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(Acts whose publication is obligatory)

DIRECTIVE 1999/96/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 December 1999

on the approximation of the laws of the Member States relating to 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 and amending Council Directive 88/77/EEC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposals from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [3],

(1) Whereas measures should be adopted within the framework of the internal market;

(2) Whereas the first programme of action of the European Community on protection of the environment [4], approved by the Council on 22 November 1973, called for account to be taken of the latest scientific advances in combating atmospheric pollution caused by gases emitted from motor vehicles and for Directives adopted previously to be amended accordingly; whereas the fifth programme of action, which in its general approach was approved by the Council in its Resolution of 1 February 1993 [5], provides for additional efforts to be made for a considerable reduction in the present level of emissions of pollutants from motor vehicles;

(3) Whereas it is recognised that the development of transport in the Community has entailed significant constraints for the environment; whereas a number of official estimates of the increase in traffic density have proved to be lower than the actual figures; whereas for that reason stringent emission standards should be laid down for all motor vehicles;

(4) Whereas Directive 88/77/EEC [6] laid down the limit values for the emissions of carbon monoxide, unburnt hydrocarbons and nitrogen oxides from diesel engines for use in motor vehicles on the basis of a test procedure for European driving conditions for the vehicles concerned; whereas this Directive was first amended by Directive 91/542/EEC [7] in two stages, the first stage (1992/1993) coinciding with the implementation dates of the new European emission standards for passenger cars; whereas the second stage (1995/1996) established a longer-term orientation for the European motor industry by fixing limit values based on the expected performance of technologies still under development, whilst granting to industry a lead time to perfect such technologies; whereas Directive 96/1/EC [8] required that for small diesel engines with a cylinder swept volume lower than 0,7 dm^3 and a rated power speed higher than 3 000 min^{-1}, the limit value for particulate emissions set in Directive 91/542/EEC be introduced instead from 1999; whereas, however, it is reasonable on a technical basis to maintain a differential on particulate emissions for small high speed diesel engines that have a cylinder swept volume lower than 0,75 dm^3 and a rated power speed higher than 3 000 min^{-1}, but to end this differential in 2005;

(5) Whereas, under Article 5(3) of Directive 91/542/EEC, the Commission was to report to the Council before the

(1) OJ C 173, 8.6.1998, p. 1 and OJ C 43, 17.2.1999, p. 25.
(2) OJ C 407, 28.12.1998, p. 27.
(3) Opinion of the European Parliament of 21 October 1998 (OJ C 341, 9.11.1998, p. 74), Council Common Position of 22 April 1999 (OJ C 296, 15.10.1999, p. 1) and Decision of the European Parliament of 16 November 1999 (not yet published in the Official Journal).
(4) OJ C 112, 20.12.1973, p. 1.
(5) OJ C 138, 17.5.1993, p. 1.
(6) OJ L 36, 9.2.1988, p. 33.
(7) OJ L 295, 25.10.1991, p. 1.
(8) OJ L 40, 17.2.1996, p. 1.

end of 1996 on progress made regarding the revision of the limit values for polluting emissions combined, if necessary, with a revision of the test procedure; whereas such revised limits are not to apply before 1 October 1999 as regards new type-approvals;

(6) Whereas the Commission has implemented a European programme on air quality, road traffic emissions, fuels and engine technologies, (the Auto-oil programme), with a view to fulfilling the requirements of Article 4 of Directive 94/12/EC [1]; whereas a cost/effectiveness study within the Auto-oil programme has shown that a further improvement of diesel engine technology for heavy duty vehicles was necessary with a view to achieving air quality in the year 2010 as described in the communication by the Commission on the Auto-oil programme;

(7) Whereas improvement of requirements for new diesel engines in Directive 88/77/EEC constitute a part of a global Community strategy which will also include a revision of standards for light commercial vehicles and passenger cars from the year 2000, an improvement in motor fuels and more accurate assessment of in-service vehicle emission performances;

