Council Directive of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture (86/278/EEC)

COUNCIL DIRECTIVE

of 12 June 1986

on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture

(86/278/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 the aim of this Directive is to regulate the use of sewage sludge in agriculture in such a way as to prevent harmful effects on soil, vegetation, animals and man, while encouraging its correct use;

Whereas the disparity between the Member States' provisions on the agricultural applications of sewage sludge might affect the functioning of the common market; whereas in this field the approximation of laws provided for under Article 100 of the Treaty should therefore be instigated;

Whereas sewage sludge used in agriculture is not covered by Council Directive 75/442/EEC of 15 July 1975 on waste[(4)];

Whereas the measures for which provision is made in Council Directive 78/319/EEC of 20 March 1978 on toxic and dangerous waste[(5)] also apply to sewage sludge containing or contaminated by substances or materials listed in the Annex to that Directive which are of such a nature or are present in such quantities or concentrations that they represent a hazard to human health or to the environment;

Whereas special arrangements should be made to ensure that man, animals, plants and the environment are fully safeguarded against the harmful effects arising from the uncontrolled use of sludge;

Whereas this Directive also aims at establishing certain initial Community measures in connection with soil protection;

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Whereas sludge can have valuable agronomic properties and it is therefore justified to encourage its application in agriculture provided it is used correctly; whereas the use of sewage sludge must not impair the quality of the soil and of agricultural products;

Whereas some heavy metals may be toxic to plants and also to man through their presence in crops and whereas it is necessary to lay down mandatory limit values for these elements in the soil;

Whereas the use of sludge should be prohibited when the concentration of these metals in the soil exceeds these limit values;

Whereas, moreover, it is necessary to prevent these limit values from being exceeded as a result of the use of sludge; whereas, to this end, it is necessary to limit the amount of heavy metals added to cultivated soil either by setting maximum quantities for the amounts of sludge used per annum and ensuring that the limit values for the concentration of heavy metals in the sludge used are not exceeded or by seeking to ensure that limit values for the quantities of heavy metals that can be added to the soil on the basis of a 10-year average are not exceeded;

Whereas sludge must be treated before being used in agriculture; whereas Member States may nevertheless authorize, on certain conditions, the use of untreated sludge, without risk to human or animal health, if it is injected or worked into the soil;

Whereas a certain period must elapse between using the sludge and putting stock out to pasture or harvesting fodder crops or certain crops which are normally in direct contact with the soil and normally consumed raw; whereas the use of sludge on fruit and vegetable crops during the growing season, except for fruit-tree crops, must be prohibited;

Whereas sludge should be used under conditions which ensure that the soil and the surface and ground water are protected, in accordance with Directives 75/440/EEC[(6)] and 80/68/EEC[(7)];

Whereas to this end it is necessary to monitor the quality of sludges and of the soils on which they are used and hence to make analyses and to communicate certain results to the users;

Whereas a certain amount of essential information should be kept to ensure better awareness of the use of sludge in agriculture and whereas such information should be forwarded in the form of periodic reports to the Commission; whereas, in the light of these reports, the Commission will if necessary draw up proposals to ensure greater protection for the soil and the environment;

Whereas sludge from small sewage-treatment plants which treat primarily domestic waste water represents little danger to human, animal and plant health and to the environment and should therefore be exempt from some of the obligations laid down relating to information and analysis;

Whereas Member States should be able to draw up more stringent provisions than those laid down in this Directive; whereas such provisions should be communicated to the Commission;

Whereas technical and scientific progress may make necessary the rapid adaptation of certain of the requirements laid down in this Directive; whereas, in order to facilitate the introduction of the measures required for this purpose, a procedure should be laid down whereby close cooperation could be established between the Member States and the Commission; whereas such cooperation should take place within a Committee on Adaptation to Technical and Scientific Progress;

Whereas the Treaty has not provided the necessary powers, other than those of Article 235,

HAS ADOPTED THIS DIRECTIVE:

Article 1

The purpose of this Directive is to regulate the use of sewage sludge in agriculture in such a way as to prevent harmful effects on soil, vegetation, animals and man, thereby encouraging the correct use of such sewage sludge.

Article 2

For the purposes of this Directive:

(a) 'sludge' means:

(i) residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters;

(ii) residual sludge from septic tanks and other similar installations for the treatment of sewage;

(iii) residual sludge from sewage plants other than those referred to in (i) and (ii);

(b) 'treated sludge' means:

sludge which has undergone biological, chemical or heat treatment, long-term storage or any other appropriate process so as significantly to reduce its fermentability and the health hazards resulting from its use;

(c) 'agriculture' means:

the growing of all types of commercial food crops, including for stock-rearing purposes;

(d) 'use' means:

the spreading of sludge on the soil or any other application of sludge on and in the soil.

