

Industrial emissions standards ('best available techniques') if there's no Brexit deal

Summary

How standards for emissions from industry affected by the Best Available Technique (BAT) regime would be affected if the UK leaves the EU with no deal.

Detail

If the UK leaves the EU in March 2019 without a deal, find out how this would affect businesses whose industrial emissions are affected by the Best Available Technique (BAT) regime.

A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an [overarching framing notice](<https://www.gov.uk/government/publications/uk-governments-preparations-for-a-no-deal-scenario/>) explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

This notice sets out how the Industrial Emissions Best Available Technique (BAT) regime would be affected if the UK leaves the EU in March 2019 without a deal. The UK government is developing systems and processes that would make the transition as straightforward as possible.

Before 29 March 2019

There is a large body of existing EU industrial emissions law which aims to protect the environment and human health. The Industrial Emissions Directive (IED) recasts seven earlier pieces of industrial emissions legislation into one integrated framework.

The seven earlier pieces of legislation are:

- the Integrated Pollution Prevention and Control Directive
- the Large Combustion Plants Directive
- the Waste Incineration Directive
- the Solvents Emissions Directive
- three Directives on titanium dioxide

It takes an integrated approach to controlling pollution to air, water and land, and sets challenging industry standards for the most polluting industries. The IED aims to prevent and reduce harmful industrial emissions, while promoting the use of techniques that reduce pollutant emissions and that are energy and resource efficient.

Larger industrial facilities undertaking specific types of activity are required to use Best Available Techniques (BAT) to reduce emissions to air, water and land. BAT means the available techniques which are the best for preventing or minimising emissions and impacts on the environment. 'Techniques' include both the technology used and the way the installation is designed, built, maintained, operated and decommissioned.

The European Commission produces public BAT reference documents (BREFs). BREFs include BAT Conclusions that contain emission limits associated with BAT, which must not be exceeded unless agreed by the relevant competent authority.

After March 2019 if there's no deal

The UK is committed to maintaining environmental standards after we leave the EU and will continue to apply the existing successful model of integrated pollution control. The EU Withdrawal Act 2018 maintains established environmental principles and ensures that existing EU environmental law will continue to have effect in UK

law, including the IED and BAT Conclusion Implementing Decision made under it. This provides businesses and stakeholders with maximum certainty as we leave the EU.

We are introducing secondary legislation under the EU Withdrawal Act 2018, and further legislation in the devolved administrations where required, to ensure the domestic legislation that implements the IED (including the Transitional National Plan) can continue to operate after exit. This will amend current legislation to correct references to EU legislation, transfer powers from EU institutions to UK institutions and ensure we meet international agreement obligations.

The European Commission holds a power to establish BAT Conclusions for the purpose of environmental permitting for activities within the scope of the IED, which are based on BREFs developed through the EU-level Sevilla process. In a 'no-deal' scenario, the UK would no longer be part of the Sevilla process.

The UK government would make secondary legislation to ensure the existing BAT Conclusions continue to have effect in UK law after we leave the EU, to provide powers to adopt future BAT Conclusions in the UK and ensure the devolved administrations maintain powers to determine BAT through their regulatory regimes.

The UK government will put in place a process for determining future UK BAT Conclusions for industrial emissions. This would be developed with the devolved administrations and competent authorities across the UK. The UK government's Clean Air Strategy consultation for England also seeks views from interested parties on what the UK BAT regime might look like in the future.

Feedback we receive via this consultation will influence options which will be consulted on, through which industry and interested parties will have a further opportunity to help shape how BAT is determined once the UK leaves the EU.

It is the government's aim to ensure that the future UK BAT regime continues to endorse the collaborative approach of the current system and industry will be a part of that approach.

The UK BAT system would also consider the impacts of the EU approach.

More information

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.

The UK government is clear that in this scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are co-signatories of the Belfast Agreement. The UK government has consistently placed upholding the Agreement and its successors at the heart of our approach. It enshrines the consent principle on which Northern Ireland's constitutional status rests. We recognise the basis it has provided for the deep economic and social cooperation on the island of Ireland. This includes North-South cooperation between Northern Ireland and Ireland, which we're committed to protecting in line with the letter and spirit of Strand two of the Agreement.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU Member States. The UK would stand ready in this scenario to engage constructively to meet our commitments and act in the best interests of the people of Northern Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context.

It remains, though, the responsibility of the UK government, as the sovereign government in Northern Ireland, to continue preparations for the full range of potential outcomes, including no deal. As we do, and as decisions are made, we'll take full account of the unique circumstances of Northern Ireland.