbejdsgrupper og kan samarbejde om udviklingen af ny europæisk lovgivning. Hver ekspertgruppe koordinerer deres aktiviteter på følgende punkter:

- Teknisk opdatering af generelle og branchespecifikke godkendelsesbetingelser.
- Implementering af ny europæisk lovgivning
- Opfølgning på BREF og BAT undersøgelser
- Opfølgning på ny europæisk lovgivning under udarbejdelse

Det flamske BAT videncenter
Det Flamske Teknologiske Institut (VITO), som er 100% er ejet af delstaten, er en klient-orienteret forsknings- og rådgivningsinstitution, som retter sig mod lokale, flamske, belgiske og europæiske myndigheder såvel som mod industrien. VITO blev grundlagt i begyndelsen af 1990'erne og har i dag omkring 550 ansatte.

Som en del af sine aktiviteter huser VITO det flamske BAT videncenter [2] og det flamske Energi og Miljø Informations System (EMIS).

- Udarbejdelse af BAT anbefalinger
Den flamske BAT videncenter indsamler viden om miljøvenlige teknikker, udarbejder BAT sektorrapporter for den flamske region, evaluerer BAT for de enkelte industrielle sektorer (IPPC såvel som ikke-IPPC virksomheder) og

[2] http://www.emis.vito.be/vito%E2%80%99s-centre-best-available-techniques-bat-centre

formulerer BAT anbefalinger for de flamske myndigheder, for sektorer og virksomheder og for andre myndigheder i Europa.

Videncentret udarbejder på basis af resultaterne af en BAT kortlægning, den flamske miljølovgivning og BAT retningslinjer fra EU (BREFs) eller andre lande et forlag til en serie af konkrete BAT tiltag. Den tekniske og økonomiske gennemførlighed af disse bliver undersøgt ved gennemgang af virksomheder, analyse af de økonomiske implikationer for sektoren, erfaring fra andre lande samt data fra leverandører. Til at rådgive videncentret i relation til de foreslåede BAT anbefalinger er der etableret en rådgivende komite bestående af repræsentanter for industrien, de flamske myndigheder og uafhængige eksperter. Baseret på analysen og anbefalinger fra komiteen bliver de foreslåede BAT tiltag indarbejdet i et sæt anbefalinger. Anbefalingerne bliver eventuelt præsenteret på et møde, hvor myndighedspersoner og industrien informeres.

- BAT database og IT værktøjer
BAT videncentret har udviklet og vedligeholder en database, som giver et overblik over alle BAT og andre miljørigtige teknologier, som er angivet i BAT undersøgelserne og BREF dokumenterne. En søgning på en branche eller et miljømæssigt aspekt leder til en liste over relevante teknikker. Databasen indeholder information om hver teknik og giver eventuelt et link til den fulde tekst af BAT undersøgelsen. IPPC tjeklister er tilgængelige for de IPPC installationer, som der findes et godkendt BREF dokument for. Databasen og tjeklisterne er tilgængelige via EMIS.

BAT centret udvikler også IT værktøjer til at hjælpe myndigheder, industri og konsulenter i deres søgning efter teknikker til at løse deres miljøproblemer i relation til jordforurening, spildevand, affaldsbehandling og luftforurening.

- Helpdesk
BAT videncentret betjener en helpdesk for myndigheder, konsulenter og industrien, som besvarer BAT-relaterede spørgsmål. Helpdesken er tilgængelig via e-mail eller telefon. Helpdesken er bemandet med én person, som prøver at guide spørgeren til den rette information.

- Sevilla-processen
BAT videncentret spiller to roller i Sevilla-processen. På inputsiden leverer VITO som repræsentant for Belgien i den tekniske arbejdsgruppe (TWG) information til det europæiske IPPC Bureau i relation til udarbejdelsen af BREF dokumenter. VITO repræsenterer også de belgiske (flamske) myndigheder i den europæiske udveksling af information om BAT. På outputsiden spreder VITO resultaterne af informationsudvekslingen til industrien og myndigheder i Flandern gennem informationsmøder, workshops, træning og gennem EMIS.

- Eksternt finansierede projekter
Ud over de faste aktiviteter gennemfører centret (i samarbejde med andre dele af VITO og eksterne samarbejdspartnere) eksternt finansierede projekter og har bl.a. udført IPPC projekter i bl.a. Slovenien, Spanien, Grækenland, Israel, og Asien. For EU kommissionen har VITO bl.a. udført kapacitetsopbygning og træning i Kroatien, Rumænien, Serbien/Montenegro og Tyrkiet.

Anden eksperthjælp
De flamske myndigheder bruger også input fra andre miljøkonsulenter afhængig af emne, politikområde eller videnskabelig disciplin.

5.2.2 Finansiering af systemerne og ressourceforbrug fordelt på aktører.

VITO er finansieret gennem midler fra de flamske myndigheder og indtægter fra såvel private som offentlige kunder. Af et samlet budget på 73 mio € i 2008 var 42 mio € tilskud.

Det flamske BAT center har 10-20 medarbejdere. Basismidlerne kommer udelukkende fra de flamske myndigheder.

Det er gratis at benytte de Internet-baserede informationssystemer. Der er brugerbetaling for deltagelse i kurser og workshops.

Ud over basismidlerne har VITO indtægter i tilknytning til centret fra eksternt finansierede forsknings- og konsulentopgaver i relation til BAT og IPPC for bl.a. den flamske stat, EU Kommissionen, private virksomheder og branche-organisationer.

5.2.3 Erfaringer med ordningen og overvejelser vedrørende nye eller ændrede ordninger

Systemet for eksperthjælp har fungeret siden begyndelsen af 1990'erne og har muliggjort oparbejdelsen af en multidisciplinær ekspertise gennem kontinuitet og centralisering af information. Det har også muliggjort opbygning af videnskabelige netværk og involvering i politikudvikling på europæisk plan.

Gennem systemet er al information centraliseret, offentligt tilgængeligt, konsistent, genkendeligt, mm. og informationen kan dermed danne grundlag for et effektivt samspil mellem de flamske myndigheder og de relevante industrisektorer.

Gennem videnskabelige netværk og deltagelse i europæiske forskningsprojekter er VITO involveret i europæisk politikudvikling og beslutningsprocesser. Der er således et tæt samspil mellem det flamske BAT videncenter og det europæiske IPPC bureau. Denne involvering på europæisk plan giver også fordele i relation til VITOs samarbejde med de lokale myndigheder.

Kombinationen af at fungere som rådgiver for myndighederne og samtidig udføre opgaver for industrien giver dels en risiko for visse interessekonflikter, dels en risiko for ulige konkurrencevilkår i forhold til andre konsulenter.

5.3 Luxemburg

5.3.1 Organisering af myndighedsarbejdet og systemer for eksperthjælp

I Luxemburg skal der søges om godkendelse af alle industrielle, håndværksmæssige og handelsmæssige virksomheder. Virksomhederne inddeles i 4 klasser baseret på den risiko, de udgør.

Klasse 1 og klasse 3 virksomheder godkendes af de nationale myndigheder i form af Miljøadministrationen og Inspektoratet for arbejde og miner. Klasse 2 virksomheder godkendes af de 116 kommunale myndigheder. Luxemburg har ca. 1100 industrivirksomheder. Klasse 4 virksomheder autoriseres af en enkel deklaration.

For virksomheder, der er klassificeret som miljø- eller sundhedsfarlige, nedsættes der en styringskomite bestående af repræsentanter for:

- Relevante ministerier og andre myndigheder.
- Arbejdsgiver- og arbejdstagerorganisationer.
- Godkendte miljøsammenslutninger.
- Sammenslutningen af byer og kommuner i Luxemburg (Syvicol)

Ressourcecenter for miljømæssige teknologier
Ressourcecenter for miljømæssige teknologier (CRTE) [3] blev etableret i 1997 i et samarbejde mellem det luxemburgske miljøministerium og det offentlige udviklingscenter CRP Henri Tudor.

CRTE har 30 medarbejdere inden for forskellige discipliner og et bredt netværk af partnere i institutioner, industrien of den akademiske verden.

CRTE rådgiver industrien vedrørende implementering af BAT og integreret forureningsforebyggelse med særligt fokus på små og mellemstore virksomheder. Centret har ingen lovgivningsmæssige eller godkendende funktion. CRTE udarbejder retningslinjer for renere teknologi rettet mod sektorrelevante miljøproblemer, med henblik på en holistisk tilgang omfattende eco-design og integreret forureningsforebyggelse. Centret synes ikke i større grad specifikt at udarbejde retningsliner for BAT eller give rådgivning vedrørende BAT.

CRTE rådgiver også vedrørende eco-innovation til private og offentlige aktører på nationalt og internationalt niveau og støtter implementeringen af eco-teknologier.

Andre aktiviteter, som udføres af CRTE, er:

- Udvikling af prototyper for miljøundersøgelser, omfattende dataindsamling og analyse.
- Etablerer R&D samarbejdsprojekter på både nationalt og internationalt niveau, og laver kontraktforskning.
- Driver en REACH helpdesk.
- Laver træning vedrørende miljølovgivning, teknologier og koncepter.

CRTE retter sig mod enkeltvirksomheder, især små og mellemstore virksomheder, men også klynger af virksomheder eller hele brancher. Offentlige myndigheder såsom ministerier, kommuner og kommunesamarbejder bruger CRTSs ekspertise og teknologiske vejledning.

I 2008, var der 319 partnere kontraktligt involveret i CRP Henri Tudors projekter, hvoraf mere end halvdelen var fra Luxemburg. Det er ikke oplyst, hvor mange af disse der involverer CRTE.

5.3.2 Finansiering af systemerne og ressourceforbrug fordelt på aktører.

For perioden 2010 modtager CRP Henri Tudors i alt 20,4 mio € i statsmidler. Det har ikke været muligt at få oplysninger specifikt for CRTE.

[3] http://www.crte.lu/

5.3.3 Erfaringer med ordningen og overvejelser vedrørende nye eller ændrede ordninger

CRTE anfører, at det er en fordel for deres klienter og partnere, at centret råder over multidisciplinær kompetence og har et forgrenet netværk.

5.4 Skotland

5.4.1 Organisering af myndighedsarbejdet og systemer for eksperthjælp

Den skotske miljøstyrelse (SEPA) er ansvarlig for implementeringen af miljøgodkendelsessystemet i Skotland. SEPA blev dannet i 1996 på basis af en række statslige organer og indoptog også en række ansvarsområder fra lokale myndigheder.

SEPA er ansvarlig for godkendelse af både IPPC, part A og part B installationer. Der er 313 part A virksomheder og 1.047 Part B virksomheder i Skotland. Hvad angår luftkvalitet foregår reguleringen i et samspil mellem lokale myndigheder og SEPA. Hvad angår gener som støj og lugt er disse forhold reguleret af SEPA for part A virksomheder, mens de lokale myndigheder regulerer disse forhold for part B virksomheder.

SEPA er ansvarlig for at vejlede operatører af IPPC installationer i relation til ansøgninger og strategisk fysisk planlægning. Denne vejledning omfatter vejledning i ansøgning, forpligtelser og BREFs og er tilgængelig på SEPAs hjemmeside [4]. Hjemmesiden giver også adgang til en række sektorspecifikke BAT vejledninger udarbejdet for hele Storbritannien.

Sammen med myndigheder i de andre stater inden for Storbritannien leverer SEPA generel information til virksomheder omkring miljøforhold og lovgivning på web-portalen www.netregs.com. I relation til IPPC giver portalen primært henvisning til SEPAs hjemmeside og hjemmesiderne af de tilsvarende myndigheder i de øvrige stater.

Der er, modsat situationen i Holland og Flandern, ikke en selvstændig institution i Skotland, som giver eksperthjælp i forhold til BAT og IPPC. Hjælp til de lokale myndigheders behandling af planlægningsansøgninger og miljøgodkendelser varetages af SEPA.

Udstedelse af miljøgodkendelser og håndhævelse administreres af divisionen for miljøbeskyttelse og miljøforbedring i SEPA. Sektionen er delt i tre regionale enheder.

Det er de lokale myndigheder, som er planlægningsmyndighed. Nye IPPC faciliteter (eller større ændringer) kræver en planlægningsansøgning, som normalt kræver en VVM. De lokale myndigheder vil konsultere med SEPA som en del af processen omkring planansøgninger. SEPA har en planlægningsdivision med omkring 12 medarbejdere i hver af de tre regionale enheder. Medarbejderne arbejder med spørgsmål i tilknytning til planlægningsansøgninger. Planlægningsdivisionen koordinerer konsultationen og bruger interne SEPA eksperter i de relevante divisioner (f.eks. luftmodellering, procesteknik, vandkvalitet).

[4] http://www.sepa.org.uk/air/process_industry_regulation/large_combustion_plant.aspx

SEPA udfører en række funktioner i forhold til samspillet med de lokale myndigheder:

- Local Authority Liaison grupper - specielle kontaktgrupper, der er nedsat i hvert af de lovgivningsmæssige områder og omfatter op til 12 lokale myndigheder for hver gruppe til at diskutere og håndtere eventuelle specifikke reguleringsspørgsmål.

- Better Regulation Unit - en intern SEPA arbejdsgruppe, som arbejder med henblik på at vurdere, hvordan lovgivningen kan forbedres med henblik på at reducere byrden for erhvervslivet.

- Træning og udvikling - SEPA tilbyder regelmæssigt uddannelse til ansatte hos lokale myndigheder

- COSLA - gruppering af alle lokale myndigheder i Skotland. Der er ingen specifikke IPPC relaterede grupper, men dette betyder ikke nødvendigvis, at aspekter ikke diskuteres.

- REHIS – er en forening for kontorer, som arbejder med miljø og sundhed (Environmental Health) i alle regulerende myndigheder. Tilbyder uddannelse og vejledning til personale, der medvirker i lovgivningsarbejdet bl.a. i forbindelse med IPPC.

SEPA deltager i det skotske og nordirske forum for miljøforskning, SNIFFER[5]. Dette forum koordinerer og financierer forskning i relation til strategiske og tekniske aspekter af miljølovgivningen, herunder IPPC. De fleste forskningsprojekter udføres af eksterne partnere f.eks. miljøkonsulenter.

5.4.2 Finansiering af systemerne og ressourceforbrug fordelt på aktører.

SEPA har i alt 25 teams, som arbejder med IPPC og andre håndhævelsesaktiviteter, heraf 3 teams der specifikt arbejder med industrielle processer. SEPA skønner, at 60-100 medarbejdere er specifikt involveret i IPPC regulering, men ikke alle arbejder fuldtids inden for dette område. Der er 36 medarbejdere i planlægningsenheden, men det er ikke opgjort, hvor meget tid de har brugt specifikt i forhold til IPPC planlægningskonsultationer.

5.4.3 Erfaringer med ordningen og overvejelser vedrørende nye eller ændrede ordninger

Det er nævnt af kontaktpersoner i SEPA, at adskillelsen mellem planlægningsdelen og IPPC miljøansøgningen ofte komplicerer tingene, og at en mere integreret regulering og tilgang kunne være hensigtsmæssig.

5.5 Irland

5.5.1 Organisering af myndighedsarbejdet og systemer for eksperthjælp

Den irske miljøstyrelse (EPA) er den ansvarlige myndighed for udstedelse af alle miljøgodkendelser i henhold til IPPC lovgivningen i Irland. De lokale myndigheder er kun involveret i udstedelse af godkendelser i tilknytning til affaldsbehandling.

[5] http://www.sniffer.org.uk/

EPA er også ansvarlig for at kontrollere emissioner og at håndhæve kravene i miljøgodkendelserne.

IPPC godkendelsessystemet er som i andre EU lande baseret på BAT principper og EPA giver på sin hjemmeside links til BREF dokumenter og sektorspecifikke BAT vejledninger [6]. Der er p.t. mere end 40 sektorspecifikke vejledninger, hvoraf flere dog endnu kun foreligger i udkast. Der gives også forskellig vejledning i relation til selve godkendelsesproceduren på hjemmesiden[7].

Der er, modsat situationen i Holland og Flandern, ikke en selvstændig institution i Irland, som giver eksperthjælp i forhold til BAT og IPPC. SEPA, som står for miljøgodkendelserne, søger eksperthjælp internt eller køber ekspertise fra konsulenter.

EPA koordinerer et nationalt miljøhåndhævelsesnetværk, som koordinerer inspektion og håndhævelse generelt for miljøområdet. Der er ikke noget netværk knyttet specifikt til IPPC og miljøgodkendelser.

EPA paneler

EPA har en række paneler, til hvilke de køber eksperthjælp fra konsulenter.

Det, der i denne sammenhæng er det mest relevante panel, er panelet knyttet til kontoret for miljøhåndhævelse (Office of Environmental Enforcement Panel). Arbejdet i panelet er primært skrivebordsbaserede håndhævelsesaktiviteter, som skal assistere inspektører of regionale teams med at leve op til deres forpligtelser og mål. Opgaverne kan dog også omfatte feltarbejde. Eksterne eksperter hyres på kontrakter op til maksimalt 2 år, som kan forlænges med 6 mdr., og eksperterne skal regne med at bruge nogle dage om ugen på de regionale kontorer.

Arbejdsopgaverne kan bl.a. omfatte følgende:

- Gennegå rapporter fra godkendte virksomheder og andre parter og assistere inspektører med specifikt arbejde i tilknytning til sektorspørgsmål.
- Udvikling af strategier for vurdering af overholdende af vilkår for godkendte steder og sektorer og udvikling af metoder til at forbedre overholdelsen.
- Give vejledning om BAT i nøglesektorer og sikre videnoverførsel.
- Rådgive om planlægning af undersøgelser af virksomheder, som ikke overholder vilkårene og bidrage til udvikling af metoder til målrettet håndhævelse for at sikre bedst mulig udnyttelse af ressourcerne og bedste standarder for overholdelsen
- Bistå med undersøgelser af miljø-klager og forureningssager.
- Støtte til udvikling af kontorets tekniske arbejdsgrupper.

[6] http://www.epa.ie/downloads/advice/

[7] http://www.epa.ie/whatwedo/licensing/ippc/

- Tilvejebringe organisatorisk og administrativ støtte til monitering af håndhævelsen.

- Udarbejdelse af rapporter om håndhævelsesspørgsmål og anbefale tiltag for bedre overholdelse.

- Udvikling af metoder og systemer til indsamling og forvaltning af årlige licensafgifter.

Helpdesks
EPA har en service, hvor man kan ringe ind og stille spørgsmål i forhold til godkendelsessystemet. Der synes ikke at være adgang til at stille mere tekniske spørgsmål omkring BAT.

EPA financierer flere hjælpelinjer blandt andet National Waste Report Helpline og Greenbusiness.ie, men ingen af disse giver specifik vejledning i forhold til BAT og miljøgodkendelser.

5.5.2 Finansiering af systemerne og ressourceforbrug fordelt på aktører

Det har ikke været muligt at få oplysninger om, hvor mange midler i EPA der specifikt har været allokeret til IPPC-relaterede aktiviteter.

5.5.3 Erfaringer med ordningen og overvejelser vedrørende nye eller ændrede ordninger

Der er ikke væsentlige erfaringer med ordninger for ekspertbistand eller overvejelser vedrørende nye eller ændrede ordninger.

6 Indledende forslag og workshop med aktører

For at diskutere indledende forslag til at effektivisere sagsbehandlingen gennem øget brug af eksperthjælp blev der afholdt en workshop med 15 deltagere fra kommuner, miljøcentre, virksomheder og Miljøstyrelsen.

Formålet med workshoppen var at få en bredere konsensus omkring mulige veje til forbedrede ordninger. Der blev i diskussionen taget udgangspunkt i de forslag, som tegnede sig efter en analyse af resultaterne af behovsanalysen, undersøgelsen af udenlandske systemer og de indledende forslag til forbedrede ordninger i Danmark. Til workshoppen var der udover forslagene udarbejdet et katalog af spørgsmål til diskussion på workshoppen.

I det følgende kapitel beskrives de indledende forslag og resultaterne af workshoppen, mens næste kapitel indeholder en juridisk analyse, som har til formål at foretage en afdækning af de forvaltningsretlige rammer for ordninger om eksperthjælp.

De endelige forslag og overvejelserne om den videre proces er samlet i kapitel 1, "Sammenfatning, forslag og anbefalinger".

6.1 Indledende forslag og diskussionsoplæg

De ordninger, som blev foreslået som oplæg til workshoppen, kan inddeles i to hovedgrupper:

- Den første gruppe går ud på gennem systematisk inddragelse af ekspertkompetencer at styrke sagsbehandlingsforudsætningerne i kommuner og miljøcentre.

- Den anden gruppe går ud på at afhjælpe behovet for hurtig ekspertbaseret rådgivning i ***ad hoc***-situationen, hvor der opstår et akut behov for at få svar på nogle spørgsmål, før sagsbehandlingen kan fortsættes.

Hver forslag er kort beskrevet i nedenstående. Derudover var der oplistet en række spørgsmål, som kunne danne inspiration til debat om forslaget på workshoppen.

6.1.1 Ekspertbaserede forbedringer af sagsbehandlingsforudsætninger og -værktøjer

Ekspertbearbejdning af grundlæggende arbejdsdokumenter
Dybdeinterviewene afdækkede et bredt ønske om at få forbedret vidensdelingen kommunerne i mellem. De fleste udtalte frustration over, at hver enkelt kommune skulle opbygge hver deres paradigmesamling inden for de forskellige sagsområder. Særligt godkendelser på landbrugsområdet blev nævnt som et område, hvor paradigmesamlinger ville være meget kærkomment. Det er forskellige muligheder for opbygning af paradigmesamling.

1) Udbygning af Miljøportalen - med ekspertsystematik/validering og løbende opdatering.

2) Vejledning til dialogbaseret sagsbehandling. Vejledningen kan indeholde eksempler fra kommuner/miljøcentre, hvor der aktivt er nedsat en gruppe f.eks. bestående af den involverede virksomhed, kommunen samt evt. eksperter, til at løse et kompliceret sagsforløb. Dette kunne være en revision af en større miljøgodkendelse, hvor det typisk er virksomheden, der har den specialiserede viden om processer og forhold på virksomheden, og hvor kommunen har viden om lovgivning og aktionsforhold. En sådan vejledning kan udformes mere uformelt og enten ligge på Miljøstyrelsens hjemmeside eller på Miljøportalen

3) De kommunale kvalitetsstyringssystemer kan danne udgangspunkt for tværgående netværk.

Facilitering af workshops om ny lovgivning, ny praksis, temaer
Såvel spørgeskemaundersøgelsen som dybdeinterviewene pegede i retning af, at en styrkelse af Miljøstyrelsens indsats via afholdelse af workshops kunne være en god ide.

BAT-videnscentre
Dybdeinterviewene afdækkede et behov for etablering af nogle formelle BAT-videnscentre, hvor særlige tunge og besværlige virksomhedstyper kunne hjælpes samt myndighederne søge vejledning om BAT. Et eksempel er Lynettefællesskabet, www.spildevandsinfo.dk., for rensningsanlæg.

Udvikling af kommunikationsværktøj i forbindelse med miljøsager.
Dybdeinterviewene peger på, at der er et ønske om, at der arbejdes mere professionelt og ekspertbaseret med kommunikation af miljølovgivningen fra Miljøstyrelsen, samt at der tænkes over, hvordan f.eks. VVM-redegørelser præsenteres for offentligheden, f.eks. via standardskabeloner udarbejdet af kommunikationseksperter. Formålet kunne være at få en bredere dialog med aktører, få "det glade budskab" ud, og få afmystificeret og afkompliceret miljølovgivningen

En anden mulighed var efteruddannelseskrav til sagsbehandlerne i kommuner/miljøcentre/miljøchefer i godkendelsesvirksomheder (IPPC eller andre?).

6.1.2 Ekspertbaserede forbedringer i *ad hoc*-situationen

Helpdesk - service af teknisk og juridisk karakter (ud fra retshjælpkonceptet, som kendes fra advokatbranchen)
Dybdeinterviewene peger på, at man grundlæggende kunne ønske en form for helpdesk-service, således at der kan findes en hurtig afklaring af de spørgsmål, der ofte kan betyde, at en sag ellers ligger stille i lang tid.

6.2 Resultater af workshoppen

Formålet med workshoppen var at få valideret spørgeskema og interviewresultater af virksomheder og myndigheder og diskutere de indledende forslag i relation til inddragelse af eksperthjælp til at understøtte en effektivisering af sagsbehandlingssiden.

Bo Møller Gottlieb, Miljøstyrelsen indledte med at fortælle om resultaterne fra visionskonferencen, og hvordan denne kunne tænkes ind i dette projekt. End-

videre vil resultaterne fra dette projekt skulle indgå i evalueringen af det nye godkendelsessystem og arbejdet med afbureaukratisering herunder arbejdet med byrdejægerprojektet og "better regulation".

Claus Werner Nielsen, COWI gav en præsentation af projektets udenlandske og danske resultater indtil nu.

Claus Nickelsen, forvaltningschef, Århus Kommune holdt herefter et indlæg om kommunens behov for eksperthjælp. Kommunen har efter kommunalreformen fået mange nye opgaver, systemer og ny lovgivning at skulle forholde sig til. Endvidere er der hele tiden et effektiviseringspres på forvaltningen af området. Dette betyder, at myndighedsudøvelsen generelt er sat under pres. Det bliver i den forbindelse meget afgørende for effektiviseringen af sagsgangene, at kommunens kvalitetsstyringssystem i øget omfang tænkes sammen med time-/sagsstyringen. Herved kan man skabe det fornødne udgangspunkt for en gennemsigtighed, der gør det muligt at lave rationaliseringer. Det er kommunens bevidste strategi at inddrage eksperter, hvor der er tale om spidskompetencer eller særlige problemstillinger. Dette foretrækkes i stedet for at lave kompetenceløft hos kommunens egen medarbejderstab. I forbindelse med forslag til eksperthjælpsordninger er det vigtigt at se på løsninger, der ikke er i konflikt med det kommunale selvstyre. Det kan f.eks. være tale om samarbejdsaftaler enten frivillige eller tvungne i forhold til nabokommunerne. Hvis kvalitetsstyringssystemet blev koblet bedre til time-/sagsregistreringen ude i de enkelte kommuner ville det være muligt at synliggøre, hvad disse kommuner f.eks. på nogle udvalgte miljøområder kunne få ud af at overdrage til Århus kommune at udføre opgaven.

