



Brussels, 26.3.2021
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COMMISSION IMPLEMENTING DECISION

of 26.3.2021

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

(Only the Swedish text is authentic)

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on the request from the Kingdom of Sweden for the 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 and amending Council Directive 93/12/EEC¹, in particular Article 3(4) and (5) thereof,

Whereas:

- (1) Commission Decision C(2011)4507 of 29 June 20 on the request from the Kingdom of Sweden ('Sweden') for a derogation pursuant to Article 3(4) and (5) of Directive 98/70/EC ('the Directive') has expired on 31 December 2020.
- (2) By letter to the Commission registered on 14 July 2020, Sweden notified a request for derogation to permit the placing on the market during the summer period of petrol with a maximum vapour pressure of 70 kPa, due to its low ambient summer temperatures, for a duration till 31 December 2030. A supporting annex with quantified information was submitted in addition to the notification letter.
- (3) According to Article 3(4) of the Directive, Member States with low ambient summer temperatures may, in accordance with the first subparagraph, permit the placing on the market during the summer period of petrol with a maximum vapour pressure of 70 kPa instead of 60 kPa².
- (4) In accordance with Article 3(5) of the Directive, Member States that wish to apply either of the derogations provided for in paragraph 4 shall notify the Commission and provide all relevant information. The Commission shall assess the desirability and duration of the derogation, taking account of both:
 - (a) the avoidance of socioeconomic problems resulting from higher vapour pressure, including time-limited technical adaptation needs; and
 - (b) the environmental or health consequences of the higher vapour pressure and, in particular, the impact on compliance with EU legislation on air quality, both in the Member State concerned and in other Member States.
- (5) Under Article 3(5), the Commission shall assess the desirability and the duration of each derogation requested. If, taking into account relevant values, the assessment

¹ OJ L 350, 28.12.1998, p.58-68.

² For Member States with low ambient summer temperatures, the summer period is defined as the period between 1 June and 31 August according to Annex I of the Directive.

shows that the derogation will result in a lack of compliance with EU legislation on air quality or air pollution, including limit values and emissions ceilings, the application shall be rejected.

- (6) Directive 2009/30/EC amending Directive 98/70/EC by i.a. introducing Article 3 (2) to (6) had to be transposed into national law by 31 December 2010. A failure to comply with the vapour pressure requirements of the Directive after this date would constitute an infringement of EU law, unless a derogation is in place.
- (7) The notification was assessed in line with Directive 98/70/EC and with the general recommendations for assessment set out in the public document ‘Guidance note on notifications of exemptions from the vapour pressure requirements for petrol under Article 3(4) of Directive 98/70/EC relating to the quality of petrol and diesel fuels’ (‘the Guidance note’).
- (8) The Commission found that some essential information was missing in the initial notification, and asked Sweden by letter dated 10 September 2020 to complete the notification. Sweden submitted additional information by letter on 14 December 2020.
- (9) The Commission found the additionally submitted information sufficient to finalise the assessment.
- (10) The Guidance note provides that the notification by the Member State is assessed considering the forecast quantity of petrol concerned, the share it represents of the Member State's total produced amount, the quantity of petrol exported, the forecast quantity of petrol for which a derogation is sought and – if relevant – the associated percentage of bioethanol content of that petrol. In addition, the assessment of notifications will be conducted in accordance with the following socioeconomic and environmental criteria:
 - Any social, financial or economic impact to implementing the regulated vapour pressure of 60 kPa.
 - Compliance with Union legislation on air quality and air pollution encompassing realistic and reliable predictions of their emissions of non-methane volatile organic compounds (NMVOCs), ozone and benzene, including additional measures being considered to outweigh the additional emissions caused by the derogation.
- (11) Firstly, the notification was assessed in accordance with information requirements set out under point 4 of the Guidance note. Sweden provided information on petrol sales, export and import conditions, distribution and the associated percentage of bioethanol content of that petrol, which the Commission considers sufficient to evaluate the notification.
- (12) Secondly, as set out under point 4.1 of the Guidance note, Sweden provided information about the direct socioeconomic problems on the impact on petrol producers and/or petrol suppliers of not having the derogation. This concerns any social, financial or economic impact of implementing the regulated vapour pressure of 60 kPa.
- (13) Sweden informed that the three refineries located on its territory have different configurations and process units and have therefore different constraints in the use of petrol components. If a derogation would not be granted, Sweden indicated that the necessary investments would amount to about 30-40 million EUR for each refinery and the estimated timeframe for such investments, including the assessment and permitting procedure would be from three to five years. Sweden further specified that

