EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

Strasbourg, 25 November 2015
(OR. en)

2013/0442 (COD)
LEX 1630

PE-CONS 42/1/15
REV 1

ENV 445
ENER 269
IND 110
TRANS 226
ENT 130
SAN 204
CODEC 972

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE LIMITATION OF EMISSIONS OF CERTAIN POLLUTANTS INTO THE AIR FROM MEDIUM COMBUSTION PLANTS

DIRECTIVE (EU) 2015/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 November 2015

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

(Text with EEA relevance)

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[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure[3],

---

1 OJ C 451, 16.12.2014, p. 134.
2 OJ C 415, 20.11.2014, p. 23.
3 Position of the European Parliament of 7 October 2015 (not yet published in the Official Journal) and decision of the Council of10 November 2015.

Whereas:

(1) Decision No 1386/2013/EU of the European Parliament and of the Council[1] ('the Action Programme') recognises that emissions of pollutants to air have been reduced significantly over the past decades, but that at the same time air pollution levels are still problematic in many parts of Europe, and that 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. In many areas of the Union, air pollution levels are still above the limits that the Union has set, and Union air quality standards are still failing to meet the targets set by the World Health Organisation.

(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 eight months.

(4) Emissions of pollutants from the combustion of fuel in medium combustion plants are generally not regulated at Union level even though 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.

[1] Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

(5) The combustion of fuel in certain small combustion plants and appliances is covered by implementing measures as referred to in Directive 2009/125/EC of the European Parliament and of the Council[1]. Further measures are urgently needed under Directive 2009/125/EC in order to cover the remaining regulatory gap. Combustion of fuel in large combustion plants is covered by Directive 2010/75/EU of the European Parliament and of the Council[2] from 7 January 2013, while Directive 2001/80/EC of the European Parliament and of the Council[3] continues to apply to large combustion plants covered by Article 30(2) of Directive 2010/75/EU until 31 December 2015.

(6) The Commission concluded, in its report to the European Parliament and the Council of 17 May 2013 on the reviews undertaken under Article 30(9) and Article 73 of Directive 2010/75/EU on industrial emissions addressing emissions from intensive livestock rearing and combustion plants, that, for the combustion of fuels in medium combustion plants, a clear potential for cost-effective abatement of air emissions has been demonstrated.

---

1 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).

2 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).

3 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).

(7) The Union's international obligations in relation to air pollution, which are designed to abate acidification, eutrophication, ground-level ozone and emissions of particulate matter, are agreed under the Gothenburg Protocol to 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 to introduce new reduction commitments for fine particulate matter (PM 2.5), to be attained from 2020 onwards.

(8) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 18 December 2013 entitled 'A Clean Air Programme for Europe' calls for action to control emissions of air-polluting substances from medium combustion plants, thereby completing the regulatory framework for the combustion sector. The Clean Air Programme completes the pollution reduction agenda for 2020 laid down in the Communication from the Commission to the Council and the European Parliament of 21 September 2005 entitled 'Thematic Strategy on Air Pollution', and develops impact reduction objectives for the period up to 2030. To achieve all those strategic objectives, a regulatory agenda should be established, including measures to control emissions from medium combustion plants.

(9) Medium combustion plants should be developed and operated in such a way as to promote energy efficiency. Such considerations as well as economic considerations, technical possibilities and the lifecycle of existing medium combustion plants should in particular be taken into account when retrofitting medium combustion plants or deciding on major investments.

(10) In order to ensure that the operation of a medium combustion plant does not lead to a deterioration of air quality, measures taken to limit emissions of sulphur dioxide, nitrogen oxides and dust into the air should not result in an increase of emissions of other pollutants, such as carbon monoxide.

(11) Medium combustion plants that are already subject to Union-wide minimum requirements, such as plants to which an aggregation rule applies under Chapter III of Directive 2010/75/EU, or plants that incinerate or co-incinerate solid or liquid waste and are thereby covered by Chapter IV of that Directive, should be excluded from the scope of this Directive.