Henriette Oellgard, Chr. Hansen A/S holdt herefter et indlæg om virksomhedens behov for eksperthjælp. Chr. Hansen A/S bruger eksperter på særlige områder, som de ingen forudsætninger har for at løse in-house. Man bruger altid konsulenter og ikke myndigheder. Dette skyldes ikke, at man ikke har tiltro til deres kompetencer men mere, at man har indtryk af, at de ikke har tid til reagere hurtigt. Det vigtigste for Chr. Hansen A/S er tiden, at der hurtigt sker noget, når der opstår et problem. Det helt afgørende er derfor, at man i videst muligt omfang kan gøre brug af "one-stop shopping", hvilket vil sige, at man kun behøver at henvende sig et sted for at få et svar. Dette gælder særligt, når man henvender sig til eksperter, da man er afhængig af deres hjælp for at kunne komme videre. Det ville f. eks. være en kæmpe fordel, hvis en virksomhed som Chr. Hansen kun havde en sagsbehandler blandt myndighederne og ikke skulle forholde sig til flere p.g.a. forskellige afdelingers geografiske beliggenhed. Det er vigtigt, at eksperterne er i stand til at oversætte deres viden, så den bliver brugbar og nem at implementere i virksomheden efterfølgende, kun derved opnås den fulde effekt af bistanden. Det kan ikke understreges nok, at tid er en meget afgørende faktor ved valg af eksperthjælpsordninger.

Herefter blev forsamlingen delt op i 3 grupper, som skulle diskutere de forslag, som der var resultatet af de hidtidige undersøgelser.

I det følgende refereres en række af de væsentligste kommentarer til de 5 forslag som var fremlagt som basis for workshoppen:

Ekspertbearbejdning af grundlæggende arbejdsdokumenter

- Kommunerne mener, at der er et virkeligt stort behov for en god database, som kan lette sagsbehandlingen generelt. Man mener dog ikke umiddelbart, at miljøportalen er brugbar. Måske hvis den blev relanceret og kunne bruges som en ekspertbearbejdet vidensdatabase med kvalitets-

- Det er meget vigtigt at få lavet en øget indsats for at øge koblingen mellem timesags- og kvalitetsstyringen. Det vil betyde en langt bedre gennemsigtighed i forhold til, hvad det koster at behandle sagerne. I dag er der alt for meget fokus på den daglige opgaveløsning, og der bruges for få kræfter på at effektivisere sagsgangene. Der skal arbejdes langt mere på at skabe administrativ indsigt i sagsbehandlingsomkostningerne.

- De 6 referencelaboratorier er rigtig gode. Her kan man få eksperthjælp hurtigt, effektivt og gratis. Referencelaboratorier kunne i højre grad vejlede omkring fastsættelse af vilkår, renseteknikker, BAT osv.

- Miljømålinger er ikke nødvendigvis absolutte målinger, men en kontrol af om en grænseværdi kan overholdes.

- Det ville være nyttigt med et nyhedsbrev fra Miljøstyrelsen inden for tilsyn og godkendelse.

- Det er vigtigt at gøre sig klart, hvad man skal bruge eksperthjælp til, og hvem ordningen evt. er til for.

- Målgruppen kan eksempelvis være specialister, virksomheder og myndigheder.

- Kravet til ordningen bør være, at man kan få et hurtigt svar og så komme videre i sagsbehandlingen.

- Andet eksempel på en ordning, der fungerer godt, er: Schultz lovguide. Denne fortæller, hvilke afgørelser der er udstedt efter en bestemt paragraf. Her har afgørelserne været tygget igennem, inden de offentliggøres.

Workhops om ny lovgivning

- Der var generel tilfredshed med, at Miljøstyrelsen nogle gange afholder kurser, der præsenterer ny lovgivning. Det giver et godt afsæt for dannelse af ny og nogenlunde ensartet praksis på et område.

- Der er dog mange om buddet i forvejen, og det skal tænkes i, hvorledes workshops sættes sammen emnemæssigt. Det kunne være gavnligt med et fælles afsæt i de emner, som kvalitetsstyringssystemet definerer, så der er en fælles referenceramme, og det er nemmere at omsætte den opnåede viden, når man kommer hjem på kontoret.

BAT-videncentre

- BAT-videncentre er mest brugbare for virksomhederne. Dette kunne være godt med en mere teknisk tilgang, således at virksomhederne kunne henvende sig et sted og få en vifte af navne på eksempelvis filtre, der netop opfylder de særlige krav, der evt. fremgår af en miljøgodkendelse. Det er således vigtigt, at centret ikke kun kan rådgive om de tekniske, men også de praktiske problemer ved anvendelsen af BAT.

- Standardvilkår er gode. Et problem er, at man ofte mister den bagvedliggende historie om, hvorfor vilkåret netop ser ud, som det gør. Dette kan gøre det vanskeligt altid fuldstændig at forstå, hvor det er BAT, og hvorledes det bedst passes ind i den konkrete virksomhed.

- Det generelle indtryk er, at kommunerne har vanskeligt ved BAT, når der er tale om at anvende referencelisterne. Der burde gennemføres en undersøgelse af, hvorledes BAT behandles ude i kommunerne. Det lever muligvis lidt skjult og er ikke efterlevet så effektivt, som det er meningen. Det kunne være godt, om Miljøstyrelsen konkret undersøgte dette.

- Det ville betyde meget for miljøbeskyttelsen, at BAT blev efterlevet i større omfang. Indtrykket er generelt, at DK er ved at sakke bagud vedrørende BAT, så man bør gøre yderligere for at styrke dette område, men det kræver en grundlæggende analyse af, hvad problemet eksakt er med implementeringen af BAT.

- En indsats vedrørende BAT er særligt påkrævet inden for landbrugsområdet.

- En sikring af BAT indsatsen kan være med til at sikre kvaliteten i miljøbeskyttelsen i stedet for mere kvantitative tiltag, som f.eks. en skærpelse af tilsynsindsatsen.

Udvikling af kommunikationsværktøj i forbindelse med miljøsager.

- Vi skal blive bedre til at udveksle paradigmer. Nogle kommuner har allerede opstillet 1000 procedurer for sagsbehandlingen, andre kun få.

- Procedurerne kan medvirke til en mere systematisk tilgang til miljøarbejdet.

- Det er godt at inddrage kvalitetsstyringssystemer

- Afleveringen af en miljøgodkendelse er vigtigt. Det er vigtigt at videre-bringe historien om, hvorfor vilkårene ser ud, som de gør. Den personlige kontakt er vigtig.

- Det samme gælder, når Miljøstyrelsen afleverer en bekendtgørelse. Dialogmøder kan være meget brugbare.

- Disse afleveringsforretninger bør være en del af kvalitetsstyringssystemerne.

- Fælles kurser, hvor eksempelvis Mads Kobberø kommer og fortæller om håndhævelse etc. ville være et godt tiltag.

- Envira inviterer ofte eksperter med til at fortælle om en særlig problemstilling. Politiet kan også fortælle, hvordan en sag bliver håndteret og gjort klart til en retssag.

- En god ide er også at indgå en aftale om, hvordan en godkendelsesproces skal forløbe, med output og tidsplan etc. Alle relevante parter bør deltage i denne aftale.

- Måske er der behov for en formel koordinering af netværkene.

- Stadig et behov for et nyhedsbrev fra Miljøstyrelsen.

- Måske kunne man tænke i et system, hvor muligheden for at hente gratis eksperthjælp kun er for medspillere – altså virksomheder der overholder lovgivningen. Modspillerne skal betale for at bruge ordningen. Det er tvivlsomt, om en sådan løsning er juridisk holdbar.

- SKAT er et godt eksempel på, hvordan man kan gøre noget for at lave brugervenlig kommunikation med borgeren. Der kunne vidensdeles med SKAT, som må have haft nogle professionelle kommunikationsfolk på.

- Det er vigtigt med en god kommunikation af miljøspørgsmål, ellers mister miljøbeskyttelsen generelt gennemslagskraft i befolkningen og miljøbeskyttelsesindsatsen vil lide p.g.a. politisk nedprioritering.

- Det er et oplagt Miljøstyrelsen projekt at udarbejde nogle gode kommunikationsværktøjer og paradigmer til formidling. F.eks. VVM-redegørelser er et oplagt emne for en kommunikationsindsat.

- Endvidere kunne man gøre en indsat, hvor man forsøgte at styrke kommunikationsevnen blandt de kommunale medarbejdere generelt via efteruddannelse i kommunikation.

Helpdesk-service af teknisk og juridisk karakter

- Konklusionen var, at det kunne være godt med en helpdesk-service, men deltagerne mente generelt, at det juridiske område er godt dækket med den slags service. Det kunne dog være interessant med en teknisk helpdesk-service, specielt hvis det kunne forenes med "one stop shoppping" tankegangen, hvor man kan stilles videre, hvis helpdesken ikke lige kan svare på spørgsmålet.

- Det er ikke så afgørende, at det er en gratis service, det er vigtigere, at det er bemandet med de rette kompetencer. Kommunernes anstrengte økonomi generelt vil dog gøre, at det selvfølgelig vil være en fordel, hvis der kunne laves en kvalificeret gratis ordning a la "retshjælps-ordningen".

- Helpdesk foregår allerede i et vist omfang i form af rammeaftaler med forskellige konsulenthuse.

- Det er et tvivlsspørgsmål, om den tekniske ydelse er så velegnet til en helpdesk, da den ofte kræver lange svar, som indbefatter undersøgelser.

Øvrigt

- Det kan ofte være nyttigt at inddrage en tredjepart ved løsning af konflikter.

- Netværk er vigtige. Det er altid usikkert for en medarbejder eller en virksomhed at arbejde med noget, hvor man ikke har de pågældende kompetencer.

Konklusion:
Der var generel enighed om, at der var et meget stort behov for at styrke effektiviseringsindsatsen ved sagsbehandlingen.

Dette kan gøres ved at opbygge eller udvide databaser, hvor der kan hentes samlet viden og systematisere denne efter kommunernes kvalitetsstyringssystem. En mulighed er at udvide Danmarks Miljøportal med en ekspertbearbejdet database med kvalitetsparadigmer og udvalgte afgørelser.

Der er behov for vidensdeling omkring paradigmer, procedure og afgørelser, så hver kommune ikke skal udvikle sit eget eller er afhængig af egne netværk.

Der var generelt en meget positiv indstilling over for en styrkelse af BAT indsatsen. Opfordringen var dog, at man gjorde et grundigt arbejde fra Miljøstyrelsen med at undersøge præcis, på hvilke områder at implementeringen halter - og hvad grunden er - for at kunne målrette indsatsen.

Der var en god interesse for etablering af en helpdesk især i tilknytning til tekniske spørgsmål. Der er dog lidt uenighed omkring betydningen af, at ordningen er gratis. Alle var dog enige om, at det er meget vigtigt, at man kan få et hurtigt svar i forbindelse med sagsbehandlingen, og at en sådan ordning kunne være med til at lette adgangen hertil. Det skulle dog være en ordning uden for mange mellemled, idet "one stop - shopping" er et vigtigt element, således at der umiddelbart kan henvises videre, hvis helpdesken ikke kan give svar på problemet.

Referencelaboratorierne blev fremhævet som gode, idet man her kan man få eksperthjælp hurtigt, effektivt og gratis. Referencelaboratorierne kunne eventuelt i højre grad vejlede omkring fastsættelse af vilkår, renseteknikker, BAT osv.

7 Juridiske overvejelser vedrørende forslagene til eksperthjælp.

Den juridiske analyse har til formål at foretage en afdækning af de forvaltningsretlige rammer for ordninger om eksperthjælp. Hvad er de forvaltningsretlige rammer for sådanne ordninger, og hvorledes sikres det, at de foreslåede ordninger ikke kommer i konflikt med grundlæggende forvaltningsretlige regler om grænsedragningen mellem myndighedsudøvelse og faktisk forvaltningsvirksomhed.

Det gøres med henblik på en vurdering af, hvorvidt de ovenfor skitserede ordninger til en dansk ordning for eksperthjælp i udgangspunktet holdes inden for de rammer, som de forvaltningsretlige regler opstiller.

Det vil blive vurderet, hvad de juridiske perspektiver er af de behov, der fremgår af behovsundersøgelsen, samt om forslagene vil bidrage til at lette de juridisk/teknisk problemstillinger, der ofte opstår ved meddelelse af tilladelser samt udførelse af miljøtilsyn/håndhævelse i forhold til erhvervsvirksomheder.

Der er foreslået 3 forskellige eksperthjælpsordninger til supplement af dem, der allerede eksisterer på markedet. Disse ordninger er skitseret ovenfor. De foreslåede ordninger indbefatter indhentelse af viden mv. uden for den offentlige forvaltning selv fra private aktører. Nedenfor vil først de generelle forvaltningsretlige rammer for det offentliges modtagelse af eksperthjælp fra private blive skitseret. Disse gælder for såvel de allerede eksisterende eksperthjælpsordninger, som analysen har afdækket allerede eksisterer som for de af forslagene, der inddrager eksperthjælp fra private, hvilket er forslag 1 og 2.

7.1 Det forvaltningsretlige udgangspunkt om delegation til private aktører

Delegation til private kræver hjemmel. Drejer det sig om delegation af kompetence til at træffe afgørelse i forhold til borgerne, må der kræves klar og udtrykkelig lovhjemmel. Terminologisk betegnes denne situation som myndighedsudøvelse.

Overladelse af (dele af) sagsforberedelsen i afgørelsessager til private kan ud fra retssikkerhedsmæssige hensyn være betænkeligt uden et klart hjemmelsgrundlag.

Drejer det sig derimod om udførelse af visse former for faktisk forvaltningsvirksomhed - f.eks. af ren teknisk service i forhold til borgerne - vil der formentlig kunne slækkes noget på hjemmelskravet. Afgrænsningen behandles nærmere nedenfor.

7.2 De forvaltningsretlige rammer for brug af eksperthjælp

7.2.1 Sondringen mellem myndighedsudøvelse og faktisk forvaltningsvirksomhed

Som det fremgår af ovenstående er det i forbindelse med en forvaltningsretlig vurdering af muligheder for at overdrage opgaver til private vigtigt at sondre mellem myndighedsopgaver og driftsopgaver/faktisk forvaltningsvirksomhed.

Når det er vigtigt at sondre mellem disse to typer af offentlig virksomhed, hænger det sammen med, at delegation af myndighedsudøvelse til private (enkeltpersoner eller virksomheder m.v.), som det fremgår ovenfor, kræver udtrykkelig lovhjemmel.

Myndighedsopgaver vedrører for det første den del af den offentlige forvaltning, der består i at regulere de enkelte borgeres retsforhold gennem udstedelse af konkrete forvaltningsakter - typisk i form af meddelelse af tilladelser, forbud og påbud, f.eks. påbud om at standse en udledning af spildevand. For det andet omfatter begrebet utvivlsomt den del af forvaltningen, der går ud på at udfærdige generelle retsakter, f.eks. regulativer, planer m.m.

Driftsopgaver eller faktisk forvaltningsvirksomhed er navnlig opgaver, der alene vedrører selve udførelsen af en konkret opgave. Det kan f.eks. være rengøring, kantinedrift, tøjvask, vagtvirksomhed, faktisk plejevirksomhed, undervisning, afhentning og bortkørsel af husholdningsaffald, lønberegning mv.

I praksis er der dog tale om en vanskeligere sondring end de to ovennævnte definitioner umiddelbart giver indtryk af. For en række opgavers vedkommende vil det være vanskeligt at placere kommunens opgaver entydigt i gruppen af myndighedsopgaver henholdsvis driftsopgaver.

7.3 Gråzoneområdet – kerneydelser og hjælpefunktioner

Selvom man efter definitionen vil karakterisere en funktion/beslutning som myndighedsudøvelse med den konsekvens, at der ikke uden særlig lovhjemmel kan ske en overdragelse af beføjelsen sted til en samarbejdende kommune eller andre, kan man meget vel forestille sig, at der kan ske overdragelse af underordnede dele af denne funktion. Selv om kerneydelsen (selve beslutningen eller forvaltningsakten) er udtryk for myndighedsudøvelse og ikke lovligt kan overlades til andre, kan hjælpefunktionerne det godt.

Professor dr. jur. Bent Christensen skriver i sit responsum til Udliciteringsrådet (1997), at det efter hans opfattelse må antages, at det i et vist omfang er tilladt at overlade afgørelsesforberedende arbejde til private.

Ifølge Bent Christensen er dette formentlig lovligt i tilfælde, hvor det åbenbart er uden indflydelse på både forvaltningsprocessen og på forvaltningsaktens indhold, om et led i sagsforberedelsen udføres af forvaltningens ansatte eller af andre. Dette vil især kunne ske ved målinger og beregninger, hvor grundlaget er entydigt fastlagt enten i lovgivningen eller af forvaltningen. Den således afgrænsede sagsforberedelse giver ikke anledning til den retlige ulighed, som efter definitionen er kernen i begrebet ”myndighedsudøvelse”.

Bent Christensen anfører, at man i praksis - i hvert fald på visse områder - går videre:

”Udkast til lokalplaner, der, når de er vedtaget, er bindende for borgerne, udarbejdes således i praksis i vidt omfang af private firmaer. Praksis lader sig forsvare ved en henvisning til, at det er kommunalbestyrelsen, der træffer afgørelsen, tilmed efter en ganske omfattende offentlighedsproces.”

Hvad Bent Christensen mener om sagsforberedelsens overdragelse til andre, antager han også må gælde for den virksomhed, der ofte betegnes som tilsyn eller kontrol med, at borgerne overholder gældende regler eller betingelser knyttet til tilladelser m.v.

Beslutningen om, hvilken reaktion kontrollen bør føre til, er utvivlsomt myndighedsudøvelse allerede efter den abstrakte definition. Men selve kontrollen kan - ligesom sagsforberedelse i øvrigt - indeholde funktioner, hvor det åbenbart er uden betydning for forvaltningsprocessen og forvaltningsaktens indhold, om funktionen udføres af et lokalt forvaltningsorgan eller andre.

Ovennævnte juridiske synspunkter kan herefter kort sammenfattes således, at det formentlig er muligt at overlade sagsforberedelsen til private, ***hvis det åbenbart er uden indflydelse på både forvaltningsprocessen og på forvaltningsaktens indhold, om et led i sagsforberedelsen udføres af forvaltningens ansatte eller andre.***

Det må på den baggrund antages, at det er muligt at overlade sagsforberedelsen til private eksperter, hvis der er tale om myndighedsafgørelser, der foretages på baggrund af ***objektive og entydige kriterier***, hvor der ikke ellers eller kun i ***begrænset*** omfang er et ***element af skøn***, eller hvis der er tale om mere ***rutineprægede opgaver***, som er underlagt en mere ***detaljeret lovgivning*** f. eks. myndighedshandlinger i form af tilsyn og kontrol, der er baseret på indarbejdede rutiner, og hvor det derfor ***åbenbart er uden indflydelse*** på både forvaltningsprocessen og på forvaltningsaktens indhold, om sagsforberedelsen udføres af forvaltningens ansatte eller andre.

7.3.1 Konkrete betragtninger vedrørende de enkelte forslag til eksperthjælpsordninger.

1. BAT-videnscenter og Help-desk/Hotline-ordning.
Et BAT-videnscenter og en help-desk/hotline-ordning anses ikke for at ville skulle udføre andet end en rådgivning fra private til kommunen om, hvordan specifikke problemstillinger kan løses eller gribes an. Så længe rådgivningen holder sig på dette niveau findes, den ikke at være problematisk, idet sagsforberedelsen ikke i større omfang og dermed beslutningskompetencen ikke derved overlades til private. Den privates funktion er her alene at fylde nogle faglige huller ud til brug for sagsoplysningen men ikke at udøve nogen form for beslutning.

Anderledes forholder det sig dog, såfremt man går videre ud af "one-stop"-shopping tankegangen og udbygger ordningerne, således at der i større omfang bliver tale om egentlig sagsforberedelse fra den privates side. Nedenfor gennemgås nogle af de situationer, som eventuelt vil kunne komme på tale med en udbygning af ordningerne til en "one-stop shopping" ordning og de forvaltningsretlige problemer knyttet dertil.

Gråzonen mellem myndighedsudøvelse og privat eksperthjælp er i det følgende eksemplificeret med overdragelse af dele af virksomhedstilsyn til private eksperter. Problemstillingerne i deltagelse heri fra udførelse af selve tilsynet til deltagelse i dele af sagsforberedelsen er beskrevet som illustration af, hvordan

en "one stop" - shopping eksperthjælpsordning skal afgrænses inden for de forvaltningsretlige rammer.

Afgørelse af, hvor der skal føres tilsyn og med hvad

I relation til de tilsynsopgaver, hvor der træffes egentlige afgørelser i forhold til den virksomhed, som man er ude på tilsyn ved, f.eks. i form af påbud om foretagelse af nærmere angivne foranstaltninger kræver en sådan form for myndighedsudøvelse klar og tydelig lovhjemmel. Det er således utvivlsomt, at der ikke kan ske en delegation af myndighedens kompetence til udstedelse af påbud mv..

I forhold til forberedelse og gennemførelse af tilsyn i øvrigt bevæger vi os ind i et lovgivningsmæssigt gråzoneområde. Hensynet bag den overordnede regel om delegationsforbud bygger på en retssikkerhedstankegang. Det må således ved vurderingen af udstrækningen af opgaver, som kan varetages af private eksperter, være en bedømmelse af, hvorvidt det vil være retssikkerhedsmæssigt betænkeligt at udstyre disse med beføjelser på myndighedens vegne, herunder om opgaverne har tilknytning til myndighedsudøvelsessituationer typisk afgørelsessager, der er omdrejningspunktet for den juridiske analyse.

Om det i alle situationer er retssikkerhedsmæssigt betænkeligt at lade private eksperter udfører dele af tilsynsarbejdet i de faser, hvor tilsynsarbejdet ikke indebærer egentlig myndighedsudøvelse, skal nedenfor søges vurderet. Ved denne analyse er det afgørende at sondre mellem myndighedsudøvelse og faktisk forvaltningsvirksomhed.

Lov nr. 1571/2006 om ændring af lov om miljøbeskyttelse, lov om beskyttelse af havmiljøet og forskellige andre love forudsætter i lovbemærkningerne, at det fremover er kommunerne, der selv skal træffe afgørelse i forbindelse med tilsyn med virksomhederne, udstede påbud eller meddele dispensationer. Kommunerne må således selv være ansvarlige for hele sagen, såvel for den del af sagsforberedelsen, der udgør en del af myndighedsudøvelsen, som for selve afgørelsen.

Det følger heraf, at kommunen ikke kan overlade beslutningen om, hvor der skal føres tilsyn og med hvad til en privat virksomhed.

Det fremgår af et svar til KL fra Miljøstyrelsen om sondringen mellem myndigheds- og driftsopgaver af 24. november 2006, at det ligeledes er kommunen, der skal tage stilling til, hvordan tilsynet skal udføres.

Udarbejdelse og fremsendelse af evt. forvarsling

Inden der træffes afgørelse om påbud eller forbud, skal adressaten for disse beslutninger efter miljøbeskyttelseslovens § 75 skriftligt underrettes om sagen og gøres bekendt med adgangen til aktindsigt og retten til at udtale sig efter forvaltningsloven.

En sådan partshøring må antages at være en del af kerneydelsen, nemlig det endelige forbud eller påbud, hvorfor udarbejdelsen og fremsendelsen af denne ”forvarsling” kun vil kunne foretages af myndigheden.

Efter reglerne i retssikkerhedsloven skal varslingen/underretningen ved tvangsindgreb uden for strafferetsplejen foretages af offentlige myndigheder.

Praktisk gennemførelse af tilsynet med observationer, målinger, registreringer etc.

Det fremgår ligeledes af bemærkningerne til lov nr. 1571/2006 om ændring af lov om miljøbeskyttelse, lov om beskyttelse af havmiljøet og forskellige andre love, at selvom kommunerne selv er ansvarlige for hele sagen, såvel for den del af sagsforberedelsen, der udgør en del af myndighedsudøvelsen, som for selve afgørelsen, er det ikke udelukket, at kommunerne kan indhente rent teknisk-administrativ bistand eller sagkyndig bistand i forbindelse med sagsforberedelsen, når denne bistand har en rent faktisk og ikke retlig karakter.

Da observationer, målinger og registreringer er mere rutineprægede opgaver, der foretages på objektive og entydige kriterier, der er fastsat i lovgivningen, og derfor ikke åbner rum for skøn, er der intet til hinder for, at disse opgaver i forbindelse med tilsynets gennemførelse kan overdrages til en privat virksomhed.

Det bemærkes, at miljøbeskyttelseslovens § 87, jordforureningslovens § 57, stk. 1 og vandforsyningslovens § 64 giver personer, der er bemyndiget hertil, adgang til bl.a. offentlige og private ejendomme i forbindelse med f.eks. undersøgelser i samme omfang, som myndighederne har.

Udarbejdelse af tilsynsrapport

Der vil heller intet være til hinder for, at udkast til tilsynsrapporten udarbejdes af den private ekspert. Se nærmere Miljøstyrelsens svar til KL af 24. november 2006 om sondringen mellem myndighedsopgaver og driftsopgaver.

Analyser af prøver, materialer etc.

Af samme årsager som nævnt ovenfor vil udførelsen af analyser af prøver, materialer etc. kunne overdrages til en privat virksomhed.

Vurdering af resultater

Vurdering af resultaterne af de indsamlede målinger, observationer, analyser m.v. har karakter af en ren faktisk bistand, der vil kunne overdrages til private eksperter.

Udarbejdelse af tilsynsbrev med forslag til evt. håndhævelsesreaktioner

Når tilsynet er udført, modtager parten en afrapportering af, hvilke eventuelle mangler kommunen har konstateret i forbindelse hermed, hvad der er blevet aftalt i den anledning, og hvad der i øvrigt skete f.eks. beslaglæggelser m.v. Hvis der på baggrund af tilsynet overvejes sanktioner, vil dette tillige fremgå af tilsynsbrevet. Hvis der skal udstedes et forbud, skal dette forvarsles.

