COMMISSION DECISION

of [...] on the notification by the French Republic of an exemption from the obligation to apply the daily limit value for PM$_{10}$ in seven air quality zones
Draft

COMMISSION DECISION

of […]

on the notification by the French Republic of an exemption from the obligation to apply the daily limit value for PM$_{10}$ in seven air quality zones

(Only the French text is authentic)

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) The air quality limit values for PM$_{10}$ 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 PM$_{10}$ if all appropriate abatement measures have been taken at national, regional and local level to achieve compliance by the deadlines 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 that an air quality plan is established demonstrating that conformity with the limit values will be achieved before the new deadline.

(3) The Commission objected on 2 July 2009³ to the exemption under Article 22(2) of Directive 2008/50/EC from the obligation to meet the PM$_{10}$ limit values in twenty-eight air quality zones as notified by France by letter registered on 10 November 2008.

(4) France notified the Commission again by letter registered on 29 December 2009, of an exemption under Article 22(2) of Directive 2008/50/EC from the obligation to apply the daily limit value for PM$_{10}$ in seven out of the previously notified twenty-eight air quality zones listed in the Annex to this Decision. The Commission notes that for reasons of legal certainty notifications of an exemption from the obligation to meet the

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3 C(2009)5244
PM$_{10}$ limit values in zones on which the Commission has already adopted a decision will only be assessed if genuinely new information as compared to the previous notification is provided by the Member State notifying the exemption. As regards the French notification registered on 29 December 2009, the Commission notes that new information as regards each notified air quality zone has been submitted to the Commission.

(5) 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 Europe$^4$, ("the Communication"). The notification was submitted using the forms set out in the Staff Working Paper$^5$ that accompanied the Communication.

(6) The Commission identified certain relevant information as missing from the original notification in all zones. The Commission requested the French authorities by letter dated 15 February 2010 to complete the notification. Since the French authorities submitted additional information for those zones on 12 March, 16 April and 29 June 2010, the period for the Commission's assessment of the notification starts from the day following the date of official receipt of the latest submitted additional information, i.e. 30 June 2010.

(7) The French authorities have provided data for the year 2007 to be used as reference year and basis for the assessment. Since the first exceedances in all zones, apart from zone 1, have only been identified in 2005 or 2007, the Commission finds that the reference year 2007 can be used as basis for the assessment in those zones. As regards zone 1 and the assessment of the condition whether all appropriate measures were taken before the 2005 attainment date, the Commission notes that 2007 is not an appropriate reference year for that purpose. However, as French authorities have provided information on the PM$_{10}$ concentration levels and the measures taken before 2005 in zone 1, the Commission considers that an assessment of the condition is still possible.

(8) The French notification was accompanied by air quality plans or short term action plans together with a national air quality plan for all the notified zones. As regards zones 1 and 20, the assessment shows that the plans accompanying the notification fulfil the requirements laid down in Part A of Annex XV to Directive 2008/50/EC. As regards zones 21, 22 and 27, the French authorities have stated that no specific updated air quality plan is currently available. As regards zones 25 and 26, it appears that the air quality plans are missing specific information on the effects of the implemented and planned measures. The Commission notes that air quality plans are no longer required in the zones where compliance has already been achieved and as a consequence it has not been further assessed whether the information provided for zones 21, 22, 25 and 27 could be considered to collectively fulfil the requirements of Section A of Annex XV to Directive 2008/50/EC.

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$^4$ COM(2008)403

$^5$ SEC(2008)2132
In order to assess whether the conditions for the PM$_{10}$ 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.

The French authorities have provided an analysis of the contributing sources by sector and origin for all zones. It appears that the information submitted by French authorities on different sources contributing to PM$_{10}$ levels is mainly based on emissions. The Commission considers that these emissions can give an indication of the major sources but that they are not representative for each exceedance situation. Furthermore it appears that the information submitted applies to the year 2000 and although it has been indicated that the information was updated in 2005, no information has been provided on how this was done.

On the basis of the information provided, the Commission notes that for zone 1 it appears that industry and traffic are the main sources of emissions on the urban scale. As regards zones 20, 21, 22 and 26, it appears that industry, traffic and commercial and residential sources are the dominant emission sources on the urban scale and in zone 20, traffic is the main emission source on the local scale. Industrial activity and commercial and residential activities followed by traffic are the main sources contributing to high PM$_{10}$ concentration levels at the urban background scales in zone 25. In zone 27, agriculture, industrial activity and commercial and residential activities are the main contributing sources on the urban scale. Transboundary contributions in all zones are also documented and appear reasonable. The Commission has taken all that information into account when assessing the conditions.

The notification indicates that site-specific dispersion characteristics, adverse climatic conditions and transboundary contributions together with natural contributions are the principal causes for why the PM$_{10}$ daily limit value has been exceeded in all notified zones.

