

BASF Position on the Revision of the Industrial Emission Directive (IED)

Key messages

- ✦ The Commission revises the Industrial Emissions Directive to make progress towards their “Zero Pollution Ambition”. The IED is highly relevant for BASF because it constitutes the legal basis for our license to operate a large share of our plants in the EU.
- ✦ The revised directive should facilitate a swift industry transition towards achieving the Green Deal objectives. Instead, it introduces largely non-enforceable rules for obtaining operating permits along with disputable derogation mechanisms. As a result, the revision will delay permitting process in times, when legal reliability and swift permitting is needed.
- ✦ The revision of the IED and other legislative measures in the EU Green Deal should be prioritized based on the size of the problem they solve. Regulatory action should be sequenced accordingly.

About the topic

The IED regulates pollutant emissions from industrial plants and installations and applies for basically all activities in the chemicals industry as well as for other sectors such as energy production. The law affects the license to operate of most BASF plants. Currently, in the so-called Sevilla Process, the Commission determines the state of the art per sector regarding e.g. efficiency and reduction of emissions. The performance depends on the age and the characteristics of the individual plants. The Sevilla process also identifies top performing plants and processes as BAT (Best Available Technique, see glossary at the end). As a rule, with only few exceptions, competent authorities in the member states have to set emission limits to ensure that future emissions from all plants do not exceed BAT.

The Commission proposes a revision of the IED to help achieve the Green Deal’s climate, circular & zero pollution ambitions. Concretely, the Commission proposes the following:

- Stricter rules for emission reduction of pollutants other than greenhouse gases. The lowest achievable emission level will become the default legal requirement for all, rather than flexible BAT emission limit ranges.
- Exceptions become the rule: derogations may be provided if justified by the operator.
- Provide all members of the public with easier access to information contained in permit applications and to justice; this includes the obligation to make information available on the internet.
- As an action resulting from the Chemical Strategy for Sustainability, phase-out of Substances of very High Concern (SVHCs) in production by requiring operators to establish and execute self-committing “transformation plans” and chemical management systems with the objective of a substitution of these chemicals.
- Extend the current scope: more sectors, including the production of batteries, but also installations in the agricultural sector will fall under the scope of the directive.

The new approach to permitting adds a discretionary element to the granting of operating permits and increases the risk of legal contestation. As a result, the permitting process may be significantly delayed or even derailed at a time where fast and efficient permitting is crucial to ensure the transformation of the chemical industry.

What does BASF offer?

BASF operates highly efficient Verbund-sites. Over the last three decades, BASF has reduced emissions of pollutants other than greenhouse gases into the air or water by two thirds often by reducing emissions at source.

We are planning further major renewals and refurbishments of our plants driven by the objective to become climate neutral by 2050. These measures, for example exploring alternatives to the conventional cracker such as for example electrically heated furnaces, should have priority over revamping existing plants, which may be obsolete medium term.

BASF products help to reduce the emissions in many sectors such as through catalysts for cars or industrial catalysts for N₂O decomposition.

Our position

There is a significant risk that the revised directive will render continued operation of older production plants uneconomical at a time when they are still needed to generate the revenues for an agile double twin transition of the EU industry to achieve carbon neutrality and circular raw material use, digitalize production and innovate for safe and sustainable chemicals. Adding additional stumbling blocks to obtaining operating permits like risk of litigations will reduce the attractiveness of the EU as a dynamic environment for innovation, investments and future-proof industrial production.

BASF therefore calls for:

- Prioritizing of regulatory activities under the EU Green Deal and sequence them under the so-called Transition Pathway.
- Retain the current process to determine the Best Available Technique (BREF or “Sevilla” process), which has proven to reduce industrial emissions; and it will do so in the future. (See European Environment Agency: “The European Environment - State and Outlook 2020”).
- Minimizing the risk of permit repeals through legal clarity, for example retain the right for obtaining a permit under legally defined conditions and minimize the need for derogations.
- Swift and efficient permitting processes including digital tools and use of the internet, while protecting CBI and information relevant for plant security.
- Keep regulation of chemicals including SVHCs in industrial plants with REACH, the OSH framework and the Seveso Directive, which are fit for purpose. Often, substitution of SVHCs in chemical production will not be feasible as substances with high reactivity are required to build certain chemical molecules and it is this reactivity which is responsible for the classification of substances as SVHCs.
- Greenhouse Gas Emissions should remain regulated exclusively by ETS. We welcome that the IED revision has left the current provisions in place.
- Minimize administrative burden like the preparation of transformation plans, which have no benefit for the protection of human health and the environment.

Glossary

BAT	Best Available Technique, laid down in BREFs
BREF	BAT Reference Documents
CBI	Confidential business information; this may relate to economics (production volumes, capacities, resource and energy consumption, cost structure), science/engineering (production technologies, catalysts etc.) or security (spatial details on vulnerable equipment).
IED	Directive 2010/75/EU on Industrial Emissions: this directive is the basis for the permitting of industrial processes. Most BASF plants fall into the scope of the IED. Functioning: in the "Sevilla Process" a Best Available Technique (BAT, laid down in BAT Reference Documents/BREFs) in terms of emissions, pollution of water and soil etc. for a certain process category, e.g. steam crackers, is identified. All plants in this category have to achieve the BAT standard. Currently the standard is a range of values. Member states have to set emission limits and grant/monitor operating permits within this range.
SVHC	Substance of Very High Concern