Udarbejdelse af et tilsynsbrev indeholdende forslag til eventuelle sanktioner må antages at være en del af kerneydelsen, nemlig det endelige forbud eller påbud, hvorfor det endelige tilsynsbrev skal godkendes af kommunen på baggrund af det fulde beslutningsmateriale i sagen.

Det fremgår nærmere herom af en svar til KL fra Miljøstyrelsen om sondringen mellem myndigheds- og driftsopgaver af 24. november 2006, at det er kommunen der skal tage stilling til resultatet af tilsynet, herunder om det skal munde ud i en håndhævelsesreaktion samt indholdet af denne, og det er kommunen, der skal foretage de nødvendige vurderinger i sagen. Dette vil dog ikke være til hinder for, at den private ekspert udarbejder et udkast til tilsynsbrev efter kommunens anvisninger.

Anmodning om oplysninger mv.
I det omfang, der med henvisning til specifikke lovhjemler anmodes om oplysninger i forbindelse med tilsynsbesøget, som ligger udover rene rutine- og standardoplysninger, som er almindelige i forbindelse med et tilsynsbesøg, bevæger man sig tættere til en myndighedsudøvelse. Anmodning om yderligere dokumentation vil ofte være foranlediget af konkrete forhold på virksomheden, f.eks. fordi der skal foretages yderligere undersøgelser af, hvorvidt der foreligger overtrædelse af lovgivning, miljøgodkendelse eller er behov for udstedelse af forbud og påbud til virksomheden.

Anmodning om sådanne yderligere oplysninger vurderes at være så tæt forbundet med myndighedsudøvelse, at det, såfremt der konstateres et behov for at anmode om yderligere oplysninger og undersøgelser, som ligger udover de oplysninger der anmodes om efter almindelige standardprocedurer, må være den offentlige myndighed selv, der er den udfarende kraft. Der er således ikke længere tale om deciderede rutineopgaver, der kan varetages for myndigheden uden direkte lovhjemmel.

2. Paradigme- og afgørelsessamling
Det sidste forslag går ud, at der opbygges en database, som indeholder en paradigme- og afgørelsessamling, som er kvalitetsscreenet i et eller andet omfang.

Det er tanken, at disse samlinger skal have et kvalitetsniveau, der gør dem velegnede til inspirationsgrundlag for kommunernes praksisdannelse samt egne paradigmesamling. Så længe databasen holder sig på dette niveau og det understreges, at der ikke er tale om dokumenter af nogen retlig karakter, vil databasen være uproblematisk at anvende for myndighederne i forvaltningsretlig forstand også selv om materialet indeholder en eller anden form for bearbejdning af private eksperter.

3. Forvaltningsretlige overvejelser vedrørende udbredelse af samarbejdsaftaler mellem kommunerne.
Der blev på workshoppen rejst den tanke, at der også kunne ske en udbygning af eksperthjælpsordninger ved, at der i større omfang end i dag etableres samarbejder på tværs af kommunerne. Samarbejdet skulle i større og mindre omfang gå ud på, at en eller flere kommuner overlader administrationen af miljø- og naturområdet til en anden kommune, der har bedre mulighed for at løse opgaverne. Da dette forslag kun blev rejst af en enkelt kommune, har vi valgt ikke at tage det med i gruppen af forslag, som der mere generelt er afdækket en bredere interesse for. Forslaget er dog så interessant, at der nedenfor kort vil blive knyttet nogle overordnede bemærkninger til de forvaltningsretlige rammer og problematikker knyttet til udbredelse af sådanne samarbejdsaftaler.

Så længe, der ved aftalerne ikke sker overførsel af kompetencer (myndighedsudøvelse) mellem de kommunale myndigheder er samarbejdsaftaler mellem kommunerne forvaltningsretligt uproblematiske. Kommunalbestyrelserne kan således indgå aftaler om udøvelse af opgaver, som alene har karakter af faktisk forvaltningsvirksomhed.

Såfremt opgaverne derimod har karakter af myndighedsudøvelse kan en sådan opgave normalt ikke overlades til en anden kommunalmyndighed uden udtrykkelig lovhjemmel. Dertil kommer, at sådanne samarbejdsaftaler kræver, medmindre andet er særligt hjemlet i lovgivningen, godkendelse fra den eller de statsforvaltninger, der varetager tilsynet med de deltagende kommuner, jf. lov om kommunernes styrelse § 60.

Ved lov om forpligtende kommunale samarbejder herunder bekendtgørelse 656 af 2005 er pålagt indgåelse af bindende samarbejdsaftaler, der indeholder en overførelse af myndighedsudøvelsesopgaver på miljø- og naturområdet fra en kommune til en anden.

Hvorvidt der - udover de tilfælde, hvor der er hjemmel for samarbejdet, eller hvor der alene er tale om overførsel af opgaver med karakter af faktisk forvaltningsvirksomhed - kan indgås samarbejdsaftaler mellem kommuner er et vanskeligt spørgsmål.

Som udgangspunkt gælder i hvert fald den samme afgrænsning som vedrørende delegation til private, som er skitseret overfor. Kan der delegeres til private kan der også lige så vel delegeres til en anden kommune. Det må på den baggrund antages, at det er muligt at overlade sagsbehandlingen til andre kommuner:

- hvis der er tale om myndighedsafgørelser, der foretages på baggrund af ***objektive og entydige kriterier***, hvor der ikke ellers eller kun i ***begrænset*** omfang er et ***element af skøn***, eller

- hvis der er tale om mere ***rutineprægede opgaver***, som er underlagt en mere ***detaljeret lovgivning*** f. eks. myndighedshandlinger i form af tilsyn og kontrol, der er baseret på indarbejdede rutiner, og hvor det derfor ***åbenbart er uden indflydelse*** på både forvaltningsprocessen og på forvaltningsaktens indhold, om sagsforberedelsen udføres af forvaltningens ansatte eller andre.

Om det af statsforvaltningen i større omfang kan godkendes at der gennemføres samarbejder, jf. kommunestyrelsenslovens § 60 er også et meget vanskeligt spørgsmål.

Dette spørgsmål afgøres ud fra en samlet bedømmelse af flere forhold, hvis opregning ikke er udtømmende. De væsentligste elementer er her:

- Den delegerede opgaves art. Dette indeholder en bedømmelse af opgavens karakter i forhold til grænsedragningen mellem myndighedsudøvelse og faktisk forvaltningsvirksomhed, jf. ovenfor. Vedrørende kommunerne skal det dertil fremhæves, at det skal tillægges særlig vægt, om den opgave, der ønskes uddelegeret, indeholder politiske elementer og dermed er båret af et mandatsynspunkt. Sådanne opgavetyper vurderes det at være helt udelukket at uddelegere til anden kommunalmyndighed - eksempelvis vil vedtagelse af lokal og kommuneplaner henhøre til denne kategori - hvorimod mandatsynspunktet ikke kan udbredes til at omfatte den retlige normering af konkret-afgørelsen i forhold til borgerne af mere teknisk betonede områder, f.eks. meddelelse af byggetilladelser.

- Hvad er begrundelse for, at delegationen sker. Såfremt en delegation kan grundes i forhold, der ligger tæt op af f.eks. de begrundelser der er givet politisk for etablering af de tvungne samarbejdsordninger på miljø- og naturområder, kan dette tale for en accept af samarbejdsaftalen.

- Hvem delegeres der til og fra? I dette tilfælde vil der være tale om delegation mellem sideordnede myndigheder. Særligt i forhold til delegation mellem kommunerne har det betydning, at kommunalfuldmagten skal sikre kommunernes selvstændighed både i forhold til statsmagten og i

7.3.2 Konklusion

Det kan på baggrund af ovenstående konkluderes, at der ikke er nogen umiddelbare forvaltningsretlige problemer ved de 3 forslag i relation til de ovenfor behandlede problemstillinger. De foreslåede former for eksperthjælpsordninger indeholder ikke i deres grundstruktur elementer af myndighedsudøvelse. Dette kan dog være tilfældet, såfremt den rene ad-hoc rådgivning vedrørende BAT-centre eller hotline udvides med mere sagsforberedende elementer, som kan være indeholdt i f.eks. en yderligere forfølgelse af målsætningen om "one stop"- shopping.

Bilag 1
Dybdeinterviews af kommunerne

Interview spørgsmål	Eksempler på svar fra kommunerne og virksomheder
Behov for ekspert-hjælp?	- Har nogle problemstillinger i kommunen (langtids-sygdom), hvor kommunen har hyret ressourcepersoner. -I spidsbelastninger (f.eks. landbrugsområdet/lovgivningen) hyres ressourcepersoner ind, der stopper efter endt opgave -Behov for specifik faglighed/tværfaglighed i en opgave, f.eks. projektledelse -Har stort set ikke behov for eksperthjælp, tværtimod fungerer medarbejderne som eksperthjælp og ressourcepersoner for de omliggende kommuner -Både akut opståede sager, f.eks. forureningssager, men også planlagte sager, såsom virksomhedsgodkendelser og kortlægning af naturområder. -Spildevandsundersøgelser bliver planlagt med rådgiver på årsbasis. Jordforurening og advokathjælp er mere ad hoc. -Bruger rådgiver til grundvandskortlægning -Akutte problemer er ofte ressource orienterede, f.eks. mangel på at genbesætte en ledig stilling. Et andet område er klager fra naboer over lugt fra landbrug. Her bruger de konsulent fordi lugtsager er komplicerede, og kommunen ikke kan tage lugtprøver og analysere dem. -Rådgiver bruges på komplexe sager, der kræver høj kvalitet hele vejen igennem og hvor de føler der er behov -Ad hoc - tilsynssager og jordforurening -Planlægning- vandforsyningsplaner, mangler kompetence -Miljøgodkendelser, hvis atypiske, f.eks. flyvepladser hvor kommunen ikke har kompetence -Spildevandsplaner og vandforsyningsplaner -vælger

	emner ud der hyres konsulenter til -Planlægning: Vand, spildevandsplaner, tilsyn, spildevandstilladelser -Ved revision af miljøgodkendelser (virksomhedens synspunkt),
Manglende ressourcer (outsourcing)?	- Har 2 gange hyret en ressourceperson in til 2 områder, hvor de var kommet bagud, men det er flere år tilbage -Mangler personale pga. nedskæringer, og i det kommunale system er det markant nemmere at søge penge fra år til år til konsulenter, end at få lov til en fastansættelse - Jord- og spildevandsanalyser kræver udstyr og laboratorium. Kan ikke have alle kompetencer inhouse. -Svært at finde personale, bruger rådgivere i mellemtiden. -Øget pres på ressourcer og på brug af eksperthjælp giver en bekymring om fald i kvaliteten af opgaverne. -Bruger referencelaboratorierne meget til støj og luft. -Kan være for at afvikle en pukkel eller man har mistet kompetencen -For at overholde minimumsfrekvensen for tilsyn -Virksomhed: Ville ikke bruge hot line pga. tid, men kunne være interessant hvis man ikke blot fik et ekstra stop, men blev viderestillet til en med forstand på præcis det man spørger om. Det betyder ikke så meget om den er gratis, vigtigst er hurtigt svar.
Hot line/ad hoc assistance (rammekontrakter på overordnet niveau)?	-Det kommer meget an på formen af hot line. Hvis den er gratis, så vil den blive brugt. Hvis den koster penge, så findes der allerede tilsvarende services og dermed mere tvivlsomt om den vil blive brugt. -Det kommer også an på om den bliver drevet af staten og underlagt Miljøstyrelsen eller hyrede konsulenter bemander servicen. Umiddelbart jo længere væk fra staten jo bedre. -Støj kræver udstyr samt muligheder for at foretage målinger i aften- og natperioder. Dette kunne ligge i en hotline, da det er kompliceret for en kommunal forvaltning. - Kommer an på pris og indhold - Har en hot line til juridisk assistance. Hvis sagen

	kun vedrører én kommune betaler den selv, men der er også samarbejde med flere kommuner, så hvis sagen gavner/berører flere er det fællesskabet der betaler -skal bemandes med tekniske og juridiske specialister der kender området til bunds - Ja, der mangler i dag en kontakt til Miljøstyrelsen, så en hot line eller lignende ville hjælpe - Det ville være rart hvis Miljøstyrelsen svarede på ens spørgsmål - Hot line skulle have en overvægt af jurister - Mangler sparring især i jordforureningssager - Det er indtrykket at Miljøstyrelsen mangler den faglige kompetence på visse områder. - Bruger Frontlinien, men de mangler ofte faglig viden, men hjælper gerne med at finde tilsvarende sager. -Hot line skal dække mange kompetence områder. - Hvis den ikke er gratis vil de ikke bruge den, men det kommer også an på kvaliteten. -Miljøgodkendelse af landbrug, BAT er svært - Gratis hotline betyder ikke så meget, det afgørende er hurtige svar -Advokathjælp -agtig hotline, særligt med juridisk bistand, men også teknisk -Gratis hot line kunne være interessant, meget vigtigt med hurtige svar, f.eks. a la retshjælpen. Bemandet med jurister og støjtekniker samt dambrugseksperter.
ERFA samarbejde?	- Flere kommuner samarbejder allerede inden for området. - Der er en udvikling i gang med hensyn til ERFA samarbejde i 6-by samarbejdet - Kommunen opfordrer medarbejderene til at deltage aktivt i ERFA netværk -Vand og Naturplaner er et område hvor der samarbejdes på tværs af kommuner. - "Ring til en ven" i en anden kommune er gratis - Medarbejderne er med i formaliserede netværk mel-

	lem 7 kommuner - Er aktiv i Envina - Mange personlige kontakter og gamle kollegaer i forskellige kommuner og virksomheder - Miljøsamarbejde med 6 andre kommuner om bl.a. spildevand. Mødes ca. 4 gange årligt. De har udarbejdet et paradigma på renseriområdet. -Aktiv del af Lynette-fællesskabet -Bruger aktivt netværket mellem kommunerne i region Sjælland. Der mødes de 4 gange om året, og diskuterer forskellige emner. -De har arbejdet i 3 år på at oprette en eller anden form for sikkert netværk (IT), hvor region Sjælland netværket kan dele information, i stedet for via mails. -Kunne bruge en paradigma-/skabelon pakke på f.eks. Miljøportalen -Uformelt netværk i Midt- og Vestjylland - styret på chefniveau -Erfargrupper - Milsam- mødes jævnligt i faggrupperne. -Kollegaer, Miljøstyrelsen, erfa-netværk, medlem af Envina samt Green cities. Benytter kurser og gå-hjem møder hos rådgiverne.
Køb af eksperthjælp (tekniker)?	- Indenfor spildevand, er kompetencen mistet i forbindelse med de nye forsyningsselskaber. Derfor mangler spildevandsplanlæggerne nu i kommunerne. -Indenfor støj, risiko, analyser af jord og VVM er der brug for spidskompetencer, hvor kommunerne ikke kan opretholde ressourcer indenfor alle områder -Bruger Orbicon til vandsager fra tid til anden -Mange komplicerede opgaver indenfor f.eks. jordforurening, hvor der typisk også er involveret mange penge. - Har fravalgt kompetence indenfor støjområdet, og specielt infralyd som er kompliceret. - Hjælp til specielle miljøgodkendelser, f.eks. krematorier og slamforbrænding, som der kun er et af i kommunen, og som yderligere er teknisk svære. -Spildevand og jord: Køber pakkeløsninger med prø-

	vetagning, analyse og tolkning af analyserne. -Støj: Kan selv lave orienterende målinger, men er ikke akkrediteret -Støj, specielt naboklager, her skal de som kommune være meget skarpe i deres afgørelser -Støj, spildevand og særlige virksomhedstyper
Køb af eksperthjælp (jura)?	- Miljøbeskyttelseslovgivningen er tung at arbejde med -Tilsyn kan kommunerne selv klare eller hyre ressourcepersoner til. Afgørelser kræver derimod typisk en jurist ind over. - Mads Kobberø bruges til specifikke sager. Til mere generelle sager bruger de intern sparring. -Jurahjælp bruges typisk hvor den økonomiske konsekvens er stor -Har selv jurist i huset, som er tilknyttet teknisk forvaltning. Bruges meget. -Jurister bruges typisk i jordforureningssager -Lovfortolkning og erstatningssager -Det hele, mest håndhævelse særligt vedrørende dambrug - særligt klagesager
Er der mangler indenfor den nuværende eksperthjælp?	- Bedre vejledninger på spildevandsområdet, som er mere nuancerede i forhold til virkeligheden -Ventetiden ved spørgsmål til Miljøstyrelsen er for lang og svarene for ukonkrete (ankenævnspraksis helt katastrofal ventetid.) Hotline bedre mulighed. -Savner vejledning til Risikobekendtgørelsen. Dyrt og tidskrævende arbejde. -Landbrug: Miljøpotalen bør udbygges, bruger eget kortgrundlag!. §10-tilladelser - paradigmesamling, vejledning misvisende, skaber en forventning om, at sagsbehandling er meget hurtig og enkel - Miljøstyrelsen bør udvikle BAT vejledningen. Grundvandskortlægningen mangler opdaterede kort. -Landbrug og dambrug: Meget lovfortolkning, godkendelsesparadigmer mangler, Miljøportalen mangler opdatering

	-Risikobekendtgørelsen: Der mangler en metode, der må ikke være metodefrihed, det gør det alt for svært + der mangler en bekendtgørelse. -Har godt samarbejde med Miljøcentret, men kan mærke at der også sker en stramning her. -Risikobekendtgørelsen: Kulturelle forskelle mellem myndigheder, bl.a. om hvordan man behandler virksomheder, hvornår der skal udskrives påbud og/eller bøder. Kunne godt bruge en samarbejdsvejledning. - Der mangler en vejledning for udledningstilladelser -Der kunne godt udarbejdes flere standarder eller paradigmer på spildevandsområdet. Irriterende at kommunerne selv skal begynde forfra. Desuden vil det gøre at virksomhederne bliver behandlet ens. -Landbrug: EU's dårligste branchebekendtgørelse. Lov for miljø i husdyrbrug har været i høring for mange gange. Et klodset og kompliceret område. - Der bør komme fokus fra Miljøstyrelsen ind på Miljøportalen, specielt indenfor afgørelser og udvikling af robuste skabeloner som kommunerne kan bruge. F.eks. er der stor forskel på afgørelser indenfor landbruget, Nogle kommuner laver en afgørelse på 60 sider og nogle på 5 sider.
Brug af fælles eksperthjælp virksomhed og myndighed?	-ja, f.eks. til VVM - Typisk tæt samarbejde i private anlægsprojekter, men ingen samarbejde i kommunale anlægsprojekter. Her hyres en intern PL, der hyrer rådgivere ind til løsning af opgaven. -Da det er ansøger der betaler og kommunen der bestemmer indholdet, holder VVM en meget dialog baseret form. Giver det bedste løsningsforslag for alle parter. Ville gerne bruge det mere i en formaliseret form. -Samarbejde på jordforureningsområdet, vil gerne bruge det mere -Har kun brugt det lidt indenfor spildevand. Ville måske bruge det mere. - Ja, godt samarbejde med virksomhederne, stærk dialog. Vil gerne bruge det mere og har nedsat en taskforce i forbindelse med revurdering af miljøgodkendelse samt udbygning af denne, hvor kommune, virksomhed og virksomhedens rådgiver arbejdede sammen om projektet. Vil bruge det igen.

	-bruger det ikke ved VVM
Udvikling af nye former for eksperthjælp	-Bruger nogen gange procesorienteret rådgivning, men ikke så mange erfaringer. Har god erfaring med indstationering af rådgiver hos virksomhed. -Har ikke tid til tættere samarbejde mellem rådgivere og sagsbehandlere, men samarbejder altid med virksomheden og dennes evt. rådgiver ved møder mv. -Ved nye opgavetyper kunne "gruppearbejde" mellem rådgiver og sagsbehandlere bruges. -Ad hoc - prægede rådgivningsformer er en god idé. -Indstationering vil bruges ved sagspukler -Ville ikke bruge tættere samarbejde mellem sagsbehandlere og rådgiver i form af workshops om konkrete sager. -Outsourcer enkelte elementer -Vil gerne bruge mere Ad hoc-præget rådgivning -Rådgiver som oplæring, fint. -Ad hoc præget rådgivning - ja. -Indstationering af rådgivere vil bruges ind imellem -Key2Green netværk - se hvor eksperterne i kommunerne sidder. Miljøstyring i virksomhederne - gode erfaringer med at hjælpe. -Vandforsyningsplan: Gruppearbejde hvor den kommunale medarbejder oplæres samtidig. Har brugt indstationering af rådgiver. -Ad hoc præget rådgivning kunne ligge under Miljøstyrelsen, evt. en arbejdsgruppe omkring det juridiske spil i lovgivningen. Udvikling af paradigmer og skabeloner. -Gruppearbejde kunne være en mulighed. Vil gerne have Miljøstyrelsen mere involveret. Ja, til ad hoc præget rådgivning. -Givtigt med tættere samarbejde mellem rådgiver og sagsbehandlere, gruppearbejde og ad hod rådgivning. -Eksempel på tæt samarbejde mellem producenter af vindmøller, sagsbehandlere i forbindelse med planlægning af tur for politikere. -Udstationering af rådgiver hos kommunen bruges

	sjældent -Samarbejde via erfa grupper og Miljøforum Århus, som er nogle af de mest forurenende virksomheder. Bruger udstationering af rådgivere hos kommunen.
Erfaring fra udlandet?	-Generelt er indtrykket at sagsbehandlerene forfølger de nyheder der er relevante. -Flere BAT centre, som det der kommer for landbruget vil kunne bruges -Der findes noget fra Lynette-fællesskabet (spildevandsinfo.dk) omkring BAT og spildevand. Gerne flere af den slags. -Miljøportalen er en mulighed, men der skal arbejdes med brugergrænsefladen. - Miljøstyrelsen kunne facilitere workshops og stå for Schultz' lovgivningsservice -BAT-centre, f.eks. Lynettefællesskabet eller som det gamle samarbejde omkring jordforurening på Sjælland -Schultz' lovtekster er godt og Envina netværket benyttes. -Tilsynsberetningerne er ikke gode nok og siger ikke noget om kvaliteten af miljøtilsynet (miljøeffekt). -Kæmpe behov for eksperter: Gør det simplere, fokuser på hovedlinierne. For meget detaljeregulering, men ikke på indholdsdelen (miljø). -Hot lines kunne være gode nok, men tror ikke på at Miljøstyrelsen faciliterer workshops, da det ofte er for virkelighedsfjernt.
Behov for eksperthjælp i fremtiden?	-Politisk styret område, der kommer typisk en ny lov eller bekendtgørelse om dagen indenfor miljøområdet -Der er aspekter omkring kommunikation der bør undersøges nærmere indenfor miljøområdet. Der bør være en indsats for mere pædagogik og kommunikation. -Et stærkt samarbejde mellem industri, rådgiver og kommunen skal sikre korte sagsbehandlingstider - Nu hvor der ikke længere skal klages til Miljøstyrelsen, må der sidde nogle eksperter her, der kan bruges til hot line m.m. -Der bliver færre og færre ansatte i kommunerne. Nedgang i service og kvalitet. Dialogen bliver mere

	elektronisk. Der bliver mere fokus på at få godkendelser og tilsyn gennemført, da det er her kommunerne bliver målt og vejet. -Vil gerne have styrket effektiviteten i forvaltningen, så eksperthjælp der kan styrke den vil være godt.

Bilag 2
Rapporter vedrørende udenlandske systemer

Note

Title: **Expert assistance system for The Netherlands**

Date March 2010

To: COWI

Copy

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Contents

1 Organisation of the national legislation and authorities permitting system and interaction with the expert system

1.1 Brief description of the structure

1.1.1 Legislation

To operate Dutch industrial installations must have a license based on the Environmental Management Act (Wet milieubeheer: emissions to soil and air, waste management, handling hazardous substances, noise and odour) and/or a permit based on the Water Act (Waterwet: discharge of waste water, extracting groundwater, constructing water storage facilities). The Water Act has taken effect only recently (December 2009) and integrates eight former regulations with regard to water. Sometimes in the more simple and standard situations a notification (based on general rules) is sufficient and an environmental permit or license is not required.

1.1.2 Permitting authorities

The competent authorities can be the provinces or the municipalities for the licenses based on the Environmental Management Act and in addition the Regional Water Authorities (‘waterschappen’), the Directorate-General for Public Works and Water Management (Rijkswaterstaat) for the permits based on the Water Act. At this moment several hundred municipalities, provincial authorities and regional water authorities are involved in the process of applying environmental licenses for both IPPC and non IPPC installations

1.2 Basis for the advices on IPPC permits - Types of permit requirements

Combined, the two licenses based on the Environmental Management Act and the Water Act also comply with the conditions of the IPPC Directive. In the Netherlands approximately 2.443 establishments include IPPC installations. These establishments are subdivided in 13 profiles, based on their respective activities. Approximately three quart of these establishments fall in the category “agriculture”, the remaining 800 establishments fall in the industrial categories.

1.3 How BREF and BAT aspects are included in the requirements

In the national directive “BAT-documents” the national BAT documents that the competent authority has to take into account while drawing up the licences or permits are summed up. In table 1 for each type of IPPC installation the relevant BREF documents are given. Table 2 contains a list of commonly used Dutch guidelines that can be considered as adequate and recent implementations of BAT (e.g. the Netherlands Emission Guidelines for Air; NeR and the guidelines of the Commission on Integrated Water Management ;CIW). These existing Dutch guidelines in table 2 have to be applied on IPPC-installations in addition or as a specification on the BREF documents. However, it is explicitly not the intention to 'split' the BREF into two parts and lose the integral character of the BREF.

The Dutch government has chosen to make no distinction between IPPC installations and non IPPC installations. As a result, the BREF's must be used as an information source to determine BAT for installations that have a capacity below the threshold value mentioned in Annex I of the IPPC. However, competent authorities should take into account the scale of the installation since the BREF's were not written for these installations.

