

EUROPEAN PARLIAMENT

1999



2004

Session document

FINAL
A5-0057/2004

19 February 2004

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REPORT

on the proposal for a directive of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles
(COM(2003) 522 – C5-0456/2003 – 2003/0205(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Bernd Lange

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 5 September 2003 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 95 of the EC Treaty, the proposal for a directive of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles (COM(2003) 522 – 2003/0205(COD)).

At the sitting of 8 October 2003 the President of Parliament announced that he had referred the proposal to the Committee on the Environment, Public Health and Consumer Policy as the committee responsible and the Committee on Industry, External Trade, Research and Energy for its opinion (C5-0456/2003).

The Committee on the Environment, Public Health and Consumer Policy appointed Bernd Lange rapporteur at its meeting of 2 December 2003.

The committee considered the Commission proposal and draft report at its meetings of 26 January 2004 and 17 February 2004.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Caroline F. Jackson (chairman), Alexander de Roo, Mauro Nobilia and Guido Sacconi (vice-chairmen), Bernd Lange (rapporteur), Bent Hindrup Andersen (for Jean-Louis Bernié), Hans Blokland, David Robert Bowe, Hiltrud Breyer, Dorette Corbey, Chris Davies, Cristina García-Orcoyen Tormo, Robert Goodwill, Françoise Grossetête, Cristina Gutiérrez Cortines, Eija-Riitta Anneli Korhola, Hans Kronberger, Peter Liese, Torben Lund, Patricia McKenna, Rosemarie Müller, Giuseppe Nisticò, Marit Paulsen, Guido Podestà (for Martin Callanan), Dagmar Roth-Behrendt, Yvonne Sandberg-Fries, Giacomo Santini (for John Bowis), María Sornosa Martínez, Catherine Stihler, Nicole Thomas-Mauro, Antonios Trakatellis and Peder Wachtmeister.

The Committee on Industry, External Trade, Research and Energy decided on 20 October 2003 not to deliver an opinion.

The report was tabled on 19 February 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles (COM(2003) 522 – C5-0456/2003 – 2003/0205(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 522)¹,
 - having regard to Article 251(2) and Article 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0456/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Policy (A5-0057/2004),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 6 a (new)

(6a) Under all randomly selected load conditions within a defined operating range, the limit values may not be exceeded by more than an appropriate percentage.

Justification

This is in line with the provision agreed by the EP and the Council in legislation on large non-road engines (EP resolution of 21 October 2003). Often these are the same engines, and it would therefore make sense to have the same provision here. Moreover, this provision should certainly also be acceptable to the Council with regard to reaching agreement at first

¹ Not yet published in OJ.

reading.

Amendment 2
Recital 15 a (new)

(15a) The Commission should submit a further stage for limit values for NO_x and particulate emissions as soon as possible.

Justification

The reductions in particulate emissions for private and commercial vehicles that have already been carried out still do not go far enough to meet future ambient air quality standards set by European air quality legislation. A further lowering in the particulate limits is therefore vital. The need to establish further limit values for particulate emissions in future must also be investigated.

Amendment 3
Recital 16

(16) The Commission should consider the available technology with a view to confirming the mandatory NO_x standard for 2008 in a report to the European Parliament and the Council, accompanied, if necessary, by appropriate proposals. ***deleted***

Justification

The NO_x limit value of 2.0 g/kWh for 2008 has long since been confirmed by a study and accepted as realistic. The Commission's obligatory report, which should have been submitted by the end of 2002, has still not been produced and is, in fact, no longer necessary. The paragraph is therefore totally obsolete and should, as such, be deleted.

Amendment 4
Article 2, paragraph 9 a (new)

9a. For compression-ignition or gas engines that must comply with the limit values set out in section 6.2.1. of Annex I under the type-approval system, the following shall apply: under all randomly selected load conditions, belonging to a definite control area and with the exception of specified engine operating conditions

which are not subject to such a provision, the emissions sampled during a time duration as small as 30 seconds shall not exceed by more than 100 % the limit values in rows B1, B2 and C of the tables in section 6.2.1. of Annex I. The control area to which the percentage not to be exceeded shall apply and the excluded engine operating conditions shall be defined in accordance with the procedure referred to in Article 6.

