



May 2023

### COMMENTS AND PROPOSALS FOR AMENDMENTS TO THE NET-ZERO INDUSTRY ACT PROPOSAL

Global competition for capturing private investments in the production of clean technologies is rising sharply. It is positive that major economies worldwide step-up efforts, as reaching the Paris Agreement calls for much stronger collective efforts at a faster pace. The US Inflation Reduction Act is one of the latest disruptive examples. However, stronger global competition must remain fair and not come at the expense of established international trade rules that provide legal certainty and protect economic operators against discrimination.

The Net-Zero Industry Act is an attempt by the European Commission to equip the EU with a policy adapted to this fast-moving and deep-competing global environment for investments in the production of clean technologies, where scale and speed are often decisive. This is an important first step, which should be followed up with a broader prioritisation of competitiveness in European policymaking, to stimulate the investments required to transition the entire economy towards net zero. The new pace that pushes the expansion of renewable energies must also apply to all low-carbon energy sources, industrial operations and the decarbonisation of transport.

In that context, the Act's objective to create a business case for net-zero technologies in Europe and to boost their expansion in all sectors is welcomed. In particular, **simpler and faster permit-granting processes** are a basis to attract more investments in Europe in key technologies for a successful decarbonisation. Europe is often too slow and too bureaucratic on all levels of planning, expanding, building and implementing projects. Every production conversion and every infrastructure renewal require permits. These procedures must run faster, including the environmental impact assessments, and not be undermined by other EU legislations. Coherence of the overall framework should be guaranteed. Also, the proposal of applying **regulatory sandboxes** has the potential to speed-up the testing in real-world environment of less mature net-zero technologies.

However, for the Act to become a successful response to imminent geopolitical and competitiveness challenges and a role model for future EU policies, significant improvements will be required. The proposal is in many instances **too modest to truly achieve the objective** of accelerating the transformation to net-zero industry. The absence of a proper impact assessment is also regrettable as it makes the review of the proposal very difficult. For instance, the methodology and objective of the benchmark of manufacturing at least 40% of the EU's deployment needs raises some concerns.

The **limited scope** of the Act risks to become a handicap for Europe's net-zero transformation. Policymakers must acknowledge that the successful decarbonisation of Europe cannot be achieved without a recognition of interdependencies between value chains and the need to decarbonise the entire industry. Not only the scope of strategic and net-zero technologies must be sufficiently broad and remain flexible to reflect technological developments, but entire value chains of raw materials, processed materials, equipment, parts, components and intermediate products must be fully in



scope as well. Ideally, qualifying as a ‘strategic net-zero project’ should be possible for all ‘net-zero technologies’, as defined in the proposal. This would also make the Act more practical and thereby avoiding unnecessary double layers.

The inclusion of **Carbon Capture and Storage** represents a positive signal of recognition of CCS as a key enabler of industrial decarbonisation. However, the current proposal lacks a market-based and value chain approach. It risks discouraging investments or result in upward costs instead of encouraging investments in net-zero technologies and improving the competitiveness of the EU.

If the ambition of increasing the EU’s resilience and manufacturing capacities is good, it must be built on the principles of keeping markets open, respecting international commitments, and promoting close cooperation with our major suppliers and partner countries. Therefore, it is essential that **public procurement procedures** are fully compliant with the EU’s international commitments both bilaterally through our trade agreements and multilaterally in the context of the WTO. Some of the proposed requirements (e.g., weighting of sustainability and resilience contribution) would also require further clarifications and guidance to avoid uncoordinated national approaches by Member States.

The proposal of **facilitating the recognition of professional qualifications** in regulated professions in net-zero industries is welcomed. It is the shared responsibility of all players in the labour market **to promote future-proof skills** to reach our climate goals. Critically however, the establishment of European Net Zero Industry Academies and a corresponding platform creates the risk of interfering with national cross-industry as well as sectoral solutions for updating training curricula across the board. Given the nature of this Act’s type of EU intervention on skills, it is important to shape it in the right way to appropriately support and complement the main responsibility of Member States to improve the performance of their existing training systems.

Given the need for strong public-private partnerships for a successful implementation of the Net-Zero Industry Act, it is important to have a structured public-private dialogue at EU level. It is therefore important that **private sector representatives and social partners are involved in the Net-Zero Europe Platform**.

Lastly, it is important that, next to the Net-Zero Industry Act, existing financing programmes at EU and national level are fully mobilised to support investments in line with the EU’s climate targets.

Proposals for amendments on most of the above-mentioned priorities are outlined in the annex.



