





# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2014/0216(COD) Procedure completed
Reduction in the sulphur content of certain liquid fuels. Codification Repealing Directive 1999/32/EC <a href="#">1997/0105(SYN)</a>	
Subject 3.60.02 Oil industry, motor fuels 3.70.02 Atmospheric pollution, motor vehicle pollution	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs	 <a href="#">FERRARA Laura</a> Shadow rapporteur  <a href="#">GERINGER DE OEDENBERG Lidia Joanna</a>	13/11/2014
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Agriculture and Fisheries</a>	<a href="#">3459</a>	11/04/2016
European Commission	Commission DG	Commissioner	
	<a href="#">Legal Service</a>	BARROSO José Manuel	
European Economic and Social Committee			
European Committee of the Regions			

Key events			
15/07/2014	Legislative proposal published	COM(2014)0466	Summary
02/12/2014	Vote in committee, 1st reading		
28/01/2015	Committee referral announced in Parliament, 1st reading		
24/02/2016	Committee report tabled for plenary, 1st reading	<a href="#">A8-0037/2016</a>	Summary
09/03/2016	Results of vote in Parliament		
09/03/2016	Decision by Parliament, 1st reading	<a href="#">T8-0075/2016</a>	Summary
11/04/2016	Act adopted by Council after Parliament's 1st reading		
11/05/2016	Final act signed		
11/05/2016	End of procedure in Parliament		
	Final act published in Official Journal		

Technical information	
Procedure reference	2014/0216(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Codification
Legislative instrument	Directive
	Repealing Directive 1999/32/EC <a href="#">1997/0105(SYN)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 192-p1
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	<a href="#">European Economic and Social Committee</a> <a href="#">European Committee of the Regions</a>
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/00828

Documentation gateway					
Legislative proposal		<a href="#">COM(2014)0466</a>	15/07/2014	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES5183/2014</a>	15/10/2014	ESC	
Committee draft report		<a href="#">PE541.638</a>	13/11/2014	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A8-0037/2016</a>	24/02/2016	EP	Summary
Text adopted by Parliament, 1st reading/single reading		<a href="#">T8-0075/2016</a>	09/03/2016	EP	Summary
Draft final act		<a href="#">00024/2015/LEX</a>	11/05/2016	CSL	
Follow-up document		<a href="#">COM(2017)0342</a>	28/06/2017	EC	Summary
Follow-up document		<a href="#">COM(2018)0188</a>	16/04/2018	EC	Summary

Additional information	
European Commission	<a href="#">EUR-Lex</a>

Final act
<a href="#">Directive 2016/802</a> <a href="#">OJ L 132 21.05.2016, p. 0058</a> Summary
Final legislative act with provisions for delegated acts

## Reduction in the sulphur content of certain liquid fuels. Codification

PURPOSE: codification of Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC.

PROPOSED ACT: Directive 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:** Council Directive 1999/32/EC has been substantially amended several times. On 1 April 1987, the Commission decided to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this, stressing the importance of codification.

The European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

**CONTENT:** in the interests of clarity and rationality, the purpose of this proposal is to undertake a codification of Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC.

The new Directive will supersede the various acts incorporated in it; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

The proposed Directive seeks to reduce the emissions of sulphur dioxide resulting from the combustion of certain types of liquid fuels and thereby to reduce the harmful effects of such emissions on man and the environment.

This Directive lays down the maximum permitted sulphur content of heavy fuel oil, gas oil, marine gas oil and marine diesel oil used in the Union.

With regard to the limit on the sulphur content of heavy fuel oil, the proposal provides for: (i) derogations in Member States and regions where the environmental conditions allow; (ii) derogations for their use in combustion plants which comply with the emission limit values laid down in Directive 2001/80/EC of the European Parliament and of the Council, or in Annex V to Directive 2010/75/EU of the European Parliament and of the Council.

To recall, in 2008, the International Maritime Organisation (IMO) adopted a resolution to amend Annex VI to the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL), containing regulations for the prevention of air pollution from ships. The revised Annex VI to MARPOL entered into force on 1 July 2010.

In order to ensure coherence with international law as well as to secure proper enforcement of new globally established sulphur standards in the Union, the codified Directive should be in line with the revised Annex VI to MARPOL.

