# **European Parliament**

2019-2024



### Committee on Industry, Research and Energy

2022/0104(COD)

29.3.2023

# **OPINION**

of the Committee on Industry, Research and Energy

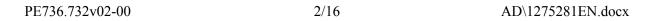
for the Committee on the Environment, Public Health and Food Safety

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))

Rapporteur for opinion: Tomas Tobé

AD\1275281EN.docx PE736.732v02-00



### SHORT JUSTIFICATION

The Rapporteur supports many elements in the Commission proposal especially regarding the ambition of a more effective Directive and the introduction of a new centre for innovative techniques. The Rapporteur believes that the Industrial Emissions Directive has been and is crucial to lower polluting and emissions from the industrial sector in the European Union, is of the opinion that the Directive brings environmental, climate and health benefits for the European Union; believes that the current working method (the Sevilla process) that is being used to agree upon the Best Available Techniques (BAT) for pollution prevention and control, should be maintained.

However, the Rapporteur is of the opinion that the Commission proposal puts unjustified burden on operators and overlooks the risk of sub optimisations, believes that the Directive must acknowledge adjustments between contrary environmental values into consideration in order to make this legislation better for climate, environment and people.

On this note, the Rapporteur opposes the deletion of energy efficiency requirements and the introduction of environmental performance limit values. The electrification of industry will require more energy, setting strict consumption requirements is to obstruct the electrification of these sectors.

Secondly, the Rapporteur is concerned that the Commission overlooks the role of the Sevilla process when implementing the Innovation centre for industrial transformation and emissions (INCITE), believes that the centre will give crucial contribution to the analysis of innovative and emerging techniques. Is however concerned that the Commission proposal suggests that the findings of the centre can be directly included in BREFs without technical assessment in the Sevilla process.

Thirdly, the rapporteur believes that technical development and innovation is key for the European Union to reach its climate goals. Believes, that innovation and development of new techniques should be given adequate time for implementation. Is therefore, of the opinion that emerging and innovative techniques should be given a longer test period with the possibility of extension by the competent authority to ensure legal certainty for operators.

### **AMENDMENTS**

The Committee on Industry, Research and Energy calls on the Committee on the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

Amendment 1 Proposal for a directive Recital 9 (9) In order to foster energy efficiency of installations within the scope of Directive 2010/75/EU which are carrying out activities listed in Annex I to Directive 2003/87/EC, it is appropriate to submit those installations to energy efficiency requirements in respect of combustion units or other units emitting carbon dioxide on the site.

deleted

### Amendment 2 Proposal for a directive Recital 15

Text proposed by the Commission

Providing a high level of protection of human health and the environment as a whole requires inter alia the establishment in permits of emission limit values at a level that ensures compliance with the applicable emission levels associated with the best available techniques set out in the BAT conclusions. Emission levels associated with the best available techniques (BAT-AELs) are usually expressed as ranges, rather than as single values, to reflect the differences within a given type of installations that result in variations in the environmental performances achieved when applying BAT. For example, a given BAT will not deliver the same performance for different installations, some BATs may not be suitable for use in certain installations, or a combination of BATs may be more effective on some pollutants or environmental media than others. The achievement of a high level of protection of human health and the environment as a whole has been jeopardised by the practice of setting emission limit values at the laxest end of the range of emission levels associated with the best available techniques, without considering the potential of a given installation to achieve

#### Amendment

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lower emission levels through the application of best available techniques. Such practice discourages frontrunners from implementing more effective techniques, and hinders the achievement of a level-playing field at a high level of protection of human health and the environment. Competent authorities should therefore be required to set in permits the lowest possible emission limit values which reflect the *performance of BAT* for the specific installations, taking into consideration the whole range of BAT-AELs and aiming at the best environmental performance possible for the installations; unless the operator demonstrates that applying best available techniques as described in the BAT conclusions only allows the concerned installation to meeting less strict emission limit values.

lower emission levels through the application of best available techniques. Such practice discourages frontrunners from implementing more effective techniques, and hinders the achievement of a level-playing field at a high level of protection of human health and the environment. Competent authorities should therefore be required to set in permits the lowest possible emission limit values which reflect the BAT-AEL range for the specific installations, taking into consideration the whole range of BAT-AELs and aiming at the best environmental performance possible for the installations; unless the operator demonstrates that applying best available techniques as described in the BAT conclusions only allows the concerned installation to meeting less strict emission limit values.

