

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 22 December 1986

amending Directive 75/439/EEC on the disposal of waste oils

(87/101/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Council Directive 75/439/EEC ⁽⁴⁾ provides that Member States shall take the necessary measures to ensure the safe collection and disposal of waste oils and to ensure that, as far as possible, the disposal of waste oils is carried out by recycling (regeneration and/or combustion other than for destruction);

Whereas regeneration is generally the most rational way of re-using waste oils in view of the energy savings which can be achieved; whereas therefore, priority should be given to the processing of waste oils by regeneration, where technical, economic and organizational constraints allow it;

Whereas, in the present state of Community law, Member States may, under certain conditions, ban the combustion of waste oils on their territory; whereas this Directive is not intended to change this state of law;

Whereas the burning of waste oil generates waste gases containing substances which are harmful to the environment when emitted above certain concentration; whereas measures laying down arrangements for burning waste oils should, therefore, be taken;

Whereas it is desirable to improve the efficiency of waste oil collection and to tighten up monitoring in this area;

Whereas, in view of the particularly dangerous character of PCB/PCTs, it is necessary to strengthen Community law concerning the combustion or the regeneration of waste oils contaminated by these substances;

Whereas Member States should have the possibility, whilst respecting the conditions of the Treaty, to take more stringent measures for the purpose of environmental protection,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 75/439/EEC is hereby amended as follows:

1. Articles 1 to 6 shall be replaced by the following:

Article 1

For the purposes of this Directive:

— “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, and also mineral lubricating oils, oils for turbines and hydraulic oils;

— “disposal” means:

the processing or destruction of waste oils as well as their storage and tipping above or under ground;

⁽¹⁾ OJ No C 58, 6. 3. 1985, p. 3.

⁽²⁾ OJ No C 255, 13. 10. 1986, p. 269.

⁽³⁾ OJ No C 330, 20. 12. 1985, p. 32.

⁽⁴⁾ OJ No L 194, 25. 7. 1975, p. 23.

- “*processing*” means :
operations designed to permit the re-use of waste oils, that is to say, regeneration and combustion ;
- “*regeneration*” means :
any process whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, oxidation products and additives contained in such oils ;
- “*combustion*” means :
the use of waste oils as fuel with the heat produced being adequately recovered ;
- “*collection*” means :
all operations whereby waste oils can be transferred from the holders to undertakings which dispose of such oils.

Article 2

Without prejudice to the provisions of Directive 78/319/EEC ⁽¹⁾, Member States shall take the necessary measures to ensure that waste oils are collected and disposed of without causing any avoidable damage to man and the environment.

⁽¹⁾ OJ No L 84, 31. 3. 1973, p. 43.

Article 3

1. Where technical, economic and organizational constraints so allow, Member States shall take the measures necessary to give priority to the processing of waste oils by regeneration.
2. Where waste oils are not regenerated, on account of the constraints mentioned in paragraph 1 above, Member States shall take the measures necessary to ensure that any combustion of waste oils is carried out under environmentally acceptable conditions, in accordance with the provisions of this Directive, provided that such combustion is technically, economically and organizationally feasible.
3. Where waste oils are neither regenerated nor burned, on account of the constraints mentioned in paragraphs 1 and 2, Member States shall take the measures necessary to ensure their safe destruction or their controlled storage or tipping.

Article 4

Member States shall take the necessary measures to ensure the prohibition of :

- (a) any discharge of waste oils into inland surface water, ground water, territorial sea water and drainage systems ;

- (b) any deposit and/or discharge of waste oils harmful to the soil and any uncontrolled discharge of residues resulting from the processing of waste oils ;
- (c) any processing of waste oils causing air pollution which exceeds the level prescribed by existing provisions.

Article 5

1. Where necessary in order to achieve the objectives of this Directive and without prejudice to the provisions of Article 2, Member States shall carry out public information and promotional campaigns to ensure that waste oils are stored appropriately and collected as far as possible.

2. Where the objectives defined in Articles 2, 3 and 4 cannot otherwise be achieved, Member States shall take the necessary measures to ensure that one or more undertakings carry out the collection and/or disposal of waste oils offered to them by holders, where appropriate in the area assigned to them by the competent authorities.

