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Consultation on the draft UK notification to the European Commission to secure additional time to meet the limit values for particulate matter for certain zones/agglomerations in accordance with the Council Directive 2008/50/EC on Ambient Air Quality and Cleaner Air for Europe

January 2009



Llywodraeth Cynulliad Cymru
Welsh Assembly Government



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1.0 Introduction

- 1.1 This consultation has been prepared by the Department for Environment, Food and Rural Affairs (Defra) in consultation with the Welsh Assembly Government. The documentation also covers Scotland but the Scottish Government is carrying out an identical consultation exercise in their country.
- 1.2 The purpose of this consultation is to request comments from interested parties on the UK's draft time extension notification (Annexes A and B) to the European Commission. This is to secure, for eight zones/agglomerations in England, Scotland and Wales, an exemption from the obligation to apply the limit values for particulate matter (PM₁₀ - dust particles) until 2011, as provided for under the new ambient air quality directive (2008/50/EC). The notification sets out in detail how the limit values will be achieved in these areas by the extended deadline.
- 1.3 A consultation Impact Assessment (Annex C) supports this approach, which will allow planned measures to come into effect to deliver improvements in air quality.

2.0 Background

- 2.1 The Air Quality Framework Directive (1996/62/EC) and the Daughter Directives (1999/30/EC, 2000/69/EC, 2002/3/EC) set limit values and target values for various pollutants in ambient air, including for PM₁₀. For PM₁₀ the limit values should have been met since 2005.
- 2.2 Particulate matter consists of microscopic particles or droplets suspended in ambient air, categorised by their size. PM₁₀ particles have an aerodynamic diameter of 10 micrometres (10 µm) or less. Particulate matter comprises primary particles from combustion and secondary particles formed by chemical reactions in the air. In the UK the biggest human-made sources of primary PM are stationary fuel combustion and transport. Secondary PM is formed from emissions of ammonia, sulphur dioxide and oxides of nitrogen as well as from emissions of organic compounds from both combustion sources and vegetation. Both short-term and long-term exposure to ambient levels of PM is consistently associated with respiratory and cardiovascular illness and mortality as well as other ill health effects.
- 2.3 The new Council Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe entered into force on 11 June 2008 and the earlier Directives will be repealed from 11 June 2010. This new Directive includes the following key elements:
 - Consolidation of existing legislation into a single directive (except for the fourth Daughter Directive 2004/107/EC dealing with heavy metals in ambient air) with no change to existing air quality limit values;

- New controls for PM_{2.5} (fine particles) ;
- The possibility to discount natural sources of pollution when assessing compliance against limit values ;
- **The possibility for time extensions until 2011 for PM₁₀ and until 2015 for nitrogen dioxide (NO₂), for complying with limit values, based on meeting strict conditions and assessment by the European Commission.**

In relation to the last bullet point, the scope for Member States to apply for additional time to meet certain limit values recognises the fact that most Member States have had particular difficulties in achieving compliance within the original attainment dates set out in the EU legislation across parts of their territory. By way of comparisons, on the basis of 2006 data, mean UK roadside PM₁₀ concentrations are very similar to the EU roadside average and mean UK urban background concentrations are around 7µg m⁻³ lower than the EU urban background average. In 2007, 24 out of 27 Member States reported breaches of the daily limit value and 20 out of 27 Member States reported breaches of the annual limit value. On the basis of this evidence, it is clear that most other Member States, like the UK, need to submit time extension notifications for parts of their territory.

- 2.4 Under Article 22 (2) of the new Directive, Member States may notify the Commission when in their opinion the conditions are met in a given zone or agglomeration for an extension of the compliance deadline for PM₁₀ limit values. This requires submitting an air quality plan (or time extension notification) demonstrating that all appropriate measures have been taken at national, regional and local level to meet the required limit values and that these could not be achieved because of the presence of one or more of the following elements: site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions. Any notification must show how compliance with the limit values will be achieved by June 2011 and set out appropriate measures so that the exceedences period can be kept as short as possible.
- 2.5 If the Commission does not raise objections within nine months of receipt of a Member State's complete notification, a Commission decision will confirm the details of the parts of the Member State where additional time to meet the limit value has been agreed, recognising the latest compliance date is June 2011. Where the Commission has any objections they may however require a Member State to adjust or provide new air quality plans that could have the effect of permitting an extension for less than this maximum period.
- 2.6 If our notification is accepted by the Commission, current national implementing legislation¹ will be amended to reflect the new compliance deadline for the relevant zones/agglomerations.