## Reduction in the sulphur content of certain liquid fuels. Codification

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The Committee on Legal Affairs adopted the report by Laura FERRARA (EFD, IT) on the proposal for a directive of the European Parliament and of the Council relating to a reduction in the sulphur content of certain liquid fuels (codified text).

The committee recommended the European Parliament to adopt its position at first reading, taking over the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission.

According to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the proposal in question contains a straightforward codification of the existing texts without any change in their substance.

The proposed Directive seeks to reduce the emissions of sulphur dioxide resulting from the combustion of certain types of liquid fuels and thereby to reduce the harmful effects of such emissions on man and the environment.

In order to ensure coherence with international law as well as to secure proper enforcement of new globally established sulphur standards in the Union, the codified Directive should be in line with the revised Annex VI to MARPOL.

## Reduction in the sulphur content of certain liquid fuels. Codification

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The European Parliament adopted by 665 votes to 24, with 5 abstentions, a legislative resolution on the proposal for a directive of the European Parliament and of the Council relating to a reduction in the sulphur content of certain liquid fuels (codified text).

Parliament adopted its position at first reading, taking over the Commission proposal. This proposal in question aims to codify Council Directive 1999/32/EC which has been substantially amended several times. The proposal contains a straightforward codification of the existing texts without any change in their substance.

The proposed Directive seeks to reduce the emissions of sulphur dioxide resulting from the combustion of certain types of liquid fuels and thereby to reduce the harmful effects of such emissions on man and the environment. It lays down the maximum permitted sulphur content of heavy fuel oil, gas oil, marine gas oil and marine diesel oil used in the Union.

With regard to the limit on the sulphur content of heavy fuel oil, the proposal provides for: (i) derogations in Member States and regions where the environmental conditions allow; (ii) derogations for their use in combustion plants which comply with the emission limit values laid down in Directive 2001/80/EC of the European Parliament and of the Council, or in Annex V to Directive 2010/75/EU of the European Parliament and of the Council.

To recall, the Union and the individual Member States are Contracting Parties to the UN-ECE Convention of 13 November 1979 on Long-Range Transboundary Air Pollution. The second UN-ECE Protocol on transboundary pollution by sulphur dioxide stipulates that the Contracting Parties should reduce sulphur dioxide emissions in line with or beyond the 30 % reduction specified in the first Protocol.

In 2008, the International Maritime Organisation (IMO) adopted a resolution to amend Annex VI to the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL), containing regulations for the prevention of air pollution from ships.

The revised Annex VI to MARPOL introduces, inter alia, stricter sulphur limits for marine fuel in SO<sub>x</sub> Emission Control Areas (1,00 % as of 1 July 2010 and 0,10 % as of 1 January 2015) as well as in sea areas outside SO<sub>x</sub> Emission Control Areas (3,50 % as of 1 January 2012 and, in principle, 0,50 % as of 1 January 2020).

Most Member States are obliged, in accordance with their international commitments, to require ships to use fuel with a maximum sulphur content of 1,00 % in SOx Emission Control Areas as of 1 July 2010.

In order to ensure coherence with international law as well as to secure proper enforcement of new globally established sulphur standards in the Union, the codified Directive should be in line with the revised Annex VI to MARPOL.

## Reduction in the sulphur content of certain liquid fuels. Codification

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**PURPOSE:** codification of Council Directive 1999/32/EC relating to a reduction in the sulphur content of certain liquid fuels.

**LEGISLATIVE ACT:** Directive (EU) 2016/802 of the European Parliament and of the Council relating to a reduction in the sulphur content of certain liquid fuels.

**CONTENT:** in the interests of clarity and rationality, this Directive codifies and repeals Council Directive 1999/32/EC, which has been substantially amended several times.

The Directive aims to reduce the emissions of sulphur dioxide resulting from the combustion of certain types of liquid fuels and thereby to reduce the harmful effects of such emissions on man and the environment. It lays down the maximum permitted sulphur content of heavy fuel oil, gas oil, marine gas oil and marine diesel oil used in the Union.

Heavy fuel oil and gas oil: Member States shall ensure that the following are not used within their territory:

- heavy fuel oils if their sulphur content exceeds 1.00 % by mass;
- gas oils if their sulphur content exceeds 0.10 % by mass.

