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NOTE

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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 - Analysis of the compromise text with a view to agreement

Delegations will find the provisional agreement, which was reached at the third trilogue, resulting in the text set out in the Annex to this note.

2022/0104(COD)

DIRECTIVE (EU) .../...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of

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

(Text with EEA relevance)

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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

Whereas:

- (1) The European Green Deal³ is Europe's strategy to ensure, by 2050, a climate-neutral, clean and circular economy, optimising resource *(re-)use and* management, minimising pollution while recognising the need for deeply transformative policies *and the need to protect the health and well-being of citizens from environment-related risks and impacts. It aims also at ensuring that the transition is just and inclusive, leaving no one behind.* The Union is also committed to *the Paris Agreement*⁴, the 2030 Agenda for Sustainable Development⁵ and its Sustainable Development Goals⁶ *and its involvement in the WHO*. The EU Chemicals Strategy for Sustainability⁷ of October 2020 and the Zero Pollution Action Plan⁸ adopted in May 2021 specifically address pollution aspects of the European Green Deal. In parallel, the New Industrial Strategy for Europe⁹ further emphasises the potential role of transformative technologies. Other particularly relevant policies for this initiative

³ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions The European Green Deal; COM(2019) 640 final.

⁴ ***Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 4).***

⁵ https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

⁶ <https://sdgs.un.org/goals>

⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Chemicals Strategy for Sustainability Towards a Toxic-Free Environment COM(2020) 667 final.

⁸ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' COM(2021) 400 final.

⁹ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, A New Industrial Strategy for Europe COM(2020) 102 final.

include the *European Climate law*¹⁰, 'Fit for 55' package¹¹, the Methane Strategy¹² and the Glasgow methane pledge¹³, the Climate Adaptation Strategy¹⁴, the Biodiversity Strategy¹⁵, the Farm to Fork strategy¹⁶ *the Soil Strategy*¹⁷ and the Sustainable Products Initiative¹⁸. Besides, as part of the EU response to the 2022 Russia-Ukraine war, REPowerEU¹⁹ proposes a Joint European Action to support the diversification of energy supplies, accelerate the transition to renewable energy and improve energy efficiency.

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- ¹⁰ ***Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law').***
- ¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Fit for 55': delivering the EU's 2030 Climate Target on the way to climate neutrality COM/2021/550 final.
- ¹² [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an EU strategy to reduce methane emissions COM\(2020\) 663 final.](#)
- ¹³ <https://www.globalmethanepledge.org/>
- ¹⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Forging a climate-resilient Europe - the new EU Strategy on Adaptation to Climate Change COM(2021) 82 final.
- ¹⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions EU Biodiversity Strategy for 2030 Bringing nature back into our lives COM(2020) 380 final.
- ¹⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system COM(2020) 381 final.
- ¹⁷ ***Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions EU Soil Strategy for 2030 Reaping the benefits of healthy soils for people, food, nature and climate COM(2021) 699 final.***
- ¹⁸ COM(2022) 142
- ¹⁹ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions REPowerEU: Joint European Action for more affordable, secure and sustainable energy; COM(2022) 108 final.

- (2) The European Green Deal announced a revision of Union 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 ***improving resource efficiency and reuse while*** reducing pollutant emissions at source, including sources not currently within the scope of Directive 2010/75/EU of the European Parliament and of the Council²⁰. Addressing pollution from certain agro-industrial activities, ***while promoting sustainable agricultural practices that have multiple co-benefits for the environmental and climate objectives of the European Green Deal,*** requires their inclusion within the scope of that Directive.

²⁰ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control); OJ L 334, 17.12.2010, p. 17-119.

- (3) The Union's extractive industry is key to achieving the aims of the European Green Deal and the EU industrial strategy, including its update. **Metals** are of strategic importance for the digital and green transition, the energy, materials and circular economy transformation and to strengthen EU economic resilience *and autonomy*. In order to achieve these objectives, sustainable domestic capacities *and supply* need to be further developed *especially in light of the growing global demand, the vulnerability of supply chains and geopolitical tensions*. This requires effective, tailored and harmonised measures to ensure that the best available techniques are established and employed, thus applying processes that are both the most efficient and have the lowest possible impacts on human health and the environment . The governance mechanisms of Directive 2010/75/EU that closely associate industry experts to the development of consensual and tailored environmental requirements will support the sustainable growth of those activities in the Union. The development and availability of commonly agreed standards will level the Union's playing field while ensuring a high level of protection of human health and the environment. It is therefore appropriate to include those activities within the scope of Directive 2010/75/EU, *without prejudice to CRMA (2023/160/EU)*. *'The IED will support the EU's industry in developing projects and facilitate a sustainable and consensual growth of the mining activities in Europe in line with the 2030 benchmarks of the Critical Raw Materials Act (CRMA). The IED will help meeting the targets for the streamlined permit granting process of the CRMA by supporting Member States to set operating permit conditions and deliver permits rapidly'*.

- (3a) *This amending act should clarify that olfactory pollution should be taken into account when defining BAT and granting of reviewing permits.*
- (3b) *The potential aggravation of the impact of industrial discharges on the state of water bodies due to variations of water flow dynamics should be explicitly taken into account as part of the granting and review of permits.*
- (4) Rearing of **livestock causes** significant pollutant emissions into the air and water. ■ To reduce **those** emissions, including ammonia, methane, nitrates and greenhouse gas ■ and thereby improve air, water and soil quality, it is necessary to lower the threshold above which pigs and poultry installations are included within the scope of Directive 2010/75/EU.

The Union has a responsibility to continue playing a leading role in global climate action, including by meeting the objective of a climate-neutral Union at the latest by 2050 in line with the Paris Agreement. Addressing globally methane emissions from livestock will contribute to the reduction of greenhouse gas emissions that is urgently needed if the World is to keep the increase in global average temperature to well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels.

The Farm to Fork (F2F) Strategy has set out the commitment to promote the global transition to sustainable food systems in standard-setting bodies and lead the work on international sustainability standards. The EU will continue striving to promote international standards in the relevant international bodies and encourage the production of agri-food products complying with high safety and sustainability standards. In addition, as stated in the Commission report ‘Application of EU health and environmental standards to imported agricultural and agri-food products’, ambitious health, environmental and other sustainability standards and objectives contribute to achieving legitimate objectives on global concerns, also in line with the One Health approach. The EU will continue its efforts at multilateral level towards a global consensus on the need for action and internationally agreed standards.

The Union should take the lead in international cooperation to create an open and fair multilateral system where sustainable trade acts as a key enabler of the green transition. In line with the review of the EU Trade and Sustainable Development policy and the Commission's Communication 'The power of trade partnerships: together for green and just economic growth', it is essential to engage with partners in a cooperative process to foster international environmental governance and compliance with international environmental standards.

- (4a) Therefore, the Commission should assess, and report to the European Parliament and the Council on the need for Union action to comprehensively address the emissions from the rearing of livestock, in particular cattle, taking into account the range of instruments available and the specificities of the sector.*

In parallel, the Commission should also assess and report to the European Parliament and the Council, based on evidence, on the need for EU action to achieve the objective of global environmental protection with respect to products placed on the European Union market through the prevention and control of emissions from livestock farming, in a manner consistent with the EU's international obligations.

■ Relevant BAT requirements take into consideration the nature, size, density and complexity of these installations, including the specificities of rearing systems and the range of environmental impacts they may have. The proportionality requirements in BATs aim to incentivise farmers to implement the necessary transition towards increasingly environmentally friendly agricultural practices.

Rearing of pigs in installations operating under organic or production regimes with low stocking density should be exempted from the scope of Directive 2010/75/EU since they contribute positively to preserving landscapes, forest fire prevention and protecting biological diversity and habitats. The exemption should cover installations with pasture based rearing of pigs with a low stocking density where the animals are reared outside for a significant amount of time in a year, notably during daytime, and where weather and safety conditions ensure the welfare of the animals, or are seasonally reared outside. The area used for calculating the density should be used for grazing by the animals in the installation or for growing fodder or forage used for feeding the animals in the installation.

(4b) In order to prevent the artificial splitting of farms, which could result in the reduction of the farm LSU capacity to a threshold below the one established for the application of this Directive, the Member State should adopt measures to ensure that if two or more installations are located close to each other and if their operator is the same or if the installations are under the control of operators who are engaged in an economic or legal relationship, the competent authority may consider those installations as a single unit for the purpose of calculating the capacity threshold for livestock. The threshold of mixed farming should not be used to circumvent the threshold relating to each individual livestock.

- (5) A significant increase in the number of large-scale installations for the production of batteries for electric vehicles will likely take place within the Union up to ***and after 2030***, increasing the Union's share of the global battery production. ■ Several of the activities of the batteries value chain are already regulated by Directive 2010/75/EU and batteries are regulated as products by Regulation (EU) .../... of the European Parliament and of the Council* +. ***However***, it is still necessary to include in the scope of the Directive large installations manufacturing batteries, ***to*** ensure that they are also covered by the requirements set out in Directive 2010/75/EU ■ . Including ■ in the scope of Directive 2010/75/EU ***large installations manufacturing batteries, other than installations only assembling batteries***, will improve in a holistic way the sustainability of batteries and minimise their impact on the environment throughout their life cycle. ***This will contribute to a more sustainable growth of batteries manufacturing.***
- (6) With a view to further strengthening public access to environmental information, it is necessary to clarify that permits for installations granted pursuant to Directive 2010/75/EU are to be made available to the public on the Internet, free of charge and without restricting access to registered users ***while ensuring that confidential business information is safeguarded.*** ■
- (6a) ***The Member States should develop electronic permitting systems that reduce the administrative burden for operators and competent authorities, enhance public access to information and facilitate public participation in permitting procedures. The Commission should support the Member States in developing electronic permitting by organising the exchange of information between Member States and providing guidance on best practices.***

- (7) The impact of pollution, including when caused by incidents or accidents, may extend beyond the territory of a Member State. In such cases, without prejudice to Directive 2012/18/EU of the European Parliament and of the Council²¹, limiting the consequences for human health and the environment of incidents or accidents and preventing further possible incidents or accidents requires prompt information and close coordination between the competent authorities of the Member States which are or may be affected by such events. Therefore, in the event of any incident or accident significantly affecting the environment or human health in another Member State, information and transboundary and multidisciplinary cooperation between the affected Member States should be fostered to limit the consequences for the environment and human health and to prevent further possible incidents or accidents.
- (8) Member States should also adopt compliance assurance measures to promote, monitor and enforce compliance with obligations placed on natural or legal persons under Directive 2020/75/EU.

As part of compliance assurance measures, Member States should ensure that national authorities in charge of the implementation and enforcement of this Directive have a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary for the effective performance of their functions related to the implementation of this Directive.

+ OP: Please insert in the text the number of the Regulation contained in document 2020/0353(COD) and insert the number, date, title and OJ reference of that Regulation in the footnote."

²¹ Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances (OJ L 197, 24.7.2012, p. 1).

Also as part of compliance assurance measures, competent authorities should be able to suspend the operation of an installation where a continued breach of the permit conditions and the non-implementation of the findings of the inspection report pose or risk causing a danger to human health or a significant adverse effect upon the environment, in order to stop that danger.

- (8a)** *In the event of pollution affecting drinking water resources, including transboundary resources, or affecting wastewater infrastructure, the competent authority should inform the drinking water and wastewater operators affected, of the measures taken to prevent or remedy the damage caused by that pollution to human health and the environment.*

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- (10) The evaluation of Directive 2010/75/EU concluded that there is a need to strengthen the links between that Directive and Regulation (EC) No 1907/2006²², to better address the risks of the use of chemicals in installations within the scope of Directive 2010/75/EU. In order to develop synergies between the work carried out by the European Chemicals Agency (ECHA) on chemicals and the preparation of BAT reference documents under Directive 2010/75/EU, ECHA should be given a formal role in such preparation of BAT reference documents.
- (10a) The Commission should encourage participation in the forum for exchange of information by of stakeholders and representatives of civil society including NGOs involved in promotion of the protection of human health or the environment. The Commission should ensure the participation of the European Environment Agency in the exchange of information, when the exchange of information would benefit from the expertise of the Agency. Given the extension of scope and the increasing workload of the forum for exchange and the technical working group, the Commission should commit adequate resources and adopt necessary changes, including by amending Implementing Decision 2012/119/EU, to ensure the functioning of the forum and the technical working group.***

²² 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) (OJ L 396, 30.12.2006, p.1).

