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# Amendment of Commission Implementing Decision 2012/119/EU

## Orientation document

### CONTENT

1	Introduction .....	2
2	Elements for consideration in an amended BREF Guidance .....	2
3	Timeline for the revision of the BREF Guidance.....	4

## 1. INTRODUCTION

The rules guiding the *Sevilla process* are set out in Commission Implementing Decision 2012/119/EU (also called ‘the BREF Guidance’), adopted under the framework of Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control) (hereafter, IED).

Since the adoption of the BREF Guidance, the *Sevilla process* has gone through a learning curve. Over the years, improved procedures have been developed and used, and this will continue.

Directive EU 2024/1785 of 24 April 2024, amending Directive 2010/75/EU, was published in the Official Journal of the European Union on 15 July 2024<sup>1</sup> and entered into force on 4 August 2024. The revised Directive (IED 2.0) requires that the rules guiding the *Sevilla process* be updated.

Indeed, according to the provisions of the IED 2.0 (Article 13(1)(a)), Decision 2012/119/EU must be amended by 1 July 2026 (see Timeline section of this document)

Moreover, Article 13(1) of the IED 2.0 states that the exchange of information to draw up, review and, if necessary, update a BREF shall not exceed a period of **4 years**.

To take stock of more than 25 years' experience of BAT information exchanges, first under the Directive on Integrated Pollution Prevention and Control (IPPC) and then under the IED, a stakeholder workshop co-organised by the EU Commission (DG ENV and the JRC) and Germany (German Federal Ministry for the Environment and the German Environment Agency) was held on 14-15 March 2024, in Dessau-Roßlau, Germany.

The workshop allowed an initial and collective exchange on the new requirements introduced by the IED 2.0, at the same time exploring suggestions and ideas to update and improve the *Sevilla process* and its output (i.e. BREFs and BAT conclusions) accordingly, considering what has worked well so far (e.g. among the procedures developed and used over the years) and what aspects need to evolve. The main take-aways from the workshop were presented at the IED Article 13 Forum meeting on 29 April 2024 and are available on Circabc<sup>2</sup>.

## 2. ELEMENTS FOR CONSIDERATION IN AN AMENDED BREF GUIDANCE

An initial proposal about elements that the updated BREF Guidance could incorporate is based on the following categorisation:

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<sup>1</sup> [Directive - EU - 2024/1785 - EN - EUR-Lex \(europa.eu\)](#)

<sup>2</sup> Presentations at the 19<sup>th</sup> IED Article 13 Forum meeting, 29 April 2024:  
<https://circabc.europa.eu/ui/group/06f33a94-9829-4eee-b187-21bb783a0fbf/library/ce8d1d06-77f3-407f-bd1a-2571781fb422>

- specific new elements / requirements introduced by the IED 2.0;
- lessons learnt from the extensive experience of drawing up and reviewing BREFs under the current BREF Guidance (Commission Implementing Decision 2012/119/EU);
- the general objective of speeding up the *Sevilla process* while being more ambitious to support decarbonisation, resource efficiency and circular economy.

The following points, divided according to the above categorisation, represent some issues that the updated BREF Guidance could possibly address:

## 2.1 Specific elements / requirements introduced by the IED 2.0

- Environmental management system (EMS): The interaction between the BAT conclusions and Article 14(a) of the IED 2.0 should be addressed.
- BAT-associated emission levels (BAT-AELs): Indications should be given that BAT should contain more information on their environmental performance and applicability, especially in relation to the lower end of the BAT-AEL range.
- BAT-associated environmental performance levels / Benchmarks: Indications / guidance about the use of these two concepts should be added.
- Direct / Indirect releases to water: The provisions of updated Article 15(1) should be reflected.
- Confidential Business Information (CBI): provisions of Article 13(2) should be considered.
- Role of the European Chemicals Agency (ECHA): its role in the *Sevilla process* should be addressed.
- Interaction of the *Sevilla process* with INCITE: A Commission Implementing Decision outlining the working procedures of INCITE is expected to be published in early 2026. It is important that both Implementing Decisions are fully aligned. In particular, it should be made clear what the interactions/synergies of the *Sevilla process* with INCITE are and how the INCITE outputs will be used in the *Sevilla process*.
- Emerging Techniques (ETs): The revised Guidance should explain how ETs are referred to in BAT conclusions and should address how emission levels associated with ETs as well as indicative environmental performance levels associated with ETs are referred to in BAT conclusions.

- Decarbonisation and Deep Industrial Transformation (DIT): the revised Guidance should explain how decarbonisation and DIT are addressed in the *Sevilla process*.

## 2.2 Lessons learnt under the current practice

- Reflection on additional steps already implemented in the *Sevilla process*: The *Sevilla process* has considerably evolved in practice over time. Additional steps have been implemented as standard ones which are not included in the current BREF Guidance, and this could be reflected in the updated BREF Guidance. These steps include several informal TWG meetings (e.g. for the questionnaire development, for data assessment before the publication of Draft 1 of the BREF and before the TWG final meeting). It needs to be assessed whether some of these meetings could have a status and format allowing for some intermediate decisions to be taken by the TWG. Intermediate decisions could make the process more agile, unburden the final meeting and enhance the stakeholder engagement throughout the process.
- An effective frontloading approach: In the current practice, the (re)activation of the TWG and the start of the frontloading work by the TWG (i.e. the call for initial positions) are two different steps. The revised Guidance could mention that the frontloading phase starts with the (re)activation of the respective Technical Working Group (TWG) with specific questions/issues raised in the (re)activation letter. Among other issues, the TWG could specifically be asked to provide its informed opinion about the scope of the BREF, the Key Environmental Issues (KEIs) for the sector (with the aim of clarifying the issue as much as possible before the Kick-off Meeting (KoM)), new BAT candidates and updates of existing ones.
- An earlier frontloading: It should be possible for members of the IED Article 13 Forum to start the frontloading before a TWG is formally (re)activated, provided that the BREF Work Programme is made public in advance. The revised Guidance could reflect these modalities.

