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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on the Environment
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Subject:	Air Quality Directive: WPE on 18 and 19 September 2023 - Presidency explanatory note

With a view to the meetings of the WPE on 18 and 19 September 2023 on the abovementioned Commission proposal, delegations will find attached an explanatory note prepared by the Presidency.

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Ambient Air Quality Directive (AAQD)

Explanatory note by the Presidency with a view to the meetings of the Working Party on the Environment on 18 and 19 September 2023

This explanatory note accompanies a revised Presidency compromise text (doc. 12848/23) on the abovementioned Commission proposal. The note aims to provide clarification on certain amendments proposed by the Presidency to aid delegations in their reading of the compromise text and to facilitate an effective discussion at the Working Party on the Environment (WPE) on 18 and 19 September 2023.

Additional changes to the Commission proposal compared to those included in the partial compromise text prepared by the Swedish Presidency (doc. 10007/23) are marked as **bold underlined** and ~~double-strikethrough~~ (deletions). Previous changes to the Commission proposal are marked as underlined and ~~strikethrough~~. The recitals will be examined at a later stage.

Horizontal changes

Territorial units: changes throughout the text:

- For the average exposure indicator and the average exposure reduction obligation, the level initially proposed was NUTS1. However, most delegations have requested more flexibility as concerns the territorial unit, in order to better manage the administration of the air quality plans and their measures. Therefore, the revised Presidency text includes the possibility to use NUTS 1 level or a part thereof. This means that, NUTS1, NUTS2 or other territorial units within a NUTS1 unit can be used.
- Additionally, for those Member States that may need larger territorial units because their NUTS1 territorial units are small (below 1000 km²), larger territorial units may be used within the same Member State. Hence, this wording does not allow shared territorial units between different Member States.
- Article 4 (28) was modified to introduce this new territorial unit concept while in the rest of the draft text, reference is made simply to 'given territorial unit' to keep the text as clear and concise as possible.
- In the case of ozone, based on the discussion of the WPE on 11 July and the written comments received, it is proposed that the territorial unit is to cover at least one air quality zone.

References to target values: it has been specified that target values refer to ozone, in coherence with the definition in Article 4 (27) and Annex I.

Lead: References to "lead" in some parts of the text are moved so that the term appears, together with the rest of the metals already mentioned, in the same order throughout the text.

Changes proposed to the Articles and Annexes

Article 1. Objectives

Article 1(1). The wording has been slightly changed to clarify the reference to the zero-pollution objective for air quality, in line with what was already proposed in the first partial compromise text for Article 1(2).

Article 1(2). Following the deletion of "to be met by the year 2030" in the first partial compromise text, a time reference to the attainment period needs to be included. For this reason, a reference to Annex I —that establishes the standards and attainment deadlines — has been included in Article 1(2).

Article 2. Subject matter

No new modifications.

Article 3. Regular review

The wording of Article 3(2), second subparagraph, has been adjusted to refer to "taking into account" rather than "ensuring" alignment with the WHO guidelines and scientific information.

A reference to the UNECE Convention on Long-range Transboundary Air Pollution² has been included in Article 3(2), point (a), as an additional reference to scientific information to be considered in the review by the Commission, due to its relevance and experience in the field.

Article 4. Definitions

(8) 'arsenic', 'cadmium', 'lead', 'nickel' and 'benzo(a)pyrene'. The Presidency has taken on board the suggestion to add the text "expressed as mass concentration in ambient air" at the end of definition (8) to make it clearer that it is not a percentage contribution (share) in PM₁₀.

(11) 'volatile organic compounds'. The Presidency proposes to revert to the definition as it was in the original Commission proposal, referring to Non-Methane Volatile Organic Compounds.

(13) 'black carbon'. The definition has been the subject of several comments; therefore, a different definition aligned with that of the WHO is proposed. The WHO definition reads as follows: "An operationally defined term that describes carbon as measured by light absorption. As such, it is not the same as elemental carbon, which is usually monitored with thermal-optical methods."

