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EUROPEAN COMMISSION

Brussels,
C(2009) XXX final

Draft

COMMISSION DECISION

of [...]

on the notification by Bulgaria of an exemption from the obligation to apply the limit values for PM₁₀ in six air quality zones

(Only the Bulgarian text is authentic)

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COMMISSION DECISION

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THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe¹, and in particular Article 22(4) thereof,

Whereas:

- (1) Bulgaria notified the Commission by letter registered on 14 April 2009 of an exemption from the obligation to apply the limit values for PM₁₀ in the six air quality zones listed in the Annex to this Decision. The air quality limit values for PM₁₀ have been legally binding since 1 January 2005 in accordance with Council Directive 1999/30/EC of 22 April 1999 relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air².
- (2) In accordance with Article 22(2) of Directive 2008/50/EC a Member State may be exempt from obligations to apply the limit values for PM₁₀ if all appropriate abatement measures have been taken at national, regional and local level to achieve compliance by the deadline in Directive 1999/30/EC, the principal cause of the exceedance can be attributed to site-specific dispersion characteristics, adverse climatic conditions or transboundary contributions, and an air quality plan is established demonstrating that conformity with the limit values will be achieved before the new deadline.
- (3) The notification has been assessed in accordance with the guidance set out in the Commission Communication on notifications of postponements of attainment deadlines and exemptions from the obligation to apply certain limit values pursuant to Article 22 of Directive 2008/50/EC on ambient air quality and cleaner air for Europe³, ("the Communication"). The notification was submitted using the forms set out in the Staff Working Paper⁴ that accompanied the Communication.

¹ OJ L 152, 11.6.2008, p. 1.

² OJ L 163, 29.6.1999, p.41.

³ COM(2008)403

⁴ SEC(2008)2132

- (4) The Commission identified certain relevant information as missing from the original notification, and requested the Bulgarian authorities by letter dated 22 July 2009 to complete the notification. The Bulgarian authorities submitted the additional information by letter dated 24 August 2009.
- (5) The Bulgarian authorities have provided data for the year 2007 to be used as reference year and basis for the assessment. Since 2007 was the first year in which Bulgaria provided official data on the air quality situation, the Commission finds that the 2007 reference year is appropriate for the assessment.
- (6) The Bulgarian notification was accompanied by several air quality plans. The assessment shows that although there are plans relevant for all the zones, not all exceedance situations in those zones are addressed by those plans. In several cases, it is moreover clear that the plans have not been updated to reflect how compliance will be achieved by the expiry of the exemption period. The assessment also shows that the air quality plans do not include all required information laid down in Part A of Annex XV to Directive 2008/50/EC. In particular complete source apportionments and information about the impact of the measures are missing.
- (7) The Bulgarian authorities have indicated that the air quality plans relevant for the notified zones will be updated by the end of 2009. According to Article 22(1), an air quality plan has however to be established for each zone in which an exemption will apply and must, according to Article 22(4), be communicated to the Commission together with the notification. In the absence of air quality plans that address all the notified exceedance situations, and that have been formally endorsed by the competent authorities so that they constitute a formal commitment to take the necessary abatement action with the view of ensuring compliance with the PM₁₀ limit values in 2011, the Commission considers that the Bulgarian authorities have not supplied all the necessary information required to demonstrate that the conditions for an exemption are satisfied.
- (8) In order to assess whether the conditions for a PM₁₀ exemption are satisfied, it is necessary to identify the main sources of pollution contributing to the observed concentrations. That source apportionment should be precise enough to allow an understanding of which measures should be taken to address the main sources of pollution.
- (9) The Bulgarian authorities have not provided comprehensive source apportionments for any of the different exceedance situations. It appears that the information submitted by Bulgarian authorities on different sources contributing to PM₁₀ levels was mainly based on emission estimates. These estimates can give an indication of the major sources but are not sufficiently precise to ensure an accurate understanding of the contributing sources or the measures necessary to address them. The Commission notes that ambient PM₁₀ concentrations also depend on regional background levels and that the dispersion characteristics of the emissions play a significant role in determining their contribution towards ambient concentrations.
- (10) On the basis of the information provided, the Commission notes that for zones 1, 4, 5 and 6 it appears that industry is one of the main sources of emissions. As regards zones 2 and 3, it appears that traffic and domestic combustion are the dominant emission sources. In zone 2 also industry seems to be a major source. The Commission

has taken this information into account when assessing the conditions, although a significant uncertainty remains as to the proportion of these sources in causing the high concentration levels.

