

ELNI-VMR-VVOR-congress

Talking about the environmental effects of industrial installations:
The European Directive on Industrial Emissions (IED)
Gent, Gent University 17 September 2010

IED + REACH: potential synergy effects

**Interfaces between EC Chemicals Legislation
and sector specific Environmental Legislation (IED/WFD)**

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Core Question: Benefits from REACH ...

... to IED? ...

... and vice versa?

focus on

- substances under the registration regime
- and their conjunction with sector specific environmental legislation (e.g. **IPPC/IED**, WFD + Waste)

Overview

From “toxic ignorance” (*h.s.l.*) to cooperative risk management?

- I. Benefits from REACh
- II. Contribution of sectoral environmental legislation to REACh-Implementation
- III. Establishing “links”: REACh and IED
- IV. Dreaming ...

I. Output of REACh registration procedure

1. Information on ...

- **adverse effects** (“hazard identification”)
- **quantitative „thresholds“** (PNEC/DNEL)
 - PNEC: Predicted No Effect Concentration (Annex I Section 3)
 - based on standardised tests (Annexes VI-XI + Guidance) (carried out in self-responsibility by industry)
- **risk reduction measures** + exposure scenario(s)

2. Risk communication

- „adequately control the risks“, Art 14 (6), 37 (5)
- **safety data sheet** (SDS); incl. exposure scenario(s)
- probably more important:
direct interaction (informal) of REACh actors

II. Contribution of sectoral environmental legislation to REACh-Implementation

1. Established implementation and enforcement

- Environmental permits
- specific technical provisions (water, air, waste, Seveso), but
 - often based on sum-parameters, not on single substances
- Problems:
 - lack of manpower
 - (... and understanding of the REACh mechanisms)

2. Good Knowledge of the local situation

- in the industrial installations
 - regional environmental media
- } MKB (NL) Skilful, high quality

III. Establishing links: Regulatory options

0. Initial Considerations

- strict connection → Problem: validity of the information in the registration
- loose connection → Implementation only on the basis of self-responsibility

Solution: cooperative approach

using the **specific capacity**:

- chemicals law:
 - generating **information** on substance properties
 - REACH: Initiate **cooperation of actors** along the value chain
 - substance related risk management
- sectoral law: strengthening their specific scope of application

III. Establishing specific links

1. EC-level: Regulation/Directive

a) Interpretation of IED/WFD

- Exceeding the PNEC limits would **indicate**
 - EQS Art. 18 IED; Definition in Art. 2 (24): “as set out in Union law”
 - the presence of “significant” pollution, Art. 11 (c) IED ?
Article 10(3) of the Water Framework Directive: quality objective or quality standard [Art 2 (24)] ... or pursuant to any other Community legislation, requires stricter conditions
- CbC: **Evaluate** the scientific foundation of the PNEC (assessment factor)

b) Amendment of IED/WFD: Establish specific links explicitly

- General provision: PNEC/DNEL as **indicative minimum requirement**:
 - “(environmental) quality standard“ (not strict binding),
 - e.g. Art. 10 (3) WFD/Art. 18 IED

III. Establishing specific links

1. EC-level: Guidance Documents

- c) Assistance to national/regional authorities
 - „Translation“ of REACH outcome
 - Supporting priority setting in the implementation of IED/WFD
- d) *Incorporation of exposure scenario(s) in BREFs ?*

III. Establishing specific links

2. National level

- Legal assumptions (PNEC = env. quality standard)
- Regulative level (e.g. waste water regulation)
- Implementation guidelines (Technical Instruction on air quality)

III. Establishing specific links

Results of REACH-EEE Conference WG 2 **Evaluating the Environmental Effectiveness of REACH** *October 11 & 12, 2007 Berlin*

NL-Policy

(water + air); to be included in guidance documents (→ 2010):

- First threshold: DNEL/PNEC equivalent → active action of nat. gov.
- Second threshold: 1% of DNEL/PNEC → negligible risk level

NRW (ongoing process)