(14) 'ultrafine particles' (UFP). Several comments were made to the changes proposed in the first compromise text relating to the definition of UFP. The main concern was that the definition differed from the definition in the technical specification TS17434 as it is more related to particle number concentration than to UFP. It was suggested that separate definitions should be included, one for UFP and one for PNC.

the proposed definition differed also from that of the WHO AQGL from 2021, which reads as follows: "Ultrafine particle. Particles of an aerodynamic diameter less than or equal to 0.1 µm (that is, 100 nm). Owing to their small mass, their concentrations are most commonly measured and expressed in terms of particle number concentration per unit volume of air (for example, number of particles per cm³)".

As a compromise, the Presidency proposes to blend the definition itself and the measurement understanding for the purpose of this Directive. It is important to note that the finer size detection limit has a high impact on the concentrations when measuring UFP, while the coarser one has very limited impact.

(20) 'indicative measurements'. There were some comments regarding the definition of 'indicative measurements.' In order to provide clarification on what constitutes an indicative measurement, a new definition has been added as follows:

‘indicative measurements’ means measurements taken at sampling points, either continuously or by random sampling to determine the levels in accordance with data quality objectives that are less strict than those required for fixed measurements;

(24) ‘rural background locations’. As rural background locations are also used for ozone vegetation exposure, this has been included in the definition.

(27) ‘ozone target value’. The word “environment” has been replaced by “vegetation” for better coherence with the rest of the text of the proposal.

(28) ‘average exposure indicator’. As explained at the beginning of this note, the reference to territorial unit has been modified to allow more flexibility for Member States..

(29) average exposure reduction obligation’. The definition has been changed to make it consistent with the definition proposed for the “average exposure indicator”.

(40) ‘oxidative potential of particulate matter’. A new definition was included as requested by some delegations.

Article 5. Responsibilities

An addition is proposed in point (g) to specifically mention that cooperation with the other Member States and the Commission shall address also transboundary air pollution, to reinforce Article 21.

Article 6. Establishment of zones

There are no modifications to the Commission proposal.

Article 7. Assessment regime

There are no new modifications.

Annex II. Section 1 - Assessment thresholds for health protection

The Swedish Presidency modified the proposal to increase the BaP threshold from 0,12 to 0,25 ng/m³. However, according to most of the comments received, it would seem preferable to align it with the current lower assessment threshold of 0,4 ng/m³. As a significant number of delegations are still scrutinising the matter, the Presidency proposes, as a compromise, a threshold of 0,3ng/m³.

Article 8. Assessment criteria

Article 8(4). The word ‘techniques’ has been deleted for coherence with the definition of “objective estimation” (Art. 4, point (21)).

Article 8(5) [*moved from Art. 9(6) of the initial Commission proposal*]. In order to ensure that in the event of an exceedance shown by the modelling application it can be verified as soon as possible so that measures can be taken to reduce pollution levels, it is proposed to reduce the time available for additional verification measurements by one year, from 3 to 2 years. The Presidency proposes new wording whereby the Commission may provide, through implementing acts, further clarification on how to use modelling applications and indicative measurements when assessing air quality.

Articles 8(6) and 8(7) were moved to Article 9 since they do not refer to assessment criteria but to obligations concerning sampling points.

In Article 8(8), 'shall' has been replaced by 'may' as many delegations had concerns on the obligations on the use of bio indicators in accordance with the monitoring undertaken under Directive (EU) 2016/2284. The new wording remains as it was in Directive 2004/107/EC.

Article 9. Sampling points

As mentioned above, paragraphs 6 and 7 of Article 8 have been moved to the end of Article 9, with slightly modified wording (replacing "level" with "concentration") for coherence with the rest of the text.

In Article 9, a new paragraph 4a is introduced (art 10(4) of the current Directive (EU) 2008/50, which was missing from the recast proposal) concerning the possibility of measuring NO₂ at a minimum of 50% of the ozone sampling points.

Annex III. Minimum numbers of sampling points for fixed measurement

Annex III. A. 1. Diffuse sources.

