COMMISSION DECISION

of […]

on the notification by the Republic of Poland of an exemption from the obligation to apply the limit values for PM$_{10}$ in nine air quality zones

(Only the Polish text is authentic)
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of [...] on the notification by the Republic of Poland of an exemption from the obligation to apply the limit values for PM\textsubscript{10} in nine air quality zones

(Only the Polish 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 Europe\textsuperscript{1}, and in particular Article 22(4) thereof,

Whereas:

(1) The air quality limit values for PM\textsubscript{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 air\textsuperscript{2}.

(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\textsubscript{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) Poland had submitted a notification for an exemption of the obligation to meet the PM\textsubscript{10} limit values in 83 air quality zones on 12 November 2008. On 11 December 2009\textsuperscript{3} the Commission raised objections to the exemption under Article 22(2) of Directive 2008/50/EC from the obligation to meet the PM\textsubscript{10} limit values in 78 out of 83 notified air quality zones.

(4) Poland notified the Commission again by a letter registered on 15 June 2010 of an exemption under Article 22(2) of Directive 2008/50/EC from the obligation to apply the daily limit value for PM\textsubscript{10} in nine and the annual limit value for PM\textsubscript{10} in seven air quality zones, out of the 78 air quality zones to which the Commission previously raised objections. The relevant zones are listed in the Annex to this Decision.

\textsuperscript{1} OJ L 152, 11.6.2008, p. 1
\textsuperscript{2} OJ L 163, 29.6.1999, p.41
\textsuperscript{3} C(2009)9891
Commission notes that for reasons of legal certainty the notification of an exemption from the obligation to meet the 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 Polish notification registered on 15 June 2010 the Commission notes that new information as regards each of the notified air quality zones 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 and requested the Polish authorities by letter dated 9 September 2010 to complete the notification. The Polish authorities submitted additional information on 27 October 2010.

(7) The Polish authorities have provided data for the year 2007 to be used as reference year and basis for the assessment in all zones. The Commission finds that 2007 is representative of the air quality situation in 2005 and can be used as basis for the assessment.

(8) The Polish notification was accompanied by air quality plans for all the zones containing all information requested in Annex XV of Directive 2008/50/EC. The Commission notes that a large number of measures are planned to be implemented in the areas of traffic, industry, including power generation, and commercial and residential heating. However, the projections of the reduction of concentration levels are provided only for 2020. No detailed information has been provided on the projected concentration levels in 2011. It should be noted that a plan is considered as an air quality plan for the purposes of a notification pursuant to Article 22, if it has been formally endorsed by the competent authorities so that it constitutes a formal commitment to take the necessary abatement action with the view of ensuring compliance with the PM$_{10}$ limit values in 2011.

(9) 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.

(10) A detailed analysis of the contributing sources to the exceedance of the PM$_{10}$ limit values in all the zones concerned, based on updated data, has been provided by the Polish authorities. In zones 12.1 and 12.3-9 commercial and residential heating are the main sources to the high concentration levels of PM$_{10}$ at the local and urban levels,

\(^4\) COM(2008)403
\(^5\) SEC(2008)2132
followed by traffic. In zone 12.2 traffic has been indicated as the main source to the high concentration levels of PM$_{10}$. Regional contributions are well documented and reasonable for all the zones.

(11) A comparison with the 2005 data collected under the cooperative programme for monitoring and evaluation of the long-range transmission of air pollutants in Europe ("EMEP") shows discrepancies as compared to the transboundary contributions notified by Polish authorities. It appears that Polish authorities have interpreted transboundary contributions as contributions across the regions' boundary. The Commission therefore notes that in zones 12.2-8 the transboundary contributions to the regional background may be over-estimated. A transboundary contribution within the meaning of Directive 2008/50/EC is however understood as pollution originating in another Member State or third country. This interpretation is also reflected in the EMEP data which differentiate between contributions from within the Member State and sources beyond national boundaries.

(12) The assessment by the Commission confirms that the source apportionment provided by the Polish authorities for all the zones gives overall a relevant and reasonable basis for the assessment.

(13) The notification indicates that adverse climatic conditions are the principal causes for why conformity with the PM$_{10}$ limit values could not be achieved by the 2005 attainment date in all the zones. The Commission notes that no new information has been provided by the Polish authorities as regards zones 12.1, 12.2, 12.4-6 and 12.9 and that therefore Recital 27 of Commission Decision C(2009)9891 still applies.

(14) As regards zones 12.3, 12.7 and 12.8 the Polish authorities have provided new information demonstrating that concentration levels above the daily limit value for PM$_{10}$ occur to a large extent on days when the low wind-speed criteria indicated by the Commission in the Communication are met.

(15) The Commission therefore finds that the Polish authorities have demonstrated that the exceedance situations in all zones can be chiefly attributed to adverse climatic conditions.

(16) In order to assess if all appropriate measures to comply with the limit values for PM$_{10}$ 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.

(17) The Commission notes that no new information has been provided by the Polish authorities on abatement measures taken at national, regional and local level to achieve compliance by the deadlines in Directive 1999/30/EC and that therefore Recital 33 of Commission Decision C(2009)9891 still applies.

