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EUROPEAN COMMISSION

Brussels,
C(2009) XXX final

Draft

COMMISSION DECISION

of [...]

**on the notification by Italy of an exemption from the obligation to apply the limit values
for PM₁₀ in 12 air quality zones in Campania, Puglia and Sicilia**

(Only the Italian text is authentic)

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COMMISSION DECISION

of [...]

on the notification by Italy of an exemption from the obligation to apply the limit values for PM₁₀ in 12 air quality zones in Campania, Puglia and Sicilia

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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) Italy notified the Commission by letter registered on 5 May 2009 of an exemption from the obligation to apply the limit values for PM₁₀ in the 12 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) For five of the notified zones, i.e. zones 1, 5, 6, 7 and 8 it appears from the annual air quality reports submitted to the Commission that compliance with the annual limit value has been achieved since respectively 2006 in zones 1 and 8, 2007 in zones 5 and 7 and in 2008 in zone 6. As regards the daily limit value, it appears that zones 2 and 8 are in compliance since 2006 and zones 5 and 7 since 2008. The Commission therefore finds that it is likely that the concentration levels in those zones can be maintained below the respective limit values in accordance with Article 12 of Directive 2008/50/EC. The Commission finds that in view of the compliance achieved, the annual limit value laid down in Annex XI to Directive 2008/50/EC should continue to apply in zones 1, 5, 6, 7 and 8 without a margin of tolerance and the daily limit value should continue to apply without a margin of tolerance in zones 2, 5, 7 and 8.
- (5) The Commission identified certain relevant information as missing from the original notification, and requested the Italian authorities by letter dated 28 September 2009 to complete the notification. The Italian authorities submitted some of the requested additional information by letters dated 22 October and 11 November 2009. No additional information has been submitted by Italian authorities for the region of Campania.
- (6) The Italian authorities have provided data for the year 2005 and for some zones for 2006, to be used as reference years and basis for the assessment. The Commission notes that 2006 was a year with particularly high concentration levels and has taken that into account in its assessment. The Commission notes that in the Region of Puglia the delimitation of the zones was changed in 2006 and again in 2008, partially re-establishing the delimitations applicable in 2005. For the purpose of determining the scope of the notification the Commission refers in this Decision to the delimitation and numbering of the zones in the Region of Puglia in accordance with the delimitations applicable in the annual air quality report for the year 2005.
- (7) The Italian notification was accompanied by regional air quality plans for all the zones concerned. The assessment shows that the plans for zones 1, 2 and 3 fulfil the requirements laid down in Part A of Annex XV to Directive 2008/50/EC. The Commission finds however that the plans for zones 4-12 do not include all information required pursuant to points 7(b) and 8(c), and for the zones 8-12 also point 8(b) of Part A of Annex XV to Directive 2008/50/EC, i.e. observed effects of the measures for improvement which existed prior to 11 June 2008, the estimate of the improvement of air quality planned and of the expected time required to attain the reduction of pollution following entry into force of Directive 2008/50/EC and a timetable for implementation of the measures or projects for that purpose.
- (8) The zones that are listed in the Annex as being in compliance with the annual and daily limit values do not require air quality plans. The Commission notes however that should there be a risk that the limit values are exceeded, the competent authorities should consider drawing up action plans indicating measures to be taken in the short term as specified in Article 24 of Directive 2008/50/EC.
- (9) 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.

