

Waste Framework Directive

2005/0281(COD) - 21/12/2005 - Legislative proposal

PURPOSE : to revise the Waste Framework Directive, and repeal both Directive 91/689/EEC by integrating the provisions in the waste framework Directive and Directive 75/439/EEC, while integrating the specific collection obligation.

PROPOSED ACT : Directive of the European Parliament and of the Council.

CONTENT : the main amendments to the Waste Framework Directive are as follows:

- The introduction of an environmental objective.
- The clarification of the notions of recovery and disposal.
- The clarification of the conditions for the mixing of hazardous waste.
- The introduction of a procedure to clarify when a waste ceases to be a waste for selected waste streams.
- The introduction of minimum standards or a procedure to establish minimum standards for a number of waste management operations.
- The introduction of a requirement to develop national waste prevention programmes.

The principal reason for the revision of the Waste Framework Directive (Directive 75/442/EEC) is that the Thematic Strategy on the prevention and recycling of waste has identified three principal reasons for undertaking a revision of that Directive:

1) It has become evident that a certain number of definitions in Directive 75/442/EEC are not sufficiently clear, leading to uncertainty in the interpretation of these key provisions. Partly as a consequence of this, a significant number of cases have required an interpretation from the European Court of Justice. This has led to considerable difficulties for economic operators and competent authorities. The issues where there is a lack of legal certainty concern principally the definition of waste and the distinction between recovery and disposal.

2) The Thematic Strategy introduces a new approach to waste policy that is better adapted to a situation where most of the significant waste management operations are now covered by environmental legislation. It is important that the Waste Framework Directive is adapted to this approach. This requires a number of changes. The most significant is the introduction of an environmental objective, which focuses the Directive on the reduction of environmental impacts from waste generation and management, taking into account the whole life-cycle. It takes this focus from the Resource Strategy.

Another important part of this strategic change is the move to a more standards based approach. This proposal reinforces standards in a number of areas through the application of minimum standards, clear recovery definitions and the use of end of waste criteria.

3) This proposal strives to simplify the existing legal framework. It would repeal the Directive 75/439/EEC on the disposal of waste oils and integrate Directive 91/689/EEC on hazardous waste into the Waste Framework Directive. The Waste Oil Directive set out a priority for waste oils regeneration over other recovery options that are no longer justified. The provisions of the Hazardous Waste Directive are closely

connected with the Waste Framework Directive and their integration into consolidates and simplifies legislation.

In addition, in the field of permitting of waste installations, the Waste Framework Directive operates in conjunction with Directive 96/61/EC concerning integrated pollution prevention control (the IPPC Directive). In the past, there have been overlaps between these two Directives that have lead to double permitting and an unnecessary increase in regulatory and administrative burden. Although these have mainly been created by Member State implementation of the Directives, this Directive contains explicit wording to make clear that this double permitting is not required by EU law.

The main points of the proposal are as follows:

- the new **objective** refocuses the Waste Framework Directive on the environmental impacts of the generation and management of waste, taking into account the life cycle of resources. It links the 'waste hierarchy', formerly contained in Article 3 of Directive 75/442/EEC, to this objective, without changing the order or nature of the hierarchy. The wording of the hierarchy is modernised, in order to take into account evolutions in the nature of the terms used;
- the **scope** is amended in order to restrict the notion of 'covered by other legislation' to Community legislation only. This is in order to improve legal certainty and to ensure a minimum coverage at the Community level. It also includes new exclusions on contaminated unexcavated soil, animal by-products and agricultural by-products;
- the **definition** of waste is unchanged, but a mechanism is added in Chapter III to allow the possibility of clarifying when certain wastes cease to be wastes by specifying criteria via a comitology process for those waste streams that meet the tests set out. The definition of re-use is defined in the same way as it is in the Packaging and Packaging Waste Directive. A definition of recycling is added in order to clarify the scope of this notion. The definition of collection is revised to clarify that it covers the act of collecting the waste and bringing it together in order that such waste may be transported to the appropriate waste treatment site, but not the waste treatment operations involved with mixing or sorting the waste. There is a revised definition of recovery that confirms that the basis for this definition is the substitution of resources. In combination with the definition of disposal, it allows for the settling of difficult distinctions via the setting of efficiency criteria where appropriate. It also contains procedures that allow for the clarification of the classification of certain waste operations as recovery or disposal, where this is necessary, via a comitology process;
- the **cost of treatment** is extended to recovery operations as well as disposal operations. It is amended to make it clear that the costs of waste management that must be borne by the waste holders or producer should reflect the full externalities of the disposal or recovery of such waste. In other words it should reflect the real cost of the generation and management of such waste on the environment;
- the provisions on hazardous waste are incorporated from the Hazardous Waste Directive into the revised Waste Framework Directive. The definition of hazardous waste is revised to clarify the notion of domestic waste and its exclusion from the definition;
- the article on the separation of hazardous wastes is incorporated from the Hazardous Waste Directive into the revised Waste Framework Directive. The derogation to the mixing ban is maintained, but is made subject to conformity with Best Available Techniques. The reference to 'safety' is removed, as it is not now a term used in waste legislation;
- the Article on the labelling of hazardous wastes is incorporated from the Hazardous Waste Directive into the revised Waste Framework Directive;

- the Article on mineral waste oils carries over the obligation to separately collect such waste oils from the Waste Oil Directive;
- the proposal specifies that an establishment that has an IPPC permit does not in addition require a Waste Framework Directive permit. The Commission is to set minimum standards for permits through comitology where this would be necessary. The conditions under which permit exemptions may be granted for waste and hazardous waste are set out;
- the provisions on **waste management plans** have been redrafted in order to make clearer what should be contained in a waste management plan. It also specifies that a life-cycle approach should be taken to the elaboration of these plans;
- there are specific provisions on **waste prevention**, requiring the Member States to draw up waste prevention programmes and setting down the conditions under which those programmes should be developed;
- provisions on inspection are reinforced by a specific requirement to cover the origin and destination of the waste collected and transported.

Finally, there is a review clause as well as the previous reporting measures.