

22 November 2013

Government is lobbying, with others in the Council of Ministers, for changes that would weaken new roadworthiness tests for emissions systems across Europe

This is a Red Line issue. European Commission and European Parliament must withdraw from negotiations with the Council of Ministers unless the new regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers includes the effective, independent and periodic tailpipe testing of oxides of nitrogen (petrol and diesel vehicles) and particulates (diesel vehicles only). Europe should keep current legislation rather than allow a new regime that would risk weakening emission systems checks

Clean Air in London urges its supporters to make their voices heard. We must reduce harmful emissions and stop this Government lunacy

Clean Air in London (CAL) understands the Government is lobbying, with support particularly from Germany, Austria and The Netherlands, in the Council of Ministers (Council) for changes that would fundamentally weaken new European roadworthiness tests for emissions systems including tailpipe testing.

New European Union regulations

Requirements for new roadworthiness tests are currently being negotiated through a European Union (EU) process called Trilogue.

Trilogue, which involves the Council (representing Governments), the European Commission (Commission) (as custodian of the Treaties) and the European Parliament (representing people), is deciding the proposal for a regulation of the European Parliament and of the Council of Ministers on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC. The next Trilogue meeting is scheduled to take place on Tuesday 26 November in Brussels.

Further, CAL understands the UK Government may be seeking to remove the current requirement for tailpipe testing altogether, even for diesel vehicles.

The European Parliament voted decisively and positively on this issue on 2 July 2013. Some key amendments of otherwise excellent Commission proposals included:

- i. All vehicles used on public roads, without prejudice to requirements of periodic roadworthiness testing, are required to be roadworthy at all times when they are used.
- ii. Any retrofitted equipment affecting the safety and environmental characteristics of the vehicle should not adversely affect those characteristics as they were at the time of type approval, first registration or entry into service.
- iii. The tailpipe testing shall always be the default method of exhaust emission assessment, even if combined with OBD [i.e. onboard diagnostics].

- iv. For vehicles equipped with OBD in accordance with requirements, reading of OBD information and checks (readiness) on the proper functioning of the OBD system at engine idle in accordance with the manufacturer's recommendations and other requirements.
- v. Diesel vehicles: Measurement of NOx levels and particulates by means of suitable equipment/a suitably equipped gas analyser, using existing free acceleration test methods.

Diesel vehicles: Reason for fail – NOx level or particulate values not in accordance with the requirements or in excess of the specific levels given by the manufacturer.
- vi. Type-approved according to limits of Table 1 of Annex I to Regulation (EC) No 715/2007 or first registered or put into service after 1 July 2007 (Euro 5).

A longer list, which is non-exclusive, appears in Note 5 below.

Tighter standards needed to protect public health and motorists

The World Health Organisation classified diesel exhaust as carcinogenic for humans on 12 June 2012 and added outdoor air pollution and particulate matter on 17 October 2013.

CAL has been advised that removing a factory-fitted diesel particulate filter (DPF) is either a substantive or inchoate legal offence. The Government has confirmed it is illegal to use a vehicle on the road if it has been modified in such a way that it no longer meets the air quality emissions standards it had when originally produced i.e. unroadworthy.

Association of British Insurers has told CAL that *'Applying for or renewing insurance knowing that the vehicle is illegal or unroadworthy, would amount to misrepresentation and potential fraud'* and *'No insurance would be offered or renewed if the owner declared to the insurer that the vehicle was illegal to drive/unroadworthy'*.

Despite issuing new guidance on 24 September 2013, the Government has failed to: stop the removal of factory-fitted DPFs; stop the driving of illegal vehicles; or amend the MOT to give motorists and the public confidence that vehicles meet roadworthiness requirements for tailpipe emissions. Amongst other things, the second hand value of diesel vehicles may be sharply reduced if purchasers are uncertain whether a vehicle they are considering buying is illegal to drive. Honest motorists are also at risk.

CAL investigation found that tens of thousands or hundreds of thousands of UK motorists may be driving diesel vehicles illegally, face losing their car insurance and risk being found guilty of the criminal offence of fraud – many without realising it.

