



Industrial Emissions review package

Industrial Emissions Portal (ex-E-PRTR) Regulation

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***9ª JORNADA DE INFORMACIÓN Y
PARTICIPACIÓN PÚBLICA PRTR-España 2022***

Content

1. Background
2. Legal overview of the proposed Regulation
3. How it addresses the problem areas identified in the impact assessment

1. Policy background

- European Green Deal/ Zero Pollution ambition (December 2019)

The European Green Deal – Zero Pollution Ambition

“review EU measures to address pollution from large industrial installations. It will look at the sectoral scope of the legislation and at how to make it fully consistent with climate, energy and circular economy policies.”



Clear remit & need for action

- Industrial Emissions Directive
- European Pollutant Release & Transfer Register (E-PRTR) Regulation

1. Key consultation stages - impact assessment

1. Inception Impact Assessment (March-April 2020) – 154 contributions
2. Stakeholder workshop (15 Dec 2020) – 253 participants
3. Open Public Consultation (Dec 2020 - March 2021) – 336 contributions
4. Targeted Stakeholder Survey (Feb - April 2021) – 235 contributions
5. Interviews (April – October) – 76 interviews
6. Focus Groups (June - July 2022) – four thematic & three case studies
7. Stakeholder workshop (7-8 July 2022) - 278 participants

1. Policy measures – Screening

- **Screening:** “Longlist” of measures rated against 8 criteria: legal feasibility, technical feasibility, stakeholder acceptability, effectiveness, efficiency, proportionality, EU value added and coherence
- Performed in partnership with different consultancy and EC experts per Policy Area. Consistency checks re. rating carried out centrally and iteratively
- **Result: Over 200** potential measures reduced (screened out) to **73** measures
- **These 73 measures were retained for qualitative/ quantitative impact assessment:** 43 concern IED, & 30 related to E-PRTR
- Groups of measures -> Policy Options (“packaging”, with alternatives)

1. Commission proposals on industrial emissions (4 April 2022)

1. Proposal for a Revision of the **Industrial Emissions Directive** (2010/75/EU)

https://ec.europa.eu/environment/publications/proposal-revision-industrial-emissions-directive_en

- Proposed revisions to the IED
- Staff Working Document on the IED / E-PRTR Impact Assessment (740 pages)

2. Proposal for a Regulation of the **Industrial Emissions Portal**

https://ec.europa.eu/environment/publications/proposal-regulation-industrial-emissions-portal_en

Content

1. Background

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2.1 Legal overview of the proposed Regulation

- a) **Type of Act:** A Regulation of general application, binding in its entirety and directly applicable in Member States (Art. 288 TFEU)
- b) **Repeal & replace:** For legal clarity it repeals and replaces Regulation (EC) No 166/2006 establishing the E-PRTR as from 1 January 2026. Transitional provisions.
- c) **Legal basis:** Art. 192(1) TFEU – Environment protection
- d) **Summary:** An evolution, not a revolution, of the current Regulation in order to:
 - (i) make the instrument clearer where needed,
 - (ii) make current provisions more effective,
 - (iii) ensure further synergies with other pieces of Union law,
 - (iv) ensure reporting of important additional information e.g. resource use and context,
 - (v) ensure that the Regulation is dynamic and adaptable.

2.2 Structure of the Proposal

- **Explanatory Memorandum** (context & content of the proposal)
- **Preamble:** 35 Recitals on the rationale of the core provisions
- **Articles x20 (2 less than currently):** including:
 - ✓ Subject-matter (**Art. 1**)
 - ✓ Definitions (**Art. 2**)
 - ✓ Content/design/structure of the Portal (**Art. 3-4**)
 - ✓ Data to be reported by operators to CAs and by MS to CION + data quality assurance (**Art. 5-8**)
 - ✓ Access to information / confidential information / public participation (**Art. 9-11**)
 - ✓ Implementation support: Guidance & awareness (**Art. 12-13**)
 - ✓ Delegated acts: (**Art. 7(3) & 14 + 15**)
 - ✓ Implementing acts: (**Art. 6(1) + 16**)
 - ✓ Enforcement: (**Art. 17**)
 - ✓ Repeal / transitional provisions / entry into force / applicability: (**Art. 18-20**)
- **Annex I** activities – moves from an exhaustive list to dynamic references to other EU legislation + 5 Protocol entries;
- **Annex II** pollutants and their reporting thresholds – unchanged but to be updated;
- **Annex III** table of correlation.