Justification

This is in line with the provision agreed by the EP and the Council in legislation on large non-road engines (EP resolution of 21 October 2003). Often these are the same engines, and therefore it would make sense to have the same provision here. Moreover, this provision should certainly also be acceptable to the Council with regard to reaching agreement at first reading.

Amendment 5 Article 3, paragraph 1

1. From 1 October 2005 for new type-approvals and from 1 October 2006 for all type-approvals, the manufacturer shall demonstrate that a compression-ignition or gas engine type-approved by reference to the emission limits set out in row B1 or row B2 or row C of the Tables in section 6.2.1. of Annex I will comply with those emission limits for a useful life of:

(a) 100 000 km or five years, whichever is the sooner, in the case of engines to be fitted to vehicles of category N1;

(b) 200 000 km or six years, whichever is the sooner, in the case of engines to be fitted to vehicles of category N2 and **M2**;

(c) 500 000 km or seven years, whichever is the sooner, in the case of engines to be fitted to vehicles of category N3 and M3.

1. From 1 October 2005 for new type-approvals and from 1 October 2006 for all type-approvals, the manufacturer shall demonstrate that a compression-ignition or gas engine type-approved by reference to the emission limits set out in row B1 or row B2 or row C of the Tables in section 6.2.1. of Annex I will comply with those emission limits for a useful life of:

(a) 100 000 km or five years, whichever is the sooner, in the case of engines to be fitted to vehicles of category N1 **and M2**;

(b) 200 000 km or six years, whichever is the sooner, in the case of engines to be fitted to vehicles of category N2 and **M3 Class I, Class II and Class A, and Class B with a mass of under 7.5 tonnes**;

(c) 500 000 km or seven years, whichever is the sooner, in the case of engines to be fitted to vehicles of category N3 and M3, **Class III and Class B with a mass of over 7.5 tonnes**.

Justification

Many small-capacity engines are fitted in buses and delivery vehicles and therefore come under vehicle categories with a useful life of 200 000 or 500 000 km, although such small engines are normally fitted in private cars or small commercial vehicles which have a useful life of only 100 000 or 200 000 km.

Amendment 6

Article 3, paragraph 1, subparagraph 1 a (new)

From 1 October 2005, for new types, and from 1 October 2006, for all types, type-approvals granted to vehicles shall also require confirmation of the correct operation of the emission control devices during the normal life of the vehicle under normal conditions of use (conformity of in-service vehicles properly maintained and used).

Justification

The issue of what are known as in-service tests is clearly a policy question and should not, in principle, be the responsibility of the regulatory committee. This Committee is responsible for technical details and not for deciding whether in-service tests should take place at all. This decision has, incidentally, already been taken and is among the requirements laid down by Directive 1999/96/EC.

Amendment 7

Article 4, Paragraph 3 a (new)

3a. Full and uniform access to OBD information must be provided for the purposes of testing, diagnosis, servicing and repair in keeping with the relevant provisions of Directive 70/220/EEC and provisions regarding replacement components ensuring compatibility with OBD systems.

Justification

This amendment seeks to reinstate this point, which the Commission removed from the policy section without replacement. This is clearly a political issue and not a matter for the regulatory committee.

Amendment 8

Article 4 a (new)

Article 4a

**Emission Control Systems Using
Consumable Reagents**

In defining the measures necessary to implement Article 4, as provided for by Article 6(1), the Commission shall include technical measures to minimise the risk of emissions control systems using consumable reagents being inadequately maintained in service. In addition, measures shall be included to ensure that emissions of ammonia due to the use of consumable reagents are minimised.

Justification

Manufacturers are expected to deploy Selective Catalytic Reduction systems from Euro IV. These systems rely on the presence of a consumable reagent (urea solution) to control NOx emissions. It is appropriate that the reagent to the emissions control system be signalled to the driver in order to allow action to be taken to prevent excess emissions.

