



ENVIRONMENTAL LEGISLATION APPLICABLE TO INDUSTRIAL AND MEDICAL GAS OPERATIONS WITHIN THE EU

Doc 108/20

Revision of Doc 108/14

EUROPEAN INDUSTRIAL GASES ASSOCIATION AISBL



AVENUE DES ARTS 3-5 • B – 1210 BRUSSELS
Tel: +32 2 217 70 98 • Fax: +32 2 219 85 14
E-mail: info@eiga.eu • Internet: www.eiga.eu

 **Documents**
Document Sharing Hub



ENVIRONMENTAL LEGISLATION APPLICABLE TO INDUSTRIAL AND MEDICAL GAS OPERATIONS WITHIN THE EU

Prepared by WG-5 Environment

Disclaimer

All technical publications of EIGA or under EIGA's name, including Codes of practice, Safety procedures and any other technical information contained in such publications were obtained from sources believed to be reliable and are based on technical information and experience currently available from members of EIGA and others at the date of their issuance.

While EIGA recommends reference to or use of its publications by its members, such reference to or use of EIGA's publications by its members or third parties are purely voluntary and not binding.

Therefore, EIGA or its members make no guarantee of the results and assume no liability or responsibility in connection with the reference to or use of information or suggestions contained in EIGA's publications.

EIGA has no control whatsoever as regards, performance or non performance, misinterpretation, proper or improper use of any information or suggestions contained in EIGA's publications by any person or entity (including EIGA members) and EIGA expressly disclaims any liability in connection thereto.

EIGA's publications are subject to periodic review and users are cautioned to obtain the latest edition.

© EIGA grants permission to reproduce this publication provided the Association is acknowledged as the source

EUROPEAN INDUSTRIAL GASES ASSOCIATION AISBL
Avenue des Arts 3-5 B 1210 Brussels Tel +32 2 217 70 98 Fax +32 2 219 85 14
E-mail: info@eiga.eu Internet: www.eiga.eu



Table of Contents

1	Introduction	1
2	Scope and purpose	1
2.1	Scope	1
3	Definitions	1
3.1	Publication terminology	1
3.2	Technical definitions	1
4	Environmental legislation relevant to the industrial gases industry	2
4.1	General environmental aspects and impacts and links to other EIGA publications	2
4.2	Background	2
4.3	EU legislation	2
4.4	Compliance with new and existing legislation	4
4.5	European Union environmental legislation applicable to industrial gas operations	5
5	References	5
	Appendix 1 EIGA Document Links to ISO 14001	7
	Appendix 2 Legislation – Permits	8
	Appendix 3 Legislation – Environmental management	9
	Appendix 4 Legislation – Waste	10
	Appendix 5 Legislation – Air	12
	Appendix 6 Legislation – Water	13
	Appendix 7 Legislation – Noise	14
	Appendix 8 Legislation – Hazardous substances	15

Amendments to 108/14

Section	Change
	Editorial to align style with EIGA style manual
4.2	Update from ISO 14001
Appendix 1	Update to latest directives, regulations, decisions
Appendix 2	Update to latest directives, regulations, decisions
Appendix 3	Update to latest directives, regulations, decisions
Appendix 4	Update to latest directives, regulations, decisions
Appendix 5	Update to latest directives, regulations, decisions
Appendix 6	Update to latest directives, regulations, decisions
Appendix 7	Update to latest directives, regulations, decisions
Appendix 8	Update to latest directives, regulations, decisions

NOTE Technical changes from the previous edition are underlined

1 Introduction

This publication is confined to discussion of environmental legislation that originate from the European Union. Whilst there is a wide variety of environmental legislation in each member state, the main driving force comes from the EU with over 400 legislative instruments put in place since 2001.

2 Scope and purpose

2.1 Scope

This publication provides guidance on European legislation concerning the main environmental aspects relevant to the industrial and medical gas industry. In all cases the relevant national legislation should be consulted for specific implementation in each country or region.

3 Definitions

For the purpose of this publication, the following definitions apply.

3.1 Publication terminology

3.1.1 Shall

Indicates that the procedure is mandatory. It is used wherever the criterion for conformance to specific recommendations allows no deviation.

3.1.2 Should

Indicates that a procedure is recommended.

3.1.3 May

Indicates that the procedure is optional.

3.1.4 Will

Is used only to indicate the future, not a degree of requirement.

3.1.5 Can

Indicates a possibility or ability.

3.2 Technical definitions

3.2.1 Environmental aspect

Elements of an organisation's activities, products or services that can interact with the environment. For example, use of energy or transportation of products.