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3. How the proposal addresses impact assessment problem areas

To transform the legislation into a forward-looking framework fit for accompanying the industrial transformation needed for the green transition

1. More effective

- Increase ambition in permits & tighten flexibilities
- Accessible information on permits & performance
- Reinforced Aarhus rights
- New Portal Regulation

2. Support innovation

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

3. Resources & chemicals

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

4. Support decarbonisation

- Curb non-ETS emissions
- Energy efficiency requirements
- IED review in light of innovation dynamics (June 2028)

Depth (intensity) of action

5. Widening of scope: (1) close gaps in the IED scope (textiles, downstream metals, landfills), (2) accompany the growth of critical activities needed for the green transition (certain mining activities and battery gigafactories), and (3) 13% largest livestock farms covered by tailored permit to address methane and ammonia emissions

Breadth (range) of action

Effectiveness - Industrial Emissions Portal §3

Create a more useful and powerful source of information on industrial activities by:

1. Regularise the Portal's legal basis

The Portal has evolved organically via E-PRTR and IED implementing decisions

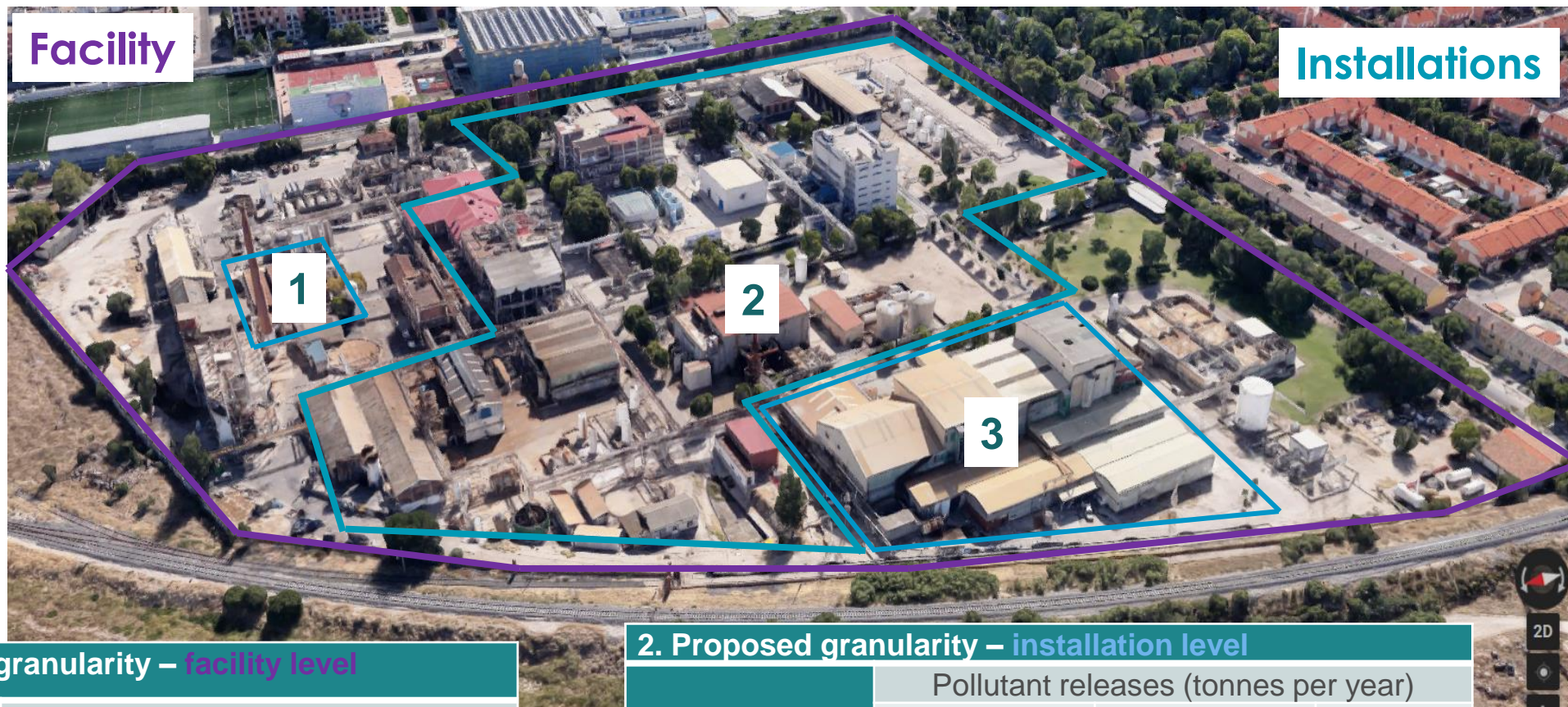
2. Complement release & transfer data with information on:

