

8 December 1998 A4-0483/98



RECOMMENDATION FOR SECOND READING

on the common position established by the Council with a view to the adoption of a Council Directive relating to Limit Values for Sulphur Dioxide, Nitrogen Dioxide and Oxides of Nitrogen, Particulate Matter and Lead in Ambient Air (10275/98-C4-0540/98 - 97/0266(SYN))

Committee on the Environment, Public Health and Consumer Protection

Rapporteur: Mrs Anita Pollack

PE 229.046/fin.

Commented [COMMENT1]:

(Amendment ##)

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At its sitting of 13 May 1998 Parliament delivered its opinion at first reading on the proposal for a Council Directive relating to Limit Values for Sulphur Dioxide, Nitrogen Dioxide and Oxides of Nitrogen, Particulate Matter and Lead in Ambient Air.

At the sitting of 9 October 1998 the President of Parliament announced that the common position had been received and referred to the Committee on the Environment, Public Health and Consumer Protection.

At its meeting of 12 October 1998 the committee reappointed Mrs Anita Pollack rapporteur.

It considered the common position and the draft recommendation for second reading at its meeting of 25 November 1998.

At the latter meeting it adopted the draft decision unanimously.

The following took part in the vote : Collins, chairman; Poggiolini, Dybkjaer, and Lannoye, vice-chairmen; Pollack, rapporteur; and d'Aboville, Blokland, Cabrol, Campoy Zueco, Correia, Bowe, Breyer, Eisma, Flemming, Florenz, Graenitz, Hulthén, Jackson, Kronberger, Kuhn, Leopardi, McKenna, Olsson, Roth-Behrendt, Tamino, Trakatellis, Valverde Lopez, Virgin, White, Whitehead,

The recommendation for second reading was tabled on 8 December 1998.

The deadline for tabling amendments to the common position will be indicated in the draft agenda for the relevant part-session.

A
DRAFT DECISION

Decision on the common position established by the Council with a view to the adoption of a Council Directive relating to Limit Values for Sulphur Dioxide, Nitrogen Dioxide and Oxides of Nitrogen, Particulate Matter and Lead in Ambient Air (10275/98-C4-0540/98 - 97/0266(SYN))

(Cooperation procedure: second reading)

The European Parliament,

- having regard to the common position of the Council, 10275/98 - C4-0540/98 - 97/0266(SYN),
 - having regard to its opinion at first reading⁽¹⁾ on the Commission proposal to the Council, COM(97)0500 (),
 - having been consulted by the Council pursuant to Article 189c of the EC Treaty,
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Protection (A4-0483/98),
1. Amends the common position as follows;
 2. Instructs its President to forward this decision to the Council and Commission.

Common position of the Council

Amendments

(Amendment 1 by Mrs Pollack)
Article 2(15) Definitions

"natural events" shall mean volcanic eruptions, seismic activities, wild-land fires, high wind events or the atmospheric resuspension or transport of natural particles from dry regions;

"natural events" shall mean volcanic eruptions, geothermal activities, wild-land fires, exceptional high-wind events or the atmospheric resuspension or transport of natural particles from dry regions;

⁽¹⁾ on the Commission proposal to the Council, COM(97)0500 () OJ C 167, 1.6.1998, p. 79

^(1-b) OJ C 009, 14.1.1998, p. 6

(Amendment 2 by Mrs Pollack)
Article 3(3), Sulphur Dioxide

In order to assist the Commission in preparing the report provided for in Article 10, until 31 December 2003 Member States shall, where practicable, record data on concentrations of sulphur dioxide averaged over ten minutes from certain measuring stations which they have selected as representative of air quality in inhabited areas close to sources and at which hourly concentrations are measured. At the same time as data are supplied on hourly concentrations in accordance with Article 11(1) of Directive 96/62/EC, Member States shall report to the Commission, for those

selected measuring stations, the number of ten-minute concentrations which have exceeded 500 ug/m³, the number of days on which hourly concentrations of sulphur dioxide simultaneously exceeded 350 ug/m³ and the maximum ten-minute concentration recorded.

