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THE EUROPEAN UNION**

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| No. Cion doc.:  | 18170/13 ENV 1236 ENER 601 IND 389 TRANS 694 ENT 357 SAN 557<br>PARLNAT 326 CODEC 3089 - COM(2013) 919 final   |
| Subject:        | Proposal for a Directive of the European Parliament and of the Council on the<br>limitation of emissions of certain pollutants into the air from medium<br>combustion plants<br>- Presidency compromise text |

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Following earlier discussions within the WPE and the Council debate which took place on 12 June, delegations will find attached a revised Presidency compromise on the proposal above-mentioned.

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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee <sup>1</sup>,

Having regard to the opinion of the Committee of the Regions <sup>2</sup>,

Acting in accordance with the ordinary legislative procedure <sup>3</sup>,

Whereas:

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> Position of the European Parliament of xx/xx/xxxx (OJ C ..., p. ...) and position of the Council at first reading of xx/xx/xxxx (OJ C ..., p. ...). Position of the European Parliament of xx/xx/xxxx (OJ C ..., p....) and decision of the Council of xx/xx/xxxx.

- (1) Decision XXX/XXXX of the European Parliament and of the Council <sup>4</sup> (the Action Programme) recognises that emissions of pollutants to air have been reduced significantly over the past decades, but at the same time air pollution levels are still problematic in many parts of Europe, and citizens of the Union continue to be exposed to air polluting substances, potentially compromising their health and wellbeing. According to the Action Programme, ecosystems continue to suffer from excess nitrogen and sulphur deposition associated with emissions from transport, unsustainable agricultural practices and power generation.
- (2) In order to ensure a healthy environment for all, the Action Programme calls for local measures to be complemented with adequate policy at both national and Union level. It requires in particular strengthening efforts to reach full compliance with air quality legislation of the Union and defining strategic targets and actions beyond 2020.
- (3) Scientific assessments show that the average lifetime loss for citizens of the Union due to air pollution is of eight months.
- (4) Emissions of pollutants from the combustion of fuel in medium combustion plants are generally not regulated at Union level although they contribute increasingly to air pollution, due in particular to an increase in the use of biomass as a fuel, driven by climate and energy policy.

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<sup>4</sup> Decision XXX/XXXX of the European Parliament and of the Council of ... .. on a General Union Environment Action Programme to 2020 "Living well, within the limits of our planet" (OJ L... ,... .. , p...).

- (5) The combustion of fuel in small combustion plants and appliances can be covered by acts implementing Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products <sup>5</sup>. Combustion of fuel in large combustion plants is covered by Directive 2010/75/EU of the European Parliament and of the Council <sup>6</sup> from 7 January 2013, while Directive 2001/80/EC of the European Parliament and of the Council <sup>7</sup> continues to apply to large combustion plants covered by Article 30(2) of Directive 2010/75/EU until 31 December 2015.
- (6) The report of the Commission of 17 May 2013 <sup>8</sup> on the reviews undertaken under Article 30(9) and Article 73 of Directive 2010/75/EU concluded that for the combustion of fuels in medium combustion plants, a clear potential for cost-effective abatement of air emissions was demonstrated.
- (7) The Union's international obligations on air pollution to abate acidification, eutrophication, ground-level ozone and emissions of particulate matter are agreed under the Gothenburg Protocol of the Convention on Long Range Transboundary Air Pollution, which was amended in 2012 to strengthen the existing reduction commitments for sulphur dioxide, nitrogen oxides, ammonia and volatile organic compounds and introduce new reduction commitments for fine particulate matter (PM 2.5), to be attained from 2020 onwards.

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<sup>5</sup> Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p.10).

<sup>6</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJ L 334, 17.12.2010, p.17).

<sup>7</sup> Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (OJ L 309, 27.11.2001, p. 1).

<sup>8</sup> COM(2013)286 final.

