



EUROPEAN COMMISSION

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REGULATORY SCRUTINY BOARD OPINION

Fitness Check of the Ambient Air Quality Directives Directive 2004/107/EC relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air and Directive 2008/50/EC on ambient air quality and cleaner air for Europe

{SWD(2019) 427 final}
{SWD(2019) 428 final }



Brussels, 06/11/2019
SG.A2/FH

Opinion

Title: Fitness Check of the EU Ambient Air Quality Directives

Overall 2nd opinion: POSITIVE

(A) Policy context

Air pollution reportedly results in over 400,000 premature deaths annually in the EU. Because clean air is a public good and air pollution crosses borders, there is a role for EU policy to protect it. The EU sets air quality standards and requires that Member States collect and share certain data on their air quality. Member States can decide how to collect data and deliver the air quality. Breaches of reference values have to be “as short as possible.” The REFIT platform has asked that air quality limits be uniform across the EU, and the Parliament has urged the Commission to review air quality based on robust and up to date evidence.

This fitness check examines how well two ambient air quality directives have worked between 2008 and 2018.

The EU also sets emissions standards for specific industries and products, and there are national commitments to reduce emissions, but those are outside the scope of this fitness check.

(B) Summary of findings

The Board notes substantial revisions to the fitness check that address its earlier recommendations.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

- (1) The report does not sufficiently discuss how societal developments and changing awareness of citizens about air pollution have influenced the relevance of the legislation and its air quality standards.**
- (2) The report does not justify having less ambitious air quality standards than those recommended by the World Health Organisation.**

This opinion concerns a draft fitness check which may differ from the final version.

(C) What to improve

(1) Public perceptions and debate around air pollution have evolved since the adoption of the EU Ambient Air Quality Directives. The report would benefit from a discussion of these developments and their effect on the relevance of the directives. It should analyse to what extent the directives and their air quality standards meet the population's current needs and requirements.

(2) The report should provide an evidence-based discussion about the merits of having EU air quality standards that are less stringent than WHO guidelines. It should assess whether the socio-economic and feasibility factors that argued for less ambitious standards remain valid.

(3) Investigating case-by-case the potential for simplification and burden reduction is a central promise by the Commission. Throughout the report, there are paragraphs discussing this potential. However, it would be helpful to have a dedicated section on why or why not there is room for simplification or burden reduction.

(D) Conclusion

The DG may proceed. The DG should take into account the recommendations of the Board before launching the interservice consultation.

Full title	Fitness Check of the EU Ambient Air Quality Directives
Reference number	PLAN/2016/88
Submitted to the RSB on	16 August 2019
Date of RSB meeting	Written procedure



Brussels, 19/07/2019
SG.A2/FH

Opinion

Title: Fitness Check of the EU Ambient Air Quality Directives

Overall opinion: NEGATIVE

(A) Context

Air pollution reportedly results in over 400,000 premature deaths annually in the EU. Because clean air is a public good and air pollution crosses borders, there is a role for EU policy to protect it. The EU sets air quality standards and requires that Member States collect and share certain data on their air quality. Member States can decide how to collect data and deliver the air quality. Breaches of reference values have to be “as short as possible.” The REFIT platform has asked that air quality limits be uniform across the EU, and the Parliament has urged the Commission to review air quality based on robust and up to date evidence.

This fitness check examines how well two ambient air quality directives have worked between 2008 and 2018.

The EU also sets emissions standards and there are national commitments to reduce emissions, but those are outside the scope of this fitness check.

(B) Main considerations

The Board finds the report reader-friendly and notes a wealth of available evidence.

However, the Board considers that the report contains important shortcomings with respect to the following issues:

- (1) The report does not present an unbiased reading of the data with respect to the objective of meeting specific air quality standards by certain deadlines.**
- (2) The report does not sufficiently present successes and shortcomings of different intermediate steps towards end objectives, including measuring air quality, acting on the data and enforcing standards.**
- (3) The report does not sufficiently investigate the issue of aligning EU air quality standards with the WHO guidelines.**
- (4) The report does not make clear which stakeholder groups thought what.**

Against this background, the Board gives a negative opinion. The Board considers that in its present form this report does not sufficiently respond to the mandate of the fitness check.

(C) Further considerations and adjustment requirements

(1) The report should be clear that one objective of the legislation was to meet certain air quality standards by certain deadlines. The effectiveness analysis should assess achievements against this benchmark. The report should show the air quality trends in more detail, in particular, by how much standards were breached in how many zones. The report should provide likely reasons for failures to achieve goals, making clear any material differences across Member States. The report should answer the question whether the current design and enforcement structure of the directives are likely to meet the air quality standards if given enough time (i.e. whether they are fit for purpose).

(2) The report should provide a nuanced discussion of each step between measuring air quality and achieving benchmark air quality standards. For example, it could mention that the system to measure air quality still has room for improvement, but delivers data that is good enough to act upon; that enforcement is partially effective, also thanks to NGOs successfully taking legal action; that implementation respects the subsidiarity principle, but has suffered from a lack of political commitment and coordination between levels of government. This discussion should point to those aspects that would need to improve in order to achieve the original objective of meeting air quality standards. It might also indicate if data collection capabilities have matured enough for the policy emphasis to shift towards more co-ordinated action across Member States.

(3) The report should provide an evidence-based discussion about the merits of having EU air quality standards that are less stringent than WHO guidelines. It should assess whether the socio-economic and feasibility factors that argued for less ambitious standards are still valid. It should also conclude more clearly about the state of play of evidence on pollutants not covered in the legislation.

(4) The relevance section could also present the changed societal context, for example, evidence of higher awareness of the public, increased demand for monitoring data, and adjusted expectations. The report should consider what this implies for the level of ambition of the air quality directives.

(5) The report should differentiate stakeholders' responses across stakeholder groups. It should investigate how representative or relevant presented criticisms are. The report needs to explicitly cover the opinions voiced by local and regional authorities during the consultation activities.

(6) The efficiency analysis should discuss whether it is possible to simplify rules and reduce burdens without compromising the objectives. It should also discuss the proportionality of the monitoring costs.

(D) RSB scrutiny process

The Board advises the DG not to launch the interservice consultation before substantially revising the report.

The DG may resubmit to the Board a revised version of this report.

Full title	Fitness Check of the EU Ambient Air Quality Directives
Reference number	PLAN/2016/88
Date of RSB meeting	17 July 2019