

Waste *I**

European Parliament legislative resolution on the proposal for a directive of the European Parliament and of the Council on waste (COM(2005)0667 – C6-0009/2006 – 2005/0281(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0667)¹,
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0009/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Industry, Research and Energy (A6-0466/2006),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

Position of the European Parliament adopted at first reading on 13 February 2007 with a view to the adoption of *Directive 2007/.../EC* of the European Parliament and of the Council on waste

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the *Commission*,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) *Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste*⁵ establishes the legislative framework for the handling of waste in the Community. It defines key concepts such as waste, recovery and disposal and puts in place the essential requirements for the management of waste, notably the obligation for waste management operations and economic operators to have a permit or to be registered, the obligation for Member States to set up waste management plans and major principles such as the obligation to handle waste in a way that does not have a negative impact on the environment, and the principle that producers of waste should have to pay the cost of its treatment.

² *OJ C 309, 16.12.2006, p. 55.*

³ *OJ C 229, 22.9.2006, p. 1.*

⁴ *Position of the European Parliament of 13 February 2007.*

⁵ *OJ L 114, 27.4.2006, p. 9.*

- (2) *The first objective of any waste policy should be to minimise the negative effects of the generation and management of waste on human health and the environment. Waste legislation should also aim at reducing the use of resources, and favour the practical application of the waste hierarchy.*
- (3) *In its Resolution of 24 February 1997 on a Community strategy for waste management⁶, the Council confirmed that waste prevention should be the first priority of waste management, and that re-use and material recycling should be preferred to energy recovery of waste, where and insofar as they are the best ecological options.*
- (4) *The Sixth Community Environment Action Programme laid down by Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002⁷ confirmed this orientation in order to achieve a significant overall reduction in the volumes of waste generated and to set targets to be achieved thereafter.*
- (5) Decision No 1600/2002/EC calls for development or revision of the legislation on wastes, including, inter alia, clarification of the distinction between waste and non-waste and development of adequate criteria for the further elaboration of Annexes IIA and IIB to Directive 2006/12/EC.
- (6) The Commission Communication of 27 May 2003 towards a Thematic Strategy on the prevention and recycling of waste noted the need to assess the existing definitions of recovery and disposal, the need for a generally applicable definition of recycling and a debate on the definition of waste.
- (7) In its resolution of 20 April 2004 on the abovementioned communication⁸, the European Parliament called on the Commission to consider extending Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control⁹ to the waste sector as a whole. It also asked the Commission to differentiate clearly between recovery and disposal and to clarify the distinction between waste and non-waste.
- (8) In its conclusions of 1 July 2004 the Council called on the Commission to bring forward a proposal for a revision of certain aspects of *the Directive on waste*, in order to clarify the distinction between waste and non-waste and the distinction between recovery and disposal.

⁶ OJ C 76, 11.3.1997, p. 1.

⁷ OJ L 242, 10.9.2002, p. 1.

⁸ OJ C 104 E, 30.4.2004, p. 401.

⁹ OJ L 257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council (OJ L 33, 4.2.2006, p.1).

- (9) It is therefore necessary to revise Directive 2006/12/EC in order to clarify key concepts such as the definitions of waste, recovery and disposal, to strengthen the measures that must be taken on waste prevention, to introduce an approach that takes into account the whole life-cycle of products and materials and not simply the waste phase, and to focus on reducing the environmental impacts of waste generation and waste management, thereby strengthening the economic value of waste. In the interests of clarity and readability, Directive 2006/12/EC should be replaced.
- (10) ***A transformation of the present system of production and consumption is urgently needed, the main objective being to change consumption in a sustainable direction and bring the processes of raw material extraction, production and product design as much into line with natural processes and designs as possible.***
- (11) ***Society depends primarily on products made up of a set of different materials, i.e. biological, mineral and synthetic materials, which are often combined to produce composite materials. Such materials should be used and handled in such a way that, when the useful life of the products is over, they do not become useless waste.***
- (12) Since most significant waste management operations are now covered by Community legislation in the field of environment, it is important that this Directive be adapted to that approach. An emphasis on the environmental objectives laid down in Article 174 of the Treaty would enable a sharper focus upon the environmental impacts of waste generation and waste management throughout the life-cycle of resources. Consequently, the legal basis for this Directive should be Article 175.
- (13) Economic instruments, when they are cost effective, have proven to be and should be effective in achieving waste prevention and management objectives. Waste has value as a resource and the further application of economic instruments will maximise environmental benefits. Their use at the appropriate level should therefore be encouraged in this Directive.
- (14) Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002¹⁰ lays down health rules concerning animal by-products not intended for human consumption. It lays down inter alia proportionate controls as regards the processing, use and disposal of all waste of animal origin, preventing it from presenting a risk to animal and public health. It is therefore necessary to clarify the link with that Regulation, avoiding duplication of rules by excluding animal by-products where they are intended for uses that are not considered waste operations.

¹⁰ OJ L 273, 10.10.2002, p. 1. Regulation as last amended by Commission Regulation (EC) No 2007/2006 (OJ L 379, 28.12.2006, p. 98).

- (15) In the light of the experience gained in applying Regulation (EC) No 1774/2002, it is appropriate to clarify the scope of waste legislation and of its provisions on hazardous waste as regards animal by-products as regulated by Regulation (EC) No 1774/2002. Where animal by-products pose potential health risks the appropriate legal instrument to address these risks is Regulation (EC) No 1774/2002 and overlaps with waste legislation should be avoided.
- (16) A definition of re-use should be added in order to clarify the ambit of this operation in *the context of EU waste management policy. This definition should be worded so as to cover all operations defined as re-use under existing Community product-specific waste legislation.*
- (17) A definition of recycling should be *added in* order to clarify the scope of this concept.
- (18) The definitions of recovery and disposal need to be modified in order to ensure a clear distinction between the two concepts, based on a genuine difference in environmental *and health* impact, *and on* whether or not the operation leads to substitution of natural resources in the economy, *which would be the preferred option*. In addition it is necessary to add a corrective mechanism to *clarify where* the classification of the activity as recovery does not match the real environmental impact *of* the operation.
- (19) In order to clarify certain aspects of the definition of waste, it is necessary to specify when certain wastes are to be deemed to cease to be a waste and to become a secondary material or substance, on a category by category basis. *The Commission should present legislative proposals on the criteria for such reclassification and on whether certain waste streams fall within the scope of this Directive.*
- (20) *In order to clarify certain aspects of the definition of waste, it would also be useful to specify when a material or a substance, which is the result of a production or extraction process not primarily aimed at producing it, and which the holder intends not to discard but to exploit, becomes a by-product. The Commission should issue interpretative guidelines on the basis of existing jurisprudence. If this proves insufficient, the Commission should, if appropriate, having had particular regard to environment and health concerns and conditions established in the jurisprudence, put forward legislative proposals with clear criteria for determining case by case when such materials and substances could be considered as falling outside the scope of the definition of waste. In the absence of such measures adopted at Community level or applicable European jurisprudence, the materials or substances concerned should continue to be considered as waste.*

- (21) It is appropriate that costs be allocated in such a way as to reflect the real cost to the environment of the generation and management of that waste. *The 'polluter pays' principle and producer responsibility should apply in this connection. In particular, individual producer responsibility is a tool that can be used to promote waste prevention, re-use and recycling by ensuring producers take into account the life-cycle impacts, including end-of-life impacts, of their products and develop appropriate design.*
- (22) It is necessary, in order to enable the Community as a whole to become self-sufficient in waste disposal and the Member States to move towards that aim individually, to make provision for a network of cooperation as regards disposal installations, taking into account geographical circumstances and the need for specialised installations for certain types of waste.
- (23) *While maintaining the necessary level of environmental protection, Member States should ensure sufficient and cost-effective management options for waste arising from recycling operations in recognition of the key contribution of the recycling installations in reducing final disposal. Such residual waste represents an important bottleneck for further increases in recycling capacities and the competent authorities should take the necessary action in line with the aim of achieving the 'recycling society'.*
- (24) It is necessary to specify further the scope and content of the waste management planning obligation, notably in terms of the coverage of historical contaminated sites and the use of economic instruments, and to integrate into the process of developing or revising such plans the need to take into account the environmental impacts throughout the life-cycle of products and materials. Account should also be taken, where appropriate, of the waste planning requirements laid down in Article 14 of Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste¹¹, and the strategy for the reduction of biodegradable waste going to landfills, referred to in Article 5 of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste¹².

