

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 296 final- SYN 406

Brussels, 22 June 1993

Amended proposal for a

COUNCIL DIRECTIVE

on the incineration of hazardous waste

(presented by the Commission pursuant to Article 149(3)
of the EEC-Treaty)

Explanatory Memorandum

On April 7th 1992 the Commission submitted to the Council a proposal for a Council Directive on the incineration of hazardous waste (1). The proposal follows the Council Resolution on waste policy of 7 May 1990 where the Commission was invited to complete its proposals for industrial waste as a matter of urgency and takes into account that wastes have to be disposed of in the most environmentally safe manner as set out in the Resolution. The proposal provides for measures and procedures to prevent or at least to reduce as far as possible the effects on the environment as a whole and the resulting risks to human health from the incineration of hazardous wastes. To this end appropriate operating conditions and stringent emission limit values based on the best technologies available in the early 90s are set and in accordance with an integrated approach the shifting of pollution from one environmental medium (air) to another one (water) prohibited.

The Economic and Social Committee adopted its opinion on 22 October 1992(2).

At its Plenary Sessions in December 1992 the European Parliament approved 26 amendments 15 of which were accepted by the Commission either in whole or in part. At the March 93 session 3 further compromise amendments were approved.

The accepted and rejected amendments are commented upon as follows:

Amendments accepted by the Commission

Amendment nos 1-3 underline the high level of environmental protection and the precautionary principle on which the proposal is based. In this context prevention, recycling and reuse which following the Community's policy have priority over final disposal shall be emphasized as well (recitals 5, 5a (new) and 9a new).

To reduce the content of dangerous substances from the residues of the incineration process amendments 7 and 22 put specific attention to a suitable treatment of the residues, particularly filter dust (recital 16 new and art. 10.1.).

Amendment 8 goes a little too far; it is not practicable to prevent all effects to the environment from hazardous waste incineration but they can at least be reduced as far as possible. Such effects arise even if the legal requirements concerning the avoidance and recycling of waste are met because at least the remaining fraction of the wastes pretreated thermally - incinerated requires final disposal on landfill sites (art. 1,1).

The exclusion of specific hazardous waste from the scope of the proposal is being made clearer by amendment 9 (art. 2, 1).

(1) OJ C 130 of 21.5.92

(2) OJ C 332 of 16.12.92.

The reference to "state-of-the-art" which is introduced by amendment 10 emphasises its obligatory use once an application is made (art. 3,2). To clarify what is meant by state-of-the-art the summary reports under Article 15.3 must explicitly refer to it. Therefore an adaptation of this Article is required and proposed hereunder.

Amendment 11 refers to the waste resulting from the incineration process which should also be looked at carefully with respect to the final disposal. As quantity and quality of these wastes are not known completely in advance the list requested under this amendment must refer to the expected wastes (art 3,3).

Amendment 13 changes the wording for representative sampling and emphasises the importance of strictly controlling the wastes to be incinerated by an extension of the time for keeping the samples and by an additional obligation of keeping results of analyses of the wastes carried out before the incineration (art. 5,3).

Amendment 17 is the basis for a useful clarification related to the complete oxidation of the combustion gases (art. 7,3).

Monthly random sampling introduced by Amendment 23 is contributing to a more reliable supervision of the real emission behaviour of the incineration plant (art.12, 1).

The current environmental pollution by hazardous waste incineration is resulting from the operation of the existing plants. Shortening the time period before shutting down these plants by amendment 25 reduces the continuing pollution of the environment (art. 14,2).

The specific report requested by amendment 26 on the implementation of the directive, to be submitted to Council and European Parliament, has to be based on the reports on the implementation of the directive by the Member States. Article 18 and directive 91/692/EEC on standardising and rationalising reports on the implementation of certain directives relating to the environment foresee a three year reporting period. The transposition of this directive into national legislation is unlikely before mid 1995. To avoid additional reports of the Member States the date for the specific report has to be set at 1 January 2000 (art. 18,2).

