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Proposal for a

## **COUNCIL DIRECTIVE**

**on 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**

{ SWD(2014) 295 final }

{ SWD(2014) 296 final }

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

The Climate and Energy package adopted by the Council and Parliament on 22 April 2009 sought to achieve a 20% reduction in greenhouse gas emissions by 2020. It contained a revision to Directive 98/70/EC<sup>1</sup> on the quality of petrol and diesel.

The revised Directive obliges suppliers<sup>2</sup> to reduce by 6% the life cycle greenhouse gas intensity of fuel and other (electric) energy supplied for use in road vehicles and of fuel for use in non-road mobile machinery by the end of the compliance period in 2020. The target would also facilitate meeting Member States' non-ETS targets. The article establishing this new element is Article 7a of the Directive which effectively establishes a "low carbon fuel standard" in Union legislation. The Directive also obliges suppliers to report from 2011 information on, inter alia, the greenhouse gas intensity of the fuel they have supplied to authorities designated by the Member States.

The 6% reduction is likely to be achieved through the use of biofuels, electricity and a reduction in the flaring and venting of gases at the extraction stage of fossil fuel feedstocks.

Article 7a(5) requires the Commission to introduce any measures necessary for the implementation of Article 7a to be adopted through the regulatory procedure with scrutiny. Consequently, the Commission is empowered to adopt implementing measures concerning the mechanism to monitor and reduce greenhouse gas emissions. In particular, the Commission was asked to consider proposals for:

- A method for calculating greenhouse gas emissions of fuels and other energy from non-biological sources (elements dealing with the calculation of greenhouse gas emissions for biofuels are already included in Annex IV of the Directive);
- A method for calculating the baseline fossil fuel greenhouse gas intensity to be used as a reference for measuring compliance with the target;
- Calculation and verification of the greenhouse gas intensity of electric energy used in electric vehicles;
- Any rules necessary to give effect to the requirement that two or more suppliers from one or more Member States are allowed to report their greenhouse gas intensity jointly;
- Any other measures necessary for the implementation of Article 7a.

This draft Directive addresses all five elements outlined above.

Article 7a(1) of Directive 98/70/EC defines the supplier reporting obligations. These are supplemented with harmonized definitions for the reported data and reporting requirements addressing Member State reporting to the Commission on 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 Annex IV, Part C, Point 19 of Directive 98/70/EC and Annex V, Part C, Point 19 of Directive 2009/28/EC, will facilitate the reporting required pursuant to Article 8(3) and Article 9(2) of Directive 98/70/EC.

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<sup>1</sup> Directive 2009/30/EC OJ L 140, 5.6.2009, p. 88

<sup>2</sup> The entity responsible for passing the fuel or electricity through the excise duty point e.g. the oil refiner

## 2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

A public consultation<sup>3</sup> was launched in July 2009 which focussed on the issues to be addressed in the draft Directive. In January 2010 a stakeholder meeting was held comprising the fossil and biofuel industries, Member States and NGOs. In March 2010 the Commission Services discussed a concept paper with the Member States with a view to developing the draft Directive. In addition, the Commission has relied upon the following work in formulating the current proposal:

- The work of the JEC and its "well to wheels" study<sup>4</sup>;
- The Brandt study on natural bitumen<sup>5</sup>,
- The Brandt study on oil shale<sup>6</sup>,
- The ICCT study on other crude oils<sup>7</sup>.

The work by Dr Brandt was subjected to an external peer-review process whose findings were discussed with stakeholders at a public meeting on 27 May 2011<sup>8</sup>. The work by ICCT was also subjected to a peer review process whose findings were discussed with stakeholders at a public meeting on 20 February 2014<sup>9</sup>.

In 2013, following inconclusive discussions with the Committee on Fuel on the draft Directive<sup>10</sup> harmonising the method for calculating greenhouse gas emissions from fuels of non-biological origin and electricity in road vehicles, the Commission prepared an impact assessment in order to evaluate all proposed implementing options. The approach underpinning this assessment was presented during two stakeholder workshops held on 20 December 2012 and 15 April 2013<sup>11</sup>.

In parallel the Commission attempted to ascertain whether industry required the development of rules for suppliers who could meet their reduction target jointly. Despite several requests in this respect, industry did not respond. The Commission has therefore concluded that no specific rules are at present necessary, apart from harmonised definitions and a reporting mechanism..