- use of water resources, energy and raw materials – § 3(1)(c), § 5(1)(d)
- contextual information e.g. production volume, employee numbers, operating hours, accidents causing releases - §3(1)(d) / §5(1)(e)

3. Improve coherence with data from related legislation, specifically:

- Industrial Emissions Directive 2010/75/EU
- Medium Combustion Plants Directive (EU) 2015/2193
- Seveso directive 2012/18/EU
- Urban waste water treatment directive 91/271/EEC
- Emissions Trading Scheme 2003/87/EC

Effectiveness – more granular (installation-level) reporting; § 5(1)



1. Current granularity – facility level

	Pollutant releases (tonnes per year)		
	SO ₂	NOx	Hg
Facility	500	1000	0.1

2. Proposed granularity – installation level

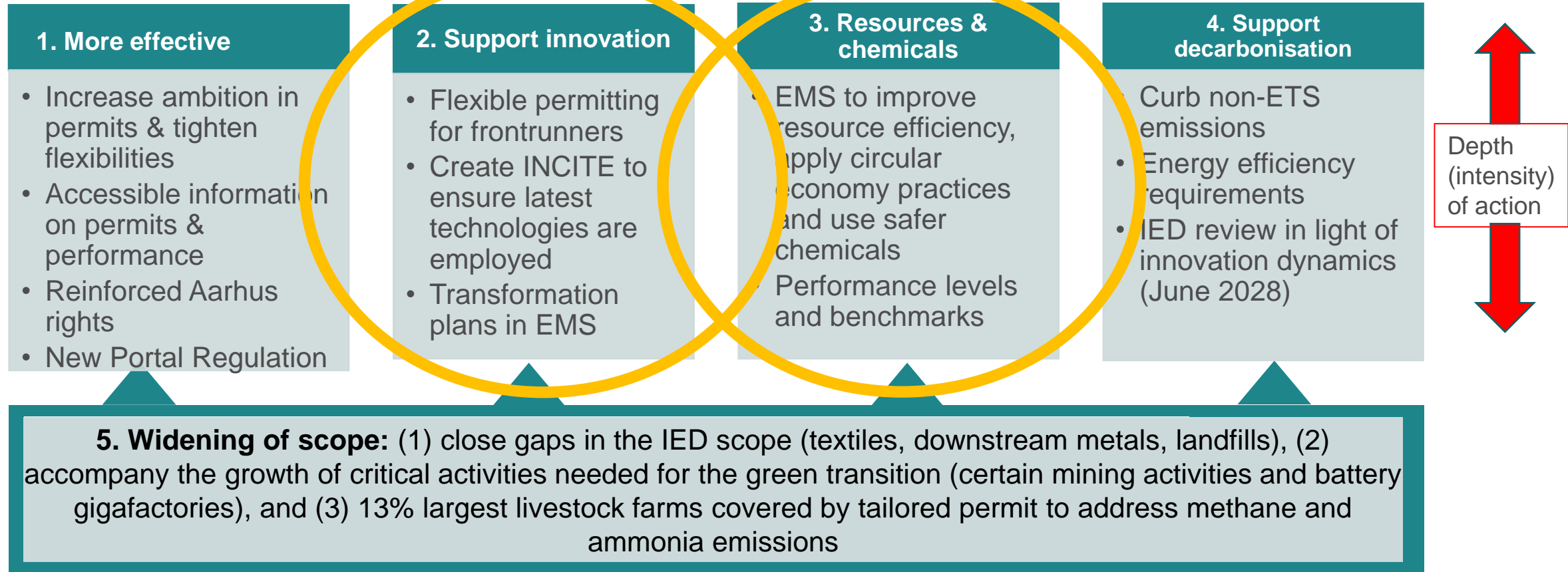
	Pollutant releases (tonnes per year)		
	SO ₂	NOx	Hg
Installation A	300	-	-
Installation B	200	-	-
Installation C	-	1000	0.1
(inferred total)	(500)	(1000)	(0.1)

