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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on progress in implementing Regulation (EC) 166/2006 concerning the establishment of a European Pollutant Release and Transfer Register (E-PRTR)

{SWD(2017) 710 final} - {SWD(2017) 711 final}

Contents

1. Introduction

The European Pollutant Release and Transfer Register (E-PRTR) provides high-quality environmental information on emissions from Europe's largest industrial facilities.

The public, stakeholders, analysts, policy developers and decision-makers in the European Union value this information greatly, as it is used to set priorities for cost-effective emission reduction strategies, to measure progress in reducing pollution and to influence operators to adopt environmentally friendly practices and techniques.

The E-PRTR was established by Regulation (EC) 166/2006[1] and, for the EU, it implements the UNECE PRTR (Kiev) Protocol to the Aarhus Convention[2]. In doing so, it builds upon an existing European Pollutant Emission Register (EPER) established in 2000.

Article 17 of the E-PRTR Regulation states that the Commission must review Member State emission data returns provided under Article 7 and additional information submitted under Article 16.

A first such Article 17 report[3] was submitted to the European Parliament and the Council in 2013. It assessed the first three years of E-PRTR operation: 2007, 2008 and 2009. This second such report covers the subsequent four years: 2010, 2011, 2012 and 2013.

The E-PRTR Regulation was also selected for evaluation under the European Commission's Regulatory Fitness and Performance (REFIT) programme[4] to check that it was 'fit for purpose'. The objective of this evaluation was to assess its effectiveness, efficiency, relevance, coherence and EU added value. The assessment looked at both the benefits delivered by the E-PRTR, together with the potential for simplifying it and reducing regulatory costs and burdens.

Alongside the E-PRTR evaluation, DG Environment carried out a fitness check of wider monitoring and reporting obligations resulting from all EU environmental legislation[5]. Synergies flowed from this parallel evaluation process.

This report therefore covers three main areas:

- an overview of E-PRTR implementation and how this has changed since the 2013 report to the European Parliament and the Council – section 2;
- a summary of the REFIT evaluation – section 3;
- an assessment of possible improvements to the E-PRTR – section 4.

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[1] Regulation (EC) 166/2006 of the European Parliament and of the Council concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32006R0166&from=EN

[2] Kiev Protocol on Pollutant Release and Transfer Registers to the UNECE (United Nations Economic Commission for Europe) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters https://www.unece.org/env/pp/prtr/docs/prtrtext.html

[3] COM(2013) 111 final, Report from the Commission to the European Parliament and the Council on progress in implementing Regulation (EC) 166/2006 concerning the establishment of a European Pollutant Release and Transfer Register http://eur-lex.europa.eu/procedure/EN/202443

[4] COM(2012) 746 final, Commission Communication on EU Regulatory Fitness , http://ec.europa.eu/smart-regulation/better_regulation/documents/com_2013_en.pdf

[5] https://webgate.ec.europa.eu/fpfis/wikis/display/ENVReporting/1%29+Streamlining+Reporting

2. E-PRTR Regulation: state of play

Implementation of the E-PRTR Regulation is dependent on coordinated EU-level actions taken by the European Commission and European Environment Agency (EEA), and on national measures.

Member State responses to Article 16 implementation questions are available on the EEA's reporting obligations database[6]. These responses are analysed in the supporting study to the E-PRTR evaluation[7]. The key observations about implementing the E-PRTR Regulation appear below.

2.1 E-PRTR website

Since it began receiving data from Member States in 2007, the E-PRTR website has become the definitive source of yearly information on emissions from Europe's major industrial activities. This environmental information is published free on an interactive website[8] hosted and maintained by the EEA.

Data on key pollutants are provided by operators of some 30 000 industrial facilities and held on the E-PRTR. They cover 65 economic activities from the main industrial sectors[9] defined in the Regulation. These industrial sectors are closely (but not exactly) aligned to the list of activities regulated under the Industrial Emissions Directive (IED)[10].

For each facility, operators provide annual information on the quantity of pollutants released to air, water and land, together with off-site transfers of waste and of pollutants in waste water. The best available data are reported to the E-PRTR. They may come from measurements, calculations or estimations, and they cover all releases – deliberate, accidental, routine or non-routine.

Emission data cover 91 key pollutants, including heavy metals, pesticides, greenhouse gases and dioxins. To concentrate on the largest emission sources, reporting is restricted to facilities where stated emission thresholds are exceeded.

