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By email to: AQconsultations@defra.gov.uk and consultation.cordinator@defra.gov.uk

3 September 2022

Dear Sirs,

Response to consultation on draft National Air Pollution Control Programme

I am writing on behalf of Clean Air in London (CAL) in response to the consultation, “Air Quality: Consultation on the draft National Air Pollution Control Programme”.

CAL campaigns to achieve, urgently and sustainably, full compliance with World Health Organisation (WHO) guidelines for air quality throughout London and elsewhere in the UK.

Following the government’s consultation last year on reducing ammonia emissions from solid urea fertilisers, CAL engaged repeatedly with Defra to try to ensure meaningful action that would ensure full compliance with the National Emissions Ceilings Regulations 2018 (NECR). Through this correspondence CAL made clear that in relation to ammonia (NH₃) and fine particulate matter (PM_{2.5}) the Secretary of State:

- i. failed to prepare a National Air Pollution Control Programme (NAPCP) in April 2019 which would ensure the UK’s national emission reduction commitments would be met, in breach of Regulation 9(1) NECR;
- ii. failed to implement the 2019 NAPCP in breach of Regulation 9(1) NECR; and
- iii. given the projected failures to meet the UK’s national emission reduction commitments in April 2019 and March 2020, should have commenced review of the NAPCP immediately.

The March 2022 inventory showed emissions met the 2020 ceiling for NMVOCs, PM_{2.5}, NO_x and SO₂. For ammonia an adjustment was sought from the United Nations Economic Commission for Europe (UNECE) experts. In reality, measures to reduce ammonia and particulate matter in time were either taken too late or not at all. Compliance with NECR has been achieved in 2020, if at all (we do not know that an adjustment has been approved) through the use of technical adjustments to the baseline calculation as opposed to meaningful action. COVID lockdowns will also have had one-off effects.

I attach a detailed legal opinion setting out past breaches of the NECR and ask that this be taken into account in drafting and implementing the NAPCP. CAL’s further comments in relation to the draft NAPCP are set out below.

Themes

1. Highest common denominator: Best practice measures must be applied everywhere

The draft NAPCP provides proposed actions by each of the devolved governments but it is striking that the level of ambition and consequently the strength of the proposed measures varies hugely between

each nation. As a minimum we would expect that the ‘highest common denominator’ be applied through the UK. The varying level of ambition can be seen in the following examples:

- **Domestic combustion.** The strategies for England, Wales and Northern Ireland, place some limits on the sale of some types of wood and coal fuels. There are no measures proposed to reduce the use of fossil fuels in housing, just changing the fuel type. However, Scotland commits to require that all homes use zero emission heating and cooling where possible by 2045 phasing out the use of fossil fuel boilers and using electric heating to heat networks. See also section 7 below.
- **Transport.** The Welsh Government has set a target of 45% of journeys to be made by public transport, walking and cycling. This represents an increase of 13% of the current situation. Northern Ireland also is proposed to increase the percentage of journeys made by these modes. No similar targets are made in the other nations. CAL would note that the targets based on the percentage of journeys made still allows for growth in the use of fossil fuelled vehicles and targets based on absolute distance travelled would have more of an air quality impact.
- **Ammonia.** The Welsh Government has already introduced mandatory requirements to reduce ammonia emissions through Regulations. This requires measures that have not been introduced in other nations including simple requirements for covering of manure piles.

The level of variation in the measures being proposed provides an opportunity for considerable improvements to be made resulting in much larger reductions in emissions of air pollutants. At a bare minimum, the most effective measures currently proposed by each of the four devolved governments should be identified and applied nationally i.e. the highest common denominator.

I attach a note about the cosy world of the wood stove industry and ask that this be taken into account in drafting and implementing the NAPCP¹ and². Please also refer to our analysis of the implementation of Ecodesign Regulations for wood burning stoves³ and⁴ which highlights the need for further action.

