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COMMISSION NOTICE

Questions and Answers on Directive (EU) 2024/1785 of the European Parliament and of the Council of 24 April 2024 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

(C/2026/4834)

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1. INTRODUCTION

Directive (EU) 2024/1785 of the European Parliament and of the Council of 24 April 2024 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 was published in the *Official Journal of the European Union* on 15 July 2024. It entered into force on 4 August 2024.

Under Article 4 of Directive (EU) 2024/1785, Member States must bring into force the laws, regulations and administrative provisions necessary to comply with that Directive by 1 July 2026. They must communicate to the Commission the text of those provisions without delay. Member States must communicate to the Commission the text of the main provisions of national law adopted in the fields covered by this Directive, including a concordance table showing how those provisions correspond to those of the Directive.

The informal consolidated text of 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) is available in EUR-Lex.

With a view to helping Member States and stakeholders transpose and implement the revised EU industrial emissions legislative framework, the European Commission has prepared this Commission Notice in the form of a questions and answers document.

On 10 December 2025, the Commission adopted a proposal (COM(2025) 986) for a Directive amending Directive 2010/75/EU (and three other directives) to simplify some requirements and reduce the administrative burden. The changes introduced by the Commission proposal are not reflected in this document, so as not to pre-empt the outcome of the legislative process on the environment omnibus. Moreover, this document does not cover specific provisions, which are subject to the amendments proposed by the Commission. The document will be updated where necessary when the legislative process for that proposal is finished.

This document is intended to help national authorities, businesses and citizens apply EU legislation. It is not legally binding, as only the Court of Justice of the European Union is competent to authoritatively interpret Union law.

The Commission would also like to reiterate, that effective implementation of EU policies can be significantly enhanced when Member States proactively seek support from the Commission as soon as new legislation enters into force. To this end, it is worth reminding Member States of the wide range of tools and resources, including guidelines, expert advice, tailored roadmaps, action plans, training initiatives, funding and capacity-building programmes (e.g., the Technical Support Instrument), that the Commission offers for that purpose. The Commission encourages Member States to make use of those to ensure a smooth and successful implementation of EU legislation.

Acronyms

BAT:	Best available technique(s)
BAT-AELs:	Best available technique(s) – associated emission levels
BREFs:	Best available technique(s) – reference document(s)
ELVs:	Emission limit values
EMS:	Environmental management system
EU-BRITE:	European Bureau for Research on Industrial Transformation and Emissions
GBRs:	General binding rules
IEPR:	Regulation (EU) 2024/1244 of the European Parliament and of the Council of 24 April 2024 on reporting of environmental data from industrial installations, establishing an Industrial Emissions Portal and repealing Regulation (EC) No 166/2006 (the 'Industrial Emissions Portal Regulation')
INCITE:	(EU) Innovation Centre for Industrial Transformation and Emissions
IED:	Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial and livestock rearing emissions (the 'Industrial and Livestock Rearing Emissions Directive')
LCPs:	Large combustion plants
LSU:	Livestock units
UCOL:	Uniform conditions for operating rules for the livestock sector
WWTP:	Waste water treatment plant

2. EMISSION LEVELS

Q1. What are the new IED provisions to support competent authorities in setting the strictest achievable emission limit values in permits? What does it mean for the BAT-AEL (Best Available Technique – Associated Emission Levels) ranges in the BAT conclusions?

As the original 2010 version of the IED, the revised IED still allows competent authorities to use the entire BAT-AEL range for setting emission limit values (ELVs).

However, the revised IED sets a new and explicit requirement for competent authorities to set the strictest achievable emission limit values with a view to providing a high level of protection of human health and the environment as a whole (see recital (29) of the amending Directive (EU) 2024/1785 as well as the revised Article 15(3) of the IED).

In particular, Article 15(3) of the IED States that ‘the competent authority shall set the strictest achievable emission limit values (ELVs) 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’. Those ELVs must be based on an assessment by the operator of the entire BAT-AEL ranges, analysing the feasibility of meeting the strictest ends of the BAT-AEL ranges and demonstrating the best overall performance that the installation in question can achieve by applying BAT as described in BAT conclusions, having regard to possible cross-media effects. As Article 15(2) States, the ELVs must be based on BAT without prescribing the use of any technique or specific technology.

In order to support the setting of ELVs in permits and the adoption of general binding rules (GBRs), BAT conclusions should therefore contain information on the circumstances allowing the achievement of lower emission levels within the range of BAT-AELs set for categories of installations that have similar characteristics.

The revised Article 15(3) also allows Member States to use general binding rules to set permit conditions. If they choose to do this, they must set the strictest emission limit values achievable by applying BAT for categories of installations with similar characteristics that are relevant in determining the lowest emission levels achievable, considering the entire range of the BAT-AELs. The Member State must establish the general binding rules based on the information in the BAT conclusions, analysing the feasibility of meeting the strictest end of the BAT-AEL ranges and demonstrating the best performance that those categories of installations can achieve by applying BAT as described in BAT conclusions.

To summarise, the new provisions in Article 15(3) relate to the setting of ELVs in permits or in GBRs, based on the BAT-AELs. BAT conclusions should contain information on the circumstances allowing the achievement of lower emission levels within the range of BAT-AELs set for categories of installations having similar characteristics.

Q2. How is the ‘assessment by the operator’ mentioned in Article 15(3) to be carried out?

As stated in Q1, ELVs must be based on an assessment by the operator of the entire BAT-AELs ranges, analysing the feasibility of meeting the strictest end of the BAT-AEL ranges and demonstrating the best overall performance that the specific installation at stake can achieve by applying BAT as described in BAT conclusions, having regard to possible cross-media effects.

In order to ensure a high level of protection of the environment as a whole, the analysis and demonstration mentioned above are to be carried out by using an integrated approach, i.e. considering all pollutants, considering cross-media effects with other pollutants and with other environmental aspects such as energy, water or resource efficiency.

Q3. Do these new requirements addressed in Q1 apply immediately after the end of the transposition period for the installations already covered by the IED?

Directive (EU) 2024/1785 provides for specific transitional provisions for the new requirements of Article 15(3) of the IED. In particular, for installations that were carrying out activities already in the scope of the 2010 version of the IED before 4 August 2024, Article 3(2) of Directive (EU) 2024/1785 lays down that Article 15(3) of the IED must apply when their permit is:

- (i) updated within four years of publication of decisions on BAT conclusions that have been published after 1 July 2026 in accordance with Article 13(5) relating to the main activity of an installation;

- (ii) granted after decisions on BAT conclusions that have been published after 1 July 2026 in accordance with Article 13(5) relating to the main activity of an installation;
- (iii) updated pursuant to Article 21(5);
- (iv) or updated by 1 September 2036; whichever is earlier.

Until those dates, the installations that are in operation and which fall within the scope of Directive 2010/75/EU, in the version in force on 3 August 2024, should comply with the provisions of the 2010 version of the IED.

See also Q48.

Q4. Who determines the ‘categories of installations having similar characteristics’ in the case of general binding rules? Are these to be defined in the BAT conclusions?

The use of general binding rules is an option that a Member State can use, for example, for setting emission limit values.

The relationship between general binding rules – as defined in Article 3(8) and referred to in Article 6 – and emission limit values is set in Article 15(3) of the revised IED.

If general binding rules are adopted, the strictest achievable emission limit values by applying BAT must 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 must 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.

In order to support the setting of emission limit values in permits and the adoption of general binding rules, the BAT conclusions will contain information on the circumstances allowing the achievement of lower emission levels within the range of BAT-AELs set for categories of installations having similar characteristics.

Based on such circumstantiated information, it is for Member States to assess the best performance that those categories of installations can achieve by applying BAT as described in BAT conclusions; and accordingly, set the strictest achievable emission limit values by applying BAT.

Should Member States use general binding rules to set emission limit values, they must ‘ensure an integrated approach and a high level of environmental protection equivalent to that achievable with individual permit conditions’ (see Article 17(1) of the IED), without prescribing the use of any technique or specific technology (see Article 17(2) of the IED).

