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COUNCIL DIRECTIVE
of 16 June 1973
on the disposal of waste oils
(75/439/EEC)
(OJ L 194, 25.7.1975, p. 23)

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► <u>M1</u> Council Directive of 22 December 1986 (87/101/EEC)	L 42	43	12.2.1987
► <u>M2</u> Council Directive of 23 December 1991 (91/692/EEC)	L 377	48	31.12.1991

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COUNCIL DIRECTIVE
of 16 June 1975
on the disposal of waste oils
(75/439/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee ⁽²⁾;

Whereas any disparity between the provisions on the disposal of waste oils already applicable or in preparation in the various Member States may create unequal conditions of competition and thus directly affect the functioning of the common market; whereas it is therefore necessary to approximate laws in this field as provided for in Article 100 of the Treaty;

Whereas it seems necessary for this approximation of laws to be accompanied by Community action so that one of the aims of the Community in the sphere of protection of the environment can be achieved by wider regulations; whereas certain specific provisions to this effect should therefore be laid down; whereas Article 235 of the Treaty should be invoked as the powers required for this purpose have not been provided by the Treaty;

Whereas all provisions relating to the disposal of waste oils should have as one of their essential objectives the protection of the environment against the harmful effects caused by the discharge, deposit or treatment of these oils;

Whereas the recycling of waste oils may be conducive to a fuel supply policy;

Whereas the programme of action of the European Communities on the environment ⁽³⁾ underlines the importance of the problem of the disposal of waste oils without harmful effects upon the environment;

Whereas the quantities of waste oils and in particular of emulsions have increased in the Community;

Whereas an efficient and coherent system of treatment for waste oils, which will neither create barriers to intra-Community trade nor affect competition, should apply to all such products, even those which are composed only in part of oil, and should provide for their safe treatment under economically satisfactory conditions;

Whereas such a system should regulate the treatment, discharge, deposit and collection of waste oils and provide for a system of permits for undertakings which dispose of such oils, for compulsory collection and/or disposal of such oils in certain cases and for suitable inspection procedures;

Whereas in cases where certain undertakings are required to collect and/or dispose of waste oils, compensation by indemnities of that part of their costs relating thereto and not covered by their earnings should be possible and whereas these indemnities may be financed, among other methods, by a charge on new or regenerated oils,

⁽¹⁾ OJ No C 85, 18. 7. 1974, p. 6.

⁽²⁾ OJ No C 125, 16. 10. 1974, p. 33.

⁽³⁾ OJ No C 112, 20. 12. 1973, p. 3.

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HAS ADOPTED THIS DIRECTIVE:

▼M1*Article 1*

For the purposes of this Directive;

— ‘*waste oils*’ means:

any mineral-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, and also mineral lubricating oils, oils for turbines and hydraulic oils;

— ‘*disposal*’ means:

the processing or destruction of waste oils as well as their storage and tipping above or under ground;

— ‘*processing*’ means:

operations designed to permit the re-use of waste oils, that is to say, regeneration and combustion;

— ‘*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;

— ‘*combustion*’ means:

the use of waste oils as fuel with the heat produced being adequately recovered;

— ‘*collection*’ means:

all operations whereby waste oils can be transferred from the holders to undertakings which dispose of such oils.

Article 2

Without prejudice to the provisions of Directive 78/319/EEC⁽¹⁾, Member States shall take the necessary measures to ensure that waste oils are collected and disposed of without causing any avoidable damage to man and the environment.

Article 3

1. Where technical, economic and organizational constraints so allow, Member States shall take the measures necessary to give priority to the processing of waste oils by regeneration.

2. Where waste oils are not regenerated, on account of the constraints mentioned in paragraph 1 above, Member States shall take the measures necessary to ensure that any combustion of waste oils is carried out under environmentally acceptable conditions, in accordance with the provisions of this Directive, provided that such combustion is technically, economically and organizationally feasible.

3. Where waste oils are neither regenerated nor burned, on account of the constraints mentioned in paragraphs 1 and 2, Member States shall take the measures necessary to ensure their safe destruction or their controlled storage or tipping.

Article 4

Member States shall take the necessary measures to ensure the prohibition of:

- (a) any discharge of waste oils into inland surface water, ground water, territorial sea water and drainage systems;
- (b) any deposit and/or discharge of waste oils harmful to the soil and any uncontrolled discharge of residues resulting from the processing of waste oils;

⁽¹⁾ OJ No L 84, 31. 3. 1973, p. 43.

▼M1

- (c) any processing of waste oils causing air pollution which exceeds the level prescribed by existing provisions.

Article 5

1. Where necessary in order to achieve the objectives of this Directive and without prejudice to the provisions of Article 2, Member States shall carry out public information and promotional campaigns to ensure that waste oils are stored appropriately and collected as far as possible.
2. Where the objectives defined in Articles 2, 3 and 4 cannot otherwise be achieved, Member States shall take the necessary measures to ensure that one or more undertakings carry out the collection and/or disposal of waste oils offered to them by holders, where appropriate in the area assigned to them by the competent authorities.
3. To achieve the objectives defined in Articles 2 and 4, Member States may decide to allocate the waste oils to any of the types of processing set out in Article 3. To this end, they may institute appropriate checks.
4. To ensure compliance with the measures taken pursuant to Article 4, any undertaking which collects waste oils must be subject to registration and adequate supervision by the competent national authorities, possibly including a system of permits.

