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**COMMISSION IMPLEMENTING DECISION**

**of 11.4.2024**

**on the request from the Kingdom of Spain for a derogation pursuant to Article 3(4) and  
(5) of Directive 98/70/EC**

(Only the Spanish text is authentic)

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**on the request from the Kingdom of Spain for a derogation pursuant to Article 3(4) and (5) of Directive 98/70/EC**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC<sup>1</sup>, and in particular Article 3(4) and (5) thereof,

Whereas:

- (1) Commission Decision C(2021)1909<sup>2</sup> of 25 March 2021, which resulted from a request from the Kingdom of Spain ('Spain') for a derogation pursuant to Article 3(4) and (5) of Directive 98/70/EC ('the Directive'), expired on 31 December 2023.
- (2) By letter to the Commission registered on 6 November 2023, Spain notified a request for derogation to permit the placing on the market during the summer period, as set out in Annex III to the Directive, of petrol containing bioethanol with a maximum vapour pressure of 60 kPa plus the permitted vapour pressure waiver specified in Annex III to Directive 98/70/EC, for the period until 31 December 2029.
- (3) Spain's request for derogation was assessed in accordance with Directive 98/70/EC and with the general recommendations for assessment set out in the Commission Guidance note on notifications of exemptions from the vapour pressure requirements for petrol pursuant to Article 3(4) and (5) of Directive 98/70/EC relating to the quality of petrol and diesel fuels of 20 July 2009<sup>3</sup> ('the Guidance note').
- (4) In accordance with the Guidance note, Spain provided information on petrol sales, export and import conditions and distribution in Spain, which the Commission considers sufficient to evaluate the notification.
- (5) More specifically, Spain has indicated a slight increase of maximum estimated volumes of petrol containing ethanol from 2 906 000 litres in 2024 to 3 352 000 litres in 2029, representing about 43% of its expected annual petrol consumption in the respective years. Spain further informed the Commission that the planned ethanol content for petrol would be approximately 7% per volume, corresponding to the

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<sup>1</sup> OJ L 350, 28.12.1998, p. 58, ELI: <http://data.europa.eu/eli/dir/1998/70/oj>.

<sup>2</sup> Commission Decision C(2021)1909 of 25 March 2021 on the request from the Kingdom of Spain for a derogation pursuant to Article 3(4) and (5) of Directive 98/70/EC.

<sup>3</sup> [https://climate.ec.europa.eu/eu-action/transport/fuel-quality\\_en#documentation](https://climate.ec.europa.eu/eu-action/transport/fuel-quality_en#documentation)

requested maximum pressure waiver of 8 kPa in accordance with Annex III to Directive 98/70/EC.

- (6) Spain provided information to the effect that, in accordance with Directive (EU) 2018/2001 of the European Parliament and of the Council<sup>4</sup> a national target of at least 25% share by 2030 of renewable energy in transport sector has been set in the draft Spanish National Energy and Climate Plan. In addition, a sub-target for advanced biofuels has been set at 3.5% for 2030, out of which a part could comprise advanced ethanol that could be used for direct blends into petrol. Therefore, as concluded by Spain, the use of biofuel blends in summer period will be essential to achieve those targets.
- (7) Spain provided information about the direct socioeconomic problems of the impact on petrol producers or petrol suppliers due to not being granted the derogation. This concerns any social, financial or economic impact of implementing the regulated vapour pressure of 60 kPa.
- (8) Spain explained that it will use the combined option of both adding ethyl tert-butyl ether<sup>5</sup> to petrol and directly blending petrol and bioethanol to satisfy the increased demand for bioethanol. Spain further informed the Commission that this has been the practice applied by logistics operators since 2014 due to the derogations by Decisions C(2013)7426 and C(2021)1909. Spain estimates that, between 2019 and 2022, more than 103 000 tonnes of bioethanol were directly blended with petrol in the summer period, resulting in an abatement of 200 000 tonnes of CO<sub>2</sub>eq.
- (9) Spain explained that, without the derogation, the only viable option would be to introduce a separate manufacturing stream to produce a lower volatility petrol pre-blend in summer period that would be blended with bioethanol. In this case, the petrochemical operators would have to manufacture two types of petrol in their refineries: (i) petrol known as ‘Before Oxygenate Blending’, which would not comply with the limits established in the current technical specifications and would only meet the specifications once blended with ethanol (the petrol pre-blend) that would be produced in the summer period; and (ii) petrol which would comply with current technical specifications.
- (10) Spain further indicated that the option of manufacturing two products in refineries would have several undesirable implications. Firstly, refining and blending at refineries would not be optimised. The need to reduce the vapour pressure of petrol would entail an exclusion of light components from the petrol’s formulation, and incorporation of high octane and low vapour pressure components instead which, according to Spain, are short in supply. This would create an imbalance in availability of the components and require additional investments in the processing capacity and storage. Spain has estimated that, if no derogation is granted, the overall cost to refineries would amount between EUR 60 000 000 and EUR 170 000 000 a year until 2030. Secondly, handling two types of petrol would oblige the distribution system to have duplicate storage and blending facilities, which it does not currently possess. Spain has estimated that the average cost of duplicating facilities would amount to

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<sup>4</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328 21.12.2018, p. 82, ELI: <http://data.europa.eu/eli/dir/2018/2001/oj>).

