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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, .2008

Draft

**COMMISSION DECISION (EC) No .../..**

**of [...]**

**implementing Article 22 (1)(f) of Directive 2006/21/EC the European Parliament and the Council on the management of waste from extractive industries**

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**implementing Article 22 (1)(f) of Directive 2006/21/EC the European Parliament and the Council on the management of waste from extractive industries**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC<sup>1</sup>, and in particular point (f) of Article 22 (1) thereof,

Whereas:

- (1) Article 3(3) of Directive 2006/21/EC provides for a definition of "inert waste". Article 22 (1) (f) of Directive 2006/21/EC requires the Commission to adopt, in accordance with the procedure referred to in Article 23(2) thereof, provision necessary to interpret the definition of "inert waste".
- (2) The purpose of complementing the definition of "inert waste" is to establish clear criteria and conditions under which waste from extractive industries could be considered as inert waste.
- (3) In order to limit the administrative burden linked with the implementation of this Decision, it is appropriate from a technical point of view to exempt from specific testing those wastes for which prior relevant information is available. It is also relevant for the same reasons to allow Member States to establish lists of waste material which could be considered as inert in accordance with the criteria defined in the present Decision
- (4) In order to ensure the quality and the representativity of the information used, the implementation of this Decision should be part of the waste characterisation referred in Article 5 (3) b) of the Directive and should be based on the same sources of information.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18 of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste<sup>2</sup>,

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<sup>1</sup> OJ L 102, 11.4.2006, p. 15.

<sup>2</sup> OJ L 114, 27.4.2006, p. 9.

HAS ADOPTED THIS DECISION:

*Article 1*

1. Waste shall be considered as being "inert waste", within the meaning of Article 3(3) of Directive 2006/21/EC, where all of the following criteria, are fulfilled both in the short and long term:

- a) the waste will not undergo any significant disintegration or dissolution likely to cause any adverse environmental effect or harm human health ;
- b) (i) the waste has a maximum content of sulphide sulphur of 0.1 %; or (ii) the neutralising potential ratio defined as the ratio between the neutralising potential and the acid potential, and determined on the basis of a static test prEN N° XXY, is greater than 3, and the maximum content of sulphide sulphur is 1 %;
- c) the waste presents no risk of self-combustion and will not burn;
- d) the content of substances potentially harmful to the environment or human health in the waste, and in particular As, Cd, Co, Cr, Cu, Hg, Mo, Ni, Pb, V and Zn, including in any fine particles alone of the waste, is sufficiently low to be of insignificant human and ecological risk both in short and long term and does not exceed national threshold values for sites identified as not contaminated or relevant national natural background levels; and
- e) the waste is substantially free from products used in extraction or processing that could harm the environment or human health.

2. Waste can be considered as inert waste without specific testing in the meaning of the present Decision if it can be demonstrated, to the satisfaction of the competent authority, that the conditions under paragraph 1 have been adequately considered and are met through prior existing information or other valid procedures or schemes.

3. The Member States can draw up lists of waste materials which can be regarded as inert under the condition that the considered waste are in accordance with the criteria defined in paragraph 1 and 2.

*Article 2*

The assessment of the "inert" property of waste in accordance with this Decision shall be achieved in the framework of the waste characterisation referred in Commission Decision COM 200X/XX/EC and shall be based on the same sources of information.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, [...]

*For the Commission*

*[...]*

*Member of the Commission*