In order to assist the Commission in preparing the report provided for in Article 10, until 31 December 2003 Member States shall record data on concentrations of sulphur dioxide averaged over ten minutes from certain measuring stations which they have selected as representative of air quality in inhabited areas close to sources and at which hourly concentrations are measured. At the same time as data are supplied on hourly concentrations in accordance with Article 11(1) of Directive 96/62/EC, Member States shall report to the Commission, for those

selected measuring stations, the number of ten-minute concentrations which have exceeded 500 ug/m³, the number of days on which hourly concentrations of sulphur dioxide simultaneously exceeded 350 ug/m³ and the maximum ten-minute concentration recorded.

(Amendment 3 by Mrs Pollack)
Article 8(1), third paragraph, Public Information

Such information shall at least indicate any excesses of the concentrations in the limit values and alert thresholds over the averaging periods laid down in Annexes I to IV. It shall also provide a short assessment in relation to limit values and alert thresholds and appropriate information regarding effects on health.

Such information shall at least indicate any exceedances of the concentrations and, wherever practicable, whether the pollution levels are above, below or equal to the limit values and alert thresholds over the averaging periods laid down in Annexes I to IV. It shall also provide a short assessment in relation to limit values and alert thresholds and appropriate information regarding effects on health.

(Amendment 4 by Mrs Pollack)
Article 8(2) Public Information

When making plans or programmes available to the public under Article 8(3) of the Directive 96/62/EC, Member States shall also make them available to the organisations referred to in paragraph 1.

When making plans or programmes available to the public under Article 8(3) of the Directive 96/62/EC, including plans or programmes made for those zones or agglomerations designated by Member States under Article 3(4), 5(4) and 5(5), Member States shall also make them available to the organisations referred to in paragraph 1.

(Amendment 5 by Mrs Pollack)
Article 10, second paragraph (a) (new)

The Commission will give particular attention to setting alert thresholds, consistent with other pollutants in this directive, for PM10, PM2.5 or particular fractions of particulate matter, as appropriate.

(Amendment 6 by Mrs Pollack)
Annex I (Point 1)

Limit Values and the Alert Threshold for Sulphur Dioxide

Common Position

	Averaging period	Limit Value	Margin of tolerance	Date by which limit value is to be met
1. Hourly limit value for the protection of human health	1 hour	350 ug/m3 not to be exceeded more than 24 times a calendar year	150 ug/m3 (43%) on the entry into force of this Directive, reducing on 1 January (...) (*) and every 12 months thereafter by equal annual percentages to reach 0% by 1 January 2005	1 January 2005

(*) The date will be the first or second 1 January after the entry into force of this Directive

Amendment

	Averaging period	Limit Value	Margin of tolerance	Date by which limit value is to be met
1. Hourly limit value for the protection of human health	1 hour	350 ug/m3 not to be exceeded more than 8 times a calendar year	150 ug/m3 (43%) on the entry into force of this Directive, reducing on 1 January (...) (*) and every 12 months thereafter by equal annual percentages to reach 0% by 1 January 2005	1 January 2005

(*) The date will be the first or second 1 January after the entry into force of this Directive

(Amendment 7 by Mrs Pollack)

Annex I (Point 3)

Limit Values and the Alert Threshold for Sulphur Dioxide

Common Position

	Averaging period	Limit Value	Margin of tolerance	Date by which limit value is to be met
3. Limit value for the protection of ecosystems	Calendar year and winter (1 October to 31 March)	20 ug/m3	None	(.....) (**)

(**) Twenty-four months after the entry into force of this Directive

Amendment

	Averaging period	Limit Value	Margin of tolerance	Date by which limit value is

				to be met
3. Limit value for the protection of ecosystems	Calendar year and winter (1 October to 31 March)	10 ug/m3	None	(.....) (**)

(**) Twenty-four months after the entry into force of this Directive

(Amendment 8 by Mrs Pollack)
Annexes I to IV

(*) The date will be the first or second 1 January after the entry into force of this directive.

