



European
Automobile
Manufacturers
Association



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Criteria for identifying key environmental issues for the review of BREFs

A joint contribution from IED regulated industrial sectors

Background

At the 19 October 2015 meeting of the IED Article 13 forum, the Commission presented its discussion paper on "*Criteria for identifying **key environmental issues** for the review of BAT reference documents under Article 13 of the IED*", with the aim of triggering a discussion on improving the environmental effectiveness of the exchange of information by targeting efforts on the key environmental issues (KEI).

During the subsequent discussion, the importance of a **more focused approach** and of frontloading of the work on the BREF reviews were strongly supported.

In view of the upcoming BREF reviews and related frontloading exercises, the undersigned sectors have developed their position on the content of the discussion paper and on the criteria for identifying KEI.

We generally welcome the discussion paper presented by the Commission and agree with the fact that the KEI, although not explicitly defined so far, refer to those issues for which the application of BAT conclusions have the highest likelihood of resulting in noteworthy additional environmental benefits.

We support the "focused approach" that can be achieved by building on the existing BREFs and updating only those parts required for deriving BAT conclusions, while targeting a manageable (i.e. limited) number of KEI through sound data collection and processing¹.

1. Regarding the criteria for defining the "key environmental issues"

We agree with the set of four criteria that shall be used for establishing the "key environmental issues" for each BREF review, as presented by the Commission in its discussion paper (see annex).

We believe that the application of those four criteria should help the Technical Working Group (TWG) to unequivocally decide at the kick off meeting whether the emissions of a given substance are KEI.

It is of importance that all the required information (referred to in the last paragraph of the section 4.2 of the discussion paper) to facilitate the application of the four above-mentioned criteria is collected from the TWG members during the frontloading phase, uploaded on BATIS and compiled as part of the Background Paper that will be made available to all TWG members at least 8 weeks ahead of the Kick Off Meeting (KOM) during which the decision as to whether the pollutants at stake are KEI or not shall be taken.

When a decision is made at the KOM on i) key environmental issues and ii) on issues given the lowest priority, that decision shall be irrevocable until the next BREF review process.

For issues where – despite of the availability of information - it cannot be decided whether it is a KEI or not the TWG members should be consulted on the questionnaires that would support the short and simplified data collection as well as on their assessment (from a qualitative and representativeness for the sector points of view) before a final decision is made whether to eventually consider them as KEI via for instance a TWG data assessment workshop.

2. Regarding the "significant improvement of the level of protection of the environment as a whole" (criterion iv)

We believe that the application of this criterion should unambiguously be performed based on the unbiased information made available during the frontloading phase:

- (i) the **emissions of the activities** concerned and their broader environmental relevance;
- (ii) the **general environmental performance of techniques applied within the sector**;
- (iii) the **recent evolution of techniques applied in the sector and their environmental performance**

In view of assessing the potential of the BREF review for defining BAT-AELs that would significantly improve the level of protection for the environment as a whole **in comparison with the current emission levels**, one needs to bear in mind that **the BREF can only use data for BAT-AEL derivation when the emissions values are reported together with the relevant contextual information** on the one hand and with **the techniques applied** on the other hand. The focus of gathering the pre-required information should be on **collecting actual emissions data** from a maximum of installations instead of

¹ See also the joint contribution from IED regulated industrial sectors on a 'Systematic approach for deriving suitable BAT-AEL ranges' dated 15/10/2015

permitted emission limit values or other references values related to legislation or the implementation of legislation.

In conclusion, the potential upcoming lower end of the BAT-AEL ranges as well as the lowest current emission levels **must always correspond to the application of at least one technique that qualifies as BAT.**

3. Regarding the list of substances that might be elected as ‘key environmental issues’

The Article 14 of the IED on permit conditions states that “measures shall include at least the following”: “(a) *emission limit values for polluting substances listed in Annex II ... which are **likely to be emitted from the installation concerned in significant quantities***”.

As referred to above, the IED stipulates that the substances for which emission limit values shall be set in a permit have to be emitted from the installation **in significant quantities**. The question as to whether a specific substance related BAT conclusion (with BAT AELs) should be developed for the activity at stake has to be examined in the context of defining **KEI at EU level**.

The undersigned sectors support the application of the four criteria before deciding on the ‘key environmental issues’ for a given BREF review. This generic approach should apply for all polluting substances listed in Annex II of the IED (the mere inclusion of a given substance in that list does not suffice to justify the derivation of a BAT conclusion).

Annex: Excerpt from the Discussion paper 'Criteria for identifying key environmental issues for the review of BAT reference documents under Article 13 of the IED' presented by the COM at the 19 October 2015 IED Article 13 Forum meeting.

4.2. Criteria for defining the "key environmental issues"

In order to put this focused approach into practice, the "key environmental issues" to target during the BREF review should be defined at the earliest stage of the information exchange possible.

For the purpose of establishing a common understanding of what the "key environmental issues" for the BREF review are, the following criteria should be used, which take into account both the environmental relevance of the activities and issues and the potential for the BREF review to improve the situation:

- (i) the environmental relevance of the (air, water, or soil) pollution caused by the activity or process concerned, i.e. whether it may cause an environmental problem;
- (ii) the significance of the activity in terms of number of installations, their geographical spread and their contribution to the total (industrial) emissions in the EU;
- (iii) the potential of the BREF review for identifying new or additional techniques that would further significantly reduce pollution;
- (iv) the potential of the BREF review for defining BAT-AELs that would significantly improve the level of protection for the environment as a whole in comparison with the current emission levels.

In order to facilitate application of these criteria before the actual review is started, information should be available on the following:

- (i) the emissions of the activities concerned and their broader environmental relevance;
- (ii) the general environmental performance of techniques applied within the sector;
- (iii) the recent evolution of techniques applied in the sector and their environmental performance.