With regard to the limit on the sulphur content of heavy fuel oil, the Directive provides for: (i) derogations in Member States and regions where the environmental conditions so allow;(ii) derogations for their use in combustion plants which comply with the emission limit values laid down in [Directive 2001/80/EC](#) of the European Parliament and of the Council, or in Annex V to [Directive 2010/75/EU](#) of the European Parliament and of the Council.

Marine fuel: in 2008, the International Maritime Organisation (IMO) adopted a resolution to amend Annex VI to the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL), containing regulations for the prevention of air pollution from ships.

In order to ensure coherence with international law, the Directive conforms with Annex VI to MARPOL introduces, which entered into force on 1 July 2010. Annex VI to MARPOL introduces, inter alia, stricter sulphur limits for marine fuel in SOx in emission Control Areas (1.00 % as of 1 July 2010 and 0.10 % as of 1 January 2015) as well as in sea areas outside SOx Emission Control Areas (3.50 % as of 1 January 2012 and, in principle, 0.50 % as of 1 January 2020).

Emission abatement methods: the Directive facilitates access to emission abatement methods. Those methods can provide emission reductions at least equivalent to, or even greater than, reduction achievable using low sulphur fuel, provided that they have no significant negative impacts on the environment, such as marine ecosystems, and that they are developed subject to appropriate approval and control mechanisms.

Sampling and monitoring: in order to ensure the proper implementation of the Directive, Member States must: (i) ensure sufficiently frequent and accurate sampling of marine fuel placed on the market or used on board ship as well as regular verification of ships' logbooks and bunker delivery notes; (ii) establish a system of effective, proportionate and dissuasive penalties for non-compliance with the provisions of the Directive.

**ENTRY INTO FORCE:** 11.6.2016.

**DELEGATED ACTS:** the Commission may adopt delegated acts in respect of the amendment of the equivalent emission values for, and the criteria for the use of, emission abatement methods laid down in Annexes I and II to the Directive, in order to adapt them to scientific and technical progress. The power to adopt delegated acts is conferred on the Commission for a period of five years from 17 December 2017 (which may be tacitly extended for the same period). The European Parliament or the Council may raise objections to a delegated act within three months of notification (which may be extended by three months.) If Parliament or Council raise objections, the delegated act will not enter into force.

## Reduction in the sulphur content of certain liquid fuels. Codification

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The Commission presents a report on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Directive 2016/802/EU of the European Parliament and of the Council relating to a reduction in the sulphur content of certain liquid fuels.

To recall, the Directive empowers the Commission to adopt delegated acts to adapt certain Articles and Annexes to scientific and technical progress, not least, to ensure consistency with the relevant instruments adopted by the International Maritime Organisation (IMO) and, as appropriate, with other EU or international standards.

The power to adopt such delegated acts is conferred on the Commission for a period of five years from 17 December 2012 (which may be tacitly extended for an identical period).

This report discharges the Commission's obligation to prepare a report in respect of the delegation of power, at the latest 9 months before the end of the five-year period.

Exercise of the delegation: over the last five years, the Commission has not exercised the delegated powers conferred to it under Directive 2016/802/EU.

This is due to the fact that there have been no significant developments in the area of fuel specifications and sulphur in fuel verification

standards or emission abatement methods that require the Commission to use the delegated powers conferred by the Directive.

However, the entry into force on 1 January 2020, by virtue of the Directive, of the stricter 0.50% sulphur in fuel requirement for ships sailing in EU waters outside the Sulphur Emission Control Areas (SOx-ECAs) as well as globally, means that new marine fuels and emission abatement methods may enter the EU market to ensure compliance with the stricter requirement.

Both developments would likely require the Commission to use its delegated powers to ensure the Directive is adapted to scientific and technical progress, and consistent with standards adopted by the IMO.

## Reduction in the sulphur content of certain liquid fuels. Codification

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The Commission presented a report on the implementation and compliance with the sulphur standards for marine fuels set out in Directive 2016/802/EU relating to a reduction in the sulphur content of certain liquid fuels.

To preserve clarity and rationality following the different substantial amendments of Council Directive 1999/32/EC, it was codified as Directive (EU) 2016/802 relating to a reduction in the sulphur content of certain liquid fuels (the Sulphur Directive).