- (10) For zones 1, 2 and 3, the Italian authorities have provided information on the split between the regional, urban and local background. Information on the different sources contributing to the concentration levels on urban and local level was provided and seems reasonable, even though a robust assessment of the representativeness of the split was not possible due to the lack of a description of the methodology used for determining the different contributions on the local or urban level. The main sources in zones 1, 2 and 3 appear to be local traffic followed by local industry and local commercial and residential heating, and urban traffic.
- (11) The source apportionments presented by the Italian authorities in relation to the different exceedance situations in zones 4 to 7 provide indicative information from which it is possible to estimate the major sources contributing to the high concentration levels, i.e. traffic, industry and commercial and domestic heating. The Commission notes, however, that due to certain key data missing or being unclear, the information provided cannot be considered offering the necessary detail or certainty to allow anything other than a partial assessment of the causes for the exceedances and the action taken. More precisely, the totals have either not been given for the regional, urban and local contributions or do not add up correctly for the different sub-categories. Moreover, the same split for the urban background level is given for all exceedance situations, which in view of their different localisation cannot be considered reasonable without a detailed explanation. As a consequence the source apportionments for those zones can only be considered as indicative.
- (12) The Italian authorities have provided an analysis of the contributing sources by sector and origin for the zones 8 to 11. Traffic is in general the main source at the urban background and local levels. In zone 8 also industry is contributing significantly to the high PM₁₀ concentration at the regional level. In zone 10 one of the two exceedance situations appears to be due mainly to industry contributions followed by traffic. Transboundary contributions as well as contributions from natural sources are well documented and reasonable for zones 8 to 11.
- (13) As regards zone 12, the split between regional, urban and local background as well as the transboundary contributions and contributions from natural sources seem reasonable. However the Commission notes that the monitoring station that registered the exceedance is classified as "suburban-urban traffic", while the Italian authorities only mention industry as a source for high PM₁₀ concentration levels. The difference between the classification of the monitoring station and the information on the sources provided by Italian authorities, raises serious doubts as to the reliability of the source apportionment. Accordingly the Commission finds that on the basis of the available information it cannot assess if the main pollution sources are appropriately addressed.
- (14) The notification indicates that adverse climatic conditions are the principal cause for why conformity with the limit values could not be achieved by the 2005 attainment date. Site specific dispersion characteristics and transboundary contributions are also claimed in a small number of zones.
- (15) As regards zone 1, a combination of adverse climatic conditions, site specific dispersion characteristics and transboundary contributions have been claimed. As

regards adverse climatic conditions, the Commission notes that the criteria listed in the Communication were met for one of the exceedance situations, however, not enough information has been provided on the correlation between the other exceedance situation and adverse climatic conditions. As regards the claim of site specific dispersion characteristics, quantitative information supporting this claim has not been provided for one of the two exceedance situations. Furthermore, the Commission notes that due to the high number of days in exceedance of the PM₁₀ limit value, it is not plausible that transboundary contributions alone are the cause of these exceedances. Accordingly the Commission considers that it cannot on the basis of the information provided assess whether the exceedances can be attributed to adverse climatic conditions, transboundary contributions or site-specific dispersion characteristics, or to a combination of these factors in zone 1.

- (16) As regards zones 2 and 3, Italian authorities have claimed adverse climatic conditions and transboundary contributions. No specific information supporting the presence of adverse climatic conditions has been provided, but it appears that the exceedances can be explained by transboundary contributions alone. Data provided by the Italian authorities show that in zones 2 and 3 the daily limit value is exceeded on less than 35 days per year once the exceedances due to transboundary pollution have been deducted. Accordingly, the Commission finds that for zones 2 and 3, it has been demonstrated that the principal cause of the exceedances can be attributed to transboundary pollution.
- (17) As regards zones 4, 5 and 6, adverse climatic conditions have been indicated by the Italian authorities. It appears however that the criteria indicated in the Communication are not completely fulfilled. Member States are expected to demonstrate that exceedances mainly occur during low wind-speed periods, however in zones 4 to 6, the annual average wind-speed indicated by the Italian authorities is above the 1,5 m/s given as an indicator in the Communication. In addition, as regards zone 6, only few exceedances occurred in days with low wind speed. Natural contributions, such as Sahara dust, have also been indicated as a cause for non-compliance by the original deadline, however, no quantitative information supporting this claim has been provided.
- (18) According to the notification the high concentration levels in zones 7, 10 and 11 are chiefly due to adverse climatic conditions. The Commission finds that for those zones, the Italian authorities have demonstrated the presence of adverse climatic condition by showing that in accordance with the criteria indicated in the Communication concentration levels above the daily limit value occur to a large extent on days with low wind-speed.
- (19) In zones 8 and 9, site-specific conditions together with adverse climatic conditions have been claimed by Italian authorities. However, it has not been demonstrated that the exceedance is limited to a street canyon, and no further quantitative information that could be considered equivalent for demonstrating the presence of site specific conditions has been submitted. As regards the claim of adverse climatic conditions, it appears that the criteria suggested in the Communication are not fulfilled. As no information has been provided explaining why a higher average wind-speed is relevant for demonstrating that the conditions are met, the Commission finds that it cannot assess whether adverse climatic conditions are present in zones 8 and 9. Accordingly, the Commission cannot on the basis of the information provided assess whether the

exceedances can be attributed to adverse climatic conditions or site-specific dispersion characteristics, or to a combination of those factors in zones 8 and 9.