¹¹ OJ L 365, 31.12.1994, p. 10. Directive as last amended by Directive 2005/20/EC (OJ L 70, 16.3.2005, p. 17).

¹² OJ L 182, 16.7.1999, p. 1. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

- (25) In order to improve the way in which waste prevention actions are taken forward in the Member States and to facilitate the circulation of best practice in this area, it is necessary to ***adopt Community targets and measures*** relating to waste prevention and to introduce a requirement for the Member States to develop waste prevention programmes concentrating on the key environmental impacts and taking into account the whole life-cycle. Such objectives and measures should aim to break the link between economic growth and ***the growth in waste volumes as well as*** the environmental ***and health*** impacts associated with the generation of waste ***by achieving a net reduction of waste generation, its harmfulness and its adverse impacts***. ***Local and regional authorities***, as well as ***stakeholders and*** the general public, should have the opportunity to participate in the drawing up of the programmes, and should have access to them once drawn up, in line with Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003¹³.
- (26) ***Hazardous wastes are qualified by hazard and risk criteria. As a result, they need to be regulated under strict specifications in order to prevent or limit, as far as possible, negative effects due to inappropriate management which may affect the environment, and to prevent risks to human health and safety. Because of their hazardous properties, hazardous wastes need an appropriate management which involves specific and adapted collection and treatment techniques, particular controls and dedicated waste traceability modalities. All hazardous waste operators need to have adequate qualifications and training.***
- (27) ***The*** measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁴.
- (28) ***In particular, the Commission should be empowered to amend the list of wastes and hazardous wastes, to adopt registration requirements and to adopt the amendments necessary for adapting Annexes IV and V to scientific and technical progress. Since those measures are of general scope and are designed to amend and supplement non-essential elements of this Directive, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.***

¹³ OJ L 156, 25.6.2003, p. 17.

¹⁴ OJ L 184, 17.7.1999, p. 23. *Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).*

- (29) Since the objectives of this Directive, *namely to protect* the environment and *ensure* the proper functioning of the internal *market*, *cannot* be sufficiently achieved by the Member States and can therefore, by reasons of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS DIRECTIVE:

Chapter I

Subject matter, scope and definitions

Article 1

Subject matter

This Directive lays down measures with a view to *minimising* the overall environmental *and health impacts of* the generation and management of waste, *and contributing also to a reduction in the use of resources*.

For *these* purposes, *as a general rule*, the Member States *and the Community shall* take measures, *in descending order* of priority, for:

- (1) the prevention *and* reduction of waste,
- (2) *the* re-use *of waste*,
- (3) *the* recycling *of waste*,
- (4) other recovery operations,
- (5) *the safe and environmentally sound disposal of waste*.

When life-cycle assessments and cost-benefit analyses indicate clearly that an alternative treatment option shows a better record for a specific waste stream, Member States may depart from the priorities established in the second paragraph. These assessments and analyses shall be made public and be reviewed by independent scientific bodies. Consultation shall be undertaken in order to ensure a full and transparent process, including stakeholder and citizen involvement. If necessary, the Commission will draw up guidelines for the use of such assessments and analyses.

Article 2 Scope

1. This Directive shall not cover:

- gaseous effluents emitted into the atmosphere,
- ***uncontaminated excavated materials which can be used in their natural state whether on the same site or another site.***

2.. It shall not cover the following categories of waste, as regards certain specific aspects of those categories which are already covered by other Community legislation:

- (a) radioactive waste;
- (b) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries;
- (c) faecal matter and other natural, non-dangerous substances used in farming;
- (d) waste waters, with the exception of waste in liquid form;
- (e) decommissioned explosives;
- (f) ***animal carcasses or animal by-products covered by Regulation (EC) No 1774/2002 without prejudice to the application of this Directive to the treatment of waste that contains animal by-products and animal by-products that are not suitable for use as a product for health reasons and have for this reason to be treated as waste.***

3. ***With a view to promoting recycling in relation to specific materials, the Commission shall present a proposal to this effect by ...*.***

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Two years after the entry into force of this Directive.

4. ***This Directive*** shall not cover faecal matter, straw and other natural non-hazardous ***substances*** that are used in farming or for the production of energy from biomass through using processes or methods which do not harm the environment or endanger human health.

Sewage sludge shall fall within the scope of this Directive, except when it is used in agriculture in accordance with Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil when sewage sludge is used in agriculture¹⁵.

5. ‘Animal carcasses’ as referred to in ***paragraph 2(f)*** means animals that die other than by being slaughtered, including animals killed to eradicate an epizootic disease, in the context of agricultural or farming practices.

6. ***This Directive shall not cover natural sediments and silt which do not feature hazardous properties as defined in Annex IV.***

Article 3 Definitions

For the purposes of this Directive, the following definitions shall apply:

- (a) ‘waste’ means any substance or object which the holder discards or intends or is required to discard; ***the Commission shall put forward a legislative proposal for certain consumer products (e.g. electronic equipment) specifying the functional, environmental and quality criteria to be met in order to define when the holder is regarded as having the intention to discard.***

All waste categories are listed in the European Waste Catalogue (EWC), following Commission Decision 2000/532/EC¹⁶;

- (b) ‘producer’ means anyone whose activities produce waste or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

¹⁵ OJ L 181, 4.7.1986, p. 6. Directive as last amended by Regulation (EC) No 807/2003 (OJ L 122, 16.5.2003, p. 36).

¹⁶ OJ L 226, 6.9.2000, p. 3. Decision as last amended by Council Decision 2001/573/EC (OJ L 203, 28.7.2001, p. 18).

- (c) 'holder' means the producer or the natural or legal person who is in possession of the waste;
- (d) 'management' means the collection, transport, **treatment**, recovery and disposal of waste, including the supervision of such operations and after-care of disposal sites;
- (e) 'collection' means the gathering of waste for the purposes of transport to a waste treatment facility;
- (f) *'separate collection' means the collection where a waste stream is kept separately by type and nature of the waste and is separately collected and transported;*
- (g) *'prevention' means any action that is taken before products or substances have become waste and that is aimed at reducing the generation of waste or its harmfulness; it also refers to the reduction of the harmfulness through restrictions on the use in products of substances or materials that are hazardous and any action taken to prevent formation, transfer and dispersion of hazardous substances during waste management;*
- (h) 're-use' means *the use of products or components* for the same purpose for which they were conceived *without any prior treatment apart from cleaning or repairing*;
- (i) 'recycling' means the *reprocessing of materials or substances in wastes through a production process whereby they produce or are incorporated in new* products, materials or substances whether for the original or other purposes. It *includes reprocessing of organic material, but* does not include, *inter alia*, energy recovery, *conversion for use as a fuel, processes involving combustion or use as a source of energy, including chemical energy, or backfilling operations*;
- (j) *'recovery' means a waste treatment operation that meets the following criteria:*
 - i) *results in waste substituting for other resources that would have been used to fulfil that function or in it being prepared for such use;*
 - ii) *results in waste serving a genuine purpose by that substitution;*
 - iii) *meets certain efficiency criteria, established in accordance with Article 8(2);*
 - iv) *reduces the overall negative environmental impacts by using waste as a substitute for other resources;*

