



Council of the  
European Union

Brussels, 14 December 2023  
(OR. en)

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Interinstitutional File:  
2022/0104 (COD)

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16415/23  
ADD 2 COR 1

LIMITE

ENV 1453  
IND 669  
AGRI 795  
COMPET 1233  
COMER 147  
SAN 723  
MI 1091  
CONSOM 468  
ENT 264  
CODEC 2411

#### NOTE

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| From:          | General Secretariat of the Council  |
| To:            | Permanent Representatives Committee   |
| No. Cion doc.: | 8064/1/22 REV 1 - (COM 2022) 156 final/3  |
| Subject:       | 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<br>- Analysis of the compromise text with a view to agreement |

Document **16415/23 ADD 2** should contain the changes (highlighted by underlining) in the following points.

- (24) The evaluation of Directive 2010/75/EU found that, even if it should foster the transformation of European industry, it is not dynamic enough and does not sufficiently support the deployment of innovative processes and technologies, ***including those that are essential for the twin green and digital transition and the achievement of the objectives of the European Climate Law. Without prescribing the use of any technique or specific technology,*** it is therefore appropriate to facilitate the testing and deployment of emerging techniques with improved environmental performance, to facilitate cooperation with researchers and industries in publicly funded research projects subject to the conditions foreseen in the relevant European and national funding instruments, as well as to set up a dedicated centre to support innovation by collecting and analysing information on ■ emerging techniques, relevant to activities within the scope of that Directive, ***including rearing of poultry and pigs*** and to characterise their level of development from research to deployment (technology readiness level or ‘TRL’) and ***assess the level of the environmental performance of those techniques, while taking into account any potential limitation with regard to the availability of data and its robustness.*** This will also inform the exchange of information on drawing up, reviewing and updating BAT reference documents. ***Emerging*** techniques to be ■ analysed by the centre should be at least at the level of technology demonstrated in relevant environment (industrially relevant environment in the case of key enabling technologies) or system prototype demonstration in operation environment (TRL 6-7).

- (25) Achieving Union objectives regarding a clean, circular and climate neutral economy by 2050 calls for a deep transformation of the Union economy. Consistently with the 8th Environmental Action Programme, operators of installations covered by Directive 2010/75/EU should therefore be required to include transformation plans in their environmental management systems. Such transformation plans will also complement the Corporate Sustainability Reporting requirements under Directive 2013/34/EU of the European Parliament and of the Council<sup>1</sup> by providing a means for concrete implementation of these requirements at installation level. The first priority is the transformation of energy-intensive activities listed in Annex I. Therefore, the operators of energy-intensive installations should produce transformation plans by 30 June 2030. Operators of installations carrying out other activities listed in Annex I should be required to produce transformation plans as part of the permit reconsideration and update following the publication of decisions on BAT conclusions published after 1 January 2030. **Operators should be allowed to produce a single transformation plan covering all installations under their control in a Member States and, where elements of the transformation plans have already been developed elsewhere and are compliant with the requirements of this directive, operators should be allowed to include in the transformation plan a reference to the relevant documents.** Whilst the transformation plans should remain indicative documents prepared under the responsibility of the operators, the **conformity assessment body or the environmental verifier** contracted by the operators as part of their environmental management systems should check that they contain the minimum information to be set by the European Commission in an ***delegated*** act, and the operators should make the transformation plans public.

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<sup>1</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC; OJ L 182, 29.6.2013, p. 19–76.

- (40) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of ensuring a high level of environmental protection and the improvement of environmental quality to lay down rules on integrated prevention and control of pollution arising from industrial and livestock rearing activities. This Directive does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.

[page 57] (9) Article 13 is amended as follows:

- (ba) *in Article 13, paragraph 3, the first subparagraph is replaced by the following:*

The Commission shall establish and regularly convene a ■ forum composed of representatives of Member States, the industries concerned and non-governmental organisations promoting ■ *the protection of human health or the environment.*

[pages 85 to 86] (22) Article 27d is inserted:

*Article 27d*

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

- (1) Member States shall require that by 30 June 2030 the operator includes in its environmental management system referred to in Article 14a *an indicative transformation plan covering* any activity listed in points 1, 2, 3, 4, 6.1 a, and 6.1 b of Annex I. The transformation plan shall contain information on how the installations will transform themselves during the 2030-2050 period ■ to contribute to the emergence of a sustainable, clean, circular, resource efficient and climate-neutral economy by 2050, including deep industrial transformation as referred to in Article 27e, when relevant.

**Where two or more installations are under control of the same operator, or if the installations are under control of different operators that are part of the same company, in the same Member State, these installations may be covered by one transformation plan.**

**Where elements of the transformation plans have already been developed elsewhere and are compliant with this article, a reference may be made in the transformation plan to the relevant documents.**

Member States shall take the necessary measures to ensure that, ***no later than a year after the deadlines set out in the first subparagraph***, the audit organisation ***referred to in Article 14a(3a)*** assesses the conformity of the transformation plans referred to in the first subparagraph of paragraph 1 with the requirements set out in ***accordance with*** paragraph 4.

- (2) Member States shall require that, as part of the review of the permit conditions pursuant to Article 21(3) following the publication of decisions on BAT conclusions after 1 January 2030, the operator includes in its environmental management system referred to in Article 14a a transformation plan for each installation carrying out any activity listed in Annex I that is not referred to in paragraph 1. The transformation plan shall contain information on how the installation will transform itself during the 2030-2050 period in order to contribute to the emergence of a sustainable, clean, circular and climate-neutral economy by 2050, using the format referred to in paragraph 4.

Member States shall take the necessary measures to ensure that, ***no later than a year after the deadlines set out in the first subparagraph***, the audit organisation ***referred to in Article 14a(3a)*** assesses the conformity of the transformation plans referred to in the first subparagraph of paragraph 2 with the requirements set out in the implementing act referred to in paragraph 4.

Member States shall take the necessary measures to ensure that, ***no later than a year after the deadlines set out in the first subparagraph***, the audit organisation ***referred to in Article 14a(3a)*** assesses the conformity of the transformation plans referred to in the first subparagraph of paragraph 2 with the requirements set out in the implementing act referred to in paragraph 4.

- (3) The operator shall make its transformation plan, ***its updates***, as well as the results of the assessment referred to in paragraphs 1 and 2 public, as part of the publication of its environmental management system.
- (4) The Commission shall by 30 June **2026**, adopt ***a delegated act specifying the content*** for the transformation plans, ***on the basis of the information required under paragraphs 1 and 2 of this article***.
- (5) ***The Commission shall review and where appropriate revise the delegated act by 31 December 2034.***

[page 118] Article 2a

- 3. ***In relation to installations carrying out activities referred to in Annex I, point 2.3 (aa) and 6.2 (only regarding finishing of textile fibres or textiles) which are in operation before [OP please insert the date = the first day of the month following 24 months after the date of entry into force of this Directive] Member States shall , with the exemption of Article 14 (1aa), 14(1bb), 14 (1) (h), Article 15(3a) and Article 15(4 a), apply the laws, regulations and administrative provisions adopted in accordance with this Directive within 4 years after [OP please insert the date = the first day of the month following 24 months after the date of entry into force of this Directive].***

(c) the following point 2.7 is inserted:

‘2.7. Manufacture of **■** batteries, *other than exclusively assembling*, with a production capacity of **15 000 tonnes of battery cells (cathode, anode, electrolyte, separator, capsule) or more** per year.’;

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