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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 18 March 1991

amending Directive 75/442/EEC on waste

(91/156/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 103s thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Directive 75/442/EEC ⁽⁴⁾ established a set of Community rules on waste disposal; whereas these must be amended to take account of experience gained in the implementation of this Directive by the Member States; whereas the amendments take as a base a high level of environmental protection;

Whereas the Council undertook to amend Directive 75/442/EEC in its resolution of 7 May 1990 on waste policy ⁽⁵⁾;

⁽¹⁾ OJ No C 295, 19. 11. 1988, p. 3 and OJ No C 326, 30. 12. 1989, p. 6.

⁽²⁾ OJ No C 158, 26. 6. 1989, p. 232 and opinion delivered on 22 February 1991 (not yet published in the Official Journal).

⁽³⁾ OJ No C 56, 6. 3. 1989, p. 2.

⁽⁴⁾ OJ No L 194, 25. 7. 1975, p. 47.

⁽⁵⁾ OJ No C 122, 18. 5. 1990, p. 2.

Whereas common terminology and a definition of waste are needed in order to improve the efficiency of waste management in the Community;

Whereas, in order to achieve a high level of environmental protection, the Member States must, in addition to taking action to ensure the responsible removal and recovery of waste, take measures to restrict the production of waste particularly by promoting clean technologies and products which can be recycled and re-used, taking into consideration existing or potential market opportunities for recovered waste;

Whereas, moreover, any disparity between Member States' laws on waste disposal and recovery can affect the quality of the environment and interfere with the functioning of the internal market;

Whereas it is desirable to encourage the recycling of waste and re-use of waste as raw materials; whereas it may be necessary to adopt specific rules for re-usable waste;

Whereas it is important for the Community as a whole to become self-sufficient in waste disposal and it is desirable for Member States individually to aim at such self-sufficiency;

Whereas, in order to achieve the abovementioned objectives, waste management plans should be drawn up in the Member States;

Whereas movements of waste should be reduced and whereas Member States may take the necessary measures to that end in their management plans;

Whereas, to ensure a high level of protection and effective control, it is necessary to provide for authorization and inspection of undertakings which carry out waste disposal and recovery;

Whereas, subject to certain conditions, and provided that they comply with environmental protection requirements, some establishments which process their waste themselves or carry out waste recovery may be exempted from permit requirements; whereas such establishments should be subject to registration;

Whereas, in order that waste can be monitored from its production to its final disposal, other undertakings involved with waste, such as waste collectors, carriers and brokers should also be subject to authorization or registration and appropriate inspection;

Whereas a committee should be set up to assist the Commission in implementing this Directive and adapting it to scientific and technical progress,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 75/442/EEC is hereby amended as follows:

1. Articles 1 to 12 are replaced by the following:

Article 1

For the purposes of this Directive:

(a) "waste" shall mean any substance or object in the categories set out in Annex I which the holder discards or intends or is required to discard.

The Commission, acting in accordance with the procedure laid down in Article 18, will draw up, not later than 1 April 1993, a list of wastes belonging to the categories listed in Annex I. This list will be periodically reviewed and, if necessary, revised by the same procedure;

(b) "producer" shall mean anyone whose activities produce waste ("original producer") and/or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

(c) "holder" shall mean the producer of the waste or the natural or legal person who is in possession of it;

(d) "management" shall mean the collection, transport, recovery and disposal of waste, including the supervision of such operations and after-care of disposal sites;

(e) "disposal" shall mean any of the operations provided for in Annex II, A;

(f) "recovery" shall mean any of the operations provided for in Annex II, B;

(g) "collection" shall mean the gathering, sorting and/or mixing of waste for the purpose of transport.

Article 2

1. The following shall be excluded from the scope of this Directive:

- (a) gaseous effluents emitted into the atmosphere;
- (b) where they are already covered by other legislation:
 - (i) radioactive waste;
 - (ii) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries;
 - (iii) animal carcasses and the following agricultural waste: faecal matter and other natural, non-dangerous substances used in farming;
 - (iv) waste waters, with the exception of waste in liquid form;
 - (v) decommissioned explosives.

2. Specific rules for particular instances or supplementing those of this Directive on the management of particular categories of waste may be laid down by means of individual Directives.

Article 3

1. Member States shall take appropriate measures to encourage:

- (a) firstly, the prevention or reduction of waste production and its harmfulness, in particular by:
 - the development of clean technologies more sparing in their use of natural resources,
 - the technical development and marketing of products designed so as to make no contribution or to make the smallest possible contribution, by the nature of their manufacture, use or final disposal, to increasing the amount or harmfulness of waste and pollution hazards,
 - the development of appropriate techniques for the final disposal of dangerous substances contained in waste destined for recovery;
- (b) secondly:
 - (i) the recovery of waste by means of recycling, re-use or reclamation or any other process with a view to extracting secondary raw materials, or
 - (ii) the use of waste as a source of energy.