3. To achieve the objectives defined in Articles 2 and 4, Member States may decide to allocate the waste oils to any of the types of processing set out in Article 3. To this end, they may institute appropriate checks.

4. To ensure compliance with the measures taken pursuant to Article 4, any undertaking which collects waste oils must be subject to registration and adequate supervision by the competent national authorities, possibly including a system of permits.

Article 6

1. In order to comply with the measures taken pursuant to Article 4, any undertaking which disposes of waste oils must obtain a permit. Where necessary, this permit shall be granted after examination of the installations.

2. Without prejudice to the requirements laid down by national and Community provisions with a purpose other than that of this Directive, a permit may be granted to undertakings which regenerate waste oils or use waste oils as fuel only where the competent authority has satisfied itself that all appropriate environmental and health protection measures have been taken, including use of the best technology available, where the cost is not excessive.

Article 7

Where waste oils are regenerated, Member States shall take the measures necessary to ensure that :

- (a) the operation of the regeneration plant will not cause avoidable damage to the environment.

To this end, the Member States shall ensure that the risks associated with the quantity of residues of regeneration and with the toxic and dangerous character of such residues are reduced to a minimum and that the residues are disposed of in accordance with Article 9 of Directive 78/319/EEC;

- (b) the base oils derived from regeneration do not constitute a toxic and dangerous waste as defined in Article 1 (b) of Directive 78/319/EEC and do not contain polychlorinated biphenyls and polychlorinated tophenyls (PCB/PCT) in concentrations beyond the limits laid down in Article 10.

Member States shall inform the Commission of these measures. On the basis of this information, the Commission shall, within five years of the date of notification of this Directive, submit a report to the Council, accompanied if necessary by appropriate proposals.

Article 8

1. Without prejudice to the provisions of Directive 84/360/EEC⁽¹⁾ and Article 3 (1) of this Directive, where waste oils are used as fuel, Member States shall take the measures necessary to ensure that operation of the plant will not cause any significant level of air pollution, in particular by the emission of substances listed in the Annex. To this end:

- (a) Member States shall satisfy themselves that in the case of the combustion of oils in plants with a thermal input of 3 MW or more based on the lower heating value (LHV), the emission limit values set in that Annex are being observed.

Member States may at any time set limit values more stringent than those given in the Annex. They may also set limit values for substances and parameters other than those listed in the Annex;

- (b) Member States shall take such measures as they consider necessary to ensure that combustion of waste oils in plants with a thermal input of less than 3 MW based on the lower heating value (LHV) is subject to adequate control.

They shall inform the Commission of these measures. On the basis of this information the Commission shall, within five years of the date of notification of this Directive, submit a report to the Council, accompanied if necessary by appropriate proposals.

2. The Member States shall further ensure that:

- (a) the residues from the combustion of waste oils are disposed of in accordance with Article 9 of Directive 78/319/EEC;

- (b) the waste oils used as fuel do not constitute a toxic and dangerous waste as defined in Article 1 (b) of Directive 78/319/EEC and do not contain PCB/PCT in concentrations beyond 50 ppm;

3. Observance of the limit values set out in the Annex may alternatively be ensured by means of an appropriate system of control of concentrations of pollutants in waste oils, or mixtures of waste oils and other fuels, intended for combustion taking account of the technical characteristics of the plant.

In the case of plants where emissions of substances listed in the Annex may arise additionally from heating products, Member States shall ensure, through an established control system, that the proportion of these substances arising from the combustion of waste oils does not exceed the limit values fixed in the Annex.

⁽¹⁾ OJ No L 188, 16. 7. 1984, p. 10⁷

2. Article 7 becomes Article 9.

3. Articles 8 and 9 are deleted.

4. A new Article 10 is inserted to read as follows:

Article 10

1. During storage and collection, holders and collectors must not mix waste oils with PCBs and PCTs within the meaning of Directive 76/403/EEC⁽¹⁾ nor with toxic and dangerous waste within the meaning of Directive 78/319/EEC.

2. Except as provided for in paragraph 3, the provisions of Directive 76/403/EEC shall apply to waste oils containing more than 50 ppm of PCB/PCT.

Member States shall further take such special technical measures as are necessary to ensure that any waste oils containing PCB/PCT's are disposed of without any avoidable damage to man and the environment.