Effectiveness – data quality

- a) **Active confirmation of nil returns** § 5(2): operator to declare that releases, or off-site transfers, are below the relevant reporting thresholds.
- b) **Mandate the ‘Measure/Calculate/Estimate’ hierarchy** § 5(3): Measure releases and transfers where possible. If not, use calculations. Use estimation as a last resort.
- c) **Flexibility for ‘top down’ reporting** § 5(10). On the behalf of operators, Member States may select to quantify deliberate releases from installations. Only for the stated industrial activities i.e. intensive rearing of animals and aquaculture.
- d) **Penalties and compliance assurance measures** § 17.
 - Similar to the equivalent IED provision.
 - Fines proportionate to the turnover of the person who committed the infringement.
 - Level of fines should deprive the responsible person of the economic benefits from an infringement and should increase with repeated infringements.
 - Penalties give due regard to:
 - (a) the nature, gravity, and extent of the infringement;
 - (b) the intentional or negligent character of the infringement;
 - (c) the population or the environment affected by the infringement.

2. How the proposal addresses impact assessment problem areas

To transform the legislation into a forward-looking framework fit for accompanying the industrial transformation needed for the green transition



Breadth (range) of action

Resources & chemicals

Annex II pollutants (91 → ??) and their reporting thresholds

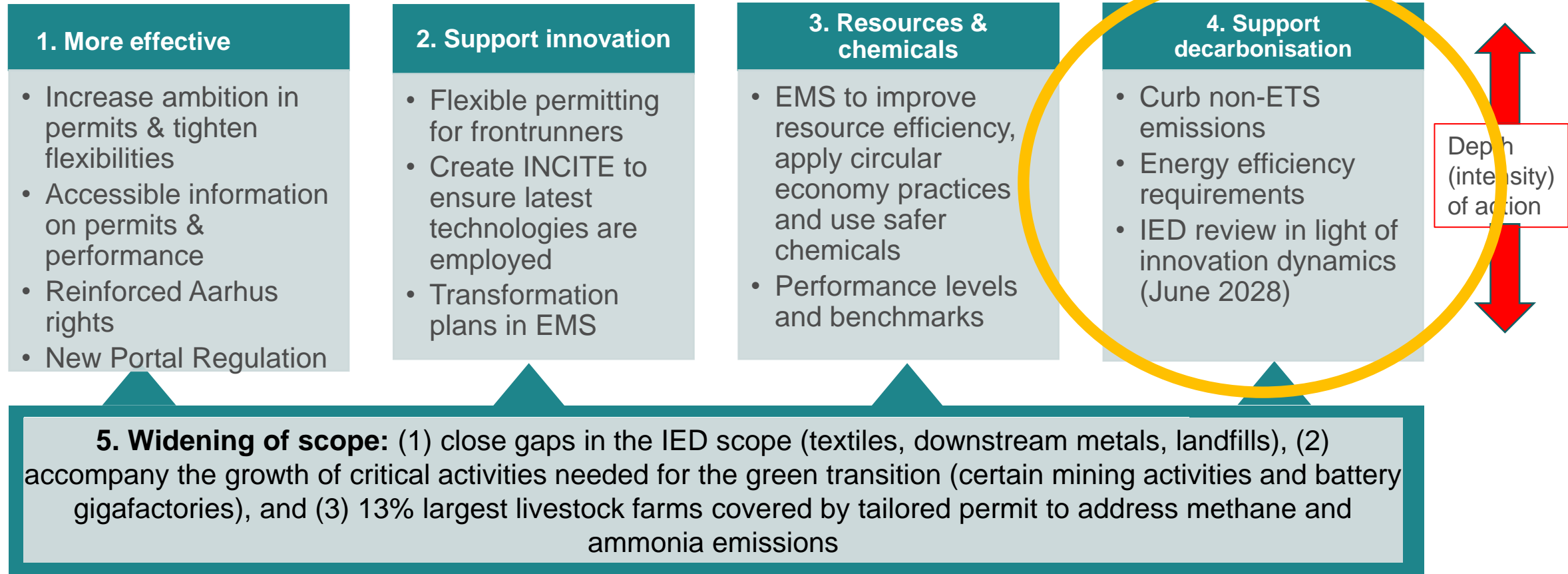
- Impact Assessment identified a need to update the list
 - a) *Adapt to scientific or technical progress;*
 - b) Add pollutants (air, water or land) that have adverse health/environmental impact i.e.
 - i. SVHC (substances of very high concern) under REACH Regulation
 - ii. Priority substances under Water Framework Directive
 - iii. 'Watch lists' for water directives
 - iv. Covered by air quality legislation – limit values/other restrictions
 - c) Amend reporting thresholds to capture 90% of releases from Annex I activities; with possibility of reporting thresholds set at zero;
 - d) *To align with changes to the Kyiv Protocol on PRTRs.*

Reporting on resource use:

- Provision for operators to report energy, water, raw materials use → performance benchmarking §3(1)(c).
- Exact content of the reporting obligation to be identified in an implementing act under §6

3. How the proposal addresses impact assessment problem areas

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Support decarbonisation

No immediate proposals but:

- a) establishes the framework for reporting energy use (as above)
- b) consider disaggregation of current GHG reporting – PFCs, HCFCs, CFCs

