

The EU air policy package

Summary

The EU refining industry supports the principle of seeking cost-effective solutions to improve air quality. However, the high ambitions proposed by the Commission's CAPE¹ will lead the industry to take measures which are disproportionate, not cost-effective and resulting in a further impairment of the international competitiveness of the EU refiners.

The model used in designing the policy is subject to a high degree of uncertainty since:

- It is based upon only one energy scenario, which may prove wrong, and also
- it makes a number of key assumptions about the baseline emission reductions on which the policy scenario related targets are based.

Therefore, there is a significant risk that the proposed 2030 targets will actually be unachievable, or only met with additional technical measures that are not cost-effective or even affordable for industry.

With regard to the proposal for a directive on the reduction of national emissions of certain atmospheric pollutants (NECD) FuelsEurope urges the Parliament and the Council to:

1. Adopt more moderate emission reduction targets. Targets which are realistically achievable and cost-effective will balance environmental protection with the goal of promoting a competitive European refining industry.
2. Ensure that installations that are applying BAT² and are complying with their air pollutants emission limit values as set out in their Industrial Emissions Directive (IED) permits shall not be forced to implement additional measures even in the case national emission reduction commitment would not be met.
3. Ensure that the emission reduction commitments (annex II of NECD) that are based on one reference energy scenario are subsequently adapted according to the update of the energy scenarios in order to ensure their achievability in a cost-effective way. For this purpose, a revision clause involving the active participation of stakeholders should be included in the NECD.

With regard to the proposal for a directive on the limitation of emissions of certain pollutants into the air from medium combustion plants (MCPD) FuelsEurope urges the Parliament and the Council to:

1. Ensure that units belonging to an installation which is already regulated under the IED through permit conditions shall be excluded from the scope of the proposal for a directive on the limitation of emissions of certain pollutants into the air from medium combustion plants (MCP).
2. Ensure that emission limit values laid down in annex II of the MCP for PM (particulate matters) and SO₂ shall be compatible with the use of primary techniques³ only and therefore be economically achievable.
3. Ensure that the MCP provision requesting MS to set stricter ELVs in zones not complying with air quality standards shall be removed since it goes beyond the subsidiarity principle and overlaps with the provisions laid down in the directive 2008/50/EC on ambient air quality and cleaner air for Europe (article 23 - air quality plans).

¹ Clean Air Programme for Europe

² Best Available Techniques

³ The proposed ELV for SO₂ (350 mg/Nm³) for Heavy Fuel Oil fired unit is not compatible with its sulfur content

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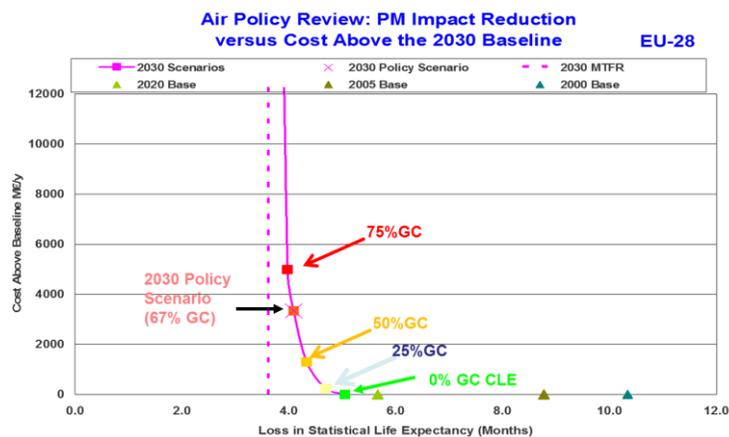
Introduction

On December 18, 2013, the European Commission adopted a Clean Air Policy Package with the aim to further reduce the impacts of emissions from industry, traffic, energy plants (including domestic heating) and agriculture on human health and the environment.

The Clean Air Programme for Europe (CAPE) sets out measures to ensure that existing targets are met by 2020 and new air quality objectives for the period up to 2030.

Those 2030 objectives have been derived from a very ambitious ‘gap closure’ scenario set at 67 % of the delta between:

- the in health impacts derived from emissions that result from the application of current legislation (CLE⁴) and
- health impacts derived from the lowest level of emissions achievable by deploying all commercially available technical solutions irrespective of cost (MTR⁵).



The package proposes a revised Directive on National Emission Ceilings with stricter national emission reductions for six pollutants (NEC) and a Directive to reduce pollution from medium-sized combustion installations (MCP).

The baseline (CLE) related measures entail costs of 90, 2 b€/y in 2030 for the EU society as a whole and are foreseen to significantly reduce health & environment impacts (2030 vs 2005). The addition of MTR measures in 2030 would entail additional costs of 50, 5 b€/y.

