

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(88) 391 final - SYN 145

Brussels, 5 August 1988

Proposal for a
COUNCIL DIRECTIVE
amending Directive 75/442/EEC on waste

Proposal for a
COUNCIL DIRECTIVE
on hazardous waste

(presented by the Commission)

EXPLANATORY MEMORANDUM

(amendment of Directives 75/442 and 78/319)

The purpose of these two proposals for Directives is (first proposal) to amend Directive 75/442/EEC of 15 July 1975 on waste¹ and (second proposal) to replace Directive 78/319/EEC of 20 March 1978 on toxic and dangerous waste.² In addition, amendments of form are made to Directive 84/631/EEC of 6 December 1984 on the supervision and control within the European Community of the transfrontier shipment of hazardous waste.³

1. Experience gained at Community level in waste management and, more particularly, the management and disposal of hazardous wastes shows that some provisions of the Directives concerned need to be improved or reformulated in more precise terms. In addition, the growing scale at Community level of waste shipments prior to treatment, and the practical implementation of the stipulations of Directive 84/631 have highlighted the need to refine and harmonize the definition of waste and hazardous waste.

2. Thus the amendments proposed by the Commission have several objectives:

2(a) to pull the Directives on waste management together and cut out repetitions by transforming the amended Directive 75/442 into a framework Directive applying to all wastes;

¹OJ L 194, 25.7.75, p. 39.

²OJ L 84, 31.3.78, p. 43.

³OJ L 326, 6.12.84, p. 31.

2(b) to add or stress priorities that have proved to be important since the adoption of the Directive in 1975, such as:

- the promotion of clean technologies,
- the promotion of products generating little or less waste,
- the need for more quantitative data on the situation within the Community,
- the desirability of harmonizing waste disposal methods;

2(c) to introduce more precise and more consistent definitions of "waste", "disposal" and "hazardous waste" at Community level.

3. The definitions contained in Directives 75/442/EEC and 78/319/EEC have in several cases not been incorporated as such in the national legislation. The broad drafting of the definitions allowed Member States considerable latitude while still conforming to the Directive. There are some substantial differences in the scope of national or regional legislation which could have very significant repercussions in the context of the common market and the free movement of goods. It is therefore in the interests of industry and waste treatment professionals to have a single uniform definition of waste and hazardous waste, as this would eliminate a source of distortion of competition and administrative and technical problems. The report of Parliament's Committee of Inquiry into the Treatment of Toxic and Dangerous Substances which Parliament adopted in 1984 in fact called on the Commission to amend Directive 78/319/EEC in this light.⁴ Parliament repeated this request in its Resolution on the waste disposal industry and old waste dumps of June 1987⁵ under point 1(c): "clarification of the Community definition and nomenclature of dangerous waste".

⁴Resolution of 11 April 1984 on the treatment of waste, OJ C 127, 14.5.84, p.67.

⁵Resolution of 19 June 1987 on the waste disposal industry, OJ C 190, 20.7.87, p. 154.

4. The Commission had studies carried out on the implementation of Directive 78/319/EEC in the Member States, on the definition of "toxic and dangerous wastes" in Member States and on the substances and materials which make waste hazardous. These studies served as a basis for the deliberations of working parties of national experts who met regularly to devise a better definition of hazardous waste. The Community activities were closely coordinated with the OECD work in the same field, in particular by the Waste Management Policy Group, which recently proposed a precise definition of hazardous waste subject to control in the event of transfrontier shipment. The Waste Management Committee was also consulted on the need to amend the Directives and on the broad outlines of such amendments.

5. Considerable delays have occurred in the implementation of Directive 84/631/EEC on the supervision and control of transfrontier shipments of hazardous waste. One of the problems encountered is the lack of any precise and uniform Community definition of hazardous waste. National interpretations deviating from the existing Community definition as laid down by Directives 75/442/EEC and 78/319/EEC lead to unnecessary transfrontier shipments of waste or, in other cases, to administrative problems in effecting the shipments. The adoption of a uniform definition of waste, and in particular of hazardous waste, should make implementation of this Directive more effective. This action must be carried out at Community level.

6. The differences between the national laws in force can distort the conditions of competition and thereby directly affect the establishment and functioning of the internal market. Accordingly, Article 100a of the Treaty is the legal basis for these proposals, which take as their base a high level of environmental protection. For waste management, laws at much the same level are now in force in all Community Member States, and the Commission

considers that implementing these proposals should not require a disproportionate effort by national economies at different levels of development. There is therefore no need to include any provisions in this respect.

