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COUNCIL DIRECTIVE 94/67/EC
of 16 December 1994
on the incineration of hazardous waste

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COUNCIL DIRECTIVE 94/67/EC
of 16 December 1994
on the incineration of hazardous waste

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular ►C1 Article 130s(1) thereof, ◄

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 189c of the Treaty [3],

Whereas the objectives and principles of the Community's environment policy as set out in Article 130r of the Treaty, aim in particular at preventing pollution, rectifying pollution by acting as a priority at source, and applying the principle that the polluter should pay;

Whereas Council resolution of 7 May 1990 on waste policy [4] invited the Commission to complete its proposals on incinerators for industrial waste, as a matter of urgency;

Whereas the incineration of hazardous waste gives rise to emissions which may cause pollution and thereby, unless properly controlled, harm human health and the environment; whereas in some cases there might be transboundary pollution;

Whereas preventive action is therefore required to protect the environment against dangerous emissions from the incineration of hazardous waste;

Whereas the current differences in national provisions applicable to the incineration of hazardous waste, and in some cases the absence of such provisions, justify action at Community level;

Whereas, in accordance with Article 130t of the Treaty, the adoption of this Directive will not prevent any Member State from maintaining or introducing more stringent measures for the protection of the environment compatible with the Treaty;

Whereas Article 4 of Council Directive 75/442/EEC of 15 July 1975 on waste [5], requires Member States to take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without harming the environment; whereas, to this end, Article 9 of that Directive stipulates that any installation or undertaking treating waste must obtain a permit from the competent authorities relating, *inter alia*, to the precautions to be taken;

Whereas Articles 3 and 4 of Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants [6], provide that prior authorization shall be required for the operation of industrial plants belonging to listed categories among which are waste incineration plants;

Whereas the purpose of the incineration plants established and operated under this Directive is to reduce the pollution-related risks of hazardous

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[1] OJ No C 130, 21. 5. 1992, p. 1.
[2] OJ No C 332, 16. 12. 1992, p. 49.
[3] Opinion of the European Parliament of 10 March 1993 (OJ No C 115, 26. 4. 1993, p. 90). Council common position of 11 July 1994 (OJ No C 232, 20. 8. 1994, p. 35) and Decision of the European Parliament of 17 November 1994 (OJ No C 341, 5. 12. 1994).
[4] OJ No C 122, 18. 5. 1990, p. 2.
[5] OJ No L 194, 25. 7. 1975, p. 39. Directive as last amended by Directive 91/692/EEC (OJ No L 377, 31. 12. 1991, p. 48).
[6] OJ No L 188, 16. 7. 1984, p. 20. Directive as amended by Directive 91/692/EEC.

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waste through a process of oxidation, to reduce the quantity and volume of the waste and to produce residues that can be re-used or diposed of safely;

Whereas a high level of environmental protection requires the setting and maintaining of appropriate operating conditions and emission limit values for hazardous waste incineration plants within the Community; whereas special provisions are necessary in the case of emissions of dioxins and furans which it is essential to reduce by using the most progressive technology;

Whereas high-standard measurement techniques are required to monitor emissions to ensure compliance with the emission limit and guide values for the pollutants;

Whereas integrated protection of the environment against emissions resulting from the incineration of hazardous waste is required; whereas, therefore, aqueous waste resulting from the cleaning of exhaust gases may be discharged after separate treatment only, in order to limit a transfer of pollution from one environmental medium to another; whereas specific emission limit values for pollutants in such aqueous waste should be established within two years of the date of entry into force of this Directive;

Whereas provisions should be laid down for cases where the emission limit values are exceeded as well as for technically unavoidable stoppages, disturbances or failures of the purification devices;

Whereas the coincineration of hazardous waste in plants not primarily intended to incinerate hazardous waste should not be allowed to cause higher emissions of polluting substances in that part of the exhaust gas volume resulting from such coincineration and should therefore be subject to appropriate limitations;

Whereas, for better protection of human health and the environment, rapid adaptation of existing incineration plants to the emission limit values laid down in this Directive is required so as to avoid an increased transfer of hazardous wastes to such plants;

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

Whereas the reports on the implementation of this Directive are an important element for informing the Commission and Member States on the progress achieved in emission control techniques;

Whereas proposals for the revision of the emission limit values and related provisions of this Directive should be submitted to the Council before 31 December 2000 in the light of the expected development of the state of technology, of experience in the operation of incineration plants and of environmental requirements,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. The aim of this Directive is to provide for measures and procedures to prevent or, where that is not practicable, to reduce as fas as possible negative effects on the environment, in particular the pollution of air, soil, surface and groundwater, and the resulting risks to human health, from the incineration of hazardous waste and, to that end, to set up and maintain appropriate operating conditions and emission limit values for hazardous waste incineration plants within the Community.

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2. This Directive applies without prejudice to other relevant Community legislation, in particular relating to waste and the protection of the health and safety of workers at incineration plants.