- v) *ensures that the products comply with the applicable Community safety legislation and Community standards;*
- vi) *gives a high priority to the protection of human health and the environment and minimises the formation, release and dispersion of hazardous substances in the process;*
- (k) *‘waste oils’ means any mineral, synthetic or biological-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, lubricating oils, oils for turbines and hydraulic oils;*
- (l) *‘treatment’ means recovery or disposal and includes interim treatment operations such as re-packaging, exchange, blending, mixing or storage prior to recovery or disposal;*
- (m) *‘disposal’ means any operation that does not fulfil the conditions of recovery or re-use, and includes at least the operations listed in Annex I. All disposal operations shall give a high priority to the protection of human health and the environment;*
- (n) *‘energy recovery’ means the use of combustible waste as a fuel for generating energy through direct incineration with or without other waste or fuel but with recovery of the heat. Incineration of waste where more energy is added than received during the process is not treated as energy recovery;*
- (o) *‘dealer’ means anyone who acts in the role of principal to purchase and subsequently sell waste, including dealers who do not take physical possession of the waste;*
- (p) *‘broker’ means anyone arranging for the recovery or disposal of waste on behalf of others, including brokers who do not take physical possession of the waste;*
- (q) *‘agent’ means anyone who acts on behalf of another to buy and sell waste;*
- (r) *‘biowaste’ means waste of animal or plant origin, for recovery purposes, which can be decomposed by micro-organisms, soil-borne living organisms or enzymes; soil material with no significant biowaste content and plant remains from agricultural production falling within the scope of Article 2(4) are not biowaste;*
- (s) *‘best available techniques’ means best available techniques pursuant to Article 2(11) of Directive 96/61/EC;*

- (t) *'best available waste management techniques' means the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques in order, during waste management operations, to avoid hazards to human health and environmental damage; Article 2(11) of and Annex IV to Directive 96/61/EC shall apply accordingly;*
- (u) *'cleaning' means any process aiming to remove impurities from substances and materials so that the original substances or materials can continue to be used;*
- (v) *'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.*

Article 4

Distinction between by-products and waste

1. *In order to be classified as a by-product and not as waste, the following conditions shall be met by a substance or object resulting from a production process, the primary aim of which is not its production:*
 - (a) *further use of the substance or object is certain;*
 - (b) *the substance or object can be used directly without any further processing other than normal industrial practice;*
 - (c) *further use of the substance or object is an integral part of a production process or there is a market for it as a product; and*
 - (d) *further use is lawful, i.e. the substance or object fulfils all relevant product, environmental and health protection requirements for the specific application.*
2. *By ...* the Commission shall, on the basis of the conditions set out in paragraph 1, put forward a legislative proposal specifying the environmental and quality criteria to be met by a substance or object in order to be classified as a by-product. The proposal shall include an annex with a list of substances and/or objects to be classified as by-products.*
3. *The list referred to in paragraph 2 shall be made easily accessible for economic operators and the public (e.g. via the Internet).*

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Two years after entry into force of this Directive.

Article 5

Producer responsibility

1. Member States and the Community shall, in order to reinforce producer responsibility, take measures to hold producers or importers responsible for the waste which is generated as a result of their product being placed on the market. This may be done, inter alia, in the following ways:

- by introducing take-back obligations for producers/importers,**
- by introducing the obligation to provide publicly available information as to the extent to which the product is recyclable,**
- by requiring producers to use materials and product design which help to avoid or reduce the generation of waste and to render the waste generated less damaging,**
- by establishing facilities to make repair and re-use possible,**
- by establishing facilities for separate collection, take-back and disposing of products in a responsible manner at the end of their life.**

2. Member States shall report to the Commission on the implementation of paragraph 1. The Commission shall assess the appropriateness of introducing extended producer responsibility schemes for specific waste streams at EU level, based on the experiences of Member States.

Article 6

List of wastes

The list of wastes established by Decision 2000/532/EC shall be annexed to this Directive and directly applicable in all Member States. The list may be amended by the Commission in accordance with the *regulatory procedure with scrutiny* referred to in Article 46(3).

The list shall be maintained, and amended, by the Commission for data collection purposes, and shall *also* include waste to be regarded as hazardous pursuant to Articles 15 to 18, taking into account the origin and composition of the waste and, where necessary, limit values of concentration.

The Commission shall ensure that this list is sufficiently easy to understand for SMEs and easily accessible.

Chapter II

Prevention of waste

Article 7

Prevention

Member States shall, in accordance with Article 1, take all necessary measures to stabilise their overall waste production by 2012 as compared to their overall annual waste production in 2008.

Stabilisation shall mean no further increase in generation relative to the start of the stabilisation period.

Following the consultation of all stakeholders, the Commission shall submit to the European Parliament and the Council proposals for measures required in support of the Member States' prevention activities, to cover:

- (a) by 2008, a list of indicators that will enable Member States to monitor, assess and report on the progress of their waste prevention programmes and measures;***
- (b) by 2010, the formulation of a product eco-design policy addressing both the generation of waste and the presence of hazardous substances in waste, with a view to promoting technologies focusing on durable, re-usable and recyclable products;***
- (c) by 2010, the setting of further qualitative and quantitative waste reduction objectives for 2020, based on best available practice;***
- (d) by 2010, the formulation of an action plan for further support measures at European level seeking in particular to change current consumption patterns.***

Chapter III

Recovery and disposal

SECTION 1 GENERAL

Article 8 Recovery

1. Member States shall take the necessary measures, *consistent with the provisions stated in Article 1*, to ensure that *where practicable* all waste undergoes *recovery* operations. *These shall include* at least the operations listed in Annex II, *provided that they satisfy the definition of recovery in Article 3(j)*.

For the avoidance of doubt, operations shall fall under Annex II despite producing some material which thereafter undergoes disposal operations if their primary purpose is a recovery operation falling under Annex II.

Further recovery operations may be added to the list of operations set out in Annex II, on the basis of a Commission proposal to the European Parliament and the Council.

2. The Commission *shall put forward by...** *a legislative proposal*, in accordance with the procedure *laid down in Article 251 of the Treaty, for the adoption of* implementing measures in order to set *environmental and* efficiency criteria *based on best available techniques* on the basis of which *final* operations listed in Annex II may be considered to have resulted in a *recovery operation*.

3. *Before amending Annex II and adopting implementing measures pursuant to paragraph 2, the Commission shall consult the Member States and the industrial, environmental, workers' and consumer associations concerned.*

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Two years after entry into force of this Directive.

4. Member States shall take measures to promote the re-use of products, notably through the establishment and support of accredited re-use and repair networks and by establishing, where necessary, the relevant process and product standards.

Member States may take other measures to promote re-use, such as the use of economic instruments, procurement criteria, quantitative objectives or prohibitions on the placing on the market of certain products.

5. In order to move towards a European Recycling Society and contribute towards a high level of resource efficiency, by 2020 Member States shall achieve at least an overall re-use and recycling level of 50% for municipal solid waste and 70% for construction, demolition, industrial and manufacturing waste. For those countries with less than 5% recycling in either category or no official figures, according to Eurostat data of 2000-2005, an additional period of five years may be granted to reach the targets.

6. Member States shall take measures to promote high quality recycling and to this end they shall adopt separate collection schemes wherever necessary to guarantee the necessary quality standards for the relevant recycling sectors.