To determine the concentration of dioxins and furans in the range of $0,1\text{ng}/\text{m}^3$ with a sufficient certainty the measurement method currently under elaboration by CEN will not be available before the end of 1995. After one year's experience with the method an emission value of $0,1\text{ng}/\text{m}^3$ for dioxins and furans will be legally binding from 1 January 1997 onwards until this date be used at least as a guide value as introduced by amendment 4 and compromise amendment 46. The reduction of the sampling period to eight hours reflects the ongoing CEN work (art. 8,2 and recital 14).

The compromise amendments 45 and 47 confirm the prohibition of discharges of waste waters resulting from the cleaning of exhaust gases by leaving the originally proposed text unchanged. To avoid a continued shifting of pollution by existing plants the prohibition is now extended explicitly to all plants (recital 15 and art. 9,3).

Amendments rejected by the Commission

Amendments 6 and 24 aim at weakening the importance of equivalent environmental protection standards to be met when hazardous wastes are being incinerated in other plants not solely destined to this purpose. For this reason the amendments were rejected.

Such other plants which want to replace part of their regular fuel by hazardous wastes undergo a substantial change for which the proposed adaptation period is necessary. Amendment 12 halving this period does not consider sufficiently the technical and operating requirements and was therefore rejected.

Amendment 14 addresses all operations before and after the incineration of the hazardous waste and requires measures as to prevent any measureable pollution outside the plant. The proposed directive goes further and requires avoidance or minimisation of emissions at the source without allowing for any dilution. Therefore this amendment was rejected.

The rejected Amendment 15 distinguishes between available European and world-wide best available technologies. The Annex TN III, however enumerates only some best available technologies by way of example. Characteristics and constituents of hazardous wastes require in each case specific sets of technologies.

Amendment 16 requires detoxification which may create an additional dangerous potential to workers and the environment. To achieve a (technically) complete incineration as set out in the proposal goes further than an "optimization of the combustion process wherever possible". For these reasons the amendment was rejected.

The impact assessment of hazardous waste incineration plants is subject to directive 85/337/EEC. To modify this directive by setting here specific requirements for the impact assessment is not acceptable and amendment 18 was rejected.

A specific design of the storage capacity for rainwater run-off or other possibly contaminated waters from the plant site or the appropriate capacity shall be left to the Member States. In line with the principle of subsidiarity and to take into account regional/local conditions amendment 21 was rejected.

The text of the modified provision follows:

Modified proposal for a Council Directive
on the incineration of hazardous waste
(presented by the Commission pursuant to Article 149,3 of the
EEC Treaty)

ORIGINAL TEXT

AMENDED TEXT

Fifth recital

Whereas therefore preventive action is required to protect the environment against particularly dangerous emissions from the incineration of hazardous waste and to guarantee citizens the right to a clean and healthy environment;

Whereas therefore preventive action is required to protect the environment against particularly dangerous emissions from the incineration of hazardous waste and to guarantee citizens the right to a clean and healthy environment and to a high level of public health protection;

Fifth recital a (new)

Whereas preventive and precautionary measures are required to reduce emissions to the technically lowest possible level as they are harmful to human health and the environment because of their toxic, nonbiodegradable and cumulative nature;

Ninth recital a (new)

Whereas the incineration of waste does not provide a permanent solution to the problem; whereas the main aim must be the prevention of waste; whereas only when this is impossible should waste be recovered and only when recovery of the waste materials is also impossible should disposal in an environmentally acceptable manner be considered;

Fourteenth recital

Whereas, for the emissions of dioxins and furans, a guide value only should be set due to the lack of existing appropriate measurement methods; whereas, nonetheless it is decisive to minimise such emissions by using progressive techniques and to make more efforts to meet the fixed guide values;

