

DIRECTIVE 2009/126/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 21 October 2009****on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme ⁽³⁾ established the need to reduce air pollution to levels which minimise harmful effects on human health and the environment.

(2) The Geneva Protocol on the control of emissions of volatile organic compounds or their transboundary fluxes sets emission reduction targets for volatile organic compounds (VOCs) and the Gothenburg Protocol to abate acidification, eutrophication and ground-level ozone ⁽⁴⁾ sets emission ceilings for four pollutants — sulphur dioxide, nitrogen oxides, VOCs and ammonia — and requires best available techniques to be used to keep emissions down.

(3) 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 ⁽⁵⁾ lays down air quality objectives

for ground-level ozone and benzene and Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants ⁽⁶⁾ lays down national emission ceilings for VOCs which contribute to the formation of ground-level ozone. Emissions of VOCs, including petrol vapour, in one Member State can contribute to air quality problems in other Member States.

(4) Ozone is also a greenhouse gas and contributes to atmospheric warming and climate change.

(5) Directive 94/63/EC of the European Parliament and of the Council of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations ⁽⁷⁾ (Stage I petrol vapour recovery) aims to recover petrol vapour emitted from the storage and distribution of petrol between oil terminals and service stations.

(6) Petrol vapour is also emitted during the refuelling of motor vehicles at service stations and should be recovered in a manner consistent with the provisions of Directive 94/63/EC.

(7) Various Community instruments have been developed and implemented to limit VOC emissions. However, further action is necessary to achieve the objectives for health and the environment established in the Sixth Community Environmental Action Programme and Directive 2001/81/EC.

(8) With a view to reducing lifecycle greenhouse gas emissions from road transport fuels, Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels ⁽⁸⁾ will, from 1 January 2011, permit the placing on the market of petrol containing a larger proportion of biofuel components than was previously the case. This may lead to an increase in VOC emissions, because of the possibility for Member States to implement limited derogations from the vapour pressure requirements of that Directive.

⁽¹⁾ Opinion of 13 May 2009 (not yet published in the Official Journal).

⁽²⁾ Opinion of the European Parliament of 5 May 2009 (not yet published in the Official Journal) and Council Decision of 24 September 2009.

⁽³⁾ OJ L 242, 10.9.2002, p. 1.

⁽⁴⁾ OJ L 179, 17.7.2003, p. 3.

⁽⁵⁾ OJ L 152, 11.6.2008, p. 1.

⁽⁶⁾ OJ L 309, 27.11.2001, p. 22.

⁽⁷⁾ OJ L 365, 31.12.1994, p. 24.

⁽⁸⁾ OJ L 350, 28.12.1998, p. 58.

- (9) Existing service stations may need to adapt existing infrastructure and it is preferable to install vapour recovery equipment when they undergo major refurbishment of the fuelling system (that is to say, significant alteration or renewal of the station infrastructure, particularly tanks and pipes), since this significantly reduces the cost of the necessary adaptations. However, larger existing stations are better able to adapt and should install petrol vapour recovery earlier, given that they make a greater contribution to emissions. New service stations can integrate petrol vapour recovery equipment during the design and construction of the service station and can therefore install such equipment immediately.
- (10) The fuel tanks of newly manufactured motor vehicles contain no petrol vapour. A derogation is therefore appropriate for the first fuelling of such vehicles.
- (11) Although several Member States have national requirements concerning Stage II petrol vapour recovery systems, there is no Community legislation. Therefore, it is appropriate to establish a uniform minimum level of petrol vapour recovery in order to deliver a high level of environmental benefit and to facilitate trade in petrol vapour recovery equipment.
- (12) Periodic checks of all installed Stage II petrol vapour recovery equipment should be performed in order to ensure that petrol vapour recovery equipment produces real reductions in emissions. Member States may decide that checks are to be performed by one or more of the following: official inspection services, the operator itself or a third party. In the case of official inspections, Member States should have regard to Recommendation 2001/331/EC of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States ⁽¹⁾.
- (13) Stage II petrol vapour recovery equipment should be tested regularly. The European Committee for Standardisation (CEN) should be encouraged to develop a harmonised testing methodology.
- (14) Member States should lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive, since non-compliance can result in damage to human health and the environment.
- (15) In accordance with point 34 of the Interinstitutional Agreement on better law-making ⁽²⁾, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (16) Since it is adopted pursuant to Article 175 of the Treaty, this Directive does not prevent Member States from maintaining or introducing more stringent protective measures that are compatible with the Treaty. Pursuant to Article 176 of the Treaty, Member States are to notify the Commission of any such measures.
- (17) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾.
- (18) In particular, the Commission should be empowered to adopt implementing measures concerning harmonised methods and standards. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (19) Since the objective of this Directive, namely to reduce emissions of petrol vapour to the atmosphere, cannot be sufficiently achieved by the Member States and can therefore, due to the transboundary nature of air pollution, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive lays down measures aimed at reducing the amount of petrol vapour emitted to the atmosphere during the refuelling of motor vehicles at service stations.

⁽¹⁾ OJ L 118, 27.4.2001, p. 41.

⁽²⁾ OJ C 321, 31.12.2003, p. 1.