Background

The EU refining industry is continually improving the environmental performances of its industrial operations and, as a result, has for instance reduced its absolute SO₂ emissions by more than 60% between 1990 and 2010.

The Industrial Emissions Directive (IED), the central piece of legislation covering 100% of our industrial sites in Europe, together with the level of ambition of the final draft Refining BREF Best Available Techniques related conclusions are anticipated to drive down emissions (by more than 28% and 40 % respectively for NO_x and SO₂ on average for the installations that will have to meet the new standards).

The compliance with this directive will require large investments whilst providing regulatory stability, which is essential to a capital-intensive industry such as refining. The IED will be implemented over the next years in close **coordination with Member States Competent Authorities** in order to ensure it is done in a cost-effective way. Therefore, FuelsEurope does not see the need for further EU legal requirements targeting air emissions from refining units.

⁴ Current Legislation Emissions

⁵ MTR (Maximum technically Feasible Reduction)

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Analysis

Our sector supports the general approach of seeking cost-effective solutions across the fullest range of contributing sources to address air quality issues. However, when designed properly air policy measures should not impose a disproportionate cost on industry, leading to production cuts in Europe.

The proposal of the European Commission has been based on quantitative modelling of baseline emissions and associated impacts, of the scope for further emission reduction options and their associated health benefits; and of cost-effective national emission reduction strategies with the GAINS Integrated Assessment Modelling (IAM) suite by the International Institute for Applied Systems Analysis (IIASA).

Stakeholders were invited to provide their comments during this IAM process which explored, inter alia, implications of different assumptions on economic baseline development to which energy usage is intimately associated, the impacts of future sectorial policies, the consequences of different assumptions on the effectiveness of implementation of current legislation, alternative approaches and ranges of ambition levels of emission targets.

The difficulty some Member States encounter meeting targets often result from energy usage, economic activity and technological uptake being different from those estimated at the time of drafting policies. This illustrates the potential consequences of setting emission ceilings, which are very close to MTR and based on energy scenarios that do not accurately reflect the situation in the target year. When setting 2030 air quality objectives, our industry pointed out to the need to conduct sensitivity analyses – examining best and worst case scenarios as well as more central scenarios - and to include uncertainties in expected results of already adopted policies.

In this respect, together with a number of other sectors, FuelsEurope stressed number of elements that were not (sufficiently) taken into account when CAPE was finally adopted:

- a) The energy scenario used for the period up to 2030 is based on the forecast of a 2013 model. If an even slightly different energy world materialises, this would lead to significantly different level of emissions requiring different corrective measures => no sensitivity analysis.
- b) The possible under-delivery of key measures and its consequences has not been sufficiently explored => lack of robustness of the proposal
- c) The uncertainties in the health benefits estimates are very high.

Conclusion

The high environmental ambition level proposed by the Commission remains on the steep part of the cost curve (highest sensitivity zone of the model) which combined with the use of a single energy scenario and other important uncertainties (potentially compromising the delivery of baseline emission reductions or of policy scenario reductions) results in a significant risk of non-attainability and/or a significant increase in costs for meeting the 2030 emission reduction commitments through additional requirements which go beyond what is technically and economically feasible.

FuelsEurope consequently urges the Parliament and the Council to adopt more moderate emission reduction targets that correspond to a more likely achievable and cost-effective policy scenario.

This position paper sets out key considerations and concrete proposals regarding the two legislative proposals that belong to the new Clean Air Programme for Europe ('NEC' and 'MCP' proposals).

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Proposal for a DIRECTIVE (COM (2013) 920 final) on the reduction of national emissions of certain atmospheric pollutants (NEC)

General considerations

The air quality review has come to the conclusion that **most of the air quality compliance issues are related to local hot spots** while background pollution are of global nature. However, when setting out the emission reduction commitments in the NEC proposal it seems that the Commission is expecting an additional significant emission reduction from those sectors that still contribute to some extent to the background level (while emissions of **major air pollutants have been greatly reduced proportionately more from industry than from any other contributor**) rather than tackling the emission sources that are responsible for the significantly remaining air quality problems : pollution peaks and permanently polluted zones that correspond to highly populated areas.

