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European Federation of Waste Management and Environmental Services
Europäische Föderation der Entsorgungswirtschaft

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FEAD PROPOSAL OF AMENDMENTS

on the proposal for the Revision of the Waste Framework Directive

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GENERAL

Text proposed by the Commission
(COM(2005)667)

FEAD proposed amendments

AMENDMENT 1

Article 1, Subject-matter

This Directive lays down measures with a view to reducing the overall environmental impacts, **related to the use of resources**, of the generation and management of waste.

For the same purposes, it also makes provision whereby the Member States are to take measures, as a matter of priority,

This Directive lays down measures with, **as primary objective**, a view to reducing the overall environmental impacts of the generation and management of waste, **thereby preserving, protecting and improving the quality of the environment, protecting human health and ensuring the prudent and rational use of natural resources.**

APOH, Slovakia
ASELIP, Spain
BDE, Germany
CAOH, Czech Republic
ESA, UK

FEGE / FEBEM, Belgium
FISE, Italy
FLEA, Luxembourg
FNADE, France

IWMA, Ireland
JLY, Finland
KSZGYSZ, Hungary
NRF, Norway

PASEPPE, Greece
PIGO, Poland
RVF, Sweden
VA, Netherlands
VÖEB, Austria

for the prevention or reduction of waste production and its harmfulness and, secondly, for the recovery of waste by means of re-use, recycling and other recovery operations.

For the same purposes, it also makes provision whereby the Member States are to take measures, as a matter of priority, for the prevention or reduction of waste production and its harmfulness, secondly, for the **material recovery, including re-use and recycling, and/or energy recovery of waste and, thirdly for the disposal of waste.**

Justification

The primary objective of the Waste Framework Directive is to reduce environmental impacts of the generation and management of waste. Additionally, it should reflect the principles laid down in Article 174 of the EC Treaty.

Article 1 paragraph. 2 clearly mentions the first two steps of the 3-step hierarchy (prevention – recovery – disposal). The third step, disposal, must therefore also be mentioned.

AMENDMENT 2

Article 2, Scope, f

This Directive shall not cover gaseous effluents emitted into the atmosphere.
1.

[...]
(f) unexcavated contaminated soil.
[...]

3. It shall not cover faecal matter, straw and other natural non-hazardous substances from agricultural production that are used in farming **or for the production of energy from biomass** through using processes or methods which do not harm the environment or endanger human health.

This Directive shall not cover
(a) gaseous effluents emitted into the atmosphere;
(b) **unexcavated contaminated soil**
(c) **non-movable man-made structures .**

[...]
1. (f) *deleted*
[...]

3. It shall not cover faecal matter, straw and other natural non-hazardous substances from agricultural production that are used in farming through using processes or methods which do not harm the environment or endanger human health.

Justification

The WFD does not address those issues which are specific to unexcavated contaminated soil, such as soil contamination levels; definition of contamination, specific recovery methods, etc. Consequently, the WFD is not the adequate mean to tackle the unexcavated contaminated soils question. Moreover, this issue will specifically be addressed by the “Thematic Strategy on Soil Protection”. Therefore, unexcavated contaminated soils should be explicitly excluded from the scope of the WFD. The same should apply to non-movable man-made structures as long as they remain steady (but not to elements taken out from these structures).

Moreover, FEAD requires that, for environmental sake, substances from agricultural origin that are used for the production of energy from biomass should comply with the same rules as any other waste used to produce energy and therefore are included in the scope of the WFD

AMENDMENT 3

Article 9, Costs

Member States shall ensure that the costs entailed in the recovery or disposal of waste are allocated, as appropriate, between the holder, previous holders and the producer.

In accordance with the ‘polluter pays’ principle, the cost of managing waste must be borne by:

- the holder who has waste handled by a waste collector or by an undertaking as referred to in Article 19 and/or***
- the previous holders or the producer of the product from which the waste came.***

Justification

Article 15 of the current Directive has been substantially modified in the proposal without explanation. We propose to stick to this article and therefore suggest to:

- Reintroduce the ‘polluter pays’ principle*
- Ensure that costs are ‘borne’ and not ‘allocated by Member States’*
- Ensure that costs are borne by the producer of the waste and upstream up to the producer of the product and not downstream from the producer of the waste*
- Ensure that costs do not only cover recovery and disposal but the overall costs of the management of waste (including e.g. collection)*

DEFINITIONS

AMENDMENT 4

Article 3, Definitions, new

(j) ‘environmentally sound’ manner means taking the necessary steps to ensure that waste is managed in a manner that will protect human health and the environment against adverse effects which may result from such waste.