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

*Article 2***Definitions**

For the purposes of this Directive:

1. 'petrol' means petrol as defined in Article 2(a) of Directive 94/63/EC;
 2. 'petrol vapour' means any gaseous compound which evaporates from petrol;
 3. 'service station' means a service station as defined in Article 2(f) of Directive 94/63/EC;
 4. 'existing service station' means a service station which is built or for which an individual planning permission, construction licence or operating licence is granted before 1 January 2012;
 5. 'new service station' means a service station which is built or for which an individual planning permission, construction licence or operating licence is granted on or after 1 January 2012;
 6. 'Stage II petrol vapour recovery system' means equipment aimed at recovering the petrol vapour displaced from the fuel tank of a motor vehicle during refuelling at a service station and which transfers that petrol vapour to a storage tank at the service station or back to the petrol dispenser for resale;
 7. 'petrol vapour capture efficiency' means the amount of petrol vapour captured by the Stage II petrol vapour recovery system compared to the amount of petrol vapour that would otherwise be emitted to the atmosphere in the absence of such a system and expressed as a percentage;
 8. 'vapour/petrol ratio' means the ratio between the volume at atmospheric pressure of petrol vapour passing through the Stage II petrol vapour recovery system and the volume of petrol dispensed;
 9. 'throughput' means the total annual quantity of petrol unloaded from mobile containers into a service station.
 - (a) its actual or intended throughput is greater than 500 m³/year; or
 - (b) its actual or intended throughput is greater than 100 m³/year and it is situated under permanent living quarters or working areas.
2. Member States shall ensure that any existing service station which undergoes a major refurbishment shall be equipped with a Stage II petrol vapour recovery system at the time of the refurbishment if:
 - (a) its actual or intended throughput is greater than 500 m³/year; or
 - (b) its actual or intended throughput is greater than 100 m³/year and it is situated under permanent living quarters or working areas.
 3. Member States shall ensure that any existing service station with a throughput in excess of 3 000 m³/year shall be equipped with a Stage II petrol vapour recovery system by no later than 31 December 2018.
 4. Paragraphs 1, 2 and 3 shall not apply to service stations exclusively used in association with the construction and delivery of new motor vehicles.

*Article 4***Minimum level of petrol vapour recovery**

1. Member States shall ensure, with effect from the date on which Stage II petrol vapour recovery systems become mandatory pursuant to Article 3, that the petrol vapour capture efficiency of such systems is equal to or greater than 85 % as certified by the manufacturer in accordance with relevant European technical standards or type approval procedures referred to in Article 8 or, if there are no such standards or procedures, with any relevant national standard.
2. With effect from the date on which Stage II petrol vapour recovery systems become mandatory pursuant to Article 3, where the recovered petrol vapour is transferred to a storage tank at the service station, the vapour/petrol ratio shall be equal to or greater than 0,95 but less than or equal to 1,05.

*Article 3***Service stations**

1. Member States shall ensure that any new service station shall be equipped with a Stage II petrol vapour recovery system if:

- (a) its actual or intended throughput is greater than 500 m³/year; or

*Article 5***Periodic checks and consumer information**

1. Member States shall ensure that the in-service petrol vapour capture efficiency of Stage II petrol vapour recovery systems is tested at least once each year either by checking that the vapour/petrol ratio under simulated petrol flow conditions is in conformity with Article 4(2) or by any other appropriate methodology.

2. Where an automatic monitoring system has been installed, Member States shall ensure that the petrol vapour capture efficiency is tested at least once every three years. Any such automatic monitoring system shall automatically detect faults in the proper functioning of the Stage II petrol vapour recovery system and in the automatic monitoring system itself, indicate faults to the service station operator and automatically stop the flow of petrol from the faulty dispenser if the fault is not rectified within seven days.

3. When a service station has installed a Stage II petrol vapour recovery system, Member States shall ensure that it displays a sign, sticker or other notification on, or in the vicinity of, the petrol dispenser, informing consumers of that fact.

Article 6

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 1 January 2012 and shall notify it without delay of any subsequent amendment affecting them.

Article 7

Review

The Commission shall, by 31 December 2014, review the implementation of this Directive and, in particular:

- (a) the 100 m³/year threshold referred to in Article 3(1)(b) and (2)(b) of this Directive and Article 6(3) of Directive 94/63/EC;
- (b) the in-service compliance record of Stage II petrol vapour recovery systems; and
- (c) the need for automatic monitoring equipment.

It shall report the results of that review to the European Parliament and to the Council accompanied, if appropriate, by a legislative proposal.

Article 8

Technical adaptations

Harmonised methods and standards may be adopted for the purposes of Articles 4 and 5. Where necessary to ensure consistency with any relevant standard drawn up by the European Committee for Standardisation (CEN), those Articles, with the exception of the petrol vapour capture efficiency and

vapour/petrol ratio specified in Article 4 and the time periods specified in Article 5, may be adapted to technical progress.

Those measures, designed to amend non-essential elements of this Directive, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(2).

Article 9

Committee procedure

1. The Commission shall be assisted by a committee.
2. Where reference is made to this paragraph, Articles 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 10

Transposition

1. Member States shall bring into force the laws, regulations, and administrative provisions necessary to comply with this Directive before 1 January 2012. They shall forthwith communicate to the Commission the text of those measures.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 11

Entry into force

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Article 12

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 21 October 2009.

For the European Parliament
The President
J. BUZEK

For the Council
The President
C. MALMSTRÖM