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| European Commission  DG ENV  Unit C.3. – Industrial emissions, air quality & noise  BU-9 05/44  B-1049 Brussels  BELGIUM    Att.: Anne du Bois d'Enghien | Soil & Waste  J.nr. MST-789-00064  Ref. oki  July 19 2013 |

**Comments on paper IEEG-2 concerning baseline reports under Article 22(2) of Directive 2010/75/EU on industrial emissions (draft 17 June 2013)**

On 18 June 2013 we have received a draft copy of paper IEEG-2 concerning baseline reports under the IED. We appreciate the opportunity given by the Commission to comment on this important guideline. In order to get representatives points of view we have consulted some of the important Danish stakeholders about their opinion of the document.

Generally, the guideline has a clear and logical structure and it contains many valuable considerations concerning how to decide if a baseline report is necessary and what the baseline report should cover. We also appreciate that the guideline emphasizes the use of existing relevant data to the maximum possible extent.

There are a few places where the guideline might need a further specification. Especially, as mentioned on the meeting on June 26 2013, we find it important that the Commission specifies under which conditions one may consider that the containment measures make soil and groundwater pollution so unlikely that a baseline report is not needed (section 5.1.3).

Concerning the identification of surrounding land use mentioned in section 5.1.5 this kind of investigation outside the site of installation seems to be beyond the scope of the baseline report. As it may also be a very comprehensive and costly step for the operator we suggest that this paragraph be omitted from the guideline.

Enclosed to this letter we have listed a number of more detailed comments that we would kindly ask you to consider.

Yours sincerely

Ole Kiilerich

Tel. +45 7254 4451

oki@MST.DK

**Annex:** **Detailed comments on the IEEG-2 draft guideline on IED baseline reports**

**Section 5.1.2**

It would be helpful if the following information be included (in red) in the text:

“Sources of information may include the classification and labelling inventory2 which contains classification and labelling information on substances notified under Regulation (EC) No1272/2008 (the CLP Regulation) and chemical information on substances3 registered under Regulation (EC) No 1907/2206 (the REACH Regulation). Other sources of information can also include the risk assessment reports for 141 chemicals on the ECHA website concerning Information on Chemicals on Information from the Existing Substances Regulation (ESR)4. “

3<http://echa.europa.eu/information-on-chemicals>

4<http://echa.europa.eu/information-on-chemicals/information-from-existing-substances-regulation>

We suggest the following sentence to be amended since it concerns hazardous substances as defined by Regulation (EC) No. 1272/2008:

“Where it is clear that the hazardous substances used, produced or released at the installation are incapable of causing contamination of soil and groundwater, a baseline report does not need to be produced. The decision, including the reasons for the decision, should be recorded and held by the competent authority.”

**Section 5.1.6**

We think that a conceptual site model will only be suitable in some cases, e.g. larger, more complex sites. We suggest replacing this section by a section titled:

“5.1.6 Summary of site description point 3-5”. The possibility of using conceptual models could be mentioned as a possible way of summarizing the information from a site in point 5.1.3 and 5.1.5, where it might be found appropriate.

**5.1.7 - Stage 7: Site investigation- Sampling Strategy. Analysis and determination of the sample results**

We suggest the following sentence to be amended:

“Where CEN or ISO standards exist these should be applied, unless national regulations or guidelines specify the analytical methods to be used to determine compliance with national quality criteria.”

**5.1.8 Stage 8: Production of the baseline report**

The phrase “draw together (not reproduce)” could be more precise:

“The purpose of this stage is to summarize and evaluate (not reproduce) all of the information collected in Stages 1-7.”

(reference to annex A should be to Annex I)

**Annex 1 – Baseline investigation and report checklist**

It would be helpful if the checklist in Annex I followed and in part mirrored the terminology used for the 8 stages in producing a baseline report and if annex I represented the disposition of the baseline report, i.e.:

Preliminary requirements

Stage 1       - Identify hazardous substances

Stage 2       - Identify potential for soil and groundwater contamination as related to the hazardous substances and site activities

Stage 3       – Assessment of the site-specific pollution risk

                         Location of activities and quantities …

Stage 4       - Site history

                         Identification of past historical sources of contamination

                         Plans of installations

                         …..

Stage 5       - Environmental setting

                         Geology and hydrogeology

                         Hydrology

Stage 6       - Preliminary Conceptual site model

                         Summary of risk based requirements for baseline data collection

Details of data collection

Stage 7       - Site investigation

…….

In section 5.1.8 it states that the baseline report should:

“Provide a clear and accurate description of how data will be obtained at cessation of activities and how it will be compared to the baseline data (e.g. statistical tests to be used)”

This topic defines the investigation strategy to be applied on site closure and approval of this strategy by submission of the baseline report is very relevant for site operators with reference to future agreements with the authorities on closure. Therefore we suggest this topic to be included in the checklist in annex I.