



Industrial Emissions review package

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Part 2 – Legal instruments – IED revision

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Industrial emissions review package – Part 2

4. Presentation of legal instruments

1. **Amendment of Industrial Emissions Directive (IED) COM(2022) 156 final/3, 05.04.2022**
2. Industrial Emission Portal Regulation (IEPR) - COM(2022) 157 final, 05.04.2022

Content

- I. General objectives of the IED revision**
- II. Legislative technique**
- III. Structure and main elements of the legal proposal**

(I) General objectives of the IED revision

European Green Deal: Commission committed to review EU measures to address pollution from large agro-industrial installations and to consider how to make them fully consistent with climate, energy and circular economy policies.

- This involves proposing a revision of the Industrial Emissions Directive (IED), alongside the revision of the E-PRTR Regulation

(I) Objectives of proposed revised EU industrial emissions framework

- Make the legislation fit to accompany the transformation of EU industry
- Fulfill the European Green Deal and Zero Pollution ambition by:
 - Ensuring full and consistent implementation across Member States – levelling the field at high health and environmental protection
 - Incentivising investment in emerging more efficient pollution prevention techniques – advances in energy use, resource efficiency & water reuse
 - Increasing transparency and accountability
 - Enhancing public rights to be informed and participate in permitting process & access to justice
 - Strengthen compliance, enforcement and redress measures

(I) General overview of proposals

To transform IED into forward-looking legislation to accompany the industrial transformation

1. More effective

- Increase the ambition in permits and tighten flexibilities
- More accessible information on permits and performance
- Reinforced Aarhus rights

2. Support innovation

- Flexible permitting for frontrunners
- Create INCITE to ensure latest technologies are employed
- Transformation plans in EMS

3. Resources & chemicals

- EMS to improve resource efficiency, apply circular economy practices and use safer chemicals
- Performance levels and benchmarks

4. Support decarbonisation

- Curb non-ETS emissions
- Energy efficiency requirements
- IED review

5. Scope: widening to critical activities + simplified permits for livestock farms

(II) Legislative technique

Reference: **Joint Practical Guide** for the drafting of EU legislation (ISBN 92-894-4063-5) and **Joint Handbook** (JHOLP 31.07.2020 ENv01)

- Preferable for the amending act to be of the same type as the amended act (i.e. Directive amending a Directive)
- The replacement of complete units of text is preferable to the insertion or deletion of sentences or of one or more terms
- Where several provisions of the same act are to be amended, all amendments are combined in a single article
- If several acts are amended by a single amending act, the amendments to each act should be set out together in a separate article

(II) Legislative technique

- Acts of general application enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication
- A distinction must be made between entry into force and application, which do not necessarily coincide

(III) Structure of the legal proposal

- Preamble containing recitals
- Article 1 containing amendments to Directive 2010/75/EU
- Article 2 amending Directive 1999/31/EC
- Article 3 on transposition by MS (by 18 months after date of entry into force)
- Article 4 on entry into force (20th day following OJ publication day)
- Article 5 specifying that the Directive is addressed to MS
- Annex containing amendments to IED annexes

(III) Structure of the legal proposal

Content of Article 1 amending Directive 2010/75/EU

Main amendments to Chapter I on common provisions (Art. 1 - 9):

- **Broadening of**
 - subject matter (explicit mention of human health protection – Art. 1)
 - scope (cattle, non-energy extractive industries, batteries production, and certain other activities) - Art. 2
 - Definitions (Art. 3), including new definitions added
- **Strengthening of requirements on**
 - publicity of permits (uniform summary and availability on the Internet, free of charge, CID to define format, Art. 5); incidents or accidents, with transboundary and multidisciplinary cooperation requirements – Art. 7
- **Strengthening of power of Competent Authority to ensure compliance** (may suspend activity of non-compliant installation, where persistent non-compliance and non-respect of inspection report conclusions) Art. 8
- **Termination of exemption** from energy efficiency requirements in respect of units emitting carbon dioxide when both within scope of IED and ETS Directive – Art. 9

(III) Structure of the legal proposal

Content of Article 1 amending Directive 2010/75/EU

Main amendments to Chapter II on provisions for activities in Annex I (Art. 10 – 26):