(8) Whereas Directive 88/77/EEC is one of the separate directives under the type-approval procedure laid down by Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to type-approval of motor vehicle and their trailers [2]; whereas the objective of reducing the level of pollutant emissions from motor vehicles cannot be sufficiently achieved by individual Member States and can therefore be better achieved by the approximation of the laws of the Member States relating to measures to be taken against air pollution by motor vehicles;

(9) Whereas reductions in emission limits applicable from the year 2000 corresponding to abatements of 30% in emissions of carbon monoxide, total hydrocarbons, NO_x and particulate matter have been identified by the Auto-oil programme as key measures to achieving satisfactory medium-term air quality; whereas a reduction of 30% in exhaust smoke opacity over that measured on current engine types and complementing Council Directive 72/306/EEC [3] will contribute to the reduction of particulate matter; whereas additional reductions in emission limits applicable from 2005 of 30% carbon monoxide, total hydrocarbons and NO_x and 80% in particulates will greatly contribute to medium-term air quality benefits; whereas these reductions will take into account the effect on emissions of new test cycles that better represent the driving patterns experienced by in-service vehicles; whereas the additional NO_x limit applicable from 2008 will result in a further 43% reduction in the emission limit for this pollutant; whereas, no later than the end of 2002, the Commission is to 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;

(10) Whereas permissive emission limit values are introduced which are applicable to vehicles defined as 'Enhanced environmentally friendly vehicles' (EEVs);

(11) Whereas on-board diagnostics (OBD) are not fully developed for heavy duty vehicles but are to be introduced from 2005 with a view to permitting rapid detection of failure of emission critical components and systems on vehicles and thus allowing a significant upgrading of the maintenance of initial emission performances on in-service vehicles through improved inspection and maintenance; whereas specific requirements for the durability of new heavy duty engines and for the conformity testing of in-service heavy duty vehicles should be introduced from 2005;

(12) Whereas new type-approval test cycles for gaseous and particulate emissions and smoke opacity are introduced that will allow a more representative evaluation of the emissions performance of diesel engines over test conditions that more closely resemble those encountered by vehicles in-service; whereas a new combined (two cycle) test procedure is introduced for conventional diesel engines and those diesel engines fitted with oxydation catalysts; whereas a new combined (two cycle) test procedure is introduced for gas-fuelled engines and, additionally, for diesel engines fitted with advanced emission control systems; whereas from 2005, all diesel engines are to be tested on both applicable test cycles; whereas the Commission will monitor progress in negotiations towards a worldwide harmonised test procedure;

(13) Whereas Member States should be allowed, by means of tax incentives, to expedite the placing on the market of vehicles which satisfy the requirements adopted at Community level, such incentives having to comply with the provisions of the Treaty and satisfy certain conditions intended to avoid distortions of the internal market; whereas this Directive does not affect the Member States' right to include emissions of pollutants and other substances in the basis for calculating road traffic taxes on motor vehicles;

[1] OJ L 100, 19.4.1994, p. 42.

[2] OJ L 42, 23.2.1970, p. 1. Directive as last amended by Directive 98/91/EC of the European Parliament and of the Council (OJ L 11, 16.1.1999, p. 25).

[3] OJ L 190, 20.8.1972, p. 1. Directive as last amended by Directive 97/20/EC (OJ L 125, 16.5.1997, p. 21).

(14) Whereas, in the development of Community legislation concerning emissions from motor vehicles, results of ongoing research into the characteristics of particulates should be taken into account;

(15) Whereas the Commission will report before 31 December 2000 on the evolution of emission control equipment for heavy duty diesel vehicles and the relationship with fuel quality, the need to improve the accuracy and reproducibility of particulate measurement and sampling procedures and the development of a worldwide harmonised test cycle;

(16) Whereas Directive 88/77/EEC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 88/77/EEC is hereby amended as follows:

1. The title shall be replaced by the following:

'Council Directive 88/77/EEC of 3 December 1987on 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'.

