

28 June 2012

Commission rejects UK application to delay compliance with nitrogen dioxide laws in 12 zones

16 of the UK's 31 other zones, including London which does not expect compliance until 2025, also face infringement action. Commission is seeking separate clarification on five issues in London

LONDON, 28 June 2012. The European Commission (Commission) has objected to the UK's application to delay compliance with one or both of the nitrogen dioxide (NO₂) annual mean and hourly limit values in 12 of 24 zones from 1 January 2010 to 1 January 2015. In four of the 24 zones, the Commission has set shorter deadlines than the 2015 deadline requested. Only three of the UK's 43 zones complied with both NO₂ limit values by January 2010. These legal standards were introduced in 1999 to be complied with by 1 January 2010. Time extensions are subject to strict conditions including demonstrating that compliance will be achieved by the new deadline which cannot be later than 1 January 2015.

The Commission's decision noted, as Clean Air in London (CAL) had highlighted to the Commission in January 2012 and the Government clarified to the Commission in a letter dated 2 April 2012, the UK had not applied in September 2011 for a time extension for 16 further zones, for which compliance was expected by 2020 and in London's case by 2025, despite the Commission initially considering it had done so. In a ground breaking legal case, brought against the Government by ClientEarth, the Court of Appeal confirmed on 30 May 2012 that the Commission can take infringement action against the UK for breaches of NO₂ limit values in 2010 (or thereafter) unless a time extension is obtained.

In a separate but closely related development, the Commission has written to CAL about CAL's complaint lodged in January 2012 about breaches of limit values for NO₂ and dangerous airborne particles (PM₁₀) in London and elsewhere (the Complaint). The Commission has asked the UK authorities to provide them with clarification on: the process by which the UK obtained a time extension until 2011 to comply with the PM₁₀ daily limit value in London; the exceedances at Neasden Lane, Horn Lane and Upper Thames Street; the future monitoring stations they will use to communicate compliance; the use of pollution suppressants near monitoring stations; and the situation with regard to air quality plans and programmes for NO₂ e.g. with respect to the 16 zones referred to above for which no time extension was sought.

In its response to CAL, the Commission has said the Complaint, for which CAL is the lead complainant with others writing in support, has now been registered as EU Pilot 3628/12/ENVI. It is current Commission practice to contact Member States through the EU Pilot before deciding whether infringement action is required and appropriate. The EU Pilot operates on the basis of a 10 week deadline.

Simon Birkett, Founder and Director of CAL, said "For the first time people can see clearly the scale and seriousness of the UK's 'invisible' air pollution. With time extensions rejected for 12 zones and enforcement action anticipated for a total of 28 zones, for failing to comply with nitrogen dioxide (NO₂) limit values by 2010, the European Commission's decision shows how ludicrous it was of the Government to say it won't comply with the same standards in London until 2025. Clean Air in London urges the Commission to prioritise urgently for infringement action those zones, including London, which have the worst air pollution.

“Air pollution is the biggest public health risk after smoking. It can cause asthma in children and cardiovascular disease in those aged over 65. World Health Organisation guidelines and legal limits for air quality are breached by a factor of two or more near our busiest roads. London, for example, had the highest annual mean concentrations of NO₂, a toxic gas, of any capital city in Europe in 2010 with levels comparable to Beijing before it took action for the 2008 Olympics. The UK had a higher percentage of zones exceeding the limit value plus then allowed margin of tolerance for NO₂ in 2009 than any other country in Europe.

“It is scandalous the UK did not commit to any new measures in any zone in its application to delay compliance with NO₂ limit values and the Mayor had none in his Manifesto. Equally serious, Mayor Johnson is applying pollution suppressants to reduce dangerous airborne particles (PM₁₀) (which he calls ‘dust’) in front of air quality monitors used to warn the public of smog episodes and report legal breaches. The Mayor says it is for the Government to issue press releases about smog episodes not him and for the Government it is always the wrong sort of air pollution, measured on the wrong sort of monitoring network, for it to warn the public (i.e. it must be high ozone on the Government’s monitoring network). Instead, we need: political leadership; fewer and cleaner (diesel) vehicles; to reduce emissions from buildings; to protect the most vulnerable; and to ensure an air quality legacy from the Olympics.

“With the eyes of the world upon us, the UK should be leading the world in tackling air pollution not relying on pollution suppressants and dodging smog warnings.

“Last but not least, CAL wishes to thank all those who have supported its Complaint and the European Commission for taking decisive action to protect health in the UK,” said Simon Birkett.

The European Commission’s decision (NO₂-Decision 2) can be seen at:

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

The UK Overview document titled ‘Air Quality Plans for the achievement of EU air quality limit values for NO₂ in the UK’, submitted to the Commission in September 2011, can be seen at:

http://circa.europa.eu/Public/irc/env/ambient/library?l=/extension_notifications/notifications_extensions/uk/notification_22092011/official_notification/110921_documentpdf/EN_1.0_&a=d

CAL gave oral evidence to the House of Commons Environment Food and Rural Affairs Committee on these matters on 27 June 2012. Further details can be seen at:

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/environment-food-and-rural-affairs-committee/news/air-quality-session/>

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