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**WK 6426/2023 ADD 4**

**LIMITE**

**ENV**

**ENER**

**IND**

**TRANS**

**ENT**

**SAN**

**AGRI**

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## **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° Cion doc.:	ST 14217/22 + ADD 1
Subject:	Air Quality Directive: follow-up to the WPE on 8 May 2023 - comments by a delegation

Following the call for comments (WK 5892/23), delegations will find attached the contribution received from the PL delegation .

## POLAND

### Commentary of the Republic of Poland to the document „Air Quality Directive: WPE on 8 May 2023 Presidency Steering note”

„1. Assessment regime (Article 7) and assessment thresholds (Annex II)

The Presidency notes a relatively high level of support for the proposed simplification of the assessment thresholds. A number of delegations have, however, raised concerns in particular regarding the proposed assessment threshold in Annex II for Benzo(a)pyrene (B(a)P) of 0.12 ng/m<sup>3</sup>.

PL takes a negative view on this proposal, in line with previous comments made on 9 March.

„Some delegations note that this represents a significant tightening of the threshold for assessment in comparison to the current assessment thresholds of 0.4 ng/m<sup>3</sup> and 0.6 ng/m<sup>3</sup>. Others support the principle of setting assessment thresholds based upon the WHO guidelines, and it has also been noted that the proposed level of 0.12 ng/m<sup>3</sup> for B(a)P still represents higher risk levels according to WHO guidelines in comparison to some other pollutants.”.

PL commentary and detailed explanation:

- "assessment thresholds" should not reflect the guidelines WHO or any other program that applies to health issues as it is a single air quality monitoring system and not a health impact assessment. They are more detailed and qualitative, which determine whether or not measurements should be investigated in that area. They only indirectly refer to the limit value, or, as we would like, to the target value of B(a)P. Assessment thresholds used to perform a five-year air quality assessment to determine if it is an air quality assessment monitoring system where target value/limit value B(a)P is checked. Moreover, the B(a)P limit value/target value proposed does not change, so the argument based on the WHO level of 0.12 ng/m<sup>3</sup> is not justified.

The only document referred to by the EC on the "WHO guidelines" (guideline value) for B(a)P (e.g. in the survey sent to MS in January 2022 on the proposed new regulations and during the meeting of the Air Quality Expert Group on December 1, 2022) are WHO guidelines from 2000

(<https://apps.who.int/iris/bitstream/handle/10665/107335/9789289013581-eng.pdf?sequence=1&isAllowed=y>), chapter V, in the following wording: „Based on epidemiological data from studies in coke-oven workers, a unit risk for BaP as indicator air constituent for PAHs is estimated to be  $8.7 \times 10^{-5}$  per ng/m<sup>3</sup>, which is the same as that established by WHO in 1987. The corresponding concentrations of BaP producing excess lifetime cancer risks of 1/10 000, 1/100 000 and 1/1 000 000 are 1.2, 0.12 and 0.012 ng/m<sup>3</sup>, respectively.”

Therefore, it should be stated that this is an estimated risk, referring to estimated (calculated) concentrations and not real ones. Therefore, it is difficult to conclude from this paragraph of the text what guided the EC when arbitrarily choosing the value of 0.12 ng/m<sup>3</sup>. The more so that in the same chapter of the WHO guidelines you can find the following statement: “No specific guideline value can be recommended for PAHs as such in air. These compounds are typically constituents of complex mixtures.”.

Since 2000, WHO has not changed its position on B(a)P.

- In addition, due to the fact that the value of 0,12 ng/m<sup>3</sup> is estimated, there is another problem. It is concerned with ensuring the quality of measurements at such low concentrations. It happens that the detection limit is higher than 0,12 ng/m<sup>3</sup> (i.e. concentrations as low as 0,12 ng/m<sup>3</sup> are not detected. There is currently no sufficiently accurate method to detect such concentrations while maintaining appropriate quality of measurements. This problem has already been raised by PL several times at EC meetings.

Therefore PL proposes to stay with the assessment threshold of 0,6 ng/m<sup>3</sup>.

„- Retain the Commission's proposal 0.12 ng/m<sup>3</sup>, which is in line with the WHO guidelines and ensures a more consistent approach for setting assessment thresholds.”

**PL takes a negative view on this proposal. Justification as above.**

„- Retain the current lower assessment threshold of 0.4 ng/m<sup>3</sup> which would lead to lower assessment costs.”