In addition to these core datasets, which cover the main point sources of pollution, the E-PRTR also contains spatially disaggregated data on releases from diffuse (i.e. non-point) sources.

The E-PRTR website and its associated search tools have been designed to make access as easy as possible. As a result, E-PRTR website visitors are both numerous (with an average of 242 sessions per day) and varied (including public services, private enterprises and the general public).

2.2 Commission guidance

To help Member States implement the E-PRTR consistently, in 2006 the Commission published a guidance document explaining who should report, what they should report, and

[6] http://rod.eionet.europa.eu/obligations/540/overview.

[7] Section 3.2 and Appendix D https://circabc.europa.eu/sd/a/fd585562-0c60-48f0-ad62-9d1ff7151059/E-PRTR%20evaluation_Final%20report%20.pdf.

[8] http://prtr.ec.europa.eu/.

[9] Energy; metal production and processing; the mineral industry; the chemical industry; waste and waste-water management; paper and wood production and processing; intensive livestock production and aquaculture; animal and vegetable products from the food and beverage sector; others.

[10] Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1489681035236&uri=CELEX:32010L0075

how they should submit the data. It also includes an indicative list of sectors and pollutants for which data reporting is expected.

While extremely useful in the reporting process, the guidance is now 11 years old and the time has come to update it. This would involve both refining the existing issues covered by the guidance and addressing implementation questions and experiences that have arisen since it was first published.

2.3 Member State implementation

All EU Member States have implemented the E-PRTR Regulation. As the Regulation is of interest to the European Economic Area, it has also been implemented in Norway, Iceland and Liechtenstein. Add to this the data reported by Switzerland and Serbia, and the Regulation enjoys unanticipated but useful additional geographical coverage.

All Member States submitted their annual data returns for 2010, 2011, 2012 and 2013. The Commission had to take follow-up action to prompt certain Member States to submit their returns. However, these isolated cases were dealt with rapidly and the Commission has not pursued formal infringement proceedings.

National authorities are responsible for assessing the quality of the submitted data and whether the information provided by individual facilities is sufficiently complete, consistent and accurate. As the previous implementation report noted, monitoring practicalities make reporting of air emissions the most comprehensive. Data on the transfer of waste and releases to land are relatively few.

Several Member States have opted to extend the list of substances to be reported by operators and to lower the reporting thresholds.

The difficulties that Member States have encountered in reporting E-PRTR data are most often related to information technology and a lack of operator knowledge (resulting in mistakes in substances reported and units). The lack of alignment between the E-PRTR and the IED has also been highlighted as a source of difficulties, in particular for activities related to waste management and landfills.

Most Member States report that E-PRTR data are submitted electronically, with three Member States expressly not accepting paper returns.

The EEA carries out a number of quality assurance checks on data returns and, where this identifies data errors, Member States can make corrections. In all, four Member States used this data resubmission facility over the evaluation period – in all cases to rectify mistakes in the reporting units.

Eight Member States indicated that they had made use of the confidentiality provisions in Article 11 to withhold data from the E-PRTR.

2.4 Penalties and fines

Under Article 20 of the E-PRTR Regulation Member States must put in place rules for penalties in the case of infringements. Member States report various administrative and criminal proceedings with a wide range of maximum fines. During the reporting period, five Member States actually imposed penalties. Two others indicated that infringement

proceedings had been initiated against operators but were withdrawn when the data were forthcoming. From this evidence it is apparent that Member States have put in place effective penalties and fines to ensure that the relevant operators deliver on their E-PRTR reporting obligations.

3. REFIT evaluation

Under its REFIT programme, the Commission has evaluated the E-PRTR Regulation, assessing the core analytical questions on effectiveness, efficiency, coherence, relevance and EU added value.

To this end, it used sources such as Member State implementation returns, consultations and a stakeholder workshop. In addition, it contracted an external consultancy to conduct a supporting study and gather specific information on key topics.

Further details of the evaluation exercise are presented in a Staff Working Document[11]. This report summarises the key findings of the evaluation and takes a more detailed look at the follow-up actions needed.