the volumes of petrol supplied to retail outlets have decreased by around five percent per year between the years 2009 and 2018. On this basis, the Commission concludes that producing petrol with vapour pressure of 60 kPa in Sweden would have significant economic impacts in view of the current configuration of the installations.

- (14) Sweden further explained that in order to reduce the vapour pressure of petrol from 70 kPa to 60 kPa, the only viable option in the short term would be to exclude volatile components such as butanes and pentanes from petrol blending. Sweden suggests that these components would need to be disposed or exported while the other blending components, such as alkylate, MTBE or ETBE, would need to be imported. Sweden concludes this to be a challenging option both from the market and cost-efficiency perspectives.
- (15) Another challenge indicated by the request refers to an insufficient domestic supply for different petrol blending components making the Swedish refineries heavily dependent on the international trade market for the different petrol component streams.
- (16) Sweden is a net importer of petrol with about 2 007 000 m³ representing 63% of total petrol consumption in 2017. In the additionally submitted information, Sweden explained that the imports come mainly from the immediate neighbouring countries, such as Finland, Denmark and Norway having the same vapour pressure requirements as Sweden. The other part of the imports comes from the ARA region (Amsterdam-Rotterdam-Antwerp) which is an important trading hub and handles spot trade. In this respect, Sweden considered that that under the conditions of decreasing demand and heavy reliance on imports, it would not be an economically viable option to invest in a production of petrol of a lower vapour pressure limit.
- (17) Sweden reported on the consumption volumes of E85 that are currently decreasing due to low sales of Flexi Fuel vehicles in Sweden, and standing at 69 721 m³ or 2.4% of petrol sales in 2018. Sweden explained that the production of E85 includes a base petrol with a vapour pressure of 63 kPa which is used to compensate for the vapour pressure increase due to ethanol content. In the absence of derogation, the base petrol would need to have a vapour pressure of about 53 kPa leading to difficulties to meet the minimum vapour pressure specification for E85 and potentially could result in the undesirable reduction of the ethanol content of E85.
- (18) On the basis of the submitted information, the Commission considers as valid and reasonable the arguments brought forward by Sweden with regards to the socio-economic criteria.
- (19) Thirdly, as set out under point 4.2.1 of the Guidance note, Sweden provided information concerning the compliance with the national emissions ceilings and reduction commitments for non-methane volatile organic compounds (NMVOC).
- (20) Sweden supplied information on its compliance with the emissions reduction commitments stipulated in the Directive (EU) 2016/2284³ (National Emission Ceilings Directive – ‘NEC Directive’). Sweden further informed that emissions of NMVOC are caused largely by use of solvents, industry and agriculture.
- (21) Sweden reported to have cut its aggregate emissions by approximately one third in 2018 in comparison to 1990 under the NEC Directive. Much of this decrease was due to catalytic conversion of vehicle exhausts. In relation to different sectors relevant for

³ 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

this application, Sweden indicated that the fugitive emissions from the distribution of oil products (code 1B2av) amounted to 3.7 kilotonnes (kt) or 2.76% of the total amount of NMVOC emissions in 2018, while the emissions from road transport gasoline evaporation (code 1A3bv) amounted to 0.65 kt or 0.48%. Sweden concluded, that the emissions relevant for this application, make only a small part of the total Swedish NMVOC emissions.