- (11) In order to facilitate the exchange of information supporting the determination of emission levels and environmental performance levels associated with best available techniques (BAT), while maintaining the integrity of confidential business information, the procedures for the handling of information qualifying as confidential business information or sensitive commercial information, ***including conditions for anonymisation for certain categories of stakeholders***, and as collected from the industry in the context of the exchange of information organised by the Commission for the purpose of drafting, reviewing or updating BAT reference documents should be specified. It should be ensured that individuals participating in the exchange of information do not share information qualifying as confidential business information or sensitive commercial information with any representative of undertakings or trade associations having an economic interest in the concerned industrial activities and related markets. Such exchange of information is without prejudice to Union competition law, in particular Article 101 of the Treaty on the Functioning of the European Union (TFEU).

This Directive does not create any additional obligations to disclose to the public confidential business information, in relation to Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC and with Directive (EU) 2016/943 of the European Parliament and of the Council.

- (12) To ensure the protection of human health and the environment as a whole, synergies and coordination with other relevant Union environmental legislation are necessary, at all stages of its implementation. Therefore, all relevant competent authorities that ensure compliance with relevant Union environmental legislation should be duly consulted before the granting of a permit under Directive 2010/75/EU.
- (13) With a view to continuously improving 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 *this Directive and* relevant BAT conclusions, and should make *relevant parts* available to the public.

When made available to the public the operator should have an opportunity to redact or exclude confidential business information. This should apply in a restrictive way, taking into account for the particular case the public interest served by disclosure. The EMS should also cover the management of risks related to the use of the hazardous substances and an analysis of the possible substitution of hazardous substances by safer alternatives.

In order to ensure that the EMS is in line with the requirements of the Directive, the EMS should be reviewed by the operator and audited by an external auditor contracted by the operator. The auditor should be either a conformity assessment body accredited in accordance with Regulation 765/2008, as required under ISO 17021, or any natural or legal person which has obtained a licence in accordance with Regulation 1221/2009, as set out in Article 2(20) of Regulation 1221/2009 defining environmental verifier.

(13a) In order to support decarbonisation, resource efficiency and a circular economy, the BAT-conclusions should include binding environmental performance levels associated with BAT and indicative environmental performance values associated with emerging techniques, for individual processes that have similar characteristics (e.g. energy carriers, raw materials, production units and final products) and a high degree of homogeneity across the EU, when the data made available in the exchange of information supporting the determination of BAT are sufficiently robust. The BAT conclusions should also include indicative benchmarks for other cases to be included by operators in their environmental management systems, where environmental performance is highly dependent on specific circumstances of the processes. The environmental performance levels associated with BAT and the benchmarks may include consumption levels; resource efficiency levels and reuse levels covering materials, water and energy resources; waste and other levels obtained under specified reference conditions. Environmental performance levels and benchmarks should consider the resources needed for the transformation of installations aiming at reducing greenhouse gas emissions as well as demand-driven variations of resource needs for specific products, such as variations of water consumption. The competent authority should set in the permit, binding ranges for environmental performance as laid down in BAT Conclusions as well as binding environmental performance limit values concerning water and indicative environmental performance levels concerning waste and resources other than water, which are not environmentally less strict than the binding ranges, provided that the lower performing end of the mandatory range is ensured. The operator should include the benchmarks in the EMS.

- (14) 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 a permit granted under Directive 2010/75/EU, may take account of the downstream treatment processes in a waste water treatment plant. *This should* ensure that such releases do not lead to an increased load of pollutants in receiving waters *or impede the capacity or potential to recover resources from the wastewater treatment stream* when compared to a situation where the installation applies BAT and meets emission levels associated with the best available techniques for direct releases.

- (15) 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 at a level that ensures compliance with the applicable emission levels associated with the best available techniques set out in the BAT conclusions. Emission levels associated with the best available techniques (BAT-AELs) are usually expressed as ranges, rather than as single values, to reflect the differences within a given type of installations that result in variations in the environmental performances achieved when applying BAT. For example, a given BAT will not deliver the same performance for different installations, some BATs may not be suitable for use in certain installations, or a combination of BATs may be more effective on some pollutants or environmental media than others. The achievement of a high level of protection of human health and the environment as a whole has been jeopardised by the practice of setting emission limit values at the laxest end of the range of emission levels associated with the best available techniques, without considering the potential of a given installation to achieve lower emission levels through the application of best available techniques. Such practice discourages frontrunners from implementing more effective techniques, and hinders the achievement of a level-playing field at a high level of protection of human health and the environment. ***In order to decrease the emissions, the competent authority should set emission limit values at the strictest achievable level for the specific installation, taking into account the entire range of the BAT AELs as well as cross-media effects. The emission limit values should be based on an assessment by the operator analysing the feasibility to meet the strictest end of the BAT AEL range*** and aiming at the best environmental performance possible for the *specific* installations; unless the operator demonstrates that applying best available techniques as described in the BAT conclusions only allows the concerned installation to meeting less strict emission limit values. ***In order to support the setting of emission limit values in permits and the adoption of general binding rules, BAT Conclusions should contain information on the circumstances allowing the achievement of lower emissions levels within the range of BAT-AELs set for categories of installations having similar characteristics. When setting emission limit values within the range of the BAT AELs the derogation procedure is not applicable.***

(15a) BAT conclusions should identify emerging techniques and best available techniques that industrial operators may implement to transform installations to be consistent with the EU objective of a sustainable, clean, circular and climate-neutral economy. Competent authorities should be allowed to grant industrial operators sufficient time for implementing deep industrial transformation via BATs or emerging techniques involving a major change in the design or technology or the replacement of an existing installation and requiring substantial investments, as described in the BAT conclusions and laid down in a transformation plan.

(15b) In recent years there have been exceptional situations of crises affecting the European Union and its Member States, like the COVID-19 pandemic and the Russian war of aggression against Ukraine. These crises have suddenly and directly affected the supply of energy and of societally critical resources, materials or equipment, leading to severe shortage and disruption, to which it is necessary to reply swiftly. In case of such crises, it may be necessary to set less strict emission limit values and environmental performance limit values than the levels in the BAT-conclusions, in order to maintain energy production or the production of other equipment of critical importance or to allow the continuity of the operations of critical installations. The need to set less strict emission limit values or environmental performance limit values is to be balanced with the need to protect the environment and human health as well as to ensure the level playing field and the integrity of the internal market. Consequently, less strict limits may be set only as a last resort, when all other less polluting alternative measures have been exhausted. The competent authority should ensure that no significant pollution is caused due to emissions from the installation. In order to supervise the impact on the environment and public health, the emissions should be monitored. In order to ensure the level playing field and the internal market, the Commission should provide strict guidance regarding the emergencies and their circumstances that could be taken into account.

The Commission should be empowered to verify that such derogations granted by the Member States are justified and to formulate objections where the Commission concludes that the derogation is not justified, in which case the Member State should revise the derogation without delay.

- (16) *Member States should be able to choose to exempt certain combustion units or units emitting carbon dioxide listed in Annex I to Directive 2003/87/EC from requirements on energy efficiency in the permit conditions.*
- (17) With a view to preventing or minimising the emission of pollutants by installations within the scope of Directive 2010/75/EU and to levelling the playing field across the Union, the conditions under which derogations from emissions limit values can be granted should be better framed through general principles, ***including a requirement for their regular reassessment*** in order to ensure a more harmonized implementation of such derogations throughout the Union. Moreover, derogations from emissions limit values should not be granted where they may put at risk compliance with environmental quality standards.

- (18) The evaluation of Directive 2010/75/EU concluded that there was some discrepancy in compliance assessment approaches for installations covered by Chapter II of that Directive. In order to achieve a high level of protection of the environment as a whole, ensure a consistent implementation of Union law and a level-playing field throughout the Union, while minimising 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 best available techniques. Those compliance assessment rules should take precedent over the rules set out in Chapters III and IV on assessment of compliance with emission limit values contained in Annexes V and VI to Directive 2010/75/EU.

- (19) Environmental quality standards refer to all the requirements set out in Union law, such as Union legislation on air and water; which must be fulfilled at a given time by a given environment or particular part thereof. Therefore it is appropriate to clarify that when granting a permit to an installation, competent authorities should not only set out conditions to ensure compliance of the installation's operations with the use of the best available techniques conclusions, but should also, where appropriate with a view to reducing the specific contribution of the installation to the pollution occurring in the relevant area, ***and taking into consideration the concentration of the pollutants concerned in the receiving environment***, include specific additional conditions in the permit stricter than those set in relevant BAT conclusions, so as to ensure the installation's compliance with environmental quality standards. Such conditions may consist in setting stricter emission limit values, ***pollutant emission load limits*** or limiting the operation or capacity of the installation.
- (20) 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 the 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 Union legislation, such as the river basin management plans under Directive 2000/60/EC of the European Parliament and of the Council²³.

²³ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000).

- (21) 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 Directive 2010/75/EU, the European Union fails to comply with article 6 (10) of the Convention. These findings have been endorsed by the Union and its Member States, and with a view to reaching full compliance with the Aarhus Convention, it is necessary to specify that the public concerned should be given early and effective opportunities to participate in the granting or updating of permit conditions set by the competent authority also when permits conditions are reconsidered following the publication of decisions on BAT conclusions relating to the main activity for the installation; when developments in the best available techniques allow for the significant reduction of emissions; when the operational safety requires other techniques to be used; and where it is necessary to comply with a new or revised environmental quality standard.

- (22) As clarified by the case-law of the Court of Justice²⁴, Member States may not restrict *a* legal *right* to challenge a decision of a public authority to those members of the public concerned who *have intervened* in the preceding administrative procedure to adopt *such* decision. As also clarified by the case-law of the Court of Justice²⁵, effective access to justice in environmental matters and effective remedies requires inter alia 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 to prevent a given instance of pollution, including, where necessary, through the temporary suspension of the disputed permit. Therefore, it should be specified that legal standing should not be made conditional on the role that the concerned member of the public played during a participatory phase of the decision-making procedures, *especially in regards to permit granting and site closures*, under this Directive. In addition, any review procedure should be fair, equitable, timely and not prohibitively expensive, and provide for adequate and effective redress mechanisms, including injunctive relief as appropriate. *In relation to livestock-rearing farms a suspension of operations should be strictly without prejudice to the continuation of activities that are necessary for the welfare of livestock.*
- (23) Transboundary cooperation should 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 public concerned and competent authorities in the other Member States which may be affected.

²⁴ Case C-826/18, Judgment of the Court (First Chamber) of 14 January 2021; LB and Others v College van burgemeester en wethouders van de gemeente Echt-Susteren; paragraphs 58 and 59.

²⁵ Case C-416/10 Judgment of the Court (Grand Chamber), 15 January 2013; Jozef Križan and Others v Slovenská inšpekcia životného prostredia. Križan, paragraph 109.

- (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 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 Council²⁶ 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. Whilst the transformation plans should remain indicative documents prepared under the responsibility of the operators, the audit organisation 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.

²⁶ 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.

- (25a) *Digital tools such as digitalized management systems might help to quantitatively and qualitatively assess, manage pollution-related risks and help operators in the transformation of their installations.*
- (26) Further clarity is needed regarding the criteria to assess whether the cleaned gases or liquids resulting from the gasification and pyrolysis of waste are sufficiently purified to such an extent that they are no longer waste prior to their incineration.
- (27) In light of the high number of rearing installations that should be included within the scope of Directive 2010/75/EU, and the relative simplicity of the processes and emissions patterns of such installations, it is appropriate to set out specific administrative procedures for issuing permits and for the operation of the relevant activities which are adapted to the sector, without prejudice to requirements related to public information and participation, monitoring and compliance. ***This should allow the adoption of general binding rules at national level and the registration of farms instead of issuing individual permits to farms. Member States should ensure that general binding rules and registration procedures secure a high level of environmental protection equivalent to that achievable with individual permit conditions.***

(28) 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 Directive 2010/75/EU and Directive 2003/87/EC of the European Parliament and of the Council²⁷. Whilst this will allow for the building of further synergies between those Directives, it may affect their operation, including on the carbon market. Directive 2003/87/EC contains in this regard a provision to review the effectiveness of synergies with Directive 2010/75/EU, and calling for environmental and climate relevant permits to be coordinated to ensure efficient and speedier execution of measures needed to comply with Union climate and energy objectives. In order to take into account the dynamics of innovation in this regard and the review referred to in Article 8 of Directive 2003/87/EC, the Commission should submit a report reviewing the implementation of Directive 2010/75/EU to the European Parliament and to the Council by 2028 and every 5 years thereafter.