- (8) The Communication from the Commission to the Council and the European Parliament "A Clean Air Programme for Europe" <sup>9</sup> calls for action to control emissions of air polluting substances from medium combustion plants, thereby completing the regulatory framework for the combustion sector. The Strategy completes the pollution reduction agenda for 2020 laid down in Commission Communication of 21 September 2005 on the Thematic Strategy on Air Pollution <sup>10</sup>, and develops impact reduction objectives for the period up to 2030. To achieve the strategic objectives, a regulatory agenda should be established, including measures to control emissions from medium combustion plants.
- (9) This Directive should not apply to energy related products covered by implementing measures adopted in accordance with Directive 2009/125/EC. **Medium combustion plants that are part of a combustion plant covered** by Chapter III **(because of the aggregation rule set out in Article 29)** or **by Chapter IV (because waste is being fired)** of Directive 2010/75/EU **should also be exempted from the scope of this Directive as they already are subject to Union-wide minimum requirements under Directive 2010/75/EU.** Certain other combustion plants should also be exempted from the scope of this Directive, on the basis of their technical characteristics or their use in particular activities.
- (10) In order to ensure the control of emissions of sulphur dioxide, nitrogen oxides and particulate matter into the air, each medium combustion plant should operate only if it is at least registered by the competent authority, based on notification by the operator.
- (11) For the purposes of controlling emissions into air from medium combustion plants, emission limit values and requirements for monitoring should be set out in this Directive. **For medium combustion plants covered by Chapter II of Directive 2010/75/EU, these emission limit values and monitoring requirements should be considered to represent the Union-wide minimum requirements.**
- (12) In order to provide existing medium combustion plants with sufficient time to adapt technically to the requirements of this Directive, the emission limit values should apply to those combustion plants after a fixed period from the date of application of this Directive.

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<sup>9</sup> COM(2013) xxx final.

<sup>10</sup> COM(2005) 446 final.

- (13) In accordance with Article 193 of the Treaty on the Functioning of the European Union (TFEU), this Directive does not prevent Member States from maintaining or introducing more stringent protective measures, for example for the purposes to comply with environmental quality standards. In particular, in zones not complying with air quality limit values, more stringent emission limit values, which would also promote eco-innovation in the Union, facilitating in particular market access of small and medium enterprises, should be applied by Member States, such as the benchmark values set out in Annex III to this Directive.
- (14) Member States should ensure that the operator of a medium combustion plant and the competent authority each take the necessary measures in the event of non-compliance with this Directive.
- (15) In order to limit the burden for small and medium enterprises operating medium combustion plants, the administrative obligations on operators for notifying, monitoring and reporting should be proportionate, while still allowing effective compliance verification by the competent authorities.
- (16) To ensure the consistency and coherence of the Member State information on the implementation of this Directive and promote exchange of information between Member States and the Commission, the Commission, assisted by the European Environment Agency, should develop an electronic reporting tool also available for internal use by Member States for national reporting and data management purposes.
- (17) In order to adapt to scientific and technical progress, the power to adopt acts to adjust the provisions on emission monitoring set out in Annex IV in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

- (18) Since the objectives of this Directive, namely the improvement of environmental quality and human health, cannot be sufficiently achieved by Member States, and can therefore be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (19) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure the application of Article 37 on the environmental protection of the Charter.
- (20) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents<sup>11</sup>, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*  
*Subject matter*

This Directive lays down rules to control emissions of sulphur dioxide, nitrogen oxides and particulate matter<sup>12</sup> into the air from medium combustion plants, and thereby reduce emissions to air and the potential risks to human health and the environment from such emissions.

[...]

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<sup>11</sup> OJ C 369, 17.12.2011, p. 14.

<sup>12</sup> Two delegations : replace "particulate matter" with "dust". Cion: does not find this request sufficiently motivated.

## Article 2

### Scope

1. This Directive shall apply to combustion plants with a rated thermal input equal to or greater than 1 MW and less than 50 MW (hereinafter referred to as ‘medium combustion plants’), irrespective of the type of fuel used.
2. This Directive shall not apply to the following:
  - (a) combustion plants which are covered by Chapter III or Chapter IV of Directive 2010/75/EU;
  - (b) energy related products which are covered by implementing measures adopted in accordance with Directive 2009/125/EC where those implementing acts are setting emission limit values for the pollutants listed in Annex II of this Directive;
  - (c) combustion plants in which the gaseous products of combustion are used for the direct heating, drying or any other treatment of objects or materials;
  - (d) post-combustion plants designed to purify the waste gases from industrial processes by combustion and which are not operated as independent combustion plants;
  - (e) any technical apparatus used in the propulsion of a vehicle, ship or aircraft;
  - (f) combustion plants which are covered by implementing measures adopted in accordance with Regulation (EC) No 1069/2009 of the European Parliament and of the Council<sup>13</sup> where those implementing acts are setting emission limit values for the pollutants listed in Annex II of this Directive;
  - (g) facilities for the regeneration of catalytic cracking catalysts;
  - (h) facilities for the conversion of hydrogen sulphide into sulphur;
  - (i) reactors used in the chemical industry;
  - (j) coke battery furnaces;

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<sup>13</sup> Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (OJ L 300, 14.11.2009, p. 1).