Article 3

1 The sludge referred to in Article 2 (a) (i) may only be used in agriculture in accordance with this Directive.

2 Without prejudice to Directives 75/442/EEC and 78/319/EEC:

— the sludge referred to in Article 2 (a) (ii) may be used in agriculture subject to any conditions that the Member State concerned may deem necessary for the protection of human health and the environment,

— the sludge referred to in Article 2 (a) (iii) may be used in agriculture only if its use is regulated by the Member State concerned.

Article 4

Values for concentrations of heavy metals in soil to which sludge is applied, concentrations of heavy metals in sludge and the maximum annual quantities of such heavy metals which may be introduced into soil intended for agriculture are given in Annexes I A, I B and I C.

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Article 5

Without prejudice to Article 12:

1. Member States shall prohibit the use of sludge where the concentration of one or more heavy metals in the soil exceeds the limit values which they lay down in accordance with Annex I A and shall take the necessary steps to ensure that those limit values are not exceeded as a result of the use of sludge.

2. Member States shall regulate the use of sludge in such a way that the accumulation of heavy metals in the soil does not lead to the limit values referred to in paragraph 1 being exceeded. To achieve this, they shall apply one or other of the procedures provided for in (a) and (b) below:

   (a) Member States shall lay down the maximum quantities of sludge expressed in tonnes of dry matter which may be applied to the soil per unit of area per year while observing the limit values for heavy metal concentration in sludge which they lay down in accordance with Annex I B; or

   (b) Member States shall ensure observance of the limit values for the quantities of metals introduced into the soil per unit of area and unit of time as set out in Annex I C.

Article 6

Without prejudice to Article 7:

(a) sludge shall be treated before being used in agriculture. Member States may nevertheless authorize, under conditions to be laid down by them, the use of untreated sludge if it is injected or worked into the soil;

(b) sewage-sludge producers shall regularly provide users with all the information referred to in Annex II A.

Article 7

Member States shall prohibit the use of sludge or the supply of sludge for use on:

(a) grassland or forage crops if the grassland is to be grazed or the forage crops to be harvested before a certain period has elapsed. This period, which shall be set by the Member States taking particular account of their geographical and climatic situation, shall under no circumstances be less than three weeks;

(b) soil in which fruit and vegetable crops are growing, with the exception of fruit trees;

(c) ground intended for the cultivation of fruit and vegetable crops which are normally in direct contact with the soil and normally eaten raw, for a period of 10 months preceding the harvest of the crops and during the harvest itself.

Article 8

The following rules shall be observed when using sludge:

— the sludge shall be used in such a way that account is taken of the nutrient needs of the plants and that the quality of the soil and of the surface and ground water is not impaired,

— where sludge is used on soils of which the pH is below 6, Member States shall take into account the increased mobility and availability to the crop of heavy metals and shall, if necessary, reduce the limit values they have laid down in accordance with Annex I A.

Article 9

Sludge and soil on which it is used shall be analyzed as outlined in Annexes II A and II B.

The reference methods for sampling and analysis are indicated in Annex II C.

Article 10

1 Member States shall ensure that up-to-date records are kept, which register:

a the quantities of sludge produced and the quantities supplied for use in agriculture;

b the composition and properties of the sludge in relation to the parameters referred to in Annex II A;

c the type of treatment carried out, as defined in Article 2 (b);

d the names and addresses of the recipients of the sludge and the place where the sludge is to be used.

2 The records shall be available to the competent authorities and shall provide a basis for the consolidated report referred to in Article 17.

3 Information on the methods of treatment and the results of the analyses shall be released upon request to the competent authorities.

Article 11

Member States may exempt from Article 6 (b) and Article 10 (1) (b), (c) and (d) and paragraph 2, sludge from sewage treatment plants with a treatment capacity below 300 kg BOD_5 per day, corresponding to 5 000 person equivalents, which are designed primarily for the treatment of domestic waste water.

Article 12

Where conditions so demand, Member States may take more stringent measures than those provided for in this Directive.

Any decision of this nature shall be communicated to the Commission in accordance with existing agreements.

[*F1* *Article 13*

The Commission is empowered to adopt delegated acts in accordance with Article 15a to amend the Annexes in order to adapt them to technical and scientific progress.

The first paragraph shall not apply to the parameters and values listed in Annexes I A, I B and I C, any factors likely to affect the evaluation of those values, and the parameters for analysis referred to in Annexes II A and II B.**]**

Textual Amendments

F1 Substituted by Decision (EU) 2018/853 of the European Parliament and of the Council of 30 May 2018 amending Regulation (EU) No 1257/2013 and Directives 94/63/EC and 2009/31/EC of the European Parliament and of the Council and Council Directives 86/278/EEC and 87/217/EEC as regards procedural rules in the field of environmental reporting and repealing Council Directive 91/692/EEC.

F2 *Article 14*

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