

ANNEX

3. ENVIRONMENT

- 3.1. Council Directive 82/883/EEC of 3 December 1982 on procedures for the surveillance and monitoring of environments concerned by waste from the titanium dioxide industry⁽¹⁾

As regards Directive 82/883/EEC, the Commission should be empowered to adapt to scientific and technical progress the contents of the Annexes as regards parameters listed in the ‘optional determination’ column and reference methods of measurement. Since those measures are of general scope and are designed to amend non-essential elements of Directive 82/883/EEC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 82/883/EEC is hereby amended as follows:

1. Article 9 shall be replaced by the following:

Article 9

The Commission shall adopt the requisite amendments to adapt to scientific and technical progress the contents of the Annexes as regards parameters listed in the “optional determination” column and reference methods of measurement.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(2).;

2. Article 11 shall be replaced by the following:

Article 11

- 1 The Commission shall be assisted by the committee.

- 2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

- 3.2. Council Directive 86/278/EEC of 12 June 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture⁽²⁾

As regards Directive 86/278/EEC, the Commission should be empowered to adapt to technical and scientific progress the provisions of the Annexes. Since those measures are of general scope and are designed to amend non-essential elements of Directive 86/278/EEC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 86/278/EEC is hereby amended as follows:

1. Article 13 shall be replaced by the following:

Article 13

The Commission shall adapt to technical and scientific progress the provisions of the Annexes to the Directive, except for the parameters and values listed in Annexes I A, I B and I C, any factors likely to affect the evaluation of the values, and the parameters for analysis referred to in Annexes II A and II B.

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Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 15(2).;

2. Article 15 shall be replaced by the following:

Article 15

- 1 The Commission shall be assisted by the Committee.

- 2 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

- 3.3. European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste⁽⁹⁾

As regards Directive 94/62/EC, the Commission should be empowered to examine and, where necessary, review the illustrative examples for the definition of packaging and to determine the conditions under which concentration levels of heavy metals present in packaging or packaging components will not apply to some materials and product loops, the types of packaging exempted from the requirement regarding concentration levels and the technical measures necessary to deal with any difficulties encountered in applying the provisions of this Directive. Since those measures are of general scope and are designed to amend non-essential elements of Directive 94/62/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 94/62/EC is hereby amended as follows:

1. in Article 3(1), the fourth subparagraph shall be replaced by the following:

The Commission shall, as appropriate, examine and, where necessary, review the illustrative examples for the definition of packaging given in Annex I. As a priority, the following items shall be addressed: CD and video cases, flower pots, tubes and cylinders around which flexible material is wound, release paper of self-adhesive labels and wrapping paper. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).;

2. Article 11(3) shall be replaced by the following:

3. The Commission shall determine the conditions under which the concentration levels referred to in paragraph 1 will not apply to recycled materials and to product loops which are in a closed and controlled chain, as well as the types of packaging which are exempted from the requirement referred to in the third indent of paragraph 1.

Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).;

3. Article 12(3) shall be replaced by the following:

3. In order to harmonise the characteristics and presentation of the data produced and to make the data of the Member States compatible, Member States shall provide the Commission with their available data in formats which shall be adopted

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on the basis of Annex I II, in accordance with the regulatory procedure referred to in Article 21(2).;

4. Article 19 shall be replaced by the following:

Article 19

Adaptation to scientific and technical progress

1. The amendments necessary for adapting to scientific and technical progress the identification system (as referred to in Article 8(2) and Article 10, second paragraph, last indent) and the formats relating to the database system (as referred to in Article 12(3) and Annex III) shall be adopted in accordance with the regulatory procedure referred to in Article 21(2).

2. The Commission shall adopt the amendments necessary for adapting to scientific and technical progress the illustrative examples on the definition of packaging (as referred to in Annex I). Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).;

5. Article 20(1) shall be replaced by the following:

1. The Commission shall determine the technical measures necessary to deal with any difficulties encountered in applying the provisions of this Directive, in particular, to inert packaging materials placed on the market in very small quantities (i.e. approximately 0,1 % by weight) in the Community, primary packaging for medical devices and pharmaceutical products, small packaging and luxury packaging. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 21(3).;

6. Article 21(3) shall be replaced by the following:

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

- ^{F1}3.4. Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels

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Textual Amendments

- F1** Deleted by [Directive \(EU\) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels \(codification\)](#).