(12) Certain other medium combustion plants should also be excluded from the scope of this Directive, on the basis of their technical characteristics or their use in particular activities.

(13) As medium combustion plants firing refinery fuels alone or with other fuels for the production of energy within mineral oil and gas refineries, and recovery boilers within installations for the production of pulp, are subject to emission levels associated with best available techniques (BAT) set out in BAT conclusions already established under Directive 2010/75/EU, this Directive should not apply to such plants.

(14) This Directive should apply to combustion plants, including a combination formed by two or more new medium combustion plants, with a total rated thermal input equal to or greater than 1 MW and less than 50 MW. Individual combustion plants with a rated thermal input less than 1 MW should not be considered for the purpose of calculating the total rated thermal input of a combination of combustion plants. In order to avoid a regulatory gap, this Directive should also apply to a combination formed by new medium combustion plants where the total rated thermal input is equal to or more than 50 MW, without prejudice to Chapter III of Directive 2010/75/EU.

(15) In order to ensure the control of emissions of sulphur dioxide, nitrogen oxides and dust into the air, each medium combustion plant should operate only if it has been granted a permit or been registered by the competent authority, based on information submitted by the operator.

(16) For the purposes of controlling emissions into the air from medium combustion plants, emission limit values and requirements for monitoring should be set out in this Directive.

(17) The emission limit values set out in Annex II should not apply to medium combustion plants located in the Canary Islands, French Overseas Departments, the Azores and Madeira, because of the technical and logistical issues associated with such plants' isolated location. The Member States concerned should set emission limit values for such plants in order to reduce their emissions to air and the potential risks to human health and the environment.

(18) 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 plants after a fixed period from the date of application of this Directive.

(19) In order to take account of certain specific circumstances where the application of emission limit values would lead to disproportionately high costs compared to the environmental benefits, Member States should be able to exempt medium combustion plants used in cases of emergency and operated during limited time periods from compliance with the emission limit values set out in this Directive.

(20) Due to the infrastructural constraints faced by existing medium combustion plants which are part of small isolated systems (SIS) or micro isolated systems (MIS) and the need to facilitate their interconnection, such plants should be given more time to adapt to the emission limit values set out in this Directive.

(21) Considering the overall benefits of district heating in terms of contributing to a reduction in domestic use of fuels that cause high levels of air pollution, and in terms of energy efficiency improvement and CO_2 emissions reduction, it should be possible for Member States to give more time to existing medium combustion plants which provide a substantial amount of their useful heat production to a public network for district heating, to adapt to the emission limit values set out in this Directive.

(22) Considering recent investments in biomass plants aimed at increasing the use of renewable energy sources and which have already led to reduced emissions of pollutants, and in order to take account of related investment cycles, it should be possible for Member States to give more time to such plants to adapt to the emission limit values set out in this Directive.

(23) Given the essential role of gas compressor stations for the reliability and safe operation of national gas transmission networks and the specific constraints relating to their upgrade, it should be possible for Member States to give more time to medium combustion plants driving such stations to adapt to the emission limit values for nitrogen oxides set out in this Directive.

(24) 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. Such measures may be needed for example in zones not complying with air quality limit values. In those cases, Member States should assess the need to apply stricter emission limit values than the requirements set out in this Directive, as part of the development of air quality plans pursuant to Directive 2008/50/EC of the European Parliament and of the Council[1]. Such assessments should take account of the outcome of an exchange of information on the best emission-reduction performance that can be achieved with best available and emerging technologies. The Commission should organise such exchange of information with Member States, the industries concerned, including operators and technology providers, and non-governmental organisations, including those promoting environmental protection.

(25) Member States should ensure that the operator of a medium combustion plant takes the necessary measures in the event of non-compliance with this Directive. Member States should set up a system to check compliance of medium combustion plants with the requirements of this Directive.

[1] 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).

(26) In order to ensure the effective implementation and enforcement of this Directive, inspections should, where possible, be coordinated with those required under other Union legislation, as appropriate.