Tables 1 and 3 - Based on the outcome of the discussion on the first compromise text at the WPE on 6 June, the Presidency proposes to reinstate the column with the minimum number of sampling points for PM_{2.5}, adapting it accordingly, so that where the halving of the Sum PM number does not result in a whole number, the remaining sampling point is assigned to PM_{2.5} due to its more harmful nature.

Annex III. A. Point sources. Based on the outcome of the WPE discussion on 11 of July and further comments received, the last sentence on monitoring the application of Best Available Techniques (BAT) has been modified. The new wording proposed provides that sampling points established in the framework of the Directive 2010/75/EU may be accounted for compliance with the minimum number of sampling points if they comply with the requirements set out in the Directive. The new wording also adds flexibility for sampling points to be sited in such a way that the impact of emission reductions on concentration levels in ambient air due to the application of BAT as defined by Directive 2010/75/EU may be monitored when possible. .

Annex III. C. 2. In the title, the reference to the long-term objective "for the protection of the environment" has been replaced by "for the protection of vegetation", to be coherent with the term used in Annex I. Section 2. C.

Annex III.D. No further modifications were done to this part of the Annex. The reference to Black Carbon was not explicitly included in the Annex as its measurement is optional in Article 9 [Moved from article 8.7]. Therefore, no minimum number of sampling points is required for Black Carbon. A Member State can decide to measure Black Carbon in a limited number of sampling points where they have the obligation to measure UFP.

Annex IV. Assessment of Ambient Air Quality and Location of sampling points.

Annex IV. General. A reference to the ozone target value for the protection of human health has been included in point 2.

Annex IV. B. Macroscale siting of sampling points.

- Point 2. b) a new paragraph has been added on the macroscale siting of sampling points where the objective is to measure the contribution of domestic heating, as in this case it can be impossible to avoid measuring micro-environments. The criterion for sampling points measuring the contribution of domestic heating is that it should be representative of at least 25 m x 25 m as 250 m x 250 m may be too large for this purpose.
- Point 2. f) “shall” has been replaced by “may” to make the monitoring of the application of BAT more flexible, as it is not clear that the BAT as defined by Directive 2010/75/EU can be monitored by the AQ sampling points placed in the vicinity.
- Point 2. g). As requested by some delegations, the last part of the sentence has been modified to allow other methods such as objective estimation instead of fit-for-purpose modelling applications.
- Point 4. Rural locations for ozone assessments and Rural background locations for ozone assessment. The reference to “summits of higher mountains” has been removed as some delegations have pointed out that summits of higher mountains can be representative for the exposure of alpine vegetation and ecosystems.

Article 10. Supersites

Flexibility has been introduced in terms of the pollutants to be measured if the concentration levels are below the assessment threshold for urban background stations. This measurement exception for pollutants below the assessment threshold of Annex II for urban background supersites shall only be applied where the assessment levels have been below the assessment thresholds for at least 5 years. The review of the situation of the levels below the thresholds shall be carried out at least every 5 years.

This flexibility will not apply to rural background supersites where all pollutants shall be measured irrespective of the levels.

Annex VII. Section 1. Measurements of pollutants at supersites

Minor changes have been introduced for more clarity to the table heading, the names of the metals and the clarification on the PAH to be measured.

Further flexibility regarding the pollutants listed in Annex VII Section 1 has also been included based on the written comments received after the WPE on 6 of June:

- Total gaseous mercury has been moved from tables 1 and 2 to table 3 to make it recommended for both urban and rural supersites.
- For levoglucosan a clarification has been included, as it needs to be measured as part of PM2.5 composition..

Annex VII. Section 2- Measurements of ozone precursor substances

An alternative solution to the inclusion of methane in the list of recommended VOC is suggested. Methane is now included in the first paragraph of the substance to be measured as a possible ozone precursor but without including it in the list. With this new wording it is not necessary to modify the definition of ‘volatile organic compounds’ (Art. 4, point (11)) nor the list of VOC recommended for measurements included in Annex VII Section 2.B.

