EUROMOT

The European Association of Internal Combustion Engine and Alternative Powertrain Manufacturers

EUROMOT POSITION

Amendments to a Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on industrial emissions (integrated pollution prevention and control) - 2022/0104(COD)

3rd of February 2023

1. General

In this document feedback on the European Commission proposal /1/ on IED is given.

2. Amendment Proposal

Text proposal by the Commission	EUROMOT proposal for amendment
Recital 15	**Recital 15**
Providing a high level of protection of human health and the environment as a whole requires inter alia the establishment in permits of emission limit values at a level that ensures compliance with the applicable emission levels associated with the best available techniques set out in the BAT conclusions. Emission levels associated with the best available techniques (BAT-AELs) are usually expressed as ranges, rather than as single values, to reflect the differences within a given type of installations that result in variations in the environmental performances achieved when applying BAT. For example, a given BAT will not	Providing a high level of protection of human health and the environment as a whole requires inter alia the establishment in permits of emission limit values at a level that ensures compliance with the applicable emission levels associated with the best available techniques set out in the BAT conclusions. Emission levels associated with the best available techniques (BAT-AELs) are usually expressed as ranges, rather than as single values, to reflect the differences within a given type of installations that result in variations in the environmental performances achieved when applying BAT. For example, a given BAT will not

deliver the same performance for different installations, some BATs may not be suitable for use in certain installations, or a combination of BATs may be more effective on some pollutants or environmental media than others. The achievement of a high level of protection of human health and the environment as a whole has been jeopardised by the practice of setting emission limit values at the laxest end of the range of emission levels associated with the best available techniques, without considering the potential of a given installation to achieve lower emission levels through the application of best available techniques. Such practice discourages frontrunners from implementing more effective techniques, and hinders the achievement of a level-playing field at a high level of protection of human health and the environment. Competent authorities should therefore be required to set in permits the ***lowest*** possible emission limit values which reflect the ***performance of BAT*** for the specific installations, taking into consideration the whole range of BATAELs and aiming at the best environmental performance possible for the installations; unless the operator demonstrates that applying best available techniques as described in the BAT conclusions only allows the concerned installation to meeting less strict emission limit values	deliver the same performance for different installations, some BATs may not be suitable for use in certain installations, or a combination of BATs may be more effective on some pollutants or environmental media than others. The achievement of a high level of protection of human health and the environment as a whole has been jeopardised by the practice of setting emission limit values at the laxest end of the range of emission levels associated with the best available techniques, without considering the potential of a given installation to achieve lower emission levels through the application of best available techniques. Such practice discourages frontrunners from implementing more effective techniques, and hinders the achievement of a level-playing field at a high level of protection of human health and the environment. Competent authorities should therefore be required to set in permits the possible emission limit values which reflect the ***BAT-AEL range*** for the specific installations, taking into consideration the whole range of BAT-AELs and aiming at the best environmental performance possible for the installations; unless the operator demonstrates that applying best available techniques as described in the BAT conclusions only allows the concerned installation to meeting less strict emission limit values.
Text proposal by the Commission	**EUROMOT proposal for amendment**
Article 15 – paragraph 3 The competent authority shall set ***the strictest possible*** emission limit values ***that are consistent with the lowest emissions achievable by applying BAT in the installation, and*** that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques (BAT-AELs) as laid down in the decisions on BAT conclusions referred to in Article 13(5). ***The emission limit values shall be based on an assessment by the operator analysing the feasibility of meeting the strictest end of the BAT-AEL range and demonstrating the best performance the***	**Article 15 – paragraph 3** The competent authority shall set emission limit values that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the best available techniques (BAT-AELs) as laid down in the decisions on BAT conclusions referred to in Article 13(5).

installation can achieve by applying BAT as described in BAT conclusions.	
The emission limit values shall be set through either of the following:	The emission limit values shall be set through either of the following:
(a) setting emission limit values expressed for the same or shorter periods of time and under the same reference conditions as the emission levels associated with the best available techniques; or	(a) setting emission limit values ***that do not exceed the emission levels associated with the best available techniques. Those emission limit values shall be*** expressed for the same or shorter periods of time and under the same reference conditions as the emission levels associated with the best available techniques; or
(b) setting different emission limit values than those referred to under point (a) in terms of values, periods of time and reference conditions.	(b) setting different emission limit values than those referred to under point (a) in terms of values, periods of time and reference conditions.
Where the emission limit values are set in accordance with point (b), the competent authority shall, at least annually, assess the results of emission monitoring in order to ensure that emissions under normal operating conditions have not exceeded the emission levels associated with the best available techniques.	Where the emission limit values are set in accordance with point (b), the competent authority shall, at least annually, assess the results of emission monitoring in order to ensure that emissions under normal operating conditions have not exceeded the emission levels associated with the best available techniques.