¹ The Air Quality Standards Regulations 2007 (England); The Air Quality Standards Regulations (Northern Ireland) 2007; The Air Quality Standards (Scotland) Regulations 2007; and The Air Quality Standards (Wales) Regulations 2007

- 2.7 During the time extension period, the Member State must ensure that the limit value is not exceeded by more than the maximum margin of tolerance specified in the Directive. Outside the zones or agglomerations covered by the Commission Decision, limit values must be complied with in full.
- 2.8 As indicated above, most Member States need to secure additional time to meet the limit values for parts of their territory. A number of Member States have now submitted notifications to the Commission.² These can be viewed via the Commission's website and are currently being assessed by the Commission.

3.0 Attainment of PM₁₀ limit values in the UK

- 3.1 As a result of improvements over many years, the PM₁₀ limit values are being met across 99% of the UK, delivering significant health benefits. The few remaining areas where we have reported to the Commission exceedences at some point since the limit values came into force in 2005 are relatively small in size, although they tend to be in highly populated areas. The UK Air Quality Strategy³ sets out the work in train at national, regional and local level to meet the limit values in as short a time as possible.
- 3.2 The approach used to decide those areas of the UK that should be covered in any notification is set out in detail in the Technical Report to accompany the time extension notification forms (Annex B) and the notification forms themselves (Annex A). For the purposes of implementing EU legislation, the UK is divided into 43 zones and agglomerations (see Figure 1 in Annex B). Those zones/agglomerations where exceedences have been reported to the Commission at some point since 2005 were reviewed in light of adjustments for data issues and subtraction of natural sources. Projections of future concentrations of PM₁₀ were then made taking into account current and planned measures. On the basis of this analysis, the UK notification will cover the following 8 zones/agglomerations:
- Greater London Urban Area
 - West Midlands Urban Area
 - West Yorkshire Urban Area
 - Glasgow Urban Area
 - Brighton/Worthing/Littlehampton
 - Swansea Urban Area
 - Eastern England zone
 - Yorkshire and Humberside zone
- 3.3 In all these areas the additional time would enable planned measures to be put into effect and for any further actions to be taken to ensure compliance by 2011. Section 4.8 of the Technical Report summarises information on

² http://ec.europa.eu/environment/air/quality/legislation/time_extensions.htm

³ See <http://www.defra.gov.uk/environment/airquality/index.htm>

national, regional and local measures that are either in place or planned. Information on the measures in each zone or agglomeration are set out in Form 7 and described in the relevant section of the Technical Report. In all other zones and agglomerations in the UK, the updated corrected “baseline” data shows existing compliance.

3.4 In predicting future air quality, a “baseline” is constructed to show what effect currently planned measures and policies will have on air quality. The measures included in the baseline for this assessment include:

- All measures from the 2007 UK Energy White Paper, including the EU Emission Trading Scheme, encouraging energy saving through better information, incentives and regulation, more support for low carbon technologies, the UK Climate Change Programmes of 2003 and 2006 and the impacts of IPPC and the Large Combustion Plants Directive;
- UK Department for Transport traffic and transport projections from April 2008;
- Euro 5 and 6 (cars and light goods vehicles) and Euro VI (heavy goods vehicles) vehicle emission standards;
- The London Congestion Charge and Low Emission Zone
- The introduction of low and zero sulphur fuels;

3.5 Not included in the baseline are:

- Climate change measures proposed since the UK Energy White Paper, including any arising from recent European negotiations on post Kyoto targets for Europe. These have yet to be reflected in the UK Department for Energy and Climate Change’s energy projections and so their air quality impact has yet to be quantified. Broadly, measures to reduce combustion, e.g. move to wind, solar or tidal power, or energy efficiency, will have a positive effect on air quality.
- The majority of local air quality measures – see paragraph 3.8: these are very difficult to quantify in terms of their effect, although we are working with local authorities to develop their capacity to undertake such quantification.

3.6 Sections of road in the Greater London Urban Area have presented the greatest challenge, but we are confident that existing measures and those already in development will enable compliance in 2011. There have been a number of initiatives put in place by the Mayor of London to improve air quality, and carry out his responsibilities under section 362 of the Greater London Authority Act 1999. These include the London Low Emission Zone, the Mayor’s Taxi Emissions Strategy and the Bus Improvement Programme. While we expect these existing measures and those already in development to enable us to meet the PM₁₀ limit value in 2011, any further measures will not only help to bring us within compliance (allowing for adverse weather conditions and uncertainty in predictions), but more importantly will deliver crucial health benefits. Furthermore, new measures may be required for reducing levels of finer particulate matter (PM_{2.5}) as we look forward to

delivering the improvements to air quality in the longer term that we have committed ourselves to under Directive 2008/50/EC on ambient air quality.