(28a) Building on the simplification of reporting carried out under Directive 2010/75/EU, the Commission should continue streamlining how information is made available by Member States to the Commission pursuant to this directive with other relevant requirements of Union law, and in particular [the Portal Regulation]. The information reported should allow a meaningful review of implementation and results achieved regarding emissions and other forms of pollution, emission limit values, application of BAT, granting of exemptions and status of operation of installations. To this end, the Commission should update by [add date 22 months after EIF of amending directive] the implementing decision setting out the type, format and frequency for the reporting of this information by the Member States.

²⁷ 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 (OJ L 275, 25.10.2003, p. 32).

- (29) In order to ensure that Directive 2010/75/EU continues meeting its objectives to prevent or reduce emissions of pollutants and achieve a high level of protection of human health and the environment, ▯ operating rules ▯ for activities relating to rearing of poultry *should be established, taking into account the specificity of each sector of activity. Implementing powers should be conferred on the Commission to establish uniform conditions. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.* It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level ▯ .
- (29a) *The Commission should review the need to control emissions from onshore and offshore exploration and production of mineral oil and gas and the need to revise the activity threshold in Annex I for the production of hydrogen by electrolysis of water [...] The review shall take into account the existing EU legislative framework, including the Regulation on methane emissions reduction in the energy sector [OJ: insert reference to the methane regulation] and Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations.*

- (30) In order to ensure uniform conditions for the implementation of Directive 2010/75/EU, implementing powers should be conferred on the Commission as regards the establishment of (i) **■** a standardised methodology for assessing the disproportionality between the costs of implementation of the BAT conclusions and the potential environmental benefits *in accordance with art. 15.4 taking into consideration methods such as the ‘Value of Statistical Life’ (VSL) or the ‘Value of Life Year’ (VOLY) methods, if appropriate, (ii) a standardised methodology for undertaking the assessment referred to in art 15.4a*, (iii) the measuring method for assessing compliance with emission limit values set out in the permit with regard to emissions to air and water, (iv) the detailed arrangements necessary for the establishment and functioning of the innovation centre for industrial transformation and emissions, and (v) the format to be used for transformation plans *and (vi) on what information that is relevant for publication of the EMS, including at least environmental performance indicators and objectives, as well as the progress towards the environmental objectives*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁸.
- (31) In order to ensure the effective implementation and enforcement of the obligations set out in Directive 2010/75/EU, it is necessary to specify the minimum content of effective, proportionate and dissuasive penalties. Disparities in penalties regimes, the fact that imposed penalties are deemed in many cases too low to truly have a deterrent effect on illegal behaviours, and the lack of uniform implementation across Member States, undermine the level playing field on industrial emissions throughout the Union.
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²⁸ 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 (OJ L 55, 28.2.2011, p. 13).

(31a) Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and should ensure that they are implemented. Member States may lay down rules for administrative as well as criminal penalties. In any case, the imposition of criminal and administrative penalties should not lead to a breach of the right not to be tried or punished twice in criminal proceedings for the same criminal offence (ne bis in idem) as interpreted by the Court of Justice.

For the most serious infringements committed by a legal person, such as those of a high level of gravity due to their nature, extent and repetition, or where these infringements pose a significant risk to health or environment, Member States should ensure that their national system of penalties includes fines whose maximum amount should be at least 3% of the annual Union turnover of the operator in the financial year preceding the year in which the fine is imposed. For those infringements, without prejudice to the obligations of Member States under Directive 2008/99/EC, Member States may also or alternatively adopt criminal penalties, provided that they are effective, proportionate and dissuasive.

(32) Where damage to human health has occurred as a result of a violation of national measures adopted pursuant to Directive 2010/75/EU, Member States should ensure that the individuals affected are able to claim and obtain compensation for that damage from the relevant natural or legal persons¹. Such rules on compensation contribute to pursuing the objectives of preserving, protecting and improving the quality of the environment and protecting human health as laid down in Article 191 TFEU. They also underpin the right to life, integrity of the person and health care laid down in Article 2, 3 and 35 of the Charter of Fundamental Rights of the European Union and the right to an effective remedy as laid down in Article 47 of the Charter. Moreover, Directive 2004/35/EC of the European Parliament and of the Council does not give private parties a right of compensation as a consequence of environmental damage or of an imminent threat of such damage.

- (33) It is therefore appropriate for Directive 2010/75/EU to address the right for compensation for damages suffered by individuals ***and*** to ensure that individuals can defend their rights against damages to health caused by violations of Directive 2010/75/EU and thereby ensure a more efficient enforcement of that Directive.
- Procedures relating to claims for compensation should be designed and applied in such a way that they do not render impossible or excessively difficult the exercise of the right to compensation for damage.***

- (34) The impact of Directive 2010/75/EU on the procedural autonomy of the Member States should be limited to what is necessary to ensure the objectives of protection of human health through a safe environment pursued by it and should not affect other national procedural rules establishing the right to seek compensation for violations of that Directive. Such national rules should however not hamper the effective functioning of the mechanism for seeking compensation required by Directive 2010/75/EU.
- (35) The implementation of Directive 2010/75/EU has shown divergent applications across Member States concerning the coverage of installations for the manufacturing of ceramic products by firing, because the wording of the definition of this activity allowed Member States to decide whether to apply both or only one of the two criteria on production capacity and kiln capacity. With a view to ensuring a more consistent implementation of that Directive and securing a level-playing field throughout the Union, such installations should be included within the scope of that Directive whenever any one of those two criteria is met.

- (36) 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 should be considered. The BAT conclusions, where relevant, are the reference point for selecting the substances for which emission limit values are to be set, although the competent authority may decide to select additional substances. Currently, individual polluting substances are listed in a non-exhaustive way in Annex II to Directive 2010/75/EU; which is not compatible with the holistic approach of that Directive and does not reflect the need for competent authorities to take into account all relevant polluting substances, including those of emerging concern. The non-exhaustive list of polluting substances should therefore be deleted. Instead, reference should be made to the list of pollutants in Annex II to Regulation (EC) No 166/2006²⁹.
- (37) Although landfills are included within the scope of Directive 2010/75/EU, no BAT conclusions exist for landfills since that activity falls within the scope of Council Directive 1999/31/EC³⁰ and the requirements of the latter Directive are deemed to constitute BAT. Due to the technical developments and innovation that have taken place since the adoption of Directive 1999/31/EC, more effective techniques for protecting human health and the environment are now available. The adoption of BAT conclusions under Directive 2010/75/EU would allow addressing the key environmental issues related to the operation of waste landfills, including significant emissions of methane. Directive 1999/31/EC should therefore allow for the adoption of BAT conclusions on landfills under Directive 2010/75/EU.

²⁹ 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 (OJ L 33, 4.2.2006, p. 1).

³⁰ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182 16.7.1999, p. 1).

- (38) Directives 2010/75/EU and 1999/31/EC should therefore be amended accordingly.
- (39) Since the objectives of this Directive, namely to ensure a high level of environmental protection and the improvement of environmental quality, cannot be sufficiently achieved by Member States and can, therefore, by reason of the transboundary nature of pollution from industrial activities, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (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 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.

(41) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents³¹, 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,

(41a) Combustion plants that are part of small isolated systems, may, due to their geographical location and lack of interconnection to the mainland grid of Member States or the grid of another Member State, face special challenges requiring more time to comply with the emission limit values. The Member States concerned should establish a plan for compliance covering combustion plants being part of a small isolated system that sets out the measures to ensure compliance with the emission limit values at the latest by 31 December 2029. The plan should describe the measures to ensure compliance with this Directive, and measures to minimise the magnitude and duration of the pollutant emissions during the period covered by the plan and include information on demand management measures and possibilities for cleaner fuel switching possibilities or cleaner alternatives such as the deployment of renewables and interconnection with the mainland grids or the grid of another Member State. Member States concerned should communicate their Compliance Plan to the Commission. Member States should update the plan in case the Commission raises objections. Member States concerned should report annually on progress towards compliance.

³¹ OJ C 369, 17.12.2011, p. 14.

- (43) *In order to give the Member States, Competent Authorities and installations time to comply with the new provisions, and also to give time to adopt new BAT conclusions that take the new provisions into account transitional provisions should be prescribed. To ensure legal certainty there is a need to have a fixed date when the provisions should be complied with at the absolute latest. With regard to the Seville process and the number of BAT reference documents that need to be reviewed, this date should be set to 12 years for existing activities and 10 years for new activities. This does not prevent BAT-conclusions to be adopted and implemented earlier, which is expected for most activities covered by this directive. Existing installations shall comply with the provisions in the current IED, until there are new BAT conclusions or there is a permit update.*

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2010/75/EU

Directive 2010/75/EU is amended as follows:

(-1) The Title is replaced by the following:

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

(1) In Article 1, the second paragraph is replaced by the following:

‘It also lays down rules designed to prevent or, where that is not practicable, to ***continuously*** reduce emissions into air, water and land and to prevent the generation of waste, ***improve resource efficiency, and to promote circular economy, and decarbonisation***, in order to achieve a high level of protection of human health and the environment taken as a whole.’.

(2) In Article 2, 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 VIa.’.

(3) Article 3 is amended as follows:

(-a) point (2) is replaced as follow

(2) ‘pollution’ means the direct or indirect introduction, as a result of human activity, of substances, vibrations, heat, noise or odour into air, water or land which may be harmful to human health or the quality of the environment, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment;

(a) point (3) is replaced by the following:

‘(3) ‘installation’ means a stationary technical unit within which one or more activities listed in Annex I, in Annex Ia or in Part 1 of Annex VII are carried out, and any other directly associated activities on the same site which have a technical connection with the activities listed in those Annexes and which could have an effect on emissions and pollution;’;

(aa) the following point (5a) is inserted:

(5a) ‘environmental performance limit value’ means a performance value included in a permit, expressed for specified conditions in terms of certain specific parameters;

The following point (9a) is inserted:

‘deep industrial transformation’ means the implementation by industrial operators of emerging techniques or best available techniques involving a major change in the design or technology of all or part of an installation or the replacement of an existing installation by a new installation allowing a extremely substantive reduction of emissions of greenhouse gases in consistency with the objective of carbon neutrality and optimising environmental co-benefits, at least to the levels that can be achieved by techniques identified in the applicable BAT conclusions, taking into account cross-media effects.

(ac) points (b) and (c) of point (10) are replaced by the following:

- (b) ‘available techniques’ means those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages whether or not the techniques are used or produced inside the Union, as long as they are reasonably accessible to the operator;*
- (c) ‘best’ means most effective in achieving a high general level of protection of the environment as a whole, including human health and climate protection;*

(b) point (12) is replaced by the following:

‘(12) ‘BAT conclusions’ means a document containing the parts of a BAT reference document laying down the conclusions on best available techniques, their description, information to assess their applicability, the emission levels associated with the best available techniques *and with emerging techniques*, the environmental performance levels associated with the best available techniques *and with emerging techniques*, the content of an environmental management system including benchmarks ■ , associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures;’;

(c) the following *points (12 a), (13a) and (13b)* are inserted:

‘(12a) ‘Operating rules‘ means the rules included in permits or general binding rules for the operation of activities referred to in annex I a, containing the emission limit values, the environmental performance limit values, associated monitoring requirements, and where relevant land spreading practices, pollution prevention and mitigation practices, nutritional management, feed preparation, housing, manure management (collection, storage, processing, land spreading) and storage of dead animals, which are consistent with the use of best available techniques.

‘(13a) ‘environmental performance levels associated with the best available techniques’ means the range of environmental performance levels, obtained under normal operating conditions using a BAT or a combination of BATs; as described in BAT conclusions’.

(13aa) ‘environmental performance’ includes consumption levels, resource efficiency covering materials, water and energy resources, reuse of materials, reuse of water, waste generation.

(13b) ‘benchmarks’ means the indicative range of environmental performance levels associated with best available techniques, which shall be used as a reference in the EMS.

(ca) point (14) is replaced by the following:

(14) ‘emerging technique’ means a novel technique for an industrial activity that, if commercially developed, could provide either a higher general level of protection of the environment and human health or at least the same level of protection of human health and the environment and higher cost savings than existing best available techniques;

(d) point (17) is replaced by the following:

‘(17) ‘the public concerned’ means the public affected or likely to be affected by, or having an interest in, the taking of a decision on the granting or the updating of a permit or of permit conditions; for the purposes of this definition, non-governmental organisations promoting the protection of human health or the environment and meeting any requirements under national law shall be deemed to have an interest;’.