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**3. This Directive shall not apply to research activities, development activities or the testing activities relating to medium combustion plants.**

*Article 3*

*Definitions*

For the purposes of this Directive the following definitions shall apply:

- (1) 'emission' means the discharge of substances from the combustion plant into the air;
- (2) 'emission limit value' means the permissible quantity of a substance contained in the waste gases from the combustion plant which may be discharged into the air during a given period;
- (3) 'nitrogen oxides' (NO<sub>x</sub>) means nitric oxide and nitrogen dioxide, expressed as nitrogen dioxide (NO<sub>2</sub>);
- (4) 'particulate matter' means particles, of any shape, structure or density, dispersed in the gas phase at the sampling point conditions which may be collected by filtration under specified conditions after representative sampling of the gas to be analysed, and which remain upstream of the filter and on the filter after drying under specified conditions;
- (5) 'combustion plant' means any technical apparatus in which fuels are oxidised in order to use the heat thus generated;
- (6) 'existing combustion plant' means a combustion plant put into operation before [1 year after the date of transposition];

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<sup>14</sup> See compromise proposal in Annex II for ELV applicable to specific cases.

- (7) 'new combustion plant' means a combustion plant other than an existing combustion plant;
- (8) 'engine' means a gas engine, diesel engine or dual fuel engine;
- (9) 'gas engine' means an internal combustion engine which operates according to the Otto cycle and uses spark ignition to burn fuel;
- (10) 'diesel engine' means an internal combustion engine which operates according to the diesel cycle and uses compression ignition to burn fuel;
- (11) 'dual fuel engine' means an internal combustion engine which uses compression ignition and operates according to the diesel cycle when burning liquid fuels and according to the Otto cycle when burning gaseous fuels;
- (12) 'gas turbine' means any rotating machine which converts thermal energy into mechanical work, consisting mainly of a compressor, a thermal device in which fuel is oxidised in order to heat the working fluid, and a turbine; this includes both open cycle and combined cycle gas turbines, and gas turbines in cogeneration mode, all with or without supplementary firing;
- (13) 'fuel' means any solid, liquid or gaseous combustible material;
- (14) 'waste' means [...] waste as defined in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council on waste;
- (15) 'biomass' means any of the following:
  - (a) products consisting of any vegetable matter from agriculture or forestry which can be used as a fuel for the purpose of recovering its energy content;

- (b) the following waste:
- (i) vegetable waste from agriculture and forestry;
  - (ii) vegetable waste from the food processing industry, if the heat generated is recovered;
  - (iii) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;
  - (iv) cork waste;
  - (v) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a result of treatment with wood preservatives or coating and which includes, in particular, such wood waste originating from construction and demolition waste;
- (16) ‘operating hours’ means the time, expressed in hours, during which a combustion plant is discharging emissions into the air;
- (17) ‘operator’ means any natural or legal person who operates or controls the combustion plant, or, where this is provided for in national law, to whom decisive economic power over the technical functioning of the plant has been delegated;
- (18) ‘air quality limit value’ means a level fixed on the basis of scientific knowledge, with the aim of avoiding, preventing or reducing harmful effects on human health and/or the environment as a whole, to be attained within a given period and not to be exceeded once attained, as laid down in Directive 2008/50/EC of the European Parliament and of the Council <sup>15</sup>;
- (19) ‘zone’ means part of the territory of a Member State, as delimited by that Member State for the purposes of air quality assessment and management, as laid down in Directive 2008/50/EC.

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<sup>15</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p.1).

Article 4

**Permit or Registration**

1. Member States shall take the necessary measures to ensure that no medium combustion plant [...] is operated without a permit or a registration [...].
2. Member States shall specify the procedure for the permitting or registration [...] and this shall include at least an obligation for the operator to inform [...] the competent authority [...] of the operation or the intention to operate a medium combustion plant and to provide at least the information listed in Annex I.
3. [...]
4. [...]
5. Existing medium combustion plants [...] shall be permitted or registered by [twenty four[...] months after the date of transposition].
6. For each medium combustion plant, [...] the competent authorities may hold a register that includes [...]the information listed in Annex I [...].
  - 6a. Without prejudice to the obligation to hold a permit or a registration, Member States may include requirements for certain categories of medium size combustion plants in general binding rules. Where general binding rules are adopted, the permit or the registration may simply include a reference to such rules.
  - 6b. Provided that the requirements of this Article are complied with, any permit or registration produced pursuant to other national or **Union** [...] legislation may be combined with the permit or the registration required under paragraph 1 to form a single permit **or registration** [...].

