

IOGP input to European Commission call for evidence on 'soil health – protecting, sustainably managing and restoring EU soils'

Introduction

The International Association of Oil & Gas Producers' (IOGP) member companies account for approximately 89% of the oil and gas produced in Europe (EU 27 + Norway + UK). IOGP shares the world's ambition to reach the Paris Agreement's goals and supports the EU's objective of climate neutrality by 2050 upon the implementation of enabling measures.

IOGP recognises the role of soil protection in reducing pollution in Europe. More broadly, IOGP supports a realistic approach to reduction of the environmental footprint of societal activities while caring for European citizen's well-being and restoring biodiversity.

Soil protection is already addressed in the EU at present under a number of provisions in EU policy instruments (Biodiversity (Habitats & Birds Directives), Environmental Impact, Land Use Land Cover). In respect of E&P activities, intentional emissions to soil are restricted by national legislation, whereas, the EU Environmental Liability Directive covers accidental spills and waste is addressed under the EU Best Available Techniques (BAT) Reference Document for the Management of Waste from Extractive Industries.

To achieve sustainable protection of soil and further pollution reduction, we would recommend as general principles to:

- Strengthen the implementation, enforcement, and harmonization of the existing EU legislation among Member States.
- In line with the Better Regulation principles (in particular Tool 1 and Chapter 2), avoid double regulation and additional administration; especially on items that are covered by the existing EU and national legislation
- Ensure stable and predictable regulatory framework that is necessary for long-term investments
- Ensure engagement with all relevant stakeholders as part of the consultation process
- Employ a risk- and science-based approach for soil protection
- Conduct thorough impact assessments on all the legislative and non-legislative future proposals
- Maintain a level playing field for European industry, considering global competition. There is a risk of replacement for EU produced commodities by imported ones with less stringent rules



Considering the above, we would like to elaborate on the following points:

Importance of recognising the existing EU framework addressing soil health

There are several existing pieces of legislation which are effective in addressing soil health at EU level, which should be taken into consideration in any proposal for an EU-wide Soil Health Law. The aspects of soil health which are addressed in these existing legislative instruments are comprehensively regulated as a result.

• Accidental discharges to soil

Where there are emissions to soil from oil and gas Exploration & Production (E&P) activities, this would generally entail breach of a permit, in addition to breaching national legislation. Hence, emissions to soil only occur in cases of accidents. Such accidental discharges are already addressed through EU legislation, primarily the Environmental Liability Directive, and national legislation. Furthermore, waste from E&P activities is addressed under corresponding national and EU level legislation, such as the [EU Best Available Techniques \(BAT\) Reference Document for the Management of Waste from Extractive Industries](#), under the [2006 Directive on the management of waste from extractive industries](#).

We recommend that any categorisation of soils should avoid using unrealistic definitions and should instead focus on science-based definitions, determined by experts as appropriate. We consider that the aim of the proposed Soil Health Law should be realistic in its ambition, recognising that soils in various conditions can provide valuable functions relevant to land use, beyond soils which meet 'agricultural' or 'natural' standards.

• Environmental Impact Assessment of activities affecting soil

E&P projects are subject to environmental impact assessment (EIA) under the 2011 EU Environmental Impact Assessment Directive, with the results of the EIA being taken into consideration in permit provisions. Breach of such permits may result in penalties of administrative, financial, or in certain cases, criminal nature.

In addition, upstream hydrocarbon E&P activities are addressed by the 2019 Best Available Techniques [Guidance Document on upstream hydrocarbon exploration and production](#).

In light of the above considerations, we recommend that, in drafting the Soil Health Law, there should be due recognition for the contributions of the legislation already in existence which regulates this sphere. Therefore, we consider that further facilitating the implementation and harmonisation of such existing legislation would be an effective means of striving towards improved soil health.

IOPG considers that the development of guidelines for sustainable management of soil and the introduction of binding restoration targets for degraded soils do not necessarily need to be developed at EU level. Indeed, national frameworks can already leverage an agreed international standard, for example ISO [18504:2017](#) regarding sustainable remediation. Soil protection is also addressed in other international standards such as ISO [19204:2017](#) on risk assessment and ISO [21365:2016](#) on conceptual site models for contaminated sites.

IOGP supports the employment of a risk- and science-based approach for soil protection

It must be highlighted that acceptance of a new Soil Health Law will best be achieved if the EU employs a risk- and science-based approach (in line with the principles of the Better Regulation Toolbox, in particular Tool 1 and Chapter 2), in addition to acknowledging that soil types vary greatly across Member States. IOGP considers that this would represent the most realistic solution and would therefore increase likelihood of successful implementation and achievement of the intended objective. We would like to emphasise the importance of ensuring a realistic and proportional approach in the proposal for the Soil Health Law, recognising that, where an activity generates a very minimal impact on soil, this should be considered when proposing measures to remedy such impact.

When issues are addressed locally / nationally, a site-specific conceptual model (CSM) is an effective tool for representing the overall risk posed by impacted soils, and can demonstrate the most effective remediation strategy for a local site and its surroundings. A non-rigid but harmonised 'site specific' technical-scientific approach, as demonstrated in a CSM, should form part of EU Soil Health considering actions that maybe required on a local scale. This can be supported by the international standard - [ISO 21365:2016](#) on contaminated sites.

Further, it is important that a positive, open and collaborative approach is fostered between stakeholders, rather than a top-down approach in which guidelines must be followed which have not been internationally developed and therefore may not be appropriate in some regions. In light of the significant variance in soil types depending on region, it is essential that this is taken into consideration in any proposal for a Soil Health Law.

When a risk-based and science-led approach is implemented (in line with the principles of the Better Regulation Toolbox, in particular Tool 1 and Chapter 2), and stakeholders are aligned as to the objectives and interpretation of results, a Soil Health Law should allow the transfer of land ownership and liabilities in a manner that facilitates both responsible business and brownfield regeneration. There should not be long-lasting obligations after remediation, sale and contractual transfer of land in a modern, well-regulated framework, clearly built on principles of due diligence. In cases of property transfer as proposed in line with some of the provisions of the Soil Health Law given (Soil Health Certificates), any buyer can become responsible and liable for any remediation if deemed required.