

Commissioner VELLA
EUROPEAN COMMISSION
Environment, Maritime Affairs and Fisheries

Commissioner ANDRIUKAITIS
EUROPEAN COMMISSION
Health and Food Safety

Brussels, 29 March 2018

Human health and preventive action considerations in Best Available Techniques Reference Documents (BREFs) under the Industrial Emissions Directive (IED)

Dear Commissioner Vella, Dear Commissioner Andriukaitis,

We are writing to you to express our concerns about recent attempts to restrict the scope of the Industrial Emissions Directive and to limit the extent of the protections it offers.

The Industrial Emissions Directive (IED) is the main EU instrument for regulating pollutant emissions from industrial installations. It aims “to achieve a high level of protection of human health and the environment” by ensuring better application of Best Available Techniques (BAT), as described in reference documents called BREFs.¹

On 22 December 2017 the Commission presented members of the Art. 13 IED Forum with an updated draft of the standard text to be used under the Environmental Management Systems (EMS) section of industry-specific BREFs. This standard text will have an impact on new, binding environmental performance guidelines for European industry for decades to come.

We therefore welcome the incorporation of suggestions made by the EEB at the 11th IED Forum held immediately before the draft text was shared, in particular the inclusion of a reference to “human health” considerations.

However, a number of industry stakeholders, led by chemical industry body CEFIC, have now called for aspects that relate the protection of human health to be excluded from BREFs.²

It is unreasonable and disingenuous to argue that protection of human health falls outside of the scope of the Industrial Emissions Directive, the text of which is peppered throughout with references to human health. In Article 1, it states: “This Directive lays down rules on integrated prevention and control of pollution arising from industrial activities”, and goes on in Article 3(2) to define pollution as “the direct or

¹ Industrial Emissions Directive - Summary of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control), European Commission Website: (<http://ec.europa.eu/environment/industry/stationary/ied/legislation.htm>)

² ‘Chemical Industry says attempt to clean up toxic textiles is abuse of industry regulations’ (<https://metamag.org/2018/03/15/chemical-industry-says-attempt-to-clean-up-toxic-textiles-is-abuse-of-industry-regulations/>)

indirect introduction, as a result of human activity, of substances, vibrations, heat or noise into air, water or land which may be **harmful to human health** or the quality of the environment” (emphasis added).³

We are also concerned that the reference to “preventive measures” has been deleted in the revised draft of the standard EMS text.⁴

“Preventive measures” are taken to prevent pollution at source before any harm can be caused, “prevention” is the part of the core aim of the IED and “preventive measures” are included in the Directive as the first general principle governing the basic obligations of plant operators.⁵ In addition to being inconsistent with the Industrial Emissions Directive and the BREF review rules,⁶ the deletion of “preventive action” is clearly inconsistent with the current Commission’s stated goal of leading “*a Europe that protects*”.

It is important that explicit reference to “preventive action” or “preventive measures” is retained and that a statement reasserting the need to prioritise prevention over control is inserted into the text.

We strongly condemn claims that human health concerns fall outside of the scope of the BREFs and efforts to delete references to “preventive measures”, and call on the European Commission to ensure that references to human health aspects and to “preventive measures” are retained in the Environmental Management System standard text.

Yours sincerely,



Jeremy Wates
Secretary General
European Environmental Bureau

With the support of
Carroll Muffet, CEO, Center for International Environmental Law (CIEL)
Génon K. Jensen, Director, Health and Environment Alliance (HEAL)

³ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010L0075>)

⁴ The initial text versions of the EMS standard texts mentioned in ‘Point V’: “*checking performance and taking preventive and corrective action, paying particular attention to: [...] b) corrective and preventive action*” see notably CWW BREF BAT-C and LCP BREF BAT-C

⁵ See Article 11(a) of the IED

⁶ See BREF review rules section 2.3.7