Whereas a limit value for the emissions of dioxins and furans will be legally binding from 1 January 1997 onwards; whereas until this date Member States should use this value at least as a guide value; whereas, nonetheless it is decisive to minimise such emissions by using progressive techniques and to make every effort to meet the fixed guide values; whereas until this date sufficient operating experience can be obtained using a CEN standard for sampling and analysis which is expected to be available in 1995;

Fifteenth recital

Whereas the environment requires an integrated protection against emissions resulting from the incineration of hazardous wastes; whereas, therefore, waste water resulting from the cleaning of exhaust gases of new plants shall not be discharged, in order to prevent a pollution shift from one environmental medium to another;

Whereas the environment requires an integrated protection against emissions resulting from the incineration of hazardous wastes; whereas, therefore, waste water resulting from the cleaning of exhaust gases of new plants shall not be discharged, in order to prevent a pollution shift from one environmental medium to another; whereas, to meet these requirements existing plants shall be retrofitted rapidly;

Sixteenth recital a (new)

Whereas, the Member States must lay down suitable treatment techniques for filter dusts and other residues in order to reduce the content of organic substances or heavy metals;

Article 1(1)

1. The aim of this Directive is to provide for measures and procedures to prevent or at least to minimise the effects on the environment, in particular the pollution of air, soil, surface and groundwater, and the resulting risks to human health, from the incineration of hazardous waste and, to this end, to set up and maintain appropriate operating conditions and emission limit values for hazardous waste incineration plants within the Community.

1. The aim of this Directive is to provide for measures and procedures to prevent or where not practicable to reduce as far as possible negative effects on the environment, in particular the pollution of air, soil, surface and groundwater and the resulting risk to human health from the incineration of hazardous waste which arises irrespective of legal requirements concerning the avoidance and recycling and, to this end, to set up and maintain appropriate operating conditions and emission limit values for hazardous waste incineration plants within the Community.

Article 2(1), second indent, introductory clause

- combustible liquid wastes including waste oils as defined in Council Directive 75/439/EEC if

- combustible liquid wastes including waste oils as defined in Council Directive 75/439/EEC, provided that they meet the following three criteria:

ORIGINAL TEXT

AMENDED TEXT

Article 3(2)

2. the permit shall be given only if the application shows that the incineration plant is designed, equipped and will be operated in such a manner that all appropriate preventive measures against environmental pollution, in particular measures to prevent or minimise emissions, have been taken. As a minimum, those measures provided for by Articles 5 to 13 must be met;

2. the permit shall be given only if the application shows that the incineration plant is designed, equipped and will be operated in such a manner that all appropriate state-of-the-art preventive measures against environmental pollution, have been taken. As a minimum, those measures provided for by Articles 5 to 13 must be met;

Article 3(3)

3. the permit given by the competent authorities must explicitly list the categories and/or the generic types of those hazardous wastes which may be treated in the incineration plant as well as the total capacity of the incinerator;

3. the permit given by the competent authorities must explicitly list the categories and/or the generic types of those hazardous wastes which may be treated in the incineration plant as well as the total capacity of the incinerator; a list must also be drawn up of the expected waste resulting each year from incineration (including slag, flue dust, filter cake and waste water) indicating the nature and final disposal of this waste;

ORIGINAL TEXT

AMENDED TEXT

Article 5(3), third indent

- representative samples have to be taken where appropriate and as far as possible before unloading, to verify the conformity with the description provided under point 2 by carrying out controls like those indicated in Annex TN I and to enable the competent authorities to identify the nature of the wastes treated. These samples have to be kept for at least ten days after the incineration.

- representative samples have to be taken, wherever possible, before unloading, to verify the conformity with the description provided under point 2 by carrying out controls like those indicated in Annex TN I and to enable the competent authorities to identify the nature of the wastes treated. These samples have to be kept for at least one month after the incineration. Documents concerning analyses shall be kept for three years.

