



EEB

European
Environmental
Bureau

Revised Industrial
Emissions Directive and
Regulation Establishing the
Industrial Emissions Portal:
outcomes and
opportunities



The EEB is the largest network of environmental citizens' organisations in Europe. It currently consists of over 180 member organisations in 40 countries, including a growing number of networks, and representing some 30 million individual members and supporters.

This policy briefing aims to provide background information regarding the revised provisions of the EU Industrial Emissions Directive (IED), and the associated Regulation establishing the Industrial Emissions Portal (IEP), focusing on the opportunities for the much-needed transformation of industry. The briefing concerns the revised provisions as agreed in the political deal of December 2023. It is not aimed at being exhaustive but at highlighting key points from the perspective of the author and the contributors, as well as proposing actions for the next steps.

The EEB is an International non-profit association /
Association internationale sans but lucratif (AISBL).
EC register for interest representatives:
Identification number 06798511314-27
BCE identification number: 0415.814.848
RPM Tribunal de l'entreprise francophone de Bruxelles

Published April 2024
Responsible editor: Christian Schaible

European Environmental Bureau (EEB)
Rue des Deux Eglises 14-16
1000 Brussels, Belgium
+32 (0)2 289 1090
eeb@eeb.org
eeb.org
meta.eeb.org



Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or CINEA. Neither the European Union nor CINEA can be held responsible for them.

Contents

Industrial Emissions Directive: main outcomes of the review.....	4
Regulation establishing the Industrial Emissions Portal: main outcomes of the review	21

Industrial Emissions

Directive: main outcomes of the review

Background

The IED covers around 50 000 industrial installations that account for about 20% of the EU's overall pollutant emissions into the air, around 20% of pollutant emissions into water, and approximately 40% of greenhouse gas (GHG) emissions. Large scale industrial activities (from steel and cement production to the management of waste, and the rearing of poultry and pigs) are covered as mentioned in its Annex I.

According to the European Environment Agency (EEA), in its updated 2024 briefing¹ on the costs to health and the environment from industrial air pollution in Europe, during the last decade (2012-2021), industrial air emissions had an estimated external cost of between EUR 2.7 to EUR 4.3 trillion, averaging between EUR 268 to EUR 428 billion per year. Even though these external costs have decreased consistently (-33%) over that decade, significant costs persist: in 2021, the external costs of industrial air pollution from the large industrial operators included in this study were equivalent to approximately 2% of the EU's GDP.

The main obligation is the need for each industrial installation to hold a permit provided by Member States' competent authorities. The permit conditions must fulfil general principles and obligations, notably the consistency of permit conditions with the BAT Conclusions, part of the Best Available Techniques (BAT) reference documents (EU BREFs). The IED further provides for enforcement provisions (inspections, monitoring, penalties and sanctions, etc.) as well as requirements in relation to the pillars of the Aarhus Convention (public participation, access to information and justice).

Reporting of environmental data from industrial installations is provided due to IED obligations but also through the European Pollutant Release and Transfer Register (E-PRTR)² Regulation – herewith 'Portal Regulation'. The register – herewith Portal – is available at this website <https://industry.eea.europa.eu/>. The E-PRTR Regulation aims to enhance public access to information related to industrial emissions and facilitate public participation in environmental decision-

¹ [The costs to health and the environment from industrial air pollution in Europe – 2024 update — European Environment Agency \(europa.eu\)](#)

² [The European Pollutant Release and Transfer Register \(E-PRTR\) - European Commission \(europa.eu\)](#)

making. The scope of the E-PRTR is broader than the one of the IED, including further activities such as mining operations, aquaculture, and emissions from landfills. The Regulation derives from the parent Kyiv UNECE Protocol on PRTRs³ (2003).

The European Commission presented the proposal for the IED revision⁴ and its proposal for a Portal Regulation (E-PRTR revision)⁵ on 5 April 2022. Both instruments were finally approved on 12 April 2024.

The EEB, together with other NGO partners, criticised the lack of ambition of the IED proposal to deliver on decarbonisation⁶. The Commission did not delete the policy inconsistency during its revised proposal. Instead, it only provided for a review clause to assess possible synergies of the interplay between the IED and the EU Emissions Trading System (ETS) Directive by 2028, without any further clarification. Similar criticism emerged regarding the proposal for the Portal Regulation as it was ineffective to deliver a one-stop-shop tool for promoting benchmarking of environmental performance and permit ambition rating across the EU.

The main NGO reactions are highlighted in the April 2022 [joint assessment](#) and [policy briefs](#), including [12 points for a pollution prevention framework that protects people and environment](#) and top [10 points for pollution prevention reporting fit for the digital age](#).

The final version of the revised IED is available [here](#). The final version of the revised Industrial Emissions Portal is available [here](#).

Positive outcomes and opportunities

Decarbonisation and circular economy have become explicit goals of the Directive, the BREF standards and the BAT definition

It is now official that one of the aims of the Directive is to '*continuously reduce emissions, to improve resource efficiency, and to promote circular economy, and decarbonisation, in order to achieve a high level of protection of human health and the environment taken as a whole*' (Art 1).

The BAT criteria listed in IED's Annex III have been amended to explicitly refer to decarbonisation and (risks to) biodiversity protection with a general principle to prevent or reduce to a minimum the overall impact of the emissions on the environment. The term 'best' of the BAT definition is also amended to explicitly refer to a high level of protection of the environment as a whole, [including human health and climate protection](#) (Art 3 (10) point c). It is also irrelevant if the techniques are used or produced across Member States.

³ [Introduction to the Kyiv Protocol on Pollutant Release and Transfer Registers | UNECE](#)

⁴ [Industrial Emissions Directive proposal for a revision - European Commission \(europa.eu\)](#)

⁵ [Proposal regulation industrial emissions portal - European Commission \(europa.eu\)](#)

⁶ See in particular the overall assessment published the same day https://eeb.org/wp-content/uploads/2022/04/IED-and-PRTR-revision_NGO-Preliminary-assessment.pdf

Those changes are very useful signals to require decarbonisation measures within the future BREF reviews or new BREFs to be developed for batteries, mining and landfill activities (see revised scope), whilst human health protection was implicit it does not harm to restate this.

A technique can no longer be claimed 'BAT' if it is not compatible with climate protection. Hence the use of fossil fuels in a combustion process with major greenhouse gas (GHG) emissions cannot be BAT any longer.

The core role of the new 'Innovation Centre for Industrial Transformation and Emissions (INCITE)' will be to collect and analyse information on innovative techniques, including emerging and transformative techniques, which contribute inter alia to minimisation of pollution, decarbonisation, resource efficiency, circular economy using less or safer chemicals (Art. 27a).

Permit conditions and general binding rules should reflect the stricter BAT-AEL ranges

It is now official that one of the aims of the Directive is to '*continuously reduce emissions, to improve resource efficiency, and to promote circular economy, and decarbonisation, in order to achieve a high level of protection of human health and the environment taken as a whole*' (Art 1).

