

Revision of the Industrial Emissions Directive – Inception Impact Assessment

A Eurelectric comments paper

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:

- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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The power sector has, over the last decades, undertaken drastic efforts to reduce its non-CO₂ emissions and significantly limit its air pollution. For instance, between 2005 and 2018, emissions of SO₂ and NO_x by the electricity industry fell by 85% and 58% respectively, while direct emissions of PM_{2.5} were reduced by 65% (source: EEA, Informative Inventory Reports of Member States – sector 1A1a). These impressive reductions took place while electricity generation remained stable over the same period. Over the next decade, recently agreed source-specific European legislation for the energy sector (namely the ongoing implementation of the Best Available Techniques Reference Documents for Large Combustion Plants (BREF LCP) and Waste Incineration (WI) and the Medium Combustion Plant (MCP) Directive) will lead to further significant emission reductions. The National Emission Ceilings (NEC) Directive and the Ambient Air Quality (AAQ) Directives complete the legislative framework for air quality. Our sector intends to pursue and even accelerate this contribution to improving air quality across Europe: the power sector is committed to accelerate the clean energy transition and to achieve carbon-neutral electricity mix in the EU by 2045, while ensuring that security of supply is maintained and recognising the increasing challenges for thermal generation. Therefore, additional emission reductions are expected in the next 10 years and beyond, driven by the implementation of the climate and energy policy, the continued desire to invest in carbon-free generation by European utilities and the industrial emissions/air quality framework.

The disruptions caused by the coronavirus crisis is highlighting how much modern societies rely on electricity. In this context, it will be crucial that European investment plans and economic recovery programmes are fully coherent with EU climate objectives and support electrification and decarbonisation of the EU economy by targeting investment in technologies critical for the energy transition.

We note that this inception impact assessment was launched before the completion of the Fitness Check as the Staff Working Document and the support study from consultants Ricardo have not been published. The review of the Industrial Emissions Directive was already announced in the communication on the Green Deal. This is in contradiction with the Commission own “evaluate first” principle set out in its Better Regulation Guidelines (SWD (2017) 350 final).

See [Evaluation of the Industrial Emissions Directive & Targeted Stakeholder Survey. Eurelectric response, September 2019](#) & Eurelectric’s dedicated [COVID-19 webpage](#) (including live updates).

1. Consistency between the Industrial Emissions and other EU legislation

Eurelectric fully understands the need for and supports an ambitious industrial emissions policy in Europe. Consistency with the EU's 2030 energy and climate policy and its implementation timeline is crucial to achieve better environment and human health in a cost-effective approach. In particular, the power sector would like to emphasise that, according to article 9.1 IED, “[w]here emissions of a greenhouse gas from an installation are specified in Annex I to Directive 2003/87/EC in relation to an activity carried out in that installation, the permit shall not include an emission limit value for direct emissions of that gas, unless necessary to ensure that no significant local pollution is caused”. Decarbonisation of industry, including the power sector, is driven by the climate and energy policy framework, in particular the ETS. The role of the IED is to ensure high standards of environmental protection, in particular for local pollutants, and not to drive decarbonisation. Against this background, the potential revision of IED should not establish standards for CO₂ emissions.

The EU Green Deal and its ambitious decarbonisation targets make it necessary to provide the industrial emissions framework with enough flexibility to avoid investments in plants that will close, operate a limited number of hours as backload or undertake substantial changes in the coming years. In the case of power plants, flexibility measures should allow to avoid investments in power plants that will be closing in the next years or will operate at a limited number of hours in the market or under special operating regimes, or as system backup while developing sufficient renewable capacity. Although the current framework establishes conditions that allow for exemptions from specific BREF requirements, it is not sustainable to maintain the electricity system based on exemptions, being essential to regulate flexibility measures that allow an intelligent transition in which resources are allocated to the development of renewable generation, energy storage, etc.

In particular, the impact of the future European Climate Law has to be taken into consideration. The Commission has proposed a legally binding target of net zero greenhouse gas emissions by 2050 and is expected to present a plan to increase the EU's greenhouse gas emission reductions target for 2030 to at least 50% and towards 55% compared with 1990 levels in a responsible way. This could lead to an accelerated decarbonisation of the electricity sector and would impact the transition role of the existing thermal power plants with a drastic decrease of the operation hours. In this context, the setting of new emission limit values (ELVs) or their strengthening appears unnecessary and even counterproductive.