2. PM_{2.5}

The draft NAPCP appears to take as its target superficial compliance with the National Emissions Ceiling Directive (NECD) and does not recognise that other measures will require further reductions in emissions. The Environment Act 2021 establishes a duty to set a new target for PM_{2.5} to replace the current Stage 2 indicative limit value of 20µg/m³ as an annual mean by 1 January 2020 (see Annex XIV in Directive 2008/50/EC); this is currently proposed to be 10µg/m³ by 2040 with a Population Exposure Target of a 35% reduction by 2040. These targets are well above the new WHO guideline for PM_{2.5} of 5µg/m³ which must be considered as the real target to protect public health.

CAL is therefore concerned that the draft NAPCP appears to have no plans aimed specifically at addressing the new targets. The proposals within the plan are based on superficially meeting NECD targets which were set when PM_{2.5} standards and guidelines were much higher. The NAPCP therefore needs urgent revision to include new measures to demonstrate a commitment to meeting the new targets.

¹ https://cleanair.london/app/uploads/CAL-436_Update-re-WSI_010222.pdf

² <https://cleanair.london/hot-topics/clean-air-in-london-exposes-cosy-world-of-the-wood-stove-industry/>

³ https://cleanair.london/app/uploads/CAL-432-Update-re-Ecodesign-Regulations-291221_Final.pdf

⁴ <https://cleanair.london/health/implementation-of-ecodesign-regulations-from-1-january-2022-is-an-important-step-on-the-path-to-banning-wood-burning/>

I attach a note setting out how the new WHO guideline for PM_{2.5} could be achieved by 2030 or earlier⁵ and ask that this be taken into account in drafting and implementing the NAPCP.

3. Lack of action to date

The draft NAPCP demonstrates how slowly the government has progressed with the actions it proposed in the Clean Air Strategy 2019 (CAS). For instance:

- a mandatory standard for new livestock buildings was proposed but work has not yet started;
- best available techniques for the dairy and intensive beef sector is only “nearing completion” and stakeholder engagement has not yet begun; and
- draft rules on reducing ammonia emissions from agriculture have not been completed and no consultation has started.

The lack of progress on these measures is inexplicable, particularly since many of these were aimed at reduction in ammonia emissions where a non-compliance with the NECD was expected at the time of publication of the Clean Air Strategy.

4. Ammonia

The draft NAPCP is complacent with regard to emissions of ammonia and this appears to reflect the Government's lack of interest in this pollutant. Hardly any measures have been introduced to reduce emissions during the history of the NECD and Gothenburg protocol. Indeed, no statutory measures have been introduced with the urea fertiliser measures being introduced through a voluntary scheme. As a result, the reductions in ammonia emissions over the last 10-12 years have been small and other countries have made much greater improvements (64% in the Netherlands, 40% in Denmark as stated in the Clean Air Strategy).

Even very simple measures have not been taken such as covering of manure piles and washing of dairy collection yards is not mandated, only a suggestion is made that these would be followed using “incentives and grants” and there is no commitment to a particular timescale.

This lack of action does not reflect the problems currently experienced with ammonia levels and nitrogen deposition on designated sites for nature conservation. There is a wealth of evidence that nitrogen deposition levels exceed critical loads at many designated sites. There is also new guidance from the Joint Nature Conservation Committee (JNCC) setting important Decision-making Thresholds for ammonia and N-deposition levels. The draft NAPCP does not appear to take these effects into account and solely concerns itself with meeting an outdated target. In reality, urgent action is required to reduce ammonia emissions and to work towards meeting the critical loads at all designated sites in the UK.

5. Transport emissions

The draft NAPCP is strangely silent on any measures aimed at road transport and has limited measures aimed at maritime and aviation. It is unacceptable that where compliance with the EU NO₂ annual limit value is not expected until beyond 2025 that further measures to reduce motor vehicle emissions are not proposed. There are no proposals to reduce the use of private vehicles and where targets are proposed by some nations, these are based on a percentage in overall journeys rather than an absolute reduction.