COMMENTS ON THE TEXT OF THE PROPOSALS

1. Amendment of Directive 75/442/EEC

The framework character of this Directive is underscored and formalized. It is a general Directive which will apply to all waste. Its provisions will no longer be repeated in the individual Directives applying to specific categories of waste.

It clarifies the definition of "waste" by adding a list of reasons why materials are intended for disposal (Annex I), and contains a more precise definition of the term "disposal" by listing two series of disposal operations, the second consisting of recycling processes. The terms "collection" and "transport" are also defined.

The means by which recycling and re-use of waste are to be promoted are specified, and Member States must encourage the development of clean technologies and of products generating a minimum of waste or waste that can easily be recycled.

The amendments also concern the authorization procedures for disposal undertakings, and require the competent authorities of the Member States to carry out inspections of all waste disposal operators at regular intervals.

Finally, detailed rules are laid down for the periodic reports by the Member States to the Commission on the implementation of the Directive, which are aligned on the provisions contained in the proposal for a horizontal directive on environmental reporting to be presented by the Commission.

All the other provisions of Directive 75/442 have been retained.

Proposal for a Directive on hazardous waste

The new proposal for a Directive concerns hazardous waste, this term being wider and more comprehensive than the former "toxic and dangerous" waste. It is regarded as a specific directive in the field governed by the amended Directive 75/442, which means that the provisions of the latter also apply to hazardous waste, subject to any complementary or different provisions expressly laid down in the new proposal.

The legal basis for this proposal for a Directive is Article 100a, for its provisions on the management of hazardous waste, and in particular its more precise definition of hazardous waste, are intended to remove the distortions to the conditions of competition that still obtain in Member States. Less precise or less stringent national measures and a narrower scope for specific national regulations generate more favourable conditions of competition for producers or users of products giving rise to waste compared with operators in countries where the rules are more strict. Similarly, the operating conditions for undertakings concerned with the disposal of hazardous waste can vary widely from one Member State to another, which introduces a major factor of distortion of competition between firms providing the service and erects obstacles to the functioning of the internal market in this field. This situation also leads to unnecessary shipments of artificial waste, sometimes over long distances. In accordance with Article 100a, the proposal for a Directive takes as a base a high level of environmental protection.

The definition of "hazardous waste" is qualified by the reference to three Annexes: a list of types or categories of hazardous waste, a list of substances or materials which render a waste hazardous and a list of hazard characteristics. This definition is very close to the one formulated by the OECD Waste Management Policy Group, contained in the draft decision

prepared by the OECD Secretariat. This definition system makes for very precise designations of waste and will cover all national situations. In addition, it lends itself to a detailed codification of hazardous waste, suitable for use in the notification procedure for transfrontier shipments of hazardous waste.

The list of substances or materials corresponds to the Annex to the original Directive 78/319, supplemented by several groups of substances. The list of hazard characteristics contains the list of characteristics laid down by Directive 79/831/EEC of 18 September 1979 (amending for the sixth time Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances).⁶

The only wastes which have been excluded are those excluded by the framework Directive 75/442/EEC, and the hazardous wastes subject to special Community rules.

The other amendments concern the provisions of the Directive which no longer satisfied the requirements of correct management of hazardous wastes. Many advances have been made in this sector since 1978, and the quantities of waste treated have grown considerably.

The mixing of hazardous waste with other waste is prohibited, unless this practice is a necessary part of the treatment or recycling of the waste.

The Member States may make collection and transport operations subject to authorization. In addition, the carriage of hazardous waste is subject to special conditions, which are deemed to be fulfilled if the Member State implements the provisions applicable to the carriage of hazardous products provided for in the international conventions. Special controls must be

⁶ OJ L 259, 15.10.79.

4

applied to undertakings engaged in the collection and transport of hazardous waste. The other provisions relating to transport contained in Directive 78/319 continue to apply.

The procedures laid down for drawing up plans have been maintained and further elaborated.

The proposal also specifies what information on the centres for the treatment of hazardous waste must be regularly notified to the Commission. This information will be fed into the data bank planned by the Commission departments (TOXWASTE) and will enable the competent authorities to be accurately informed as to where hazardous waste can be treated in the Community. This is essential to the proper functioning of the system for the shipment of hazardous waste established by Directive 84/631/EEC.

All the provisions on the management of waste in general contained in the amended Directive 75/442 also apply to hazardous waste, and thus are not repeated in this Directive.

3. Amendment of Directive 84/631/EEC

Directive 84/631/EEC refers to the definitions contained in the original Directive 78/319/EEC and in its Annex. It is therefore necessary to modify the form of this reference in the light of the amendment of the definition and of the new structure of the Annexes to the proposal for a Directive on hazardous waste.

