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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Subject:	Commission Staff Working Document: Implementation Plan Accompanying the document Proposal for a Directive of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants

Delegations will find attached document SWD(2013) 536 final.

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COMMISSION STAFF WORKING DOCUMENT

Implementation Plan

Accompanying the document

**Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the limitation of emissions of certain pollutants into the air from medium combustion
plants**

{COM(2013) 919 final}

Implementation Plan¹

1. Title of the document for the proposed act

Proposal for a Directive of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants (MCP Directive).

2. Contact point

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3. Deliverables and implementation challenges

3.1. Key Deliverables

3.1.1. Transposition of the proposed directive

To ensure the effective implementation of the proposed directive across the Union, Member States must transpose it into national law in a complete, correct and timely manner and must guarantee its full application in a sufficiently clear and precise manner.

In addition, Member States must lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to proposed act, also taking all measures necessary to ensure that they are implemented.

3.1.2. Implementation of the proposed directive

- Industry: notification of the operation of, and changes to, medium combustion plants to the competent authority; demonstrating compliance with emission limit values defined in the proposed act; carry out monitoring of emissions at least in accordance with Annex IV; storage of various data (e.g. proof of notification and registration, monitoring results).
- Member States: establishing and managing a publicly available national register for medium combustion plants; set up a system of environmental inspections or implement other appropriate measures to check compliance with the requirements of the proposed act; periodic reports to the Commission on the implementation of the proposed directive.

3.2. Key Challenges

3.2.1. Technical challenges:

¹ This Implementation Plan is provided for information purposes only. It does not legally bind the Commission on whether the identified actions will be pursued or on the form in which they will be pursued.

- The technical means to reach the emission standards contained in the proposed act are commercially available to operators.
- Given that certain Member States already regulate emissions of air pollutants from medium combustion plants, the transposition of this directive may require enacting or amending one or several legal instruments.
- Considering that the permitting of industrial installations is often highly decentralised, with competences delegated to regional and/or local authorities, transposition provisions may be further complicated in some Member States.

3.2.2. Compliance challenges:

- The provisions in the proposed act entail i) compliance costs for the operators (e.g. the cost of additional abatement measures to be installed within the combustion plants), ii) emission monitoring costs for the operators (e.g. costs to allow verifying compliance) and iii) administrative costs both for the operators and on the competent authorities, (e.g. cost of notification and registration, costs of checking compliance).
- Taking into account that medium combustion plants are often also operated by SMEs, a number of mitigation measures have already been accounted for in the proposed act: 1) operators will not require a permit, but need only to notify the operation of the plant to the competent authorities, which will ensure registration; 2) a phased implementation is foreseen for existing plants by means of providing a longer transitional period to comply with the limits; 3) limited or simplified monitoring and reporting obligations compared to the requirements relating to large combustion plants.
- As Member States will have to periodically report to the Commission on the implementation of the Directive, and inform the Commission if derogations are granted under Article 5(6) or 5(7), it is foreseen that the Commission will develop and make available an electronic reporting tool for this purpose.
- To check compliance with the requirements of the Directive, Member States will have to set up a system of environmental inspections or implement other appropriate measures. This will require advance planning and adequate human resources.

3.2.3. Timing challenges:

- The transposition period of 18 months should be sufficient to allow Member States to adopt national rules to implement this directive into their domestic law.
- Enterprises operating existing medium combustion plants have been granted a grace period of six years following the entry into force of the proposed act for applying the emission limit values set out in this directive. This interval is considered sufficient to allow the operators of such plants to adapt to the requirements.

4. Support actions

4.1. Possible Commission actions

4.1.1 To promote complete, correct and timely transposition of the proposed directive

Upon the entry into force of the proposed directive:

- Creating a framework to enable an exchange of information on transposition and implementation. This framework may be integrated in existing or foreseen platforms and/or expert groups, including new platforms that will be created as part of the European Clean Air Programme.
- Provide a transposition checklist to Member States addressing key aspects of the transposition obligations.
- Request Member States to nominate contact points and inform the ENV contact point.

Between the entry into force and the transposition deadline of the proposed directive:

- Periodic updates and reminders on the state of transposition, challenges, and solutions; as a minimum, reminder letters will be sent to Member States prior to the expiry of the transposition deadline.
- A transposition workshop with the Member States may be organised on a needs basis.
- The Europa website will be updated to include the MCP Directive including a section dedicated to transposition also comprising a transposition scoreboard that will go "live" from approx. 6 months prior to the transposition deadline.

Upon expiry of the transposition deadline of the proposed directive:

- Commissioning of conformity studies following the notification of national measures, and open a dialogue with the Member States concerned where conformity problems are identified.
- Should the informal dialogue fail to elicit Member States commitments to correct problems, the Commission may launch EU-Pilot cases to ask clarifications from the concerned Member States on these identified shortcomings and whether and what measures would they intend to take to correct them together with a timetable.
- Should an EU-Pilot file fail to lead to a complete and correct transposition, the Commission may contemplate the option consisting in launching infringement procedures.

4.1.2 To promote complete, correct and timely implementation of the proposed directive

- Pursue continuous informal dialogue with Member States' contact points established during the transposition phase and using the platforms referred to above.
- Updating the dedicated section on the Europa website to include relevant implementation guidance and/or information for the MCP Directive including FAQs and good practice examples.
- Facilitating bilateral and/or multilateral meetings with Member States, where there appear specific challenges requiring further attention.

4.2. Possible Member State actions:

- Preparing 'explanatory documents' on transposition and with the possibility to consult the Commission on draft transposition measures (mandatory).
- Identify and nominate the appropriate liaison officers to take part in further technical discussions (mandatory).

- Inform the Commission about any potential problems related to implementation as soon as they are identified, and to share information related to implementation (recommended).
- Set up dedicated national web-pages (recommended) in order to, *inter alia*:
 - raise awareness and early adaptation to the new legal requirements;
 - disseminate general information on the directive to the operators;
 - offer a platform for FAQs and exchange of best practices.
- Develop e-services to support operators for, *inter alia*:
 - notification of the operation of the medium combustion plant;
 - reporting (e.g. on non-compliance);
 - storing of monitoring results in accordance with Article 8(2).