## 2.3 Speeding up the *Sevilla process*

- Partial / Fast-track BREF reviews: The review of a BREF may focus only on certain aspects which are deemed important in terms of environmental impact and/or in terms of evolution since the previous review (e.g. emerging techniques). The review may target, for instance, particular subsectors or specific key environmental issues while maintaining the integrated approach.
- Differentiation between drawing up a new BREF and reviewing an existing BREF: In most of the BREFs that have been developed under the IED, a very detailed discussion took place within the respective TWG about the KEIs and the necessary contextual information that needed to be collected. It is expected that such an

extensive discussion about KEIs would not be necessary for reviewing an existing BREF under the IED 2.0. The expectation is that at the kick-off meeting of a BREF review, only potential new KEIs would be discussed, making the initial steps of a BREF review faster.

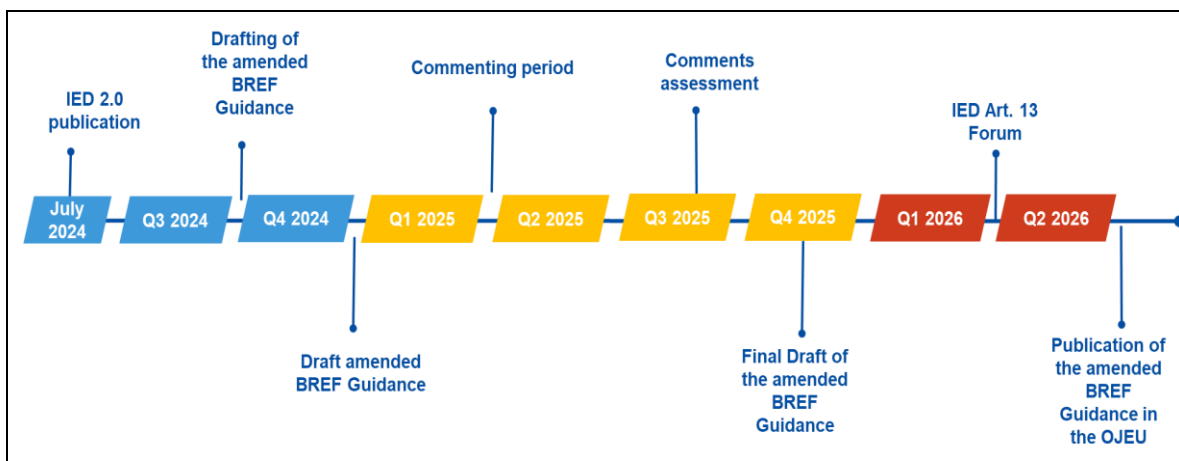
- **TWG commenting process:** In the case of reviewing existing BREFs, TWG comments could be focused on Chapter 4 (BAT candidates) and Chapter 5 (BAT conclusions) of the BREF. To achieve this, the JRC's EU-BRITE could initially produce only these two draft chapters for the comments of the TWG, accompanied by a compendium of the relevant data. The remaining BREF chapters could be produced at a later stage (e.g. during the commenting period) and could be finalised later in the elaboration/review process.
- **Pre-Final/Final Draft:** It should be examined whether the process can be optimised by directly producing a 'Final Draft', without the Pre-Final Draft iteration.
- **A different process for split views:** Experience shows that in most cases the split view assessment process can be lengthy (e.g. more than 3 months). Options for a faster process could be to register split views during the Final Meeting, or alternatively to organise a written procedure in BATIS, without producing a split view assessment report. This could be an efficient process for split view management, but on the other hand could lead to an increased number of split views, which could undermine the conclusions and decrease the added value of the 'split views table' included in the 'Final remarks and recommendations for future work' in the BREF.

### 3. TIMELINE FOR THE REVISION OF THE BREF GUIDANCE

According to the provisions of the IED 2.0 in Article 13 1a:

*“The Commission shall by 1 July 2026 amend Implementing Decision 2012/119/EU.”*

A tentative timetable for the revision and publication of the BREF Guidance (Commission Implementing Decision 2012/119/EU) is given in the below scheme.



The stakeholders' engagement during the drafting process of the amended BREF Guidance is an important factor for the delivery of a 'fit-for-purpose' amended Guidance. Taking into account the experience of the IED Article 13 Forum in running the BREF process and the limited time frame for the publication of the updated BREF Guidance, it is considered that the IED Article 13 Forum is the key stakeholder group for a consultation towards an efficient and effective BREF Guidance amendment process.

The involvement of the IED Article 13 Forum in the process will take place as follows:

- After issuing the present orientation document, the IED Article 13 Forum members provide their preliminary views on an amended BREF Guidance, taking into account the issues raised in Section 2 of the present document.
- The Commission produces a first draft amended BREF Guidance (taking into account the IED Article 13 Forum preliminary views).
- The IED Article 13 Forum members provide comments on the first draft amended BREF Guidance.
- The Commission produces a final draft of the amended BREF Guidance, which is discussed in an IED Article 13 Forum meeting.
- The Commission takes into account the outcome of the IED Article 13 Forum discussions to finalise the document before submission to the IED Article 75 Committee.