1.4 Interaction with an expert system

In the Netherlands there is not one expert-system on environmental legislation and regulation. There are however two organisations that can be consulted and that offer information and services on the websites: Infomil and the Water helpdesk.

2 Organisation of the national expert system

2.1 Organization and (authority) levels involved in the expert system

Infomil
In 1995, The Ministry of Housing, Spatial Planning and the Environment (abbreviated to VROM in Dutch), in co-operation with the Association of Provincial Authorities (IPO), the Association of Netherlands Municipalities (VNG) and the Ministry of Economic Affairs, has set up InfoMil for catalysing the implementation of environmental policy in the Netherlands. InfoMil is an organization that serves as an intermediary between the various authorities and target groups in The Netherlands. It works on the basis of government policy and policy instruments. InfoMil focuses on the groups, such as municipalities and provinces that are expected to implement this policy. InfoMil has three main tasks:

- In the first place, it provides information on licensing as formulated in environmental legislation and regulation.
- The second function is to facilitate the consultations between authorities and target groups on the determination of the 'Best Available Techniques' and formulating guidelines.
- Thirdly, InfoMil is a centre of expertise, which manages and makes available relevant information in the field of BAT, environmental technology, etc.

InfoMil has access to an extensive network of licensing authorities, trade and industrial organizations, the national authorities, intermediary organizations and international contacts.

The ambition of Infomil is to be the number one information centre in the Netherlands on the implementations of environmental legislation and regulation. To do so the following instruments are used:

- A helpdesk will answer all questions regarding the implementation of environmental legislation and regulations. Water related questions should be addresses to the Water helpdesk.
- Infomill regularly organises "schakeldagen" which are days where employees of the municipalities and provinces can meet each other and discuss with policy makers.

- An important source of information is the “Infomil News” which (four times a year) gives an overview of the different activities and developments in the field of environmental policies.
- All information is also available on the website www.infomill.nl. On the website you can also find FAQ, links to other relevant websites, on-line services and you can download brochures, publications, checklists etc. One of the relevant services offered is a module to search for the BAT’s in the different BREF’s.

Besides these general tasks which are mainly financed by the ministry VROM, Infomil (in commission of and collaboration with the jointed provinces; IPO) also provides access to standard texts which can be used for the drafting of environmental permits. As part of a special project “kaderstelling vergunningverlening” the provinces keep these texts up to date with the changes in policies, environmental standards and documents like BREFs and BAT’s. The provided texts should be considered as guidelines and are available to all other authorities as well as to consultants and companies. Most commercial soft-ware for the drafting of the environmental permit makes use of these standards.

Water helpdesk
The primary purpose of the water helpdesk is to answer questions of people who are professionally involved in water policy, water management and water safety. The water helpdesk is set up by the national government, provinces, municipalities and the Regional Water Authorities. The water helpdesk is part of the Directorate-General for Public Works and Water Management (Rijkswaterstaat).

Besides the helpdesk a digital newsletter is regularly published, a website is available and training programmes and courses are organised.
The water helpdesk is set up for a wide range of questions on different water issues and not solely for questions on water related issues in environmental permits and IPPC permits. The annual report of the water helpdesk shows that 15% of the questions of the helpdesk is related to environmental emissions.

2.2 Who are the main users of the expert system?

The main users are:
- the different competent authorities (the provinces, the municipalities and the Regional Water Authorities)
- Industry
- Consultants

Due to recent cuts in the budget of the ministry of VROM the Infomill helpdesk is no longer available to consultants and industries but only to government employees. The Infomil News and the Infomil website (including the standard texts which can be used for the drafting of environmental permits) are however available to everybody.

With funding of the Ministry of Economic Affairs a separate service is available for businesses (www.antwoordvoorbedrijven.nl; “answers for business”). This service has a much broader scope than just environmental issues and offers access to websites and sources of information maintained by all government agencies. In

regard to environmental issues information is available on rules and regulations, licenses, subsidies and taxes.

The Water helpdesk is available for question from authorities as well as from consultants and Industries.

2.3 Why is there a need for an expert system?

Gathering and centralizing of knowledge and expertise on technological innovation, information on changes in legislation and regulation, practical applicability, uniformity and objectivity is looked for and appreciated by the users.

2.4 Does the expert system also cover smaller enterprises?

Both Infomil and the Water helpdesk are not solely meant for questions on IPPC installations and will also answer questions on smaller enterprises.

3 Financing of the national expert system

3.1 Information on the financing structure for the distinguished expert systems:

Infomil
Infomil is mainly financed by the Ministry of Housing, Spatial Planning and the Environment (abbreviated to VROM). The budgets are not based on a long-term programme but are fixed yearly based upon a plan of actions for the coming year.

Water helpdesk
The Water helpdesk is solely financed on the basis of a long-term programme by the ministry of Transport, Public Works and Water Management (V & W)..

3.2 Is user payment for e.g. approvals and/or inspections or any other user payment included in the expert system?

Both Infomil and the Water helpdesk offer advice but will not assist with the actual permitting. There is no user payment for consulting the web-based information. All information is public.
Infomill is sometimes commissioned by other authorities than the ministries of VROM and Economic Affairs to carry out special tasks or research (e.g. providing access to standard texts which can be used for the drafting of environmental permits as part of a special project “kaderstelling vergunningverlening”).

4 Types and amounts of resources spent on the expert system by the system/industries/authorities

4.1 Figures on budgets (current and former) and forecasts

Infomil
The total yearly budget for Infomil amounts to about 6 million Euros. This however covers more than just activities on environmental permits and IPPC. Infomil also gives support on for instance REACH and sustainable development. The budget for support concerning IPPC installations for 2010 is about 400.000 Euros, 80% of this amount is spent on support on policy making and the development of BAT's and BREF's, the other 20% is spent on information exchange.

Water helpdesk
The Water helpdesk receives a yearly budget of 200.000 Euros from the ministry of Transport, Public Works and Water Management (V & W). In addition the Directorate-General for Public Works and Water Management (Rijkswaterstaat) provides 10 employees to do the work. As stated before the water helpdesk is set up for a wide range of questions on different water issues. About 15% of the questions of the helpdesk is related to environmental emissions.

5 Lessons learned from the system compared with the normal use of consultants

Infomil
Regular evaluations show that the parties involved are quite satisfied about the way the system works. A strength of the system is the involvement of Infomil in the process of policy making. Infomil can give input in the process of policy making based of practical experiences from the helpdesk and can use their knowledge on policy developments in their advice the given to the authorities. A weakness is the strong (financial) dependence on the ministry VROM and the fact that budgets are set annually. As a result of this way of financing there are hardly any long term guarantees.

Infomill concentrates the knowledge and experiences in regard to environmental permits for complex situations like IPPC installations. This concentration of specialist knowledge makes it easier to guarantee a high quality of the advice to the local and regional authorities and to keep the advice up to date. If this advice would be left up to normal consultants it's likely this knowledge will be more spread out and will in a way be more diluted. In the long run this could lead to a decrease in quality.

Water helpdesk
Regular evaluations also show that the parties involved are satisfied about the way the water helpdesk operates.

6 Any suggestions for improvements to the system.

In 2010, the various permits and licenses with regard to housing, public spaces and the environment will be combined into only one permit as a result of the general provisions of the new Environmental Law Act (Wabo). This new permit will cover the part of the environmental license based on the Environmental Management Act, however it will not include the permits based on the Water Act. In applying for this so called “Wabo permit” you need to contact only one government agency. To implement this policy a digital process for the applications of environmental permits is being developed and so-called “regional Wabo offices” are being formed. In most cases the regional Wabo offices will be responsible for the Wabo permits for both the IPPC and non IPPC installations. According to the most recent estimates there will be approximately 30 regional Wabo offices. As a result there will probably be fewer civil servants involved in environmental permits and the knowledge and experience will be concentrated.
It is being discussed in what way this might influence the tasks and organisation of Infomill in the near future. For instance as a result of the concentration of knowledge and experiences there might be less need for a helpdesk.

7 Sources.

This report is based on the information available on the websites of Infomil and the Water helpdesk and information from interviews with Linda van Berkel, coordinator IPPC at Infomil, and Ricardo van Dijk, project leader water helpdesk. Representatives of the different competent authorities were not contacted directly.

Note

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Contents

Introduction

Since the 1970's Belgium has been divided into three separate Regions: Flanders, Brussels and Wallonia. The Flemish Region, the Walloon Region and the Brussels-Capital Region have obtained to an increasing extent powers in various fields over the past years and have powers relating to, amongst others, water policy, energy, the environment, town and country planning, nature conservation. As a result there are three different sets of environmental legislation in force today in Belgium, an evolution that started in the mid eighties. They also have powers relating to scientific research and international relations in those fields.

While the Regions are vested with many of the powers within the environmental field, certain specific areas have remained within the competence of the federal government. For example, food safety, governing radiation and radio-activity.

This part of the project is only focused on the Flemish Region. The Flemish Region has 5 provinces and 308 municipalities.

1 Organisation of the national legislation and authorities permitting system and interaction with the expert system

1.1 Brief description of the structure

1.1.1 Legislation

The Environmental Permit Decree ("*Milieuvergunningendecreet*") of 1985 and the corresponding Executive Decisions referred to as '*VLAREM I*' (procedures environmental permitting) and '*VLAREM II*' (environmental provisions, conditions and requirements) of the early nineties constitute the main environmental legislation in Flanders.

The key operating permit for an industrial facility is the environmental permit. This permit must be obtained for the start-up or operation of an industrial plant, and in case existing operations are changed or extended. For less polluting activities, an environmental notification will suffice.

The environmental permit is based on an integrated licensing system, meaning that one permit covers various environmental issues. There are three classes of environmental permits (classes 3, 2 or 1) depending on the environmental impact of the activities they are related to. This classification is based on a list drawn up by the Flemish government and annexed to the Flemish environmental regulation ("Vlarem I"). The list is composed of installations and activities which are classified according to volume, area, power, production capacity or use of dangerous substances or raw materials. IPPC-listed activities have been integrated into this list.

1.1.2 Permitting authorities

The environmental permit required for class 1 activities (including IPPC installations) must be obtained from the Permanent Deputation[1] of the province, while class 2 activities can be authorized by the municipality and class 3 activities only have to be notified with the local authorities (municipalities).

Appeal against decisions made in the first instance is possible. The competent authority is the Permanent Deputation of the province for class 2 activities and the competent Flemish Minister for class 1 activities.

Within the scope of this assignment only class 1 activities are further taken into consideration.

1.1.3 Interaction with the expert system

Before a decision is taken, the permitting authority is consulting several advising authorities. A provincial permit committee is established in each province. The main task of this committee is to advise the Permanent Deputation of the province on the permit application for class 1 activities and on appeals against decisions from the municipalities.

The provincial permit committees are composed of:

- a chairman and a deputy chairman, appointed from provincial officials by the Provincial Council;
- the secretary and the deputy secretary, chosen from the provincial officials by the Provincial Council;
- a representative of each of the permanent advising authorities (i.e. the Environmental Permit Division, the Flemish Spatial Planning Agency);
- a representative of non-permanent advising authorities[2] whose advice is explicitly requested (i.e. the Public Health Care Inspection Division, the Natural Resources Division, the Public Flemish Waste Agency, the Air Division competent for air pollution, Divisions competent for Wastewater, Groundwater, Air Emissions of the Flemish Environment Agency and the Flemish Energy Agency);
- two experts and their respective representatives who have been appointed by the Provincial Council on the basis of their particular technical or scientific expertise;
- a representative of the municipality.

Further more a regional permit committee is established to advise the Flemish Minister on appeals against decisions for class 1 activities and is composed of:

- the Division Head of the Environmental Permit Division or his representative;
- a secretary and a deputy secretary appointed by the Flemish Minister from the officials of the Environmental Permit Division;

[1] The Permanent Deputation is nominated by the members of the Provincial Council, who are elected themselves by direct elections. The Permanent Deputation takes the final decision whether the environmental permit is granted or not, but most of the time the advice of the provincial permit committee is followed.

[2] These representatives are ad hoc members who are only present in the committee if their advice is required (case dependent).

- a representative of each of the permanent advising authorities (i.e. an official the Environmental Permit Division, the division competent for Town and Country Planning Policy);
- a representative of non-permanent advising authorities[3] whose advice is explicitly requested (i.e. the Public Health Care Inspection Division, the Natural Resources Division, the Public Flemish Waste Agency, Divisions competent for Wastewater, Groundwater, Air Emissions of the Flemish Environment Agency, the Air Division competent for air pollution and the Flemish Energy Agency);
- two experts and their respective substitutes who have been appointed by the Flemish Minister on the basis of their technical or scientific expertise.

Each provincial as well as the regional permit committee meets at least once a month. The applicant for an environmental permit is heard by the commission at his request. During this meeting, the members of the committee who are present explain their assessment of the application file. After the discussion of the file, and taking into account all the available documents, facts and information, a well reasoned opinion is formulated.

1.2 Basis for the advices on IPPC permits - Types of permit requirements

The Flemish environmental regulation (known as VLAREM II) contains general and branch specific environmental conditions.

1.2.1 General environmental conditions

The general environmental conditions apply to every classified activity and include quality environmental standards and general conditions related to discharge of wastewater, air emissions and noise pollution. This section of the environmental regulation is also referring to the Best Available Techniques - this both with the selection of the treatment methods for emissions, as well as with the selection of measures for reduction at source (adapted production techniques and methods, raw materials management, etc.).

1.2.2 Branch Specific environmental conditions

The branch specific environmental conditions are related to the kind of exploitation (e.g., chemical industry, metalworking, woodworking, waste treatment, storage of hazardous substances, storage of gasses, agriculture, etc.). These conditions contain also specific discharge standards for wastewater and specific air emission threshold values.

1.2.3 Particular permit conditions

Without prejudice to the aforementioned environmental conditions the permitting authority may impose particular permit conditions. These particular permit conditions complement the general and branch specific environmental conditions or impose additional requirements.

[3] These representatives are ad hoc members who are only present in the committee if their advice is required (case dependent).

1.2.4 Other environmental requirements

Certain categories of projects are subjected to an environmental impact reporting which means that in some cases an Environmental Impact Assessment report (EIA) must be added to the environmental application file. Although the EIA decree has provided a case by case approach, a list of EIA activities has been established to avoid having to decide in every case whether a particular activity is subject to the EIA duty.

The European Seveso directive (usually called the "Seveso II directive") has been implemented into the Flemish environmental regulation. Certain companies have to draw up an Environmental Safety Report which must be added to the permit application file (assessment of the compatible with its surroundings regarding external human security and environment security).

The environmental regulation also aims at inducing companies to develop sustainable production patterns and to control the environmental impact of a company on all counts through the introduction of a limited environmental management system (for instance, appoint an environmental coordinator, have a triennial Environmental Audit to be verified by an independent and accredited auditor, issue an annual Environmental Report on emissions).

1.3 How BREF and BAT aspects are included in the requirements

The Flemish environmental regulation (VLAREM) provides that all classified establishments, including the IPPC installations, should apply BAT (Best Available Techniques). The environmental permit of IPPC installations has to include all environmental compartments and has to be oriented towards prevention and based on best available techniques.

Given BAT is the object of a technological evolution, both the environmental requirements (VLAREM II) as the individual environmental permits must be reviewed periodically to the BAT principles.

The competent authority, the Environmental Permit Division, has drawn up an IPPC action plan 2009 -2015 in order to meet these IPPC provisions. In Flanders, all identified IPPC installations are reviewed in the period 2009-2015 by the Environmental Permit Division using for example the BAT studies, IPPC checklists and environmental quality objectives.

For each of European BAT Reference Document (BREF) a checklist has been developed and is used by inspection services as resource (they are not official documents) for the evaluation of the environmental permits and to verify whether the individual company applies those BAT. Those checklists are also used as one of the supporting instruments at the discussions between the operator and the permitting authority.

Those checklists contain an overview of

- preventive measures

- purification techniques to reduce air emissions and wastewater discharge
- measures for other than normal operating conditions
- techniques to prevent or reduce the production of waste
- measures regarding rational energy consumption
- measures to prevent accidents and to reduce consequences thereof
- measures required if the activities are definitely stopped

BAT based emission levels entered in the BREF have to be concerted by the permitting authority into emission threshold values. These thresholds are either enforced by the environmental legislation (VLAREM II) or by additional permit conditions. An evaluation scheme in order to provide concrete permit actions in case of (non) compliance with BAT BREF is included in annex 1

2 Organisation of the national expert system

2.1 Organization and (authority) levels involved in the expert system

The Flemish Institution for Technological Research "VITO" is a Flemish government organization (the Flemish government is its sole shareholder) which positions itself as an independent client-oriented research and consulting organization towards local, Flemish, federal, and European governments as well as the industrial sector. It was founded in the early nineties and delivers scientific input for decisions by governmental decision takers and carries out policy supporting research for the Flemish government.

The partnership between VITO and the Flemish government has been established in a management agreement. VITO counts approximately 550 highly qualified employees (PhDs, Civ. Engineers, Graduates, Ind. Engineers, other).

The institution carries out policy supporting research for the Flemish government (for which structural financing has been established in the management agreement). A distinction is made between recurring and structural policy supporting tasks (reference tasks) and research assignments which are acquired on the open market (invitations to tender, requests for proposal).

A few examples of reference tasks:

1) Reference laboratory for environmental analysis and measurement. The aim is to create a Flemish general framework for quality control and quality assurance with regard to environmental analyses, and this with active participation from all certified environmental laboratories. Related aspects concerning the official certification of laboratories and/or the certification of analysis and measurement techniques are also part of the assignment.

2) The Flemish knowledge centre for Best Available Techniques and the Energy and Environment Information System (EMIS) were established upon request from the Flemish government. This takes place via a well-known website.

3) Supporting the Environment & Health department of the Flemish Ministry of Environment. Specific focus points include the participation from Flanders in a European bio-monitoring program, the evaluation of Flemish bio-monitoring studies and the provision of environmental toxicological information and recommendations upon request.

4) Flemish Subsoil Knowledge Centre is performed on the instructions of the Natural Resources Division. This has allowed building up unique geological knowledge of Flanders. This reference task includes the following partial tasks:

- completion of the "deep subsoil" section of the Flemish initiative “Flanders Subsoil Databank”.
- research (feasibility studies) into the innovative use of the deep subsoil in Flanders (conventional/fossil and renewable energy sources, including problems concerning the storage of energy and greenhouse gases);
- research into rational surface mineral management and the optimum re-use of residuals and secondary raw materials (Surface minerals decree).

In the framework of the implementation of the IPPC Directive, the Flemish Authorities have commissioned VITO to determine BAT at the sector level. Since then, VITO is in charge of the ’Centre for Best Available Techniques (BAT) of the Flemish Region of Belgium’. This BAT Knowledge Centre collects information concerning environmental friendly techniques, carries out BAT sector reports for the Flemish region, evaluates BAT by industrial sector (IPPC and NON-IPPC/SMEs), and formulates BAT recommendations for the Flemish authorities, for sectors/companies and for regional authorities around Europe.

An advisory committee is established consisting of representatives of the industry, the Flemish government and independent experts. This committee advises the BAT Knowledge Centre regarding the approach and the proposed BAT recommendations.

Based on the results of the BAT-inventory, the current Flemish environmental legislation and the BAT guidelines which are issued abroad, series of concrete BAT measures are proposed. The technical and economic feasibility of these measures is examined by:

- audits of companies;
- analysis of economic implications for the (sub) sector;
- experiences from abroad;
- data from providers.

Based on this analysis and the advice of the advisory committee, the proposed BAT measures are adapted and incorporated into a recommendation. This approach eventually results in a note with a well-founded BAT recommendation or a BAT study followed by a session to inform officials and industry.

The centre plays two roles in the “Sevilla-process”. On the input side, VITO delivers as representative of Belgium in the TWG (Technical Working Groups) information to the European IPPC Bureau to support the development of the BAT Reference documents (BREF). VITO also represents the Belgian (Flemish) authorities in the European exchange of information on BAT. On the output side, VITO disseminates the results of the information exchange on BAT to industry and authorities in Flanders, through information sessions, workshops, training and the Energy and Environment Information System (EMIS) which is available via the internet.

The BAT Knowledge Centre developed a database which contains an overview of all BAT and other environmental technologies listed in the BAT studies and BREF. A search on branch of industry or environmental aspect is leading to a list of techniques. The database contains more information on each technique and leads eventually to the full text of the BAT study. IPPC-checklists are available for IPPC installations for which a European BAT study has been approved. These database and IPPC checklists are accessible on the EMIS website (www.emis.vito.be). The BAT Knowledge Centre also developed some software tools to help authorities, industry and consultancies with searching for sanitation techniques to solve their environmental problems regarding soil contamination, wastewater, waste treatment and air pollution.

Furthermore the BAT Knowledge Centre also prepares draft texts for new environmental regulation in Flanders, based on BAT and operates a help desk for officials and industry concerning BAT-related questions. A lot of information about environmental technology and BAT can thus be found on the EMIS website, but for specific questions a help desk is also available via e-mail or phone. This help desk is rather intended to put brief questions and can be used by the public administration, consultants or industry. The help desk is staffed with one person who tries to guide the questioner to the appropriate information.

The Flemish environmental authorities also look for expert input by environmental consultants, depending on the subject, policy areas or scientific disciplines. Annual research programs are drawn up, and, depending on the funds available, research assignments are contracted.

As a third pillar the technical staffs of the Environmental Department are all represented in one or more expert working groups of the department. The members of the expert working groups specialize in a specific matter and follow up the evolution of the BAT in their domain. These expert groups are established from the perspective that review and updating of the Flemish environmental regulation is required because of the continuous BAT evolution. In particular, the experts are expected to give specialized technical assistance to the relevant expert group and to cooperate on the preparation of new European legislation.

Each expert working group must coordinate its activities on the following points:

- inventory of the items which require technical updating and elaboration of a draft decision to the technical update of the general and branch specific permit conditions.
- implementation of new European regulations

- follow up of BREF and BAT studies
- follow up of new EU legislation in preparation

Complementary to EMIS the Flemish Environmental authorities also provide web-based information. An important and frequently used application comprises a geographical information system (GIS).

2.2 Who are the main users of the expert system?

The main users are:
- Flemish Environmental authorities (for instance, municipal environmental administrators, provincial environmental administrators, permit advising departments, environmental inspection services)
- Industry
- Consultants

2.3 Why is there a need for an expert system?

Gathering and centralizing knowledge and expertise, technological innovation, practical applicability, uniformity and objectivity is looked for and appreciated by the users.

2.4 Does the expert system also cover smaller enterprises?

All companies can benefit from VITO's experience on environmental and energy technology. The co-financing part of PRODEM (i.e. Promotion and demonstration centre for environment and energy friendly technology) is reserved for SMEs. The support from the Flemish government and the European Regional Development Fund (ERDF) enjoy a significant financial contribution to the cost of a feasibility study on a laboratory scale test, pilot test, or test.

Within the Department Environment, Nature and Engery, the Cell Target Policy ("DGB") has been established to promote the involvement of target groups (e.g. food industry). The Cell promotes internal cooperation within the public services to ensure a united approach of the target group. The target group is involved in the preparation, the implementation and the evaluation of the environmental policy via the creation of practical and representative consultative structures. The Cell disseminates knowledge about the target groups, their environmental pressure and the environmental instruments put in place and they also improve the integration and coordination of the environmental policy for the target groups.

3 Financing of the national expert system

3.1 Information on the financing structure for the distinguished expert systems:

The Flemish government provides substantial basic funding for VITO. The allocation covers a sizeable part of the research costs. The remaining costs are

covered by additional funding from local, regional, national and international governments and industry.

3.2 Is user payment for e.g. approvals and/or inspections or any other user payment included in the expert system?

User payment depends on the type of usage of the expert system, namely:

- No user payment does exist to consult the web-based information centre EMIS or the GIS-system. All information is public.
- A fee is charged for attending workshops and lectures.
- Research assignments for private companies or branch organisations are charged
- In addition to the aforementioned reference tasks, (see 2.1) which are funded by the Flemish government, VITO also carries out contractual research projects for the Flemish government in which VITO collaborates with other Flemish environmental agencies and departments.

VITO does not help with permitting as such.