2. Article 1 shall be replaced by the following:

'*Article 1*

For the purposes of this Directive:

— "vehicle" means any vehicle as defined in Annex II section A to Directive 70/156/EEC propelled by a compression ignition or gas engine, with the exception of vehicles of category M_1 with a technically permissible maximum laden mass less than or equal to 3,5 t,

— "compression ignition or gas engine" means the motive propulsion source of a vehicle for which type approval, as a separate technical unit as defined in Article 2 of Directive 70/156/EEC, can be granted.

— "EEV" means enhanced environmentally friendly vehicle which is a vehicle propelled by an engine which complies with the permissive emission limit values given in row C of the Tables given in section 6.2.1 of Annex I.'

3. Annexes I to VIII shall be replaced by Annexes I to VII appearing in the Annex to this Directive.

Article 2

1. With effect from 1 July 2000, no Member State may, on grounds relating to the gaseous and particulate pollutants and opacity of smoke emissions from an engine:

— refuse to grant EC type-approval, or to issue the document provided for in the last indent of Article 10(1) of Directive 70/156/EEC, or to grant national type-approval for a type of vehicle propelled by a compression ignition or gas engine, or

— prohibit the registration, sale, entry into service or use of such new vehicles, or

— refuse to grant EC type-approval for a type of compression ignition or gas engine, or

— prohibit the sale or use of new compression ignition or gas engines,

if the appropriate requirements of the Annexes to Directive 88/77/EEC, as amended by this Directive, are satisfied in particular where the emissions of gaseous and particulate pollutants and opacity of smoke from the engine comply with the limit values set out in either row A or row B1 or B2 or the limit values set out in row C of the Tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive.

2. With effect from 1 October 2000, Member States:

— may no longer grant EC type-approval or issue the document provided for in the last indent of Article 10(1) of Directive 70/156/EEC, and

— shall refuse national type-approval,

for types of compression ignition or gas engines and types of vehicle propelled by compression ignition or gas engine where the emissions of gaseous and particulate pollutants and opacity of smoke from the engine do not comply with the limit values set out in row A of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive.

3. With effect from 1 October 2001 and except for vehicles and engines intended for export to third countries and except for replacement engines for in-service vehicles, Member States shall:

— consider certificates of conformity which accompany new vehicles or new engines pursuant to Directive 70/156/EEC as no longer valid for the purpose of Article 7(1) of that Directive, and

— prohibit the registration, sale, entry into service or use of new vehicles propelled by a compression ignition or gas engine and the sale and use of new compression ignition or gas engines,

where the emissions of gaseous and particulate pollutants and opacity of smoke from the engine do not comply with the limit values set out in row A of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive.

4. With effect from 1 October 2005, Member States:

— may no longer grant EC type-approval or issue the document provided for in the last indent of Article 10(1) of Directive 70/156/EEC, and

— shall refuse national type-approval,

for types of compression ignition or gas engines and types of vehicle propelled by a compression ignition or gas engine where the emissions of gaseous and particulate pollutants and opacity of smoke from the engine do not comply with the limit values set out in row B1 of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive.

5. With effect from 1 October 2006 and except for vehicles and engines intended for export to third countries and except for replacement engines for in-service vehicles, Member States shall:

— consider certificates of conformity which accompany new vehicles or new engines pursuant to Directive 70/156/EEC as no longer valid for the purpose of Article 7(1) of that Directive, and

— prohibit the registration, sale, entry into service or use of new vehicles propelled by a compression ignition or gas engine and the sale and use of new compression ignition or gas engines,

where the emissions of gaseous and particulate pollutants and opacity of smoke from the engine do not comply with the limit values set out in row B1 of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive.

6. With effect from 1 October 2008, Member States:

— may no longer grant EC type-approval or issue the document provided for in the last indent of Article 10(1) of Directive 70/156/EEC, and

— shall refuse national type-approval,

for types of compression ignition or gas engines and types of vehicle propelled by a compression ignition or gas engine where the emissions of gaseous and particulate pollutants and opacity of smoke from the engine do not comply with the limit values set out in row B2 of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive.