## 3. LEGAL ELEMENTS OF THE PROPOSAL

The main features of the draft Directive regarding the method for calculating greenhouse gas emissions of fuels and other energy from non-biological sources are:

<sup>3</sup> <https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp> for both the questions and responses

<sup>4</sup> The JEC consortium comprises the JRC, EUCAR and CONCAWE. Thus the Commission, EU automobile industry and oil industry take part in this work. [http://iet.jrc.ec.europa.eu/about-jec/sites/about-jec/files/documents/report\\_2013/wtt\\_report\\_v4\\_july\\_2013\\_final.pdf](http://iet.jrc.ec.europa.eu/about-jec/sites/about-jec/files/documents/report_2013/wtt_report_v4_july_2013_final.pdf)

<sup>5</sup> <https://circabc.europa.eu/w/browse/9e51b066-9394-4821-a1e2-ff611ab22a2d>

<sup>6</sup> <https://circabc.europa.eu/w/browse/9ab55170-dc88-4dcb-b2d6-e7e7ba59d8c3>

<sup>7</sup> International Council on Clean Transportation (ICCT)

<sup>8</sup> <https://circabc.europa.eu/w/browse/49f63fd8-7e27-4cf7-8790-3410ee8d308e>

<sup>9</sup> <https://circabc.europa.eu/w/browse/9e51b066-9394-4821-a1e2-ff611ab22a2d>

<sup>10</sup> <https://circabc.europa.eu/w/browse/75e69e4c-ded2-418c-a6e6-ee3fa3a93c6c>

<sup>11</sup> <http://ec.europa.eu/transparency/regcomitology/index.cfm?do=search.dossierdetail&i4E3IvzVEe6K7czhtRYFvHaI4f3TEUr8zQzZMBEUI3winIDvf1TNPofuY6ToXhDSw>  
<https://circabc.europa.eu/w/browse/6893ba02-aaed-40a7-bf0d-f5affc85a619>

- The use of one average default value to represent the unit greenhouse gas intensity per fuel type;
- Harmonized annual reporting by Suppliers to Member States and Member States to the Commission needed for monitoring the reduction of GHG emissions in the Union and for the updating the calculation methods to technical and scientific progress;

### **Genesis of the selected calculation method and reporting requirements**

The work underpinning the impact assessment focused on analysing the accuracy of the evaluated greenhouse gas calculation methods and the related cost of compliance and administrative burden suppliers and the Member States would incur for complying with Article 7a of Directive 98/70/EC.

Inaccurate reporting undermines the achievement of the Fuel Quality Directive's greenhouse gas intensity target and unfairly affects the way efforts are shared amongst fuel suppliers. Accuracy of the calculation method depends upon the method chosen and the accuracy of the underlying data. Methods based on higher degrees of differentiation of feedstocks yield more accurate results. The accuracy of the reported data is also closely related to information on emissions from extraction and processing of feedstocks ("upstream emissions"). The data<sup>12</sup> underpinning values included in the draft measure discussed with the Committee on Fuel Quality are based on voluntary reporting from the Oil and Gas Producers Association, reflects less than half of the crude oil refined in the Union and does not provide information on imported products. The latest studies and data on feedstocks used for producing 60%<sup>13</sup> to 90%<sup>7</sup> of fossil fuels consumed in the Union suggest that the life cycle average emissions are approximately 5% higher than the data presented to the Committee on Fuel Quality in the 2011 proposal. This is largely attributed to significantly higher and widely varying upstream carbon emissions of fossil fuels. Significant differences exist in the upstream greenhouse gas intensity of conventional feedstocks and the production of unconventional sources of oil often exhibit higher greenhouse gas intensities. Hence, the accuracy of the reported emissions will improve through harmonized data reporting.

The accuracy of the calculation method is strongly correlated with the fraction of high intensity feedstocks used in the production of the fuel. It is therefore necessary to harmonise reporting related to the origin<sup>14</sup> and the place of purchase<sup>15</sup> of the fuel. Such reporting must, however, be coherent with existing Union legislation on the registration of crude oil imports and deliveries in the EU<sup>16</sup>.