3.1 Scope of evaluation

Since Member States already have direct reporting obligations as parties or signatories to the Kiev Protocol, the evaluation focused on the additional obligations under the E-PRTR Regulation:

a) operators reporting on five additional water pollutants and the lower reporting thresholds for emissions of dioxins and furans;
b) annual reporting of data by Member State competent authorities to the Commission;
c) incorporation of that data by the Commission (supported by the EEA) into the publicly available E-PRTR;
d) development of a Commission guidance document to facilitate consistent Member State practices; and
e) triennial Commission reporting to the European Parliament and the Council on E-PRTR implementation.

3.2 Evaluation results

The evaluation criteria are assessed as follows:

- The E-PRTR is an **effective** instrument, as it provides a highly comprehensive and detailed dataset on industrial emissions. There is broad stakeholder appreciation of the E-PRTR's valuable contribution to access to environmental information. The completeness and quality of E-PRTR data is good and improving over time. On data interpretation, additional information would help reach a wider public audience.

[11] SWD(2017)710

- The E-PRTR performed well on **efficiency**. Most data providers stated that minimal effort was needed to meet the E-PRTR reporting requirements additional to those under the Kiev Protocol; data managers stated that such effort was proportionate to the broad benefits provided by the public availability of E-PRTR data. However, the Article 16 triennial obligation on Member States to report on overall implementation of the E-PRTR appears to be of limited use, suggesting scope for simplification.

- While consistent in itself, some concerns were raised about the **coherence** of E-PRTR with data reported under related environmental legislation, such as the IED and the waste *acquis*.

- The E-PRTR has continued **relevance**, as it provides a detailed and comprehensive dataset that the general public can easily access. Thanks to this, the E-PRTR contributes greatly to transparency and public participation in environmental decision-making.

- The E-PRTR provides **added value** beyond the requirements of the Kiev Protocol by ensuring consistent implementation of the Protocol across all Member States. This cross-border consistency is valued by E-PRTR users, as it provides transparency on the pollutant emissions from industrial activities and allows for comparative assessment between Member States. The EEA's industrial pollution country profiles[12] are a good example of how E-PRTR data are used to add value for policy-makers, industry and the general public.

The evaluation concludes that the E-PRTR Regulation is an important instrument in the EU's environmental *acquis* and is fit for purpose.

4. Possible improvements to the E-PRTR

4.1. Actions stemming from the 2013 implementation report

The Commission's 2013 report to the European Parliament and the Council concluded that the E-PRTR Regulation had been relatively well implemented but identified areas in which potential improvements could be made. In the subsequent four years ongoing improvements have been observed, mainly as operators, competent authorities and the general public have gained experience with using the E-PRTR. Re-visiting the three main improvement areas identified in the 2013 report, it is relevant to note as follows:

a) Enhancing quality of data and user confidence:

Operators and Member States are obliged under the Regulation to provide high-quality data to the E-PRTR. While occasional data errors still occur, the data submitted to the Commission is now more complete, more consistent and more accurate, largely thanks to refined automated checks in the reporting system. Most residual data errors are detected in an informal EEA review and Member States can make corrections through data resubmission.

[12] http://www.eea.europa.eu/themes/industry/industrial-pollution.

The 2013 report envisaged using infringement procedures against Member States to improve data quality, but it has not been necessary to resort to this.

The review of the E-PRTR guidance document has been launched.

Data quality remains an important area for further improvement, since more reliable and higher-quality data creates a virtuous circle of enhanced user confidence, which in turn increases use of the E-PRTR data.

The 2013 report also highlighted the need for the Commission to better coordinate the E-PRTR with the work of expert groups for other, associated environmental policies. On the idea of improving emission factors for water releases, there has been engagement with the Water Framework Directive's working group on chemical aspects through a project on *integrated assessment modelling in EU freshwater and marine environment policy*.

b) Improving data use and exchange

The 2013 report saw the need to make the E-PRTR website more user-friendly. The areas highlighted were: improved functionality; navigation and search functions; adding technical information to the data presented; standardised terminology; and links to datasets resulting from other reporting obligations. Many improvements have been made as part of an ongoing process, including the launch of a new user-friendly website in 2016.

Likewise, the Commission has actively promoted the E-PRTR for scientific, technical, and policy analysis and for public use.

c) Clarifying the E-PRTR Regulation and links with other legislation

As a key source of industrial emission data, the E-PRTR is in line with the good practices promoted in the Commission's 7th Environment Action Plan – i.e. the Shared Environmental Information System (SEIS) principle of 'produce once, use often'.

