



COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT

pursuant to the first subparagraph of Article 189 c (b) of the EC-Treaty

Common Position of the Council 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

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I PROCEDURAL MATTERS

- The proposal (COM(97)500 final – 97/0266 SYN) was presented to the Council on 21 November 1997 (OJC 009, 14.01.1998, p.6)
- The Economic and Social Committee gave its opinion on 29 April 1998 (CES 620/98)
- The European Parliament gave its opinion (first reading) at its sitting of 13 May 1998 (OJ...)
- The Commission adopted the amended proposal on 8 July 1998 (COM(1998) 386 final - 97/0266 SYN)
- At its meeting on 16 June 1998 the Council reached a political agreement with a view to adopting a Common Position.
- The Council's Common Position was adopted on 24 September 1998.

II PURPOSE OF THE DIRECTIVE

The purpose of this Directive is to set limit values and where appropriate alert thresholds for sulphur dioxide (SO₂), nitrogen dioxide (NO₂) and oxides of nitrogen (NO_x), particulate matter (measured as PM₁₀) and lead, based on World Health Organisation air quality guidelines.

III COMMISSION'S COMMENTS

III.1 General comments

The limit values and alert thresholds were the key items of discussion during negotiations. There have been changes to the hourly limit value for NO₂ and to limit values for particulate matter. Other limit values remain unchanged but a derogation has been introduced allowing a longer timetable for meeting the limit value for lead around nominated industrial sites. A derogation has also been introduced for areas subject to high concentrations of SO₂ owing to volcanic emissions. The alert threshold for SO₂ has been revised and a new alert threshold for NO₂ has been introduced. Provisions dealing with alert thresholds were moved to a strengthened Article dealing with public information.

A number of technical changes were made to the Annexes dealing with air quality assessment, in part to bring them up to date with work in CEN and ISO. These do not substantially alter the effect of the provisions.

The majority of Parliament's amendments have been incorporated into the common position, in whole or in spirit.

The text is the result of intensive negotiations, during which new technical information was brought forward for consideration, most notably on the comparability of different methods of measuring PM₁₀. The resulting limit values are in some cases a weakening of the Commission's original proposal. Other aspects of the proposal have been strengthened, in particular by the addition of an alert threshold for NO₂ and clarification of the new framework for providing regular information on air quality to the public. The Commission is of the opinion that it represents an acceptable compromise. The level of ambition that it embodies remains close to that of the Commission's original proposal and the text takes into account the main concerns of Parliament.

III.2. Detailed comments

A full list of amendments to the preamble, the Articles, and the annexes of the proposal, is given in the attached concordance table.

III.2.1. Parliament's amendments accepted by the Commission in the amended proposal and incorporated in full or part in the Common Position

Amendments No 1, 3, 4, 5, 6, 10 (part 2), 12, 14, 16 (part 1), 17, 18, 19, 22, 23, 25, 26, 32.

Some amendments have been incorporated in spirit rather than exactly as drafted by Parliament. In particular, the aim of amendments 3, part of 5 and 6 which make clear that limit values should be met as soon as possible, has been incorporated as a new preamble rather than in the body of the proposal.

Numbers of Articles and annexes immediately after the amendment number refer to the Commission's amended proposal. Numbers not in brackets refer to the Common Position.

Preamble

- Amendment 1 (*Recital 6a*) has been incorporated in spirit into Recital 9;
- Amendments 3 (*Article 3 (1)*), 5 (*Article 4*) and 6 (*Article 5(1)*) have been incorporated in spirit into Recital 4.

Articles

- Amendment 4 (*Article 3 (3)*), which restricts reporting of 10 minute concentrations of SO₂ was incorporated. Council further restricted reporting to stations from which such reporting is practicable;
- Amendment 12 (*Article 8 (3a)*) has been incorporated into Article 8(4).

III.2.2. Parliament's amendments accepted by the Commission in full or in part in the Commission's amended proposal but not included in the Common Position

Amendments 2 and 24.

III.2.3. Parliament's amendments not included in the Commission's amended proposal but incorporated in full or in part in the Common Position

Amendments 8, 10 (part 3), 11 and 27. Amendment 9 has been incorporated in Recital 11.

III.2.4. Changes made by Council to the Commission's amended proposal

The most important changes are described where not already covered above.

Preamble

Former Recitals 7 and 10 have been deleted. New Recitals 3, 4, 9 and 11 have been added. Recitals are therefore renumbered and there has been some further reordering to assist clarity.

Recital 4 expresses the spirit of Parliament's amendments 3, 5 and 6.

Recital 5 (formerly Recital 4) refers to the effects of SO₂ as well as the effects of oxides of nitrogen.

Recital 6 (former Recital 3) has been shortened.

Recital 9 stresses the importance of research to the planned review of the provisions of the Directive, in line with Parliament's amendment 1.

Recital 11 stresses that adaptations to the proposal via the Committee procedure established under Directive 96/62/EC cannot have the effect of modifying limit values or alert thresholds either directly or indirectly. This expresses the spirit of Parliament's amendment 9.

Articles

Article 2

- The definition of "public information indicator" has been deleted, as a consequence of changes in line with amendments 10, 11 and 27;
- Definitions of "natural event" and "fixed measurements" have been added.

Article 3

- A derogation has been introduced as Article 3 (4) for areas subject to high concentrations of SO₂ because of natural sources (volcanoes and geothermal activity);

Article 4

- The requirement for the public to be informed in the case of an exceedance of

the alert threshold has been moved to Article 8 (3).