In setting an ambition level (67 % Gap Closure) so close to the MTRF the Commission is putting the attainability of the Member States related emission reduction commitments at risk unless disproportionate compensating measures would be adopted. For this reason, we consider that the **emission reduction commitments must be adjusted, creating some headroom above the MTRF corresponding ceilings, in view of conferring more robustness to the directive.**

Industrial emissions are regulated under the IED which – through the BAT Reference document (BREF) drawing and reviewing mechanism – ensures that **emission limit values are regularly benchmarked with the best environmental performances standards and, where necessary, consequently reduced.**

Where an air quality standard requires stricter conditions than those achievable by the use of BAT, additional measures can be included in the permit (IED article 18). However, in the event a MS would face some difficulty in meeting its emission reduction commitments, the NEC directive should include a provision setting out that measures beyond BAT **shall not be imposed to installations that are applying BAT and are in compliance with their operating permit conditions.**

In the event important contributions that are expected from transport, agriculture, domestic sectors would not deliver to their full extent as well as in the case another energy scenario than the reference one (PRIMES 2013) would materialise **such above mentioned provision would prevent industry - which should be put in the condition to contribute to the Industrial Renaissance by 2020, generating 20% of the EU GDP - from seeing its activity level capped or from being imposed additional measures beyond BAT entailing disproportionate costs.**

Concrete proposals

1. **The emission reduction commitments should be derived from an ambition level set considering sensitivities on the modeling approach so that the measures imposed on industry will remain technically and economically achievable.** *[new annex II tables to be set up for main pollutants]*
2. **Installations that are applying BAT and are complying with their air pollutants emission limit values set out in their IED permits shall not be forced to implement additional measures even if a national emission reduction commitment would not be met.**
3. **The emission reduction commitments should be adapted according to energy scenarios in order to secure their achievability in a cost-effective way. Therefore a revision clause involving active participation of all stakeholders should be included in the NECD.**

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Proposal for a DIRECTIVE (COM (2013) 919 final) on the limitation of emissions of certain pollutants into the air from medium combustion plants (MCP)

General considerations

The MCP would not only apply to stand-alone units but also to **units belonging to an installation which is already regulated under the Industrial Emission Directive through permit conditions**. The EU regulators should refrain creating a double regulatory framework and should consequently **exclude those units from the scope of the MCP**.

As rightly pointed out in the explanatory memorandum, NO_x Emission Limit Values (ELVs) have been set so that they are achievable using primary techniques only. However in contradiction to this principle some **ELVs for particulate matter and SO₂ proposed in annex II are not achievable using primary techniques only and require the use of secondary techniques that are not always applicable**.

Reduction of SO₂ emissions and the associated acidification issue within the EU is often presented by the Commission as a big environmental policy success story. SO₂ emissions remain a precursor of secondary PM emissions but does not contribute significantly to the PM compliance problems that are located in highly populated areas.

Those **PM and SO₂ ELVs should therefore be revised to make them compatible with the use of primary techniques and therefore economically achievable**.

The proposal foresees that in zones not complying with EU air quality limit values, Member States shall apply emission limit values based on the benchmark values laid down in Annex III or even on stricter values, unless it would entail disproportionate costs. Since those benchmark values are by definition stricter than the ELVs laid down in annex II they are de facto requiring secondary measures entailing huge costs irrespective of their technical applicability.

We consider that this provision goes beyond the application of the subsidiarity principle in that local authorities are better placed to judge how to address those zones not complying with air quality standards (AQS). Even if the provision foresees that MS should first include other measures in their air quality plans required under Article 23 of Directive 2008/50/EC to ensure compliance with those AQS, the strict application of the annex III benchmarks (or stricter values) would breach the principle of requesting equitable contribution from all sources and interfere with the choice of measures for compliance left to MS as well as their freedom to implement first most cost-effective measures. The article 5 (4) (*zones not complying with AQS*) is not consistent with the recital (13) which sets out another aim (*triggering innovation*) and is consequently **not meeting the proportionality principle either**. For those reasons, **this provision should be removed**.

Concrete proposals

1. Ensure that units belonging to an installation which is already regulated under the IED through permit conditions shall be excluded from the scope of the proposal for a directive on the limitation of emissions of certain pollutants into the air from medium combustion plants (MCP).
2. Ensure that emission limit values laid down in annex II of the MCP for PM (particulate matters) and SO₂ shall be compatible with the use of primary techniques⁶ only and therefore be economically achievable.
3. Ensure that the MCP provision requesting MS to set stricter ELVs in zones not complying with air quality standards shall be removed since it goes beyond the subsidiarity principle and overlaps with the provisions laid down in the directive 2008/50/EC on ambient air quality and cleaner air for Europe (article 23 - air quality plans).

⁶ The proposed ELV for SO₂ (350 mg/Nm³) for Heavy Fuel Oil fired unit is not compatible with its sulfur content

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FuelsEurope aims to promote economically and environmentally sustainable refining, supply and use of petroleum products in the EU, by providing input and expert advice to the EU institutions, Member State Governments and the wider community and thus contributing in a constructive and pro-active way to the development and implementation of EU policies and regulations.

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