The common approach to acquiring and using consistent spatial information under INSPIRE[13] also provides an opportunity to align E-PRTR data with obligations under related legislation, in particular the IED and the waste *acquis*.

Opportunities have been taken to further develop synergies across data-flows and to improve streamlining:

- the E-PRTR's IT infrastructure will be upgraded to include a 'registry' for industrial facilities. This, in line with INSPIRE requirements, will harmonise information on common administrative parameters, such as operator name, address and location. This will promote synergies between datasets and the E-PRTR. For example, IED datasets will be linked and partly integrated into the E-PRTR;

[13] Directive 2007/2/EC establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:108:0001:0014:en:PDF

- the proposed revision of the Waste Framework Directive[14] includes a provision to ensure that E-PRTR data are used, where relevant, to improve information on national waste generation and management;

- initiatives are under way to better coordinate reporting under the E-PRTR and closely related directives on industrial emissions, urban waste water treatment[15] and national emission ceilings[16].

4.2. Actions stemming from the recent evaluation

The evaluation of the E-PRTR Regulation was carried out when the register had been operational for around a decade. It did not identify obvious need for major simplification of, or big improvements to, the existing Regulation; especially since improvements to the functioning of the E-PRTR remain possible by means of enhanced implementation.

The evaluation confirms that the follow-up actions stemming from the 2013 report on E-PRTR implementation are relevant and should continue. It also suggests that there is potential for further refinements in the following areas:

a) **Guidance:** Member States are coming together around good practices. However, further gains in consistent implementation will come from updating the existing EU-level guidance, which dates back to 2006, since when many implementation issues have arisen. Revising the E-PRTR guidance document has therefore been launched as part of the Commission's work programme for 2017. It will clarify such issues as the scope of the Regulation, activity definitions, emission factors and the reporting elements that can be considered confidential.

b) **Related reporting:** The 2013 report already saw further harmonisation with closely related environmental reporting obligations as a means of making the E-PRTR more efficient and consistent. As explained above, current initiatives seek to explore the options for streamlining reporting obligations with the E-PRTR. Looking to the future, when implementing and reviewing related law, the Commission will strive to further exploit synergies that will reduce the reporting burden and improve consistency across datasets.

c) **Article 16:** Member States have a triennial obligation to report on their E-PRTR practices and measures. In turn, the Commission uses the information to prepare the Article 17 report to the European Parliament and the Council. Article 16 returns are highly qualitative and repetitive. Moreover, the signatories to the Kiev Protocol are already obliged to make similar implementation returns to UNECE under the Kiev Protocol[17]. So there is a strong argument for considering Articles 16 and 17 of the E-PRTR Regulation are obsolete. Therefore, as part of the follow-up to the horizontal reporting fitness check, the Commission proposes repealing the Article 16 triennial

[14] http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52015PC0595

[15] Directive 91/271/EEC concerning urban waste-water treatment http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31991L0271.

[16] Directive (EU) 2016/2284 on the reduction of national emissions of certain atmospheric pollutants http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1490193496651&uri=CELEX:32016L2284.

[17] See Article 17(2).

reporting obligation on Member States and the associated Article 17 review by the Commission. This would not preclude periodic fuller evaluation of the Regulation.

d) **Data context**: Supplementing the existing E-PRTR with more contextual information would strongly improve its effectiveness as a comprehensive source of environmental information. Additional context could be provided by such measures as increasing the granularity of activity descriptions, including quantitative activity data and better explaining the possible health and environmental impacts of the stated releases, as well as better signposting access to further information on air and water quality.

5. Conclusions

The E-PRTR is an important and pivotal component in the knowledge base on emissions from industrial activities in Europe.

The readily accessible, high-quality data available on the E-PRTR website equip the public with information that greatly enhances their ability to engage with wider environmental decision-making. Moreover, for a variety of other users, including policy analysts and developers, the E-PRTR remains the primary reference point for key environmental facts on large industrial activities.

The Commission considers that the E-PRTR Regulation is well implemented and many of the issues identified in the 2013 report to the European Parliament and Council have been remedied.

There inevitably remains scope for further improvement of the E-PRTR and this report identifies a number of lines that the Commission will pursue, notably:

- revising the existing guidance document to help Member States with consistent implementation;
- better streamlining reporting obligations by further exploiting synergies with related environmental legislation;
- reducing the administrative burden on Member States; and
- exploring options for additional contextual information to make E-PRTR data more effective.