Annex VII section 3

Annex VII C. Siting. Section C has been reworded to link the location of the sampling points to the wind direction in relation to the sources.

Annex VII D. Methods for the sampling and measurement of UFP and particle number size distribution. A new point D has been included to add a reference to the existing CEN Technical Specifications for the sampling and measurement of UFP (CEN/TS 16976:2016) and particle number size distribution (CEN/TS 17434:2020). The Presidency considers that it is appropriate to include them in Annex VII rather than in Annex VI as they are CEN Technical Specifications but not Reference methods. This will help to harmonize measurements within the different Member States.

Article 11. Reference measurement methods and data quality objectives

No further modification has been made compared to the Article. The changes proposed to the related Annexes V and VI are described below.

Annex V: Data quality objectives

Section A. Uncertainty of measurements and modelling applications. Tables 1 and 2:

- The Presidency proposes a slight change to the title of table 1 to be more precise, so that the word “long-term”, which in this table refers to annual means is not confused either with “long-term objectives for ozone” or “long-term trends”. A similar change is proposed in table 2 regarding the word “short-term”.
- There are two mistakes in these tables that needed correcting, relating to the absolute value for benzene annual mean in table 1 and the Ozone peak season row in table 2:
 - o Benzene annual mean should be 0,85 and not 0,75;
 - o Ozone (peak season): uncertainty of the 8h values was deleted as no ozone peak season has been included as an air quality standard in Annex 1.
- In paragraph 4 below Table 2, the sentence “All fixed measurements meeting the data quality objectives (i.e. uncertainty of measurement and data coverage of measurement as specified in Sections A and B of this Annex, respectively) located in the modelling assessment area shall be used for the evaluation of uncertainty of modelling” implies the use of all type of stations. Nevertheless, this does not seem to be appropriate for stations with a very small representativeness area. Thus, additional wording is proposed to ensure that the fixed measurements used have an adequate representativeness area for the modelling assessment.

Section B. Data coverage of measurements for ambient air quality assessment.

- In the fifth paragraph below the table, the word “Minimum” has been added before “24-hour sampling” as most VOCs and PAHs can be found in very low concentrations, which makes it necessary to sample for more than 24 hours to detect their presence.
- For total deposition, a small correction was done to refer to “wet-only sampling” instead of “wet sampling only”.

Section F. Promotion of harmonised air quality modelling approaches. An addition is proposed in point c) for more clarity.

Annex VI.: Reference methods for assessment of concentrations in ambient air and deposition rates.

Annex VI. A. Reference methods for the assessment.

A new reference method for the determination of ammonia, 17346:2020 'Ambient Air — Standard method for the determination of the concentration of ammonia using diffusive samplers' has been included as there is a CEN method already in place. This has been requested by some delegations and will help to harmonize results across the EU.

Annex VI. B. Demonstration of equivalence.

As discussed at the WPE on 15 June, the standard EN 16450 :2017 'Ambient air - Automated measuring systems for the measurement of the concentration of particulate matter (PM10; PM2,5)' has been introduced for particulate matter equivalence demonstration measured by automatic equipment especially for sampling points that are to be used to provide public information on particulate matter (PM10 and PM2.5) in accordance with Annex IX.

Annex VI. C. Standardisation.

Nickel has been added to the list of metals.

Article 12. Requirements where levels are lower than the limit values, ozone target values and average exposure concentration objectives, but above the assessment thresholds.

Article 12(2). Biogenic precursors are proposed to be included as an additional factor to be considered in zones where ozone levels are to be maintained below the ozone target values in so far as various factors so permit.

Article 12(4). The text has been modified to reflect the option preferred by delegations during the discussion at the WPE on 15 June in relation to the achievement and preservation of the best air quality and a high level of human and environmental protection.

Article 13. Limit values, ozone target values and average exposure reduction obligation for the protection of human health

Article 13(3). As flexibilities are proposed for territorial units to assess the average exposure reduction obligations, it seems reasonable to inform the Commission which territorial units Member States are going to use, in line with other of the text.