- (22) Sweden supplied information referring to its 2030 NMVOC emission projections (97 kt), which is below the national reduction commitment (109 kt), and the 2020 NMVOC emissions projections (104 kt) also below its applicable national emissions ceiling (128 kt), together with details of Sweden's NMVOC emissions for 2018 (104 kt). Sweden further informed that the emissions from the sub-sectors, relevant for this application are also expected to decrease. More specifically, the emissions from distribution of oil products are expected to halve by 2030 compared to 2018 level while evaporative emissions from gasoline vehicles would decrease to less than 0.3% in 2030 compared to 2018.
- (23) The request indicated that the emissions data presented have been prepared in accordance with the methodologies required under the NEC Directive and the United Nations Economic Commission for Europe (UNECE) Gothenburg Protocol.
- (24) The Commission notes that national NMVOC emission reduction commitments under the NEC Directive for Sweden are already met with existing petrol vapour pressure specifications of 70 kPa and the projections show a continued future compliance by 2030. Consequently, maintaining a petrol vapour pressure limit of 60 kPa would have only a limited effect on the Swedish overall achievement of the NMVOC national commitment target. The Commission therefore sees no grounds for objecting to this part of the notification.
- (25) Fourthly, concerning the ozone criteria, Sweden provided information as set out under point 4.2.2 of the Guidance note.
- (26) With respect to the ground level ozone, the EU target value of $120 \mu\text{g}/\text{m}^3$ may not be exceeded by more than 25 days a year as from year 2010, under the Directive 2008/50/EC⁴ (Air Quality Directive). Sweden has reported its full compliance, stating that between 2009 and 2019 the target value have been exceeded by no more than 20 days each year at any measurement station in Sweden.
- (27) With regard to the future estimates, the Swedish request indicated that based on the current monitoring data between 2010 and 2019, it is not possible to establish a clear trend on whether the number of compliance days are diminishing or increasing. However, according to the European Monitoring and Evaluation Programme (EMEP), episodes of higher ozone concentrations have become less frequent. Sweden explains in general terms that abatement measures that have been in place, have reduced the emissions of NO_x and VOC in recent decades and are predicted to bring further reductions.
- (28) The Commission finds that the use of monitoring data is appropriate for identifying any current or historical problems with achieving the ozone target value. The methods employed appear therefore to be suitable. It is established that there were no reported exceedances of the ozone related target value linked with the current use of summer petrol with a vapour pressure up to 70 kPa. On this basis, the Commission finds that it

⁴ 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

is unlikely that the target values for ground level ozone would be exceeded in 2021 and forward. The Commission finds no reasons to object to the request in this part.

- (29) Fifthly, in order to assess compliance with air quality limit value for benzene, Sweden provided information as set out under point 4.2.3 of the Guidance note.

The information submitted indicates that there are no exceedances of the benzene target value in Sweden. Benzene in ambient air is monitored in Swedish municipalities. The benzene values in the ambient air, according to reported data, have gone down by approximately 85 percent since 1993. During the years 2016 - 2019 the Swedish yearly urban background average for benzene was $0.67 \mu\text{g}/\text{m}^3$, which is far below the allowed limit of $5 \mu\text{g}/\text{m}^3$ specified by the Directive 2008/50/EC.

- (30) The Commission concludes that Sweden ensures a full compliance with the benzene limit value and that any such exceedance is unlikely to arise until 2030, due to the application of the derogation. The Commission raises no objection to this part of the notification.
- (31) In conclusion, the Commission finds that considering the Swedish petrol supply situation predominantly depending on imports and the shrinking petrol demand, and taking into account the measures taken to comply with the air quality legislation, a derogation is justified.
- (32) In light of the above considerations, the Commission finds that these conditions justify a duration of a derogation limited to the 31 December 2030.

HAS ADOPTED THIS DECISION:

Article 1

The Commission raises no objection to the notification from the Kingdom of Sweden to permit the placing on the market during the summer period of petrol with a maximum vapour pressure of 70 kPa (derogation) until the 31 December 2030.

Article 2

The Commission shall revoke the 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 Sweden.

Done at Brussels, 26.3.2021

For the Commission
Frans TIMMERMANS
Executive Vice-President