One of the main changes was to invert the default approach of permit writers aligning emission limits values (ELVs) to the lax (upper range) BAT levels in the implementation phase. In the future, the competent authority *shall set the 'strictest achievable'* ELVs, and this shall relate to the analysis of the feasibility of meeting the *strictest end of the BAT-AEL range and demonstrating the best overall performance that the installation can achieve*.

Further added value is also expected for the countries setting BAT standards through national-level rules, so-called general binding rules (GBR). Therefore, and by analogy, the ministries in charge must consider *the strictest achievable emission limit values* and demonstrate *best performance* for categories of installations having similar characteristics (typically sectoral legislation). This is an important change to drive standards and national rules towards more ambition. Many countries such as DE, FR, BE, AT, NL, SE and DK, make use of those GBR.

An ambitious implementation for the sectors of steel and cement production, as well as for large combustion plants, could more concretely mean that:

- The steel sector will have to install bag filters to all Sinter strands so to achieve the lower <1-15mg/Nm³ for dust and costly wetFGD or regenerative activated carbon process to reduce SO_x emissions below 100mg/Nm³ and secondary deNO_x SCR controls to achieve NO_x levels below 120mg/Nm³. For coke oven plants this could mean the obligation to require wet oxidative desulphurisation (not common) to achieve residual hydrogen sulphide levels below 10mg/Nm³, to achieve SO_x levels below 200mg/Nm³ (instead of 500), dust at 1mg/Nm³ (instead of 20mg/Nm³) and to force secondary deNO_x retrofitting to achieve levels below 350mg/Nm³. For Blast Furnaces the Iron and Steel BREF is too weak to trigger meaningful impacts except for the diffuse emissions aspects (dust), with a factor 15 tightening. For Basic oxygen furnaces (BOF), significant tightening would be expected on the dust parameter (1mg/Nm³ instead of up to 20mg/Nm³).

- Cement plants will have to ensure to do (SNCR/SCR retrofits to achieve <200mg/Nm³ instead of levels up to 500mg/Nm³, SO₂ (<50mg/Nm³ instead of up to 400mg/Nm³), and to lesser extent dust (<10 instead of 20mg/Nm³). The current level of 50µg/Nm³ is way too high to provide any meaningful impact on mercury abatement. These aspects however concern the traditional air pollutants.

Large Combustion Plants:

The most recent BAT conclusions for Large Combustion Plants (LCP) are in force since August 2021. For LCP's involving gas fired combustion, existing natural gas turbines have to comply with 10-15 mg/Nm³ (from 50 mg/Nm³) for Nox emissions while natural gas boilers must comply with 50mg/m³ (from 100 mg/Nm³). Turbines using gas oil as fuel will have to ensure 35 mg/Nm³ (from 60 mg/Nm³) while boilers using gas oil or Heavy fuel oil (HFO) will have to ensure 2 mg/Nm³ (from 20 mg/Nm³). Most of these reductions will involve additional investments in SCR which can achieve the lower BAT limits. As far as coal and other solid fuel LCP's are considered, most of them have a phase-out date in the next 10-15 years and have either received short term derogations or invested in pollution abatement equipment to comply with the less strict BAT ranges in 2021. The dust emissions of coal/ solid fuel should now move towards 2 mg/Nm³ (from 8-14 mg/Nm³) and SO₂ emissions should become 20 mg/Nm³ (from 180 mg/Nm³) and Nox emissions to 85 mg/Nm³ (from 175 mg/Nm³).

DANGER ZONE

The downside however is that this 'technical feasibility assessment' will have to be performed by the operator, which can easily argue that it is not 'feasible' (from a profit margin maximisation perspective). There are no rules for the timing of providing such non-feasibility assessments and how to make those transparently available and subject to public scrutiny.

More worrying is the derogation possibility on Article 15(4), which has been kept largely unchanged. According to this article, the competent authority shall reconsider the validity of that derogation every 4 years and the operator will have to provide a further assessment of the derogation granted based on the concentration of the pollutants concerned in the receiving environment. This means quite expensive emission monitoring requirements on soil and water pollution needing to demonstrate absence of negative impacts are ruled out for many persistent, bio-accumulative and toxic (PBT/vPvB) pollutants occurring from many industrial processes.

Proposed actions:

- ✓ As the real impact of the permits' reviews will depend on how serious the operators will conduct their feasibility assessment, it is naïve to expect they will conclude in a voluntary manner that their permit should be tightened. All strict BAT-AEL levels are indeed proven to be achievable by the sector under economically viable conditions. However, in many cases this will trigger or lock in costly end-of-pipe pollution control instead of 'deep industrial transformation' (e.g., electrification). Hence it may be more advisable to negotiate a closure plan so to force conversions on site, or rather focus on the tightening of the national rules applying for the whole of the sector on top of involvement in individual permit reviews;
- ✓ The European Commission will provide an implementing act setting out the methodology for assessing the disproportionality of costs vs. potential benefits regarding BAT derogation

procedures, it will be key to provide for a full external cost internalisation, e.g., VSL method and to provide for a shadow carbon price in case of inaction;

- ✓ Damage controlling any use of that derogation requires vigilance by national groups. Any derogation procedure should be easily available through the Portal, however notification should reach the interested public before decisions are taken on the substance.
- ✓ Member States authorities shall require their operators to provide all the technical non-feasibility assessments by a given deadline, in particular for those Annex I activities which will not be subject to a revised published BREF before 2026, the assessments should be made publicly available through the Portal.

Permit conditions and general binding rules should reflect the stricter BAT-AEL ranges

The use of information generated by Environmental Management Systems (EMS) is enhanced (Art 14a). EMS following the EMAS⁷ regime set out benchmark of progress on environmental performance which the operator would have to follow. There is also a requirement for a substitution assessment of all hazardous substances (REACH⁸ would rather focus substitution on a subset of substances of very higher concern) used and produced and a minimisation of emissions of other concern pollutants is strengthened. This provision is quite relevant for many industrial activities, in particular those relying on materials input with potential contamination with chemicals of concern but also for tracking waste management. The EMS elements will however be considered as benchmarks and hence rather have an indicative nature, whilst Member States remain free to be more ambitious in implementation.

DANGER ZONE

Industry may claim 'double regulation' with REACH and hence not develop further the substitution assessment for all hazardous substances. Enforcement action is delegated to environmental verifiers which should be accredited; this could mean that authorities could shield themselves from any legal responsibilities in case of in-action. The content of the benchmarks is not further defined except that those refer to 'indicative' performance levels such as the EMAS reference documents.

Proposed actions:

- ✓ Identify relevant environmental verifiers and/or involve IMPEL⁹ to carry out sector analysis on the content of those EMS
- ✓ Define ambitious benchmarks for sector level performance indicators on the environmental performance and safety indicators, win support for extending / updating the EMAS reference document for other activities e.g. steel and cement production.

