Council Directive (EU) 2015/652 of 20 April 2015 laying down calculation methods and reporting requirements pursuant to Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels

COUNCIL DIRECTIVE (EU) 2015/652

of 20 April 2015

laying down calculation methods and reporting requirements pursuant to Directive 98/70/EC of the European Parliament and of the Council relating to the quality of petrol and diesel fuels

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 and amending Council Directive 93/12/EEC[(1)], and in particular Article 7a(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The method for calculating greenhouse gas emissions of fuels and other energy from non-biological sources to be established pursuant to Article 7a(5) of Directive 98/70/EC should yield reporting of sufficient accuracy, so that the Commission can critically assess the performance of suppliers in meeting their obligations under Article 7a(2) of that Directive. The calculation method should ensure accuracy, while having due regard for the complexity of the associated administrative requirements. At the same time, it should incentivise suppliers to reduce the greenhouse gas intensity of the fuel they supply. Careful consideration should also be given to the impact of the calculation method on refineries in the Union. Hence, the calculation method should be based on average greenhouse gas intensities that represent an industry average value which is typical for a particular fuel. This would have the advantage of reducing the administrative burden on suppliers and Member States. At this stage, the proposed calculation method should not require differentiation of the greenhouse gas intensity of fuel on the basis of the source of the raw material, as this would affect current investments in certain refineries in the Union.

(2) Reporting requirements for suppliers which are small and medium-sized enterprises (SMEs) as defined in Commission Recommendation 2003/361/EC[(2)] should be minimised as far as possible in the context of Article 7a(1) of Directive 98/70/EC. Similarly, importers of petrol and diesel refined outside the Union should not be obliged to provide detailed information about the sources of the crude oils used to make those fuels, as this information may not be available or may be difficult to obtain.

(3) In order to incentivise further greenhouse gas emission reductions, savings claimed from upstream emission reductions (UERs), including from flaring and venting, should

Status: *EU Directives are being published on this site to aid cross referencing from UK legislation. After exit day no further amendments will be applied to this version.*

be included in the calculation of suppliers' life cycle greenhouse gas emissions. In order to facilitate the claiming of UERs by suppliers, the use of various emission schemes should be allowed for calculating and certifying emission reductions. Only UER projects which start after the date of the establishment of the fuel baseline standard set out in Article 7a(5)(b) of Directive 98/70/EC, i.e. 1 January 2011, should be eligible.

(4) Weighted average greenhouse gas default values representing the crude oils consumed in the Union provide a simple calculation method by which suppliers may determine the greenhouse gas content of the fuel they supply.

(5) UERs should be estimated and validated in accordance with principles and standards identified in International Standards, and in particular ISO 14064, ISO 14065 and ISO 14066.

(6) It is furthermore appropriate to facilitate the implementation by Member States of legislation on UERs, including from flaring and venting. To this end, non-legislative guidance should be prepared under the auspices of the Commission on approaches to quantify, verify, validate, monitor and report such UERs (including reductions in flaring and venting at production sites) prior to the end of the transposition period set in Article 7 of this Directive.

(7) Article7a(5)(b) of Directive 98/70/EC requires the establishment of a method to determine the fuel baseline standard based on the life cycle greenhouse gas emissions per unit of energy from fossil fuels in 2010. The fuel baseline standard should be based on the quantities of diesel, petrol, non-road gas oil, liquefied petroleum gas (LPG) and compressed natural gas (CNG) consumed using data officially reported by the Member States to the United Nations Framework Convention on Climate Change (UNFCCC) in 2010. The fuel baseline standard should not be the fossil fuel comparator that is used for calculating greenhouse gas savings from biofuels, which should remain as set out in Annex IV to Directive 98/70/EC.

(8) Since the composition of the relevant fossil fuel mix changes little from year to year, the aggregate variation in the greenhouse gas intensity of the fossil fuels from year to year will also be small. It is therefore appropriate that the fuel baseline standard be based on the 2010 Union average consumption data as reported by the Member States to the UNFCCC.