### Amendment 3 Proposal for a directive Recital 16

Text proposed by the Commission

The contribution of Directive 2010/75/EU to resource and energy efficiency and circular economy in the Union should be made more effective, taking into consideration the 'Energy Efficiency First' as a guiding principle of the Union energy policy. Therefore, the permits should establish, where possible, *mandatory* environmental performance *limit* values on consumption and resource efficiency levels, including on the use of water, energy and recycled materials, based on the environmental performance levels associated with the best available techniques (BAT AEPLs) set out in decisions on BAT conclusions.

#### Amendment

The contribution of Directive (16)2010/75/EU to resource and energy efficiency and circular economy in the Union should be made more effective, taking into consideration the 'Energy Efficiency First' as a guiding principle of the Union energy policy. Therefore, the permits should establish, where possible, *indicative* environmental performance *level* values on consumption and resource efficiency levels, including on the consumption of water, energy and raw materials, and their reuse, based on the environmental performance levels associated with the best available techniques (BAT AEPLs) set out in decisions on BAT conclusions, taking into consideration cross-media effects, national conditions and the geographical location of installations.

### Amendment 4 Proposal for a directive Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Considering the recurrent droughts and floods in Europe that have a direct impact on water availability for the European industry, which is the largest water consumer in Europe, industrial stakeholders need to carefully consider quantitative and qualitative water risks both on and by their activities. Therefore, European industry needs to be mobilised to achieve a water-smart society and to provide a coherent water strategy, recognising and realising the value of water for the purpose of ensuring water security, safety, and sustainability. All available water sources need to be managed in such a way that water scarcity and pollution is avoided. Water and resource loops are largely closed in order to foster a circular economy and resource efficiency, while ensuring that the water system is resilient against droughts, floods and climate change. Industry needs to ensure that its planned and digitalised management enables prediction and agility to perform under stress as well as uncertainties, and that all relevant stakeholders are involved in water governance.

Amendment 5 Proposal for a directive Recital 24

Text proposed by the Commission

(24) The evaluation of Directive 2010/75/EU found that, even if it should foster the transformation of European industry, it is not dynamic enough and does not sufficiently support the deployment of

Amendment

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innovative processes and technologies. It is therefore appropriate to facilitate the testing and deployment of emerging techniques with improved environmental performance, to facilitate cooperation with researchers and industries in publicly funded research projects subject to the conditions foreseen in the relevant European and national funding instruments, as well as to set up a dedicated centre to support innovation by collecting and analysing information on innovative techniques, including emerging techniques, relevant to activities within the scope of that Directive and to characterise their level of development from research to deployment (technology readiness level or 'TRL') and their environmental performance. This will also inform the exchange of information on drawing up, reviewing and updating BAT reference documents. Innovative techniques to be collected and analysed by the centre should be at least at the level of technology demonstrated in relevant environment (industrially relevant environment in the case of key enabling technologies) or system prototype demonstration in operation environment (TRL 6-7).

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### Amendment 6 Proposal for a directive Recital 25

Text proposed by the Commission

(25) Achieving Union objectives regarding a clean, circular and climate neutral economy by 2050 calls for a deep transformation of the Union economy. Consistently with the 8th Environmental Action Programme, operators of installations covered by Directive 2010/75/EU should therefore *be required to* include transformation plans in their environmental management systems. Such transformation plans will also complement the Corporate Sustainability Reporting

### Amendment

(25) Achieving Union objectives regarding a clean, circular and climate neutral economy by 2050 calls for a deep transformation of the Union economy. Consistently with the 8th Environmental Action Programme, operators of installations covered by Directive 2010/75/EU should therefore include transformation plans in their environmental management systems. Such transformation plans will also complement the Corporate Sustainability Reporting requirements

requirements under Directive 2013/34/EU of the European Parliament and of the Council<sup>75</sup>by providing a means for concrete implementation of these requirements at installation level. The first priority is the transformation of energyintensive activities listed in Annex I. Therefore, the operators of energyintensive installations should produce transformation plans by 30 June 2030. Operators of installations carrying out other activities listed in Annex I should be required to produce transformation plans as part of the permit reconsideration and update following the publication of decisions on BAT conclusions published after 1 January 2030. Whilst the transformation plans should remain indicative documents prepared under the responsibility of the operators, the audit organisation contracted by the operators as part of their environmental management systems should check that they contain the minimum information to be set by the European Commission in an *implementing act, and* the operators should make *the* transformation plans public.

Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC; OJ L 182, 29.6.2013, p. 19–76.

Amendment 7
Proposal for a directive
Article 1 – paragraph 1 – point 7
Directive 2010/75/EU
Article 9 – paragraph 2

under Directive 2013/34/EU of the European Parliament and of the Council<sup>75</sup> by providing a means for concrete implementation of these requirements at installation level. The first priority is the transformation of energy-intensive activities listed in Annex I. Therefore, the operators of energy-intensive installations should produce transformation plans at company level 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. The operator should assess the progress made towards intermediate targets every three years and should update its transformation plan at least every ten years. The ompany level transformation plans c should remain indicative documents prepared under the responsibility of the operators. The operators should make those transformation plans public, taking into account the confidentiality of trade and business secrets.

Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC; OJ L 182, 29.6.2013, p. 19–76.

(7) In Article 9, paragraph (2) is deleted.

deleted

Amendment 8
Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2010/75/EU
Article 15 – paragraph 1 – subparagraph 3

Text proposed by the Commission

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.

Amendment

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

Amendment 9
Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2010/75/EU
Article 15 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

The competent authority shall set *the strictest possible* emission limit values that are consistent with the lowest emissions achievable by applying BAT in the installation, and that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques (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 analysing the feasibility of meeting the strictest end of the BAT-AEL range and demonstrating the **best performance** the installation can achieve by applying BAT as described in BAT conclusions. The emission limit values shall be set through

Following the publication of decisions on BAT reference documents derived pursuant to this Directive, the competent authority shall set emission limit values that are consistent with the lowest emissions achievable by applying BAT in the installation and taking into account cross-media effects, and that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques (BAT-AELs) as laid down in those decisions on BAT conclusions referred to in Article 13(5). The emission limit values shall be based on an assessment by the operator analysing the feasibility of meeting the whole BAT-AEL range and demonstrating the lowest emission limit the installation can achieve

either of the following:

under normal operating conditions by applying BAT as described in BAT conclusions. The emission limit values shall be set through either of the following:

Amendment 10 Proposal for a directive Article 1 – paragraph 1 – point 12 Directive 2010/75/EU Article 15 – paragraph 3a

Text proposed by the Commission

3a. The competent authority shall set environmental performance limit *values* that ensure that, under normal operating conditions, such performance limits values do not exceed the environmental performance levels associated with BATs as laid down in the decisions on BAT conclusions referred to in Article 13(5).

Amendment

3a. The competent authority shall set *indicative* environmental performance limit *levels* that ensure that, under normal operating conditions, such performance limits values do not exceed the environmental performance levels associated with BATs as laid down in the decisions on BAT conclusions referred to in Article 13(5).

Amendment 11
Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2010/75/EU
Article 15 – paragraph 4 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) new investment cycle related to the sustainability transition of the operator's group.

Amendment 12
Proposal for a directive
Article 1 – paragraph 1 – point 12
Directive 2012/75/EU
Article 15 – paragraph 4 – subparagraph 6 a (new)

Text proposed by the Commission

Amendment

The competent authority may, in cases where an installation faces an unforeseen interruption in the supply of raw

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materials or fuels, establish less strict emission limit values, for a maximum of three months, with the possibility of prolonging that derogation for an additional three months in exceptional cases. Member States shall inform the Commission of any derogation granted pursuant to this paragraph. The derogation shall cease to apply as soon as the supply conditions are sufficient.

Amendment 13
Proposal for a directive
Article 1 – paragraph 1 – point 20
Directive 2012/75/EU
Chapter IIa – title

Text proposed by the Commission

Amendment

#### **PROMOTING** INNOVATION'

**ENABLING INNOVATION'** 

Amendment 14
Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/75/EU
Article 27a – paragraph 2

Text proposed by the Commission

2. The centre shall collect and analyse information on innovative techniques, including emerging techniques 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).