⁷ [Eco-Management and Audit Scheme \(EMAS\) \(europa.eu\)](https://ec.europa.eu/euro-observatory/en/observatory/emas)

⁸ [REACH Regulation - European Commission \(europa.eu\)](https://ec.europa.eu/euro-observatory/en/observatory/reach)

⁹ [Welcome to IMPEL website | Impel](https://www.impel.eu/)

- ✓ Ensure that the full value chain is improving their environmental footprint (incl. on decarbonisation).

Installation-level Transformation Plans towards a clean, circular and climate neutral production (by latest 2050)

It One of the most forward-looking provisions is for the operator to set out a 'transformation plan' (TP) on how the installation will transform itself *during the 2030-2050 period to contribute to the emergence of a sustainable, clean, circular, resource efficient and climate-neutral economy by 2050, including deep industrial transformation*. The TP has to be provided by latest 30 June 2030 and it shall be integral part of the EMS.

Where two or more installations are under the control of the same operator, or if the installations are under the control of different operators that are part of the same company, in the same Member State, these installations may be covered by one transformation plan. However, transformation information shall remain installation-specific and not at company level.

DANGER ZONE

However, it is for environmental verifiers (audits) to assess the conformity of the plans with the requirements and minimal content by 30 June 2031 only, as set within a Commission delegated act to be provided prior to 30 June 2026 (Art 27d). The key shortcoming of this provision is the absence of clear and measurable key performance indicators as to what the meaning of 'clean / 'circular' actually is for the sector concerned ([see possible recommendations section](#)). There is a risk that this becomes a tick-box exercise without any screening as to the ambition and seriousness of the 'plans of good intentions' set out by the operators.

Proposed actions:

- ✓ Identify relevant environmental verifiers and/or involve IMPEL to carry out sector analysis on the content of those EMS
- ✓ Define the minimal expectations of content and ambition that is expected for each transformation plan.

E-permit system to be in place by 2035 latest

Despite opposition from Member States an e-permit system is to be put in place which shall also support more timely and transparent access to pollution data (Art 5(3)- [See Section 2 on EEA Industry Portal](#)).

Strengthened requirements on water protection

In case of incidents that may have consequences also to human health or environmental impacts, the operator must take immediate measures to limit the consequences (Art.7). This obligation is

strengthened in case of events affecting pollution of drinking water resources, including transboundary resources or affecting wastewater infrastructure in the case of indirect discharges.

The provisions on indirect discharges have been tightened (Art 15(1)) so to not impede the functioning of downstream urban wastewater treatment plants but also with a view to recover resources from the wastewater stream. A derogation from performance-based BAT levels (BAT-AEPL) may not be granted if it would deplete water resources (Art. 15.4a).

Monitoring has been extended to explicitly cover groundwater and the frequency reduced to every 4 years (instead of current 5). Appropriate requirements ensuring protection of the soil, groundwater, surface water and catchment areas for abstraction points of water intended for human consumption as referred to in article 7 of Directive (EU) 2020/2184 need to be set as well.

Considering that the activities (metalliferous ones) mining is now subject to scope inclusion and that those activities involve wastewater pollution can be used as an entry point for permit review triggers and tightening.

New activities subject to future rules (metalliferous mining, batteries, landfills)

New activities have been included in the scope, for which BREFs would be developed in the implementation phase of the revised IED.

Due to resistance from mainly the German government and the mining industry, the inclusion of mining activities in the scope has been limited: only the mining of specific ores (bauxite, chromium, cobalt, copper, gold, iron, lead, lithium, manganese, nickel, palladium, platinum, tin, tungsten and zinc) and onsite processing will be subject to the revised IED.

The production of batteries (other than exclusively assembling) will also be covered, if the production capacity is above 15 000 tonnes of battery cells/year. The real impact may be limited to 5-20 sites (depending on the demand for uptake of electric vehicles and storage solutions for renewable electricity).

The revised IED also foresees the adoption of BAT conclusions so to address environmental issues related to the operation of waste landfills, incl. significant emissions of methane, and issues linked to hazardous pollutants releases (incl. PFAS) from the liquid waste-water phase.

Proposed actions:

- ✓ By 30 June 2028 (and every 5 years thereafter), the Commission shall submit to the European Parliament and to the Council a report reviewing the implementation of this Directive (Art. 73), including an assessment of the need to control emissions from the on-site treatment and extraction of non-energy industrial minerals used in industry other than for construction, as well as the need to control emissions from the on-site treatment and extraction of ores which are newly carried out in the EU. Stakeholders interested in achieving a comprehensive coverage of the mining sector under the IED regime should follow-up on this assessment.
- ✓ Stakeholders interested in defining 'state of the art' criteria for the mining of the ores included under the revised scope, should get involved in the upcoming Mining BREF.

- ✓ Stakeholders interested in preventing methane emissions and addressing other pollution releases, e.g. PFAS from landfills, and define standards for improving urban mining should get involved in the upcoming Landfill BREF.

Improvements for the BREF elaboration (Sevilla) process

We need to address the reform of the BREF process with a forward-looking approach. The future BAT conclusions need to enable and drive the transformation towards a zero-pollution, climate-neutral, resource efficient industry, and need to be fully compatible with this vision.

The key relevant IED amendments are summarised below:

- The definition of BAT has been amended to include human health and climate protection.
- The criteria for the determination of the BAT have been similarly amended to include considerations for the protection of human health, the limitation of the use of substances of very high concern, and decarbonisation.
- The BAT conclusions should now identify emerging techniques and best available techniques that industrial operators may implement to innovate and transform their processes towards the 2050 goals.
- The principle of continuous improvement of the environmental performance and safety of the installation, on the basis of specific objectives and performance indicators, is highlighted.
- The BAT conclusions should now include binding environmental performance levels (incl. resource efficiency levels) associated with BAT (BAT-Associated Environmental Performance Levels or BAT-AEPLs), indicative environmental performance values associated with emerging techniques, and indicative benchmarks (for other cases) to be included in the EMS.
- The provisions on the setting of emission limit values (ELVs) have been clarified to explicitly demand that operators and authorities consider the entire range of the BAT-Associated Emission Levels (BAT-AELs), and the feasibility of setting an ELV at the strictest achievable level for a given installation.
- The provisions on the control and substitution of hazardous chemicals have also been strengthened, and the role of the European Chemicals Agency (ECHA) in the BREF process has been formalised.

Proposals for action:

The reform of the BREF process is expected to start soon and to be concluded by 2026.

The elements that we need to secure are the following:

- The future BAT conclusions should especially determine which techniques, and under what circumstances, constitute 'deep transformation techniques' for a given sector; and which

techniques and processes are incompatible with the transformation vision (and timeline) and should be phased-out.