- 3.5. Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants⁽⁴⁾

As regards Directive 2001/81/EC, the Commission should be empowered to update the methodologies to be used in accordance with Annex III. Since those measures are of general scope and are designed to amend non-essential elements of that Directive, *inter alia*, by

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supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 2001/81/EC is hereby amended as follows:

1. Article 7(4) shall be replaced by the following:
4. Any updating of the methodologies to be used in accordance with Annex III shall be adopted by the Commission. Those measures, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 13(3).;
2. Article 13(3) shall be replaced by the following:
3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
- 3.6. Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community⁽⁵⁾

As regards Directive 2003/87/EC, the Commission should be empowered to adopt provisions necessary for the implementation of Article 11b(5), to adopt guidelines for the monitoring and reporting of emissions, to adopt a Regulation for a standardised and secured system of registries including provisions concerning the use and identification of CERs and ERUs in the Community scheme and the monitoring of the level of such use, to amend Annex III as laid down in Article 22, to approve inclusion of activities and greenhouse gases not listed in Annex I, to draw up any necessary provisions relating to the mutual recognition of allowances under agreements with third countries, and to adopt standardised or accepted methods for monitoring of emissions of other greenhouse gases. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2003/87/EC, *inter alia*, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 2003/87/EC is hereby amended as follows:

1. in Article 11b, paragraph 7 shall be replaced by the following:
7. Provisions for the implementation of paragraphs 3 and 4, particularly in respect of the avoidance of double counting, shall be adopted by the Commission in accordance with the regulatory procedure referred to in Article 23(2). The Commission shall adopt provisions for the implementation of paragraph 5 of this Article where the host party meets all eligibility requirements for JI project activities. Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).;
2. in Article 14(1), the first sentence shall be replaced by the following:

The Commission shall adopt guidelines for the monitoring and reporting of emissions resulting from the activities listed in Annex I of greenhouse gases specified in relation to those activities. Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).;
3. Article 19(3) shall be replaced by the following:

3. In order to implement this Directive, the Commission shall adopt a Regulation for a standardised and secured system of registries in the form of standardised electronic databases containing common data elements to track the issue, holding, transfer and cancellation of allowances, to provide for public access and confidentiality as appropriate and to ensure that there are no transfers which are incompatible with the obligations resulting from the Kyoto Protocol. That Regulation shall also include provisions concerning the use and identification of CERs and ERUs in the Community scheme and the monitoring of the level of such use. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).;
4. Article 22 shall be replaced by the following:

Article 22

Amendments to Annex III

The Commission may amend Annex III, with the exception of criteria 1, 5 and 7, for the period from 2008 to 2012 in the light of the reports provided for in Article 21 and of the experience of the application of this Directive. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).;

5. Article 23(3) shall be replaced by the following:
3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.;
6. Article 24 shall be amended as follows:
- (a) paragraph 1 shall be replaced by the following:
1. Taking into account all relevant criteria, in particular the effects on the internal market, potential distortions of competition, the environmental integrity of the scheme and the reliability of the planned monitoring and reporting system, Member States may, from 2008, apply emission allowance trading in accordance with this Directive to:
- a installations which are not listed in Annex I, provided that inclusion of such installations is approved by the Commission in accordance with the regulatory procedure referred to in Article 23(2), and
 - b activities and greenhouse gases which are not listed in Annex I, provided that the inclusion of such activities and greenhouse gases is approved by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).
- From 2005, Member States may under the same conditions apply emissions allowance trading to installations carrying out activities listed in Annex I below the capacity limits referred to in that Annex.;
- (b) paragraph 3 shall be replaced by the following:

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3. The Commission may, on its own initiative, or shall, on request by a Member State, adopt monitoring and reporting guidelines for emissions from activities, installations and greenhouse gases which are not listed in Annex I if the monitoring and reporting of these emissions can be carried out with sufficient accuracy.

Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).;

7. Article 25(2) shall be replaced by the following:

2. Where an agreement referred to in paragraph 1 has been concluded, the Commission shall adopt any necessary provisions relating to the mutual recognition of allowances under that agreement. Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3).;

8. in Annex IV, the paragraph under the heading ‘Monitoring of emissions of other greenhouse gases’ shall be replaced by the following:

Standardised or accepted methods shall be used, developed by the Commission in collaboration with all relevant stakeholders. Those measures, designed to amend non-essential elements of this Directive, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 23(3)..

F²3.7. Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants

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Textual Amendments

F2 Deleted by [Regulation \(EU\) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants \(recast\) \(Text with EEA relevance\).](#)

3.8. Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air⁽⁶⁾

As regards Directive 2004/107/EC, the Commission should be empowered to adapt certain provisions and Annexes to scientific and technical progress. Since those measures are of general scope and are designed to amend non-essential elements of Directive 2004/107/EC, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Directive 2004/107/EC is hereby amended as follows:

1. Article 4 shall be amended as follows:

(a) paragraph 9 shall be replaced by the following:

9. Irrespective of concentration levels, one background sampling point shall be installed every 100 000 km² for the indicative measurement, in ambient air, of arsenic, cadmium, nickel, total gaseous mercury,

benzo(a)pyrene and the other polycyclic aromatic hydrocarbons referred to in paragraph 8, and of the total deposition of arsenic, cadmium, mercury, nickel, benzo(a)pyrene and the other polycyclic aromatic hydrocarbons referred to in paragraph 8. Each Member State shall set up at least one measuring station. However, Member States may, by agreement, and in accordance with guidelines to be drawn up under the regulatory procedure referred to in Article 6(2), set up one or several common measuring stations, covering neighbouring zones in adjoining Member States, to achieve the necessary spatial resolution. Measurement of particulate and gaseous divalent mercury is also recommended. Where appropriate, monitoring shall be coordinated with the European Monitoring and Evaluation of Pollutants (EMEP) monitoring strategy and measurement programme. The sampling sites for these pollutants shall be selected in such a way that geographical variation and long-term trends can be identified. Sections I, II and III of Annex III shall apply.;

(b) paragraph 15 shall be replaced by the following:

15. Any amendments necessary to adapt the provisions of this Article and of Section II of Annex II and of Annexes III, IV and V to scientific and technical progress shall be adopted by the Commission. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(3). They may not result in any direct or indirect changes to target values.;

2. Article 5(4) shall be replaced by the following:

4. The Commission shall adopt, in accordance with the regulatory procedure referred to in Article 6(2), any detailed arrangements for forwarding the information to be provided under paragraph 1 of this Article.;

3. Article 6(3) shall be replaced by the following:

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.;

4. Annex V, point V shall be replaced by the following:

V. Reference air quality modelling techniques

Reference air quality modelling techniques cannot be specified at present. The Commission may make amendments to adapt this point to scientific and technical progress. Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6(3).

3.9. Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste⁽⁷⁾

As regards Regulation (EC) No 1013/2006, the Commission should be empowered to amend the annexes as laid down in Article 58 of Regulation (EC) No 1013/2006 and to adopt certain additional measures as laid down in Article 59 of Regulation (EC) No 1013/2006. Since those measures are of general scope and are designed to amend non-essential elements of Regulation (EC) No 1013/2006, *inter alia*, by supplementing it with new non-essential elements, they must

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be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

Accordingly, Regulation (EC) No 1013/2006 is hereby amended as follows:

1. in Article 11(3), the third subparagraph shall be replaced by the following:

If there is no satisfactory solution, either Member State may refer the matter to the Commission. The issue shall then be determined in accordance with the regulatory procedure referred to in Article 59a(2).;
2. Article 58 shall be replaced by the following:

Article 58

Amendment of Annexes

1. The Commission may amend the Annexes to take account of scientific and technical progress. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 59a(3). In addition:
 - a Annexes I, II, III, IIIA, IV and V shall be amended to take account of changes agreed under the Basel Convention and the OECD Decision;
 - b unclassified wastes may be added to Annex IIIB, IV or V on a provisional basis pending a decision on their inclusion in the relevant Annexes to the Basel Convention or to the OECD Decision;
 - c following the submission of a request by a Member State, mixtures of two or more wastes listed in Annex III may be considered for inclusion in Annex IIIA in the cases referred to in Article 3(2) on a provisional basis pending a decision on their inclusion in the relevant Annexes to the Basel Convention or to the OECD Decision. Annex IIIA may contain the proviso that one or more of the entries therein shall not apply for exports to countries to which the OECD Decision does not apply;
 - d the exceptional cases referred to in Article 3(3) shall be determined and, where necessary, such waste shall be added to Annexes IVA and V and deleted from Annex III;
 - e Annex V shall be amended to reflect agreed changes to the list of hazardous waste adopted in accordance with Article 1(4) of Directive 91/689/EEC;
 - f Annex VIII shall be amended to reflect relevant international conventions and agreements.
2. When amending Annex IX, the Committee established by Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment⁽⁸⁾ shall be fully associated with the deliberations.;
3. Article 59 shall be replaced by the following:

Article 59

Additional measures

1 The Commission may adopt, in accordance with the regulatory procedure referred to in Article 59a(2), the following additional measures related to the implementation of this Regulation:

- a guidelines for the application of Article 12(1)(g);
- b guidelines on the application of Article 15 in relation to the identification and tracking of waste undergoing substantial changes in the interim recovery or disposal operation;
- c guidelines for the cooperation of competent authorities with regard to illegal shipments as referred to in Article 24;
- d technical and organisational requirements for the practical implementation of electronic data interchange for the submission of documents and information in accordance with Article 26(4);
- e further guidance concerning the use of languages referred to in Article 27;
- f further clarification of the procedural requirements of Title II as regards their application to exports, imports and transit of waste from, to, and through the Community;
- g further recommendations concerning undefined legal terms.

2 The Commission may adopt implementing measures concerning the following:

- a a method for calculating the financial guarantee or equivalent insurance as set out in Article 6;
- b further conditions and requirements in relation to pre-consented recovery facilities as referred to in Article 14.

Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 59a(3).;

4. The following Article shall be inserted:

Article 59a

Committee procedure

1 The Commission shall be assisted by the committee set up by Article 18(1) of Directive 2006/12/EC.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.;

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5. Article 63 shall be amended as follows:

- (a) in paragraph 2, the third subparagraph shall be replaced by the following:

With the exception of glass waste, paper waste and waste pneumatic tyres, this period may be extended until no later than 31 December 2012 in accordance with the regulatory procedure referred to in Article 59a(2).;

- (b) in paragraph 4, the third subparagraph shall be replaced by the following:

This period may be extended until no later than 31 December 2012 in accordance with the regulatory procedure referred to in Article 59a(2).;

- (c) paragraph 5 shall be amended as follows:

- (i) the third subparagraph shall be replaced by the following:

This period may be extended until no later than 31 December 2015 in accordance with the regulatory procedure referred to in Article 59a(2).;

- (ii) the fifth subparagraph shall be replaced by the following:

This period may be extended until no later than 31 December 2015 in accordance with the regulatory procedure referred to in Article 59a(2).

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- (1) OJ L 378, 31.12.1982, p. 1.
- (2) OJ L 181, 4.7.1986, p. 6.
- (3) OJ L 365, 31.12.1994, p. 10.
- (4) OJ L 309, 27.11.2001, p. 22.
- (5) OJ L 275, 25.10.2003, p. 32.
- (6) OJ L 23, 26.1.2005, p. 3.
- (7) OJ L 190, 12.7.2006, p. 1.
- (8) OJ L 377, 31.12.1991, p. 48.?’;

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EC) No 219/2009 of the European Parliament and of the Council, Division 3..