By 2015 the Member States shall set up separate waste collection schemes for at least the following: paper, metal, plastic, glass, textiles, other biodegradable wastes, oil and hazardous wastes. This shall apply without prejudice to existing or future waste stream legislation or the requirements of Article 22.

Article 9 Disposal

1. Without prejudice to the second paragraph of Article 1, Member States shall ensure that where *prevention, re-use, recycling or other* recovery *does not take place*, all waste undergoes *safe* disposal operations *which meet the objectives set out in Article 10*.

They shall prohibit the abandonment, dumping or uncontrolled disposal of waste.

2. *Disposal* operations **shall include** the operations listed in *Annex I*.

Disposal operations classified as D 11 (Incineration at sea) and D7 (Release into seas/oceans including sea-bed insertion) shall be forbidden.

3. Where, despite substitution of resources taking place, the results of an operation indicate that, for the purposes of Article 1, *the substitution is only a limited one*, the Commission may *put forward a legislative proposal* adding that specific operation to the list set out in Annex I.

Before amending Annex I, the Commission shall consult the Member States and the industrial, environmental, workers' and consumer associations concerned.

Article 10 Conditions

Member States shall *take measures to* ensure that *waste management from collection until recovery or disposal* is carried out *by means of processes or methods ensuring a high level of protection for*:

- (a) *human* health,
- (b) *the* environment,
- (c) *water*, air, soil and plants,

and without causing a nuisance through noise or odours *or* adversely affecting the countryside or places of special interest.

Any waste recovery and disposal requirements laid down by Member States in the form of generally binding provisions shall be based on best available waste management techniques.

In so far as this is necessary for protection of human health and the environment, the Commission shall submit proposals for individual directives laying down, for wastes or recovery operations which are of particular ecological or economic significance in quantitative terms, requirements with regard to recovery, to substances or objects resulting from recovery operations, and to subsequent use of those substances and objects. Those requirements shall be based on best available waste management techniques. The directives may also determine in detail when the recovered waste is to lose its status as waste.

Article 11
Responsibility

In accordance with the ‘polluter pays’ principle, Member States shall ensure that any holder of waste carries out its recovery or disposal himself or has its recovery or disposal handled by an establishment or undertaking which carries out waste treatment operations or arranged by a private or public waste collector.

SECTION 2
COSTS AND NETWORKS

Article 12
Costs

In accordance with the ‘polluter pays’ principle the cost of waste management must be borne by:

- ***the holder of the waste collected or managed by a collector or by an enterprise, and/or***
- ***the previous holders, and/or***
- ***the producer of the product from which the waste is derived.***

Article 13
Network of disposal installations

Within the Community waste shall be treated in the overall most environmentally sound manner.

Waste for disposal shall be treated 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.

Each Member State shall take appropriate measures, in cooperation with other Member States, to establish an integrated and adequate network of disposal installations, taking account of the best available techniques.

Chapter IV

End of waste

Article 14

Secondary products, materials and substances

1. ***Member States may request the Commission to determine whether, by way of exception, a given waste has ceased to be a waste on the basis that:***

- (a) ***it has*** completed a re-use, recycling or recovery operation ***in accordance with the provisions of this Directive*** and ***is hence to be reclassified as a secondary product, material or substance;***
- (b) ***such*** reclassification would not lead to overall negative environmental ***or health*** impacts;
- (c) a market exists, ***or would exist,*** for such a secondary product, material or substance.

2. ***By ...* the Commission shall, if appropriate,*** on the basis of its assessment pursuant to paragraph 1, ***put forward a legislative proposal*** specifying the environmental and quality criteria to be met in order for ***specific products, materials or substance categories of*** waste to be deemed to have ***become secondary products, materials or substances.***

3. The criteria set pursuant to paragraph 2 shall be such as to ensure that the resulting secondary product, material or substance meets the necessary conditions to be placed on the market.

The criteria shall take into account any risks of environmentally harmful use or shipment of the secondary material or substance, and shall be set at a level that guarantees a high level of protection for human health and the environment.

* ***Two years after entry into force of this Directive.***

4. By...^{*} the Commission shall, if appropriate, make proposals for determining whether the following waste streams fall under the provisions of this Article, and if so, what specifications should apply to them:

- compost,
- aggregates,
- paper,
- glass,
- metal,
- end-of-life tyres,
- second-hand clothing.

Chapter V Hazardous waste

SECTION ONE CLASSIFICATION AND LISTING

Article 15 Classification

1. Waste shall be regarded as hazardous waste if it displays one or more of the properties listed in *Annex IV*.

The reclassification of hazardous waste as non-hazardous waste may not be achieved by diluting or mixing the waste with the aim of lowering the initial concentrations of pollutants to a level below the thresholds for defining waste as hazardous.

2. Hazardous waste produced by households shall not be regarded as hazardous waste until it is collected by an undertaking which carries out *treatment operations of separately collected hazardous waste* or by a private or *public collector of hazardous waste*.

^{*}

Five years after entry into force of this Directive.

3. Animal by-products and products derived from them, covered by Regulation (EC) No 1774/2002, shall not be subject to the provisions of this Directive that apply to hazardous waste unless they have been mixed with hazardous waste.

Article 16

List

The list of wastes established by Decision 2000/532/EC appears as an annex to this Directive. The list may be amended by the Commission in accordance with the regulatory procedure with scrutiny referred to in Article 46(3).

The list shall take into account *the composition* of the waste and, where necessary, limit values of concentration *and origin of the waste*.

Article 17

Unlisted hazardous waste

Where a Member State *considers that* waste *should be treated* as *hazardous, even* though it does not appear as such on the list of wastes referred to in *Article 6*, (hereinafter “the list”), *and* it displays one or more of the properties listed in *Annex IV*, the Member State shall *immediately* notify any such cases to the *Commission and* shall provide the Commission with all relevant information.

Article 18

Listed non-hazardous waste

1. Where a Member State has evidence to show that a specific waste that appears on the list as hazardous waste does not display any of the properties listed in *Annex IV*, *it shall* notify any such cases *immediately* to the *Commission and* shall provide the Commission with the necessary evidence.

2. The Commission shall, in the light of notifications received, review the list in order to decide on its adaptation, in accordance with the *regulatory procedure with scrutiny* referred to in *Article 46(3)*.

3. *Member States may treat the waste as non-hazardous waste after the adaptation of the list has been adopted.*

Article 19

Traceability and control of hazardous waste

In accordance with the provisions set out in this Directive regarding hazardous waste, Member States shall take the necessary action to ensure that the production, collection and transportation of hazardous waste, as well as its storage and treatment, are carried out in conditions providing optimum protection for the environment and human health and safety for operators, industrial sites and individuals, including as a minimum taking measures to ensure traceability and control from production to final destination of any hazardous waste and proper risk assessment during its management.

SECTION TWO

SPECIAL REQUIREMENTS

Article 20

Separation

1. Member States shall take the necessary measures to *require establishments or undertakings dealing with hazardous waste not to mix different categories of hazardous waste nor to mix hazardous waste with non-hazardous waste.*
2. *Member States shall encourage the separation of hazardous compounds from all waste streams before they enter the recovery chain.*
3. *By way of derogation from paragraph 1, Member States may take measures to allow the mixing of different categories of hazardous waste or the mixing of hazardous waste with other waste, substances or materials provided that:*
 - (a) *the mixing operation is carried out by an establishment or undertaking which has obtained a permit in accordance with Article 28;*
 - (b) *the conditions laid down in Article 10 are complied with;*
 - (c) *the environmental impact of the management of the waste is not worsened;*
 - (d) *such an operation conforms to best available techniques.*

Article 21

Labelling

1. Member States shall take the necessary measures to ensure that, in the course of collection, transport and temporary storage, hazardous waste is packaged and labelled in accordance with the international and Community standards in force.