Article 6

1. In order to comply with the measures taken pursuant to Article 4, any undertaking which disposes of waste oils must obtain a permit. Where necessary, this permit shall be granted after examination of the installations.
2. Without prejudice to the requirements laid down by national and Community provisions with a purpose other than that of this Directive, a permit may be granted to undertakings which regenerate waste oils or use waste oils as fuel only where the competent authority has satisfied itself that all appropriate environmental and health protection measures have been taken, including use of the best technology available, where the cost is not excessive.

Article 7

Where waste oils are regenerated, Member States shall take the measures necessary to ensure that:

- (a) the operation of the regeneration plant will not cause avoidable damage to the environment.

To this end, the Member States shall ensure that the risks associated with the quantity of residues of regeneration and with the toxic and dangerous character of such residues are reduced to a minimum and that the residues are disposed of in accordance with Article 9 of Directive 78/319/EEC;

- (b) the base oils derived from regeneration do not constitute a toxic and dangerous waste as defined in Article 1 (b) of Directive 78/319/EEC and do not contain polychlorinated biphenyls and polychlorinated tophenyls (PCB/PCT) in concentrations beyond the limits laid down in Article 10.

Member States shall inform the Commission of these measures. On the basis of this information, the Commission shall, within five years of the date of notification of this Directive, submit a report to the Council, accompanied if necessary by appropriate proposals.

▼M1*Article 8*

1. Without prejudice to the provisions of Directive 84/360/EEC⁽¹⁾ and Article 3 (1) of this Directive, where waste oils are used as fuel, Member States shall take the measures necessary to ensure that operation of the plant will not cause any significant level of air pollution, in particular by the emission of substances listed in the Annex. To this end:

- (a) Member States shall satisfy themselves that in the case of the combustion of oils in plants with a thermal input of 3 MW or more based on the lower heating value (LHV), the emission limit values set in that Annex are being observed.

Member States may at any time set limit values more stringent than those given in the Annex. They may also set limit values for substances and parameters other than those listed in the Annex;

- (b) Member States shall take such measures as they consider necessary to ensure that combustion of waste oils in plants with a thermal input of less than 3 MW based on the lower heating value (LHV) is subject to adequate control.

They shall inform the Commission of these measures. On the basis of this information the Commission shall, within five years of the date of notification of this Directive, submit a report to the Council, accompanied if necessary by appropriate proposals.

2. The Member States shall further ensure that:

- (a) the residues from the combustion of waste oils are disposed of in accordance with Article 9 of Directive 78/319/EEC;
- (b) the waste oils used as fuel do not constitute a toxic and dangerous waste as defined in Article 1 (b) of Directive 78/319/EEC and do not contain PCB/PCT in concentrations beyond 50 ppm;

3. Observance of the limit values set out in the Annex may alternatively be ensured by means of an appropriate system of control of concentrations of pollutants in waste oils, or mixtures of waste oils and other fuels, intended for combustion taking account of the technical characteristics of the plant.

In the case of plants where emissions of substances listed in the Annex may arise additionally from heating products, Member States shall ensure, through an established control system, that the proportion of these substances arising from the combustion of waste oils does not exceed the limit values fixed in the Annex.

Article 9▼B

A person holding waste oils must, if he is unable to comply with the measures taken pursuant to Article 4, place them at the disposal of the undertaking or undertakings referred to in Article 5.

▼M1*Article 10*

1. During storage and collection, holders and collectors must not mix waste oils with PCBs and PCTs within the meaning of Directive 76/403/EEC⁽²⁾ nor with toxic and dangerous waste within the meaning of Directive 78/319/EEC.

2. Except as provided for in paragraph 3, the provisions of Directive 76/403/EEC shall apply to waste oils containing more than 50 ppm of PCB/PCT.

Member States shall further take such special technical measures as are necessary to ensure that any waste oils containing PCB/PCTs are

⁽¹⁾ OJ No L 188, 16. 7. 1984, p. 10.

⁽²⁾ OJ No L 108, 26. 4. 1976, p. 41.

▼M1

disposed of without any avoidable damage to man and the environment.

3. The regeneration of waste oils containing PCBs or PCTs may be permitted if the regeneration processes make it possible either to destroy the PCBs and PCTs or to reduce them so that the regenerated oils do not contain PCB/PCT beyond a maximum limit which in no case may exceed 50 ppm.

4. The reference method of measurement to determine the PCB/PCT content of waste oils shall be fixed by the Commission after consultation of the Committee for adaptation to technical progress established under Article 18 of Directive 78/319/EEC.

5. Waste oils contaminated by substances which fall within the definition of toxic and dangerous waste as laid down in Article 1 (b) of Directive 78/319/EEC shall be disposed of in accordance with the provisions of that Directive.