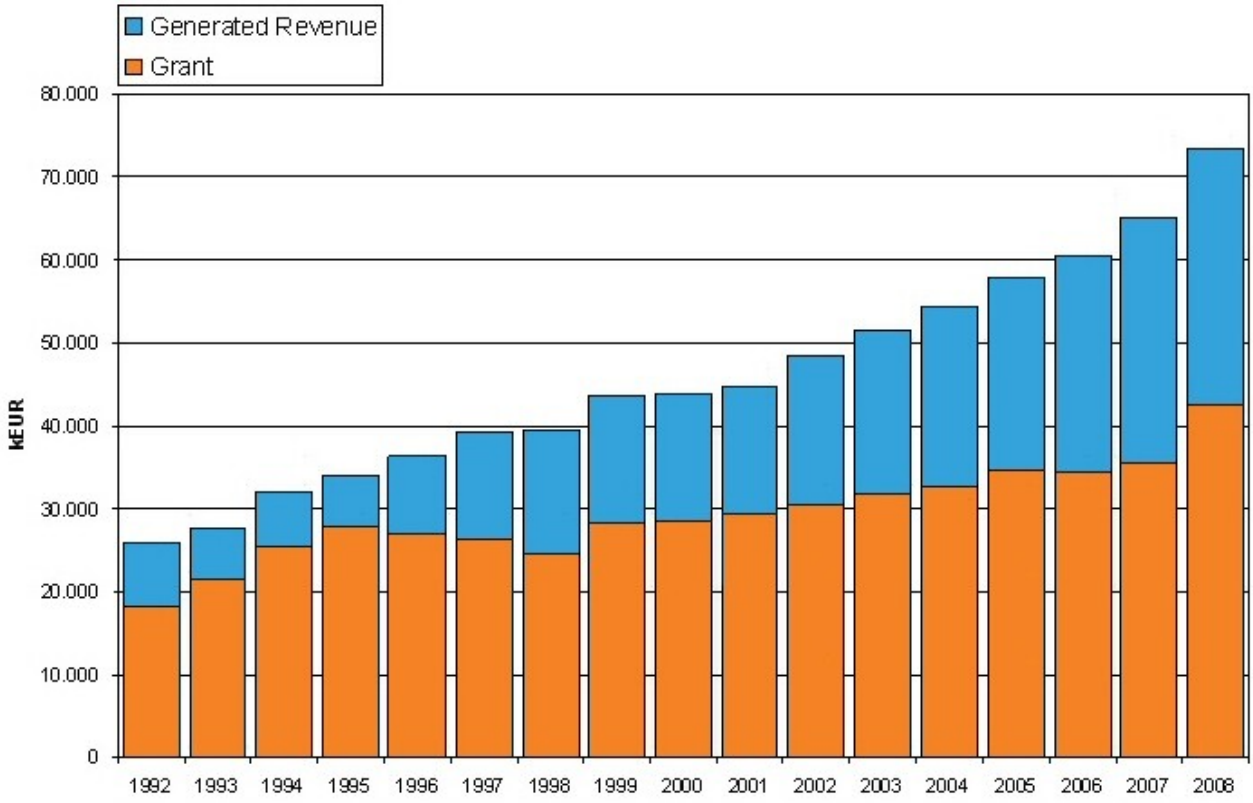
4 Types and amounts of resources spent on the expert system by the system/industries/authorities

4.1 Figures on budgets (current and former) and forecasts

Being a governmental institution on the one hand, but also increasing its presence as consultant implies that the income and revenue of VITO comprise financing through the management agreement with the Flemish Government and project turnover (private and public market).

in kEUR	1993	1994	1995	1996	1997	1998	1999	2000
Generated income	6,058	7,395	8,051	9,717	13,346	16,137	17,572	17,72
Grant	23,264	24,064	24,481	25,991	27,549	29,345	25,407	25,44
Total	29,322	31,459	32,532	35,708	40,585	45,483	42,979	43,16

in kEUR	2001	2002	2003	2004	2005	2006	2007	2008
Generated income	19,047	21,877	24,303	26,637	29,107	32,187	29,542	31,123
Grant	25,649	26,029	26,585	27,424	34,547	29,091	35,496	42,358
Total	44,696	47,906	50,888	54,061	63,654	61,278	65,038	73,481



Figures for the Centre for Best Available Techniques (BAT Knowledge Centre) and Energy for the Flemish region of Belgium and EMIS:

- Overall project value (kEUR): 13,984
- Proportion carried out by VITO (%): 100
- No. of staff provided: 10 – 20
- Name of client: Flemish Ministry
- Origin of funding: Flemish Ministry

5 Lessons learned from the system compared with the normal use of consultants

The expert system, being operational since the early nineties, allowed to acquire multidisciplinary expertise and to guarantee continuity and centralization of information. It also allowed building up scientific networks and involvement in European policy development (EU organisations and consultative bodies).

The expert system makes a close consultation possible between the Flemish government and the relevant industrial sectors.

Other benefits of using an expert system are that all information is centralized, public accessible, consistent, recognizable, etc. An expert system could make structured consultation possible between the different stakeholders.

Through scientific networks and participation in numerous European research projects VITO is closely involved in European policy development and in the decision process regarding energy, environment, sustainable development and

technological innovation. VITO has experienced this involvement in the European institutions and advisory bodies as a surplus value in the cooperation with the local government, e.g. there is an interaction between the Flemish BAT Knowledge Centre and the European IPPC Bureau (EIPPCB).

6 Any suggestions for improvements to the system.

Every year a program ("TWOL") for research projects regarding several specific environmental subjects as well as coordinating themes linked to the environment (e.g., for target groups) is drawn up by the Flemish environmental administrations. Working with programs is rather time consuming, which results in a certain slowness to gather the knowledge into the expert system.

If actors of the expert system, who are linked to and financed by the government, also act as consultant, there is / could be some overlapping with private consultancies. Acting as partner of the authority as well as the industry does / could result into a certain conflict of interest.

7 Sources

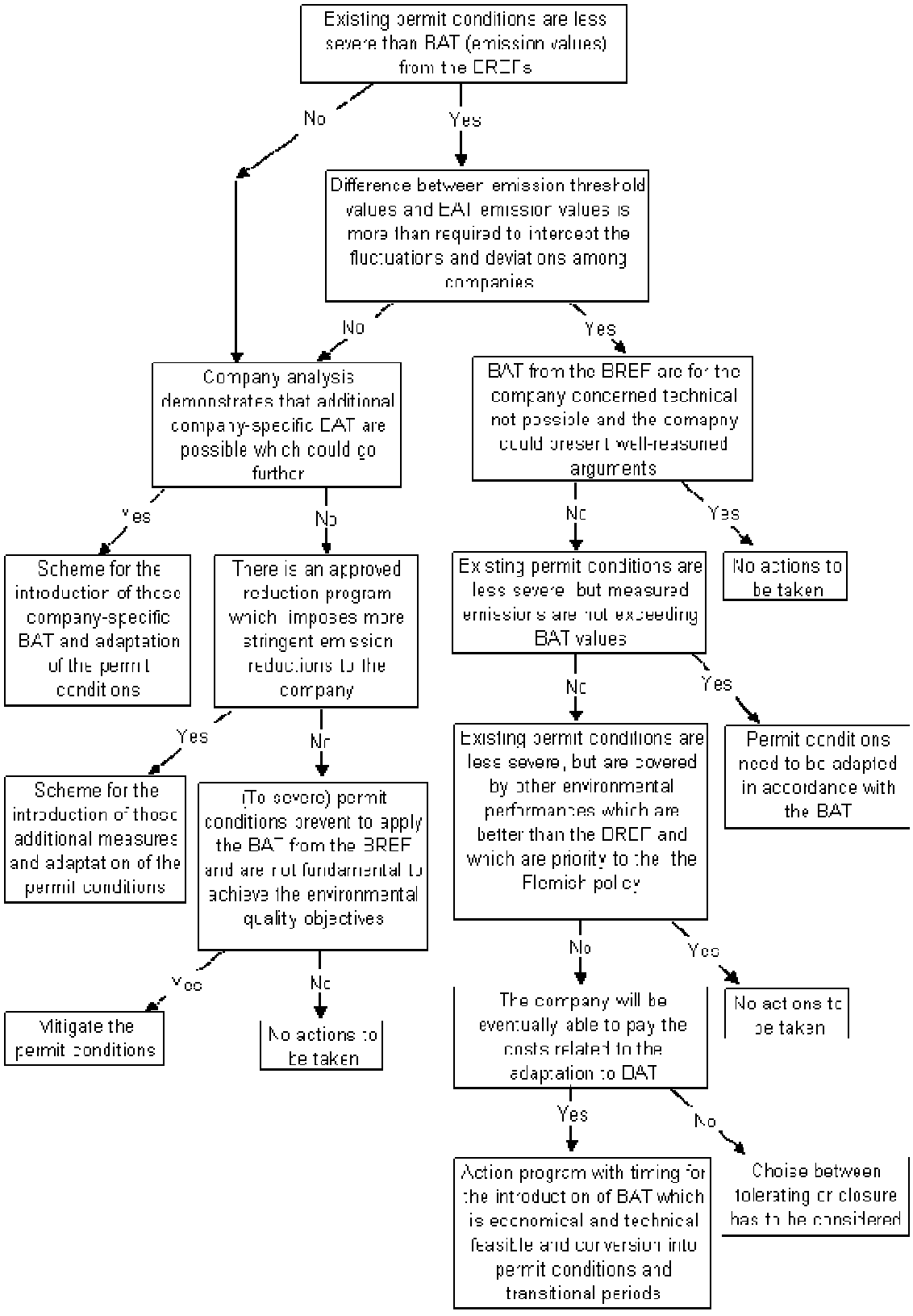
Websites:

- www.vito.be
- www.emis.vito.be
- www.agiv.be/gis/diensten/geo-vlaanderen/
- www.LNE.be

Contacts:

- Mr. Jan Kielemoes, Head of the Cell Target Policy
- Mr. Robrecht Vermoortel, Head of the Provincial Service Department at the Environmental Permit Division.
- Mr. Michel Lievens, VITO Accountmanager SME
- Caroline Polders, Researcher at VITO's BAT Knowledge Centre
- Other representatives of the competent authorities or VITO were not available to be interviewed.

Annex 1 – Evaluation Scheme in order to provide concrete permit actions in case of (non) compliance with BAT BREF



Note

Title: **Expert assistance system for Luxembourg**

Date March 2010

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Contents

Introduction

Luxembourg is one of the smallest countries in Europe and is divided into 3 districts, which are further divided into 12 cantons and then 116 communes.

Luxembourg has around 1100 companies related to industry. The iron and steel industry is an important sector of the economy in Luxembourg

1 Organisation of the national legislation and authorities permitting system and interaction with the expert system

1.1 Brief description of the structure

1.1.1 Legislation

The environmental laws and regulations in Luxembourg have been strongly influenced by EU directives on the environment and regulatory approaches in neighbouring countries (e.g. best available technology).

The Act of 10 June 1999 on classified establishments, often referred to as the "commodo/incommodo law", constitutes the main environmental legislation in Luxembourg. The object of this Act is to:

- ensure the integrated prevention and reduction of pollution from establishments;
- protect the safety, health and comfort of the public, the neighbourhood or the staff of establishments, the occupational health and safety of workers and the human and natural environment;
- promote sustainable development.

The law requires an operation permit to be sought in respect of any industrial, craft or commercial businesses, whether in the public or private sector, in respect of any plant or machinery, any related activity, or any manufacturing process whose existence or operation may represent a danger or threat to well-being, for instance to security, health or the well-being of the public, neighbourhood or those employed by the business and the human and natural environment.

1.1.2 Permitting authorities

Classified establishments

Establishments covered by commodo-incommodo permits are divided into four classes based on the risks they may represent.

The procedure varies according to the class:

Class 1 establishments are authorised, within their respective competence, by the minister responsible for employment and the minister responsible for the environment.

Class 2 establishments are authorised by the burgomaster.

For permit applications related to class 1 and 2 establishments a public information procedure is opened enabling observations from residents to be gathered.

Class 3, 3A and 3B establishments are authorised by the ministers without needing to hold the public inquiry. However, class 3A establishments only require a permit issued by the minister responsible for employment and class 3B establishments are authorised only by the minister responsible for the environment. Class 3, 3A and 3B establishments are subjected to the general requirements laid down by Luxembourg regulation in the interests of the environment and the safety, health and comfort of the public, the neighbourhood or the staff of the establishment, with the exception of those requirements regarding the health of workers.

Class 4 establishments are authorised by a single declaration procedure and are subject to the provisions laid down by Luxembourg regulations, which also specify the relevant authority body in this respect.

When several installations forming part of an establishment fall within different classes, the installations with the highest level of risk based on the classification will determine the applicable permit procedure.

Waste management

Companies which collect, carry, dispose of and reclaim waste on behalf of their customers or which import or export waste must obtain a special permit issued by the Minister of the Environment. Setting up or operating a facility or a site used for disposal operations or operations leading to a possibility for reclamation, and any substantial changes made thereto, also require a permit issued by the Minister of the Environment.

Water management

The preservation of watercourses and the management of waste water is an important environmental issue. Companies are mainly required to obtain two types of permits: a permit for discharging waste water and a watercourse permit.

Water abstraction, abstraction of solid or gaseous substances, discharging waste water and discharging solid, gaseous or liquid substances in surface or underground water are subject to authorisation by the Minister of the Environment.

Watercourse permits are required for the construction of any building on or near a watercourse where this building narrows or alters the watercourse. Applications for watercourse permits for these buildings should be sent to the Water Management Department at the Ministry of the Interior.

Reduction of greenhouse gas emissions

Companies that emit greenhouse gases are required to obtain a ministerial permit. The permit relates to certain types gas emissions (e.g. carbon dioxide, methane, nitrous oxide, hydro fluorocarbons, …) within the scope of specific activities.

Greenhouse gas emissions resulting from certain activities (e.g. energy sector, production and processing of ferrous metals, mineral industry and other) require permits by the Minister of the Environment.

1.1.3 Interaction with the expert system

The authorities responsible for classes 1 and 3 are the Administration of Environment and the Inspectorate of Labour and Mines.

The Administration of Environment is responsible for developing and protecting the environment and to lead actions including:

- information and encouragement of all efforts to protect the environment (e.g. financial assistance for vehicles with low CO_2 emissions);
- studies and evaluations on the impact of industrial, agricultural and urban area on environmental health;
- research regarding the environment;
- monitoring and enforcement of legal requirements and environmental regulations.

The Inspectorate of Labour and Mines is intervening in setting permit conditions for establishments classified as dangerous or unhealthy. This inspection department is also responsible for monitoring implementation of the permit conditions.

A kind of steering committee is established which:

- discusses and delivers opinions on the general problems which may arise in the context of implementing the commodo/incommodo Act, at the request of the ministers for the environment and for employment or on its own initiative,;
- gives its opinion on all issues and projects which the minister responsible for the environment considers useful to submit or which it invokes on its own initiative, including, in co-operation with the resource centre for environmental technologies (CRTE), the determination of BAT..

This committee is composed of representatives of:

- the ministries and authorities concerned;
- the employers' associations;
- employees' associations;
- approved ecological associations;
- Syvicol (Organisation of Luxembourg Towns and Municipalities).

The committee members and their deputies are appointed by the Government Council for a term of three years.

1.2 Types of permit requirements

The permit lays down restrictions and conditions relating to the development and operation that are considered necessary to protect the environment and to ensure the safety of employees. The conditions relating to the development and operation of the establishment take into account the best available technologies, the implementation of which should not incur excessive costs (BATNEEC).

Excessive costs are assessed by referring to average-size and economically sound establishments in the same or a similar field.

Regulations on air emission and wastewater discharge, waste management or even precautions to take in the event of fire are involved. The regulations to observe in matters of security are often published in model-conditions by the Inspectorate of Labour and Mines.

Each of the aforementioned authorities lays down conditions relating to the development and operation of the establishment for which it is responsible:

- The Minister of the Environment lays down conditions relating to the development and operation of the establishment with regard to the human and natural environment, such as the protection of air, water, soil, plants and wildlife, the prevention of noise and vibration, rational energy use, waste prevention and management.
- The Minister of Employment lays down conditions relating to the development and operation of the establishment with regard to the safety of the public and neighbourhood in general, and workplace health and safety and ergonomics. Where applicable, in-house and external emergency plans may be drawn up.

Environmental agencies set emission standards for industrial establishments on a case by case basis.

If an environmental quality standard requires more severe conditions than those attainable for the use of the best available technologies, additional conditions are especially required by the authorization, without prejudice to other measures which can be taken to respect the environmental quality standards.

Permits may stipulate that the operator must appoint one or more persons to be responsible for safety and environmental matters. Permits may also provide that the companies which, depending on the type of activity, represent a risk must take out civil liability insurance and provide a guarantee for the restoration of the site in the event of an incident or accident linked to operation or the termination of activities.

The ‘special’ permit related to waste is only granted if the activity planned provides guarantees of a sufficient level of protection of the health of man and of the environment. It may contain conditions relating in particular to technical equipment used by the applicant or the operator.

1.3 How BREF and BAT aspects are included in the requirements

The permit for IPPC installations must include the emission values for the polluting substances which may be emitted in significant quantities by the installation, considering their nature and their potential of transferring pollution from one environment (water, air, soil) into another.

As the case may be, the limit values may be completed or replaced by equivalent parameters or technical measures.

These limit values, parameters and measures are founded on the BAT, without prescribing a specific technique or technology, and taking into account the technical characteristics of the concerned installation, its geographical situation and the local environmental conditions.

These IPPC permits also

- include conditions foreseeing provisions concerning the minimization of long distance pollution as well as measures concerning operating conditions, other than the normal operating conditions;
- set the appropriate requirements for monitoring the installations' emissions, specifying the methodology of measurements, the monitoring frequency, the procedure for evaluating the measurements and the obligation to deliver to the competent authority the documentation necessary for verifying compliance of the conditions of the authorization;
- prescribe the operator to regularly inform the competent authorities of the results of the monitoring of the emissions of the installation and to report asap. all incidents or accidents affecting the environment in a significant manner.

A re-examination of the IPPC permit is made if

- the pollution caused by the installation is such that it requires the existing emission limit values of the permit to be revised or to include new emission limit values;
- substantial changes in the BAT allow a significant reduction of the emissions without imposing excessive costs;
- the security of the operating procedure or the activity requires the use of other techniques.

2 Organisation of the national expert system

2.1 Organization and (authority) levels involved in the expert system

The Resource Centre for Environmental Technologies (CRTE) was set up in 1997 by a collaboration agreement between the Luxembourgish Ministry of the Environment and the CRP Henri Tudor - Public Research Centre Henri Tudor. This agreement is based on the Luxembourg Act of 10 June 1999 on classified establishments.

CRTE is consulting industry regarding the implementation of best available techniques (BAT) and integrated pollution prevention, with a specific focus on small

and medium sized enterprises (SME) and without performing, however, any legislative or regulatory function. They also draw up cleaner production guidelines addressing sector-wide environmental problems, in order to implement holistic approaches towards eco-design and integrated pollution prevention.

Furthermore CRTE provides a support to eco-innovation to private and public actors at national and international level and supports the implementation of eco-technologies, both in private and public sectors.

Some other services of CRTE:

- Development of prototypes for experimental studies, including data acquisition and analysis
- Set-up of collaborative R&D projects, both at a national and at a European level, as well as contract research
- Helpdesk activities (REACH)
- Training on environmental legislation, technologies and concepts

CRTE relies on the competences of a multi-disciplinary team of more than 30 employees and a broad network of institutional, industrial and academic partners. The main fields of CRTE's expertise are environmental management, life cycle assessment, process engineering, modelling of environmental processes and environmental risk assessment.

CRTE works on various research and development projects, in partnership with national or Europeans institutions and/or with private companies.

On the knowledge transfer front, CRTE organises various training programmes for architects and consulting engineers and for professionals in the wastewater sector. Tailor-made training programmes are also delivered.

2.2 Who are the main users of the expert system?

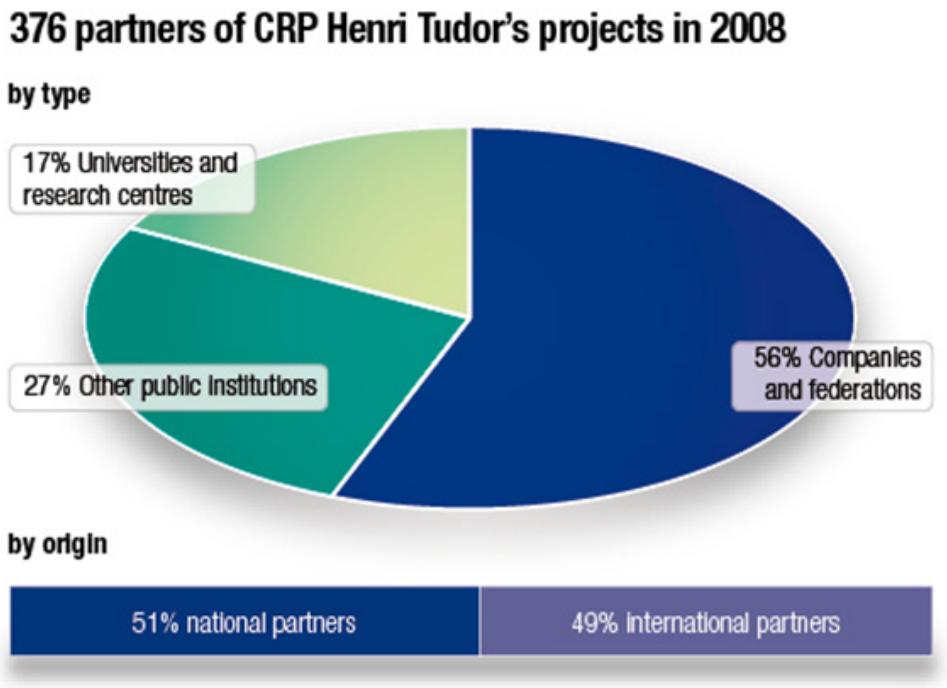
CRTE addresses individual companies, especially SME's, as well as industry clusters or whole activity branches and sectors facing common environmental challenges. But also public bodies such as ministries and administrations, municipalities and municipal syndicates, public service operators frequently rely on the expertise and technological assistance by CRTE.

CRTE has contacts, projects and co-operations with the following stakeholders:

- Contractual partners (e.g. ministries and administrations)
- Institutional partners, public and private bodies (national) (e.g. Chamber of Commerce, municipalities, agencies, institutes, University of Luxembourg)
- Contract research, R&D support and services - selected partners (e.g. industry, service sector)
- Project collaborations (e.g. industry, municipalities, organisations, university of Luxembourg)
- Networking (e.g. International Water Association, Society of Environmental Toxicology and Chemistry, Water Supply and Sanitation Technology Platform)

- Teaching and Doctoral Research (universities)

In 2008, 319 partners were involved contractually in the Centre's projects. More than half of them are located in Luxembourg. 57 other partners participated actively in the projects on a non-contractual basis.



2.3 Why is there a need for an expert system?

CRTE has been enabled to study and develop the skills necessary to:

- integrate socio-economic development and environmental protection by adopting a proactive approach to environmental protection by the concept of sustainable management of flows of matter and energy
- anticipate and develop the skills, expertise and services to build a neutral and objective expertise in environmental technologies transferred to industry partners, artisanal and institutional.
- achieve a level of expertise recognized at national and European level in the field of modelling tools, simulation and evaluation processes and environmental technologies, while leveraging partnerships with key players in this field at regional and European level.

Strategic objectives for 2008-2010 are:

- to conduct a collaborative approach to research and development in order to improve and strengthen the innovative capacity in private and public sector.
- being an actor recognized by the scientific and technological cooperation in science and technology involved.

According to CEO of the CRP Henri Tudor businesses and government organisations can take advantage of system because of

- the responsiveness and quality of services offered,
- a collaborative, multi-disciplinary approach to guarantee our partners optimal efficiency through shared investment in research and innovation
- the reliability and capabilities guaranteed for the long term.

These key success factors seem to be appreciated by their partners of all activity sectors.

2.4 Does the expert system also cover smaller enterprises?

CRTE offers expertise and technical assistance in environmental technologies especially for SME's. They help to implement an integrated environmental protection approach and they promote BAT through their guidelines.

3 Financing of the national expert system

Departments of the Public Research Centre Henri Tudor (CRP Henri Tudor):

AMS	Advanced Materials and Structures
CITI	Centre for IT Innovation
CR SANTEC	Resource Centre for Health Care Technologies
CRTE	**Resource Centre for Environmental Technologies**
CRTI-B	Resource Centre for Technologies and Innovation in Construction
CVT	Technology Watch Centre
LTI	Laboratory for Industrial Technologies
SITec	Lifelong Learning for Technologies Innovation
Technoport	Technology-based business incubator
FOSS	“Free and Open Source Software” innovation platform

For the period of 2008-2010 there is a convention between the State of the Grand Duchy of Luxembourg and the Public Research Centre Henri Tudor (CRP Henri Tudor), in which the State grants a financial contribution of € 57,200,000, established in terms of objectives, and including the overall budget that the contractor expects to achieve (the inclusion of resources other than financial contribution under this agreement). This contribution does not preclude the allocation of additional public funds, from other appropriations.

The annual financial contributions from the State to CRP Henri Tudor are established as follows:

- for 2008: € 17,900,000
- for 2009: € 18,900,000
- for 2010: € 20,400,000

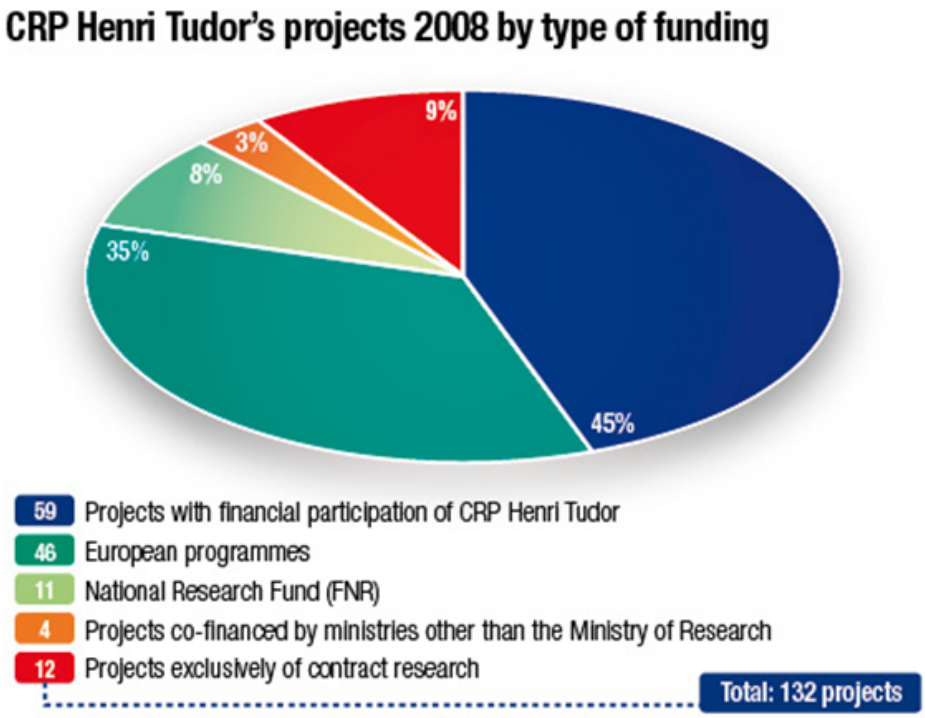
There are no individual figures available for the CRTE department within the CRP Henri Tudor.

Numerous students are trained every year at CRTE, in partnership with European universities, either through internships or PhD studies. Doctoral Research is supported by grants of the FNR (*Fonds National de la Recherche Luxembourg*).

The operator of an industry pays the costs of experts needed in order to examine environmental applications and to inspect the establishments.