3. The regeneration of waste oils containing PCBs or PCTs may be permitted if the regeneration processes make it possible either to destroy the PCBs and PCTs or to reduce them so that the regenerated oils do not contain PCB/PCT beyond a maximum limit which in no case may exceed 50 ppm.

4. The reference method of measurement to determine the PCB/PCT content of waste oils shall be fixed by the Commission after consultation of the Committee for adaptation to technical progress established under Article 18 of Directive 78/319/EEC.

5. Waste oils contaminated by substances which fall within the definition of toxic and dangerous waste as laid down in Article 1 (b) of Directive 78/319/EEC shall be disposed of in accordance with the provisions of that Directive.

(¹) OJ No L 108, 26. 4. 1976, p. 41.

5. Article 10 becomes Article 11.

6. Article 11 becomes Article 12, and is amended to read as follows:

Article 12

Any undertaking which collects, holds and/or disposes of waste oils must convey to the competent authorities, at their request, any information concerning the collection and/or disposal of waste oils or their residues.

7. Article 12 becomes Article 13 and is amended to read as follows:

Article 13

1. The undertakings referred to in Article 6 shall be inspected periodically by the Member States, particularly as regards their compliance with the conditions of their permits.

2. The competent authorities shall examine trends in the state of technical development and/or of the environment with a view to revising, where necessary, permits granted to undertakings in accordance with this Directive.

8. Articles 13 and 14 become Articles 14 and 15 respectively.

9. A new Article 16 is added to read as follows:

Article 16

Member States may, whilst respecting the provisions of the Treaty, take measures for the purpose of environmental protection which are more stringent than those provided for in this Directive.

Such measures may, under the same provisions, include *inter alia* the prohibition of the combustion of waste oils.

10. Articles 15 and 16 become Articles 17 and 18 respectively.

11. The Annex to this Directive shall be added.

Article 2

Member States shall take the measures necessary to comply with this Directive with effect from 1 January 1990 and shall forthwith inform the Commission thereof.

Article 3

The measures adopted by Member States pursuant to this Directive may be progressively applied to the undertakings referred to in Article 6 of Directive 75/439/EEC existing at the time of notification of this Directive, within seven years of the said notification (¹).

Article 4

Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 22 December 1986.

For the Council

The President

G. SHAW

(¹) This Directive was notified to the Member States on 13 January 1987.

ANNEX

Emission limit values ⁽¹⁾ for certain substances emitted as a result of the combustion of waste oils in plants with a thermal input of 3 MW (LHV) or more

Pollutant	Limit value mg/Nm ³
Cd	0,5
Ni	1
Cr	either ⁽²⁾ 1,5 or ⁽²⁾ 5
Cu	
V	
Pb	
Cl ⁽³⁾	100
F ⁽⁴⁾	5
SO ₂ ⁽⁵⁾	—
Dust (total) ⁽⁵⁾	—

⁽¹⁾ These limit values, which may not be exceeded when waste oils are burned, indicate the mass concentration of emissions of the aforementioned substances in waste gas, in terms of the volume of waste gas in the standard state (273 K ; 1 013 hPa), after deduction of the water vapour moisture content, and of a 3 % oxygen content by volume in waste gas.

In the case of the second subparagraph of Article 8 (3), the oxygen content will be that which corresponds to normal operating conditions in the particular process concerned.

⁽²⁾ It shall be for the Member States to lay down which of these options shall apply in their country.

⁽³⁾ Inorganic gaseous compounds of chlorine expressed as hydrogen chloride.

⁽⁴⁾ Inorganic gaseous compounds of fluorine expressed as hydrogen fluoride.

⁽⁵⁾ It is not possible to determine limit values for these substances at this stage. The Member States will independently set emission standards for discharges of these substances taking into account the requirements of Directive 80/779/EEC (OJ No L 229, 30. 8. 1980, p. 30).

STATEMENT

The Article 10 (3) of Directive 75/439/EEC

The Council considers that the limit given in Article 10 (3) is in fact a maximum limit for the output of the regeneration process. Bearing in mind the desirability of eliminating PCB/PCT wherever possible from the environment, it invites Member States to make every effort to stay well below this limit. It further invites the Commission to review this limit and to come forward with appropriate proposals for a new limit within five years of the notification of this Directive.