Council of the European Union

Brussels, 15 December 2021
(OR. en)

Interinstitutional File: 2021/0423(COD)

15063/21
ADD 4

ENER 559
CLIMA 454
ENV 1009
IND 387
COMPET 913
RECH 564
AGRI 643
RELEX 1103
CODEC 1655
IA 206

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	15 December 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC(2021) 432 final
Subject:	REGULATORY SCRUTINY BOARD OPINION Proposal for a Regulation of the European Parliament and of the Council on methane emissions reduction in the energy sector and amending Regulation (EU) 2019/942

Delegations will find attached document SEC(2021) 432 final.

Encl.: SEC(2021) 432 final

EUROPEAN COMMISSION

Brussels, 18.10.2021

SEC(2021) 432 final

REGULATORY SCRUTINY BOARD OPINION

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on methane emissions reduction in the energy sector and amending Regulation (EU) 2019/942

{COM(2021) 805}

{SWD(2021) 459,460}

Ref. Ares(2021)6353302 - 18/10/2021

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Proposal for a legislative act to reduce methane emissions in the oil, gas and coal sectors

Overall 2nd opinion: POSITIVE WITH RESERVATIONS

(A) Policy context

Methane is a short-lived greenhouse gas that contributes significantly to overall greenhouse gas emissions. The 2030 Climate Target Plan's 55% reduction target requires action on methane emissions. The October 2020 EU strategy to reduce methane emissions, announced that the Commission would bring forward legislation.

This proposal aims to cut methane emissions in the energy sector by improving measurement, reporting, and verification (MRV); ensuring effective mitigation of methane emissions in the energy supply chain within the EU; and reducing methane emissions from imported fossil energy at their sources.

(B) Summary of findings

The Board notes the additional clarifications in the draft report responding to the Board's previous opinion, such as the description of EU legislation related to methane emissions.

However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:

(1) The problems, their causes and scale are not described with sufficient precision.

(2) The report does not sufficiently demonstrate the need for additional EU measures over and above those in existing EU legislation, international commitments binding Member States and industry voluntary initiatives. It is not clear what the remaining gaps are that will be filled and how the proposal will ensure coherence with obligations and action already being taken.

(3) The report does not propose sufficiently concrete policy measures and does not adequately reflect the policy choices to be made.

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The report should describe in detail the origin and causes of intentional and unintentional releases of methane and how these can be avoided without jeopardising efficient industrial processes and safety. It should clearly identify the scale of the problem originating from the EU compared to the global total and break this down by sector to give an accurate and unambiguous overview which can then inform the options and their selection. It should discuss, with concrete evidence rather than assertion, what prevents companies, Member States and third countries from mitigating methane emissions. The suggested problem driver of 'lack of awareness and information' needs to be backed up by solid evidence, given that much of the emissions can be avoided at relatively low cost.

(2) The report should justify the need for additional EU action taking into account the existing requirements stemming from EU legislation, international agreements binding Member States and industry voluntary commitments. It should identify which gap the proposal will fill and where precisely it will act, being explicit on which emissions and reporting obligations are already covered by other measures. It should be fully coherent with other legislation which covers these emissions such as, but not limited to, the Effort Sharing Regulation, the Industrial Emissions Directive and national measures. In the case of the Effort Sharing Regulation it should assess how setting binding requirements on methane reduction would limit the freedom of choice given to Member States to decide on the areas in which to deliver their GHG emissions linked to their national energy mixes.

(3) The report should analyse how methane emissions would evolve without additional intervention. It should incorporate the planned phasing out of fossil fuels and the existing initiatives at EU level, internationally and on a voluntary basis. This should be reflected in a quantified baseline.

(4) The report should be precise in presenting options instead of addressing full sectors at once. The options should reflect the main sources of EU energy sector methane emissions starting from the largest (coal) to the smallest (oil). The options should contain measures that are specific, targeted and proportionate. It should provide in-depth analysis of specific measures to avoid methane emissions, describe their feasibility and possible uptake and assess their costs and benefits. It should describe which part of the full abatement potential will be tackled by the measures proposed. It should justify why in some options the coal sector is left out while it accounts for the largest part of the emissions.