Justification

This definition is linked to article 21 and describes the intention and importance of environmentally sound waste management. This definition is based on the definition used in the Waste Shipments Regulation.

AMENDMENT 5

Article 3, Definitions, new

(k) 'broker' is anyone arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste.

(l) 'dealer' is anyone who acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste.

Justification

A reference to brokers and dealers is made in Article 25. These definitions are taken over from the Waste Shipments Regulation.

AMENDMENT 6

Article 3, Definitions

*[...] operations that result in **it** serving a useful purpose in replacing, whether in the plant or in the wider economy, other resources which would have been used to fulfil that function, or in it being prepared for such a use, **hereinafter "recovery operation"**.*

(m) 'Recovery operations' are operations that result in **the waste** serving a useful purpose in replacing, whether in the plant or in the wider economy, other resources which would have been used to fulfil that function, or in it being prepared for such a use.

Justification

For clarity sake, the definition of recovery, as formulated in Article 5, should be included in Article 3 and removed from Article 5 where it is mixed with the obligation to recover.

AMBIGUOUS WORDINGS

AMENDMENT 7

Article 6, Disposal, 6.1

1. Member States shall ensure that, where **recovery** in accordance with Article 5(1) **is not possible**, all waste undergoes disposal operations.

1. Member States shall ensure that where **waste has not been recovered** in accordance with Article 5(1), all waste undergoes disposal operations.

Justification

No procedure is given or even exists to demonstrate that recovery is not possible. More Recovery is always possible if the economic costs and the environmental costs are not taken into consideration.

The point here is that it must be ensured that all waste that has not been recovered is disposed of.

AMENDMENT 8

Article 7, Conditions

Member States shall ensure that the recovery or disposal of waste is carried out as follows:

- (a) without endangering human health;
- (b) without using processes or methods which could harm the environment;
- (c) without risk to water, air, soil and plants and animals;
- (d) without causing a nuisance through noise or odours;
- (e) without adversely affecting the countryside or places of special interest.

Member States shall **take the necessary steps to** ensure that the recovery or disposal of waste is **so far as is practicable** carried out as follows:

- (a) without endangering human health;
- (b) without using processes or methods which could harm the environment;
- (c) without risk to water, air, soil and plants and animals;
- (d) without causing a nuisance through noise or odours;
- (e) without adversely affecting the countryside or places of special interest.

Justification

Strictly speaking, the word “without” means that no risk at all is required. But zero risk does not exist. This is to create compatibility with article 1 and 11 in this Directive.

AMENDMENT 9

Article 4, List of wastes

A list of wastes **shall be established** by the Commission, in accordance with the procedure referred to in Article 36(2).

The existing list (Commission Decision 2000/532/EC) of wastes **may be revised**, by the Commission, **only** in accordance with the procedure referred to in Article 36(2).

Justification

The existing list, which has proven its efficiency, may require an update but not a complete replacement.

AMENDMENT 10

Article 26, Waste management plans

2. The waste management plans provided

2. The waste management plans provided

for in paragraph 1 shall set out an analysis of the current waste management situation in the geographical entity concerned, as well as the measures to be taken for the prevention, re-use, recycling, recovery and **safe** disposal of waste.

for in paragraph 1 shall set out an analysis of the current waste management situation in the geographical entity concerned, as well as the measures to be taken for the **safe and environmentally sound** prevention, re-use, recycling, recovery and disposal of waste.

Justification

“Safe” must cover the whole environmental field.

COMITOLOGY, END of WASTE

AMENDMENT 11

Article 11, Secondary products, materials and substances

1. With a view to determining whether it is appropriate to deem certain waste to have ceased being waste, to have completed a re-use, recycling or recovery operation, and to **reclassify** that waste as secondary products materials or substances, the Commission shall assess whether the following conditions are met:

(a) **reclassification** would not lead to overall negative environmental impacts;

(b) a market exists for such a secondary product, material or substance.

2. On the basis of its assessment pursuant to paragraph 1, the Commission shall, in accordance with the procedure referred to in Article 36(2), adopt implementing measures in respect of a specific product, material or substance category of waste, specifying the environmental and quality criteria to be met in order for that waste to be deemed to have become a secondary product, material or substance.

1. With a view to determining whether it is appropriate to deem certain waste to have ceased being waste, to have completed a re-use, recycling or recovery operation **in compliance with the waste legislation**, and to **declassify** that waste as secondary products, materials or substances, the Commission shall assess whether the following conditions are met:

(a) **declassification** would not lead to overall negative environmental impacts; **and**

(b) a **viable** market exists for such a secondary product, material or substance.

