

Council Directive 2011/97/EU of 5 December 2011 amending Directive 1999/31/EC as regards specific criteria for the storage of metallic mercury considered as waste

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amending Directive 1999/31/EC as regards specific criteria for the storage of metallic mercury considered as waste

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1102/2008 of the European Parliament and of the Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury⁽¹⁾, and in particular Article 4(3) thereof, as well as to Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste⁽²⁾, and in particular Article 16 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Regulation (EC) No 1102/2008 stipulates that, by way of derogation from Article 5(3) (a) of Directive 1999/31/EC, metallic mercury that is considered as waste may, in appropriate containment, be temporarily stored for more than 1 year or permanently stored in certain types of landfills.
- (2) Storage of metallic mercury that is considered as waste is already regulated by Union legislation on waste management.
- (3) The storage of metallic mercury that is considered as waste for up to 1 year is subject to the permit requirements according to Article 23 of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste⁽³⁾.
- (4) Directive 1999/31/EC and Council Decision 2003/33/EC of 19 December 2002 establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of and Annex II to Directive 1999/31/EC⁽⁴⁾ apply to facilities for the storage of metallic mercury for more than 1 year according to Article 3(1) of Regulation (EC) No 1102/2008.
- (5) This implies, in particular, that all facilities for the storage of metallic mercury for more than 1 year need a permit according to Articles 7, 8 and 9 of Directive 1999/31/EC and that such facilities are subject to the control and monitoring requirements laid down in Article 12 of that Directive, as well as, in the case of underground storage, to the safety assessment requirements according to Appendix A of Decision 2003/33/EC.
- (6) In addition, such facilities are subject to the general provisions on record keeping as laid down in Directive 2008/98/EC.

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- (7) In addition, the provisions of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances⁽⁵⁾ apply to facilities for the temporary above-ground storage according to Article 3(2) of Regulation (EC) No 1102/2008.
- (8) However, those provisions do not fully address the specific characteristics of metallic mercury, and additional requirements are therefore needed.
- (9) Those additional requirements should take into account research activities on safe disposal options, including the solidification of metallic mercury. There is progress in the development of environmentally sound solidification options but it is premature to decide on the large-scale viability of such options.
- (10) Additional assessments of the long-term behaviour of metallic mercury in underground storage are needed for the determination of sound and knowledge-based requirements for permanent storage. The requirements laid down in this Directive should therefore be limited to temporary storage and are considered as appropriate and representing the best available techniques for the safe storage of metallic mercury for a time span of up to 5 years.
- (11) Directive 1999/31/EC should therefore be amended accordingly.
- (12) No opinion was given by the committee referred to in Article 16 of Directive 1999/31/EC. It is therefore appropriate for the Council to adopt this Directive,

HAS ADOPTED THIS DIRECTIVE:

- (1) OJ L 304, 14.11.2008, p. 75.
- (2) OJ L 182, 16.7.1999, p. 1.
- (3) OJ L 312, 22.11.2008, p. 3.
- (4) OJ L 11, 16.1.2003, p. 27.
- (5) OJ L 10, 14.1.1997, p. 13.