⁵ https://cleanair.london/app/uploads/CAL-467-Achieving-WHO-AQGs-asap_080822.pdf

This would allow overall journeys to increase (potentially resulting in an increase in road transport) yet still appear as if the target had been met.

It is disappointing that there is limited focus on the Maritime Sector both in terms of emissions related to ports and offshore emissions. In 2019 the government introduced the requirement for Port Air Quality Strategies to be prepared. This has provided the groundwork for developing a range of measures to reduce emissions from this sector but this does not appear in the draft NAPCP and there is consequently no policy impetus to drive improvement in this sector. A Clean Maritime plan is proposed in 2023 but this was originally proposed to be produced in 2019 in the Clean Air Strategy.

This is another example of where government progress has been too slow. Furthermore, the Clean Air Strategy also proposed to extend the current Emission Control Areas (ECAs) in UK waters but no progress has been made to date with only a vague commitment to consult on a “possible” extension to an existing ECA. Please refer to CAL’s note on PM_{2.5} measures to comply with the new WHO air quality guideline for PM_{2.5} that identifies much needed shipping measures.

6. Industrial emissions

Defra’s approach to establishing Best Available Techniques (BAT) for the UK to prevent or reduce emissions and impacts on the environment are very weak⁶. It is essential that:

- i. health impacts are acknowledged and fully addressed;
- ii. the polluter-pays principle and sanctions are strengthened;
- iii. access to justice for the public and civil society is improved, including a compensation right for citizens;
- iv. cattle are fully included and thresholds for livestock units generally are lowered;
- v. BAT applies to the spreading of all agricultural waste (such as manure);
- vi. coal combustion needs to be phased out as does fossil fuel gas combustion by 2035; and
- vii. BAT is aligned with climate legislation with faster implementation of the clean energy transition.

Importantly, BAT needs to move beyond incremental end-of-pipe solutions to incentivise system change. Please focus on the end product or output e.g. energy. Please take this into account when drafting and implementing the NAPCP.

7. Climate Change Committee recommendations

The NAPCP should also incorporate policy recommendations from the Climate Change Committee. CAL has shown, for example, how the government has failed to follow the CCC’s recommendation not to support wood-burning stoves, open fires or the use of any other biomass for heat as part of climate policy and phase out their use over time⁷.

⁶ <https://www.gov.uk/government/publications/establishing-the-best-available-techniques-for-the-uk-uk-bat/establishing-the-best-available-techniques-for-the-uk-uk-bat>

⁷ <https://cleanair.london/health/ban-domestic-wood-burning-in-urban-areas/>

I attach CAL's research into these issues and ask that it be taken into account in drafting and implementing the NAPCP^{8 and 9}.

Overall

8. Conclusion

The draft NAPCP indicates that the UK will miss their emissions reduction commitments for 2030 unless additional policies and measures are carried out. However, the commitment and timescales for these policies and measures is very limited with hardly any absolute commitments to improvements and no defined timescales. It must also be taken into account that the emission reduction commitments were defined at a time when PM_{2.5} standards and guidelines were much higher and hence further action beyond these measures is required.

The NAPCP needs revision to provide absolute commitment to measures, a detailed timetable and an assessment of the impact of the proposed measures to provide confidence that the UK is taking the necessary action to provide its citizens with their right to clean air.

It is imperative that the draft NAPCP responds to past failings and breaches of the NECR, as set out in the attached legal opinion and other documents, and paves the way for timely measures that will achieve real emission reductions in accordance with the NECR, targets set out under the Environment Act 2021 and full compliance with the new WHO air quality guidelines.

Yours faithfully,

Simon Birkett
Founder and Director

Enclosures

⁸ https://cleanair.london/app/uploads/CAL-429-and-422-CAL-Update-re-CCC-and-wood-burning_Updated-221221-V3.pdf

⁹ <https://cleanair.london/health/ban-domestic-wood-burning-in-urban-areas/>