(9) The fuel baseline standard should represent an average upstream greenhouse gas intensity and the intensity of the fuel of a refinery of average complexity for fossil fuels. Hence, the fuel baseline standard should be calculated using the respective average fuel default values. The fuel baseline standard should remain unchanged for the period up until 2020, in order to provide regulatory certainty to suppliers in respect of their obligations to reduce the greenhouse gas intensity of the fuels they supply.

(10) Article 7a(5)(d) of Directive 98/70/EC provides for the adoption of a method to calculate the contribution of electric road vehicles to reduce life cycle greenhouse gas emissions. Pursuant to that Article, the calculation method should be compatible with Article 3(4) of Directive 2009/28/EC of the European Parliament and of the

Council[3]. To ensure this compatibility, the same adjustment factor should be used for the powertrain efficiency.

(11) Electricity supplied for use in road transport may be reported by suppliers, as laid down in Article 7a(1) of Directive 98/70/EC, as part of their annual reports to the Member States. In order to limit administrative costs, it is appropriate that the calculation method be based on an estimate rather than on an actual measurement of the consumption of electricity in an electric road vehicle or motorcycle for the purpose of supplier reporting.

(12) It is appropriate to include a detailed approach for estimating the quantity and the greenhouse gas intensity of biofuels in cases where processing of a biofuel and a fossil fuel occurs during the same process. A specific method is needed because the resulting quantity of the biofuel is not measurable, such as during co-hydro treatment of vegetable oils with a fossil fuel. Article 7d(1) of Directive 98/70/EC stipulates that the life cycle greenhouse gas emissions of biofuels are, for the purposes of Article 7a and Article 7b(2) of that Directive, to be calculated with the same method. Therefore, the certification of greenhouse gas emissions by recognised voluntary schemes is as valid for the purposes of Article 7a as it is for the purposes of Article 7b(2) of Directive 98/70/EC.

(13) The supplier reporting requirement laid down in Article 7a(1) of Directive 98/70/EC should be supplemented by a harmonised format and harmonised definitions of the data to be reported. A harmonisation of the definitions of data is needed for the proper execution of the greenhouse gas intensity calculation linked to an individual supplier's reporting obligations, as the data form key inputs into the calculation method harmonised pursuant to Article 7a(5)(a) of Directive 98/70/EC. These data include the supplier's identification, the quantity of fuel or energy placed on the market and the fuel or energy type placed on the market.

(14) The supplier reporting requirement laid down in Article 7a(1) of Directive 98/70/EC should be supplemented by harmonised reporting requirements, a reporting format and harmonised definitions for Member State reporting to the Commission pertaining to the greenhouse gas performance of fuels consumed in the Union. In particular, these reporting requirements will enable the updating of the fossil fuel comparator described in point 19 of Part C of Annex IV to Directive 98/70/EC and point 19 of Part C of Annex V to Directive 2009/28/EC, and they will facilitate the reporting required pursuant to Articles 8(3) and 9(2) of Directive 98/70/EC as well as the updating of the calculation method to technical and scientific progress, in order to ensure that it meets its intended purpose. These data should include the quantity of fuel or energy placed on the market and fuel or energy type, the place of purchase and the origin of the fuel or energy placed on the market.

(15) It is appropriate for Member States to allow suppliers to fulfil their reporting requirements by relying on equivalent data being collected pursuant to other Union or national legislation so as to reduce the administrative burden, provided that the reporting is conducted in accordance with the requirements set out in Annex IV and the definitions laid down in Annexes I and III.

Status: *EU Directives are being published on this site to aid cross referencing from UK legislation. After exit day no further amendments will be applied to this version.*

(16) In order to facilitate reporting by groups of suppliers pursuant to Article 7a(4) of Directive 98/70/EC, Article 7a(5)(c) of that Directive allows for the establishment of any necessary rules. It is desirable to facilitate such reporting in order to avoid disruption to physical fuel movements, since different suppliers place different fuels of differing proportions on the market, and hence may have to deploy different levels of resources to meet the greenhouse gas reduction target. It is therefore necessary to harmonise the definitions of the suppliers' identification, the quantity of fuel or energy placed on the market, the fuel or energy type, the place of purchase and the origin of the fuel or energy placed on the market. Furthermore, to avoid double counting in joint supplier reporting pursuant to Article 7a(4), it is appropriate to harmonise the implementation of the calculation and reporting method in the Member States, including the reporting to the Commission, so that the requisite information from a group of suppliers relates to a specific Member State.