CONSULTATION OF PARLIAMENT AND THE ECONOMIC AND SOCIAL COMMITTEE

The proposals for a Directive are based on Article 100a of the EEC Treaty. The Economic and Social Committee must therefore be consulted and the two proposals are subject to the cooperation procedure with Parliament.

Proposal for a
COUNCIL DIRECTIVE
amending Directive 75/442/EEC on waste

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Council Directive 75/442/EEC¹ established a set of Community rules on waste disposal; whereas these must be amended to take account of experience gained in the implementation of this Directive by the Member States; whereas the amendments take as a base a high level of environmental protection with as much regard to the definition as to the disposal of waste;

Whereas any disparity between the laws on waste disposal in the Member States can distort the conditions of competition and thereby directly affect the establishment and functioning of the internal market; whereas it is therefore necessary to approximate laws in this field;

Whereas the definition of waste should be revised in the light of experience in order to improve the efficiency of waste management in the Community;

Whereas, as the environmental action programmes stress, the volume of waste can effectively be reduced by intervening at the production stage to promote clean technologies and products which can be recycled and re-used;

¹ OJ L 194, 25.7.1975, p. 47.

Whereas it must be possible to adapt rapidly to technical progress and it is therefore advisable to facilitate such adaptation by providing for a procedure establishing cooperation between Member States within a Committee on adaptation of this Directive to technical progress,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 75/442/EEC is hereby amended as follows:

1. Articles 1, 2, 3, 8, 9, 10 and 12 are replaced by the following:

"Article 1

For the purposes of this Directive:

- (a) "waste" means any substance or object which the holder disposes of, or is required to dispose of, for the reasons listed in Annex I;
- (b) "disposal" means the collection, transport and treatment of waste, in particular any of the operations specified in Annex II;
- (c) "collection" means the gathering, sorting and/or mixing of waste from several holders for the purpose of treatment;
- (d) "transport" means the whole range of waste loading, unloading and carriage operations.

Article 12

1. The following shall be excluded from the scope of this Directive:

- (a) radioactive waste;
- (b) mining waste;
- (c) animal carcasses and agricultural waste of faecal origin;
- (d) waste waters discharged into sewers and the aquatic environment;
- (e) emissions into the atmosphere.

2. Specific rules for particular instances or supplementing those of this Directive on the disposal of particular categories of waste shall be laid down by means of special Directives.

Article 3.

1. Member States shall take appropriate steps to encourage the prevention, recycling and processing of waste, the extraction of raw materials and possibly of energy therefrom and any other process for the re-use of waste.

2. Member States shall inform the Commission in good time of any draft legislation relating to measures as referred to in paragraph 1 concerning, in particular:

- (a) the use of products considered to be a source of technical difficulties as regards disposal or likely to generate excessive disposal costs;
- (b) the encouragement of:
 - the reduction in the quantities of certain waste,
 - the treatment of waste for recycling and re-use,
 - the recovery of raw materials and/or the production of energy from certain types of waste;

(c) the use of certain natural resources, including energy resources, in applications where the raw materials can be replaced by recovered materials.

3. The measures must give priority to recovery, re-use and recycling, taking account of the available technology, the economic implications and existing or potential market opportunities for the products obtained, while respecting the provisions of the Treaty concerning the establishment and proper functioning of the internal market.

4. Member States shall take measures designed, inter alia, to:

- (a) promote the development of new clean technologies generating less or no waste and more sparing in their use of natural resources;
- (b) promote the technical development and marketing of products designed to facilitate, or reduce the cost of, disposal, in particular by being suitable for recycling or re-use."

"Article 8

In order to comply with the measures taken pursuant to Article 4, any establishment or undertaking which carries out waste treatment for third parties, in particular any of the operations specified in Annex II A, must obtain a permit from the competent authority referred to in Article 5.

Such permit shall cover:

- the types and quantities of waste,
- the technical requirements,
- the precautions to be taken,
- the disposal site,
- the treatment method.

Permits may be granted for a specified period; they may be renewable; and they may be subject to conditions and obligations.

Article 9

1. Establishments or undertakings which carry out waste disposal, with the exception of those which carry out the operations specified in Annex II B, shall be subject to periodic inspections by the competent authorities referred to in Article 5.

2. Member States shall take the necessary measures to ensure that the establishments or undertakings concerned afford the representatives of the competent authorities all necessary assistance to enable them to carry out any examinations, inspections or investigations concerning the waste, to take samples and to gather any information necessary for the performance of their duties.

Article 10

All establishments or undertakings referred to in Article 8 shall:

- keep a record of the quality, nature and origin of the waste and the treatment method,
- make this information available at regular intervals to the competent authorities referred to in Article 5."