2. Except where Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards

and regulations (*) applies, Member States shall inform the Commission of any measures they intend to take to achieve the aims set out in paragraph 1. The Commission shall inform the other Member States and the committee referred to in Article 18 of such measures.

(*) OJ No L 109, 26. 4. 1983, p. 8.

Article 4

Member States shall take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular:

- without risk to water, air, soil and plants and animals,
- without causing a nuisance through noise or odours,
- without adversely affecting the countryside or places of special interest.

Member States shall also take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.

Article 5

1. Member States shall take appropriate measures, in cooperation with other Member States where this is necessary or advisable, to establish an integrated and adequate network of disposal installations, taking account of the best available technology not involving excessive costs. The network must enable the Community as a whole to become self-sufficient in waste disposal and the Member States to move towards that aim individually, taking into account geographical circumstances or the need for specialized installations for certain types of waste.

2. The network must also enable waste to be disposed of in one of the nearest appropriate installations, by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health.

Article 6

Member States shall establish or designate the competent authority or authorities to be responsible for the implementation of this Directive.

Article 7

1. In order to attain the objectives referred to in Article 3, 4 and 5, the competent authority or authorities referred to in Article 6 shall be required to draw

up as soon as possible one or more waste management plans. Such plans shall relate in particular to:

- the type, quantity and origin of waste to be recovered or disposed of,
- general technical requirements,
- any special arrangements for particular wastes,
- suitable disposal sites or installations.

Such plans may, for example, cover:

- the natural or legal persons empowered to carry out the management of waste,
- the estimated costs of the recovery and disposal operations,
- appropriate measures to encourage rationalization of the collection, sorting and treatment of waste.

2. Member States shall collaborate as appropriate with the other Member States concerned and the Commission to draw up such plans. They shall notify the Commission thereof.

3. Member States may take the measures necessary to prevent movements of waste which are not in accordance with their waste management plans. They shall inform the Commission and the Member States of any such measures.

Article 8

Member States shall take the necessary measures to ensure that any holder of waste:

- has it handled by a private or public waste collector or by an undertaking which carries out the operations listed in Annex II A or B, or
- recovers or disposes of it himself in accordance with the provisions of this Directive.

Article 9

1. For the purposes of implementing Articles 4, 5 and 7, any establishment or undertaking which carries out the operations specified in Annex II A must obtain a permit from the competent authority referred to in Article 6.

Such permit shall cover:

- the types and quantities of waste,
- the technical requirements,
- the security precautions to be taken,
- the disposal site,
- the treatment method.

2. Permits may be granted for a specified period, they may be renewable, they may be subject to conditions and obligations, or, notably, if the intended method of disposal is unacceptable from the point of view of environmental protection, they may be refused.

Article 10

For the purposes of implementing Article 4, any establishment or undertaking which carries out the operations referred to in Annex II B must obtain a permit.

Article 11

1. Without prejudice to Council Directive 78/319/EEC of 20 March 1978 on toxic and dangerous waste (*), as last amended by the Act of Accession of Spain and Portugal, the following may be exempted from the permit requirement imposed in Article 9 or Article 10:

- (a) establishments or undertakings carrying out their own waste disposal at the place of production;
- and
- (b) establishments or undertakings that carry out waste recovery.

This exemption may apply only:

- if the competent authorities have adopted general rules for each type of activity laying down the types and quantities of waste and the conditions under which the activity in question may be exempted from the permit requirements,
- and
- if the types or quantities of waste and methods of disposal or recovery are such that the conditions imposed in Article 4 are complied with.

2. The establishments or undertakings referred to in paragraph 1 shall be registered with the competent authorities.

3. Member States shall inform the Commission of the general rules adopted pursuant to paragraph 1.

(*) OJ No L 84, 31. 3. 1978, p. 43.

Article 12

Establishments or undertakings which collect or transport waste on a professional basis or which arrange for the disposal or recovery of waste on behalf of others (dealers or brokers), where not subject to authorization, shall be registered with the competent authorities.

Article 13

Establishments or undertakings which carry out the operations referred to in Articles 9 to 12 shall be subject to appropriate periodic inspections by the competent authorities.

Article 14

All establishments or undertakings referred to in Articles 9 and 10 shall:

- keep a record of the quantity, nature, origin, and, where relevant, the destination, frequency of collection, mode of transport and treatment method in respect of the waste referred to in Annex I and the operations referred to in Annex II A or B,
- make this information available, on request, to the competent authorities referred to in Article 6.

Member States may also require producers to comply with the provisions of this Article.

Article 15

In accordance with the "polluter pays" principle, the cost of disposing of waste must be borne by:

- the holder who has waste handled by a waste collector or by an undertaking as referred to in Article 9,
- and/or
- the previous holders or the producer of the product from which the waste came.