## ANNEX: Proposals for amendments to the Net-Zero Industry Act

### AM 1 – Art. 1(new)

	<p><b>4(new) The Commission shall review and, if necessary, update the list of net-zero technologies and strategic net-zero technologies by [OP please insert: two years after the date of entry into force of this Regulation], and every two years thereafter.</b></p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>Due to fast technological innovation and developments, it is essential to periodically review and adjust the scope of technologies falling under the scope of this Regulation. If successfully implemented, regulatory sandboxes should bring faster new net-zero technologies to market deployment maturity. A successful climate transition requires the decarbonisation of industry as a whole rather than certain sectors “only”.</i></p>	

### AM 2 – Art. 3(1)

<p>‘net-zero technologies’ means renewable energy technologies<sup>66</sup>; electricity and heat storage technologies; heat pumps; grid technologies; renewable fuels of non-biological origin technologies; sustainable alternative fuels technologies<sup>67</sup>; electrolysers and fuel cells; advanced technologies to produce energy from nuclear processes with minimal waste from the fuel cycle, small modular reactors, and related best-in-class fuels; carbon capture, utilisation, and storage technologies; and energy-system related energy efficiency technologies. They refer to the final products, <b>specific</b> components and specific machinery primarily used for the production of those products. They shall have reached a technology readiness level of at least 8.</p>	<p>‘net-zero technologies’ means renewable energy technologies<sup>66</sup>; electricity and heat storage technologies; heat pumps; grid technologies; renewable fuels of non-biological origin technologies; sustainable alternative fuels technologies<sup>67</sup>; electrolysers and fuel cells; advanced technologies to produce energy from nuclear processes with minimal waste from the fuel cycle, small modular reactors, and related best-in-class fuels; carbon capture, utilisation, and storage technologies; and energy-system related energy efficiency technologies. They refer to the final products, components, <b>parts, materials (*)</b> and specific machinery primarily used for the production of those products. They shall have reached a technology readiness level of at least 8.</p> <p><b>(*) except raw materials identified as critical and strategic raw materials under the Critical Raw Materials Act.</b></p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>The successful decarbonisation of Europe cannot be achieved without a recognition of interdependencies between value chains. Therefore, not only the final products, components and machinery must be covered under ‘net-zero technologies’, but also the upstream ‘parts’, ‘materials’ and ‘raw materials’ used for their production. The operationalisation of extending the upstream value chains should be subject to further work.</i></p>	



AM 3 – Art. 3(1)

<p>‘net-zero technology manufacturing project’ means a planned industrial facility or extension or repurposing of an existing facility manufacturing net-zero technologies;</p>	<p>‘net-zero technology manufacturing <b>and deployment</b> project’ means a planned industrial facility or extension or repurposing of an existing facility manufacturing net-zero technologies <b>or value chains making use of the net-zero technologies</b>;</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>The successful decarbonisation of Europe cannot be achieved without a recognition of interdependencies between value chains. Therefore, the deployment of net-zero technologies and value chains making use of these technologies must be under the scope of this Regulation for ‘net-zero strategic projects’ and for ‘net-zero technology manufacturing projects’.</i></p> <p><i>The introduction of ‘deployment’ in the definition of ‘net-zero technology manufacturing project’ in Art. 3(1) must be applied consistently in the Act i.e., in articles 3.1(f), 3.1(g), 3.1(h), 4.1, 6.1(a) and (b), 6.2, 8.1, 8.2, 10.1(a) and (b), 10.2, 10.4, 37.1, 37.2, 37.3, 37.4. In addition, the operationalisation and impact of introducing ‘deployment’ in the Act should be subject to further work.</i></p>	

AM 4 – Art. 3(1)

<p>‘component’ means a <b>small</b> part of a net-zero technology that is manufactured and traded by a company <b>starting from processed</b> materials;</p>	<p>‘component’ means a part of a net-zero technology that is manufactured and traded by a company, <b>including materials and intermediate products</b>;</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>The successful decarbonisation of Europe cannot be achieved without a recognition of interdependencies between value chains. Therefore, the full the upstream value chain must be covered.</i></p>	

