



*EU Environmental Policy Briefing**

Final Agreement Reached on Revision to the Waste Framework Directive

4 July 2008

The revision of the waste framework Directive, which has been under negotiation since a Commission proposal in 2005, has finally been completed. The revision aimed to make EU waste legislation more coherent and efficient, and included the incorporation of the waste oils and hazardous waste Directives into the revised framework Directive. With the adoption of its second reading opinion during the June plenary session, the European Parliament approved a deal reached with the Council earlier in the month¹. Key elements of the agreement include: a groundbreaking (if watered down) new general recycling target; upgrading of the waste hierarchy to a ‘priority order’; and the reclassification of waste-to-energy incinerators as recovery. NGOs, environmental groups and some MEPs have expressed disappointment that the agreement does not go far enough, particularly in terms of the recycling targets and waste prevention. Several industry groups conversely believe that the targets will be too burdensome for small businesses, that the Directive will obstruct movement towards a single market for waste, and that it represents a ‘missed opportunity’ to create a genuine recycling society.

Targets

The text as agreed between the Parliament and Council sets the EU’s first ever overall **reuse and recycling** targets. Member States ‘shall take the necessary measures’ to reuse and recycle:

- 50 per cent of waste materials such as paper, metal and glass from households and similar waste streams by 2020; and
- 70 per cent of construction waste by 2020.

To enable these targets to be met, the Directive requires separate collection to be set up for at least for paper, metal, plastic and glass.

Despite the slightly weak wording used (requiring ‘necessary measures’ to be taken rather than explicitly stating binding targets), EU Environment Commissioner Stavros

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Dimas has confirmed that any Member State failing to meet the targets will be taken to court by the Commission for non-compliance.

Environmental groups have criticised the recycling targets as ‘too low to address the urgency of resource and climate threats’. The Parliament’s rapporteur (UK Conservative Caroline Jackson), however, believes that the inclusion of any recycling target at all was ‘a very significant achievement’ given this was absent from the Commission’s original proposal.

No binding targets are included for **waste prevention**. MEPs had wanted these incorporated, but to secure a compromise with the Council they dropped their demand. Had MEPs got their way, Member States would have had to commit to stabilise their waste production at 2009 levels by 2012; as the final text stands, Member States will instead have five years from the Directive’s entry into force to put into place national waste prevention programmes. The Commission is also asked to prepare, by 2011, an interim report on waste prevention and generation, and to prepare a final report by the end of 2014 to include, if deemed appropriate, proposals for waste prevention targets and decoupling objectives for 2020.

The Parliament had also proposed adding a target for recycling **manufacturing and industrial waste**, but this was rejected by the Council. The Commission will, however, examine the targets by 2020 and may reinforce them or consider setting targets for other waste streams.

Waste Hierarchy

The waste hierarchy has been implicitly used to guide waste management in Europe for many years, ie giving preference to different waste operations in the following order: prevention, reuse, recycling, other recovery operations (including incineration as explained below), and safe and environmentally sound disposal as a last resort. The Council had proposed that the five-step waste management hierarchy be included in the new Directive but only as a ‘guiding principle’; however, MEPs were successful in their quest to see it included as a ‘priority order’, giving a much stronger legal status to the hierarchy. Departing from the hierarchy may nonetheless still be possible if it can be justified by broader impacts within the ‘life cycle’ associated with the generation and management of a particular type of waste.

Incineration

Perhaps the most controversial element of the agreed text, and certainly one of the biggest stumbling blocks in negotiations between the Parliament and Council, is the reclassification of waste-to-energy incinerators as recovery facilities. One caveat placed on this is that the incinerators in question must meet certain efficiency standards. MEPs had argued for incineration to be classed as a disposal operation, but in the final compromise agreement they accepted the Council’s preferred option to categorise it as recovery.

Other Aspects

Articles 5 and 6 of the Directive provide definitions of by-products and of the ‘end-of-waste’ status respectively:

- **By-products:** substances or objects resulting from a production process which does not have as its primary aim the production of that item. A by-product can

only be defined as non-waste if further use of the substance/object is certain, it can be used without further processing, it is an integral part of a production process, and its further use is lawful.

- **End-of-waste status:** certain wastes shall cease to be waste when they have undergone a recovery operation (including recycling) and comply with a set of specific criteria to be developed in accordance with certain conditions (it is a substance/object commonly used for specific purposes, a market or demand exists for it, it fulfils the technical requirements for specific purposes and meets existing legislation/standards, and its use will not lead to overall adverse environmental or human health impacts). End-of-waste specific criteria should be considered at least for aggregates, paper, glass, metal, tyres and textiles. These will be set through the comitology process.

Next Steps

The text of the waste framework Directive as agreed by the Parliament must now be formally approved by the Council (which is likely to take place in the autumn this year) before it can be published in the Official Journal. Once the new Directive is published, Member States will have two years to transpose its provisions into national law.

References

1. European Parliament legislative resolution of 17 June 2008 on the Council Common Position with a view to the adoption of a Directive of the European Parliament and of the Council on waste and repealing certain Directives, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2008-0282+0+DOC+XML+V0//EN&language=EN#BKMD-21>. NB although this is not the official final text, there should be no changes to the text when it is published in the Official Journal.
2. European Parliament press release, 17 June 2008, http://www.europarl.europa.eu/news/expert/infopress_page/064-31746-168-06-25-911-20080616IPR31745-16-06-2008-2008-true/default_en.htm

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