Article 13(7). A slight change is proposed for clarification: The title of Article 13 refers to limit values, ozone target values and average exposure reduction obligation for the protection of human health, but Article 13(7) refers to all "air quality standards", as listed in Article 1(2). As air quality standards also include information and alert thresholds, the wording in Article 13(7) has been clarified to only mention the standards referred to in the title. A similar change has been made in Article 15 on information and assessment thresholds.

Annex I. Air quality standards

Section 1. - limit values for the protection of human health. Table 1.

- For the nitrogen dioxide hour limit value, it is proposed that it should not be exceeded more than three times instead of once per calendar year.

- For the sulphur dioxide hour limit value, it is proposed that it should not be exceeded more than three times instead of once per calendar year.

Section 2. Ozone target values and ozone long-term objectives. Section A. For AOT40, Central European Time (CET) has been substituted by local time in coherence with the rest of the standards.

- Inclusion of missing attainment periods:
 - o In the title of section B. Ozone target values. An attainment deadline is proposed in coherence with the attainment deadline already proposed for pollutants listed in Annex I, Table 2.
 - o In the title of section C. Long-term objectives for ozone. An attainment deadline of 1 January 2050 is proposed, in line with the zero-pollution objective cited in Article 1(1).
- Section 2. B Table. The title of the column Objective, “Protection of the environment” has been replaced by “Protection of vegetation” for coherence with Annex I. Section 2. C, and the current Directive 2008/50.

Section 4. A. Alert thresholds for pollutants other than ozone.

A change is proposed in the first sentence in relation to the time scope for PM10 and PM2,5 alert threshold exceedances measurement. The possibility to measure over three consecutive days remains the same, but the new wording allows more flexibility by allowing measurement over a shorter period.

Section 5 - Average exposure reduction obligation for PM2.5 and NO2

Section 5. A. Average exposure indicator. A sentence has been included making it possible to exclude the year 2020 from the calculation of the 3-calendar-year running annual mean concentration in 2030, 2031 and 2032. The year 2020 was anomalous due to the COVID pandemic and may not be representative of the average AAQ levels in some locations.

Article 14 Critical levels for the protection of vegetation and natural ecosystems

A reference to Annex IV.B.3 is included as it is focused on protection of vegetation and natural ecosystems.

No modifications are proposed to Annex I. Section 3 of the Commission proposal.

Article 15. Exceedances of alert or information thresholds

Paragraphs 3 and 4 of Article 15 have been merged as they contained very similar provisions.

Article 15(3):

- A reference to the use of “modelling applications or other forecasting tools” for the prediction of the risk of exceedance of alert or information thresholds has been included for more clarity, based on comments by delegations following the WPE 11 July.
- The term “within a few hours at the latest” (in Article 15(3)) is proposed to be replaced by “within the shortest possible timeframe” to address delegations’ requests for sufficient time to be provided to validate data. A reference to Annex IX. Points 2 and 3, which detail information to be provided to the public, has been included for more clarity.

A new paragraph (5) has been added on information to the Commission on more stringent alert or information thresholds, in coherence with Article 13(7).

Article 16. Contributions from natural sources

During the WPE on 4 July, most delegations supported the need for common guidelines for subtraction of exceedances attributable to natural sources and that this should be reflected in the text of the Directive. Nonetheless, as the Commission has clarified, it is not possible to refer to guidelines in the legal act because of their non-binding nature. Therefore, the Presidency proposes that to ensure a common methodology the Commission should be empowered to adopt an implementing act setting out the necessary detailed technical rules. An alternative to implementing acts would be to consider that the Commission's commitment to update the existing guidelines is sufficient.

Article 17. Exceedances attributable to winter-sanding or winter-salting of roads

Similarly to Article 16, at the WPE on 4 July, most delegations supported the need for common guidelines for subtraction of exceedances attributable to winter-sanding or winter-salting. Therefore, the Presidency proposes the same approach as in Article 16.

