Establishing an industrial emissions portal

OVERVIEW

The European Green Deal envisages a review of measures addressing pollution from large industrial installations, with a view to aligning existing legislation with the EU’s zero pollution ambition, as well as its energy, climate and circular economy policy goals. On 5 April 2022, the European Commission tabled a proposal to revise the Industrial Emissions Directive, the main European Union instrument regulating pollutant emissions from industry, together with a proposal to revise the Regulation establishing the European Pollutant Release and Transfer Register, related to environmental information. The proposal aims at upgrading the existing register to a more comprehensive and integrated industrial emissions portal, enabling more accurate monitoring of the environmental performance of large industrial activities. The main changes proposed include better alignment with the Industrial Emissions Directive, both in terms of activities covered and reporting level; inclusion of reporting on the use of resources; and integration in the database of additional relevant environmental data reported under other related EU legislation.

In Parliament, the file has been referred to the Committee on the Environment, Public Health and Food Safety. The same rapporteur and shadow rapporteurs will handle the revision of the European Pollutant Release and Transfer Register Regulation and that of the Industrial Emissions Directive.

Proposal for a regulation of the European Parliament and the Council on reporting of environmental data from industrial installations and establishing an industrial emissions portal

| Committee responsible: | Environment, Public Health and Food Safety (ENVI) |
| Rapporteur: | Radan Kanev (EPP, Bulgaria) |
| Shadow rapporteurs: | Mohammed Chahim (S&D, the Netherlands) |
| | Michal Wiezik (Renew, Slovakia) |
| | Eleonora Evi (Greens/EFA, Italy) |
| | Anna Zalewska (ECR, Poland) |
| | Marisa Matias (The Left, Portugal) |
| Next steps expected: | Publication of draft report |

Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly ‘co-decision’)

EPRS | European Parliamentary Research Service
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Introduction

Under the European Green Deal, the European Commission has committed to review European Union (EU) measures to address pollution from large industrial installations, with a view to aligning existing legislation with the EU’s zero pollution ambition, as well as its energy, climate and circular economy policy goals. On 5 April 2022, the Commission tabled a proposal for a revision of the Industrial Emissions Directive (IED), which lays down rules to prevent and control pollution from large agro-industrial installations; together with a proposal for a revision of the Regulation on the European Pollutant Release and Transfer Register (E-PRTR). The ambition is to turn the existing register (which provides information on pollutant releases to air, water, soil and waste transfers from some 34 000 facilities in Europe), into a more comprehensive and integrated industrial emissions portal, enabling more accurate monitoring of the environmental performance of large industrial activities.

Existing situation

International framework

Regulation (EC) No 166/2006, which established the E-PRTR, implements in EU law the Kyiv Protocol to the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters. The (then) European Community ratified the protocol in December 2005 (Council Decision 2006/61/EC). Parties to the protocol are bound ‘to enhance public access to information through the establishment of coherent, nationwide pollutant release and transfer registers (PRTRs)’. This should ‘facilitate public participation in environmental decision-making as well as contribute to the prevention and reduction of pollution of the environment’. Such registers, which can be understood as inventories of pollution from industrial sites and other sources, need to fulfil a number of requirements:

- providing public access through the internet, free of charge; allowing searches according to separate parameters (facility, pollutant, location, medium, etc.); and offering a user-friendly structure. They should provide links to other relevant registers;
- presenting standardised, timely data on a structured, computerised database;
- covering releases and transfers of at least 86 pollutants covered by the protocol;
- covering releases and transfers from certain types of major point sources;
- accommodating available data on releases from diffuse sources;
- limiting confidentiality provisions; and
- allowing for public participation in their development and modification.

Such PRTRs should rely on a reporting scheme that is mandatory; annual; multimedia (i.e. covering air, water and land); facility-specific; pollutant-specific for releases; pollutant-specific or waste-specific for transfers. The PRTR Protocol sets minimum requirements. This means that the parties can include additional pollutants and facilities.

European Pollutant Release and Transfer Register

The European PRTR builds upon the European Pollutant Emission Register (EPER), established in 2000 to provide the first EU-wide inventory of pollutant releases arising from activities under the Integrated Pollution Prevention and Control Directive, the predecessor to the IED.

