

Climate change: fluorinated greenhouse gases, hydrofluorocarbons HFCs, perfluorocarbons PFCs, sulphur hexafluoride

2003/0189A(COD) - 21/06/2005 - Council position

Of the 81 amendments made by Parliament, the Council accepts 54, and these have been incorporated, either verbatim, in part or in principle, into the Council's common position- 44 in the Regulation and 10 in the Directive. 27 amendments have not been incorporated.

The Council agreed with the Parliament's amendments considering that the proposed quota system was not the most practical way to achieve the aim of reducing emissions from these systems and, ultimately, changing the refrigerant in all new systems to a less environmentally damaging substance (i.e. a gas with a substantially lower GWP). Therefore the quota system has been deleted.

The Council noted that the Parliament intended to use the EC Type Approval system pursuant to Directive 70/156/EEC for the purpose of controlling the way in which vehicles would be equipped with environmentally friendly air conditioning systems. The Council shares the Parliament's objective and has implemented it using the standard form of a vehicle type approval Directive, under the parent legislation contained in Directive 1970/156/EEC.

Having decided to remove the mobile air-conditioning part of the proposal to a separate Directive, the Council gave very careful consideration to the appropriate legal base for the rest of the Regulation and, as reflected in the common position, decided that a dual legal base is the most appropriate solution. This means that the Regulation is based on Article 175(1). However, the Articles relating to the use-bans, the prohibition of placing on the market and labelling (see below) are all based on Article 95 of the Treaty.

The Common Position is in the form of a Regulation on certain fluorinated greenhouse gases and a Directive on emissions from MACs. The change in form reflects the Parliament's wish to address MACs through type-approval legislation. The Council has taken a similar approach to the Parliament in terms of the legislative instrument to use for reducing emissions from MACs, and the Common Position gives this effect through a 'type approval'-style Directive that amends Directive 1970/156/EC, with dates of phase out of HFC-134a in 2011 and 2017 for new types of vehicles, and new vehicles respectively. The Parliament had proposed 2011 for new types of vehicle and 2014 for all new vehicles.

In addition, the following amendments were amongst those accepted:

- the word "greenhouse" before fluorinated gases is used throughout the text;
- repair work is to be done properly done after leakage;
- there is a reduction of inspection frequency if no leakage;
- leakage detection systems should be in areas where leakage is more likely;
- Member States must adapt their training schemes;
- Council incorporates the amendment which aims to provide information about the GWP of products and equipment containing fluorinated gases in the new labelling provision;

-a review is introduced to establish whether the Regulation needs revising.

-From 31 December 2006 new vehicles types comply with the leakage rates established in a standardised test procedure.

-Parliament's amendment requires recovery during servicing and during final disposal. However, in the Common Position the text is now "and before final disposal".

The following amendments were not incorporated in the common position:

-in the common position an exception to the use ban is still included. The use bans will be specifically reviewed in 2009 and 2010 and the possible extension of the placing on the market prohibitions will be considered in the general review;

-the requirement that refrigeration, air-conditioning and heat pumps to undergo standardised tests before placing on the market. These standards should be based on existing legislation not on tests defined by the Committee. The Council believes that this is normal procedure and so does not need to be repeated in the Common Position;

-the requirement that Member States must promote equipment (MACs) with a GWP below 50 and use fiscal incentives. The introduction of tax incentives for conversion of Mobile Air conditioning systems (MACs) with a GWP<50 was rejected;

-the GWP value used in the common position is 150, not 50. However, the Common Position provides for a review of whether Community provisions concerning the GWP of fluorinated greenhouse gases should be amended, in Article 8(1) of the 'type-approval' Directive. The report to be provided under Article 8(1), five, not two, years after entry into force, shall examine whether amendments are required taking account of technological and scientific developments and the need to respect industrial product planning timescales.

-the Council opted to retain the Commission's proposal to use "novelty aerosol" as it did not feel sufficient research and consultation had been undertaken with respect to other aerosols. Parliament's amendment would have replaced the Commission's proposed definition with a new definition of "technical aerosols";

-the Council did not incorporate the extension of the scope of the reporting provisions and it was not clear what the additional benefits would be in estimating emissions of fluorinated gases in the EU.

In addition:

-the Common Position contains a new Article on Labelling which will ensure that certain products and equipment containing fluorinated greenhouse gases are not put on the market unless they are appropriately labelled. The Council feels that seems to fit, to some extent, with the Parliament amendment on information to consumers.

-there will be a review four years after entry into force of the Regulation;

-in the Common Position the Regulation comes into force twelve months after its publication in the Official Journal instead of the twenty days proposed by the Commission. The entry into force of the Directive is maintained at 20 days. This change in date in the Regulation is because most of the prohibitions in Annex II will already take effect on the date of entry into force of the Regulation.