(*) The date will be the first or second 1 January after the date of implementation of this directive.

(Amendment 9 by Mrs Pollack)
Annex II, (Point 1)

Limit Values for Nitrogen Dioxide (NO₂) and Oxides of Nitrogen (NO_x) and the Alert Threshold for Nitrogen Dioxide

Common Position

	Averaging period	Limit Value	Margin of tolerance	Date by which limit value is to be met
1. Hourly limit value for the protection of human health	1 hour	200 ug/m3 NO ₂ , not to be exceeded more than 18 times a calendar year	50% on the entry into force of this Directive, reducing on 1 January (...) (*) and every 12 months thereafter by equal annual percentages to reach 0% by 1 January 2010	1 January 2010

Amendment

	Averaging period	Limit Value	Margin of tolerance	Date by which limit value is to be met
1. Hourly limit value for the protection of human health	1 hour	200 ug/m ³ NO ₂ , not to be exceeded more than 8 times a calendar year	50% on the entry into force of this Directive, reducing on 1 January (...) (*) and every 12 months thereafter by equal annual percentages to reach 0% by 1 January 2010	1 January 2010

(Amendment 10 by Mrs Pollack)
 Annex III (Points 1 and 2)
 Limit values for Particulate Matter (PM10)

Common Position

	Averaging period	Limit Value	Margin of tolerance	Date by which limit value is to be met
Stage 1				
1. 24-hour limit value for the protection of human health	24 hours	50 ug/m ³ PM10 not to be exceeded more than 35 times a calendar year	50% on the entry into force of this Directive reducing on 1 January (...) (*) and every 12 months thereafter by equal annual percentages to reach 0% by 1 January 2005	1 January 2005
2. Annual limit value for the protection of human health	Calendar year	40 ug/m ³ PM10	20% on the 1 January 2005 reducing every 12 months thereafter by equal annual percentages to reach 0% by 1 January 2010	1 January 2005

Amendment

	Averaging period	Limit Value	Margin of tolerance	Date by which limit value is to be met
Stage 1				
1. 24-hour limit value for the protection of human health	24 hours	50 ug/m ³ PM10 not to be exceeded more than <u>25</u> times a calendar year	50% on the entry into force of this Directive reducing on 1 January (...) (*) and every 12 months thereafter by equal annual percentages to reach 0% by 1 January 2005	1 January 2005
2. Annual limit value for the protection of human health	Calendar year	<u>30</u> ug/m ³ PM10	<u>50%</u> on the 1 January 2005 reducing every 12 months thereafter by equal annual percentages to reach 0% by 1 January 2010	1 January 2005

(Amendment 11 by Mrs Pollack)

Annex III

Limit Values for Particulate Matter - Footnote : Stage 2(1)

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| <p>(1) <u>Indicative</u> limit values to be reviewed in the light of further information on health and environmental effects, technical feasibility and experience in the application of Stage 1 limit values in the Member States.</p> | <p>(1) Limit values to be reviewed in the light of further information on health and environmental effects, technical feasibility and experience in the application of Stage 1 limit values in the Member States.</p> |
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B. EXPLANATORY STATEMENT

Introduction

The proposal for a Council Directive (COM(98)500) seeks to establish limit values and, as appropriate, alert thresholds for Sulphur Dioxide (SO₂), Oxides of Nitrogen (NO_x), Particulate Matter (measured as PM₁₀) and Lead, based on the latest World Health Organisation air quality guidelines, to prevent or reduce harmful effects on human health and the environment. It follows the mandate laid down in the Air Quality Framework Directive (96/62/EC, 21/11/96). It seeks common methods and criteria to assess the concentrations of these pollutants in ambient air in order to obtain adequate information not only to maintain ambient air quality where it is good and improve it in other places, but to ensure that this information is made available to the public and also used for much needed research.

Common Position and European Parliament's amendments from first reading.

Twenty-one of the twenty-eight amendments from Parliament at first reading in May 1998 have been accepted, in whole or in spirit.