<sup>12</sup> [http://iet.jrc.ec.europa.eu/about-jec/sites/about-jec/files/documents/report\\_2013/wtt\\_report\\_v4\\_july\\_2013\\_final.pdf](http://iet.jrc.ec.europa.eu/about-jec/sites/about-jec/files/documents/report_2013/wtt_report_v4_july_2013_final.pdf)

<sup>13</sup> [http://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/energy/pdf/EU\\_FQD\\_Study\\_Final\\_Report.pdf](http://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/energy/pdf/EU_FQD_Study_Final_Report.pdf)

<sup>14</sup> Defined as the feedstock trade name. Information on crude oil is currently reported pursuant to Council Regulation (EEC) No 2964/95 and forwarded quarterly following robust confidentiality measures to the Commission with the exception of the trade name. Reporting of a non-descript "designation" is required. Trade name is a more precise description that is also more widely recognized and easier to link to GHG emissions. Hence, a list of trade names for commonly used crude oils will be specified in the implementing measure.

<sup>15</sup> Defined as the country and name of the processing facility. Member States already obtain this information via customs duty legislation. In particular, Article 37 of Regulation (EC) No 450/2008 permits the request of any necessary information pertaining to the country of origin of a product. The origin is defined as the location where the product underwent the last substantial transformation. Specific definitions for transformations pertaining to fuels are identified in Annex 14 and 15 of Commission Regulation 2454/93.

<sup>16</sup> Council Regulation (EC) No 2964/95 introducing registration for crude oil imports and deliveries in the Community; OJ L 310, 22.12.1995, p. 5.

According to the analysis underlying this proposal the total additional cost per litre of fuel for all calculation methods considered varied from 0.03 Euro cents to 0.04 Euro cents. The largest increase was noted if suppliers were obliged to report greenhouse gas values based on supplier-specific emissions or Union average emissions per each feedstock used as opposed to a Union average per fuel type for all feedstocks. This suggests that the optimum option should not require suppliers to report feedstock-specific greenhouse gas values. Hence, the proposed methodology requires suppliers to report a Union average greenhouse gas emission intensity per each fuel.

Article 7a(4) of Directive 98/70/EC foresees that groups of suppliers may choose to meet the 6% reduction obligation jointly and that Article 7a(5)(c) of Directive 98/70/EC allows for the establishment of “any necessary rules” to put this into effect. Hence, it is necessary to harmonize the definitions of the supplier identification, the volume of fuel or energy, the fuel or energy type, the place of purchase and the origin of the fuel or energy placed on the market to facilitate the use of a common reporting scheme for suppliers from multiple Member States agreeing to report jointly. Furthermore, to verify that double counting is avoided in cross border, joint supplier reporting, it is appropriate to harmonise Member State reporting to the Commission so that the requisite information pertaining to each supplier forming a group of two or more suppliers from one or more Member States can be made available to all affected Member State authorities.

It is appropriate for Member States to allow suppliers to report by using 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 outlined in Annex IV. Such Union legislation includes but is not limited to Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty<sup>17</sup>, Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code<sup>18</sup>, Regulation (EC) No 1099/2008 on energy statistics<sup>19</sup>, Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC<sup>20</sup> and subsequent implementing acts thereof, Commission Decision 2007/589/EC of 18 July 2007 establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council<sup>21</sup> as well as Council Regulation 2964/95 introducing registration for crude oil imports and deliveries in the Community.

### **Financial impacts**

Competitiveness of the Union industry was also discussed in the impact assessment. It appears that no significant impacts on businesses (including refineries) are expected. This stems from the fact that the expected pump price increases are negligible and virtually all these costs are expected to be passed through according to the impact assessment.

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<sup>17</sup> OJ L 197, 29.7.2009, p. 24.

<sup>18</sup> OJ L 253, 11.10.1993, p. 1.

<sup>19</sup> OJ L 304, 14.11.2008, p. 1.

<sup>20</sup> OJ L 140, 5.6.2009, p. 16.

<sup>21</sup> OJ L 229, 31.8.2007, p. 1.

Proposal for a

## **COUNCIL DIRECTIVE**

**on 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<sup>22</sup>, 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 could critically assess the performance of fuel suppliers in meeting their obligations under Article 7a(2) of Directive 98/70/EC. The calculation method should ensure measurement 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 methodology 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 source ("average default values"). This has the advantage of reducing the administrative burden on suppliers and Member States. At this time, the proposed methodology should not require the 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 fuel suppliers which are small and medium-sized enterprises (SMEs) as defined in Commission Recommendation 2003/61 should be minimised as far as in possible in the context of Article 7a(1) of Directive 98/70/EC. Similarly, importers of petrol and diesel refined outside the EU 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 difficult to obtain.
- (3) In order to incentivise further greenhouse gas emission reductions, savings claimed from upstream emission reductions including from flaring and venting should be included in the calculation of suppliers' life cycle greenhouse gas emissions. In order to facilitate the claiming of upstream emissions savings by fuel suppliers, the use of various emission schemes should be allowed for calculating and certifying emission

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<sup>22</sup> OJ L 350, 28.12.1998, p.58.

reductions. Only upstream reduction projects which start after the date of the establishment of the baseline set out in Article 7a(5)(b) i.e. 1 January 2011 should be eligible.