AM 5 – Art. 4

<p>1. By ...[3 months after the date of entry into force of this Regulation], Member States shall designate one national competent authority which shall be responsible for facilitating and coordinating the permit-granting process for net-zero technology manufacturing projects, including for net-zero strategic projects, and to provide advice on reducing administrative burden in line with Article 5.</p> <p>2. The national competent authority referred to in paragraph 1 shall be the sole point of contact for the project promoter in the permit-granting process leading to a</p>	<p>1. By ...[3 months after the date of entry into force of this Regulation], Member States shall designate one national competent authority <b>or one authority per competent region</b> which shall be responsible for facilitating and coordinating the permit-granting process for net-zero technology manufacturing projects, including for net-zero strategic projects, and to provide advice on reducing administrative burden in line with Article 5.</p> <p>2. The national <b>or regional</b> competent authority referred to in paragraph 1 shall be the sole point of contact for the project</p>
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<p>comprehensive decision for a given project and shall coordinate the submission of all relevant documents and information.</p> <p>3. The responsibilities of the national competent authority referred to in paragraph 1 or the tasks related to it may be delegated to, or carried out by, another authority, for any given project, provided that:</p> <p>(a) the <b>national</b> competent authority notifies the project promoter of that delegation;</p> <p>(b) a single authority is responsible for each of the projects;</p> <p>(c) a single authority coordinates the submission of all relevant documents and information.</p> <p>(...)</p> <p>5. The national competent authority shall take into consideration any valid studies conducted, and permits or authorisations issued, for a given project before the project entered the permit-granting process in accordance with this Article and shall not require duplicate studies and permits or authorisations, unless otherwise required under Union law.</p> <p>6. The national competent authority shall ensure that applicants have easy access to information on and simple procedures for the settlement of disputes concerning the permit-granting process and the issuance of permits to construct or expand projects, including, where applicable, alternative dispute resolution mechanisms.</p> <p>7. Member States shall ensure that the <b>national</b> competent authority responsible for the entire permit-granting processes, including all procedural steps, has a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary, including for up- and re-skilling, for the effective performance of its tasks under this Regulation.</p>	<p>promoter in the permit-granting process leading to a comprehensive decision for a given project and shall coordinate the submission of all relevant documents and information.</p> <p>3. The responsibilities of the national <b>or regional</b> competent authority referred to in paragraph 1 or the tasks related to it may be delegated to, or carried out by, another authority, for any given project, provided that:</p> <p>(a) the competent authority notifies the project promoter of that delegation;</p> <p>(b) a single authority is responsible for each of the projects;</p> <p>(c) a single authority coordinates the submission of all relevant documents and information.</p> <p>(...)</p> <p>5. The national <b>or regional</b> competent authority shall take into consideration any valid studies conducted, and permits or authorisations issued, for a given project before the project entered the permit-granting process in accordance with this Article and shall not require duplicate studies and permits or authorisations, unless otherwise required under Union law.</p> <p>6. The national <b>or regional</b> competent authority shall ensure that applicants have easy access to information on and simple procedures for the settlement of disputes concerning the permit-granting process and the issuance of permits to construct or expand projects, including, where applicable, alternative dispute resolution mechanisms.</p> <p>7. Member States shall ensure that the competent authority responsible for the entire permit-granting processes, including all procedural steps, has a sufficient number of qualified staff and sufficient financial, technical and technological resources necessary, including for up- and re-skilling, for the effective performance of its tasks under this Regulation.</p>
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*Justification*

*In some Member States, One Stop Shop authorities already exist. In Germany, for example, these authorities exist at regional level. A new authority at national level would undermine the federal system and add an additional interface, leading to an additional time-delaying procedural step.*

AM 6 – Article 6

<p>1. The permit-granting process for net-zero technology manufacturing projects shall not exceed <b>any of the following time limits:</b></p> <p><b>(a) 12 months for the construction of net-zero technology manufacturing projects with a yearly manufacturing capacity of less than 1 GW;</b></p> <p><b>(b) 18 months for the construction of net-zero technology manufacturing projects, with a yearly manufacturing capacity of more than 1 GW.</b></p> <p>2. For net-zero technology manufacturing projects for which a yearly manufacturing capacity is not measured in GW, the permit-granting process shall not exceed a time limit of <b>18</b> months.</p> <p>(...)</p> <p><b>4. In exceptional cases, where the nature, complexity, location or size of the proposed project so requires, competent authorities may extend the time limits referred to in paragraph 1 and 2 by a maximum of 1 month before their expiry and on a case-by-case basis.</b></p> <p>(...)</p>	<p>1. The permit-granting process for net-zero technology manufacturing projects shall not exceed <b>7 months.</b></p> <p>2. For net-zero technology manufacturing projects for which a yearly manufacturing capacity is not measured in GW, the permit-granting process shall not exceed a time limit of <b>7</b> months.</p> <p>(...)</p> <p>(...)</p> <p><b>10(new). National competent authorities shall ensure that the lack of reply of the relevant administrative bodies within the applicable time limits referred to in this Article results in the relevant permit granting application to be considered as approved, except where the specific project is subject to an environmental impact assessment pursuant to Council Directive 92/43/EEC or Directive 2000/60/EC, Directive 2008/98/EC, Directive 2009/147/EC, Directive 2010/75/EU, 2011/92/EU or Directive 2012/18/EU or a determination of whether such</b></p>
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	<p><b><i>environmental impact assessment is necessary and the relevant assessments concerned have not yet been carried out. In either such event, the administrative tacit approval period shall be extended by a maximum of two months.</i></b></p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>The distinction between a manufacturing capacity of more or less than 1 GW and in the case of projects for which a yearly manufacturing capacity is not measured in GW is not justified regarding the duration of permitting procedures. The assessment requirements are the same in both cases.</i></p> <p><i>The definition of “exceptional cases” in par. 4 is not sufficiently defined (indeterminate legal term), providing loopholes for Member States to unduly prolong the duration of permitting procedures.</i></p> <p><i>The automatic granting of permits for net-zero strategic projects in cases where national authorities do not meet the timelines outlined in article 13 should also apply for the permit-granting process for net-zero technology manufacturing projects in article 6.</i></p>	

