

June 2024

Flemish Government | Department of Mobility and Public Works
***Adoption of the legal framework for vehicle emission monitoring in Flanders -
Emission Fraud of the Flemish Region (R-3.07)***
BE-C[C33]-R[R-307]-M[124]

MILESTONE DESCRIPTION:

Adoption of the legal framework for vehicle emission monitoring in Flanders

Adoption of:

- Legislation required to implement a pragmatic NOx test procedure to strengthen periodic technical inspection available with aim to introduce test in Q3 2023
- Legal enhancements to extend the scope of roadside inspections to include all vehicle types (aim: 2022)
- New legislation: legal framework available to allow for large scale on-road vehicle emission monitoring (Remote Sensing and potentially plume chasing) and its applications for improved enforcement and policy evaluation (aim: 2022)

VERIFICATION MECHANISM:

Copy of or link to the publication in the Moniteur Belge / Belgisch Staatsblad of the legal acts on NOx test procedure, on roadside inspections and large scale on-road vehicle emission monitoring, including relevant decrees and related decisions of the Flemish Government. The text of the laws, decrees and decisions shall include provisions indicating the date of entry into force. Summary document duly justifying how the milestone (including the relevant elements of the milestone, as listed in the description of milestone and of the corresponding measure in the CID annex) was satisfactorily fulfilled.

A. EVIDENCE PROVIDED:

- Study on NOx test.pdf
 - A study report, conducted by GOCA Flanders (ordered by the VMM (Vlaamse Milieumaatschappij, part of the Flemish administration and partner of the Department of Mobility and Public Works) on the possible test systems for a NOx test that can be implemented in the short term.
- Start Notice Study NOx-test by GOCA and TNO
 - Letter of the VMM (Vlaamse Milieumaatschappij, part of the Flemish administration and partner of the Department of Mobility and Public works), concerning the start of the new study.
- VR2024 1904 DOC.0520-2 Draft decree on emission monitoring fraud
 - Decree to provide a sound GDPR-basis for the collection, the processing and the use of the data from on-road vehicle emission monitoring.

B. DETAILED JUSTIFICATION:

Milestone: Adaption of legislation required to implement a pragmatic NOx test procedure to strengthen periodic technical inspection available with aim to introduce test in Q3 2023

Status: Delayed

Justification: Before the necessary legislation can be written out, it has to be ensured that a pragmatic NOx test procedure is possible and can be implemented in the technical inspection and/or the roadside inspection. As reported previously, a study (*Evidence: Study on NOx test.pdf*) has been conducted to evaluate possible NOx test procedures. This study was completed in 2022. The final report is added as attachment and has been published on the internet: [Development of a NOx emission test](#). The development of a suitable test proved to be a technical challenge. Therefore, further in-depth research

is needed to develop a pragmatic test that can be implemented in the technical inspection and/or the roadside inspection. An in-depth follow-up study, conducted by GOCA and TNO, has been started on April, 19 2024 and will deliver results no later than April, 18 2025 (*Evidence: Start Notice Study NOx-test by GOCA and TNO*). The start notice for this study is added as attachment to this mail. The study should result in - if a pragmatic test proves to be feasible - a test procedure and an implementation plan.

The Flemish administration follows also the progress of the European Commission initiatives on the Roadworthiness Package. In this context, the Joint Research Centre is also investigating a possible NOx test procedure. The Flemish administration has shared the aforementioned study from 2022 with the European Commission and will also share the findings of the in-depth study.

If the follow-up research results in a suitable, pragmatic NOx test procedure and if this is compatible with the (draft) Roadworthiness Package at that moment, then legal initiatives will be taken to enable the implementation of this test procedure in the periodic technical inspection and/or roadside inspection.

Timing: The initial target date (Q3 2023) cannot be kept, although substantial progress has been made. The implementation plan envisaged in the aforementioned in depth study will give a clearer view on the possible timing for the introduction of the NOx test and related legislation.