- (20) As regards zone 12, adverse climatic conditions have been indicated as reason for non compliance. However, the Italian authorities have not used the criteria suggested by the Commission in the Communication and did not provide any alternative equivalent information to demonstrate that such conditions are the principal cause of the exceedances. The notification states that exceedances may be due to contributions from natural sources, such as Sahara dust. However, the Commission cannot, only on the basis of a correlation showing that higher PM₁₀ concentrations occur mainly when wind comes from the south, determine with sufficient certainty that the exceedances can be attributed to such contributions.
- (21) In order to assess if all appropriate measures were taken before the 2005 attainment date, it is necessary to consider when an exceedance triggering abatement action pursuant to Directive 1999/30/EC first occurred in the zone, the relevance of the measures taken in relation to the identified sources and the impact of the external factors, such as adverse climatic conditions.
- (22) In the zones 6, 8 and 9, exceedances triggering mandatory abatement action occurred for the first time in 2001 (zone 6) and 2003 (zones 8 and 9). The Italian authorities have shown that abatement measures addressing the main pollution sources were implemented already before 2005, i.e. already since 1999 in zones 8 and 9, and since 2004 in zone 6. Although air quality plans were adopted late, only in 2007 (zones 8 and 9) or 2008 (zone 6), the Commission considers that on balance the abatement action taken in zones 6, 8 and 9 prior to the 2005 deadline was appropriate.
- (23) Taking into account that the measures implemented in zones 2 and 3 were relevant for addressing most of the chief sources identified, that the gap to achieve the PM₁₀ limit values was relatively small and that the exceedances were recorded very close to 2005, the Commission considers that on balance the abatement action taken in zones 2 and 3 prior to the 2005 deadline was appropriate even though air quality plans appear to have been adopted only in June 2007.
- (24) The Commission notes that the first exceedance triggering an obligation to take abatement action occurred only in 2005 or later in zones 5, 7 and 12 and as a consequence, there was no legal obligation for the competent authorities to take abatement action prior to 2005 in those zones.
- (25) Exceedances triggering an obligation to take abatement action were registered already in 2001 for zones 1 and 4 and in 2003 for zones 10 and 11. It results from the notification that no measures were taken at all before 2005 in zone 11, or only very few measures not addressing all relevant sources in zones 1, 4 and 10. More precisely, as regards zone 1, the main contributions identified in that zone come from commercial and residential sources and in zone 10, from industry, however, no measures addressing those sources appear to have been adopted before 2005. In zone 4 only one measure of limited impact addressing public transport was adopted in 2004, although traffic appears to be the main pollution source in that zone. Moreover, air quality plans for those zones were adopted very late, i.e. in 2007 for zones 1, 10 and 11 and in 2008 for zone 4. Accordingly, the Commission considers that the abatement action taken in zones 1, 4, 10 and 11 prior to the 2005 deadline was not appropriate.

