



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.03.1998
COM(1998) 190 final

96/0276 (SYN)

Amended proposal for a

COUNCIL DIRECTIVE

on limitation of emissions of volatile organic compounds due to the use of organic solvents in certain industrial activities

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

Pursuant to Article 189 (a) paragraph 2 of the EC Treaty, the Commission submits an amended Proposal for a Council Directive on limitation of volatile organic compounds due to the use of organic solvents in certain industrial activities. The amended Proposal takes account of a number of amendments from the European Parliament adopted at its January 1998 Plenary Session.

The Commission can accept in full amendments 4, 13, 15, 17, 18, 21, 25, and 31, which clarify or further the principles of the Commission Proposal. The Commission can also accept in principle amendment 23, and in part amendments 26 and 30.

Amendment 23 seeks to replace in Article 15(1) the fixed transposition date (31 December 1999) by a date linked to the entry into force of the Directive. The Commission accepts this principle, but prefers a shorter transposition period of 18 months.

Amendment 26 aims to extend in Annex I the vehicle refinishing definition to rail vehicles and vehicles of category O. Since coating and processes for coating trailers are similar to those used in the vehicle refinishing sector, the Commission considers that the inclusion of category O vehicle in this definition is justified.

Amendment 30 aims to raise the threshold of Annex III(A) concerning the pharmaceuticals manufacturing sector from 50 tons/year to 100 tons/year and to specify explicitly that the fugitive emission does not include solvents sold with finished products in closed container. The Commission accepts this latter provision, which clarifies the Proposal, but cannot accept the doubling of the threshold for this sector.

The Commission has not accepted amendments 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 19, 20, 22, 24, 27, 28, 29, 32. Commentary on these amendments follows:-

The Commission believes that the Member States should be allowed a certain flexibility in attaining the environmental goals of the Directive. In enabling Member States to design and implement national plans tailored to their own industrial profile, Article 12 can constitute a flexible and cost-effective means of reaching the same global emission reductions than those pursuant the enforcement of the emission limitations laid down in Annex III of the Directive. Therefore, the Commission cannot accept amendments 6, 19 and 22, which totally delete the national plan option.

Amendment 1 and 16, introducing in Article 5(6) an obligation to substitute R40 substances by less harmful ones within the shortest possible time is not accepted by the Commission. In view of the current state of knowledge, the Commission does not regard elimination as the appropriate risk management option for all R40 substances. The Commission considers that the very stringent emission controls that have been laid down for these substances constitute a sufficient incentive to investigate substitution solutions.

Since occupational health risk issues are outside the scope of this Proposal, amendments 2 and 20 cannot be accepted. However, the Commission can accept the inclusion of data on this important aspect in the framework of the information exchange activity that it will have to organise under Article 6. Therefore, amendment 17 is accepted.

Amendment 7 is not accepted, since the Treaty already contains the necessary provisions to deal with the possibility for Member States to set more stringent requirements.

Amendments 10 and 14 restricting in Articles 2(1) and 4(1) the authorisation procedure to those installations falling within the scope of Directive 96/61/CE (IPPC) cannot be accepted by the Commission. In line with the subsidiarity principle, Member States should be free to decide which procedure (authorisation or registration) should be followed in the case of non-IPPC installations. The Commission also considers that the specific reference to the definition of "best available technique" of Directive 96/61/CE, as suggested by amendment 5, is not desirable, since this definition involves an integrated cross-media approach.

Two new recitals call on the Commission to take complementary initiatives. The first one - amendment 8 - relates to the request for a Directive on solvent-containing products, such as paint and do-it-yourself products. The Commission services intend to launch the preparatory work concerning such an approach in 1998, but consider that it is premature to give any commitment before the studies are completed. The second recital - amendment 9 - asks the Commission to examine how installations below the threshold may be brought within the scope of future regulatory measures. At the present time, it is not the intention of the Commission to supplement this Proposal by additional measures for smaller installations.

Both the consumption thresholds and the emission limitations of Annex IIIA have been fine-tuned on the basis of several studies which analysed the technical and economic impact of the proposed measures in the various sectors covered by the scope of the proposal. In particular, the Commission took great care to avoid introducing excessive burdens on small and medium enterprises. Consequently, amendments 3, 28, 29 establishing more stringent emission limits or modifying the scope of the Proposal are not accepted by the Commission. The change of threshold foreseen in amendment 30, which weakens the requirements of the Proposal, is similarly not accepted by the Commission.

In order to maintain consistency with Directive 96/61/CE for those installations that are covered by both Directives, amendment 11, which increases by one year the timescale in Article 2(12) for an installation to be considered as an existing one is not accepted by the Commission.

The restriction by amendment 12 of the definition of organic solvents laid down in Article 2(16) is not accepted by the Commission. Although creosotes do not contain a solvent carrier from a technical point of view, those creosotes exceeding the vapour pressure threshold of the Proposal are emitted in the same way as other solvents, and should therefore be treated similarly.

Amendments 24, 27, and part of amendment 26, which expand in Annexes I and IIIA the definition of vehicle refinishing to the coating of rail vehicles, are not accepted by the Commission, since the Commission considers that this activity is better controlled in the "metallic and plastic surfaces" section.