(17) Pursuant to Article 8(3) of Directive 98/70/EC, Member States are to submit an annual report of national fuel quality data for the preceding calendar year in accordance with the format established in Commission Decision 2002/159/EC[(4)]. To cover the amendments introduced to Directive 98/70/EC by Directive 2009/30/EC of the European Parliament and of the Council[(5)], and the subsequent additional reporting requirements on the Member States, and in the interest of effectiveness and harmonisation, it is necessary to clarify which information should be reported, and to adopt a format for the submission of data by suppliers and Member States.

(18) The Commission presented a draft measure to the Committee established by Directive 98/70/EC on 23 February 2012. The Committee was unable to adopt an opinion by the necessary qualified majority. It is therefore appropriate for the Commission to present a proposal to the Council pursuant to Article 5a(4) of Council Decision 1999/468/EC[(6)],

HAS ADOPTED THIS DIRECTIVE:

Article 1

Subject matter — Scope

1 This Directive lays down rules on calculation methods and reporting requirements in accordance with Directive 98/70/EC.

2 This Directive applies to fuels used to propel road vehicles, non-road mobile machinery (including inland waterway vessels when not at sea), agricultural and forestry tractors, recreational craft when not at sea and electricity for use in road vehicles.

Article 2

Definitions

For the purposes of this Directive, and in addition to the definitions already contained in Directive 98/70/EC, the following definitions apply:

(1) 'upstream emissions' means all greenhouse gas emissions occurring prior to the raw material entering a refinery or a processing plant where the fuel, as referred to in Annex I, was produced;

(2) 'natural bitumen' means any source of refinery raw material that:

(a) has an American Petroleum Institute (API) gravity of 10 degrees or less when situated in a reservoir formation at the place of extraction as defined pursuant to the testing method of the American Society for Testing and Materials (ASTM)[7] D287;

(b) has an annual average viscosity at reservoir temperature greater than that calculated by the equation: Viscosity (Centipoise) = $518{,}98^{e-0{,}038T}$, where T is the temperature in Celsius;

(c) falls within the definition for tar sands under combined nomenclature (CN) code 2714 as outlined in Council Regulation (EEC) No 2658/87[8]; and

(d) where the mobilisation of the source of the raw material is achieved by mining extraction or thermally enhanced gravity drainage where the thermal energy is mainly derived from sources other than the feedstock source itself;

(3) 'oil shale' means any source of refinery raw material as situated in a rock formation containing solid kerogen and falling within the definition for oil shale under CN code 2714 as outlined in Regulation (EEC) No 2658/87. Mobilisation of the source of the raw material is achieved by mining extraction or thermally enhanced gravity drainage;

(4) 'fuel baseline standard' means a fuel baseline standard based on the life cycle greenhouse gas emissions per unit of energy from fossil fuels in 2010;

(5) 'conventional crude' means any refinery raw material exhibiting an API gravity that is higher than 10 degrees when situated in a reservoir formation at its place of origin as measured per testing method ASTM D287, and not falling within the definition for CN code 2714 as set out in Regulation (EEC) No 2658/87.

Article 3

Method for calculating the greenhouse gas intensity of fuels and energy supplied other than biofuels and reporting by suppliers

1 For the purposes of Article 7a(2) of Directive 98/70/EC, Member States shall ensure that suppliers use the calculation method set out in Annex I to this Directive to determine the greenhouse gas intensity of the fuels they supply.

2 For the purposes of the second subparagraph of Article 7a(1) and of Article 7a(2) of Directive 98/70/EC, Member States shall require suppliers to report data using the definitions and the calculation method set out in Annex I to this Directive. The data shall be reported annually using the template set out in Annex IV to this Directive.

3 For the purposes of Article 7a(4) of Directive 98/70/EC, any Member State shall ensure that a group of suppliers choosing to be considered as a single supplier meets its obligation under Article 7a(2) within that Member State.

4 For suppliers that are SMEs, Member States shall apply the simplified method set out in Annex I to this Directive.