II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 21 June 1989

on the reduction of air pollution from existing municipal waste-incineration plants

(89/429/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130s 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 the 1973 (4), 1977 (5), 1983 (6) and 1987 (7) European Community action programmes on the environment stress the importance of the prevention and reduction of air pollution;

Whereas the Council resolution of 19 October 1987 on the action programme on the environment for 1987 to 1992 (7) states that it is important for Community action to concentrate, *inter alia*, on implementation of appropriate standards in order to ensure a high level of public health and environmental protection;

Whereas Council Directive 75/442/EEC of 15 July 1975 on waste (8) provides that waste must be disposed of without endangering human health and without harming the environment; whereas, to this end, the same Directive stipulates that any installation or undertaking treating waste must obtain a permit from the competent authority relating, *inter alia*, to the precautions to be taken;

Whereas Council Directive 84/360/EEC of 28 June 1984 on the combating of air pollution from industrial plants (9) provides that Member States shall apply policies and strategies, including appropriate measures, for the gradual adaptation of existing plants to the best available technology not entailing excessive costs; whereas these provisions apply, *inter alia*, with regard to existing municipal waste-incineration plants;

Whereas Directive 84/360/EEC stipulates that the Council, acting unanimously on a proposal from the Commission, shall, if necessary, fix emission limit values based on the best available technology not entailing excessive costs and suitable measurement techniques and mehtods;

Whereas incineration of municipal waste gives rise to emissions of substances which can cause air pollution and thereby harm public health and the environment; whereas in some cases this pollution may have transboundary features;

Whereas the techniques for reducing emissions of certain pollutants from municipal waste-incineration plants are well established; whereas they can be implemented in existing incineration plants on a gradual basis bearing in mind the technical features of the plants and the advisability of not entailing excessive costs; whereas they provide a means of attaining concentrations of pollutants in the combustion gases not exceeding certain limit values;

(1) OJ No C 75, 23. 3. 1988, p. 8.
(2) OJ No C 69, 20. 3. 1989, p. 223.
(3) OJ No C 318, 12. 12. 1988, p. 3.
(4) OJ No C 112, 20. 12. 1973, p. 1.
(5) OJ No C 139, 13. 6. 1977, p. 1.
(6) OJ No C 46, 17. 2. 1983, p. 1.
(7) OJ No C 328, 7. 12. 1987, p. 1.
(8) OJ No L 194, 25. 7. 1975, p. 47.
(9) OJ No L 188, 16. 7. 1984, p. 20.

Whereas all the Member States have laws, regulations and administrative provisions concerning the combating of air pollution from stationary plants and whereas several Member States have specific provisions on municipal wast-incineration plants;

Whereas the Community, by fixing emission limit values and other pollution prevention requirements, helps to increase the effectiveness of the action taken by the Member States to combat air pollution from municipal waste-incineration plants;

Whereas, in order rapidly to ensure an effective protection of the environment, appropriate time limits should be laid down for adapting existing incineration plants to the best available technology not entailing excessive costs; whereas it is appropriate that in the end all existing municipal waste-incineration plants should comply with the same conditions as those which apply, according to their respective category, to new plants;

Whereas the requirements to be imposed on existing plants must include the obligation to comply with both the limit values for the emission of the most significant pollutants and appropriate combustion conditions; whereas, in fixing these combustion conditions, account must be taken of any major technical difficulties which might arise; whereas provision must be made for appropriate measurements and verifications at the incineration plants and whereas the public must be informed of the results obtaines;

Whereas account should be taken of the problem posed by the emission of dioxins and furans;

Whereas, as well as establishing emission limit values, it is important to encourage the development and dissemination of knowledge and use of clean technology as part of the preventive efforts to combat environmental pollution in the Community especially regarding waste disposal;

Whereas, in accordance with Article 130t of the Treaty, the adoption of such Community provisions does not prevent any Member State from maintaining or introducing more stringent measures for the protection of the environment compatible with the Treaty,

HAS ADOPTED THIS DIRECTIVE:

Article 1

For the purposes of this Directive:

1. 'Air pollution' shall mean the introduction by man, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment.

2. 'Emission limit value' shall mean the concentration and/or mass of polluting sustances which is not to be exceeded in emissions from plants during a specified period.

3. 'Municipal waste' shall mean domestic refuse, as well as commercial or trade refuse and other waste which, because of its nature or composition, is similar to domestic refuse.

4. 'Municipal waste-incineration plant' shall mean any technical equipment used for the treatment of municipal waste by incineration, with or without recovery of the combustion heat generated, but excluding plants used specifically for the incineration of sewage sludge, chemical, toxic and dangerous waste, medical waste from hospitals or other types of special waste, on land or at sea, even if these plants may burn municipal waste as well.

   This definition covers the site and the entire installation comprising the incinerator, its waste, fuel and air-supply systems and the devices and systems for checking incineration operations and continuously recording and monitoring incineration conditions.

5. 'Existing municipal waste-incineration plant' shall mean a municipal waste-incineration plant for which the first authorization to operate is granted before 1 December 1990.

6. 'Nominal capacity of the incineration plant' shall mean the sum of the incineration capacities of the furnaces of which the plant is composed, as specified by the constructor and confirmed by the operator, with due account being taken, in particular, of the calorific value of the waste, expressed as the quantity of waste incinerated per hour.

Article 2

In accordance with Article 13 of Directive 84/360/EEC, Member States shall take appropriate measures to ensure that the operation of existing municipal waste-incineration plants are subject:

(a) in the case of plants with a nominal capacity equal to or more than 6 tonnes of waste per hour: by 1 December 1996, to the same conditions as those imposed on new incineration plants of the same capacity under the terms of Council Directive 89/369/EEC of 8 June 1989 on the prevention of air pollution from new municipal waste-incineration plants [1], except with regard to the provisions of Article 4, which shall be replaced by those of Article 4 of this Directive;

[1] OJ No L 163, 14. 6. 1989, p. 32.