Q5. Does the revised IED require emission limit values to always be set at the lower end of the BAT-AEL range?

No. See Q1 for more details.

Q6. Are derogations granted under Article 15(4) of the 2010 IED still valid?

Yes.

Pursuant to Article 3(6) (transitional provisions) of Directive (EU) 2024/1785, derogations granted before 1 July 2026 pursuant to the former Article 15(4) of Directive 2010/75/EU remain valid until the competent authority reassesses whether the derogations are justified under Article 15(5) of the revised IED.

Those reassessments must be carried out either as part of the reconsideration of the permit conditions pursuant to the revised Article 21 or by 30 June 2030 (i.e. within 4 years from 1 July 2026), whichever is earlier.

Q7. Do emissions limit values need to be set in permits for pollutants for which the relevant BAT conclusions do not set any BAT-associated emission levels (BAT-AELs)?

In some circumstances, yes.

Article 14(1)(a) requires Member States to ensure that permits include emission limit values both for:

- (i) polluting substances listed in Annex II to Regulation (EU) 2024/1244 of the European Parliament and of the Council of 24 April 2024 on reporting of environmental data from industrial installations, establishing an Industrial Emissions Portal and repealing Regulation (EC) No 166/2006 (the ‘ex-E-PRTR Regulation’);
- (ii) other polluting substances which are likely to be emitted from the installation concerned in significant quantities.

The emission limit values must consider the polluting substances’ 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.

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 installation in question and may have a significant impact on the environment or human health. In doing so, the competent authority should consider the hazard characteristics, quantity and nature of the substances emitted and their potential to pollute any environmental media.

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 need to select additional substances.

The Court of Justice of the EU clarified, in its Judgement in Case C-626/22, the pollutants to be considered when setting ELVs in permits: for the purposes of granting or reconsidering a permit to operate an installation under the IED, the competent authority must take into account, in addition to the polluting substances that are foreseeable having regard to the nature and type of industrial activity concerned, all those polluting substances which are the subject of emissions scientifically recognised as harmful which are liable to be emitted from the installation concerned, including those generated by that activity which were not assessed during the initial authorisation procedure for that installation. In addition, as the Court recalled in point 119 of that Judgement, when reconsidering a permit to operate an installation, it is necessary to carry out a comprehensive assessment taking account of all sources of pollutants and their cumulative effect, in order to ensure that the sum total of their emissions does not cause any exceedance of the air quality limit values as defined by Directive 2008/50/EC or other EU environmental quality standard.

Therefore, even in the absence of BAT-AELs set in BAT conclusions, there is still an obligation for competent authorities to consider all pollutants that are foreseeable having regard to the nature and type of industrial activity concerned, as well as those which are the subject of emissions scientifically recognised as harmful, which are liable to be emitted from the installation concerned, including those generated by that activity which were not assessed during the initial authorisation procedure for that installation. Where necessary, e.g. to ensure compliance with EU environmental quality standards, those relevant pollutants should be subject to appropriate ELVs.

Q8. What are the new requirements for protecting surface water, since Article 14(1)(b) has been modified in the revised IED and now requires the permit conditions to include appropriate requirements ensuring protection of surface water and catchment areas for abstraction points of water intended for human consumption, in addition to appropriate requirements ensuring protection of the soil and groundwater? Are limit values for emissions to water sufficient?

Article 14(1)(b) does not specify what is required to ensure protection of surface water. Emission limit values are an example of such requirements but they may be complemented by other measures as appropriate, in particular where necessary to achieve compliance with environmental quality standards, as laid down in Article 18.

3. ENVIRONMENTAL PERFORMANCE LEVELS AND BENCHMARKS

Q9. How will binding and indicative environmental performance levels work in practice? What are the differences between benchmarks, binding ranges and limits? And what is the relationship between BAT conclusions and permits?

As explained in recital (27) of Directive (EU) 2024/1785, in order to support decarbonisation, resource efficiency and the circular economy, the BAT conclusions should include (i) binding environmental performance levels associated with BAT, (ii) indicative environmental performance levels associated with emerging techniques (as defined in Article 3(49), see Q23), and (iii) indicative benchmarks.

The environmental performance levels and benchmarks could include consumption levels, resource efficiency levels and reuse levels covering materials, water and energy resources, and waste generation. They are defined in Articles 3(5a), 3(13a), 3(13aa) and 3(13b) of the revised IED.

'Environmental performance levels associated with the best available techniques (BAT-AEPLs)' refer to the range of environmental performance levels, obtained under normal operating conditions using a BAT or a combination of BATs, as described in BAT conclusions.

BAT-AEPLs can be set 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 EU, in cases where the data made available in the exchange of information supporting the determination of BAT are sufficiently robust.

In other cases, where there is a lack of such sufficiently robust information and where environmental performance is highly dependent on specific circumstances of the processes, the BAT conclusions should contain benchmarks.

'Benchmarks' refer to the indicative range of environmental performance levels associated with best available techniques, which is to be used as a reference in the EMS. (See Q10 For more details on the difference between BAT-AEPLs and benchmarks.)

The way in which the environmental performance levels associated with BAT (BAT-AEPLs) should be used for setting permit conditions is set out in Article 15(4) of the revised IED. For normal operating conditions as laid down in the BAT conclusions, it requires the competent authorities to set the following (without prejudice to Article 9(2)):

- **binding ranges for environmental performance that are not to be exceeded** during one or more periods;
- **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;
- **indicative environmental performance levels concerning waste and resources other than water**, which are not less strict than the binding ranges.

When setting **permit conditions for water**, the competent authority should, therefore, use the BAT-AEPL binding range as the basis for setting a binding environmental performance limit value in the permit (for normal operating conditions) within the binding range.

When setting **permit conditions for waste and resources other than water**, the competent authority should use the BAT-AEPL binding range as the basis for setting a binding range in the permit and an indicative performance level within this range (for normal operating conditions).

Competent authorities are allowed to set binding ranges (for water, waste and resources other than water), and limit values (for water) and/or indicative environmental performance levels (for waste and resources other than water) in the permit that are stricter than the BAT-AEPL ranges laid down in the BAT conclusions. This is enshrined in Article 14(4) of the IED, pursuant to which – without prejudice to Article 18 – the competent authority may set stricter permit conditions than those achievable by the use of the best available techniques as described in the BAT conclusions.

Illustrative example 1 – BAT conclusions for water consumption:

	Unit	Example 1a	Example 1b	Example 1c	Example 1d
BAT-AEPL	m ³ /t (yearly average)	10 – 32			
Permit – binding environmental performance limit value		32	25	10	7*

The competent authorities are responsible for deciding on the limit value in the permits, on a case-by-case basis.

Illustrative example 2 – BAT conclusions for waste quantity sent off site:

	Unit	Example 2a	Example 2b	Example 2c	Example 2d
BAT-AEPL	kg/unit	3 – 9			
Permit – binding range		3 – 9	5 – 9	3 – 6	2* – 6
Permit – indicative environmental performance level		5	5	4	3

The competent authorities are responsible for deciding on the binding range and indicative environmental performance level in the permits, on a case-by-case basis.

- * Illustrative example of a case where the competent authority sets a stricter binding limit value (example 1) or range (example 2) than the BAT-AEPL in the permit.

Q10. In concrete terms, what is the difference between benchmarks and BAT-AEPLs?

See explanations in Q9.

A benchmark and a BAT-AEPL can cover the same measured parameter (for example, consumption of a specific raw material), but they differ in two ways: how they are determined and what their legal implications are.

Determination

As mentioned in recital (27):

- if the data made available in the exchange of information for determining BAT are sufficiently robust for individual processes that have both similar characteristics (such as energy carriers, raw materials, production units and final products) and a high degree of homogeneity across the EU, the BAT conclusions should include BAT-AEPL;
- if the data is not sufficiently robust for individual processes and environmental performance varies significantly depending on specific circumstances of the processes, then the BAT conclusions should include benchmarks.

Legal implications

A BAT-AEPL must be reflected in the permit, but a benchmark must be reflected in the EMS, not in the permit (see Q9).