2. Whenever hazardous waste is transferred, it shall be accompanied by an identification form as referred to in Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community¹⁷.

Article 22

Waste oils

Without prejudice to the obligations related to the **management** of hazardous waste laid down in Articles 20 and 21, Member States shall take the necessary measures to ensure ***that waste oils are collected separately from other waste where this is technically feasible, and then treated in accordance with the waste hierarchy referred to in the second paragraph of Article 1, under the conditions outlined in Article 10. The preference given to regeneration in Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils¹⁸ shall be maintained wherever possible.***

Article 23

Catering waste

The recovery of untreated catering waste for feeding purposes shall be prohibited. Catering waste shall be verifiably eliminated by licensed undertakings and sterilised and safely disposed of by means of appropriate operations. The use of catering waste in feed for pigs may be authorised by Member States only on condition that there is, in every respect, monitoring of safe recovery, sterilisation and compliance with the other provisions of Regulation (EC) No 1774/2002.

¹⁷ OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).

¹⁸ OJ L 194, 25.7.1975, p. 23. Directive as last amended by Directive 2000/76/EC of the European Parliament and of the Council (OJ L 332, 28.12.2000, p. 91).

Chapter VI

Biowaste

Article 24

Collection and use of biowaste

- 1. Priority shall be given to material recovery of biowaste.***
- 2. With a view to implementing the objectives set out in Article 1, Member States shall, by ...^{*}, develop a system for the separate collection of biowaste.***
- 3. Member States shall ensure that treated biowaste may, following compliance with the requirements set out in Articles 25 and 26, be spread on land used for agricultural, forestry or horticultural/gardening purposes.***

Article 25

Treatment of biowaste

- 1. Producers and holders shall, prior to biowaste being spread on land, subject it to treatment that will ensure that it is safe from the point of view of human, animal and plant health. This shall also apply to catering waste produced by restaurants and catering facilities where it is not required to be disposed of in accordance with the provisions of Regulation (EC) No 1774/2002.***
- 2. The Commission shall, in accordance with the regulatory procedure with scrutiny referred to in Article 46(3), adopt implementing measures, specifying the minimum requirements for checking safety from the point of view of human, animal and plant health.***
- 3. In order to ensure that spreading of biowaste on land is carried out in an environmentally sound way, the Commission shall, in accordance with the regulatory procedure with scrutiny referred to in Article 46(3), adopt implementing measures, specifying the environmental and quality criteria to be met in order for biowaste to be spread on land used for agricultural, forestry or horticultural/gardening purposes, and to be deemed to have become a secondary product, material or substance.***

^{*}

Three years after the entry into force of this Directive.

4. *The implementing measures provided for in paragraph 3 shall include at least binding limit values for heavy metals, physical contaminants and content of viable seeds and parts of plants capable of sprouting as well as a list of suitable source materials.*

5. *The criteria shall take into account any risks of environmentally harmful use or shipment of the secondary material or substance, and shall be set at a level that guarantees a high level of protection for human health and the environment.*

Article 26 *Controls*

1. *Member States shall ensure that, in order to monitor compliance with the requirements laid down in Article 25, quality assurance systems are set up and operated.*

2. *Member States shall ensure that tests for harmful substances are carried out at regular intervals.*

Article 27 *Recycling*

The Commission shall, no later than 30 June 2008, present to the European Parliament and the Council proposals for legislation to promote the recycling of biowaste.

Chapter VII *Permits or registration*

SECTION 1 *PERMITS*

SUBSECTION 1 *GENERAL*

Article 28 *Issuing*

1. Member States shall require any establishment or undertaking intending to carry out disposal or recovery operations to obtain a permit from the national competent authorities.

Such permits shall specify the following:

- (a) the types and quantities of waste that may be treated;
- (b) for each type of operation permitted, the technical requirements relevant to the site concerned;
- (c) the security precautions to be taken;
- (d) the method to be used for each type of operation.

Permits may specify additional conditions and obligations.

- 2. Permits may be granted for a specified period and they may be renewable.
- 3. Where the national competent authority considers that the intended method of treatment is unacceptable from the point of view of environmental protection, it shall refuse to issue a permit.
- 4. It shall be a condition of any permit covering energy recovery that the recovery of energy is to take place with a high level of energy efficiency.

Article 29 **Permit requirements**

All hazardous waste treatment installations shall be subject to a permit requirement in accordance with Directive 96/61/EC.

Without prejudice to Directive 96/61/EC, a permit application to the competent authorities shall include a description of the planned measures intended to ensure that the plant is designed, equipped and operated in a manner in keeping with the waste categories treated and their related risks.

The permit issued by the competent authorities shall state:

- ***the amounts and the categories of hazardous waste treated;***
- ***the technical characteristics of the waste treatments providing optimum environmental protection and guaranteeing a high level of safety.***

When the operator of a non-hazardous waste treatment plant is envisaging a change of operation which would involve hazardous waste, this shall be regarded as a substantial change within the meaning of Article 2(10)(b) of Directive 96/61/EC, and Article 12(2) of that Directive shall apply.

Article 30
Permits under Directive 96/61/EC

*Article 28(1) of this Directive shall not apply in the case of an establishment or undertaking which has obtained a permit under Directive 96/61/EC, **provided that the permit includes all the elements listed in Article 28(1) of this Directive.***

Article 31
Implementing measures

*The Commission **shall, if appropriate, make proposals for individual Directives laying down minimum standards for permits designed to ensure that the waste is treated in accordance with the objectives set out in Article 10.***

Member States may set higher standards for permits on the basis of a national assessment of needs and the principle of proportionality and in accordance with the Treaties.

Article 32
Supplemental measures

By ... the Commission shall draw up a report with a view to considering measures that may contribute to achieving the fulfilment of the objectives set out in Article 1 more effectively. The report shall be submitted to the European Parliament and to the Council within six months of its completion, accompanied by proposals as appropriate.*

The report shall in particular consider:

- (a) whether Annex II should be amended in order to:*
 - (i) omit cases where listed operations do not lead to a sufficiently high proportion of the waste serving a useful purpose to be consistent with the objectives set out in Article 1,*
 - (ii) identify cases where the proportion of waste being used as opposed to that which is disposed of as part of a recovery operation should be specified in order to ensure that the objectives set out in Article 1 are met,*
 - (iii) specify a different energy efficiency level or levels in relation to recovery operation R1,*
 - (iv) adapt any references in the light of technical and scientific progress;*

*

Two years after the entry into force of this Directive.

- (b) *whether Annex I should be amended in order to:*
 - (i) *add any operations omitted from Annex II,*
 - (ii) *adapt any references in the light of technical and scientific progress; and*
- (c) *whether specifying minimum standards for particular disposal or recovery operations will contribute to the objectives set out in Article 10.*

The requirement for this report will not prevent the Commission from coming forward with any proposals in the meantime.

SUBSECTION 2 EXEMPTIONS

Article 33 Eligibility

Member States may *exempt from* the requirement laid down in *Article 28(1) establishments* or undertakings carrying out their own waste treatment at the place of *production*.

Where an establishment or undertaking carries out both disposal and recovery, it may be exempted only in respect of its recovery operations.

This exemption shall not apply for the treatment of hazardous waste.

Article 34 General rules

1. Where a Member State wishes to allow exemptions, as provided for in *Article 33*, it shall ensure that the competent authorities lay down, in respect of each type of activity, general rules specifying the types and quantities of waste that may be covered by an exemption, and the method of treatment to be used.

Those rules shall be based on best available techniques and shall be designed to ensure compliance with *Article 10*.