Article 16

1. Every three years, and for the first time on 1 April 1995, Member States shall send the Commission a report on the measures taken to implement this Directive. This report shall be based on a questionnaire, drawn up in accordance with the procedure referred to in Article 18, which the Commission shall send to the Member States six months before the above date.

2. On the basis of the reports referred to in paragraph 1, the Commission shall publish a consolidated report every three years, and for the first time on 1 April 1996.

Article 17

The amendments necessary for adapting the Annexes to this Directive to scientific and technical progress shall be adopted in accordance with the procedure laid down in Article 18.

Article 18

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be

delivered by the majority laid down in Article 148 (2) of the EEC Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

2. Articles 13, 14 and 15 become Articles 19, 20 and 21.

3. The following Annexes are added :

ANNEX I

CATEGORIES OF WASTE

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| <p>Q1 Production or consumption residues not otherwise specified below</p> <p>Q2 Off-specification products</p> <p>Q3 Products whose date for appropriate use has expired</p> <p>Q4 Materials spilled, lost or having undergone other mishap, including any materials, equipment, etc., contaminated as a result of the mishap</p> <p>Q5 Materials contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packing materials, containers, etc.)</p> <p>Q6 Unusable parts (e.g. reject batteries, exhausted catalysts, etc.)</p> <p>Q7 Substances which no longer perform satisfactorily (e.g. contaminated acids, contaminated solvents, exhausted tempering salts, etc.)</p> <p>Q8 Residues of industrial processes (e.g. slags, still bottoms, etc.)</p> <p>Q9 Residues from pollution abatement processes (e.g. scrubber sludges, baghouse dusts, spent filters, etc.)</p> | <p>Q10 Machining/finishing residues (e.g. lathe turnings, mill scales, etc.)</p> <p>Q11 Residues from raw materials extraction and processing (e.g. mining residues, oil field slops, etc.)</p> <p>Q12 Adulterated materials (e.g. oils contaminated with PCBs, etc.)</p> <p>Q13 Any materials, substances or products whose use has been banned by law</p> <p>Q14 Products for which the holder has no further use (e.g. agricultural, household, office, commercial and shop discards, etc.)</p> <p>Q15 Contaminated materials, substances or products resulting from remedial action with respect to land</p> <p>Q16 Any materials, substances or products which are not contained in the above categories.</p> |
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ANNEX IIA

DISPOSAL OPERATIONS

NB: This Annex is intended to list disposal operations such as they occur in practice. In accordance with Article 4, waste must be disposed of without endangering human health and without the use of processes or methods likely to harm the environment.

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| <p>D1 Tipping above or underground (e.g. landfill, etc.)</p> <p>D2 Land treatment (e.g. biodegradation of liquid or sludge discards in soils, etc.)</p> <p>D3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)</p> <p>D4 Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons, etc.)</p> <p>D5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)</p> <p>D6 Release of solid waste into a water body except seas/oceans</p> <p>D7 Release into seas/oceans including seabed insertion</p> <p>D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are disposed of by means of any of the operations in this Annex</p> |
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- D9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are disposed of by means of any of the operations in this Annex (e.g. evaporation, drying, calcination, etc.)
- D10 Incineration on land
- D11 Incineration at sea
- D12 Permanent storage (e.g. emplacement of containers in a mine, etc.)
- D13 Blending or mixture prior to submission to any of the operations in this Annex
- D14 Repackaging prior to submission to any of the operations in this Annex
- D15 Storage pending any of the operations in this Annex, excluding temporary storage, pending collection, on the site where it is produced.

ANNEX II B

OPERATIONS WHICH MAY LEAD TO RECOVERY

NB: This Annex is intended to list recovery operations as they are carried out in practice. In accordance with Article 4, waste must be recovered without endangering human health and without the use of processes or methods likely to harm the environment.

- R1 Solvent reclamation/regeneration
- R2 Recycling/reclamation of organic substances which are not used as solvents
- R3 Recycling/reclamation of metals and metal compounds
- R4 Recycling/reclamation of other inorganic materials
- R5 Regeneration of acids or bases
- R6 Recovery of components used for pollution abatement
- R7 Recovery of components from catalysts

- R8 Oil re-refining or other re-uses of oil
- R9 Use principally as a fuel or other means to generate energy
- R10 Spreading on land resulting in benefit to agriculture or ecological improvement, including composting and other biological transformation processes, except in the case of waste excluded under Article 2 (1) (b) (iii)
- R11 Use of wastes obtained from any of the operations numbered R1 — R10
- R12 Exchange of wastes for submission to any of the operations numbered R1 — R11
- R13 Storage of materials intended for submission to any operation in this Annex, excluding temporary storage, pending collection, on the site where it is produced.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 April 1993. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, the measures shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 18 March 1991.

For the Council

The President

A. BODRY