*Article 5*  
*Emission limit values*

1. Without prejudice to the provisions of Chapter II of Directive 2010/75/EU, where applicable, the emission limit values set out in Annex II shall apply to individual medium combustion plants.

**1a. Where the waste gases of two or more individual medium combustion plants are discharged through a common stack, the emission limit value may be calculated at the level of that common stack, in accordance with the following steps:**

- (a) taking the emission limit value relevant for each individual plant as set out in Annex II;**
- (b) determining the weighted emission limit value for each individual plant, which is obtained by multiplying the individual emission limit value referred to in point (a) by the actual thermal input delivered by each plant, and dividing the result by the sum of the actual thermal inputs delivered by all plants;**
- (c) aggregating the weighted emission limit values for all plants discharging through the common stack.**

2. From 1 January 2025 emissions into air of sulphur dioxide, nitrogen oxides and particulate matter from an existing medium combustion plant with a rated thermal input above 5 MW shall not exceed the emission limit values set out in Part 1 of Annex II.

From 1 January 2030 emissions into air of sulphur dioxide, nitrogen oxides and particulate matter from an existing medium combustion plant with a rated thermal input of 5 MW or less shall not exceed the emission limit values set out in Part 1 of Annex II.

Member States may exempt existing medium combustion plants which do not operate more than 500 operating hours per year from compliance with the emission limit values set out in Part 1 of Annex II. In that case, for plants firing solid fuels, an emission limit value for particulate matter of 200 mg/Nm<sup>3</sup> shall apply.

3. From [1 year after the date of transposition] emissions into air of sulphur dioxide, nitrogen oxides and particulate matter from a new medium combustion plant **with a rated thermal input above 5 MW** shall not exceed the emission limit values set out in Part 2 of Annex II.

**Without prejudice to Article 5a(1), from 1 January 2025 emissions into air of sulphur dioxide, nitrogen oxides and particulate matter from a new medium combustion plant with a rated thermal input of 5 MW or less shall not exceed the emission limit values set out in Part 2 of Annex II.**

Member States may exempt new medium combustion plants which do not operate more than 500 operating hours per year from compliance with the emission limit values set out in Part 2 of Annex II. In that case, for plants firing solid fuels, an emission limit value for particulate matter of 100 mg/Nm<sup>3</sup> shall apply.

4. In zones not complying with EU air quality limit values laid down in Directive 2008/50/EC, Member States shall assess the need to apply, for individual medium combustion plants in those zones, stricter emission limit values based on the indicative benchmark values laid down in Annex III [...] taking into account that applying such emission limit values would not entail disproportionate costs and that [...] their application would effectively contribute to a noticeable improvement of the air quality.

**Member States [...] shall in any case take proportionate measures to mitigate the contribution of medium combustion plants to the exceedance of the air quality limit values in the concerned zones.**

5. [...]

6. The competent authority may grant a derogation for a maximum of six months from the obligation to comply with the emission limit values provided for in paragraphs 2 and 3 for sulphur dioxide in respect of a medium combustion plant which normally uses low-sulphur fuel, in cases where the operator is unable to comply with those limit values because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage.

Member States shall immediately inform the Commission of any derogation granted under the first subparagraph.

7. The competent authority may grant a derogation from the obligation to comply with the emission limit values provided for in paragraphs 2 and 3 in cases where a medium combustion plant using only gaseous fuel has to resort exceptionally to the use of other fuels because of a sudden interruption in the supply of gas and for this reason would need to be equipped with a secondary abatement equipment. The period for which such a derogation is granted shall not exceed 10 days except where the operator demonstrates to the competent authority that a longer period is justified.

Member States shall immediately inform the Commission of any derogation granted under the first subparagraph.

8. Where a medium combustion plant simultaneously uses two or more fuels, the emission limit value for each pollutant shall be calculated in accordance with the following steps:
- (a) taking the emission limit value relevant for each individual fuel as set out in Annex II;
  - (b) determining the fuel-weighted emission limit value, which is obtained by multiplying the individual emission limit value referred to in point (a) by the thermal input delivered by each fuel, and dividing the **result [...]** by the sum of the thermal inputs delivered by all fuels;
  - (c) aggregating the fuel-weighted emission limit values.

