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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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 - Outcome of the European Parliament's first reading (Strasbourg, 11 to 14 March 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

¹ OJ C 145, 30.6.2007, p. 5.

In this context, the Chair of the Committee on the Environment, Public Health and Food Safety (ENVI) Pascal CANFIN (RE, FR) presented on behalf of ENVI a compromise amendment (amendment number 313) to the abovementioned proposal for a Directive, for which Radan KANEV (EPP, BG) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above.

In addition, the EPP political group tabled four amendments (amendments number 308, 309, 310, 311 and 312) and the ID political group tabled three amendments (amendments number 314, 315 and 316).

II. VOTE

When it voted on 12 March 2024, the plenary adopted the compromise amendment (amendment number 313) to the abovementioned proposal for a Directive. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

P9_TA(2024)0123

Industrial Emissions Directive

European Parliament legislative resolution of 12 March 2024 on the 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 (COM(2022)0156 – C9-0144/2022 – 2022/0104(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0156),
- having regard to Article 294(2) and Article 192 paragraph 1 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0144/2022),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Czech Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
- having regard to the opinion of the European Economic and Social Committee of 14 July 2022¹,
- having regard to the opinion of the Committee of the Regions of 12 October 2022²,
- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 15 December 2023 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the opinions of the Committee on Industry, Research and Energy and the Committee on Agriculture and Rural Development,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety (A9-0216/2023),

¹ OJ C 443, 22.11.2022, p. 130.

² OJ C 498, 30.12.2022, p. 154.

1. Adopts its position at first reading hereinafter set out³;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

³ This position replaces the amendments adopted on 11 July 2023 (Texts adopted, P9_TA(2023)0259).

Position of the European Parliament adopted at first reading on 12 March 2024 with a view to the adoption of Directive (EU) 2024/... of the European Parliament and of the Council amending Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) and Council Directive 1999/31/EC 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 procedure³,

¹ OJ C 443, 22.11.2022, p. 130.

² OJ C 498, 30.12.2022, p. 154.

³ *Position of the European Parliament of 12 March 2024.*

Whereas:

- (1) The communication of 11 December 2019 entitled ‘The European Green Deal constitutes Europe’s strategy to ensure, by 2050, a climate-neutral, clean and circular economy, optimising resource *use, reuse and* management, minimising pollution while recognising the need for deeply transformative policies *as well as the need to protect the health and well-being of citizens from environment-related risks and impacts. It also aims to ensure that such transition is just and inclusive, leaving no one behind.* The Union is also committed to *the Paris Agreement*⁴, the 2030 Agenda for Sustainable Development and its Sustainable Development Goals *as well as to its involvement in the World Health Organization.* The Union’s Chemicals Strategy for Sustainability of October 2020 and the Zero Pollution Action Plan adopted in May 2021 specifically address pollution aspects of the European Green Deal. In parallel, the New Industrial Strategy for Europe further emphasises the potential role of transformative technologies. Other particularly relevant policies related to the revision of Directive 2010/75/EU of the European Parliament and of the Council⁵ include the *European Climate law*⁶, ‘Fit for 55’ package, the Methane Strategy and the Glasgow methane pledge, the Climate Adaptation Strategy, the Biodiversity Strategy, the Farm to Fork strategy, *the Soil Strategy* and the Sustainable Products Initiative. In addition, as part of the EU response to the Russian war of aggression against Ukraine, REPowerEU proposes a Joint European Action to support the diversification of energy supplies, accelerate the transition to renewable energy and improve energy efficiency.

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 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).

⁶ ***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’) (OJ L 243, 9.7.2021, p. 1).***

- (2) The Commission announced in the European Green Deal a revision of Union measures to address pollution from large industrial installations, including a review of 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 ***the improvement of resource efficiency and reuse while*** reducing pollutant emissions at source, including sources not currently within the scope of Directive 2010/75/EU. 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.

- (3) The Union’s extractive industry is key to achieving the objectives of the European Green Deal and the industrial strategy of the Union, including any updates to that strategy. **Metals** are of strategic importance for the digital and green transition, the energy, materials and circular economy transformation as well as for the strengthening of the Union’s economic resilience **and autonomy**. In order to achieve those 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, which closely associate industry experts with 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 the Regulation (EU) 2024/... of the European Parliament and of the Council⁷⁺. The Industrial Emissions Directive will support industry in the Union in developing projects and facilitate sustainable and consensual growth of the mining activities in the Union in line with the 2030 benchmarks of the Critical Raw Materials Act. The Industrial Emissions Directive will help in meeting the targets for the streamlined permit granting process of the Critical Raw Materials Act by supporting Member States as regards the setting of operating permit conditions and the rapid granting of permits.**

⁷ Regulation (EU) 2024/... of the European Parliament and of the Council of ... establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 (OJ L ... ELI ...).

⁺ OJ: Please insert in text the serial number of the Regulation contained in PE-CONS 78/23 and insert in the footnote the details and publication references for that Regulation.

- (4) *This amending act should clarify that olfactory pollution should be taken into account when defining best available techniques ('BAT') and granting or reviewing permits.*
- (5) *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 reviewing of permits.*
- (6) Rearing of **livestock causes the release of** 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 pig and poultry installations are included within the scope of Directive 2010/75/EU. *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 Union action to achieve the objective of global environmental protection with regard to products placed on the internal market through the prevention and control of emissions from livestock farming, in a manner consistent with the international obligations of the Union.*
- (7) ■ BAT requirements relevant to the type of installations take into consideration the nature, size, stocking density and complexity of those 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 make the necessary transition towards increasingly environmentally-friendly agricultural practices.
- (8) *Rearing of pigs in installations operating under organic production regimes or 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, particularly during daytime, and where weather and safety conditions ensure the welfare of the animals, or where the animals are seasonally reared outside. The area used for calculating the stocking density should be the*

area used for grazing by the animals in the installation or for growing fodder or forage used to feed the animals in the installation.

