



Council of the  
European Union

Brussels, 8 March 2023  
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6921/23  
ADD 1

LIMITE

ENV 188  
IND 80  
AGRI 89  
COMPET 158  
COMER 23  
SAN 114  
MI 150  
CONSOM 61  
ENT 41  
CODEC 280

#### NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	<b>Preparation for the Council (Environment) on 16 March 2023</b> 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 – General approach

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In view of the meeting of the Committee of Permanent Representatives of 8 March 2023, delegations will find in annex a Presidency compromise suggestion regarding small isolated systems.

**Derogation for small isolated systems****New recital X**

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 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 taken by the Member State to ensure compliance with the emission limit values at the latest by 31 December 2028. The Plan should describe the measures taken to ensure compliance 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 cleaner fuel switching possibilities such as deployment of renewables and interconnection with the mainland grids. 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.

**New Article 34a**

1. Member states may 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, until 31 December 2028. 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 Member States shall take measures to ensure that the emissions are monitored and ensure that no significant pollution is caused. Member States shall exempt installations from the emission limit values only 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 2029, 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 taken by the Member State 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 2028. 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 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 2028 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).
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