



Brussels, **XXX**  
[...] (2022) **XXX** draft

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending**

**Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

Directive 2010/75/EU on industrial emissions (IED)<sup>1</sup> controls the environmental impacts of around 52 000 of Europe's large-scale, high pollution risk industrial installations and livestock farms (hereafter agro-industrial installations) in an integrated manner, on a sector-by-sector basis. It covers all relevant pollutants potentially emitted by industrial installations that affect human health and the environment. IED installations account for about 20% of the EU's overall pollutant emissions by mass to air, around 20% of pollutant emissions to water and approximately 40% of GHG emissions. Activities regulated by the IED include power plants, refineries, waste treatment and incineration, production of metals, cement, glass, chemicals, pulp and paper, food, and drink, as well as the intensive rearing of pigs and poultry. An IED installation may undertake several IED activities, e.g. cement production and waste co-incineration.

The 2020 evaluation<sup>2</sup> of the IED concluded that it was generally effective in preventing and controlling pollution to air, water and soil from industrial activities, as well as in promoting the incorporation of Best Available Technologies (BAT). The IED has substantially reduced emissions of pollutants to air and, to a lesser degree, water emissions. It has also contributed to minimising emissions to soil from IED installations. Although its impacts on resource efficiency, the circular economy and innovation are harder to assess, it appears to have made a positive contribution, even though of limited magnitude. It has also made a limited contribution to decarbonisation, within the constraints currently placed on the IED. Other aspects, such as public access to information and access to justice, have improved compared to the earlier legislation that the IED replaced.

However, the evaluation also identified several areas for improvement, in light of new challenges. It showed that, whilst providing a sound framework, it is not being implemented homogeneously across Member States, with different levels of ambition that are hampering the instrument to fully deliver on its objectives. These challenges undermine the capacity of the IED to reduce environmental pressures exerted by agro-industrial installations and to set a level-playing field at a high level of protection of human health and the environment. As concluded by the European Court of Auditors, these shortcomings affect as well the capacity of the Directive to implement the polluter pays principle in an appropriate manner.

To address those challenges and incentivise the deep industrial transformation required from 2025 up to 2050, the Commission committed in the European Green Deal<sup>3</sup> (EGD) to revise EU measures to address pollution from large industrial installations.

Against this background, the general objective of this initiative is to contribute in the most effective and efficient way to protect ecosystems and human health from the adverse effects of pollution from large agro-industrial installations; enhancing at the same time EU industry's resilience against the impacts of climate change. The IED revision aims to stimulate a deep agro-industrial transformation towards zero pollution through the

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<sup>1</sup> OJ L 334, 17.12.2010, p. 17

<sup>2</sup> SWD(2020) 181 final

<sup>3</sup> COM(2019) 640 final

deployment of breakthrough technologies, and thereby contribute to the achievement of the EGD objectives of reaching carbon neutrality, a non-toxic environment and a circular economy. It also aims at further contributing to establishing a competitive level-playing field at a high level of protection of human health and the environment. In addition, the IED revision will seek to modernise and simplify the current legislation, e.g. through digitalisation and improvement of knowledge on sources of pollution. Besides, the initiative will aim to improve public participation in decision-making, and access to information and justice, including to effective redress mechanisms.

More specifically, the revision of the Directive will seek to

- i. improve IED effectiveness to prevent or, when impractical, minimise the emission of pollutants by agro-industrial installations at source, as evidenced by continued or accelerated decreasing trends of emission intensity, to avoid or reduce adverse impacts on health and the environment, taking into account the state of environment in the area affected by these emissions.
- ii. ensure access of private individuals and civil society to information, participation in decision-making, and access to justice (including effective redress) in relation to permitting, operation and control of the regulated installations, resulting in increased civil society action.
- iii. clarify and simplify the legislation and reduce administrative burden whilst promoting consistency of implementation by the Member States.
- iv. promote the uptake of innovative technologies and techniques during the ongoing industrial transformation, by revising BAT reference documents (BREFs) without delay when there is evidence that better performing innovative techniques become available, and ensuring permits support frontrunners.
- v. contribute to the transition towards the use of safer and less toxic chemicals, improved resource efficiency (energy, water and waste prevention) and greater circularity.
- vi. support decarbonisation by fostering synergies in the uptake and investments in techniques that prevent or reduce pollution and carbon emissions, as evidenced by a coupling of the trends of emission intensities.
- vii. address the harmful impacts on health and environment from agro-industrial activities currently not regulated by the IED, as evidenced by decreasing trends of emission intensity.

The Council<sup>4</sup> and the European Parliament<sup>5,6,7</sup> welcomed the revision of the IED and expressed their expectations that this revision should address pollutant emissions to air from

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<sup>4</sup> Council Conclusions of 5 March 2020 (6650-2020)

<sup>5</sup> European Parliament resolution of 25 March 2021 on the implementation of the Ambient Air Quality Directives: Directive 2004/107/EC and Directive 2008/50/EC (2020/2091(INI))

<sup>6</sup> European Parliament resolution of 15 January 2020 on the European Green Deal (2019/2956(RSP))

<sup>7</sup> European Parliament resolution of 25 November 2020 on a New Industrial Strategy for Europe (2020/2076(INI))

industrial and agricultural activities and contribute to the circular economy, including by promoting water reuse in industry<sup>8,9</sup>.

The multi-stakeholder High Level Group on Energy-Intensive Industries, advising the Commission on policies relevant to energy-intensive industries since 2015, developed a masterplan<sup>10</sup> with recommendations to build the policy framework needed to manage this transition while keeping industry competitive. It recommended that ‘*The Industrial Emissions Directive permitting process should be adapted to support GHG [greenhouse gas] abatement measures in energy-intensive installations throughout the transition.*’

- **Consistency with existing policy provisions in the policy area**

The EGD is Europe’s growth strategy to ensure by 2050 a climate-neutral, clean and circular economy, optimising resource management, minimising pollution while recognising the need for deeply transformative policies. The EU Chemicals Strategy for Sustainability<sup>11</sup> of October 2020 and the Zero Pollution Action Plan<sup>12</sup> adopted in May 2021 specifically address pollution aspects of the EGD. In parallel, the New Industrial Strategy for Europe<sup>13</sup> highlights the need for new technologies, innovation and investment to strengthen Europe’s industrial competitiveness and facilitate industry’s shift to a truly sustainable, greener and more digital economy. The updated May 2021 version of this strategy<sup>14</sup> further emphasises the potential role of transformative technologies.

Other particularly relevant policies include the “Fit for 55” package<sup>15</sup>, the Methane Strategy<sup>16</sup> and the Glasgow methane pledge, the Climate Adaptation Strategy<sup>17</sup>, the Biodiversity Strategy<sup>18</sup>, the Farm to Fork initiative<sup>19</sup>, the Soil Strategy<sup>20</sup> and the upcoming Sustainable Products Initiative<sup>21</sup>.

In the EGD, the Commission commits to revise EU measures to address pollution from large industrial installations, notably by looking at the scope of the legislation and at how to make it fully consistent with the zero pollution ambition, and climate, energy and circular economy policies, bearing in mind the benefits for both public health and biodiversity. The Industrial Emissions Directive and the Regulation (EC) No 166/2006 on the European Pollutant Release and Transfer Register (E-PRTR)<sup>22</sup> are complementary instruments

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<sup>8</sup> [Council Conclusions of 3 June 2021 \(9419/21\)](#).

<sup>9</sup> Communication from the Commission ‘A new Circular Economy Action Plan For a cleaner and more competitive Europe’, COM/2020/98 final

<sup>10</sup> See *Masterplan for a competitive transformation of EU energy-intensive industries enabling a climate-neutral, circular economy by 2050*, available at: <https://op.europa.eu/en/publication-detail/-/publication/be308ba7-14da-11ea-8c1f-01aa75ed71a1/language-en>

<sup>11</sup> COM(2020) 667 final

<sup>12</sup> COM(2021) 400 final

<sup>13</sup> COM(2020) 102 final

<sup>14</sup> COM(2021) 350 final

<sup>15</sup> [https://ec.europa.eu/clima/eu-action/european-green-deal/delivering-european-green-deal\\_en](https://ec.europa.eu/clima/eu-action/european-green-deal/delivering-european-green-deal_en)

<sup>16</sup> COM(2020) 663 final

<sup>17</sup> COM(2021) 82 final

<sup>18</sup> COM(2020) 380 final

<sup>19</sup> COM(2020) 381 final

<sup>20</sup> COM(2021) 699 final

<sup>21</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative_en)

<sup>22</sup> OJ L 33, 4.2.2006, p. 1

controlling the environmental impact of industry. The IED aims to secure a progressive reduction of pollution from the EU's largest industrial and intensive rearing of livestock installations (hereafter agro-industrial installations)<sup>23</sup>, whilst preserving a competitive level playing field. The E-PRTR Regulation facilitates monitoring of pollution-reduction efforts by enhancing publicly available information on the actual performance of installations.

This legislation has links with many other policies since it seeks to address the environmental pressures of agro-industrial installations in a holistic manner.

The Industrial Emissions Directive (IED) has been playing an important role in reducing emissions of pollutants from industry, especially to air, but has made a more limited contribution to the circular economy (resource efficiency) and to reducing emissions of pollutants to water.

Water is one of the three main pillars of the 'Zero Pollution Action Plan', which aims to evolve towards a toxic free society by 2050, with pollution reduced to either zero, or otherwise levels that are no longer harmful for nature and humans. This implies action not only downstream, such as at the level of wastewater treatment plants, but also upstream, where substances are produced and used. This proposal to revise the IED is consistent with EU water legislation, in particular Directive 2000/60/EC (the Water Framework Directive<sup>24</sup>), and its two daughter Directives, Directive 2006/118/EC (on groundwater<sup>25</sup>) and Directive 2008/105/EC, as amended by Directive 2013/39/EC, on environmental quality standards in the field of water policy<sup>26</sup>.

EU water legislation obliges Member States to avoid deterioration of status and to achieve good status of all water bodies, through a system of integrated water management per river basin. In accordance with six yearly management cycles, ecological and chemical status (surface waters) and quantitative and chemicals status (groundwater) are assessed and measures are planned to address all pressures affecting water bodies, including from agriculture, industry, households and other economic activities (including navigation, flood protection, hydropower). In light of the Zero Pollution Action Plan, the Commission will formulate a proposal in 2022 to tighten further rules 'downstream', i.e. on surface and groundwater pollutants as part of a legislative proposal next year on "integrated water management".

The IED proposal complements these initiatives by, among others, widening the Directive's scope, fostering the development of new technologies to reduce emissions, improving resource efficiency, promoting water reuse, ensuring better controlled and more integrated permitting requirements, and introducing a mandatory environmental management system. The proposal will strengthen the integrated approach by clarifying requirements on cooperation between relevant competent authorities, including reviewing and updating permits, depending on the status of the receiving environment, and/or the planning of measures necessary to comply with environmental quality standards, objectives, plans and

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23 The expression agro-industrial installations is used to capture all types of activities that may be regulated by the IED mechanisms, including in particular energy-intensive industries and rearing of livestock

24 OJ L 327, 22.12.2000, p. 1.

25 OJ L 372, 27.12.2006, p. 19.

26 OJ L 348, 24.12.2008, p. 84.

programmes under the water legislation. Additionally, increased coherence will also be achieved by clarifying the rules that apply to indirect releases of polluting substances to water, through urban wastewater treatment plants, which are likewise an important source of point source pollution. Fostering innovation will contribute to addressing persistent chemical substances, or substances newly identified as being of concern including Per- and polyfluoroalkyl substances (PFAS), microplastics and pharmaceuticals, consistent with both the Chemicals Strategy for Sustainability and the European Commission's Communication on a Strategic Approach to Pharmaceuticals in the Environment<sup>27</sup> and the Communication on a Pharmaceuticals Strategy<sup>28</sup>.

The 'exchange of information' process under the IED should take account of the identification of substances of concern under EU water legislation, in particular the so-called 'Watch Lists' of substances for both groundwater and surface water, and substances identified as possibly posing a significant risk to or via the aquatic environment at Union level.

The exchange of information under the IED will also benefit the development of water efficiency measures and consideration of water reuse by industrial installations, in line with the Circular Economy Action Plan<sup>29</sup>, which commits to promoting water reuse in industry. Regulation (EU) 2020/741 on minimum requirements for water reuse<sup>30</sup>, adopted in May 2020, which is applicable to water reuse for agricultural irrigation but also points at the great potential for the recycling and reuse of treated wastewater for industrial purposes, in the context of integrated water management and circular economy.

By regulating certain activities at source, the IED also supports Member States in meeting their obligations under other EU legislation setting environmental quality standards, e.g. the Ambient Air Quality Directive<sup>31</sup>. It supports as well Member States in meeting their objectives under EU legislation setting national targets, such as the national Emission reduction commitments (NEC) Directive<sup>32</sup>, the effort sharing Regulation<sup>33</sup>, and the energy efficiency Directive<sup>34</sup>. Finally, the IED helps securing general environmental performance improvement contributing to other EU sectoral legislation including REACH, waste, and nature protection.

- **Consistency with other Union policies**

The 8th Environment Action Programme<sup>35</sup> aims at six interlinked priority objectives. Among those is Article 2(d) pursuing zero-pollution, including in relation to harmful chemicals, in order to achieve a toxic-free environment, including for air, water, soil as well as in relation to light and noise pollution, and protecting the health and well-being of people, animals and ecosystems from environment-related risks and negative impacts. Article 2(f) aims at promoting environmental aspects of sustainability and at significantly reducing key

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27 COM(2019) 128 final

28 COM(2020) 761 final

29 COM(2020) 98 final

30 OJ L 177, 5.6.2020, p. 32

31 OJ L 152, 11.6.2008, p. 1

32 OJ L 344, 17.12.2016, p. 1

33 OJ L 156, 19.6.2018, p. 26

34 OJ L 315, 14.11.2012, p. 1

35 COM(2020) 652 final

environmental and climate pressures related to the Union's production and consumption, in particular in the areas of energy, industry, buildings and infrastructure, mobility, tourism, international trade and the food system. This Directive will contribute meeting these objectives.

This Directive is a pilot regarding the 'one in one out' approach of the Commission on administrative burden. The supporting impact assessment report provides detailed information on the administrative burden of the proposal. The section of this memorandum on Regulatory fitness and simplification outlines measures proposed to limit the administrative burden of this Directive.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

The legal basis for this proposal is Article 192 TFEU. In accordance with Article 191 and 192(1) TFEU, the European Union shall contribute to the pursuit, inter alia, of the following objectives: preserving, protecting and improving the quality of the environment; promoting measures at international level to deal with regional or worldwide environmental problems, and combating climate change.

### **• Subsidiarity (for non-exclusive competence)**

The objectives of this Directive of ensuring a high level of environmental protection and the improvement of environmental quality cannot be sufficiently achieved by Member States. Because of the transboundary nature of pollution from industrial activities, they can be better achieved at Union level, thus justifying that the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

Pollution from agro-industrial installations travels across national borders and pollution control cannot be sufficiently achieved by one Member State alone. In addition, the operation of industrial plants is closely linked to the functioning of the internal market. In the absence of a common EU approach for setting environmental performance standards, the same industries would face different pollution control regulations in each Member State, with the risk of creating an uneven playing field, fragmenting the single market and impeding the Union's efforts in pursuing the Treaty objective of achieving a high level of environmental and human health protection.