- (26) 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.
- (27) As regards zones 1, 9, 10 and 12, the notification indicates that a combination of local, regional and national measures, in addition to the abatement measures already in place, will lead to a reduction of the concentration levels that will ensure compliance with the limit values in 2011. According to the documents submitted by the competent authorities it appears that without the national measures, regional and local measures alone cannot ensure that compliance is achieved by the extended deadline in zones 1, 9, 10 and 12. As there is not sufficient information in the notification about the measures due to be implemented at national level and considering that a national air quality plan is still in preparation, the Commission finds that, although it is not excluded that a combination of national, regional and local measures could ensure compliance, it is not possible on the basis of the currently available information, and in the absence of a formal commitment at the national level in the form of a national air quality plan, to assess if compliance will be achieved by the 2011 deadline in those zones. The lack in those zones of specific information about the effect of regional and local additional measures, also adds to the uncertainty as to the effectiveness of the abatement action taken at the local level.
- (28) As regards zones 3 and 11, the Italian authorities also indicate that a combination of local, regional and national measures will ensure compliance with the PM₁₀ limit values by 2011. The Commission notes that the national air quality plan is still in preparation. It appears however that in 2007 there were only respectively 38 and 39 days in exceedance of the daily PM₁₀ limit value in zones 3 and 11, as compared to the permitted 35 days. Furthermore according to the Italian authorities a substantive reduction of the baseline is expected between 2005 and 2010 in both zones. As a consequence, the Commission finds that, although information on the effectiveness of additional measures is missing, the limited exceedance together with the envisaged reduction of the baseline, makes it reasonable to assume that compliance with the daily limit value will be achieved by 2011 in those zones, provided that the local and regional measures foreseen are implemented strictly and on time.
- (29) As regards zones 4 and 6, no information on the impact of individual measures was provided and the information on the global impact of additional measures was the same for the regional, urban and background level and for all exceedance situations, regardless of the nature of the exceedance situation concerned. The Commission considers that due to different sources being the cause for different exceedance situations, the Italian authorities should have provided more detailed information in order to demonstrate that it is reasonable that the same measures have exactly the same impact in all situations. However, no such evidence has been provided. Furthermore no measures seem to be planned to address commercial and residential sources which however appear to be an important source of pollution at the local level. As regards industrial emissions only the application of Directive 2008/1/EC of the European Parliament and of the Council of January 2008 on integrated pollution prevention and

control⁵ is planned but it is stated that the relevant installations do not have the required permits. Accordingly the Commission cannot, on the basis of the information provided, assess if compliance with the daily limit value can be achieved by the 2011 deadline in those zones.

- (30) As regards the zones listed in the Annex to this Decision, as being in compliance with the daily and/or annual limit value on the basis of the annual air quality reports submitted by the competent authorities, the Commission finds that concentration levels should be maintained below the relevant daily and/or annual limit value in those zones and that in view of the compliance achieved, the relevant daily and/or annual limit value laid down in Annex XI to Directive 2008/50/EC should continue to apply in those zones without a margin of tolerance.
- (31) The Commission notes, as regards the status of implementation of the legislation listed in Part 2 of Section B in Annex XV to Directive 2008/50/EC, that it is not clear to what extent permits pursuant to Directive 2008/1/EC have been issued to installations contributing to the exceedance situations. As these installations are likely to have a significant effect on concentration levels, the Commission expects that the necessary effort is taken to ensure that all such installations operate using appropriate preventive measures against pollution, in particular through application of the best available techniques. The Commission also notes that Italy expects to be in compliance with Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants⁶ in 2010.
- (32) As regards measures to be considered in accordance with Part 3 of Section B in Annex XV to Directive 2008/50/EC, the Italian authorities have not considered several types of measures without explaining the reasons for this in zones 4 to 7. For zones 1 to 3 measures related to public procurement, low emission fuels and permit systems have not been considered and no justification has been provided why such measures are not appropriate. As regards zones 8 to 12 only the emission control equipment for small and medium sized stationary combustion sources has not been considered without any justification. The Italian authorities are therefore invited to take these measures into account when drawing up or revising the air quality plans.
- (33) Against that background, the Commission finds that no objections should be raised against the application of the exemption from the obligation to apply the daily limit value in zone 3.
- (34) As regards the zones listed in the Annex as being in compliance with the daily and/or annual limit values, the Commission finds that objections should be raised against the exemption from the obligation to apply those limit values on the grounds that compliance has already been achieved.
- (35) As regards zones 10 and 11, the Commission finds that objections should be raised against the exemption from the obligation to apply the daily and/or annual limit values as specified in the Annex, on the grounds that it has not been demonstrated that all appropriate measures were taken to achieve compliance by the 2005 attainment date

⁵ OJ L 24, 29.1.2008, p. 8.

⁶ OJ L 309, 27.11.2001, p. 22.

and also that compliance with the limit values can be achieved by the expiry of the exemption period in 2011 in zone 10.