**Amendment 9
Article 6, paragraph 1**

1. The measures necessary for the implementation of Articles 3 and 4 of this Directive shall be adopted by the Commission, assisted by the Committee established by Article 13(1) of Directive 70/156/EEC, in accordance with the procedure referred to in Article 13(3) of that Directive.

1. The measures necessary for the implementation of **Article 2(9a)**, Articles 3 and 4 of this Directive shall be adopted by the Commission, assisted by the Committee established by Article 13(1) of Directive 70/156/EEC, in accordance with the procedure referred to in Article 13(3) of that Directive.

Justification

This is consistent with the insertion of the proposed Article 2(9a) (new).

**Amendment 10
Article 7, Paragraph 1 a (new)**

1a. The Commission shall submit to the European Parliament and the Council in 2004 a proposal on further limits on NOx and particulate emissions for heavy commercial vehicles. The limits on

particulate emissions shall be reduced to one tenth of the Euro 4 limit values.

In so doing, it shall investigate whether setting an additional limit for particulate levels and size is necessary, and, if so, include it in the proposal.

Justification

The reductions in particulate emissions for private and commercial vehicles that have already been carried out still do not go far enough to meet future ambient air quality standards set by European air quality legislation. A further lowering in the particulate emission limits is therefore vital. The need to establish new limit values for particulate levels and size in future must also be investigated.

Amendment 11
Article 7, Paragraph 4

4. The Commission shall, consider the available technology with a view to confirming the mandatory NOx standard for 2008 in a report to the European Parliament and to the Council, accompanied, if necessary, by appropriate proposals. ***deleted***

Justification

The NOx limit value of 2.0 g/kWh for 2008 has long since been confirmed by a study and accepted as realistic. The Commission's obligatory report, which should have been submitted by the end of 2002, has still not been produced and is, in fact, no longer necessary. The paragraph is therefore totally obsolete and should, as such, be deleted.

EXPLANATORY STATEMENT

This current Commission proposal has two objectives:

1. to close the existing loophole in the legislative procedure set out in Directive 1999/96/EC (amending Directive 88/77/EEC);
2. to recast the Directive (and repeal the old one) in keeping with the new regulatory approach, creating a distinction between policy and technical directives.

The proposal concerns a 'left-over' from Directive 1999/96/EC, regarding heavy commercial vehicles' exhaust emissions. According to Article 7 of this Directive, the Commission should have submitted a proposal to the European Parliament and the Council closing the existing loophole ***by the end of 2000 (!)***. This proposal would have covered the substantive shaping of rules that have, in fact, already been set. According to Articles 4-6 of the Directive, the following *must* be carried out by ***1 October 2005***:

- all new types of vehicles must be equipped with an on-board diagnostic system (OBD) or an on-board measurement system (OBM) to monitor in-service exhaust emissions;
- type-approvals granted to vehicles and engines must confirm the correct operation of the emission control devices during the normal life of the vehicle or engine;
- type-approvals granted to vehicles must require confirmation of the correct operation of the emission control devices during the normal life of the vehicle under normal conditions of use.

In other words, the Commission is almost three years behind with its proposal, endangering the proper implementation and application of the provisions laid down in the legislation. In its proposal, the Commission itself says that the codecision procedure should be completed during the first half of 2004. In fact, that is highly unlikely. Carrying out a full and proper codecision procedure has become practically impossible under these circumstances. Meeting the completion date of 1 October 2005 calls for swift and focused action.

The suspicion arises that the Commission is seeking to disguise the fact that it has not fulfilled its task by introducing the split-level approach. In this regard, clarification is needed of the extent to which the deadline of 30 June 2004 set for the regulatory committee itself to approve the technical directive is binding.

When one considers that the Commission has had ample time since December 1999 to fulfil its responsibilities, the outcome is doubly brazen: first, because of the three-year delay, and second, because only three new features are included in the policy section, namely the introduction of OBD limit values, the definition of OBD systems and durability requirements. The relevant details remain completely undecided and are left entirely to the discretion of the regulatory committee:

- (a) Two-stage approach for OBD systems and introduction of OBD thresholds: during the first stage, starting in October 2005, OBD systems must be able to recognise damage to the engine checking system that could lead to emission thresholds being exceeded. They must also recognise 'major functional failure' on any

exhaust after-treatment technology, such as particulate filters or catalytic converters. In the second stage, starting in October 2008, OBD systems should be capable of not only recognising damage to the engine control system but also of recognising deterioration in the effectiveness of the exhaust after-treatment system.