Article 18. Postponement of attainment deadline and exemption from the obligation to apply certain limit values.

During the WPE on 4 July, most delegations agreed on the need for some flexibility in Article 18 in order to be able to meet the new AQ standards of Annex 1 for some specific zones.

It is important to remember that this Article should only be applied in specific areas with exceptional circumstances that prevent compliance with certain limit values within the given deadlines.

In the revised Presidency compromise text, in addition to the first possibility to postpone the deadline by a maximum of 5 years, a second possibility has been introduced, for a maximum duration of 2 years, if compliance has not been achieved in the first period due to unforeseen exceptional circumstances. In both cases, justification for the period for which postponement is sought must be provided in the Air Quality Plan.

Article 19. Air quality plans

Article 19(1), first subparagraph. Based on the positions expressed during the WPE on 15 June, the terminology has been harmonized to use the term “recorded” in connection with both the air quality plans and the exceedance periods. For the latter, the maximum number of years has been extended from 3 to 4 because of the reporting timing required.

Article 19 (2) includes the following changes:

- Based on the WPE discussion on 11 July and the written comments received, it is proposed that the territorial unit to be used in the case of ozone cover at least one air quality zone.
- The words “of pollutants” have been deleted for more clarity, as Article 19(2) only refers to ozone.

- A new second subparagraph is proposed, introducing a possibility to refrain from establishing air quality plans for ozone under certain circumstances and duly justified to the Commission.
- In the last subparagraph, the Presidency suggests adding a reference to ozone precursors to clarify that measures addressed in national air pollution control programs (NAPCC) can only address ozone precursors covered by Directive (EU) 2016/2284, as ozone is not addressed directly in NAPCC.

Article 19 (3). A slight modification is proposed in relation to the achievement of the average exposure reduction obligation, where the wording “not achieved” seems more appropriate than “exceeded”.

As Article 19 (4) refers to limit values and ozone target values, the Presidency proposes some changes to render the wording more precise..

Annex VIII. Information to be included in air quality plans for improvement in air quality

A. 1 Localisation of excess pollution. Point b). A minor change is proposed to add the plural *cities* and *maps* as the singular may imply ‘a one city per air quality zone’ while the plural indicates that there can be several cities in the same zone.

A. 5. Expected impacts of measures to reach compliance. A small simplification is proposed with a reference to timelines set in Article 19.

A. 6. Annex 1: Details of measures to reduce air pollution under point 5. Point d). A change is proposed to allow estimation of the concentration reduction because air quality measures can be accumulative for all air quality measures. It is proposed that a detailed estimation for each air quality measure or group of measures is to be provided whenever possible.

A. 7. Annex 2: Further background information. It is proposed to add a new point e) referring to information on socio-economic information that could be relevant for a more consistent view of the potential impact of air quality plans and their measures.

Article 20. Short term action plans

In Article 20(1) and 20(2), the verb “draw up” has been replaced by “establish” for consistency with Article 19.

In Article 20 (1), second subparagraph, the words “of exceedance of” have been added at the beginning of the sentence, as this seems to be missing. Also, a new sentence has been added regarding the exceedances of the alert threshold for ozone to justify that Member States may refrain from establishing short-term action plans when there is no significant potential, similar to what is proposed in other parts of the text.

In Article 20(2), the wording has been changed to add flexibility in the list of sectors and measures to be considered in short-term action plans when identifying the most appropriate sectors and measures depending on the share of the pollution sources. A specific reference is added to “agriculture due to its relevance for PM contribution.

Article 21. Transboundary air pollution

Articles 21 (1) and 21(5). Based on the discussions of the WPE on this Article on 11 July and the written comments received, the Presidency considers that the Commission should play a more

prominent role. An explicit reference to possible technical support of the Commission has been included in paragraphs 1 and 5. In addition, a provision on the need to inform the Commission of the communications between Member States has been added in the last subparagraph of paragraph 1.