- (36) As regards zones 6, 9 and 12, the Commission finds that objections should be raised against the exemption from the obligation to apply the daily and/or annual limit values as specified in the Annex, on the grounds that it has neither been demonstrated that the limit value cannot be achieved because of adverse climatic conditions, site specific characteristics or transboundary contributions, nor that compliance with the limit values can be achieved by the expiry of the exemption period in 2011.
- (37) As regards zones 1 and 4, the Commission finds that objections should be raised against the exemption from the obligation to apply the daily limit value as specified in the Annex, on the grounds that it has not been demonstrated that all appropriate measures were taken to achieve compliance by the 2005 attainment date, that adverse climatic conditions, site specific characteristics or transboundary contributions, can be considered as the chief causes of the exceedances and that compliance with the limit value can be achieved by the expiry of the exemption period in 2011.
- (38) During the exemption period the daily limit value continues to apply in zone 3 together with a maximum margin of tolerance in accordance with Article 22(3) of Directive 2008/50/EC. In order to provide the Commission with the means for verifying compliance with that provision, Italy should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the limit value plus the maximum margin of tolerance.
- (39) In order to ensure that the Commission can check the implementation of the air quality plans and the relevant abatement action, Italy should provide information to the Commission for the zone covered by the exemption on the assessment of air quality as regards the area in exceedance, the length of road in exceedance and the population exposed in the calendar year following the date of expiry of the exemption period.
- (40) The exemption should apply to the air quality zone as it was defined in the reference year 2005. In order to ensure that the exemption applies to the territory as defined in this Decision, any changes to the delimitation of this zone during the exemption period should be subject to prior approval by the Commission,

HAS ADOPTED THIS DECISION:

Article 1

1. No objections are raised against the notification by Italy of an exemption from the obligation to apply the daily limit value for PM₁₀ set out in Annex XI to Directive 2008/50/EC in zone 3 listed in the Annex to this Decision. The exemption shall apply until 11 June 2011.
2. Objections are raised against the notification by Italy of an exemption from the obligation to apply the following limit values for PM₁₀ set out in Annex XI to Directive 2008/50/EC:
 - (a) the daily limit value in zones 2, 4 and 11 listed in the Annex to this Decision;

(b) the daily and annual limit values in zones 1, 5 to 10 and 12 listed in the Annex to this Decision.

Article 2

1. Italy shall for the period 11 June to 31 December 2008, the calendar years 2009, and 2010, and for the period 1 January to 11 June 2011, provide the Commission with data indicating that the concentration levels in the zone referred to in Article 1(1) are below the daily limit value plus the maximum margin of tolerance specified in Annex XI to Directive 2008/50/EC. This data may be provided through the annual submission of the questionnaire specified in Commission Decision 2004/461/EC.
2. Italy shall by 30 September 2012 provide the Commission with information confirming that compliance with the daily limit value for PM₁₀ set out in Annex XI to Directive 2008/50/EC has been achieved in zone 3.
3. Changes to the delimitations of the air quality zones as compared to the delimitations that applied in the reference years 2005 or 2006 during the exemption period that affect the scope of the exemption shall be subject to prior approval of the Commission.

Article 3

This Decision is addressed to the Republic of Italy.

Done at Brussels, [...]

For the Commission
Stavros DIMAS
Member of the Commission

ANNEX

Zones and agglomerations covered by the notification.

Zone number	Zones and agglomeration codes	Zone name	Daily and/or annual limit values (d/a)	Reference year	Region
1.	IT1501	Zona di Risanamento – Area Napoli e Caserta	d/a in compliance with the annual limit value since 2006	2005	Campania
2.	IT1503	Zona di Risanamento – Area avellinese	d in compliance with the daily limit value since 2006		
3.	IT1504	Zona di Risanamento – Area beneventana	d		
4.	IT1601	A-Aree urbane	d	2005	Puglia
5.	IT1602	B1-Aree industriali	d/a in compliance with the annual limit value since 2007 and with the daily limit value in 2008	2005/2006	
6.	IT1603	B2-Aree urbano-industriali	d/a in compliance with the annual limit value in 2008	2005/2006	
7.	IT1604	C-Aree di mantenimento	d/a in compliance with the annual limit value since 2007 and with the daily limit value in 2008	2006	
8.	IT19A7	Catania, Misterbianco, Motta Santa Anastasia (A7)	d/a in compliance with the annual and daily limit values since 2006	2005	

9.	IT19A1	Palermo, Villa bate, Bagheria, Monreale, Altofonte (A1)	d/a		
10.	IT19R2	Siracusa, Priolo, Melilli, Augusta, Floridia, Solarino (R2)	d/a		
11.	IT19A6	Messina (A6)	d		
12.	IT19A5	Agrigento, Porto Empedocle, Canicatti (A5)	d/a		