



New aspects arising from the IED -probably most relevant to NGO-

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Outline



- EEB involvement in IPPC / IED
- Presentation & comments on following selected aspects :
 - stronger role for BREFs /BAT based permitting?
 - Public participation / transparency



EEB involvement in IPPC

- Sevilla Process (BREFs review, IEF)
- Advisory group member during the review of IPPC
- involved in co-decision process IED

Stronger role for BAT?



Some “good” elements:

- Translation of BREFs (BAT conclusions) in official languages of the EU
- Quality assurance of BREFs (content and format)
- BREF “shall be the” reference for setting permit conditions (independent of wider politics)
- GBR to be “up to date” with BAT
- CA can set stricter permit requirements than achievable by use of BAT (mandatory for achievement of EQS)

Stronger role for BAT?



Art 15.3

(adopted BREFs):

*The competent authority shall set ELVs that ensure that, **under normal operating conditions, emissions** do not exceed the BATAEL as laid down in BAT conclusions through either:*

*(a) ELVs not to exceed BATAEL...]. **Those ELVs shall be expressed for the same or shorter periods of time and the same reference conditions as those BATAEL;***

or

*(b) [...] **setting different ELVs than those referred to under point (a) in terms of values, periods of time and reference conditions.***

the competent authority shall, at least annually, assess the results of emission monitoring in order to ensure that emissions under normal operating conditions have not exceeded the BATAEL

Stronger role for BAT?



...BUT

“By **derogation** [...] and **without prejudice to [EQS]** the competent authority may, in ***specific cases***, set **less strict emission limit values**. Such a **derogation may apply only** where an **assessment shows** that the achievement of [BATAEL] would lead to **disproportionately higher costs compared to the environmental benefits due to:**

- a) *the geographical location or the local environmental conditions of the installation concerned; or*
- b) the technical characteristics of the installation concerned

Unresolved issues



- derogations only in “specific cases” => which ones???
- assessment of environmental and economic costs + benefits
 - => second round of cost considerations at the local level?
 - => who decides on the “level of (dis)proportionality”?
 - => CBA or cost effectiveness methodology? How to put a value on ecosystems? (This work just started)

Uncertainties that need strict + binding criteria and clarification at EU level

Stronger role for BAT?



(For existing and new BREFs awaiting adoption through comitology) Art 13.7

*“Pending the adoption [comitology] the BAT conclusions from BREFs adopted prior to [entry into force] shall apply as BAT conclusions [...] **except for***

***Article 15(3): ELVs \leq BATAEL and 15(4) derogation from BAT permitting article**
= BAU (MS keep flexibility)*

More transparency?



Article 24

Access to information and public participation in the permit procedure

1. Member States shall ensure that the public concerned are given early and effective opportunities to participate in the following procedures:
 - (a) granting of a permit for new installations;
 - (b) granting of a permit for any substantial change;
 - (c) *granting or updating of a permit for an installation where the application of Article 15(4) is proposed;*
 - (d) updating of a permit or permit conditions for an installation in accordance with point (a) of Article 21(5).

More transparency?



2. When a decision on granting, reconsideration or updating of a permit has been taken, the competent authority shall make available to the public, including via the Internet in relation to points (a), (b) *and (f)*, the following information:
 - (a) the content of the decision, including a copy of the permit and any subsequent updates;
 - (b) the reasons on which the decision is based;
 - (c) the results of the consultations held before the decision was taken and an explanation of how they were taken into account in that decision;
 - (d) the title of the BAT reference documents relevant to the installation or activity concerned;
 - (e) how the permit conditions *referred to in Article 14*, including the emission limit values, have been determined in relation to the best available techniques and **■** emission levels *associated with the best available techniques*;
 - (f) where *a derogation is granted in accordance with Article 15(4)*, the *specific reasons for that derogation based on the criteria laid down in that paragraph and the conditions imposed*.

More transparency?



Within *four* years of publication of decisions on BAT conclusions in accordance with Article 13(5) relating to the main activity of an installation, the competent authority shall ensure that:

- (a) all the permit conditions for the installation concerned are reconsidered and, if necessary, updated to ensure compliance with this Directive, in particular, with Article 15(3) and (4), where applicable;
- (b) the installation complies with those permit conditions.

The reconsideration shall take into account all the new or updated BAT conclusions applicable to the installation and adopted in accordance with Article 13(5) since the permit was granted or last reconsidered.

More transparency?



- Art. 24.2 and Art 24.3: More info to be made available, **including via internet**:
permits, reasons for decisions, specific reasons for application of Art. 15.4,
BUT
Transparency mechanism kicks in **ONLY** for
 - new permits,
 - *AFTER decision* “substantial change” existing installation,
 - *AFTER decision* reconsideration of permit condition **BUT only required within 4 years after comitology decision on BAT conclusion**
- ⇒ **No generation and active dissemination of valuable information on BAT based permitting if no comitology decision**
(except remediation measures on site closure)

Thank you for your attention !



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