### **• Proportionality**

The IED design ensures proportionality of outcomes by (i) defining BAT as the most environmentally effective as well as economically viable range of proven techniques used in a sector, and (ii) allowing derogations in individual cases if application of the EU-wide BAT requirements would lead to costs disproportionately higher than the expected environmental/health benefits.

The supporting impact assessment assesses the impacts of all proposed revisions of the IED. Both qualitative and quantitative assessment has been undertaken that shows that the proposals are proportionate, i.e. that societal benefits are significantly higher than the incurred costs.

The measures having the most impacts were identified as the extension of scope to cattle farms and to a larger number of pigs and poultry farms. The monetised health and environmental benefits from reduced methane and ammonia emissions are valued at over €7 300 million/year, while the compliance costs are €412 million and administrative costs (administrations and operators) are €404 million, resulting in a very beneficial cost-benefit factor of 9.

- **Choice of the instrument**

The objectives of this proposal can be best pursued through a Directive. This is the most appropriate legal instrument to make amendments to the existing Directive on Industrial Emissions (Directive 2010/75/EU - IED).

A Directive requires Member States to achieve the objectives and implement the measures into their national substantive and procedural law systems. This approach gives the Member States more freedom when implementing an EU measure than a Regulation, in that Member States are left the choice of the most appropriate means of implementing the measures in the Directive. This allows Member States to ensure that the amended rules are embedded in their substantive and procedural legal framework implementing the EU IED, in particular regulating permits for installations as well as enforcement measures and penalties.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

The evaluation of the IED carried out in 2020<sup>36</sup> found that it had been effective in reducing environmental impacts and competitive distortions in the EU. The collaborative process for producing BREFs and identifying BAT has worked well and is recognised as a model of collaborative governance.

The IED has led to substantially reduced pollutant emissions to air and, to a lesser degree, to water. It minimised emissions to soil from IED installations. Its impacts on resource efficiency, the circular economy and innovation are harder to assess; it appears to have made a positive contribution of limited magnitude. Other aspects, such as public access to information and access to justice, have somewhat improved.

The IED was evaluated as largely efficient. The benefits of BAT conclusions substantially outweigh costs. No disproportionate or unnecessary administrative costs have been identified. There are mixed impacts on EU competitiveness; no evidence shows these to be significant.

All stakeholder groups considered the IED relevant. It can respond to emerging environmental issues, despite the length of the BREF process. While the IED has not contributed greatly to decarbonisation, views diverge about whether it is relevant for this.

The IED was evaluated as being coherent internally and with other EU policies, however there is scope for greater contribution to those. Some interpretation challenges require clarification.

The IED was deemed as providing significant EU added value. It ensures more consistent requirements to reduce industrial pollution, monitor and enforce this, thus reducing internal

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<sup>36</sup> Supra No 2

market distortions. Absence of EU action would have led to less demanding standards and less health and environment benefit. The BREF process is not replicable by individual Member States, and is increasingly used by third countries. The IED's decentralised approach is consistent with the subsidiarity and proportionality principles.

The evaluation has identified a number of areas where the IED's performance does not appear to be as satisfactory as desired with regard to the reduction of pollutant emissions, especially to water, the contribution to GHG emission reduction, the promotion of non-toxic production, and the improvement of resources efficiency and reuse. These areas are central to the revision of the IED announced in the EGD Communication.

- **Stakeholder consultations**

The impact assessment accompanying the combined revision of the Industrial Emissions Directive (IED) and E-PRTR Regulation was subject to a thorough consultation process. This included a variety of different consultation activities aimed at gathering the views of all relevant stakeholders and ensuring that the views of different organisations and stakeholder types were presented and considered.

Firstly, an initial feedback was provided on the published Inception Impact Assessment via the Commission's 'Have Your Say' interactive portal (154 responses; consultation period 24 March 2020 to 21 April 2020). This was followed by a joint IED and E-PRTR Public Consultation (online survey via the Commission's 'Have Your Say' interactive portal; 336 responses; from 20 December 2020 to 23 March 2021). The survey contained 24 questions, four of which concerned specifically the E-PRTR.

Then, a targeted stakeholder survey (TSS) took place from 8 February to 9 April 2021, which consisted of an online survey of a more detailed nature (235 responses), to enhance further the evidence base through the collection of more specialised feedback from targeted stakeholder groups on six problem areas, grouped by the options under consideration for the impact assessment study. These problem areas were as follows: i) the environment is polluted; ii) a climate crisis is happening; iii) natural resources are being depleted; iv) state of the art techniques cannot respond satisfactorily to problem areas i) to iii); v) private individuals have limited opportunities to get informed about, and take action regarding impacts caused by agro-industrial plants; and vi) excessive burdens may affect the efficiency of the policy instrument.

These feedbacks were also complemented with consultation of so-called focus groups, held in June-August 2021, to engage stakeholders in deeper discussions on key themes. Stakeholders were selected based on their sectoral representation; and a good geographical and stakeholder type distribution between environmental NGOs, industry representatives and Member States' Ministries and Competent Authorities was ensured to enable balanced discussions. Finally, two stakeholder workshops were held remotely on 15 December 2020 and 7-8 July 2021.

Civil society and environmental NGOs considered all above-mentioned problem areas to be of high relevance, in particular regarding:

- the environmental impacts being insufficiently addressed by the IED, as well as decarbonisation;
- the need to have the E-PRTR pollutant list updated more quickly to take account of new threats; and
- limited access to information on installations' performance levels.

This limited access to information was perceived by all stakeholder groups as an important element to address.

However, differences occurred in the feedback from industry and business associations, who were rather neutral (but not negative) in acknowledging resource efficiency and less toxic production issues to address. Industry and business associations were also rather neutral in acknowledging the need to foster decarbonisation, pointing to potential additional reporting costs and risks of overlaps with the Emissions Trading System (ETS)<sup>37</sup>. Regarding the limited scope of the Directive, industry and business associations brought into play costs elements, and argued that existing national regimes and EU legislation are sufficient to tackle most of the difficulties encountered.

All stakeholders agreed that the IED contribution to facilitate, harness and promote innovation was too limited.

- **Impact assessment**

An impact assessment as carried out, which resulted in a positive opinion from the Regulatory Scrutiny Board<sup>38</sup> delivered on 10 December 2021.

Five partly interlinked but independent Policy Options were proposed and assessed; the selected sub-options of each problem area were assembled together to form the following preferred policy package:

- Effectiveness: full implementation of 25 optimisation and updating measures.
- Innovation: frontrunners have freedom to test novel techniques, combined with the setting up of an Innovation Centre for Industrial Transformation & Emissions (INCITE) and 2030 Operators' Transformation Plans.
- Resource use and chemicals: improved environmental management system.
- Decarbonisation: energy efficiency minimum levels are introduced. A review of the synergies between the IED and the ETS will take place in 2028, allowing optimal synergies from 2030 onwards.
- Sectoral scope: further activities will be introduced in the IED scope, principally livestock rearing and certain extractive activities.

The impacts of the preferred package are expected to be as follows: overall benefits are estimated to considerably outweigh costs. Whilst it has not been possible to quantify and monetise all impacts; a more effective Directive estimated health benefits between €860 and €2 800 million per year, with annual business CAPEX/ OPEX costs at about €210 million. An extended livestock farms coverage would result in methane and ammonia emission reductions, with related health benefits of over €7 300 million per year. Related compliance costs are estimated to be around €412 million per year.

The overall administrative burden is estimated at €370million per year for industrial operators and €336 million per year for public authorities.

- **Regulatory fitness and simplification**

In line with the Commission's commitment to Better Regulation, this proposal has been prepared inclusively, based on full transparency and continuous engagement with

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<sup>37</sup> OJ L 275 25.10.2003, p. 32

<sup>38</sup> Ares(2021)7643865 – 10/12/2021

stakeholders, listening to external feedback and taking into account external scrutiny to ensure the proposal strikes the right balance.

Stakeholder consultations have allowed identifying a number of clarifications and simplifications to the Directive, including to clarify certain definitions, replace the indicative list of pollutants in Annex II by references to other EU law defining lists of relevant substances, and establish compliance assessment rules under Chapter II of IED to take precedence over rules in other chapters. Furthermore, a separate and lighter permitting regime is introduced for livestock farms that are less complex than other IED installations, and may include a number of SMEs.

A codification after adoption of the revised act will allow eliminating provisions that have become obsolete.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, it contributes to the objective of a high level of environmental protection in accordance with the principle of sustainable development as laid down in Article 37 of the Charter of Fundamental Rights of the European Union<sup>39</sup>.

#### **4. BUDGETARY IMPLICATIONS**

The financial statement annexed shows the budgetary implications and the human and administrative resources required. The proposal will have budgetary implications in terms of human and administrative resources required for the Commission and the European Chemicals Agency (ECHA). The Commission will have increased tasks with regard to the implementation and enforcement of a wider scope, both in terms of economic activities and environmental aspects covered by the IED, as well as the management of the Innovation Centre, requiring in total thirteen and a half additional full-time-equivalents.

The ECHA will support the Commission by (1) providing input to the information exchange on BAT including the identification and selection of relevant substances for each sector, the development of sector-specific good practices for the use of the safest substances on the market, and (2) providing tools and guidance for use by IED operators in the preparation of the chemicals chapter of their Environmental Management System. This requires a total of three additional full-time-equivalents.

In addition, around EUR 745 000 per year are required to finance the necessary expertise to support the Commission in a number of work streams.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The overall emissions of pollutants per sector, based on data reported by operators to the E-PRTR, will remain key indicators to track progress against the objectives of this initiative. The E-PRTR Regulation is being revised in parallel to the revision of this Directive and will

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<sup>39</sup> OJ C 326, 26.10.2012, p. 391

allow better future monitoring of the IED's impact on industry's environmental performance at sector level:

- The increased granularity of reporting of pollutant emission at installation level will allow analysis of the main processes within sectors whose environmental performance is improving or is lagging behind;
- The inclusion of reporting of resource use will allow defining new indicators on use of materials, water and energy, that will enable tracking of resource efficiency improvements;
- More dynamic updating of the list of substances covered by the E-PRTR Regulation will allow the definition of emission indicators of substances of emerging and current concern. This will enable the tracking of improvements in the use and management of such substances.

These improvements will also help ensure that this monitoring can be effectively used in the wider Zero Pollution Monitoring and Outlook framework which will be published every two years from 2022 onwards<sup>40</sup>. Data on air, water and soil pollution available through the Zero Pollution Monitoring will help evaluate the impacts of emission reductions stemming from the installations falling under the IED and E-PRTR Regulation.

A central concern in the revision of the IED is to ensure that the whole range of BAT-Associated Emissions Levels (AELs) is used. The future harmonised permit summary will dramatically ease the harvesting of Emission Limit Values (ELVs) set in permits, through automated IT tools. This will allow analysis sector by sector of the distribution of ELVs within the BAT-AEL ranges, at the end of permit revision cycles triggered by adoption of BAT Conclusions and improve clarity of information contained in the permits to public.

The scale of progress in emissions reduction will depend on technological progress, outcomes of the Innovation Centre, any more frequent BREF reviews, and any actions that may be triggered as a result. Monitoring of the pace of development and uptake of innovations and the resulting required transformation of IED sectors for meeting the EU's 2030 and 2050 objectives will also be of importance. The harmonised permit summary will allow the quantification of the number of cases where new flexibilities supporting frontrunners in testing and deploying emerging techniques have been used. Wider impacts on innovation dynamics will be more complex to monitor. New indicators will be defined in an industrial transformation scoreboard published by the Innovation Centre. The Centre may develop indicators such as:

- Technology readiness level of transformative technologies per sector;
- Emissions performance of transformative technologies;
- The anticipated uptake timeline of such technologies;
- Distance to target indicators, for each IED sector.

Periodic publication of implementation information by Member States will complement these indicators by providing readily-accessible, machine-readable, common-format information on key provisions via dynamic IT means. This will include information on:

- The granting of flexibilities to support transformative techniques;

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<sup>40</sup> SWD(2021) 141.

- The setting of stricter permit conditions in permits where required to meet environmental quality standards;
- The granting of derogations allowing pollutant emissions higher than the BAT-AEL range;
- Enforcement action taken.

Perceptions on improvements to legal clarity will be monitored via the BREF process, through e-surveys addressed to the IED stakeholder community.

The review, at a set date still within this decade, of the interaction of IED with the ETS and decarbonisation developments will be a key milestone in monitoring and evaluating this revamped and more holistic policy approach.

- **Detailed explanation of the specific provisions of the proposal**

- a) **Amendments to Directive 201/75/EU**

The amendment to **Article 1** aims at explicitly clarifying that this Directive lays down rules designed to prevent or, where that is not practicable, to reduce emissions into air, water and land and to prevent the generation of waste, in order to achieve a high level of protection of the environment and of human health taken as a whole; consistent with Article 191 of the Treaty on the Functioning of the European Union (TFEU). Such explicit clarification is also added in other Articles where necessary.

Amendments to **Article 3** aim at providing relevant definitions of new concepts or elements which are being added to the Directive by virtue of extension of its scope or strengthening of its provisions.

Amendments to **Article 5** aim at further specifying transparency requirements attached to permits granted under this Directive, against the background of uneven practice among Member States. Such permits shall be made available to the public on the internet, free of charge and without restricting access to registered users, and a uniform summary of permits shall be made available to the public.

Incidents or accidents may affect significantly the environment or human health beyond borders of the national territory of the Member State in which they occur. In such cases, pursuant to amendments to **Article 7**, immediate transboundary information, as well as multidisciplinary cooperation, must take place.

Amendments to **Article 8** aim at tightening the rules applying in case of breach of permit conditions and broadening the powers of the competent authority to suspend an installation's operations until compliance is restored.

In respect of combustion units or other units emitting carbon dioxide which are also in the scope of Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, the amendment to **Article 9** aims at making any requirements relating to energy efficiency mandatory.

Amendments to **Article 11** aim at introducing, as part of the basic obligations of the operator, requirements on resource efficiency, on the taking into account of the overall life-

cycle environmental performance of the supply chain and on an environmental management system.

In the context of the exchange of information leading up to the drawing up of BAT reference documents (BREFs), amendments to **Article 13** are twofold. First, with a view to developing synergies between the work carried out by the European Chemicals Agency (ECHA) on chemicals and the elaboration of BREFs, it is appropriate to give a formal role to ECHA. Second, the handling of confidential business information (CBI) collected from industry should be specified so as to facilitate the exchange of information supporting the determination of emission levels and environmental performance levels associated with BAT while preserving the confidentiality of relevant business information.

Several amendments are made to **Article 14** on permit conditions, with a view to strengthening the requirements attached to permits granted under this Directive; among which a duty for Member States to ensure that all authorities who ensure compliance with EU environmental legislation, including where applicable with environmental quality standards, are duly consulted, before the granting of a permit. Moreover, it is appropriate to refer to Annex II on pollutants of Regulation (EC) No 166/2006 establishing a European Pollutant Release and Transfer Register as being amended. Indeed, by listing individual substances in a non-exhaustive way, Annex II of this Directive on the list of polluting substances is not compatible with the holistic approach sought and the need for competent authorities to take into account all relevant polluting substances, including those of emerging concern. This non-exhaustive list of polluting substances should therefore be deleted. Besides, it is also necessary to clarify the relationship between this Directive and Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries<sup>41</sup>. Where the activities of extraction and treatment of certain non-energy minerals fall also under the scope of Directive 2006/21/EC, BAT conclusions established pursuant to Article 13(5) IED shall constitute BAT as referred to in Directive 2006/21/EC, and such BAT conclusions shall furthermore apply in complement to any other relevant provisions of Directive 2006/21/EC.