"Article 12

1. Every three years, and for the first time on 1 September 1990, Member States shall send the Commission a report on the measures taken to implement this Directive. This report shall be based on a questionnaire which the Commission shall send to the Member States six months before the above date.

2. On the basis of the reports referred to in paragraph 1, the Commission shall publish a consolidated report every three years, and for the first time in 1991."

2. The following Articles are inserted:

"Article 12a

The amendments necessary for adapting the Annexes to this Directive to scientific and technical progress shall be adopted in accordance with the procedure set out in Article 12c.

Article 12b

The Commission shall be assisted by an advisory committee for adaptation to scientific and technical progress composed of the representatives of the Member States and chaired by the representative of the Commission.

Article 12c

Where the procedure set out in this Article is applied, the representative of the Commission shall submit to the Committee referred to in Article 12b a draft of the measures to be taken. The Committee shall deliver its opinion on the draft, within a time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

When adopting the measures, the Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account."

3. Annexes I and II to this Directive are added as Annexes I and II.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive from 1 January 1990. They shall forthwith inform the Commission thereof.

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

Article 3

This Directive is addressed to the Member States.

Done at

For the Council

ANNEX I

REASONS WHY MATERIALS ARE DESIGNATED FOR DISPOSAL

Products or materials are designated for disposal if they belong to any of the following categories:

- Q1 Production or consumption residues not otherwise specified below
- Q2 Off-specification products
- Q3 Products whose date for appropriate use has expired
- Q4 Materials spilled, lost or having undergone other mishap including any materials, equipment etc. contaminated as a result of the mishap
- Q5 Materials contaminated or soiled as a result of planned actions (e.g., residues from cleaning operations, packing materials, containers, etc.)
- Q6 Unusable parts (e.g., reject batteries, exhausted catalyst, etc.)
- Q7 Substances which no longer perform satisfactorily (e.g., contaminated acids, contaminated solvents, exhausted tempering salts, etc.)
- Q8 Residues of industrial processes (e.g., slags, still bottoms, etc.)
- Q9 Residues from pollution abatement processes (e.g., scrubber sludges, baghouse dusts, spent filters, etc.)
- Q10 Machining/finishing residues (e.g., lathe turnings, mill scales, etc.)
- Q11 Residues from raw materials extraction and processing (e.g., mining residues, oil field slops, etc.)
- Q12 Adulterated materials (e.g., oils contaminated with PCB, etc.)
- Q13 Any materials, substances or products whose use has been banned by law
- Q14 Products for which the holder has no further use (e.g., agricultural, household, office, commercial and shop discards, etc.)
- Q15 Materials, substances or products resulting from remedial actions with respect to contaminated land
- Q16 Any materials, substances or products which the holder wishes to dispose of, or is required to dispose of, and which are not contained in the above categories

ANNEX II

DISPOSAL OPERATIONS

(Annex II is divided into two sections)

II.A OPERATIONS WHICH DO NOT LEAD TO THE POSSIBILITY
OF RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE
OR ALTERNATIVE USES OF WASTES

(N.B. Annex II.A is intended to encompass all such disposal operations which occur in practice. These operations may or may not be acceptable from the point of view of environmental amenity)

- D1 Deposit into or on to land (e.g., landfill, etc.)
- D2 Land treatment (e.g., biodegradation of liquid or sludgy discards in soils, etc.)
- D3 Deep injection (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
- D4 Surface impoundment (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)
- D5 Specially engineered landfill (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
- D6 Release into a water body except seas/oceans
- D7 Release into seas/oceans including sea-bed insertion
- D8 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 in Annex II.A
- D9 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 in Annex II.A (e.g., evaporation, drying, calcination, etc.)
- D10 Incineration on land
- D11 Incineration at sea
- D12 Permanent storage (e.g., emplacement of containers in a mine, etc.)
- D13 Blending or mixing prior to submission to any of the operations in Annex II.A
- D14 Repackaging prior to submission to any of the operations in Annex II.A
- D15 Storage pending any of the operations in Annex II.A

II.B OPERATIONS WHICH MAY LEAD TO
RESOURCE RECOVERY, RECYCLING, RECLAMATION,
DIRECT RE-USE OR ALTERNATIVE USES OF WASTES

(N.B. Annex II.B is intended to encompass all operations intended to extract and/or to utilize secondary materials.)