2. On the basis of its assessment pursuant to paragraph 1, the Commission shall **make a Proposal to the European Parliament and the Council listing specific product, material or/ and substance category of waste to be deemed to become a secondary product, material or substance.**

Following a positive decision, the Commission shall, in accordance with the procedure referred to in Article 36(2), adopt implementing measures in respect of a specific product, material or substance category of waste,

specifying the environmental and quality criteria to be met in order for that waste to be deemed to have become a secondary product, material or substance.

3. The criteria set pursuant to paragraph 2 shall be such as to ensure that the resulting secondary product, material or substance meets the necessary conditions to be placed on the market.

The criteria shall take into account any risks of environmentally harmful use or shipment of the secondary material or substance, and shall be set at a level that guarantees a high level of protection for human health and the environment.

3. The criteria set pursuant to paragraph 2 shall be such as to ensure that

(a) the resulting secondary product, material or substance meets the necessary conditions to be placed on the market.

(b) the criteria shall take into account any risks of environmentally harmful use or shipment of the secondary material or substance, and shall be set at a level that guarantees a high level of protection for human health and the environment **as referred to in Article 174 of the EC Treaty.**

(c) the resulting secondary product, material or substance will be effectively used as intended.

The criteria shall be identical for all Member States.

Justification

Lifting the waste status should not be misused to comply with lower levels of protection for human health and the environment.

AMENDMENT 12

Article 36, Committee

1. The Commission shall be assisted by a committee, hereinafter "the Committee".
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.
3. The Committee shall adopt its rules of procedure.

The Commission shall:

- (a) carry out appropriate**

consultation with stakeholders

- (b) provide a clear timeframe**
- (c) ensure the harmonisation of the rules of procedures for all comitology processes foreseen in this Directive**
- (d) ensure the enforceability of the procedure**
- (e) ensure the public access of procedural documents**
- (f) carry out an assessment of the potential impact of the implementation measure on the environment and the market**

Justification

*Political decisions should be made by co-decision.
In particular, the WFD itself should already provide a clear framework for the functioning of the Comitology instead of leaving the definition of these details up to the Commission.
Such framework should, at least, address the following issues: involvement of stakeholders; procedure's timescale and timeframe; homogenous rules of procedures for all Comitology processes foreseen by the WFD; detailed criteria providing a clear framework for the exercise of the discretionary powers granted to the Commission, enforceability of the procedure (sometimes – like in art. 5 para 2, 6 para 3, 21 - the Commission is not obliged to start the Comitology process); Court jurisdiction of the procedures' outcomes (in art. 11 para 1, for example, it is not clear whether the assessment could be subject to the Court's jurisdiction); right of access to procedural documents; etc.*

PERMITS & EXEMPTIONS

AMENDMENT 13

Article 19, Issuing (Permits)

1. (b) for each type of operation permitted, the technical requirements relevant to the site concerned;

1. (b) for each type of operation permitted, the technical requirements relevant to the site **and facilities** concerned;

Justification

Requirements relevant to the installation are essential to avoid to harm the Environment and Human Health.

AMENDMENT 14

Article 19, Issuing (Permits)

4. It shall be a condition of any permit covering energy recovery that the recovery of energy is to take place with a high level of energy efficiency. *deleted*

Justification

The criterion for Energy recovery operation is to be given once in a single place. For clarity sake, the same issue must not be said twice in different places of the same document. This requirement is already covered by the IPPC Directive.

AMENDMENT 15

Chapter V, Section 1, Subsection 2, Exemptions

Article 22 *deleted*

Member States may exempt the following from the requirement laid down in Article 19(1):

- (a) establishments or undertakings carrying out their own waste treatment at the place of production;**
- (b) establishments or undertakings that carry out waste recovery**

Where an establishment or undertaking carries out both disposal and recovery, it may be exempted only in respect of its recovery operations.

Article 23, General rules

- 1. Where a Member State wishes to allow exemptions, as provided for in Article 22, it shall ensure that the competent authorities lay down, in respect of each type of activity, general rules specifying the types and quantities of waste that may be covered by an exemption, *and* the method of treatment to be used.**

Those rules shall be based on best available techniques and shall be designed to ensure compliance with Article 7.

- 2. Member States shall inform the Commission of the general rules laid down pursuant to paragraph 1.**

Article 24

In the case of hazardous waste, Member States may allow the exemption under Article 22 only of establishments or undertakings that carry out recovery operations.