*Article 11***▼B**

Any establishment producing, collecting and/or disposing of more than a given quantity of waste oils per year, to be specified by each Member State but not higher than 500 litres, must:

- keep a record of the quantity, quality, origin and location of such oils and of their despatch and receipt, including the dates of the latter and/or
- convey such information to the competent authorities on request.

Member States are authorized to fix the quantity of waste oils in accordance with the first subparagraph in terms of an equivalent quantity of new oil calculated according to a reasonable conversion factor.

▼M1*Article 12*

Any undertaking which collects, holds and/or disposes of waste oils must convey to the competent authorities, at their request, any information concerning the collection and/or disposal of waste oils or their residues.

Article 13

1. The undertakings referred to in Article 6 shall be inspected periodically by the Member States, particularly as regards their compliance with the conditions of their permits.

2. The competent authorities shall examine trends in the state of technical development and/or of the environment with a view to revising, where necessary, permits granted to undertakings in accordance with this Directive.

*Article 14***▼B**

As a reciprocal concession for the obligations imposed on them by the Member States pursuant to Article 5, indemnities may be granted to collection and/or disposal undertakings for the service rendered. Such indemnities must not exceed annual uncovered costs actually recorded by the undertaking taking into account a reasonable profit.

The amount of these indemnities must be such as not to cause any significant distortion of competition or to give rise to artificial patterns of trade in the products.

▼ M1*Article 15*▼ B

The indemnities may be financed, among other methods, by a charge imposed on products which after use are transformed into waste oils, or on waste oils.

The financing of indemnities must be in accordance with the 'polluter pays' principle.

▼ M1*Article 16*

Member States may, whilst respecting the provisions of the Treaty, take measures for the purpose of environmental protection which are more stringent than those provided for in this Directive.

Such measures may, under the same provisions, include *inter alia* the prohibition of the combustion of waste oils.

Article 17▼ B

Each Member State shall periodically convey to the Commission information concerning its technical expertise and the experience gained and results obtained through the application of measures taken pursuant to this Directive.

The Commission shall send an overall summary of such information to the Member States.

▼ M1*Article 18*▼ M2

At intervals of three years Member States shall send information to the Commission on the implementation of this Directive, in the form of a sectoral report which shall also cover other pertinent Community Directives. The report shall be drawn up on the basis either of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Directive 91/692/EEC⁽¹⁾. The questionnaire or outline shall be sent to the Member States six months before the start of the period covered by the report. The report shall be made to the Commission within nine months of the end of the three-year period covered by it.

The first report shall cover the period 1995 to 1997 inclusive.

The Commission shall publish a Community report on the implementation of the Directive within nine months of receiving the reports from the Member States.

▼ M1*Article 19*▼ B

Member States shall implement the measures necessary to comply with this Directive within 24 months of its notification, and shall forthwith inform the Commission thereof.

▼ M1*Article 20*▼ B

The provisions adopted by the Member States pursuant to this Directive may be progressively applied to the undertakings referred to in Article 6, existing at the time of notification of this Directive, within four years of the said notification.

⁽¹⁾ OJ No L 377, 31. 12. 1991, p. 48.

▼ M1

Article 21

▼ B

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.

▼ M1

Article 22

▼ B

This Directive is addressed to the Member States.

▼M1

ANNEX

Emission limit values ⁽¹⁾ for certain substances emitted as a result of the combustion of waste oils in plants with a thermal input of 3 MW (LHV) or more

Pollutant	Limit value mg/Nm ³	
Cd	0,5	
Ni	1	
	either ⁽²⁾	or ⁽²⁾
Cr	} 1,5	Cr
Cu		Cu
V		V
Pb	5	Pb
Cl ⁽³⁾	100	
F ⁽⁴⁾	5	
SO ₂ ⁽⁵⁾	—	
Dust (total) ⁽⁵⁾	—	

⁽¹⁾ These limit values, which may not be exceeded when waste oils are burned, indicate the mass concentration of emissions of the aforementioned substances in waste gas, in terms of the volume of waste gas in the standard state (273 K; 1 013 hPa), after deduction of the water vapour moisture content, and of a 3 % oxygen content by volume in waste gas.

In the case of the second subparagraph of Article 8 (3), the oxygen content will be that which corresponds to normal operating conditions in the particular process concerned.

⁽²⁾ It shall be for the Member States to lay down which of these options shall apply in their country.

⁽³⁾ Inorganic gaseous compounds of chlorine expressed as hydrogen chloride.

⁽⁴⁾ Inorganic gaseous compounds of fluorine expressed as hydrogen fluoride.

⁽⁵⁾ It is not possible to determine limit values for these substances at this stage. The Member States will independently set emission standards for discharges of these substances taking into account the requirements of Directive 80/779/EEC (OJ No L 229, 30. 8. 1980, p. 30).

▼M1

STATEMENT

The Article 10 (3) of Directive 75/439/EEC

The Council considers that the limit given in Article 10 (3) is in fact a maximum limit for the output of the regeneration process. Bearing in mind the desirability of eliminating PCB/PCT wherever possible from the environment, it invites Member States to make every effort to stay well below this limit. It further invites the Commission to review this limit and to come forward with appropriate proposals for a new limit within five years of the notification of this Directive.