



Background information paper on the new Common Agricultural Policy and air quality

The National Emission Ceilings Directive

The National Emission Ceilings Directive is the legislative instrument that obliges Member States to reduce emissions of ammonia (NH₃), sulphur dioxide (SO₂), nitrogen oxides (NO_x), non-methane volatile organic compounds (NMVOC), and fine Particulate Matter (PM 2.5). It fixes a national cap on the emissions of these pollutants and fixes reduction targets for after 2020. Both objectives are based on the 2005 emission levels. The initial European Commission's proposal was asking Member States to also reduce methane emissions; but unfortunately this part of the proposal had been killed by the Council (following the influence of the agricultural lobby).

The initial EC proposal was to reduce ammonia emissions (EU average) by 27% by 2030 (having as a baseline values from 2005). The agreed reduction target included in the NEC Directive (EU average) is of 19%. NGOs were not happy with this result as it is demanding a very little effort to the agricultural sector towards benefitting the environment and reducing air pollution (once it is emitted, ammonia reacts in the air to form secondary PM). Ammonia is also harmful to soil and water (acidification and eutrophication).

While ammonia emissions are tackled by EU legislation (even if not in a very ambitious way), methane emissions are currently not covered by any direct regulation.

In order to clarify how the agreed goals will be reached (National Emission Reduction Commitments – NERCs), the NEC Directive asks Member States to develop and adopt a so called National Air Pollution Control Programme (NAPCP), for which a set of minimum binding requirements is defined. Every NAPCP has to contain:

- the detailed description of the policy options considered for achieving the agreed targets, but also to go beyond them, to "further improve the air quality";
- the assessment of how the considered options will ensure coherence with other relevant programmes;
- the authority responsible for the implementation of the programmes;
- a timetable.

The NAPCPs will be guiding Member States' action to reduce air pollution in the coming 4 years. An updated NAPCP will be adopted in 2024, so to move forward in achieving the established goals.

To facilitate Member States job, the Commission is expected to publish a Guidance which will include suggestions on how the NAPCPs should look like and also on how to prepare the emission inventories on which the implementation assessment will be based. The Guidance is expected to also provide suggestions on how to conduct the mandatory national public consultations on the draft NAPCPs.

The draft NAPCPs will have to be delivered to the European Commission by 1 April 2019. The European Commission has the duty to assess them (including on how the input from the public was collected and how it is reflected in the result).

The proposal¹ for a Common Agricultural Policy post 2020

The actual CAP will end in 2020. The new policy is supposed to enter into force in 2021.

The EC proposal for the post 2020 CAP, published in June 2018, provides a list of general objectives that the instrument aims to achieve:



Some 'Specific objectives' had also been identified; the most relevant for air quality being 'foster sustainable development and efficient management of natural resources such as water, soil and air'.

How the achievement of this objective will be assessed? It 'shall be assessed on the basis of common indicators related to output, result and impact'. The indicators are defined in Annex I of the proposed new CAP Regulation (in the table below are listed the indicators proposed for the specific objective which refers to air quality).

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52018PC0392&from=EN>

EU Specific objectives	Impact indicators	Result indicators (only based on interventions supported by the CAP)	Broad type of intervention	Output indicators (per intervention)
Foster sustainable development and efficient management of natural resources such as water, soil and air	I.13 Reducing soil erosion: Percentage of land in moderate and severe soil erosion on agricultural land	R.18 Improving soils: Share of agricultural land under management commitments beneficial for soil management		O.14 Number of ha (forestry) covered by environment/climate commitments going beyond mandatory requirements
	I.14 Improving air quality: Reduce ammonia emissions from agriculture	R.19 Improving air quality: Share of agricultural land under commitments to reduce ammonia emission		O.15 Number of ha with support for organic farming
	I.15 Improving water quality: Gross nutrient balance on agricultural land	R.20 Protecting water quality: Share of agricultural land under management commitments for water quality		O.16 Number of livestock units covered by support for animal welfare, health or increased biosecurity measures
	I.16 Reducing nutrient leakage: Nitrate in ground water - Percentage of ground water stations with N concentration over 50 mg/l as per the Nitrate directive	R.21 Sustainable nutrient management: Share of agricultural land under commitments related to improved nutrient management		O.17 Number of projects supporting genetic resources
	I.17 Reducing pressure on water resource: Water Exploitation Index Plus (WEI+)	R.22 Sustainable water use: Share of irrigated land under commitments to improve water balance	Investments	O.18 Number of supported on-farm productive investments
		R.23 Environment-/climate-related performance through investment: Share of farmers with support in investments related to care for the environment or climate		O.19 Number of supported local infrastructures
		R.24 Environmental/climate performance through knowledge: Share of farmers receiving support for advice/training related to environmental- climate performance		O.20 Number of supported non-productive investments O.21 Number of off-farm productive investments