- (9) *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 on a global level methane emissions from livestock would contribute to the reduction of greenhouse gas emissions. That reduction 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.*

- (10) *The Farm to Fork (F2F) Strategy has set out a commitment to promote the global transition to sustainable food systems in standard-setting bodies and lead the work on international sustainability standards. The Union 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 in relation to global concerns, and are also in line with the One Health approach. The Union will continue its efforts at multilateral level to reach a global consensus on the need for action and internationally agreed standards.*

- (11) *The Union should also take the lead in international cooperation to create an open and fair multilateral system whereby sustainable trade acts as a key enabler of the green transition. In line with the review of the Union's 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.*

(12) In order to prevent the artificial splitting of farms, which could result in the reduction of the livestock unit ('LSU') capacity of the farm to a level below the thresholds established in Annex Ia for the application of this Directive, Member States 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 can consider those installations to be a single unit for the purpose of calculating the livestock capacity . The threshold for mixed farming should not be used to circumvent the threshold relating to each individual livestock.

- (13) 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 in the batteries value chain are already regulated by Directive 2010/75/EU and batteries are regulated as products by Regulation (EU) 2023/1542 of the European Parliament and of the Council⁸. **However**, it is still necessary to include in the scope of the Directive 2010/75/EU large installations manufacturing batteries, **to** ensure that they are also covered by the requirements set out in Directive 2010/75/EU ■ . The inclusion ■ of **large installations manufacturing batteries, as opposed to installations that only assemble batteries**, in the scope of Directive 2010/75/EU 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 growth in batteries manufacturing which is more sustainable.**
- (14) 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.** ■
- (15) **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 Member States in developing electronic permitting by organising the exchange of information between Member States and providing guidance on best practices.**

⁸ Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (OJ L 191, 28.7.2023, p. 1)

- (16) The impact of pollution, including when caused by incidents or accidents, can 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 Council⁹, limiting the consequences for human health and the environment of incidents or accidents and preventing further possible incidents or accidents requires prompt exchange of information and close coordination between the competent authorities of the Members States which are or could 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, exchange of 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.
- (17) Member States should also adopt compliance assurance measures to promote, monitor and enforce compliance with obligations placed on natural or legal persons under Directive 2010/75/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 for the effective performance of their functions related to the implementation of this Directive.***

⁹ 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, amending and subsequently repealing Council Directive 96/82/EC (OJ L 197, 24.7.2012, p. 1).

- (18) *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 a danger to human health or risk causing a significant adverse effect upon the environment, in order to remove that danger.
- (19) *In the event of pollution affecting drinking water resources, including transboundary resources, or affecting waste water infrastructure, the competent authority should inform the drinking water and waste water operators affected of the measures taken to prevent or remedy the damage caused by that pollution to human health or the environment.*

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- (20) The evaluation of Directive 2010/75/EU concluded that there is a need to strengthen the links between that Directive and Regulation (EC) No 1907/2006 of the European Parliament and of the Council¹⁰ 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, the ECHA should be given a formal role in such preparation of BAT reference documents.
- (21) *The Commission should encourage participation in the forum for exchange of information by stakeholders and representatives of civil society including NGOs involved in promotion of the protection of human health or the environment. The Commission should ensure that the European Environment Agency participates in the exchange of information, where 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 the changes necessary, including by amending Commission Implementing Decision 2012/119/EU¹¹, to ensure the functioning of the forum and the technical working group.*

¹⁰ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

¹¹ Commission Implementing Decision 2012/119/EU of 10 February 2012 laying down rules concerning guidance on the collection of data and on the drawing up of BAT reference documents and on their quality assurance referred to in Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (OJ L 63, 2.3.2012, p. 1).

- (22) In order to facilitate the exchange of information supporting the determination of emission levels and environmental performance levels associated with best available techniques, while maintaining the integrity of confidential business information, the procedures for the handling of information qualifying as confidential business information or commercially sensitive information, ***including conditions in relation to anonymisation for certain categories of stakeholders***, and information 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 commercially sensitive information with any representative of undertakings or trade associations having an economic interest in the industrial activities concerned 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).
- (23) ***This Directive does not create any obligations to disclose to the public confidential business information additional to those already laid down in Directive 2003/4/EC of the European Parliament and of the Council¹² and Directive (EU) 2016/943 of the European Parliament and of the Council¹³.***

¹² 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 (OJ L 41, 14.2.2003, p. 26).

¹³ Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

- (24) 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 implementation of Directive 2010/75/EU. Therefore, all relevant competent authorities ***with a responsibility regarding*** compliance with relevant Union environmental legislation should be duly consulted before the granting of a permit under that Directive.
- (25) With a view to continuously improving the environmental performance and safety of installations, including by preventing waste generation, optimising resource use and water reuse, and preventing or reducing risks associated with the use of hazardous substances, operators of installations 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.

Prior to making available the relevant parts of their EMS to the public, the operators should have the possibility of redacting or excluding confidential business information. Such possibility 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 hazardous substances and an analysis of the possible substitution of hazardous substances by safer alternatives.

- (26) ***In order to ensure that the EMS is in line with the requirements of Directive 2010/75/EU, 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 (EC) No 765/2008 of the European Parliament and of the Council¹⁴, as required under ISO 17021, or any natural or legal person which has obtained a licence as an environmental verifier in accordance with Article 2(20) of Regulation (EC) No 1221/2009 of the European Parliament and of the Council¹⁵.***

¹⁴ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

¹⁵ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

(27) *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 levels associated with emerging techniques, for individual processes that have similar characteristics, such as energy carriers, raw materials, production units and final products, and a high degree of homogeneity across the Union, in cases where 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 EMS, in cases where environmental performance is highly dependent on specific circumstances of the processes. The environmental performance levels associated with BAT and the benchmarks could include consumption levels, resource efficiency levels and reuse levels covering materials, water and energy resources, and waste and other levels obtained under specified reference conditions. Environmental performance levels and benchmarks should be established taking account of the resources needed for the transformation of installations that aim to reduce 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.*

- (28) 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, can take account of the downstream treatment processes in a waste water treatment plant. **The emission limit values should be specified in a manner ensuring 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 waste water 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.**

(29) 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 installation 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 might not be suitable for use in certain installations, or a combination of BATs could be more effective for 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 which ensures a high level of protection of human health and the environment. ***In order for the emissions to be decreased, 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 of meeting 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 installation concerned to meet 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 should not be applicable.***

