

EUROPEAN COMMISSION
DG Environment, Maritime Affairs and Fisheries
Mr CALLEJA CRESPO Daniel, Director-General
Ms WILLEMS Aneta, Directorate C, Head of Unit C4

EUROPEAN COMMISSION
DG Health and Food Safety
Ms BUCHER Anne, Director-General

CC: Mr ROUDIER Serge, Head of the EUROPEAN IPPC BUREAU

Brussels, 1 April 2019

Considerations regarding the revised draft Best Available Techniques Reference Document for Waste Incineration under the Industrial Emissions Directive

Dear Mr CALLEJA CRESPO, Dear Ms WILLEMS,
Dear Ms BUCHER,

We are writing to you to express our concerns about potential regulatory loopholes that could result in poor implementation of the Best Available Techniques (BAT) conclusions of the revised draft Best Available Techniques Reference Document on Waste Incineration (WI BREF) – hereafter WI BAT-C – if their current wording is not appropriately amended and clarified.

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 BAT, as described in the BREFs¹. On 27 February 2019 the European Commission presented the members of the IED Article 13 Forum with the Final Draft (FD)² of the revised WI BREF to obtain its opinion.

At that meeting **there was a common agreement between delegates of the industry, Member States and Environmental NGOs that amendments should be brought on the scope of the WI BAT-C regarding the disposal or recovery of waste in waste co-incineration plants** as detailed in the attached Annex.

We trust that you will carefully consider our improvement proposal and that the European Commission will be amending the final draft BAT-C of the WI BREF accordingly ahead of the vote of the IED article 75 Committee.

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 http://eippcb.jrc.ec.europa.eu/reference/BREF/WI/WI_BREF_FD_Black_Watermark.pdf

Yours sincerely,



Jeremy Wates
EEB, Secretary General



Joan Marc Simon
Zero Waste Europe, Executive Director

If you need additional information, please contact:

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Annex:

The scope section 5.2 should be amended as follows (see text in **bold highlight**):

5.2 Disposal or recovery of waste in waste co-incineration plants:
(a) for non-hazardous waste with a capacity exceeding 3 tonnes per hour;
(b) for hazardous waste with a capacity exceeding 10 tonnes per day;
whose main purpose is not the production of material products and where at least one of the following conditions is fulfilled:

- **wastes are combusted, except if those wastes are exclusively composed of biomass as defined in Article 3(31)(b) of Directive 2010/75/EU;**
- more than 40% of the resulting heat release comes from hazardous waste
- mixed municipal waste is combusted

The proposed amendment aims to ensure: a) that **only** plants combusting **exclusively** biomass waste are excluded from the WI BAT-C, and b) that this applies to both plants co-combusting biomass waste with other (non-biomass) wastes and to plants co-combusting fuels together with biomass waste.

Rationale:

- The relevant IED provisions, outlining the scope of IED chapter III ('Special provisions for combustion plants') and the scope of IED chapter IV ('Special provisions for waste incineration plants and waste co-incineration plants'), illustrate the intention of the regulator to exclude biomass waste (**only** – in the meaning of exclusively – biomass waste) from the requirements of IED chapter IV applying to waste (co-)incineration plants. This intention should be further reflected in the scope of the WI BAT-C.

IED Chapter III, scope (IED article 28) excerpt:

This Chapter shall not apply to the following combustion plants: (...) (j) plants which use any solid or liquid waste as a fuel other than waste referred to in point (b) of point 31 of Article 3'

IED Chapter IV, scope (IED article 42) excerpt:

This Chapter shall not apply to the following plants: (a) plants treating only the following wastes: (i) waste listed in point (b) of point 31 of Article 3; (...)'

- The scope of the WI BAT-C should be clarified to enable a harmonised implementation across EU member states and a level playing field for the waste (co-)incineration sector. Some of these plants fall under the scope of the BREF for Large Combustion Plants (LCP) abiding to less strict BAT-C. To rectify this, the decision makers adopted an important safety net BAT-C (BAT 61) in the

LCP BREF, which makes an explicit cross-link to the WI BAT-C whenever waste is co-incinerated. Permit writers should therefore not have to face a conflicting provision in the revised WI BREF scope.

- If the scope is not amended, the European Commission will unintentionally end up incentivising the co-incineration of waste biomass under sub-standard conditions, as the operators would attempt to exploit this loophole (adding a bit of biomass waste) to avoid abiding by the stricter WI BAT-C standards.