The French authorities have demonstrated that the criteria specified in the Communication for transboundary contributions are met in zones 1, 20, 21 and 26 and that they when natural contributions are also deducted from the concentration levels, explain the exceedance situations in those zones. As regards zones 22 and 27, the French authorities have provided sufficient information to demonstrate that the transboundary contribution alone is the chief cause of the exceedance situations. As regards zone 25, the French authorities have demonstrated that the criteria for adverse climatic conditions and transboundary contributions are fulfilled.

Accordingly the Commission finds that the exceedance situations can be chiefly attributed to transboundary and natural contributions in zones 1, 20, 21 and 26, to transboundary contributions together with adverse climatic conditions in zone 25 and to transboundary contributions alone in zones 22 and 27.

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 site-specific dispersion characteristics or transboundary contributions.
(16) As regards zone 1, the first exceedance of the PM$_{10}$ daily limit value was recorded in 2002. Taking into account the trend in previous years, the Commission finds that the expectation, based on the old monitoring method, of French authorities to be in compliance by 2005 was initially reasonable. The Commission notes that an air quality plan addressing dust emission sources was adopted in 2001 and that the assessment shows some decrease of the annual mean concentrations as well as of the number of days in exceedance between 2003 and 2005. However, as there were large variations from year to year, and considering that the industrial activity, the main source of pollution in the zone, increased while no further measure to reduce PM$_{10}$ levels was implemented after exceedances had been measured for the first time and before the original deadline, the Commission considers, that French authorities have not demonstrated that appropriate abatement action was taken prior to 2005 in relation to zone 1.

(17) In all zones apart from zone 1 an exceedance of the daily limit value was, according to the annual reports on air quality submitted by France, first discovered in 2005 in zone 27 and in 2007 in zones 20, 21, 22, 25 and 26, following the change of the methodology used for the assessment of PM concentration levels. It can, therefore, not be excluded that the exceedance situations in those zones existed already prior to 2007, and that they could have been discovered earlier by the competent authorities, had they used another assessment method, the recommended interim correction factor of 1.3 or another correction factor to come to an equivalent result to that of the reference method as listed in Point A of Annex VI of Directive 2008/50/EC. However, as the demonstration of equivalence was subject of extensive development during these years, the Commission acknowledges that specific abatement action was only taken as from respectively 2005 or 2007 in those zones.

(18) For the purposes of addressing transboundary pollution, the Commission acknowledges that consultations have been held between French authorities and the competent authorities in Germany as one defined Member State from which the pollution originates, as required according to Article 8(6) of Directive 96/62/EC.

(19) In order to assess if compliance with the limit values for PM$_{10}$ 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 plans accompanying the notification.

(20) As regards zone 1, the Commission has in its Decision of 2 July 2009 considered that the French authorities have demonstrated that compliance with the daily limit value will be achieved in that zone by the expiry of the exemption period. The Commission notes however, that it appears from the latest annual air quality report submitted by France, that compliance with all PM$_{10}$ limit values has been achieved in zone 1 and also in zones 21, 22, 25 and 27 in 2008. As the notification does not indicate that the concentration levels in that year were significantly lower as a result of favourable atmospheric conditions in those zones, the Commission finds that it is likely that the concentration levels in those zones can be maintained below the limit values in accordance with Article 12 of Directive 2008/50/EC. The Commission finds that in view of the compliance achieved, the daily limit value laid down in Annex XI to Directive 2008/50/EC should continue to apply in zones 1, 21, 22, 25 and 27 without a margin of tolerance.
As regards zone 20, the French authorities have provided a quantitative estimate of the
effect of the national air quality plan on PM$_{10}$ concentration levels at urban monitoring
stations. The Commission notes that the air quality plan appears to address the main
emission sources. Information concerning the specific implementation and the effects
of the measures at the local level is missing. However, as the gap to reach compliance
with the daily PM$_{10}$ limit value is small and the projections of the PM$_{10}$ concentration
levels in 2011 seem reasonable, the Commission finds that with the measures already
in place, including those foreseen in the air quality plan, the French authorities have
demonstrated that compliance with the daily limit value will be achieved in zone 20 by
the expiry of the exemption period.

