

Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste (repealed)

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission⁽¹⁾,

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

Having regard to the Opinion of the Committee of the Regions⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽⁴⁾, and in the light of the joint text approved by the Conciliation Committee on 11 October 2000,

Whereas:

- (1) The fifth Environment Action Programme: Towards sustainability — A European Community programme of policy and action in relation to the environment and sustainable development, supplemented by Decision No 2179/98/EC on its review⁽⁵⁾, sets as an objective that critical loads and levels of certain pollutants such as nitrogen oxides (NO_x), sulphur dioxide (SO₂), heavy metals and dioxins should not be exceeded, while in terms of air quality the objective is that all people should be effectively protected against recognised health risks from air pollution. That Programme further sets as an objective a 90 % reduction of dioxin emissions of identified sources by 2005 (1985 level) and at least 70 % reduction from all pathways of cadmium (Cd), mercury (Hg) and lead (Pb) emissions in 1995.
- (2) The Protocol on persistent organic pollutants signed by the Community within the framework of the United Nations Economic Commission for Europe (UN-ECE) Convention on long-range transboundary air pollution sets legally binding limit values for the emission of dioxins and furans of 0,1 ng/m; TE (Toxicity Equivalents) for installations burning more than 3 tonnes per hour of municipal solid waste, 0,5 ng/m; TE for installations burning more than 1 tonne per hour of medical waste, and 0,2 ng/m; TE for installations burning more than 1 tonne per hour of hazardous waste.
- (3) The Protocol on Heavy Metals signed by the Community within the framework of the UN-ECE Convention on long-range transboundary air pollution sets legally binding limit values for the emission of particulate of 10 mg/m³ for hazardous and medical waste incineration and for the emission of mercury of 0,05 mg/m³ for hazardous waste incineration and 0,08 mg/m³ for municipal waste incineration.

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- (4) The International Agency for Research on Cancer and the World Health Organisation indicate that some polycyclic aromatic hydrocarbons (PAHs) are carcinogenic. Therefore, Member States may set emission limit values for PAHs among other pollutants.
- (5) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, there is a need to take action at the level of the Community. The precautionary principle provides the basis for further measures. This Directive confines itself to minimum requirements for incineration and co-incineration plants.
- (6) Further, Article 174 provides that Community policy on the environment is to contribute to protecting human health.
- (7) Therefore, a high level of environmental protection and human health protection requires the setting and maintaining of stringent operational conditions, technical requirements and emission limit values for plants incinerating or co-incinerating waste within the Community. The limit values set should prevent or limit as far as practicable negative effects on the environment and the resulting risks to human health.
- (8) The Communication from the Commission on the review of the Community Strategy for waste management assigns prevention of waste the first priority, followed by reuse and recovery and finally by safe disposal of waste; in its Resolution of 24 February 1997 on a Community Strategy for waste management⁽⁶⁾, the Council reiterated its conviction that waste prevention should be the first priority of any rational waste policy in relation to minimising waste production and the hazardous properties of waste.
- (9) In its Resolution of 24 February 1997 the Council also underlines the importance of Community criteria concerning the use of waste, the need for appropriate emission standards to apply to incineration facilities, the need for monitoring measures to be envisaged for existing incineration plants, and the need for the Commission to consider amending Community legislation in relation to the incineration of waste with energy recovery in order to avoid large-scale movements of waste for incineration or co-incineration in the Community.
- (10) It is necessary to set strict rules for all plants incinerating or co-incinerating waste in order to avoid transboundary movements to plants operating at lower costs due to less stringent environmental standards.
- (11) The Communication from the Commission/energy for the future: renewable sources of energy/White paper for a Community strategy and action plan takes into consideration in particular the use of biomass for energy purposes.
- (12) Council Directive 96/61/EC⁽⁷⁾ sets out an integrated approach to pollution prevention and control in which all the aspects of an installations environmental performance are considered in an integrated manner. Installations for the incineration of municipal waste with a capacity exceeding 3 tonnes per hour and installations for the disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day are included within the scope of the said Directive.

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- (13) Compliance with the emission limit values laid down by this Directive should be regarded as a necessary but not sufficient condition for compliance with the requirements of Directive 96/61/EC. Such compliance may involve more stringent emissions limit values for the pollutants envisaged by this Directive, emission limit values for other substances and other media, and other appropriate conditions.
- (14) Industrial experience in the implementation of techniques for the reduction of polluting emissions from incineration plants has been acquired over a period of ten years.
- (15) Council Directives 89/369/EEC⁽⁸⁾ and 89/429/EEC⁽⁹⁾ on the prevention and reduction of air pollution from municipal waste incineration plants have contributed to the reduction and control of atmospheric emissions from incineration plants. More stringent rules should now be adopted and those Directives should accordingly be repealed.
- (16) The distinction between hazardous and non-hazardous waste is based principally on the properties of waste prior to incineration or co-incineration but not on differences in emissions. The same emission limit values should apply to the incineration or co-incineration of hazardous and non-hazardous waste but different techniques and conditions of incineration or co-incineration and different monitoring measures upon reception of waste should be retained.
- (17) Member States should take into account Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air⁽¹⁰⁾ when implementing this Directive.
- (18) The incineration of hazardous waste with a content of more than 1 % of halogenated organic substances, expressed as chlorine, has to comply with certain operational conditions in order to destroy as many organic pollutants such as dioxins as possible.
- (19) The incineration of waste which contains chlorine generates flue gas residues. Such residues should be managed in a way that minimises their amount and harmfulness.
- (20) There may be grounds to provide for specified exemptions to the emission limit values for some pollutants during a specified time limit and subject to specific conditions.
- (21) Criteria for certain sorted combustible fraction of non-hazardous waste not suitable for recycling, should be developed in order to allow the authorisation of the reduction of the frequency of periodical measurements.
- (22) A single text on the incineration of waste will improve legal clarity and enforceability. There should be a single directive for the incineration and co-incineration of hazardous and non-hazardous waste taking fully into account the substance and structure of Council Directive 94/67/EC of 16 December 1994 on the incineration of hazardous waste⁽¹¹⁾. Therefore Directive 94/67/EC should also be repealed.
- (23) Article 4 of Council Directive 75/442/EEC of 15 July 1975 on waste⁽¹²⁾ requires Member States to take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without harming the environment. To this end, Articles 9 and 10 of that Directive provide that any plant or undertaking treating

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waste must obtain a permit from the competent authorities relating, *inter alia*, to the precautions to be taken.