- R1 Use principally as a fuel or other means to generate energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents
- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic materials
- R6 Regeneration of acids or bases
- R7 Recovery of components used for pollution abatement
- R8 Recovery of components from catalysts
- R9 Oil re-refining or other re-uses of oil
- R10 Spreading on land resulting in benefit to agriculture or ecological improvement, including composting and other biological transformation processes
- R11 Uses of materials obtained from any of the operations numbered R1-R10
- R12 Exchange of wastes for submission to any of the operations numbered R1-R11
- R13 Accumulation of material intended for any operation in Annex II.B.

Proposal for a
COUNCIL DIRECTIVE
on hazardous waste

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 100a thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas any disparity between the laws of the Member States on the disposal of hazardous waste can distort the conditions of competition and thereby directly affect the establishment and functioning of the internal market; whereas it is therefore necessary to approximate laws in this field;

Whereas Council Directive 78/319/EEC of 20 March 1978 on toxic and dangerous waste¹ established Community rules on the disposal of hazardous waste; whereas, in order to take account of experience gained in the implementation of that Directive by the Member States, it is necessary to amend the rules and to replace Directive 78/319/EEC by this Directive;

Whereas the action programme of the European Communities on the environment, which was the subject of the Resolution of 19 October 1987 of the Council of the European Communities and of the Representatives of the Governments of the Member States, meeting within the Council, on the continuation and implementation of a European Community policy and action programme on the environment (1987-1992),² provides for Community measures to improve the conditions under which hazardous wastes are disposed of;

¹ OJ No L 84, 31.3.78, p. 43.

² OJ No C 328, 7.12.87, p. 1.

Whereas the Commission's proposal takes as a base a high level of environmental protection with as much regard to the definition as to the disposal of hazardous waste;

Whereas it is necessary, in order to improve the efficiency of the management of hazardous waste in the Community, to use a precise and uniform definition of hazardous waste based on experience;

Whereas the general rules applying to waste disposal, which are laid down by Council Directive 75/442/EEC,³ as amended by Directive ...,⁴ also apply to the disposal of hazardous waste;

Whereas the correct disposal of hazardous waste necessitates additional, more stringent rules to take account of the special nature of such waste; whereas it is necessary to ensure that disposal, and in particular transport, of this waste is monitored in the fullest manner possible;

Whereas when Member States charge levies on the monies used to cover the cost of disposing of hazardous waste following the "polluter pays" principle, the yield thereof may be used, among other things, for financing supervisory measures relating to hazardous waste as well as financing research pertaining to the elimination of hazardous waste;

Whereas the data currently available on the qualitative and quantitative aspects of waste management is wholly inadequate; whereas it is therefore necessary to establish at Community level a system of mutual information on quantities of hazardous waste and the methods of correct disposal of this waste;

Whereas it must be possible rapidly to adapt the provisions of this Directive to technical progress and whereas the Committee on the adaptation to technical progress set up by Directive 75/442/EEC must also be empowered to adapt the provisions of this Directive to technical progress;

Whereas Council Directive 84/631/EEC of 6 December 1984 on the supervision and control within the European Community of the transfrontier shipment of hazardous waste,⁵ which lays down common rules for transfrontier movements of such waste, refers in several Articles to Directive 78/319/EEC

³ OJ N° L 194, 25.7.75, p. 47.

⁴ OJ N° L

⁵ OJ N° L 326, 13.12.85, p. 31

and whereas it is therefore necessary to make amendments of form to the text of Directive 84/631/EEC in order to incorporate explicit references to the corresponding provisions of this Directive,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. The object of this Directive is to approximate the laws of the Member States on the controlled disposal of hazardous waste.

2. For the purposes of this Directive:

"hazardous waste" means:

- any waste falling within one of the categories or types of waste specified in Annex I A, unless it can be proved to have none of the properties listed in Annex III;
- any waste falling within one of the categories specified in Annex I B and containing one of the substances or materials listed in Annex II, unless it can be proved to have none of the properties listed in Annex III;
- any other waste displaying any of the properties listed in Annex III.

Article 2

Hazardous waste covered by specific Community rules shall be excluded from the scope of this Directive.

Article 3

Member States shall take the necessary measures to prohibit the uncontrolled abandonment, discharge, disposal and transport of hazardous waste.

Article 4

Member States shall take the necessary measures to:

- prohibit the mixing of hazardous wastes with other wastes, substances or materials in the course of the disposal operations except for the purposes of Article 4 of Directive 75/442/EEC or for the purpose of improving safety during disposal;
- require that hazardous waste be kept separate from other waste during disposal operations where this is necessary for technical reasons;
- require that on every site used for the depositing of hazardous waste the waste be identified and recorded.

Article 5

1. The provisions of Article 8 of Directive 75/442/EEC on permits shall apply to any establishment or undertaking which treats hazardous wastes, including those carrying out the operations specified in Annex II B to Directive 75/442/EEC.

