COMMISSION DECISION

of 29 April 2009

on the harmonisation, the regular transmission of the information and the questionnaire referred to in Articles 22(1)(a) and 18 of Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries

(notified under document number C(2009) 3011)

(2009/358/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC [1], and in particular Article 22(1)(a) and Article 18 thereof,

Whereas:

(1) The purpose of this decision is to establish minimum requirements for ensuring an harmonized, timely and appropriate gathering and if requested, transmission of the information referred to in Article 7(5), 11(3) and 12(6) of Directive 2006/21/EC, and to set the basis for the questionnaire referred to in Article 18(1) of the same Directive.

(2) The annual transmission of the information referred to in Article 7(5), 11(3) and 12(6) of Directive 2006/21/EC should cover the period between 1 May and 30 April of the following year.

(3) The report referred to in Article 18(1) of Directive 2006/21/EC should cover, for the first time, the period from 1 May 2008 to 30 April 2011 and should be transmitted to the Commission no later than 1 February 2012.

(4) In order to limit the administrative burden linked with the implementation of this decision, the list of information required should be limited to useful data with the view of improving Directive implementation. Similarly, the transmission of yearly information on events referred to in Article 11(3) and 12(6) of Directive 2006/21/EC should be limited to Member States in which such an event occurs during the considered period.

(5) The measures provided for in this Decision are in accordance with the opinion of the Committee, established in accordance with Article 23(2) of Directive 2006/21/EC,

HAS ADOPTED THIS DECISION:

Article 1

The information contained in the permits granted under Article 7 of Directive 2006/21/EC, to be made available to the Community statistical authorities where requested for statistical purposes, is detailed in Annex I.

Article 2

In case of one or more events referred to in Article 11(3) and 12(6) of Directive 2006/21/EC occur in a Member State, the concerned Member State shall transmit to the Commission for each event the information detailed in Annex II on a yearly basis. This information shall cover the period between 1 May and 30 April of the following year and shall be transmitted no later than 1 July of that year to the Commission.

Article 3

The questionnaire in Annex III shall be used by the Member States to report on Directive implementation referred to in Article 18(1) of Directive 2006/21/EC.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 29 April 2009.

For the Commission

Stavros DIMAS

Member of the Commission

[1] OJ L 102, 11.4.2006, p. 15.

ANNEX I

Information to be included in the list of permits issued under Directive 2006/21/EC

1. Name and address of the facility, the competent authority for issuing the permit and the competent authority for inspection.

2. Basic information on the permit issued including date of issuing, period of validity, category of waste facility according to Article 9 of the Directive, description of the operating phase of the installation (in operation, closure phase or after closure phase).

3. If appropriate, information on the type of waste and a brief description of the installations and of the monitoring and control procedures.

ANNEX II

Information to be transmitted to the Commission on the events referred to in Articles 11(3) and 12(6) pursuant to 18(2) of Directive 2006/21/EC

For each event the following list of information shall be gathered and transmitted:

1. Name and address of the facility, the competent authority for issuing the permit and the competent authority for inspection.

2. Information on the permit issued including date of issuing, period of validity, category of waste facility according to Article 9 of the Directive, type of waste and a brief description of the installations and of the monitoring and control procedures; description of the operating phase of the installation (in operation, closure phase or after closure phase).

3. Description of the event including:

   (a) Nature and description of the incident; description on how the event has been revealed; location and timing of the event;

   (b) Timing and description of the information transmitted by the operator to the competent authorities and of the information given to the public and if relevant, to the other potentially concerned Member States in case of potential transboundary impact;

   (c) Assessment of the possible environmental and public health impacts, and of possible consequences on the stability of the waste facility;

   (d) Analysis of the possible causes of the event.

4. Description of the corrective measures taken to remediate to the event and notably:

   (a) If applicable, description of how the emergency plan has been implemented;

   (b) Type of instructions given by the competent authorities;

   (c) Other measures to be specified.

