

Stockholm 20 November 2020

Inception impact assessment regarding revision of lists of pollutants affecting surface and groundwater (Ref. Ares (2020)5809213 – 23/10/2020)

Svemin is the national industry association for mines and for mineral and metal producers in Sweden, representing around 50 companies which employ about 13,000 people in production, exploration and mining technology.

Sweden is, with its many lakes and watercourses, a country that is rich in surface water. This is a great asset, but to a large extent it determines the conditions and prerequisites for most activities and measures for the industry, for individuals and for the public sector. For the Swedish mining industry, water management is a central part of the business involving discharge of groundwater influx in open pit mines and underground mines, management of stormwater from industrial areas and facilities in general and treatment of process water from concentrators and mining waste facilities (tailings management facilities) before discharge.

The Swedish mining and mineral industry operate under high environmental requirements and supplies metals and minerals to important value chains. Raw materials, and not least metals, are recognized as key to manage the technological transition to a climate neutral and sustainable society, "Access to resources is also a strategic security question for Europe's ambition to deliver the Green Deal. Ensuring the supply of sustainable raw materials, in particular of critical raw materials necessary for clean technologies, digital, space and defence applications, by diversifying supply from both primary and secondary sources, is therefore one of the pre-requisites to make this transition happen."¹ With reference to this fundamental conclusion, Svemin would like to bring some aspects to DG ENV's attention for the coming revision of the list of pollutants affecting water. Several of our comments are synchronized with our colleagues from Jernkontoret – The Swedish Steel producer's Association.

- With the current legislation, existing experience and toxicology data from laboratory tests has led to a focus on natural elements like metals. We do have decades of data from the monitoring of water bodies downstream mining operations and it is obvious that the applied methods to determinate environmental quality standards in fact overestimate the negative impact on biology of naturally occurring elements in natural waters. Still, the evaluation methods have not been updated and this implementation is a costly and deceptive obstacle to reach the overall objectives of good environmental water quality.
- We call for an eco-systemic approach when it comes to the evaluation of effects of contaminants in the aquatic environment, using up to date methodologies such as the Effect Based Methods (EBM) and Biotic Ligand Model (BLM) and with integration of local environmental conditions.

¹ Communication from the Commission to the European Parliament, the European Council, the European Economic and Social Committee and the Committee of the Regions; The European Green Deal.

- We call for the legislation to introduce a risk-based approach to evaluate the environmental and health effects, especially for metals and other naturally occurring elements and substances, taking into account relevant local background concentrations of naturally occurring metals.
- There is a need for greater demands on the monitoring of data before developing any legislative options and corresponding regulatory standards
- The Commission needs to send a clear message to the Member States, that the Directives in question do leave sufficient flexibility for Member States to adapt water management to local conditions and leaves considerable discretion to identify location-specific measures to meet the objectives in line with the principle of subsidiarity. It is obvious, that some local authorities and Member States are not clear about what this really means.
- The Commission must, with greatest seriousness, consider the social and economic implications when determining the list of priority substances, especially when it comes to naturally occurring substances and elements, bearing in mind that the legal application of the environmental quality standards for such substances is a very sharp legal threshold. If set lower than can be motivated (for instance by using several different layers of precautionary principles), these standards risk to ban all kinds of land use and industrial operations, even those that apply best available technology and even though no negative impact on the biology can be traced to the operations. Therefore, the legal approach must be based on a reasonable balance between costs and environmental benefits, especially for natural substances and elements.
- It is of great importance with a close collaboration between all relevant actors (European Commission, Member States, stakeholders including industry) to adapt a sound and harmonized legislation to meet the objectives of the European Green Deal.
- We underline the importance of policy coherence, not only including environmental policies like the Zero Pollution Action Plan, the Chemicals Strategy and such, but also other related policies like the Industrial Strategy and the list of Critical Raw Materials identified by the Commission and supplemented by an action plan to secure access to critical raw materials since raw materials are crucial to Europe's economy and whereas reliable and unhindered access to certain raw materials is a growing concern within the EU and across the globe. These different policies must be coherent, and they must be coherent with the European legislation, making sure that conflicting interests are taken care of with deepest consideration.

Finally, since water management is closely connected to biodiversity and whereas the loss of biodiversity is a matter of greatest concern, we are proud to finally inform you that the Swedish mining industry recently launched a road map for increased biodiversity. The road map is based on the mitigation hierarchy, to avoid, minimize, restore and compensate for the impact on biodiversity. The roadmap has a strongly stated goal that the Swedish mining and minerals industry by 2030 shall contribute to increased biodiversity in all the regions where mining and minerals exploration and extraction are ongoing.²

With best regards,

Svemini

Kerstin Brinnen
Director legal affairs

Lars-Åke Lindahl
Director Environment and Coordinator EU Affairs

² <https://www.sveMin.se/en/news/news/roadmap-biological-diversity/>