## Article 5a

### Aggregation rules for medium combustion plants with a rated thermal input of 5 MW or less

1. Where the waste gases of two or more individual medium combustion plants with a rated thermal input of 5 MW or less are discharged through a common stack or, in the judgement of the competent authority taking technical and economic factors into account, could be discharged through a common stack, the combination formed by such plants shall be considered as a single combustion plant and their capacities added for the purpose of calculating the total rated thermal input.
2. For the purpose of calculating the total rated thermal input of a combination of combustion plants referred to in paragraph 1, individual combustion plants with a rated thermal input below 1 MW shall not be considered.

## *Article 6*

### *Monitoring by the operator of emissions and the operation of abatement equipment*

1. Member States shall ensure that the operators carry out monitoring of emissions at least in accordance with Annex IV.
2. For medium combustion plants using multiple fuels, the monitoring of emissions shall be done while firing a fuel or fuel mix that is likely to result in the highest level of emissions and during a period representing normal operating conditions.
3. All monitoring results shall be recorded, processed and presented in such a way as to enable the competent authority to verify compliance with the emission limit values.
4. For medium combustion plants applying secondary abatement equipment in order to meet the emission limit values, the effective **continuous** operation of that equipment shall be **demonstrated [...]** and **[...]** recorded.



*Article 7*  
*Compliance check*

1. Member States shall set up a system [...] to check compliance of medium combustion plants with the requirements of this Directive.
2. Operators of medium combustion plants shall provide the representatives of the competent authority all necessary assistance to enable them to carry out any inspections and site visits, to take samples and to gather any information necessary for the performance of their duties for the purposes of this Directive.
3. Member States shall take the necessary measures to ensure that operators keep the periods of start-up and shut-down of the medium combustion plants and of any malfunctions [...] as short as possible. In case of a malfunction or a breakdown of secondary abatement equipment, the operator shall immediately inform the competent authority.
4. In the event of non-compliance, Member States shall ensure that:
  - (a) the operator immediately informs the competent authority;
  - (b) the operator immediately takes the measures necessary to ensure that compliance is restored within the shortest possible time;
  - (c) the competent authority requires the operator to take any appropriate complementary measures that the competent authority considers necessary to restore compliance;

Where the non compliance causes a significant degradation of local air quality endangering human health, and until compliance is restored in accordance with points (b) and (c), the operation of the plant shall be suspended. [...]

## Article 8

### Verification of monitoring results

1. Member States shall ensure that [...] emissions are monitored and their compliance with the emission limit values referred to in Article 5 [...] is assessed, in accordance with Annex IV [...].
2. The operator of a medium combustion plant shall keep the following:
  - (a) [...]
  - (b) the permit or the proof of registration by the competent authority;
  - (c) the monitoring results referred to in Article 6(3) and 6(4);
  - (d) where applicable, the record of operating hours referred to in the third subparagraph of Article 5(2) and in the second subparagraph of Article 5(3).
  - (e) a record of the fuels used in the plant and of any malfunctions or breakdown of secondary abatement equipment.
3. The data referred to in paragraph 2 (c) to (e) shall be kept at least for a period of ten years.
4. Data listed in paragraph 2 shall be made available to the competent authority upon request to verify compliance with the requirements of this Directive.

## Article 9

### Changes to medium combustion plants

Member States shall take the necessary measures to ensure that the operator informs the competent authority of any planned change [...] of the **medium combustion plant** [...] which would affect the applicable emission limit values. The competent authority shall update the permit or the registration as appropriate.

1. [...]
2. [...]

*Article 10*  
*Access to information*

[...] The competent authority shall make available to the public, including via the Internet, the register of medium combustion plants, **in accordance with Directive 2003/4/EC**<sup>16</sup>.

*Article 11*  
*Competent authorities*

Member States shall designate the competent authorities responsible for carrying out the obligations arising from this Directive.

*Article 12*  
*Reporting*

1. Member States shall, by [2 years after the date of transposition], report to the Commission [...] an estimate of the total annual emissions of sulphur dioxide, nitrogen oxides and particulate matter from these plants, grouped by fuel type and capacity class.
2. Member States shall send to the Commission a second and third report containing the update of the data referred to in paragraph 1 by respectively 1 October 2026 and 1 October 2031.

The reports drawn up under the first [...] paragraph **and the first subparagraph of paragraph 2** shall contain qualitative and quantitative information on the implementation of this Directive, any action taken to verify compliance of the operation of medium combustion plants with this Directive and any enforcement action taken for the purposes thereof.