5. Description of the measures taken to prevent another incident of the same nature and notably:

   (a) New conditions included in the permit;

   (b) Adaptation of the monitoring and control systems;

   (c) Improvement of the transmission of information;

   (d) Other measures to be specified.

6. Additional information potentially useful for other Member States and for the Commission with the view to improve the implementation of the Directive.

ANNEX III

'Questionnaire for the report by Member States on the implementation of Directive 2006/21/EC

PART A. QUESTIONS TO BE ANSWERED ONCE FOR THE FIRST REPORTING PERIOD

1. *Administrative arrangements and general information*

Please indicate the competent authority(ies) in charge of:

(a) verifying and approving the waste management plans proposed by the operators;

(b) establishing the external emergency plans for Category "A" installations;

(c) issuing and updating permits and establishing and updating the financial guarantee, and

(d) making inspection of the waste facilities.

2. *Waste management plans and major-accident prevention and information*

(a) Please describe in brief: the procedures set up for the approval of the waste management plans as referred to in Article 5(6) of the Directive.

(b) For the category "A" installations not falling within the scope of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances [1], please describe the measures taken to:

— identify major-accident hazards,

— incorporate the necessary features into the design, operation and closure of the installation, and,

— limit the adverse consequences for human health and/or the environment.

3. *Permit and financial guarantee*

(a) Please indicate the measures taken to ensure that all facilities in operation will be covered by a permit in conformity with the Directive before 1 May 2012.

(b) Please briefly describe the actions taken to make the best available techniques knowledgeable to the authorities in charge of establishing and controlling the permits.

(c) Please indicate whether the possibility referred to in Article 2(3) of the Directive of reducing or waiving the requirements for the deposit of non hazardous waste – inert or not, unpolluted soil or peat has been used?

(d) Please explain the measures taken to ensure that permits are regularly updated as foreseen in Article 7(4) of the Directive.

(e) Please detail the procedure referred to in Article 14(1) of the Directive and set up for the establishment of the financial guarantee and its periodical adjustment. How many installations are already covered by a guarantee in accordance with the provisions of the Directive? How will it be ensured that all installations will be covered by a guarantee before the 1 May 2014?

4. *Public participation, transboundary effects*

(a) Please explain how the public opinion and comments is analysed and taken into account before the taking of a decision on permits and for the preparation of the external emergency plans.

[1] OJ L 10, 14.1.1997, p. 13.

(b) For installations having a potential transboundary impact, how is it ensured that required information is made available for an appropriate period of time to the other Member State and to the public concerned?

(c) For Category "A" installations, and in case of major accident, what are the practical arrangements taken to ensure that:

— required information is transmitted immediately by the operator to the competent authority,

— information on safety measures and on action required is provided to the public? and,

— information provided by the operator is forwarded to the other Member State in case of installation with a potential transboundary impact?

5. *Construction and management of waste facilities*

(a) Please detail the measures taken in order to ensure that the management of the waste facilities is achieved by a "competent person" as referred to in Article 11(1) of the Directive and that staff is appropriately trained.

(b) Please describe in brief the procedure set out for the notification to the authority in the 48 hours of any event likely to affect the stability of the facility and any significant environmental effects revealed by the monitoring.

(c) Please describe how, in accordance with Article 11, the competent authority is verifying that regular reports on monitoring results are:

— transmitted by the operator to the authority,

— demonstrating compliance with the permit conditions.

6. *Closure and after closure procedures, inventory*

(a) Please explain in brief the procedure set out to ensure that after the closure of the facilities and when considered necessary by the authority, regular controls of the stability are achieved as well as measure to reduce environmental effect are taken.

(b) Please detail the measure taken to ensure that the inventory of closed facilities as foreseen in Article 20 of the Directive will be achieved by 1 May 2012.

7. *Inspections*

(a) Please briefly explain whether and if yes, how the minimum criteria for environmental inspection ([1]) are taken into account for the control of the facilities falling under the scope of the Directive.