The amendments accepted seek to increase the amount of information on air quality made available to the public and to make this information clear, accessible and comprehensible. In order to increase the amount of information available to the public, an alert threshold for NO₂ has been added. Three amendments seeking to imply that the directive's objectives should be met "as soon as possible" and not just by the dates set in the proposal, have been placed in a new preamble, rather than in the body of the text. Also within the preamble Parliament's amendment calling for Member States and the Commission to support the further research necessary for a review in the year 2003 has been accepted in spirit. A call for 10-minute readings of SO₂ to be carried out by Member States has been accepted, in order to clarify the translation of the World Health Organisation's 10-minute guideline to the hourly limit value proposed for the review in the year 2003. Seeking to clarify the point that monitoring stations must be representative of population fluctuations, with specific regard to tourist areas and islands various amendments have been accepted in spirit. The positioning of monitoring stations with regard to the protection of vegetation has been looked at by the Commission and the Council; no perfect solution has been found but a compromise text has been devised. It has been made clear to the Commission that this is a matter for further research and review. Annex 10 of the Commission's proposal has been deleted, since the Annex was duplicated in the main body of the text. Parliament's amendment on committology has been accepted in part, in that the adaptations of a Committee procedure cannot have the effect of modifying limit values or alert thresholds either directly or indirectly. The Council has also accepted an amendment for a derogation of lead limit values for specific industrial sites; this is to be monitored by the Commission, and the Commission has also been asked to look specifically at lead deposition limit values in its review.

Common Position new text

The Council has added substantial new text to the original text. Most significantly is the introduction of a definition for "natural events", which implies in Articles 3.4 and 5.4 a form of derogation for special circumstances which are non-controllable. This is essentially the

“southern dust” problem. A similar situation has occurred in Article 5.5 with regard to winter sanding on roads which was requested by Finland. A definition of “fixed measurements” has also been added. The Council has increased and clarified the amount of information that is to be made available to the public, but has removed the lists of organisations notified. The Council has strengthened the review in Article 10, indicating the main points which should be covered. The date of implementation has been set at the maximum allowable length, of two years after entry into force. The reference methods for the measuring of these pollutants have been defined under Annex IX but with the provision that Member States ‘may use any other method which [they] can demonstrate gives results equivalent to the above method.’

Of greater importance has been the changing of alert thresholds, limit values and allowed exceedances. The alert threshold for SO₂ has been increased from 350 ug/m³ to 500ug/m³. The number of exceedances for the hourly limit value for NO₂ has been increased from 8 to 18 per calendar year. Under stage 1 of PM₁₀ limit values the number of exceedances for the 24 hour figure has been increased from 25 to 35 and the annual limit value has been increased from 30 to 40 ug/m³, However the margin of tolerance has been decreased from 50% to 20%. Decreasing the margin of tolerance is a positive step as it will require Action Plans to be drawn up at an earlier stage. Also the stage 2 values have been made indicative and the provisions for PM_{2.5} are not included on the grounds that more research is awaited.

Parliament's Amendments not accepted in the Common Position

Amendments regarding the introduction of an alert threshold for PM₁₀ have not been accepted by Council since no safe tolerance level has been set by WHO. The introduction of an increase in public information with regard to exceedances of the alert thresholds and limit values and the medium by which that information is communicated have not been accepted. The precise wording by Parliament for carrying out the research has not been accepted as it was considered not to be appropriate under the enacting terms of this directive, but does appear under Article 10, Report and Review. A decrease in the number of exceedances for the annual limit value of SO₂ has not been accepted, and also that of the limit value for the protection of ecosystems. Because of the complexity of different limit values for different levels of sensitivity of ecosystems it may be that areas with, for instance, sensitive lichens, may have to resort to subsidiarity to deal with local problems.

Explanation of Rapporteur's Amendments at Second Reading.

Amendment 1

Article 2(15) Definitions

The definition is a new addition to the proposed directive, therefore Parliament did not comment at First Reading. In agreement with Council, Parliament sees the need to define “natural events”. It is not the remit of legislators to legislate against that which is naturally occurring ; however, we should not let this become a form of liberal derogation, and we have tried to tighten the definition accordingly.