4 Types and amounts of resources spent on the expert system by the system/industries/authorities

4.1 Figures on budgets (current and former) and forecasts



Financial Summary for 2008-2010 (according to the annex of the convention):

Budget for activities conducted at the request of a donor, based on a contract or other contractual relationship (contractual research):

- 2008: 5,400 kEUR
- 2009: 6,400 kEUR
- 2010: 9;000 kEUR

European contributions to projects of interregional cooperation and regional development interregional collaboration and regional development (INTERREG and Objective II (ERDF and ESF)):

- 2008: 600 kEUR
- 2009: 800 kEUR
- 2010: 1,000 kEUR

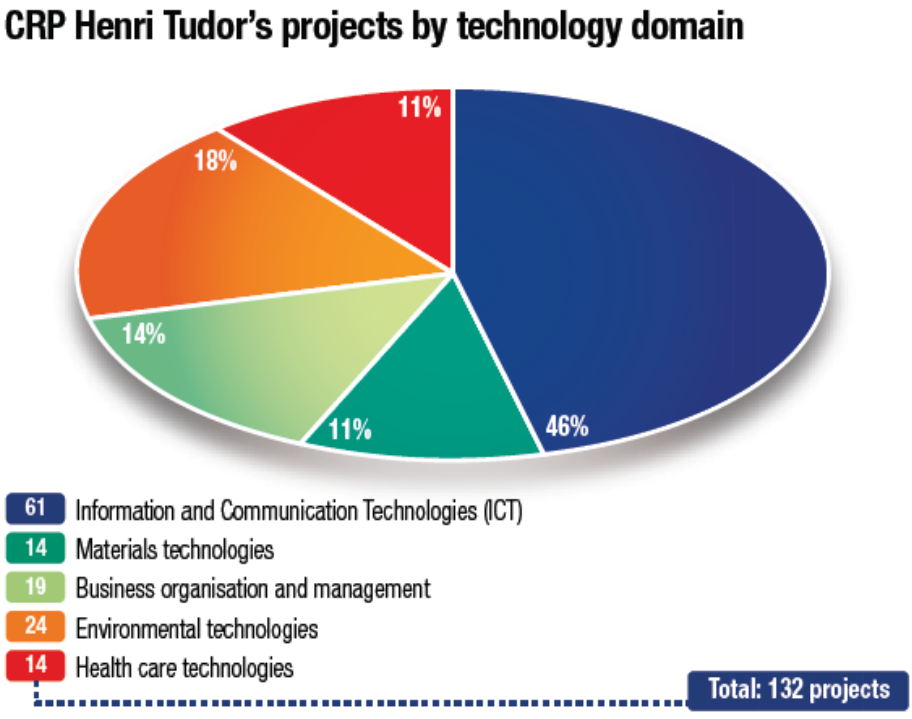
Budget for competitive research includes revenue from international competitive programs (FP, CIP), and all proceeds from the FNR.

- 2008: 3,500 kEUR
- 2009: 5,000 kEUR
- 2010: 6,000 kEUR

Other revenues

- 2008: 800 kEUR
- 2009: 600 kEUR
- 2010: 400 kEUR

4.2 Non budget resources



5 Lessons learned from the system compared with the normal use of consultants

CRTE is a research centre focusing on business innovation and does not do research for research's sake, but to contribute to a more competitive national economy. Their status is that of a public institution managed according to private law, which guarantees the sustainability of their skills whilst making them naturally close to the world of business. They consider themselves to be a public utility for SME, and they have about 20 years of experience in working with SME (which results in recognition).

The public research centre offers a wide range of tools and services:

- Specially designed to meet your requirements
- Tested and validated by SME
- Able to boost competitiveness
- Neutral (their objective is not to make profit)
- Tailor-made

CRTE applies their interdisciplinary skills to all of their projects, to the considerable benefit of their clients and partners, which they also involve through the many networks that they coordinate or are part of.

They offer multidisciplinary and transversal scientific and technological competencies. They constitute a gateway to international innovation networks and technology platforms (for local, regional and international activities). It's a public company (sustainable relationship, independence and neutrality) managed as a private company (entrepreneurial approach, customer oriented, result driven to satisfy clients).

6 Any suggestions for improvements to the system.

In 2008, CRP Henri Tudor has offered two promising new models for collaboration:

- Multi-annual Partnership Programmes for Research and Innovation; these programmes are based on a medium to long term financial and strategic commitment involving CRP Henri Tudor and one or several private or institutional partners for facing major innovation challenges;
- Industrial research projects in which risk and results are shared by all the partners; the Centre can participate with its own capital on equal footing with private business.

7 Sources

Websites:

- www.itm.lu
- www.environnement.public.lu

- www.technoport.lu
- www.tudor.lu
- www.crte.lu

Contact:

- Mrs. Sophie Capus, Administration of Environment

Note

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Date March 2010

To: COWI

Copy

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Contents

1 Introduction

The project is part of an overall assessment of regulatory expert systems which relate with IPPC and local Authorities within the European Union. The key objectives of the project were to interview regulatory agency staff on the following questions. Further research was gained from research of the guidance documentation, financial reporting and experience of IPPC within Scotland.

1. How is the national legislation and authorities permitting system organised and how does it interact with the expert system?
2. How is the national expert system organised?
3. How is the national expert system financed?
4. Types and amounts (perceived- preferably measured) of resources/efforts spent on the expert system by the system/industries/authorities respectively?
5. Lessons learned from the system compared with the normal use of consultants?
6. Any suggestions for improvements to the system

2 Organisation of the National Legislation and Authorities Permitting System and Interaction with Expert Systems

2.1 Legislation

Integrated Pollution Prevention and Control (IPPC) is implemented by the Pollution Prevention and Control (Scotland) Regulations 2000 ("the Regulations") (SI 2000/) made under the Pollution Prevention and Control Act 1999 ("the Act"). The Regulations implement the European Community (EC) Directive 96/61/EC on Integrated Pollution Prevention and Control ("the IPPC Directive"), while also building on pre-existing national arrangements for pollution control introduced under the Environmental Protection Act 1990 (EPA 90). The Integrated Pollution Prevention and Control (IPPC) Directive aims to minimise pollution from various industrial activities throughout the European Union. Operators of certain industrial installations that are covered by the directive are required to obtain an environmental permit from the authorities in EU countries. These permits provide operational measures to control emissions to the environment. About 52,000 installations are currently covered by the IPPC Directive in the European Union (EU).

The Regulations designate the Scottish Environment Protection Agency (SEPA) as the "Regulator" responsible for enforcing the regime. Separate regulations are to be introduced for the application of IPPC to installations in England and Wales, and Northern Ireland and the offshore oil and gas industries, each with different Regulators.

Her Majesty's Industrial Pollution Inspectorate (HMIPI) was assigned the task of applying a new system of Integrated Pollution Control (IPC) to the most potentially polluting industrial processes in Scotland. IPC was introduced under Part I of EPA 90, which also made provision for a parallel system of Local Air Pollution Control (LAPC). Part II of EPA 90 made provision for separate controls on the management of waste, including a new Waste Management Licensing (WML) system which was introduced by the Waste Management Licensing Regulations 1994.

The scope of IPC and LAPC was defined by the Environmental Protection (Prescribed Processes and Substances) Regulations 1991 (SI 1991 / 472 as amended). These Regulations detailed the "Part A" processes subject to IPC and regulated by HMIPI and "Part B" processes subject to LAPC. Initially regulated by Local Authorities and subsequently by SEPA. In many important respects, the two regimes were founded upon similar procedures and terminology. For example, both systems involved the setting of authorisation conditions based on an assessment of "Best Available Techniques Not Entailing Excessive Cost" (BATNEEC). In LAPC, however, authorisation conditions were only to be set in relation to releases to air, while in IPC they were to address releases to all media. Accordingly, the determination of BATNEEC for IPC requires an assessment of BPEO.

In April 1996 SEPA was established under the provisions of the Environment Act 1995. This created a single body bringing together HMIPI with the former River Purification Boards and Waste Regulation Authorities. SEPA also took on the responsibilities of its predecessors, including the applications of IPC, LAPC from the Local Authorities plus other functions such as WML and water discharge consenting.

The IPPC Directive was adopted by the Council of the European Union in September 1996, to bring about an improved and more consistent approach to environmental protection across the EC. The Directive was based on the UK System of IPC, although it contains some important differences and new elements. In particular, alongside the release of polluting substances the Directive is concerned with further issues such as energy efficiency, consumption of raw materials, noise, prevention of accidents, waste minimisation and recovery, and restoration of the site after use. It also embraces a wider range of industrial operations, bringing in activities such as intensive animal rearing, food production and waste management to the framework of integrated control. Additionally, it regulates the "installation" as a whole rather than the individual industrial "process" which was the focus of IPC. Furthermore, the setting of permit conditions under the Directive is to be based on "Best Available Techniques" (BAT) rather than BATNEEC, although the meaning of these two expressions is essentially the same.

The Pollution Prevention and Control Act 1999 and the Regulations made under it give effect to these changes while also building on the previous domestic arrangements. The Regulations introduce a single permitting system i.e. one permit covering all activities thus removing the need to apply for various consents. The Regulations create Part A and Part B regimes, similar to those

of Part I of EPA 90, which they will replace. They also incorporate certain provisions from the system of WML under Part II of EPA 90.

2.2 Permitting Authorities

The Scottish Environmental Protection Agency (SEPA) was formed in 1996 from a number of separate environmental agencies (e.g. River Purification Boards, Her Majesty's Industrial Pollution Inspectorate) and absorbed a number of key responsibilities from Local Authorities (e.g. waste management licensing, Part B permitting). After the implementation of the IPPC directive all permits are managed by SEPA.

However, there are some elements of environmental enforcement which relate to IPPC which are managed by other agencies as highlighted in the following section.

2.3 Interaction with Expert System

Environmental enforcement and the provision of front line advice on compliance is typically managed by SEPA, but other government departments and local government do have environmental enforcement/advisory duties which are managed separately from SEPA. The most significant in relation to IPPC are:

Statutory Nuisance – This includes litter, noise, odour etc and is regulated by the Local Authorities who have powers to monitor, manage and enforce conditions on businesses. However, in relation to IPPC facilities the regulation defaults entirely to SEPA for Part A PPC facilities. Part B PPC facilities have nuisance aspects regulated by the Local Authority. The Local Authority can call on support (but regularly do not) of SEPA.

Environmental Health Impact – This is a split role with the Health Protection Agency (HPA) depending on the nature of the Impact and its source where the Local Authority has a responsibility to protect Human Health (e.g. Contaminated Land). If there is an environmental health impact then the Local Authority will co-ordinate with appropriate agencies.

Air Quality – Local Authorities regulate ambient air quality related issues which includes a duty to monitor air quality, designate air quality management zones and to determine strategy for air quality. The Local Authority can set emission limits for management zones and has the power to set enforcement actions. SEPA are required to liaise with the Local Authorities when setting emission requirements in respect to IPPC facilities, but are the lead regulator when it comes to emissions relating to IPPC facilities.

COMAH (SEVESO) – This is jointly managed through Local Authorities, SEPA and the Health and Safety Executive (HSE) for large and hazardous installations which can be part or all of an IPPC facility. Local Authorities are required to account for this within the planning process, human health and in Resilience/ emergency management requirements. SEPA are required to take this into account in IPPC and take responsibility for integrated regulation. The HSE are the lead agency for implementation of COMAH.

Contaminated Land – The lead regulator are the Local Authorities (Contaminated Land (Scotland) Regulations). Where an IPPC installation closes the Contaminated land regulations apply. SEPA are responsible for regulation only when a site is designated as contaminated land and has been demonstrated to be a Special Site on account of the pollution impact to groundwater.

2.4 Guidance

SEPA are responsible for the production and supply of guidance to IPPC operators, in relation to planning applications and for strategic spatial planning.

2.5 IPPC operators

Operators are supplied with Guidance in relation to application for permitting, obligations in permitting and in BREF. This guidance is available on the SEPA web site, including the tools for aiding Operators scoring and emissions data recording.

Sector technical guidance provided by EA/SEPA (www.environment-agency.gov.uk/business/topics/permitting/32320.aspx) includes:

- **Intensive farming (pigs and poultry)**
- **Mining waste**
- **Discharges to surface water and groundwater**
- **IPPC Waste treatment and storage**
- **Paper, pulp and cardboard manufacturing**
- **Food and drink**
- **Chemicals**
- **Waste incineration activities**
- **Energy - Gasification, liquefaction and refining industry**
- **Printing and textiles - coating activities**
- **Production and processing of metals**
- **Coke, iron and steel**
- **Cement and lime activities**
- **Combustion plants, including power stations**
- **Groundwater**
- **Landfill**
- **Radioactive substance activities**

Horizontal guidance notes provided by EA/SEPA (http://www.environment-agency.gov.uk/business/topics/permitting/36414.aspx) include the following

- **H1 Environmental risk assessment for permits - Overview (PDF, 377KB)**
- **H1: Annex A - Amenity and accident risks from installations and waste operations (PDF, 441KB)**
- **H1: Annex B - Intensive farming (PDF, 556KB)**
- **H1: Annex C - Accidents (PDF, 417KB)**

- **H1: Annex D - Surface water discharges (basic) (PDF, 645KB)**
- **H1: Annex E - Surface water discharges (complex) (PDF, 925KB)**
- **H1: Annex F - Air emissions (PDF, 709KB)**
- **H1: Annex G - Disposal or recovery of waste produced on site (PDF, 384KB)**
- **H1: Annex H - Global warming potential (PDF, 418KB)**
- **H1: Annex I - Landfill (PDF, 564KB)**
- **H1: Annex J - Groundwater (PDF, 1MB)**
- **H1: Annex K - Justifying and cost-benefit analysis of control measures (PDF, 453KB)**
- **H2 Energy Efficiency - Integrated Pollution Prevention and Control (IPPC) (PDF, 493KB)**
- **H3 Part 2 Noise Assessment and control (PDF, 761KB)**
- **H4 guidance is currently being revised. You can view a copy of the consultation document on our consultations page:**
- **H5 Site Condition Report - guidance for applicants (PDF, 51KB)**
- **H5 Site Condition Report - template (Word, 102KB)**
- **H6 Environmental Management Systems (PDF, 1MB)**

Planning Applications

The Scottish Government produces Planning Advice Notes in relation to planning application requirements. There are a number of PANs that relate to IPPC related facilities, including Environmental Protection (PAN 51), Noise (PAN 56) and Waste Management (PAN 63). SEPA are consulted on during the preparation and drafting of any guidance or strategy which relates to planning and environmental management.

Spatial Planning

SEPA provides internal guidance (ie similar to a design guide) to Local Authorities to aid and guide local authorities in the preparation of their Development Management Plans. This guidance is managed through the SEPA Planning Liaison units.

3 Organisation of the National Expert System

3.1 Organisation of Permitting

Consenting and permitting is managed through the Environmental Protection and Improvement division within SEPA. The section is divided into three regional areas covering north, south west and south east of Scotland. The division essentially comprises pollution control officers who are responsible for the day to day management of applications and enforcement requirements for IPPC.

The division is supported by

Corporate Policy Unit – managing policy and strategy in the application of the legislation and guidance

Environmental Science division – dedicated teams of specialists including ecology, hydrology, environmental quality, marine and chemistry (384 staff are employed)

Communication division – a unit dedicated to communication services including press release, publications, consultation programmes and publication of guidance documents.

Corporate Services – comprising finance, legal, facilities, health and safety (176 staff are employed)

3.2 Planning Requirements

Planning Application

Local Authorities are the planning authority and are responsible for all planning applications and permissions. A new IPPC facility (or major change) requires a planning application, which normally also requires an Environmental Impact Assessment (there are some exceptions). The Local Authority will liaise with SEPA as a statutory consultee in IPPC facilities as part of the planning application process. The local authority has access to the further various government funded organisations for any additional support as required. One key agency that they will seek consultation support is from Scottish Natural heritage (the Scottish ecological regulator)

SEPA have a planning division, comprising about 12 staff in each of the three respective regions. The planning division will deal with an planning application for an IPPC facility initially determining whether the facility will be consentable (prior to actual IPPC permit application, which is a separate process to planning application). The SEPA planning division will co-ordinate consultation using internal SEPA experts in the relevant divisions (e.g. air modelling, process engineering, water quality)

Local Authority Spatial and Development Plans

The Local Authorities are required to consult with SEPA in respect to the development of local spatial and development strategy (Development Management Plan). The SEPA Planning unit will work closely with the Local Authority in identifying areas that may be considered suitable or unsuitable including for industrial development and waste management facilities. As with planning applications, SEPA Planning liaison staff will co-ordinate consultation and technical support within SEPA.

3.3 Consultation and Liaison

Notwithstanding the requirements for planning, SEPA manage a number of functions which interact with Local Authorities. These include:

Local Authority Liaison groups- special groups set up in each of the regulatory regions and comprising up to 12 Local Authorities per each group to discuss and manage any specific regulatory issues. Groups are set up over short term or long term depending on the legislative drivers and issues in cross regulatory issues or support required. The Pollution Group examines issues of pollution control and contaminated land impacts from historical and existing manufacturing facilities and landfills. The information from each of the groups is supplied to a central person in SEPA who will then take responsibility for country wide communication. The network is designed to provide a mechanism of identifying regulatory and related issues as well as a forum for sharing case studies and events to examine share best practice in resolution.

Better Regulation Unit – an internal SEPA group, which works with other regulatory partnerships with the purpose of assessing how regulation currently works and integrates and if there are mechanisms for improvement of change within the current system and to reduce burden on industry. This has so far not led to any changes, but the reviews have been in process since 2007.

Training and Development – SEPA regularly provide training to Local Authority staff, co-ordinated through Local authority liaison officer, planning team or specialist sections

COSLA – Convention of Scottish Local Authorities is a grouping of all local authorities in Scotland. This group includes a unit that deals with integration and consistency as well as providing forums on a number of technical and strategic subjects (most notably planning). There are no specific IPPC related groups noted, but this does not necessarily mean that aspects are not discussed. The key role of COSLA is in strategy and policy providing a mechanism for Local Authorities to voice any issues.

REHIS – Royal Environmental Health Institute of Scotland is an association for Environmental Health Offices in all regulatory authorities and is funded through subscription and through government to provide training and guidance to staff involved in regulatory activities including those linked to IPPC. Training is provided to Local Authority staff and those invited from the private sector.

3.4 Research

SEPA are joint funders and partners in Scottish and Northern Ireland Forum for Environmental Research (SNIFFER). This body manages the research requirements for strategy and technical aspects of all regulation, including that which is linked in with IPPC. Most of the research is procured from external sources (e.g. environmental consultants).

3.5 Legal

SEPA has a legal team that is a central resource set up to support any of the key SEPA functions.

3.6 Habitats

Scottish natural heritage is the lead regulator in Scotland in relation to natural heritage including habitats. Their role in relation to IPPC facilities is as a consultee should any impact to protected habitats be suspected.

3.7 Information

SEPA provide a web site for providing general information and guidance on environmental regulation. More detailed information resources, advice and guidance are available to Local Authorities and business through the www.netregs.com website. The netregs website provides a single portal for all key regulatory guidance, advice notes and technical guidance.

Scotland make available the Scottish Pollution Release Inventory, which is an inventory of all mass releases to air, water and land from IPPC facilities. This also highlights the location and details on web based mapping of all permitted facilities in Scotland.

3.8 Advisory Bodies

The following bodies are government funded and provided key advice to business across the UK, including Scotland. Their function is not specifically related to IPPC compliance or requirements directly. However, the guidance and advice provided will aid IPPC operators meet with their requirements under IPPC. They are:

3.9 Envirowise

Government funded organisation which provides free independent advice on resource efficiency. This includes workshops, training, guidance notes, case studies and profile raising. Advise relates to environmental management systems, hazardous waste, legislation, managing behavioural change, packaging, waste management and water

3.10 WRAP (Waste Resource Action Plan)

A government funded organisation providing mostly free independent advice on resource efficiency relating mainly to waste, recycling and re-use through the provision of free technical advice guidance, workshops and special programmes. WRAP will also co-ordinate funding for improvement projects.

3.11 NISP (National Industry Symbiosis programme)

Similar to WRAP, but provides facilitates industry in helping reduce waste through promoting one companies waste as anothers resource. NISP provide guidance, technical support and funding to run and manage programmes with the overall objective of redirecting waste away from landfill

3.12 Carbon Trust

Carbon Trust are a government funded organisation providing mostly free independent advice to organisations focussing technical advice, guidance, training and funding on companies which produce the most energy.

3.13 Scottish Business in the Community

This is a directly funded organisation which sponsors the May Day network, which is a network of high level businesses in Scotland who have all pledged to reduce energy useage. The group provide regular training and examples in respect to Climate Reduction Commitments.

3.14 Scottish Enterprise

Government funded organisation providing general business growth and investment advice. This includes advice guidance, training, support on environmental management systems, large scale investment and resource efficiency.

3.15 Trade Associations

Many of the industry trade associations will tend to provide advice and guidance to its respective industry on a range of business subjects, including IPPC, energy and resource efficiency. However, some of the more general large scale associations that provide detailed advice and guidance on a range of associated technical aspects on construction, operation, compliance, best practice are:

- Construction Industries Research Information Association (CIRIA) (technical guidance notes relating to construction and industry on a complete range of subjects, undertakes significant research)
- Environmental Industries Commission (provides lobby mechanism for industry, profile raising, training and some guidance)
- Building Research Establishment (technical guidance on construction, best practice, resource efficiency)
- Pollution UK (technical guidance on emissions from industry, training, guidance and conferences)

4 Financing the National Expert System

The following table is an extract from the SEPA accounts and reporting requirements where the red highlighted items can be said to relate to IPPC financial income.

SEPA charge fees for any new IPPC application, any change in an existing application and annual charges for maintenance of the account. A charge is also applied for site closure and relating to any enforcement. However, no charge is made in respect to planning consultation, Local Authority liaison or in training. The range of fees depends on a point scoring system relating to the nature, type and size of the IPPC facility.

Income from Charging Schemes (£000,s)	2009	2008
Integrated Pollution Control authorisation charges	3,971	5,254
Waste Management Licensing fees	4,620	3,541
Special Waste	1,259	1,402
Radioactive Substances Act	1,926	2,380
Producer Responsibility	1,345	992
Control of Major Accident Hazards Regulations	105	52
Emissions Trading	289	299
Water Environment Water Services (Water Framework Directive)	19,452	18,867
Sub Total	**32,967**	**32,787**
Government Grant Aid	**41,596**	**38,345**
Total	**74,563**	**71,132**

5 Types and amounts of Resources Spent on the Expert System

The following table highlights the total level of staffing and resourcing within SEPA for 2008 and 2009. It is anticipated that the overall numbers will reduce by 5 to 10% in 2010 due to government savings requirements consequential of recession.

Average number of persons employed	2009	2008
Environmental Protection and Improvement	542	537
Environmental Science	384	360
Environmental and Organisational Strategy	93	91
Corporate Services1	176	160
Area Office Support2	112	105
Total Numbers	1,307	1,253

SEPA have a total of 25 teams dealing with IPPC and other enforcement activities. Three of the teams are specialist industrial processing teams. SEPA estimate that between 60 and 100 staff are specifically involved in IPPC regulation, but not necessarily on a full time basis.

Between April 2007 and March 2008 there were 168 new IPPC permits. There are a total of 313 Part A and 1,047 Part B sites in Scotland of which 92% and 96% respectively have a satisfactory operator compliance rating. In 2008/9 enforcement action in respect to IPPC facilities included 28 final warning letters, 14 enforcement notices, 3 referrals to the procurator fiscal (legal agencies) and 4 secured convictions.

There are about 36 staff working in the planning unit. However, the amount of time that they spend in respect to IPPC planning consultations is not reported.

The following table highlights SEPA staff costs, the average cost per staff is £60k.

Expenditure (£k)	2007/8	2008/9
Staff costs	46,450	49,887
Supplies and service costs	12,724	12,260
Property costs	6,745	5,922
Other administrative costs	2,529	2,646
Depreciation and interest on capital	2,661	2,242
Capital expenditure	3,652	5,702
Total Cost	74,761	78,659

6 Lessons Learned from the Expert System

The IPPC regulations in Scotland were amended in 2004 to take account of evolving requirements and lessons learned from the regulation of IPPC facilities. A further review was commenced in 2007/8 with a view to providing further amendments to the process and possibly the results and findings of the Better Regulation initiative.

The Better Regulation Unit within SEPA was formed in 2007 to examine all regulation and determine mechanisms for improvement with a particular focus on reducing the regulatory burden on business. This is an internal SEPA group and so far no findings have been officially reported.

It is understood that the regulatory authorities in England and Wales (Environment Agency), Northern Ireland (Northern Ireland Environment Agency), Ireland (Environmental Protection Agency) and Scotland (Scottish Environmental Protection Agency) have regular conferences to review and discuss improving regulation.

Further, the forums at European level include EU Network for Implementation and Enforcement Law (IMPEL) and Network of Heads of European Protection Agencies and various secondments in Brussels.

All permit conditions including Emission Limit Values (ELVs) must be based on best available techniques (BAT), as defined by the IPPC Directive. To assist determining BAT, the European Commission organises an exchange of information between experts from the European Union Member States, industry and environmental organisations, in development of sector specific guidance. These are called BAT Reference Documents (BREFs). The Technical Working Group (TWG), which comprises nominated experts from Member

States, the European Free Trade Association (EFTA) countries, Accession countries, industry and environmental non-governmental organisations (NGOs). Each TWG is set up for a limited duration in order to provide information and to review the draft BREF documents.

However, these are general forums and there is not currently one available at present in respect to IPPC.

It is understood from direct and indirect involvement in the various UK and Irish governments that there is some guidance assessment and review in respect to Financial Provisions and also the future impacts of the Environmental Liabilities Directive (ELD).

The EU have commenced a review of the IPPC regulation (in 2005 reported in 2008). In order to inform the IPPC Directive Review, the European Commission assigned several external projects ("workstrands") to be conducted relating to the following issues:

1. Assessment of the implementation by the Member States of the IPPC Directive.

2. Assessment of options to streamline legislation on industrial emissions and analysis of the interaction between the IPPC Directive and possible emissions trading schemes for nitrogen dioxide (NO_2) and sulphur dioxide (SO_2).