Quotes

Simon Birkett, Founder and Director of Clean Air in London, said:

“Tens of thousands and perhaps hundreds of thousands of UK motorists are illegally driving diesel vehicles, face losing their car insurance and risk being found guilty of the criminal offence of fraud –

many without realising it. Perhaps worse, whether they know it or not or care or not, they are polluting the environment with carcinogenic diesel exhaust.

“This is a Red Line issue. European Commission and European Parliament must withdraw from negotiations with the Council of Ministers unless the new regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers includes the effective, independent and periodic tailpipe testing of oxides of nitrogen (petrol and diesel vehicles) and particulates (diesel vehicles only). Europe should keep its current legislation rather than approve a new regime that would risk weakening emission systems checks.

“Unless new roadworthiness testing regulations stop the modification, tampering and/or removal of diesel particulate filters and emissions control units, illegal driving of vehicles will continue and public health will suffer. These units need to be fully operational and effective to protect public health and motorists.

“The Secretary of State for Transport should accept full responsibility for Government failures in this important area and resign immediately.”

ENDS

Notes

- 1. Proposal for a regulation of the European Parliament and of the Council on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (COM(2012)0380 – C7-0186/2012 – 2012/0184(COD))**

[http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2012/0184\(COD\)&l=en#keyEvents](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2012/0184(COD)&l=en#keyEvents)

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+20130702+ITEMS+DOC+XML+V0//EN&language=EN#sdocta11>
<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0210&language=EN>

- 2. Trilogue meeting(s) on Tuesday 26 November 2013**

<http://www.consilium.europa.eu/council/calendar-of-meetings/getdailymeeting?lang=en&date=11/26/13>

- 3. Directive 2009/40/EC**

Directive 2009/40/EC on roadworthiness tests for motor vehicles and their trailers.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:141:0012:0028:EN:PDF>

- 4. Directive 2010/48/EU**

Directive 2010/48/EU adapting to technical progress Directive 2009/40/EC of the European Parliament and of the Council on roadworthiness tests for motor vehicles and their trailers.

<http://cleanairinlondon.org/sources/investigation-into-governments-failure-to-control-carcinogenic-diesel-exhaust/attachment/cal-227-directive-2010-48-eu/>

5. European Parliament vote on 2 July 2013

The European Parliament voted decisively and positively on this issue on 2 July 2013. Its amendments included:

i. Amendment 2

All vehicles used on public roads, without prejudice to requirements of periodic roadworthiness testing, are required to be roadworthy at all times when they are used.

ii. Amendment 3

Enforcement of roadworthiness measures should include awareness campaigns focusing on vehicle owners and aimed at developing good practices and habits resulting from basic checks of their vehicle

iii. Amendments 4 and 115:

...Any retrofitted equipment affecting the safety and environmental characteristics of the vehicle should not adversely affect those characteristics as they were at the time of type approval, first registration or entry into service.

iv. Amendment 6

This also applies to an increase in particulates and NOx emissions from engines of modern design which require a more comprehensive emissions test, including a check by means of an electronic control device, of the integrity and functionality of the vehicle's own on-board diagnostic (OBD) system, verified by existing tailpipe testing to ensure a complete emissions systems test, since reference to the OBD alone is not reliable

v. Amendment 80

A person who has performed repairs or maintenance on a vehicle shall not be involved as an inspector in the subsequent conducting of a periodic roadworthiness test of that same vehicle unless the supervising body has established to its satisfaction that a high level of objectivity can be guaranteed. Member States may prescribe stronger requirements regarding the separation of activities.

vi. Amendment 88

Each Member State shall take the necessary measures to ensure that manipulation of, or tampering with, vehicle components and systems which have a bearing on compliance with

safety and environmental requirements or an odometer is regarded as an offence and is punishable by effective, proportionate, dissuasive and non-discriminatory penalties, and to ensure the accuracy of the odometer reading during the entire lifetime of a vehicle.

vii. Amendment 100 (Petrol vehicles)

The tailpipe testing shall always be the default method of exhaust emission assessment, even if combined with OBD.