#### Amendment

The centre shall collect and analyse 2. information on innovative techniques, including emerging techniques 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, after an assesment by the technical working group in Sevilla, the BAT reference documents referred to in Article 13(1).

Amendment 15
Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/75/EU
Article 27b – title

Text proposed by the Commission

Testing of emerging techniques

Amendment 16
Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/75/EU
Article 27b – paragraph 1

Text proposed by the Commission

Without prejudice to Article 18, the competent authority may grant temporary derogations from the requirements set out in Article 15(2) and (3) 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 24 months.

Amendment 17
Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/75/EU
Article 27c – paragraph 1

Text proposed by the Commission

By way of derogation from Article 21(3), the competent authority may set emission limit values that ensure that, within 6 years of publication of a decision on BAT conclusions in accordance with Article 13(5) relating to the main activity of an installation, emissions shall not, under normal operating conditions, exceed emission levels associated with emerging techniques as laid down in the decisions on

Amendment

Testing of emerging *and innovative* techniques

#### Amendment

Without prejudice to Article 18, the competent authority may grant temporary derogations from the requirements set out in Article 15(2) and (3) and from the principles set out in Article 11, points (a) and (b), for the testing of emerging *and innovative* techniques for a total period of time not exceeding *48* months.

### Amendment

By way of derogation from Article 15(3) and (3a) and 21(3), the competent authority may, at the request of the operator, set indicative emission limit values that ensure that, within the period in respect of which the competent authority and the operator have carried out an assessment, emissions shall not, under normal operating conditions, exceed emission levels associated with emerging techniques as laid down in the decisions on

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BAT conclusions.

BAT conclusions.

Amendment 18
Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/75/EU
Article 27d – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall *require* that by 30 June 2030 the operator includes in its environmental management system referred to in Article 14a *a* transformation plan for *each installation carrying out any activity* listed in points 1, 2, 3, 4, 6.1 a, and 6.1 b of Annex I. The transformation plan shall contain information on how the *installation* will transform itself during the 2030-2050 period in order to contribute to the emergence of a sustainable, clean, circular and climate-neutral economy by 2050, using the format referred to in paragraph 4.

transformation plan for the company's grouped activities 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 company will transform itself during the 2030-2050 period in order to contribute to the emergence of a sustainable, clean, circular and climate-neutral economy by 2050, using the format referred to in paragraph 4. The transformation plan shall include specific information on how the company plans to become more energy, water and

resource efficient by laying down the measures that will be implemented to reduce the overall consumption and improve the efficiency of its operations.

Amendment

Member States shall *request* that by 30

June 2030 the operator includes in its

environmental management system referred to in Article 14a *an indicative* 

Amendment 19
Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/75/EU
Article 27d – paragraph 2 – subparagraph 1

Text proposed by the Commission

Member States shall require that, as part of the review of the permit conditions pursuant to Article 21(3) following the publication of decisions on BAT conclusions after 1 January 2030, the operator includes in its environmental management system referred to in Article Amendment

Member States shall require that, as part of the review of the permit conditions pursuant to Article 21(3) following the publication of decisions on BAT conclusions after 1 January 2030, the operator includes in its environmental management system referred to in Article

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14a a transformation plan *for each installation carrying out* any activity listed in Annex I that is not referred to in paragraph 1. The transformation plan shall contain information on how the *installation* will transform *itself* during the 2030-2050 period in order to contribute to the emergence of a sustainable, clean, circular and climate-neutral economy by 2050, using the format referred to in paragraph 4.

14a a transformation plan *at company level, of* any activity listed in Annex I that is not referred to in paragraph 1. The transformation plan shall contain information on how the *company* will transform *to become more energy, water and resource efficient by laying down the measures that will be implemented* during the 2030-2050 period in order to contribute to the emergence of a sustainable, clean, circular and climate-neutral economy by 2050, using the format referred to in paragraph 4.

Amendment 20
Proposal for a directive
Article 1 – paragraph 1 – point 22
Directive 2010/75/EU
Article 27d – paragraph 3

Text proposed by the Commission

3. The *operator* shall make its transformation plan as well as the results of the assessment referred to in paragraphs 1 and 2 public, as part of the publication of its environmental management system.

