

To:

The members of WI BREF TWG, WT BREF TWG, LCP BREF TWG, ROM WG
The members of IED Article 13 Forum,

Brussels, 22nd July 2016

Introductory note on INERIS report addressing the performances of available emission monitoring techniques and the issue of minimum possible ELVs/BATAELs

Dear members of the WI BREF-, WT BREF-, LCP BREF-TWGs, the ROM-WG and members of IED Article 13 Forum,

We, CEWEP, ESWET, FEAD, are pleased to inform you that we just made available on BATIS ([Forums > Waste Incineration > Review of the Waste Incineration BREF 2014 > 04 Information collections > 03 Environmental performance and operational data](#)) a report addressing the crucial question of monitoring of air emissions and of reliability and accuracy at very low concentrations, which has significant implications on the drawing up and review of BREFs and the setting of BATAELs.

The WI sector has unrivalled experience in dealing with monitoring issues, since:

- The number of monitored substances according to EU regulations (in particular IED Annex VI) is larger than for any other sector,
- The emission limit values (ELVs) are by far the lowest of all IED industries,
- The IED requirements for compliance with ELVs are specific, detailed and complex,
- All WI plants in the EU had to comply with these stringent rules for at least 10 years, collecting more than one billion individual emission values.

Due to this long experience we have identified a problem linked to the nature of legally binding BATAELs (IED-based BATAELs). Since they are derived from – most often very low – operational values but at the same time will be the basis to set ELVs in permits, it is mandatory to check the performances (in particular the accuracy) of the monitoring and measurement techniques/systems available today (and exclusively these).

Even though we have pointed this out on several occasions in the past, unfortunately the issue was not appropriately taken into consideration by the EIPPCB until now. We therefore decided to ask INERIS to undertake a study:

- to assess the uncertainty of the operational data collected for BREF review processes, such as the ones for the WI sector
- to identify the performances of the monitoring techniques available on the market and the corresponding minimum achievable ELVs /BATAELs
- and the possible improvement of the monitoring techniques.

The study - made by INERIS - was checked by experts from 6 Member States (Belgium, Denmark, Germany, the Netherlands, Spain and Sweden).

INERIS is a Public Institute under the French Ministry of Environment (EPCIP) mandated to check and issue approval certificates to accredited bodies carrying out the regulatory controls of air emissions from classified installations. The main author of the report, Mr Jean Poulleau, is also member of CEN TC264 Emissions Task Force and leads TC 264 WG 3 (HCl measurement) and WG 16 (O₂, CO, SO₂, NO_x, H₂O, etc. measurement).

CEN TC264 is the standard-making body responsible for the development of standards for air quality within Europe and was already asked for recommendations when in 2008 the Commission was considering lowering some ELVs and minimum acceptable uncertainties (expressed as 95% confidence interval) in the then future IED.

Some conclusions can be drawn from the study:

- Although the very low concentration values reported by the operators in the WI BREF questionnaires are certainly below the current ELVs, they are associated with high relative uncertainties which, due to the requirements of IED and appropriate Standards, do not allow to lower some of the current IED ELVs
- The short and medium term perspective of improving the uncertainty of monitoring techniques is limited even though, for a number of pollutants regulated, improvements would firstly be necessary to meet the requirements of the Standards at current IED WI ELV levels
- The contextual conditions of the measurements and their numerical value are crucial to assess their representativeness, which means that one must be extremely cautious when dealing with the few data available for the multiple techniques addressed in the WT BREF
- Many LCP BREF final draft BATAELs cannot be directly used as ELVs since, at these concentration levels, the available monitoring techniques do not allow to meet the requirements of the Standards
- The ROM (Reference Report on Monitoring) approach is not complete and leads to significantly underestimate the uncertainty associated with the readings of the monitoring equipment

We therefore consider that the monitoring issue must be very seriously taken into account before going further in the WT BREF and WI BREF review processes and before official validations of LCP BREF and ROM.

We call on all interested stakeholders in the aforementioned TWGs to get involved in this important topic: if it is not tackled in due time, the chance that BAT conclusions and BATAELs prove to be non-implementable is very high. If this happens, the whole review process will be a theoretical exercise and its result will cause more confusion than guidance.

For this reason we have been raising our concerns towards the EIPPCB since at least summer 2013 and also during plenaries (e.g. by means of numerous split views during the LCP BREF Final Meeting on 1-9/6/2015, by written split views on LCP BREF supported by 8 industrial associations, comments on the ROM in July 2015 and during the WI BREF Questionnaire workshop in September 2015). In its assessment of the LCP BREF split views, the EIPPCB's rejection argued that:

- "The split view refers to the use of BAT-AELs for setting ELVs and to the consideration of measurement uncertainties, which are implementation and compliance issues going beyond the remit of the LCP TWG."
- "BAT-AELs can be defined without referring to an EN standard."
- "Quality assurance requirements as defined in EN standards cannot prescribe the setting of certain BAT-AEL ranges in BAT conclusions. BAT conclusions are secondary legislation taking precedence over EN standards."

We would like to stress that although implementation and compliance issues lie in Member States' hands, taking care of these issues is not entirely outside the scope of the TWG. Indeed, the TWG has the responsibility of checking the uncertainty associated with the collected data used to set BATAELs. And in addition, it is also fully responsible for ensuring that the proposed BATAEL ranges include values that have all the characteristics of ELVs and that compliance with them can be checked in accordance with the mandatory Standards.

How could Member States set ELVs from BATAEL values if these values cannot be used as ELVs?

The attached report is the first of its kind and we are pleased to share it with the members of all the TWGs. It is also available on the websites of CEWEP¹, ESWET² and FEAD³.

We hope that you will find this report of interest and are happy to receive comments and/or answers questions.

Best regards,

CEWEP - Ella Stengler, Managing Director

ESWET – Patrick Clerens, Secretary General

FEAD – Nadine De Greef, Secretary General

NB: although the study is mainly referring to ELVs for WI and based on data collected from WI plants, it can be used for LCPs as well, especially for the substances for which the IED does not require monitoring but for which the draft LCP-BREF includes BATAELs. However since the reference O₂ content is 11% O₂ for WI and 6% O₂, for most LCPs a factor 1.5 must be applied to the ELVs. For instance if a minimum ELV found for WI is 10 (at 11% O₂), this corresponds to 15 for LCPs (at 6% O₂).

¹http://cewep.eu/information/publicationsandstudies/statements/otherpublications/1387.INERIS_report_on_accuracy_of_air_emissions_measurement.html

² <http://www.eswet.eu/reports.html>

³ <http://www.fead.be/news/37-fead-news-homepage/143-ineris-report-on-accuracy-of-air-emissions-measurement>