**PL supports this solution, but instead of 0,4 ng/m<sup>3</sup>, it proposes 0,6 ng/m<sup>3</sup>, as monitoring costs would increase in relation to the applicable regulations.**

„2. Assessment criteria (Article 8)

*The Presidency notes a range of views among the delegations regarding the use of modelling applications, particularly in Article 8.3, where concentrations exceed a limit value or ozone target value. It is clear that delegations see modelling as a valuable component of air quality assessment, but that many of them request clearer guidelines and further harmonisation of modelling practices. The Presidency also notes that the majority of delegations still see fixed measurements as the primary method for assessing compliance with air quality standards.”*

**PL agrees that the AAQD should clearly indicate that measurements have the highest priority and that the outcome of the assessment in a given zone is determined by the Member States.**

**The hierarchy of methods used should be as follows: 1. Measurements, 2. Modeling, 3. Objective estimation. At the same time, it is always possible to use the so-called expert judgment (the result of the evaluation is ultimately decided by the expert).**

PREZ SE: „- Remove the proposed requirement for using modelling applications in zones exceeding the LVs or ozone TV”

**PL gives a positive opinion on this solution. Measurement should always have priority.**

PREZ SE: „Require that modelling applications are used even if standards are only met by a certain margin. - Leave Article 8.3 unchanged.”

**PL takes a negative view on this proposal PL.**

„The question has also been raised whether the provisions in Article 8.3 should apply before 2030, when the limit values that the provisions refer to (Table 1 of Section 1 of Annex I) are not yet in force. The Presidency would like to gather further views on whether the delegations regard this as appropriate or whether the current values (included in Table 2 of Section 1 of Annex I of the proposal) should apply to this provision prior to 2030.”

**PL proposes to delete the provision of art. 8.3, which refers to stricter limit values.**

*„Many delegations have raised concerns with the proposed provision in Article 8.5 regarding the handling of modelled exceedances. The Presidency would like feedback from delegations on how these concerns can best be addressed. The Presidency sees some different alternatives:*

- Clarify in the text what is meant by exceedances in an area of the zone not covered by fixed measurements. The Commission has provided the clarification that this would mean areas not covered by fixed measurements and their area of spatial representativeness.
- Clarify in the text issues regarding timeframes for carrying out additional fixed or indicative measurements. Delegations have raised issues relating to timeframes for setting up new measurements following the recording of an exceedance and how many years should be allowed for this. It has also been raised that the timing of these additional measurements may impact on the development of air quality plans in the years initially following the recording of an exceedance. In this respect, the Presidency would be interested to know if delegations feel that there should be more prescriptive provisions regarding the timeframes for additional measurements and if so, would they have concrete proposals on how this could be achieved?”

**PL is of the opinion that even with such an explanation, it does not change much in the requirements of Art. 8.5. We are talking about zones of different sizes and measuring stations that have different representativeness. The provisions of art. 8.5 are impossible to implement (e.g. schedule) and unjustified from the point of view of spending public funds. In Poland, mathematical modeling for B(a)P is performed every year for the entire country.**

*„...- Explore a different path and request that the Commission instead provide a technical guidance document or an implementing act on how modelled exceedances of air quality standards should be handled.”*

**PL will be able to provide an opinion once it becomes aware of specific proposals for legislation.**

*„3. Definition of objective estimation (Article 4 point 21)*

*The Presidency notes a range of views and questions regarding the definition of objective estimation. The implementing provisions on reporting (Commission Implementing Decision 2011/850/EU) includes a shorter and simpler definition regarding objective estimation:*

*‘objective estimation data’ means information on the concentration or deposition level of a specific pollutant obtained through expert analysis and may include use of statistical tools;*

*The Presidency requests feedback on whether delegations consider that a similar definition in the Directive would be preferable and would address the concerns raised? Details on the different methods that can be used for objective estimation would need to be elaborated elsewhere, e.g. in a technical guidance document and/or in a recital, instead of in the definition.”*

**PL supports the proposed softer approach to the definition of objective estimation, although the proposed directive may also remain. EC guidelines in this regard could be helpful.**

„4. Definition of spatial representativeness (Article 4 point 22)

A number of comments and questions have been raised regarding the proposed definition of spatial representativeness and on the need to refer to detailed guidelines. The Presidency notes the clarification provided by the Commission on the reasons for limiting references to guidance in the text the proposal. In light of this clarification, the Presidency requests further input from delegations on what changes may be necessary for the definition of spatial representativeness.”

