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## **NICOLE Feedback on proposed EU Soil Monitoring Directive**

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NICOLE is a network bringing together industry, service providers and academics. It was formed in 1996 with an aim to bring together professionals involved in sustainable risk-based management of land and water in Europe – [www.nicole.org](http://www.nicole.org). NICOLE has drafted this paper to better reflect its opinion based on its long-term experience in the field of industrial land management, in Europe and internationally, and provide feedback to the Proposal for a Directive of the European Parliament and of the Council on Soil Monitoring and Resilience (Soil Monitoring Law).

Since its inception NICOLE and its members have been focused on sustainable land management of industrial sites. Over the years, our focus and insight have evolved, culminating in several publications on Land Stewardship ([booklet](#)) and associated initiatives, which explain how to create value by connecting industrial land management to societal, ecological and economic challenges. Another recent example is a joint statement with Common Forum on how to include sustainability in contaminated land management ([statement](#)).

#### **Law on Soil Monitoring and Resilience**

NICOLE is a strong advocate and welcomes the initiative of the EC to work on increasing soil health, which among others would include restoration and remediation of soil and groundwater contaminated sites, even if well-established regulations to address soil and groundwater contamination already exist in numerous member states. NICOLE believes that the current EU legislation insufficiently addresses the various identified soil threats. And therefore NICOLE welcomes the development of a Directive on Soil Monitoring.

#### **Restoration and remediation of soil and groundwater contamination**

By including restoration and remediation of soil and groundwater contamination affected sites, a level playing field is created across Europe on the approaches to remediation and polluted sites management. As our members are active across (and outside) Europe, we welcome this development.



#### Risk based approach to contamination

As NICOLE has communicated before, a risk-based and sustainable management approach to the remediation of contaminated land is essential, considering the current and future known use of the sites. As the (level of) implementation of risk-based assessment and remediation of contaminated sites varies per member state, NICOLE welcomes the more level playing field created by implementing a risk-based approach in each member state.

#### Known future use of land

In line with the precautionary and proportionality principles, NICOLE would like to emphasize, when using a risk-based approach to managing contaminated land, that future land use can and should only be considered when the future use is known.

#### Healthy industrial soils: fit for use

Based on the proposed text of the Directive, it is unclear to us to what extent the soil health criteria apply to industrial land. Due to the nature of an industrial site it is often impossible to meet (all of) the soil health criteria.

#### Register of Contaminated and potentially contaminated sites

NICOLE recognizes that the provision of a public register on contaminated sites supports transparency and allows interested stakeholders to identify and monitor progress in the management of such sites. It is of concern to our industrial members that potentially contaminated sites will also be included on a public register. There is some unease that sites being present on a public register when no clear conclusion has been drawn regarding the presence of an unacceptable risk may lead to mis-understandings and concern regarding the status of the land at those sites. Unless there is a well implemented process of investigation and remediation, we are concerned that this will lead to additional efforts and costs for landowners and be counter productive to the objectives of reducing net land take. It is recognized that a process for identifying and investigating potentially contaminated sites is necessary for Member States.

#### Reuse and circularity of excavated soil

In our opinion there is a missed opportunity regarding the re-use / circularity of excavated soil. We would have liked to have seen this incorporated in the proposal. Reuse of soil strongly contributes to avoiding



excavated soils being discarded as waste rather than building materials, as outlined in the NICOLE and Common Forum joint Athens statement on applying circularity principles in contaminated land management.

**Science and evidence-based: risk-based sustainable land management towards Land Stewardship**

Finally, NICOLE also believes that a science and evidence-based approach provides a successful counterweight to an unbalanced use of the precautionary principle. The holistic combination of a proportionate approach within a risk-based, sustainable management context, including recent concepts such as Land Stewardship, is a key element to create certainty on how a new chemical or a newly identified exposure pathway may be dealt with. Indeed, when addressing soils for contaminated or potentially contaminated sites, a holistic and circular approach as defined in NICOLE's cycle of land stewardship seems more in line with the broader objectives of the EU Green Deal than a linear approach to contaminated site management (assess, remediate, monitor). This also allows to address the multiple aspects of soil health and the roles soil fulfill and ensures stronger stakeholder engagement and acceptance. The NICOLE community is very pleased to observe this concept has been taken into account in the proposal for a Soil Monitoring Directive and looks forward to contribute and further explore the concept of Land Stewardship along with EC and member states.

The NICOLE community welcomes the opportunity to continue providing input where and when needed on development of the **Directive of the European Parliament and of the Council on Soil Monitoring and Resilience (Soil Monitoring Law)**.

Yours Sincerely,

Handwritten signature of Micha van den Boogerd in black ink.

Micha van den Boogerd  
Chair of NICOLE Regulatory Working Group

Handwritten signature of Johan de Fraye in black ink.

Johan de Fraye  
Chair of NICOLE

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*This paper does not necessarily reflect the opinion of individual members of NICOLE.*