3. For the purposes of the reporting referred to in paragraphs 1 and 2, the Commission shall make an electronic reporting tool available to Member States.

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<sup>16</sup> Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information (OJ L 41, 14.2.2003, p. 26).

4. The Commission shall, within twelve months from the receipt of the reports from Member States in accordance with paragraphs 1 and 2, and taking into account information made available in accordance with Articles 5 (6), 5(7) and Article 10, submit a summary report to the European Parliament and to the Council.
5. The second summary report of the Commission shall review the implementation of this Directive [...] and shall be accompanied by a legislative proposal where appropriate.
6. When carrying out its duties under paragraphs 3 to 5, the Commission shall be assisted by the European Environment Agency.

### *Article 13*

#### *Amendment of Annexes*

The Commission shall be empowered to adopt delegated acts in accordance with Article 14 in order to adapt **paragraphs 5, 5a and 5b of** Annex IV to technical and scientific progress.

### *Article 14*

#### *Exercise of the delegation <sup>17</sup>*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 13 shall be conferred on the Commission for a period of five years from [the date of entry into force]. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than four months before the end of each period.

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<sup>17</sup> All delegations : scrutiny reservation on delegated acts.

3. The delegation of power referred to in Article 13 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 13 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 15*

#### *Penalties*

Member States shall lay down the rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by [the date of transposition] at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Article 16*  
*Transposition*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [date: 1,5<sup>18</sup> years after the entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 17*  
*Entry into force*

This Directive shall enter into force on the twentieth day of its publication in the Official Journal of the European Union.

*Article 18*  
*Addressees*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>18</sup> Several delegations ask for a 2-year deadline.

## ANNEX I

Information to be **provided [...]** by the operator to the competent authority

1. Rated thermal input (MW) of the medium combustion plant;
2. Type of the medium combustion plant (**[...]engine, diesel engines, gas turbine, dual fuel engine, other engine, combustion plant**);
3. Type and share of fuels used according to the fuel categories laid down in Annex II;
4. [...]
5. Sector of activity of the medium combustion plant or the facility in which it is applied (NACE code);
6. [...]
7. The applicable emission limit values [...];
8. In case the **third [...]** subparagraph of Article 5(2) **and the second subparagraph of Article 5(3) are [...]** used, a declaration signed by the operator to operate the plant not more than [...]  
500 hours per year;
9. The name and the registered office of the operator and, in case of stationary medium combustion plants, the address where the plant is located.

## ANNEX II

### **Emission limit values referred to in Article 5(1)**

All emission limit values set out in this Annex are defined at a temperature of 273,15 K, a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases and at a standardised O<sub>2</sub> content of 6 % for combustion plants using solid fuels, 3 % for combustion plants, other than engines and gas turbines, using liquid and gaseous fuels and 15 % for engines and gas turbines.

#### *Part 1*

#### *Emission limit values for existing medium combustion plants*

1. Emission limit values (mg/Nm<sup>3</sup>) for medium combustion plants other than engines and gas turbines

| Pollutant          | Solid biomass     | Other solid fuels | Liquid fuels other than heavy fuel oil | Heavy fuel oil | Natural gas | Gaseous fuels other than natural gas |
|--------------------|-------------------|-------------------|--|----------------|-------------|--------------------------------------|
| SO <sub>2</sub>    | 200               | 400               | 170 <sup>(2),(5)</sup>                 | 350            | -           | 35 <sup>(3),(6),(7)</sup>            |
| NO <sub>x</sub>    | 650               | 650               | 200 <sup>(3)</sup>                     | 650            | 200         | 250                                  |
| Particulate matter | 30 <sup>(1)</sup> | 30                | 30 <sup>(4)</sup>                      | 30             | -           | -                                    |

<sup>(1)</sup> 45 mg/Nm<sup>3</sup> for plants with a thermal input below or equal to 5 MW

<sup>(2)</sup> **450 mg/Nm<sup>3</sup> in case of recovery boilers in installations for sulphite pulp production**

<sup>(3)</sup> **240 mg/Nm<sup>3</sup> in case of recovery boilers in installations for Kraft pulp production and 650 mg/Nm<sup>3</sup> in case of ammonium based recovery boilers in installations for sulphite pulp production**

<sup>(4)</sup> **60 mg/Nm<sup>3</sup> in case of recovery boilers in installations for Kraft pulp production**

<sup>(5)</sup> **600 mg/Nm<sup>3</sup> in case of plants within refineries firing a mixture of liquid and gaseous refinery fuels**

