



Fédération Européenne des Activités du Déchet et de l'Environnement
European Federation of Waste Management and Environmental Services
Europäische Föderation der Entsorgungswirtschaft

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FEAD POSITION

On the proposed criteria to qualify municipal waste incinerators as

Recovery operation (R1) or Disposal operation (D10)

- Having regard to the Commission proposal COM (2005) 667 final,
- Having regard to the report of the Rapporteur Dr. Caroline Jackson,
- Having regard to the amendments tabled on the report and
- Having regard to the vote result in the ITRE Committee

November 2006

1) Position Summary and the proposal of the Commission

The waste management industry supports the following points in the Commission's proposal:

- Incinerators dedicated to municipal waste may be considered as "Recovery Operations";
- A criterion is laid down to determine the requested level of recovery efficiency;
- This criterion is determined by an integrated approach and therefore based on the Best Available Techniques Achievable Levels (so called BATAELs) which are set out in the Incineration BREF;
- In order to simplify, one main parameter could be used, namely the energy efficiency, however it should not exclude other aspects from being taken into consideration;
- A minimum efficiency is required to encourage decisions in favour of the environment.

In addition, the waste management industry would like to stress that:

- Although it could seem to be fair at first glance, it is in fact inequitable to set the same high threshold for every plant :
 - For instance, if the same plant, generating electricity only, was moved from Spain to Scandinavia, it will produce 10% more just because the average ambient temperature is 15 to 20°C lower there.
 - And, if the plant was exporting heat in addition to electricity, the difference would be much bigger (up to 50% and even 70% more in some cases) because



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- of the numerous District Heating Networks using much more heat *per capita* during much colder and longer winter periods.
- On the other hand, due to the size effect of the plant, the impact on as well as the additional costs required to obtain the latest efficiency improvements, are much higher per tonne of waste treated in a small plant compared to a large installation.
- The EU has furthermore organised an information exchange of view forum on incineration of waste. 110 experts represented the Member States, the Industry and NGOs which worked 3 years on drafting a document of Reference on the Best Available Techniques on incineration (the Waste Incineration BAT Reference document or WI-BRef) which was finalised in 2005.

The WI-BRef describes the performance achievable when using the Best Available Techniques. Among other things, this BRef provides the energy efficiency associated with the use of the Best Available Techniques. This efficiency has been set up as a range in order to take into account the different local conditions all over Europe, and it derives from a common agreement among all the experts.

- Surprisingly the criterion (equation and threshold: 'efficiency' > 0.6 or 0.65 for new plants) set out in Annex 2 of the draft proposal on a revised Waste Framework Directive is different from the BREF statement e.g.: The equation is not included in the BREF and the thresholds are much higher than the levels set out in BAT recommendation nr 62 for plants implementing the Best Available Techniques.
 - Nobody has to our knowledge been informed of any technical/environmental justification for the thresholds being 0.6 and 0.65
- The proposed criterion is not the one selected in the 'Preferred set of options' in the Impact Assessment of the Thematic Strategy for Prevention and Recycling of waste, and
- Requesting annual data would create a permanent uncertainty about the Recovery/Disposal status and likely changes constitute hence an unmanageable approach in practice.

2) Amendments tabled in the ENVI and the ITRE Committees

The waste management industry has identified 3 types of amendments on R1 amongst the tabled amendments in the ENVI and the ITRE Committees.

i) Amendments denying that Waste-to-Energy plants can be qualified as Recovery operations:

Among these amendments are the following: no. 576, 577, 579 of the ENVI Committee.



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We invite the MEPs to reject these amendments. These proposals completely ignore the fact that the recovery of energy is highly resource saving¹ and therefore a source of nuisance reduction² which can be as environmentally favourable as recycling and even more in cases where the energy export efficiency is fair.

ii) - Amendments proposing to delete the criterion proposed by the Commission to determine the Recovery status of Waste-to-Energy plants

These amendments include: no. 580, 581, 582, 583, 584, 585, of the ENVI Committee and no 154 of the ITRE Committee

We invite the MEPs to reject these amendments.