AM 7 – Art. 7(3)

<p>3. The national competent authority shall ensure that the authorities concerned issue a reasoned conclusion as referred to in Article 1(2), point (g)(iv) of Directive 2011/92/EU on the environmental impact assessment within <b>three</b> months of receiving all necessary information gathered pursuant to Articles 5, 6 and 7 of that Directive and completing the consultations referred to in Articles 6 and 7 of that Directive.</p>	<p>3. The national competent authority shall ensure that the authorities concerned issue a reasoned conclusion as referred to in Article 1(2), point (g)(iv) of Directive 2011/92/EU on the environmental impact assessment within <b>two</b> months of receiving all necessary information gathered pursuant to Articles 5, 6 and 7 of that Directive and completing the consultations referred to in Articles 6 and 7 of that Directive.</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>Environmental Impact Assessments (EIAs) are an important part of the permit-granting process. Without compromising quality over speed, it is important to accelerate the process of EIAs.</i></p>	

AM 8 – Art. 7(4)

<p>4. The timeframes for consulting the public concerned on the environmental report referred to in Article 5(1) of Directive 2011/92/EU shall not be longer than 45 days.</p> <p><b><i>In cases falling under the second subparagraph of Article 6(4), this period shall be extended to 90 days.</i></b></p>	<p>4. The timeframes for consulting the public concerned on the environmental report referred to in Article 5(1) of Directive 2011/92/EU shall not be longer than 45 days.</p> <p><b><i>In case a project is recognised as net-zero strategic project in the meaning of Art. 3(1) and Art. 11, the timeframes for consulting the public concerned on the environmental report referred to in</i></b></p>
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	<b>Article 5(1) of Directive 2011/92/EU shall not be longer than 30 days.</b>
<i>Justification</i>	
<p><i>Environmental Impact Assessments (EIAs) are an important part of the permit-granting process. Without compromising quality over speed, it is important to accelerate the process of EIAs. On the basis of Art. 6(7) of Directive 2011/92/EU, the timeframes for consulting the public concerned on the environmental impact assessment report referred to in Article 5(1) shall not be shorter than 30 days. Some Member States have general timeframes in place for consulting the public that are longer than 30 days. Therefore, strategic projects should be limited to 30 days because of their contribution to the Union’s net-zero objectives and to technological and industrial resilience.</i></p>	

AM 9 – Art. 8(1)

<p>1. When preparing plans, including zoning, spatial plans and land use plans, national, regional and local authorities shall, where appropriate, include in those plans provisions for the development of net-zero technology manufacturing projects, including net-zero strategic projects. Priority shall be given to artificial and built surfaces, industrial sites, brownfield sites, and, where appropriate, greenfield sites not usable for agriculture and forestry.</p>	<p>1. When preparing plans, including zoning, spatial plans and land use plans, national, regional and local authorities shall, where appropriate, include in those plans provisions for the development of net-zero technology manufacturing projects, including net-zero strategic projects <b>and all the necessary infrastructure</b>. Priority shall be given to artificial and built surfaces, industrial sites, brownfield sites, and, where appropriate, greenfield sites not usable for agriculture and forestry.</p>
<i>Justification</i>	
<p><i>Not only the project itself is important, also all the necessary infrastructure like pipelines, storage, etc. should be included in the planning.</i></p>	

AM 10 – Art. 12 (3)