Article 2

For the purposes of this Directive:

1. 'hazardous waste' means any solid or liquid waste as defined in Article 1 (4) of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste ([1]).

   The following hazardous wastes shall however be excluded from the scope of this Directive:

   — combustible liquid wastes including waste oils as defined in Article 1 of Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils ([2])provided that they meet the following three criteria:

     (i) the mass content of polychlorinated aromatic hydrocarbons, e.g. polychlorinated biphenyls (PCB) or pentachlorinated phenol (PCP), amounts to concentrations not higher than those set out in the relevant Community legislation;

     (ii) these wastes are not rendered hazardous by virtue of containing other constituents listed in Annex II to Directive 91/689/EEC in quantities or in concentrations which are inconsistent with the achievement of the objectives set out in Article 4 of Directive 75/442/EEC; and

     (iii) the net calorific value amounts to at least 30 MJ per kilogramme,

   — any combustible liquid wastes which cannot cause, in the flue gas directly resulting from their combustion, emissions other than those from gasoil as defined in Article 1 (1) of Directive 75/716/EEC ([3])or a higher concentration of emissions than those resulting from the combustion of gasoil as so defined,

   — hazardous waste resulting from the exploration for and the exploitation of oil and gas resources from off-shore installations and incinerated on board,

   — municipal waste covered by Directives 89/369/EEC ([4])and 89/429/EEC ([5]),

   — sewage sludges from the treatment of municipal waste waters which are not rendered hazardous by virtue of containing constituents listed in Annex II to Directive 91/689/EEC in quantities or in concentrations, as defined by the Member States until the list of hazardous wastes referred to in Article 1 (4) of that Directive is established, which are inconsistent with the achievement of the objectives set out in Article 4 of Directive 75/442/EEC. This exlusion is without prejudice to Directive 86/278/EEC ([6]);

([1]) OJ No L 377, 31. 12. 1991, p. 20.
([2]) OJ No L 194, 25. 7. 1975, p. 23. Directive as last amended by Directive 91/692/EEC.
([3]) Council Directive 75/716/EEC of 24 November 1975 on the approximation of the laws of the Member States relating to the sulphur content of certain liquid fuels (OJ No L 307, 27. 11. 1975, p. 22). Directive as last amended by Directive 91/692/EEC.
([4]) Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste incinerations plants (OJ No L 163, 14. 6. 1989, p. 32).
([5]) Council Directive 89/429/EEC of 21 June 1989 on the reduction of air pollution from existing municipal waste incinerations plants (OJ No L 203, 15. 7. 1989, p. 50).
([6]) Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment and in particular of the soil, when sewage sludge is used in agriculture (OJ No L 181, 4. 7. 1986, p. 6). Directive as last amended by Directive 91/692/EEC.

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2. ‘incineration plant’ means any technical equipment used for the incineration by oxidation of hazardous wastes with or without recovery of the combustion heat generated, including pretreatment as well as pyrolysis or other thermal treatment processes, e. g. plasma process, insofar as their products are subsequently incinerated. This includes plants burning such wastes as a regular or additional fuel for any industrial process.

This definition covers the site and the entire installation comprising the waste reception, storage and pretreatment facilities, the incinerator, its wastes, fuel and air-supply systems, exhaust gas and waste water treatment facilities, and devices and systems for controlling incineration operations and continuously recording and monitoring incineration conditions.

The following plants are not covered by this definition:

— incinerators for animal carcases or remains,

— incinerators for infectious clinical waste provided that such waste is not rendered hazardous as a result of the presence of other constituents listed in Annex II to Directive 91/689/EEC, or

— municipal waste incinerators also burning infectious clinical waste which is not mixed with other wastes which are rendered hazardous as a result of one of the other properties listed in Annex III to Directive 91/689/EEC;

3. ‘new incineration plant’ means a plant for which the permit to operate is granted on or after the date specified in Article 18 (1);

4. ‘existing incineration plant’ means a plant for which the original permit to operate is granted before the date specified in Article 18 (1);

5. ‘emission limit value’ means the mass concentration of polluting substances which is not to be exceeded in emissions from plants during a specified period;

6. ‘operator’ means any natural or legal person who operates the incineration plant, or who has or has been delegated decisive economic power over it.

Article 3

1. The permit referred to in Articles 9 and 10 of Directive 75/442/EEC, in Article 11 of the said Directive, as complemented by Article 3 of Directive 91/689/EEC, and in Article 3 of Directive 84/360/EEC shall be granted only if the application shows that the incineration plant is designed, equipped and will be operated in such a manner that the appropriate preventive measures against environmental pollution will be taken and the requirements provided for in Articles 5 to 12 of this Directive will be met.

2. The permit granted by the competent authorities must explicitly list the types and quantities of those hazardous wastes which may be treated in the incineration plant as well as the total capacity of the incinerator.