(27) The provisions of this Directive regarding access to information relating to its implementation should be applied in such a way as to ensure the full effect of Directive 2003/4/EC of the European Parliament and of the Council[1].

(28) In order to limit the burden for small and medium-sized enterprises operating medium combustion plants, the administrative obligations on operators concerning the provision of information, monitoring and reporting should be proportionate and avoid duplication, while still allowing for effective compliance verification by the competent authority.

(29) To ensure the consistency and coherence of information provided by the Member States on the implementation of this Directive and to 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.

(30) The Commission should assess the need to amend the emission limit values set out in Annex II for new medium combustion plants, on the basis of state-of-the-art technologies. In this context, the Commission should also consider the need to set specific emission limit values for other pollutants, such as carbon monoxide, and possible minimum energy efficiency standards.

[1] Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

(31) In order to adapt to scientific and technical progress, the power to adopt acts in accordance with Article 290 TFEU to adjust the provisions on assessment of compliance set out in point 2 of Part 2 of Annex III 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.

(32) In order to ensure uniform conditions for the implementation of this Directive and to simplify and streamline Member States' reporting obligations, implementing powers should be conferred on the Commission in respect of the specification of technical formats for reporting. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[1].

(33) Since the objectives of this Directive, namely the improvement of environmental quality and human health, cannot be sufficiently achieved by the Member States, but can rather, by reason of their scale and effects, 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 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.

[1] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(34) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union ('the Charter'). In particular, this Directive seeks to ensure the application of Article 37 of the Charter on environmental protection.

(35) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[1], 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:

[1] OJ C 369, 17.12.2011, p. 14.

Article 1

Subject matter

This Directive lays down rules to control emissions of sulphur dioxide (SO_2), nitrogen oxides (NO_x) and dust 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.

This Directive also lays down rules to monitor emissions of carbon monoxide (CO).

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 ('medium combustion plants'), irrespective of the type of fuel they use.

2. This Directive shall also apply to a combination formed by new medium combustion plants pursuant to Article 4, including a combination where the total rated thermal input is equal to or greater than 50 MW, unless the combination forms a combustion plant covered by Chapter III of Directive 2010/75/EU.

3. This Directive shall not apply to:

   (a) combustion plants covered by Chapter III or Chapter IV of Directive 2010/75/EU;

(b) combustion plants covered by Directive 97/68/EC of the European Parliament and of the Council[1];

(c) on-farm combustion plants with a total rated thermal input less than or equal to 5 MW, that exclusively use unprocessed poultry manure, as referred to in Article 9(a) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council[2], as a fuel;

(d) combustion plants in which the gaseous products of combustion are used for the direct heating, drying or any other treatment of objects or materials;

(e) combustion plants in which the gaseous products of combustion are used for direct gas-fired heating used to heat indoor spaces for the purpose of improving workplace conditions;

(f) post-combustion plants designed to purify the waste gases from industrial processes by combustion, and which are not operated as independent combustion plants;

---

1 Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (OJ L 59, 27.2.1998, p. 1).

2 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 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1).

(g) any technical apparatus used in the propulsion of a vehicle, ship or aircraft;

(h) gas turbines and gas and diesel engines, when used on offshore platforms;

(i) facilities for the regeneration of catalytic cracking catalysts;

(j) facilities for the conversion of hydrogen sulphide into sulphur;

(k) reactors used in the chemical industry;

(l) coke battery furnaces;

(m) cowpers;

(n) crematoria;

(o) combustion plants firing refinery fuels alone or with other fuels for the production of energy within mineral oil and gas refineries;

(p) recovery boilers within installations for the production of pulp.

4. This Directive shall not apply to research activities, development activities or testing activities relating to medium combustion plants. Member States may establish specific conditions for the application of this paragraph.

