

The CAQM Act 2021: An Overview

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BRIEF

Air pollution sources transcend administrative boundaries. By framing air pollution as a predominantly urban issue, policy measures too have been mostly restricted to city boundaries. Coordinating efforts at regional, 'airshed' levels thus becomes essential to achieve substantive improvements in air quality. [The Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021](#) ("CAQM Act") is an important milestone for enabling airshed level governance in India. However, by restricting itself to the National Capital Region (NCR), the legislation missed an opportunity to create a nationwide template.

This Brief provides an overview of the new legislation, its strengths and limitations, and the path ahead for enabling airshed level governance in the rest of the country. With many significant questions yet to be deliberated on defining the boundaries of airsheds and designing institutions to govern them, the CAQM template may not necessarily be the most appropriate approach for replicating in other parts of India.

Timeline for the enactment of the CAQM Act

16 October 2020	Supreme Court constitutes a one-man committee headed by retired Supreme Court judge, Justice Madan Lokur, to monitor stubble burning.
28 October 2020	Ordinance promulgated to establish CAQM, replacing the Lokur committee and dissolving the Environment Pollution (Prevention and Control) Authority (EPCA).
12 March 2021	Ordinance lapses with no bill tabled before Parliament within the deadline.
13 April 2021	Ordinance repromulgated with a few significant changes: stubble burning by farmers removed from the purview of criminal offence; instead the CAQM may impose and collect environmental compensation from farmers.
30 July 2021	CAQM Bill, 2021 introduced in the Lok Sabha.
13 August 2021	CAQM Act, 2021 comes into force.

Salient features of the CAQM Act

- Creates a 21-member body with a full-time chair and primarily bureaucratic representation.
 - **Full time members** including the Chairperson, the Member Secretary, a current or former Joint Secretary, and three technical members having knowledge and experience in air pollution. (At the time of writing this — 15 September 2021 — the union government is yet to appoint two technical members.)
 - **Ex-officio members** representing the Ministry of Environment, Forest and Climate Change (MoEFCC), the five states in CAQM's jurisdiction (Delhi, Haryana, Rajasthan, Punjab and Uttar Pradesh — one representative each), and NITI Aayog.
 - **Ex-officio technical members** from the Central Pollution Control Board (CPCB) and the Indian Space Research Organisation (ISRO).

- **Other members** including three from non-governmental organisations (NGOs), and three representing agriculture, construction, transport and industry. (So far, [only one member](#) from an NGO has been appointed and five associate members have been appointed from line ministries)
- Provides CAQM a broad mandate with several functions.
 - **Monitor and identify** – Undertake periodic source apportionment studies, identify air polluting agents and monitor measures taken by states to mitigate air pollution.
 - **Safeguard and enforce** – Lay down parameters for air quality, execute plans like the National Clean Air Programme, and take up matters *suo moto*, or on the basis of complaints.
 - **Research and development** – Build networks among technical institutions working on air pollution and develop programmes for the abatement of air pollution.
- Besides providing powers to the CAQM that state pollution control boards already had, the Act departs from previous legislation in two important ways.
 - Allows CAQM to override even the Central Pollution Control Board and state government departments in case of a conflict within this region.
 - Expressly gives CAQM the power to impose and collect environmental compensation from farmers.

Strengths

- **Operationalises airshed level management**, providing the CAQM a structure, mandate and powers which — like the pollution sources — transcend state and jurisdictional boundaries.
- **Full-time members, dedicated staff and resources**, unlike its predecessor, EPCA.
- **Widens the regulatory toolbox**, by explicitly allowing for the use of environmental compensation as a means of enforcement, instead of relying on criminal prosecution alone.
- **May increase accountability** by giving CAQM a broad mandate and providing it with exclusive and overriding powers to discharge the same.

Limitations

- **No consultations were conducted** at any stage of drafting the two ordinances or the bill.
- **Addresses only NCR**, instead of developing a nationwide framework for airshed management.
- **Key ministries and stakeholder groups are underrepresented**
 - Health, rural development, and labour ministries are not represented.
 - Local governments, urban or rural, are not represented.
- **Tilts the environmental federalism balance towards the centre**, with hiring and removal of members, key functions, finances and reporting being subject to union government orders.

Path ahead for enabling airshed level governance

Air quality across India requires airshed level governance, especially over (but not restricted to) the Indo-Gangetic Plain. While operationalising this concept through 'air quality management areas' (AQMAs), approximating its boundaries to administrative boundaries could improve institutional accountability and coordination. The CAQM template — enacting a law creating a new agency with overriding powers, bureaucratic membership, unclear rules of engagement with existing governance structures, and dominated by the centre — remains new and untested. CAQM's predecessor, EPCA, had many of its powers and a similar mandate, but was largely consigned to being an advisory body over its 20 year tenure.

Many important questions remain open for research and deliberation.

- **What are reasonable airshed boundaries from a scientific standpoint?**
 - What fraction of pollutant concentrations are due to emissions within those boundaries? Should boundaries instead be driven by the dominance of a particular source?
- **How should AQMA boundaries map to airshed boundaries?**
 - Given the multiple agencies involved, approximating to tractable administrative boundaries (multiple districts within a state, state boundaries, etc) might help.
- **What role should the union government play?**
 - While several sources in the NCR may fall directly under line ministries, this might not be the case in other airsheds in India.
- **Will new agencies be more effective than 'softer' action plans and committees?**
 - Unknown if new agencies are perceived to be transgressing jurisdictions of state and local government agencies, inhibiting cooperation. The choice of AQMA boundaries, and form of institutional coordination may need to inform each other.

Answers to these questions may guide whether new legislation is truly required to operationalise airshed level governance. If new interstate agencies with overriding powers need not be created, extant legislation provide many hooks to enable state-level or even regional coordination.

References

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