COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.07.1995
COM(95) 312 final

94/0106 (SYN)

Amended proposal for a

COUNCIL DIRECTIVE

on

AMBIENT AIR QUALITY ASSESSMENT AND MANAGEMENT

(presented by the Commission pursuant to Article 189 a (2) of the EC-Treaty)

EXPLANATORY MEMORANDUM

Pursuant to Article 130s(1) of the EC Treaty, the Council consulted the European Parliament on the proposal for a Directive on ambient air quality assessment and management (COM (94) 109 final - 94/0106 (SYN)). During the June 1995 plenary session, Parliament approved "37" amendments, "24" of which were accepted by the Commission either fully or in part.

The various amendments accepted and rejected are discussed below:

Amendments accepted by the Commission

Amendment 5 (new Article 4(1)(a)) introduces the requirement for a regular review of the quality objectives taking account of new scientific or technical developments. This was already implicit in the Commission's initial proposal; the result will be a dynamic process which will in any case be beneficial for air quality management in the Union.

The altered structure of Annex I proposed in amendments 6, 24, 25, 26, 28, 29, 30, 32, 33 and 34 (Article 4(1)(b) (new), Annex I.1, Annex I.1(6) (new), Annex I.2, Annex I.2(a) (new)) provides for a third list of substances to be examined at a second stage and a change in priorities for substances listed in the Commission's initial proposal. The principle of an assessment, at a second stage, of the need to take account of new pollutants is acceptable, but not all the substances proposed are sufficiently specific to the issue of air quality or reliably measurable. Furthermore, the shortening of the deadlines laid down for setting quality objectives, however desirable and understandable, can be accepted to a certain extent only for priority substances such as benzene and carbon monoxide.

The involvement of the European Environment Agency in the various tasks planned for the Commission and detailed in amendments 10, 11, 15, 18, 19 and 20 (Articles 4(4), 4(5), 7(3)(a), 7(3)(b), 8, 9 and 11(1)) is justified in principle, but the many references to the Agency in several articles are not justified. The Agency's role will be taken into account in the form of a new recital.

Other amendments which are accepted in full or in principle improve or supplement the proposed provisions from the operational point of view (7, 8, 13, 14, 16, 17, 35 and 36) (Articles 4(1)(c), 4(2)(a) (new), 7(1), 7(3)(b), 7(3)(c), Annex II.5a (new) and Annex III.6).

Amendments rejected by the Commission

Amendments 39 (paragraphs 1 and 2), 22 and 23 provide for Parliament's involvement in the process for the submission of subsequent Commission proposals and in the work of the committee set up by the proposal. These amendments are not accepted since they

are incompatible with the cooperation procedure and with Council Decision 87/373/EEC of 13 July 1987.[1] The second part of amendment 11 is also rejected since it is incompatible with the Commission's right of initiative.

Amendments 1, 37 and 38 require the introduction of the critical load concept. The concept of critical load devised in the context of the United Nations protocols on transboundary pollution is applicable only for a very limited number of substances (essentially acidifying); the extension of the concept to other pollutants is not appropriate. Hence they are rejected.

Amendment 3 on the provision of information to the public by Member States is not accepted in view of the transparency policy introduced by the Commission, the provisions of Directive 90/313/EEC on the freedom of access to information on the environment, and the principle of subsidiarity which covers this aspect.

Amendments 16 and 21 concern information to and participation by non-governmental organizations; the Commission acknowledges the importance of these organizations and considers that they play an important and positive part in improving the environment. Nevertheless, these amendments would give them a formal status linked to the implementation of the Directive. The Commission considers that it is unnecessary and inappropriate to grant such a status in the context of this proposal. Hence they are rejected.

Amendments 39 (paragraph 3), 36, 27, 31 and 40, providing for an accelerated timetable for pollutants in Annex I part 2, are not accepted because the Commission has already agreed to earlier dates for benzene and CO, and in view of the amount of work and time required to draw up new proposals.

Amendment 9 is unrealistic because each pollutant has its own specific problems and hence the time required to implement the emission reduction measures will vary; it is not therefore possible to set an identical time limit for all substances.

Amendment 12 paragraph 1 would involve substantial costs to Member States. The second paragraph of the amendment is of little practical value owing to the difficulty of defining the phrase "high density" of industrial activity.

In accordance with Article 189a(2) of the EC Treaty, the Commission hereby amends as follows its proposal on ambient air quality monitoring to include the accepted amendments.

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1 OJ L 197, 18.7.1987, p. 33.