Article 3

Definitions

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

(1) 'emission' means the discharge of substances from a combustion plant into the air;

(2) 'emission limit value' means the permissible quantity of a substance contained in the waste gases from a combustion plant which may be discharged into the air during a given period;

(3) 'nitrogen oxides' (NO_x) means nitric oxide and nitrogen dioxide, expressed as nitrogen dioxide (NO_2);

(4) 'dust' 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 …[+] or for which a permit was granted before …[++] pursuant to national legislation provided that the plant is put into operation no later than …[+];

[+] OJ: please insert the date: 1 year from the date of transposition of this Directive.
[++] OJ: please insert the date of transposition of this Directive.

(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) ‘small isolated system' (SIS) means a small isolated system as defined in point 26 of Article 2 of Directive 2009/72/EC of the European Parliament and of the Council[1];

(14) ‘micro isolated system’ (MIS) means a micro isolated system as defined in point 27 of Article 2 of Directive 2009/72/EC;

(15) ‘fuel’ means any solid, liquid or gaseous combustible material;

(16) ‘refinery fuel’ means solid, liquid or gaseous combustible material from the distillation and conversion steps of the refining of crude oil, including refinery fuel gas, syngas, refinery oils and pet coke;

(17) ‘waste’ means waste as defined in point 1 of Article 3 of Directive 2008/98/EC of the European Parliament and of the Council[2];

[1] Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).

[2] Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

(18) ‘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;

(19) ‘gas oil’ means:

(a) any petroleum-derived liquid fuel falling within CN codes 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17 or 2710 20 19; or

(b) any petroleum-derived liquid fuel of which less than 65 % by volume (including losses) distils at 250 °C and of which at least 85 % by volume (including losses) distils at 350 °C by the ASTM D86 method;

(20) ‘natural gas’ means naturally occurring methane with no more than 20 % (by volume) of inerts and other constituents;

(21) ‘heavy fuel oil’ means:

(a) any petroleum-derived liquid fuel falling within CN codes 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35, or 2710 20 39; or

(b) any petroleum-derived liquid fuel, other than gas oil as defined in point 19, which, by reason of its distillation limits, falls within the category of heavy oils intended for use as fuel and of which less than 65 % by volume (including losses) distils at 250 °C by the ASTM D86 method. If the distillation cannot be determined by the ASTM D86 method, the petroleum product is likewise categorised as a heavy fuel oil;

(22) ‘operating hours’ means the time, expressed in hours, during which a combustion plant is operating and discharging emissions into the air, excluding start-up and shut-down periods;

(23) ‘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;

(24) ‘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.

Article 4

Aggregation

A combination formed by two or more new medium combustion plants shall be considered to be a single medium combustion plant for the purposes of this Directive and their rated thermal input shall be added together for the purpose of calculating the total rated thermal input of the plant, where:

– the waste gases of such medium combustion plants are discharged through a common stack, or

– taking into account technical and economic factors, the waste gases of such medium combustion plants could, in the judgement of the competent authority, be discharged through a common stack.

Article 5

Permits and registration

1. Member States shall take the necessary measures to ensure that no new medium combustion plant is operated without a permit or without being registered.

2. Member States shall take the necessary measures to ensure that, as of 1 January 2024, no existing medium combustion plant with a rated thermal input greater than 5 MW is operated without a permit or without being registered.

   Member States shall take the necessary measures to ensure that, as of 1 January 2029, no existing medium combustion plant with a rated thermal input of less than or equal to 5 MW is operated without a permit or without being registered.

3. Member States shall specify the procedure for granting a permit or for registration in respect of medium combustion plants. Those procedures shall include at least an obligation on the operator to inform the competent authority of the operation of, or the intention to operate, a medium combustion plant and to provide at least the information listed in Annex I.

4. The competent authority shall register, or start the procedure for granting a permit to, the medium combustion plant within one month of the operator providing the information referred to in paragraph 3. The competent authority shall inform the operator of such registration or of the start of the procedure for granting a permit.

5. The competent authority shall hold a register with information on each medium combustion plant including the information listed in Annex I and the information obtained pursuant to Article 9. Existing medium combustion plants shall be included in the register from the date of registration or from the date when granted a permit in accordance with this Directive. The competent authority shall make the information contained in the register available to the public, including via the internet, in accordance with Directive 2003/4/EC.