<p>3. Net-zero strategic projects shall be considered to contribute to the security of supply of strategic net-zero technologies in the Union and therefore to be in the public interest. With regard to the environmental impacts addressed in Articles 6(4) and 16(1)I of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1)(a) of Directive 2009/147/EC, net-zero strategic projects in the Union shall be considered <b>as being of public interest and may be considered</b> as having an overriding public interest provided that all the conditions set out in those Directives are fulfilled.</p>	<p>3. Net-zero strategic projects shall be considered to contribute to the security of supply of strategic net-zero technologies in the Union and therefore to be in the public interest. With regard to the environmental impacts addressed in Articles 6(4) and 16(1)I of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1)(a) of Directive 2009/147/EC, net-zero strategic projects in the Union shall be considered as having an overriding public interest <b>in the above directives</b> provided that all the conditions set out in those Directives are fulfilled, <b>with the exception of the obligation to consider alternative solutions and compensatory</b></p>
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	<b>measures as laid down in article 6(4) of Directive 92/43/EEC.</b>
<p style="text-align: center;"><i>Justification</i></p> <p><i>To speed up the decarbonisation of industry, all net-zero strategic projects should qualify as overriding public interest in the Directives 92/43/EEC, 2000/60/EC and 2009/147/EC to ensure that these projects are accelerated, and industry delivers on the Green Deal objectives for 2030. Net-zero strategic projects significantly contribute to the climate and resilience targets of the EU. Therefore, it should be prevented that these projects cannot be realised, which means they must be considered as having an overriding public interest.</i></p> <p><i>Three conditions can be distilled from Article 6(4) of Directive 92/43/EEC:</i></p> <ul style="list-style-type: none"> <li><i>• Lack of alternative solutions</i></li> <li><i>• Compelling reasons of overriding public interest</i></li> <li><i>• Necessary compensatory measures from the Member State</i></li> </ul> <p><i>Condition two is met under the NZIA, but how can it be argued that there are no alternatives and that all necessary compensatory measures have been taken? Such ambiguities and questions should also be resolved by issuing clear guidelines based on an overarching vision that leaves no room for interpretation, which is currently lacking in the guideline. It is precisely these alternative solutions and all necessary compensatory measures conditions that can easily be called into question, causing the permit process to be delayed.</i></p> <p><i>In the longer-term, the legal framework on the ‘overriding public interest’ should be further considered. For instance, the lack of body appointed judging on overriding public interest or of a definition of public interest could create legal uncertainty for investments.</i></p>	

AM 11 – Art. 12(5) **new**

	<p><b>5(new). Net-zero strategic projects shall be considered to contribute to the Union’s 2030 target of reducing net greenhouse gas emissions by at least 55 % relative to 1990 levels and the Union’s 2050 climate neutrality target, as defined by Regulation (EU) 2021/1119, and therefore net-zero strategic projects that produce environmental effects during the construction phase of the project, but reduce emissions when the net-zero strategic projects are in operation, shall be considered to have fulfilled all requirements in Articles 6(4) and 16(1) of Directive 92/43/EEC, Article 4(7) of Directive 2000/60/EC and Article 9(1)(a) of Directive 2009/147/EC) and competent authorities shall not include these temporary construction</b></p>
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	<b>emissions in the permit granting decision.</b>
<i>Justification</i>	
<p><i>The NZIA should provide a coherent European policy towards the acceleration of net-zero projects and their contribution to the Union’s 2030 and 2050 climate targets and existing nature and environmental law. To speed up the decarbonisation of industry, the temporary emissions produced during the construction phase of net-zero strategic projects should not require a permit and be considered to have fulfilled all requirements in the respective nature protection acts (e.g., Birds’ Directive, Habitats’ Directive, Natura 2000 and Water Framework Directive) in order to ensure consistency and to maintain speedy decarbonisation.</i></p>	

AM 12 – Art. 13

<p>1. The permit-granting process for net-zero strategic projects shall not exceed <b>any of the following time limits:</b></p> <p><b>(a) 9 months for the construction of net-zero strategic projects with a yearly manufacturing capacity of less than 1 GW;</b></p> <p><b>(b) 12 months for the construction of net-zero strategic projects, with a yearly manufacturing capacity of more than 1 GW;</b></p> <p><b>(c) 18 months for all necessary permits to operate a storage site in accordance with Directive 2009/31/EC.</b></p> <p>2. For net-zero strategic technologies for which a yearly manufacturing capacity is not measured in GW, the permit-granting process shall not exceed a time limit of <b>12</b> months.</p>	<p>1. The permit-granting process for net-zero strategic projects shall not exceed <b>7 months</b></p> <p>2. For net-zero strategic technologies for which a yearly manufacturing capacity is not measured in GW, the permit-granting process shall not exceed a time limit of <b>7</b> months.</p>
<i>Justification</i>	
<p><i>The distinction between a manufacturing capacity of more or less than 1 GW and in the case of permits to operate a storage site or projects for which a yearly manufacturing capacity is not measured in GW is not justified regarding the duration of permitting procedures. The assessment requirements are the same in both cases.</i></p>	