On the basis of the sentence “Use principally as a fuel or other means to generate energy”, the Court of Justice has in C- 458/00 ruled that Municipal Waste-to-Energy plants were not Recovery operations. The main justification for this result is the fact that their primary purpose was to treat waste. Co-incineration facilities on the other hand were regarded Recovery operations; their primary purpose being different (production of cement or other products, energy generation). This interpretation prevents any Waste-to-Energy plant to obtain the Recovery status, despite the level of recovery performance. Against this backdrop, a criterion is urgently needed in order to determine when a Waste-to-Energy plant is “efficient enough” to qualify as a Recovery operation.

A justification presented in some of the proposals calling for a deletion (e.g. ENVI no 581) is the lack of measures controlling emissions. It is however obvious that any treatment operation must comply with environment protection rules, whatever is its status (Recovery or Disposal).

iii) - Amendments proposing to adapt the criterion proposed by the Commission to determine the Recovery status of Waste-to-Energy plants

These amendments include: no. 38, 589, 590, 591 of the ENVI Committee and nr. 22, 153 of the ITRE Committee

We strongly encourage the MEPs to support amendment nr 591-ENVI

Amendment no 591-ENVI is fully in accordance with the result of the work carried out by

¹ EUROSTAT reports that incineration with energy recovery in the ERU produces about 8 million tonnes oil equivalent of energy [*per year*]. This can be estimated to represent an avoidance of 15 to 21 million tonnes CO₂ equivalent, i.e. roughly 0.5% of EU total greenhouse gas emissions.. See this quotation in letter dated 24/8/2006 from Mr Dimas to Mr Florenz, MP, about R1/D10 on p. 6.

² Energy-from-Waste plants save the emissions bound to the use of the saved fuels, fossil fuels etc. And, due to the fact that the emission limits are much stricter in Europe for Incineration than for any other thermal process, including thermal plants and any other waste treatment process, the global balance of the emissions of Waste-to-Energy plants versus other treatment ways plus energy generation facility is often the most favourable to the environment and Health.



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the Member States and experts assessing the energy efficiency, achievable when applying the Best Available Techniques.

The formula, the equivalent factors and the thresholds are simpler and equal to the Waste Incineration BREF 2005. The thresholds are diverse allowing the European local situations to be taken into account. This approach is in line with the recommendation of the Commission as 'Preferred set of options' in the Impact assessment (see p. 56) related to the Thematic Strategy on Prevention and Recycling of Waste.

Alternatively, Amendment nr 38-ENVI (or 22-ITRE) would be acceptable, although it maintains a rather complex equation and does not offer a threshold adapted to local situations. However it is essential that the threshold remains unchanged (0.45 for existing plants and 0.5 for new plants). A higher threshold would be inaccessible to small plants or plants located in the South Western part of the European Union, which would be an unfair discrimination causing substantial uncertainty and harm.

iv) – Conclusion

Energy recovery is - as the title suggests - recovery and must be regarded as such. It is therefore of utmost importance for the waste management industry that legal certainty and clarification is ensured, preferably in the present revision of the Waste Framework Directive. Some kind of firm guidance is needed now and should not be postponed for a later and doubtful process.

The waste management industry regards amendment no. 591 as the optimal solution which creates a fair level-playing field within the Members States.

Should amendment no. 591 not be adopted, the sector would acknowledge amendment no. 38 of the Rapporteur Caroline Jackson as it provides some clarification and is accessible for some plants.

Finally, in the event that no criteria or threshold are adopted in the up-coming reading, then the waste management industry strongly recommend to include an obligation for the Commission to come up with a new proposal on this issue at the latest ...[24 – 36 months]... after the adoption of the Waste Framework Directive.