As regards zone 26, the French authorities have provided information from which it
appears that the measures included in the national air quality plan are not sufficient to
achieve compliance with the daily PM$_{10}$ limit value in 2011. Due to the absence of
quantitative projections of the additional effects of local measures, it is not possible for
the Commission to assess whether the measures included in the national air quality
plan together with the local measures will be sufficient for achieving compliance in

As regards the status of implementation of the Community legislation listed in Part 2
of Section B in Annex XV to Directive 2008/50/EC, the Commission notes that it
appears from the information submitted by the French authorities that non compliance
with the national emission ceiling for nitrogen oxides pursuant to Directive
national emission ceilings for certain atmospheric pollutants$^6$ does not affect the
number of days in exceedance at the PM$_{10}$ monitoring stations concerned. However,
the Commission notes that compliance with the obligations under that Directive is
important in order to ensure that the limit values under Directive 2008/50/EC can be
met also in neighbouring Member States. The Commission therefore expects that the
necessary effort is taken to achieve the national emissions ceilings by the attainment
date in 2010.

As regards the implementation of Directive 2008/1/EC of the European Parliament
and of the Council of 15 January 2008 concerning integrated pollution prevention and
control$^7$, the French notification indicates that in zones 20, 21 and 25, industrial
installations are significantly contributing to the high PM$_{10}$ concentration levels. The
Commission notes that the permits for those installations have been enclosed to the
notification but that no information has been provided on whether the conditions of the
permits affect the possibility to achieve the limit values in those air quality zones.

As regards measures to be considered in accordance with Part 3 of Section B in Annex
XV to Directive 2008/50/EC, the French authorities have provided evidence that due
account has been taken of all measures to be considered in all zones.

Against that background, the Commission considers that objections should be raised
against the application of the exemption from the obligation to apply the daily limit
value in zone 1 on the grounds that it has not been demonstrated that all appropriate

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$^6$ OJ L 309, 27.11.2001, p.22
$^7$ OJ L 24, 29.1.2008, p.8
measures have been taken prior to the initial attainment date and on the grounds that compliance with the daily limit value has already been achieved.

(27) 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 20.

(28) As regards zones 21, 22, 25 and 27 objections should be raised against the application of the exemption from the obligation to apply the daily limit value for \( \text{PM}_{10} \) on the grounds that compliance with the daily limit value for \( \text{PM}_{10} \) has already been achieved.

(29) Objections should also be raised against the application of the exemption from the obligation to apply the daily limit value in zone 26, on the grounds that it has not been demonstrated that compliance with the daily \( \text{PM}_{10} \) limit value can be achieved by the expiry of the exemption period in 2011.

(30) During the exemption period the daily limit value continues to apply in zone 20 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, France should provide the Commission, on an annual basis, with data confirming that the concentration levels do not exceed the daily limit value plus the maximum margin of tolerance in this zone.

(31) In order to ensure that the Commission can check the implementation of the air quality plans and the relevant abatement action, France 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, i.e. in 2012.

(32) The exemption should apply to the air quality zone as it was defined in the notification and in the Annex to this Decision. 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:

\textit{Article 1}

1. No objection is raised against the notification by the French Republic of an exemption from the obligation to apply the daily limit value for \( \text{PM}_{10} \) set out in Annex XI to Directive 2008/50/EC in zone 20 listed in the Annex to this Decision. The exemption shall apply until 11 June 2011.

2. Objections are raised against the notification by the French Republic of an exemption from the obligation to apply the daily limit value for \( \text{PM}_{10} \) set out in Annex XI to Directive 2008/50/EC in zones 1, 21, 22, 25, 26 and 27 listed in the Annex to this Decision.
Article 2

1. The French Republic shall, for the period 11 June to 31 December 2008, the calendar years 2009 and 2010, and for the period 1 January to 10 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. That data may be provided through the annual submission of the questionnaire referred to in Article 1 of Commission Decision of 29 April 2004 laying down a questionnaire to be used for annual reporting on ambient air quality assessment under Council Directives 96/62/EC and 1999/30/EC and under Directives 2000/69/EC and 2002/3/EC of the European Parliament and of the Council.8

2. The French Republic shall, by 30 September 2012, provide the Commission with information confirming that compliance with the daily limit value for PM$_{10}$ set out in Annex XI to Directive 2008/50/EC has been achieved in zone 20.

3. Changes to the delimitations of the air quality zones as compared to the delimitation that applied in this Decision during the exemption period that may affect the scope of the exemption shall be subject to prior approval of the Commission.

Article 3

This Decision is addressed to the French Republic.

Done at Brussels, […]

For the Commission
Janez POTOČNIK
Member of the Commission

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8 OJ L 156, 30.4.2004, p. 84.
ANNEX

Zones and agglomerations covered by the notification in accordance with the delimitations applicable in the annual air quality report for the calendar year 2007 and using the same zone numbers as in Commission Decision C(2009)5244

<table>
<thead>
<tr>
<th>Zone number</th>
<th>Zone code</th>
<th>Daily and/or annual PM$_{10}$ limit value notified (DLV/ALV)</th>
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<td>Zone industrielle sidérurgique de Lorraine</td>
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<td>FR30A00001</td>
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<td>FR31A00001</td>
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