- Operators must take benchmarks into account when setting objectives and performance indicators in the EMS. This means that operators must consider them, although they may diverge from them in justified cases.
- Objectives and performance indicators allow the performance of the installation to be evaluated and tracked over time.
- If an installation exceeds an objective or performance indicator, it does not mean that the installation is not complying with the IED, but it does mean that the operator needs to assess the exceedance and the potential need for corrective action towards their achievement.

- Similarly, if an installation exceeds an indicative environmental performance level in the permit (see Q9) concerning waste and resources other than water is exceeded, it does not mean that the installation is not complying with the IED.
- However, if an installation exceeds the binding ranges or performance limit values for water set in the permit, that does mean that it is not complying with the IED.

Q11. When the BAT conclusions do not set any BAT-AEPLs, should competent authorities set in permits binding ranges for environmental performance; environmental performance limit values concerning water and indicative environmental performance levels concerning waste and resources other than water?

If the BAT conclusions do not set any BAT-AEPLs, competent authorities do not have to apply Article 15(4), because there are no BAT-AEPLs for them to use as a basis for environmental performance levels or limit values.

However, Member States must still take measures to ensure that the installations' operations use material resources and water efficiently, including through re-use (Article 11(fa)).

They may do this by setting binding ranges, limit values or indicative levels for environmental performance in the permit.

Q12. Do BAT conclusions have to contain BAT-AEPLs?

Recital (27) provides that in cases where the data made available in the exchange of information supporting the determination of BAT are sufficiently robust 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 EU, the BAT conclusions should include (i) binding environmental performance levels associated with BAT and (ii) indicative environmental performance levels associated with emerging techniques.

If these conditions are not met – for example, because environmental performance is highly dependent on specific circumstances of the processes – BAT conclusions cannot include BAT-AEPL. In that case, BAT conclusions should include benchmarks (i.e. an indicative range of environmental performance levels associated with BAT as defined in Article 3(13b)).

Q13. Would it be sufficient to set only water EPLVs as a permit condition, since Article 14(1)(aa) requires permits to include environmental performance limit values (EPLVs) 'in accordance with Article 15(4)' and Article 15(4) refers to EPLVs only for water (and to binding ranges and indicative values concerning waste and resources other than water)?

No, it is not sufficient to set only EPLVs for water as a permit condition.

Article 14(1)(aa) requires that Member States ensure that the permit includes at least certain measures, including 'environmental performance limit values in accordance with Article 15(4)'. However, in addition to EPLVs for water, Article 15(4) requires the competent authority to set – for normal operating conditions – binding ranges for environmental performance and indicative environmental performance levels concerning waste and resources other than water that are not to be exceeded during one or more periods, as laid down in BAT conclusions.

If the BAT conclusions do not set out any BAT-AEPLs for water, see Q11.

4. ENVIRONMENTAL MANAGEMENT SYSTEM (EMS)

Q14. Does the EMS need to be included in the permit?

No.

Pursuant to Article 14(1)(ba) of the revised IED, Member States must ensure that the permits include requirements laying down the characteristics of the EMS, i.e. the core elements that an EMS has to contain. However, this provision does not require that the EMS as such is part of the permit or that the EMS has to be prepared before the permit can be granted.

Q15. Is the new EMS requirement (Article 14a) a trigger to update permits already granted?

No.

Pursuant to Article 14a of the revised IED, Member States must require the preparation and implementation of an EMS for installations falling within the scope of Chapter II of the IED.

Pursuant to Article 14(1)(ba) of that Directive, permits must include requirements laying down the characteristics of the EMS, including the elements listed in BAT conclusions.

Article 3(2) of Directive (EU) 2024/1785 (transitional provisions) relates to:

- (1) installations carrying out activities referred to in Annex I which fall within the scope of the IED before 4 August 2024 and that are in operation and hold a permit before 1 July 2026;
- (2) installations for which the operators have submitted a complete application for a permit before 1 July 2026, provided that those installations are put into operation no later than 1 July 2027.

According to this provision, Member States must ensure that a permit includes requirements laying down the characteristics of the EMS 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 1 July 2026 relating to the main activity of an installation, or by 1 September 2036, whichever is the earlier.

This means that competent authorities will need to ensure IED permits within the scope of Article 3(2) of Directive (EU) 2024/1785 include requirements laying down the characteristics of the EMS, including the elements listed in BAT conclusions when the first one of these triggering events materialises:

- (i) when a new permit is granted pursuant to Article 20(2) or Article 21(5);
- (ii) when an existing permit is updated pursuant to Article 20(2) or Article 21(5);
- (iii) when an existing permit is updated within 4 years of publication of decisions on BAT conclusions relating to the main activity of an installation that are published after 1 July 2026;
- (iv) by 1 September 2036 (at the latest).

The obligation for the competent authority to include in the permit appropriate requirements laying down the characteristics of an EMS (Article 14(1)(ba) IED) should be distinguished from the obligation to prepare and implement an EMS (Article 14a IED).

Q16. Does the EMS need to be an EMAS or ISO 14001 EMS?

No.

However, EMS developed under EMAS or ISO 14001 can be directly referred to.

Q17. What should BAT conclusions contain in relation to the EMS?

Article 14a of the IED provides that the EMS must comply with relevant BAT conclusions that determine aspects to be covered in the EMS.

BAT conclusions should therefore contain the aspects to be covered in the EMS for the installations concerned. Indeed, while the elements listed in Article 14a apply to all installations covered by Chapter II of the IED (Provisions for activities listed in Annex I to the IED), the EMS for a specific sector may need to consider sector-specific elements, such as benchmarks.

5. INDIRECT RELEASES TO WATER

Q18. Do emission limit values need to be set in permits for indirect emissions to water? And, if so, how?

Yes, competent authorities must set emission limit values (ELVs) in permits for indirect emissions to water, at the point where the emissions leave the installation, whether or not the relevant BAT conclusions contain BAT-AELs for indirect emissions.

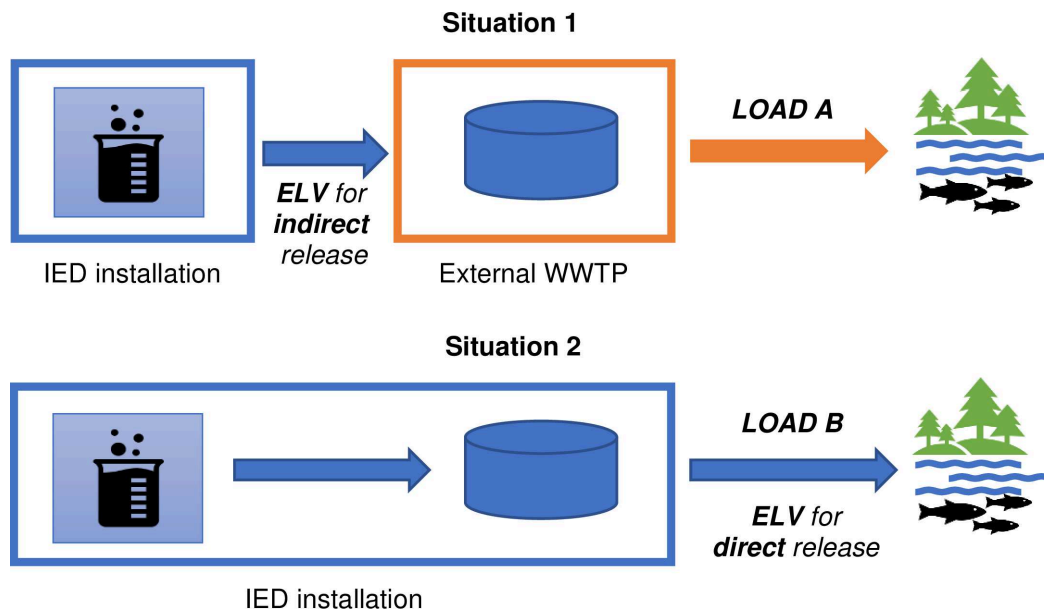
For indirect releases of polluting substances into water, Article 15(1) of the revised IED lays down that the effect of a waste water treatment plant outside the installation may be taken into account when determining the emission limit values of the installation concerned, provided that the following conditions are met:

- the consideration of the effect of the waste water treatment plant must not lead to higher levels of pollution in the environment;
- an equivalent level of protection of the environment as a whole must be guaranteed;
- the operator must ensure, 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 the IED or the specific authorisation under Directive 91/271/EEC;
- the operator must also ensure that all of the following requirements are fulfilled:
 - (a) the polluting substances released do not impede either the operation of the waste water treatment plant or the capacity to recover resources from the waste water treatment stream;
 - (b) the polluting substances released 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 Article 15 of the IED, without prejudice to stricter measures required pursuant to Article 18 of the IED.

