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Subject: Proposal for a Directive of the European Parliament and of the Council on
Stage II petrol vapour recovery during refuelling of passenger cars at service
stations

In the light of the further discussions within the Working Party on the Environment on 18 March 2009, the Presidency suggests the annexed revised modifications to the above-mentioned Directive.

Changes to the Commission's proposal are underlined. Changes that were not in the previous document are in **bold and underlined** text.

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations¹

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee²,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

¹ MT has a Parliamentary scrutiny reservation.

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

Whereas:

- (1) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environmental Action Programme⁴ established the need to reduce air pollution to levels which minimise harmful effects on human health and the environment.

(1a) The Geneva Protocol on the Control of Emissions of Volatile Organic Compounds or Their Transboundary Fluxes sets emission reduction targets for VOCs and the Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone sets emission ceilings for four pollutants: sulphur dioxide, nitrogen oxides, volatile organic compounds and ammonia and requires best available techniques to be used to keep emissions down.

- (2) Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe⁵ lays down air quality objectives for ground level ozone and benzene. Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001⁶ lays down national emission ceilings for volatile organic compounds which contribute to the formation of ground level ozone. **and photochemical smog.** Whereas the emissions of volatile organic compounds, **classified as toxic and carcinogenic,** including petrol vapour, in one Member State contribute to air quality problems in other Member States.

(2a) Ozone is also a greenhouse gas and contributes to atmospheric warming and climate change.

⁴ OJ L 242, 10.9.2002, p. 1.

⁵ OJ L 152, 11.6.2008, p. 1.

⁶ OJ L 309, 27.11.2001, p. 22.

(3) Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations⁷ (Stage I petrol vapour recovery) aims to recover petrol vapour emitted from the storage and distribution of petrol between oil terminals and service stations.

(4) Petrol vapour is also emitted during the refuelling of motor vehicles at service stations and should be recovered in a manner consistent with the provisions of Directive 94/63/EC.

(4a) Various Community instruments have been developed and implemented to limit VOC emissions. However, further action is necessary to achieve the long-term objectives for health and the environment established in the Sixth Community Environmental Action Programme and Directive 2001/81/EC.

(4b) With a view to reducing life cycle greenhouse gas emissions from road transport fuels, Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels⁸ will, from 1 January 2011, permit the placing on the market of petrol containing a larger proportion of biofuel components than previously. This may lead to an increase in VOC emissions at service stations, because of the possibility for Member States to derogate from the vapour pressure requirements of the Directive.

⁷ OJ L 365, 31.12.1994, p. 24.

⁸ OJ L 350, 28.12.1998, p. 58.

- (5) Existing service stations may need to adapt existing infrastructure and it is preferable to install vapour recovery equipment when they undergo major refurbishment **of the on site petrol dispensing system**, since this significantly reduces the cost of the necessary adaptations. However, larger existing stations are better able to adapt and should install petrol vapour recovery earlier, given they make a greater contribution to emissions. New service stations can integrate petrol vapour recovery equipment during the design and construction of the service station and can therefore install petrol vapour recovery equipment immediately.
- (6) Although several Member States have national requirements concerning Stage II petrol vapour recovery systems, there is no Community legislation. Therefore, it is appropriate to establish a uniform minimum level of petrol vapour recovery in order to deliver a high level of environmental benefit and to facilitate trade in petrol vapour recovery equipment.
- (7) Periodic checks of all installed stage II petrol vapour recovery equipment should be performed in order to ensure that petrol vapour recovery equipment delivers real emissions reductions, **having regard to Recommendation 2001/331/EC of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States. Member States may decide that checks may be performed either by official inspection services, by the operator itself or by a third party.**
- (7a) Stage II petrol vapour recovery equipment should be tested regularly. The European Committee for Standardisation (CEN) should be encouraged to develop a harmonised testing methodology.**
- (8) Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. The penalties should be effective, proportionate and dissuasive.

- (8a) In accordance with point 34 of the Interinstitutional Agreement on better law-making, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (8b) Since it is adopted pursuant to Article 175 of the Treaty, this Directive does not prevent Member States from maintaining or introducing more stringent protective measures that are compatible with the Treaty. Pursuant to Article 176 of the Treaty, Member States are to notify the Commission of any such measures.
- (8c) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁹.**
- (8d) In particular, the Commission should be empowered to adopt implementing measures concerning harmonised methods and standards. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, or to supplement it by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.**

⁹ OJ L 184, 17.7.1999, p. 23.

- (9) Due to the transboundary nature of air pollution, the objectives of the action to be taken to reduce emissions of petrol vapour to the atmosphere cannot be sufficiently achieved by the Member States but can be better achieved at Community level. Accordingly, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive lays down measures aimed at reducing the amount of petrol vapour emitted to the atmosphere during the refuelling of motor vehicles at service stations.