2. Member States shall inform the Commission of the general rules laid down pursuant to *paragraph 1*.

SECTION 2 REGISTRATION

Article 35 Registration

1. Member States shall ensure that the national competent authority keeps a register of establishments or undertakings which collect or transport waste on a professional basis or which, as dealers or brokers, arrange for the treatment of waste on behalf of others, and which are not subject to a permit requirement pursuant to *Article 28(1)*.

Those establishments or undertakings shall comply with certain ***registration requirements***.

2. All establishments or undertakings exempted in accordance with Subsection 2 of Section 1 shall be entered in the register provided for in paragraph 1.

Where possible, existing records held by the competent authority will be used to obtain the relevant information for this registration process in order to minimise bureaucracy.

3. The Commission shall, in accordance with the ***regulatory*** procedure ***with scrutiny*** referred to in *Article 46(3)*, ***and in consultation with industry***, adopt the ***registration requirements*** referred to in the second subparagraph of paragraph 1.

4. Member States shall ensure that the system of waste ***collection, transport*** within their territory ***and transboundary shipments*** ensures that the waste collected and transported is delivered to appropriate treatment installations respecting the obligations in *Article 10*.

For all waste shipments the provisions of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006¹⁹ shall apply.

¹⁹ ***OJ L 190, 12.7.2006, p. 1.***

Chapter VIII

Waste management

SECTION 1

PLANS

Article 36

Waste management plans

1. Member States shall ensure that their competent authorities establish, in accordance with Article 1, one or more waste management plans, which shall be revised at least every five years.

Those plans shall, alone or in combination, cover the entire geographical territory of the Member State concerned.

2. The waste management plans provided for in paragraph 1 shall set out an analysis of the current waste management situation in the geographical entity concerned, as well as the measures to be taken for the prevention, re-use, recycling, recovery and safe disposal of waste.

3. *The waste management plans shall contain all the information necessary to fulfil the obligation in paragraph 2 and to enable competent authorities, establishments and undertakings to act so as to give effect to the plans. The Commission shall, as appropriate, provide guidelines for waste management planning.*

The waste management plans shall contain at least the following:

- (a) the type, quantity and origin of waste generated as well as waste likely to be treated *that has originated* outside the national territory;
- (b) *collection* schemes and treatment methods;
- (c) any special arrangements for waste streams, *including those addressed by specific Community legislation*;

- (d) an identification and assessment of existing disposal and major recovery installations as well as historical contaminated waste disposal sites and measures for their rehabilitation;
- (e) sufficient information in the form of criteria for site identification, to enable the competent authorities *in the Member States* to decide whether to grant authorisation or not for future disposal or major recovery installations;
- (f) the natural or legal persons empowered to carry out the management of waste;
- (g) ***general waste management policies, including planned waste management technologies and methods.***

4. Waste management plans shall be in accordance with the waste planning requirements laid down in Article 14 of Directive 94/62/EC and the strategy for the reduction of biodegradable waste going to landfills, referred to in Article 5 of Directive 1999/31/EC, including significant awareness raising campaigns and the use of economic instruments.

5. The Member States shall notify the Commission of all waste management plans adopted, or of any revisions to their waste management plans.

At the same time, they shall provide the Commission with a general assessment of how the plans will contribute to the aims of this Directive. That assessment shall include the strategic environmental assessment of waste management plans provided for in Directive 2001/42/EC.

Article 37

Cooperation between Member States

Member States shall cooperate as appropriate with the other Member States concerned to draw up the waste management plans in accordance with *Article 36*.

They shall ensure public participation in accordance with Directive 2003/35/EC and notably through placing the plans on a publicly available website.

Article 38

Member States may take the measures necessary to prevent movements of waste which do not comply with their waste management plans. They shall inform the Commission and the other Member States of any such measures.

SECTION 2

WASTE PREVENTION PROGRAMMES

Article 39 Establishment

1. Member States shall establish, in accordance with Article 1 *and Article 7*, waste prevention programmes no later *than ...* *.

These programmes and the measures therein shall, as a minimum requirement, aim for the stabilisation of waste generation by 2012 and further significant reductions in generation by 2020.

Such programmes shall either be integrated into the waste management plans provided for in *Article 36*, or shall function as separate programmes. They shall be drawn up at the geographical level most appropriate for their effective application.

2. Member States shall ensure that *local and regional authorities are involved in the preparation of the programmes and that* stakeholders and the general public have the opportunity to participate in the elaboration of the programmes, and have access to them once elaborated, in accordance with Directive 2003/35/EC.

3. ***The Commission shall create a system for sharing information on best practice regarding waste prevention.***

Article 40 Review

Member States shall regularly evaluate the waste prevention programmes, and as a minimum ***revise them at least every five years. The European Environment Agency shall include in its annual report a review of progress in the completion and implementation of such programmes.***

The Commission shall, following consultation of the Consultation Forum established in Article 47, develop guidelines for evaluation of the waste prevention programmes, including the indicators as laid down in Article 7.

* ***18 months after the entry into force of this Directive.***

The Commission shall, on the basis of these guidelines and in cooperation with the relevant authorities, undertake an evaluation of the programmes.

Within 18 months of the end of the five-year period covered, it shall provide an assessment report on the contribution of programmes to the objectives and targets laid down in this Directive.

Chapter IX Inspections and records

Article 41 Inspections

1. Establishments or undertakings which carry out waste treatment operations, establishments or undertakings which collect or transport waste on a professional basis or which arrange for the treatment of waste on behalf of others, and producers of hazardous waste shall be subject to appropriate periodic inspections by the competent authorities.
2. Inspections concerning collection and transport operations shall cover the origin and destination of the waste collected and transported.

Article 42 Record keeping

1. Establishments or undertakings referred to in ***Chapter VII, section 1***, producers ***and retailers of waste*** and establishments and undertakings which collect or ***transport waste*** shall keep a ***chronological*** record of the ***waste quantities going in and out, their nature and sectoral and geographical*** origin, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste and make that information available, on request, to the competent authorities.
2. For hazardous waste, the records shall be preserved for at least ***five years***.

Documentary evidence that the management operations have been carried out shall be supplied at the request of the competent authorities or of a previous holder.

Member States shall ensure that the national competent authorities keep a register of all establishments and undertakings referred to in Chapter VII, section 1, and may require those establishments and undertakings to provide reports.

Member States may also require producers of non-hazardous waste to comply with the provisions of this Article.

Chapter X Final provisions

Article 43 Reporting and reviewing

1. At intervals of **five years** Member States shall inform the Commission of the implementation of this Directive, in the form of a sectoral report.²⁰.

The report shall be drawn up on the basis of a questionnaire or outline established by the Commission in accordance with the procedure referred to in Article 6 of *Council Directive 91/692/EEC of 23 December 1991 standardizing and rationalizing reports on the implementation of certain Directives relating to the environment*²¹. The report shall be made to the Commission within nine months of the end of the **five-year** period covered by it.

Member States shall include in these reports, *inter alia*, **specific** information on **extended producer responsibility schemes** and their progress in the implementation of their waste prevention programmes **and the achievement of the waste prevention objectives as laid down in Article 7**.

In the context of the reporting obligations, data shall be collected on catering waste, enabling the establishment of rules on its safe use, recovery, recycling and disposal.

2. The Commission shall send the questionnaire or outline to the Member States six months before the start of the period covered by the report.

3. The Commission shall publish a Community report on the implementation of this Directive within nine months of receiving the reports from the Member States in accordance with paragraph 1. **The Commission shall also publish an evaluation report on the appropriateness of introducing more extended producer responsibility schemes for specific waste streams at EU level.**

4. In the first report that intervenes five years after the entry into force of this Directive the Commission will review the implementation of the Directive and will present a proposal for revision if appropriate.

