

# TERMS OF REFERENCE FOR IMPEL PROJECT

2013-04-18

## 1. Project details

### Name of project

Linking the Directive on Industrial Emissions (IED) and REACH Regulation

## 2. Scope

### 2.1. Background

In the Directive on Industrial Emissions (IED) there are many references to hazardous substances and the risks deriving from them. Consequently it is worthwhile to explore

- a) whether the requirements/obligations under REACH Regulation can be useful for permitting and inspection work
- b) what changes in REACH formats for registration, applications for authorisation would be possible in order to be even more compatible and provide added-value for IED permitting and inspection,
- c) which consequences (including positive effects) REACH requirements have for permitting and inspection activities and
- d) how to improve the synergies and complementarities between these two pieces of legislation.

To a) Requirements/obligations under REACH Regulation and their relevance for permitting and inspection:

Article 12 par. 2 IED clearly determines that where other information is supplied or produced in response to other legislation and it fulfils the requirements concerning the permit application documents, that information may be included in, or attached to the application.

Example: REACH Chemical Safety Report for Registration and/or Authorisation - relevant parts may be

- used by the operator for writing the application documents,
- relevant for the permit writer for the assessment of the application,
- relevant for the permit writer for writing the permit conditions.

Conditions of Authorised or restricted uses under REACH may also be relevant for the permit writer when formulating the permit conditions.

If permit authorities provide check lists, templates or electronic tools to the operator for writing the permit application requirements concerning REACH obligations should be part of them.

Article 14 par 3 BAT conclusions shall be the reference for writing

	<p>the permit conditions. One criterion for the determination of the Best Available Technique is the use of less hazardous substances. For that purpose, the Analysis of Alternatives and Substitution Plan as provided in an Application for Authorisation under REACH, as well as the conditions and length for the granted authorisation, may be useful information to be exchanged in the process under IED Article 13.</p> <p>Article 22 par. 2: Where an activity involves the use, production or release of relevant hazardous substances .... the operator shall submit to the competent authority a baseline report before starting operation. For this purpose he can also use information that is supplied or produced in response to other legislation.</p> <p>Article 23 Environmental inspections The authority has to develop an inspection plan that covers the general items for all installations. On that basis authorities have to develop an inspection programme for routine environmental inspections. For defining the site visit frequency the IED requires to use a risk based approach. The period between two site visits shall not exceed 1 year for installations posing the highest risk and 3 years for installations posing the lowest risk. For the risk assessment the characteristic data of the chemicals processed or produced in the installation are very important.</p> <p>To c) Several questions arise concerning permitting and inspections:</p> <ul style="list-style-type: none"> <li>- Is the permit writer obliged to check whether the operator has fulfilled (existing installation – change or update of a permit) or will fulfil (new installation – first permit) all the relevant REACH requirements before issuing the permit?</li> <li>- Is the inspector obliged to check regularly whether the operator still is in line with the REACH Regulation (e.g. during IED inspections)?</li> <li>- Do obligations of downstream users to follow received exposure scenarios have an impact on permits?</li> <li>- Is there an added-value in doing it?</li> </ul>
<b>2.2. Directive / Regulation / Decision</b>	Directive 2010/75/EU on industrial emissions (integrated prevention and control (IED) and Regulation (EC) 1907/2006 on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)
<b>2.3. Article and description</b>	<p>Article 12 par 2 IED: use of other information that is supplied or produced in response to other legislation</p> <p>Article 14 par 3 IED: identification of less hazardous substances for the determination of BAT</p> <p>Article 22 par 2 IED: use, production or release of hazardous substances → baseline report on soil and water to be submitted</p>

	<p>Article 23 IED: environmental inspections</p> <p>Article 5 REACH: no data no market</p> <p>Article 7 REACH: Registration and notification of substances in articles</p> <p>Articles 10 and 12 REACH (and relevant annexes): information requirements (incl. Chemical Safety Report – Annex I)</p> <p>Article 31 REACH: Requirements for Safety Data Sheets (information in the supply chain)</p> <p>Article 37 REACH: downstream user – duty to identify, apply and recommend risk reduction measures</p> <p>REACH Titles VII (+ Annex XIV) and VIII (+ Annex XVII) on Authorisation and Restriction</p> <p>Article 119 REACH: information available electronically (ECHA website and databases)</p>
<b>2.4 Link to the 6<sup>th</sup> EAP</b>	The Sixth Community Environment Action Programme calls for the encouragement of more effective implementation and enforcement of Community legislation on the environment, among other things through the promotion of improved standards of permitting, inspection, monitoring and enforcement by Member States and through improved exchange of information on best practice on implementation. Article III, Para. 4 of Recommendation 2001/331/EC providing for Minimum Criteria for Environmental Inspections in the Member States pursues the same objectives.
<b>2.5. Link to MAWP</b>	Promote more coherent implementation of environmental law, Assisting members to implement new legislation and improve existing implementation, Work with external partners to identify and deliver outcomes.
<b>2.6. Objective (s)</b>	To explore the following: How do obligations from REACH Regulation interfere with IED statutory duties concerning permitting and inspection? Which information required for compliance with REACH Regulation can be used for IED permitting and inspection activities? Which information required for IED permitting and inspection can be used for purposes of REACH Regulation? Does an overlap between IED and REACH inspection tasks exist and how can it be used best for all parties?

