II

(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 envrionmental protection;

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

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 Memeber 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 which 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;

(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, 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 carcases 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 managment 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 ance 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 envrionmental protection, they may be refused.