²⁰ Reporting of quantitative information on the generation and treatment of waste shall be brought under the coverage of Regulation (EC) No 2150/2002. The reporting frequencies and deadlines shall be stipulated in the annexes of that Regulation.

²¹ *OJ L 377, 31.12.1991, p. 48. Directive as last amended by Regulation (EC) No 1882/2003.*

Article 44

Adaptation to technical progress

The Commission shall, in accordance with the *regulatory* procedure *with scrutiny* referred to in *Article 46(3)*, adopt the amendments necessary for *adapting Annexes IV and V* to scientific and technical progress. *In all other cases the Commission shall put forward legislative proposals for amending the Annexes.*

Article 45

Sanctions for non-compliance

Member States shall lay down the provisions on penalties applicable for infringement of the provisions of this Directive, in particular with regard to Article 20, and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission no later than ... and shall notify it without delay of any subsequent amendment affecting them.*

Article 46

Committee

1. The Commission shall be assisted by a committee, hereinafter "the Committee".
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. *Where reference is made to this paragraph, Article 5a (1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.*

*

24 months after entry into force of this Directive.

4. *When adopting measures in accordance with this Article, the Commission shall:*
- (a) carry out appropriate consultation with stakeholders;*
 - (b) provide a clear timetable;*
 - (c) ensure the harmonisation of the rules of procedure for all comitology processes provided for in this Directive;*
 - (d) ensure the enforceability of the procedure;*
 - (e) ensure public access to procedural documents;*
 - (f) if necessary, conduct an environmental and market impact study of the planned measure.*

Article 47
Consultation Forum on Waste Management

1. *The Commission shall set up a Consultation Forum on Waste Management.*
2. *The task of the Consultation Forum shall be to supply the Commission with opinions, either at the request of the Commission or on its own initiative:*
 - (a) on the formulation of a policy on waste management, having regard to the need to ensure the best use of resources, the prevention of waste generation and the environmentally sound management of waste;*
 - (b) on the different technical, economic, administrative and legal aspects concerning waste management;*
 - (c) on the implementation of Community legislation on waste management including plans, programmes and reporting on progress, and the formulation of fresh proposals for legislation in this area.*

3. *The Consultation Forum shall be composed, in a balanced way, of Member States' representatives and all interested groups concerned with waste management issues, such as industry, including SMEs and craft industry, trade unions, traders, retailers, environmental protection groups and consumer organisations.*

4. *The Consultation Forum shall meet at least three times a year.*

It shall be convened by the Commission. The Commission shall chair the meetings.

If appropriate, ad hoc working groups may be convened and meet more frequently.

5. *The Commission shall adopt the internal rules of the Consultation Forum.*

Article 48 Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive *by ...**. They shall forthwith communicate to the Commission the text of those *measures* and a correlation table between those *measures* and the Directive.

When Member States adopt *these measures*, they shall contain a reference to this Directive or *shall* be accompanied by such reference on the occasion of their official publication. *The methods of making such reference shall be laid down by Member States.*

2. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

* 24 months after the entry into force of this Directive.

Article 49

Repeal

Directives 75/439/EEC, 2006/12/EC and *Council Directive 91/689/EEC of 12 December 1991 on hazardous waste*²² are repealed.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in *Annex VI*.

Article 50

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 51

Addressees

This Directive is addressed to the Member States.

Done at ,

For the European Parliament
The President

For the Council
The President

²² *OJ L 377, 31.12.1991, p. 20. Directive as last amended by Regulation (EC) No 166/2006.*

ANNEX I
DISPOSAL OPERATIONS

D 1 Deposit into or onto land (e.g. landfill, etc.)

D 2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)

D 3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)

D 4 Surface impoundment (e.g. placement of liquid or sludgy discards into pits, ponds or lagoons, etc.)

D 5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

D 6 Release into a water body except seas/*oceans*

D 7 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to *D 10*

D 8 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to *D 10* (e.g. evaporation, drying, calcination, etc.)

D 9 Incineration on *land*

D 10 Permanent storage (e.g. emplacement of containers in a mine, etc.)

D 11 Blending or mixing prior to submission to any of the operations numbered D 1 to *D 10*

D 12 Repackaging prior to submission to any of the operations numbered D 1 to *D 11*

D 13 Storage pending any of the operations numbered D 1 to *D 12* (excluding temporary storage, pending collection, on the site where the waste is produced)

ANNEX II

RECOVERY OPERATIONS

R1 Use principally as a fuel or other means to generate *energy*.

R 2 Solvent reclamation/regeneration

R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)

R 4 Recycling/reclamation of metals and metal compounds

R 5 Recycling/reclamation of other inorganic materials

R 6 Regeneration of acids or bases

R 7 Recovery of components used for pollution abatement

R 8 Recovery of components from catalysts

R 9 Oil re-refining or other *re-uses* of oil

R 10 Other recovery activities for the production of secondary products, materials and substances

R 11 Land treatment resulting in benefit to agriculture or ecological improvement

R 12 Recovery of energy from landfill gas

R 13 Use of wastes for construction, technical, safety or ecological purposes for which other materials would otherwise have been used

R 14 Exchange of wastes for submission to any of the operations numbered R 1 to R 12

R 15 Storage of wastes pending any of the operations numbered R 1 to R 14 (excluding temporary storage, pending collection, on the site where the waste is produced)

R 16 Use of materials obtained from any of the operations numbered R 1 to R 11

R 17 Re-use of products and components that have become waste.

ANNEX III

END OF WASTE

Applications for which wastes can be used as a secondary product, material or substance

- ***Use in or as a fertiliser or as a soil-improving substance,***
- ***Use in or as a building material,***
- ***Use as soil.***

ANNEX IV

PROPERTIES OF WASTES WHICH RENDER THEM HAZARDOUS

H1 'Explosive': substances and preparations which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene.

H2 'Oxidizing': substances and preparations which exhibit highly exothermic reactions when in contact with other substances, particularly flammable substances.

H3-A 'Highly flammable':

- liquid substances and preparations having a flash point below 21 °C (including extremely flammable liquids), or
- substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any application of energy, or
- solid substances and preparations which may readily catch fire after brief contact with a source of ignition and which continue to burn or to be consumed after removal of the source of ignition, or
- gaseous substances and preparations which are flammable in air at normal pressure, or
- substances and preparations which, in contact with water or damp air, evolve highly flammable gases in dangerous quantities.

H3-B 'Flammable': liquid substances and preparations having a flash point equal to or greater than 21 °C and less than or equal to 55 °C.

H4 'Irritant': non-corrosive substances and preparations which, through immediate, prolonged or repeated contact with the skin or mucous membrane, can cause inflammation.

H5 'Harmful': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may involve limited health risks.

H6 'Toxic': substances and preparations (including very toxic substances and preparations) which, if they are inhaled or ingested or if they penetrate the skin, may involve serious, acute or chronic health risks and even death.

H7 'Carcinogenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce cancer or increase its incidence.

H8 'Corrosive': substances and preparations which may destroy living tissue on contacts.

H9 'Infectious': substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.

H10 'Teratogenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce non-hereditary congenital malformations or increase their incidence.

H11 'Mutagenic': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce hereditary genetic defects or increase their incidence.

H12 Substances and preparations which release toxic or very toxic gases in contact with water, air or an acid.