In particular, as mentioned in point (d) above, the ELVs for indirect releases must guarantee that the overall load of the polluting substances concerned that are eventually released into the water (after treatment in the waste water treatment plant outside the installation) is less than or equal to the load that would be directly released to water if the installation had its own waste water treatment plant that complied with the BAT-AELs for direct releases.

Therefore, two emission loads for each pollutant concerned need to be compared:

- (1) Pollution load A (expressed in mass per unit of time) exiting the waste water treatment plant (WWTP) outside the installation: the ELV for indirect release from the IED installation may be set above the BAT-AEL range for direct release. It takes into account the cumulative pollution load from various sources and the performance of the WWTP outside the installation.
- (2) Pollution load B (expressed in mass per unit of time) is the pollution load that would be generated by the installation that comes under the scope of the IED if it had its own WWTP: the ELV for direct releases (in concentration) is set within the range of BAT-AEL for direct releases, considering also the provisions of Article 15(3).



Load A must be inferior or equal to Load B, for each pollutant concerned.

If several aqueous effluents are mixed together before they are released into the environment, before deriving the ELV for indirect release from the BAT-AEL range for direct releases in a permit granted under Directive 2010/75/EU, the effect of any possible dilution needs to be factored in.

Particular attention needs to be paid to indirect releases of pollutants which require specific treatment techniques that are not necessarily applied by an urban WWTTP.

6. INNOVATION

Q19. Do the activities of the EU Innovation Centre for Industrial Transformation and Emissions (INCITE) cover the livestock sector?

Yes, as mentioned in Recital (40) of Directive (EU) 2024/1785, without prescribing the use of any technique or specific technology, it is appropriate to e.g. 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.

Q20. How does the role of INCITE relate to the flexibility for testing emerging techniques as laid down in Article 27b of the IED?

Although there is no explicit link between Article 27a (INCITE) and 27b (testing of emerging techniques) of the IED, it is expected that information about the emerging techniques tested in accordance with Article 27b would be communicated to INCITE by the operators, the technology provider or the Member State, including the testing results (if the test is satisfactory).

Q21. What is the relationship between Article 27 on emerging techniques and Article 72(1) of the IED on reporting by Member States?

Article 72(1) refers to reporting from Member States on aspects such as progress made concerning the development and application of emerging techniques in accordance with Article 27.

In accordance with Article 72(2), the Commission will revise Commission Implementing Decision (EU) 2018/1135 of 10 August 2018 establishing the type, format and frequency of information to be made available by the Member States for reporting purposes, and will include information on the application of Article 27.

Q22. Does Article 27b of the IED require emerging techniques to be listed in BAT conclusions for the flexibility to be granted?

No. Article 27b makes no reference to BAT conclusions.

The flexibility may be granted for testing any technique which satisfies the definition of ‘emerging technique’ given in Article 3(14) of the IED: ‘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’.

Q23. What is the difference between the flexibilities offered by Article 27b and Article 27c of the IED?

Article 27b aims to encourage the testing of emerging techniques by allowing a period of time (up to 30 months) during which the emission limit values and environmental performance limit values (or binding ranges) applied to the installation may be higher than the levels set in BAT conclusions. This period of time makes it possible to ascertain whether the tested technique can achieve the expected environmental performance in a cost-effective manner. Once this period has expired, the emission levels or environmental performance levels set in BAT conclusions must be complied with. **This flexibility may be used at any time and is not linked to the update of the permit following publication of BAT conclusions.**

Article 27c aims to encourage the application of emerging techniques which are identified in BAT conclusions. **This flexibility can only be applied when emission levels associated with emerging techniques (ET-AELs) (as defined in Article 3(48)) or indicative environmental performance values associated with emerging techniques (as defined in Article 3(49)) are included in BAT conclusions.** This flexibility under Article 27c is a derogation from Article 21(3), i.e. the reconsideration, update of, and compliance with the permit conditions within four years of publication of BAT conclusions. If an operator decides to use this flexibility and apply an emerging technique listed in the BAT conclusions, the installation **may benefit from additional time** to comply with the updated permit conditions (**up to two more years, so six years in total**). The emission limit values at the end of this period must not exceed the emission levels associated with the emerging technique laid down in the BAT conclusions.

Article 27c also allows the competent authority to set indicative performance values associated with the relevant emerging techniques in permits instead of binding environmental performance ranges and/or performance limit values associated with BAT.

There is therefore a difference of objectives (Article 27b offers flexibility for testing and Article 27c offers flexibility for implementing emerging techniques as identified in the BAT conclusions); and a difference of frameworks (Article 27b is not linked to the publication of BAT conclusions and Article 27c is conditional on the identification of a given emerging technique in BAT conclusions).

The logical lifespan of a given emerging technique would be for this technique to be:

- (1) tested, potentially using the flexibility of Article 27b;
- (2) reported to the EU INCITE (see Q20);
- (3) included in BAT conclusions with associated emission levels following the analysis of the Technical Working Group ⁽¹⁾;
- (4) deployed, potentially using the flexibility of Article 27c.

However, emerging techniques that are tested and prove to be effective can be deployed even if they are not included in BAT conclusions, if they do not jeopardise compliance with the BAT-AELs set in BAT conclusions.

⁽¹⁾ Technical Working Group in charge of reviewing or drawing up the Best Available Techniques Reference Document (BREF).

Q24. Does Article 15(3) of the IED apply to the setting of emission limit values based on ET-AELs?

Article 15(3) refers only to emission levels associated with BAT (BAT-AELs), not to emission levels associated with emerging techniques (ET-AELs) referred to in Article 27c of the IED; these are two different concepts.

Article 15(3) requires that the competent authority sets the strictest achievable emission limit values by applying BAT in the installation, considering the entire range of the BAT-AELs. There is no such requirement on the competent authority when setting emission limit values applicable to emerging techniques and based on ET-AELs. The competent authority may decide to set them at any level within the ET-AELs ranges, including at the strictest end of the ET-AELs ranges, as laid down in BAT conclusions.

Q25. Does the possibility to extend the period for an installation to comply with its updated permit conditions for up to 8 years (a flexibility provided by Article 27e of the IED to allow implementing deep industrial transformation) only refer to the implementation of specific BAT which are connected to deep industrial transformation aspects? Or does it apply to the complete BAT conclusions?

The additional time for implementing deep industrial transformation refers to the compliance with the updated permit conditions referred to in Article 21(3), i.e. following publication of BAT conclusions related to the main activity of the installation, not to specific conditions included in the permit.

Note that it will be up to the competent authority to grant this additional time and to decide which conditions apply to the installation at which point in time. The competent authority could decide that some elements of the relevant BAT conclusions apply before the end of the extension granted.

Q26. Does deep industrial transformation need to be identified in BAT conclusions for the flexibility of Article 27e to apply?

No.

Article 3(9a) of the revised IED defines 'deep industrial transformation' as 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.

Recital (30) of Directive (EU) 2024/1785 provides that BAT conclusions should identify emerging techniques and best available techniques that industrial operators can implement to transform installations to be consistent with the EU'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.

BAT conclusions should therefore contain information about BAT or emerging techniques allowing deep industrial transformation. However, this does not mean that the flexibility of Article 27e can only be applied in such cases.