- The techniques should systematically appear in a hierarchical order, e.g., pollution abatement techniques shall be categorised based on their effectiveness to first prevent, or if this is not practicable, to reduce pollution in an integrated manner. The same approach shall apply to techniques implemented for a decarbonised (promotion of renewable energy production and use) and more resource efficient operation (techniques ranking according to the ‘waste hierarchy’ of the EU Waste Framework Directive^[1]).
- The BREF guidance shall further provide (Key) Performance Indicators (KPIs) as to what expectations/outcomes the BAT conclusions shall deliver at installation (or sector) level. Some ideas have been provided by the EEB in the context of the development of the Transition roadmaps for Energy intensive industries^[2], and an NGO-drafted briefing on the need for a forward-looking framework for the transformation of industrial production (see section III of the briefing) ^[3].
- The reviews of the BREFs for energy-intensive sectors (steel, cement) should be prioritised, in line with IED Article 13(5) (highest potential to improve the protection of the environment).
- The process needs to be fast-tracked if the 8-year review cycle and dynamic nature of BAT is to be respected.
- A different governance model is needed, where consensus-finding will be fact-checked against the first point above (compatible with the 2050 transformation vision), and where industry frontrunners (technique providers and operators) will be adequately represented.
- Regarding confidential business information (CBI) claims, amended Art. 13 shows a first attempt to address the issue but falls short of clarifying the actual procedure of validation and handling of CBI claims. This shall be elaborated in the revised BREF guidance. Furthermore, Art. 13 does not provide a definition for CBI, hence it would be useful to include at least a shortlist of what CBI could relate to. Any information relating to environmental performance shall be ruled out. Please see the EEB position on CBI^[4].

^[1] [2021_01_20-Annex-to-CBI-discussion.pdf \(eipie.eu\)](#)

For more information, please see a recently published EEB paper^[4] summarising our preliminary proposals for an EU BREF process fit for the future.

^[1] [Directive - 2008/98 - EN - Waste framework directive - EUR-Lex \(europa.eu\)](#)

^[2] [Standalone doc on the Key Performance Indicators \(KPIs\) section \(3 - Google Docs\)](#)

^[3] [IED-briefing_innovation_v01_15July2022.pdf \(eipie.eu\)](#)

^[4] [Proposals for an EU BREF Process fit for the 2050 goals of climate neutrality, zero pollution and circular economy \(eeb.org\)](#)

Other elements

In case of incidents that may have consequences also to human health, the operator must take immediate measures to limit the consequences. The impact of these provisions will again depend on proper enforcement, incl. legal actions as a response to potential breaches at national level.

DANGER ZONE

The provisions' triggers relate to any incident or accident 'significantly' affecting human health or the environment, with what is 'significant' enough not clarified.

In the case of waste co-incineration plants, incl. cement plants, a possible tightening relates to improved requirements in relation to dioxins (PCDD/F) and dioxin-like PCB emission controls at the start-up and shut-down phases (Art 48), which phases are interpreted by part of industry as not being part of the plant's 'normal operation' and therefore not subject to requirements. Emissions of PCDD/F and dioxin-like PCBs shall as far as possible be prevented or minimized in the entire cycle of operation; it is important that this is acknowledged and addressed by the updated provisions. These additions have been opposed by the industrial association CEMBUREAU, even though those provisions re-iterate and thereby strengthen wording already included in the BAT-conclusions section of the BREF on waste incineration¹⁰ (see BAT 5 and 18 notably). The EEB, with the support of the NGO Zero Waste Europe, brought those provisions to the attention of decision-makers, since often such 'soft' (meaning non-quantitative BAT) are being overlooked in new permit applications/updates for waste incineration.

Negative outcomes and damage control actions

Long transitional periods for effective permit updates and extra 'crisis' derogation

The tightened requirements highlighted under item 2 may be delayed up to a maximum of 12 years for existing installations (Art 2a transitional provisions). However, our estimation is that it will probably not take that long: a permit reconsideration takes place in average every 8 years, with the main permit review trigger being the availability of revised BAT conclusions; in addition, further permit review trigger cases are listed in Art. 21(5):

- if the pollution is of such significance that ELVs need to be revised, or new such values included in the permit (this is typically the case for steel and cement production) or
- if the operational safety requires other techniques to be used (unlikely to be triggered) or
- if it is necessary to comply with a new or revised Environmental Quality Standard. This may be triggered in particular due to the water related and air quality related EU legislation currently under review.

Industry further succeeded in winning a new 'crisis situation' derogation, which may be triggered in case of a crisis due to extra ordinary circumstances beyond the control of the operator and Member

¹⁰ [Best Available Techniques \(BAT\) Reference Document for Waste Incineration \(europa.eu\)](#)

States, leading to severe disruption or shortage of [resources, materials and equipment essential for the operator to perform its activities, of public interest, in compliance with the applicable ELVs or performance limit values, or essential resources, materials or equipment, that the operator produces in order to compensate such shortage or disruption for reasons of public health or public safety, or other imperative reasons of overriding public interests]. That derogation shall be notified to the Commission (which may raise objections within 2 months) and may not exceed 3 months but may be extended by another 3 months due to persisting public interest reasons.

DANGER ZONE

Vigilance is key to avoid abusive use of this derogation. There has been a temporary shortage of urea solutions for DeNOx controls for waste incinerators shortly after the Russian war on Ukraine which triggered some issues for operators to comply with environmental regulations. In other cases, however, such in the case of steel and cement production, it is unlikely that producers would attempt to use this derogation since it is unlikely that there is any shortage that is beyond the control of both the Member States and the operators, further those materials are not of imperative reasons overriding public interests.

Extra 10 years derogations for stricter air pollutants limits for large combustion plants on small isolated systems (islands)

The existing IED has many derogations for specific situations to help plants from not complying with the ELV's prescribed in the Annex V . The Article 34 of the law provides a derogation for small isolated systems (Islands) to the Annex V ELV's till 31st December 2019. This means that these combustion plants had continued to emit very high levels of NOx, SO2 and Dust emissions in compliance with the Large combustion plants directive of 2001 atleast till 31st December 2019. In the new IED, an amendment to this article has been introduced- Article 34a. This extends the derogation till 31st December 2029 and continues to restrict their compliance to the old permits, effectively allowing them to pollute as they have done for the last 23 years.

The recent [EEA data](#) shows at least 66 derogations under article 34 listed for the year 2020-21. The combustion plants are mostly fueled by biomass or liquid fuels. Apart from 2 Portuguese installations which are in the final list of Article 34 derogation since 2017, the rest of the installations are all from Spain. All Spanish installations have entered the Art 34 derogation in 2021, a year after the legal duration of the derogation has ended, this points to very likely legal breaches or a serious reporting deficit. In 2019, 18 Greek plants and 4 Cypriot plants were in the Art 34 derogation in 2019 and will most likely maintain it beyond 2020.

While the new extension proposed for the derogation is only applicable from the date of entry into force of the revised IED (likely 2024), these combustion plants have continued to pollute with pre 2020 emission limits for the last 4 years (2020-24) without a legal provision for derogation.