**PL proposes to remove this definition, since there will be no EC guidelines in this regard. The problem is that, depending on the method used, different areas of representativeness of a given measurement station can be determined. Therefore, precise further provisions on representativeness are not justified.**

„5. Requirements on the measurement of ultrafine particles (Article 4 Point 14, Article 8 paragraph 7, Annex III Point D and Annex VII Section 3)

The Presidency notes that there seems to be support for measuring ultrafine particles, in line with recommendations in the WHO guidelines; nevertheless delegations have raised a number of issues and made proposals in this context. A large number of these relate to the proposed definition of ultrafine particles in Article 4 point 14. The Presidency sees some key questions here:

- Does there need to be some flexibility regarding the lower size limit, at least in an initial stage, so that measurement instruments already in use are not disqualified, or would delegations prefer the stricter formulation of the lower size limit (10 nm in the Commission’s proposal) to ensure a harmonised approach?

**PL believes that there would be no such problems if there was a reference method for UFP measurements. However, it currently does not exist and CEN is still working on it. PL therefore proposes to remove the obligation to measure UFP from the draft AAQD until a reference method can be defined. UFP measurements should remain in the realm of scientific research.**

- Does an upper limit need to be added to ensure greater harmonisation (one delegation suggested 100 nm) or can delegations agree with having no restriction as proposed by the Commission and recommended by WHO?

**PL comment as above. Member States have no guarantee that after investing in very expensive UFP measurement equipment, the EC "in order to take into account scientific and technical progress with regard to air quality assessment" (Article 24) will not introduce regulations on UFP measurement methods, which will result in that previously purchased analyzers will be useless.**

- Should the definition of ultrafine particles include specific lower and upper size limits or should this be moved to an annex or a technical guidance document?

**PL believes that the reference method for UFP measurements should be indicated in the AAQD or the measurement obligation should be deleted.**

Other key issues raised regarding the requirements on monitoring ultrafine particles are as follows:

- Proposal to add the measurement of black carbon to this requirement.

**It is not clear whether it is about parallel UFP and BC measurements at one station? PL is opposed to BC measurements without an indication of a reference method.**

- Different proposals regarding station density. One proposal received was to increase the number of measurements required to give more data to support local air quality actions. Another proposal was on the contrary to halve the number of stations required with reference to the costs and administrative burden of additional measurements.

**PL is of the opinion that mandatory UFP and BC measurements should be limited as much as possible.**

*„6. Monitoring supersites (Article 10) and monitoring of mass concentration and chemical composition of PM<sub>2.5</sub> (Annex VII Section 1)*

*The Presidency notes a relatively high level of support for the proposal for the introduction of supersites but there are some key issues that need to be addressed. These are, for Article 10 as follows:*

- *How many supersites should be required? - What should be measured and where?*

*Regarding the number of supersites, the Commission proposal in Article 10 is “one monitoring supersite per 10 million inhabitants at an urban background location” and “one monitoring supersite per 100 000 km<sup>2</sup> at a rural background location”. In this regard, the Presidency notes the clarification provided by the Commission that, for example, a Member State with 19 million inhabitants and 190 000 km<sup>2</sup> would require 1 urban and 1 rural supersite. The current Directive has chemical speciation of fine particulate matter (PM<sub>2.5</sub>) at one rural background site per 100 000 km<sup>2</sup> which in turn is connected to the recommendation in the EMEP monitoring strategy where EMEP sites should be one per 50 000 km<sup>2</sup> (with chemical composition among other parameters).”*

**PL agrees that the counterparts of supersite monitoring for the regional (rural) background in some way already exist and work. On the other hand, superstations for the urban background are new regulations. In this case, PL is in favor of limiting these provisions due to the very high financial burden for the Member States.**

*„The presidency would like input on the site density proposed in Article 10.1.*

Regarding what should be measured and at which stations, the key issues are the following:

- Is the list of parameters sufficient? A number of delegations have raised the possibility of adding lead and levoglucosan. HNO<sub>3</sub> has also been suggested. There seems to be particular concern from some delegations regarding the need to measure particulate matter oxidative potential.”

**PL confirms that the list of substances to be measured, including new substances, is sufficient. We suggest you consider crossing out: UFP, BC, particulate matter oxidative potential and number of particles. In Poland, measurements for these substances have not been carried out so far under the State Environmental Monitoring.**