



EUROPEAN SUPPLIERS
OF WASTE-TO-ENERGY
TECHNOLOGY

ESWET'S COMMENTS ON THE REVISION OF THE INDUSTRIAL EMISSIONS DIRECTIVE



ESWET'S COMMENTS ON THE REVISION OF THE INDUSTRIAL EMISSIONS DIRECTIVE

24 March 2021

The European Commission launched an [open public consultation on the revision of the Industrial Emissions Directive \(IED\)](#) and the European Pollutant Release and Transfer Register (E-PRTR). The IED aims at achieving a high level of environmental protection by regulating pollutant emissions from industrial installations.

ESWET welcomes this opportunity to contribute to the revision of the Industrial Emission Directive. The waste management sector is, by definition, a key actor in pollution prevention. Under the IED, the Waste Incineration sector's emissions are already the lowest of all combustion industries. Modern plants under EU standards have minimised their impact on the environment and health, as confirmed in recent studies¹. However, the design and implementation of the IED can still be improved.

In 2019, ESWET already identified several issues in its [Explanatory & guidance document on the Waste Incineration BREF and BAT conclusions](#)² jointly published with other major associations. The position paper highlights these issues again, in addition to points mentioned in the Commission's Open Public Consultation and Targeted Stakeholder Survey.

1. Consistency of the IED with other EU legislation:

In addition to the IED and WI BREF's stringent requirements, the waste incineration sector is subject to many EU regulations covering specific areas (Effort Sharing Regulation, Waste Framework Directive and other waste-related legislation, etc.). These legislative texts were created to achieve particular objectives (reducing greenhouse gas emissions, improving sustainable waste management, fostering circularity, etc.).

Consequently, the IED revision should not lead to legislative overlaps and inconsistency or changes that could run against the integrated approach of the IED.

In particular, **the following measures suggested by the Commission might lead to overlaps** with the EU Emissions Trading System (ETS) and Effort Sharing Directive (ESR), legislative tools which are specifically designed to reduce GHG emissions:

- Deleting the provision that exempts (agro-)industrial plants from setting

¹ See for instance this review of the published research focused on understanding environmental and human health impacts nearby waste incineration plants: *Environmental and health risks related to waste incineration*, by Ernesto de Titto and Atilio Savino.

² *Explanatory & guidance document on the Waste Incineration BREF and BAT conclusions*: <http://www.eswet.eu/documents/explanatory-and-guidance-waste-incineration-bref-bat-conclusions/>

GHG ELVs and energy efficiency requirements in permit conditions if they are regulated by the EU ETS (IED Article 9);

- Identifying direct and indirect GHG as mandatory key environmental issues (KEIs) so that GHG emissions are considered when identifying BAT alongside with pollutant emissions;
- Establishing a long-term permit review obligation (e.g. by 2035) focusing on the capacity of the concerned installations to operate in accordance with EU's carbon neutrality objectives.

Should such changes be carried out nonetheless, then any heat and electricity consumed for GHG abatement measures shall be considered self-use of produced energy (i.e. be part of energy produced as heat or electricity) in the determination of the R1 energy efficiency formula given in the Waste Framework Directive.

2. Extension of the IED to landfills and methane emissions:

Complete coverage of landfills and methane emissions should be ensured. Landfilling may lead to greenhouse gas leaks, mainly methane, which is a greenhouse gas 84 times more potent than CO₂ over a 20-year period. Moreover, the full coverage of landfills would guarantee a level-playing field in the entire waste management chain.

Methane should, in any case, be included in the pollutants list of IED Annex 2, with corresponding Emission Limit Values. This extension would be in line with the objectives of IED and the EU strategy to reduce methane emissions. The strategy underlines that, besides its impact on climate as a greenhouse gas, methane also *“contributes to tropospheric ozone formation, a potent local air pollutant which itself causes serious health problems”*^{3 4}.

3. Alignment with the E-PRTR

The European Pollutant Release and Transfer Register **should allow for easy corrections of data when a mistake was made** in reporting, which is nearly impossible today.

Such an error may happen when data are reported for a facility where multiple industrial activities are carried out (for instance, a waste management facility that performs incineration and landfilling on the same site).

Available data should always give an accurate view of the overall sector's emissions.

