

Comments on BAT 8 of the Draft BAT-C for the ceramic manufacturing industry

FuelsEurope notes with concern the inclusion of decarbonisation measures in the draft Best Available Techniques (BAT) conclusions document for the ceramic manufacturing industry, as it risks setting a precedent for any subsequent BREFs to be developed or reviewed in the future.

1. The decarbonisation of energy intensive industries (EII) like ceramics is already adequately regulated by several pieces of legislation, such as the EU Emission Trading Scheme (EU ETS), the Renewable Energy Directive (RED III), or the Energy Efficiency Directive (EED). Introducing additional provisions in the CER BREF or any other BREFs dealing with any EIIs would lead to an unjustified increase of regulatory complexity that risks overlaps and inconsistencies. Specifically, BAT 8 (a) on CO₂ emission record should be deleted or, at minimum, be amended so that it only applies to installations that are not part of the EU ETS.
2. Article 9(1) of the IED explicitly stipulates that permits for installations emitting GHG covered by the EU ETS regime should not include an emission limit value for their emissions, and the same was agreed by the CER BREF Technical Working Group at the kick-off meeting in 2021. In the same spirit, if BAT-AELs are in principle excluded, the same applies to 'narrative' BAT without AELs.
3. A technique can only be considered BAT if it is generally applicable, that is, already developed on scale fit for implementation under economically and technically viable conditions. Furthermore, BAT conclusions shall never be neither prescriptive nor exhaustive, and should always preserve the principle of technological neutrality. Therefore, a BREF document should neither mandate nor forbid the use of any given technique, so that alternatives may be used, granted that they ensure at least an equivalent level of environmental protection. That is the reason why, for sectors already regulated under the ETS, it is recommended to provide any information regarding decarbonisation techniques (at whatever stage of development) in the descriptive chapter of the BREF at stake. Each of the techniques described should be consistently assessed against aspects such as achieved environmental benefits, cross-media effects, economics, drivers for implementation or technical considerations relevant to their applicability.
4. The concept of deep industrial transformation (DIT) has been newly introduced in the revised IED (see the definition in article 3.9a and the provisions in article 27.e where, based on a voluntary request from the operator, the MS Competent Authorities may deviate from the provisions embedded in the article 21.3). One cannot therefore have techniques imposed as part of BATC (article 14.3) and techniques at the disposal of operators, allowing them to develop their DIT, include it in their Environmental Management System (EMS) at the permit review following publication of the Decision on BATC.

How to address decarbonisation in BREF?

We propose a systematic approach to deal with decarbonisation in BREF and recommend it to be reported in the upcoming revised BREF Guidance.

Two different cases should be addressed where the activity covered by the scope of the BREF generates GHG emissions:

- 1) The activity covered by the scope of the BREF generates GHG emissions covered by the ETS directive and that cannot cause local pollution:

In that respect it is expected that the data collection will be organised with a view to provide information about prevention and abatement techniques to reduce emissions of GHG that will be included in the descriptive chapter of the BREF “applied techniques and processes”.

No BAT conclusions shall be included in the BREF.

- 2) The activity covered by the scope of the BREF generates GHG emissions either not covered by the ETS directive or covered by the ETS directive but that can cause local pollution:

Where at the Kick-off Meeting the TWG decides that a GHG is a KEI, it is expected that the data collection will be organised with a view to provide information about prevention and abatement techniques to reduce its emissions, and provide information about the emission level associated with those techniques. That information and data will be included in the descriptive chapter of the BREF “applied techniques and processes” and in the chapter “techniques to consider in the determination of BAT”.

BAT conclusions for prevention and reduction of GHG may be included in the BREF and the TWG may, based on the data collected, derive BAT-AELs for that GHG.

It should be noted that the techniques listed and described in BAT conclusions are neither prescriptive nor exhaustive. Other techniques may be used that ensure at least an equivalent level of environmental protection. Technology neutrality shall always prevail and the BREF shall neither mandate the implementation of a given technique nor forbid the use of any others.

In the two cases above, the section of the BREF dealing with the emerging techniques that would lead to a significant reduction in GHG emissions while minimising the other environmental impacts (i.e. the installation keeps performing within the other BAT-AE(P)Ls ranges) may provide information for operators and competent authorities in view of potentially applying article 27.e of the IED.