- (4) Weighted average greenhouse gas default values provide a simple method by which fuel suppliers may determine the greenhouse gas content of the fuel they supply. Such values representing the EU crude oil slate are contained, *inter alia*, in the "Well to Wheel" report (version 4) prepared by the JEC consortium, the studies commissioned by the European Commission from Dr. A. Brandt on natural bitumen and oil shale as well as the work undertaken for the European Commission by the International Council on Clean Transportation on upstream emissions in the context of the "oil production greenhouse gas emissions estimator" in connection with crude oils consumed in the EU.
- (5) Reductions in greenhouse gas emissions associated with oil and gas upstream emissions 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) Article 7a(5)(b) of Directive 98/70/EC requires the establishment of a methodology to determine the aggregate greenhouse gas intensity of fuels from non-biological origin used in the Union in 2010 (the "fuel baseline standard"). The baseline standard should be based upon the volumes of diesel, petrol, non-road gas oil, liquefied petroleum gas and compressed natural gas using data officially reported to the UN Framework Convention on Climate Change 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.
- (7) 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 is based on the 2010 Union average consumption data as reported by the Member States to the United Nations Framework Convention on the Climate Change.
- (8) The 2010 fuel baseline standard should represent an average upstream greenhouse gas intensity and average complex refinery greenhouse gas intensity for fossil fuels. Hence the baseline should be calculated using the respective fuel default values. The fuel baseline standard emission value should remain unchanged for the period up until 2020 in order to provide regulatory certainty to fuel suppliers in respect of their obligations to reduce the greenhouse gas intensity of the fuels they supply.
- (9) Article 7a(5)(d) of Directive 98/70/EC provides for the adoption of a methodology to calculate the contribution of electric road vehicles. Pursuant to that Article the methodology should be compatible with Article 3(4) of Directive 2009/28/EC of the European Parliament and of the Council<sup>23</sup>. To ensure this compatibility, the same adjustment factor should be used for the powertrain efficiency.
- (10) Electric energy 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 methodology be based on an estimate rather than an actual measurement of the

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<sup>23</sup> Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, p.16).

consumption of electricity in an electric road vehicle or motorcycle for the purpose of supplier reporting.

- (11) 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 volume 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 should, for the purposes of Article 7a and Article 7b(2) of that Directive, be calculated with the same methodology. 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 purpose of Article 7b (2) of Directive 98/70/EC.
- (12) The required supplier reporting laid down in Article 7a(1) of Directive 98/70/EC should be supplemented by a harmonized format and definitions of the data to be reported. 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 method harmonised pursuant to Article 7a(5)(a) of Directive 98/70/EC. These data include the supplier identification, volume of fuel or energy placed on the market and fuel or energy type placed on the market.
- (13) The required supplier reporting, outlined in Article 7a(1) of Directive 98/70/EC should be supplemented by harmonized reporting requirements, a reporting format and 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, of Directive 98/70/EC and Point 19 of Part C of Annex V, Part C, of Directive 2009/28/EC, will facilitate the reporting required pursuant to Article 8(3) and Article 9(2) of Directive 98/70/EC and will facilitate updating of the calculation method to technical and scientific progress in order to ensure that it meets its intended purpose. These data include the volume 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.
- (14) 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 definitions laid down in Annexes I and III.
- (15) 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. Hence, it is necessary to harmonize the definitions of the supplier identification, the volume 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 cross border, joint supplier reporting, it is appropriate to harmonise Member State reporting to the Commission so that the requisite information pertaining to each



supplier forming a group of two or more suppliers from one or more Member States can be made available to all Member State authorities concerned.

- (16) 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 year in accordance with the format established in Commission Decision 2002/159/EC of 18 February 2002<sup>24</sup>. To cover the amendments introduced to Directive 98/70/EC by Directive 2009/30/EC of the European Parliament and of the Council<sup>25</sup> and the subsequent additional reporting requirements on the Member States it is necessary in the interest of effectiveness and harmonization to clarify which information, falling under the reporting obligation on fuel quality data in Article 8 of Directive 98/70/EC, should be reported and also adopt a format for the submission of data by suppliers and Member States.
- (17) 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 and it is therefore appropriate for the Commission to present a proposal to the Council pursuant to Article 5a(4) of Council Decision 2006/512/EC.

