II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE
of 22 December 1986
amending Directive 75/439/EEC on the disposal of waste oils

(87/101/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 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 Council Directive 75/439/EEC (4) provides that Member States shall take the necessary measures to ensure the safe collection and disposal of waste oils and to ensure that, as far as possible, the disposal of waste oils is carried out by recycling (regeneration and/or combustion other than for destruction);

Whereas regeneration is generally the most rational way of re-using waste oils in view of the energy savings which can be achieved; whereas therefore, priority should be given to the processing of waste oils by regeneration, where technical, economic and organizational constraints allow it;

Whereas, in the present state of Community law, Member States may, under certain conditions, ban the combustion of waste oils on their territory; whereas this Directive is not intended to change this state of law;

Whereas the burning of waste oil generates waste gases containing substances which are harmful to the environment when emitted above certain concentration; whereas measures laying down arrangements for burning waste oils should, therefore, be taken;

Whereas it is desirable to improve the efficiency of waste oil collection and to tighten up monitoring in this area;

Whereas, in view of the particularly dangerous character of PCB/PCTs, it is necessary to strengthen Community law concerning the combustion or the regeneration of waste oils contaminated by these substances;

Whereas Member States should have the possibility, whilst respecting the conditions of the Treaty, to take more stringent measures for the purpose of environmental protection,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 75/439/EEC is hereby amended as follows:

1. Articles 1 to 6 shall be replaced by the following:

'*Article 1*

For the purposes of this Directive:

— *"waste oils"* means:

any mineral-based lubrication or industrial oils which have become unfit for the use for which they were originally intended, and in particular used combustion engine oils and gearbox oils, and also mineral lubricating oils, oils for turbines and hydraulic oils;

— *"disposal"* means:

the processing or destruction of waste oils as well as their storage and tipping above or under ground;

(1) OJ No C 58, 6. 3. 1985, p. 3.
(2) OJ No C 255, 13. 10. 1986, p. 269.
(3) OJ No C 330, 20. 12. 1985, p. 32.
(4) OJ No L 194, 25. 7. 1975, p. 23.

— *"processing"* means :

operations designed to permit the re-use of waste oils, that is to say, regeneration and combustion ;

— *"regeneration"* means :

any process whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, oxidation products and additives contained in such oils ;

— *"combustion"* means :

the use of waste oils as fuel with the heat produced being adequately recovered ;

— *"collection"* means :

all operations whereby waste oils can be transferred from the holders to undertakings which dispose of such oils.'.

Article 2

Without prejudice to the provisions of Directive 78/319/EEC (1), Member States shall take the necessary measures to ensure that waste oils are collected and disposed of without causing any avoidable damage to man and the environment.

(1) OJ No L 84, 31. 3. 1973, p. 43.

Article 3

1. Where technical, economic and organizational constraints so allow, Member States shall take the measures necessary to give priority to the processing of waste oils by regeneration.

2. Where waste oils are not regenerated, on account of the constraints mentioned in paragraph 1 above, Member States shall take the measures necessary to ensure that any combustion of waste oils is carried out under environmentally acceptable conditions, in accordance with the provisions of this Directive, provided that such combustion is technically, economically and organizationally feasible.

3. Where waste oils are neither regenerated nor burned, on account of the constraints mentioned in paragraphs 1 and 2, Member States shall take the measures necessary to ensure their safe destruction or their controlled storage or tipping.

Article 4

Member States shall take the necessary measures to ensure the prohibition of :

(a) any discharge of waste oils into inland surface water, ground water, territorial sea water and drainage systems ;

(b) any deposit and/or discharge of waste oils harmful to the soil and any uncontrolled discharge of residues resulting from the processing of waste oils ;

(c) any processing of waste oils causing air pollution which exceeds the level prescribed by existing provisions.

Article 5

1. Where necessary in order to achieve the objectives of this Directive and without prejudice to the provisions of Article 2, Member States shall carry out public information and promotional campaigns to ensure that waste oils are stored appropriately and collected as far as possible.

2. Where the objectives defined in Articles 2, 3 and 4 cannot otherwise be achieved, Member States shall take the necessary measures to ensure that one or more undertakings carry out the collection and/or disposal of waste oils offered to them by holders, where appropriate in the area assigned to them by the competent authorities.

3. To achieve the objectives defined in Articles 2 and 4, Member States may decide to allocate the waste oils to any of the types of processing set out in Article 3. To this end, they may institute appropriate checks.

4. To ensure compliance with the measures taken pursuant to Article 4, any undertaking which collects waste oils must be subject to registration and adequate supervision by the competent national authorities, possibly inclusing a system of permits.

Article 6

1. In order to comply with the measures taken pursuant to Article 4, any undertaking which disposes of waste oils must obtain a permit. Where necessary, this permit shall be granted after examination of the installations.

2. Without prejudice to the requirements laid down by national and Community provisions with a purpose other than that of this Directive, a permit may be granted to undertakings which regenerate waste oils or use waste oils as fuel only where the competent authority has satisfied itself that all appropriate environmental and health protection measures have been taken, including use of the best technology available, where the cost is not excessive.

Article 7

Where waste oils are regenerated, Member States shall take the measures necessary to ensure that :