The CAP Strategic Plan

In order to achieve the 9 objectives established by the CAP package (proposal - figure above), Member States will have to prepare a "CAP Strategic Plan". No format is foreseen by the related Regulation; Member States are, at the moment, free to elaborate their plan in the way they prefer. This "freedom" also concerns its content: there are so called 'common requirements' (such as compliance with general principles and fundamental rights, what is an agricultural area, an agricultural activity and the obligations under 'conditionality') but there are no "minimum actions" required to achieve the nine established objectives and there is no prescription on which kind of measures/actions should be privileged (for reducing emissions from farming, for example, the choice to "use CAP payments to install air scrubbers" might be enough to "tick the box").

The "types of interventions" listed in Title II are broad categories of interventions that Member States may use in their CAP Strategic Plans. Unfortunately, this part of the Regulation is too broad to be considered as prescriptive.

Articles between 95 and 103 of the CAP Strategic Plan Regulation are important to support our work in trying to make these Plans meaningful for the environment as well. **Article 95** establishes that the Plans will have to be based on a "Assessment of needs". Article 96 says that *"For the specific environmental and climate objectives referred to in points (d), (e)², and (f) of Article 6(1), the assessment [of needs] shall take into account the national environmental and climate plans emanating from the legislative instruments referred to in Annex XI"*. Both the Ambient Air Quality Directives and the National Emission ceilings Directive are listed in Annex XI. This means that member States, when drafting the content of the Plans, will have to consider which are the commitments that they already agreed on also under the relevant air quality legislation.

This is particularly important considering the ongoing preparation of the National Air Pollution Control programmes (under the NEC Directive) and (on energy policies) the National Energy and Climate Plans (under the Governance Regulation - which member States had been invited to prepare also considering the commitments under the NEC Directive).

Article 95 also clarifies that the Strategic Plan must include an "Intervention Strategy", which content is clarified by article 97: *"targets for each relevant common and, where relevant, CAP Strategic Plan specific result indicators and related milestones"; "interventions, based on the types of intervention set out in Title III"; "elements showing how the interventions allow reaching the targets and how they are mutually coherent and compatible" and "elements demonstrating that the allocation of financial resources to the interventions of the CAP Strategic Plan is justified and adequate to achieve the targets set, and is consistent with the financial plan"*.

In addition, part 2 of article 97 says:

"2. The intervention strategy shall also provide the following elements, showing the consistency of the strategy and the complementarity of interventions across the specific objectives set out in Article 6(1):

(a) an overview of the environmental and climate architecture of the CAP Strategic Plan which describes the complementarity and baseline conditions between the conditionality and the different interventions addressing the

² (e) foster sustainable development and efficient management of natural resources such as water, soil and air;

specific environmental- and climate-related objectives set out in points (d), (e), and (f) of Article 6(1), as well as the way to achieve the greater overall contribution set out in Article 92;

(b) an explanation of how the environment and climate architecture of the CAP Strategic Plan is meant to contribute to already established long-term national targets set out in or deriving from the legislative instruments referred to in Annex XI;

(c) in relation to the specific objective 'attract young farmers and facilitate their business development' set out in point (g) of Article 6(1), an overview of the CAP Strategic Plan relevant interventions and specific conditions such as those specified in Articles 22(4), 27, 69 and 71(7) shall be presented. Member States shall in particular refer to Article 86(5) when presenting the financial plan in relation to the types of interventions referred to in Articles 27 and 69. The overview shall also explain the interplay with national instruments with a view of improving the consistency between Union and national actions in this area;

(d) an overview of the sector-related interventions, including coupled income support as referred to in Subsection 1 of Section 3 of Chapter II of Title III and the sectoral interventions referred to in Chapter III of Title III, providing a justification for targeting the sectors concerned, the list of interventions per sector, their complementarity, as well as the possible specific additional targets related to the interventions based on the sectoral types of interventions referred to in Chapter III of Title III;

(e) an explanation as to which interventions will contribute to ensure a coherent and integrated approach to risk management;

(f) a description of the interplay between national and regional interventions, including the distribution of financial allocations per intervention and per fund".