Article 5

- The derogation in Article 5 (5) for areas subject to high concentrations of natural dust has been altered. Member States will inform the Commission of occurrences significantly in excess of normal background concentrations from such sources. These occurrences will be discounted in determining requirements for action plans.

Article 7

- Article 7 (2) has been shortened. Conditions under which Member States may use measurement methods other than the reference method are stated in Annex 9;
- Article 7 (3) has been reworded;
- Article 7 (3a) has been added for purposes of clarity;
- Article 7 (4) has been changes to reflect the addition to Annex 9 of a reference method for measuring PM₁₀ and the recognition of reference methods for PM_{2.5} as interim standards only.

Article 8

- Article 8 (1) incorporates Amendment 10. The requirement for Member States to send to the Commission lists of organisations which are notified of air quality concentrations has been deleted;
- The former Article 8 (2) has been deleted in line with Amendment 11. Former Article 8 (3) on making plans and programmes available to appropriate organisations is now Article 8 (2);
- A new Article 8 (3) deals with details to be supplied to the public if alert thresholds for SO₂ or NO₂ are exceeded.

Article 9

Article 9 has been extensively redrafted to simplify transitional arrangements. The most important change is that existing limit values for particulate matter under Directive 80/779/EEC, measured either as black smoke or as total suspended particulates, will be replaced as soon as this Proposal must be implemented by new limit values for PM₁₀. These are set at a level designed to maintain the existing level of protection until the date by which new limit values must be met.

Article 10

In addition to incorporating Amendment 14 in spirit, Article 10 in the Common Position lists a number of issues that the Commission intends to take into particular account in considering the need for any further proposals when it reviews the implementation of this Proposal in 2003.

Articles 11 (previous Article 12)

Article 11 has been reworded.

Article 12 (previous Article 11)

The date by which the legislation must be transposed is 24 months after entry into force of the proposal.

Annexes

Annex I

The alert threshold for SO₂ has been changed from 350 µg/m³ to 500 µg/m³.

Annex II

The allowed number of exceedances of the hourly limit value for NO₂ of 200 µg/m³ has been increased from 8 to 18.

Annex III

Limit values for PM₁₀ to be met by 2005 are less ambitious than proposed by the Commission (35 instead of 25 exceedances of the daily limit value; 40 µg/m³ instead of 30 µg/m³ as an annual limit value.) The margin of tolerance related to the annual limit value has been adjusted to ensure that the number of action plans for PM₁₀ which must be prepared by Member States remains approximately the same as that required under the original proposal.

Limit values for PM₁₀ to be met by 2010 are indicative, and there are no provisions relating to PM_{2.5}. It is made clear in Article 10 that these matters will be dealt with on review of implementation of the proposal in 2003.

Annex IV

A provision is included allowing an extension of the timetable for meeting the limit value to 2010 in the immediate vicinity of long-established industrial sites. These must be notified to the Commission. This is in line with Parliament's amendment 8.

Annex VI

Section I (a) incorporates the spirit of Parliament's amendment 22. A reference to the need to consider air quality on islands has also been included in Section I (b).

Other changes

There has been limited change to Annex VI on location of monitoring stations, partly due to Parliament's Amendments. Annex VII on numbers of sampling points incorporates the reasoning of Parliament's Amendment 25. Annex VIII, on data quality objectives, has been reworded to take account of new ISO standards. Annex IX has been updated to take account of

the most recent international standards and draft standards for air quality monitoring. In the absence of such a standard for monitoring PM_{2.5} an interim reference method has been included with the proviso that the Commission will carry out intercomparison exercises in order to provide information for a review in 2003. The Commission will also carry out intercomparison exercises on measurement methods for PM₁₀. Annex X has been deleted (Amendment 27).

III.2.5. Amendments not included in the Commission's amended proposal and not in the Common Position for reasons explained in the explanatory memorandum of the amended proposal.

Amendments 7, 10 (part 1), 13, 15, 16 (part 2), 20 and 21.

Amdm. No.	Amended Proposal	Common Position	Comments
1	Recital 6a	Recital 9	
2	Recital 8a	-	
3	Article 3(1)	Recital 4	
4	Article 3(3)	Article 3(3)	
5	Article 4	Recital 4	
		Article 4(2)	
6	Article 5(1)	Recital 4	
7	-	-	
8	-	Annex IV	
9	-	Recital 11	
10 (Part 1)	-	-	
10 (Part 2)	Article 8(1)	Article 8(1)	
10 (Part 3)	-	Article 8(1)	
11	-	Amdm. Accepted	Annex X deleted
12	Article 8 (3)a (new)	Article 8(4)	
13	-	-	
14	Article 10	Article 10	
15	-	-	
16 (Part 1)	Annex I, Section I, point 3	Annex I, Section I, point 3	
16 (Part 2)	-	-	
17	Annex II, Section I, point 3	Annex II, Section I, point 3	
18	Annex II, Section Ia (new)	Annex II, Section II	
19	Annex II, Section Ib (new)	Annex II, Section III	
20	-	-	
21	-	-	
22	Annex VI, Section Ia, para 4 (new)	Annex VI, Section Ia, para 4	
	Annex VI, Section Ib, para 3 (new)	Annex VI, Section Ib, para 2	
23	Annex VI, Section Ia, para 3	Annex VI, Section 1a, para 3	
24	Annex VI, Section II, para 1, indents 5-7	-	
25	Annex VII, Section Ia., before the first line, new line	Annex VII, Section Ia.	Amdm. Accepted in part
26	Annex IX, Section III	Annex IX, Section IIIa	
27	-	Amdm. Accepted	Annex X deleted
32	Annex VI, Section Ib, para 1 and 2 (new)	Annex VI, Section Ib	