- Resource efficiency requirements added to basic obligations of operator - Art. 11
- Handling of confidential business information (CBI) clarified - Art 13
- Strengthened cooperation between different permitting authorities to comply with EQS - Art. 14
- Environment management system (EMS) to be drawn up by operator - Art. 14a
- Requirements on indirect release of polluting substances to water clarified - Art. 15(1)
- CA to set emission limit values (ELVs) at lowest end of relevant BAT-AEL range, unless operator demonstrates that applying BATC only allows meeting less strict ELVs - Art. 15(3)
- Tightening of conditions to grant Art 15(4) derogations and standardised methodology on cost-benefit assessment (CID to establish that standardised methodology) (+ new Annex II on general principles)
- Common rules for assessing compliance with ELVs to be set by COM (CID to establish measuring method by 24 months after entry into force of revisions) - Art. 15a
- Additional monitoring when 15(4) derogation granted - Art. 16(3)
- Clarifications on compliance with EQS when latter require stricter permit conditions so as to reduce specific contribution of the installation to pollution occurring in relevant area + relevant monitoring - Art 18

(III) Structure of the legal proposal

Content of Article 1 amending Directive 2010/75/EU

Main amendments to Chapter II on provisions for activities in Annex I(Art. 10 – 26):

- **To ensure compliance of IED with Aarhus Convention**, broadening of instances where the **public must be consulted** in permitting procedure: when publication of new BATC; when developments in BAT allow for 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 EQS - Art. 24
- Strengthened **publicity requirements**, incl upon definitive cessation and on monitoring data - Art 24
- **Improved access to Justice** (to align with ECJ case-law) – Art. 25
 - Legal standing should not be made conditional on role that public concerned played during a participatory phase of the decision-making procedure (i.e. on prior participation).
 - In addition, any review procedure should be fair, equitable, timely and not prohibitively expensive, and provide for adequate and effective redress mechanisms, including injunctive relief as appropriate.

(III) Structure of the legal proposal

Creation of a new Chapter IIa on Promoting innovation (Art. 27 to 27d)

- To set up a dedicated centre to support innovation: innovation centre for industrial transformation and emissions (**INCITE**). CID to set arrangements and functioning of centre - Art. 27a
- To facilitate the testing and deployment of **emerging techniques** with improved environmental performance by giving more time to concerned operators: derogation from ELVs for testing of emerging techniques up to 24 months - Art 27b
- Specific **ELVs associated with emerging techniques** to be set in BATC and to be complied with within **6** years of BATC publication - Art 27c
- **Transformation plans** to be elaborated by operators, and included in their EMS, by 30 June 2030 for Annex I energy-intensive industries; and following publication after 1 January 2030 of new BATC for other Annex I sectors – Art. 27d

(III) Structure of the legal proposal

Content of Article 1 amending Directive 2010/75/EU

No amendments to

- Chapter III (LCPs)**
- Chapter IV (waste incineration and co-incineration)**
- Chapter V (organic solvents)**
- Chapter VI (titanium dioxide production)**

(III) Structure of the legal proposal

Content of Article 1 amending Directive 2010/75/EU

- **Creation of a new Chapter VIa on Special provisions for rearing poultry, pigs and cattle (Art. 70a – 70i); mainly:**
 - **Lowering of threshold** for pigs and poultry installations (**150** livestock units (LSU) or more) - Art 70a & Annex Ia
 - **Add cattle farming** in Chapter VIa scope (**150** livestock units (LSU) or more) - Art 70a & Annex Ia
 - Specific administrative procedures to issue permits (incl. option for GBR) or registration and for operation of rearing installations, taking into account specificities of pasture-based cattle rearing - Art 70c and 4(1)
 - Provisions on **monitoring** (Art. 70e), **compliance** (Art. 70f), public information & participation (Art. 70g) and access to justice (Art. 70h)
 - COM to adopt operating rules (delegated act) within 24 months after entry into force of revised Directive - Art. 70i
 - Installations must be compliant within 42 months of entry into force of delegated act - Art. 70i

(III) Structure of the legal proposal

Content of Article 1 amending Directive 2010/75/EU

- **Strengthening of Chapter VII** (institutional provisions and enforcement; Art. 71 - 84), mainly:
 - **5-year** frequency for **COM report** to EP and Council on IED implementation. 1st one due by June 2028, will take into account **dynamics of innovation** and **review of the effectiveness of synergies between IED and ETS** Directive - Art 73
 - **Annex I or Annex Ia may be complemented** (delegated act) (Art 74)with new agro-industrial activities, to remain suited to scientific /technical progress, prevent or reduce pollutants emissions and achieve high level of human health and environmental protection
 - if criteria met:
 - Actual or expected impact on human health & env;
 - discrepancy in environmental performance across MS;
 - potential for improvement;
 - positive ratio economic costs / societal benefits

(III) Structure of the legal proposal

Content of Article 1 amending Directive 2010/75/EU

- **Minimum content of penalties** specified to ensure their effectiveness, and proportionate and dissuasive nature - Art. 79
 - including fines proportionate to turnover of legal person or to income of the natural person having committed the infringement
 - And taking into account nature, gravity, and extent of the violation; its intentional or negligent character; and the population or the environment affected
- New provision on **compensation for damages to individuals' health** caused by violation of national measures adopted pursuant to IED - Art 79a
 - right for individuals to claim and obtain compensation for that damage
 - As part of the public concerned, NGOs promoting protection of human health or environment can represent affected individuals and bring collective actions
 - Burden of proof: onus on the person responsible for the violation to prove that such violation did not cause or contribute to the damage

