

27 June 2023

Position paper on the Net Zero Industry Act

Executive summary

EPEE, as the voice of the refrigeration, air conditioning and heat pump industry in Europe (RACHP) welcomes the proposal from the Commission of a Net Zero Industry Act (NZIA) but would like to highlight a few points that need clarification.

While the NZIA includes heat pumps in the list of strategic net-zero technologies, there is a lack of definition that could undermine the variety of heat pump equipment and application, and a lack of clarity regarding several provisions of the proposal. Moreover, other ongoing legislative proposals and discussions are at risk of slowing down the roll-out of heat pumps, meaning that the provisions of the NZIA could be weakened. This is especially the case as the heat pump sector is covered by many EU legislations, such as the F-gas Regulation, the RePowerEU plan, the Ecodesign requirements, the PFAS dossier and the new Action plan on the acceleration of heat pumps. Any overlap must be carefully considered.

The participation of industry representatives in the Net Zero Industry Academies and the Net Zero Platform is key to ensure that on one hand, training programmes match with all types of equipment on the ground, and that on the other hand, all stakeholders are fairly represented.

Thus, EPEE would like to underline a few points that we think need to be addressed in this call.

- 1. NZIA should consider all types of heat pumps**
- 2. Legislative coherence is key for heat pumps deployment**
- 3. Net Zero Industry Academies have to include industry representatives**
- 4. Transparency and access to the Net Zero Platform**
- 5. Permit Granting Process & Net-Zero Strategic Projects:**
 - **GW manufacturing capacity**
 - **Net-Zero Strategic Project:**
- 6. Access to markets – Demand incentivisation measures**

Annex 1: The diversity of heat pumps

1. NZIA should consider all types of heat pumps

Recognising heat pumps as a strategic Net Zero technology is a great step, however more clarification is needed. The proposal does not include a precise definition of ‘heat pumps’, hence potentially missing the point that there is a variety of types of heat pumps and applications. EPEE represents manufacturers of all types: residential to commercial and industrial uses; air/ground/water source and air/water sinks (see Annex I); all of those equipment have to be considered as key technologies in the decarbonisation of the EU energy system. Moreover, the provisions of the NZIA need to consider the whole value chain, including components that are not covered by the draft Critical Raw Materials Act.

The definition of ‘heat pump’ should be consistent with existing ones¹:

A heat pump: meaning a machine, a device or an installation that transfers heat from a source such as the air, water or the ground, to sinks such as buildings or industrial applications, for the purpose of providing heating, cooling or domestic hot water.

2. Legislative coherence is key for heat pumps deployment

A comprehensive view is needed to ensure that the legislative framework is sufficiently supportive for the roll-out of heat pumps, as many ongoing policy files are interlinked.

Due to the possible upcoming prohibitions concerning the use of F-gases and PFAS Restriction, EPEE would like to highlight that important restrictions are expected on certain types of refrigerants. The NZIA need to be carefully considered in light of the potential upcoming prohibitions concerning the use of F-gases and PFAS Restriction. In fact, we are especially concerned that, due to potential restrictions in refrigerant choices, the production of heat pumps might not fulfil the European targets (such as reaching a manufacturing capacity of 31 GW in 2030) because not all heat pump solutions can be provided without F-gases.

The diversity of EU buildings requires a diversity of heat pump solutions, with both non-fluorinated and fluorinated refrigerants. Limiting the diversity in gas revision and the future possible REACH PFAS Restriction could push the end-user to turn towards other products serving also the heating and cooling purposes, such as fossil fuel-based heating systems or wood burning solutions that conflict with the EU biodiversity goals, or direct electric heaters that would be much less energy efficient.

Moreover, the current Ecodesign requirements revisions need to be assessed as well. Heat pumps are directly covered by Ecodesign and Energy Labelling provisions in this revision, in addition to being impacted by the refrigerants limitations. All in all, we do not believe an acceleration of heat pumps plan will be feasible with the current legislative uncertainty about full choice of refrigerants in the F-gas and PFAS dossiers which also conflicts with the Ecodesign requirements. This cannot be overlooked when establishing NZIA objectives.

¹ Referring here to the definition of the Energy Performance of Buildings Directive.

The effect of the potential ban of the use of F-gases in heat pumps on the skilled workforce also needs to be considered. Such a ban would require a considerable effort to retrain the existing workforce at the time when the sector is already facing skilled worker shortage.

We, therefore, urge the Commission to consider all these elements carefully. **The future of heat pumps depends on these interlinked legislative dossiers, and we currently observe an incoherence in the different initiatives from the EU Commission.** We believe there should be a legal consistency to ensure a long-term vision enabling the heat pump production and deployment to grow accordingly.

3. Net Zero Industry Academies have to include industry representatives

EPEE welcomes the consideration of training and upskilling within the framework of Net Zero Industry Academies, however, once again, those may overlap with the new Action Plan on the acceleration of heat pumps which will also covers skills. A harmonised approach must be discussed at EU level to ensure that training programmes are consistent.

