

COMMISSION DECISION

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 the Council concerning the management of waste from extractive industries*(notified under document number C(2009) 3012)**(2009/359/EC)*

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty establishing the European Community,

Article 1

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)(f) thereof,

1. Waste shall be considered as being inert waste, within the meaning of Article 3(3) of Directive 2006/21/EC, where all of the following criteria, are fulfilled in both the short and the long term:

Whereas:

- (1) Article 3(3) of Directive 2006/21/EC provides for a definition of inert waste.
- (2) The purpose of complementing the definition of inert waste is to establish clear criteria and conditions under which waste from extractive industries can be considered as inert waste.
- (3) To minimise the administrative burden linked with the implementation of this Decision, it is appropriate from a technical point of view to exempt from specific testing those wastes for which existing relevant information is available, and to allow Member States to establish lists of waste material which could be considered as inert in accordance with the criteria set out in the present Decision.
- (4) In order to ensure the quality and the representativity of the information used, this Decision should be applied in the framework of the waste characterisation carried out in accordance with Commission Decision 2009/360/EC ⁽²⁾ and should be based on the same sources of information.
- (5) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18 of Directive 2006/12/EC of the European Parliament and of the Council ⁽³⁾,

- (a) the waste will not undergo any significant disintegration or dissolution or other significant change likely to cause any adverse environmental effect or harm human health;
- (b) the waste has a maximum content of sulphide sulphur of 0,1 %, or the waste has a maximum content of sulphide sulphur of 1 % and the neutralising potential ratio, defined as the ratio between the neutralising potential and the acid potential, and determined on the basis of a static test prEN 15875 is greater than 3;
- (c) the waste presents no risk of self-combustion and will not burn;
- (d) the content of substances potentially harmful to the environment or human health in the waste, and in particular As, Cd, Co, Cr, Cu, Hg, Mo, Ni, Pb, V and Zn, including in any fine particles alone of the waste, is sufficiently low to be of insignificant human and ecological risk, in both the short and the long term. In order to be considered as sufficiently low to be of insignificant human and ecological risk, the content of these substances shall not exceed national threshold values for sites identified as not contaminated or relevant national natural background levels;
- (e) the waste is substantially free of products used in extraction or processing that could harm the environment or human health.

2. Waste may be considered as inert waste without specific testing if it can be demonstrated, to the satisfaction of the competent authority, that the criteria set out in paragraph 1 have been adequately considered and are met on the strength of existing information or valid procedures or schemes.

⁽¹⁾ OJ L 102, 11.4.2006, p. 15.

⁽²⁾ See page 48 of this Official Journal.

⁽³⁾ OJ L 114, 27.4.2006, p. 9.

3. The Member States may draw up lists of waste materials to be regarded as inert in accordance with the criteria defined in paragraphs 1 and 2.

Article 2

The assessment of the inert property of waste in accordance with this Decision shall be completed in the framework of the waste characterisation referred in Decision 2009/360/EC and shall be based on the same sources of information.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 30 April 2009.

For the Commission
Stavros DIMAS
Member of the Commission