Permit review extension by +4 years for 'deep industrial transformation' projects

This initial idea (of industrial association EUROFER) for a further derogation on permit reviews made its way in through the European Parliament, but without a proper definition. It is now referred to as *'implementation by industrial operators of emerging techniques or best available techniques involving a major change in the design or technology of all or part of an installation or the replacement of an existing installation by a new installation allowing a extremely substantive reduction of emissions of greenhouse gases in consistency with the objective of carbon neutrality and optimising environmental co-benefits, at least to the levels that can be achieved by techniques identified in the applicable BAT conclusions, taking into account cross-media effects.'* The benefit for industry to apply "deep industrial transformation" means a further +4 years compliance deadline (the current maximum is 4 years from publication date of the BAT Conclusions in the Official Journal) in the permits (Art 27e).

Whilst this looks like a weakening there are however positive elements subject to damage control by Member States and NGOs: first, the definition refers to "extremely substantive reduction of GHG emissions in consistency with the objective of carbon neutrality and optimising environmental co-benefits", these being cumulative conditions. Secondly, what qualifies as 'deep transformation' is to be equivalent to what is identified in applicable BAT conclusions (agreed with Member States and NGO participation). Thirdly, the operator needs to report annually to the authorities on progress on the uptake of deep industrial transformation, the resource and efficiency and emission levels achieved as well as implementation milestones. A similar derogation from permit updates is provided for installations that close within an 8-year schedule as part of sites with deep industrial transformation (Art 27e (2)). Information will also be reported to the European Commission as per Art 72.

This change connects to the new definition of 'emerging technique', *which is a novel technique for an industrial activity that, if commercially developed could provide either a higher general level of protection of the environment and human health or at least the same level of protection of human health and the environment and higher cost savings than existing best available techniques.* In those cases, the compliance deadline is extended by + 2 years (6 years in total). This change is similar to what already exists in the current IED but it was limited to 9 months only.

Proposed action:

- ✓ Real progress and ambition as to decarbonisation will depend on the final wording of the revised BAT conclusions, for the revised EU BREFs. BREFs currently lack for most any qualitative and quantitative levels as to resource and energy consumption.
- ✓ In order to succeed we need to frontload the BREF review processes to make the case for the uptake of deep decarbonisation techniques (with reference installation data) and win Member States support on our proposals, supporting work by INCITE will also be key.

Energy efficiency standards still optional / ambivalent wordings on resource use standards as to implementation

It is clear that environmental performance includes consumption levels and resource efficiency (covering materials, water, energy resources and reuse of materials) and that those are mandatory elements of any EU BREF (standards). It is made clear that these also include resource consumption (incl. energy). Whilst this is already clear due to the current wording of Article 13.2(a)

(unchanged) explicitly required the information exchange to address performance of installations and techniques in terms of emissions [...] and consumption and nature of raw materials, water consumption, use of energy and generation of waste.

The changes to Annex III BAT criteria explicitly state that *the consumption, nature of raw materials (including water) used in process and resource efficiency and re-use and decarbonisation* are explicit BAT criteria and hence must be considered as official BAT criteria.

On the other hand, the industry push to declare energy efficiency requirement optional for combustion units or other units emitting carbon dioxide on the site of activities that are covered by the EU-ETS has been kept (Art 9(2)). The Commission proposal was proposing to make energy efficiency requirement binding, which was overruled negatively by both Council (due to Germany mainly) and the EP.

At the same time, and in contradiction to this 'optional' energy efficiency requirements, the general obligations of the permit conditions require:

a) *energy to be used efficiently and production of renewable energy is promoted*" (Art 11 point f) , *material resources and water are used efficiently, including through re-use* (Art 11 fa);

b) that the minimal content of permit obligations provide *information on the raw and auxiliary materials, substances the energy and water used in or generated by the installation* (Art 12 para 1);

c) as part of the EMS system, cross linked as a 'general principles governing the basic obligations of the operator' as per Art 11point fc), the operator must as an environmental policy objective *continuously improve the environmental performance and safety of the installation, which shall include measures to optimise resource and energy use and water reuse*;

d) *'without prejudice to Article 9(2)'; the competent authority shall set binding ranges for environmental performance that may not be exceeded [as laid down in BAT conclusions], 'in addition' it refers to 'indicative environmental performance levels concerning waste and resources other than water, which are not less strict than the binding ranges referred to [in BAT Conclusions]'*. In conclusion there are quite contradictory provisions as what is the legal status of energy efficiency related requirements.

A new derogation option has also been introduced for the performance-based BAT levels (BAT-AEPL). Those derogations may be granted due to significant negative environmental impact or significant economic impact related to the local conditions or technical characteristics of the installation concerned. What this exactly means is not clear, in any case a safeguard clause is inserted that it should not cause any significant environmental impact, including depletion of water resources (Art 15.4a). One can hence argue that energy performance requirements (as other BAT-AEPL) are legally binding, but the competent authorities may grant a derogation based on the above-mentioned criteria.

Proposed action:

- ✓ There is a very ambivalent wording as to the binding nature of energy efficiency requirements, which should be exploited through court proceedings.
- ✓ The EU ETS-IED interface will be reviewed again by 30 June 2028 as well as the need to provide Union wide minimum requirements for ELVs based on impact of the activities on the environment as a whole and human health. This will also be the deadline for the inclusion of non-energy industrial minerals (other than metals) and on-site extraction of ores that are

newly carried out in the EU. The review will also consider the exclusion threshold for hydrogen production by electrolysis of water, set at a production capacity of 50 tonnes per day.

Trading off people's health and empty shell compensation rights

It is well known that pollution resulting from industrial activities can cause health issues and consequently [cost the economy billions](#). While the initial proposals aimed at strengthening the right to compensation for victims of illegal pollution and sanctions have been weakened substantially, we nonetheless welcome some overall improvements in this area. Stronger enforcement provisions are essential to achieve a deterrent effect and thus greater compliance with the IED.

NGOs had demanded a strengthening of the existing penalties provision by setting turnover-linked minimum levels for financial penalties. The final deal is set to at least 3% of the annual Union-wide turnover of the operator in the financial year preceding the infringement year for “most serious infringements” (Art 79). Specifications were also added that penalties shall effectively deprive the relevant operator of the economic benefits derived from the infringement, and take into account the population or environment affected as well as the repetitive or singular character of the infringement in question.

While trade-offs and [misleading claims](#) weakened its scope, the EU did agree on a new compensation right for citizens affected by illegal pollution in the revised IED for the first time in EU environmental law (Art 79a). . In transposing and applying the compensation right, Member States will have to ensure the principle of effectiveness – it must therefore truly be possible in practice to obtain compensation before courts in appropriate cases. Unfortunately, vulnerable victims suffering from cancer or heart diseases will not be able to directly rely on the IED to claim their right to bring collective actions and be represented by civil society organisations in complex court proceedings – however in many cases national legal systems may provide for such processes

Proposed action:

- ✓ It is now on Member States to ensure effective compensation rights in their national law. The principle of effectiveness will also apply to Member States' courts reviewing compensation cases.
- ✓ Regarding financial penalties, competent authorities shall take the guidance included in the revised IED seriously and impose truly deterrent penalties.