(da) point (23) is replaced by the following:

‘(23) ‘poultry’ means poultry as defined in Article 4, point 9, of Regulation (EU) 2016/429 of the European Parliament and of the Council on transmissible animal diseases;*

** OJ L 084, 31.3.2016, p. 1.*

(e) the following points (23a), ■ and (23c) are inserted:

‘(23a) ‘pigs’ means pigs as defined in Article 2 of Council Directive 2008/120/EC*;

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(23c) ‘livestock unit’ ■ means *a standard measurement unit that allows for the aggregation of the various categories of livestock in order for them to be compared; the coefficients for establishing the livestock units for individual livestock categories are listed in Annex Ia*’.

* Council Directive 2008/120/EC of 18 December 2008 laying down minimum standards for the protection of pigs (OJ L 47, 18.2.2009, p. 5).

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(f) the following points **(50), (51) to (52)** are added:

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(50) ‘emission levels associated with emerging techniques’ 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;

(51) ‘environmental performance levels associated with emerging techniques’ 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***;

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

■

(4) In Article 4(1), the second subparagraph is replaced by the following:

‘By way of derogation from the first subparagraph, Member States may set a procedure for the registration of installations covered only by Chapter V or Chapter VIa.’.

(4a) In Article 5, paragraph 3a(new) is inserted:

Member States shall develop systems for the electronic permitting of installations and implement electronic permitting procedures at the latest by end 2035.

The Commission shall organise an exchange of information with the Member States on electronic permitting and publish guidance on best practices.

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- (6) Articles 7 and 8 are replaced by the following:

‘Article 7

Incidents and accidents

Without prejudice to Directive 2004/35/EC of the European Parliament and of the Council*, in the event of any incident or accident significantly affecting human health or the environment, Member States shall take the necessary measures to ensure that:

- (a) the operator informs the competent authority immediately;
- (b) the operator immediately takes the measures to limit the ***consequences on human health or the environment*** and to prevent further possible incidents or accidents;
- (c) the competent authority requires the operator to take any appropriate complementary measures that the competent authority considers necessary to limit the ***consequences on human health or the environment*** and to prevent further possible incidents or accidents.

In the event of pollution affecting drinking water resources, including transboundary resources, or affecting wastewater infrastructure in the case of indirect discharge, the competent authority shall inform the drinking water and wastewater operators affected, of the measures taken to prevent or remedy the damage caused by that pollution to human health and the environment.

In the event of any incident or accident significantly affecting human health **■** health **or** the environment in another Member State, the Member State in whose territory the accident or incident has 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.

Article 8

Non-compliance

- (1) 1. Member States shall take the necessary measures to ensure that the permit conditions are complied with.

They shall also adopt compliance assurance measures to ■ promote, monitor and enforce compliance with obligations placed on natural or legal persons under this Directive.

2. In the event of a breach of the permit conditions, Member States shall ensure that:

- (a) the operator immediately informs the competent authority;
- (b) the operator immediately takes the measures necessary to ensure that compliance is restored within the shortest possible time;
- (c) the competent authority requires the operator to take any appropriate complementary measures that the competent authority considers necessary to restore compliance.

3. Where the breach of the permit conditions poses an immediate danger to human health or threatens to cause an immediate significant adverse effect upon the environment, and until compliance is restored in accordance with the ***second paragraph***, points (b) and (c), the operation of the installation, combustion plant, waste incineration plant, waste co-incineration plant or relevant part thereof shall be suspended without any delay.

Where such breach threatens human health or the environment in another Member State, the Member State in whose territory the breach of the permit conditions has occurred shall ensure that the other Member State is informed.

4. ***In situations not covered by paragraph 3, where persistent breach of the permit conditions causes a danger to human health or a significant adverse effect upon the environment, and where the necessary action for restoring compliance identified in the inspection report referred to in Article 23(6) 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 with the permit conditions is restored.***
5. ***Member States shall ensure that suspension measures referred to in paragraphs 3 and 4 of this Article and adopted by competent authorities against an operator which infringes of national provisions adopted pursuant this Directive are enforced in an effective manner.***
6. ***In the event of a breach of compliance affecting drinking water resources, including transboundary resources, or affecting wastewater infrastructure in the case of an indirect discharge, the competent authority shall inform the drinking water and wastewater operators, and all relevant authorities that ensure compliance with environmental legislation affected, of the breach and the measures taken to prevent or remedy the damage caused to human health and the environment.***
- * Directive 2004/35/CE 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 (OJ L 143, 30.4.2004, p. 56).’.

(7) In Article 9, paragraph (2) is *amended as follows*:

2. For activities listed in Annex I to Directive 2003/87/EC, Member States may choose not to impose requirements in accordance with 14 (1) (aa) and Art. 15 (3a) relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.

(8) In Article 11, the following points *(f) is replaced while*, (fa), (fb) and (fc) are inserted:

(f) energy is used efficiently and the use and, where possible, the use and production of renewable energy is promoted;

‘(fa) material resources and water are used efficiently, including through re-use;

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(fc) an environmental management system is implemented as referred to in Article 14a.’.

(8a) In Article 12, paragraph 1, points (b), (c) and (f) are replaced by the following:

- (b) the raw and auxiliary materials, other substances, the energy and water used in or generated by the installation;*
- (c) the sources of emissions from the installation, including odour;*
- (f) the nature and quantities of foreseeable emissions, including odour from the installation into each medium as well as identification of significant effects of the emissions on the environment;*

(9) Article 13 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. In order to draw up, review and, where necessary, update BAT reference documents, the Commission shall organise an exchange of information between Member States, the industries concerned, non-governmental organisations promoting **human health and** environmental protection, the European Chemicals Agency and the Commission.’

(aa) In Article 13, the following paragraph 1a (new) is inserted:

1a. The Commission shall, [by the end date for transposition of this Directive] amend Implementing Decision 2012/119/EU.

(b) In paragraph 2, the following subparagraph is added:

‘Without prejudice to Union competition law, information considered as confidential business information or commercially sensitive information shall only be shared with the Commission and , *after having signed a confidentiality and non-disclosure agreement, with civil servants and other public employees representing Member States or Union agencies. Information shall be anonymised, not referring to a particular operator or installation, when shared with the other stakeholders involved in the exchange of information referred to in paragraph 1. Non-anonymised information may only be shared in cases where anonymising the information would not allow an effective exchange of information on BAT in the context of drawing up, reviewing and, where necessary, updating BREFs,* with the following individuals having signed a confidentiality and non-disclosure agreement: *Representatives of non-governmental organisations promoting the protection of human health or the environment* and representatives of *associations representing the relevant industrial sectors, where appropriate*. The exchange of information considered as confidential business information or sensitive commercial information shall remain *strictly* limited to what is *technically* required to draw up, review and, where necessary, update BAT reference documents, and such *confidential business information or sensitive* ■ commercial information shall not be used for other purposes.’.

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

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

bb) In Article 13, paragraph 3, point (d) is replaced by the following:

‘(d) guidance on the drawing up of BAT reference documents, and on their quality assurance including the suitability of their content and format.’

The Commission shall also obtain the opinion of the forum on the method for assessing compliance with emission limit values set out in the permit with regard to emissions to air and water, as set out in Article 15a.

(bc) In Article 13, paragraph 5 is replaced by the following:

5. The exchange of information for the preparation, review and, if necessary, updating, of a BREF document shall not exceed a period of four years. The opinion of the forum referred to in paragraph 3 on the proposed content of a BREF shall be submitted within 6 months of the final meeting of the expert group responsible for the revision of the BREF.

Decisions on the BAT conclusions, shall be adopted in accordance with the regulatory procedure referred to in Article 75(2). The exchange of information shall aim at an 8 years review cycle of BAT reference documents prioritising the documents that have the highest potential to improve the protection of the environment.

(bd) In Article 13, paragraph 6 is replaced by the following:

After the adoption of a decision in accordance with paragraph 5, the Commission shall make without undue delay the BAT conclusions and without undue delay the BAT reference document publicly available.

(10) Article 14 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the first subparagraph is replaced by the following:

‘Member States shall ensure that the permit includes all measures necessary to comply with the requirements of Articles 11 and 18. To that effect, Member States shall ensure that permits are granted further to consultation of all relevant authorities who ensure compliance with Union environmental legislation, including with environmental quality standards.’;

(ii) in **Article 14(1)**, the second subparagraph, point (a) is replaced by the following:

‘(a) emission limit values for polluting substances listed in Annex II of Regulation (EC) No 166/2006*, and for other polluting substances, which are likely to be emitted from the installation concerned in significant quantities, having regard to their nature, ***their hazardousness*** and their potential to transfer pollution from one medium to another; ***which are likely to be emitted from the installation concerned in significant quantities, having regard to their nature and their potential to transfer pollution from one medium to another; taking into account the variation of water flow dynamics in receiving water bodies.***’

* Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJ L 33, 4.2.2006, p. 1).’;

(iii) the following point (aa) is inserted:

‘(aa) environmental performance limit values *in accordance with Article 15(3a)*;’;

(point iia) the following point (ab) is inserted:

‘(ab) appropriate requirements ensuring the assessment of the need to prevent or reduce the emissions of substances fulfilling the criteria of article 57 or substances addressed in restrictions in annex XVII to regulation (EC) No 1907/2006.’;

(iv) point (b) is replaced by the following:

‘(b) appropriate requirements ensuring protection of the soil, groundwater, surface water *and catchment areas for abstraction points of water intended for human consumption as referred to in article 7 of Directive (EU) 2020/2184*, and measures concerning the monitoring and management of waste generated by the installation;’;

(v) the following point (ba) is inserted:

‘(ba) appropriate requirements *laying down the characteristics of* an environmental management system *in accordance with* Article 14a;’;

(vi) the following point (bb) is inserted:

‘(bb) suitable monitoring requirements for the consumption and reuse of resources such as energy, water and raw materials;’;

(vii) in point (d), the following subpoint (iii) is added:

(iii) information on progress towards fulfilment of the environmental policy objectives referred to in Article 14a. ■ ;’;

(viiia) In Article 14(1), subparagraph 2, point e is replaced by the following:

(e) appropriate requirements for the regular maintenance and surveillance of measures taken to prevent emissions to soil, surface and groundwater pursuant to point (b) and appropriate requirements concerning the periodic monitoring of soil, surface and groundwater in relation to relevant hazardous substances likely to be found on site and having regard to the possibility of soil, surface and groundwater contamination at the site of the installation.

(viii) point (h) is replaced by the following:

‘(h) conditions for assessing compliance with the emission limit values and environmental performance limit values or a reference to the applicable requirements specified elsewhere.’.

(11) The following Article 14a is inserted:

‘Article 14a

Environmental management system

1. Member States shall require the operator to prepare and implement, for each installation falling within the scope of this Chapter, an environmental management system (‘EMS’). The ***EMS shall include the elements listed in paragraph 2*** and shall comply with relevant BAT conclusions that determine aspects to be covered in the EMS.

■

2. The EMS shall include at least the following:
 - (a) environmental policy objectives for the continuous improvement of the environmental performance and safety of the installation, which shall include measures to:
 - (i) prevent the generation of waste;
 - (ii) optimise resource ***and energy*** use and water reuse;
 - (iii) prevent or reduce ■ the use ***or emissions*** of hazardous substances.
 - (b) objectives and performance indicators in relation to significant environmental aspects, which shall take into account benchmarks set out in the relevant BAT conclusions ■ ;

- (c) for installations covered by the obligation to conduct an energy audit or implement an energy management system pursuant to Article 8 of Directive 2012/27/EU, inclusion of the results of that audit or implementation of the energy management system pursuant to Article 8 and Annex VI of that Directive and of the measures to implement their recommendations;
- (d) a chemicals inventory of the hazardous substances present in *or emitted from* the installation as such, as constituents of other substances or as part of mixtures, *with special regard to the substances fulfilling the criteria of Article 57 and substances addressed in restrictions in Annex XVII to Regulation (EC) No 1907/2006, and* a risk assessment of the impact of such substances on human health and the environment, *as well as* and an analysis of the possibilities to substitute them with safer alternatives *or reduce their use or emissions*;
- (e) measures taken to achieve the environmental objectives and avoid risks for human health or the environment, including corrective and preventive measures where needed;
- (f) a transformation plan as referred to in Article 27d.

2a. The level of detail of the EMS shall be consistent with the nature, scale and complexity of the installation, and the range of environmental impacts it may have.

Where elements of the EMS, or the related performance indicators, objectives, measures have already been developed in other relevant Union legislation and comply with this paragraph, a reference in the EMS to the relevant documents shall be sufficient.

