



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.03.1998  
COM(1998) 189 final

97/0085 (SYN)

Amended proposal for a

**COUNCIL DIRECTIVE**  
**on the landfill of waste**

(presented by the Commission pursuant to Article 189 a (2)  
of the EC-Treaty)

## EXPLANATORY MEMORANDUM

Pursuant to Article 189 (a) paragraph 2 of the EC Treaty, the Commission submits an amended Proposal for a Council Directive on the landfill of waste. The amended Proposal takes account of a number of amendments from the European Parliament which were adopted at its Plenary Session on 16-20 February 1998.

29 of the 33 amendments were adopted at the Plenary Session. The Commission can agree in principle to amendments 1, 5, 6, 8-11, 14-15, 19-21, 23, 24, 26 and 29. The Commission position on the amendments are listed in the following.

Amendment 1 introduces a reference to the waste hierarchy in a recital. The Commission fully agrees to this change.

Amendments 2, 3, 4 and 32 represent proposals for new recitals. Recitals calling for a new Directive on composting, a new Directive on the incineration of non-hazardous waste and a promotion of the use of economic instruments are among those which are not acceptable for Commission. In principle the Commission can agree that such Proposals will be put forward however, the Commission cannot accept the obligations in the form they have been put forward in these amendments. As regards amendment 32, which states that incineration is a sound alternative to landfilling, the Commission cannot agree. The Commission Waste Strategy lists landfilling and incineration at the bottom of the waste hierarchy. The aim is to move waste further up in the hierarchy towards environmentally sound alternatives such as waste prevention, re-use and recycling.

Amendment 5 addresses the need for legislation on the processing of dredging sludges. A revision of the sewage sludge Directive is upcoming and therefore, the Commission agrees in principle to this amendment.

Amendments 6 and 21 deletes the wording "as far as possible" in recital 23 and in Article 10 which will ensure that the cost of the financial security is included in the price to be charged for the landfilling of waste. The Commission supports these amendments.

Amendment 7, part of amendment 16 and amendment 23, address the need for improved monitoring and reporting systems. The majority of the suggested obligations can be supported by the Commission as they seek to ensure an increased transparency. However, the Commission cannot accept amendment number 7 as this amendment obliges the Commission to transmit the reports drafted by Member States.

Amendment 8 specifies and clarifies the aim of the Directive. The Commission supports this amendment.

Amendments 9 and 11 regard definitions. Concerning the definition of inert waste it has been suggested in amendment 9 to add a specific reference to the proposed water

framework Directive. This is acceptable for the Commission. Furthermore, it is suggested to define liquid waste more specifically in relation to percentage of solids in amendment 11. This amendment is in principle acceptable to the Commission however, no such specification exists in Community legislation today and some Member States have expressed major difficulties with such specification.

Amendment 10 clarifies that mine storage and underground storage are covered by the overall definition of landfill. The Commission strongly supports this clarification however, the Commission has always interpreted the definition of landfill in a way which also included underground storage.

Concerning the suggested definition on underground storage in amendment 12, the Commission cannot accept this specific definition, as the general definition of landfill also covers underground disposal of waste.

In general the Commission cannot support further exemptions than those given in the Commission Proposal. Furthermore, the spreading of gypsum and lime for the purposes of fertilisation or improvement, which is suggested in amendment 13, would not normally be covered by the definition of landfill. However, the Commission will look more closely into this specific exemption and review the possibilities for an exemption.

Amendments 14 and 15 introduce an exemption for non-hazardous sludges to be deposited in surface water including the waterway bed as well as an exemption for the deposit of unpolluted soil or non-hazardous inert waste from different mining activities. Based on information from Member States and the discussions in the Council the Commission can accept these amendments.

Amendment 16 introduces an obligation for the Commission to transmit a report on national strategies to the Parliament and Council as well as an obligation for Member States and the Commission to report on the compliance with the reduction targets and the possible need for adjustment. Amendment 16 also widens the scope of the targets for biodegradable waste to cover also industrial waste as well as changes the time frame for Member States to monitor the amount of biodegradable waste. The reporting obligation in amendment 16 is the only part of this amendment which is acceptable for the Commission. Statistics for biodegradable industrial waste do not exist and therefore, this widening of the scope is not acceptable. Furthermore, the part of the amendment which allows for Member States not to monitor before one year before the targets enter into force is not acceptable for the Commission. Finally the targets in Article 5 should remain fixed and legally binding in order to ensure that Member States plan and initiate alternative waste management procedures.

Amendment 19 deletes the exemption for tyres with a diameter above 1400 mm. The Commission agrees to this amendment as information has been put forward which gives evidence that such large tyres can be shredded and recycled.