(5) The report should assess the feasibility of options to avoid methane emissions in third countries together with the impact on security of supply and possible price increases for EU consumers. It should further explain why it considers that the environmental and social impacts of all (voluntary and mandatory) options considered for the international dimension of the initiative would be the same, even if their likely success in implementation, verification, and enforceability would be different.

(6) The report should include the required standard annex on the estimated costs and benefits of the preferred option.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.

Full title	Proposal for a legislative act to reduce methane emissions in the

	oil, gas and coal sectors
Reference number	PLAN/2020/8648
Submitted to RSB on	22 September 2021
Date of RSB meeting	Written procedure

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Proposal for a legislative act to reduce methane emissions in the oil, gas and coal sectors

Overall opinion: NEGATIVE

(A) Policy context

Methane is a short-lived greenhouse gas that contributes significantly to overall greenhouse gas emissions. The 2030 Climate Target Plan's 55% reduction target requires action on methane emissions. The October 2020 EU strategy to reduce methane emissions, announced that the Commission would bring forward legislation.

This proposal aims to cut methane emissions in the energy sector by improving measurement, reporting, and verification (MRV); ensuring effective mitigation of methane emissions in the energy supply chain within the EU; and reducing methane emissions from imported fossil energy at their sources.

(B) Summary of findings

The Board notes the additional information provided in advance of the meeting.

However, the Board gives a negative opinion, because the report contains the following significant shortcomings:

(1) The report does not sufficiently and clearly identify, define and present the problem that this initiative is supposed to address.

(2) The coherence with other existing or forthcoming initiatives (including EU rules, national legislation, international commitments and voluntary industry initiatives) that might address the same emissions is not sufficiently presented and factored into the analysis. The added value of the initiative over and above the cumulative effect of these actions is not sufficiently clear or justified.

(3) The assessment of options designed to have an impact on third countries is not sufficiently comprehensive.

(C) What to improve

(7) The narrative of the report needs to be improved starting with the problem definition. Even with the missing data, the report should be more explicit about the problem, its scale and what exactly would be addressed and could realistically be achieved by this specific

initiative. The discussion should incorporate the specific economic and safety features of methane. The report should present more clearly, with figures and projections, where available, the relative importance of EU energy related methane emissions as compared to EU methane emissions from other sectors. The problem description should clarify what market failures the initiative would address and why and where there is a need for harmonisation of legislation. It should present more clearly how the situation differs across Member States and justify the need for EU action accordingly.

(8) The report should take full account of coherence with EU rules (in particular but not limited to the Effort Sharing Regulation and the Industrial Emissions Directive), national legislation, international commitments and voluntary industry initiatives that all affect the same emissions. The report should explain the scope of this initiative compared to those other initiatives and be clearer about the rationale for this proposal, how it fits with other initiatives, and exactly which gaps it fills.

(9) The report should provide a more developed and better explained baseline. It needs to fully reflect the result of the phase out of fossil fuels and account for existing and upcoming EU legislation, voluntary industry initiatives and the initiatives at global level specific for methane monitoring and mitigation. The report should clarify why methane emissions remain high in 2050, even when the use of fossil fuels should be largely eliminated. It should assess the evolution of EU imports of fossil fuels and its effect on the EU's influence on third countries.

(10) The description of options should become more complete. The structure of the options should reflect the policy choices to be made. It should allow to distinguish the effects of key measures, such as venting and flaring, and leak detection and repair.

(11) The report should present a consistent narrative as regards imports from third countries and the options considered to mitigate methane emissions outside the EU. It should be clearer about the incentives or lack thereof for third countries and economic actors to reduce methane emissions. The report should better explain why it considers that the environmental and social impacts of all options considered for the international dimension of the initiative would be the same. It should justify better the impacts expected from the label for fossil energy imports.

(12) The report needs to provide information on the methodologies used or referred to. It should clearly set out the modelling assumptions, limitations and uncertainties. It should also provide an indication of the robustness and credibility of the underlying methodologies.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.

Full title	Proposal for a legislative act to reduce methane emissions in the oil, gas and coal sectors
Reference number	PLAN/2020/8648
Submitted to RSB on	23 June 2021

Date of RSB meeting	22 July 2021

Electronically signed on 18/10/2021 12:17 (UTC+02) in accordance with article 11 of Commission Decision C(2020) 4482