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Tittel: EOSCA's comments on the Norwegian Activity Regulation

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EOSCA would like to make the following comments on the the proposed changes and the current Activity Regulation, the latter based on the regulations published on the Petroleum Safety Authority's website.:

### Comments to the proposed changes

#### **Guideline to Chapter XI – second subsection:**

The link in this section leads to a page with an error message.

Current proposed link: <https://www.miljodirektoratet.no/naringsliv/petroleum/soke-og-rapportere/soknadsveileder-petroleum/>

The correct link may be

<https://www.miljodirektoratet.no/ansvarsomrader/forurensning/petroleum/for-naringsliv/soknadsveileder-petroleum/> (Norwegian only)

### Comments regarding Fresh Water toxicity

#### **Section 62, fourth subsection, states:**

'Toxicity tests performed on freshwater organisms may be accepted if results from marine tests are not available and if performed by standardized methods.'

Comment: When the term 'may be accepted' is used, it would be helpful to clarify who is in a position to accept/decide when freshwater data are acceptable. If the intention is for the authorities to be the accepting/deciding party, this would align with the OSPAR guideline for HOCNF.

If the intention is for the operator to be the accepting/deciding party, chemical companies are likely to have to perform marine tests to be on the safe side, or in

addition to existing freshwater data, because one or more operators may not accept the freshwater data for some reason. This would mean that the regulatory acceptance of freshwater data could be inconsistent between operators and different suppliers, and the regulatory acceptance of freshwater tests may seem hollow.

Comments regarding missing subsection in regulations on Petroleum Safety Authority's website in Norwegian

### **Section 62, fifth subsection**

'OSPAR Harmonised Offshore Chemical Notification Format (HOCNF) shall be available for all chemicals used or discharged. Results from the ecotoxicological tests shall be included in HOCNF part 2.'

This subsection is present in Norwegian in Lovdata.no, and present in the English translation of the regulations on Petroleum Safety Authority's website, and also referred to in the Norwegian guideline to the regulations. However, it is missing in the Norwegian regulation text itself on Petroleum Safety Authority's website.

Comments regarding Yellow subcategory

### **Section 63, fourth subsection**

The below Norwegian text was proposed clarified by Norwegian Environment Agency in the draft regulations of 2018:

Fjerde ledd a) skal lyde:

a) underkategori 1 dersom **nedbrytningsstoffet** forventes å bionedbrytes fullstendig eller bionedbrytes til **stoffnedbrytningsprodukter** som ville falle i gul kategori, jf. første punktum, eller grønn kategori, jf. femte ledd, dersom de var omfattet av kategoriseringskrav,

Fjerde ledd b) skal lyde:

b) underkategori 2 dersom **nedbrytningsstoffet** forventes å bionedbrytes til **stoffnedbrytningsprodukter** som ville falle i rød kategori dersom de var omfattet av kategoriseringskrav, jf. tredje ledd,

Fjerde ledd c) skal lyde:

c) underkategori 3 dersom ~~nedbrytnings-stoffet~~ forventes å bionedbrytes til ~~stoff-nedbrytningsprodukter~~ som ville falle i svart kategori dersom de var omfattet av krav til kategorisering, jf. andre ledd.

Begrunnelse

Språklig presisering.

Økonomiske og administrative konsekvenser

Ingen.

An English translation of the above is

Fourth paragraph (a) shall read:

a) Subcategory 1 if the ~~degradation substance~~ is expected to be fully biodegraded or biodegrade into ~~substances-degradation products~~ that would fall under the yellow category, cf. first sentence, or green category, cf. fifth paragraph, if they were subject to categorisation requirements,

Fourth paragraph b) shall read:

b) Subcategory 2 if the ~~degradation substance~~ is expected to biodegrade into ~~substances-degradation products~~ that would fall under the red category if they were subject to categorisation requirements, cf. third paragraph,

Fourth paragraph c) shall read:

c) Subcategory 3 if the ~~degradation substance~~ is expected to biodegrade into ~~substances-degradation products~~ that would fall under the black category if they were subject to categorisation requirements, cf. the second paragraph.

Justification

Linguistic clarification.

Financial and administrative consequences

None

**The Norwegian version of the regulation has at some point been reverted back to the pre-draft-2018 text**, while the English translation is according to the 2018

proposal. The current (2018) English text is the correct in regards to the terms substance and degradation products.

The current Norwegian text - a translated example is 'Subcategory 1 if the degradation substance is expected to be fully biodegraded or biodegrade into substances that would fall under the yellow category...' - therefore reads that the starting point should be the daughter substance, not the parent substance, i.e. that one is to evaluate the degradation product of the degradation product, rather than evaluate the degradation products of the original substance. Communication from 2018 may be supplied if required.