<sup>5</sup> Ethyl tert-butyl ether is commonly used as an oxygenate petrol additive in the production of petrol from crude oil. ETBE does not induce evaporation of gasoline, increases the overall octane numbers and improves combustion efficiency.

EUR 1 600 000 per installation, and that logistics operators would need to invest a total of EUR 62 400 000 in their storage facilities. Thirdly, those technical adaptations would entail new technical risks for the refining and logistics systems, which would ultimately affect the security of supply.

- (11) Spain further explained that, in recent years, the investments of the oil sector were focused on other critical needs, such as national and global markets expansion of medium distillates, and the environmental and low-carbon agenda. With regard to the latter, Spain indicated that the refinery sector has invested more than EUR 2 700 000 000 since 2010 in the abatement of air pollutants and greenhouse gas emissions and has a dense project pipeline for the future investments. Spain has provided a list of past and future investments.
- (12) In conclusion, the Commission takes note of the additional costs of producing, storing and blending lower volatility pre-blends, and difficulties in exporting petrol pre-blend while refineries plan to continue investments to reduce greenhouse gas and air pollutant emissions. Based on the submitted information, the Commission considers as valid and reasonable the arguments brought forward by Spain concerning the socio-economic criteria.
- (13) Spain provided information concerning its compliance with the national emission reduction commitments for NMVOC as set out in Directive (EU) 2016/2284 of the European Parliament and of the Council<sup>6</sup>. More specifically, Spain informed the Commission that the annual NMVOC emissions based on their 2023 emission inventory were below the maximum allowed level of 484.2 kilotonnes (kt), corresponding to a reduction commitment of -22% with respect to 2005 set for Spain by Directive (EU) 2016/2284 for the period 2020-2029. More specifically, Spain informed the Commission that it has reduced its annual NMVOC emissions, excluding certain agricultural sources that are not accounted for the purpose of demonstrating compliance with emission reduction commitments, from 620.8 kt in 2005 to 438.0 kt in 2021, which corresponds to a 29.4% reduction, based on the latest inventory, which was submitted in 2023<sup>7</sup>.
- (14) Spain reported on the inventories of the NMVOC emissions from 1990 to 2021, showing that emissions of NMVOC in 2021 are caused largely by use of solvents (48%), agriculture (13%), and industry (10%). Spain further indicated that the share of road transport in total NMVOC emissions experienced a major reduction, from 32% in 1990 to 4% in 2021<sup>8</sup>. Spain explained that this decrease results mainly from the introduction of catalytic conversion of vehicle exhausts and the application of carbon canisters on petrol-driven cars for evaporative emissions control, which are measures that stem from the European vehicle emission standards.
- (15) In relation to different sectors, Spain indicated that, within the petrol storage and distribution sector<sup>9</sup>, the emissions from those activities where changes in vapour pressure have an influence on NMVOC (e.g. distribution chain and service stations), amounted to 5.35 kt or 0.97% of the total NMVOC emissions in 2021 based on the

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<sup>6</sup> Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1, ELI: <http://data.europa.eu/eli/dir/2016/2284/oj>).

<sup>7</sup> <https://www.ceip.at/status-of-reporting-and-review-results/2023-submission>.

<sup>8</sup> Informative Inventory Report, Section 2.1.2. (March, 2023).

<sup>9</sup> This includes: storage and handling in refineries, refinery dispatch, transport and depots and final distribution in service stations, including refuelling of cars.

2023 Inventory Report. Spain further indicated that within the motor vehicles sector, the emissions from the activities where changes in vapour pressure have an influence on NMVOC (e.g. evaporation from vehicle tanks) amounted to 3.17 kt or 0.58% of total NMVOC emissions in 2021.

