



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

FEAD POSITION
ON COMMISSION PROPOSAL FOR A DIRECTIVE
ESTABLISHING A FRAMEWORK FOR THE PROTECTION OF SOIL (COM(2006)232)
March 2007

1. Introduction

FEAD welcomes the Commission's Thematic Strategy for Soil Protection and its linked proposed framework Directive ensuring a common strategy for the protection and sustainable use of soil at European level.

The waste management industry recognises the importance of soil protection and therefore constantly works to minimise risks and negative effects to the land. Reflecting the ongoing discussion on climate change it is also necessary to keep the focus on the protection of European soils. Soils are directly affected by gradually changing climate conditions (e.g. desertification). An additional degradation of the quality of soils potentially changes the function of soils from a natural CO₂-sink to a future CO₂-source.

2. Streamlining legislation

The waste management sector is already well regulated in terms of risk prevention and environmental protection at European level. Therefore, FEAD suggests that overlaps between the proposal and existing legislation are appropriately assessed.

In particular, FEAD considers that the overlap between the proposed Directive and Directive 2004/35/EC on Environmental Liability should be carefully analysed. Both texts aim at preventing and remedying environmental damages and cover most specifically waste management activities (see annex III of Directive 2004/35/EC and annex II of the proposal).

Moreover, Directive 1996/61/EC concerning Integrated Pollution Prevention and Control (IPPC) lays down measures for the prevention of emissions in the air, water and land from specific activities, including waste management activities (annex I). These measures include the grant of a permit enabling the installation to operate.

Furthermore, overlaps between the proposed Directive and the proposal for the Revision of the Waste Framework Directive (WFD) should be considered. The Commission proposal on the Waste Framework Directive (see Art. 2, para. 1) excludes "unexcavated contaminated soils" from the scope "as regards certain specific aspects of those categories which are already covered by other Community legislation". Considering that the proposal on Soil Protection refers to "contaminated sites" and does not cover all aspects, it could be argued that the WFD applies to a certain extent. A clarification on how the proposal on Soil Protection and the WFD relate would therefore be required.

FEAD therefore calls for a streamlining of requirements for waste management activities under the Environmental Liability Directive, the IPPC Directive, the WFD and the proposed Directive on Soil Protection.

APOH, Slovakia
ARS, Romania
ASELIP, Spain
AVFALL NORGE, Norway
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BDE, Germany
CAOH, Czech Republic
ESA, UK
FEBEM-FEGE, Belgium
FISE, Italy

FLEA, Luxembourg
FNADE, France
IWMA, Ireland
JLY, Finland

KSZGYSZ, Hungary
PASEPPE, Greece
PIGO, Poland
VA, Netherlands
VÖEB, Austria

3. Soil protection and landfills

Landfills are IPPC installations, but they are managed under the dedicated Directive 1999/31/EC on the Landfill of Waste. They are specifically designed and shaped to prevent any threat to soil and water. Dedicated prescriptions are set all along the conception, operation and after-care in this purpose. Provisions on safety barriers and limit values for waste going to landfill are also set out in the Landfill Directive.

This is the reason why it is important to distinguish between landfills that are subject to the Landfill Directive and landfills that are not. One of the most important objectives of the Landfill Directive is to prevent soil pollution.

FEAD is therefore of the opinion that landfills falling within the scope of the Landfill Directive should be removed from the scope of the future Soil Protection Directive. The list in Annex II should only mention landfills that are not subject to the Landfill Directive.

4. Soil protection and organic matter recycling

FEAD welcomes the inclusion of organic matter decline as a recognised threat to soils. The waste management sector is active in organic matter recycling and considers that an appropriate biological treatment of waste is a solution to tackle the organic matter decline.

FEAD considers that the proposal is unfortunately lacking clear incentives to turn organic matter back into soils. It should be reminded that no dedicated action on the biological treatment of waste was undertaken by the Commission although the European Parliament had urged the Commission to “*draw up a directive on compost*” in its report on the Commission Communication “Towards a Thematic Strategy for Soil Protection” (point 17) and in its first reading report on the Revision of the Waste Framework Directive of 13 February 2007. A chapter on organic matter recycling was therefore expected under the proposed Soil Protection Directive as the European Parliament also stressed “*the need to intensify research in this field so as to boost its potential for the recovery of soil lacking in organic matter and bring together waste management and soil protection and enrichment*” (Report on the Commission Communication “Towards a Thematic Strategy for Soil Protection”, point 17).