<sup>(6)</sup> **45 mg/Nm<sup>3</sup> in case of refinery fuel gas**

<sup>(7)</sup> **400 mg/Nm<sup>3</sup> in case of low calorific gases from coke oven and 200 mg/Nm<sup>3</sup> in case of low calorific gases from blast furnace (iron and steel industry).**



## 2. Emission limit values (mg/Nm<sup>3</sup>) for engines and gas turbines

| Pollutant          | Type of installation        | Liquid fuels       | Natural gas        | Gaseous fuels other than natural gas |
|--------------------|-----------------------------|--------------------|--------------------|--------------------------------------|
| SO <sub>2</sub>    | Engines and gas turbines    | 60                 | -                  | 15                                   |
| NO <sub>x</sub>    | Engines                     | 190 <sup>(1)</sup> | 190 <sup>(2)</sup> | 190 <sup>(2)</sup>                   |
|                    | Gas turbines <sup>(3)</sup> | 200                | 150                | 200                                  |
| Particulate matter | Engines and gas turbines    | 10                 | -                  | -                                    |

<sup>(1)</sup> 1850 mg/Nm<sup>3</sup> in the following cases:

- (i) for diesel engines the construction of which commenced before 18 May 2006;
- (ii) for dual fuel engines in liquid mode.

<sup>(2)</sup> 380 mg/Nm<sup>3</sup> for dual fuel engines in gas mode.

<sup>(3)</sup> Emission limit values are only applicable above 70 % load.

Part 2

Emission limit values for new medium combustion plants

1. Emission limit values (mg/Nm<sup>3</sup>) for medium combustion plants other than engines and gas turbines

| Pollutant          | Solid biomass     | Other solid fuels | Liquid fuels other than heavy fuel oil | Heavy fuel oil     | Natural gas | Gaseous fuels other than natural gas |
|--------------------|-------------------|-------------------|--|--------------------|-------------|--------------------------------------|
| SO <sub>2</sub>    | 200               | 400               | 170                                    | 350 <sup>(5)</sup> | -           | 35 <sup>(3)(4)</sup>                 |
| NO <sub>x</sub>    | 300               | 300               | 200                                    | 300 <sup>(6)</sup> | 100         | 200                                  |
| Particulate matter | 20 <sup>(1)</sup> | 20                | 20 <sup>(2)</sup>                      | 20 <sup>(7)</sup>  | -           | -                                    |

<sup>(1)</sup> 25 mg/Nm<sup>3</sup> for plants with a thermal input below or equal to 5 MW

<sup>(2)</sup> **30 mg/Nm<sup>3</sup> in case of recovery boilers in installations for Kraft pulp production**

<sup>(3)</sup> **45 mg/Nm<sup>3</sup> in case of refinery fuel gas**

<sup>(4)</sup> **400 mg/Nm<sup>3</sup> in case of low calorific gases from coke oven and 200 mg/Nm<sup>3</sup> in case of low calorific gases from blast furnace (iron and steel industry)**

<sup>(5)</sup> **1700 mg/Nm<sup>3</sup> in case of boilers in Small Isolated Systems (SIS) and Micro Isolated Systems (MIS) as defined in Directive 2009/72/EC**

<sup>(6)</sup> **450 mg/Nm<sup>3</sup> in case of boilers in SIS and MIS as defined in Directive 2009/72/EC**

<sup>(7)</sup> **100 mg/Nm<sup>3</sup> in case of boilers in SIS and MIS as defined in Directive 2009/72/EC.**

## 2. Emission limit values (mg/Nm<sup>3</sup>) for engines and gas turbines

| Pollutant          | Type of installation        | Liquid fuels                      | Natural gas       | Gaseous fuels other than natural gas |
|--------------------|-----------------------------|-----------------------------------|-------------------|--------------------------------------|
| SO <sub>2</sub>    | Engines and gas turbines    | 60 <sup>(4)</sup>                 | -                 | 15                                   |
| NO <sub>x</sub>    | Engines                     | 190 <sup>(1)</sup> <del>(5)</del> | 95 <sup>(2)</sup> | 190                                  |
|                    | Gas turbines <sup>(3)</sup> | 75 <sup>(6)</sup>                 | 50                | 75                                   |
| Particulate matter | Engines and gas turbines    | 10 <sup>(7)</sup>                 | -                 | -                                    |

<sup>(1)</sup> 225 mg/Nm<sup>3</sup> for dual fuel engines in liquid mode.

<sup>(2)</sup> 190 mg/Nm<sup>3</sup> for dual fuel engines in gas mode.