- (16) In its request, Spain reported on the effect of changes in summer vapour pressure of petrol blended with ethanol on NMVOC emissions. Spain specified that the increase of NMVOC emissions due to a maximum increase of 8 kPa in the summer petrol vapour pressure would imply an increase of 0.647 kt of NMVOC emissions or about 0.12% of the total NMVOC emissions in 2021, based on the latest inventory data submitted in 2023.
- (17) Spain provided information on the projections of NMVOC emissions and based this on projected future compliance with emission reduction commitments for the period from 2025 to 2030, as included in the 2023 Spanish submission of emission projections under Directive (EU) 2016/2284. More specifically, Spain has indicated that it will comply with the applicable emission reduction commitment for any year up to 2029.
- (18) The Commission notes that the methodologies employed by Spain appear to be consistent with those required under Directive (EU) 2016/2284 and considers that: (i) allowing a maximum increase of 8 kPa in the summer petrol vapour pressure would have a very limited impact on the total NMVOC emissions; (ii) the timeframe for the derogation request is 31 December 2029, which corresponds to the period during which Spain projects compliance with the national NMVOC emission reduction commitments set out under Directive (EU) 2016/2284. The Commission therefore sees no grounds for objecting to this part of the notification.
- (19) Concerning ground level ozone, Spain provided information of relevance for the purpose of the derogation.
- (20) With respect to the ground level ozone, the Union target value of 120  $\mu\text{g}/\text{m}^3$  may not be exceeded by more than 25 days per calendar year averaged over 3 years, as from year 2010, pursuant to Directive 2008/50/EC of the European Parliament and of the Council<sup>10</sup>.
- (21) Spain has submitted information on the results for ozone air quality from 2004 to 2022. According to the monitoring results, the ozone target value has been exceeded widely throughout Spain, albeit with some downward trend in the last decade. Based on the submitted data, in 2022, out of 129 assessed zones, 10 zones exceeded the target value.
- (22) Spain provided figures depicting concentrations (expressed in  $\mu\text{g}/\text{m}^3$ ) of ozone precursors nitrogen dioxide and methane in comparison to ozone over the time period 2001 to 2022, showing a clear decrease for the concentrations of both precursors, while ozone concentrations remain relatively stable. Spain concludes that a clear relationship between the concentration of precursors and ozone formation has not been established.
- (23) Spain explained that there are no official projections regarding concentrations of ozone due to peculiarities of this pollutant.

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<sup>10</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1, ELI: <http://data.europa.eu/eli/dir/2008/50/oj>).

- (24) Based on the information provided, the Commission considers that the extension of the derogation up to 2029 is expected to have a minimal impact on the number of exceedance days in Spain (as outlined in point 20), with the following underlying considerations: (i) the very limited increase of NMVOC emissions due to a maximum increase of 8 kPa in the summer petrol vapour pressure when applying the derogation (as outlined in point 17) leading to limited impact on ozone formation; (ii) the downward trend of exceedances of ozone target values in the last decade with the vapour pressure derogation already applied in Spain since 2013. Hence, the Commission finds no reasons to object to the request in this part.
- (25) Concerning benzene, Spain submitted information based on the monitoring results for benzene target values for the years from 2003 to 2022, showing that the limit value of 5 µg/m<sup>3</sup> as specified by Directive 2008/50/EC, has never been exceeded in any area during the monitored period. Spain has further indicated that the limit value plus margin of tolerance (10 µg/m<sup>3</sup>) was never exceeded in any area either.
- (26) Spain has also provided the mean annual benzene concentrations for the years from 2003 to 2022 showing a downward trend for all type of measurement stations (traffic, industrial and background), as well as for the type of areas (urban and sub-urban).
- (27) Spain further explained that there is no available information regarding the effect of the use of bioethanol in petrol on the atmospheric concentrations of benzene at the moment, therefore the impacts to the waiver cannot be fully assessed. Spain indicated that taking into account the current fulfilment of the limits of benzene concentrations as well as its decreasing trend, an increase with or without waiver generating non-compliance is not expected.
- (28) Spain has demonstrated that the limit values for benzene are not exceeded and are showing a downward trend. On this basis, the Commission concludes that the derogation would most likely not lead to the limit value being exceeded. The Commission raises therefore no objection to this part of the derogation request from Spain.
- (29) In conclusion, the Commission finds that these conditions justify a duration of the derogation limited to 31 December 2029,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The Commission raises no objection to the request from the Kingdom of Spain to permit the placing on the market during the summer period of petrol containing ethanol, as a biofuel, with a maximum vapour pressure of 60 kPa plus the permitted vapour pressure waiver specified in Annex III to Directive 98/70/EC, until 31 December 2029.

#### *Article 2*

The Commission shall revoke this Decision if, based on updated data, the Commission's assessment shows that the derogation will result in a lack of compliance with Union legislation on air quality or air pollution.

*Article 3*

This Decision is addressed to the Kingdom of Spain.

Done at Brussels, 11.4.2024

*For the Commission*  
*Wopke HOEKSTRA*  
*Member of the Commission*