Article 2

Definitions

For the purposes of this Directive:

1. 'petrol' means petrol as defined in Article 2(a) of Directive 94/63/EC of the European Parliament and of the Council;
2. 'petrol vapour' means any gaseous compound which evaporates from petrol;
3. 'service station' means a service station as defined in Article 2(f) of Directive 94/63/EC;
4. 'existing service station' means a service station which is built or for which an individual planning permission, construction licence or operating licence is granted before the date referred to in the second subparagraph of Article 7(1);
5. 'new service station' means a service station which is built or for which an individual planning permission, construction licence or operating licence is granted on or after the date referred to in the second subparagraph of Article 7(1).
6. 'Stage II petrol vapour recovery system' means equipment aimed at recovering the petrol vapour displaced from the fuel tank of a motor vehicle during refuelling at a service station and which transfers that petrol vapour to a [...] storage tank at the service station or back to the petrol dispenser for resale;

7. 'petrol vapour capture efficiency' means the amount of petrol vapour captured by the Stage II petrol vapour recovery system compared to the amount of petrol vapour that would otherwise be emitted to the atmosphere in the absence of such a system and expressed as a percentage;
8. 'vapour/petrol ratio' means the ratio between the volume at atmospheric pressure of petrol vapour passing through the Stage II petrol vapour recovery system and the volume of petrol dispensed;
9. 'throughput' means throughput as defined in Article 2(i) of Directive 94/63/EC.

Article 3

Service stations

1. Member States shall ensure that any new service station shall be equipped with a Stage II petrol vapour recovery system if:
 - (a) its actual or intended throughput is greater than 500 m³ per annum; **or**
 - (b) **its actual or intended throughput is greater than 100 m³ per annum and it is** situated under permanent living quarters or working areas [...].
2. Member States shall ensure that any existing service station [...] which undergoes a major refurbishment shall be equipped with a Stage II petrol vapour recovery system at the time of the refurbishment **if:**
 - (a) **its actual or intended throughput is greater than 500 m³ per annum; or**
 - (b) **its actual or intended throughput is greater than 100 m³ and it is situated** under permanent living quarters or working areas.

3. Member States shall ensure that any existing service station with a throughput in excess of 3000 m³ per annum shall be equipped with a Stage II petrol vapour recovery system by no later than 31 December 2020.
4. **For the purpose of this Article, the throughput shall not include the petrol used to fill the previously-unfilled tanks of newly-manufactured motor vehicles.**

Article 4

Minimum permitted level of petrol vapour recovery

1. Member States shall ensure that the petrol vapour capture efficiency of a Stage II petrol vapour recovery system **installed pursuant to Article 3** is equal to or greater than 85% as certified by the manufacturer in accordance with relevant **European technical standards or type approval procedures as specified in accordance with Article 6a or, if there are no such standards or procedures, with any relevant national standard.**
2. For Stage II petrol vapour recovery systems **installed pursuant to Article 3** where the recovered petrol vapour is transferred to a [...] storage tank at the service station, the vapour/petrol ratio shall be equal to or greater than 0,95 but less than or equal to 1,05.

Article 5

Periodic checks

1. Member States shall ensure that the in-service petrol vapour capture efficiency of Stage II petrol vapour recovery systems installed pursuant to Article 3 is tested at least once per annum **either** by checking that the vapour/petrol ratio **under simulated petrol flow conditions** is in conformity with Article 4(2) or by any other appropriate methodology.
2. Where an automatic monitoring system has been installed, Member States shall ensure that the petrol vapour capture efficiency is tested at least once every three years. **Any such** automatic monitoring system shall automatically detect faults in the proper functioning of the Stage II petrol vapour recovery system and in the automatic monitoring system itself, indicate faults to the service station operator and automatically stop the flow of petrol from the faulty dispenser if the fault is not rectified within 7 days.

Article 6

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by the date specified in the first subparagraph of Article 7(1) at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 6a

Harmonised methods and standards and technical adaptation

Harmonised methods and standards may be adopted for the purposes of Articles 4 and 5 and, where necessary, their provisions adapted to technical progress [...] to ensure consistency with any relevant standard drawn up by the European Committee for Standardisation (CEN). That measure, designed to amend non-essential elements of this Directive, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 6b(2).

Article 6b

Committee procedure

1. The Commission shall be assisted by the committee established by Article 8 of Directive 94/63/EC.
2. Where reference is made to this paragraph, Articles 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 7

Transposition

1. Member States shall **bring into force** the laws, regulations and administrative provisions necessary to comply with this Directive **by ...* at the latest**.

They shall forthwith communicate to the Commission the text of those **measures** [...].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 8

Entry into force

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 9

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

For the Council

The President

The President

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* 24 months after entry into force of the Directive.