Amendment 2

Article 3.3, Sulphur Dioxide

A substantial piece of new text was added at first reading under a Parliament amendment, but the addition by Council of the words "where practicable" weakens the amendment considerably. The figures are necessary for the Commission to review the directive in 2003. Member States already have the right to be selective of the measurements that they take and this already gives sufficient flexibility to any Member State facing difficulty with some measurement requirements.

Amendment 3

Article 8.1 Public Information

It should be "exceedances" not "excesses". This may be a translation problem. The re-tabling of part of Amendment 10 from First Reading increases the amount of information that has to be made available to the public, but does not place an onerous burden on Member States.

Amendment 4

Article 8.2 Public Information

This leads on from Amendment 1 in that, due to derogations being given for special circumstances as described in the Council's explanations (i.e. southern dust and northern road gritting), the plans and programmes for these should be made available to the public.

Amendment 5

Article 10 Report and Review

Council has not accepted an alert threshold for PM (Parliaments' amendments 7, 20 and 21 at First Reading). This is mainly because no-one knows what an alert threshold should be. Therefore, it must be stipulated that if it not possible to set a figure now, then it should be possible to do so in future, and this should not be missed during the review, following further research.

Amendment 6

Annex I Sulphur Dioxide

This was originally amendment 15 from Parliament's First Reading, which Council has rejected. WHO does not make a recommendation for an hourly figure but does give a recommendation for a 10-minute figure of 500ug/m³. Short term exposure of SO₂ is damaging to public health especially to those who suffer from respiratory ailments, therefore the Rapporteur reasserts the demand for the number of exceedances to be reduced from 24 to 8.

Amendment 7

Annex I Sulphur Dioxide

This is a re-tabling of part of amendment 16 from First Reading, which calls for the lowering of the limit value for the protection of sensitive vegetation from 20ug/m³ to 10ug/m³, for the reasons already explained.

Amendment 8

Annex 1 to IV

This is a tidying up so as to correlate the annexes with Article 12, paragraph 1.

Amendment 9

Annex II Oxides of Nitrogen

Again, a new amendment to cope with a weakening by Council. This brings the number of exceedances back to the original Commission text. The number was increased in the Common Position because it will be very hard for most of the Member States to reach the lower figure, however it is essential that real progress should be attempted. The Common Position does state under Article 10 that this figure should be looked at in the Commission's review in 2003 when there will be more information on readings throughout the EU and more research has been done.

Amendment 10

Annex III Particulate Matter

Again, this is a new amendment to deal with a weakening by Council and again brings the figures back to the original text of the Commission's proposal. In mitigation of the Council's Common Position it should be recognised that the science behind these figures is not good and that there is a specific reference to them in Article 10 on the Commission's review.

Despite the Common Position increasing exceedances for PM10, it has reduced the margin of tolerance for the annual figure from 50% to 20%. This means that more action (in the form of action plans) will be necessary by Member States and will ensure that the work is done even if under the review in 2003 the figures are changed. Also under a review of the measuring techniques for particulate matter throughout the EU, during the legislative process it was found that the figures that the working group have used for the Commission's proposal are under-estimated by 25-30%. This under-estimate has caused the figures to increase. The Margin of Tolerance for the stage 2 annual figure is an error in the Common Position text and will have to be adjusted accordingly.

Amendment 11

Annex III Particulate Matter

The Common Position reached by Council has made the figure indicative for the second stage of Annex III. Parliament believes that the figure should not be indicative but binding pending a review in 2003. This is the same line of approach used by Parliament to the Auto-oil proposals.

If binding limits for stage 2 are not set at this time, there is a risk of more years of delay after the mid-term review.

Conclusion

The rapporteur recommends this report as a whole to the Parliament, whilst recognising that it is unlikely Council will accept all the amendments. The Rapporteur believes that even without all the amendments this is a strong and important piece of legislation which goes a long way to ensuring that the air we breathe in Europe will be substantially improved as a result.