

Manual of European Environmental Policy

The following pages are a section from the Manual of European Environmental Policy written by the Institute for European Environmental Policy.

The Manual was published by Earthscan/Routledge from 2010 to 2012. It was designed as an on-line interactive reference work and annual printed versions were also produced.

This section is the text of the Manual as published in 2012. It is therefore important to note the following:

- The contents have not been updated since 2012 and no guarantee is given of the accuracy of the contents given potential subsequent developments.
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Historic legislation: Smoke and sulphur dioxide

Formal references 80/779/EEC (OJ L229 30.8.80)	Directive on air quality limit values and guide values for sulphur dioxide and suspended particulates.
Proposed 25.2.76 – COM(76)48 (OJ C 1976/63/19)	
Legal base	Articles 115 TFEU (originally Article 100 EEC Treaty) and 352,353 TFEU (originally Article 235 EEC Treaty)
89/427/EEC (OJ L201 14.7.89)	Amendment
91/692/EEC (OJ L377 31.12.1991)	Amendment
Binding dates	
Notification date	17 July 1980
Formal compliance	17 July 1982
Limit values to be met, if possible	1 April 1983
Improvement plans to be submitted to Commission where limited values not met	1 October 1982
Limit values must be met	1 April 1993

Directive 80/779/EEC was repealed between 19 July 2001 and 1 January 2005 by the Air Quality Framework Directive [96/62/EC](#) and its daughter Directive [1999/30/EC](#).

Purpose of the Directive

Although air quality guidelines had previously been set in some Member States, and had been set mandatorily in the Federal Republic of Germany, the Directive was the first piece of Community-wide legislation to lay down mandatory air quality standards. The standards related to sulphur dioxide and smoke and were intended to protect human health and the environment, but the Directive foresaw Member States setting more stringent standards in zones needing special environmental protection.

Summary of the Directive

An Annex I set limit values for the ground level concentration of sulphur dioxide and suspended particulates (smoke) which had to be met throughout Member States during specified periods as shown in [Table 1](#).

Table 1. Limit values ($\mu\text{g}/\text{m}^3$) for smoke and sulphur dioxide (derived from Directive 80/779/EEC)

Reference period	Limit values – smoke	Limit values – sulphur dioxide
Year (median of daily values)	80	If smoke less than 40:120 If smoke more than 40:80
Winter (median of daily values 1 October–31 March)	130	If smoke less than 60:180 If smoke more than 60:130
Year (peak) (98 th percentile of daily values)	250	If smoke less than 150:350 If smoke more than 150:250

The limit values were given in micrograms per cubic metre using a prescribed measuring method for sulphur dioxide and an OECD method of measurement for smoke – the ‘black smoke’ method. The Directive allowed another method – the gravimetric method – to be used also, in which case different limit values applied. The limit values were to be met by 1 April 1983, but if that seemed unlikely in certain zones the Commission was to be informed and plans for the progressive improvement of those zones were to be submitted to the Commission by 1 October 1982. Compliance with the limit values was to have been achieved, at the latest, by 1 April 1993.

A general duty was also laid on Member States to endeavour to move towards more stringent guide values set out in an Annex II. These guide values could also be used as reference points for the establishment of specific schemes in two types of zones which Member States could designate:

- Zones where the Member States considered it necessary to prevent a foreseeable increase in pollution in the wake of urban or industrial development (Article 4(1)).
- Special environmental protection zones (Article 4(2)).

What was known as the ‘standstill principle’ was also enunciated: air quality was not to be allowed to deteriorate significantly even in areas where pollution was well below the limit values. However, a minute of a Council meeting recorded a declaration of both Council and Commission that this was not to be interpreted as prohibiting the siting in such areas of new plants that could be sources of smoke or sulphur dioxide.

Member States had to establish monitoring stations designed to supply data necessary for the application of the Directive, in particular in zones where the limit values were likely to be approached or exceeded. Member States fixing values in border regions had to consult one another and the Commission could attend these consultations. Once a year Member States had to inform the Commission of instances when limit values had been exceeded, together with the reasons and the measures which had been taken to avoid recurrences. A questionnaire for reporting by the Member States was developed by the Commission under the Standardised Reporting Directive [91/692/EEC](#) (see section on implementation and enforcement of legislation). Each year the Commission had to publish a summary report of the application of the Directive.