Article 92 affirms that **Member States shall aim to make, through the CAP Strategic Plan, a greater overall contribution to the achievement of the specific environmental - and climate-related objectives**, with an obligation to explain how this contribution will be achieved on the basis of available information.

Article 94 clarifies what are the **procedural requirements for the preparation of the Plan**:

"1. Member States shall draw up the CAP Strategic Plans based on transparent procedures, in accordance with their institutional and legal framework.

*2. The body of the Member State responsible for drawing up the CAP Strategic Plan shall ensure that the competent authorities for the environment and climate are **effectively involved in the preparation** of the environmental and climate aspects of the plan.*

3. Each Member State shall organise a partnership with the competent regional and local authorities. The partnership shall include at least the following partners:

(a) relevant public authorities;

(b) economic and social partners;

*(c) **relevant bodies representing civil society** and where relevant bodies responsible for promoting social inclusion, fundamental rights, gender equality and non-discrimination.*

Member States shall involve those partners in the preparation of the CAP Strategic Plans.

4. Member States and the Commission shall cooperate to ensure effective coordination in the implementation of CAP Strategic Plans, taking account of the principles of proportionality and shared management”.

Conclusions:

If from one side the CAP Strategic Plan Regulation is asking Member States to consider existing environmental and climate commitments and also asking Member States to make a greater overall contribution to the achievement of those specific environmental - and climate-related objectives through this Plan; on the other side, no criteria/conditions are defined at EU level in order to channel the CAP money towards effective measures. Member States are not bound by any condition when allocating the money at national level. There are no minimum requirements about the “quality” of the measures/actions supported at national level in order to contribute to reduce the environmental impact of agriculture.

This could be seen as a potential failure: the money distributed to farmers, and the lack of obligation on results at EU level, would not facilitate the achievement of the objectives that had already been established under EU related legislation on air quality. Member States have, at the moment, the right to present as “environmental benefitting”, measures which from a cost-effectiveness point of view might not be worth. CAP payments should be based on effective results and not on commitments.

Regarding the procedural requirements for the preparation of the Plan:

Art 125 ex-ante evaluation of the CAP strategic plan, by the national authority responsible for preparing the Plan (art 125). Evaluation acried out by the drafter, strange no? the ex-ante evaluation shall incorporate the requirements for strategic environmental assessment set out in Directive 2001/42/EC taking into account climate change mitigation needs

Despite the lack of specific minimum targets to be achieved, which will affect both the quality/effectiveness of the Plan, and also the evaluation of Member States’ Annual Performance Reports on realised output and expenditure (as well as distance to targets set for the whole period, to be presented to the EC), Regulation’s article number 94 on procedural requirements is, at it reads now, misleading: requirements on public participation are not duly described and there is a lack of

The preparation of a “plan” is subject to the EU Directive 2003/35³ on public participation. Therefore, the public should be given early warning about the right to participate at the early stage of the decision-making process which will lead to the preparation of the Plan; enough time should be given to the general public to provide feedback (at least 3 weeks) and Member States have to include non-governmental organisations which have an interest on the subject in the decision-making process. Despite this last obligation, a good thing would be to already write an official letter to the competent Ministries highlighting the interest of your organization in participating in the preparation of the Plan.

The Regulation on the “CAP Strategic Plan” says, in the memorandum, that *“the new model aims at better achieving EU objectives based on strategic planning, broad policy interventions and common performance indicators, thus improving policy coherence across the future CAP and with other EU objectives”*. It establishes that *“Member States will present their proposed interventions to achieve the EU specific objectives in a CAP Strategic*

³ <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32003L0035>

Plan. The legislation lays down rules on the content of such a CAP Strategic Plan and the Commission will check the plans and approve them".

Member States will have to prepare Annual Performance Reports on realised output and expenditure as well as distance to targets set for the whole period, expressed as values of result indicators. These reports will be evaluated by the EC following the rules set in paragraphs 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016.