2. Member States may require establishments or undertakings which collect and/or transport hazardous waste to obtain a permit. The permit issued for such transport operations by a Member State shall be recognized by other Member States without further requirements.

Article 6

Any person producing or holding hazardous waste without the permit referred to in Article 5 shall as soon as possible have such waste disposed of by an establishment or undertaking authorized or supervised by the competent authorities.

Article 7

1. Any establishment or undertaking which produces, holds or disposes of hazardous waste shall:

- be subject to regular inspections by the competent authorities;
- keep a record of the quantity, nature, physical and chemical characteristics and origin of such waste, and of the methods and sites used for disposing of the waste, including the date of receipt and surrender;
- supply this information to the competent authorities on request.

2. Documentary evidence that the disposal operations have been carried out shall be kept for at least two years. This evidence shall, where necessary, be sent to the competent authorities of the Member State concerned.

Article 8

1. Member States shall take the necessary measures to ensure that the following conditions are met in the course of collection, transport and temporary storage:

- (a) the waste is properly packaged;
- (b) the containers carry appropriate labels stating the nature, composition and quantity of the waste and the telephone number(s) of the person(s) to be contacted in case of necessity;
- (c) instructions are supplied with the waste regarding the procedure to be followed in the event of danger or accident.

2. The conditions set out in paragraph 1 shall be deemed to have been met in the case of transport operations where a Member State applies equivalent provisions under the international transport conventions listed in Annex II to Directive 84/631/EEC to which they are party, provided that those conventions cover hazardous waste.

3. The inspections provided for in Article 7 regarding collection and transport operations shall cover in particular:

- the technical requirements concerning the vehicles;
- training for the drivers or persons responsible for the transport operations.

The inspection procedures must be equivalent to the provisions applicable to the carriage of hazardous goods laid down in the international transport conventions listed in Annex II to Directive 84/631/EEC:

4. Where hazardous waste is transferred for the purpose of disposal, it shall be accompanied by an identification form containing the details specified in Section A of Annex I to Directive 84/631/EEC.

Article 9

In accordance with the "polluter pays" principle, the cost of disposing of hazardous waste, less any proceeds from re-use or reclamation, shall be borne by:

- the holder who consigns the waste to an undertaking or establishment which carries out waste disposal;
- and/or the previous holders or the producer of the product which gave rise to the waste.

Article 10

1. The competent authorities of the Member States shall draw up and keep up to date plans for the disposal of hazardous waste. The plans shall cover in particular:

- the types and quantities of waste to be disposed of;
- the methods of disposal;
- the authorized disposal sites and centres;
- the technical standards and requirements laid down;
- disused tips and contaminated sites which need to be kept under surveillance or reclaimed.

The competent authorities may include other specific aspects, including the estimated cost of the disposal operations.

2. The competent authorities shall make public the plans referred to in paragraph 1. Member States shall transmit these plans to the Commission by 1 January 1990.

3. The Commission shall compare these disposal plans, and in particular the methods of disposal and the technical standards laid down. Where necessary, the Commission shall prepare proposals to harmonize the technical disposal standards.

Article 11

In cases of emergency or grave danger, Member States shall take all necessary steps, including, where appropriate, temporary derogations from this Directive, to ensure that hazardous waste is so dealt with as not to constitute a threat to the population or the environment. The Member States shall inform the Commission of such derogations.

Article 12

1. Every three years, and for the first time on 1 September 1990, Member States shall send the Commission a report on the measures taken to implement this Directive. This report shall be drawn up as part of the report provided for in Article 12(1) of Directive 75/442/EEC in accordance with the procedures laid down therein.

2. On the basis of the reports referred to in paragraph 1, the Commission shall publish a consolidated report as part of the report provided for in Article 12(2) of Directive 75/442/EEC in accordance with the procedures laid down therein.

3. In addition, by 1 January 1991 the Member States shall send the Commission the following information for every establishment or undertaking holding a permit:

- name and address;
- the method used to treat the waste;
- the types of waste which can be treated;
- the scale of charges for treatment;
- the nature of waste resulting from the treatment;
- operating data such as:
 - . the actual quantity of waste treated during the year
 - . capacity utilization level in units of time.

Once a year, Member States shall inform the Commission of any changes in this information.

The Commission shall make this information available on request to competent authorities in the Member States.

Article 13

The amendments necessary for adapting the Annexes to this Directive to scientific and technical progress shall be adopted in accordance with the procedure laid down in Article 12c of Directive 75/442/EEC.

Article 14

The Committee for adaptation to scientific and technical progress set up under Article 12b of Directive 75/442/EEC shall also be responsible for examining the amendments considered pursuant to Article 13 of this Directive.