- (30) *BAT conclusions should identify emerging techniques and best available techniques that industrial operators can implement to transform installations to be consistent with the Union's objective of a sustainable, clean, circular and climate-neutral economy. Competent authorities should be allowed to grant industrial operators sufficient time to implement deep industrial transformation requiring substantial investment via BATs or emerging techniques which involve a major change in design or technology, or to replace an existing installation, as described in the BAT conclusions and laid down in a transformation plan.*
- (31) *In recent years exceptional crisis situations have affected the Union and its Member States, such as the COVID-19 pandemic and the Russian war of aggression against Ukraine. Those crises have suddenly and directly affected the supply of energy and of societally-critical resources, materials or equipment, leading to severe shortages and disruption to which it is necessary to react swiftly. Where crises require such reaction, it could be necessary to set emission limit values and environmental performance limit values that are less strict 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 measures resulting in less pollution 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 there is a level playing field and protect the internal market, the Commission should be able to provide strict guidance regarding the exceptional crisis situations and their circumstances that could be taken into account. The Commission should verify that such derogations granted by the Member States are justified and formulate objections where it concludes that a derogation is not justified, in which case the Member State should revise the derogation without delay.*

- (32) *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 of the European Parliament and of the Council¹⁶ from requirements on energy efficiency in the permit conditions.*
- (33) 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 that the implementation of such derogations throughout the Union is more harmonised. Moreover, derogations from emission limit values should not be granted where they could put at risk compliance with environmental quality standards.

¹⁶ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

- (34) The evaluation of Directive 2010/75/EU concluded that there was some disparity 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 precedence 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.

- (35) Environmental quality standards should be understood to 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 BAT 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 that are stricter than those set in relevant BAT conclusions, so as to ensure the installation's compliance with environmental quality standards. Such conditions could consist in setting stricter emission limit values, **pollutant emission load limits** or limiting the operation or capacity of the installation.
- (36) Permit conditions should be regularly reviewed and, where necessary, updated by the competent authority to ensure compliance with relevant legislation. Such reviews or updates 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 Council¹⁷.

¹⁷ 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, p. 1).

(37) 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. Those 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 members of 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 permit conditions are reconsidered following the publication of decisions on BAT conclusions relating to the main activity of the installation when developments in the best available techniques allow for the significant reduction of emissions, when operational safety requires other techniques to be used and where it is necessary to comply with a new or revised environmental quality standard.

- (38) As clarified by the case-law of the Court of Justice¹⁸, 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 Justice¹⁹, effective access to justice in environmental matters and effective remedies require inter alia that members of the public concerned should have the right to ask the court or a 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 member of the public concerned played during a participatory phase of the decision-making procedures, **especially with regard to the granting of permits 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 remedies, 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 the livestock.**
- (39) Transboundary cooperation should take place prior to the granting of permits where more than one Member State could be affected by the operation of an installation, and should include prior information and consultation of the members of the public concerned and competent authorities in the other Member States which could be affected.

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*, Case C-826/18, ECLI:EU:C:2021:7, paragraphs 58 and 59.

¹⁹ Judgment of the Court (Grand Chamber), 15 January 2013; *Jozef Križan and Others v Slovenská inšpekcia životného prostredia. Križan*, Case C-416/10, ECLI:EU:C:2013:8, paragraph 109.

(40) The evaluation of Directive 2010/75/EU found that, even if it is intended to 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 provided for in the relevant European and national funding instruments, as well as to set up a dedicated centre to support innovation by collecting and analysing information on ■ emerging techniques, relevant to activities within the scope of that Directive, ***including the rearing of poultry and pigs***, and to characterise their level of development from research to deployment using the technology readiness level (‘TRL’ scale 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 TRL 6-7, namely technology demonstrated in relevant environment (industrially relevant environment in the case of key enabling technologies) or system prototype demonstration in operation environment .

(41) 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 Council²⁰ by providing a means for implementation of those requirements at installation level. The first priority should be the transformation of energy-intensive activities listed in Annex I. Therefore, the operators of energy-intensive installations should produce transformation plans by 30 June 2030. Operators of installations carrying out other activities listed in Annex I should be required to produce transformation plans as part of the permit reconsideration and update following the publication of decisions on BAT conclusions published after 1 January 2030. ***Operators should be allowed to produce a single transformation plan covering all installations under their control in a Member State and, where elements of the transformation plans have already been developed in other documents and are compliant with the requirements of Directive 2010/75/EU, operators should be allowed to include in the transformation plan a reference to the relevant documents.*** Whilst the transformation plans should remain indicative documents prepared under the responsibility of the operators, the ***conformity assessment body or the environmental verifier*** contracted by the operators as part of their environmental management systems should check that they contain the minimum information required pursuant to a delegated act to be adopted by the Commission, and the operators should make the transformation plans public.

²⁰ 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).

- (42) ***Digital tools such as digitalised management systems might help to quantitatively and qualitatively assess and manage pollution-related risks, and help operators in the transformation of their installations.***
- (43) 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.
- (44) 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 would 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.***

- (45) Innovative techniques coming onto the market are expected to increasingly reduce both emissions of pollutants and of greenhouse gases from installations within the scope of both Directive 2003/87/EC and Directive 2010/75/EU. Whilst this will allow further synergies to be created between those Directives, it could 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 which calls 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 five years thereafter.
- (46) ***Building on the simplification of reporting carried out under Directive 2010/75/EU, the Commission should continue to streamline how information is made available to it by Member States pursuant to that directive with other relevant requirements of Union law, and in particular Regulation (EU) 2024/... of the European Parliament and of the Council*²¹⁺. The information reported should allow a meaningful review of implementation and results achieved regarding emissions and other forms of pollution, emission limit values, the application of BAT, granting of derogations and status of operation of installations. To that end, the Commission should update by .. [24 months after entry into force of this amending directive] the implementing decision setting out the type, format and frequency for the reporting of information by the Member States.**

²¹ Regulation of the European Parliament and of the Council of ...on reporting of environmental data from industrial installations, establishing an Industrial Emissions Portal , and repealing Regulation (EC) No 166/2006 (OJ L ..., ELI: ...).

⁺ OJ: Please insert in the text the serial number for Regulation contained in PE-CONS 101/23 and insert in the footnote details and publication references for that Regulation.