A new **Article 14 bis** is inserted in the Directive, requiring the operator to establish and implement an environmental management system (EMS) in accordance with relevant BAT conclusions, with a view to the continuous improvement of the environmental performance and safety of the installation.

Several improvements are proposed to tighten rules under **Article 15**. Firstly, the conditions under which the competent authority, when setting emission limit values applicable to pollutant releases to water in an IED permit, may take account of the downstream treatment processes in a waste water treatment plant, are clarified in order to ensure that such releases do not lead to an increased load of pollutants in receiving waters when compared to a situation where the IED installation applies BAT and meets BAT-AELs for direct releases. Secondly, competent authorities should set the emission limit values (ELVs) at the low end of the relevant BAT-AEL range, unless the operator demonstrates that applying BAT as described in BAT conclusions only allows meeting less strict ELVs. Thirdly, in order to prevent or minimise the emission of pollutants by IED installations and level the playing

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<sup>41</sup> OJ L 102, 11.4.2006, p. 15–34.

field across the EU, it is necessary to better frame the conditions under which derogations to emissions limit values can be granted, consistent with general principles to be set in an annex to this Directive, and with a standardised methodology for assessing the disproportionality between costs of implementation of BAT conclusions and the potential environmental benefits, to be adopted in an implementing act. Such derogations should not be granted where they may put at risk compliance with environmental quality standards. Finally, the 9-month duration for the total period of time during which the competent authority may grant temporary derogations from ELVs is replaced by a 24-month duration, without prejudice to complying with environmental quality standards; and this provision is moved to the new Chapter II *bis* as paragraph 1 of Article 27b.

A new **Article 15 bis** is introduced, which empowers the Commission to set common rules for assessing compliance with emission limit values and validation of measured levels for both air and water emissions based on BAT, for installations covered by Chapter II. These compliance assessment rules will take precedent over rules set in Chapters III and IV on assessment of compliance with emission limit values contained in Annexes V and VI.

The amendment to **Article 16** aims at complementing monitoring requirements in respect of derogations granted under Article 15(4), as regards the concentration of the pollutants concerned by the derogation which are present in the receiving environment.

The amendment to **Article 18** aims at clarifying that environmental quality standards refer to the requirements set out in Union law, such as EU legislation on air or water; which must be fulfilled at a given time by a given environment or particular part thereof, and that where stricter conditions than those achievable by the use of the BAT by an IED installation are necessary to ensure compliance with such environmental quality standards, specific additional measures must be included in the permit such as those set out in this article.

The amendment to **Article 21** aims at clarifying that permit conditions should be reviewed and, where necessary, updated by the competent authority where it is necessary for the installation to comply with an environmental quality standard.

Amendments to **Article 24** include broadening the cases where the public concerned are given early and effective opportunities to participate in the granting or updating of permit conditions by the competent authority.

The amendment to **Article 25** aims at clarifying that Member States may not restrict legal standing to challenge a decision of a public authority to those members of the public concerned who participated in the preceding administrative procedure to adopt that decision.

Amendments to **Article 26** seek to strengthen transboundary cooperation, information exchange and public participation in permitting processes.

After Article 26, a new **Chapter II bis** on ‘**promoting innovation**’ is inserted, comprising **Articles 27 to 27d**, so as to foster innovation, facilitate the testing and deployment of emerging techniques with improved environmental performance, as well as to set up a dedicated centre to support innovation by collecting and analysing information on innovative techniques and characterise their state level of development. Operators will be required to produce transformation plans by 30 June 2030 for consideration in the context of permit reviews, as a contribution towards achieving EU objectives on a clean, circular and climate neutral economy.

Amendments to **Article 42** further clarify how to assess whether the cleaned gases or liquids resulting from gasification and pyrolysis of waste are sufficiently purified to be combusted without stricter controls than those applying to clean commercial fuels.

A new **Chapter VI bis** on ‘special provisions for rearing of poultry, pigs and cattle’ is inserted after Chapter VI and before Chapter VII, and comprising **Articles 70 bis to 70 deciēs**. In order to reduce the significant pollutant emissions to air and water caused by such rearing, this Chapter includes lowering the threshold above which pigs and poultry installations are included within the scope of this Directive; and add cattle farming in this scope, alongside pigs and poultry installations. It also sets specific permitting procedures suited to the sector, mindful of the need to balance the administrative permitting procedures with public information and participation and compliance requirements.

A new **Article 72 bis**, inserted after Article 72, sets up the ‘industrial emissions portal’, managed by the Commission, assisted by the European Environment Agency. The portal will be publicly available and incorporate the administrative and thematic information reported by Member States under this Directive, combined with information provided under Regulation (EC) 166/2006 as well as any other relevant information available.

Amendments to **Article 73** include setting a five-year frequency according to which the Commission shall submit to the European Parliament and to the Council a report reviewing the implementation of this Directive, the first of which will be due by June 2028. This report will take into account the dynamics of innovation and the review referred to in Article 8 of Directive 2003/87/EC.

The amendment to **Article 74** empowers the Commission to adopt a delegated act in accordance with Article 290 TFEU in respect of adding an industrial or agricultural activity to Annex I or Annex I *bis* of this Directive, with a view to ensuring that it continues meeting its objectives to prevent or reduce pollutants emissions and achieve a high level of protection of human health and the environment.

The amendments to **Article 79** aim at specifying the minimum content of penalties, so that they are effective, proportionate and dissuasive. Amendments also call on Member States to adopt compliance assurance measures to prevent and detect infringements to this Directive; and to take into account Directive 2008/99/EC on the protection of the environment through criminal law<sup>42</sup> where a detected infringement constitutes an offence within the scope of that Directive.

A new **Article 79 bis** on compensation is introduced, which aims at securing that, where damage to health has occurred, fully or partially as a result of a breach of national measures adopted pursuant to this Directive, the public concerned is able to claim and obtain compensation for that damage from the relevant competent authorities and, where identified, the natural or legal persons responsible for the infringement.

Amendments to **Annex I** include bringing within the scope of this Directive the extraction of industrial and metallic minerals, activity which has a significant impact on the

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42 The Commission adopted a proposal 15/12/2021 to replace Directive 2008/99/EC: COM(2021) 851 final ‘Proposal for a Directive of the European Parliament and of the Council on the protection of the environment through criminal law and replacing Directive 2008/99/EC.

environment. Similarly, whilst several of the activities of the batteries value chain are already regulated by this Directive, adding as well in the scope of this instrument large installations undertaking the manufacturing of batteries ensures that all stages of the life-cycle of batteries are covered by the Directive's requirements, aiming at a more sustainable growth of this industrial sector.

**b) Amendment to Council Directive 1999/31/EC**

The amendment to Article 1 of Council Directive 1999/31/EC on the landfill of waste<sup>43</sup> aims at allow the adoption of BAT conclusions on landfills under this Directive. Although landfills are included within the scope of the IED, no BAT conclusions exist for landfills owing to the coverage of this activity under Council Directive 1999/31/EC, pursuant to which its requirements are deemed to constitute BAT. Given technical development and innovation that has taken place since the adoption of Council Directive 1999/31/EC, more effective techniques for protecting human health and the environment are now available. The adoption of BAT conclusions would enable addressing the key environmental issues related to the operation of waste landfills, including significant emissions of methane.

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43 OJ L 182 of 16.7.1999, p. 1.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending**

**Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste**

**Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010  
on industrial emissions (integrated pollution prevention and control)**

**and Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>44</sup>,

Having regard to the opinion of the Committee of the Regions<sup>45</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Green Deal (EGD)<sup>46</sup> is Europe's strategy to ensure by 2050 a climate-neutral, clean and circular economy, optimising resource management, minimising pollution while recognising the need for deeply transformative policies. The EU Chemicals Strategy for Sustainability<sup>47</sup> of October 2020 and the Zero Pollution Action Plan<sup>48</sup> adopted in May 2021 specifically address pollution aspects of the EGD. In parallel, the New Industrial Strategy for Europe<sup>49</sup>, further emphasises the potential role of transformative technologies. Other particularly relevant policies for this initiative include the 'Fit for 55' package<sup>50</sup>, the Methane Strategy<sup>51</sup> and the Glasgow methane

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44 OJ C [...], [...], p. [...].

45 OJ C [...], [...], p. [...].

46 COM(2019) 640 final

47 COM(2020) 667 final

48 COM(2021) 400 final

49 COM(2020) 102 final

50 [https://ec.europa.eu/clima/eu-action/european-green-deal/delivering-european-green-deal\\_en](https://ec.europa.eu/clima/eu-action/european-green-deal/delivering-european-green-deal_en)

51 COM(2020) 663 final

pledge, the Climate Adaptation Strategy<sup>52</sup>, the Biodiversity Strategy<sup>53</sup>, the Farm to Fork initiative<sup>54</sup> and the upcoming Sustainable Products Initiative<sup>55</sup>.

- (2) The EGD announced a revision of EU measures to address pollution from large industrial installations, including reviewing the sectoral scope of the legislation and how to make it fully consistent with climate, energy and circular economy policies. In addition, the Zero Pollution Action Plan, the Circular Economy Action Plan and the Farm to Fork Strategy also call for reducing pollutant emissions at source, including sources not currently in the scope of this Directive. Addressing pollution from certain agro-industrial activities thus require their inclusion within the scope of this Directive.
- (3) Rearing of pigs, poultry and cattle cause significant pollutant emissions to air and water. In order to reduce such negative impact, it is necessary to lower the threshold above which pigs and poultry installations are included within the scope of this Directive. In addition, it is appropriate to include cattle farming as well in this scope, alongside pigs and poultry installations. The legislative framework provided for in this Directive will contribute to reducing, among others, ammonia, nitrates and greenhouse gas emissions from rearing, and improving air, water and soil quality.
- (4) In light of the high number of rearing installations that will be included within the scope of this Directive, and the relative simplicity of the processes and emissions patterns of such installations, it is appropriate to set specific permitting procedures suited to the sector, mindful of the need to balance the administrative permitting procedures with public information and participation and compliance requirements.
- (5) The implementation of this Directive showed divergent interpretations across Member States concerning the installations for the manufacturing of ceramic products by firings, in particular as regards whether one or both of the following criteria, production capacity and kiln capacity, need to be applied. With a view to provide for a level playing field throughout the European Union, such installations are included within the scope of the Directive when whichever of the two criteria is satisfied.
- (6) The extraction of industrial and metallic minerals has a significant impact on the environment and it is appropriate to include these activities in the scope of this Directive. As the environmental impact of the concerned installations does not only depend on the extraction capacity but also on the minerals extracted, the extraction and treatment modalities, no capacity threshold should be used.
- (7) It is also necessary to clarify the relationship between this Directive and Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries. Where the activities of extraction and treatment of certain non-energy minerals fall also under the scope of Directive 2006/21/EC, BAT conclusions established pursuant to Article 13(5) IED shall constitute BAT as referred to in Directive 2006/21/EC, and such BAT conclusions shall furthermore apply in complement to any other relevant provisions of Directive 2006/21/EC.

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52 COM(2021) 82 final

53 COM/2020/380 final

54 COM/2020/381 final

55 See [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12567-Sustainable-products-initiative_en)

- (8) An important increase in the number of large-scale installations for the production of batteries for electric vehicles will likely take place within the European Union by 2040, increasing the EU's share of the global battery production. Whilst several of the activities of the batteries value chain are already regulated by this Directive, adding as well in the scope of this instrument large installations undertaking the manufacturing of batteries ensures that all stages of the life-cycle of batteries are covered by the Directive's requirements, aiming at a more sustainable growth of this industrial sector. This, together with the actions undertaken pursuant to the Commission's proposal for a Regulation of the European Parliament and the Council concerning batteries and waste batteries<sup>56</sup>, aims to improve in a holistic way the sustainability of batteries and to minimise their impact on the environment throughout their entire life cycle.
- (9) Although landfills are included within the scope of this Directive, no BAT conclusions exist for landfills owing to the coverage of this activity under Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste<sup>57</sup>, pursuant to which its requirements are deemed to constitute BAT. Given technical development and innovation that has taken place since the adoption of Council Directive 1999/31/EC, more effective techniques for protecting human health and the environment are now available. The adoption of BAT conclusions would enable addressing the key environmental issues related to the operation of waste landfills, including significant emissions of methane. It is therefore appropriate to amend Council Directive 1999/31/EC, so as to allow the adoption of BAT conclusions on landfills under this Directive.
- (10) The evaluation of this Directive concluded on the need to strengthen its links with Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency (ECHA)<sup>58</sup>. In order to develop synergies between the work carried out by ECHA on chemicals and the preparation of BAT reference documents (BREFs) under the IED, ECHA should be given a formal role in the latter process.
- (11) The handling of information qualifying as confidential business information under EU competition law and collected from industry in the context of the exchange of information organised by the Commission for the purpose of drafting, reviewing or updating of BREFs should be specified. Such clarifications will further facilitate the exchange of information supporting the determination of emission levels and environmental performance levels associated with Best Available Techniques, while maintaining the integrity of confidential business information.
- (12) When setting emission limit values for polluting substances, the competent authority should consider all substances, including substances of emerging concern, which may be emitted from the concerned installation and may have a significant impact on the environment or human health. In doing so, the hazard characteristics, quantity and nature of the substances emitted and their potential to pollute any environmental media is to be considered. By listing individual substances in a non-exhaustive way, Annex II

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<sup>56</sup> COM (2020) 798

<sup>57</sup> OJ L 182 16.7.1999, p. 1.

<sup>58</sup> OJ L 396, 30.12.2006, p.1

on the list of polluting substances is not compatible with the holistic approach of this Directive and the need for competent authorities to take into account all relevant polluting substances, including those of emerging concern. This non-exhaustive list of polluting substances should therefore be deleted. Instead, reference should be made to Annex II of Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 establishing a European Pollutant Release and Transfer Register<sup>59</sup>, as being amended.

- (13) The BAT conclusions, where relevant, are the reference to select the substances for which emission limit values are set, although the competent authority may decide to select additional substances.
- (14) To enhance the contribution of this Directive to the protection of human health and the environment as a whole, further synergy and coordination with other relevant EU environmental legislation is necessary, at all stages of their implementation. Such coordination requires inter alia that before the granting of a permit under this Directive, all relevant competent authorities who ensure compliance with relevant EU environmental legislation such as on air, nature, water or waste, including where applicable with environmental quality standards; are duly consulted.
- (15) The contribution of this Directive to EU resource efficiency and circular economy legislation should be made more effective. This requires the establishment in permits, whenever possible, of mandatory environmental performance limit values on consumption and resource efficiency levels, including on use of water, energy and recycled materials, based on the best available techniques associated environmental performance levels (BAT-AEPLs) set out in Decisions on BAT conclusions.
- (16) With a view to continuously improve the environmental performance and safety of the installation, including by preventing waste generation, optimising resource use and water reuse, and preventing or reducing risks associated with the use of hazardous substances, the operator should establish and implement an environmental management system (EMS) in accordance with relevant BAT conclusions, and should make it available to the public. Consistent with the EU's chemicals strategy for sustainability towards a toxic-free environment<sup>60</sup>, the EMS should also cover the management of risks related of the use of the hazardous substances and an analysis of the possible substitution of hazardous substances by safer alternatives. The voluntary participation in a Community eco-management and audit scheme (EMAS<sup>61</sup>) can contribute to the EMS.
- (17) It is necessary to specify further the conditions under which the competent authority, when setting emission limit values applicable to pollutant releases to water in an IED permit, may take account of the downstream treatment processes in a waste water treatment plant, in order to ensure that such releases do not lead to an increased load of

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<sup>59</sup> OJ L 33, 4.2.2006, p. 1–17.