(b) Please briefly describe how inspection activities are planned. Are the priority installations for inspection identified and according to which criteria? Are the frequency and the type of inspection adapted to the risks associated with the installation and its environment?

(c) Please explain what inspection actions are carried out such as on site visit routine or not, sampling, control of self monitoring data, control of the "up to date" records of waste management operations.

(d) Please explain the actions taken to ensure that the approved waste management plans are regularly updated and monitored.

(e) What are the rules on penalties applicable to infringement of the national provisions pursuant to Article 19 of the Directive?

([1]) Recommendation of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States (OJ L 118, 27.4.2001, p. 41).

PART B. QUESTIONS TO BE ANSWERED FOR ALL REPORTING PERIODS

1. *Administrative arrangements and general information*

(a) Please indicate the Administrative body (Name, address, contact person, E-mail) in charge of coordinating the answers to this questionnaire.

(b) If possible, using the table provided in Annex, please provide an estimate of the number of extractive waste facilities on the territory of the Member State.

(c) Please indicate the number of cases of waste facilities of Category "A" in operation on your territory having a potential environmental or human health impact on another Member State.

2. *Waste Management Plans and Major-accident prevention and information*

(a) Please describe in brief:

— the number of waste management plans approved or rejected temporarily or definitively during the reporting period and,

— if relevant, and if possible, the main reasons for having definitively refused a waste management plan,

(b) Please provide a list of the external emergency plans referred to in Article 6(3) of the Directive. If all Category "A" installations are not yet covered by an emergency plan, please indicate the number of missing plans and the planning for establishing these plans.

(c) If a list of inert waste as referred to in Article 2(3) of Commission Decision 2009/359/EC of 30 April 2009 completing the definition of "inert waste" in implementation of Article 22(1)(f) of Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from extractive industries [1] has been established in your country, please provide a copy of that list including a brief description of the information and data used to determine whether the listed waste could be defined as inert.

3. *Permit and financial guarantee*

If possible using the table in Annex, please indicate the number of installation for which a permit has been issued in conformity with the provision of the Directive.

4. *Closure and after closure procedures, inventory*

(a) Please indicate how many closure procedures as detailed in Article 12 of the Directive, were undertaken and/or approved during the reporting period.

(b) How many installations are closed and regularly monitored in your country?

5. *Inspections*

(a) Please indicate the number of inspections achieved for the reporting period with, if possible, distinguishing inspections achieved in:

— Category "A" and the other installations,

— Inert waste installations, and,

— Non inert, non hazardous installations,

If a programme of inspection has been drawn up at the appropriate geographical level (national/regional/local), please provide a copy of this (these) programme(s) in annex to the report.

(b) How many cases of non compliance with the provisions of the Directive were identified? Please indicate the main reasons for non compliance and the actions taken in order to ensure compliance with the Directive?

[1] OJ L 110, 1.5.2009, p. 46.

6. *Other relevant Information*

(a) Please summarise the main difficulties encountered in implementing the Directive. How were these possible problems overcome?

(b) Please provide any additional comments, suggestions or information in relation with the implementation of the Directive.

ANNEX [1]

	In operation	In operation with permit [1]	In transition [2]	In closure phase [3]	Closed or abandoned [4]
Category A [5]					
Of which "Seveso" installations [6]					
Not Category A					
Inert waste [7]					
Non hazardous non inert waste					
Total					

[1] Number of installations having a permit already meeting the requirements of the Directive.
[2] Number of installation which will be closed before 2010 and falling under the scope of Article 24(4).
[3] Number of installation for which the closure procedure is still ongoing (Article 12).
[4] If possible, please, provide an estimation of the number of abandoned and closed facilities potentially harmful and falling under the scope of Article 20 of the Directive.
[5] Installations classified as Category "A" according to Article 9 of the Directive.
[6] Installations falling within the scope of Directive 96/82/EC.
[7] Installations treating exclusively inert waste as defined in the Directive.'

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[1] If possible, please provide a breakdown per sector for the construction minerals, the metallic minerals, the industrial minerals, the energy minerals and the other sectors.