

The undersigned sectors are willing to contribute to the development of a systematic approach for deriving suitable BAT-AELs ranges

Proposal

The legal obligation for permitting authorities to set the emission limit value for a given pollutant at a level that ensures that, under normal operating conditions, emissions do not exceed the BAT-AEL, has far-reaching consequences. BAT-AELs have to be implemented as ELVs and industrial installations have to comply with those. A systematic approach to derive the BAT-AEL as a result of the BREF review process and the data collection performed in that context is therefore a must. A robust and transparent approach will secure consistency for stakeholders throughout the BREF review process, as well as for regulators and operators at permitting level. Based on both the Guidance¹ published in the OJEU in March 2012 and on our combined industrial experience, we have outlined in this paper an approach which should help deriving both ends of the BAT-AEL range systematically. This is crucial if one wants to preserve the integrity of IED implementation through appropriately-designed and truly applicable BAT conclusions, technically achievable and economically viable BAT-AELs.

In principle, the upper end of the range should be set on the basis of the maximum observed emissions of the plants applying generally applicable BAT for the pollutant at stake, while the lower end should be based on the maximum emissions resulting from the use of generally applicable BAT leading to the best performance, after discarding all performances that only occur under specific circumstances. Both ends of the range will be derived from emissions reported under normal operating conditions² for the same period of time and using the associated monitoring as referred to in the BAT conclusions.

Conditions for observed emission levels to be included in the BAT-AEL ranges

- Performance levels obtained under specific circumstances (such as meeting local environmental quality standards, techniques with limited implementation in the EU, resulting from non-representative input or output reference conditions or where the integrated approach of the IED would not have been fully taken into account) shall consequently be excluded.
- The ability to check compliance with the EU standards of measurement and calculation methods during the same period of time and using the same reference conditions must be assessed. If measurements would not be compliant with the standards, those levels must be excluded.

Criteria to set up the upper end of the range:

- It must be set based on the maximum emissions for the associated monitoring period that could be expected under normal operating conditions from the use of BAT, taking into account important elements such as variability in raw materials, fuel characteristics, product specifications and variable load, as well as any cross-(media) effects/integrated approach.
- It shall always reflect all performances that generally applicable BAT can achieve under normal operating conditions addressing the various circumstances to be found in a given (sub) sector.
- It shall always reflect all performances that BAT can achieve under normal operating conditions, addressing the various circumstances to be found in a given (sub) sector. The IED Article 15(4)

¹ Commission Implementing Decision (2012/119/EU) of 10 February 2012 laying down rules concerning guidance on the collection of data and on the drawing up of BAT reference documents and on their quality assurance referred to in Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (L63/1 – 2.3.2012).

² The reference to “normal operating conditions” applies for industries for which no special dispositions are given in IED or EU legislation.

derogation clause shall only be applied to those installations, not applying BAT yet and where the application of generally applicable BAT would lead to disproportionately higher costs compared to the environmental benefits.

Criteria to set up the lower end of the range:

- Identifying the generally applicable BAT leading to the best environmental performance.
- The lower end of the BAT-AEL range shall be set based on the highest values of the lower emission levels for the associated monitoring period that could be expected under normal operating conditions from the use of this BAT, taking into account important elements such as variability in raw materials, product specifications and variable load, as well as any cross-media effects/integrated approach.

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Annex: What is a BAT-AEL range, where do upper and lower ends of the BAT-AEL range fit regarding the Industrial Emission Directive provisions?

Articulation of articles 14(4), 15(3), 15(4) and 18 of the Industrial Emission Directive