The E-PRTR collects data from EU Member States, plus Iceland, Liechtenstein, Norway, Serbia, Switzerland and the United Kingdom. Facilities are subject to the E-PRTR Regulation reporting obligation if they carry out one or more of the 65 activities listed in its Annex I above the applicable capacity threshold; and if their pollutant releases or off-site transfers of pollutants in wastewater destined for wastewater treatment or off-site transfers of waste exceed defined thresholds. For releases of pollutants to air, water and land and for off-site transfers of pollutants in wastewater, the
corresponding threshold values are set for each pollutant in Annex II. Annex II covers 91 pollutants, including heavy metals, greenhouse gases, pesticides, chlorinated organic substances and dioxins. The thresholds for off-site transfers of waste, set out in Article 5, amount to 2 tonnes per year for hazardous waste and 2 000 tonnes per year for non-hazardous waste.

Facility operators must provide the required information on releases and transfers annually to the competent authority in the Member State in which they are based. The reported data may come from measurements, calculations or estimations, and they cover all emission routes (deliberate, accidental, routine or non-routine). The competent authorities transmit the data to the European Commission, which, with the assistance of the European Environment Agency (EEA), has to make the data publicly accessible in an electronic database. In addition to those datasets covering the main point sources of pollution, the E-PRTR contains spatially disaggregated data on emissions from diffuse sources, resulting from modelling.

The data reported annually under the E-PRTR Regulation, together with the data reported under the Industrial Emissions Directive, are available on the European Industrial Emissions Portal, hosted and managed by the EEA, which replaced the E-PRTR website from June 2021.

Parliament's starting position

The European Parliament has expressed support for the planned review of EU measures to address pollution from industrial installations, making several recommendations for the revision of the Industrial Emissions Directive in particular. More generally, it has also emphasised public information and engagement in environment policy measures. In its resolution on the European Green Deal, Parliament underlined the importance of involving citizens, national and regional parliaments, civil society and stakeholders in the elaboration and implementation of the European Green Deal. In its resolution on the implementation of water legislation, it highlighted the importance of transparency and providing comprehensive information to the public on water quality in the EU. In its resolution on the implementation of the Ambient Air Quality Directives, it considered that public information and awareness have a critical role in addressing air pollution and enabling citizens to be directly involved in actions to improve air quality. In its resolution on soil protection, stressing the need for harmonised and integrated data collection, as well as monitoring of soils, Parliament considered that all soil data collected should be made publicly available online. It also called for greater engagement with the public on soil health.

Preparation of the proposal

The E-PRTR was subject to an evaluation in 2017, supported by an external study and stakeholder consultations. The European Commission commissioned another study, published in 2020, which reviewed the E-PRTR's implementation and related guidance. The study suggested possible amendments to the activities and pollutants covered, to improve the E-PRTR's alignment with the IED, other EU medium-specific legislation and emerging environmental concerns. Both the evaluation and the study are examined in detail in the implementation appraisal produced by the European Parliamentary Research Service (EPRS) in March 2022.

The revisions of the IED and E-PRTR were subject to a joint impact assessment (IA), supported by a consultation process. E-PRTR-related consultation activities involved initial feedback on the inception impact assessment and an open public consultation via the Commission 'Have your say' portal. The public consultation, addressing both the E-PRTR and IED revisions, attracted 335 contributions, of which 65% came from businesses; close to 12% from citizens; over 11% from non-governmental (NGOs) and environmental organisations; and 7.5% from public authorities. A targeted stakeholder survey; targeted telephone interviews; focus group discussions; and two stakeholder workshops, also covering the IED revision (15 December 2020 and 7-8 July 2021) were also conducted. The impact assessment received a 'positive opinion with reservations' from the Regulatory Scrutiny Board on 10 December 2021. EPRS is preparing an initial appraisal of this IA.
While recognising the E-PRTR as an important instrument in conveying information to the public, and an essential reference point for environmental data on large industrial activities, the assessment work identified a number of areas for improvement in terms of effectiveness, scope, contribution to a non-toxic and resource efficient circular economy, and support to the decarbonisation of industry. In particular, it found that information collected and made public is outdated. The list of 91 pollutants on which emissions-reporting to the register is based has not been updated since 2006, and does not consider emerging pollutants. The E-PRTR substances are not fully compatible with substance lists under other EU legislation, such as the REACH Regulation or priority hazardous substances under the Water Framework Directive. The reporting thresholds, initially set to capture at least 90% of releases of each pollutant from activities covered in Annex I, are equally outdated, as technological developments have enabled significant emission reductions. Furthermore, E-PRTR reporting is limited to emissions and does not cover, for instance, resource efficiency aspects. Reporting on greenhouse gas (GHG) emissions is incomplete and lacks detail. While the E-PRTR provides data on GHGs outside the scope of the Emissions Trading System, these emissions data are aggregated and do not distinguish the constituent compounds (which have different global warming potential). Finally, there is also a need for more coherence between the E-PRTR Regulation and the IED, in particular.