In addition to the general rules provided for in Article 23(1), the Member States shall lay down specific conditions for exemptions relating to hazardous waste, including limit values for the content of hazardous substances in the waste, emission limit values, types of activity, as well as any other necessary requirements for carrying out different forms of recovery.

Justification

If there are no appropriate controls, it is not possible to ensure that waste management is carried out properly. Therefore the same rules and environmental protection for all plants treating waste should be applied.

HAZARDOUS WASTE

AMENDMENT 16

Recital, new

(23) Hazardous wastes are qualified by hazards and risks criteria. As a result, they need to be regulated under strict specifications in order to prevent or limit, as far as possible, negative effects due to inappropriate management which may affect the environment and prevent risks on human health and safety. Because of their hazardous properties, hazardous wastes need an appropriate management which involves specific and adapted collection and treatment techniques, particular controls and dedicated waste traceability modalities. All hazardous wastes operators need to have adequate qualifications and training.

Justification

Specificities of hazardous wastes management need to be underlined.

AMENDMENT 17

Article 3 Definition (h)

(h) '**mineral** 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, **mineral** lubricating oils, oils for turbines and hydraulic oils;

(h) 'waste oils' means any 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 gear oils, mineral lubricating oils, oils for turbines and hydraulic oils;

(i) 'Hazardous wastes' are wastes which have one or more of the properties listed in Annex III.

The list of hazardous waste established by the Commission, in accordance with the procedure referred to in Article 36(2) takes into account the origin and composition of the waste and, where necessary, concentration limit values.

Justification

Nowadays, waste oils consist in a mixing of mineral and synthetic oils. The definition therefore needs to be adapted. Article 3 should also include the definition of hazardous waste.

AMENDMENT 18

New Article 12

Article 12

Objective

With respect of Article 1 of the present Directive, Members states shall take the necessary measures to require that the hazardous waste collection, production, or transport, their storage and their treatment should be done in conditions which allow an optimum environmental protection and safety conditions for operators, industrial plant and people.

Justification

The purpose of these proposals is to complete the specifications of the Waste Framework Directive for the part which is specific to hazardous waste.

AMENDMENT 19

New Article 13

Article 12

deleted

Article 13

Deleted

Article 18

Mineral waste oils

Without prejudice to the obligations related to the handling of hazardous waste laid down in Articles 16 and 17, Member States shall take the necessary measures to ensure that mineral waste oils are collected and handled in accordance with Article 7.

Article 13

Waste oils specifications

Member States shall take the necessary measures to ensure that waste oils are collected separately from other wastes, then handled and treated in accordance with objectives and obligations as lay down in this Directive and other related-waste oils legislation (emissions, PCB control).

Additionally, waste oils collectors need to apply for a specific permit comprising adapted specifications.

AMENDMENT 20

New Article 16

Article 16

Specific provisions

(a) Member States shall take the necessary measures to ensure a separate collection of hazardous waste from households.

(b) (i) Member States shall take the necessary measures to ensure that the following conditions are met where hazardous waste is mixed, either with other hazardous waste possessing different properties or with other waste, substances or materials:

Article 16

1. Member States shall take the necessary measures to ensure that the following conditions are met where hazardous waste is mixed, either with other hazardous waste possessing different properties or with other waste, substances or materials:

- a) **the mixing operation** is carried out by an establishment or undertaking which has obtained a permit in accordance with **article 19**
- b) **the conditions laid down in Article 7 are complied with,**
- c) the environmental impact of the management of the waste is not worsened;
- d) **such an operation conforms to best available techniques**

- a) ***these operations are*** carried out by an establishment or undertaking which has obtained a permit in accordance with ***the present Directive,***
- b) ***all the management conditions and objectives included in this text are ensured.***
- c) the environmental impact of the management of the waste is not worsened;
- d) ***technologies used for these operations should take into account risk and safety approaches and should be conformed with the best available techniques.***

(ii) Mixing without chemical reaction should, under no circumstance, lead to a declassification of a hazardous waste to a non-hazardous waste and/or to a POP-containing waste to a non-POP-containing waste.

(2) Subject to technical and economical feasibility criteria to be determined by the Member States, where hazardous waste has been mixed, in a manner contrary to paragraph 1, with other hazardous waste possessing different properties or with other wastes, substances or materials, separation shall be effected where necessary in order to comply with Article 7.

(iii) Subject to technical and economical feasibility criteria to be determined by the Member States, where hazardous waste has been mixed, in a manner contrary to paragraph 1, with other hazardous waste possessing different properties or with other wastes, substances or materials, separation shall be effected where necessary in order to comply with Article 7.

