**SINGLE ENVIRONMENTAL AUTHORIZATION: ADMINISTRATIVE SIMPLIFICATIONS FOR SMALL AND MEDIUM Sized ENTERPRISES**

Italian Presidential Decree no. 52 of 13 March 2013 (Regulations concerning the Single Environmental Authorization, hereinafter the “Regulation”), which introduces into Italian law a series of administrative simplifications regarding the environment aimed at small and medium sized enterprises, takes effect on 13 June 2013.

The Regulation envisaged by article 23 of Law Decree 5/2012 (“Simplification Decree”) allows for the simplification of seven environmental permits/authorizations for enterprises, merging them into a single provision. It is aimed at micro, small and medium sized enterprises not subject to the provisions regarding the Integrated pollution prevention and control (“IPPC”) permit and is based on the following directive principles and criteria indicated by the delegating lawmaker (sub-paragraph 1):

a) the authorization substitutes all communications, notifications and authorizations envisaged by applicable laws concerning the environment;
b) the single environment authorization is issued by a single entity;
c) the procedure must be based on the principle of proportionality of the administrative requirements in relation to the dimension of the company and sector of activity, as well as on the need to protect public interest and must not result in higher costs for enterprises.

The enterprises involved

To understand the potential extension of the new regulations it should be noted that the lawmaker has excluded from the field of application of the Sole Environmental Permit (Italian “AUA”) the activities already covered by other “integrated” environmental authorization proceedings which embrace the various sector environmental responsibilities (emissions, water, land, waste, etc.) set forth and regulated by Legislative Decree no. 152 of 3 April 2006 (“Environment Code”).

The new AUA, therefore, excludes in primis plants and activities subject to the IPPC Permit (Italian “AIA”) operating in the production sectors indicated below and which exceed the production levels indicated analytically in Attachment III to Part II of the environment code:

- energy;
- metal production and transformation (foundries, steel plants, rolling mills, etc);
- mineral products industry (cement works, glass works, ceramic products);
- chemical industry;
- waste management;
- other activities with high environmental impact (e.g. paper mills, textile industries, tanning industries, food and dairy product transformation, breeding facilities).

Projects subject to environmental impact assessment (“EIA”, Italian “VIA”) are also excluded from the regulations in the cases where state and regional regulations rule that the final EIA measure includes and substitutes all the other permits, under any name, regarding the environment (art. 1 sub-paragraph 2 of the Regulation).
Outside these contexts, the Regulation is aimed in a general way at the categories of micro, small and medium sized enterprises, globally called "PMI" by the Decree of the Ministry of Production Activities of 18 April 2005 ("Criteria for the identification of small and medium sized enterprises") and characterized by the co-existence of the following parameters:

1. fewer than 250 employees; and
2. annual turnover of not more than 50 million Euro, or total assets in the annual financial statements of not more than 43 million Euro.

The new regulation, therefore, regards in any case a large group of market players considering that, according to the most recent Report on the implementation of the “Small Business Act” published by the Ministry of Economic Development in April 2013, of the more than 4.4 million enterprises outside the agricultural sector, 99% are micro, small and medium sized.

The authorizations substituted

The Regulation sets forth that the AUA should incorporate in a single measure, issued by a single Entity, at least 7 permits related to different environmental sectors, and specifically:

a) water, authorization to discharge waste water, regulated by Part Three, Section II, Chapter IV, Paragraph II of the Environment Code (articles 124 and following);

b) emissions:
   i. the authorization for atmospheric emissions for all plants that produce atmospheric emissions as of article 269 of the Environment Code;
   ii. general atmospheric emissions authorizations as of article 272, Legislative Decree 152/2006

c) noise, the documentation regarding foreseeable noise impact as of law 8, sub-paragraph 4 or sub-paragraph 6 law no. 447 of 26 October 1995;

d) waste: communications regarding waste: self-disposal of waste and waste recovery operations (hazardous and non) as of articles 215 and 216 of the Environment Code;

e) moreover, in some specific cases of production waste use:

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1 Outside these contexts, the Regulation is aimed in a general way at the categories of micro, small and medium sized enterprises, globally called "PMI" by the Decree of the Ministry of Production Activities of 18 April 2005 ("Criteria for the identification of small and medium sized enterprises") and characterized by the co-existence of the following parameters:

a) “micro enterprises” companies with fewer than 10 employees and an annual turnover or total annual balance sheet of not more than 2 million euro;

b) “small enterprises”: companies with fewer than 50 employees and an annual turnover or total annual balance sheet of not more than 10 million euro.

2 The data given refer to 2010. According to the Report (page 7), in particular, “almost all (95.1%) fall into the category of micro enterprises (fewer than 10 employees) […] reaching a maximum of 97.6% in the services sector compared to 82.3% in industry in the strictest sense of the word”; small enterprises represent 4.3% of the total number of active enterprises; “medium sized companies (between 50 and 59 employees) are just 0.5% of the total and large sized enterprises represent just 0.1% of the total".
a. preventive communication regarding the agronomic use of breeding effluents, oil press vegetation water and waste water from businesses, regulated by article 112 of the Environment Code;
b. authorization to use sludge deriving from agricultural purification processes as of article 9, legislative decree no. 99 of 27 January 1992.

Besides the measures listed, the Regulation gives the Regions and Provinces freedom to supplement the number of permits and authorizations to include in the AUA: for the application of the Regulation it will therefore be necessary to verify how it is applied locally.

The procedure

If the enterprise falls within one of the categories covered by the Regulation, the “manager” subjects of the plant must apply for the AUA with the Single Desk for production activities (Italian “SUAP”) if, pursuant to applicable sector provisions, they are subject to the issue, formation, renewal or update of at least one of the seven permits envisaged by the Regulation.

The SUAP sends the application to the relative Authority which initiates the procedure.

The Regulation (article 4) sets the times for the completion of the administrative procedure depending on the type of environmental measure that the AUA will substitute.

If the AUA substitutes environment acts for which the completion of the procedure is equal to or less than 90 days, the relative Authority must adopt the final measure within 90 days and transmits it to the SUAP which issues the permit.

Instead, if the AUA is to substitute environment permits for which the completion of the procedure is set at more than 90 days, the SUAP calls a services conference with all the Administrations involved. The relative Authority adopts the AUA within 120 days following receipt of the application, or 150 days in the case of requested supplements.

The Regulation (article 11) envisages a mechanism to guarantee the certainty of the procedure completion times according to which, on expiry of the times for issuing the measure without the Authority having done so, the substitutive powers apply in accordance with article 2, sub-paragraphs 9 bis - 9 quinquies of law no. 241 dated 7 August 1990. In short, the applicant can ask the delegated officer, indicated by the relative Entity, to exercise the substitutive powers and complete the procedure. The delegated officer must complete the procedure in half the time originally envisaged.

The AUA issued has a duration of 15 years from the date of issue.

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3 Pursuant to article 2, sub-paragraph 1, letter d) of the Regulation the “manager” is the “individual or legal entity that has decision taking power regarding the installation or operation of the plant and that is responsible for the application of the limits and prescriptions” regulated by the Environment Code. The definition is exactly the same as that of article 268, sub-paragraph 1 letter n) of the Environment Code regarding emission authorization.

4 The SUAP can call a services conference with the relative Entities and Authorities, in the cases where it has to be called pursuant to article 14, sub-paragraph 2 of law 241/1990 (when the Administration involved has to obtain agreements, approvals or authorizations etc. of other Public Administrations and does not obtain them).