- 3.7 The UK Government and the Mayor of London have committed to working together to identify further measures, to ensure the UK will meet the limit value for PM₁₀ in 2011. These measures could include national, London and local measures as necessary.
- 3.8 For the other zones/agglomerations covered in our notification, national modelling demonstrates that compliance will be achieved by 2011 on the basis of current plans i.e. without any additional measures. In these zones/agglomerations, the areas where exceedences have been reported are small and the causes varied. In some areas, the problems have related mainly to localised building works or management of particular industrial installations. In other areas, local authority measures within the framework of the Local Air Quality Management Plans under the Air Quality Strategy are likely to have a more important role. The content of these plans vary but generally focus on measures dealing with road traffic, such as local traffic management , promoting green travel plans, using cleaner fuelled vehicles in the authority's own fleet, and partnerships with bus or fleet operators to deliver cleaner vehicles in return for provision of better bus lanes.
- 3.9 The notification, comprising a number of Forms and an accompanying Technical Report (Annexes A and B) has been presented according to guidance from the Commission and using their recommended format. This is based on that used for the Plans and Programmes submitted under the current EU legislation. It should therefore be familiar to consultees. The notification includes existing Government policies for meeting the EU air quality limit values, in particular the UK Air Quality strategy⁴, and regional and relevant local air quality management plans.
- 3.10 The comments received during the consultation will be considered in finalising the notification for submission to the European Commission as soon as possible. Pending submission of our notification, the UK risks infringement proceedings being instigated on the basis of exceedences reported in 2006.
- 3.11 **Consultation question : Does the draft notification to the European Commission (Annexes A and B) and the draft Impact Assessment (Annex C) present an accurate case for postponement of the attainment deadline for PM₁₀ until 2011 for the eight zones/agglomerations listed above.**

⁴ See: <http://www.defra.gov.uk/environment/airquality/strategy/index.htm>

4.0 How to respond to this consultation

- 4.1 The commencement date of this consultation is **27 January 2009**. The closing date for responses is **10 March 2009**. Responses should be sent to:

Alex Edelsten
Atmospheric Quality and Industrial Pollution
Department for Environment, Food and Rural Affairs
Area 3C, Ergon House
17 Smith Square,
London SW1P 3JR

Email: euairquality@defra.gsi.gov.uk
Tel.: 020 7238 5298

- 4.2 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

5.0 Outcome

- 5.1 Early responses would be most welcome. The comments received during the consultation will be considered in finalising the notification for submission to the European Commission as soon as possible. We will publish a summary of consultation responses.

6.0 Confidentiality

- 6.1 In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resources Centre. The information they contain may also be published in a summary of responses.
- 6.2 If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.
- 6.3 You should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.
- 6.4 The Information Resource Centre will supply copies of consultation responses to personal callers or in response to telephone or e-mail requests (tel: 020 7238 6575, mailto: defra.library@defra.gsi.gov.uk). Wherever possible, callers

should give the library at least 24 hours notice of their requirements. An administrative charge will be made to cover photocopying and postage costs.

- 6.5 If you wish to make a complaint, or query the consultation process, please write to:

Marjorie Addo
Consultation Co-ordinator
Department for Environment, Food and Rural Affairs
Zone 7C, Nobel House
17 Smith Square
London SW1P 3JR

E-mail: consultation.coordinator@defra.gsi.gov.uk

7.0 Consultees

- 7.1 We are seeking information and comments from industry, other non-governmental organisations, consumer groups, trade associations, and any other interested parties .
- 7.2 Please tell us if you know of others who would be interested in receiving this consultation document.
- 7.3 Hard copies are also available by request (except the Time Extension Notification forms, which are not in printable format) - please contact Alex Edelsten (contact details below). Additional copies of this document can be made without seeking permission.

8.0 Help with enquires

- 8.1 If you would like help with queries, or require further information about this consultation, please contact:

Alex Edelsten euairquality@defra.gsi.gov.uk (Tel.: 020 7238 5298)

9.0 Government Code on Consultations

- 9.1 A copy of the Government Code on Consultations has been published by the Department for Business, Enterprise and Regulatory Reform (BERR). A copy can be obtained from:

<http://www.berr.gov.uk/files/file47158.pdf>