The skills set regarding heat pumps should also be extended to building designers, to ensure that they are capable of exploiting the best of heat pumps at the design stage, directly helping the installers. It is key to develop further the heat pump skills set throughout the whole value chain, from professional installer to technical schools.

In order to double the deployment of heat pumps, it is important to strengthen training and installers' skills. While industry is mentioned as a stakeholder in those Academies, coordination with manufacturers and Member States is key to ensure **that training programmes match with all types of equipment on the ground.**

4. Transparency and access to the Net Zero Platform

EPEE welcomes the Net Zero Platform but would like more clarification on the scope of such a Platform, as well as a clear programme of the work of this Platform. The possibility of members to invite "experts and other third parties" is a positive step, but implies that the industry will not be involved on a regular basis. As the NZIA directly affects manufacturers, **industry representatives should be involved more clearly in the Platform as they can provide valuable input.**

Moreover, transparency regarding the meetings and propositions of this Platform is necessary to ensure that the expertise of all stakeholders is taken into account.

5. Permit Granting Process & Net-Zero Strategic Projects

GW manufacturing capacity:

Article 6 and Article 10 use manufacturing capacity in Gigawatts (GW) as the criteria for setting the thresholds for the maximum length of permit-granting processes; projects above and below 1 GW. These are under Article 6, 12 months for projects < 1 GW and 18 months for projects > 1 GW, and under Article 10, 9 months for projects < 1 GW and 12 months for projects > 1 GW. Provision is made for projects where manufacturing capacity is not measured in GW, however this is the longer of the two maximum lengths, respectively 18 months for Article 6 and 12 months for Article 10.

From the heat pump perspective, it is unclear how manufacturing capacity in GW is defined. It could be assumed that it refers to the produced GW of renewable energy that can be delivered by the manufactured products, i.e. the GW of energy from wind and solar products, and the produced GW of energy storage capacity, i.e. batteries. Heat pumps consume energy, but also deliver energy efficiency savings, both of which can be quantified in GW. An additional consideration is that heat pumps are considered a renewable technology under the Renewable Energy Directive (RED) which means that they 'produce'/take heat energy from the ambient. Given that projects with a manufacturing capacity < 1 GW benefit from shorter maximum permit-granting processes, respectively for Article 6 3 months shorter and Article 10 6 months shorter, than the default for projects where manufacturing capacity is not measured in GW it is important to clarify how heat pump manufacturing capacity will be treated.

Net-Zero Strategic Project:

Article 10 introduces the concept of 'Net-Zero Strategic Project' to establish priority projects, i.e. those that should benefit from even more special treatment than those that apply to all Net-Zero technologies in scope of the NZIA, which will benefit from even shorter maximum length of permit-granting process deadlines. In terms of the qualification for 'Net Zero Strategic Project' status differentiation is made between projects manufacturing components of parts in the net-zero technology value chain and projects manufacturing the final net-zero technology.

Projects manufacturing components will need to prove that the EU is heavily dependent on imports from a single third country for that component. How this heavy dependency will be determined and whether by the Commission or the Member States is unclear. The NZIA would benefit from a provision requiring the Commission to adopt guidance on this issue.

Irrespective of this lack of clarity EPEE's initial assessment is that it will be significantly easier for a component/part, i.e. a compressor, to gain 'Net-Zero Strategic Project' status than a final product, i.e. a heat pump. According to Article 10(1)(b) final net-zero technology products will need to achieve at least three of four criteria. This is likely to be prove challenging given that (ii) and (iv) are vague from a criteria/verification perspective and thus are open to the interpretation of the Member States. it would be beneficial if Article 10(1)(b)(ii) and (iv) were amended to include assessment/verification criteria to avoid diverging Member State interpretations. (ii) "improved sustainability and performance" should specify that this implies the manufacturing of products in the top two populated Classes of Performance (CoP) under EU legislation, i.e. energy labelling, as under the Sustainable Finance Taxonomy (SFTR) Technical Screening Criteria (TSC), or equivalent. For (iv) "adopts comprehensive low-carbon and circular manufacturing practices, including waste heat recovery" the verification could be via the implementation of an environmental management system, i.e. ISO 14001. Alternatively, the Commission could be required to issue an Implementing Act or guidance to support the implementation of Article 10(1)(b).

6. Access to markets – Demand incentivisation measures

Article 19 covers "sustainability and resilience" in public procurement. The award of contracts for Net-Zero technologies should be awarded according to the 'Most Economically Advantageous Tender' (MEAT), which must include consideration of the best price-quality ratio, covering sustainability and resilience contribution. Applicable sectoral legislation will apply where it is available. Currently the EU Green Public Procurement (GPP) criteria are voluntary and non-legislative thus they would not be required to be considered, and in any case, they do not comprehensively cover the net-zero technologies. In the future, the Ecodesign Regulation will enable the setting of GPP in the product-specific implementing regulations, however this harmonisation is unlikely to be realised before the end of the 2030s. Thus Article 19 is a potential source of Internal Market fragmentation, which in creating barriers to trade reduces the ability for OEMs to leverage economies of scale to deliver the transition to net-zero technologies cost effectively.