3. Incentives to improve the environmental performance of IPPC installations beyond regulatory compliance.

4. Data gathering and impact assessment for possible amendments to the IPPC Directive (Parts 1 and 2).

5. Integrated measures in agriculture to reduce ammonia emissions.

6. Assessment of different approaches to implementation of the IPPC Directive and their impacts on competitiveness.

7. Data gathering and impact assessment for a review and possible widening of the scope of the IPPC Directive in relation to waste treatment activities.

8. Assessment of the use of general binding rules for the implementation of the IPPC Directive.

9. Assessment of Member State implementation reports for the period 2003–2005.

(See http://www.sepa.org.uk/air/process_industry_regulation/ippc_directive/ippc_directive_review/ippc_workstrands.aspx for further details on each of the headings)

It should also be noted that the IPPC directive will shortly be replaced by the Industrial Emissions Directive. This directive is having its second reading in parliament this year, is due to come into force in 2011 and will most likely be fully active by 2015.

7 Suggestions for Improvements to the System

Comments and views expressed from the contacts within SEPA indicated that more integrated regulation could be achieved particularly in the initial planning stages. It was recognised that the separation between the planning and the IPPC permit application often complicated matters and that a more integrated approach could be taken.

There were a few discordant responses in respect to the current structure being unclear. Certainly it is quite difficult to drill down into the structure and determine specific and responsible staff or units in respect to IPPC. (e.g. IPPC Industry and the IPPC waste are separate units).

Certain elements of the commerciality or level of flexibility in managing regulation appears not to be taken into account (e.g. there is no guidance if a company were to reach a position of hardship- liquidation or the application of adequate financial provision arrangements).

Some anecdotal commentary indicates that regulation would be much easier if there was a greater proactive approach to environmental management systems for operators, operator training and support and a greater risk based operator approach to the level of regulation applied.

8 Sources

The following staff are amongst those that were contacted

Carol McGinness – Local Authority Liaison SEPA West

Ian Conroy – IPPC management, SEPA West

Chris Johnston – East Ayrshire Council

Debbie Storm – Communications Officer, SEPA

Adrian Bond – Central Waste Regulatory Unit, SEPA

Further contacts were made with the IPPC Energy manager and IPPC Corporate Manager.

Note

Title: **Expert assistance system for Ireland**

Date March 2010

To: COWI

Copy

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Contents

1 Organisation of the National legislation and authorities permitting system and interaction with the expert system

This chapter will include the following topics:

- Description of the structure: licensing authority, advising authorities, etc
- Description of the basis for the advices on IPPC permits: types of permit requirements
- The way BREF and BAT aspects are included in the requirements: how organised

1.1 Integrated Pollution Prevention Control (IPPC) Licensing

The Environmental Protection Agency (EPA) is the authority responsible for licensing certain large scale activities in the industrial and agricultural sector. This process has been in effect since 1994 and the licences were originally known as Integrated Pollution Control (IPC) licences. Since then the Protection of the Environment Act, 2003 gave effect to Directive 96/61/EC concerning Integrated Pollution Prevention and Control (IPPC) and this is now the required licensing process. Detailed procedures concerning the IPPC licensing process are set out in the EPA Acts 1992 to 2007 and the associated licensing regulations

The aim of an IPPC licence is to prevent or reduce emissions to air, water and land, to reduce waste, and use energy and resources efficiently. Hence, the IPPC process covers all emissions from the activity along with its environmental management. An IPPC licence must be obtained prior to commencement of an activity and certain categories of industry are subject to thresholds. If an activity is operating below a threshold and it is expected that the threshold will be exceeded then it will be necessary to obtain an IPPC licence prior to exceeding the threshold.

The EPA is responsible for monitoring emissions and dealing with any infringements on licences. All emissions must be within set limits which must not be contravened. Offences under the EPA Act can result in court action by the EPA. The court can impose fines and prison sentences and the EPA can revoke a licence.

The IPPC licensing process is based on the Best Available Techniques (BAT) principle. In order for an industry to determine what constitutes BAT a series of sector specific guidance documents have been developed (http://www.epa.ie/downloads/advice/bat/). These are referred to as BAT reference documents or BREFs (http://www.epa.ie/downloads/advice/brefs/) and provide guidance in terms of complying with an IPPC licence.

1.2 Best Available Techniques Guidance Notes

The concept of Best Available Techniques (BAT) was introduced as a key principle in the IPPC Directive 96/61/EC (Directive 2008/1/EC codified version). This Directive has been incorporated into Irish law by the Protection of

the Environment Act 2003. To meet the requirements of this Directive, relevant sections of the Environmental Protection Agency Act 1992 and the Waste Management Act 1996 have been amended to replace BATNEEC (Best Available Technology not entailing Excessive Costs) with BAT. Thus, for activities falling within the scope of the Directive and regulated by these Acts, BAT must be applied.

BAT is defined in Section 5 of Environmental Protection Agency Acts, 1992 and 2003, and Section 5(2) of the Waste Management Acts 1996 to 2005, as the "most effective and advance stage in the development of an activity and its methods of operation, which indicate the practical suitability of particular techniques for providing, in principle, the basis for emission limit values designed to prevent or eliminate or, where that is not practicable, generally to reduce an emission and its impact on the environment as a whole", where:

B 'best' in relation to techniques, means the most effective in achieving a high general level of protection of the environment as a whole

A 'available techniques' means those techniques developed on a scale which allows implementation in the relevant class of activity under economically the technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced within the State, as long as they are reasonably accessible to the person carrying out the activity

T 'techniques' includes both the technology used and the way in which the installation is designed, built , managed, maintained, operated and decommissioned.

A range of BAT associated emission level values (ELV) indicate levels achievable through the use of a combination of the process techniques and abatement technologies. The licensee must demonstrate to the satisfaction of the EPA, during the licensing process, that the installation/facility will be operated in such a way that all the appropriate preventative measures are taken against pollution through the application of BAT and justify the application of other than the most stringent ELV in the range.

At the installation/facility level, the most appropriate techniques will depend on local factors. A local assessment of the costs and benefits of the available options may be needed to establish the best option. The choice may be justified on:

- the technical characteristics of the installation/facility
- its geographical location
- local environmental considerations
- the economic and technical viability of upgrading existing installations

The IPPC Directive 96/61/EC and the Environmental Protection Agency Acts 1992 and 2003 (Section 5(3)), require the determination of BAT to consider in

particular the following, giving regard to the likely costs and advantages of measures and to the principles of precaution and prevention:

- the use of low-waste technology
- the use of less hazardous substances
- the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate
- comparable processes, facilities or methods of operation, which have been tried with success on an industrial scale
- technological advances and changes in scientific knowledge and understanding
- the nature, effects and volume of the emissions concerned
- the commissioning dates for new or existing activities
- the length of time needed to introduce the best available techniques
- the consumption and nature of raw materials (including water) used in the process and their energy efficiency
- the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it
- the need to prevent accidents and to minimize the consequences for the environment
- the information published by the Commission of the European Communities pursuant to any exchange of information between Member States and the industries concerned on best available techniques, associated monitoring, and developments in them, or by international organizations, and such other matters as may be prescribed.

The BAT guidelines on the EPA web site are not the sole basis on which BAT associated licence emission level values are to be set, since information from other sources will also be considered. Such information includes site-specific environmental and technical data, plant financial data and other sources of relevant information.

The BAT guidance documents are presently under review by the EPA. Guidance documents on the EPA web page are presently regarded as BAT for the purposes of EPA IPPC and Waste licensing. Guidance documents will be updated and replaced as such documents become available.

1.3 EPA Waste Licensing

A waste licence is a single integrated licence dealing with emissions to all environmental media and the environmental management of the facility. Detailed procedures on processing waste licence applications are set out in the Waste Management Act, 1996 which was amended by the Protection of the Environment Act, 2003 and associated regulations. They provide for a stringent system of integrated waste licensing by the EPA in respect of all significant waste recovery and disposal activities. This system is intended to ensure that high environmental standards apply in relation to the establishment, management, operation, closure and aftercare of licensable waste facilities.

1.4 Waste Facility Permits

Regulations were introduced in 1998 and amended in 2008, providing for the granting of waste facility permits by local authorities in respect of specified waste recovery and disposal activities which, because of their scale or nature, do not warrant integrated licensing by the EPA.

1.5 Waste Collection Permits

The collection of waste on a commercial basis requires a waste collection permit from a relevant local authority. The Regulations set out procedures for the making of permit applications, public consultation, consideration by local authorities of submissions in relation to permit applications, and the grant, refusal and review of permits by local authorities.

1.6 Waste Authorisations

Waste disposal and recovery activities in Ireland are required to hold an authorisation in accordance with the Waste Management Acts, 1996 to 2008 (Act). A four tier system of authorisation has been established for the regulation of such activities at a facility. A waste recovery or disposal activity at a facility is either:

1. An exempted activity (no authorisation required), or
2. Requires a Waste (or IPPC) licence, or
3. Requires a Waste Facility Permit or
4. Requires a Waste Certificate of Registration / Registration Certificate

Depending on the authorisation required these activities are controlled either by the Environmental Protection Agency (EPA) or by Local Authorities within their own areas. All non-exempted Local Authority waste facility activities are regulated by the EPA.

The principal legislative texts governing the form of authorisation required for waste facilities are:

- Waste Management (Licensing) Regulations 2004 (S.I. No. 395 of 2004)
- Waste Management (Facility Permit & Registration) Regulations 2007 (S.I. No. 821 of 2007, amended by S.I. No. 86 of 2008)

Waste disposal or recovery activities at IPPC installations are regulated by an EPA Licence under the EPA (Licensing) Regulations 1994 (S.I. No. 85 of 1994).

1.7 The Waste Permit and Certificate of Registration Database **http://www.epa.ie/wastepermit/**

The Waste Permit and Certificate of Registration Database is a register for waste collection permits, waste facility permits and certificates of registration issued by local authorities under the new Regulations, outlined above and which came into effect on the 1st June 2008.

The website is a central register of all permits and certificates of registration granted, reviewed, revoked and expired. Use of the website by Local Authorities will facilitate compliance with the requirements to maintain a Section 19 register and to notify the EPA of authorisation information.

The website acts as an inventory of all authorisations granted under the new Regulations. The site can be searched by anyone for authorisations by criteria including waste type, company name, area of operation and address.

1.8 Guidance

If people are unsure as to which type of authorisation their facility requires, that is, Waste Licence, Waste Facility Permit, or Certificate of Registration they may make a request to the EPA to determine the question for them in advance of making an application in accordance with Article 11 of the Waste Management (Facility Permit and Registration) Regulations, S.I. No. 821 of 2007. The EPA may consult with the Local Authority in reaching its determination. http://www.epa.ie/downloads/advice/process/name,24552,en.html

The EPA has prepared flow charts to help licensees determine what authorisation is required.

Local Authority- Do I need a Waste Licence or Certificate of Registration
Summary: This Decision Tree is to assist in deciding if you require a Waste Licence or a Certificate of Registration
http://www.epa.ie/downloads/advice/process/name,24547,en.html
Private Sector - Do I need a Waste Licence, Permit or Certificate of Registration
Summary: This is to assist you in deciding if you require a Waste Licence, Waste Permit or a Certificate of Registration.
http://www.epa.ie/downloads/advice/process/name,24548,en.html
Integrated Pollution Prevention Control (IPPC) Process Flow Diagram Flow Chart outline of the Licence Process
Summary: This flow chart gives a summary of the IPPC Licence process including the various stages, timeframes and statutory notices
http://www.epa.ie/downloads/advice/process/IPPC%20Process.pdf
Waste Licence Process Flow Diagram Summary flow chart
Summary: This flow chart gives a summary of the waste licence application process from date of receipt of an application until a final licence issues. It shows the various stages, timeframes and statutory notices.
http://www.epa.ie/downloads/advice/process/Waste%20Process.pdf
Certificate of Registration Application Process - Local Authority
Summary: This Flowchart outlines the Application process for the Certification of Registration from start to finish with all of the different options through-out the process.
http://www.epa.ie/downloads/advice/process/FC5%20COR%20appl-LA1.pdf
Review of Waste Certificate of Registration Process - Local Authority
Summary: This Flowchart outlines the process of a Review of Waste Certificate of Registration Process from start to finish outlining all of the different options.

http://www.epa.ie/downloads/advice/process/FC7%20Cor%20Review%20-LA4.pdf

2 Organisation of the national expert system

This chapter will include the following topics:

- Description of the *organisation* and the (authority) levels involved in the expert system: history, level of independence, organisation chart, etc
- Description of the *day to day operations*: programs, projects in which the expert system is involved, the expert system's interaction with other stakeholders (e.g., via committees, joint projects)
- Description of the way *information* is shared, published (e.g., web-applications, expert center)

2.1 EPA Responsibilities

The EPA regulate and police activities that might otherwise cause pollution. They ensure there is solid information on environmental trends so that necessary actions are taken. Their priorities are protecting the Irish environment and ensuring that development is sustainable. The EPA employs 340 people, 165 are located at EPA Headquarters in Wexford and the remaining staff are located in the 9 Regional Inspectorates and Offices throughout the country.

EPA is responsible for

- Licensing and control of large scale waste and industrial activities to ensure that they do not endanger human health or harm the environment. They licence:
- waste facilities (e.g. landfills, incinerators, waste transfer stations);
- large scale industrial activities (e.g. pharmaceutical manufacturing, cement manufacturing,
- power plants);
- intensive agriculture;
- urban waste water treatment plants;
- the contained use and controlled release of Genetically Modified Organisms (GMOs);
- large petrol storage facilities.

- National environmental policing
- Conducting over 2,000 audits and inspections of EPA licensed facilities every year.
- Overseeing local authorities' environmental protection responsibilities. Local authorities are responsible for in excess of 500 environmental protection functions. These functions are contained within over 100 pieces of legislation and operate across six sectors - air, noise, planning, waste, waste-water and water quality.

- Supervising the supply of drinking water by public water suppliers.
- Working with local authorities, the gardai, the Health Service Executive, the Fisheries Boards and other agencies to tackle environmental crime by co-ordinating a national enforcement network, targeting offenders, conducting investigations and overseeing remediation.
- Prosecuting those who flout environmental law and damage the environment as a result of their actions.

- Monitoring, analysing and reporting on the environment
- Monitoring air quality and the quality of rivers, lakes, tidal waters and ground waters; measuring water levels and river flows.
- Independent reporting to inform decision making by national and local government (e.g. reporting on the state of Ireland's environment and on trends in waste generation, management and infrastructure).

- Regulating Ireland's greenhouse gas emissions
- Quantifying Ireland's emissions of greenhouse gases in the context of our Kyoto commitments.
- Implementing the Emissions Trading Directive, involving over 100 companies who are major generators of carbon dioxide in Ireland.

- Environmental research and development
- Co-ordinating research on environmental issues (e.g. over-enrichment of rivers and lakes, climate change, cleaner greener production).

- Strategic environmental assessment
- Assessing the impact of plans and programmes on the Irish environment (e.g. waste management plans, development plans).

- Environmental planning, education and guidance
- Providing guidance to the public and to industry on various environmental topics (including licence applications, waste prevention and environmental regulations).
- Generating greater environmental awareness (through environmental television programmes and primary and secondary schools' resource packs).

- Proactive waste management
- Promoting waste prevention and minimisation projects through the co-ordination of the National Waste Prevention Programme, including input into the implementation of Producer Responsibility Initiatives.

- Enforcing Regulations such as Waste Electrical and Electronic Equipment (WEEE) and Restriction of Hazardous Substances (RoHS) and substances that deplete the ozone layer.
- Developing a National Hazardous Waste Management Plan to prevent and manage hazardous waste.

2.2 Other Stakeholders

The EPA works with many different organisations which have specific environmental functions and responsibilities. The 'Who does What' directory http://www.epa.ie/terminalfour/whodoeswhat/ on the EPA website offers an A-Z of who to contact if you require advice of assistance regarding an environmental issue.

2.3 Management and Structure of EPA

The Environmental Protection Agency is managed by a full-time Executive Board consisting of a Director General and four Directors. Their activities are organised into four Offices (see below), with each Office reporting to a Director.

- Office of Climate, Licensing and Resource Use
- Office of Environmental Enforcement
- Office of Environmental Assessment
- Office of Communications and Corporate Services

2.4 Advisory Committee

The Executive Board of the Environmental Protection Agency (EPA) is assisted by an Advisory Committee of twelve members, nominated by prescribed organisations and appointed by the Minister for the Environment, Heritage and Local Government. The Director General of the EPA, is ex officio, a member and Chairperson of the Committee. The term of office of the Committee is three years. The Advisory Committee has a wide range of advisory functions under the EPA Act, including making recommendations to the EPA, or the Minister, relating to the functions of the EPA. The members of the advisory committee are listed on the EPA website http://www.epa.ie/about/org/ac/

2.5 Review group to assess performance of EPA

In February 2010, the Minister for the Environment appointed a review group to assess the performance of Environmental Protection Agency (EPA) as well as its scope, mandate and structure. The terms of reference include reviewing the legislation governing the EPA, including its licensing functions, processes to ensure public participation, the various remedies and sanctions available to the agency for enforcement and to identify any necessary improvements in the legislation.

2.6 2008 Operations of Office of Climate, Licensing and Resource Use in relation to IPPC and Waste Licences and Certificates of Registration and associated activities

Integrated Pollution Prevention and Control (IPPC) Licensing

The IPPC licensing system emphasises waste prevention with the aim of reducing emissions to air, water and land, reducing waste overall and using energy efficiently. Large-scale or complex industrial processes with significant polluting potential require an IPPC licence.

In 2008:

- Forty IPPC licences were granted while 11 licence applications (piggeries) were rejected. Where licence applications were rejected it was because the applicants failed to submit details of lands involved in the recovery of slurry, despite numerous requests from the EPA. In these circumstances, the EPA considered that the applications failed to comply with the requirements of the Licensing Regulations. In addition, 44 Proposed Decisions were issued. Technical amendments were made to 33 licences in accordance with the licensing regulations. Technical amendments provide for the amendment of conditions in a licence to bring it into conformity with the requirements of the IPPC Directive or to facilitate the operation of the licence.
- An application for a Judicial Review of an IPPC licence granted by the Agency to Shell E & P Ireland Limited, (Reg. No.P00738-1) was struck out by the High Court in May 2008.
- In the High Court case - AHP Manufacturing t/a Wyeth Ireland V DPP, EPA and the Attorney General - the High Court refused the applicants leave to challenge the conditions of their licence.
- A total of 18 IPPC Sector Best Available Techniques (BAT) Notes have now been published.

Waste Licensing

The Waste Management Act, 1996, gives the EPA responsibility for the licensing of all significant waste recovery and disposal facilities managed by local authorities and private operators. Stringent conditions are placed on the operation of facilities under the waste licensing process to ensure potential environmental impacts are strictly controlled.

Throughout 2008, the EPA granted new or revised licences for three landfills, two waste transfer stations, two materials recovery facilities, three integrated waste management facilities and two hazardous waste facilities. Fourteen Proposed Decisions and eleven Technical Amendments were issued. In February 2008, the EPA held an Oral Hearing on Fungal County Council's application for a proposed landfill at Levitt, Lusk, County Dublin.

The EPA also held an Oral Hearing on Dublin City Council's application for a proposed incinerator at Poolbeg Peninsula, Dublin in April 2008. Having con-

sidered the application and Oral Hearing report, the EPA issued its decision to grant a licence on 1st December 2008.

A guidance note on the pre-treatment of municipal waste has been developed for licensees to assist with achieving full compliance with the Landfill Directive. This guidance has been published for public consultation and the final documents were published in 2009.

Certificates of Registration

The EPA uses Certificates of Registration to regulate low risk local authority waste recovery facilities. In 2008, the EPA issued 149 Certificates of Registration.

Table 1: Relevant Licensing Activities in 2008

	IPPC Licences	Waste Licences	Certificates of Registration
Applications received	52	20	152
Proposed Decisions	44	14	N/A
Objections received	37	12	N/A
Final Decisions	40	12	149

Technical Guidance

The EPA produces technical guidance on a variety of topics to support environmental best practice as well as licensing and enforcement activities. In 2008, 18 IPPC Best Available Techniques Guidance documents were published in hardcopy and are available on the EPA website www.epa.ie.

Access to Licensing Documentation

The EPA's website provides access to Volatile Organic Compounds permit applications, Waste Water Discharge licence applications, Waste licence applications and IPPC licence applications. The availability of all licensing documentation on the web, including application forms, maps and correspondence, provides easy public access to licensing files as well as meeting key requirements of the EU Directive on Access to Information on the Environment (Aarhus Directive). In addition, any person can make a submission or objection online in relation to any IPPC or Waste Licence application.

2.7 2008 Operations of the Office of Environmental Enforcement

The Office of Environmental Enforcement is responsible for the enforcement of EPA licences issued for waste, industrial and other activities. It also exercises a supervisory role in relation to the environmental protection activities of local authorities. This ranges from providing advice and guidance, through to auditing performance, and, where necessary, issuing legally binding Directions.

The EPA has implemented a risk-based approach to enforcement of environmental legislation. Risk-based enforcement strategies align resources to the activities that pose the highest environmental risk, thereby making best use of resources.

Risk-based enforcement strategies have been implemented across EPA licensed facilities, historic landfill sites and public drinking water supplies. Local authorities also have risk based approaches as part of their annual enforcement and inspection plans. Indeed Ireland was the first member state to have comprehensive inspections plans across all local authorities in compliance with the EU Recommendation on Environmental Inspection (RMCEI). These plans are prepared in accordance with guidelines developed by the EPA and provide for improved tracking of resources, prioritisation of enforcement effort and outcome delivery. Further information on EPA risk based enforcement strategies is detailed in the EPA Focus on Environmental Enforcement in Ireland http://www.epa.ie/downloads/pubs/enforcement/focus/FoEE_Exec%20Summ_Chp1.pdf.

Licence Enforcement

Licences granted by the EPA provide for the control and enforcement of specified activities and the protection of all environmental media in one document. The enforcement work of the EPA's Office of Environmental Enforcement (OEE) includes the auditing and inspection of licensed sites to assess compliance and environmental performance, the sampling and assessment of emissions, and the provision of guidance and information on best practice.

The investigation of complaints and incidents, and the direction and supervision of corrective actions accounts for a significant part of enforcement of licensed sites. Facilities continually showing significant non-compliance with relevant legislation or presenting a serious risk to the environment are targeted for legal action.

In 2008:

- EPA inspectors conducted 124 audits and 652 inspections of licensed IPPC and Waste facilities;
- One hundred and fourteen compliance meetings were conducted with senior management of licensed facilities;
- Licensed facilities were monitored 971 times for air, water and noise emissions;
- Six hundred and sixteen non-compliance notices were served
- The main non-compliance issues encountered related to odour impact, waste management, containment and exceedences of emission limits at facilities;
- The number of complaints made to the EPA in relation to IPPC facilities and Waste facilities numbered 424 and 1,462 respectively;
- Ten IPPC facilities accounted for 70 per cent of all licensed industry complaints. The majority of complaints related to odour; and
- Eighty eight per cent of all Waste complaints received related to ten facilities. The most common cause of complaint was odour

During 2008, extensive odour assessments, landfill gas management and landfill operational practice have been a priority for the EPA in addressing significant complaints about odour from EPA licensed landfills. While improvements have been made at a number of sites, the EPA has issued legal notices on landfill operators and undertaken further enforcement by prosecution.

A major investigation involving the Gardaí and EPA enforcement officers was conducted into the operation of a number of waste facilities in the Dublin and Kildare areas. This investigation began late in 2008 and will continue into 2009.

Following an extensive assessment of the timber treatment sector in 2007 these licensees have been advised of corrective action best practice recommendations. Targeted inspections carried out in 2008 to assess implementation and compliance will be followed by enforcement action where necessary to ensure protection of surface water and ground water.

Inspections

Table 2 presents a summary of the inspection work conducted by or on behalf of the EPA during 2008, broken down by category of inspection.

Table 2: EPA Audits and Inspections 2008.

Inspection Type	2008
IPPC Enforcement inspections	432
IPPC Enforcement audits	65
Waste Enforcement inspections	220
Waste Enforcement audits	59
IPPC monitoring visits	656
Waste monitoring visits	187
Landfill Gas Monitoring	47
IPPC compliance meetings	78
Waste compliance meetings	36
Local Authority audits	88
Section 63 investigation inspections	26

Legal Enforcement

Enforcement tools available to the EPA include site inspections, notices of non-compliance, section notices and prosecution. Legal action pursued by the EPA in 2008 included the following:

- Twenty cases were prosecuted in the District Courts, 17 of which were against licensees, two were relating to WEEE Regulations and one relating to Drinking Water Regulations. Convictions were handed down in 14 of these cases with the Probation Act being applied in the other six. Fines and costs of €150,953 were awarded to the EPA.

- Charges were brought against licensees in numerous sectors. Licensees in the piggery sector, however, were prosecuted most frequently. The first prosecution under the Drinking Water Regulations was taken in April 2008. Other charges related to breaches of WEEE regulations, breaches of emission limit values, failure to install infrastructure, failure to retain records on site, exceeding annual waste tonnage limits (transfer stations) and failure to submit information or notify the EPA of incidents as required under licence conditions.
- Three cases were refused jurisdiction before the District Courts. Detailed investigations were carried out on these and other cases, resulting in the submission of three files to the Office of the Director of Public Prosecutions.

A study on the use of administrative sanctions for environmental offences in other comparable countries and assessment of their possible use in Ireland was finalised during the year. The study involved the review of such sanctions in the US, UK, Germany and Australia. The study was published in 2009.

Legal action taken by the EPA led to commitments by individual licensees of up to €850,000 to pay for remedial measures, such as improving waste water treatment plants and carrying out a range of environmental improvement works on site.