3.2.2 Environmental impact

Any change to the environment, whether adverse or beneficial, wholly or partially resulting from an organization's environmental aspects as per ISO 14001, *Environmental Management Systems – Requirements with Guidance for Use*, [1].¹ For example, the contamination of water with hazardous substances or the reduction of air emissions.

¹ References are shown by bracketed numbers and are listed in order of appearance in the reference section.

4 Environmental legislation relevant to the industrial gases industry

4.1 General environmental aspects and impacts and links to other EIGA publications

This publication covers in detail the legislation concerning industrial gas operations. There are a series of EIGA publications that provide more general details on environmental aspects, legislation for the gas industry and good operational, environmental practices. A list of these publications is provided in Appendix 1.

4.2 Background

Each company and site shall be aware of the relevant environmental legislation so that they can comply.

In addition, ISO 14001 and the European Eco-Management and Audit scheme (EMAS) requires that the organisation has identified applicable legal requirements (and voluntary initiatives such as Responsible Care®) [1, 2].

ISO 14001 states in clause 6.1.2 [1]:

"Within the defined scope of the environmental management system, the organization shall determine the environmental aspects of its activities, products and services that it can control and those that it can influence, and their associated environmental impacts, considering a life cycle perspective".

4.3 EU legislation

4.3.1 Principles of EU legislation

The purpose of legislation is usually harmonisation of the laws to promote free trade and movement of goods under Articles 27 and 28 of the consolidated version of the Treaty on the Functioning of the European Union, but this cannot be done at the expense of the environment [3]. There are also community measures dealing with specific environmental issues under Article 191 [3]. The legislation sets policy and introduces common standards for the protection of the environment. The implementation is therefore up to the member states. International agreements and conventions such as Montreal and Kyoto protocols, Basel Convention etc. also influence EU legislation [4, 5, 6].

The EU Commission sets the long-term plans for legislation and strategy. Prior to the formal publication of legislation, the Commission produces discussion documents (green and white papers) to get feedback from industry and other stakeholders (non-governmental organisations, consumer groups etc.), and conducts public consultations.

4.3.2 Strategy and action programmes

The EU legislative programme is organised around strategic action programmes. These define the actions to be taken or the principles to be applied in a 5 to 7 year time period.

Typical principles of the action programmes include:

- polluter pays;
- integration of environmental considerations into other policy areas;
- prevention is better than cure;
- no transfer across media, i.e. air, water, land; and
- sustainable development.

4.3.3 The legislative process

The legislative process is:

1. The Commission proposes legislation. It is a non-elected body made up of nominated representatives from the member states. Major departments involved with environmental legislation are DG Environment and DG Climate.
2. The European Parliament is an elected body with committees that give opinions on the Commission's proposals, and in some cases, for example environmental issues, they have the power to veto commission proposals under the powers of co decision in the Amsterdam treaty.
3. The Council of Ministers is made up of member states' representatives and has a veto on some issues such as taxation.
4. The European Court of Justice decides on points of EU law, though these normally come via the judicial process in each member state.

4.3.4 Types of EU legislation

There are three main types of EU legislation:

- Directives are addressed to member states who shall implement them in their own legislation for them to have effect. Directives set the objectives and are binding as to the result to be achieved. Member states are thus required to interpret the directives and give them the force of law in their own jurisdictions. Member states can go over and above the requirements of a directive for reasons of enhancing environmental protection.
- Regulations are effective immediately in the member states with no implementing legislation necessary, for example the regulation on ozone depleting substances.
- Decisions are also effective immediately, and are mostly administrative in nature, for example the waste list.

In addition, the commission can adopt delegated acts.

A delegated act is a non-legislative act of general application adopted by the Commission to supplement or amend certain non-essential elements of a basic legislative act (EU regulation or directive) (Article 290 of the Treaty on the Functioning of the European Union) [3].

For example:

- under the Regulation (EU) 528/2012 concerning the making available on the market and use of biocidal products, adapt the definition of nanomaterial; specify the scientific criteria for determining endocrine-disrupting properties [7];
- under the Seveso III directive (Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances), adapt Annex II (minimum data to be considered in the safety report) and IV (criteria for the notification of a major accident to the commission) to technical progress [8]; and
- under the Industrial Emissions Directive (Directive 2010/75/EU on industrial emissions), set the date from which continuous measurement of emissions of heavy metals, dioxins and furans into the air are to be carried out [9].

4.3.5 Scope of legislation

Many of the regulations are written with a wide remit without an understanding of how they could affect specialised sectors such as industrial gases. This can lead to anomalies that need to be addressed at