Justification

There is a need to create a dedicated article which includes specific hazardous waste provisions.

AMENDMENT 21

New Article 17

Article 24
deleted

Article 17

Permit requirements

All hazardous waste treatment installations should have a permit delivered in accordance with the dispositions laid down in the Directive 96/61/CE.

Without prejudice of the directive 96/61/CE, the application for a permit at the competent authorities shall include a description of the measures which are envisaged to guarantee that the plant is designed, equipped and will be operated according to wastes categories treated and their relating risks.

The permit granted by the competent authorities :

- lists the quantities and the categories of hazardous wastes which are treated,***
- lists technical specifications which should ensure optimal waste treatment protecting environment and ensure high safety level.***

When the operator of a non hazardous waste treatment plant is envisaging a

change of operation which would involve hazardous waste, this should be regarded as substantial change within the meaning of article 2, paragraph 10 (b) of the Directive 96/61/CE and article 12, paragraph 2 of this directive applied.

Justification

All types of hazardous waste treatment need to be under permit in accordance with the IPPC directive. No derogation should be done. The same rules should apply to everyone carrying out hazardous wastes.

AMENDMENT 22

New Article 18

Article 18

Record keeping, traceability, controls and labelling

Article 33

1. Establishments or undertakings referred to in Article 19(1), producers of hazardous waste and establishments and undertakings which collect or transport hazardous waste shall keep a record of the quantity, nature, origin, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste and make that information available, on request, to the competent authorities.

2. For hazardous waste, the records shall be preserved for at least **three** years except in the case of establishments and undertakings transporting hazardous waste which must keep such records for at least **12 months**.

Documentary evidence that the management operations have been carried out shall be supplied at the request of the competent authorities or of a previous holder.

(i) Record keeping

1. Establishments or undertakings referred to in Article 19(1), producers **and dealers** of hazardous waste and establishments and undertakings which collect or transport hazardous waste shall keep a **chronological** record of the quantity, nature, origin, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste and make that information available, on request, to the competent authorities.

2. For hazardous waste, the records shall be preserved for at least **five** years except in the case of establishments and undertakings transporting hazardous waste which must keep such records for at least **three years**.

Documentary evidence that the management operations have been carried out shall be supplied at the request of the competent authorities or of a previous holder.

(ii) Traceability and controls

Traceability and controls of hazardous waste are referred to in Annex VI [new].

(ii) Labelling

Member States shall take the necessary measures to ensure that, in the course of collection, transport and temporary

Article 17

Labelling

1. Member States shall take the necessary measures to ensure that, in the course of collection, transport and temporary

storage, hazardous waste is packaged and labelled in accordance with the international and Community standards in force.

2. Whenever hazardous waste is transferred, it shall be accompanied by an identification form as referred to in Council Regulation (EC) n°259/93.

storage, hazardous waste is packaged and labelled in accordance with the international and Community standards in force, **when required.**

Justification

Considering their hazardous specificities, hazardous wastes knowledge and traceability are essential conditions to ensure optimum treatment with respect of environmental and safety conditions. The WSR apply to all types of wastes.

For the report keeping, it is important that dealers have the same obligations as producers and that they are preserved for a sufficient amount of time.

AMENDMENT 23

Article 19 Issuing, new

5. Specific permit requirements for hazardous waste are referred to in Article 17 [new].

AMENDMENT 24

Article 25 Registration, new

(1a). Additional specifications about the qualifications and training of these operators and their obligations shall be included in the minimum standards which will be defined according to the procedure referred to in Article 36(2) of this directive.

AMENDMENT 25

ANNEX VI, new

ANNEX VI

ACCEPTATION, TRACEABILITY AND CONTROLS OF HAZARDOUS WASTE

1. Hazardous waste knowledge

a) Acceptation procedure

Before acceptance in a waste treatment plant, hazardous waste need to be studied and analysed according to a specific procedure.

When the waste is accepted by the operator, an acceptance certificate is delivered.

b) Reception procedure

All hazardous waste reception on plant shall be managed under a dedicated procedure in order to ensure that the receipted waste is the same which has been previously accepted.

2. Hazardous wastes traceability

a) Movement document

Each hazardous waste producer, collector or holder which sent hazardous wastes to treatment operation should join a dedicated movement document which follows the waste from the producer to its destination.

b) Reporting by operators

Obligations of reporting mentioned in article 5 of the E-PRTR draft shall apply to all hazardous wastes producers and treatment operators.

3. Operators qualifications

Hazardous waste has to be managed by workers who have undergone an appropriate training.