Regulatory backtracking on intensive livestock activities

The most severe deception relates to discussions around provisions for intensive livestock activities. The outcome is largely the result of denial of truth and facts about responsibilities of the intensive livestock rearing industries to improve their business model towards environmental and human health protection.

In Europe, agricultural activity is the source of 93% of ammonia emissions, 54% of methane emissions and 73% of water pollution. Animal farming is responsible for between 12% and 17% of total EU greenhouse gas emissions. According to a study¹¹ by the Centre for Research on Energy and Clean Air (CREA), emissions from agriculture are responsible for an estimated 72,500 annual deaths due to exposure to PM2.5, the countries whose emissions cause greatest impacts are Germany, France and Italy. Improvements to agricultural practices (i.e. to apply economically and technically viable best available techniques mainly linked to ammonia emissions) could lead to avoiding 27 000 deaths per year from air pollution and economic costs worth €75bn per year. Despite that, MEPs supporting a weakening of standards for the livestock sector did, as the industry representatives of the sector (mainly French Pig and Poultry industries) not consider at any moment the EUs' methane (climate) and ammonia (air pollution) or nitrates (drinking water pollution) or algae bloom problem. The end result is a significant regulatory backtracking compared to the 2010 situation:

Since 1996 (under the framework of Directive 1996/61/EC¹²), intensive pigs >2000 and sows >750 as well as >40.000 poultry (Annex I Section 6.6) rearing were regulated through a full permit regime. The current IED (of 2010)¹³ confirmed the thresholds and strengthened certain aspects in relation to permit conditions, reporting, access to justice and information as well as monitoring requirements (see its Chapter II). Operators were due to comply with the BAT-Conclusions for Intensive rearing of Pigs and Poultry¹⁴ by latest 21/02/2021. No single opposing view was expressed by the industry associations involved, which is very atypical but good indicator of weak ambition (see the 2017 IRPP BREF¹⁵, search page 812). The changes in scope relate mainly to pigs and poultry (see table below).

DANGER ZONE

The new IED would however constitute a regulatory backtracking on those Annex I Section 6.6 activities, because the Chapter II IED provisions would no longer apply, namely the following:

- No more full permit regime with strong public participation, access to justice and reporting requirements – this may constitute a serious infringement to the Aarhus Convention provisions;
- the possibility to have a notification system (Art 4)
- No more clear measures and standards to apply (IRPP BREF in a legal vacuum)
- No more minimal soil (10years) and groundwater (5years) monitoring obligations – Art 8
- No more baseline report – Art 13
- No more minimal inspections (every 3 years) – Art 23

For many new features of the revised IED, the livestock sector got full exemptions, e.g:

¹¹ [IED revision HIA report \(eeb.org\)](#)

¹² [Directive - 96/61 - EN - EUR-Lex \(europa.eu\)](#)

¹³ [Directive - 2010/75 - EN - EUR-Lex \(europa.eu\)](#)

¹⁴ [EUR-Lex - 02017D0302-20170221 - EN - EUR-Lex \(europa.eu\)](#)

¹⁵ [Best Available Techniques \(BAT\) Reference Document for the Intensive Rearing of Poultry or Pigs - Industrial Emissions Directive 2010/75/EU \(Integrated Pollution Prevention and Control\) \(europa.eu\)](#)

- No need to elaborate an environmental management system (new Art 14a),
- No requirement to elaborate a Transformation Plan (new Art14f)
- No more strict BAT enforcement and monitoring provisions (new Art 15.3).

Further to that:

- No more cattle inclusion - which was intended to be covered as from 150LSU in the initial proposal, as the trade-off for all this deregulation and backtracking on pigs and poultry.
- A fast track 'tick box approach' light touch permit/registration regime for all pigs and poultry with a slight theoretical broader cover compared to the 1996 situation, but with thresholds far higher than already in place in Member States, incl. France that invented this light touch regime back in 2013, called "Enregistrement" will be generalised at the EU level. It is useful to compare the scope coverage with the current French system

Animal species (LSU factors)	Threshold France since 2013!	Threshold revised IED	Threshold IPPC 1996	Difference revised IED compared to French (2013) situation Red means weakening
Pigs >30kg (0,3)	450 [1]	1167 but with exclusion*	2000	-717 no extensive regime derogation
Piglets <20kg (0,027)	2 250 [1]	12 963 but with exclusion*	2000	-10 713 no extensive regime derogation
Sows (0,5)	150 [1]	700 but with exclusion*	750	-550 no extensive regime derogation
Poultry	[2]	(280LSU)	40 000	
-laying hens (0,014)	30 000	(300 LSU) = 21 428	40 000	+ 8 571
-Broilers (0,007)	35 294- 40 000	40. 00	40 000	-4706 (coquelets=cockerel), status quo broilers
-Turkeys (0,03)	8 571 / 10 000 / 13 636 [3]	9 333	40. 00	-762 + 4 333 ("light" turkey)
-Ducks (0,01)	15 000– 30 000 [3]	28 000	4 0000	-13 000 +2 000 only Anas Platyrhynchos
-Geese (0,02)	10 000 [3]	14 000	40 000	-4 000
-Ostriches (0,35)	1 [3]	800	40 000	
-other Poultry (fowls / quails etc) (0,001)	240 000	280 000	40 000	-40 000
-mixed with laying hens	Aggregation rule	280LSU with 0,93 as a "weighing factor for laying hens"		no extensive regime derogation
Mixed Pigs and hens	Aggregation rule	380 LSU with exclusion pigs for extended farming + organic		no extensive regime derogation

* **Exclusions for a) organic farming and/or b) 'extensive production' (2LSU/ha feed equivalent)** . [1] [Rubrique ICPE 2102, Arrêté du 27/12/2013](#) [2] [Rubrique ICPE 2111, Arrêté du 27/12/2013](#)

[3] *The French system differentiates ducks: only the Anas platyrhynchos ('canard colvert') threshold is 30.000, all other ducks (fattening, to roast, reproducers threshold is 15 000. For Turkeys there are 3 classes: "light"= 13 636, "medium" = 10 000, "heavy"= 8 571. Other webbed footpoultry = "palmipède" poultry that are fattened have a threshold as of 4 285.*

For ostriches but also other species like *Dromaius novaehollandiae* and *Rhea americana* rules apply as from 1 animal (see notably Arrêté 02/04/2001 [here](#))