Amendment 32, which seeks to reduce the frequency for performing solvent management plans to every three years, is not accepted by the Commission, since Annex IV aims to provide guidance to industrial operators on how demonstrate compliance with the provisions the Directive by means of solvent management plans.

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ORIGINAL PROPOSAL

AMENDED PROPOSAL

Recital 17a (new)

17a. Whereas the particular industrial structures and local competition for vehicle refinishing and dry cleaning means that a zero threshold is appropriate for these two sectors;

Article 2(20a) (new)

20a. Solvent input

The quantity of organic solvents, either neat or bought-in preparations, used in the installation in the period during which conformity with fugitive emission limit values or guide values is demonstrated, including the quantity of solvents recovered and recirculated through the unit (recycled solvent shall be counted each time it is recirculated).

Article 5(2a) (new)

2a. The fugitive emission limit values may not be exceeded, except where the operator can demonstrate that it is technically and financially impossible to stay within those limits and that he is using the best available technology.

Article 6(1)

1. The Commission shall ensure that an exchange of information between Member States and the sectors concerned on the use of organic substances and their potential substitutes takes place, in an administratively efficient way, to consider the questions of fitness for use, potential environmental

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effects and the costs and benefits of the options available, with a view to providing guidance on the use of materials which have the least potential effects on air, water, soil, ecosystems and public health. The Commission shall publish the results of the exchange of information for each sector.

~~effects, the health risks of occupational exposure~~ and the costs and benefits of the options available, with a view to providing guidance on the use of materials which have the least potential effects on air, water, soil, ecosystems and public health. The Commission shall publish the results of the exchange of information for each sector.

Article 7

Member States shall specify appropriate release-monitoring requirements, including measurement methodology and frequency, evaluation procedure and an obligation to supply the competent authority with data required for checking compliance with this Directive. However, emissions from stacks to which abatement equipment has been connected and which at the final point of discharge emit more than 10 kg/h of total organic carbon (determined as an eight-hour moving average) shall be measured continuously.

~~1. For installations covered by Directive 96/61/EEC, Member States shall specify appropriate release-monitoring requirements, including measurement methodology and frequency, evaluation procedure and an obligation to supply the competent authority with data required for checking compliance with this Directive.~~

~~2. For other installations, Member States shall specify appropriate release-monitoring requirements, including measurement frequency and methodology, evaluation procedures and an obligation to keep available to or supply on request the competent authority with the data required for checking compliance with this Directive.~~

~~3. These requirements shall take account of Annex III(B) and the specific circumstances in the sector involved and the quantities discharged.~~

~~4. However, emissions from stacks to which abatement equipment has been connected and which at the final point of discharge emit more than 10 kg/h of total organic carbon (determined as an eight-hour moving average) shall be measured continuously, or be quantified by any other equivalent method.~~

Article 10(2a) (new)

2a. The Commission shall draw up a summary report on the implementation of this Directive on the basis of data provided by the Member States not more than five years after the first reports submitted by the Member States. It shall submit this report to the Council and Parliament accompanied by proposals if necessary.

Article 15, first paragraph

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1999 at the latest. They shall forthwith inform the Commission thereof.

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within 18 months of its entry into force of this Directive. They shall forthwith inform the Commission thereof.

Annex I, fifth heading

Dry cleaning

- any process using volatile organic compounds to remove contamination from the following manufactured consumer goods: furs, leather, down feathers, textiles or other objects made of fibres.

Dry cleaning

- any process using volatile organic compounds to clean garments and similar consumer goods, with the exception of the individual removal of stains and spots in the textile and clothing industry.

Annex I, twelfth heading "Vehicle refinishing"

Vehicle refinishing

- all coating processes of a road vehicle as defined in Directive 70/156/EEC, or a part of it, carried out as part of vehicle repair, conservation or decoration outside of manufacturing installations, and the original coating of vehicle with refinishing-type materials, where this is carried out away from the original manufacturing line.

Vehicle refinishing

- all coating processes of a road vehicle as defined in Directive 70/156/EEC, or a part of it, carried out as part of vehicle repair, conservation or decoration outside of manufacturing installations, and the original coating of vehicle with refinishing-type materials, where this is carried out away from the original manufacturing line, or where the vehicle is of category Q.

Annex III(A), first table, twentieth entry

20	Manufacture of pharmaceuticals (> 50)		20 (1)	5	15	(1) If techniques are used which allow reuse of recovered solvent, the emission limit shall be 150.
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20	Manufacture of pharmaceuticals (> 50)		20 (1)	5 (2)	15 (2)	<p>(1) If techniques are used which allow reuse of recovered solvent, the emission limit shall be 150..</p> <p>(2) The fugitive emission limit does not include solvents sold with finished products in a closed container</p>
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Annex IV(1), second paragraph (new)

If sectoral agreements are concluded on BAT (best available technology) between a Member State and a sector of industry covered by Annex I to this Directive that enable a reduction in emissions to be achieved that is at least equal to that laid down in Annex III and Article 5 of this Directive, Member States may exempt plants in that sector from carrying out solvent management plans, if they can demonstrate that they are operating in accordance with the agreed BAT.

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