- (11) For all the zones the Bulgarian authorities have claimed adverse climatic conditions as the sole cause for not being in compliance with the PM₁₀ limit values. The notification includes information about average wind-speed and presence of fog as evidence of adverse climatic conditions. In the Communication, the Commission has indicated that the Member State should demonstrate a correlation between high concentration levels and the presence of adverse climatic conditions. The Commission notes that it is not possible, on the basis of the information provided, to determine whether fog is a relevant indicator for adverse climatic conditions, because fog could, on the one hand, be a consequence of specific meteorological conditions which may be related to poor dispersion conditions or, on the other hand, an effect of high concentration of particles in the atmosphere.
- (12) The Bulgarian authorities have also provided information on average wind-speed for all the zones concerned. The assessment shows however that the correlation between the days exceeding the limit values and the low wind-speed is either not sufficient or unclear. More precisely, some zones have quite high average wind-speed above the 1.5 m/s indicated as a criteria for adverse climatic conditions by the Commission in the Communication, and cannot without further justification be considered as affected by adverse climatic conditions. In other cases, it is clear that the exceedances are not limited to days with low wind-speed. As Bulgarian authorities have also not provided detailed information about the effect of the topography in preventing pollutant dispersion, and what they consider to be the adequate indicator and the relative threshold value for average wind speed that should be used, the Commission cannot assess whether adverse climatic conditions are the chief cause of the exceedance situations for any of the zones concerned.
- (13) The Commission notes that as Bulgaria acceded to the Union in 2007, there was no legal obligation for the competent authorities to take abatement action pursuant to Directive 1999/30/EC prior to 2005. Nevertheless the notification shows that abatement action was taken in all notified zones prior to the accession. Air quality plans were adopted and various measures addressing inter alia road traffic, domestic heating and industrial emissions were taken. The Commission finds that due to the absence of source apportionments it cannot be assessed if the abatement action taken in all zones were relevant for addressing the chief sources in those zones. However, by implementing measures that were addressing sources that doubtlessly can be included among the main sources contributing to the high concentration levels and by establishing air quality plans for all the exceedance situations, the Bulgarian authorities have demonstrated an early awareness of the air quality problems and some of the potential remedies in the different zones.
- (14) In order to assess if compliance with the limit values for PM₁₀ can be achieved at the expiry of the exemption period, it is necessary to consider the concentration levels estimated at that date by the Member State, and the estimated impact of the additional measures proposed to ensure compliance in the air quality plan accompanying the notification.

- (15) The Commission notes that the data provided by Bulgarian authorities on the concentration levels and the number of days in exceedance do not show that measures implemented in recent years have already induced a significant downward trend and that there is still a very significant gap between the limit values and the concentration levels reported to the Commission for 2007 and 2008. Therefore the Commission finds that it is unlikely that compliance with the daily and annual limit values can be achieved in all zones by June 2011 without very strong additional measures being implemented. However, due to incomplete source apportionments and as Bulgarian authorities have not provided any projections of PM₁₀ concentration levels in 2011 or estimated the impacts of the measures due to be implemented by that date for any of the notified zones, the Commission cannot assess whether compliance can be met by June 2011 in any of the zones.
- (16) The Commission is satisfied that the implementation by Bulgaria of the legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC does not give rise to concerns that could have a negative impact on the assessment of whether compliance can be achieved the new attainment deadline.
- (17) As regards measures to be considered in accordance with Part 3 of Section B in Annex XV to Directive 2008/50/EC, the Bulgarian authorities have not submitted any information about the measures considered.
- (18) Against that background, the Commission finds that objections should be raised against the application of the exemption from the obligation to apply the daily and annual limit values in all notified zones on the grounds that it has not been demonstrated that adverse climatic conditions can be considered as the chief cause of the exceedances and that compliance with the limit values can be achieved by the expiry of the exemption period in 2011,

HAS ADOPTED THIS DECISION:

Article 1

Objections are raised against the notification by Bulgaria of an exemption from the obligation to apply the daily and annual limit values for PM₁₀ set out in Annex XI to Directive 2008/50/EC in all the zones listed in the Annex to this Decision.

Article 2

This Decision is addressed to the Republic of Bulgaria.

Done at Brussels, [...]

For the Commission
Stavros DIMAS
Member of the Commission

ANNEX

Zones and agglomerations covered by the notification in accordance with the delimitations applicable in the annual air quality report for the reference year 2007.

Zone number	Zone code	Zone name	Daily and/or annual limit values
1	BG0001	AG Sofia	d; a
2	BG0002	AG Plovdiv	d; a
3	BG0003	AG Varna	d; a
4	BG0004	North	d; a
5	BG0005	South-West	d; a
6	BG0006	South-East	d; a