Article 22. Public information

Article 22 (1). Correction of a typo in point (a) and replacement the term “forest protection” by “the environment” in point e) for better consistency with the rest of the text. The Presidency considers Information and assessment on forest protection to be covered by the term “environment”.

Article 22 (2). Based on the discussion in the WPE on the 11 July and the written comments received, the Presidency proposes to give enough flexibility regarding the pollutants to be considered in the calculation, and to provide the possibility of including new pollutants in the indices if relevant. As most delegations agreed on harmonization with the health impacts information, the possibility to use the same health impact information as provided in the EEA AQI has been explicitly included.

Annex IX. Public Information

Annex IX. 1. a). Based on the WPE on 11 of July, the Presidency suggests to add the condition that the measurement method must be appropriate for UTD data similarly as, for example, Annex VI establishes gravimetry as the reference method for particulate matter.

Annex IX. 1. d) is modified to introduce the word “impacts” for more clarity and to better distinguish between health and vegetation impacts (vegetation is deleted in point d) as all the listed information here is applicable to health. “Impacts on vegetation” is added in a separate new letter(da).

Annex IX. 2. d). The wording “from anthropogenic sources” has been added to indicate that, although the origin of the episode may be generated by different sources (anthropogenic and natural) it is only possible to establish actions for the reduction of emissions from anthropogenic sources.

Annex IX. 3. The reference to “When an exceedance occurs” was deleted for the sake of clarity, as provisions on public information when an exceedance occurs are already included in Annex IX 1 and 2 (provision on actual exceedances of alert and information thresholds are covered in Annex IX.2, and provisions on actual exceedances for any limit value, ozone target value and average exposure reduction obligation are covered in Annex IX.1). With the proposed change, Annex IX.3 is only referred to the risk of exceedance, not covered in provisions of Annex IX 1 and 2.

Article 23. Transmission of information and reporting

Based on the discussion at the WPE on 15 June, this Article has been amended to maintain the deadline for reporting at 9 months and to ensure that the data quality objectives should at least comply with uncertainties laid down in Annex V A, regardless of the data quality objectives for data coverage laid down in Annex V B.

Article 24. Amendments to Annexes

Based on the discussion at the WPE on 4th July, Annex II on the assessment thresholds was excluded from the scope of Annexes that can be changed by the Commission through delegated acts.

Article 25. Exercise of delegation

The indeterminate period has been replaced by a period of 5 years with a tacit renewal. In addition, the Commission is obliged to draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. These changes are in line with standard wording on delegated acts.

Article 26. Committee procedure

A standard clause has been introduced referring to a situation where the Committee delivers no opinion.

Article 27. Access to justice

Based on the WPE discussion on 11 of July, the Presidency suggest to modify the Commission proposal to make it consistent with the text agreed within the Council on the IED proposal.

The main amendment provides that non-governmental organizations must comply with the requirements of national law to be considered as having a sufficient interest for the purposes of this article.

Article 28. Compensation for damage to human health

Based on the WPE discussion on 11 July, the Presidency suggests modifying the Commission proposal to make it consistent with the text agreed within the Council on the IED proposal.

The main changes are the deletion of the reversal of the burden of proof and the paragraphs relating to collective actions. Paragraph 6 has been modified to give flexibility to Member States to establish the time limit for bringing action.

Article 29. Penalties

Based on the WPE discussion on 11 July, the Commission proposal has been modified to make it consistent with the text agreed within the Council on the IED proposal.

The main modification consists of the deletion of paragraph 2 to give flexibility to Member States in setting the fines and thus removing any reference to turnover.

Article 30. Repeal and transitional provisions

No modifications are proposed to the Commission proposal.

Article 31. Transposition

Article 31(1) second paragraph. The word “measures” has been replaced by “provisions” when referring to laws, regulations, and administrative provisions, to differentiate them from measures under air quality plans/short-term action plans.

Article 32. Entry into force

There are no modifications to the Commission proposal.

Article 33. Addressees

There are no modifications to the Commission proposal.