<sup>60</sup> COM(2020) 667 final.

<sup>61</sup> Regulation (EC) No 1221/2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS); OJ L 342, 22.12.2009, p. 1–45

pollutants in receiving waters when compared to a situation where the IED installation applies BAT and meets BAT-AELs for direct releases.

- (18) Providing a high level of protection of human health and the environment as a whole requires inter alia the establishment in permits of emission limit values (ELVs) at a level that ensures compliance with the applicable BAT-AELs set out in BAT conclusions. The achievement of this objective has been jeopardized by a practice consisting in setting ELVs on the basis of the laxest end of the range of BAT-AELs without considering the specific ability of the operator to achieve stricter emission reductions through the application of BAT. It is therefore necessary to specify that competent authorities should set the strictest possible ELVs in permits, unless the operator demonstrates that applying BAT as described in BAT conclusions only allows meeting less strict emission limit values.
- (19) With a view to contributing to prevent or minimise the emission of pollutants by installations within the scope of this Directive, and level the playing field across the EU, it is necessary to better frame the conditions under which derogations to emissions limit values can be granted, consistent with general principles to be set in an annex to this Directive. These general principles should be complemented by a standardised methodology for assessing the disproportionality between costs of implementation of BAT conclusions and the potential environmental benefits, to be adopted in an implementing act. Such derogations should not be granted where they may put at risk compliance with environmental quality standards.
- (20) Environmental quality standards refer to all the requirements set out in Union law, such as EU legislation on air or water; and which must be fulfilled at a given time by a given environment or particular part thereof. Where stricter conditions than those achievable by the use of the BAT by an installation within the scope of this Directive are necessary to ensure compliance with environmental quality standards, specific additional measures should be included in the permit.
- (21) Permit conditions should be regularly reviewed and, where necessary, updated by the competent authority to ensure compliance with relevant legislation. Such review or update should also take place where it is necessary for the installation to comply with an environmental quality standard, including in case of a new or revised environmental quality standard; or where the status of the receiving environment requires a revision of the permit in order to achieve compliance with plans and programmes set under EU legislation, such as the river basin management plans under the Water Framework Directive.
- (22) The evaluation of this Directive concluded that there was some discrepancy in compliance assessment approaches for installations covered by Chapter II. In order to achieve a high level of protection of the environment as a whole, ensure a consistent implementation of EU law and a level-playing field throughout the European Union, while minimizing the administrative burden on businesses and public authorities, the Commission should set common rules for assessing compliance with emission limit values and validation of measured levels for both air and water emissions based on BAT. These compliance assessment rules will take precedent over rules set in Chapters III and IV on assessment of compliance with emission limit values contained in Annexes V and VI.

- (23) Further clarity is needed regarding conditions set out in Article 42(1) on the gasification and pyrolysis of waste in the case, in particular regarding how to assess whether the cleaned resulted gases or liquids are sufficiently purified to be combusted with stricter controls than those applying to clean commercial fuels.
- (24) Competent authorities should be empowered to suspend the operation of an installation in case where a continued breach of the permit conditions and the non-implementation of the finding of the inspection report pose or risk causing a danger to human health or a significant adverse effect upon the environment.
- (25) With a view to further strengthen public access to environmental information, it is necessary to clarify that permits for installations granted pursuant to this Directive shall be made available to the public on the internet, free of charge and without restricting access to registered users. A uniform summary of permits shall also be made available to the public under the same conditions.
- (26) Parties to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, at their seventh Meeting session, endorsed the Convention's Compliance Committee's findings in case ACCC/C/2014/121, according to which, by putting in place a legal framework that does not envisage any possibility for public participation in relation to reconsiderations and updates under Article 21 (3), (4) and (5)(b) and (c) of the Industrial Emissions Directive, the European Union fails to comply with article 6 (10) of the Convention. These findings have been endorsed by the EU and its Member States, and with a view to reaching compliance with the Aarhus Convention, it is necessary to Article 24(1) IED is modified to add that the public concerned are given early and effective opportunities to participate in the granting or updating of permit conditions by the competent authority also in situations enumerated in Article 21(3) (decisions on BAT conclusions), (4) (where developments in the best available techniques allow for the significant reduction of emissions); (5)(b) (the operational safety requires other techniques to be used); and (5)(c) IED (where it is necessary to comply with an environmental quality standard in accordance with Art. 18).
- (27) As clarified by case-law of the Court of Justice of the EU<sup>62</sup>, Member States may not restrict legal standing to challenge a decision of a public authority to those members of the public concerned who participated in the preceding administrative procedure to adopt that decision.
- (28) As also clarified by case-law of the Court of Justice of the EU<sup>63</sup>, access to justice in environmental matters and effective remedies include that members of the public concerned should have the right to ask the court or an competent independent and impartial body to order interim measures such as to prevent a given pollution, including, where necessary, through the temporary suspension of the disputed permit.
- (29) The impact of pollution, including when caused by incidents or accidents, may extend beyond the national territory of a Member State. In such cases, without prejudice to Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012

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62 Case C-826/18, paragraphs 58 and 59

63 Case C-416/10 Križan, paragraph 109

on the control of major-accident hazards involving dangerous substances<sup>64</sup>, achieving the objectives of the Directive requires prompt information and close coordination between the competent authorities of the Member States which are or may be affected by such events, with a view to limiting the consequences on human health and the environment and to prevent further possible incidents or accidents.

- (30) Moreover, such transboundary cooperation shall also take place prior to the granting of permits where more than one Member State may be affected by the operation of an installation, and should include prior information and consultation of the concerned public and competent authorities.
- (31) As provided in its Article 7, this Directive should be implemented in synergy with Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage<sup>65</sup>. With a view to improving a consistent interpretation and implementation throughout the Union, the Commission adopted the following 'Commission Notice: Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage 2021/C 118/0166.
- (32) The evaluation of this Directive found that it is not dynamic enough and does not sufficiently support the deployment of innovative processes and technologies, whereas it should foster the transformation of European industry. It is therefore appropriate for the Directive to facilitate the testing and deployment of emerging techniques with improved environmental performance, as well as to set up a dedicated centre to support innovation by collecting and analysing information on innovative techniques, including emerging techniques relevant to activities within the scope of this Directive; and characterise their state level of development (technology readiness level) and their environmental performance. This will also inform the work programme for exchange of information on drawing up, reviewing and updating BAT reference documents.
- (33) Besides, operators should be required to produce transformation plans by 30 June 2030 for consideration in the context of permit reviews, as a contribution towards achieving EU objectives on a clean, circular and climate neutral economy.
- (34) In order to ensure the effective implementation and enforcement of this Directive, it is necessary to specify the minimum content of effective, proportionate and dissuasive penalties. Member States should also adopt compliance assurance measures to prevent and detect the infringements to this Directive. They should take into account Directive 2008/99/EC on the protection of the environment through criminal law where a detected infringement constitutes an offence within the scope of that Directive.
- (35) Where damage to health has occurred, fully or partially as a result of a breach of national measures adopted pursuant to this Directive, Member States should ensure that the public affected is able to claim and obtain compensation for that damage from the relevant competent authorities and, where identified, the natural or legal persons responsible for the infringement.

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<sup>64</sup> OJ L 197, 24.7.2012, p. 1

<sup>65</sup> OJ L 143, 30.4.2004, p. 56

<sup>66</sup> OJ C 118, 7.4.2021, p. 1

- (36) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers<sup>67</sup>.
- (37) In order to ensure that this Directive continues meeting its objectives to prevent or reduce pollutants emissions and achieve a high level of protection of human health and the environment, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of adding an industrial or agricultural activity Annex I or Annex I *bis*. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (38) Innovative techniques coming on the market are expected to increasingly reduce both emissions of pollutants and of greenhouse gases from installations within the scope of both this Directive and Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community<sup>68</sup>. Whilst this will allow building further synergies between these two instruments, it may have impacts on their functioning, including on the carbon market. Directive 2003/87/EC contains in this regard a provision to review the effectiveness of synergies with this Directive, and calling for environmental and climate relevant permits to be coordinated to ensure efficient and speedier execution of measures needed to comply with EU climate and energy objectives. The report reviewing the implementation of this Directive that the Commission will submit to the European Parliament and to the Council by 2028 and every five-years thereafter, will take into account the dynamics of innovation in this regard and the review referred to in Article 8 of Directive 2003/87/EC.
- (39) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents<sup>69</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

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<sup>67</sup> OJ L 55, 28.2.2011, p. 13

<sup>68</sup> OJ L 275, 25.10.2003, p. 32

<sup>69</sup> OJ C 369, 17.12.2011, p. 14

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

**Amendments to Directive 2010/75/EU and to Directive 1999/31/EC**

**I- Directive 2010/75/EU is amended as follows:**

**(1) Article 1 is amended as follows:**

In the second paragraph, the words ‘and of human health’ are added after ‘the environment taken as a whole’.

**(2) Article 2 is amended as follows:**

Paragraph 1 is replaced by the following:

‘1. This Directive shall apply to the industrial activities giving rise to pollution referred to in Chapters II to VI *bis*’.

**(3) Article 3 is amended as follows:**

- (i) in paragraph (3), the words ‘or in Annex I *bis*’ are added after ‘Annex I’;
- (ii) in paragraph (12), the following words are added: ‘the environmental performance levels associated with the best available techniques, the minimum content of an environmental management system including benchmarks associated with the best available techniques,’ after ‘the emission levels associated with the best available techniques;’
- (iii) a new paragraph (3)13 *bis* is added, as follows:

‘Article 3(13) *bis*: ‘environmental performance levels associated with the best available techniques’ (BAT AEPLs) means the range of environmental performance levels obtained under normal operating conditions using a best available technique or a combination of best available techniques, as described in BAT conclusions; other than emission levels. Environmental performance levels associated with the best available techniques may include consumption levels, resource efficiency levels and reuse levels, covering materials, water and energy resources, and waste; or other levels obtained under specified reference conditions;’
- (iv) a new paragraph (3)13 *ter* is added, as follows:

‘Article 3(13) *ter*: ‘benchmarks’ means the indicative range of environmental performance levels associated with best available techniques, other than emission levels, that shall be taken into account in the operator’s environmental management system. Benchmarks may include consumption levels, resource efficiency levels and reuse levels, covering materials, water and energy resources, and waste or other levels obtained under specified reference conditions;’

- (v) In paragraph 3(17) the words ‘environmental protection’ are replaced by the words ‘the protection of human health or the environment (including, but not limited to, health, environmental, or consumer organisations)’.
- (vi) a new paragraph (23) *bis* is added as follows:
 

“pigs’ means pigs as defined in Article 2 of Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs; including production pigs (over 30kg), sows, and / or piglets;”;
- (vii) a new paragraph (23) *ter* is added as follows:
 

“cattle’ means domestic animals of the species *Bos taurus*.’
- (viii) a new paragraph (23) *quater* is added as follows:
 

‘Number of Livestock unit (LSU)’ means the conversion rates, with reference to actual production within the calendar year, in Annex II of Commission Implementing Regulation (EU) No 808/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)<sup>70</sup>; the livestock units for animals not covered explicitly by this Regulation should be based on scientific evidence e.g. broilers 0.007 LSU, ostriches 0.350 LSU.’
- (ix) a new paragraph (48) is added as follows:
 

‘Industrial minerals’ means minerals used in industry for the production of semi-finished or finished products, with the exception of metalliferous ores (metalliferous ores are ores yielding metals or metallic substances). This group of minerals excludes energy minerals, construction minerals and precious stones.
- (x) a new paragraph (49) is added as follows:
 

“emission levels associated with emerging techniques’ (ET-AELs) means the range of emission levels obtained under normal operating conditions using an emerging technique or a combination of emerging techniques, as described in BAT conclusions, expressed as an average over a given period of time, under specified reference conditions;”
- (xi) a new paragraph (50) is added as follows:
 

‘environmental performance levels associated with emerging techniques” (ET-AEPLs) means the range of environmental performance levels obtained under normal operating conditions using an emerging technique or a combination of emerging techniques, as described in BAT conclusions; other than emission levels.
- (xii) a new paragraph (51) is added as follows:
 

‘compliance assurance’ means mechanisms for securing compliance using three categories of intervention: compliance promotion; compliance monitoring; follow-up and enforcement.

**(4) Article 4 is amended as follows:**

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<sup>70</sup> OJ L, 31.7.2014, p.18

At the end of the sentence of the second subparagraph of Article 4(1), after the words ‘Chapter V’, the following words are added: ‘or by Chapter VI *bis*’.

**(5) Article 5 is amended as follows:**

**A new paragraph 4 is added:**

- ‘4. Member States shall ensure that permits for installations granted pursuant to this Directive shall be made available to the public on the internet, free of charge and without restricting access to registered users.

In addition, a uniform summary of permits shall be made available to the public. The uniform permit summary shall include at least an overview of the main requirements listed in Article 14(1), emission limit values and environmental performance limits values, any derogations granted, applicable BAT conclusions, as well as provisions for permit reconsideration or reviews.

A template of the uniform permit summary shall be adopted in accordance with the regulatory procedure referred to in Article 75(2).’

**(6) Article 7 is amended as follows:**

- (i) In the first paragraph, the words ‘or human health’ are added after ‘significantly affecting the environment’;

**(ii) A new paragraph is added after subparagraph (c)**

‘In the event of any incident or accident significantly affecting the environment or human health of another Member State, the Member State in whose territory the accident or incident occurred shall ensure that the competent authority of the other Member State is immediately informed. Transboundary and multidisciplinary cooperation between the affected Member States shall aim at limiting the consequences on the environment and human health and to prevent further possible incidents or accidents.’

**(7) Article 8 is amended as follows:**

- (i) The last sentence of the second subparagraph of Article 8(2) is complemented by the following words, after ‘suspended’:

‘without any delay.’

- (ii) A new paragraph (3) is added after paragraph (2), as follows:

‘3. Where the breach of the permit conditions continues posing or risking to cause a danger to human health or a significant adverse effect upon the environment and where the relevant findings of the inspection report referred to in Article 23(6) aimed at restoring compliance have not been implemented, the operation of the installation, combustion plant, waste incineration plant, waste co-incineration plant or relevant part thereof may be suspended by the competent authority until compliance is restored in accordance with points (b) and (c) of the first subparagraph.’

**(8) Article 9 is amended as follows:**

**Paragraph (2) of Article 9 is deleted.**

**(9) Article 11 is amended as follows:**

(i) An additional point (*f bis*) is added after point (f), which reads as follows:

‘(*f bis*): material resources and water are used efficiently, 'including through re-use;’

(ii) An additional point (*f ter*) is added after point (*f bis*), which reads as follows:

‘(*f ter*): the overall life-cycle environmental performance of the supply chain is taken into account as appropriate;’

(iii) An additional point (*f quater*) is added after point (*f ter*), which reads as follows:

‘(*f quater*): An environmental management system (EMS) is implemented ’

**(10) Article 12 is amended as follows:**

In Article 12(2), the reference to Directive 85/337/EEC is replaced by a reference to Directive 2011/92/EU; and the reference to Directive 96/82/EC is replaced by a reference to Directive 2012/18/EU.