AM 13 – Art. 13(4)

<p>4. National competent authorities shall ensure that the lack of reply of the relevant administrative bodies within the applicable time limits referred to in this Article results in the <b>specific intermediary steps</b> to be considered as</p>	<p>4. National competent authorities shall ensure that the lack of reply of the relevant administrative bodies within the applicable time limits referred to in this Article results in the <b>relevant permit granting application</b> to be considered as</p>
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<p>approved, except where the specific project is subject to an environmental impact assessment pursuant to Council Directive 92/43/EEC or Directive 2000/60/EC, Directive 2008/98/EC, Directive 2009/147/EC, Directive 2010/75/EU, 2011/92/EU or Directive 2012/18/EU or a determination of whether such environmental impact assessment is necessary and the relevant assessments concerned have not yet been carried out, <b>or where the principle of administrative tacit approval does not exist in the national legal system. This provision shall not apply to final decisions on the outcome of the process, which are to be explicit.</b> All decisions shall be made publicly available.</p>	<p>approved, except where the specific project is subject to an environmental impact assessment pursuant to Council Directive 92/43/EEC or Directive 2000/60/EC, Directive 2008/98/EC, Directive 2009/147/EC, Directive 2010/75/EU, 2011/92/EU or Directive 2012/18/EU or a determination of whether such environmental impact assessment is necessary and the relevant assessments concerned have not yet been carried out. <b>In either such event, the administrative tacit approval period shall be extended by a maximum of two months.</b> All decisions shall be made publicly available.</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>Environmental Impact Assessments (EIAs) are an important part of the permit-granting process. Without compromising quality over speed, it is important to accelerate the process of EIAs.</i></p>	

AM 14 – Art. 19(2)

<p>2. The tender’s sustainability and resilience contribution shall <b>be based on</b> the following <b>cumulative</b> criteria which shall be objective, transparent and non-discriminatory: (...)</p>	<p>2. The tender’s sustainability and resilience contribution shall <b>take account</b> of the following <b>indicative</b> criteria which shall be objective, transparent and non-discriminatory: (...)</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>We need to ensure that public procurement procedures remain compliant with our international obligations and the principle of non-discrimination.</i></p> <p><i>In addition, guidance is needed to specify at what level of detail (i.e., tier of the supply chain) the resilience criteria needs to be applied. It is also not clear if the 65% benchmark for supply origins, applies to all individual component parts of a technology (e.g., all components of a solar cell).</i></p>	

AM 15 - Art. 19.4

<p>4. (...) Cost differences above <b>10%</b> may be presumed by contracting authorities and contracting entities to be disproportionate (...)</p>	<p>4. (...) Cost differences above <b>10+X%</b> may be presumed by contracting authorities and contracting entities to be disproportionate (...)</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>The proposed exemption for cases of disproportionately high costs for contracting authorities seems acceptable in principle. However, additional costs of only 10 per</i></p>	



*cent should not be considered "disproportionately high" as this would restrict sustainable procurement too much.*

AM 16 – Art. 19(5) **new**

	<p><b>5(new). The tender's sustainability and resilience contribution shall not be used by contracting authorities or contracting entities to favour national providers over providers originating from other EU Member States.</b></p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>The sustainability and resilience criteria shall not be misused to provide preferential treatment to national providers in comparison to providers from other EU Member States. The integrity of the internal market for procurement must be maintained.</i></p>	

AM 17 – Art. 21(1)

<p>Without prejudice to Articles 107 and 108 of the Treaty and Article 4 of Directive 2018/200173 and in line with the Union's international commitments, when deciding to set up schemes benefitting households or consumers which incentivise the purchase of net-zero technology final products listed in the Annex, Member States, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, <b>shall</b> design them in such a way as to promote the purchase by beneficiaries of net-zero technology final products with a high sustainability and resilience contribution as referred in Article 19(2), by providing additional proportionate financial compensation.</p>	<p>Without prejudice to Articles 107 and 108 of the Treaty and Article 4 of Directive 2018/200173 and in line with the Union's international commitments, when deciding to set up schemes benefitting households or consumers which incentivise the purchase of net-zero technology final products listed in the Annex, Member States, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, <b>may</b> design them in such a way as to promote the purchase by beneficiaries of net-zero technology final products with a high sustainability and resilience contribution as referred in Article 19(2), by providing additional proportionate financial compensation.</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>Linking incentives to local content requirements in public contracts should not be mandatory to ensure full compliance with the EU's international commitments both bilaterally in trade agreements as well as multilaterally in the context of the WTO.</i></p>	