- (47) In order to ensure that Directive 2010/75/EU continues to meet 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 pigs and 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*²². It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level
- (48) *The Commission should review the need to control emissions from onshore and offshore exploration and production of mineral oil and gas, taking into account the existing Union legislative framework, including Regulation (EU) 2024/... of the European Parliament and of the Council*²³⁺ *and Directive 2013/30/EU of the European Parliament and of the Council*²⁴, *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 Union, and the need to revise the activity threshold in Annex I for the production of hydrogen by electrolysis of water.*

²² 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 Member States of the Commission's exercise of implementing power (OJ L 55, 28.2.2011, p. 13)

²³ Regulation (EU) 2024/... of the European Parliament and of the Council of ... on methane emissions reduction in the energy sector and amending Regulation (EU) 2019/942 (OJ L ..., ELI: ...).

⁺ OJ: Please insert in the text the serial number for Regulation contained in PE-CONS 86/23 and insert in the footnote details and publication references for that Regulation.

²⁴ Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC (OJ L 178, 28.6.2013, p. 66).

- (49) 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 Article 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 Article 15(6), (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, (v) the format to be used for transformation plans and (vi) which information from the EMS is relevant for publication , which should include information at least on environmental performance indicators and objectives, as well as on the progress towards the environmental objectives*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.
- (50) 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. ■

(51) 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* principle) 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 those infringements pose a significant risk to human health or the 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 of the European Parliament and of the Council²⁵, Member States may also or alternatively adopt criminal penalties, provided that they are effective, proportionate and dissuasive.

²⁵ 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 (OJ L 328, 6.12.2008, p. 28).

(52) Where damage to human health has occurred as a result of an infringement 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 persons²⁶. Such rules on compensation contribute to the pursuit of the objectives of preserving, protecting and improving the quality of the environment and the protection of 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 Council²⁶ does not give private parties a right of compensation as a consequence of environmental damage or of an imminent threat of such damage.

²⁶ Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56).

- (53) 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 infringements 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 the exercise of the right to compensation for damage impossible or excessively difficult.***

- (54) 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 infringements 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.
- (55) Directive 2010/75/EU has been implemented in a divergent manner across the 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 one of those two criteria is met.

- (56) 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 166/2006 of the European Parliament and of the Council²⁷.
- (57) 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/EC²⁸ 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.

²⁷ 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).

²⁸ Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182, 16.7.1999, p. 1).

- (58) 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 but can rather, 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.
- (59) 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 *and livestock rearing activities*. This Directive does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.

- (60) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents²⁹, 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,
- (61) *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.*

²⁹ OJ C 369, 17.12.2011, p. 14.

(62) *In order to give the Member States, competent authorities and installations time to comply with the new provisions, and also to give the Commission 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 by 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 should comply with the provisions in Directive 2010/75/EU in the version in force on... [the day before this amending Directive enters into force], until there are new BAT conclusions or there is a permit update.*

(63) Directives 2010/75/EU and 1999/31/EC should therefore be amended accordingly.

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)’;

(2) 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, to prevent the generation of waste, ***improve resource efficiency, and to promote the circular economy and decarbonisation***, in order to achieve a high level of protection of human health and the environment taken as a whole.’.

(3) 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.’.

(4) Article 3 is amended as follows:

(a) *point (2) is replaced by the following:*

‘(2) ‘pollution’ means the direct or indirect introduction, as a result of human activity, of substances, vibrations, heat, noise or odours into air, water or land, which can 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;’;

(b) 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;’;

(c) *the following points are inserted:*

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

‘(9a) ‘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, which allows an extremely substantial reduction of emissions of greenhouse gases in line with the objective of climate neutrality and optimises 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;’;

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

‘(b) ‘available techniques’ means techniques 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, regardless of whether such techniques are used or produced in 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;

(e) 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 and emerging techniques, their description, information to assess their applicability, the emission levels associated with those techniques, the environmental performance levels associated with those techniques, *the* content of an environmental management system including benchmarks ■ , associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures;’;

(f) the following *points are* inserted:

‘(12a) ‘operating rules’ means the rules included in permits or general binding rules for the operation of activities referred to in Annex Ia, setting out 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, including collection, storage, processing and land spreading of manure, and storage of dead animals, and 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’ means the performance with regard to consumption levels, resource efficiency concerning materials, water and energy resources, the reuse of materials and water, and to waste generation;’;

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

(g) *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 human health and the environment or at least the same level of protection of human health and the environment and higher cost savings than existing best available techniques;’;

(h) 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;’;

(i) *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*;

* Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health (‘Animal Health Law’) (*OJ L 084, 31.3.2016, p. 1.*)’

(j) the following points are inserted:

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

■

(23b) ‘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, and is calculated by using the coefficients for individual livestock categories 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).’

(k) the following points are added:

■

■

‘(48) ‘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;

(49) ‘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*;

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

■

(5) 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.’;

(6) *In Article 5, the following paragraph is added:*

‘4. Member States shall develop systems for the electronic permitting of installations and implement electronic permitting procedures by 31 December 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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- (7) 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 for human health or the environment* and to prevent further possible incidents or accidents; and
- (c) the competent authority requires the operator to take any appropriate complementary measures that the competent authority considers necessary to limit the *consequences for 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 waste water infrastructure in the case of indirect discharge, the competent authority shall inform the drinking water and waste water operators affected of the measures taken to prevent damage being caused, 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 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 be aimed at limiting the consequences for the environment and human health and to prevent further possible incidents or accidents.

Article 8

Non-compliance

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; and
- (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 of this Article, where a persistent breach of the permit conditions poses a danger to human health or causes 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) has 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 and adopted by competent authorities in relation to an operator which infringes national provisions adopted pursuant to 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 waste water infrastructure in the case of an indirect discharge, the competent authority shall inform the drinking water and waste water operators, and all relevant authorities with a responsibility regarding compliance with the environmental legislation concerned, of the breach and the measures taken to prevent damage being caused, or remedy the damage caused, to human health and the environment.***
- * Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (OJ L 143, 30.4.2004, p. 56).²

(8) In Article 9, paragraph (2) is *replaced by the following*:

‘2. For activities listed in Annex I to Directive 2003/87/EC, Member States may choose not to impose requirements laid down in Article 14 (1), point (aa) and Article 15 (4) of this Directive relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.’;

(9) In Article 11, point (f) is *amended as follows*:

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

(10) In Article 11, the following points are inserted:

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

■

(fb) an environmental management system is implemented as provided for in Article 14a.’;

(11) 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 odours;*
- (f) the nature and quantities of foreseeable emissions, including odours, from the installation into each medium, as well as an identification of significant effects of the emissions on the environment;’;*