In accordance with Directive (EU) 2016/802, the Commission evaluated, on the basis of the implementation reports received for the period 2015-2017, the need to strengthen the provisions of the Directive or any appropriate legislative proposal to this effect.

Implementation of the Directive: following successful collaboration with Member States and industry, the Commission concludes that steady progress has been made in implementing Directive 1999/32/EC since its last revision in 2012 (now in codified form as Directive (EU) 2016/802).

So far the mandatory use of marine fuels with a sulphur content of 0.10% in the European SOx-ECAs as from January 2015 has proven to effectively contribute to achieving the Directives purpose of reducing harmful effects of sulphur dioxide emissions from ships on humans and the environment. Over 93% of the inspected ships in the SOx-ECAs respected the stricter sulphur concentrations which lead to a significant reduction of sulphur dioxides concentrations in ambient air in regions bordering the SOx-ECAs (e.g. up to 60% in Denmark, to 50% reduction at the German North Sea island 'Neuwerk' and the Swedish islands of Öland (Ottenby) and Gotland (Hoburgen), and over 20% reduction in the Rotterdam-Rijnmond region).

Industries and Member States experience with preparing for the change to the 0,10% sulphur content in marine fuels on 1 January 2015 in the European SOx-ECAs and compliance checking has provided valuable lessons which can be replicated in other European regions and internationally in view of the entry-into-force of the 0.50% global sulphur cap in 2020.

Support mechanisms: the report provides an overview of EU support mechanisms to Member States and industry to facilitate enforcement and compliance with the stricter sulphur standards, namely:

- the European Sustainable Shipping Forum to better identify the environmental sustainability challenges facing the EU maritime transport sector;
- EU financial support for the adoption of clean ship technologies;
- technical support to Member States from the European Maritime Safety Agency to facilitate the implementation and enforcement of low sulphur requirements;
- the establishment of the Member State Committee for the Implementation of the Sulphur Directive to ensure its consistent and effective application.

Several studies have concluded that the entry into force of low sulphur requirements in European SOx Emission Control Areas has not resulted in a loss of traffic or a significant shift to road transport.

No company or marine service closures or reductions in cargo traffic in northern European ports directly attributable to requirements applicable in SOx Emission Control Areas have been identified, and no serious cases of unavailability of compliant fuels have been reported.

Several subsequent studies concluded that the introduction of the low sulphur requirements in the European SOx-ECAs did not result in any loss of traffic or significant shifts towards road transport. No company or maritime service shutdowns, nor any decrease in cargo turnover in Northern European ports that can be directly linked to the SOx-ECA requirements were found, and no severe cases of unavailability of compliant fuels were reported.

Level of compliance: THETIS-EU became fully operational on 1 January 2015. It is an EU information system for recording and exchanging details and findings of shipboard inspections, including fuel sampling and analysis.

Between 1 January 2015 and 31 December 2017, over 28 000 specific inspections (around 700 to 900 on average per month) have been recorded in THETIS-EU. In the same period, around 1 350 non-compliances have been recorded (around 5% of the total number of inspections).

The good rate of compliance demonstrates the industry's efforts to contribute to reducing air pollution from maritime transport

Outlook: in order to ensure that enforcement performance and compliance with the 0.50% limit set by Directive (EU) 2016/802 will remain at a level similar to that currently found in SOx Emission Control Areas, the Commission will assess the need to:

- revise the inspection and sampling frequency;
- enhance THETIS-EU to cater for the notification of trials and use of modern compliance checking technology (e.g. from sniffers and drones);
- increase control of marine fuel suppliers which will facilitate a more advanced risk-based targeting of possible non-compliant vessels.

To accommodate these possible changes, the Commission will consider, inter alia, amending the Commission Implementing Decision (EU) 2015/253 and making the use of THETIS-EU mandatory. It will also look into the penalties Member States have imposed on non-compliant operators and assess whether those have a truly dissuasive effect. Furthermore, together with the Member States, and with the support of

EMSA, the Commission will: (i) continue to actively support the EU's neighbouring countries with reducing SOx emissions from ships and the preparations by the IMO for the entry-into-effect of the global sulphur cap; (ii) continue to consider the potential, including the costs and benefits, for reducing air pollution from ships also covering emissions other than SOx.