- (b) Definition of the durability of emission control systems:
Here, the Commission has adopted the demand made by Parliament at first reading (that is, in October 1998), at least in terms of the number of kilometres driven. As such, agreement could have been reached earlier:

- | | |
|---------------------------------------|----------------------------|
| - for vehicles of category N1: | 100 000 km or five years |
| - for vehicles of category N2 and M2: | 200 000 km or six years |
| - for vehicles of category N3 and M3: | 500 000 km or seven years. |

- (c) Monitoring the systems' in-use compliance:
No clear rules are given regarding these in-service tests, which also needed to be regulated. Instead, the vague language gives rise to further confusion, not least as to whether these tests should be prescribed at all. This is clearly a policy question and should not be the responsibility of the regulatory committee. At any rate, the policy decision in this case has already been taken.

It is encouraging to note that there is finally a consolidated text available. It is not the job of consultative agencies to make texts more comprehensible for a fee. Texts must be comprehensible when the Commission produces them and must be accessible to all equally. Comprehensibility is important not least in terms of transparency and democracy. All the same, a consolidated text such as this calls for more in-depth analysis, particularly given that it is new.

The new two-level approach is also encouraging, in principle. Under this approach, Parliament and the Council agree on policy substance and objectives under the codecision procedure, while technical details are laid down by the Commission. This makes the legislative process more efficient and allows the legislature to concentrate on what is essential. A point of dispute remains in terms of how to distinguish between policy and technical issues. In this proposal, distinctions have been made that are clearly wrong and, as a result, two overtly policy issues have been placed in the technical section. As indicated above, this is the case regarding the rules on in-service tests. Furthermore, in connection with the OBD systems, an important question has simply been deleted from the policy section, namely the guaranteeing of unlimited and standardised access for inspection, diagnosis, servicing and repair. The new two-level approach should mean, however, that the 'whether' is decided in the policy section, while the regulatory committee should consider the 'how' in the technical section. Nor can the policy decision be left up to this committee.

In terms of the substance of the current proposal, the discrepancy between the results in the test cycle and in real driving conditions can also be viewed as a considerable shortcoming. Buses, for example, are for the most part driven in conditions outside the window of the test cycle. There are signs that some engines are specifically tuned for the test cycle but produce totally different emission levels outside the cycle. This is made possible by electronic engine management and may, in practice, ultimately lead to newer engines producing more emissions than their older counterparts. This must be tackled in order not to lead to endless

reassessments of levels. Therefore, a percentage limit on non-compliance should be set for each individual point.

The reductions in particulate emissions for private and commercial vehicles that have already been carried out still do not go far enough to meet future ambient air quality standards set by European air quality legislation (a new PM10 limit value will come into force on 1 January 2005). A further lowering in the particulate emission limits for private and commercial vehicles, which will probably require the introduction of new technologies, is therefore vital. The need to establish further limit values for particulate levels and size in future must also be investigated. This is because ultrafine particles are suspected of presenting a higher risk. The Commission should therefore submit a proposal for Euro VI this year.

Last but not least, the now obsolete Article 7(4), should be deleted, as it has to a certain extent been overtaken by the history of emissions legislation. The NOx limit of 2.0 g/kWh for 2008 has long since been confirmed by a study and recognised as realistic. The Commission's obligatory report, which should have been submitted by the end of 2002, has not yet been produced, and probably never will be.

Under the circumstances outlined above there is, unfortunately, not enough time left to carry out a thorough analysis. The only hope of adopting this legislation in time for the Euro IV provisions to be implemented on schedule now lies in reaching agreement at first reading. This agreement must be reached at the April part-session at the latest. Failure to do so would also put at risk the next stage, Euro V.