(12) 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 or** environmental protection, the European Chemicals Agency and the Commission. ***That exchange of information shall aim at an eight-year review cycle of BAT reference documents prioritising the documents that have the highest potential to improve the protection of human health or the environment. The duration of the exchange of information referred to in the first subparagraph shall not exceed four years for each individual BAT reference document.***

(b) *the following paragraph is inserted:*

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

(c) in paragraph 2, the following subparagraph is added:

‘Without prejudice to Union competition law, information considered to be 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, in such a manner that it does not refer 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 BAT reference documents, with representatives of non-governmental organisations promoting the protection of human health or the environment and representatives of associations representing the relevant industrial sectors, as appropriate, and where* such representatives of organisations and associations have signed a confidentiality and non-disclosure agreement. The exchange of information considered to be confidential business information or commercially sensitive 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 commercially sensitive* information shall not be used for other purposes.’;

(d) in paragraph 3, the first subparagraph is replaced by the following:

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

(e) in paragraph 3, the second subparagraph, 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.’;

(f) the following paragraph is inserted:

‘(3a) The Commission shall 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.’

(g) in paragraph 4, the following subparagraph is added:

‘The opinion of the forum referred to in the first subparagraph shall be submitted within six months of the final meeting of the technical working group responsible for that BAT reference document.’;

(h) paragraph 6 is replaced by the following:

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

(13) 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 **with a responsibility regarding** compliance with Union environmental legislation, including with environmental quality standards.’;

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

‘(a) emission limit values for polluting substances listed in Annex II to 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, **taking into account the variation of water flow dynamics in receiving water bodies**;

;

(iii) in the second subparagraph, the following points are inserted:

‘(aa) environmental performance limit values *in accordance with Article 15(4)*;

‘(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) in the second subparagraph, 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) in the second subparagraph, the following points are inserted:

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

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

(vi) in the second subparagraph, point (d), the following point is added:

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

(vii) *in the second subparagraph , 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) in the second subparagraph, 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.’

(14) The following article 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 of and Annex VI to 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 given to the substances fulfilling the criteria referred to in Article 57 of Regulation (EC) No 1907/2006 and substances addressed in restrictions referred to 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* an analysis of the possibilities for substituting them with safer alternatives *or reducing 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.

3. *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 could have.*

Where elements required to be included in the EMS, including objectives, performance indicators or measures, have already been developed in accordance with other relevant Union legislation and comply with this Article, a reference in the EMS to the relevant documents shall be sufficient.

4. *Member States shall ensure that the relevant information set out in the EMS and listed in paragraph 2 is 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 which information 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), points (a) to (h) of Directive 2003/4/EC.

The operator shall prepare and implement the EMS in accordance with the relevant BAT conclusions for the sector by ... [the first day of the month following 34 months from the date of entry into force of this Directive], except for installations referred to in Article 3(4) of Directive ... [this Directive].

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 by ... [the first day of the month following 34 months from the date of entry into force of this Directive] except for installations referred to in Article 3(4) of Directive ... [this Directive]. 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 Article 2, point 20 of Regulation (EC) No 1221/2009, who verifies the conformity of the EMS, and of its implementation, with this Article.'

(15) 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 jeopardise compliance with 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 or the capacity ***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 BAT-AELs; or
- (b) setting emission limit values different from those referred to in 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 BAT-AELs.

General binding rules referred to in Article 6 may be applied while setting relevant emission limit values in accordance with 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.

4. ***Without prejudice to Article 9(2), the competent authority shall set, for normal operating conditions, binding ranges for environmental performance that are not to be exceeded during one or more periods, 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 are not to be exceeded during one or more periods, 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.***

5. 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* BAT-AELs. Such a derogation may apply only where an assessment shows that the achievement of BAT-AELs 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 derogating from paragraph 3, and the result of the assessment referred to in the first subparagraph of this paragraph 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 granted in accordance with 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 could put at risk compliance with environmental quality standards referred to in Article 18.

The competent authority shall re-assess whether derogations granted in accordance with this paragraph are justified, every four years or as part of each reconsideration of the permit conditions pursuant to Article 21, where such reconsideration occurs earlier than four 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).

6. *By way of derogation from paragraph 4, the competent authority may, in specific cases, set less strict binding ranges for environmental performance or environmental performance limit values. Such a derogation may apply only where an assessment shows that the achievement of performance levels associated with the best available techniques as described in BAT conclusions will lead to a significant negative environmental impact, including cross media effects, or a significant economic 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 derogating from paragraph 4 and the result of the assessment referred to in the first subparagraph of this paragraph and the justification for the conditions imposed.

The competent authority shall ensure that operating under less strict binding ranges for environmental performance or environmental performance limit values does not cause any significant environmental impact, including depletion of water resources, and achieves 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).

7. *By way of derogation from paragraphs 3 and 4, and provided that no significant pollution is caused and all measures resulting in less pollution have been exhausted, the competent authority may set less strict emission limit values or environmental performance limit values in the event of a crisis due to extraordinary circumstances beyond the control of the operator and Member States, leading to a severe disruption or shortage of:*
- (a) *energy supplies, provided that there is an overriding public interest in security of energy supply,*
 - (b) *resources, materials or equipment essential for the operator to perform activities of public interest, in compliance with the applicable emission limit values or environmental performance limit values, or*
 - (c) *essential resources, materials or equipment where the production output compensates for such shortage or disruption, for reasons of public health or public safety or for other imperative reasons of overriding public interest.*

The derogation shall not be granted for more than three months. If the reasons justifying the granting of a derogation persist, the derogation may be prolonged for a maximum period of three months.

As soon as the supply conditions are restored or where there is an alternative to the energy supplies, resources, materials or equipment, 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 paragraphs 3 and 4.

The Member States shall take measures to ensure that emissions resulting from the derogation referred to in the first subparagraph are monitored.

The competent authority shall make information on the derogation and the conditions imposed publicly available in accordance with Article 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 justifying the granting of the derogation and the conditions imposed.

The Commission shall assess whether the derogation granted is justified having due regard to the criteria set in this paragraph. If the Commission raises objections within 2 months of the notification by the Member State, the Member States shall without delay revise the derogation accordingly.'