7. With effect from 1 October 2009 and except for vehicles and engines intended for export to third countries and except for replacement engines for in-service vehicles, Member States shall:

— consider certificates of conformity which accompany new vehicles or new engines pursuant to Directive 70/156/EEC as no longer valid for the purpose of Article 7(1) of that Directive, and

— prohibit the registration, sale, entry into service or use of new vehicles propelled by a compression ignition or gas engine and the sale and use of new compression ignition or gas engines:

where the emissions of gaseous and particulate pollutants and opacity of smoke from the engine do not comply with the limit values set out in row B2 of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive.

8. In accordance with paragraph 1, an engine that satisfies the appropriate requirements of the Annexes to Directive 88/77/EEC, as amended by this Directive, and meets the limit values set out in row C of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive, shall be considered as complying with the requirements of paragraphs 2 to 7.

Article 3

1. Member States may make provision for tax incentives only in respect of motor vehicles which comply with Directive 88/77/EEC, as amended by this Directive. Such incentives shall comply with the provisions of the Treaty as well as the conditions as set out in (a) or (b) below:

(a) they shall apply to all new vehicles offered for sale on the market of a Member State which comply in advance with the limit values set out in row A of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive, and thereafter as from 1 October 2000 with the limit values set out in row B1 or B2 of the said tables.

They shall be terminated with effect from the mandatory application of the emission limit values referred to in Article 2(3) for new vehicles, or by the dates of mandatory application of the emission limit values set out in row B1 or B2 of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC as amended by this Directive;

(b) they shall apply to all new vehicles offered for sale on the market of a Member State which comply with the permissive limit values set out in row C of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive.

2. For each type of vehicle, the incentives shall not exceed the additional cost of the technical solutions introduced to ensure compliance with the limit values set out in either row A or row B1 or B2 or the limit values set out in row C of the tables in section 6.2.1 of Annex I to Directive 88/77/EEC, as amended by this Directive, and of their installation on the vehicle.

3. The Commission shall be informed in sufficient time of plans to institute or change the tax incentives referred to in this Article, so that it can submit its observations.

Article 4

From 1 October 2005, new types of vehicles, and from 1 October 2006, all types of vehicles, shall be equipped with an on-board diagnostic system (OBD) or an on-board measurement system (OBM) to monitor in-service exhaust emissions.

The Commission shall propose provisions to this effect to the European Parliament and the Council. They shall include:

— unrestricted and standardised access to the OBD system for inspection, diagnosis, servicing and repairs,

— the standardisation of fault codes,

— the compatibility of spare parts to facilitate repair, replacement, and servicing of OBD-equipped vehicles.

Article 5

From 1 October 2005, for new types, and from 1 October 2006, for all types, type-approvals granted to vehicles and engines shall also confirm the correct operation of the emission control devices during the normal life of the vehicle or engine.

The Commission shall examine differences in normal life of various categories of heavy duty vehicles and consider proposing appropriate durability requirements specific to each category.

Article 6

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).

This provision must be confirmed and complemented by the Commission in accordance with Article 7.

Article 7

The Commission shall submit a proposal to the European Parliament and the Council confirming or complementing this Directive no later than 12 months after the date of entry into force of this Directive or 31 December 2000, whichever is the earlier.

The proposal shall take account of:

— the review process of the European Parliament of the Council set out in Article 3 of Directive 98/69/EC [1] of the European Parliament and of the Council and Article 9 of Directive 98/70/EC [2],

— the development of compression ignition engine and gas engine emission control technology including the after treatment technology, taking into account the interdependence of such technology with fuel quality,

— the need to improve the accuracy and repeatability of the current measurement and sampling procedures for very low levels of particulates from engines;

[1] OJ L 350, 28.12.1998, p. 1.
[2] OJ L 350, 28.12.1998, p. 58.