If an operator applies for flexibility to implement a technique that is not described in BAT conclusions, the competent authority is responsible for verifying that the technique fulfils the definition set in Article 3(9a) IED. That means it must be a technique that:

- is an emerging technique or best available technique;
- involves a major change in the design or technology of all or part of an installation or involves the replacement of an existing installation by a new installation;
- 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.

Q27. In the case of deep industrial transformation as laid down in Article 27e, can the competent authority extend at any time the period during which the installation does not need to comply with the updated permit conditions?

No.

Article 27e allows operators to have more time to comply with the updated permit conditions referred to in Article 21(3).

Article 21(3) provides that within four years of publication of BAT conclusions related to the main activity of the installation, the competent authority must ensure:

- (a) that all the permit conditions for the installation concerned are reconsidered (and updated, if necessary);
- (b) the installation complies with those permit conditions.

Article 27e therefore relates to the four-year period following publication of the BAT conclusions related to the main activity of the installation, which can be extended to up to eight years under the conditions listed in Article 27e.

This means that when this eight-year period has expired, the derogation can no longer be used.

Q28. Are Member States obliged to implement the ‘findings’ of INCITE (Articles 27 and 27a of the IED)?

No.

Article 27 on emerging techniques was already present in the 2010 IED. It was modified in the revised IED and now refers specifically to (i) techniques identified in BAT conclusions, (ii) BREFs and (iii) the findings of INCITE.

It calls on Member States to, ‘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’.

The objective of the revised Article 27 is thus to draw attention to the innovative techniques identified by INCITE or included in BAT conclusions or in BREFs.

It is up to each Member State to encourage the development and deployment of emerging techniques, as was already the case under the 2010 IED. They can do this through financial instruments, communication tools, etc.

Q29. What is the difference between ‘emerging techniques’, ‘transformative techniques’ and ‘innovative techniques’ as used in Article 27a about INCITE?

Under Article 27a, INCITE must collect and analyse information on innovative techniques, including emerging and transformative techniques.

A legal definition of an ‘emerging technique’ is given in Article 3(14) of the revised IED. It is ‘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’. This means that emerging techniques are techniques that are not yet commercially developed.

There is no definition of a ‘transformative technique’ in the revised IED but transformative techniques can be linked to the definition of a ‘deep industrial transformation’ given in Article 3(9a) of the revised IED, i.e. ‘implementation [...] of emerging techniques or best available techniques involving a major change in the design or technology [...], which allows an extremely substantial reduction of emissions of greenhouse gases [...]’.

There is no definition of an ‘innovative technique’ in the revised IED either. The term ‘innovative techniques’ is used in the context of INCITE because it is wider than ‘emerging techniques’, i.e. INCITE may identify techniques which are already commercially developed or not yet, transformative or not.

7. REGISTRATION (FOR INSTALLATIONS COVERED BY CHAPTER V ‘SPECIAL PROVISIONS FOR INSTALLATIONS AND ACTIVITIES USING ORGANIC SOLVENTS’ OR CHAPTER VIA ‘SPECIAL PROVISIONS FOR REARING POULTRY AND PIGS’)

Q30. Considering the possibility provided for under Article 4(1) of the IED to establish a registration system for installations covered only by Chapter V or Chapter VIa, is it possible to make larger installations in a given sector subject to a permit system and smaller installations in the same sector subject to a registration system?

Yes.

The use of this possibility to derogate to a full permitting system is optional, so a Member State can decide either (a) not to transpose this derogation or use it at all or (b) to transpose and use it in a modular way.

Examples of modular use:

- make all installations covered by Chapter V or Chapter VIa subject to a registration system;
- make some installations (e.g. larger ones) subject to a permit system, and others (e.g. smaller ones) subject to a registration system;
- set specific conditions determining which activities covered by Chapter V or Chapter VIa of the IED would be subject to a permit-based system and which activities would be covered by a registration system.

Q31. If Member States opt to use a registration system, can general binding rules be developed and used in that case?

Yes.

Pursuant to Article 3(8) of the IED, general binding rules (GBR) means ‘emission limit values or other conditions, at least at sector level, that are adopted with the intention of being used directly to set permit conditions’.

In relation to Chapter VIa (‘Special provisions for rearing poultry and pigs’) more specifically, as noted in Recital (44) of Directive (EU) 2024/1785, the high number of poultry-rearing and pig-rearing installations that should be included within the scope of Directive 2010/75/EU and the relative simplicity of these installations’ processes and emissions makes it appropriate to set out specific administrative procedures that are adapted to the sector for issuing permits and for the operation of the relevant activities. This does not affect requirements related to public information and participation, monitoring and compliance. This would make it possible to register farms and adopt general binding rules at national level 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.

In Article 3(12a) of IED, ‘operating rules’ are defined as ‘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’.

Pursuant to Article 70c (‘Permits and registrations’), Member States may include requirements for certain categories of installations falling within the scope of Chapter VIa in the general binding rules referred to in Article 6 (‘General binding rules’).

Therefore, to the extent that GBR would secure a high level of environmental protection equivalent to that achievable with individual permit conditions, GBR can be developed and used even if a registration system is used.

Q32. What is the interaction between the registration of installations (Articles 4 and 70c of the IED) and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the 'Habitats Directive'), Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds (the 'Birds Directive'), and Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the 'Environmental Impact Assessments Directive' or 'EIA Directive')?

The provisions of the EIA, Habitats and Birds Directives need to be complied with independently of the IED. That means that the operation of a livestock farm (both under a registration or permitting regime) should not lead to a breach of the provisions of these directives.

In cases where competent authorities within the meaning of the IED opt for a registration system, which then means that registration immediately allows the operator to operate the livestock rearing installation; those authorities would need to ensure that the provisions of other relevant EU law are respected before the actual registration takes place.

In cases where competent authorities within the meaning of the IED opt for a permitting system, they might opt for integrating the assessments required under EU law (e.g. the EIA and/or the assessment required by Article 6(3) of the Habitats Directive) in the IED permitting system.

The Commission has issued a guidance document on streamlining environmental assessments conducted under Article 2(3) of the Environmental Impact Assessment Directive.

8. REARING OF POULTRY AND PIGS

Q33. Can Member States still apply a permitting procedure to poultry-rearing and pig-rearing installations covered by the 2010 IED but below the thresholds set out in Directive (EU) 2024/1785?

Yes.

Article 70c(1) third sub-paragraph provides for the following:

'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.'

This sub-paragraph is meant to clarify that Member States may decide to continue applying a permitting procedure to the livestock installations already covered by the 2010 IED.

Member States are free to apply a permitting procedure to installations newly covered by the revised IED as well.

See also Q30.

Q34. Can Member States continue to use 'places' rather than livestock units ('LSU') to define thresholds above which livestock farms are covered by the IED?

Article 70c(1) third sub-paragraph of the IED refers to 'places' whereas Annex Ia of the IED refers to livestock units ('LSU').

Article 70c(1) refers to 'places' to clearly identify the installations that are already covered by the 2010 IED.

However, Member States must use the LSU-based approach for defining the scope of their national measures to transpose Chapter VIa ('Special provisions for rearing poultry and pigs').

In theory, 'places' could be used to specify thresholds for farms that rear only one type of animal (e.g. broilers), as there is full equivalence between 'places' and LSU in this particular case.

However, 'places' cannot be used for farms rearing several types of animals (e.g. breeding sows and other pigs), as it does not allow aggregation for the purpose of comparison with the overall thresholds expressed in LSU in Annex Ia.

Q35. What should Member States take into account when assessing an economic or legal relationship in the aggregation rules (Article 70b)?

By 5 August 2028, the Commission will publish guidelines on the criteria for considering different installations to be a single unit, including aspects of economic or legal relationship, in consultation with Member States and in accordance with Article 70b(2) of the IED.

Q36. Is the operator responsible for land spreading of waste, animal by-products or other residues (Article 70d) when it is handed over to another party?

Land spreading of waste, animal by-products or other residues is covered by the IED if it is carried out within an installation that falls within the scope of the IED. This applies even if the spread material does not originate from the installation.