For vehicles equipped with OBD in accordance with requirements (1), reading of OBD information and checks (readiness) on the proper functioning of the OBD system at engine idle in accordance with the manufacturer's recommendations and other requirements.

Measurement of NO_x levels by means of a suitable equipment/suitably equipped gas analyser, using existing tailpipe test methods

Reason for fail: NO_x level not in accordance with the requirements or in excess of the specific levels given by the manufacturer.

Type-approved according to limits of Table 1 of Annex I to Regulation (EC) No 715/2007 or first registered or put into service after 1 July 2007 (Euro 5).

viii. Amendment 102 (Diesel vehicles)

The tailpipe testing shall always be the default method of exhaust emission assessment, even if combined with OBD.

For vehicles equipped with OBD in accordance with requirements (1) , reading of OBD information and checks (readiness) on the proper functioning of the OBD system at engine idle in accordance with the manufacturer's recommendations and other requirements (1) .

Measurement of NO_x levels and particulates by means of suitable equipment/a suitably equipped gas analyser, using existing free acceleration test methods.

Reason for fail: NO_x level or particulate values not in accordance with the requirements or in excess of the specific levels given by the manufacturer.

Type-approved according to limits of Table 1 of Annex I to Regulation (EC) No 715/2007 or first registered or put into service after 1 July 2007 (Euro 5).

6. Department of Transport guidance issued on 24 September 2013

<https://www.gov.uk/government/publications/diesel-particulate-filters-guidance-note>

7. Clean Air in London investigations

<http://cleanairinlondon.org/sources/thousands-may-be-driving-diesel-vehicles-illegally-after-government-failures/>

<http://cleanairinlondon.org/sources/carcinogenic-diesel-exhaust-disclosed-for-every-significant-road-in-london/>
<http://cleanairinlondon.org/sources/investigation-into-governments-failure-to-control-carcinogenic-diesel-exhaust/>

8. World Health Organisation advice

<http://cleanairinlondon.org/health/outdoor-air-pollution-causes-lung-cancer/>

9. Media coverage

BBC Bang: 29 April 2013

<http://www.bbc.co.uk/programmes/b01s7twg>

The Green Car Website: 16 August 2013

<http://www.thegreencarwebsite.co.uk/blog/index.php/2013/08/16/diesel-drivers-removing-particulate-filters-warned-you-could-be-breaking-the-law/>

Business Green: 12 September 2013

<http://www.businessgreen.com/bg/analysis/2289216/transport-minister-accused-of-failing-to-enforce-uk-pollution-rules>

French television investigation into the removal of diesel particulate filters: 26 September 2013

<http://youtu.be/1yNTSioCnCI>

10. Onboard diagnostics

International tests have shown that OBD is not a reliable and accurate test method, especially for diesel emissions, as high percentages of vehicles tested did not display any OBD failure indication, even though they had failed the stricter tailpipe test.

In a study by the French government body UTAC, which was presented recently, tailpipe testing was carried out as part of periodic emission testing on more than 600,000 Euro 4/5 vehicles (diesel engines, passenger cars from construction year 2007 onwards and trucks from construction year 2010 onwards) parallel to readings from the OBD system. The study showed that OBD alone is not suitable to safely detect emission-relevant errors in modern vehicles and that supplementary tailpipe testing delivers the more reliable result.

11. Costs and benefits

As part of the TEDDIE 2011 study, financed by the EU, costs and benefits of improved emission testing were identified. The analysis was based on cost rates for road traffic in line with EU Directive 2009/33/EC. The average benefit of an adapted emission test procedure for diesel

vehicles was identified at 864.4 million euros per year. This benefit results from the avoidance of emissions from defective exhaust gas systems which can be identified and repaired by means of an optimised emissions test.

This result was compared with the costs for new measurement technology. Even if all measurement instruments are adapted at the same time, which would lead to comparatively higher costs, benefits exceed costs by a factor of nine. With a gradual conversion the factor rises to 39.