**(11) Article 13 is amended as follows:**

i) in paragraph 1, the words ‘European Chemicals Agency (ECHA)’ are added after the words ‘environmental protection’

ii) the following subparagraph is added at the end of paragraph 2:

‘Information considered as confidential business information under EU competition law shall not be shared with representatives of undertakings and trade associations having an economic interest in the concerned industrial activities and related markets. Such information shall be shared with all civil servants representing Member States, EU agencies and the Commission and with the representatives of non-government organisations having signed a confidentiality agreement. Those civil servants and non-government organisations representatives shall not share any confidential business information with any representative of undertakings or trade associations having an economic interest in the concerned industrial activities and related markets.’

**(12) Article 14 is amended as follows:**

(i) In paragraph 1, the following sentence is added after the first sentence:

‘To that effect, Member States shall ensure that permits are granted further to consultation of all relevant authorities who ensure compliance with EU environmental legislation, including where applicable with environmental quality standards.’

(ii) In subparagraph 1(a), the words ‘of Regulation (EC) No 166/2006’ are inserted after ‘Annex II’;

- (iii) In Article 14(1), the following subparagraph (a) *bis* is added after subparagraph (a), as follows:  
‘(a) *bis*: environmental performance limit values;’
- (iv) In Article 14(1)(b), the words 'and surface water' are added after 'groundwater';
- (v) In Article 14(1), the following subparagraph (b) *bis* is added after subparagraph (b), as follows:  
‘(b) *bis*: appropriate requirements for an environmental management system as laid down in Article 14 *bis*;’
- (vi) In Article 14(1), the following subparagraph (b) *ter* is added after subparagraph (b), as follows:  
‘(b) *ter*; suitable monitoring requirements of consumption of resources such as energy, water, and raw materials;’
- (vii) In Article 14(3), a new subparagraph is added as follows:  
‘Where activity 3.6 of Annex I falls also under the scope of Directive 2006/21/EC, BAT conclusions established pursuant to Article 13(5) of this Directive shall constitute BAT as referred to in Article 3(18) and 21(3) of Directive 2006/21/EC. Such BAT conclusions shall furthermore apply in complement to any other relevant provisions of Directive 2006/21/EC.’

**(13) A new Article 14 *bis* is inserted after Article 14, as follows:**

‘Article 14 *bis*

**Environmental management system**

An environmental management system (EMS) in accordance with relevant BAT conclusions shall be prepared and implemented by the operator for each installation within the scope of this chapter.

The EMS shall include at least the following:

- (i) the development of an environmental policy aimed at the continuous improvement of the environmental performance and safety of the installation, including measures aimed at preventing the generation of waste and optimising resource use and water reuse, and preventing or reducing risks associated with the use of hazardous substances; the periodic review of the EMS and its continuing suitability, adequacy and effectiveness by senior management;
- (ii) objectives and performance indicators in relation to significant environmental aspects including safeguarding compliance with applicable legal requirements, which shall take into account benchmarks set in relevant BAT conclusions, and take into account the overall life-cycle environmental performance of the supply chain;
- (iii) for installations covered by the obligation to conduct an energy audit under Directive 2012/27/EU (the energy efficiency Directive - EED), inclusion of the

results of the audit pursuant to Article 11 of that Directive and of the measures to implement its recommendations;

- (iv) a chemicals inventory of the hazardous substances present in the installation on their own, as constituents of other substances or as part of mixtures, a risk assessment of the impact of their use on human health and the environment and an analysis of the possible substitution of the substances of concern by safer alternatives;
- (v) planning and implementing the necessary procedures and actions (including corrective and preventive actions where needed), to achieve the environmental objectives and avoid environmental and human health risks.

Annual reporting to the competent authority on progress towards fulfilment of the environmental policy objectives shall be included in the reporting under Art 14(1) (b) *ter* and (d).

The environmental management system of an installation and its reports shall be made available to the public on the internet, free of charge and without restricting access to registered users, subject to the restrictions laid down in Article 4(1) and 4(2) of Directive 2003/4/EC.

**(14) Article 15 is amended as follows:**

**(i) in paragraph (1), the second subparagraph is replaced by the following**

‘With regard to indirect releases of polluting substances into water, the effect of a waste water treatment plant outside the installation may be taken into account when determining the emission limit values of the installation concerned, provided that the operator assesses that all of the following requirements are fulfilled:

- a) The released polluting substances do not impede the operation of the waste water treatment plant;
- b) The released polluting substances do not harm the health of the staff working in collecting systems and waste water treatment plants;
- c) The waste water treatment plant is designed and equipped to abate the released polluting substances;
- d) The overall load of the concerned polluting substances eventually released to water is not increased compared to the situation where the emissions from the installation concerned remained compliant with emission limit values set for direct releases in accordance with paragraph (3), without prejudice to Article 18.

The competent authority shall document in an annex to the permit conditions the reasons for the application of the second subparagraph including the result of the assessment and the justification for the conditions imposed.

The operator shall provide an updated assessment where the conditions for fulfilling requirements (a) to (d) change.

**(ii) the text of paragraph (3) is replaced by the following**

‘3. The competent authority shall set the strictest possible emission limit values that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques (BAT-AELs) as laid down in the decisions on BAT conclusions referred to in Article 13(5), at a level consistent with

the performance of the BAT applied by the installation. In particular when BAT-AELs are expressed as a range, emission limit values shall not exceed the strictest end of the range, unless the operator demonstrates that applying BAT as described in BAT conclusions only allows meeting less strict emission limit values within the range of BAT-AELs. This shall be set through either of the following:

(iii) The first sentence of point (a) of paragraph (3) is amended as follows:

(a) setting emission limit values expressed for the same or shorter periods of time and under the same reference conditions as those emission levels associated with the best available techniques;’.

(iv) **A new third subparagraph is added in Article 15(3), as follows:**

‘The competent authority shall set environmental performance limit values that ensure that, under normal operating conditions, such performance limits do not exceed the environmental performance levels associated with the best available techniques as laid down in the decisions on BAT conclusions referred to in Article 13(5).’

(v) **Paragraph (4) is amended as follows**

a) The fourth subparagraph is complemented with the following additional sentences:

‘Derogations provided in accordance with paragraph 4 shall respect the general principles set in Annex II. Further requirements to implement a standardised methodology for assessing the disproportionality between costs of implementation of BAT conclusions and the potential environmental benefits under this Article shall be adopted in accordance with the regulatory procedure referred to in Article 75(2).’.

b) At the end of the fourth subparagraph, the following sentence is added:

‘Derogations shall not be granted where they may put at risk compliance with environmental quality standards referred to in Articles 3(6) and 18.’

c) The fifth subparagraph is deleted;

d) The sixth subparagraph is amended and reads as follows:

‘The competent authority shall re-assess whether the application of the first subparagraph is justified every 4 years or as part of each reconsideration of the permit conditions pursuant to Article 21; whichever is the shortest.’

(vi) **Paragraph (5) is amended as follows and moved to Chapter II *bis* as paragraph 1 of Article 27b.**

The 9 months duration for the total period of time is replaced by a 24 months duration. The revised text reads as follows:

‘Without prejudice to Article 18, the competent authority may grant temporary derogations from the requirements of paragraphs 2 and 3 of Article 15 and from Article 11(a) and (b) for the testing of emerging techniques for a total period of time not exceeding 24 months.’

**(15) A new Article 15 bis is introduced, which reads as follows:**

Article 15 bis

**Compliance assessment**

1. For the purpose of assessing compliance with emission limit values in accordance with Article 14(1)(h), the correction made to measurements to determine the validated average emission values shall not exceed the measurement uncertainty of the measuring method, as established by recognised technical and scientific methods.
2. The rules to identify relevant methods for assessing compliance with emission limit values set in the permit for emissions to air and water will be adopted in accordance with the regulatory procedure referred to in Article 75(2), not later than two years after [*date of entry into force of IED revision*].  
  
The rules shall address as a minimum the determination of validated average emission values, including how to take into account measurement uncertainty and the frequency of exceedances of emission limit values.
3. Where an installation falling within the scope of this chapter also falls within the scope of Chapter III or IV and compliance with emission limit values set in accordance with this chapter is demonstrated pursuant to paragraphs 1 and 2, the installation shall be deemed to comply with the emission limit values set pursuant to Chapter III or IV for the pollutants concerned.

**(16) Article 16 is amended as follows:**

**A new paragraph 3 is added after paragraph 2:**

‘3. Where a derogation referred to in Article 15(4) has been granted, the operator shall monitor the concentration of the pollutants concerned by the derogation which are present in the receiving environment, and the resulting information shall be transmitted to the competent authority. Where relevant, monitoring and measuring methods for each concerned pollutant set in relevant EU legislation shall also be used for the purpose of this Article.’.

**(17) Article 18 is amended as follows:**

**The current text is replaced by the following:**

‘Where an environmental quality standard requires stricter conditions than those achievable by the use of the best available techniques, additional measures shall be included in the permit, with a view to reducing the specific contribution of the installation to the pollution occurring in the relevant area, such as setting stricter emission limit values, using emerging techniques, limiting the operation or capacity of the installation; so that compliance with relevant environmental quality standards is not jeopardized.

When the first paragraph applies, regular monitoring of the concentration of relevant pollutants in the receiving environment resulting from operations of the installations

concerned is required, and results shall be transmitted to the competent authority. Where set in other relevant EU legislation, monitoring and measurement methods for each concerned pollutant shall be used for the purpose of this Article.’

**(18) Article 21 is modified as follows:**

Point (c) of paragraph 5 is replaced by the following:

‘(c) where it is necessary to comply with an environmental quality standard in accordance with Article 18, including in case of a new or revised quality standard or where the status of the receiving environment requires a revision of the permit in order to achieve compliance with plans and programmes set under EU legislation.’

**(19) Article 24 is amended as follows:**

**(i) Paragraph 1(d) is modified as follows**

‘(d) the updating of a permit or permit conditions for an installation in accordance with Article 21(5)(a), (b), (c).’.

**(ii) The following subparagraph 1(e) is added**

‘(e) the update of permits in accordance with Article 21(3) or Article 21(4).’.

**(iii) In subparagraph 2(c), the following words are added after ‘taken’:**

‘including consultations held pursuant to Article 26;’

**(iv) The first sentence of paragraph 3 is amended as follows:**

‘3. The competent authority shall also make available to the public, including systematically via the Internet, free of charge and without restricting access to registered users.’

**(v) The text of of paragraph 3 is complemented with an additional subparagraph (c) as follows:**

‘(c) the results of monitoring referred to in Article 16(3) as well as those referred to in the second paragraph of Article 18.’.

**(20) Article 25 is amended as follows:**

**(i) The following text is added at the end of paragraph (1), after the two subparagraphs (a) and (b):**

‘Standing shall not be made conditional on the role the public concerned may or may not have played during a participatory phase of the decision-making procedures under this Directive.

Any such procedure shall be fair, equitable, timely and not prohibitively expensive, and shall provide for adequate and effective redress mechanisms including injunctive relief as appropriate’.

**(21) Article 26 is amended as follows:**

Paragraphs 1 and 2 of Article 26 are replaced by the following:

- ‘1. Where a Member State is aware that the operation of an installation may have significant negative effects on the environment of another Member State, or where a Member State which may be significantly affected so requests, the Member State in whose territory the application for a permit pursuant to Article 4 or Article 20(2) was submitted shall forward to the other Member State any information required to be given or made available pursuant to Annex IV at the same time as it makes it available to the public. On the basis of such information, consultations shall be carried out between the two Member States, which shall ensure that the comments from the Member State that may be significantly affected are provided before the competent authority reaches its decision. Should no comments be provided by the Member State which may be significantly affected within a period which cannot exceed the consultation period of the public concerned, the competent authority shall proceed with the permitting procedure.
2. Member States shall ensure that in the cases referred to in paragraph 1, the applications are also made available to the public of the Member State which may be affected for the same period of time as provided in the Member State where the application for a permit has been made, so that it will have the right to comment on them before the competent authority reaches its decision.’

**(22) After Article 26 and before Chapter III, a new chapter is inserted, comprising Articles 27 to 27d, and titled as follows:**

‘CHAPTER II bis  
**Promoting innovation**’

**(23) Article 27, now part of Chapter II bis, is amended as follows:**

**Paragraph 2 is deleted, and the remaining text of the article therefore reads as follows:**

- (40) ‘Member States shall, where appropriate, encourage the development and application of emerging techniques, in particular for those emerging techniques identified in BAT conclusions, BAT reference documents or the findings of the innovation centre for industrial transformation and emissions (INCITE).’.

**(24) A new Article 27a is inserted, which reads as follows:**

‘Article 27a

**Innovation centre for industrial transformation and emissions**

The Commission shall establish and operate an Innovation Centre for Industrial Transformation and Emissions (INCITE).

The centre shall collect and analyse information on innovative techniques, including emerging techniques relevant to activities within the scope of this Directive; and

characterise their level of development and their environmental performance. The Commission shall take into account the findings of the centre when preparing the work programme for exchange of information referred to in Article 13(3)(b) and when drawing up, reviewing and updating BAT reference documents referred to in Article 13(1). *(add ref to TRLs in a recital)*

Representatives of Member States, relevant public institutions, research institutes, the industries concerned including technology providers, non-governmental organisations promoting environmental protection and the Commission will contribute to the work of the centre.

The centre shall make its work public, subject to the restrictions laid down in Article 4(1) and (2) of Directive 2003/4/EC.

The rules concerning the establishment, prerogatives and functioning of the centre will be adopted in accordance with the regulatory procedure referred to in Article 75(2).’

**(25) A new Article 27b is inserted, which reads as follows:**

‘Article 27b

**Testing of emerging techniques**

Without prejudice to Article 18, the competent authority may grant temporary derogations from the requirements of paragraphs 2 and 3 of Article 15 and from Article 11(a) and (b) for the testing of emerging techniques for a total period of time not exceeding 24 months.’

**(26) A new Article 27c is inserted, which reads as follows:**

‘Article 27c

**Emission levels associated with emerging techniques**

By way of derogation from Article 21(3), the competent authority may set emission limit values that ensure that, within 6 years of publication of decisions on BAT conclusions in accordance with Article 13(5) relating to the main activity of an installation, under normal operating conditions, emissions shall not exceed levels associated with emerging techniques (ET-AELs) as laid down in the decisions on BAT conclusions referred to in Article 13(5).’

**(27) A new Article 27d is inserted, which reads as follows:**

‘Article 27d

**Transformation towards a clean, circular and climate neutral industry**

1. For each installation within the scope of Chapters II, III, IV, V and VI, the operator shall elaborate by 30 June 2030 a transformation plan on his installation’s ability to operate pursuant to clean, circular and climate neutral principles.

2. Member States shall take the necessary measures to ensure that by 31 December 2031, the competent authority assesses the conformity of the transformation plan with the requirements set in the Commission implementing decision referred to in paragraph 3. The competent authority shall document in an annex to the permit conditions the transformation plan submitted by the operator and the result of the competent authority's assessment.
3. The structure and minimum content of transformation plans will be set out in a Commission implementing decision adopted by 30 June 2028 in accordance with the regulatory procedure referred to in Article 75(2).'