<sup>(3)</sup> Emission limit values are only applicable above 70 % load.

**<sup>(4)</sup> 590 mg/Nm<sup>3</sup> for diesel engines in SIS and MIS as defined in Directive 2009/72/EC**

**<sup>(5)</sup> 1300 mg/Nm<sup>3</sup> for diesel engines below 20 MW and 1850 mg/Nm<sup>3</sup> for diesel engines equal to or above 20 MW in SIS and MIS as defined in Directive 2009/72/EC**

**<sup>(6)</sup> 550 mg/Nm<sup>3</sup> in SIS and MIS as defined in Directive 2009/72/EC**

**<sup>(7)</sup> 75 mg/Nm<sup>3</sup> for diesel engines in SIS and MIS as defined in Directive 2009/72/EC.**

### ANNEX III

#### **Indicative benchmark values for more stringent emission limit values referred to in Article 5(4)**

All emission limit values set out in this Annex are defined at a temperature of 273,15 K, a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases and at a standardised O<sub>2</sub> content of 6 % for combustion plants using solid fuels, 3 % for combustion plants, other than engines and gas turbines, using liquid and gaseous fuels and 15 % for engines and gas turbines.

Emission limit value benchmarks (mg/Nm<sup>3</sup>) for medium combustion plants other than engines and gas turbines

| Pollutant          | Rated thermal input (MW) | Solid biomass | Other solid fuels | Liquid fuels | Natural gas | Gaseous fuels other than natural gas |
|--------------------|--------------------------|---------------|-------------------|--------------|-------------|--------------------------------------|
| NO <sub>x</sub>    | 1 - 5                    | 200           | 100               | 120          | 70          | 120                                  |
|                    | > 5 - 50                 | 145           | 100               | 120          | 70          | 120                                  |
| Particulate matter | 1 - 5                    | 10            | 10                | 10           | -           | -                                    |
|                    | > 5 - 50                 | 5             | 5                 | 5            | -           | -                                    |

Emission limit value benchmarks (mg/Nm<sup>3</sup>) for engines and gas turbines

| Pollutant       | Type of installation        | Liquid fuels | Natural gas | Gaseous fuels other than natural gas |
|-----------------|-----------------------------|--------------|-------------|--------------------------------------|
| NO <sub>x</sub> | Engines                     | 150          | 35          | 35                                   |
|                 | Gas turbines <sup>(1)</sup> | 50           | 20          | 50                                   |

<sup>(1)</sup> benchmark is only applicable above 70 % load.

## ANNEX IV

### **Emission monitoring and assessment of compliance**

1. Periodic measurements of SO<sub>2</sub>, NO<sub>x</sub> and particulate matter shall be required at least every three years for medium combustion plants the rated thermal input of which is greater than 1 MW and less than 20 MW, and at least annually for medium combustion plants the rated thermal input of which is equal to or greater than 20 MW but less than 50 MW.
2. Measurements are only required for pollutants for which an emission limit value is laid down in Annex II for the plant concerned.
3. The first measurements shall be carried out within six [...] months following the **permit or** registration of the plant or the date of start of the operation, whichever is the latest.
4. As an alternative to the measurements of SO<sub>2</sub> referred to in point 1, other procedures, verified and approved by the competent authority, may be used to determine the SO<sub>2</sub> emissions.
5. Sampling and analysis of polluting substances and measurements of process parameters as well as any alternatives used as referred to under point 4, shall be **based on methods enabling reliable, representative and comparable results. Methods complying with EN standards shall be presumed to satisfy this requirement. [...]** If CEN standards are not available, ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality **may be used to demonstrate conformity with the requirement [...]**.

In the case of continuous measurements, the automated measuring systems shall be subject to control by means of parallel measurements with the reference methods at least once per year and the operator shall inform the competent authority about the results of those controls.

5a. In the case of periodic measurements, the emission limit values [...] referred to in Article 5 shall be regarded as having been complied with if the result of each individual measurement, does not exceed the relevant emission limit value.

[...]

5b. In the case of continuous measurements, compliance with the emission limit values [...] referred to in Article 5 shall be assessed as set out in point 1 of Part 4 of Annex V of Directive 2010/75/EU.

The validated average values are determined as set out in points 9 and 10 of Part 3 of Annex V of Directive 2010/75/EU.

For the purpose of the calculation of the average emission values, the values measured during the periods referred to in Article 5(6) and 5(7) as well as during the start-up and shut-down periods shall be disregarded.

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