Milestone: Adaption of legal enhancements to extend the scope of roadside inspections to include all vehicle types (aim: 2022)

Status: Delayed

Justification: The extension of road side inspections is part of a broader effort to strengthen the enforcement of technical requirements for all road vehicles. As reported before, a decision to enable immediate collection of fines for vehicle owners without a valid periodic vehicle inspection certificate has been definitively approved by the Flemish government on July 14, 2023. A draft decree that explicitly forbids lack of maintenance and manipulations to motor vehicles that affect emission performance as well as advertisement for such manipulations, and that refers to the sanctions related to non-compliance to technical vehicle requirements, has been prepared by the administration. Deliberation on the government level about this decree has been started. After the elections on the 9th of June, the new government will have to pick this up again. This decree will enable to sanction vehicle owners easier, if roadside inspection reveals manipulation of lack of maintenance. The next step is then to effectively extend the scope of roadside inspections to all vehicle types. In the second half of 2024 the writing of the legal enhancements for this extension will be started, in order to submit these texts to the new government. This extension is also included in the policy options for the Roadworthiness Package as proposed by the European Commission. The Flemish administration will align its further actions also to this European initiative.

Timing: The initial target date (2022) cannot be kept, although substantial preparatory work has already been done. In the second half of 2024 the writing of the legal enhancements to extend the scope of the roadside inspections will be started, in order to submit these texts to the new government.

Milestone: New legislation: legal framework available to allow for large scale on-road vehicle emission monitoring (Remote Sensing and potentially plume chasing) and its applications for improved enforcement and policy evaluation (aim: 2022)

Status: Delayed

Justification: As reported previously, the Flemish administration prepared a decree to provide a sound GDPR-basis for the collection, the processing and the use of the data from on-road vehicle emission monitoring. On the 19th of January, the Flemish government gave approval in principle to this decree. Subsequently, the advisory councils on environment, mobility and data protection have given their advices. Limited adaptations to the draft decree have been made to take these advices into account. On the 19th of April, the Flemish government gave his approval to the adapted decree and asked for the advice of the Council of State. This version of the draft decree is added as attachment (*Evidence: VR2024 1904 DOC.0520-2 Draft decree on emission monitoring fraud – Art. 6*). Once the advice of the Council of State is received and processed, the decree will be submitted again to the Flemish government and later on to the Flemish Parliament for its final adoption. As soon as this decree is adopted Flemish and local governments will be able to collect and process data from on-road vehicle emission monitoring. In 2025 an on-road monitoring campaign of two to three weeks will take place in the city of Antwerp, as part of the EU funded NET4Cities project (Net4Cities). The preparatory analysis for the broader roadside monitoring in Flanders and for an IT-infrastructure to process monitoring data has also been completed, and will be further negotiated with the new government, after the elections on the 9th of June.

As also reported previously, a draft decree that explicitly forbids lack of maintenance and manipulations to motor vehicles that affect emission performance as well as advertisement for such manipulations, and that refers to the sanctions related to non-compliance to technical vehicle requirements, has been prepared by the administration. Deliberation on the government level about this decree is ongoing. A further step towards the enforcement of technical (emission) requirements then will be to specify in an implementing decision under which terms (related to the on-road monitoring) vehicles could be directed to roadside inspections or extra technical inspections.

Timing: The initial target date (2022) cannot be kept, although substantial progress has been made. The decree that will enable the collection, the processing and the use of the data from on-road vehicle emission monitoring has been approved twice by the Flemish government. The advice of the Council of State is awaited. An on-road monitoring campaign will take place in the city of Antwerp in 2025.

ACHIEVEMENT OF THE REQUIREMENTS IN THE DESCRIPTION OF THE MEASURE:

MEASURE:

Reform R-3.07: 'Emission Fraud' of the Flemish Region

MEASURE DESCRIPTION:

This measure consists in (i) adopting a new legal framework for NOx tests (if ongoing research yields a feasible procedure), large-scale vehicle-emission monitoring, improved road-side inspections and a efficient in service conformity test program and (ii) an IT system that integrates emission data with observations of periodic technical and roadside inspections to further improve the in service conformity test program.

The legal framework shall be published by April 2023 and enter into force according to the following timeframe. Before 1 July 2023, large-scale vehicle emission monitoring shall be deployed, improved road-side inspections implemented and efficient in service conformity test program started. In case a feasible NOx testing procedure for technical inspection is developed before 31 March 2022, it shall be implemented in 2023. At the latest by 31 December 2024 the full measure shall be completed and implemented (full completion of IT system which allows further integration of road-side and periodic technical inspection with in service conformity program).

IMPLEMENTING STATUS:

The milestones have not been achieved; therefore, the status is **delayed**.