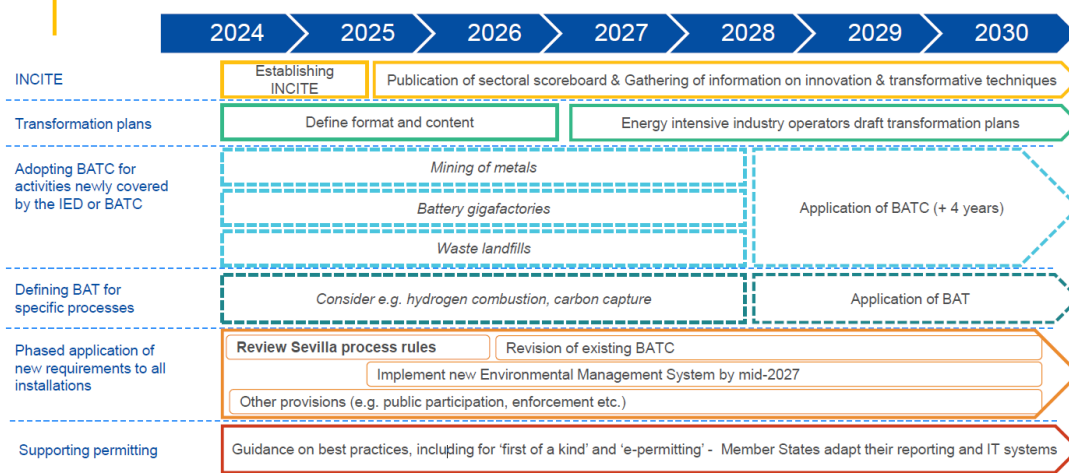
Proposed action:

- ✓ Real impact will depend on whether Member states will follow the regulatory backtracking at national level, despite the commonly applied “non regression principle” in human health and environmental protection rules;
- ✓ Shaping the upcoming “operating rules”, which will follow a Sevilla Process bis procedure, will be key. We expect the industry and pro livestock like-minded member states delegates to keep protection ambition as low as possible. From NGOs perspective, we regard the EMAS reference standard for agriculture¹⁶ as a useful starting point. A positive element is that those operating rules must be ‘consistent with Annex III’ (the BAT determination criteria), which explicitly mention decarbonisation and biodiversity protection. This is a very useful new element for the livestock sector.

Next steps / overview

If timeline goes as planned the revised IED should be published in the OJEU by May 2024, meaning its entry into force in June 2024. Member States would have to transpose the new requirements in 22 months from entry into force, pointing to April 2026. Other key dates are set out in the below overview based on that assumption.

Materialising the 2030 transformational agenda



¹⁶ [The reference document for the agriculture sector | Product Bureau \(europa.eu\)](#)

Regulation establishing the Industrial Emissions Portal: main outcomes of the review

Background

As aforementioned, the co-legislators further agreed to the so-called 'Portal Regulation', revising the E-PRTR Regulation, which aims to enhance public access to information related to industrial emissions and facilitate public participation in environmental decision-making.

The main shortcomings of the current framework are as follows: the current Portal does not allow EU-wide benchmarking of the environmental performance of industrial activities covered by the IED (performance data is provided in different format, in tonnes per site and year in the Portal, whilst pollution prevention standards under the EU BREF benchmarks are mostly expressed in concentrations), permit conditions in force nor compliance information are not directly integrated, making data not comparable at Union level for similar activities in a few clicks. Data related to inputs (e.g., water and energy consumption) is not made available. Information is not put in context: it is difficult for citizens to understand the scale of pollution and health and hazard relevance to which they might be exposed, but, more importantly, it is not clear whether the operators and permit writers have taken best of the efforts to act on pollution prevention and reduction at source. Putting the performance data into context would also enable to provide for a more accurate picture of the good performers, thereby levelling the environmental playing field and making data more useful for various users.

These findings equally apply to the overall very poor national systems in place to make data available in more user-friendly manner, see notably the following EEB briefing¹⁷ (2020) on the Industrial Plant Data Viewer.

The core of our asks is about making better use of current reporting requirements, improving knowledge sharing on pollution prevention efforts taken by both operators and enforcement authorities and improve public accountability. These include the following elements:

- Mandatory reporting on consumption (use of water, energy and raw materials)

¹⁷ <https://eeb.org/library/industrial-plants-data-viewer-background-briefing/>

- Electronic reporting and direct integration in the Portal of IED relevant information such as permit conditions in force, annual compliance data;
- Reporting of other contextual information such as BAT compliance uptake, operating hours, production volumes, other performance information contained in EMS e.g. carbon intensity
- Extension of pollutants and removal of reporting thresholds
- Reporting of the EU waste codes (dis-aggregated).

Positive outcomes and opportunities

Mandatory reporting on inputs (energy, water and 'key' raw materials)

A key shortcoming of existing Portal is that there is no data around resource consumption at installation level directly available, finally this will change (subject to mandatory reporting).

Further to that in the EU-BREFs there is a quasi-absence of meaningful standards as to resource efficiency optimisations, whilst this is a clear requirement from the Directive (see Annex III but also Art. 13.2 point a) unchanged, *see point 10 of IED Section I of this briefing*.

The EU ETS optional nature of energy standards is rather used as an excuse (by industry and complacent Member States) for ignoring those standards. It is a standard BAT conclusion (mandatory) of more recent BREFs that the operator must report, on an annual basis, the consumption of energy, water and materials (relevant to the sector). However, many industry associations (a few rare exceptions exist) always regarded those data as 'confidential business information'. Data sharing hence was very vulnerable to the good will of industry and Member States. The Portal Regulation confirms that the reporting of inputs such as energy, water and other 'key materials' is mandatory and that it should be part of the Portal content, this is good news since it will allow benchmarking of operators on the inputs side, once data is available. There was a lot of discussion around what materials would be relevant, the compromise was to refer to key materials (other than energy and water) which would be identified as relevant in the sector BREF documents and will be defined in future Commission implementing rules.

Mandatory reporting on production volumes, operating hours and other 'contextual information'

Despite opposition from industry, the reporting on production volumes and operating hours will be mandatory for all installations. There was a 'voluntary' obligation so far on the production volumes and this is kicking in for 2023 already, based on the COM implementing rules 2022/142¹⁸ of 31 January 2022. Considering that the IED is extending the scope to

¹⁸ [Implementing decision - 2022/142 - EN - EUR-Lex \(europa.eu\)](#)

other activities e.g. iron ore mining (3a PRTR + new Annex I entry on the IED), this means that the reporting will be extended to those activities as well.

Positive changes will also come through the improvements made in the IED, notably its Art. 72 which lists the items to be reported by Member States to the European Commission, and hence constitute 'contextual information' and hence to be integrated in the Portal (recital 16 of the Portal, so called mirror clause).

For operating hours, this was 'optional' in the past, even though this is a standard requirement of information available for any monitoring obligations.