- (24) The requirements for recovering the heat generated by the incineration or co-incineration process and for minimising and recycling residues resulting from the operation of incineration or co-incineration plants will assist in meeting the objectives of Article 3 on the waste hierarchy of Directive 75/442/EEC.
- (25) Incineration and co-incineration plants treating only animal waste regulated by Directive 90/667/EEC⁽¹³⁾ are excluded from the scope of this Directive. The Commission intends to propose a revision to the requirements of Directive 90/667 with a view to providing for high environmental standards for the incineration and co-incineration of animal waste.
- (26) The permit for an incineration or co-incineration plant shall also comply with any applicable requirements laid down in Directives 91/271/EEC⁽¹⁴⁾, 96/61/EC, 96/62/EC⁽¹⁵⁾, 76/464/EEC⁽¹⁶⁾, and 1999/31/EC⁽¹⁷⁾.
- (27) The co-incineration of waste in plants not primarily intended to incinerate waste should not be allowed to cause higher emissions of polluting substances in that part of the exhaust gas volume resulting from such co-incineration than those permitted for dedicated incineration plants and should therefore be subject to appropriate limitations.
- (28) High-standard measurement techniques are required to monitor emissions to ensure compliance with the emission limit values for the pollutants.
- (29) The introduction of emission limit values for the discharge of waste water from the cleaning of exhaust gases from incineration and co-incineration plants will limit a transfer of pollutants from the air into water.
- (30) Provisions should be laid down for cases where the emission limit values are exceeded as well as for technically unavoidable stoppages, disturbances or failures of the purification devices or the measurement devices.
- (31) In order to ensure transparency of the permitting process throughout the Community the public should have access to information with a view to allowing it to be involved in decisions to be taken following applications for new permits and their subsequent updates. The public should have access to reports on the functioning and monitoring of the plants burning more than three tonnes per hour in order to be informed of their potential effects on the environment and human health.
- (32) The Commission should present a report both to the European Parliament and the Council based on the experience of applying this Directive, the new scientific knowledge gained, the development of the state of technology, the progress achieved in emission control techniques, and on the experience made in waste management and operation of the plants and on the development of environmental requirements, with a view to proposing, as appropriate, to adapt the related provisions of this Directive.
- (33) The measures necessary for the implementation of this Directive are to be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁸⁾.

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- (34) Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented; those penalties should be effective, proportionate and dissuasive,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 13, 17.1.1998, p. 6](#) and [OJ C 372, 2.12.1998, p. 11](#).
- (2) [OJ C 116, 28.4.1999, p. 40](#).
- (3) [OJ C 198, 14.7.1999, p. 37](#).
- (4) Opinion of the European Parliament of 14 April 1999 ([OJ C 219, 30.7.1999, p. 249](#)), Council Common Position of 25 November 1999 ([OJ C 25, 28.1.2000, p. 17](#)) and Decision of the European Parliament of 15 March 2000 (not yet published in the Official Journal). Decision of the European Parliament of 16 November 2000 and Decision of the Council of 20 November 2000.
- (5) [OJ C 138, 17.5.1993, p. 1](#) and [OJ L 275, 10.10.1998, p. 1](#).
- (6) [OJ C 76, 11.3.1997, p. 1](#).
- (7) [OJ L 257, 10.10.1996, p. 26](#).
- (8) [OJ L 163, 14.6.1989, p. 32](#). Directive as last amended by the Accession Act of 1994.
- (9) [OJ L 203, 15.7.1989, p. 50](#). Directive as last amended by the Accession Act of 1994.
- (10) [OJ L 163, 29.6.1999, p. 41](#).
- (11) [OJ L 365, 31.12.1994, p. 34](#).
- (12) [OJ L 194, 25.7.1975, p. 39](#). Directive as last amended by Commission Decision 350/96/EC ([OJ L 135, 6.6.1996, p. 32](#)).
- (13) Council Directive 90/667/EEC of 27 November 1990, laying down the veterinary rules for the disposal and processing of animal waste, for its placing on the market and for the prevention of pathogens in feedstuffs of animal or fish origin and amending Directive 90/425/EEC ([OJ L 363, 27.12.1990, p. 51](#)). Directive as last amended by the Accession Act of 1994.
- (14) Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment ([OJ L 135, 30.5.1991, p. 40](#)). Directive as amended by Directive 98/15/EC ([OJ L 67, 7.3.1998, p. 29](#)).
- (15) Council Directive 96/62/EC of 27 September 1996 on ambient air quality assessment and management ([OJ L 296, 21.11.1996, p. 55](#)).
- (16) Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community ([OJ L 129, 18.5.1976, p. 23](#)). Directive as last amended by the Accession Act of 1994.
- (17) Directive 1999/31/EC of 26 April 1999 on the landfill of waste ([OJ L 182, 16.7.1999, p. 1](#)).
- (18) [OJ L 184, 17.7.1999, p. 23](#).