



19 May 2017

COMMENTS ON “DERIVING BAT-AELS” AND “STANDARD TEXTS”

BusinessEurope has during the two latest Article 13 Forum meetings asked for a dedicated discussion about Key Environmental Issues (KEI) and how to derive Best Available Techniques Associated Emission Levels (so called BAT-AELs). We therefore appreciate the invitation from the Commission of the 4th April 2017 to provide written comments on this important matter by the end of May 2017. We also shortly comment in this paper on the suggested “standard texts” presented by the Commission at the last Forum meeting. Irrespective of these two important aspects, BusinessEurope believes that, in the long-term, a more comprehensive general evaluation of the BAT process leading to its improvement is necessary.

SYSTEMATIC DERIVATION OF BAT-AELS

The legal obligation for a permitting authority to set Emission Limit Values (ELVs) at a level that ensures that, under normal operating conditions, emissions do not exceed the BAT-AEL, has far-reaching consequences for many industries. The use of a standardised and transparent methodology to derive BAT-AELs in all BREFs is crucial and urgent. The work should always be based on the BREF Guidance (2012/119/EU) published in the EU Official Journal in March 2012, with technically achievable and economically viable BAT-AELs.

Both ends of the range should be derived from emissions reported under normal operating conditions for the same period of time and using the associated monitoring as referred to in the BAT conclusions. It is always necessary to consider important elements such as variability in raw materials, fuel characteristics, product specifications as well as cross-media effects. It is important *not to mix data* from different subsectors in a BREF, as different subsectors in one BREF can have very different conditions (in applicability) even if it seems to be logical to cluster them, e.g. choice of fuels. This is especially important in the steps after the data collection, during the analyses of data, to be able to draft proper BAT-conclusions (BATC) and derive the upper and lower levels of BAT-AELs. Performance levels obtained under specific circumstances (e.g. being an ELV for one plant in one country, meeting local environmental quality standards or a technique with limited implementation) shall be excluded.

The upper end of the range must be set on the basis of the maximum observed emission of the plants applying generally applicable BAT for the pollutant at stake. The lower end shall be set based on the highest values of the lower emission levels resulting from the use of generally applicable BAT leading to the best performance, after discarding performances that occur under specific circumstances. A more technical and detailed description is given in the position paper *“The undersigned sectors are willing to contribute to the development of a systematic approach for deriving suitable BAT-AELs ranges”*.



STANDARD TEXTS

Standard text is nothing new and BusinessEurope welcomes an update of the current version where necessary. The proposed text shown on the slides by the Commission to the Forum in April 2017 seems to be acceptable to us and as such we do not have any suggestions for changes. As a general comment, we want to stress that in case a standard text is found not suitable for a certain BREF, it must be possible for the TWG to change it; but only if properly justified.

Different (sub) sectors are participating in different BREFs/TWGs and a new or revitalised TWG means new participants that may not be familiar with the process nor the content of the IED or the BREF guidance/standard texts. To save time in final Technical Working Group (TWG) meetings, standard texts should be marked in the draft BAT Conclusion *like in blue shade* or **bold** whilst also pointing out in which BREF it was used. By doing so, more time can be spent on other more critical issues like the derivation of BATAELs

The procedure to update/revise standard texts should always be done via the Forum and not from one BREF to another. Approval of the standard text by the Forum should result in posting it on the EIPCB website so everybody, in particular TWG members are aware.