Public Authority Enforcement

Supervision of Public Authorities

Where questions are raised regarding the statutory performance of local authorities and the EPA is of the opinion that a local authority has performed that function in an unsatisfactory manner, the EPA will investigate further. Further details are provide in chapter 5

In 2008, eighty eight audits of local authorities were carried out on a range of areas, including 79 drinking water audits, five integrated complaint resolution audits, two bathing water audits and two audits of seriously polluted river sites. Two hundred and fifty three investigations were carried out, on foot of complaints made to the EPA or based on incidents identified by the EPA, in relation to activities that were the responsibility of local authorities. The majority of these complaints related to either waste management or water management issues, with the remainder relating to issues such as odour, noise and planning. As a result of these investigations, 28 Advice and Recommendation Notices were issued to local authorities. Table 3 provides a summary of Pubic Authority Enforcement Activities in 2008

Table 3: Public Authority Enforcement Activities in 2008

Activity	Number
Audits	88
Investigations conducted	253
Advice and Recommendation Notices	28
Proposed Directions served	1
Directions served	45

Environmental Enforcement Network
The EPA co-ordinates a National Environmental Enforcement Network. The Network harnesses the collective resources, expertise and investigative capacity available nationally to tackle environmental crime. Further details are provided in Chapter 5.

Unauthorised Waste Activities
Tackling unauthorised waste activity is a key priority for the EPA's Office of Environmental Enforcement. During 2008 this involved intensive engagement with members of the Environmental Enforcement Network. The Office of Environmental Enforcement continues to work with colleagues in Northern Ireland to address cross-border illegal waste issues. During 2008 this work focused on assisting the relevant competent authorities in dealing with Transfrontier Shipment repatriation requests.

The 24 hour illegal dumping line, 1850 365 121, was continued during 2008. Organisations involved are the EPA, local authorities and An Garda Síochána. In 2008, a total of 1,110 calls were received and passed on to local authorities for investigation.

The Office of Environmental Enforcement began a review of landfill conditioning plans in 2008. The purpose of this work is to assess whether EPA licences provide for compliance with the Landfill Directive. All active landfills have been assessed and site-specific recommendations made to amend licences. Position papers were generated on the issues of waste gypsum and baled tyres, resulting in the issuing of guidance on management of these waste streams through the Enforcement Network

Environmental Legacy Issues
Ireland, in common with most developed countries, is dealing with environmental legacy issues such as old landfill sites, abandoned mine sites and contaminated land. The scale and severity of these issues in Ireland is however, significantly smaller than other industrialised countries because of Ireland's relatively late arrival into the industrial age. Currently there is no national inventory of contaminated sites in Ireland though there are a number of national initiatives underway to deal with various types of contamination and updates on these initiatives are provided in the following paragraphs.

- Old waste sites

On 26 April 2005, the European Court of Justice (ECJ) delivered its judgment in Case C-494/01 and found that Ireland had failed to fulfil its obligations under the Waste Framework Directive This judgment referred to a period in Ireland prior to the setting up of the Office of Environmental Enforcement. It centred on 12 separate complaints; the judgment found that the Irish administrative and enforcement systems were inadequate to guarantee compliance with European Community law. Ireland is responding to the ECJ judgment and, in addition to progressing the 12 individual sites, has delivered a number of legislative and institutional changes. These include:

- Ministerial Directions under Section 60 of the Waste Management Acts in relation to unauthorised waste activities
- Identification and regularisation of historic landfill sites and production of guidance
- Revised Waste Permit Regulations and
- Forming a single TFS authority for more consistent application of TFS Regulations

The EPA published a Code of Practice (COP) on Environmental Risk Assessment for Unregulated Waste Disposal Sites in 2007. The COP sets out a risk-based assessment procedure that allows historic unregulated waste disposal sites to be identified; and their risks assessed and the appropriate remedial measures or corrective actions to be put in place. The COP has been produced to ensure a consistent approach to environmental risk assessment by local authorities when assessing the environmental impact and remediation options for historic unregulated waste disposal sites. It also provides guidance on how to deal with illegal landfills that have come into being since the introduction of the waste licensing regime
http://www.epa.ie/downloads/advice/waste/waste/epa_cop_waste_disposal_sites.pdf,

Following the publishing of the Code of Practice and the carrying out of associated training, the EPA developed an electronic tool during 2008 to assist local authorities in carrying out these assessments. This is in place and some 347 sites have been registered on the system
http://landfill.epa.ie/LandfillRiskAssessment/Authentication/Login.aspx?ReturnUrl=%2fLandfillRiskAssessment%2fDefault.aspx

- Abandoned Mines Project

In February 2006, the EPA and the Department of Communications, Energy and Natural Resources (Geological Survey of Ireland and Exploration and Mining Division) embarked on a joint project to carry out detailed site investigations at priority historic mine sites, to assess their potential risk to human health and safety and the wider environment and to make recommendations in relation to the future management of these sites. International experts in geostability and risk assessment are advising on the project. Over 100 metal and coal mine sites have been investigated and detailed geochemical analysis and

geostability assessment have been undertaken. The project is now close to completion and a final report was published in 2009.

- Contaminated Land

During 2008 an important piece of work was conducted as part of Ireland's implementation of the Water Framework Directive which added significantly to the knowledge and understanding of contaminated land issues in Ireland. The Water Framework Directive requires that a risk assessment be undertaken of anthropogenic (man-made) pressures on groundwater from both diffuse and point sources, including quarries, contaminated land and landfill sites. Groundwater bodies are categorised as being either of 'good' status or 'poor' status. This work will assist in prioritising contaminated sites for future work/remediation. One of the main potential environmental impacts of land contamination is the risk of groundwater contamination. Measures will be required at contaminated land sites where the contamination from the site is contributing to the groundwater body being at poor status. Poor status groundwater bodies will require measures to bring them back to good status prior to the Water Framework Directive deadline of 2015. Where a contaminated site has been identified as being 'at risk' causing contamination, but the extent and magnitude is not significant enough to put the groundwater body at 'poor' status, varying degrees of measures and monitoring will be required. On December 16th, 2008 the EC (Environmental Liability) Regulations 2008, S.I. No. 547 of 2008 regulations were made for the purpose of giving full effect to the EU Environmental Liability Directive. The Regulations will come into effect on 1st April 2009. The EPA will be the competent body for the purposes of these Regulations.

3 Financing of the national expert system

The chapter will cover the following topics

- Information on the financing structure for the distinguished expert systems: decided by whom, general financing, programmes financing,etc
- Is user payment for e.g. approvals and/or inspections or any other user payment included in the expert system?

The fees set out in EPA (Licensing Fees) (Amendment) Regulations 1994 to 2004 are listed in table 4 below and at the following website http://www.epa.ie/downloads/advice/process/EPA_IPPC_licence_fees_schedule.pdf

Table 4: Licence Fees payable to the EPA

Activity or class of activity in the First Schedule of EPA Acts 1992 and 2003	(i) Fees for an application for an IPPC licence		(ii) Fee for a review of an IPPC licence or revised IPPC licence or the surrender of a licence or revised licence	
	Small Activity	Large Activity	Small Activity	Large Activity
1. Minerals and Other Materials	€5,713	€12,697	€4,444	€8,888
2. Energy	€7,618	€16,506	€5,713	€12,697
3.Metals	€5,078	€8,888	€3,809	€6,983
4. Mineral Fibres and Glass	€5,078	€8,888	€3,174	€6,983
5. Chemicals (excluding 5.6)	€7,618	€20,315	€5,713	€14,601
5.6 The manufacture of pesticides, pharmaceutical or veterinary products and their intermediates	€10,157	€22,855	€7,618	€16,506
6. Intensive Agriculture	€3,174	€8,888	€1,904	€6,983
7. Food and Drink	€5,713	€12,697	€4,444	€8,888
8. Wood, Paper Textiles and Leather	€5,078	€8,888	€3,174	€6,983
9. Fossil Fuels	€5,713	€13,967	€4,444	€10,157
10. Cement	€7,618	€16,506	€5,713	€12,697
11. Waste	€5,713	€13,967	€4,444	€10,157
12. Surface Coating	€5,078	€8,888	€3,174	€6,983
13. Other Activities	€5,078	€8,888	€3,174	€6,983
(iii) The fee payable to the EPA in respect of a licence or revised licence or permit or revised permit that is transferred to the EPA under Section 99G (4) of the EPA Acts 1992 and 2003 will be that indicated at (i) above less the fee paid to the local authority, sanitary authority or Minister for Communications, Marine and Natural Resources.				

The income and expenditure account for the year ended 31 December 2008 is detailed in table 5.

Table 5: Income and Expenditure Account For the year ended 31 December 2008

		2008	2007
Income	Note	€	€
Government Grants	1	51,142,902	39,659,257
Emissions trading Costs Recovered	2	1,121,758	1,062,339
other services		29,377	28,387
Income from Regional Laboratories		1,869,631	2,147,968
Licensing Activities	3	1,669,716	1,285,060
Enforcement Activities	4	7,418,901	7,689,253
sundry Receipts	5	237,510	117,418
Net deferred Funding for Pensions	22 (c)	7,250,099	7,270,864
		70,739,894	**59,260,546**
Expenditure			
salaries and PRsI	6	19,740,526	17,760,966
Pension Costs	22 (a)	8,259,847	8,188,664
travelling Expenses	7	1,918,964	1,827,051
Laboratory and Field Costs	8	1,304,297	1,269,266
Accommodation Costs	9	1,293,342	1,276,577
other Administration Costs	10	6,175,456	5,594,860
Consultants	11	462,630	242,890
Contractors, Grants and External service Providers	12	9,927,558	6,812,414
Environmental Research	13	11,670,939	11,269,137
depreciation	18	1,998,748	1,802,802
		62,752,307	56,044,627
transfer to Capital Account	14	7,513,365	3,609,373
		70,265,672	**59,654,000**
operating surplus / (deficit)		474,222	-393,454
(deficit) / surplus on disposals of Assets		-208,287	493,283
surplus before Interest		265,935	99,829
Interest Received	15	19,329	10,820
Interest Payable and similar Charges	16	-138,622	-114,221
surplus / (deficit) for year		146,642	-3,572
		34,274	**37,846**
surplus at 1 January surplus at 31 December		**180,916**	**34,274**

The associated notes are detailed in the report EPA Annual Report and Accounts 2008, http://www.epa.ie/downloads/pubs/other/corporate/Annual%20Report%202008%20English%20Final.pdf

4 Types and amounts of resources spent on the expert system by the system/industries/authorities

The chapter will cover the following topics:

- Figures on budgets (current and former) and forecasts, insofar these can be consulted
- Perceived non-budget resources - how much time/effort do the participants subjectively feel they put into the system?

It is impossible to quantify the types and amounts of resources/efforts spent on the licensing and enforcement activities by the EPA and industry. However, the detail listed in chapter 2, under the following headings; demonstrate the variety of tasks involved in licensing and enforcement for the EPA.

- 2008 Operations of Office of Climate, Licensing and Resource Use in relation to IPPC and Waste Licences and Certificates of Registration and associated activities
- 2008 Operations of the Office of Environmental Enforcement

This , although not quantifiable, gives an indication of the types and amounts of resources and efforts the EPA spent on licensing and enforcement activities in 2008 and it can be assumed that are similar amount of resource and efforts are spent by industry.

5 Lessons learned from the system compared with the normal use of consultants

The chapter will cover the following topics:

- Mainly based on the information of point 2
- Any benefits of using an expert system as compared with normal consultancies?

The following are the key features of the Irish licensing system, which could be adapted and or developed for use in Denmark. We have split the features into 2 categories Licensing and Enforcement, as the EPA strives to keep these systems separate.

5.1 Licensing

1) EPA Licence and related information available online

All EPA licences and associated information are available to view on EPA website. This includes inspectors report and enforcement reports such as facility annual environmental reports.

2) Environmental Guidance

- EPA Meetings and workshops. The EPA regularly organise conferences and events on relevant environmental topics. A list of the conferences and events that took place in 2009 and links to programmes are listed below:

  Climate Change Lecture November 2009 - November 25, 2009
  The Environmental Protection Agency has decided to host a further series of lectures as part of the Road to Copenhagen 2009.

  EPA Waste Workshop 09 - Hodson Bay, Athlone - October 21, 2009
  This event covered a wide range of topics including treatment of waste, landfill gas & Odour, leachate management, landfill cover and waste classification.

  Environment Ireland 2009 - July 03, 2009
  The fifth annual Environment Ireland conference, which is organised in association with the EPA and the Department of Environment, Heritage and Local Government.

  EPA National Water Conference 2009 - June 10, 2009

To protect and enhance our water resources to improve monitoring, implementation and enforcement of water-related legislation.

Reviewing New Directions in Waste Management – May 25, 2009
Seminar on waste management (EPA's STRIVE R&D Programme)

Greening Irish Communities - April 23, 2009
A conference on the topic of Greening Irish Communities, in Farmleigh House in the Phoenix Park, Dublin.

- FÁS Minimum Criteria for Environmental Inspections (MCEI) Training Course. This training course is for regulators in environmental inspections. It is funded by the FÁS, EPA and Local Authorities. The training course was developed by a team of consultants (SKM Enviros, Andrew Moag Consulting and La Touche Training). This team also delivered this 3 day training course 4 times a year at various locations throughout Ireland. All externally FAS training course were suspended late in 2008 as a result of a FAS Audit. There is a demand for the training and it is thought that it will recommence in Autumn 2010.

- Helplines. In association with certain projects, the EPA funds a number of email and telephone helplines. For example SKM Enviros operate the National Waste Report and the greenbusiness.ie helpline and previously the wastepermit.ie helpline, the details of which are summarised below:

  National Waste Report Helpline:

  The National Waste report is a project of Waste Organisation data returns and waste flow analysis managed since 2003 by Enviros Consulting. The core project collects waste data on designated surveys from waste companies across Ireland. Which are submitted electronically to SKM Enviros for review of waste types and compilation of validated datasets for reporting for local and National Waste reporting requirements. In 2010, over 300 facilities will have been contacted and the data returned validated by a core team operating a helpline and email support prior to and during the data validation.

  Helpline Details

  Each waste treatment operator and local authority will be contacted one week prior to their respective survey deadlines. If necessary, respondents will be provided with guidance in how to complete the survey and any queries will be answered at this time. Respondents will be provided with a dedicated helpline number and email address for further correspondence. (364 Surveys, 34 LA, 90 ATF, 10 mins allocated per site, potential for multiple calls)

Provision of helpline support for duration of the project (40 mins per submitting survey 339 sites) over duration of NWR project)

Retrieval of surveys / questionnaires

Sustained Telephone Chasing for late respondents. Ceased/Not submitting and companies which submitted pre-deadline excluded from costs (40 mins allocated per survey to account for multiple phone calls)

Sustained telephone chasing for retrieval of 34 local authority Questionnaires (NWR 2008, only 9 surveys were received prior to the deadline, V1 surveys being chased until end of June)

Escalation to the EPA if returns are not received in a timely manner

Person days and percentage of overall budget

Total days on project = 315.5

Helpline support/general phone work equates to about 70 days, about 25% of the total work load and 18% of the total costs

Greenbusiness.ie Helpline:

The long-term goal of greenbusiness.ie is to provide support to Irish businesses and public sector organisations through the development of a website (i.e. 'greenbusiness.ie') and a national helpline to provide advice and help through a combination of remote consultations and site visits, to deliver the objectives of increased resource efficiency through the avoidance and minimisation of waste and pollution and the efficient use of water

Helpline

SKM Enviros are responsible for managing the helpline and email account and assessing the purpose and requirements of each caller's enquiry. To the best extent possible consultants will deal with technical questions directly using their extensive knowledge of resource efficiency and water and waste minimisation and management techniques. The consultants will also provide information on enquiries about the resource efficiency assessments and record the details of all businesses expressing an interest.

Percentage of overall budget

In year 1, the helpline and email equated to 18% of the total project costs.

WastePermit.ie website and permit database:

The EPA specification required Enviros to provide the EPA with an inventory of information/database on permitted waste activities in Ireland. The database was to be developed such that it would be suitable for upkeep in order to keep information current.

Enviros proposed and implemented a web based capture tool (www.wastepermit.ie) to provide this data.

Helpline

During the project Enviros provided on-going email and telephone helpdesk support to local authorities during their input of permit data.

5.2 Enforcement

1) **Public Authority Enforcement**. Local authorities are responsible for in excess of 500 environmental protection functions. These functions are contained within over 100 pieces of legislation and operate across six sectors - air, noise, planning, waste, waste-water and water quality. (Described below and in chapter 2).

Where questions are raised regarding the statutory performance of local authorities and the EPA is of the opinion that a local authority has performed that function in an unsatisfactory manner, the EPA will investigate further. The EPA uses several steps in this investigation, which is escalated using its powers under Section 63 of the EPA Act 1992 as amended by the Protection of the Environment Act 2003. The EPA can use powers of direction to:

- Request information
- Require advice and recommendations to be implemented
- Direct specific actions to be taken (a direction)
- Prosecute local authorities for not implementing a direction

The investigation of local authority statutory performance in respect of waste was regionalised during 2008. Complaints are now dealt with locally by the enforcement teams based in the five EPA regional inspectorates in Wexford, Dublin, Cork, Kilkenny and Castlebar. This is a more efficient way of dealing with the matter and provides for improved customer service.
The National Environmental Complaints Procedure was developed and launched in 2007 through the Environmental Enforcement Network. The objective of the National Environmental Complaints Procedure is that the complaint is directed to the correct agency responsible for investigating the complaint in the first instance. These complaints relate to matters such as littering, backyard burning, water pollution, noise, dust and odour.

2) **Environmental Enforcement Network**. The EPA co-ordinates a National Environmental Enforcement Network. The Network harnesses the collective resources, expertise and investigative capacity available nationally to tackle environmental crime. The Network uses a number of approaches including:

- Co-ordinating inspection and enforcement activities;
- Developing expertise in the investigation of environmental crime;
- Promoting best practice through guidance and training; and
- Providing a mechanism for feedback to policy makers.

The Network is well established and brings together more than 1,000 staff from over 50 organisations. The EPA provides a secretariat to the Network, and coordinates the various working groups. Some of the Network's activities are listed Table 6. The modus operandi of the Network involves the EPA in consultation with the County and City Managers Association (CCMA) and the Department of Environment, Heritage and Local Government (DoEHLG) determining the priorities, and then gathering together to deal with specific enforcement issues such as cryptosporidium or landspreading of waste water treatment plant sludge. Depending on the problem this may result in direct enforcement actions involving several agencies, or the building of capacity through the preparation of guidance and delivering of training to the wider Network. Members work across the themes of water, waste and air.

Table 6: Environmental Enforcement Network Activities 2008

Network Related Events	
Enforcement Management Network Workshops (RMCEI & Complaints)	2
Steering Committee Meetings	3
Conferences (Water, Enforcement)	2
Unauthorised Waste Coordination Group Meetings	2
Water Networks Meetings	4
Air Network Meetings	2
IMPEL events	6

RMCEI = Recommended Minimum Criteria for Environmental Inspections.
IMPEL = European Union Network for the Implementation and Enforcement of Environmental Law.

5.3 EPA Panels

The EPA regularly call for applications from consultants for inclusion on technical assistance panels. The panels are valid for 5 years. The following are a list of panels that are currently in operation and their terms of reference.

- **Environmental Research Technological Development and Innovation (ERTDI) Panel**

On behalf of the Department of Environment, Heritage and Local Government, the EPA via the Environmental Research, Technological development and Innovation (ERTDI) Programme provides funding for environmental research and development under a number of key themes.

Scope

From time to time, the need arises to employ suitably qualified and experienced external experts to assist in the administration and management of projects funded under the ERTDI programme by undertaking specific technical assignments and a range of other support services as required.

For this purpose it is intended to establish the following 4 panels for which tender lists can be drawn:

1) Research Theme Management
2) Proofreading and Formatting
3) Technical Advisor
4) Event Management

- **National Waste Prevention Panel**

The need has been identified within the National Waste Prevention Programme to prepare case studies that demonstrate and highlight examples of best practice in the fields of waste prevention and resource efficiency. Case studies will be used to support projects under the National Waste Prevention Programme, including the Green Business Initiative, a new project that is in preparation and will target resource wastage in small to medium enterprises (SME's), and the Local Authority Prevention Demonstration Programme, a year-old project designed to build capacity and overcome barriers to waste prevention in the local authority sector.

The EPA is seeking to establish a panel of suitably qualified experts who have the necessary experience and capability to produce waste prevention and resource efficiency case studies. Work will be allocated on a part-time freelance basis. The external experts will report to and work closely with nominated EPA project managers. Work assignments will be carried out at the direction of the EPA project manager. The scope of the contract below sets out the main work areas that may arise from time to time.

Scope
There is a priority need to prepare and disseminate case studies on true waste prevention and resource efficiency. Organisations or individuals who actually carry out waste and resource efficiency reviews for clients will be suitable for this work, as would businesses that have carried out successful in-house prevention or resource efficiency projects (as part of a structured EMS for example). Case studies should illustrate the benefits of and, crucially, actual and projected cost savings accruing from, for example, preventing waste, reducing resource use (raw materials, water, energy), substitution of less hazardous materials, utilising green design principles and implementing cleaner technologies. Given the wealth of waste auditing experience that exists in Irish contracting companies, proposals will be invited on an ongoing basis to prepare case studies based on real work undertaken for clients. It is envisaged that case studies will have both technical (e.g. tonnes of waste avoided) and financial (i.e. costs and savings) indicators – all indicators to be supported by documentary evidence verified by the original client and auditable by the EPA. A set of rules for this work will be drawn up and will be subject to amendment as experience of this work package dictates.

To apply for inclusion on this panel, contractors should:

- list the sectors and number of companies in each sector they have experience of working with; and
- highlight experiences in carrying out waste audits and/or preparing waste reduction plans (or similar) for clients (private and public sector) or in-house.

Inclusion on the panel will depend on contractors generally demonstrating the skills, knowledge and background necessary to write case studies based on real examples of waste prevention and resource efficiency.
Contractors on the "case studies" panel may be asked (or may submit proposals) to prepare case studies based on real examples. Contractors may also be asked to disseminate case studies or examples of good practice in discrete industrial sectors – this work is likely to take the form of identifying sectoral players and devising and delivering a contact and dissemination plan. Contractors may also be asked to verify the data provided by other parties in support of case study claims. Contractors may be asked to carry out other work relevant to this general area.

- **Office of Environmental Enforcement Panel**

As part of the on-going process of targeting and refining enforcement action the OEE is seeking to establish a list of suitably qualified experts who would be available to the Office for both specific technical assignments and for a range of other support services. Work will be allocated on a part-time, freelance basis. The work may arise in any one or all of its regional offices in the areas of licence enforcement or public authority enforcement.

<u>Knowledge, experience and skills required</u>
Applicants will be required to have a good knowledge and experience of a range of the following technical areas: (minimum two areas)

- Process engineering, chemical engineering
- Waste management
- Waste water treatment
- Air emissions abatement and modelling
- Landfill engineering, infrastructure and management
- Groundwater and contaminated land remediation
- Technology and processes for odour control
- Knowledge of industrial risk management and risk assessments and classification systems
- Comprehensive knowledge of relevant environmental legislation and public authority implementation of such legislation
- Administrative support services in a number of areas e.g. emissions monitoring and reporting
- Environmental management systems in industry
- Report writing and communications skills
- Financial services; calculation of annual licence fee and debt management.

The OEE is interested in hearing from applicants with experience of environmental enforcement work in other countries with a similar regulatory framework to Ireland, particularly if they can demonstrate the relevance of their experience to the OEE.

Main Tasks

The work will involve a wide range of mainly desk-based enforcement activities aimed at assisting inspectors and regional teams to deliver on their mandate, targets and objectives. Individual experts are invited to identify which tasks are of interest.

Key tasks will include the following:

- Review reports submitted by licensees and other bodies and assist inspectors with specific work on sectoral issues.
- Development of strategies for assessing compliance of licensed sites and sectors and determining methodologies for improvement of compliance.
- Provide guidance on best available technology in key sectors of interest to OEE and ensure knowledge transfer.
- Advise on the planning of investigations of non-compliant licence facilities and provide input to the development of methods for targeted enforcement to ensure best use of resources and best standards of compliance.
- Assist with the investigation of environmental complaints and pollution incidents.
- Support the development of OEE technical working groups.
- Provide organisational and administrative support for monitoring enforcement.
- Assist as required in the enforcement effort of the OEE.
- Preparation of reports on enforcement issues and recommending action for improved compliance.
- Development of methods and systems for collection and administration of annual licence fees.

It is the intention of the OEE to begin the process of engaging external assistance within one month of receipt and evaluation of applications. Assignments will be for a period up to a maximum of two years. Following satisfactory completion of the first contract it may be possible to extend the assignment for a further six months. Experts may be required to spend a minimum number of days (1-3) a week based in one of the OEE regional offices. Assignments may also include some field work. The maximum number of days any one expert will be engaged for will not exceed 110 days in any twelve month period.

6 Any suggestions for improvements to the system

Recommendations for the Public Sector
The recent recruitment freezes and budget cuts to the Irish public sector services will, if continued impact on performance and efficiency. So a recommendation for the public sector is for an efficient and effective resourcing of services.

Recommendation for the Private Sector
A regular criticism of EPA by private sector and Local Authorities is the amount of reporting that is required and obviously the resources that have to be allocated to complete the reporting. For example, waste management companies currently report 4 quarterly annual environmental reports (AERs); 1 annual AER, 1 Pollution Release Transfer Register (PRTR) annually, 1 National Waste Report, 1 Characterisation study, 52 weekly notifications, Biodegradable Municipal Waste (BMW) survey and Repak reports. Although the EPA tries to streamline the reporting requirements, by having on-line applications and merging AER reporting with PRTR reporting, it can be an cumbersome burden to some organisations.

7 Source of information

The following sources of information were used to compile this report
EPA website www.epa.ie
The associated notes are detailed in the report EPA Annual Report and Accounts 2008,
http://www.epa.ie/downloads/pubs/other/corporate/Annual%20Report%202008%20English%20Final.pdf
Focus on Environmental Enforcement in Ireland - A report for the year 2006 – 2008 http://www.epa.ie/downloads/pubs/enforcement/focus/#d.en.27305
A draft version of the report was reviewed by the Office of Environmental Enforcement at the EPA.