(16) The following Article 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 ... [*the first day of the month following 24 months from 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. That 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 the emission limit values set in accordance with this Chapter has been demonstrated pursuant to paragraph 1 of this Article, the installation shall be deemed to also comply with the emission limit values set in accordance with Chapter III or IV for the pollutants concerned ***under normal operating conditions***.’

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

- ‘2. The frequency of the periodic monitoring referred to in Article 14(1), point (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.’;

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

- ‘3. 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.’;**

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

- ‘4. Where *the assessment* referred to in Article 15(5) *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* is *monitored in the receiving environment*. Where relevant, monitoring and measuring methods for each pollutant concerned which are set out in other relevant Union legislation shall be used for the purpose of the monitoring referred to in this paragraph.’.

(20) 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 pollutants concerned 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 the third paragraph.’.

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

‘1. 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 any extension, of the installation which may have consequences for the environment, in due time and in any event 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.’;

(22) In Article 21(3), first subparagraph, 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), (4) and (5), where applicable;’;

(23) 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;’;

(24) In Article 21(5), the following point is added:

‘(d) in the 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.’;

(25) In Article 23(4), the fifth subparagraph is replaced by the following:

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

(26) 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 or the reconsideration or updating of a permit has been taken, the competent authority shall 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, in relation to points (a), (b) and (f), the following information.’;

(ii) points ***(a) and (c)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.’;

(iii) in paragraph (2), point (e) and (f) are 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;

‘(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.’;

(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(4) and in Article 18 .’;

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

‘Standing in the review procedure *shall* not be conditional on the role that the member of the public concerned 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 remedies, including injunctive relief as appropriate.’

(28) 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 could have significant negative effects on the environment of another Member State, or where a Member State that could 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 could 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 that could 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 that could be significantly affected and that it remains available for the same period of time it was available in the Member State where the application was made.’

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

‘CHAPTER IIa

ENABLING AND PROMOTING INNOVATION’;

(30) 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.’;

(31) The following articles are inserted:

‘Article 27a

Innovation centre for industrial transformation and emissions

1. The Commission shall establish and operate an innovation centre for industrial transformation and emissions (the ‘centre’ or ‘INCITE’).
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, a circular economy using fewer 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).
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.

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. That 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), (3) and **(4) and** 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 in the permit, either the testing of the technique is stopped or the activity achieves at least the BAT-AELs.**

Article 27c

Emission levels and *indicative environmental performance values* 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 do 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.*

Transformation towards a clean, circular and climate-neutral industry

1. Member States shall require that operators by 30 June 2030 include in their EMS *an indicative* transformation plan *covering* their activities as 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 operator will transform the installation during the 2030-2050 period **█** to contribute to the emergence of a sustainable, clean, circular, *resource-efficient* and climate-neutral economy by 2050, *including where relevant deep industrial transformation as* referred to in *Article 27e*.

Member States shall take the necessary measures to ensure that, *no later than a year after the deadline set out in the first subparagraph of this paragraph*, the audit organisation *referred to in Article 14a(4), sixth subparagraph*, assesses the conformity of the transformation plans referred to in the first subparagraph of this paragraph with the requirements set out in *the delegated act referred to* paragraph 5 of this Article.

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 EMS a transformation plan for each installation carrying out any activity listed in Annex I that is not referred to in paragraph 1 of this Article. The transformation plan shall contain information on how the operator will transform the installation during the 2030-2050 period in order to contribute to the emergence of a sustainable, clean, circular and climate-neutral economy by 2050, in accordance with the requirements set out in the delegated act referred to in paragraph 5 of this Article.

Member States shall take the necessary measures to ensure that, *no later than a year after completion of the review referred to in Article 21(3)*, the audit organisation *referred to in Article 14a(4), sixth subparagraph*, assesses the conformity of the transformation plans referred to in the first subparagraph with the requirements set out in the delegated act referred to in paragraph 5 of this Article.

3. *Where two or more installations are under the control of the same operator, or if the installations are under the control of different operators that are part of the same*

company, in the same Member State, those installations may be covered by one transformation plan.

Where elements of the transformation plans have already been developed in accordance with other Union legislation and are compliant with this Article, a reference may be made in the transformation plan to the relevant documents.

4. The operator shall make its transformation plan, *updates of the transformation plan*, as well as the results of the assessment referred to in paragraphs 1 and 2 public, as part of the publication of relevant information set out in the EMS as referred to in Article 14a(4).
5. The Commission shall, by 30 June **2026**, adopt *a delegated* act in order to supplement this Directive by *specifying the content* for the transformation plans, *on the basis of the information required under paragraphs 1, 2 and 3*.

The Commission shall, by 31 December 2034, review and, where appropriate, revise the delegated act referred to in the first subparagraph.

Article 27e

Deep Industrial Transformation

1. Without prejudice to Article 18, in the event of deep industrial transformation of the installation set out in the relevant transformation plan covering the 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 eight years maximum, provided that:

(a) the permit for the installation contains a description of the deep industrial transformation, the emission levels and the resource efficiency that will be achieved, and the implementation timeline and milestones;

(b) the operator reports annually to the competent authority on the progress in the implementation of the deep industrial transformation; and

(c) during the period granted for the 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 Articles 18 and 22, in the event 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 waive the obligation of updating the permit in accordance with Article 21(3), provided that all the following conditions are met:*

- (a) the permit for the existing installation contains a description of the closure plan and the associated timeline and milestones;*
- (b) the operator reports annually to the competent authority on the progress in relation to the closure plan for the existing installation and to 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 as part of their reporting under Article 72 at least yearly of derogations granted.’;

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

‘5. The competent authority may grant a derogation for a maximum of six 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 that 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 justifying the derogation and the conditions imposed.’;

(33) *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 justifying the derogation and the conditions imposed.’;

(34) *The following article is inserted:*

‘Article 34a

Combustion plants that are part of a small isolated system

- 1. Member States may, until 31 December 2029, exempt combustion plants that are part of a small isolated system on ... [date of entry into force of this directive] 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 for such combustion plants, pursuant 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 measures resulting in less pollution have been exhausted. The exemption shall not be made for a longer period than necessary.