### Comments regarding English translation

#### **Section 62, third subsection**

The last sentence in the Norwegian text in this subsection refers to fifth subsection, whereas the English translation refers to the sixth subsection.

#### **Section 62, seventh subsection**

The English translation of seventh subsection is not updated compared to the Norwegian original text. In the latter the current exemptions are listed as letter a) – f), here translated from Norwegian to the following:

'The requirements for testing and ecotoxicological documentation in HOCNF part 2, does not apply for

- a) chemicals in green category, cf. Section 63
- b) the additive packages in chemicals in closed systems with a usage above 3000 kg
- c) additive packages in sealant oils for sea water pumps where there is discharge to sea
- d) impurities
- e) potassium hydroxide, sodium hydroxide, hydrochloric acid, sulfuric acid, nitric acid and phosphoric acid
- f) polymers that meet the criteria set out in the OSPAR Guidelines for Completing the Harmonized Offshore Chemical Notification Format (HOCNF) (Reference Number: 2012/05)'

With this year's letter g) proposed as an additional exception.

In the current English version the section is as follows:

The requirements for testing and ecotoxicological documentation in HOCNF part 2, does not apply for chemicals in green category, cf. Section 63, the additive packages in chemicals in closed systems that is not discharged to sea with a usage above 3000 kg, impurities, potassium hydroxide, sodium hydroxide, hydrochloric acid, sulfuric acid, nitric acid and phosphoric acid. The requirements for testing and ecotoxicological documentation in the form of HOCNF Part 2 do not apply to polymers that meet the criteria set out in the OSPAR Guidelines for Completing the Harmonized Offshore Chemical Notification Format (HOCNF) (Reference Number: 2012/05).

The gist of the sections are the same, but the layout is different. Note however, group c) listed above is missing from the current English translation.

### **Section 63, third subsection**

The English translation of the third subsection is not updated compared to the Norwegian original text.

In the Norwegian original text the letters d-f) are included after a)-c), where letter e) is 'polymers which have not undergone ecotoxicological tests, cf. Section 62.'

In the English translation, only letter d) is included, not e)-f), but d) here is given as 'polymers which have not undergone ecotoxicological tests, cf. Section 62'. Hence the current English translation does not include hypochlorite produced on the installation, or the substances EDTA, DTPA, benzotriazole or N-methyl diethanolamine, included as red rated substances.

### **Section 63, fourth subsection**

The English translation of the fourth subsection is not updated compared to the Norwegian original text. The second sentence ('Strong acids and bases...') in the Norwegian text is not included in the English translation.

### **Guideline to Section 61a, second subsection**

The English translation has a second subsection in the guideline to Section 61a, while the Norwegian original text does not have this subsection.

### **Guideline to Section 61b**

The English version of the Guideline to the regulation is in Norwegian language instead of in English.

### **Guideline to Section 63**

The Norwegian version contains a subsection regarding a default yellow subcategory 3 if no knowledge of the degradation products is demonstrated. This subsection is not included in the English translation.

The English translation of this guideline section contains a sentence referring to strong acids and bases being yellow rated. This is not included in the Norwegian guideline to the regulations, but in the regulations itself, ref above comment to *Section 63, fourth subsection*.

### **Guideline to Section 66, first subsection**

The ninth subsection of the guideline contains a sentence in the Norwegian version that is not added to the English translation.

### **Guideline to Section 69**

The third subsection in the Norwegian guideline text is not included in the English translation.

### **Some additional translation issues:**

There are situations where an ambiguous or incorrect word has been used in the English translation, e.g.:

Section 68:

'...Borekaks med vedheng av vannbasert borevæske, og sand og andre faste partikler, kan slippes til sjø dersom innholdet av formasjonsolje er lik eller under ti gram per kilo tørr masse, med mindre annet følger av tillatelse etter forurensningsloven kapittel 3....'

'...Drill cuttings with **pendants** of water-based drilling fluid, and sand and other solid particles may be discharged to sea if the content of formation oil is equal to or less than ten grams per kilo of dry mass, unless otherwise permitted by the Pollution Control Act Chapter 3....'

There are other areas where the English is clunky or doesn't particularly read or flow correctly, e.g. :

Section 66, guideline:

'...Med smøremidler menes smørefett, tetningsoljer, giroljer og motoroljer....'

'...By lubricants is meant grease, sealing oils, gear oils and engine oils....'

Thank you for considering these points.

Kind regards,

Nik.

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Nik Robinson  
**NIKAM Consulting Limited**

Executive Secretary, EOSCA

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