COUNCIL DIRECTIVE

of 8 June 1989

on the prevention of air pollution from new municipal waste incineration plants

(89/369/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 (8) on the action programme on the environnement for 1987 to 1992 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 (9) 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 (10) provides that prior authorization shall be required to operate new industrial installations and in particular waste incineration plants; whereas this authorization may be issued only when all appropriate preventive measures against air pollution have been taken, including the application of the best available technology not entailing excessive costs;

Whereas the abovementioned 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 methods;

Whereas incineration of municipal waste gives rise to emissons 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 applied reasonably economically in new incineration plants; whereas they provide a means of attaining concentrations of pollutants in the combustion gases not exceeding certain limit values;

Whereas Community limit values for dioxins and furans should be fixed as soon as possible;

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

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

Whereas, in order to ensure an effective protection of the environment, requirements and conditions should be laid down for authorization for any new municipal waste-incineration plant; whereas these requirements must include an obligation to observe emission limit values for certain pollutants and appropriate combustion conditions, taking account of the technical character of the plant and of the operating conditions;

Whereas provision must be made for appropriate measurements and verifications at the incineration plants; whereas the public must be informed of the conditions imposed and of the results obtained;

(1) OJ No C 75, 23. 3. 1988, p. 4.
(2) OJ No C 69, 20. 3. 1989, p. 219.
(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 C 328, 7. 12. 1987, p. 1.
(9) OJ No L 194, 25. 7. 1975, p. 39.
(10) OJ No L 188, 16. 7. 1984, p. 20.

Whereas, as well as the establishment of 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' means 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 interefere with amenities and other legitimate uses of the environment.

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

3. 'Municipal waste' means 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' means 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. 'New municipal waste-incineration plant' means a municipal waste incineration plant for which authorization to operate is granted as from the date specified in Article 12 (1).

6. 'Nominal capacity' of the incineration plant means 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

Without prejudice to Article 4 of Directive 84/360/EEC, Member States shall take the necessary measures to ensure that the conditions laid down in Articles 3 to 10 of this Directive are attached to the prior authorization required to operate all new municipal waste-incineration plants under Article 3 of Directive 84/360/EEC and under Article 8 of Directive 75/442/EEC.

Article 3

1. The following emission limit values, standardized at the following conditions: temperature 273 K, pressure 101,3 kPa, 11 % oxygen or 9 % CO_2, dry gas, shall apply to new municipal waste incineration plants:

Emission limit values in mg/nm ^{3} as a function of the nominal capacity of the incineration plant

Pollutant	less than 1 tonne/h	1 tonne/h or more but less than 3 tonnes/h	3 tonnes/h or more
Total dust	200	100	30
Heavy metals			
— Pb + Cr + Cu + Mn	—	5	5
— Ni + As	—	1	1
— Cd and Hg	—	0,2	0,2
Hydrochloric acid (HCl)	250	100	50
Hydrofluoric acid (HF)	—	4	2
Sulphur dioxide (SO_2)	—	300	300