- 2. From 1 January 2030, the combustion plants concerned 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. *Member States that provide exemptions in accordance with paragraph 1 of this Article shall implement a compliance plan covering the combustion plants that benefit from such exemptions. The compliance plan shall contain information on the measures to ensure compliance of the plants concerned by 31 December 2029 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. The compliance plan shall also include information on 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 ... [six months from the date of entry into force of this Directive], 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 the plan, the Member State concerned shall consider its plan to have been accepted. Where the Commission raises objections on the ground that the plan does not guarantee the compliance of the plants concerned 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 concerned shall communicate to the Commission a revised plan within 6 months of the notification of the Commission's objections. In relation to the evaluation of a revised version of a plan which a Member State communicates to the Commission, the period referred to in the second sentence shall be 6 months.*
5. *Member States shall report to the Commission on the progress made in relation to the actions described in the compliance plan not later than ... [date of entry into force of this Directive + 18 months], and at the end of each subsequent calendar year. Member States shall inform the Commission of any subsequent changes to the compliance plan. In relation to the evaluation of a revised version of a plan which a Member State communicates to the Commission, the period referred to in the second sentence of paragraph 4 shall be six months.*
6. *The Member state shall make information on the derogation and the conditions imposed publicly available in accordance with Article 24(2).';*

(35) 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 *those* from incineration or co-incineration of waste.’;

(36) *In Article 48, paragraph 1 is replaced by the following:*

- ‘1. 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 or shutdown operations. Emissions of PCDD/F and dioxin-like PCBs shall as far as possible be prevented or minimised.’;

(37) 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.’;

(38) In Article 70, paragraph 3 is replaced by the following:

‘3. Monitoring shall be carried out, and the quality assurance system of the laboratory performing the monitoring shall be, 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.’;

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

‘CHAPTER VIa

SPECIAL PROVISIONS FOR REARING POULTRY AND PIGS’;

(40) The following articles 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

1. **Member States shall adopt measures to ensure that** if two or more installations ***engaged in livestock 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 to be*** a single unit for the purpose of calculating the capacity threshold referred to in Article 70a.

Member States shall ensure that the rule referred to in the first subparagraph is not used to circumvent the obligations set out in this Directive.

2. **By ... [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 for considering different installations to be 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 operates without a permit *or without being registered and that* the operation *of all installations within the scope of this Chapter* complies with the *uniform conditions for* operating rules referred to in Article 70i.

Member States may use any similar pre-existing procedure for the registration of installations 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 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;
 - (c) *the stocking density in LSU per hectare calculated in accordance with Annex Ia, where necessary;*
 - (d) the capacity of the installation;
 - (e) the sources of emissions from the installation;
 - (f) 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 **the** 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 could 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*.
5. **The Commission shall assess the impacts of the implementation of the operating rules laid down in Article 70i and submit by .. [5 years after the deadline for applying the operating rules], a report to the European Parliament and to the Council on the results of that assessment.**

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 ***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. The methods used for obtaining the monitoring data 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 the operator to take 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 to the competent authority upon request. The competent authority may make such a request in order to verify compliance with the *uniform conditions for* operating rules. The competent authority shall make that request if a member of the public requests access to the data or information listed in paragraph 2.

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 posing, 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; or
 - (d) *the procedure for registration, in the event that general binding rules are not adopted, and the Member States allow the installation only to be 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 which are applicable to installations falling within the scope of this Chapter; and
 - (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 that as a precondition.

Standing in the review procedure *shall* not be conditional on the role that the member of the public concerned 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 remedies, 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.***

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2. The Commission shall **adopt** by ... [*the first day of the month following 24 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 stocking density of those installations, the 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).

3. *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 uniform conditions for operating rules.*

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(41) *In Article 72, paragraph 2 is replaced by the following:*

‘(2) The type, format and frequency of information to be made available pursuant to paragraph 1 of this Article shall be established in accordance with the regulatory procedure referred to in Article 75(2). The implementing decision establishing the type, format and frequency of information to be made available pursuant to paragraph 1 of this Article shall be updated whenever necessary and not later than .. [insert date 24 months after the entry into force of the amending directive].’;

(42) 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(5) 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.’;

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

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

‘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:

(a) comprehensively address the emissions from the rearing of livestock within the Union, in particular from cattle; and

(b) 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.’;

(b) the following paragraph is added:

‘4. The Commission shall review:

(a) the need to control emissions from onshore and offshore exploration and production of mineral oil and gas;

(b) 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 Union;

(c) 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.’;

(44) 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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2. The Commission shall carry out appropriate consultation with stakeholders before adopting a delegated act in accordance with this Article.

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

(45) 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.’;

(46) 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 [*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 9 months before the end of the 5 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 3 months before the end of each period.
3. The delegation of power referred to in *Article 27d*, Article 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 27d*, *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 2 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 2 months at the initiative of the European Parliament or of the Council.’;
- (47) Articles 77 and 78 are deleted;

(48) 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*, 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 that 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 the administrative financial penalties referred to in the first subparagraph shall 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.

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*;

■ ;

(b) 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;'

(c) *the repetitive or one-off 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.*

* *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 (OJ L 328, 6.12.2008, p. 28).';*

(49) The following article is inserted:

Article 79a

Compensation

1. Member States shall ensure that, where damage to human health has occurred as a result of an infringement 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 **■** .
■
2. 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 an infringement pursuant to paragraph 1.
■
3. 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 infringement has ceased and the person claiming the compensation knows or can reasonably be expected to know that he or she suffered damage from an infringement pursuant to paragraph 1.’.

- (50) Annex I is amended in accordance with Annex I to this Directive;
- (51) Annex Ia as set out in Annex II to this Directive is inserted;
- (52) Annex II is replaced by the text set out in Annex III to this Directive;
- (53) Annex III is amended in accordance with Annex IV to this Directive;
- (54) Annex IV is amended in accordance with Annex V to this Directive;
- (55) Annex V is amended in accordance with Annex VI to this Directive;
- (56) Annex VI is amended in accordance with Annex VII to this Directive.

Article 2

Amendments to Directive 1999/31/EC

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

Article 3

Transitional provisions

1. ***In relation to installations carrying out activities referred to in Annex I, Member States shall apply Article 14(1), second subparagraph, points (aa), (bb), and (h), and Article 15(4) and (6) within four years of the publication of decisions on BAT conclusions that have been published after [the first day of the month following 22 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 ... [the first day of the month following 22 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 the provisions referred to in the first subparagraph of this paragraph from the date the BAT conclusions are published.

