

Review IPPC-directive



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Content of the presentation

- General information IPPC directive
- Soil-related articles
- Discussion points
- Some drafting exercises
- Links with Soil Framework Directive
- Links / contradictions with GWDD/WFD
- Parliament, ENVI committee

General information

- Revise and merges seven separate existing Directives into a single Directive
 - IPPC Directive
 - VOC Solvents Directive
 - Waste Incineration Directive
 - LCP Directive (large combustion plant)
 - TiO₂ Directives (3)

General information

- Ch I: Common provisions
- Ch II: Special provisions for activities listed in Annex I
- Ch III - VI: Special provisions for other activities
- Ch VII: Committee, transitional and final provisions
- Annex I: Categories of industrial activities referred to in Article 11
- Annex II - IX

Soil related articles

- Art. 3 definitions:
 - *‘dangerous substances’ means dangerous substances or preparations as defined in Council Directive 67/548/EC of 27 June 1967 and Directive 1999/45/EC*
 - *‘baseline report’ means quantified information on the state of soil and groundwater contamination by dangerous substances*

Soil related articles

- Art. 12 General principles governing the basic obligations of the operator
 - *MS shall take the necessary measures to provide that the installations are operated in accordance with the following principles:*
 - *(8) the necessary measures are taken upon definitive cessation of activities to avoid any risk of pollution and return the site of operation to the state defined in accordance with Art 23 (2) and (3)*

Soil related articles

- Art. 13 Applications for permits
 - *13.1 An application for a permit includes a description of: (e) where applicable, a baseline report*
 - *13.2 ... or other information produced in response to other legislation fulfils any of the requirements of paragraph 1, that information may be included in, or attached to, the application.*

Soil related articles

- Art. 14 BAT reference documents
 - *The COM shall adopt BREF's based on the results of information exchange referred to in art. 29*
 - *BREF's shall describe the best available techniques, the associated emission levels and associated monitoring, the monitoring of soil and groundwater and remediation of the site ...*

Soil related articles

- Art. 15 Permit conditions
 - *MS shall ensure that the permit includes all measures necessary for compliance with art. 12 and 19*
 - *those measures shall include:*
 - *(b) appropriate requirements ensuring protection of the soil and groundwater ...*
 - *(d) requirements of periodic monitoring in relation to dangerous substances likely to be found on site having regard to the possibility of soil and groundwater contamination at the site of the installations*

Soil related articles

- Art. 17 Monitoring requirements
 - *1. monitoring requirements shall, where applicable, be based ... as described in BREF's*
 - *2. The frequency of the periodic monitoring referred to in art 15(1) shall be determined by the competent authority in a permit for each individual installation or in binding rules*
 - *... periodic monitoring shall be carried out at least once every seven years*
 - *COM may establish criteria for the determination of the frequency*
 - *... in accordance with regulatory procedure art. 69*

Soil related articles

- Art. 23 Site closure and remediation
 - *(2) where the activity involves the use, production or release of dangerous substances having regard to the possibility of soil and GW contamination at the site of the installation, the operator shall prepare a baseline report before starting operation of an installation or before a permit for an installation is updated. That report shall contain the quantified information necessary to determine the initial state of the soil and GW*
 - *(2) COM shall establish criteria on the content (comitology)*

Soil related articles

- *(3) upon definitive cessation of the activities, the operator shall assess the state of the soil and GW contamination by dangerous substances. Where the installation has caused any pollution by dangerous substances of soil or GW compared to the initial state established in the baseline report, the operator shall remediate the site and return it to that initial state*
- *(4) where the operator is not required to prepare a baseline report, the operator shall take the necessary measures upon definitive cessation of the activities to ensure that the site does not pose any significant risk to human health and the environment*

Discussion points

- Baseline report
 - necessary ‘where applicable’
 - what is meant by ‘where applicable’
 - how to define applicable?
 - reference to art. 23: ‘where applicable’ = use, production or release of dangerous substances having regard to the possibility of soil and GW contamination at the site of the installation ?
 - used for determination of the ‘initial state’ (art. 23)
 - can we still speak about initial state when updating a permit
 - the content

Discussion points

- Periodic monitoring
 - periodic monitoring not for all installations, reference (art. 15(d)) to dangerous substances likely to be found ...;
 - if monitoring is required, it has to be periodic
 - frequency of at least every 7 years
- Monitoring of soil and groundwater and BREF-documents
 - How to tackle monitoring of soil and groundwater and remediation of the site in BREF-documents?

Discussion points

- Remediation to initial state from baseline report
 - zero-tolerance principal
 - how to deal with small elevation of concentrations not reaching remediation standards
 - what with update of a permit
 - only risk approach when baseline report wasn't necessary
 - 23.4 does this imply that all operators have to conduct a soil investigation at definitive cessation

Some drafting exercises

- Art. 3 (15) baseline report: proposal to insert **relevant** dangerous substances
- Art. 12 (8): proposal also to refer to **23(4)**: the state is in this case not the baseline report but a site that does not pose any significant risk to human health and environment
- Art. 15.1(d): requirements of monitoring in relation to **relevant** dangerous substances...
(**deleting 'periodic'**)
- Art. 17.2 **deleting 'periodic' in paragraph 1 and deleting paragraphs 2,3 and 4**

Some drafting exercises

- Art. 23.2 ... or release of **relevant** dangerous substances ... (deleting ‘having regard to the possibility... of the installation’)
- Art. 23.2 ... necessary to determine the state of the soil and groundwater. (deleting ‘**initial**’)

Some drafting exercises

- Art. 23.3 ... soil and groundwater contamination by **relevant** dangerous substances. Where installation has caused **significant** (~~delete~~ any) pollution by relevant dangerous substances of soil or GW compared to the state established in the baseline report referred to in paragraph 2 **before starting of an operation**, the operator shall remediate the site and return it to that state; **for installations where the baseline has (only) been established before the permit has been updated**, the operator shall remediate **the site to the state where dangerous substances do not pose any significant risk to human health or the environment, taking into account of its current or/and? approved future use.**

Links / contradictions with SFD

- Definition 'dangerous substances' is somewhat different.
- IPPC refers to soil and groundwater <-->
SFD refers to soil
- Annex II SFD refers to the IPPC annex I
- Baseline report <--> soil status report

Links / contradictions with GWDD/WFD

- In Water Framework Directive definitions for ‘hazardous substances’ and ‘priority substances instead’ of definition for ‘dangerous substances’
 - ‘dangerous substances’ is a wider group of substances
- Operational monitoring of Groundwater chemical status in WFD (annex V, 2.4.3)
<- -> monitoring IPPC installations

Parliament, ENVI committee

- Draft report by rapporteur Krahmer
 - Delete "baseline" and remediate risk-based
 - Delete periodic monitoring in Article 15
- MEPs amendment proposals
 - Many amendments concerning soil related Articles
 - Great variation in opinions

http://www.europarl.europa.eu/meetdocs/2004_2009/organes/envi/envi_20081104_1500.htm

Timetable for Council

- Working Party on Environment: Cluster 8
"Soil related issues" on 13th of November?
 - Art. 15(1)(d), 17(2)
 - Art. 15(1)(b)
 - Art. 3(14 and 15), 12(8), 13(1)(e), 23
- Council
 - Oct 2008, progress report
 - Dec 2008, political agreement?

Discussion

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