NRW-water law + regulation

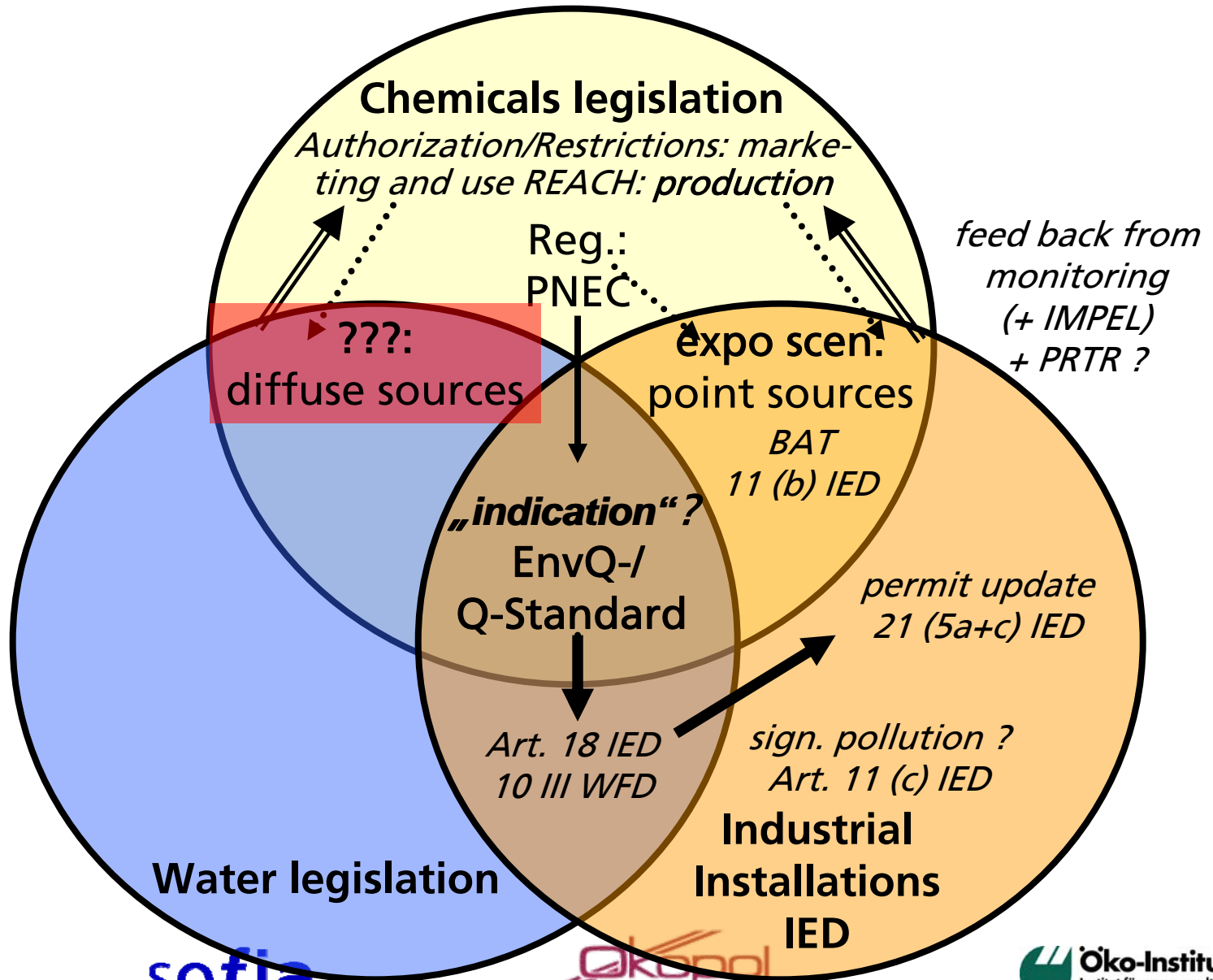
- water-monitoring: Rhine 400 substances in water
- new licenses: PNEC
- drinking water: stricter values

III. Establishing specific links

3. Monitoring

- General transparency provisions:
Emission-/material flows register
 - EPER/PRTR
 - model TRI? → more substances ?
 - Installation-/media-specific monitoring provisions
 - WFD
 - IPPC/IED
 - Air quality?
- } Substances with „critical“ PEC/PNEC

Interfaces: REACH and IED/WFD



IV. Dreaming

- bridging ...
 - the gap between IED + REACH experts (two planets)
 - the gap in the implementation
- establishing ...
 - linking clauses: IED/WFD + REACH
 - Guidance: Authorities + REACH actors
- achieving ...
 - industry “ensure that they manufacture, place on the market or use such substances that do not adversely affect human health or the environment”,
Art. 1(3) REACH

Thank You for Your Attention

Further Informationen: www.sofia-research.com

Selected literature on materials flows institutional framework and the “interface problem”

- Mind the Gap - Interface Problems between EC Chemicals Law and sectoral environmental legislation; Führ, M./Merenyi, S., Review of European and International Environmental Law (RECIEL) 15 2006 (3), 281-292.
- Risk management under REACH - Requirements of technical and organisational guidance for producers, importers and downstream users; Führ, M./Krieger, N.; in: elni-review 2006, 7-15.
- REACH as a paradigm shift in chemical policy - responsive regulation and behavioural models; Führ, M./Bizer, K.; in: Journal of Cleaner Production (JCLP), 15, 2007 (4), 327-334, Elsevier, Exeter (UK).
- Enquete Commission of the German Bundestag on the „Protection of Humanity and the Environment“ (ed.): Responsibility for the Future – Options for Sustainable Management of Substance Chains and Material Flows, Bonn 1994 (Economica).
- Führ et al.: Institutionelle Bedingungen zur Förderung proaktiver Strategien - Vergleichende Analyse internationaler Ansätze im Bereich des Umweltverhaltens von Unternehmen, Führ, M. unter Mitarbeit von Bizer, K./Gebers, B./Roller, G., in: Enquête-Kommission "Schutz des Menschen und der Umwelt" (Hrsg.), Umweltverträgliches Stoffstrommanagement, Bd. 2: Instrumente, Bonn 1995 (Neudruck: Sofia-Studien zur Institutionenanalyse Nr. 99-1).
- Frieger/Engelhardt/Henseling (Hrsg.): Das Management von Stoffströmen, Berlin 1998 (Springer).