

Appliances burning gaseous fuels

2014/0136(COD) - 12/05/2014 - Legislative proposal

PURPOSE: to amend Directive 2009/142/EC to ensure that appliances burning gaseous fuels on the market fulfil the requirements providing for a high level of protection of health and safety of users and protection of domestic animals or property and for rational use of energy.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND : Directive 2009/142/EC setting out the conditions for the placing on the market and putting into service of appliance burning gaseous fuels is based on the “New Approach” principles regarding technical harmonisation and standards. It sets out only the essential requirements applying to appliances burning gaseous fuels, whereas technical details are adopted by the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (Cenelec) in accordance with Regulation (EU) No 1025/2012 on European Standardisation.

Experience from the implementation of Directive 2009/142/EC has shown **the need to modify some of its provisions** in order to clarify and update them and ensure thus legal certainty as regards the definitions relating to its scope, the content of the Member States' communications of their gas types and supply pressures and certain essential requirements. The Commission proposes to **replace Directive 2009/142/EC with a Regulation**, so as to impose clear and detailed rules which do not give room for divergent transposition by Member States and ensure a uniform implementation throughout the Union.

IMPACT ASSESSMENT: the option of **modifying Directive 2009/142/EC** was found to be the preferred option because: (i) it is considered more effective since it will be enforceable in law ; (ii) it does not entail significant costs for economic operators and notified bodies; (iii) no significant economic or social impacts could be identified.

CONTENT: the proposed Regulation does not change the current scope of Directive 2009/142/EC. However, it **modifies some of its provisions** in order to clarify and **update their content**. The proposed Regulation is also aligned to the provisions of Decision No 768/2008/EC establishing a common framework for the marketing of products (NLF Decision).

The proposal provides for :

- the removal of the outdated temperature limit of 105°C from the definition of the scope;
- the introduction of currently missing **definitions** for the sector specific terminology under Directive 2009/142/EC;
- the introduction of a harmonised content and form of the **communications of Member States on the types of gas and corresponding supply pressures used on their territory**;
- the clarification of the relationship between Directive 2009/142/EC and other EU harmonisation legislation, including Ecodesign implementing measures under Directive 2009/125/EC and other Union energy policy instruments;

- the improvement of the readability of some of the provisions of Directive 2009/142/EC.

The modification also includes the following points:

Making available on the market of gas appliances and fittings, obligations of economic operators, CE marking, free movement: the proposal contains the typical provisions for product-related Union harmonisation legislation and sets out the obligations of the relevant economic operators (manufacturers, authorised representatives, importers and distributors), in accordance with the NLF Decision.

The proposed Regulation keeps the existing provision according to which fittings do not bear the CE marking. However, in order to improve clarity, the certificate accompanying fittings under Directive 2009/142/EC has been qualified as “**Fitting conformity certificate**”, in order to better define its content and clarify its relationship with the EU declaration of conformity requirement under other possibly applicable Union harmonisation legislation.

Notified bodies: in line with the NLF Decision, the proposal reinforces the notification criteria for notified bodies and introduces specific requirements for notifying authorities.

Conformity assessment: the proposal keeps the conformity assessment procedures provided for under Directive 2009/142/EC. However, it updates the corresponding modules in line with the NLF Decision. In particular, it keeps the requirement for a notified body intervention in the design and production phase of all appliances and fittings.

Furthermore, it keeps the current approach for the design phase, according to which the type examination of the product by the notified body takes the form of examination of the complete appliance or fitting. Therefore, in accordance with the NLF Decision, it **provides only for the EU-type examination – production type**.

ENTRY INTO FORCE: the proposed Regulation will become applicable **two years after its entry into force** to allow manufacturers, notified bodies, Member States and European Standardisation Bodies, time to adapt to the new requirements.

A transitional provision is envisaged for the certificates issued by notified bodies under Directive 2009/142/EC so as to allow stocks to be absorbed and ensure a smooth transition to the new requirements.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.