Article 7(3), first subparagraph, first three sentences

3. all waste incineration plants shall be equipped with auxiliary burners. These burners must be switched on automatically when the temperature of the combustion gases, after the last injection of combustion air, falls below the relevant temperature stated in points 4 and 5. They shall also be used during plant start-up and shut-down operations in order to ensure that the above-mentioned minimum temperature is maintained at all times during these operations and as long as the waste is in the combustion chamber.

3. all waste incineration plants shall be equipped with auxiliary burners. These burners must be switched on automatically when the temperature of the combustion gases, after the last injection of combustion air, falls below the relevant temperature stated in points 4 and 5. They shall also be used during plant start-up and shut-down operations in order to ensure that the above-mentioned minimum temperature is maintained in the post combustion zone at all times during these operations and as long as unburnt waste is in the combustion chamber.

Article 8(2)

2. the emission of dioxins and furans shall be minimised by the most progressive techniques. To this end every effort must be made to ensure that all average values measured over the sample period of a minimum of six hours and a maximum of 16 hours do not exceed a guide value of 0.1 ng/m³.

This guide value is defined as the sum of the concentrations of the individual dioxins and furans evaluated in accordance with Annex I;

2. the emission of dioxins and furans shall be minimised by the most progressive techniques. All average values measured over the sample period of a minimum of 6 hours and a maximum of 8 hours must not exceed a limit value of 0.1 ng/m³ at the latest from 1 January 1997 onwards. Until this date, Member States should use this value at least as a guide value.

The limit value is defined as the sum of the concentrations of the individual dioxins and furans evaluated in accordance with Annex I;

Article 9(3)

3. Discharge to the aquatic environment of waste waters resulting from the cleaning of exhaust gases shall be prohibited for new plants.

3. Discharge to the aquatic environment of waste waters resulting from the cleaning of exhaust gases shall be prohibited for all plants.

Article 10(1), first subparagraph

1. Wastes resulting from the operation of the incineration plant shall be recovered or disposed of in accordance with Directives 75/442/EEC and 91/689/EEC. This may require a pretreatment of such wastes according to the technical development.

1. Wastes resulting from the operation of the incineration plant shall be recovered or disposed of in accordance with Directives 75/442/EEC and 91/689/EEC. This may require a pretreatment of such wastes according to the technical development. Member States shall lay down appropriate treatment technologies for filter dust and other residues in order to reduce the content of organic substances or heavy metals.

Article 12(1)(c)

(c) periodical, i.e. monthly measurements of the substances mentioned in Article 8, points 1(c) and 2;

(c) Monthly measurements, on the basis of samples taken on different dates, of the substances mentioned in Article 8, points 1(c) and 2;

Article 14(2)

2. However, the plant operator may notify the competent authority within six months after the date specified by Article 19(1) that the existing plant will not be operated for more than 20 000 hours within a period of five years at maximum starting with the operators' notification before being definitely shut down. In this case the provisions of paragraph 1 do not apply.

2. However, the plant operator may notify the competent authority within six months after the date specified by Article 19(1) that the existing plant will not be operated for more than 15 000 hours within a period of three years at maximum starting with the operators' notification before being definitely shut down. In this case the provisions of paragraph 1 do not apply.

Article 15(3)

3. The Commission, assisted by the Committee as described in Article 17, shall annually submit to the Member States a summary report, based on the information described in paragraph 2, in order to inform on the progress in emission control techniques already implemented and any further major technical developments in this field.

Member States shall ensure that the summary reports are disseminated to their competent authorities.

3. The Commission, assisted by the Committee as described in Article 17, shall annually submit to the Member States a summary report, based on the information described in paragraph 2, in order to inform on the progress in emission control techniques already implemented and any further major technical developments in this field.

Member States shall ensure that the summary reports on their current state-of-the-art are disseminated to their competent authorities

Article 18.2 (new)

2. The Commission shall submit to the Council and the European Parliament by 1 January 2000 a report on the implementation and assessment of this Directive in relation to the aim of waste disposal which does not harm the environment and public health.

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DOCUMENTS

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