**(28) Article 42 is amended as follows:**

**The second subparagraph of Paragraph 1 is replaced by the following:**

'This Chapter shall not apply to gasification or pyrolysis plants, if the gases or liquids resulting from this thermal treatment of waste are treated prior to their incineration to such an extent that:

- a) the incineration does not cause emissions higher than the combustion of the least polluting fuels available on the market that could be combusted in the installation;
- b) for emissions other than nitrogen oxides, sulphur oxides and dust, the incineration does not cause emissions higher than emissions from incineration or co-incineration of waste.'

**(29) A new Chapter VI *bis* is inserted after Chapter VI and before Chapter VII, as follows:**

*'Chapter VI bis*

**Special provisions for rearing of poultry, pigs and cattle'**

**(30) New Articles are inserted after the title of Chapter VI *bis*, which read as follows:**

*'Article 70 bis*

**Scope**

This Chapter shall apply to the activities set out in Annex I *bis* and reaching the capacity thresholds set out in that Annex.

*Article 70 ter*

**Aggregation rule**

If the installations are located close to each other and if their operator is the same or under the control of operators who are engaged in an economic or legal relationship, then the installations concerned have to be considered as a single unit for the purpose of calculating the capacity threshold referred to in Article 70 *bis*.

## Article 70 quater

### Permits

1. Member States shall take the necessary measures to ensure that no installation within the scope of this Chapter is operated without a permit; and that its operation complies with the implementing rules referred to in Article 70 *deciēs*.

Without prejudice to the obligation to hold a permit, Member States may include requirements for certain categories of installations within the scope of this Chapter in general binding rules referred to in Article 6.

Member States shall specify the procedure for granting a permit in respect of installations within the scope of this Chapter. Those procedures shall include at least the information listed in paragraph 2.

2. Applications for permits shall include at least a description of the following requirements, proportionate with the likely impact of the installation on the environment:
  - (a) the installation and its activities; animal type; capacity;
  - (b) the sources of emissions from the installation;
  - (c) the nature and quantities of foreseeable emissions from the installation into each medium.
3. Applications shall also include a non-technical summary of the information referred to in paragraph 2.
4. Member States shall take necessary measures to ensure that the operator informs the competent authority, without undue delay, of any planned substantial change to the installations within the scope of this Chapter which may have consequences on the environment. Where appropriate, the competent authority shall reconsider and update the permit.

## Article 70 quinquies

### Obligations of the operator

1. Member States shall ensure that the operator carries out monitoring of emissions and of associated environmental performance levels in accordance with, as a minimum, implementing rules referred to in Article 70 *deciēs*.

The operator shall keep a record of and process all monitoring results, for a period of at least six years, in such a way as to enable the verification of compliance with the emission limit values and environmental performance limit values set out in implementing rules referred to in Article 70 *deciēs*.

2. In the event of non-compliance with the emission limit values and environmental performance limit values set out in implementing rules referred to in Article 70 *deciēs*, the operator shall take the measures necessary to ensure that compliance is restored within the shortest possible time, without prejudice to the measures required under Article 70 *septiēs*.
3. The operator shall ensure that any land spreading of waste or animal by-products (or other residues) generated by the installation is undertaken in accordance with the best available techniques, including where specified in implementing rules

referred to in Article 70 *decies*; and relevant EU legislation; and does not cause significant pollution of the environment.

#### Article 70 *sexies*

##### **Monitoring**

1. Member States shall ensure that suitable monitoring is carried out in accordance with implementing rules referred to in Article 70 *decies*.
2. All monitoring results shall be recorded, processed and presented in such a way as to enable the competent authority to verify compliance with the operating conditions, emission limit values and environmental performance limit values which are included in general binding rules or in the permit.
3. The operator shall, without undue delay, make available the data and information listed in paragraph 2 to the competent authority upon request. The competent authority may make such a request in order to allow the check of compliance with the requirements of implementing rules referred to in Article 70 *decies*. The competent authority shall make such a request if a member of the public requests access to the data or information listed in paragraph 2.

#### Article 70 *septies*

##### **Compliance**

1. Member States shall ensure that valid values for emissions and environmental performance levels monitored in accordance with implementing rules referred to in Article 70 *decies* do not exceed the emission limit values and environmental performance limit values set out in the same document.
2. Member States shall set up an effective compliance monitoring system, based on either environmental inspections or other measures, to check compliance with the requirements of this Chapter.
3. In the event of non-compliance, in addition to the measures taken by the operator under Article 70 *quinqüies*, Member States shall ensure that the competent authority requires the operator to take any measures necessary to ensure that compliance is restored without undue delay.

Where non-compliance causes a significant degradation of local air, water or soil conditions, or pose or risk causing a significant danger to human health, the operation of the installation shall be suspended by the competent authority until compliance is restored.

#### Article 70 *octies*

##### **Public information and participation**

1. Member States shall ensure that the public concerned are given early and effective opportunities to participate in the following procedures:
  - a) preparation of general binding rules on permits for installations within the scope of this Chapter;
  - b) the granting of a permit for a new installation in the scope of this Chapter first permitted and which starts operating after the entry into force of the implementing rules referred to in Article 70 *decis* ;
  - c) the granting of a permit for any substantial change to an existing installation within the scope of this Chapter.
  
2. The competent authority shall make available to the public, including systematically via the Internet free of charge and without restricting access to registered users, the following information:
  - (a) the valid permit ;
  - (b) the results of the consultations held in accordance with paragraph 1;
  - (c) the general binding rules applicable to installations within the scope of this Chapter ;
  - (d) inspection reports.
  
3. Paragraphs 1, 2, and 3 of this Article shall apply subject to the restrictions laid down in Article 4(1) and (2) of Directive 2003/4/EC.

#### *Article 70 novīs*

#### **Access to justice**

1. Member States shall ensure that, in accordance with the relevant national legal system, members of the public concerned have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, acts or omissions subject to this Chapter when one of the following conditions is met:
  - (a) they have a sufficient interest;
  - (b) they maintain the impairment of a right, where administrative procedural law of a Member State requires this as a precondition.
  
2. Member States shall determine at what stage the decisions, acts or omissions may be challenged.

#### *Article 70 decis*

#### **Implementing Rules**

Implementing rules shall be established containing requirements consistent with the use of best available techniques and compliance rules for the activities listed in Annex I *bis*. These rules shall cover at least emission limit values, monitoring requirements, *land spreading practices*, pollution prevention and mitigation practices, and environmental performance limit values.

Those implementing rules shall be adopted in accordance with the regulatory procedure referred to in Article 75(2), not later than two years after [date of entry into force of IED revision]. Operators shall comply with those implementing rules within 24 months.'

**(31) A new Article 72 bis is inserted after Article 72, and reads as follows:**

'Article 72 bis

**Industrial Emissions Portal**

The Commission, assisted by the European Environment Agency, shall establish on the Internet a publicly available 'Industrial Emissions Portal' (IEP), and shall incorporate therein the administrative and thematic information reported by the Member States under this Directive and shall combine this with information reported by Member States under Regulation (EC) 166/2006 as well as any other relevant information available.'

**(32) Article 73 is amended as follows:**

(i) The first subparagraph of paragraph 1 is replaced by the following:

'1. By 30 June 2028 and every 5 years thereafter, the Commission shall submit to the European Parliament and to the Council a report reviewing the implementation of this Directive including in light of the dynamics of innovation and the review referred to in Article 8 of Directive 2003/87/EC.'

(ii) In the second subparagraph of paragraph 1, the reference to a three-year period is replaced by a five-year period.

(iii) Point (a) of Paragraph 1 is amended as follows:

'(a) the impact of the activities concerned on the environment as a whole and on human health; and'

**(33) Article 74 is amended as follows:**

(i) The current text is numbered as paragraph 1.

(ii) New paragraphs 2 and 3 are inserted after paragraph 1, which read as follows:

'2. Where an industrial or agricultural activity meets all the criteria listed under paragraph 3 of this Article, the Commission shall be empowered to adopt a delegated act, in accordance with the procedure set out in Article 76, adding the activity respectively to Annex I or Annex I bis.

3. The criteria which shall be met to add an industrial or agricultural activity respectively to Annex I or Annex I bis are as follows:

a. The activity has or is expected to have an impact on health or the environment, in particular as a consequence of pollutant emissions and use of resources;

- b. There is disparity in the environmental performance of the activity within the EU;
  - c. The activity presents potential for improvement in terms of its environmental impact through the application of best available techniques or innovative techniques;
  - d. An assessment of the environmental, economic and social impacts demonstrates a favourable ratio of societal benefits to economic costs of including the industrial or agricultural activity within the scope of this directive.
4. In preparing a delegated act, the Commission shall:
- a. Carry out appropriate consultation with stakeholders;
  - b. Make public relevant studies and analyses used by the Commission in preparing the delegated act.'

**(34) Article 79 is amended as follows:**

**The text of this Article is replaced by the following:**

‘Article 79

**Penalties**

1. Member States shall lay down rules on penalties applicable to infringements of the national measures adopted pursuant to this Directive. Member States shall take all the necessary measures to ensure that penalties are applied.
2. The penalties provided for must be effective, proportionate and dissuasive.
3. Those penalties shall include, as a minimum, fines proportionate to the turnover of the legal person or to the income of the natural person having committed the breach, calculating the level of such fines in such way as to make sure that they effectively deprive those responsible of the economic benefits derived from their infringements, and gradually increasing the level of such fines for repeated infringements. The amount of such fines shall be at least [[5] to [8]] % of the operator’s annual turnover in the Member State concerned.
4. Member States shall ensure that the penalties established pursuant to this Article give due regard to the following, as applicable:
  - (a) the nature, gravity, and extent of the infringement;
  - (b) the intentional or negligent character of the infringement;
  - (c) the population or the environment affected by the infringement, having in mind the impact of the infringement on the objective of achieving a high level of protection of human health and the environment.
5. Member States shall adopt compliance assurance measures to prevent and detect the infringements referred to in paragraph 1 and to apply the penalties referred to in paragraph 2 in accordance with paragraphs 3 and 4. They shall take into account Directive 2008/99/EC on the protection of the environment through

criminal law where a detected infringement constitutes an offence within the scope of that Directive.

6. Member States shall notify national provisions adopted pursuant to this Chapter to the Commission by [...] (18 months of publication) and shall notify it without delay of any subsequent amendment affecting them.’

**(35) A new Article 79 bis is introduced after Article 79, as follows:**

Article 79 bis

**Compensation**

1. Member States shall ensure that, where damage to health has occurred, fully or partially as a result of a breach of national measures adopted pursuant to this Directive, the public concerned is able to claim and obtain compensation for that damage from the relevant competent authorities and, where identified, the natural or legal persons responsible for the infringement.
2. In accordance with the principle of effectiveness, Member States shall ensure that national rules and procedures relating to claims for compensation are designed and applied in such a way that they do not render practically impossible or excessively difficult the exercise of the Union right to compensation for damage caused by an infringement pursuant to paragraph 1 of this Article.
3. In particular, in the context of a claim for compensation in accordance with paragraph 1 of this Article, supported by evidence from which a causality link may be presumed between the health damage and the infringement pursuant to paragraph 1 of this Article, Member States shall ensure that it shall be for the respondent to prove that the infringement had no material contribution to causing the actual damage.

Member States shall ensure that the limitation periods for bringing actions for compensation are not shorter than 5 years and do not begin to run before the infringement has ceased and the person claiming the compensation knows or can reasonably be expected to know that they suffered damage from an infringement pursuant to paragraph 1 of this Article.

**(36) Article 80 is amended as follows:**

In Paragraph 1, the reference to Annex II is deleted.

**(37) Article 82 is amended as follows:**

**A new paragraph 10 is added, as follows:**

- ‘10. Chapter VI bis shall enter into force at the time of entry into force of the implementing act referred to in Article 71 *noviēs*.’

**II- Directive 1999/31/EC is amended as follows:**

In Article 1, paragraph 2 is deleted.

#### *Article 2*

#### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] (18 months of publication) They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

#### *Article 4*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### *Article 5*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX I

**(1) Annex I to Directive 2010/75/EU is amended as follows:**

- (a) the text under point 1.4 is replaced by the following:  
‘Gasification, or liquefaction or pyrolysis of
- (a) coal;
  - (b) other fuels in installations with a total rated thermal input of 20 MW or more.’.
- (b) in point 2.3., new subparagraphs (a *bis*) and (a *ter*) are added after subparagraph (a) as follows:  
‘(a *bis*) operation of cold-rolling mills with a capacity exceeding 10 tonnes of crude steel per hour;  
(a *ter*) operation of wire drawing with a capacity exceeding 2 tonnes of crude steel per hour;’.
- (c) in point 2.3., subparagraph (b) is replaced by the following:  
‘(b) operation of smitheries with hammers the energy of which exceeds 20 kilojoule per hammer;’.
- (d) in point 2.3., a new subparagraph (b *bis*) is added after subparagraph (b), as follows:  
‘(b *bis*) operation of smitheries with forging presses the force of which exceeds 10 mega-newton (MN) per press;’.
- (e) a new point 2.7 is added, after point 2.6, as follows:  
‘2.7. Manufacture of lithium-ion batteries (including assembling battery cells and battery packs), with a production capacity exceeding 2.5 GWh per year.’.
- (f) the text of point 3.5 is replaced by the following:  
‘3.5. Manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain with:
- (a) a production capacity exceeding 75 tonnes per day; or

- (b) with a kiln capacity exceeding 4 m<sup>3</sup> and with a setting density per kiln exceeding 300 kg/m<sup>3</sup>;
- (g) a new point 3.6. is added after point 3.5, as follows:
- ‘3.6. Extraction and treatment (operations such as comminution, size control, beneficiation and upgrading) of the following non-energy minerals:
- (a) industrial minerals: including but not limited to barite, bentonite, diatomite, feldspar, fluorspar, graphite, gypsum, kaolin, magnesite, perlite, potash, salt, sulphur, talc;
- (b) metalliferous ores: including but not limited to bauxite, chromium, cobalt, copper, gold, iron, lead, lithium, manganese, nickel, palladium, platinum, tin, tungsten, zinc.’
- (h) in point 5.3.(a)(i) and 5.3.(b)(i), the following words and their parenthesis ‘(such as anaerobic digestion)’ are added after ‘biological treatment’.
- (i) point 6.2 is amended and reads as follows:
- ‘6.2. Pre-treatment (operations such as washing, bleaching, mercerisation), or dyeing, or finishing of textile fibres or textiles where the treatment capacity exceeds 10 tonnes per day’.
- (j) in point 6.5, the words ‘animal waste’ are replaced by ‘animal by-products’;

**(2) A new Annex I *bis* is created, as follows:**

**ANNEX I *bis***

**Activities referred to Article 70 *bis***

Rearing of pigs and poultry in installations of 125 livestock units<sup>71</sup> (LSU) or more.

<sup>71</sup> The approximate equivalent in livestock units is based on the conversion rates established in Annex II to Commission Implementing Regulation (EU) No 808/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1305/2013 of the European Parliament and of the Council on support for rural development by the European Agricultural Fund for Rural Development (OJ L 227, 31.07.2014, p.18)

Rearing of cattle in installations of 100 LSU or more.

Mixed rearing of cattle, pigs and poultry in installations of 100 LSU or more.

Mixed rearing of pigs and poultry in installations of 125 LSU or more.

**(3) the content of Annex II ‘List of polluting substances’ is deleted, and replaced by the following:**

## **Annex II**

### **General principles to be complied with when granting a derogation as laid down in Article 15(4)**

Derogations provided in accordance with Article 15(4) shall respect the following general principles:

#### **Justification of derogations**

1. Derogations can only be granted if one or more of the criteria laid down in Article 15(4) (a) and (b) are fulfilled. No other criteria can be considered.
2. When criteria laid down in Article 15(4) (a) and (b) are further elaborated in sub-criteria, these sub-criteria are precise, unambiguous and limited in number.