(III) Structure of the legal proposal

Article 2: Amendments to Directive 1999/31/EC

Deletion of §2 of Article 1 of the Landfill Directive

- Although landfills are included within IED scope, no BATC for landfills since that activity also falls within scope of Council Directive 1999/31/EC and requirements of the latter deemed to constitute BAT
- Due to technical innovation that has taken place since adoption of Directive 1999/31/EC, more effective techniques to protect human health and the environment now available
- Adoption of IED BATC would allow addressing key environmental issues related to operation of waste landfills, including significant emissions of methane
- Directive 1999/31/EC to be amended (deletion of §2 of Article 1) to allow for adoption of BATC on landfills under the IED

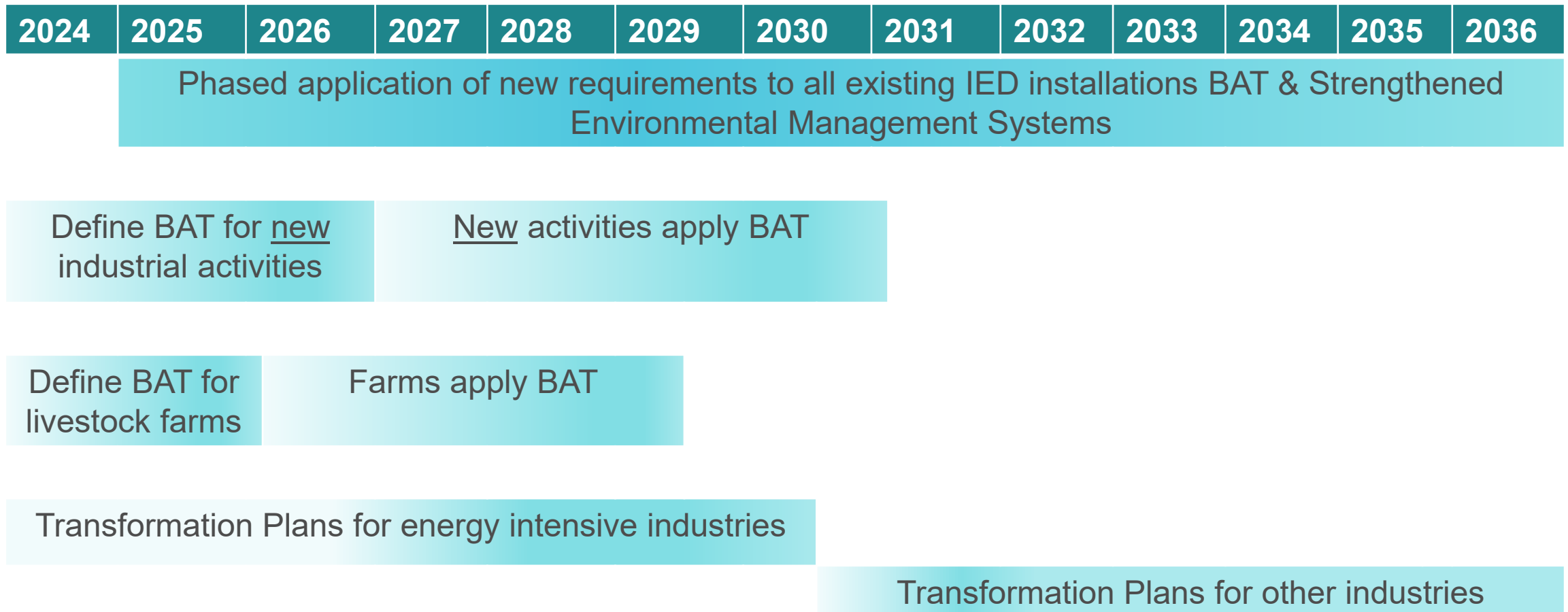
(III) Structure of the legal proposal

Modifications to IED Annexes

Main modifications to Annexes:

- Modifications to Annex I: additions of **mining, batteries production** and certain **other activities**
- Creation of a new **Annex Ia** on **livestock rearing**
- **Deletion of current content of Annex II** because it is misleading
- Revised **Annex II** will now contain **Principles** to be complied with when **granting Art 15(4) derogations**

What is the approximate indicative **timeline** for the revised IED requirements to apply?



Thank you

More info?

<https://ec.europa.eu/environment/industry/stationary/index.htm>



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