E-PRTR and IED: not a perfect match

While the majority of activities in the E-PRTR’s scope are regulated under the IED, there are some discrepancies between the two pieces of legislation. The E-PRTR covers additional activities derived from the Kyiv Protocol (such as wastewater treatment plants, mining and aquaculture), but it leaves out some activities introduced by the IED in 2010 (such as waste recovery, carbon capture and storage). In addition, different capacity thresholds apply in some cases (for instance, for the production of wood-based panels, the production of food products from vegetable raw materials, and wood impregnation). Furthermore, while E-PRTR reporting is at the ‘facility’ level, regulatory controls under the IED are set at sub-facility level i.e. for ‘installations’. Under the E-PRTR Regulation, a facility comprises ‘one or more installations on the same site that are operated by the same natural or legal person’.

The changes the proposal would bring

The proposal, setting rules for the collection and the reporting of environmental data from industrial installations and establishing an industrial emissions portal, would repeal and replace Regulation (EC) No 166/2006 as of 1 January 2026. It includes the following main changes:

Scope of the regulation

To ensure coherence with related EU environmental legislation affecting industrial installations, the regulation’s coverage would be extended to all activities specified in Annexes I or Ia to the revised IED; and the existing capacity threshold for combustion plants (50 megawatts or higher) would be lowered, to include medium combustion plants between 20 and 50 megawatts covered by the Medium Combustion Plant Directive. Other amendments to the scope include a ten-fold reduced capacity threshold for aquaculture; and the inclusion of ship-dismantling operations (Annex I).

The Commission would be able to amend Annex I through delegated acts, to add activities having (or expected to have) an impact on health or the environment as a result of their pollutant releases, waste or waste water transfers or resource use; or to reflect changes made to the protocol on PRTRs. The Commission would also have the ability to amend Annex II to add pollutants subject to specific regulatory measures under EU chemicals, water and air quality legislation; to set and update thresholds (to ensure at least 90% capture of pollutant releases from the activities covered), including ‘zero’ thresholds for particularly hazardous substances; to reflect changes made to the protocol on PRTRs; and to adapt that annex to scientific or technical progress (Article 14).
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Reporting by operators

Reporting would be required at installation level (i.e. sub-facility level), to align with reporting under the IED. Data to be reported annually by the operators of the industrial installations concerned would not only cover releases and transfers, but also the use of resources (water, energy and raw materials). This would allow progress in resource efficiency to be tracked. Operators would also need to provide information contextualising the data (i.e. annual production volume, number of employees, number of operating hours, information on accidents that have led to releases); and to indicate whether the installation is covered by other related EU legislation (such as the IED, the Urban Wastewater Treatment Directive, the Seveso III Directive, and the ETS Directive) (Article 5).

If their annual releases and/or off-site transfers were below the threshold values triggering reporting, operators would be required to confirm this explicitly in their report to the competent authorities. This provision aims to avoid any ambiguity regarding whether the operator’s absence of return is due to a reporting failure, or to releases and transfers below the applicable reporting thresholds.

The proposal would establish a hierarchy in the methods used by operators to quantify their releases and off-site transfers. Measurement would be required as a priority, taking precedence over calculation. Estimation would be allowed only where neither measurement nor calculation is practicable. The proposed regulation would introduce a possibility for Member States to quantify deliberate releases of pollutants on behalf of the operators of installations for the rearing of poultry, pigs and cattle, and aquaculture, who may lack the necessary resources to do so.

Portal content and access to information

The portal would contain the data on releases, off-site transfers, resource use and contextual information reported under Article 5, as well as data on pollutant releases from diffuse sources, where available. In addition, the portal would provide access to other relevant environmental information reported under EU legislation on climate change, air, water and land protection, and on waste management, through links to existing publicly accessible registers, databases or websites, established at national or EU level (Article 3).

As already required under the E-PRTR, the portal should be designed to maximise ease of public access; the data should be continuously and readily accessible on the internet, and be presented in aggregated and non-aggregated forms to allow users to undertake targeted searches (Article 4); access should be provided free of charge (Article 9).

Penalties

The proposal specifies the criteria to be considered by Member States when establishing penalties for infringements of the regulation, while requiring Member States to adopt compliance assurance measures to prevent and detect infringements (Article 17).

Advisory committees

The European Economic and Social Committee (EESC) is preparing an opinion examining both the revision of the Industrial Emissions Directive and the revision of the E-PRTR (rapporteur: Stoyan Tchoukanov, Group III – Diversity Europe, Bulgaria). The text is scheduled for adoption at the EESC plenary session on 13 July 2022.