The use of organic matter as natural fertiliser declines. Especially in intensive farming more and more mineral fertilisers displace the use of organic matter which has been re-introduced into the soils. Fossil fertilisers like nitrogen, require a very high consumption of fossil gas to be produced. Other mineral fertilisers as phosphorus and potassium are mostly imported from outside the EU. Their extraction/manufacturing and transport contribute to greenhouse gas emissions.

Unlike mineral fertiliser, non-fossil fertilisers and exogenous organic matter – such as compost as derived from organic waste treatment - contribute to an improved soil fertility, reduce soil erosion and compaction and save greenhouse gas emissions as an energy-intensive production of fossil fertilisers is not required.

Specific consideration in the legislative framework on soil protection should therefore be given to quality exogenous organic matter as suitable for land spreading, mineral quarry restoration, landfill restoration, land remediation, landscaping, topsoil blending ... in the proposed Directive.

FEAD therefore considers that the proposal should be more ambitious on organic matter recycling and on the use of compost.

5. Soil protection and decontamination

Soil is a non-renewable natural resource. In order to ensure its sustainable use and preserve its characteristics, it is necessary to establish well-considered, operational and practical tools providing clear guidance to the Member States and stakeholders concerned. As of today, risk assessment methodologies vary from one Member State to another (and even from one region to another).

FEAD finds it important to take a holistic approach by developing European guidelines for risk assessment methodologies and integrating the preservation of soil in e.g. food security.

In order to foster remediation activities, it is necessary to create financial incentives for remediation. Significant public awareness and/or fiscal and financial instruments should consequently also be considered, promoting the development of brown field reuse rather than green field. Given the fact that the polluter might not be identifiable, funding mechanisms would hence facilitate the preservation aim of the Directive.

The Directive should therefore include a non-exhaustive list of instruments and incentives for remediation. The proper working of such mechanisms is important in order to create and ensure, with a benefit for the environment, the much needed confidence of investors acting in the remediation sector.

6. Streamlining of remediation authorisation procedures/inventory

In most Member States procedures for site remediation involve more sectoral areas of existing legislation. Uncertainty in authorisation procedures is the main hurdle to remediation activities. Authorization procedures for remediation need hence to be streamlined avoiding problems linked to the coordination of the various sectoral areas. Delays in remediation activities due to unclear procedures and/or various traditions for risk assessment methodologies for contaminated sites put risk at human health and environment. This should be avoided and replaced by creating an EU level playing field.

FEAD is of the opinion that authorisation procedures for remediation must be streamlined.

However, the set up of the inventory of contaminated sites will have to take the above mentioned differences into consideration as well as the experience and knowledge achieved in the Member States in which such inventory is well incorporated.

FEAD considers that the procedure developed for the inventory of contaminated sites should be consistent with the procedures developed under the IPPC Directive. Most of industrial sectors are regulated under the IPPC Directive and apply the corresponding Best Available Techniques. The inventory procedures should therefore take into account the existing knowledge on soil protection developed in order to comply with IPPC permits. Dedicated procedures should only be defined in the proposal for installations falling out of the scope of the IPPC Directive.

FEAD is of the opinion that the Soil Directive should take into account both the progress made by Member States already requesting an inventory procedure and existing requirements for sectors covered by the IPPC Directive.

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FEAD is the European Federation which represents the European waste management industry. Our members are national waste management associations, which have an approximate 60% share in the household waste market and handle more than 90% of industrial and commercial waste in Europe, with a collective annual turnover of € 50 billion.

We have 19 members from 18 EU Member States and Norway. FEAD represents companies with activities in all forms of waste management. These companies employ over 300 000 people who operate around 3 000 controlled landfills, 1 350 recycling and sorting centres, 1 000 composting sites and 350 incinerators and play an important role in the determination of the best environmental option for waste management problems.