For land spreading operations outside installations that fall within the scope of the IED, other EU legislation may apply.

Q37. What is the regulatory framework for farms covered by the 2010 IED (Annex I, category 6.6 of the IED in the version in force on 3 August 2024) until the application of uniform conditions for operating rules for the livestock sector?

For new and existing installations currently covered by the 2010 IED, the requirements of the 2010 IED are applicable until the application of the revised IED, which will take place in accordance with Article 3(5) of Directive (EU) 2024/1785.

This means that for installations carrying out activities referred to in Annex Ia to the IED, Member States must apply the laws, regulations and administrative provisions adopted in accordance with Directive (EU) 2024/1785 within:

- (a) 4 years of the entry into force of the implementing act referred to in Article 70i(2) of the IED, 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) of the IED, 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) of the IED, for all other installations covered by Annex Ia.

Until these relevant dates of application, new and existing installations carrying out activities referred to in Annex Ia to the IED which fall within the scope of Directive 2010/75/EU in the version in force on 3 August 2024 must comply with that version of Directive 2010/75/EU.

Q38. Can the transposition deadline be postponed for the livestock-specific provisions in Chapter VIa until the triggering events listed in Article 3(5) of Directive (EU) 2024/1785?

No. Regarding the transposition of the general legal framework for permitting or registration of animal rearing installations, Article 4 of Directive (EU) 2024/1785 is applicable.

Q39. What will be the regulatory framework for farms covered by Chapter VIa newly established after the transposition date (1 July 2026) but before the application of uniform conditions for operating rules for the livestock sector (UCOL)?

Livestock rearing installations established between the end of the transposition period on 1 July 2026 and before the deadlines set in Article 3(5) of Directive (EU) 2024/1785 are not obliged to implement the uniform conditions for operating rules before those deadlines.

Those deadlines are:

- (a) 4 years of the entry into force of the implementing act referred to in Article 70i(2) IED, 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) IED, 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) IED, for all other installations covered by Annex Ia.

If the livestock rearing installations established in that interim period fall within the scope of the version of Directive 2010/75/EU in force on 3 August 2024, they must comply with that version of the Directive until the relevant deadlines in Article 3(5) of Directive (EU) 2024/1785 materialise.

Q40. Do the provisions on the environmental management system, baseline reports and environmental quality standards (in Articles 14a, 22, and 18, respectively) apply to installations rearing pigs and/or poultry (covered by Chapter VIa 'Special provisions for rearing poultry and pigs')?

The requirements of Chapter II of Directive 2010/75/EU in the version in force on 3 August 2024, which only refer to Annex I, remain applicable to livestock installations permitted under activity 6.6 of Annex I in that version, until the deadlines according to Article 3(5) of Directive (EU) 2024/1785 materialise.

In relation to compliance with environmental quality standards (EQS), Article 18 does not apply to installations covered by Chapter VIa. However, under Article 4(3) of the Treaty on European Union (TEU), Member States have a general duty to ensure overall compliance with EU legislation, which includes ensuring compliance with EU environmental legislation.

Q41. For pig or poultry farms covered by the special provisions for rearing poultry and pigs (Chapter VIa of the IED), is there a requirement for a minimum frequency of site visits by inspection authorities?

For farms covered by the 2010 IED, the requirements on minimum frequency of site visits in Article 23(4) apply until the revised IED becomes applicable in accordance with Article 3(5) of Directive (EU) 2024/1785 (see Q37).

Once the revised IED becomes applicable, Member States will have some flexibility to determine the minimum frequency of site visits by inspection authorities, provided that the requirements of Article 70f IED are met. In other words, those site visits or environmental inspections or other measures must enable the competent authorities to check and ensure that the farms concerned are complying with the requirements set out in Chapter VIa IED.

Q42. What are the possible alternative approaches for checking compliance of livestock rearing installations?

The revised IED provides flexibility to Member States for the verification of compliance of rearing installations covered by Chapter VIa. Article 70f requires Member States to 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. Furthermore, Article 8(1) requires Member States to also adopt compliance assurance measures to promote, monitor and enforce compliance with obligations placed on natural or legal persons under this Directive.

Environmental inspection is defined in Article 3(22) as 'all actions, including site visits, monitoring of emissions and checks of internal reports and follow-up documents, verification of self-monitoring, checking of the techniques used and adequacy of the environment management of the installation, undertaken by or on behalf of the competent authority to check and promote compliance of installations with their permit conditions and, where necessary, to monitor their environmental impact'.

Actions not covered by that definition, which enables checking compliance with the requirements of Chapter VIa, are considered as 'other measures'. The Directive leaves it to Member States to determine them.

Q43. How is the stocking density calculated (under Article 70c of and Annex Ia to the IED)?

The stocking density should be calculated in LSU per hectare.

It should be calculated by dividing the total capacity of the installation (expressed in LSU) by the agricultural area (expressed in hectares) used by the agricultural holding operating the installation for the specific purposes listed in Article 70c and Annex Ia of the IED (grazing or growing fodder or forage) to provide feed for the animals reared at that installation.

Q44. How should the thresholds for pigs, poultry and mixed farms be understood? For example, is it possible that a farm rearing 750 breeding sows is within the scope of the IED, but if the farm also rears 50 broilers, it is below the threshold of 380 LSU for mixed farms and is therefore not covered by the IED?

Annex Ia of the IED reads:

'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 [...],
2. Rearing of only laying hens representing 300 LSU or more, or rearing of only other poultry categories representing 280 LSU or more [...]
3. Rearing of any mix of pigs or poultry representing 380 LSU or more [...]

This means that a farm **can fall within more than one category**. In other words, when a farm rearing a mix of pigs and poultry pertains to activity category 1 or 2, it will remain covered by the IED.

In the example given in the question (750 breeding sows and 50 broilers), the farm would fall under point 1 as there are more than 350 LSU of pigs, so it would be covered by the IED.

Category 3 was designed to avoid cases where a farm rearing a mix of pigs and poultry, but not pertaining to either category 1 or 2, would not be covered by the IED, even if the cumulated LSU would lead to significant environmental impacts.

9. TRANSITIONAL PROVISIONS

Q45. Why are there transitional provisions and what are they?

Pursuant to Recital (62) of Directive (EU) 2024/1785, transitional provisions should be prescribed to give 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.

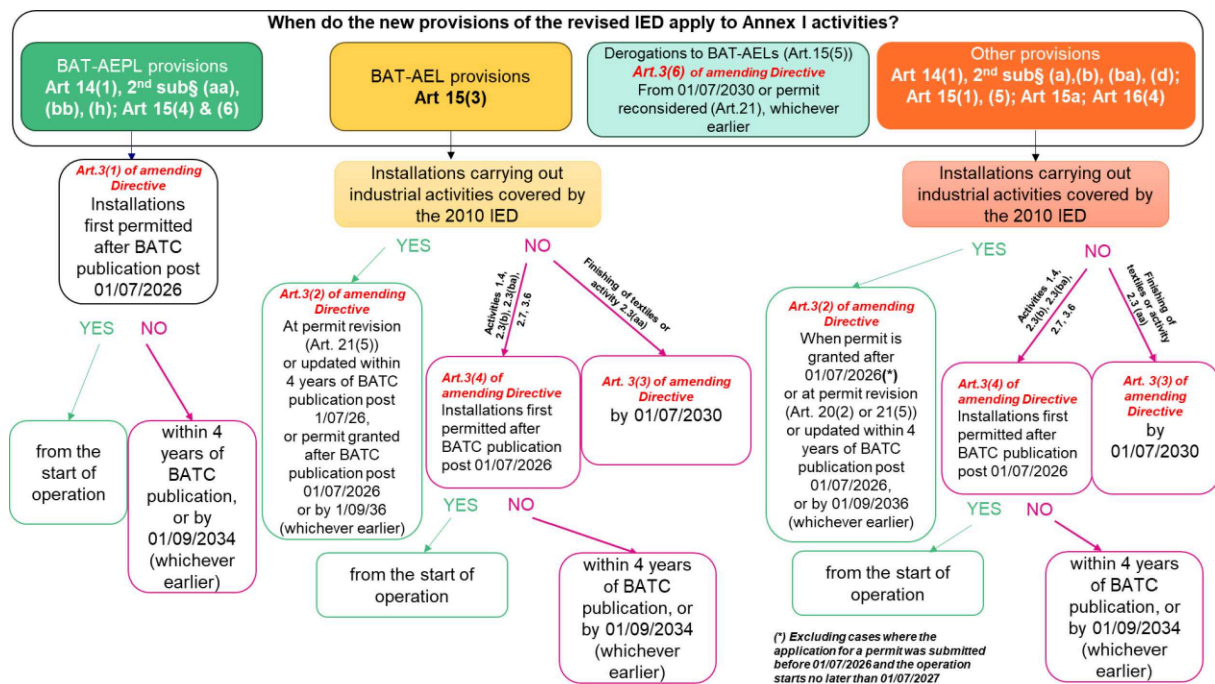
To ensure legal certainty there must be a fixed date by when the provisions should be complied with at the absolute latest. Having regard to the Sevilla Process for reviewing and updating the environmental norms for agro-industrial installations ⁽²⁾ and the number of BAT reference documents that need to be reviewed, this date should be set to 12 years for existing activities and 10 years for new activities. This does not prevent the Commission from adopting and implementing BAT conclusions earlier, which is expected for most activities covered by this Directive.

