

23 June 2022, Brussels

## **FEAD feedback to the Revision of the Industrial Emissions Directive (IED 2.0)**

**FEAD**, the European Waste Management Association, representing the private waste and resource management industry across Europe, **is fully committed to the objectives of the European Green Deal and the Circular Economy Action Plan as essential tools for providing the adequate stimuli to our economy while pushing forward EU Climate goals through the circular economy.**

FEAD clearly understands the need to further improve aspects that have not brought the expected results over the years. On the other hand, one cannot hide concerns about the problems that may occur with the amendment of certain aspects of the Industrial Emissions Directive.

**FEAD is particularly concerned that some new measures would be counterproductive and there may be even longer and more complicated authorisation procedures that could create uncertainties for future investments and business developments. It should also be noted that the forthcoming revision of further legislation in the waste sector could lead to over-regulation with the risk of inconsistencies.**

In relation to the Commission's adoption on the revision of the IED, FEAD notes the following:

### **1. Need for flexibility, that should be duly assessed by competent authorities**

The Commission intends to tighten rules under **Article 15-3** and states that competent authorities should set the emission limit values (ELVs) at the lowest end of the relevant BAT-AEL range, unless the operator demonstrates that applying BAT as described in BAT conclusions only allows meeting less strict ELVs.

FEAD welcomes the general aim of better implementation of the IED and reducing discrepancies between Member States, but potential cross-media effects should be taken into account by the competent authority when setting emission limits.

Moreover, BAT-AEL ranges are designed to represent different activities within the same sector. Each activity has its own process and technology, and each works differently, also with regard to emissions.

**The proposal of "automatically" applying the strictest possible emission limit values, with the current BREFs, can be very penalizing and often counterproductive. Focusing solely on the lowest limits on BAT-AELs could lead to unintended spill over effects:**

- Increase of reagents consumption,
- Increase of energy consumption,
- Increase of water consumption,
- Increase of residues from abatement systems.

Cross-effects should be carefully taken into account. It is fair to point out that there could be several types of pollutants in industrial emissions and, in all cases, it would not be possible to comply with the lowest limit values for each of them, as they are often interrelated and **the drastic reduction of one could have an opposite effect on another** (for example the abatement of nitrogen oxides Vs that of ammonia).

The integrated approach (i.e. ensuring that the global environmental performance of the facility is taken into account) was at the core of the original IPPC Directive and should be maintained as it takes into account several crucial parameters depending on the local context. For effective pollution control, ELVs should not be considered as a right to pollute but as a maximum level to be achieved under normal operating conditions, which implies that a given installation generally emits less than the ELVs included in its permit.

It is therefore expected that all operators in the waste management sector will be forced to draw up a feasibility assessment to be submitted to the competent authorities. Considering the enormous workload that already characterises the authorities, **the greatest concern is about slowdowns and further delays in the authorisation process**. We are well aware that **time is of the essence in the business model, in investment planning and, last but not least, in the implementation of European policies to achieve the goals of the Green Deal**.

**FEAD calls for the possibility of respecting a range of limit values, ensuring the right flexibility to optimise emissions.**

Moreover, the Commission aims at making information on performance better accessible to environmental NGOs (**Art. 24**). FEAD is concerned that representatives of industry associations will not have access to the same level of information as environmental NGOs, and on the right of taking legal action against the approval of new waste treatment plants. An even greater delay in the approval process would further hinder the implementation of the Green Deal and climate protection.

## **2. Environmental performance should not be binding**

A novelty of the revision of IED is that environmental performance limit values would become binding (**Art. 15-3a**), even though now this BAT is considered a performance TYPE BAT.

The application of mandatory limits for aspects that concern the performance of the plants (excluding emissions), could potentially be a problem as these are often specific characteristics of the different types of installations.

**This proposal would also contradict what is stated in Art. 15-3:** lowering the emission limit values (ELVs) at the lowest level of the relevant BAT-AEL range, would certainly involve more energy consumption and it would make it impossible to comply with both proposals at the same time.

FEAD believes that environmental performance limit values should not be binding because the scope of IED is to regulate the emissions, since the requirements on environmental performance are already sufficiently regulated by other legislative acts. **This proposal interferes with the objective of the Directive and would oblige installations to provide for structural changes that cannot happen overnight.**

## **3. Innovation for the waste management is intrinsic**

Emerging technologies and innovative processes need time to be defined, and then further time to gather necessary data for proper assessment. The Commission states that the competent authority may grant a fixed limited time of maximum 24 months of derogations for the testing of emerging techniques (**Art. 27b**).

**FEAD believes that it is very important that the 24-month testing period should start from the beginning of testing period, after commissioning, and not from the date permit is issued.**

Transformation plans at company-level have the potential to foster innovation dynamics for the industrial transition on all European Green Deal policies. Unfortunately, the Commission's proposal (**Art. 27d, paragraph 2**) requiring a transformation plan for each installation carrying out any activity listed in Annex I that is not referred to in paragraph 1 (for example waste management), could lead to fragmented and misleading information.

The waste management industry is constantly evolving and innovating because the waste to be treated tomorrow is not the same as the waste being treated today. It is also often difficult to know what the waste of the future will be and what the requirements of the regulatory framework will be.

Considering all this, FEAD believes that the waste management sector is not suitable for the purpose of Article 27d and that the production of the transformation plan would result in a fruitless consumption of time and money.

#### **4. No need of double regulation**

Although landfills are included within the scope of Directive 2010/75/EU, no BAT conclusions exist for landfills since that activity falls within the scope of Directive 1999/31/EC and the requirements of the latter Directive are deemed to constitute a BAT. The Commission's proposal is to adopt BAT conclusions under Directive 2010/75/EU because it would allow addressing the key environmental issues related to the operation of waste landfills, including emissions of methane.

Considering that the Commission has already indicated that the Landfill Directive will be updated in 2024, **FEAD deems it is more effective to adopt BAT conclusions when updating the Landfill-Directive instead of going into a Seville-Process.**

As far as EU ETS and IED are concerned, both texts should continue co-exist, as they are based on a different regulatory philosophy (market instrument vs ELV based permits) FEAD does not support the Commission's proposal to delete Art. 9-2 because it would represent an unnecessary duplication of regulation. Energy efficiency requirements shall remain optional because this deletion would lead to contradictions with the requirements of the ETS and the transformation to climate neutrality.

#### **5. The importance of a level playing field**

Amendments to Article 42(1) further clarify how to assess whether the cleaned gases or liquids resulting from gasification and pyrolysis of waste are sufficiently purified to be combusted without stricter controls than those applying to clean commercial fuels.

Considering that the input for gasification and pyrolysis plants is still waste, and that nitrogen oxides, sulphur oxides and dust have a deep impact on air quality, **FEAD believes that there should be a level playing field with incineration and co-incineration plants.** Therefore, the emissions of nitrogen oxides, sulphur oxides and dust from gasification and pyrolysis plants should not be higher than the emissions from incineration and co-incineration plants.

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