As such EPEE would welcome efforts to further safeguard the Internal Market in Article 19, particularly in the criteria listed under Article 19(2).

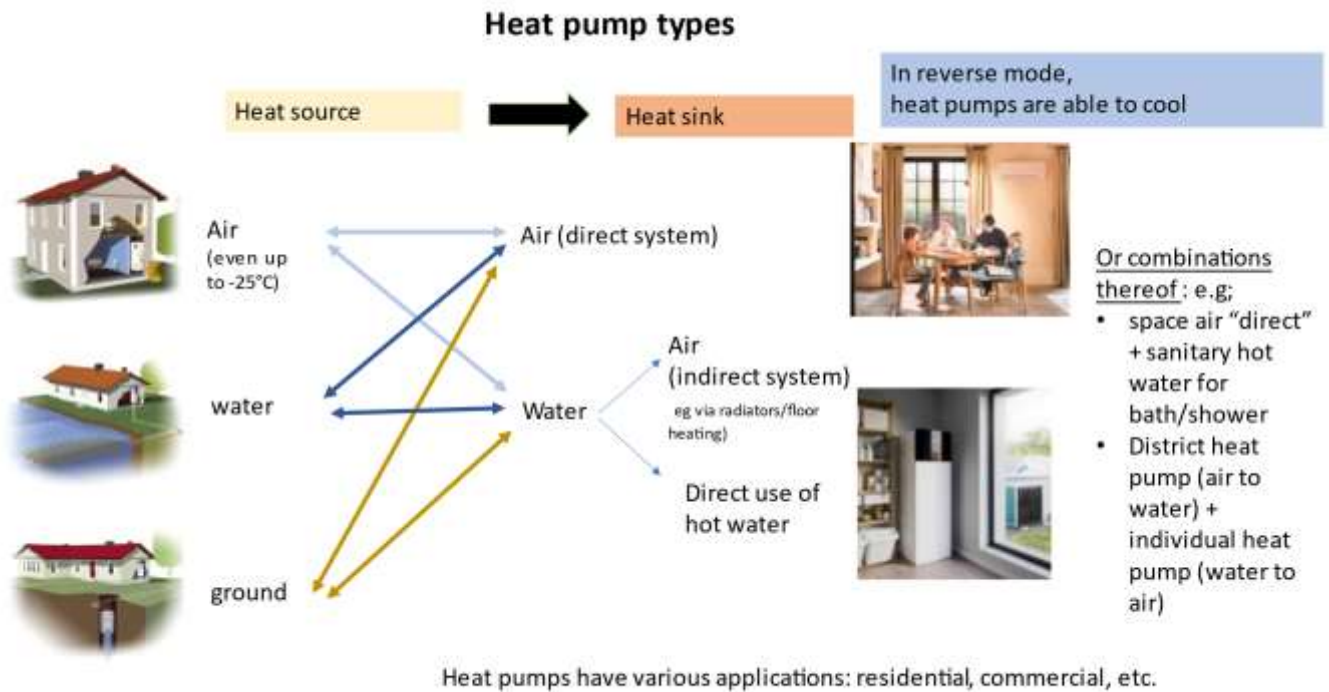
- Article 19(2)(a) "environmental sustainability going beyond the minimum requirements in applicable legislation" would benefit from a clear link to existing mechanisms to incentivise additional ambition at the EU level. For heat pumps this would be the

respective energy labels for ENER LOT 1 and ENER LOT 10, as well as relevant Sustainable Finance Taxonomy Regulation (SFTR) Technical Screening Criteria (TSC).

- Article 19(2)(c) “where applicable, the tender’s contribution to the energy system integration” from a heat pump perspective would also benefit from a clear link to an EU level initiative. DG ENER, in collaboration with the Joint Research Centre (JRC), is developing a voluntary Code of Conduct (CoC) for Energy Smart Appliances (ESA), providing demand-side flexibility/response to the energy system. As the CoC will include heat pumps it could be required to be used by the Member States as a criteria for Article 19(2)(c).

Article 21 covers “other forms of public intervention” which should be read as subsidies which can be awarded to net-zero technologies meeting Article 19(2). Negatively from an Internal Market fragmentation perspective Article 21(3) would allow the Member States to “specify a pass mark for products to be eligible for the additional financial compensation”. It would be prudent from an Internal Market harmonisation perspective if the Member States were required to use the SFTR TSC and/or harmonised Classes of Performance in existing EU legislation, i.e. energy labelling.

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ABOUT EPEE

EPEE represents the Refrigeration, Air-Conditioning, and Heat Pump industry in Europe. Founded in the year 2000, EPEE’s membership is composed of over 50 member companies as well as national and international associations from three continents (Europe, North America, Asia). With manufacturing sites and research and development facilities across the EU, which innovate for the global market, EPEE member companies realize a turnover of over 30 billion Euros, employ more than 200,000 people in Europe and also create indirect employment through a vast network of small and medium-sized enterprises such as contractors who install, service and maintain equipment. Please see our website (<https://www.epeeglobal.org/>) for further information.