Amendment 20 changes the obligation for treatment. The change is in line with the changes which has already agreed during the Council discussions and to which the Commission can agree.

Amendment 22 concerns landfill tax. The Commission is not expected to put forward a Proposal on economic instruments and therefore, the Commission cannot support amendment 22 which includes such a commitment.

Amendment 24 specifies the obligations for the operator during the aftercare period. The suggested change will ensure that a 30 year aftercare period is foreseen. The Commission supports amendment 24 as this amendment will ensure a minimum aftercare period which is not included in the Commission Proposal.

Amendment 25 addresses permits. The permit to be issued for the operation of landfills in relation to the Commission Proposal includes specific and strict requirements. Therefore, it is necessary to ensure that existing landfills not only have a permit according to Directive 75/442/EEC on waste as amended by Directive 91/156/EEC, but also obtain a new permit as requested in the Commission Proposal. Therefore, the Commission cannot accept amendment 25.

Amendment 26 introduces a provision to ensure that landfills without a permit in accordance with Directive 75/442/EEC are closed down. The Commission can accept amendment 26 even though this change is unnecessary, as such landfills should have been closed down already.

The amendments 27, 29, 30 and 31 address the technical annexes. The Commission cannot agree to introduce changes to the technical annexes at this point as such changes should be made by the Committee as laid down in Article 16 of the Commission Proposal. However, the introduced reference to the water framework Directive in amendment 29 is acceptable for the Commission. The Commission cannot accept amendments 27, 30 and 31.

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**(presented by the Commission pursuant  
to Article 189a paragraph 2 of the EC Treaty)**

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**ORIGINAL PROPOSAL**

**AMENDED PROPOSAL**

**Recital 3a (new)**

Whereas landfill of waste is the option of last resort within the hierarchy of waste management principles as established in the Commission Communication COM (96) 399;

**Recital 9a (new)**

Whereas uniform European legislation on the processing of dredging sludges is desirable;

**Recital 23**

Whereas under the polluter pays principle it is necessary, inter alia, to take into account any damage to the environment caused by a landfill; whereas, as a result, it shall be ensured that rates for waste disposal in a landfill are fixed in such a way as to cover all the costs involved in the setting up and operation of the facility, including as far as possible the financial security or its equivalent which the site operator must provide, the cost of closing the site and the cost of any necessary aftercare measures, so as to ensure that these rates reflect the true costs for the whole life time of a landfill and that these costs are not borne by the public purse;

Whereas under the polluter pays principle it is necessary, inter alia, to take into account any damage to the environment caused by a landfill; whereas, as a result, it shall be ensured that rates for waste disposal in a landfill are fixed in such a way as to cover all the costs involved in the setting up and operation of the facility, including the financial security or its equivalent which the site operator must provide, the cost of closing the site and the cost of any necessary aftercare measures, so as to ensure that these rates reflect the true costs for the whole life time of a landfill and that these costs are not borne by the public purse;

**Article 1**

With a view to meeting the requirements of Directive 75/442/EEC, and in particular Articles 3 and 4 thereof, the aim of this Directive is to provide for measures, procedures and guidance to prevent or reduce as far as possible negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, as well as the resulting risks to human health, from landfilling of waste

With a view to meeting the requirements of Directive 75/442/EEC, and in particular Articles 3 and 4 thereof, the aim of this Directive is, by way of stringent operational and technical requirements on waste and landfills, to provide for measures, procedures and guidance to prevent or reduce as far as possible negative effects on the environment, in particular the pollution of surface water, groundwater, soil and air, and on the global environment, including the greenhouse effect, as well as the resulting risks to human health, from landfilling of waste, during the setting up, operational, closure and aftercare phases.

#### Article 2(e)

"inert waste" shall mean waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health. The total leachability and pollutant content of the waste and ecotoxicity of the leachate must be insignificant;

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#### Article 2 (f)

f) "landfill" shall mean a waste disposal site for the deposit of waste on to or into land, including internal waste disposal sites (i.e. landfill where a producer of waste is carrying out its own waste disposal at the place of production) and excluding facilities where waste is unloaded in order to permit its

f) "landfill" shall mean a waste disposal site for the deposit of waste on to or into land, including mine storage, and underground storage, internal waste disposal sites (i.e. landfill where a producer of waste is carrying out its own waste disposal at the place of production) and excluding facilities where waste is

preparation for further transport for recovery, treatment or disposal elsewhere, and temporary (i.e. less than one year) deposit of waste prior to recovery, treatment or disposal;

unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere, and temporary (i.e. less than one year) deposit of waste prior to recovery, treatment or disposal;

#### Article 2(p)

"liquid waste" shall mean any waste in liquid form including waste waters but excluding sludge;