In September 1996 the Air Quality Framework Directive [96/62/EC](#) was adopted. This provided for the establishment of new EC air quality standards by daughter Directives, including for

particulates and sulphur dioxide. In April 1999 the first daughter Directive was adopted. Directive [1999/30/EC](#) introduced new limit values for, *inter alia*, particulates and sulphur dioxide. As a result, Directive 80/779/EEC was repealed. Some of the Directive was repealed on 19 July 2001, with Articles 1, 2(1), 3(1), 9, 15, 16 and Annexes I, IIIb and IV of the Directive being repealed on 1 January 2005.

Development of the Directive

Following agreement on the Sulphur Content of Gas Oil Directive [75/176/EEC](#) (see section on the sulphur content of certain liquid fuels) the Commission proposed two more Directives on sulphur dioxide which came to be considered together.

The fuel oil proposal was an attempt by the Commission to prevent distortion to competition following similar national legislation proposed in the Netherlands, but the proposal effectively died in early 1978 when only four Member States were found to support it even in principle. The British government was opposed on the grounds that the cost to industry would have produced little environmental benefit, since a switch to low-sulphur fuel oil would have to be made even if coal was the major cause of the pollution. It took the view that the air quality proposal effectively achieved the same desired end but left Member States free to use the most appropriate means.

Opposition in principle to the air quality proposal came from the French government which felt that the proposed standards were at once too strict (some French industrial zones did not meet the limit values) and not strict enough (most rural areas had better air quality and the limit values would then be seen as a licence to pollute). These points were met by amending the proposal to include the derogation provision allowing time (until 1993) for meeting the values, and provisions for Member States at their own discretion to set more stringent values. The United Kingdom expressed concern as was an example of a Member State that did not have legally binding environmental quality standards, so this development in EU law marked a major domestic change (although today there are many such EU standards).

The European Parliament welcomed the proposal but in one of its detailed points of criticism revealed a lack of understanding of what was meant by an environmental quality standard. The Parliament's Resolution called for an amendment requiring Member States to ensure that their national legislation made provision 'for the imposition of fines on undertakings which do not comply with the norms'. This Resolution failed to take into account the difficulty of separating quantitatively the effects of the different sources of pollution, a problem inherent in any mandatory quality standard.

There was also some debate amongst scientists and policy makers over the robustness of the interaction between smoke and sulphur dioxide concerning health impacts and, therefore, the limit values proposed. The technical issues underlying these were never satisfactorily explained and the assertion by the responsible Commissioner, Mr Burke, in the European Parliament's debate (11 March 1977) that the Commission had produced proposals 'with an incontrovertible scientific basis' was never justified.

In addition to the changes made to satisfy the French objections some changes to the limit values

were also made in response to British pressure. The German government insisted on being able to continue using the gravimetric method of measurement rather than that proposed by the Commission and as a result the Directive allowed either to be used despite the fact that the two methods were hard to compare. A separate Directive [89/427/EEC](#) subsequently amended the measurement provisions for the gravimetric method used in Germany, Italy and Denmark.

Implementation of the Directive

Information on national transposition of Directive 80/779/EEC can be found in the national [execution measures](#)

In November 2002 the European Commission published a report on the state of implementation of the Directive ([COM\(2002\)609](#)). Few exceedances of limit values were reported for the period 1997–1999.

Enforcement and court cases

One case was concluded in the European Court of Justice concerning Directive 80/779/EEC. [C-361/88](#) 30.05.1991, was brought by the Commission against Germany upon the failure to transpose the Directive within the prescribed time limit. The Court found that Germany was in breach of its obligations.

Related legislation

The overall objectives of Directive 80/779/EEC have now been incorporated into the Air Quality Framework Directive [2008/50/EC](#) and the reader is directed to this section to explore related legislation.