#### **Costs**

3. Costs referred to in Article 15(4) are costs of complying with the emission levels or environmental performance levels associated with best available techniques and include both capital costs and operating costs. Wider social or economic costs are not included.
4. The evaluation of the costs are quantitative, if possible, and/or supported by a qualitative assessment.
5. Costs are evaluated as follows:
  - a. These are net value costs, deducting any financial benefits from applying best available techniques.
  - b. The cost of accessing financial capital required to finance the technique is incorporated.
  - c. A discount rate is applied to the costs, addressing differences in values over time.

6. The application for derogation clearly identifies the source of costs information and the methods used to calculate costs, including the discount rate mentioned in point 5(c) and the estimation of uncertainties associated to the costs evaluation.
7. Costs evaluated by the operator are assessed by the competent authority, based on information from other sources such as technology providers, expert judgement or data from other plants where the technique was recently installed.

#### **Environmental benefits**

8. Environmental benefits referred to in article 15(4) are environmental benefits of complying with the emission levels or environmental performance levels associated with best available techniques.
9. The evaluation of environmental benefits are quantitative (in monetary terms), if possible, and/or supported by a qualitative assessment. Established pollutant damage costs are used where available.
10. The evaluation of environmental benefits considers a discount rate applied to any monetised benefits, addressing differences in values to society over time.
11. The application for derogation clearly identifies the source of the environmental benefits information and the methods used to calculate the environmental benefits, including the discount rate mentioned in point 10 and the estimation of uncertainties associated to the evaluation of the environmental benefits
12. Environmental benefits evaluated by the operator are assessed by the competent authority, based on expert judgement or on data from other plants where the technique was recently installed.

#### **Disproportionality of costs compared to environmental benefits**

13. Costs and environmental benefits for complying with the emission levels or environmental performance levels associated with best available techniques are compared.
14. The comparison mechanism is pre-established, repeatable and includes the following elements:
  - a. A method to address uncertainties in evaluating costs and environmental benefits
  - b. The definition of the margin by which costs should exceed environmental benefits.



Brussels, XXX  
[...] (2013) XXX draft

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## LEGISLATIVE FINANCIAL STATEMENT

### • **FRAMEWORK OF THE PROPOSAL/INITIATIVE**

#### 1.1. **Title of the proposal/initiative**

- Proposal for a directive of the European Parliament and of the Council on Industrial Emissions Directive amending the Directive 2010/75/EU of the European Parliament and of the Council

#### 1.2. **Policy area(s) concerned**

- Policy area: 09 Natural Resources and Environment
- 09 10 01 - European Chemicals Agency — Activities in the field of legislation on import and export of hazardous chemicals and in relation with the circular economy
- 09 02 02 – LIFE, circular economy and quality of life
- Policy Area: 01 Single Market, innovation and Digital
- 10 01 05 – Direct research

#### 1.3. **The proposal/initiative relates to:**

- **a new action**
- **a new action following a pilot project/preparatory action<sup>72</sup>**
- **the extension of an existing action**
- **a merger or redirection of one or more actions towards another/a new action**

#### 1.4. **Objective(s)**

##### 1.4.1. *General objective(s)*

- Protecting the environment and public health from the adverse effects of pollution from large agro-industrial installations.
- Establishing a competitive level playing field at a high level of protection of health and the environment.
- Stimulating a deep agro-industrial transformation towards achieving the EGD objectives, including zero pollution, carbon neutrality, a non-toxic environment and a circular economy.
- Improving access to information and justice, and increase public participation in decision-making.

##### 1.4.2. *Specific objective(s)*

- Improving the effectiveness of the IED.
- Ensuring that the IED supports the uptake of innovative technologies and techniques during the ongoing industrial transformation also through a more dynamic permitting/reviewing of permits of large installations

<sup>72</sup> As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

- Fostering the uptake and investments in techniques synergistically, jointly preventing/reducing pollution and carbon emissions.
- Contributing to the transition towards the use of safer and less toxic chemicals, improved resource efficiency (energy, water and waste prevention) and greater circularity.
- Addressing the harmful impacts on health and environment from agro-industrial activities currently not regulated by the IED.
- Improving access of private individuals and civil society to information, participation in decision-making, and access to justice (including effective redress) in relation to permitting, operation and control of the regulated installations.

#### 1.4.3. *Expected result(s) and impact*

- *Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.*

- The proposed Directive will address shortcomings identified in the IED evaluation and will result in a closer alignment with wider EGD policy goals.
- It will facilitate a higher uptake of innovative depollution techniques and will promote resource efficient, circular and zero-carbon production methods, thus enhancing the EU's resilience and reducing harmful impacts on both public health and biodiversity. The proposal will also address relevant stakeholder concerns about the current and future interactions between reducing emissions of pollutants (depollution) and emissions of GHGs (decarbonisation) including policy coherence to maximise industrial installations' contribution to the EU's twin targets of Zero Pollution and Net Zero Carbon emissions.
- Finally, the future harmonised and published 'permit summary' will ease access to information about environmental impact of agro-industrial installations and increase public participation in decision-making.

#### 1.4.4. *Indicators of performance*

- *Specify the indicators for monitoring progress and achievements.*

- Information including overall emissions of pollutants reported by operators to the European Pollutant Release and Transfer Register (E-PRTR) will remain key indicators to track progress against the objectives of this initiative. Those indicators are produced on a regular basis, are comparable and easily accessible via the Industrial Emission Portal managed by the EEA.
- The increased granularity of reporting of pollutant emission at installation level will allow monitoring of the main processes within sectors whose environmental performance is improving or is lagging behind.
- The inclusion of reporting of resource use will allow defining new indicators on use of materials, water and energy, that will enable tracking of resource efficiency improvements.
- Monitoring of the pace of development and uptake of innovations and the resulting required transformation of IED sectors for meeting the EU's 2030 and 2050 objectives will be ensured by a new mechanism managed by the INnovation Centre for Industrial Transformation & Emissions (INCITE) via the following indicators:
  - Technology Readiness Level (TRL) of transformative technologies per sector;
  - Emissions performance of transformative technologies;

- The anticipated “on the ground” uptake timeline of such technologies;
- Distance to target indicators, for each IED sector.

## 1.5. Grounds for the proposal/initiative

### 1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

- This financial statement will secure funding for the Commission services (ENV and JRC) and ECHA to provide a number of new activities, foreseen in the IED proposal. These activities are of a different nature:

- one-off activities linked to preparation and negotiation of implementing acts
- regular tasks, i.e. those coming on top of the currently performed implementation and enforcement obligations and stemming from a widened and deepened scope of the Directive
- tasks related to setting-up and operating INCITE.

- **Timeline:**

- Q2 2022 – Q4 2023: negotiating the proposal. Due to a complex nature of the proposal and a need to liaise with the E-PRTR revision, negotiations may require more resources and time than average.

- Q2 2024 – Q4 2027: kicking-off and working out new BREFs (Best Available Techniques Reference Documents). New BREFs stem from a scope extension in the proposal. This process is a combination of technical work and stakeholder validation and is attributed mainly to the JRC.

- Q1 2024 – Q4 2027: BREFs revisions; additional resources in revisions are linked to new elements that BREFs will need to cover, such as circular economy, decarbonisation and less toxic environment. This process is a combination of technical work and stakeholder validation and is attributed mainly to the JRC.

- Q1 2024 – Q4 2027: kicking-off and carrying out the technical work to support the drafting of an implementing act on livestock farms. Although not a BREF per se, the process to develop the technical content of the implementing act is similar to the BREF process.

- Q1 2024 ECHA to start building a methodology to share information on impacts on human health and the environment of chemicals identified in BREFs.

- Q1 2024 - Q4 2025 – analytical work to prepare three implementing acts and their negotiations. These acts will involve establishing a methodology to apply derogations (Art 15.4), common rules for assessing compliance with emission limit values under Chapter II (Art 15bis) and the functioning of INCITE. For the latter, both JRC and DG ENV would have a role to play in ensuring full compliance with BREF standards, transparency and participatory character of INCITE.

- Q1 2024 – launch of INCITE.

- Q1 2026 - Q4 2027 – analytical and preparatory work before the adoption of the implementing act on transformation plans, then follow-up. This will involve working out a decision on the format and the scope of the implementing act.

- Q1 2026 – Q4 2027: preparatory work for the report on synergies with the ETS. The report is due in 2028.

### 1.5.2. *Added value of Union involvement.*

- Reasons for action at European level (ex-ante)
  - The Member States cannot alone effectively mitigate impacts of pollution from agro-industrial installations due to pollution's transboundary character. Furthermore, with the absence of a common EU approach for setting environmental performance standards, the same industries would face different pollution control regulation in each Member State. This may result in creating an uneven playing field, fragmenting the single market and impeding the Union's environmental and health policies.
- Expected generated Union added value (ex-post)
  - The IED BAT-based system together with the E-PRTR provide information used by all Member States, through a single EU level information exchange process, replacing the need for each Member State to establish national processes. Operators of plants in all Member States achieve economic efficiencies by only having to adhere to one EU-wide uniform regulatory approach. The EU system is increasingly being used by third countries, thereby promoting an international level playing field.

### 1.5.3. *Lessons learned from similar experiences in the past*

- The IED evaluation concluded that the directive is generally effective in preventing and controlling pollution to air, water and soil from industrial activities, as well as in pushing forward the incorporation of BAT. The process for producing BREFs and identifying BAT has worked well, and is recognised as a model of collaborative governance and co-creation of legislation. There are still shortcomings in addressing resource efficiency, circular economy and non-toxic production and in capturing a significant stream of industrial emissions from some sectors leading to a market failure: polluters do not pay the true costs of the pollution they cause. Finally, the Directive is not efficient in promoting new production processes, technologies and innovation.
- Between 2017 and 2019, DG ENV tested a methodology to operate an Innovation Centre. It followed a 2015 study that examined options for improving innovation uptake and the exchange of information on emerging techniques. The overall objective of the Innovation Centre was to identify the latest techniques by engaging with a wide range of stakeholders, and to assess their degree of development, by using Technology Readiness Levels (TRL). The approach has been used on the textiles, slaughterhouses & animal by-products BREFs and technologies dealing with cross-cutting issues, and proved to be efficient and effective in supporting BREF revision process. This proposal for INCITE builds on Pilots' conclusions.

### 1.5.4. *Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments*

- This action is consistent with other EU policies and ongoing initiatives stemming from the European Green Deal.

### 1.5.5. *Assessment of the different available financing options, including scope for redeployment*

- **Current situation:**
  - All BREFs related activity remains in the hands of the European Integrated Pollution Prevention and Control Bureau (EIPPCB) part of the JRC) set up in 1997 to organise an information exchange between the European Commission, EU Member States, industry

and environmental non-governmental organisations on Best Available Techniques (BAT) used to prevent and control industrial pollution. The Bureau has the know-how, knowledge and versatility to run the process smoothly. It ensures that the data is robust, the process not-biased, and information protected, so the process is well recognised by both Member States and the industry.

- Sixteen FTE scientific officers with support from three FTE for secretariat/IT support cover currently (2021) the above BREFs related tasks. This allows continuous work on the drawing up and review of a maximum of about eight BREFs simultaneously. The Bureau is fully (100%) financed through the JRC institutional budget without any contributions from DG ENV (no Administrative Arrangement).

- As of 2021, the European IPPC Bureau has produced 33 BREFs, most of them have been already reviewed and updated. Each BREF is the outcome of a multiannual information collection and exchange within ad-hoc sectorial technical working groups of more than 100 experts each. Emerging techniques chapters/sections form part of each BREF document.

- DG ENV supports the Bureau in its work, ensures that the IED is implemented and enforced. It also prepares necessary guidelines, implementing acts and engages into dialogues with Member States. Seven FTE cover those tasks.

- As regards ECHA, it currently does not have a legal mandate to perform any task related to the IED. Nevertheless, in the last few years it has been regularly consulted during the review of BREFs and has provided various inputs related to chemical substances and chemical management approaches without clearly committed resources to cover these BREF related tasks. The co-operation between the EIPPCB and ECHA over BREF process started, as a pilot, in 2017 for the review of the Textiles BREF; its outcome was acknowledged as very positive. Besides this, ECHA has been involved in BREF related activities on ad-hoc basis. ECHA's longer-term involvement and support in developing BREFs and BAT is essential for the holistic consideration of chemicals in the permits of the IED installations, from their presence in the (primary or secondary) raw materials to their presence in the emissions from the installations, as well as in the waste and by-products generated.

- Environmental Technology Verification Programme (ETV) currently verifies environmental performance of smaller size industrial organisations through a network of verification bodies managed by the European Institute of Innovation and Technology. So far, it has not participated in the BREF process.

- **Best option**

Future extension of the IED scope and of extended scope of BREF documents

- The EIPPCB is a unique setting and collaborates with various policy areas, and with its expertise, experience and know-how, the JRC is considered the most appropriate to cover new and extended tasks linked to BREFs. The INnovation Centre for Industrial Transformation & Emissions (INCITE) is a new type of activity that will provide added value by bringing together information from many EU initiatives on innovation. It will also be a meeting point for different policies allowing identification of opportunities for increased synergies. Building INCITE within the JRC will benefit from efficiency gains and synergies offered by its proximity with the European IPPC, and its involvement in BREFs and well-established relations with the industry. Moreover, the proposal for revising the IED embeds the concept of emerging techniques and their associated emissions levels with related legal implications. This brings about concerns about

confidentiality and sensitivity of data. JRC has the experience to deal with it. Some simple secretarial and time-consuming tasks (keeping stakeholders database up-to-date, monitoring patents/Horizon Europe/Innovation Fuds databases, tasks related to meetings organisation, publications) could be outsourced.

Future extended scope of BREF documents (chemicals)

- Building on the successful co-operation over textiles BREF, the expertise of ECHA makes it the best equipped to process tasks related to Chemical Management System. Its role of ECHA would be to ensure that:

- - An appropriate identification (and if necessary selection) of relevant substances for each sector/BREF is made. This will include a characterisation of the uses of those substances by sectors covered by BREFs including definition of best practices to use the safest alternatives on the market. This will improve clarity and consistency of the various legislations (IED, REACH, CLP)

- - The correct terminology is used in the BREF processes (e.g. substance, process chemical, raw material)

- - The chemicals-related BATs (such as substitution techniques) are technically sound

- - Background documents, for Kick off Meeting and final meeting, drafted by the EIPPCB are relevant regarding chemicals issue

- - Assistance is provided to the EIPPCB to access the information on ECHA's database

- - Assistance is provided to answer stakeholders questions or comments where a chemicals expertise is needed

- This integrated approach allows two aspects of the Chemicals Strategy for Sustainability to be addressed: 1) Promoting safe and sustainable-by-design chemicals and 2) Towards zero chemical pollution in the environment. As a result, the Commission will ensure that the legislation on industrial emissions promotes the use of safer chemicals by industry in the EU by requiring on-site risk assessments and by restricting the use of substances of very high concern.

- Currently no other EU body is capable to deal with the complexity of such a task. The unique database on chemicals maintained by ECHA associated with the agency's expertise in mining and extracting information from it makes ECHA the best equipped to provide the necessary input to the BREF drafting/review process in terms of substance-related information. Moreover, the agency has developed extensive expertise and knowledge on how to provide technical and scientific guidance to industry on risk assessments of chemical substances. This places ECHA in a unique position to provide IED installation operators with guidance on how to structure and manage a chemical inventory with a view to conduct site level risk assessment while applying the learnings on the topics of REACH/IED to facilitate the REACH - IED integration.