IED installations that were in existence by 3 August 2024 should comply with the provisions in Directive 2010/75/EU in the version in force on 3 August 2024, until there are new BAT conclusions or there is a permit update.

Transitional provisions are laid down in Article 3(1) to (7) of Directive (EU) 2024/1785. Article 3(5) addresses livestock activities while the other six paragraphs address activities listed in Annex I.

The following diagram summarises when the new provisions of the revised IED apply to installations carrying out activities listed in Annex I to the revised IED. See also the following questions for more details.

⁽²⁾ https://bureau-industrial-transformation.jrc.ec.europa.eu/about/sevilla_process.



Q46. What are the differences between the transitional provisions in points (1), (2), (3) and (4) of Article 3 of Directive (EU) 2024/1785?

These transitional provisions are explained below. For easier understanding, the provisions are not presented in numerical order.

- Article 3(2) addresses the activities already included in the scope of the 2010 IED.
- Article 3(4) addresses the activities newly covered by the scope of the revised IED, namely:
 - pyrolysis (Annex I, point 1.4);
 - smitheries with hammers (Annex I, point 2.3b in which the capacity threshold was modified, thus extending the scope of the activity);
 - smitheries with forging presses (Annex I, point 2.3ba);
 - manufacture of batteries (Annex I, point 2.7);
 - extraction of some metal ores (Annex I, point 3.6), above the capacity thresholds mentioned in Annex I.
- Article 3(3) also addresses activities that are newly covered by the scope of the revised IED but – unlike the activities in Article 3(4) – were already addressed by existing BAT conclusions as activities directly associated with the 2010 IED activities, namely:
 - operation of cold-rolling mills with a capacity exceeding 10 tonnes of crude steel per hour (Annex I, point 2.3aa), addressed in the BAT conclusions for the Ferrous Metals Processing Industry;
 - finishing of textile fibres or textiles (under Annex I, point 6.2), addressed in the BAT conclusions for the Textiles Industry.
- Article 3(1) addresses, for all activities, the new provisions related to environmental performance levels, binding ranges for environmental performance, environmental performance limit values, and related derogations.

An installation may be covered by more than one transitional provision, and each transitional provision applies without prejudice to the other transitional provisions. In particular, Article 3(1) addresses all activities listed in Annex I to the IED and should be read in conjunction with the activities covered by Article 3(2), (3) and (4).

Q47. More specifically, what are the transitional provisions for industrial activities currently covered by the IED?

These are mainly Article 3(1) and (2).

The implementation of the new or revised IED provisions listed in Article 3(1) of Directive (EU) 2024/1785 relies on information (i.e. related to environmental performance levels) to be included in relevant BAT conclusions to be published after 1 July 2026.

Accordingly, those provisions – Article 14(1), second subparagraph, points (aa), (bb), and (h), and Article 15(4) and (6) of the IED – will apply to all IED installations within four years of the publication of decisions on BAT conclusions that have been published after 1 July 2026 relating to the main activity of an installation.

Article 3(2) of Directive (EU) 2024/1785 targets the installations carrying out activities already in the scope of the 2010 IED before 4 August 2024 and that are in operation and hold a permit before 1 July 2026, or for which the operators have submitted a complete application for a permit before 1 July 2026, provided that those installations are put into operation no later than 1 July 2027.

The triggering events described in Article 3(2) of Directive (EU) 2024/1785 are different from those of Article 3(1).

For Article 3(2), the listed provisions – Article 14(1), second subparagraph, points (a), (b), (ba), and (d), Article 15(1), Article 15(5), Article 15a and Article 16(4) – must be implemented either:

- on the occasion of a permit granting or revision:
 - pursuant to either Article 20(2) or Article 21(5) of the IED
 - or
 - within 4 years of publication of decisions on BAT conclusions that have been published after 1 July 2026,
 - or
- by 1 September 2036, whichever is the earlier.

Article 3(2) sets a specific timeline for the implementation of Article 15(3), because new BAT conclusions will contain information on the circumstances allowing the achievement of lower emission levels within the range of BAT-AELs (see recital (29) of Directive (EU) 2024/1785).

Articles 3(6) and 3(7) may also apply, if relevant.

Q48. Article 3(1) of Directive (EU) 2024/1785 States that some installations must apply Article 14(1), second subparagraph, points (aa), (bb), and (h), and Article 15(4) and (6) from the date BAT conclusions are published. How is it possible?

The second subparagraph of Article 3(1) of Directive (EU) 2024/1785 lays down as follows: 'Installations first permitted after the publications of decisions on BAT conclusions published after 1 July 2026 relating to the main activity of an installation shall apply the above-mentioned provisions from the date the BAT conclusions are published'.

'Installations first permitted' means installations that first obtained a permit, i.e. new installations. As no installations can operate without a permit (Article 4 of the IED), that first permit needs to comply with the above-mentioned provisions from the moment it is granted.

Existing installations are addressed in the first subparagraph of Article 3(1). In their case, competent authorities must update their permits in line with Article 14(1), second subparagraph, points (aa), (bb), and (h), and Article 15(4) and (6) of the revised IED within four years of the publication of decisions on BAT conclusions that have been published after 1 July 2026 relating to the main activity of an installation.

Q49. Which provisions of the revised IED apply to installations carrying out activities under the 2010 IED and being first permitted during the transposition period of Directive (EU) 2024/1785?

Article 3(1) and (2) of Directive (EU) 2024/1785 are relevant for installations carrying out activities within the scope of the 2010 IED.

Article 3(1) has no specific provision for installations being permitted during the transposition period. The provisions referred to in Article 3(1) apply within four years of publication of BAT conclusions published after 1 July 2026 relating to the main activity of an installation (or immediately after this publication for new installations – see Q48).

Installations carrying out activities referred to in Annex I IED which fall within the scope of Directive 2010/75/EU in its 2010 version before 4 August 2024 and for which the operators have submitted a complete application for a permit before 1 July 2026, provided that those installations are put into operation no later than 1 July 2027, are addressed by the 2nd subparagraph of Article 3(2), that States as follows: Article 14(1), second subparagraph, points (a), (b), (ba), and (d), and Article 15(1), Article 15(5), Article 15a and Article 16(4) of the IED 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 1 July 2026 relating to the main activity of an installation, or by 1 September 2036; whichever is the earlier.

The installations concerned must comply with Directive 2010/75/EU in the version in force on 3 August 2024 until the relevant dates of application referred to above.

Q50. What happens if installations carrying out existing IED activities are put into operation after 1 July 2027?

If such installations are put into operation after 1 July 2027 (which would make them 'new installations' carrying out activities already included in the 2010 IED), Article 14(1) points (a), (b), (ba), and (d), Article 15(1) and (5), Article 15a and Article 16(4) IED must already be reflected in the permit granted. Those installations must operate in full compliance with the permit from the start of their operations.