H13 '*Ecotoxic*': *substances and preparations which present or may present immediate or delayed risks for one or more sectors of the environment.*

H14 *Substances and preparations capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the **other** characteristics listed above.*

Notes

1. Attribution of the hazardous properties 'toxic' (and 'very toxic'), 'harmful', 'corrosive' and 'irritant' is made on the basis of the criteria laid down by Annex VI, part I A and part II B, of Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances²³ as amended.
2. With regard to attribution of the properties 'carcinogenic', 'teratogenic' and 'mutagenic', and reflecting the most recent findings, additional criteria are contained in the 'Guide to the classification and labelling of dangerous substances and preparations' set out in Part II D of Annex VI to Directive 67/548/EEC as amended.

Test methods

The methods to be used are those described in Annex V to Directive 67/548/EEC as amended.

²³ OJ 196, 16.8.1967, p. 1. Directive as last amended by Directive 2006/102/EC (OJ L 363, 20.12.2006, p. 241).

ANNEX V

WASTE PREVENTION MEASURES

Measures that can affect the framework conditions related to the generation of waste

1. The use of planning measures, or other economic instruments affecting the availability and price of primary resources.
2. The promotion of research and development into the area of achieving cleaner and less wasteful products and technologies and the dissemination and use of the results of such research and development.
3. The development of effective and meaningful indicators of the environmental pressures associated with the generation of waste at all levels, from product comparisons through action by local authorities to national measures.
4. ***Member States shall notify the Commission of products which are eligible for EU-wide product comparisons, with prevention of waste as the central concern.***
5. ***The specification of criteria for eligibility of both EU and non-EU countries for Structural and Regional funding of projects in order to give priority to waste prevention – in particular the use of best available techniques and cleaner production benchmarks.***
6. ***Encouragement by Member States of separate collection systems, with a view to ensuring that domestic waste is collected in compliance with the quality standards in the relevant sectors.***

Measures that can affect ***the design, production and distribution*** phase

7. The promotion of eco-design (the systematic integration of environmental aspects into product design with the aim to improve the environmental performance of the product throughout its whole life cycle).
8. The provision of information on waste prevention techniques with a view to facilitating the implementation of best available techniques by industry.
9. Organise training of competent authorities as regards the insertion of waste prevention requirements in permits under this Directive and Directive 96/61/EC.

10. The inclusion of measures to prevent waste production at installations not falling under Directive **96/61/EC**. **Such** measures could include waste prevention assessments or plans.
11. The use of awareness campaigns or the provision of financial, decision making or other support to businesses. Such measures are likely to be particularly effective where they are aimed at, and adapted to, small and medium sized enterprises and work through established business networks.
12. The use of **legislation**, voluntary agreements, consumer/producer panels or sectoral negotiations in order that the relevant businesses or industrial sectors set their own waste prevention plans or objectives or correct wasteful products or packaging.
13. The promotion of creditable environmental management systems, including ISO 14001.

Measures that can affect the consumption and use phase

14. Economic instruments such as incentives for clean purchases or the institution of an obligatory payment by consumers for a given article or element of packaging that would otherwise be provided free of charge **or at a lower price**.
15. The use of awareness campaigns and information provision directed at the general public or a specific set of consumers.
16. The promotion of creditable eco-labels.
17. Agreements with industry, such as the use of product panels such as those being carried out within the framework of Integrated Product Policies or with retailers on the availability of waste prevention information and products with a lower environmental impact.
18. In the context of public and corporate procurement, the integration of environmental and waste prevention criteria into calls for tenders and contracts, in line with the Handbook on environmental public procurement published by the Commission on 29 October 2004.
19. The promotion of the *re-use* and/or repair of appropriate discarded products, notably through the establishment or support of repair/*re-use* networks.

ANNEX VI CORRELATION TABLE

<i>Directive 2006/12/EC</i>	<i>This Directive</i>
<i>Article 1(1)(a)</i>	<i>Article 3(a)</i>
<i>Article 1(1)(b)</i>	<i>Article 3(b)</i>
<i>Article 1(1)(c)</i>	<i>Article 3(c)</i>
<i>Article 1(1)(d)</i>	<i>Article 3(d)</i>
<i>Article 1(1)(e)</i>	<i>Article 3(m)</i>
<i>Article 1(1)(f)</i>	<i>Article 3(j)</i>
<i>Article 1(1)(g)</i>	<i>Article 3(e)</i>
<i>Article 1(2)</i>	<i>Article 6</i>
<i>Article 2</i>	<i>Article 2</i>
<i>Article 3(1)</i>	<i>Article 1</i>
<i>Article 3(2)</i>	-
<i>Article 4</i>	<i>Article 10</i>
<i>Article 5</i>	<i>Article 13</i>
<i>Article 6</i>	-
<i>Article 7(1), (2), (3)</i>	<i>Article 36</i>
<i>Article 7 (4)</i>	-
<i>Article 8</i>	<i>Article 11</i>
<i>Article 9</i>	<i>Article 28</i>
<i>Article 10</i>	<i>Article 28</i>
<i>Article 11</i>	<i>Articles 33 and 34</i>
<i>Article 12</i>	<i>Article 35</i>
<i>Article 13</i>	<i>Article 41</i>
<i>Article 14</i>	<i>Article 42</i>
<i>Article 15</i>	<i>Article 12</i>
<i>Article 16</i>	<i>Article 43</i>
<i>Article 17</i>	<i>Article 44</i>
<i>Article 18</i>	<i>Article 46</i>
<i>Article 19</i>	<i>Article 48</i>
<i>Article 20</i>	<i>Article 49</i>
<i>Article 21</i>	<i>Article 50</i>
<i>Article 22</i>	<i>Article 51</i>
<i>Annex I</i>	-
<i>Annex IIA</i>	<i>Annex I</i>
<i>Annex IIB</i>	<i>Annex II</i>
<i>Annex III</i>	-
<i>Annex IV</i>	<i>Annex VI</i>
<i>Directive 75/439/EEC</i>	
<i>Article 1(1)</i>	<i>Article 3 (i)</i>
<i>Article 2</i>	<i>Articles 22 and 10</i>
<i>Article 3(1), (2)</i>	-
<i>Article 3(3)</i>	<i>Article 10</i>
<i>Article 4</i>	<i>Article 10</i>

Article 5(1)	-
Article 5(2)	-
Article 5(3)	-
Article 5(4)	<i>Articles 28 and 35</i>
Article 6	<i>Article 28</i>
Article 7(a)	<i>Article 10</i>
Article 7(b)	-
Article 8(1)	-
Article 8(2)(a)	-
Article 8(2)(b)	-
Article 8(3)	-
Article 9	-
Article 10(1)	<i>Article 20</i>
Article 10(2)	<i>Article 10</i>
Article 10(3),(4)	-
Article 10(5)	<i>Articles 15 to 18</i>
Article 11	<i>Article 35</i>
Article 12	<i>Article 35</i>
Article 13(1)	<i>Article 41</i>
Article 13(2)	-
Article 14	-
Article 15	-
Article 16	-
Article 17	-
Article 18	<i>Article 43</i>
Article 19	-
Article 20	-
Article 21	-
Article 22	-
Annex I	-
Directive 91/689/EEC	
Article 1(1)	-
Article 1(2)	-
Article 1(3)	<i>Article 3</i>
Article 1(4)	<i>Articles 3 and 15 to 18</i>
Article 2(1)	<i>Article 43</i>
Article 2(2)-(4)	<i>Article 20</i>
Article 3	<i>Articles 28 to 34</i>
Article 4(1)	<i>Article 41</i>
Article 4(2)(3)	<i>Article 42</i>
Article 5(1)	<i>Article 21</i>
Article 5(2)	<i>Article 41</i>
Article 5(3)	<i>Article 42</i>
Article 6	<i>Article 36</i>
Article 7	-
Article 8	-

Article 9	-
Article 10	-
Article 11	-
Article 12	-
Annex I, II	-
Annex III	Annex <i>IV</i>