The European Committee of the Regions (CoR) will issue an opinion on the IED revision, also covering the industrial emissions portal (rapporteur: Jean-Noël Verfaillie, Renew Europe, France).
National parliaments

National parliaments have started to examine the proposal. The deadline for submitting reasoned opinions on the grounds of subsidiarity is 29 June 2022. None has been issued so far.

Stakeholder views

Stakeholder reactions mostly concern the revision of the IED, and feedback specifically focusing on the proposed industrial emissions portal has been scarce. The deadline for stakeholders to submit feedback on the Commission proposal was 27 June 2022. Some 18 contributions were received.

In their joint preliminary assessment of the Commission proposals for revising the IED and the E-PRTR, the European Environmental Bureau (EEB), Client Earth, Carbon Market Watch and Ecos welcomed many of the proposed improvements. These included the incorporation of several reporting streams; the reporting on resource use and its inclusion in the database; and the provision of contextual information, which would, however, require some clarification. In their view, the new system should enable comparison of emission limit values (ELVs) and other permit conditions, as well as of operators’ environmental performance; enable live data links for continuous emissions monitoring by operators, and facilitate compliance checks. The four NGOs call for the list of pollutants highlighted in Article 14 to be added directly to Annex II; and consider that pollutant release thresholds in column 1 of Annex II should be removed where monitoring is carried out or data are otherwise available. They also ask that the proposal go further in the extension of sectors covered.

The European Chemicals Industry Council CEFIC expresses concerns about extensive and unnecessary reporting, causing additional burden to operators. CEFIC points out that there would still be different reporting obligations for industry, based on activity (and based on the permits issued) via IED, and based on installation (carrying out one or more activities) via Article 2(1) of the industrial emissions portal proposal. The fear is that to follow both the IED and the portal, basically the same data – just aggregated differently – would have to be reported twice. Reporting obligations would also drastically increase with delegated acts issued by the Commission under Article 14 for changes to Annexes I and II. CEFIC is also concerned about the reporting of sensitive data, including resource use and contextual information. This confidentiality concern is echoed by Glass Alliance Europe, which warns that provisions on ‘information allowing contextualisation of reported data’ asking operators to provide production volume, number of employees and number of operating hours would put them in difficulty vis-à-vis EU competition rules. Such information, combined with the information on energy and raw materials required elsewhere, would allow any competitor, whether EU or non-EU based, to calculate operating costs. They say it should not be requested at all.

Eurometaux, the European non-ferrous metals association, supports the increased transparency ambition of the new portal, provided that boundaries of competition and confidentiality issues are well-assessed. The association too warns that disclosing contextual information and production volumes could put companies’ confidential business information at risk. In its view, the portal should not be used for frontloading the work of BREF processes: the information it contains should serve communication purposes only, and not be used for policy-making actions. It also stresses that current bottlenecks in sharing emissions information are not due to industry, but rather result from the lack of resources and capacity in Member States. Increasing the number of reporting installations while adding new sectors would exacerbate the problem.

Legislative process

In Parliament, the proposal has been referred to the Committee on the Environment, Public Health and Food Safety (ENVI), which appointed Radan Kanev (EPP, Bulgaria) as rapporteur on 10 May 2022.
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The same rapporteur, and shadow rapporteurs will handle the proposal for a revision of the IED. In the Council, discussions have started within the working party on the environment.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS


OTHER SOURCES

Industrial emissions portal, Legislative Observatory (OEL), European Parliament.

ENDNOTES

1 This proposal is covered in a separate briefing.
2 While point sources have a specific discharge location, diffuse sources contain many smaller sources spread over a large area. Examples include transport, agriculture, and domestic heating.
3 See Article 15(3) of Directive 96/61/EC concerning integrated pollution prevention and control (IPPC), which required the Commission to publish an inventory of the principal emissions and sources every three years, based on the data supplied by the Member States. The Industrial Emissions Directive replaced the IPPCD in 2010.
4 Releases or transfers above the respective reporting thresholds would be a primary factor in determining impact on health or the environment.
5 This concerns pollutants falling into one of the following categories: substances identified as being of very high concern in Annex XIV to REACH; substances designated as priority substances under the Water Framework Directive or the Directive on Environmental Quality Standards; substances included in the watch lists established in the framework of the Groundwater Directive or the Directive on Environmental Quality Standards; pollutants subject to limit values or other restrictions under the Ambient Air Quality Directives or the Groundwater Directive.
6 Where no data on pollutant releases from diffuse sources is reported, the Commission would be empowered to adopt delegated acts to initiate such reporting (Article 7(3)).
7 This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under ‘European Parliament supporting analysis’.

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First edition. The ‘EU Legislation in Progress’ briefings are updated at key stages throughout the legislative procedure.