AM 18 – Art. 23

<p>The Commission shall support, including through the provision of seed-funding, the establishment of European Net Zero Industry Academies, which have as their objectives to:</p>	<p>The Commission shall support, including through the provision of seed-funding, <b>and building upon relevant existing initiatives such as the EU sectoral skills blueprints</b>, the establishment of</p>
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<p>(1) develop learning programmes, content and learning and training materials for training and education on developing, producing, installing, commissioning, operating, maintaining and recycling net-zero technologies, on raw materials, as well as to support the capacities of public authorities competent to issue permits and authorisations referred to in Chapter II and contracting authorities referred to in Chapter IV of this Regulation;</p> <p>(2) enable and promote the use of the learning programmes, content and materials by education and training providers in the Member States, among others by training trainers and develop mechanisms to ensure the quality of the training offered by education and training providers in the Member States based on the above learning programmes, content and materials;</p> <p>(...)</p>	<p>European Net Zero Industry Academies, which have as their objectives to:</p> <p>(1) <b><i>In full respect of national competences on vocational training as defined in article 166 TFEU, support member states in</i></b> developing learning programmes, content and learning and training materials for training and education on developing, producing, installing, commissioning, operating, maintaining and recycling net-zero technologies, on raw materials, as well as to support the capacities of public authorities competent to issue permits and authorisations referred to in Chapter II and contracting authorities referred to in Chapter IV of this Regulation;</p> <p>(2) enable and promote the use of the learning programmes, content and materials by education and training providers in the Member States, <b><i>and where applicable, associated countries to EU research and innovation programmes, such as Horizon Europe and Digital Europe,</i></b> among others by training trainers and develop mechanisms to ensure the quality of the training offered by education and training providers in the Member States based on the above learning programmes, content and materials;</p> <p>(...)</p>
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*Justification*

*Instead of establishing additional training structures in the form of academies, it would be much more useful to support existing structures in the member states. As the proposed Act addresses skills related issues in away, which can set a precedent for future EU initiatives, it is important to secure that this new form of EU intervention appropriately respects national competences for vocational training as defined in the EU Treaty article 166. Moreover, it is important not to start these net zero academies from scratch, whereas the relevant EU sectoral skills blueprints can offer a useful steppingstone on which to build. Should academies be established in which learning programmes, content and materials for the production of net-zero technologies are developed, it must be ensured that this is done by practitioners from companies and not politically steered away from the professional practice.*

*To ensure complementarity of EU policies and programmes, and to maintain and enhance the efficiency and integrity of the projects within the frames of EU research and innovation programmes such as Horizon Europe, involvement of associated*



*countries should be considered as well. For instance, there are vocational training entities in the associated countries as a part of the Horizon Europe and Erasmus+ programmes. These can be utilized to reinforce the achievement of the net-zero targets within the EU and in the associated countries in line with the objectives of the Act, if aligned with the European Net Zero Industry Academies.*

AM 19 – Art. 25

<p>The Net-Zero Europe Platform referred to in Article 28 shall support the availability and deployment of skills in net-zero technologies, and in competent authorities and contracting authorities referred to in Chapter II and Chapter IV, through the following tasks:</p> <p>(2) <b>monitor</b> the activity of the European Net-Zero Industry Academies and of education and training providers who offer the learning programmes developed by the Academies, foster synergies with other national and Union skills initiatives and projects, and provide oversight;</p> <p>(...)</p> <p>(5) <b>facilitate the development of European occupation profiles consisting of a common set of knowledge, skills and competences for key professions in the net-zero technologies, drawing inter alia upon the learning programmes developed by the European Net-Zero Industry Academies, and, where appropriate, using the technology provided by the European Skills, Competences, Qualifications and Occupations (ESCO) classification to facilitate transparency and mobility between jobs across internal market borders.</b></p>	<p>The Net-Zero Europe Platform referred to in Article 28 shall support the availability and deployment of skills in net-zero technologies, and in competent authorities and contracting authorities referred to in Chapter II and Chapter IV, through the following tasks – <b>while avoiding parallel structures with national vocational systems:</b></p> <p>(2) <b>support</b> the activity of the European Net-Zero Industry Academies and of education and training providers who offer the learning programmes developed by the Academies, foster synergies with other national and Union skills initiatives and projects, and provide oversight;</p> <p>(...)</p>
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*Justification*