(18) 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 plan accompanying the notification.
The Polish notification indicates that compliance with the daily and annual PM\(_{10}\) limit values in zones 12.1 and 12.4-9 and with the PM\(_{10}\) daily limit value in zones 12.2 and 12.3 is not expected by the expiry of the exemption period. Polish authorities provided in the air quality plans information on the measures planned and their emission reductions. However, the projections of the reduction of concentration levels are provided only for 2020. The submitted information also shows that in recent years there were still large compliance gaps as regards the daily PM\(_{10}\) limit value in all the zones and the annual PM\(_{10}\) limit value in zones 12.6-9. The Commission therefore considers that it cannot, in the absence of detailed information on the impact of the planned measures as well as the projections of concentration levels for the year 2011, assess whether compliance with the daily and annual PM\(_{10}\) limit values in zones 12.1 and 12.4-9 and with the PM\(_{10}\) daily limit value in zones 12.2 and 12.3 can be achieved by 11 June 2011.

As regards the implementation by Polish authorities of the legislation listed in Part 2 of Section B in Annex XV of Directive 2008/50/EC, the Commission notes that the Polish authorities have not provided any new information on the implementation and the impact of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control. As the installations falling under the scope of Directive 2008/1/EC are likely to have an 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 is satisfied that the Polish authorities have taken into consideration all measures listed in Part 3 of Section B in Annex XV to Directive 2008/50/EC in all notified air quality zones.

Against that background, the Commission finds that objections should be raised against the exemption from the obligation to apply the daily PM\(_{10}\) limit value in all the zones, and the annual limit value in zones 12.1 and 12.4-9, on the grounds that it has not been demonstrated that compliance with the respective PM\(_{10}\) limit value can be achieved by the expiry of the exemption period on 11 June 2011.

HASN ADOPTED THIS DECISION:

Article 1

1. Objections are raised against the notification by the Republic of Poland of an exemption from the obligation to apply the following limit values for PM\(_{10}\) set out in Annex XI to Directive 2008/50/EC:

(a) the daily and annual limit values in zones 12.1 and 12.4-9 listed in the Annex to this Decision,

(b) the daily limit value in zones 12.2 and 12.3 listed in the Annex to this Decision.

Article 2

This Decision is addressed to the Republic of Poland.
Done at Brussels, […]

For the Commission
Janez Potočnik
Member of the Commission
## ANNEX

Zones and agglomerations covered by the notification using the same zone numbers as in Commission Decision C(2009)9891

<table>
<thead>
<tr>
<th>Zone number</th>
<th>Zone code</th>
<th>Daily (d) or annual (a) limit value notified</th>
<th>Reference year</th>
<th>Zone name</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.1</td>
<td>PL.12.02.m.01 (former zone 4.12.16.62)</td>
<td>d; a</td>
<td>2007</td>
<td>Nowy Sącz</td>
</tr>
<tr>
<td>12.2</td>
<td>PL.12.03.m.01 (former zone 4.12.15.63)</td>
<td>d</td>
<td>2007</td>
<td>Tarnów</td>
</tr>
<tr>
<td>12.3</td>
<td>PL.12.04.z.02 (former zones 4.12.15.01 and 4.12.15.02)</td>
<td>d</td>
<td>2007</td>
<td>Strefa Bocheńsko-Brzeska: Bochnia</td>
</tr>
<tr>
<td>12.4</td>
<td>PL.12.05.z.03 (former zones 4.12.15.03, 4.12.15.12, 4.12.15.13)</td>
<td>d; a</td>
<td>2007</td>
<td>Strefa chrzanows-koolkuska: Chrzanów, Trzebinia, Olkusz, Osówceim</td>
</tr>
<tr>
<td>12.5</td>
<td>PL.12.08.z.02 (former zones 4.12.15.06 and 4.12.15.19)</td>
<td>d; a</td>
<td>2007</td>
<td>Strefa krakowsko-wielicka: Skawina, Niepołomice (Wieliczka)</td>
</tr>
<tr>
<td>12.6</td>
<td>PL.12.01.a.01 (former zone 4.12.17.00)</td>
<td>d; a</td>
<td>2007</td>
<td>Miasto Kraków</td>
</tr>
<tr>
<td>12.7</td>
<td>PL.12.09.z.02 (former zones 4.12.15.08 and 4.12.15.14)</td>
<td>d; a</td>
<td>2007</td>
<td>Proszowice</td>
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<tr>
<td>12.8</td>
<td>PL.12.10.z.03 (former zones 4.12.16.09, 4.12.16.18 and 4.12.16.15)</td>
<td>d; a</td>
<td>2007</td>
<td>Strefa myślenickosaska: Myślenice, Wadowice, Maków Podhalański</td>
</tr>
<tr>
<td>12.9</td>
<td>PL.12.11.z.02 (former zones 4.12.16.11 and 4.12.16.17)</td>
<td>d; a</td>
<td>2007</td>
<td>Strefa nowotarsko-tatrzańska: Nowy Targ, Zakopane</td>
</tr>
</tbody>
</table>