Article 15(3) of the IED (see third subparagraph of Article 3(2) of Directive (EU) 2024/1785) as well as Article 14(1) points (aa), (bb), and (h), and Article 15(4) and (6) of the IED (see Article 3(1) of Directive (EU) 2024/1785) may apply later, depending on the dates of occurrence of the relevant triggering events.

For example, Article 15(3) IED will apply when the permit is updated within 4 years following the publication of BAT conclusions, or when the permit is updated pursuant to Article 21(5) of the IED or by 1 September 2036, whichever the earlier.

Q51. What transitional provisions apply to an installation which is in operation before 1 July 2026 and which carries out finishing of textiles and, which is an activity newly included in point 6.2 of Annex I to the revised IED?

There are two possible cases for textiles installations carrying out finishing of textiles:

- (1) If the installation does not fall within the scope of the IED before 4 August 2024 (for example because it carries out only finishing and no other activities covered by point 6.2 of the 2010 IED), it falls under Article 3(3) of Directive (EU) 2024/1785.
- (2) If the installation already falls within the scope of the IED before 4 August 2024 (for example because it carries out finishing and another activity covered by point 6.2 of the 2010 IED), the installation falls under Article 3(2) of Directive (EU) 2024/1785.

In both cases, Article 3(1) of Directive (EU) 2024/1785 also applies.

Article 14(1) points (aa), (bb) and (h), and Article 15(4) and (6) apply within 4 years of publication of the BAT conclusions related to activity 6.2 after 1 July 2026 (or from the date of publication for installations first permitted after that date).

Q52. When do amended points (a), (b), (d) and (h) of Article 14(1) second subparagraph and Article 15(1) – also referred to in the transitional provisions 3(1) and 3(2) – apply?

As a general rule, transitional provisions laid down in Article 3 of Directive (EU) 2024/1785 only apply to the modifications made by that amending Directive to Directive 2010/75/EU.

Article 3(1) of Directive (EU) 2024/1785 lays down the transitional provisions related to the implementation of provisions concerning environmental performance, which are new concepts introduced by the revised IED.

One of these transitional provisions is laid down in Article 14(1)(h) IED, as amended by Directive (EU) 2024/1785, and which now reads '(h) conditions for assessing compliance with the emission limit values *and environmental performance limit values* or a reference to the applicable requirements specified elsewhere.'

Pursuant to Article 3(1) of Directive (EU) 2024/1785, in relation to installations carrying out activities referred to in Annex I, Member States must apply Article 14(1) point (h), within four years of the publication of decisions on BAT conclusions that have been published after 1 July 2026 relating to the main activity of an installation in accordance with Article 13(5).

As noted in recital (62) of Directive (EU) 2024/1785, existing installations should comply with Directive 2010/75/EU in the version in force on 3 August 2024 until there are new BAT conclusions or there is a permit update.

To summarise, for installations carrying out activities referred to in Annex I IED, the new requirement to include in the permit 'conditions for assessing compliance with the environmental performance limit values' will need to be reflected in permits within four years of the publication of decisions on BAT conclusions that have been published after 1 July 2026 relating to the main activity of an installation; as set in Article 3(1) of Directive (EU) 2024/1785.

Points (a), (b) and (d) of Article 14(1) and Article 15(1) have also been amended. They concern emission limit values (point (a) of Article 14(1) second subparagraph), requirements ensuring protection of soil, groundwater and surface water and catchment areas (point (b) of Article 14(1)), information on progress towards fulfilment of environmental policy objectives (point (d) of Article 14(1)), and indirect releases into water (Article 15(1)).

These provisions are referred to in Article 3(2) of Directive (EU) 2024/1785, which lays down the transitional provisions for installations carrying out activities already within the scope of the 2010 IED.

Existing installations should comply with Directive 2010/75/EU in the version in force on 3 August 2024, until there are new BAT conclusions or there is a permit update or by 1 September 2036. This is laid down in the last subparagraph of Article 3(2).

In conclusion, only the new provisions introduced in points (a), (b) and (d) of Article 14(1), as well as in Article 15(1) by the revision of the IED, apply when the triggering events of Article 3(2) of Directive (EU) 2024/1785 occur.

Q53. What happens to installations carrying out activities newly included within the scope of the revised IED but already permitted under the 2010 IED because the installations carry out more than one activity?

The second subparagraph of Article 3(4) of Directive (EU) 2024/1785 refers to existing installations that carry out activities newly covered by the IED (pyrolysis (Annex I, point 1.4), smitheries with hammers (Annex I, point 2.3b in which the capacity threshold was modified, thus extending the scope of the activity), smitheries with forging presses (Annex I, point 2.3ba), manufacture of batteries (Annex I, point 2.7) and extraction of some metal ores (Annex I, point 3.6), above the capacity thresholds mentioned in Annex I), but that are nevertheless already in the scope of the IED on 3 August 2024 because they also carry out other activities already in the scope of the 2010 IED.

To ensure legal certainty, this sub-paragraph clarifies that the 2010 IED continues to apply to the installations concerned until the new provisions mentioned in the first subparagraph apply (i.e. within 4 years of publication of decisions on BAT conclusions relating to the main activity of an installation or by 1 September 2034, whichever is the earlier).

In such cases, the installations concerned may also be covered by Article 3(2) of Directive (EU) 2024/1785: installations carrying out activities referred to in Annex I which fall within the scope of the IED before 3 August 2024 and that are in operation and hold a permit before 1 July 2026 or for which the operators have submitted a complete application for a permit before 1 July 2026, provided that those installations are put into operation no later than 1 July 2027.

Article 3(2) and (4) of Directive (EU) 2024/1785 apply without prejudice to each other ⁽³⁾. This means that installations must apply the provisions of the revised IED listed therein whenever the earliest of the triggering events referred to in these two paragraphs occurs.

10. TRANSPOSITION

Q54. Do Member States have to notify the Commission under the Single Market Transparency Directive of draft legislation that transposes the IED?

The Single Market Transparency Directive (EU) 2015/1535 serves to prevent regulatory barriers arising in the single market for products and information society services. The requirement to notify technical regulations via the Technical Regulation Information System of the Commission under Directive (EU) 2015/1535 only concerns legislation relating to products or to information society services.

Directive (EU) 2024/1785 and Directive 2010/75/EU deal with activities not products. This means that national measures transposing Directive 2010/75/EU do not need to be notified via the Technical Regulation Information System of the Commission.

Q55. Do Member States need to transpose Article 34a in national law if they do not plan to use this derogation scheme? If they do plan to use this derogation scheme, when must they transpose Article 34a, given that some of the deadlines of this Article are earlier than the deadline for transposition?

It is not mandatory for a Member State to transpose Article 34a of Directive 2010/75/EU:

- if there are no combustion plants part of small isolated systems on 4 August 2024 in that Member State, as in any case the exemption scheme could not be used;
- if that Member State does not wish to use this derogation.

However, if a Member State decides to use the derogation, it has to comply with conditions set out in Article 34a, including paragraphs 4 and 5.

Even if the end date of transposition in Article 4 of Directive (EU) 2024/1785 is set at a later date than obligations in Article 34a of Directive 2010/75/EU, the date of entry into force of the instrument (4 August 2024) is the date as of which a legally binding act comes to have legal force. From that moment on, the act can be relied on in order to, for example, adopt other acts or to set up administrative arrangements for its implementation. Paragraphs 4 and 5 of Article 34a can be regarded as falling within the latter category.

⁽³⁾ Furthermore, Article 3(1) of Directive (EU) 2024/1785 also applies to all installations carrying out activities referred to in Annex I. For those installations, Member States shall apply Article 14(1), second subparagraph, points (aa), (bb), and (h), and Article 15(4) and (6) (i.e. mainly provisions relating to environmental performance and resource use) within four years of the publication of decisions on BAT conclusions that have been published after 1 July 2026 relating to the main activity of an installation.