"liquid waste" shall mean any waste in liquid form where a liquid is defined as a fluid containing ≤ 45% solids by weight and flow characteristics to be defined following determination of a test method in accordance with the procedure laid down in Article 16;

#### Article 3(2) third indent

the deposit of dredging sludges alongside small waterways from where they have been dredged out;

the deposit of non hazardous dredging sludges alongside small waterways from where they have been dredged out and of non hazardous sludges in surface water including the waterway bed;

#### Article 3(2), fourth indent

the deposit of unpolluted soil or of non hazardous inert materials resulting from the extracting of mineral resources.

the deposit of unpolluted soil or of non hazardous inert waste resulting from the prospecting for or extracting, processing or storing of mineral resources, or from quarrying.

#### Article 5, paragraph 1, subparagraph 1

1) Member States shall set up a national strategy for implementation of the reduction of biodegradable municipal waste going to landfills at the entry into force of this Directive and notify the Commission of this strategy ;

1) Member States shall set up a national strategy for implementation of the reduction of biodegradable municipal waste going to landfills at the entry into force of this Directive and notify the Commission of this strategy . Within 6 months of the date of transposition given in Article 18, the Commission shall provide the Council and European Parliament with a report drawing together the national strategies;

#### Article 5(2)(d)

(d) whole used tyres from two years from the date of entry into force of this Directive and shredded used tyres five years from this date (excluding in both instances bicycle tyres and tyres with an outside diameter above 1400 mm);

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#### Article 6(1)

1) only waste that has been subject to treatment is landfilled;

1) only waste that has been subject to treatment is landfilled. This requirement does not have to be applied to inert waste for which treatment is not technically suitable or to other waste for which such treatment does not reduce the amount of waste or the dangers for human health or the environment.

#### Article 10

Member States shall ensure that the minimum price to be charged by all public and private landfill operators for the disposal of any type of waste in a landfill shall cover at least all costs involved in the setting up and operation of the site, including as far as possible the cost of the financial security referred to in Article 8(1)(c), and the estimated costs of the closure and aftercare of the site for a period of at least 50 years. Member States shall ensure transparency in the collection and use of any necessary cost information.

Member States shall ensure that the minimum price to be charged by all public and private landfill operators for the disposal of any type of waste in a landfill shall cover at least all costs involved in the setting up and operation of the site, including the cost of the financial security referred to in Article 8(1)(c), and the estimated costs of the closure and aftercare of the site for a period of at least 50 years. Member States shall ensure transparency in the collection and use of any necessary cost information.

#### Article 11, paragraph 2

2) For landfill sites which have been exempted from provisions of this Directive by virtue of Article 3(3) Member States shall take the necessary measures to provide for :

regular visual inspection of the waste at the point of deposit in order to ensure that only non hazardous or inert waste from the island or the isolated settlement is accepted at the site; and

a register on the quantities of waste that

2) For landfill sites which have been exempted from provisions of this Directive by virtue of Article 3(3) Member States shall take the necessary measures to provide for :

regular visual inspection of the waste at the point of deposit in order to ensure that only non hazardous or inert waste from the island or the isolated settlement is accepted at the site; and

a register on the quantities of waste that



are deposited at the site be kept.

are deposited at the site be kept and be publicly available.

Member States shall ensure that information on the type and volume of waste going to such exempted sites shall form part of the regular reports to the Commission on the implementation of the directive.

#### Article 13, paragraph 4

4) for as long as the competent authority considers that landfill is likely to cause a hazard to the environment, the operator of the site shall be responsible for monitoring and analysing landfill gas and leachate from the site and the groundwater regime in the vicinity of the site in accordance with Annex III.

4) for as long as the competent authority considers that landfill is likely to cause a hazard to the environment, the operator of the site shall be responsible for monitoring and analysing landfill gas and leachate from the site ; this being for a period of at least 30 years after closure of the landfill. The competent authority may extend or shorten the said period if the operator is able to demonstrate, on the basis of the overall management programme laid down in the Annexes, that the landfill no longer constitutes an active danger to the environment. However, no time limit should be imposed as regards the liability regime as established by the Member States.

#### Article 14, subparagraph 4a (new)

4a) Member States shall close down any existing landfill sites which have not been granted a permit under the waste framework directive (75/442/EEC as amended by Directive 91/156/EEC).

#### Annex I, 2, fourth indent

treat contaminated water and leachate collected from the landfill to the appropriate standard required for their discharge

treat contaminated water and leachate collected from the landfill to the appropriate standard required for their discharge so as not to endanger the good ecological quality of surface and/or groundwater as defined by the Directive for a framework for Community action in the field of water policy (Dir. .../EC).

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