#### Amendment

3. The *company* shall make its transformation plan, *its updates* as well as the results of the assessment referred to in paragraphs 1 and 2 public, as part of the publication of its environmental management system.

# PROCEDURE - COMMITTEE ASKED FOR OPINION

Title	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
References	COM(2022)0156 - C9-0144/2022 - 2022/0104(COD)
Committee responsible Date announced in plenary	ENVI 2.5.2022
Opinion by  Date announced in plenary	ITRE 2.5.2022
Associated committees - date announced in plenary	20.10.2022
Rapporteur for the opinion Date appointed	Tomas Tobé 7.6.2022
Discussed in committee	29.11.2022
Date adopted	28.3.2023
Result of final vote	+: 50 -: 16 0: 1
Members present for the final vote	Matteo Adinolfi, Nicola Beer, François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Vasile Blaga, Paolo Borchia, Marc Botenga, Markus Buchheit, Martin Buschmann, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Ignazio Corrao, Beatrice Covassi, Ciarán Cuffe, Josianne Cutajar, Nicola Danti, Martina Dlabajová, Christian Ehler, Valter Flego, Niels Fuglsang, Lina Gálvez Muñoz, Jens Geier, Nicolás González Casares, Bart Groothuis, Christophe Grudler, Robert Hajšel, Romana Jerković, Seán Kelly, Izabela-Helena Kloc, Łukasz Kohut, Andrius Kubilius, Marisa Matias, Dan Nica, Angelika Niebler, Niklas Nienaß, Johan Nissinen, Mauri Pekkarinen, Morten Petersen, Markus Pieper, Maria Spyraki, Beata Szydło, Riho Terras, Patrizia Toia, Marie Toussaint, Isabella Tovaglieri, Henna Virkkunen, Pernille Weiss, Carlos Zorrinho
Substitutes present for the final vote	Alex Agius Saliba, Rasmus Andresen, Tiziana Beghin, Franc Bogovič, Jakop G. Dalunde, Pietro Fiocchi, Klemen Grošelj, Martin Hojsík, Marina Kaljurand, Dace Melbārde, Rob Rooken, Bronis Ropė, Ernő Schaller-Baross, Jordi Solé, Susana Solís Pérez
Substitutes under Rule 209(7) present for the final vote	Pär Holmgren, Sven Simon

# FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

50	+
ECR	Pietro Fiocchi, Izabela-Helena Kloc, Beata Szydło
ID	Matteo Adinolfi, Paolo Borchia, Isabella Tovaglieri
NI	Ernő Schaller-Baross
PPE	François-Xavier Bellamy, Hildegard Bentele, Tom Berendsen, Vasile Blaga, Franc Bogovič, Cristian-Silviu Buşoi, Jerzy Buzek, Maria da Graça Carvalho, Christian Ehler, Seán Kelly, Andrius Kubilius, Dace Melbārde, Angelika Niebler, Markus Pieper, Sven Simon, Maria Spyraki, Riho Terras, Henna Virkkunen, Pernille Weiss
Renew	Nicola Beer, Nicola Danti, Martina Dlabajová, Valter Flego, Bart Groothuis, Klemen Grošelj, Christophe Grudler, Mauri Pekkarinen, Morten Petersen, Susana Solís Pérez
S&D	Alex Agius Saliba, Beatrice Covassi, Josianne Cutajar, Niels Fuglsang, Lina Gálvez Muñoz, Jens Geier, Nicolás González Casares, Robert Hajšel, Romana Jerković, Marina Kaljurand, Łukasz Kohut, Dan Nica, Patrizia Toia, Carlos Zorrinho

16	-
ECR	Johan Nissinen, Rob Rooken
ID	Markus Buchheit
NI	Tiziana Beghin, Martin Buschmann
The Left	Marc Botenga, Marisa Matias
Verts/ALE	Rasmus Andresen, Ignazio Corrao, Ciarán Cuffe, Jakop G. Dalunde, Pär Holmgren, Niklas Nienaß, Bronis Ropė, Jordi Solé, Marie Toussaint

1	0
Renew	Martin Hojsík

# Key to symbols:

+ : in favour
- : against
0 : abstention