2. *In relation to installations carrying out activities referred to in Annex I which fall within the scope of the Directive before [the date of entry into force of this Directive] and that are in operation and hold a permit before ... [the first day of the month following 22 months after the date of entry into force of this Directive], Article 14(1), second subparagraph, points (a), (b), (ba), and (d), and Article 15(1), Article 15(5), Article 15a and Article 16(4) shall apply when the permit is granted or updated pursuant to Article 20(2) or Article 21(5), or updated within 4 years of publication of decisions on BAT conclusions that have been published after ... [the first day of the month following 22 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 ... [the first day of the month following 12 years after the date of entry into force of this Directive], whichever is the earlier.*

In relation to installations carrying out activities referred to in Annex I which fall within the scope of the Directive before ... [the date of entry into force of this Directive] and for which the operators have submitted a complete application for a permit before... [the first day of the month following 22 months after the date of entry into force of this Directive], provided that those installations are put into operation no later than [the first day of the month following 12+22 months after the date of entry into force of this Directive], Article 14(1) , second subparagraph, points (a), (b), (ba), and (d), Article 15(1), Article 15(5), Article 15a and Article 16(4) shall apply when the permit is granted or updated pursuant to Article 20(2) or Article 21(5), or updated within 4 years of publication of decisions on BAT conclusions that have been published after ... [the first day of the month following 22 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 ... [the first day of the month following 12 years after the date of entry into force of this Directive], whichever is the earlier.

In relation to installations carrying out activities referred to in Annex I which fall within the scope of the directive before [the date of entry into force of this Directive]) Article 15(3) shall apply when the permit is updated within four years of publication of, or granted after, decisions on BAT conclusions that have been published after ... [the first day of the month following 22 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 [the first day of the month following 12 years after the date of entry into force of this Directive], whichever is the earlier.

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

3. *In relation to installations which do not fall within the scope of the Directive before ... [OP please insert the date of entry into force of this Directive]) and carryout activities referred to in Annex I, point 2.3 (aa) and finishing of textile fibres or textiles under point 6.2 of that Annex which are in operation before ... [the first day of the month following 22 months after the date of entry into force of this Directive] Member States shall , with the exception of Article 14(1) , second subparagraph, points (aa), (bb) and (h), Article 15(4) and Article 15(6), apply the laws, regulations and administrative provisions adopted in accordance with this Directive within four years of ... [the first day of the month following 22 months after the date of entry into force of this Directive].*

4. *In relation to installations which do not fall within the scope of Directive (EU) 2010/75/EU before [the date of entry into force of this Directive] and carrying out activities referred to in Annex I, points 1.4, 2.3(b), 2.3 (ba), 2.7 and 3.6, Member States shall, with the exception of Article 14(1) , second subparagraph, points (aa), (bb), and (h), Article 15(4) and Article 15(6), 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 ... [the first day of the month following 10 years after the date of entry into force of this Directive], whichever is the earlier.*

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

In relation to installations which are first permitted after the publication of decisions on BAT conclusions published after ... [the first day of the month following 22 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), the laws, regulations and administrative provisions adopted in accordance with this Directive shall apply to the granting of their permits from the date the BAT conclusions are published.

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

(a) *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.*

(b) *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.*

(c) *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 within the scope of Directive 2010/75/EU in the version in force on the day before this Directive enters into force, shall comply with Directive 2010/75/EU in that version.

6. *Derogations granted by the competent authority in accordance with Article 15(5) before ... [the first day of the month following 22 months after the date of entry into force of this Directive] shall remain valid until the competent authority reassesses whether the derogation is justified under Article 15(5). The reassessment shall be carried out 4 years from [the first day of the month following 22 months after the date of entry into force of this Directive] or as part of the reconsideration of the permit conditions pursuant to Article 21, whichever is the earlier.*

7. *Derogations for the testing and use of emerging techniques granted by the competent authority in accordance with Article 15(7) of Directive 2010/75/EU in the version in force on... [the day before this Directive enters into force], before ... [the first day of the month following 22 months after the date of entry into force of this Directive] shall remain valid until the end of the period specified in the decision granting the derogation. After the period specified, the testing of the technique shall be stopped or the activity shall achieve at least the BAT-AELs.*

Article 4

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... [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 adopted in the fields covered by this Directive.

Article 5

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

Article 6

This Directive is addressed to the Member States.

Done at ...,

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;

■

- b) operation of smitheries with hammers the energy of which exceeds **50** kilojoule per hammer;
- (ba) 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**:

■

■ 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 within one or more of the following activity categories.

- 1. Rearing of pigs representing 350 LSU or more, excluding rearing activities that are carried out under organic production regimes in accordance with Regulation (EU) 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 (EU) 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 \geq 50 kg ... 0,500

Piglets \leq 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 (300 LSU). 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(5)

Derogations provided in accordance with Article 15(5) shall respect the following principles:

1. Costs

- 1.1. Costs referred to in Article 15(5) 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 installations where best available techniques were recently installed.

2. Environmental benefits

- 2.1. Environmental benefits referred to in Article 15(6) 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 value 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 installations 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.’.

ANNEX IV

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

(a) *point 2 is replaced by the following:*

‘2. the use of less hazardous substances, including less use of substances of very high concern;’;

(b) *point 5 is replaced by the following:*

‘5. technological advances, including digital tools, and changes in scientific knowledge and understanding;’;

(c) *point 9 is replaced by the following:*

‘9. the consumption and nature of raw materials, including water, used in the process and resource efficiency and reuse and decarbonisation;’;

(d) *point 10 is replaced by the following:*

‘10. 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;’;

(e) *point 11 is replaced by the following:*

‘11. the need to prevent accidents and to minimise the consequences for the environment and human health;’;

ANNEX V

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

(a) In paragraph 1, the introductory part is replaced by the following:

'1. The public shall be informed through 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.'

(b) Paragraph 3 is replaced by the following:

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

(c) Paragraph 5 is replaced by the following:

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

ANNEX VI

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

(a) In Part 3, paragraph 8, the 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.’;

(b) In Part 3, paragraph 10, the second subparagraph is replaced by the following:

‘Any day in which more than three hourly average values are invalid due to a malfunction or the maintenance of the automated measuring system shall be invalidated. If more than 10 days in 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.’;

ANNEX VII

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

In 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 in accordance with 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.’