Justification for abovementioned amendment

The default limit proposal with the strictest possible BAT-AEL level will be very challenging to implement and will also *undermine the flexibility principle* which is a key and fundamental pillar of the IED[2A].

*It is important to note that the lower ends of BAT-AEL ranges were often verified with data from **very** few plants, in some cases **from only one plant** and for a single or a few pollutants rather than all pollutants.* It might be technically impossible for a single facility to achieve the strictest (lowest) BAT-AEL for each pollutant due to different techniques **or increased** energy/reagent use. I.e. the integrated approach – *principle of protecting the environment as a whole* - a fundament of the original IPPC Directive[2B] and fundamental pillar of IED[2A] might get violated. See ANNEX 1 of this paper for further information.

It is not defined which kind of proof an operator has to provide to be able to justify an ELV different from the strictest/lowest BAT-AEL threshold level. Restricting the default value in the permitting process to the strictest BREF threshold level might therefore cause a **complete paralysis** (due to proposed revision of Article 25(1)) of the authorities to issue permits, appeal bodies and court, due to the possibility by an entity to appeal against issued decisions.

Competent authorities thus to be able to define the ELVs within the whole BAT-AELs range.

See EUROMOT Position Paper /3/ for additional information.

3. Sources

/1/ Revision proposal of IED 2020/75/EU, 5th April 2022, at web: https://eur-lex.europa.eu/resource.html?uri=cellar:32d55555-c550-11ec-b6f4-01aa75ed71a1.0001.03/DOC_1&format=PDF

/2A/ "Industrial Emissions Directive" (IED) at web: https://ec.europa.eu/environment/industry/stationary/ied/legislation.htm

/2B/ "Summary of Directive 2008/1/EC concerning integrated pollution prevention and control (the IPPC Directive) " at web https://ec.europa.eu/environment/archives/air/stationary/ippc/summary.htm

/3/ EUROMOT Position Paper " IED revision Commission Proposal April 2022", 4th of October 2022 at web https://www.euromot.eu/wp-content/uploads/2022/11/2022_0104COD-IED-Revision-EUROMOT-Position-2022-10-28.pdf

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ANNEX 1: Pillars of IED and IPPC

Quote: “The *IED* is *based on several pillars*, in particular (1) an integrated approach, (2) use of best available techniques, (3) flexibility, (4) inspections and (5) public participation.” /1A/

The *IPPC Directive is based on several principles*, namely (1) *an integrated approach*, (2) best available techniques, (3) *flexibility* and (4) public participation. /1B/

1. The ***integrated approach*** means that the permits *must take into account the whole environmental performance of the plant, covering e.g. emissions to air, water and land, generation of waste, use of raw materials, energy efficiency, noise, prevention of accidents, and restoration of the site upon closure.* The purpose of the Directive is to ensure a high level of protection of the environment taken as a whole.
2. The permit conditions including emission limit values (ELVs) must be based on ***Best Available Techniques* (*BAT*)** , …
3. The IPPC Directive contains elements of ***flexibility*** by allowing the licensing authorities, in determining permit conditions, to take into account:

   (a) the technical characteristics of the installation,
   (b) its geographical location; and
   (c) the local environmental conditions

THIS IS EUROMOT

Founded in 1991, EUROMOT is the European association of internal combustion engine and alternative powertrain manufacturers. Representing the key global manufacturers for over 30 years, we provide an invaluable centre of expertise for businesses, authorities, regulators and public stakeholders worldwide. We are the industry's united voice to drive smart and gold standard global regulations for sustainable mobile machinery and stationary applications, helping the manufacturers shape innovations and markets for the future.

With an ecosystem of working groups spanning current and future power and mobility systems, we facilitate cross-fertilisation of innovation across industries. EUROMOT provides an essential gateway to the EU Single Market and forms a bridge for the transition from traditional to alternative energy and advanced powertrains.

Since our foundation, we have been facilitating ever increasing environmentally friendly and sustainable products as well as the decarbonization of our sector and its transition to low/zero-carbon emissions and renewable energy. With a membership encompassing all major ICE and alternative powertrain manufacturers and well-established connections to regulators, EUROMOT is uniquely positioned to decarbonise entire industries from agriculture to construction and from land-based to marine alongside stationary power for heat and electricity.

Headquartered in Brussels, EUROMOT is a European interest group, and our profile is registered in the EU Transparency Register under the identification number 6284937371-73. We have been granted consultative status at the United Nations IMO (International Maritime Organization, London) and United Nations ECE (Economic Commission for Europe - Geneva) and other relevant stakeholders.

OUR MEMBERS

30 YEARS 1991-2021

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EU Transparency Register Id. No. 6284937371-73

A Non-Governmental Organisation in consultative status with the UN Economic Commission for Europe (UNECE) and the UN International Maritime Organisation (IMO)

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