3. Member States shall ensure that relevant information of the EMS from paragraph 2 a – e and the transformation plan shall be made available on the Internet, free of charge and without restricting access to registered users.’.

The Commission shall, by 31 December 2025, adopt an implementing act on what information that is relevant for publication. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 75(2).

Information may be redacted, or if that is not possible, excluded when made available on the Internet, if the disclosure of the information would adversely affect any of the interests listed in article 4.2 (a)-(h) of Directive 2003/4/EC.

The operator shall prepare and implement the EMS in accordance with the relevant BAT conclusions for the sector at the latest by [OP please insert the date = the first day of the month following 22 months after the date of entry into force of this Directive], except for installations referred to in Article 2a(4).

The EMS shall be reviewed periodically to ensure that it continues to be suitable, adequate and effective.

The EMS shall be audited for the first time at the latest by [OP please insert the date = the first day of the month following 22 months after the date of entry into force of this Directive] except for installations referred to in Article 2a(4). The EMS shall be audited at least every 3 years, by a conformity assessment body accredited in accordance with Regulation (EC) No 765/2008 or an accredited or licensed environmental verifier as defined in Art. 2 No. 20 of Regulation (EC) No. 1221/2009, who verifies the conformity of the EMS, and of its implementation, with this article.

(12) Article 15 is replaced by the following:

‘Article 15

Emission limit values, environmental performance limit values, equivalent parameters and technical measures

- ‘1. The emission limit values for polluting substances shall apply at the point where the emissions leave the installation, and any dilution prior to that point shall be disregarded when determining those values.

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 *this does not lead to higher levels of pollution in the environment, an equivalent level of protection of the environment as a whole is guaranteed, and the operator ensures, in consultation with the operator of the waste water treatment plant, that the indirect releases do not jeopardize the provisions of the permit of the waste water treatment plant under this directive or the specific authorisation under Directive 1991/271/EEC and* that all of the following requirements are fulfilled:

- (a) the released polluting substances do not impede the operation of the waste water treatment plant *to recover resources from the waste water treatment stream*;
- (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 into the 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) of this Article, without prejudice to stricter measures required pursuant to Article 18.

The competent authority shall set out in an annex to the permit conditions the reasons for the application of the second subparagraph, including the result of the assessment by the operator of the fulfilment of the required conditions.

The operator shall provide an updated assessment in cases where the permit conditions should be changed to ensure that the requirements set out in the second subparagraph, points (a) to (d) are fulfilled.

2. Without prejudice to Article 18, the emission limit values and the equivalent parameters and technical measures referred to in Article 14(1) and (2) shall be based on BAT without prescribing the use of any technique or specific technology.

3. The competent authority shall set the strictest *achievable* emission limit values *by applying BAT in the installation, considering the entire range of the emission levels associated with the best available techniques (BAT-AELs) to ensure that, under normal operating conditions, emissions do not exceed the BAT-AELs as laid down in the decisions on BAT conclusions referred to in Article 13(5). The emission limit values shall be based on an assessment by the operator of the entire BAT-AEL range, analysing the feasibility of meeting the strictest end of the BAT-AEL range and demonstrating the best overall performance that the installation can achieve by applying BAT as described in BAT conclusions, having regard to possible cross-media effects.* The emission limit values shall be set through either of the following:

- (a) setting emission limit values expressed for the same or shorter periods of time and under the same reference conditions as the emission levels associated with the best available techniques; or
- (b) setting different emission limit values than those referred to under point (a) in terms of values, periods of time and reference conditions.

Where the emission limit values are set in accordance with point (b), the competent authority shall, at least annually, assess the results of emission monitoring in order to ensure that emissions under normal operating conditions have not exceeded the emission levels associated with the best available techniques.

General binding rules referred to in Article 6 may be applied while setting relevant emission limit values according to this article.

If general binding rules are adopted, the strictest achievable emission limit values by applying BAT shall be set for categories of installations having similar characteristics that are relevant in determining the lowest emission levels achievable, considering the entire range of the BAT AELs. The general binding rules shall be established by the Member State, based on the information in the BAT conclusions, analysing the feasibility of meeting the strictest end of the BAT-AEL range and demonstrating the best performance that those categories of installations can achieve by applying BAT as described in BAT conclusions.

- 3a. *Without prejudice to Article 9(2), the competent authority shall set, for normal operating conditions, binding ranges for environmental performance that may not be exceeded during one or more periods of time, as laid down in the decisions on BAT conclusions referred to in Article 13(5).*

In addition, the competent authority shall:

- (a) set, for normal operating conditions, environmental performance limit values concerning water, having regard to possible cross-media effects, that may not be exceeded during one or more periods of time, and which are not less strict than the binding ranges referred to in the first subparagraph.*
- (b) set, for normal operating conditions, indicative environmental performance levels concerning waste and resources other than water, which are not less strict than the binding ranges referred to in the first subparagraph.*

4. By way of derogation from paragraph 3, and without prejudice to Article 18, the competent authority may, in specific cases, set ***emission limit values higher than the emission levels associated with best available techniques***. Such a derogation may apply only where an assessment shows that the achievement of emission levels associated with the best available techniques as described in BAT conclusions would lead to disproportionately higher costs compared to the environmental benefits due to:
- (a) the geographical location or the local environmental conditions of the installation concerned; or
 - (b) the technical characteristics of the installation concerned.

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

The emission limit values set in accordance with the first subparagraph shall, however, not exceed the emission limit values set out in the Annexes to this Directive, where applicable.

Derogations referred to in this paragraph shall respect the principles set out in Annex II. The competent authority shall ***ensure that the operator provides an assessment of the impact of the derogation on the concentration of the pollutants concerned in the receiving environment and*** in any case ensure that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved. Derogations shall not be granted where they may put at risk compliance with environmental quality standards referred to in Article 18.

The competent authority shall re-assess whether the derogation granted in accordance with this paragraph is justified every 4 years or as part of each reconsideration of the permit conditions pursuant to Article 21, where such reconsideration is made earlier than 4 years after the derogation was granted.

The Commission shall adopt an implementing act, to establish a standardised methodology for assessing the disproportionality between the costs of implementation of the BAT conclusions and the potential environmental benefits referred to in the first subparagraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 75(2).’.

4a. By way of derogation from paragraph 3a, the competent authority may, in specific cases, set less strict environmental performance limit values. Such a derogation may apply only where an assessment shows that that, the achievement of performance levels associated with the best available techniques as described in BAT conclusions will lead to significant negative environmental impact, including cross media effects, or significant economical impact due to:

- (a) the geographical location or the local environmental conditions of the installation concerned; or**
- (b) the technical characteristics of the installation concerned,**

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

The competent authority shall in any case ensure that operating under less strict environmental performance limit value shall not cause any significant environmental impact, including depletion of water resources, and shall achieve a high level of protection of the environment as a whole.

The Commission shall establish, by means of implementing acts, a standardised methodology for undertaking the assessment referred to in the first subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 75(2).

5. *By way of derogation from paragraph 3 and 3a, the competent authority may set less strict emission limit values or environmental performance limit values in case of a crisis due to extra ordinary circumstances beyond the control of the operator and Member States, leading to severe disruption or shortage of:*
- a. *energy supplies and where there is an overriding public interest in security of energy supply, or*
 - b. *resources, materials and equipment essential for the operator to perform its activities, of public interest, in compliance with the applicable emission limit values or environmental performance limit values, or*
 - c. *essential resources, materials or equipment, that the operator produces in order to compensate such shortage or disruption for reasons of public health or public safety, or other imperative reasons of overriding public interests.*

As soon as the supply conditions are restored or when there is another alternative, the Member State shall ensure that the decision to set less strict emission limit values and environmental performance limit values ceases to have effect, and the installation shall comply with permit conditions set in accordance with paragraph 3 and 3a.

The competent authority shall ensure that no significant pollution is caused and set less strict limit values only when all less polluting measures have been exhausted.

The Members States shall take measures to ensure that the emissions are monitored.

The derogation shall not be granted for more than 3 months. If the reasons justifying the derogations persists the derogation may be prolonged for a period of maximum 3 months.

The competent authority shall make the derogation and the conditions imposed publicly available in accordance with Art. 24(2).

The Commission may, where necessary, assess and further clarify, through guidance, the criteria to be taken into account for the application of this paragraph.

Member states shall notify the Commission of any derogation granted under this paragraph, including the reasons for justifying the derogation and the conditions imposed.

The Commission shall assess whether the use of the derogation clause is justified having due regard to the criteria set in this paragraph. If the Commission raises objections within two month of the notification by the Member State, the Member States shall, without delay, revise the derogation provided accordingly.

(13) The following Article 15a is inserted:

‘Article 15a

Compliance assessment

1. For the purpose of assessing compliance ***under normal operating conditions*** with emission limit values in accordance with Article 14(1), point (h), the correction made to measurements to determine the validated average emission values shall not exceed the measurement uncertainty of the measuring method.
2. The Commission shall by [*OP please insert date = the first day of the month following 24 months after the date of entry into force of this Directive*] adopt an implementing act establishing the ■ method for assessing compliance ***under normal operating conditions*** with emission limit values set out in the permit with regard to emissions to air and water. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 75(2).

The method referred to in the first subparagraph shall address, as a minimum, the determination of validated average emission values and shall set out how measurement uncertainty and the frequency of exceedance of emission limit values are to be taken into account in the compliance assessment.

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 paragraph 1 of this Article, the installation shall be deemed to also comply with the emission limit values set pursuant to Chapter III or IV for the pollutants concerned ***under normal operating conditions***.’.

(13a) In Article 16, paragraph 2 is replaced by the following:

- 2. The frequency of the periodic monitoring referred to in Article 14(1)(e) shall be determined by the competent authority in a permit for each individual installation or in general binding rules.*

Without prejudice to the first subparagraph, periodic monitoring shall be carried out as set out in the BAT Conclusions, where applicable, and at least once every 4 years for groundwater and 9 years for soil, unless such monitoring is based on a systematic appraisal of the risk of contamination.

(13b) In Article 16, paragraph 2a (new) is added:

- 2a. The quality control of laboratories performing the monitoring shall be based on CEN standards or, if CEN standards are not available, ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality.*

(14) In Article 16, the following paragraph 3 is added:

- ‘3. Where *the assessment* referred to in Article 15(4) *demonstrates* that the *derogation will have a quantifiable or measurable effect on the environment*, *Member States shall ensure that the concentration* of the *pollutants concerned* shall be *monitored in the receiving environment*. Where relevant, monitoring and measuring methods for each concerned pollutant set out in other relevant Union legislation shall be used for the purpose of the monitoring referred to in this paragraph.’.

(15) Article 18 is replaced by the following:

‘Article 18

Environmental quality standards

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 ***without prejudice to other measures which may be taken to comply with environmental quality standards.***

Where stricter conditions have been included in the permit in accordance with the first paragraph, ***the competent authority shall assess the impact*** of the ***stricter conditions on the*** concentration of ***the*** pollutants ***concerned*** in the receiving environment.

Where the load of pollutants emitted by the installation has a quantifiable or measurable effect on the environment, Member States shall ensure that the concentration of the pollutants concerned in the receiving environment is monitored.

The results of such monitoring shall be transmitted to the competent authority.

Where monitoring and measurement methods for the concerned pollutants are set out in other relevant Union legislation, such methods, ***including effect-based methods as appropriate,*** shall be used for the purpose of the monitoring referred to in this paragraph.’.

(15b) In Article 20, paragraph 1 is replaced by the following:

Member States shall take the necessary measures to ensure that the operator informs the competent authority of any planned change in the nature or functioning, or an extension of the installation which may have consequences for the environment, in due time and prior to the implementation of any such change or extension. Where appropriate, the competent authority shall update the permit. Member States shall take the necessary measures to ensure that the competent authority reacts in due time to the information provided by the operator.

(15d) In Article 21, paragraph 3, subparagraph 1, point a is replaced by the following:

(a) all the permit conditions for the installation concerned are reconsidered and, if necessary, updated to ensure compliance with this Directive, in particular, with Article 15(3), (3a) and (4), where applicable;

(16) In Article 21(5), point (c) is replaced by the following:

‘(c) where it is necessary to comply with an environmental quality standard referred to in Article 18, including in the 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 Union legislation.’

In Article 21, the following paragraph 5d (new) is inserted:

(d) in case of a request from the operator to extend the duration of the operation of an installation undertaking the activity referred to in Annex I, point 5.4.