Article 15

Member States shall prohibit all acts which intentionally or in effect circumvent the provisions of this Directive.

Article 16

Directive 84/631/EEC is hereby amended as follows:

- (a) in Article 2(1), point (f) is replaced by the following:
"(f) 'disposal' means disposal within the meaning of Article 1(b) of Directive 75/442/EEC";
- (b) in Article 15, the words "Article 18 of Directive 78/319/EEC" shall be replaced by the words "Article 12b of Directive 75/442/EEC".

Article 17

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 January 1990. They shall forthwith inform the Commission thereof.

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

Article 18

1. Directive 78/319/EEC is hereby repealed with effect from 1 January 1990.

2. References to the Directive repealed by paragraph 1 shall be understood as references to this Directive. References to Articles of the repealed Directive are to be read in accordance with the correspondence table contained in Annex IV.

Article 19

This Directive is addressed to the Member States.

Done at

For the Council

1- 11 -
ANNEX I

CATEGORIES OR GENERIC TYPES OF HAZARDOUS WASTES*
(WASTES MAY BE LIQUID, SLUDGE OR SOLID IN FORM)

ANNEX I-A

Wastes which consist of:

- 1 Anatomical substances; hospital and other clinical wastes
- 2 Pharmaceuticals, drugs, medicines and veterinary compounds
- 3 Wood preservatives
- 4 Biocides and phyto-pharmaceutical substances
- 5 Residue from substances employed as solvents
- 6 Halogenated organic substances not employed as solvents excluding inert polymerized materials
- 7 Tempering salts containing cyanides
- 8 Mineral oils and oily substances (e.g. cutting sludges, etc.)
- 9 Oil/water, hydrocarbon/water mixtures, emulsions
- 10 Substances containing PCBs and/or PCTs (e.g. dielectrics, etc.)
- 11 Tarry materials arising from refining, distillation and any pyrolytic treatment (e.g. still bottoms, etc.)
- 12 Inks, dyes, pigments, paints, laquers, varnishes
- 13 Resins, latex, plasticizers, glues/adhesives
- 14 Chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known (e.g. laboratory residues, etc.)
- 15 Pyrotechnics and other explosive materials
- 16 Photographic chemicals and processing materials
- 17 Any material contaminated with any congener of polychlorinated dibenzo-furan
- 18 Any material contaminated with any congener of polychlorinated dibenzo-p-dioxin

ANNEX I-B

Wastes which contain any of the constituents listed in Annex II and consisting of:

- 19 Animal or vegetable soaps, fats, waxes
- 20 Non-halogenated organic substances not employed as solvents
- 21 Inorganic substances without metals or metal compounds
- 22 Ashes and/or cinders
- 23 Soil, sand, clay including dredging spoils
- 24 Non-cyanidic tempering salts
- 25 Metallic dust, powder
- 26 Spent catalyst materials
- 27 Liquids or sludges containing metals or metal compounds
- 28 Residue from pollution control operations (e.g. baghouse dusts, etc.) except (29), (30) and (33)

*Certain redundancies with entries found in Annex II are intentional.

36

- 29 Scrubber sludges
- 30 Sludges from water purification plants
- 31 Decarbonization residue
- 32 Ion-exchange column residue
- 33 Sewage sludges, untreated or unsuitable for use in agriculture
- 34 Waste waters not otherwise taken into account in Annex I-A
- 35 Residue from cleaning of tanks and/or equipment
- 36 Contaminated equipment
- 37 Contaminated containers (e.g. packaging, gas cylinders, etc.)
whose contents included one or more of the constituents
listed in Annex II
- 38 Batteries and other electrical cells
- 39 Vegetable oils
- 40 Materials resulting from selective waste collections from
households and which exhibit any of the characteristics
listed in Annex III
- 41 Any other wastes which contain any of the constituents
listed in Annex II

ANNEX II

CONSTITUENTS OF WASTES WHICH RENDER THEM HAZARDOUS WASTES*

Wastes having as constituents:

- C1 Beryllium; beryllium compounds
- C2 Vanadium compounds
- C3 Chromium (VI) compounds
- C4 Cobalt compounds
- C5 Nickel compounds
- C6 Copper compounds
- C7 Zinc compounds
- C8 Arsenic; arsenic compounds
- C9 Selenium; selenium compounds
- C10 Silver compounds
- C11 Cadmium; cadmium compounds
- C12 Tin compounds
- C13 Antimony; antimony compounds
- C14 Tellurium; tellurium compounds
- C15 Barium compounds, excluding barium sulfate
- C16 Mercury; mercury compounds
- C17 Thallium; thallium compounds
- C18 Lead; lead compounds
- C19 Inorganic sulphides
- C20 Inorganic fluorine compounds, excluding calcium fluoride
- C21 Inorganic cyanides
- C22 The following alkaline or alkaline earth metals: lithium, sodium, potassium, calcium, magnesium in uncombined form
- C23 Acidic solutions or acids in solid form
- C24 Basic solutions or bases in solid form
- C25 Asbestos (dust and fibres)
- C26 Phosphorus; phosphorus compounds, excluding mineral phosphates
- C27 Metal carbonyls
- C28 Peroxides
- C29 Chlorates
- C30 Perchlorates
- C31 Azides
- C32 PCBs and/or PCTs
- C33 Pharmaceutical or veterinary compounds
- C34 Biocides and phyto-pharmaceutical substances (e.g. pesticides, etc.)
- C35 Infectious substances
- C36 Creosotes
- C37 Isocyanates, thiocyanates
- C38 Organic cyanides (e.g. nitriles, etc.)
- C39 Phenols; phenol compounds
- C40 Halogenated solvents
- C41 Organic solvents, excluding halogenated solvents
- C42 Organohalogen compounds, excluding inert polymerized materials and other substances referred to in this Annex

*Certain redundancies with Generic Types of HAZARDOUS WASTES Listed in Annex I are intentional.

- C43 Aromatic compounds; polycyclic and heterocyclic organic compounds
- C44 Aliphatic amines
- C45 Aromatic amines
- C46 Ethers
- C47 Substances of an explosive character, excluding those listed elsewhere in this Annex
- C48 Sulphur organic compounds
- C49 Any congener of polychlorinated dibenzo-furan
- C50 Any congener of polychlorinated dibenzo-p-dioxin
- C51 Hydrocarbons and their oxygen, nitrogen and/or sulphur compounds not otherwise taken into account in this Annex

ANNEX III

CHARACTERISTICS OF WASTES WHICH RENDER THEM HAZARDOUS WASTES

- 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 or 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 contact;
- 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 or 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 or preparations which release toxic or very toxic gases in contact with water, air or an acid;
- H13 Capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics listed above;
- H14 "Ecotoxic": substances and preparations which present or may present immediate or delayed risks for one or more sectors of the environment.

Notes

1. Attribution of the hazard characteristics "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/EEC⁶ as amended by Council Directive 79/831/EEC of 18 September 1979.⁷
2. With regard to attribution of the characteristics "carcinogenic", "teratogenic" and "mutagenic", and with account taken of the state of the art, additional criteria are contained in the Guide to the classification and labelling of dangerous substances and preparations of Annex VI (part II D) to Directive 67/548/EEC as amended by Commission Directive 83/467/EEC of 29 July 1983.⁸

Test methods

The test methods serve to give specific meaning to the definitions given in Annex III.

The methods to be used are those described in Annex V to Directive 67/548/EEC as amended by Commission Directive 84/449/EEC of 25 April 1984⁹ or by subsequent Commission directives adapting Directive 67/548/EEC to technical progress. These methods are themselves based on the work and recommendations of the competent international bodies, in particular the OECD.

⁶ OJ L 196, 16.8.67.
⁷ OJ L 259, 15.10.79.
⁸ OJ L 257, 16.9.83.
⁹ OJ L 251, 19.9.84.

ANNEX IV

CORRESPONDENCE TABLE BETWEEN THE ARTICLES OF DIRECTIVE 78/319/EEC,
WHICH HAS BEEN REPEALED AND THE ARTICLES OF DIRECTIVE/EEC
ON HAZARDOUS WASTE

Directive 78/319/EEC

Directive/EEC

Articles repealed

New articles

Article 1
Article 2
Article 3
Article 4

Article 1(2)
Article 8(2)
Article 2
- deleted (Art. 3(1) of
Directive 75/442/EEC)
- deleted (Article 4 of Directive
75/442/EEC)

Article 5(1)

Article 3
- deleted (Art. 5 of
Directive 75/442/EEC)

Article 5(2)
Article 6

Article 4
deleted

Article 7
Article 8
Article 9
Article 10
Article 11

Article 5(1)
Article 6
Article 9

Article 12
Article 13
Article 14(1)
Article 14(2)
Article 14(3)

Article 10
Article 11
Article 7(1)
Article 8

Article 15
Article 16
Article 17
Article 18
Article 19

Article 7(2)
Article 7(1)
Article 12
Article 13
Article 14
- deleted (Article 12c of
Directive 75/442/EEC)

Article 20
Article 21
Article 22

Article 15
Article 17
Article 19

Annex

Annex II