4. Clarity of the BATs & preservation of the integrated approach:

More background information on how to understand BATs, how to implement them, particularly on how to check compliance - and on the applicability of the BAT-AE(P)L

³ EU strategy to reduce methane emissions, COM(2020) 663 final: https://ec.europa.eu/energy/sites/ener/files/eu_methane_strategy.pdf

⁴ European Environment Agency (EEA), (2016). Premature deaths attributable to air pollution (EU 28). <https://www.eea.europa.eu/media/newsreleases/many-europeans-still-exposed-to-air-pollution-2015/premature-deaths-attributable-to-air-pollution>

ranges is needed. The IED defines BAT-AELs (Article 3(13) IED) and requires that ELVs be set by competent authorities to ensure that emissions do not exceed BATAELs.

However, the IED does not mention the BAT-AEPLs (BAT associated Environmental Performance Levels) that were introduced by the non-binding guidelines for the drawing up of BREFs (Commission Implementing Decision 2012/119/EU). Nevertheless, the different legal status between BAT-AELs and BAT-AEPLs is not mentioned in the text of the WI BAT conclusions.

In addition to the issue mentioned above, the IED revision should **preserve the Directive's integrated approach**, exemplified by the use of ranges with regards to BAT-AELs. The integrated approach does not mean that the lowest emission or highest efficiency level should always be selected but, instead, that the permits must take into account the whole environmental performance of the plant.

Similarly, any measure making BAT-AEPLs binding in the same way as BAT-AELs for new permits and permit reviews should not hamper the IED's integrated approach. Plants designers need flexibility between the different parameters to build an overall efficient facility. It should also take into account the practical impacts it could have on existing plants.

More details can be found in our [Explanatory & Guidance document](#), as mentioned above.

5. Clarity of Normal/Other Than Normal Operating Conditions (NOC/OTNOC):

Following the IED, all BAT-AELs are defined under NOC (Art.3(13) IED) and corresponding future ELVs should therefore be established under NOC (Art.15.3 IED).

However, the waste incineration sector is the only industrial sector for which compliance with the current ELVs (set in IED Annex VI) of the continuously measured emissions is required within the Relevant Effective Operating Time (R-EOT= as soon as and as long as the waste is burning, which includes NOC and OTNOC, see IED Annex VI, part 8).

Since BAT conclusions do not override the provisions of IED Annex VI, waste incineration plants will still have to be compliant with the daily and half-hourly ELVs included in IED Annex VI and based on R-EOT.

Consequently, **some specific aspects of the issue of the operating conditions require clarification:**

- The WI BAT conclusions do not remind the reader that BATAELs are defined in NOC.
- The IED does not define NOC nor OTNOCs. There are several examples of OTNOC situations in the IED (Articles 14.1.f and 47) and in the BREF guidelines (Decision 2012/119/EU, in Section 4.6.2.2.3.ii and Section 5.4.7.2.6). Still, the list is not exhaustive and the OTNOC situations not clearly defined.
- The WI BAT conclusions do not say how to calculate a daily average in NOC

when some ½-hr readings are in OTNOC.

In the future, the most environmentally sustainable option could be that, for the waste incineration sector, the new BAT-AELs are defined in R-EOT instead of in NOC. It would also be much simpler for the authorities and the operators.

More details about the NOC/OTNOC issue can be [found here \(Explanatory & Guidance document - Annex 2.a\)](#).

6. Tackling the uncertainty issue:

A study conducted by INERIS⁵, the official French institutional expert on monitoring, within the context of the last WI BREF revision showed that most often, the performances of monitoring techniques available on the market do not meet the requirements of standards on monitoring made compulsory by the IED in respect of the maximum levels of uncertainty.

At the low concentrations encountered in WI BATAELs, the Best Available Techniques in monitoring do not allow for the time being and the foreseeable future to meet the requirements of the monitoring standards, mandatory according to the IED. A straightforward solution to this issue has not been found yet, as shown by the scattered pattern of approaches considered in different regions/Member States.

The current ELVs for incineration plants given in IED Annex VI and the BAT-AEL values given in WI BREF 2019 BAT conclusions are already too low to ensure whether an Automated Monitoring System (AMS) is compliant or non-compliant (see INERIS study report for most continuously monitored substances).

More details about the uncertainty issue can be [found here \(Explanatory & Guidance document - Annex 3\)](#).

⁵ The INERIS report is available on ESWET website: http://www.eswet.eu/wp-content/uploads/2020/12/INERIS-Study_Final_Website.pdf



For further information:
Aurélien Ballagny - Policy Officer
a.ballagny@eswet.eu
Tel: +32.2.743.29.88

ESWET is a European association representing the European suppliers of Waste-to-Energy technologies, committed to foster the development and dissemination of Waste-to-Energy at the European level. ESWET also seeks to raise the awareness of the positive implications of the technology in terms of better waste management, energy and for the environment.