Besides, the power sector activities also fall under the scope of other pieces of legislation regarding e.g. its emissions to water or its by-products, residues and wastes and these legislation will also allow for a reduction in the impact of LCP on the environment and health. In this regard, while the IED and BREFs could have an indirect impact on circular economy, as far as the power sector most relevant aspects will fall under the scope of other pieces of legislation, chiefly the Waste Framework Directive, under which Member States are required to follow key principles of resource management including the waste hierarchy.

2. Implementation of the Industrial Emissions Directive

We would like to highlight that the Commission Implementing Decision (EU) 2017/1442 of 31 July 2017 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for large combustion plants was published in August 2017 and that Member States have four years (i.e. 2021) to review and if necessary update permits for LCPs. The current BREF for LCPs and the aforementioned Implementing Decision cover the granting and renewal of permits for large biomass installations, district heat plants and over 90% of EU fossil fuel electricity capacity. At this stage, it is therefore premature to assess the full impact of the implementation of the LCP BREF, as a key piece of the IED framework for LCPs. In this regard, we have questions on how a baseline scenario could be established for the IED and how this would translate into an assessment of what could be achieved by IED by 2030.

Eurelectric would like to stress that, should the IED be revised, it will be crucial to ensure legal certainty for operators as they will still be implementing BAT conclusions. Besides, no BREF review should be launched until the full completion of the IED revision process. The potential decrease of IED thresholds may impact medium-sized combustion plants. However, this would create a significant overlapping with the MCPD and may substantially increase the administrative burden and environmental requirements for this plant category. For combustion plants, the current threshold of 50 MW should be kept.

3. The Sevilla process

The IED is a crucial piece of legislation for the industrial sector, including the power sector. The successful characteristics of the IED can be attributed to key guiding principles adopted under IPPC and they remain fully relevant: an integrated approach that takes into consideration cross-media effects as well as the cost-effectiveness of the measures; technically and economically achievable BAT-AELs that ensure a level playing field across the EU; and special consideration in the permit setting of the geographical location, the local environmental conditions and the technical characteristics of the installation concerned. These characteristics should be preserved.

The IED considerably strengthened the Sevilla process and Eurelectric would like to refer to the response to the Fitness Check consultations referenced above where the power sector drew on its experience in particular with the review process of the LCP BREF to make a number of observations about the implementation of these IED provisions:

- The process was very lengthy (2010-2017) and led to the collection of a considerable amount of data. The process would have benefited from a more targeted approach (focus on key emissions in accordance to their environmental impact set at the beginning of the process), based on sufficiently robust and representative data.
- The scope of the Seville process cannot be extended either without environmental justification (e.g. monitoring requirements with no evidence of environmental impact that transfer the costs to operators; possible upcoming environmental issue) or where other EU environmental legislations already exist (climate, energy, water, etc).
- The BREF drafting/reviewing process must be fully consistent with the IED in order to ensure that the final BAT conclusions adopted in a Commission implementing decision are not inconsistent with the rules of the IED which should take precedence (e.g. different averaging periods in the IED Annex V and the BAT conclusions for LCPs; BAT Conclusions should not set out emissions levels for pollutants which are not listed in the Annexes of the IED).
- There should be a clear and transparent methodology to derive BAT-AELs based on the data collected for the sector and each technique (and not necessarily a statistical approach): this would ensure a clear upfront harmonised approach and transparency for all stakeholders.
- Given the legally binding nature of the BAT conclusions, BAT-AELs should not be set below measurement uncertainty or manufacturer guarantee.
- Cross-media and applicability restrictions should be taken into account.
- Significant progress must be made about the economic and financial impact of the BREF/BAT conclusions e.g. through an impact assessment of the draft Commission implementing decision and preferably earlier in the process. According to the Better Regulation Guidelines, an impact assessment is required for the Commission's initiatives that "are likely to have significant economic, environmental or social impacts". It should be emphasized that the exchange of information between Member States, the industries concerned, non-governmental organizations promoting environmental protection and the Commission, as referred to in Article 13 (1) of the IED, cannot be interpreted as conducting a thorough and detailed impact assessment of the BAT Conclusions. Therefore, the formal impact assessment concerning the relevant BAT Conclusions project should be made before the final Article 75 Committee meeting.

Eurelectric believes that the respect of the full BREF guidance document (Commission Implementing Decision 2012/119/EU) during the Seville process would significantly improve the process and alleviate many of our concerns. The next review of some BREFs, like LCP BREF, should be simplified and should only focus on specific key issues to be reviewed.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability



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