(16d) In Article 23(4), subparagraph 5 is replaced by the following:

The Commission shall adopt and, where appropriate, regularly update, guidance on the criteria for the appraisal of environmental risks.

(17) Article 24 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (d) is replaced by the following:

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

(ii) the following point (e) is added:

‘(e) the updating of a permit in accordance with Article 21(3) or Article 21(4).’.

(b) paragraph 2 is amended as follows:

(i) the first subparagraph is replaced by the following:

‘2. When a decision on granting, reconsideration or updating of a permit has been taken, the competent authority shall make available to the public, including systematically via the Internet, **a webpage which is easy to find**, free of charge and without restricting access to registered users, in relation to points (a), (b) and (f), the following information:’;

(ii) point **(a), (c) and (f) are** replaced by the following:

(a) the content of the decision, including a copy of the permit and any subsequent updates, including consolidated permit conditions where relevant;

‘(c) the results of the consultations held before the decision was taken, including consultations held pursuant to Article 26, and an explanation of how those consultations were taken into account in that decision;’;

(f) where a derogation is granted in accordance with Article 15, the specific reasons for that derogation based on the criteria laid down in that paragraph and the conditions imposed.’;

(iia) In Article 24, (2), point e is replaced by the following:

(e) how the permit conditions referred to in Article 14, including the emission limit values, environmental performance levels and environmental performance limit values, have been determined in relation to the best available techniques and emission levels and environmental performance levels associated with the best available techniques;

(c) paragraph 3 is replaced by the following:

‘3. The competent authority shall also make available to the public, including systematically via the Internet, ***on a webpage which is easy to find***, free of charge and without restricting access to registered users, the following:

- (a) relevant information on the measures taken by the operator upon definitive cessation of activities in accordance with Article 22;
- (b) the results of emission monitoring as required under the permit conditions and held by the competent authority;
- (c) the results of the monitoring referred to in Article 16(3) and in Article 18 .’.

(18) In Article 25(1), the following subparagraphs are added:

‘Standing in the review procedure **shall** not be conditional on the role that the concerned member of the public played during a participatory phase of the decision-making procedures under this Directive.

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

(19) In Article 26, paragraphs 1 and 2 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 that information, consultations shall be carried out between the two Member States, while ensuring that the comments from the Member State that may be significantly affected are provided before the competent authority of the Member State in whose territory the application for a permit was submitted reaches its decision. Should no comments be provided by the Member State which may be significantly affected within the period for consultation 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 application for a permit is also made available for comments to the public of the Member State which may be significantly affected and remains available for the same period of time as provided in the Member State where the application has been made.’.

(20) The following heading is inserted after Article 26:

‘CHAPTER IIa

ENABLING AND PROMOTING INNOVATION’

(21) Article 27 is replaced by the following:

‘Article 27

Emerging techniques

Member States shall, where appropriate, encourage the development and application of emerging techniques, in particular where such techniques have been identified in the BAT conclusions, the BAT reference documents or the findings of the innovation centre for industrial transformation and emissions referred to in Article 27a.’.

(22) The following Articles 27a to 27d are inserted:

‘Article 27a

Innovation centre for industrial transformation and emissions

- (2) 1. The Commission shall establish and operate an innovation centre for industrial transformation and emissions (the 'centre' or 'INCITE').
- (3) 2. The centre shall collect and analyse information on innovative techniques, including emerging ***and transformative*** techniques, ***which contribute inter alia to minimisation of pollution, decarbonisation, resource efficiency, circular economy using less or safer chemicals***, 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 the exchange of information referred to in Article 13(3), point (b), and when drawing up, reviewing and updating the BAT reference documents referred to in Article 13(1).
- (4) 3. The centre shall be assisted by:
- (a) representatives of Member States;
 - (b) relevant public institutions;
 - (c) relevant research institutes;
 - (d) research and technology organisations;
 - (e) representatives of the industries ***and farmers*** concerned;
 - (f) technology providers;
 - (g) non-governmental organisations promoting ***the protection of human health or the environment***;
 - (h) the Commission.

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

The Commission shall adopt an implementing act setting out the detailed arrangements necessary for the establishment and functioning of the centre. This implementing act shall be adopted in accordance with the examination procedure referred to in Article 75(2).

Article 27b

Testing of emerging techniques

Without prejudice to Article 18, the competent authority may grant temporary derogations from the requirements set out in Article 15(2) and (3) and **(3a)** from the principles set out in Article 11, points (a) and (b), for the testing of emerging techniques for a total period of time not exceeding **30 months, *provided that after the period specified, either the technique is stopped or the activity achieves at least the emission levels associated with the best available techniques.***

Article 27c

Emission levels associated with emerging techniques

By way of derogation from Article 21(3), the competent authority may set:

- (a)** emission limit values that ensure that, within 6 years of publication of a decision on BAT conclusions in accordance with Article 13(5) relating to the main activity of an installation, emissions shall not, under normal operating conditions, exceed emission levels associated with emerging techniques as laid down in the decisions on BAT conclusions.
- (b)** *indicative environmental performance values consistent with the decisions on BAT conclusions.*

Article 27d

Transformation towards a clean, circular and climate neutral industry

- (6) 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 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 1 with the requirements set out in ***accordance with*** paragraph 4.

- (7) 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.

- (8) 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.
- (9) 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*.
- (10) *The Commission shall review and where appropriate revise the delegated act by 31 December 2034.*'.

Article 27e

Deep Industrial Transformation

(1) Without prejudice to Article 18, in case of deep industrial transformation of the installation set out in the relevant transformation plan covering the 190d

installation, the competent authority may extend the period for the installation to comply with the updated permit conditions referred to in Article 21(3) up to a total of maximum 8 years, provided that:

- (a) the permit of the installation contains a description of the deep industrial transformation, the emission levels and resource efficiency that will be achieved, and the implementation timeline and milestones, and*
- (b) the operator reports annually to the competent authority on the progress in the implementation of the deep industrial transformation*
- (c) during the period granted to allow transformation of the installation, the competent authority ensures that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved.*

Member States shall inform the Commission at least yearly of derogations granted as part of their reporting to the Commission under Article 72.

(2) *Without prejudice to Article 18 and Article 22, in case of deep industrial transformation consisting of the closure of an installation and its replacement by a new installation set out in the relevant transformation plan covering the installation and to be completed within 8 years of publication of decisions on BAT conclusions in accordance with Article 13(5) relating to the main activity of the existing installation, the competent authority may disregard the obligation of updating the permit in accordance with Article 21(3), provided that the following conditions are met:*

- (a) the permit of the existing installation contains a description of the closure plan and the associated timeline and milestones, and*
- (b) the operator reports annually to the competent authority on the progress in the closure plan of the existing installation and its replacement by a new installation*
- (c) during the period preceding the closure of the installation, the competent authority ensures that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved.*

Member States shall inform the Commission at least yearly of derogations granted as part of their reporting to the Commission under Article 72.

(22a) *In Article 30, paragraph 5 is replaced by the following:*

5. *The competent authority may grant a derogation for a maximum of 6 months from the obligation to comply with the emission limit values provided for in paragraphs 2 and 3 for sulphur dioxide in respect of a combustion plant which to this end normally uses low-sulphur fuel, in cases where the operator is unable to comply with those limit values because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage.*

Member States shall immediately inform the Commission of any derogation granted under the first subparagraph, including the reasons for justifying the derogation and the conditions imposed.

(22b) *In Article 30(6), the third subparagraph is replaced by the following:*

Member States shall inform the Commission immediately of any derogation granted under the first subparagraph, including the reasons for justifying the derogation and the conditions imposed.

(22c) *The following Article 34a is inserted:*

Article 34a

1. *Member states may, until 31 December 2029, exempt combustion plants being part of a small isolated system on [date of entry into force] from compliance with the emission limit values referred to in Article 30(2) and in Article 15(3) for sulphur dioxide, nitrogen oxides and dust or, where applicable, with the rates of desulphurisation referred to in Article 31. The emission limit values for sulphur dioxide, nitrogen oxides and dust set out in the permit of these combustion plants, pursuant in particular to the requirements of Directives 2001/80/EC and 2008/1/EC, shall at least be maintained.*

The Members States shall take measures to ensure that the emissions are monitored and that no significant pollution is caused. Member States may only exempt installations from the emission limit values when all less polluting measures have been exhausted. The exemption shall not be made for a longer period than necessary.

2. *As from 1 January 2030, the concerned combustion plants shall comply with the emission limit values for sulphur dioxide, nitrogen oxides and dust set out in part 2 of Annex V and with the emission limit values referred to in Article 15(3) for sulphur dioxide, nitrogen oxides and dust.*

3. *The Member States that have provided exemptions in accordance with paragraph 1 shall implement a Compliance Plan covering the combustion plants that benefit from an exemption in accordance with paragraph 1. The Compliance Plan shall contain the measures to ensure compliance with the emission limit values for sulphur dioxide, nitrogen oxides and dust set out in part 2 of Annex V and with the emission limit values in Article 15(3) for sulphur dioxide, nitrogen oxides and dust by 31 December 2029. The plan shall also include measures to minimise the magnitude and duration of the pollutant emissions during the period covered by the plan and information on demand management measures and cleaner fuel switching possibilities or cleaner alternatives such as the deployment of renewables and interconnection with the mainland grids.*

4. *Not later than [date of entry into force + 6 months], Member States shall communicate their Compliance Plan to the Commission. The Commission shall evaluate the plans and, where the Commission has raised no objections within 12 months of receipt of a plan, the Member State concerned shall consider its plan to be accepted. In case the Commission raises objections on the ground that the plan does not guarantee the compliance of the concerned plants by 31 December 2029 or does not minimise the magnitude and duration of the pollutant emissions during the period covered by the plan, the Member State shall communicate a revised plan within 6 months of the notification of the objections by the Commission to the Member State. In relation to the evaluation of a new version of a plan which a Member State communicates to the Commission, the time period referred to in the second subparagraph shall be 6 months.*
5. *Member States shall report to the Commission the progress of the actions described in the plan not later than [date of entry into force + 18 months], and at the end of each subsequent calendar year. Member States shall inform the Commission of any subsequent changes to the plan. In relation to the evaluation of a new version of a plan which a Member State communicates to the Commission, the time period referred to in the second subparagraph of point 5 shall be 6 months.*
6. *The Member state shall make the derogation and the conditions imposed publicly available in accordance with Art. 24(2).*

(23) In Article 42(1), the second subparagraph is replaced by the following:

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

- (a) the incineration **causes** emissions **lower** 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.’.

In Article 48, paragraph 1 is replaced as follows:

2a. Member States shall ensure that monitoring of emissions is carried out in accordance with Parts 6 and 7 of Annex VI.

Emissions to air from waste incineration and co-incineration plants shall also be monitored during other than normal operating conditions. Emissions during start-up and shutdown while no waste is being incinerated, including emissions of PCDD/F and dioxin-like PCBs, shall be estimated based on measurement campaigns, carried out at regular intervals, such as every three years, carried out during planned start-up/shutdown operations. Emissions of PCDD/F and dioxin-like PCBs, shall as far as possible be prevented or minimized.

(23e) In Article 63, paragraph 2 is replaced by the following:

2. Where an existing installation undergoes a substantial change, or falls within the scope of this Directive for the first time following a substantial change, that part of the installation which undergoes the substantial change shall be treated-as a new installation.

(23g) In Article 70, the third paragraph is replaced by the following:

3. Monitoring shall be carried out in accordance with CEN standards or, if CEN standards are not available, ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality. This applies also to the quality assurance system of the laboratory performing the monitoring.

(24) The following heading is inserted after Article 70:

‘CHAPTER VIa

SPECIAL PROVISIONS FOR REARING POULTRY AND PIGS’

(25) The following Articles 70a to 70i are inserted after the heading ‘CHAPTER VIa’:

‘Article 70a

Scope

This Chapter shall apply to the activities set out in Annex Ia which reach the capacity thresholds set out in that Annex.

Article 70b

Aggregation rule

Member States shall adopt measures to ensure that if two or more installations, *engaged in rearing activities*, are located close to each other and if their operator is the same or if the installations are under the control of operators who are engaged in an economic or legal relationship, *the competent authority may consider those installations as* a single unit for the purpose of calculating the capacity threshold referred to in Article 70a.

Member States shall ensure that this rule is not used to circumvent the obligations set out in this directive.