- **Options investigated for INCITE:**

- *Conclude public procurements with consultants:* Although this solution has advantages in terms of flexibility, it does not remove from the European Commission the burden to engage into the analytical and supervisory work. The Commission needs a long-term engagement into INCITE in order to produce viable and robust outcomes. This relates to the fact that the necessary industrial transformation that the revised IED aims to support

will span through more than one decade due to its complexity and of volume of investments. Moreover, some of the information to be collected by INCITE will be business sensitive and its success depends on its ability to deal with such information. By entrusting the work of collecting and analysing data on emerging techniques to a consultant, the Commission would be in a delicate situation with regard to the two crucial issues mentioned above, as neither the long-term involvement nor the acceptance from stakeholders would be guaranteed.

- *ETV* – (within the *European Institute of Innovation and Technology EIT*) has the capability to administer a verification process, nevertheless, a limited experience in pollution monitoring and abatement, and cleaner production processes; the ETV relies on competences of verification bodies, and the Commission has limited means to guide such work. Recent evaluation of ETV showed that the up-take of the scheme is limited and therefore the system hasn't yet built a wide recognition across the industrial sectors which is essential for the success of the BREF process. Due to ETV's governance design (several verification bodies) it may be complicated to set up a fixed procedure or structured communication approach that facilitates the information transfer between the EU ETV and BREF TGW and to ensure its quality.

- *European Environment Agency (EEA)* – is highly specialised in providing sound, independent information on the environment (including costs of pollution) and its knowledge of industrial technologies and processes will need to be broadened to catch up with the and it will take time. This would be a task of different nature than those established in the EEA Regulation.

- *DG ENV* – will need to build capacity and to engage an external support to cope with the complexity of the task. The latter brings in similar challenges as described in the first bullet.

## 1.6. Duration and financial impact of the proposal/initiative

- **limited duration**
  - in effect from [DD/MM]YYYY to [DD/MM]YYYY
  - Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.
- **unlimited duration**

Implementation with a start-up period from 2023-2024, followed by full-scale operation.

## 1.7. Management mode(s) planned<sup>73</sup>

- **Direct management** by the Commission
  - by its departments, including by its staff in the Union delegations;
  - by the executive agencies
- **Shared management** with the Member States
- **Indirect management** by entrusting budget implementation tasks to:
  - third countries or the bodies they have designated;
  - international organisations and their agencies (to be specified);
  - the EIB and the European Investment Fund;
  - bodies referred to in Articles 70 and 71 of the Financial Regulation;
  - public law bodies;
  - bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
  - bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
  - persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

*If more than one management mode is indicated, please provide details in the 'Comments' section.*

## 2. MANAGEMENT MEASURES

### 2.1. Monitoring and reporting rules

- *Specify frequency and conditions.*

- The initiative involves procurement, increase of the contribution to the ECHA and impact on the COM HR, including the JRC. Standard rules for this type of expenditure apply.

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73 Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:  
<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

## 2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

- N/A – cf. above

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

- N/A – cf. above

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

- N/A – cf. above

## 2.3. Measures to prevent fraud and irregularities

- Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

- N/A – cf. above

## 3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

### 3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing budget lines

- In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. <sup>74</sup>	from EFTA countries <sup>75</sup>	from candidate countries <sup>76</sup>	from third countries	within the meaning of Article 21 (2)(b) of the Financial Regulation
3	09.10.01 – European Chemicals Agency	Diff.	YES	NO	NO	NO
3	09.02.02 – Circular economy and quality of life	Diff.	YES	NO	NO	NO
7	20.01.02.01 – Remuneration and allowances (statutory staff)	Non-diff.	NO	NO	NO	NO
7	20 02 01 01 - Contract staff	Non-diff.	NO	NO	NO	NO

<sup>74</sup> Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

<sup>75</sup> EFTA: European Free Trade Association.

<sup>76</sup> Candidate countries and, where applicable, potential candidates from the Western Balkans.

7	20 02 01 03 - National civil servants temporarily assigned to the institution	Non- diff.	NO	NO	NO	NO
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### 3.2. Estimated financial impact of the proposal on appropriations

#### 3.2.1. Summary of estimated impact on operational appropriations

- The proposal/initiative does not require the use of operational appropriations
- The proposal/initiative requires the use of operational appropriations, as explained below:

Heading of multiannual financial framework	Number	Heading 3 – Natural resources and environment				
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EUR million (to three decimal places)

DG: ENV		Year 2024	Year 2025	Year 2026	Year 2027 and beyond	<b>TOTAL</b>	
• Operational appropriations	Commitments	0.645	0.645	0.445	0.445	<b>2.180</b>	
	Payments	0.645	0.645	0.445	0.445	<b>2.180</b>	
Budget line 09 02 02 Circular economy and quality of life	Commitments						
	Payments						
Budget line							
Appropriations of an administrative nature financed from the envelope of specific programmes <sup>77</sup>							
Budget line		(3)					
<b>TOTAL appropriations for DG ENV</b>	Commitments	=1a+1b+3	0.645	0.645	0.445	0.445	<b>2.180</b>
	Payments	=2a+2b+3	0.645	0.645	0.445	0.445	<b>2.180</b>

77 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Agency: ECHA		Year 2024	Year 2025	Year 2026	Year 2027	TOTAL
Title 1: Staff expenditure	Commitments (1a)	0.471	0.471	0.471	0.471	1.884
	Payments (2a)	0.471	0.471	0.471	0.471	1.884
Title 2: Infrastructure	Commitments (1a)					
	Payments (2a)					
Title 3: Operational expenditure	Commitments (1b)					
	Payments (2b)					
<b>TOTAL appropriations for ECHA</b>						
	Commitments	=1a+1b+3	0.471	0.471	0.471	1.884
	Payments	=2a+2b+3	0.471	0.471	0.471	1.884

		2024	2025	2026	2027	Total
• TOTAL operational appropriations	Commitments (4)	1.116	1.116	0.916	0.916	4.064
	Payments (5)	1.116	1.116	0.916	0.916	4.064
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		0	0	0	0	
	Commitments (=4+6)	1.116	1.116	0.916	0.916	4.064
<b>TOTAL appropriations under HEADING 3 of the multiannual financial framework</b>	Payments (=5+6)	1.116	1.116	0.916	0.916	4.064

Heading of multiannual financial framework	Number		Heading 10 – Direct Research				
	Year 2024	Year 2025	Year 2026	Year 2027	TOTAL		
DG: JRC							
• Operational appropriations	Commitments (1a)	0.100	0.100	0.100	0.100	<b>0.400</b>	
	Payments (2a)	0.100	0.100	0.100	0.100	<b>0.400</b>	
	Payments (2b)						
	Commitments =1a+1b	0.100	0.100	0.100	0.100	<b>0.400</b>	
	Payments =2a+2b	0.100	0.100	0.100	0.100	<b>0.400</b>	
<b>TOTAL appropriations for DG JRC</b>	Commitments =4+ 6	0.100	0.100	0.100	0.100	<b>0.400</b>	
	Payments =5+ 6	0.100	0.100	0.100	0.100	<b>0.400</b>	
<b>TOTAL appropriations under HEADING 10 of the multiannual financial framework</b>							

Justification for additional to the baseline costs above:

- DG ENV costs stem from procurement needs to finance supporting analyses for BREFs and BREFs revisions, to support developing methodologies for implementing acts (art 15.4 – procurement for a methodology to apply derogations, art 15 bis – procurement for common rules to assess compliance, Art 27d – transformation plans), to monitor and support implementation and compliance (art 27a –to take stock/analyse results and Art 73 – report on synergies with ETS);
- JRC costs stem from organising formal stakeholder meetings and workshops in the course of the work for drawing up the BREFs for the new sectors, drafting BREFs and reports on innovative techniques, and procuring new IT systems to support the new INnovation Centre for Industrial Transformation & Emissions (INCIITE)
- ECHA costs include cost of new 3 FTE, who
  - will do the data mining of ECHA databases and generate list of hazardous substances potentially used in BREF sectors; extract substance-related information (regulatory status, classification, substance identity), characterise the uses of those

- substances by sectors covered by BREFs including definition of best practices to use the safest alternatives on the market, and provide technical support to BREF revisions (TWG meetings, review, other technical inputs) – 2 FTE
- Develop guiding principles for Chemicals Management System focussing on data structure for a site inventory of chemicals (substances and mixtures) associated with further development of a site-level risk assessment methodology and contribute to the development of guiding principles on how to conduct a comparative risk assessment between the substances an operator uses for his processes/products and potential alternatives - 1 FTE

Heading of multiannual financial framework	Number	Heading 7 – European Public Administration				
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EUR million (to three decimal places)

DG: ENV		Year 2024	Year 2025	Year 2026	Year 2027	TOTAL
• Human resources		0.477	0.477	0.477	0.477	1.908
• Other administrative expenditure		0.050	0.050	0.050	0.050	0.200
<b>TOTAL DG ENV</b>	Appropriations	0.527	0.527	0.527	0.527	2.108
<b>TOTAL appropriations under HEADING 7 of the multiannual financial framework</b>	Commitments	0.527	0.527	0.527	0.527	2.108
	Payments	0.527	0.527	0.527	0.527	2.108

Heading of multiannual financial framework	Number	Heading 10 – Direct Research				
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DG: JRC									
• Human resources		1.006	1.006	1.006	1.006	1.006		<b>4.024</b>	
• Other administrative expenditure		0.001	0.001	0.001	0.001	0.001		<b>0.004</b>	
<b>TOTAL JRC</b>	Appropriations	1.007	1.007	1.007	1.007	1.007		<b>4.028</b>	

• TOTAL operational appropriations	Commitments	(4)	1.007	1.007	1.007	1.007		<b>4.028</b>	
	Payments	(5)	1.007	1.007	1.007	1.007		<b>4.028</b>	
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		<b>0</b>	
<b>TOTAL appropriations under HEADING 10</b> of the multiannual financial framework	Commitments	=4+6	1.007	1.007	1.007	1.007		<b>4.028</b>	
	Payments	=5+6	1.007	1.007	1.007	1.007		<b>4.028</b>	

DG ENV additional staff (2.5 AD, 1 CA) will:

- Prepare and lead to adoption of new Commission implementing acts.
  - Sustain a dialogue with Member States and JRC-EIPPCB.
  - Prepare and implement rules concerning the establishment, prerogatives and functioning of INCITE and contribute to its work.
  - Provide necessary input to the JRC and ECCHA when requested and with regard to ongoing political and legislative developments
  - Identify and develop synergies with the ETS in order to improve the overall performance of industrial installations and draft a report on the outcomes.
  - Analyse every year the data collected to:
    - o Ensure the policy objectives are met (implementation, enforcement)
    - o Identify potential improvement for managing industrial emissions prevention and control
  - Fulfill ongoing tasks related to the broadened scope of the IED and BREFs, including attending Technical Working Groups meetings in Sevilla, interaction with stakeholders and other relevant Commission services, and support Member States in transposing, implementing and complying with the new IED regime.
- JRC additional staff (2 AD, 4 SNE, 4 CA) will:
- Operate and manage day-to-day business of INCITE

- Organise information exchange within the European IPPC Bureau for BREF revisions, including new BREFs and widened scope of BREF revisions resulting from new provisions requiring new aspects to be covered by BREFs (BAT-AEPLs, circular economy, resource and energy efficiency, Environmental Management System, decarbonisation)
- Participate in visits of agro-industrial plants for the new sectors and attend conferences related to the new sectors

### 3.2.2. Estimated output funded with operational appropriations -

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓	Type <sup>78</sup>	Average cost	Year 2024		Year 2025		Year 2026		Year 2027		Enter as many years as necessary to show the duration of the impact (see point 1.6)	TOTAL
			No	Cost	No	Cost	No	Cost	No	Cost		
SPECIFIC OBJECTIVE No 1 <sup>79</sup> ...												
- Output												
- Output												
- Output												
Subtotal for specific objective No 1												
SPECIFIC OBJECTIVE No 2 ...												
- Output												
Subtotal for specific objective No 2												

<sup>78</sup> Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

<sup>79</sup> As described in point 1.4.2. 'Specific objective(s)...'



### 3.2.3. Estimated impact on ECHA resources

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	<b>Year 2024</b>	<b>Year 2025</b>	<b>Year 2026</b>	<b>Year 2027</b>	<b>TOTAL</b>
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Temporary agents (AD Grades)	0.471	0.471	0.471	0.471	<b>1.884</b>
Temporary agents (AST grades)	0	0	0	0	<b>0</b>
Contract staff	0	0	0	0	<b>0</b>
Seconded National Experts	0	0	0	0	<b>0</b>

<b>TOTAL</b>	<b>0.471</b>	<b>0.471</b>	<b>0.471</b>	<b>0.471</b>	<b>1.884</b>
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Staff requirements (FTE):

	<b>Year 2024</b>	<b>Year 2025</b>	<b>Year 2026</b>	<b>Year 2027</b>	<b>TOTAL</b>
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Temporary agents (AD Grades)	3	3	3	3	<b>3/year</b>
Temporary agents (AST grades)	0	0	0	0	<b>0</b>
Contract staff	0	0	0	0	<b>0</b>
Seconded National Experts	0	0	0	0	<b>0</b>

<b>TOTAL</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>3/year</b>
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ECHA additional staff will support the implementation of the Environmental Management Systems. In particular, it will develop guiding principles for Chemicals Management System, ensure identification and selection of relevant substances for each sector/BREF, the

development of sector-specific good practices for the use of the safest substances on the market, then the application of a correct terminology in the BREF processes (e.g. substance, process chemical, and raw material). It will see to the overall robustness of the chemicals-related BATs (in terms of substitution techniques for example), prepare background documents, for BREF Kick off Meetings and final meeting, drafted by the EIPPCB that are relevant regarding chemicals issue. Finally, it will assist the EIPPCB in accessing information on ECHA's database and to stakeholders' questions or comments where a chemicals expertise is needed.

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

### 3.2.3.1. Estimated requirements of human resources in the Commission

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

*Estimate to be expressed in full time equivalent units*

	Year 2024	Year 2025	Year 2026	Year 2027 and beyond
<b>• Establishment plan posts (officials and temporary staff)</b>				
• DG ENV - 20 01 02 01 (Headquarters and Commission's Representation Offices)	2.5	2.5	2.5	2.5
• JRC – 10 01 05 01	2	2	2	2
<b>• External staff (in Full Time Equivalent unit: FTE)<sup>80</sup></b>				
• DG – ENV 20 02 01 (AC, END, INT from the 'global envelope')	1	1	1	1
• JRC – 10 01 05 02	8	8	8	8
<b>• TOTAL</b>	<b>13.5</b>	<b>13.5</b>	<b>13.5</b>	<b>13.5</b>

### 3.2.4. Compatibility with the current multiannual financial framework

- The proposal/initiative:
  - can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

• The LIFE envelope will be used to cover the expenditure incurred by DG ENV.

- requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.
- requires a revision of the MFF.

<sup>80</sup> AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

### 3.2.5. *Third-party contributions*

- The proposal/initiative does not provide for co-financing by third parties

### 3.3. **Estimated impact on revenue**

The proposal/initiative has no financial impact on revenue.