Information items listed in Art 24 (IED) also should be available on a webpage which is easy to find" (for the EEB it should all be streamlined and made available through the EEA Portal so everyone knows where to find all the data in one place). The current reporting interface is based on the COM implementing rules 2018/1135¹⁹ of 10 August 2018, which will have to be updated. Some examples of mandatory elements are

- a) the "consolidated permit conditions" (IED Art 24);
- b) the "deep transformation" implementation (IED Art 27e , para 2);
- c) representative data on emissions and other forms of pollution, on emission limit values, on the application of best available techniques in accordance with Articles 14 and 15, in particular on the granting of exemptions in accordance with Article 15(4). This means that EMS related reporting coming via the revised IED shall be also part of data integration (new IED Art 14a and following)
- d) other "information allowing contextualisation of the data " (Portal Regulation Art 5(1) e)
- e) "relevant" raw materials (Art 5(1) point d), defined as *used in the production process and have significant effect or impact on the environment*. What is considered relevant should be identified in the EU BREFs. The COM will set up the list following consultation with stakeholders, incl. NGOs (recital 13a).

Integration in the Portal should be done by the EEA within 1 months after they received the data (Art 6(2) and Art 9).

Proposed action:

- ✓ NGOs to clarify what is to be meant with "user friendly". The Portal needs to allow "electronic means of extraction of data including query-based datasets" (this was an important demand of the EEB).

¹⁹ [Implementing decision - 2018/1135 - EN - EUR-Lex \(europa.eu\)](#)

Zero reporting threshold for specific substances / 90% capture rate

In the upcoming 2026 fast track review relating to the list of pollutants and the thresholds in place, the Regulation provides that for substances displaying a particularly high hazard to the environment or human health there should not be any reporting threshold. Further there is a goal to capturing at least 90% of releases of each pollutant to air, water and land, it is irrelevant on whether this is from diffuse or channelled sources. Whilst one may argue that it is not a good idea to add (or remove) pollutants or adapt thresholds without the involvement of European Parliament (elected MEPs), my personal view is however (based on the bad 2022-2023 IED co-decision experience indicating that MEPs are in majority acting in the interest of EU industry and in particular the intensive livestock 'farmers' / companies, not the wider public interest) it is rather advisable they do not interfere negatively in this process and stay out of this. There is a minimal list of pollutants to consider, which should be "automatically" transferred to the Annex I of the Portal Regulation and which refer to pollutants identified in other EU environmental acquis. Those are listed in Art 14(2). Overall, the proposal is quite weak in relation to the substances of very high concern (See Negative points) but other water protection, air quality protection relevant or otherwise restricted pollutants will get automatically listed, which will make this quite a list of additional substance entries.

Proposed action:

- ✓ Stakeholders to get involved in the review of pollutants listing and removing reporting thresholds.

Reporting is to be made at installation level and using the 'best available information' and slight scope extension

Currently the reporting is aggregated at facility level, this is unhelpful. With the future rules the data must be provided in non-aggregated forms and be reported at installation level (see recital 10). This was opposed by some Member States and their industry friends, admin burden was the main argument.

This also connects to the waste transfer reporting, which shall also indicate the codes as to recovery or disposal. The thresholds triggering the reporting are aggregated at facility level (2t/year hazardous waste, 2000tonnes/yr non-hazardous wastes). The EEB asked to also oblige the reporting by separate streams and coding with all EU waste codes, this unfortunately did not make it.

There is also an obligation on operators to make use of the "best available information" when reporting (Art 5(3)). In our view this is meant to mean most accurate and state of the art measurement devices (continuous emissions monitoring systems), not by calculation or estimation.

However a derogation is offered if not "*technologically and economically viable*". The word AND is very important, both must be answered by a negative. Even if they go for those methods, they still need to be internationally approved methods.

As indicated previously, all new IED activities will be automatically covered in the Portal Regulation scope, this will mean that further steel and cement related activities e.g. iron ore mining will be

included with the further reporting (and hence monitoring) that comes with it. For cement related activities e.g. quarries to produce chalk, limestone etc containing calcium carbonate, the inclusion will depend as to the size of the quarries (extractive operations area is >25ha). The reporting thresholds for underground mining and related operations have been removed. The threshold for combustion plants has been reduced to 20MWth (EEB asked to reduce down to 1MWth). Hydrogen production through electrolysis will only be covered if of “industrial scale”. It is assumed that the high IED threshold (50t/day H2 production capacity) will be used in analogy.

Negative outcomes and damage control actions

The Swedish and Spanish Presidencies of the Council have failed in providing for effective and early participation of the public in the elaboration of amendment to the review of the E-PRTR, despite legal requirements to the contrary. Furthermore, process-aside, on substance there is quite a lot of missed ambition, mainly due to resistance from the governments of France and Germany, on the following:

- the Portal is not made fit for purpose of benchmarking with BAT uptake and compliance promotion, much will depend on implementing acts and follow up work initiated by the Commission;
- the review of pollutants did not add any further pollutants except PFOA and PFOS, whilst the European Parliament proposed the total PFAS group;
- the link to the substances of very high concern based on their properties alone were not added, the reference to the Annex XIV Authorisation list has just 50 entries (this is based on weak starting point of the Commission proposal), whilst the [candidate list SVHC referred to in Art 59\(1\) of REACH has >474 entries](#). There will be a fast-track procedure to list further substances through comitology; the EEB is observer to the expert group and will input to this process. Similarly, arbitrary relevance thresholds for reporting pollutants to the Portal, set almost two decades ago, have been kept (but will be reviewed in (2026));
- no meaningful reporting obligations on environmental footprint of the products phase, despite being covered under the “diffuse sources” obligation under the Protocol, the reporting will be carried out via separate products legislation e.g. CPR, ESPR and the digital product passport;
- the obligation to report on the accidents track record and number of employees got removed;
- all Member States also delayed the compliance / transposition deadline by 2 years.

Proposed action:

- ✓ the information reported via the IED (notably listed in its Art 72), its type, format and frequency will be subject to a further implementing decision (2 years after entry into force) at the very latest, our objective is to ensure finally a proper integration of performance data information put in proper context so to allow benchmarking (of operators and permit writers) as well as supporting information exchange on pollution prevention actions. Since the work is mainly initiated by the Commission and needs Member States backup, we need to do be more pro-active on Member States to support our ideas, these would notably focus on the following:

- ensure that the information generated via the E-permit system will enable compatibility of permit conditions in a few clicks;
 - ensure that the information generated via the E-permit system, notably the annual compliance report (referred to in Article 14 of the IED) to be directly imported to the Portal in electronic format so to enable compliance checks with permit conditions in a few clicks;
 - Ensure that production volumes and consumption data at installation level is either made publicly available or at least accessible to NGO stakeholder groups;
 - Clarify the meaning of “contextual information” e.g. put in same format as BAT-C;
 - Ensure the list of “relevant” raw materials is complete and exhaustive during the COM implementing rules and via the BAT-C reviews of sector BREFs (by 2026).
- ✓ Ensuring access to production volume and consumption data will enable us to benchmark each installation of a steel site / cement kilns (and hence the companies that own them) on key performance indicators such as CO2 intensity / tonne of product output (pollution intensity factors). This should also work for consumption of “key materials”, water and energy.
 - ✓ Ensure the above-mentioned demands make its way through the regional level UNECE PRTR protocol review. So far the EU and its countries have slowed down any progress on that front.