2. *By [OP please insert the date = the first day of 48 months following the date of entry into force of this Directive], the Commission shall publish guidelines, after consulting the Member States, on the criteria to consider different installations as a single unit under paragraph 1.*

Article 70c

Permits and registrations

1. Member States shall take the necessary measures to ensure that no installation falling within the scope of this Chapter is operated without a permit *or without being registered and that* the operation *of all installations within the scope of this Chapter* complies with the *conditions for* operating rules referred to in Article 70i.

Member States may use any similar pre-existing procedure for the registration in order to avoid creating an administrative burden.

Member States may apply a permitting procedure to the intensive rearing of poultry and pigs:

(a) with more than 40 000 places for poultry,

(b) with more than 2 000 places for production pigs (over 30 kg), or

(c) with more than 750 places for sows.

Member States may include requirements for certain categories of installations falling within the scope of this Chapter in the general binding rules referred to in Article 6.

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

2. **Registrations or** applications for permits shall include at least a description of the following elements:
- (a) the installation and its activities
 - (b) the animal type
 - (ba) the stocking density in LSU per hectare calculated in accordance with Annex Ia, where necessary**
 - (c) the capacity of the installation;
 - (d) the sources of emissions from the installation;
 - (e) 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 delay, of any planned substantial change to the installations falling within the scope of this Chapter which may have consequences for the environment. Where appropriate, the competent authority shall reconsider and update the permit **or request the operator to apply for a permit or make a new registration.**
- 4a. The Commission shall assess the impacts of the implementation of the operating rules as laid down in article 70i and submit by [5 years after the deadline for applying the operating rules], submit a report to the European Parliament and to the Council on the results of this review.**

Article 70d

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 the *and the uniform conditions for* operating rules referred to in Article 70i.

Monitoring data shall be obtained by means of measurement methods or, where not practicable, by calculation methods such as the use of emission factors; both methods shall be described in the operating rules.

The operator shall keep a record of, and process, all monitoring results, for a period of at least 5 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 operating rules

2. In the event of non-compliance with the emission limit values and environmental performance limit values set out in the *uniform conditions for* operating rules referred to in Article 70i, Member States shall require that the operator takes the measures necessary to ensure that compliance is restored within the shortest possible time.
3. The operator shall ensure that any *manure management, including* land spreading of waste, animal by-products or other residues generated by the installation is undertaken in accordance with the best available techniques, as specified in the operating rules, and other relevant Union legislation and that it does not cause significant pollution of the environment.

Article 70e

Monitoring

1. Member States shall ensure that suitable monitoring is carried out in accordance with the ***uniform conditions for*** operating rules referred to in Article 70i.
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 the general binding rules referred to in Article 6 or in the permit.
3. The operator shall, without delay, make available the data and information listed in paragraph 2 of this Article to the competent authority upon request. The competent authority may make such a request in order to verify compliance with the operating rules. 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 of this Article.

Article 70f

Non-compliance

1. Member States shall ensure that the values for emissions and environmental performance levels *are* monitored in accordance with the *uniform conditions for* operating rules referred to in Article 70i *and* do not exceed the emission limit values and environmental performance limit values set out therein.
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 set out in this Chapter.
3. In the event of non-compliance with the requirements set out in this Chapter, Member States shall ensure that the competent authority requires the operator to take any measures, in addition to the measures taken by the operator under Article 70d, that are necessary to ensure that compliance is restored without delay.

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

Article 70g

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 as referred to in Article 6 on permits for installations falling within the scope of this Chapter;
 - (b) the granting of a permit for a new installation falling within the scope of this Chapter;
 - (c) the granting of an updated permit in accordance with article 70c.4 for any substantial change to an existing installation falling within the scope of this Chapter.
 - (d) *in the procedure for registration, in case general binding rules are not adopted, and the Member States allow for the installation to be only registered.*

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 documents and information:

- (a) the permit *or the registration*;
- (b) the results of the consultations held in accordance with paragraph 1;
- (c) the general binding rules referred to in Article 6 applicable to installations falling within the scope of this Chapter;
- (d) the reports of inspections of the installations falling within the scope of this Chapter.

Article 70h

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.

Standing in the review procedure ***shall*** not be conditional on the role that the concerned member of the public played during a participatory phase of the decision-making procedures under this Directive.

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

2. Member States shall determine at what stage the decisions, acts or omissions may be challenged.

Uniform conditions for Operating Rules

1. The Commission shall *organise an exchange of information between Member States, the sectors concerned, non-governmental organisations promoting environmental protection and the Commission before establishing uniform conditions for operating rules, in accordance with paragraph 2. The exchange of information shall, in particular, address the following:*
 - (a) *the emission and environmental performance levels of installations and techniques, and other measures consistent with Annex III;*
 - (b) *the techniques used, associated monitoring, cross-media effects, economic and technical viability and developments in that regard;*
 - (c) *best available techniques identified after considering the issues mentioned in points (a) and (b);*
 - (d) *emerging techniques.*

2. The Commission shall **adopt** by [OP please insert date = the first day of the month following **22** months after the date of entry into force of this Directive] **an implementing act to establish uniform conditions for operating rules for each of the activities referred to in Annex Ia.**

The uniform conditions for operating rules shall be consistent with the use of best available techniques for the activities listed in Annex Ia and shall take into account the nature, type, size and density of these installations, size of herds of single animal types in mixed farms, and the specificities of pasture-based rearing systems, where animals are only seasonally reared in indoor installations. They shall also include indicative information on emerging techniques, where available.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 75(2).

- 2a. *Member States shall ensure that the competent authority follows or is informed of developments in best available techniques and of the publication of any new or updated or operating rules.*

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(25a) *In Article 72, the following paragraph is replaced:*

(2) *The type, format and frequency of information to be made available pursuant to paragraph 1 shall be established in accordance with the regulatory procedure referred to in Article 75(2). This implementing decision shall be updated whenever necessary and at least by [insert date 24 months after the entry into force of the amending directive] in light of the amendment of the Directive.*

(26) In Article 73(1), the first and the second subparagraphs are replaced by the following:

‘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. The report shall ***include information on activities for which BAT conclusions have or have not been adopted pursuant to Article 13(7) of this Directive***, take into account the dynamics of innovation, ***including emerging techniques, the need for further pollution prevention measures*** and the review referred to in Article 8 of Directive 2003/87/EC.

That report shall include an assessment of the need for Union action through the establishment or updating of Union-wide minimum requirements for emission limit values and for rules on monitoring and compliance for activities within the scope of the BAT conclusions adopted during the previous five-year period, on the basis of the following criteria:

- (a) the impact of the activities concerned on the environment as a whole and on human health;
- (b) the state of implementation of best available techniques for the activities concerned.’.

(26a) In Article 73, the following paragraphs (3) and (4) are added:

3. The Commission shall, using an evidence-based methodology and taking into account the specificities of the sector, assess the need for Union action to:

- comprehensively address the emissions from the rearing of livestock within the Union, in particular from cattle, and*
- further achieve the objective of global environmental protection with respect to products placed on the Union market, through the prevention and control of emissions from livestock farming, and in a manner consistent with the Union's international obligations.*

The Commission shall report the results of that assessment by 31 December 2026 to the European Parliament and the Council. The report shall be accompanied by a legislative proposal where appropriate.

4. The Commission shall review:

- the need to control emissions from onshore and offshore exploration and production of mineral oil and gas, and*
- the need to control emissions from the on-site treatment and extraction of non-energy industrial minerals used in industry other than for construction, as well as the need to control emissions from the on-site treatment and extraction of ores which are newly carried out in the EU.*
- the need to revise the activity threshold in Annex I for the production of hydrogen by electrolysis of water.*

The Commission shall include the results of that review in the first of the reports to the European Parliament and to the Council required under the first paragraph.

(27) Article 74 is replaced by the following:

‘Article 74

Amendments of Annexes

1. In order to allow the provisions of this Directive to be adapted to scientific and technical progress on the basis of best available techniques, the Commission shall adopt delegated acts in accordance with Article 76 as regards the adaptation of Parts 3 and 4 of Annex V, Parts 2, 6, 7 and 8 of Annex VI and Parts 5, 6, 7 and 8 of Annex VII to such scientific and technical progress.

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3. The Commission shall carry out appropriate consultation with stakeholders before adopting a delegated act in accordance with this Article.

The Commisison shall make public relevant studies and analyses used in the preparation of a delegated act adopted in accordance with this Article, at the latest at the adoption of the delegated act.’.

(28) Article 75 is replaced by the following:

‘Article 75

Committee procedure

1. The Commission shall be assisted by a committee.

That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’.

(29) Article 76 is replaced by the following:

Article 76

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in *Article 27d*, *Article 48(5)*, and Article 74 shall be conferred on the Commission for a period of 5 years from ... [*OP please insert the date = the first day of the month following the date of entry into force of this Directive*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in *Article 27d*, Articles 48(5), ■ and Article 74 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to *Article* 48(5) or Article 74 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.’.

(30) Articles 77 and 78 are deleted.

(31) Article 79 is replaced by the following:

Article 79

Penalties

1. Without prejudice to the obligations of Member States under Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law, Member States shall lay down rules on penalties applicable to *infringements* of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are *implemented*. The penalties provided for shall be effective, proportionate and dissuasive.■
2. *The penalties referred to in paragraph 1 shall include administrative financial penalties that effectively deprive those having committed the infringement of the economic benefits derived from their infringements.*

For the most serious infringements committed by a legal person, the maximum amount of such administrative financial penalties shall be at least 3% of the operator's annual turnover in the financial year preceding the year in which the fine is imposed in the Union.

Member states may also, or alternatively, use criminal penalties, provided that they are equivalently effective, proportionate and dissuasive to the administrative financial penalties referred to in this Article.

3. 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*;
l ;
 - (c) the population or the environment affected by the *infringement*, bearing in mind the impact of the infringement on the objective of achieving a high level of protection of human health and the environment;’.
 - (d) the repetitive or singular character of the infringement;
- (4) **Member States shall without undue delay notify the Commission of the rules and measures referred to in paragraph 1 and of any subsequent amendments affecting them.**

(32) The following Article 79a is inserted:

‘Article 79a

Compensation

1. Member States shall ensure that, where damage to human health has occurred as a result of a violation of national measures that were adopted pursuant to this Directive, the individuals affected have the right to claim and obtain compensation for that damage from the relevant natural or legal persons **■** .
■
3. 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 impossible or excessively difficult the exercise of the right to compensation for damage caused by a violation pursuant to paragraph 1.
■
5. Member States ***may establish*** limitation periods for bringing actions for compensation referred to in paragraph 1 **■** . Such periods shall not begin to run before the violation has ceased and the person claiming the compensation knows or can reasonably be expected to know that he or she suffered damage from a violation pursuant to paragraph 1.’.

- (33) Annex I is amended as set out in Annex I to this Directive.
- (34) Annex Ia as set out in Annex II to this Directive is inserted.
- (35) Annex II is replaced by the text in Annex III to this Directive.

Article 2

Amendments to Directive 1999/31/EC

In Article 1 of Directive 1999/31/EC, paragraph 2 is deleted.

Article 2a

Transitional provisions

- 1. In relation to installations carrying out activities referred to in Annex I Member States shall apply Article 14 (1) (aa), 14(1)(bb), 14 (1) (h) Article 15(3a) and Article 15(4a) within 4 years of publication of decisions on BAT conclusions that have been published 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] relating to the main activity of an installation in accordance with Article 13(5).*

Installations first permitted after the publications of decisions on BAT-conclusions published 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] relating to the main activity of an installation in accordance with Article 13(5), shall apply those provisions from the date the BAT-conclusions are published.

2. *In relation to installations carrying out activities referred to in Annex I which are under the scope of the directive before [OP please insert the date = the date of entry into force of this Directive]) and*

(i) are in operation and hold a permit 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], or

(ii) of which the operators have submitted a complete application for a permit before that date, provided that those installations are put into operation no later than [OP please insert the date = the first day of the month following 12+24 months after the date of entry into force of this Directive]:

Article 14 (1) (a), 14 (1)(b), 14 (1)(ba), 14 (1)(bb), 14 (1)(d), Article 15(1), Article 15(4), Article 15a and Article 16(3) shall apply when the permit is granted or updated pursuant to Article 20 (2) or Article 21(5), or within 4 years of publication of decisions on BAT conclusions that have been published 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] in accordance with Article 13(5) relating to the main activity of an installation, or by [OP please insert the date = the first day of the month following 12 years after the date of entry into force of this Directive], whichever the sooner.