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

##### *Scope*

This Directive applies to fuels used to propel road vehicles, and non-road mobile machinery (including inland waterway vessels when not at sea), agri-cultural and forestry tractors, and 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 shall 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 raw material " means any source of refinery raw material that:

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<sup>24</sup> Commission Decision 2002/159/EC of 18 February 2002 on a common format for the submission of summaries of national fuel quality data (OJ L 53, 23.2.2002, p. 30).

<sup>25</sup> Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil and introducing a mechanism to monitor and reduce greenhouse gas emissions and amending Council Directive 1999/32/EC as regards the specification of fuel used by inland waterway vessels and repealing Directive 93/12/EEC (OJ L 140, 5.6.2009, p. 88).

- has an American Petroleum Institute Gravity of 10 degrees or less when situated in a reservoir formation at the place of extraction as defined pursuant to testing method American Society for Testing and Materials (ASTM)<sup>26</sup> D287;
  - has an annual average viscosity at reservoir temperature greater than that calculated by the equation: Viscosity (Centipoise) = 518.98e-0.038T; where T is the temperature in Celsius;
  - falls within the definition for tar sands under combined nomenclature code CN 2714 as outlined in Council Regulation (EEC) No 2658/87<sup>27</sup>; and
  - where the mobilization 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 raw material" 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 2714 outlined in Regulation (EEC) No 2658/87<sup>27</sup>. Mobilization of the source of the raw material is achieved by mining extraction or thermally enhanced gravity drainage.
- (4) "conventional crude" means any refinery raw material exhibiting an American Petroleum Institute 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 2714 as set out in Regulation (EEC) No 2658/87<sup>27</sup>.

### *Article 3*

#### *Methodology for calculating the greenhouse gas intensity of fuels and energy supplied other than biofuels and reporting by fuel suppliers*

1. For the purposes of Articles 7a(2), Member States shall ensure that fuel suppliers use the methodology set out in Annex I to determine the greenhouse gas intensity of the fuels they supply.
2. For the purposes of the second subparagraph of Article 7a(1) and Article 7a(2) of Directive 98/70/EC Member States shall require suppliers to report data using the definitions and the calculation methodology 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. Member States shall apply the simplified methodology set out in Annex I to this Directive for fuel suppliers that are small and medium-sized enterprises.

### *Article 4*

#### *Calculation of fuel baseline standard and greenhouse gas intensity reduction*

For the purposes of verifying compliance by fuel suppliers with their obligation under Article 7a(2) of Directive 98/70/EC, Member States shall require suppliers to compare their achieved

<sup>26</sup> American Society for Testing and Materials, <http://www.astm.org/index.shtml>

<sup>27</sup> Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 07.09.1987, p. 1).

reductions of life cycle greenhouse emissions from fuels and from electric energy to the fuel baseline standard set out in Annex II to this Directive.

## *Article 5*

### *Reporting by Member States*

1. When submitting reports to the Commission under Article 8(3) of Directive 98/70/EC, Member States shall provide the Commission with data related to compliance with Article 7a of that Directive as defined in Annex III to this Directive.
2. Member States shall use the ReportNet tools of the European Environment Agency, provided pursuant to Regulation (EC) No 401/2009<sup>28</sup>, for the submission of the data set out in Annex III to this Directive. The data shall be transmitted by the Member States by means of electronic data transfer to the Central Data Repository managed by the European Environmental Agency using the template prepared on the basis of Annex IV and provided therein.
3. The data shall be provided annually using the format prescribed in Annex IV. Member States shall notify to the Commission the date of the transmission and the contact name of the competent authority responsible for verifying and reporting the data to the Commission.

## *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 [twelve month after adoption] at the latest and shall notify it without delay of any subsequent amendment affecting them.

## *Article 7*

### *Transposition*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [twelve months after adoption] at the latest. They shall forthwith communicate to the Commission the text of those provisions.
2. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

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<sup>28</sup> Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (OJ L 126, 21/05/2009, p. 13).

3. 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 8*

#### *Entry into force*

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

#### *Article 9*

This Directive is addressed to the Member States.

Done at Brussels,

*For the Council*  
*The President*