### 3. Structure of the project

<b>3.1. Activities</b>	Collection and discussion of core questions concerning the link between Industrial Emissions Directive (IED) and REACH Regulation in a small group (at least answers on items mentioned under 2.6). If results show that there are relevant requirements deriving from REACH Regulation that influence IED permitting and inspection tasks and vice versa a ToR for a follow-up project with further steps shall be developed.
<b>3.2. Product(s)</b>	<b>Final report</b>

<b>3.3. Planning (Milestones)</b>	<p>January 2013: identification of project team members</p> <p>February 2013: collection and dissemination of core items for discussion</p> <p>April 2013: first project team meeting</p> <p>June 2013: second project team meeting</p> <p>September 2013: draft final report for Cluster i</p> <p>November 2013: submission of the draft final report to GA</p>
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#### 4. Organisation

<b>4.1. Lead</b>	Gisela Holzgraefe
<b>4.2. Project team</b>	<p>Representatives of 5 IMPEL member states dealing with both items</p> <p>1 representative from Forum REACH</p> <p>1 representative from IPPC Bureau</p>
<b>4.3. Participants</b>	Experts from enforcement

#### 5. Quality review

<p>The quality of the project will be reviewed by the project participants and appraised by the Cluster i “Improving implementation of EU environmental Law (Permitting, inspection, enforcement and smarter regulation). It will then be submitted to the IMPEL General Assembly for appraisal and adoption.</p>
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#### 6. Communications

<b>6.1. Dissemination of results</b>	<p>The final report will be made available on the IMPEL website. It will be sent to the national IMPEL coordinators.</p> <p>The report will also be sent to Forum REACH and other target groups (via IMPEL secretariat at the European level, via national coordinators at the national level). The results of the project will be reported in professional and technical journals. On top of that they will be used for discussions on national level, for inspector trainings and presented at conferences.</p>
<b>6.2. Main target groups</b>	<p>European Commission</p> <p>Competent authorities for enforcement of REACH Regulation and / or IED throughout Europe,</p> <p>Forum REACH, European Chemical Agency ECHA,</p>
<b>6.3. Planned follow up</b>	<p>If results show that there are relevant requirements deriving from REACH Regulation that influence permitting and inspection tasks a follow-up project with further steps shall be developed.</p>

## 7. Project costs/Resources required

	Estimated costs	Budget requested from IMPEL (€)	Total payments committed by lead authority (€)	Payments by lead authority directly to the project (€)	Payments by lead authority via the IMPEL budget (€)
• <b>Project meetings in total</b>					
<i>Meeting 1:</i> project team meeting					
No of Participants: 6*					
Travel:	1.800 €				
Accommodation:	450 €				
Catering:	300 €				
Meeting venue:					
Sub-Total:	2.550 €	2.550 €			
<i>Meeting 2:</i> project team meeting					
No of Participants: 6*					
Travel:	1.800 €				
Accommodation:	450 €				
Catering:	300 €				
Meeting venue:					
Sub-Total:	2.550 €	2.550 €			
<i>Meeting 3:</i>					
No of participants:					
Travel:					
Accommodation:					
Catering:					
Meeting venue:					
Sub-Total:					
• <b>Consultant:</b>					
• <b>Translation:</b>					
• <b>Dissemination:</b>					
• <b>Attendance for Project Manager at Cluster meetings:</b>					
• <b>Other (specify):</b>					
<b>TOTAL</b>	<b>5.100 €</b>	<b>5.100 €</b>			
<b>Human Resources</b>	Meeting preparation: 6 Meeting participation: 20 days in 2013 plus 8 days from other organisations Project management incl. draft final report: 20 days				

\* 5 participants from IMPEL member states, 1 from Forum REACH (IPPC Bureau pays for participant)