In relation to installations carrying out activities referred to in Annex I which are under the scope of the directive before [OP please insert the date = the date of entry into force of this Directive]) Article 15 (3) shall apply when the permit is granted or updated within 4 years of publication of decisions on BAT conclusions that have been published 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] in accordance with Article 13(5) relating to the main activity of an installation, or when the permit is updated pursuant to Article 21(5), or by [OP please insert the date = the first day of the month following 12 years after the date of entry into force of this Directive], whichever the sooner.

Until the relevant date of application as referred to in the first and second subparagraph the installations mentioned in that subparagraph, which fall under the scope of Directive 2010/75/EU, in the version in force on... [the day before this Directive enters into force, shall comply with that Directive in that version.

3. *In relation to installations carrying out activities referred to in Annex I, point 2.3 (aa), point 2.3 (ab) 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].*

4. *In relation to installations carrying out activities referred to in Annex I, point 1.4, 2.3 (b), 2.3 (ba), 2.7 and 3.6, which are not under the scope of the directive before [OP please insert the date = 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 of publication of decisions on BAT conclusions in accordance with Article 13(5) relating to the main activity of an installation or by [OP please insert the date = the first day of the month following 10 years after the date of entry into force of this Directive], whichever the sooner.*

Until the relevant date of application as referred to in the first subparagraph the installations mentioned in that subparagraph, which fall under the scope of Directive 2010/75/EU, in the version in force on... [the day before this Directive enters into force, shall comply with that Directive in that version.

Installations first permitted after the publications of decisions on BAT-conclusions published 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] relating to the main activity of an installation in accordance with Article 13(5), shall apply those provisions from the date the BAT-conclusions are published.

5. *In relation to installations carrying out activities referred to in Annex I a Member States shall apply the laws, regulations and administrative provisions adopted in accordance with this Directive*

-within 4 years of the entry into force of the implementing act referred to in Article 70i (2), if the installation has a capacity of 600 LSU or more.

-within 5 years of the entry into force of the implementing act referred to in Article 70i (2), if the installation has a capacity of 400 LSU or more.

-within 6 years of the entry into force of the implementing act referred to in Article 70i (2), for all other installations covered by Annex Ia.

Until the relevant date of application as referred to in the first subparagraph the installations mentioned in that subparagraph, which fall under the scope of Directive 2010/75/EU, in the version in force on... [the day before this Directive enters into force, shall comply with that Directive in that version.

6. *Derogations granted by the competent authority in accordance with Article 15.4 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] shall remain valid until the competent authority re-assess whether the derogation is justified according to Article 15.4. The re-assessment shall be made 4 years from [OP please insert the date = the first day of the month following 24 months after the date of entry into force of this Directive] or as part of reconsideration of the permit conditions pursuant to Article 21, whichever the sooner.*
7. *Derogations for the testing and use of emerging techniques granted by the competent authority in accordance with Article 15.5 of Directive 2010/75/EU in the version in force on... [the day before this Directive enters into force], 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] shall remain valid until the end of the period specified in the decision. After the period specified, the technique shall be stopped or the activity shall achieve at least the emission levels associated with the best available techniques.*

Article 3

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP please insert the date = the first day of the month following **22 months after the date of entry into force of this Directive**]. 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 Strasbourg,

For the European Parliament
The President

For the Council
The President

ANNEX I

Annex I to Directive 2010/75/EU is amended as follows:

- (a) point 1.4 is replaced by the following:

‘Gasification, liquefaction or pyrolysis of:

- (a) coal;
- (b) other fuels in installations with a total rated thermal input of 20 MW or more.’;

- (b) point 2.3 is replaced by the following:

‘2.3. Processing of ferrous metals:

- (a) operation of hot-rolling mills with a capacity exceeding 20 tonnes of crude steel per hour;
- (aa) operation of cold-rolling mills with a capacity exceeding 10 tonnes of crude steel per hour;
- I**
- b) operation of smitheries with hammers the energy of which exceeds **50** kilojoule per hammer;
- (bb) operation of smitheries with forging presses the force of which exceeds **30** mega-newton (MN) per press.’.
- (c) application of protective fused metal coats with an input exceeding 2 tonnes of crude steel per hour.’;

(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.’;

(d) 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; *and/or*

(b) a kiln capacity exceeding 4 m³ and a setting density per kiln exceeding 300 kg/m³.’;

(e) the following point 3.6. is inserted:

‘3.6. Extraction *including on-site* treatment (operations such as comminution, size control, beneficiation and upgrading) of the following *ores on an industrial scale*:

■

(b) ■ bauxite, chromium, cobalt, copper, gold, iron, lead, lithium, manganese, nickel, palladium, platinum, tin, tungsten and zinc.’;

(f) point 4.2 (a) is replaced by the following:

(a) *gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen except when produced by electrolysis of water, sulphur dioxide, carbonyl chloride;*

(g) point 5.3 is replaced by the following:

- ‘5.3. (a) Disposal of non-hazardous waste with a capacity exceeding 50 tonnes per day involving one or more of the following activities, and excluding activities covered by Council Directive 91/271/EEC *:
- (i) biological treatment (such as anaerobic digestion *or co-digestion*);
 - (ii) physico-chemical treatment;
 - (iii) pre-treatment of waste for incineration or co-incineration;
 - (iv) treatment of slags and ashes;
 - (v) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.
- (b) Recovery, or a mix of recovery and disposal, of non-hazardous waste with a capacity exceeding 75 tonnes per day involving one or more of the following activities, and excluding activities covered by Directive 91/271/EEC:
- (i) biological treatment (such as anaerobic digestion);
 - (ii) pre-treatment of waste for incineration or co-incineration;
 - (iii) treatment of slags and ashes;
 - (iv) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

When the only waste treatment activity carried out is anaerobic digestion, the capacity threshold for this activity shall be 100 tonnes per day.

* Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment (OJ L 135, 30.5.1991, p. 40).’;

(h) point 6.2 is replaced by the following:

‘6.2. Pre-treatment (operations such as washing, bleaching, mercerisation), dyeing or finishing of textile fibres or textiles where the treatment capacity exceeds 10 tonnes per day.’;

(i) point 6.5 is replaced by the following:

‘6.5. Disposal or recycling of animal carcasses or animal by-products with a treatment capacity exceeding 10 tonnes per day.’.

(j) point 6.6 is *replaced by the following*:

‘6.6. Electrolysis of water for production of hydrogen where the production capacity exceeds 50 tonnes per day.’

ANNEX II

‘ANNEX Ia

Activities referred to in Article 70a

Installations fall within the scope of this annex if they fall in one or more of the following activity categories.

1. *Rearing of pigs representing 350 LSU or more, excluding rearing activities operating under organic production regimes in accordance with Regulation 2018/848, or where the stocking density is less than 2 LSU/hectare used only for grazing or growing fodder or forage used for feeding the animals and the animals are reared outside for a significant amount of time in a year or seasonally reared outside.*
2. *Rearing of only laying hens representing 300 LSU or more, or rearing of only other poultry categories representing 280 LSU or more. In installations rearing a mix of poultry including laying hens, the threshold shall be 280 LSU and the capacity shall be calculated using 0.93 as weighting factor* for laying hens.*
3. *Rearing of any mix of pigs or poultry representing 380 LSU or more, excluding rearing of pigs in installations operating under organic production regimes in accordance with Regulation 2018/848, or where the stocking density is less than 2 LSU/hectare used only for grazing or growing fodder or forage used for feeding the animals and the animals are reared outside for a significant amount of time in a year or seasonally reared outside.*

The LSU level of an installation is calculated using the following conversion rates:

Pigs

Breeding sows ≥ 50 kg ... 0,500

Piglets ≤ 20 kg ... 0,027

Other pigs ... 0,300

Poultry

Broilers ... 0,007

Laying hens ... 0,014

Turkeys ... 0,030

Ducks ... 0,010

Geese ... 0,020

Ostriches ... 0,350

Other poultry fowls... 0,001

** The weighting factor for laying hens has been calculated by dividing the other poultry threshold (280 LSU) by the laying hens threshold (300LSU). This is $280/300 = 0.93$ (rounded)*

ANNEX III

‘ANNEX II

Principles to be complied with when granting a derogation referred to in Article 15(4)

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

1. Costs

- 1.1. Costs referred to in Article 15(4) shall be the costs of complying with the emission levels associated with best available techniques and include both capital costs and operating costs. Wider social or economic costs shall not be included.
- 1.2. The evaluation of the costs shall be quantitative, and supported by a qualitative assessment.
- 1.3. Costs taken into account in the evaluation shall:
 - (a) represent net value costs, after deduction of any financial benefits from applying best available techniques;
 - (b) include the cost of accessing financial capital required to finance the best available techniques;
 - (c) be calculated using a discount rate to take account of differences in monetary value over time.
- 1.4. The application for a derogation shall clearly identify the source of the costs and the methods used to calculate them, including the discount rate mentioned in point 1.3(c) and the estimation of uncertainties associated with the costs evaluation.
- 1.5. Costs evaluated by the operator shall be assessed by the competent authority, based on information from other sources such as technology providers, *peer-reviewed research*, expert judgements or data from other plants where best available techniques were recently installed.

2. Environmental benefits

- 2.1. Environmental benefits referred to in Article 15(4) shall be environmental benefits of complying with the emission levels ■ associated with best available techniques.
- 2.2. The evaluation of environmental benefits shall be quantitative (in monetary terms) and supported by a qualitative assessment. Established pollutant damage costs shall be used where available.
- 2.3. The evaluation of environmental benefits shall consider a discount rate applied to any monetised benefits which addresses differences in values to society over time.
- 2.4. The application for a derogation shall clearly identify the source of the environmental benefits information and the methods used to calculate the environmental benefits, including the discount rate mentioned in point **1.3(c)** and the estimate of uncertainties associated with the evaluation of the environmental benefits.
- 2.5. Environmental benefits evaluated by the operator shall be assessed by the competent authority, based on expert judgement or data from other plants where the best available techniques were recently installed.

3. Disproportionality of costs compared to environmental benefits

- 3.1. For the purpose of determining if there is a disproportionality, the costs of complying with the emission levels ■ associated with best available techniques, and the benefits of such compliance, shall be compared.
- 3.2. The comparison mechanism shall include the following elements:
 - (a) a method to address uncertainties in evaluating costs and environmental benefits;
 - (b) a specification of the margin by which the costs should exceed the environmental benefits.’.

1. 2. *In Annex III, point 2 is replaced by the following:*

2. *"the use of less hazardous substances, including other substances of very high concern";*

5. *In Annex III, point 5 is replaced by the following:*

"technological advances, including digital tools, and changes in scientific knowledge and understanding";

9. *In Annex III, point 9 is replaced by the following:*

"the consumption, nature of raw materials (including water) used in the process and resource efficiency and reuse and decarbonisation";

12b. *In Annex III, point 10 is replaced by the following:*

“The need to prevent or reduce to a minimum the overall impact of the emissions on the environment, including biodiversity, and the risks to it;”

11. *In Annex III, point 11 is replaced by the following:*

"the need to prevent accidents and to minimise the consequences for the environment and human health";

In Annex IV, paragraph 1, the introductory part is replaced by the following:

"1. The public shall be informed (by public notices and on a webpage of the following matters early in the procedure for the taking of a decision or, at the latest, as soon as the information can reasonably be provided:"

In Annex IV, paragraph 3 is replaced by the following:

"3. The public concerned shall be given early and effective opportunity to express comments and opinions to the competent authority before a decision is taken."

In Annex IV, paragraph 5 is replaced by the following:

"5. Reasonable time-frames for the different phases shall be provided, allowing sufficient time to inform the public and for the public concerned to prepare and participate effectively in environmental decision-making subject to this Annex."

In Annex V, Part 3, paragraph 8, third subparagraph is replaced by the following:

The operator shall inform the competent authority about the results of the checking of the automated measuring systems without undue delay.

In Annex V, Part 3, paragraph 10, second subparagraph is replaced by the following:

Any day in which more than three hourly average values are invalid due to malfunction or maintenance of the automated measuring system shall be invalidated. If more than 10 days over a year are invalidated for such situations the competent authority shall require the operator to take adequate measures to improve the reliability of the automated measuring system without undue delay.

In Annex VI, Part 6, point 1.2 is replaced by the following:

1.2. Sampling and analysis of all polluting substances including dioxins and furans as well as the quality assurance of automated measuring systems and the reference measurement methods to calibrate them shall be carried out according to CEN-standards. If CEN standards are not available, ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality shall apply. This applies also to the quality assurance system of the laboratory performing the sampling and analysis. Automated measuring systems shall be subject to control by means of parallel measurements with the reference methods at least once per year.