Original text	Amended text
Recital 3	Recital 3
Whereas the numerical values for the ambient air quality objectives shall be based on the findings of work carried out by international scientific groups active in the field;	Whereas the numerical values for the ambient air quality objectives shall be based on the findings of work carried out by international scientific groups active in the field; whereas this work must cover in particular the analysis of the effects of the combined action of various pollutants or sources of pollution and the effect of climate on the activity of the various pollutants examined in the context of this Directive;
Recital 15b (new)	Recital 15b (new)
	Whereas there is a need to avoid increasing the amount of information to be transmitted by the Member States; whereas the information gathered by the Commission pursuant to the implementation of this Directive may be useful to the European Environment Agency and may therefore be transmitted to it by the Commission;
	Recital 15c (new)
	Whereas the European Environment Agency must be involved in the Commission's work on tasks linked to the implementation of this Directive for which it is competent.
Article 4(1)	Article 4(1)
1. For those substances listed in Annex I, the Commission, after consultations with the advisory Committee referred to in Article 12, shall submit to the Council proposals for the setting of the ambient air quality objectives according to the following timetable:	1. For those substances listed in Annex I, the Commission, after consultations with the advisory Committee referred to in Article 12, shall submit to the Council proposals for the setting of the ambient air quality objectives according to the following timetable:

- no later than 31 December 1996 for substances 1 to 5; - in accordance with Article 8 of Council Directive 92/72/EEC for ozone; - as soon as possible and no later than 31 December 1999 for substances 7 to 14;	- no later than 31 December 1996 for substances 1 to 5; - in accordance with Article 8 of Council Directive 92/72/EEC for ozone; - no later than 30 June 1998 for substances 7 and 8; - as soon as possible and no later than 31 December 1999 for substances 9 to 14;
Article 4(1)(b) (new)	Article 4(1)(b) (new) (b) The Commission shall ensure that the quality objectives referred to in the previous paragraphs are reviewed at regular intervals taking account on each occasion of new developments in scientific research in the relevant epidemiological fields, and new advances in measuring techniques.
Article 4(1)(c) new	Article 4(1)(c) new (c) The Commission shall, as soon as possible, examine the need and procedures for setting air quality objectives in relation to other substances listed in Annex I.3
Article 4(2)(a) (a) the measurement • the location of the sampling points; • the minimum number of sampling points; • the measuring techniques.	Article 4(2)(a) (a) the measurement • the location of the sampling points; • the minimum number of sampling points; • the measuring and sampling techniques.
Article 7(1) 1. Member States shall take appropriate measures to ensure that, within the time limits which will be fixed in the Acts referred to in Article 4, the limit values set at Community level are not exceeded.	Article 7(1) 1. Member States shall take appropriate measures to ensure that, within the time limits which will be fixed in the Acts referred to in Article 4, the limit values set at Community level are not exceeded. The Member States shall take such

	measures subject to the regulations governing the operation of industrial installations, taking into account the forthcoming directive on integrated pollution prevention and control.
Article 7(2)	Article 7(2)
2. Member States shall make short-term plans for action to be taken in cases where an exceedance is forecast in order to reduce the likelihood of exceedance and to limit its duration.	2. Member States shall make short-term plans for action to be taken in cases where an exceedance is forecast in order to reduce the likelihood of exceedance and to limit its duration. Where applicable, these short-term plans shall also provide for the temporary suspension of activities which contribute towards exceeding the limit values, and the prohibition of road traffic.
Article 7(3)	Article 7(3)
3. send these plans or programmes to the Commission as soon as possible and at the latest within two years after the end of the year during which levels were observed;	3. send these plans or programmes to the Commission as soon as possible and at the latest within one year after the end of the year during which levels were observed;
Annex I.1	Annex I.1
1. Pollutants covered by EC Directives	1. Stage one pollutants 4. suspended particulate matter (SPM, PM10)
2. Other ambient air pollutants for consideration	2. Other ambient air pollutants for consideration
7. carbon monoxide (CO) 8. cadmium (Cd) 9. acid deposition 10. benzene (C_6H_6) 11. poly-aromatic hydrocarbons (PAH) (Benzo-a-pyrene (BaP) as indicator) 12. arsenic (As) 13. fluoride	7. benzene (C_6H_6) 8. carbon monoxide (CO) 9. cadmium 10. acid deposition 11. poly-aromatic hydrocarbons (PAH) (Benzo-a-pyrene (BaP) as indicator) 12. arsenic (As) 13. fluoride

14. nickel (Ni)	14. nickel compounds classified as carcinogenic under category L of Directive 67/548/EEC
	3. Pollutants that should be considered at a second stage: - dioxins - VOC - methane - ammonia - nitric acid - poly-aromatic hydrocarbons in general.
Annex II, point 5a (new)	Annex II, point 5a (new)
	5a Risk assessment methods may also be used.
Annex III, point 6, first indent	Annex III, point 6, first indent
Details of those factors responsible for the excess (transport, formation)	Details of those factors responsible for the excess (transport (including transfrontier transport), formation)

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