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Breadth (range) of action

Sectoral scope - current legal interfaces

IED

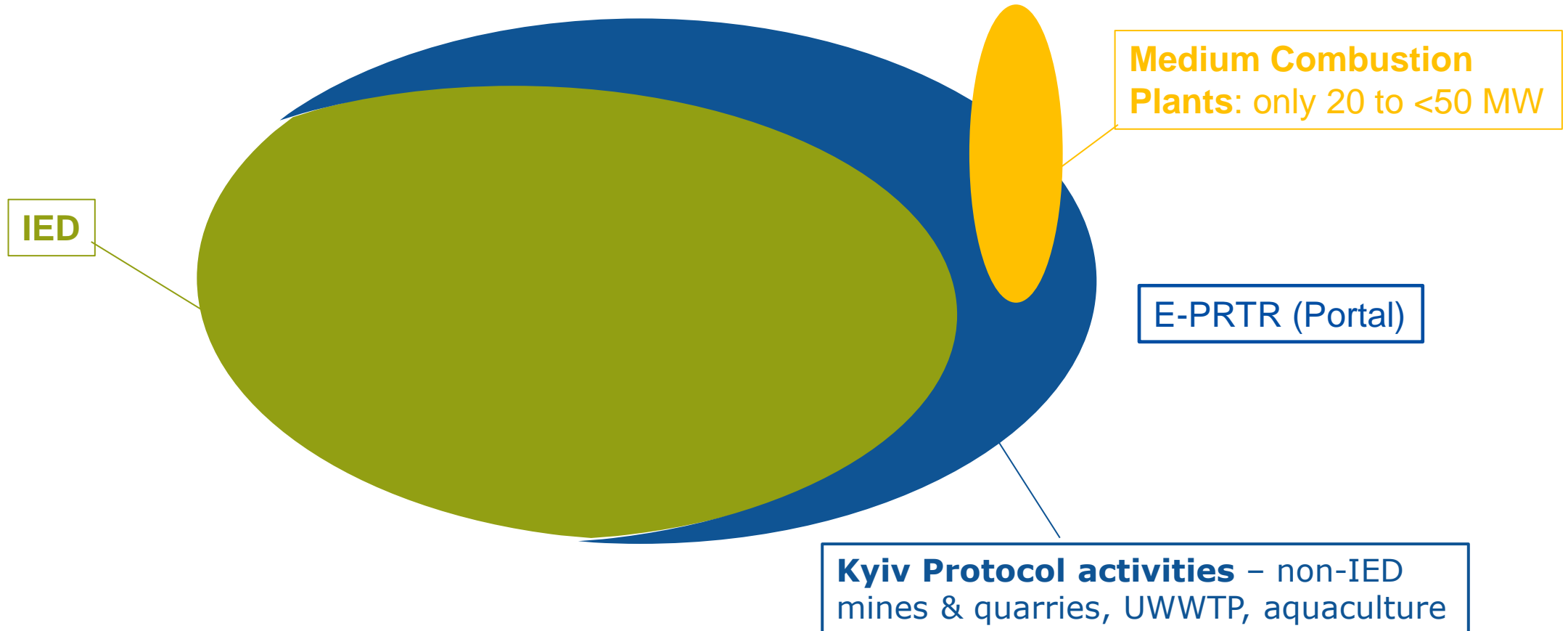
Medium Combustion
Plants: 1 to <50 MW

E-PRTR

Added in 2010 - recovery of non-hazardous waste (5.3b), waste storage (5.5/5.6), wood-based panels (6.1c) and Carbon Capture & Storage (6.9)

Kyiv Protocol activities
- mines & quarries (3a/3b), UWWTP (5f), aquaculture (7b)

Sectoral scope - proposed legal interfaces



Sectoral scope – Annex I (Activities)

	Activity	Capacity Threshold
IED alignment	1 Activities listed in Annex I to Directive 2010/75/EU	Above the applicable capacity thresholds set out in Directive 2010/75/EU
	2 Activities listed in Annex Ia to Directive 2010/75/EU	Above the applicable capacity thresholds set out in Directive 2010/75/EU
MCPD alignment	3 Activities referred to in Article 2 of Directive (EU) 2015/2193 (where not covered by Annex I to Directive 2010/75/EU)	Combustion plants with a rated thermal input of at least 20 MW and below 50 MW
	4 Underground mining and related operations, including the extraction of crude oil or gas either onshore or offshore (where not covered by Annex I to Directive 2010/75/EU) *	No capacity threshold (all installations are subject to reporting)
Kyiv Protocol	5 Opencast mining and quarrying (where not covered by Annex I to Directive 2010/75/EU) *	Where the surface of the area effectively under extractive operation equals 25 hectares
	6 Urban waste water treatment plants	With a capacity of 100 000 population equivalents or more *
	7 Aquaculture	With a production capacity of 100 tonnes of fish or shellfish per year *
	8 Installations for the building and/or dismantling of ships , and for the painting or removal of paint from ships *	With a capacity for ships 100 m long

Thank you

More info?

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



#EUGreenDeal



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