*Providing the platform with competences for a specific area of skills risks implementing a parallel structure to the VET systems of the member states and must be carefully assessed with full respect to national competences in the field of VET. The development of European Vocational Core Profiles (EVCP) has been extensively discussed within the mandate of DG EMPL’s Advisory Committee on Vocational Training in 2022. It has been consensus among all member states and national social partners that there is no added value in developing EVCPs on a European level.*



AM 20 – Art. 26(2)

<p>2. The modalities and the conditions for the establishment and operation of the net-zero regulatory sandboxes under this Regulation <b>shall be adopted through implementing acts in accordance with the examination procedure referred to in Article 36. The modalities and conditions</b> shall to the extent possible support flexibility for national competent authorities to establish and operate their Net-zero regulatory sandboxes, foster innovation and regulatory learning and shall particularly take into account the special circumstances and capacities of participating SMEs, including start-ups. <b>The implementing acts referred to in paragraph 3 shall include common main principles on the following issues:</b></p> <p><b>(a) eligibility and selection for participation in the net-zero regulatory sandboxes;</b></p> <p><b>(b) procedure for the application, participation, monitoring, exiting from and termination of the net-zero regulatory sandboxes, including the sandbox plan and the exit report;</b></p> <p><b>(c) the terms and conditions applicable to the participants.</b></p>	<p>2. The modalities and the conditions for the establishment and operation of the net-zero regulatory sandboxes under this Regulation shall to the extent possible support flexibility for national competent authorities to establish and operate their Net-zero regulatory sandboxes, foster innovation and regulatory learning and shall particularly take into account the special circumstances and capacities of participating SMEs, including start-ups.</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>The European Commission will publish a guidance for sandboxes later in 2023 to support member states in their implementation. In addition, it is important to keep flexibility in the design and implementation of sandboxes to make them an effective instrument. It is therefore unsure whether the proposed implementing act would bring clear added value.</i></p>	

AM 21 – Art. 29.8

<p>(...)</p> <p>2. Each Member State shall appoint a high-level representative to the Platform. Where relevant as regards the function and expertise, a Member State <b>may</b> have more than one representative in relation to different tasks related to the work of the Platform. Each member of the Platform shall have an alternate.</p>	<p>(...)</p> <p>2. Each Member State shall appoint a high-level representative to the Platform. Where relevant as regards the function and expertise, a Member State <b>shall</b> have more than one representative in relation to different tasks related to the work of the Platform. Each member of the Platform shall have an alternate.</p>
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<p>(...)</p> <p>6. The Platform may establish standing or temporary sub-groups dealing with specific questions and tasks.</p> <p>(...)</p> <p><b>8. Where appropriate, the Platform or the Commission may invite experts and other third parties to Platform and sub-group meetings or to provide written contributions.</b></p> <p>(...)</p>	<p>(...)</p> <p>6. The Platform may establish standing or temporary sub-groups dealing with specific questions and tasks. <b>The sub-groups related to the assistance of the European Net Zero Industry Academies shall include the relevant social partners as well as practitioners from the affected industries.</b></p> <p>(...)</p> <p><b>8. On a regular basis, the Platform shall organise open sessions, including of the standing or temporary sub-groups referred to in paragraph 6, with representatives of European economic operators.</b></p> <p><b>9. Where appropriate, the Platform or the Commission may invite experts and other third parties from ‘Net-Zero Industrial Partnerships’ countries to Platform and sub-group meetings or to provide written contributions.</b></p> <p>(...)</p>
<p style="text-align: center;"><i>Justification</i></p> <p><i>Given the need for strong public-private partnerships for a successful implementation of the Net-Zero Industry Act, it is important to have a structured public-private dialogue at EU level. It is therefore important that economic operators’ representatives (incl. industrial alliances) and social partners are involved in the Net-Zero Europe Platform.</i></p> <p><i>In general, setting up a platform as an additional monitoring body in the field of national vocational education and training is not advised. It is crucial that social partners are included in the permanent governance structure of the skills-related competences of the Platform. If academies are set up in which learning programmes, content and materials for the production of net-zero technologies are developed, it must be ensured that this is done by practitioners from companies who take into account the needs of the labour market and professional practice.</i></p> <p><i>The Green Deal Industrial Plan intends to conclude Net-Zero Industrial Partnerships to adopt net-zero technologies globally and to support the role of EU industrial capabilities in paving the way for the global clean energy transition. If the Platform will discuss relevant partnerships and processes, such as green partnerships or energy dialogues, as well as potential synergies with relevant Member States’ bilateral agreements with third countries, the ways for interaction and coordination with the international partners need to be defined, where relevant.</i></p>	