6. Without prejudice to the obligation for medium combustion plants to hold a permit or be registered, Member States may include requirements for certain categories of medium 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.

7. For medium combustion plants which are part of an installation covered by Chapter II of Directive 2010/75/EU, the requirements of this Article shall be deemed to be fulfilled through compliance with that Directive.

8. Any permit granted or registration carried out pursuant to other national or Union legislation may be combined with the permit or registration required under paragraph 1 to form a single permit or registration provided that that single permit or registration contains the information required under this Article.

Article 6

Emission limit values

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

The emission limit values set out in Annex II shall not apply to medium combustion plants located in the Canary Islands, French Overseas Departments, the Azores and Madeira. The Member States concerned shall set emission limit values for those plants in order to reduce their emissions to air and the potential risks to human health and the environment.

2. From 1 January 2025, emissions into the air of SO_2, NO_x and dust from an existing medium combustion plant with a rated thermal input greater than 5 MW shall not exceed the emission limit values set out in Tables 2 and 3 of Part 1 of Annex II.

From 1 January 2030, emissions into the air of SO_2, NO_x and dust from an existing medium combustion plant with a rated thermal input of less than or equal to 5 MW shall not exceed the emission limit values set out in Tables 1 and 3 of Part 1 of Annex II.

3. Member States may exempt existing medium combustion plants which do not operate more than 500 operating hours per year, as a rolling average over a period of five years, from compliance with the emission limit values set out in Tables 1, 2 and 3 of Part 1 of Annex II.

Member States may extend the limit referred to in the first subparagraph to 1 000 operating hours in the following cases of emergency or extraordinary circumstances:

– for backup power production in connected islands in the event of an interruption of the main power supply to an island,

– medium combustion plants used for heat production in cases of exceptionally cold weather events.

In all cases set out in this paragraph, an emission limit value for dust of 200 mg/Nm^3 shall apply for plants firing solid fuels.

4. Existing medium combustion plants which are part of SIS or MIS shall comply with the emission limit values set out in Tables 1, 2 and 3 of Part 1 of Annex II from 1 January 2030.

5. Until 1 January 2030, Member States may exempt existing medium combustion plants with a rated thermal input greater than 5 MW from compliance with the emission limit values set out in Annex II provided that at least 50 % of the useful heat production of the plant, as a rolling average over a period of five years, is delivered in the form of steam or hot water to a public network for district heating. In the event of such exemption, the emission limit values set by the competent authority shall not exceed 1 100 mg/Nm^3 for SO_2 and 150 mg/Nm^3 for dust.

Until 1 January 2030, Member States may exempt medium combustion plants firing solid biomass as the main fuel, which are situated in zones where, according to assessments under Directive 2008/50/EC, conformity with the limit values of that Directive is ensured, from compliance with the emission limit values for dust set out in Annex II to this Directive. In the event of such exemption, the emission limit values set by the competent authority shall not exceed 150 mg/Nm^3 for dust.

The competent authority shall in any case ensure that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved.

6. Until 1 January 2030, Member States may exempt existing medium combustion plants with a rated thermal input greater than 5 MW and which are used to drive gas compressor stations required to ensure the safety and security of a national gas transmission system, from compliance with the emission limit values for NO_x set out in Table 3 of Part 1 of Annex II.

7. From …[+], emissions into the air of SO_2, NO_x and dust from a new medium combustion plant shall not exceed the emission limit values set out in Part 2 of Annex II.

8. Member States may exempt new medium combustion plants which do not operate more than 500 operating hours per year, as a rolling average over a period of three years, from compliance with the emission limit values set out in Part 2 of Annex II. In the event of such exemption, an emission limit value for dust of 100 mg/Nm^3 shall apply for plants firing solid fuels.

9. In zones or parts of zones not complying with the 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 or parts of zones, stricter emission limit values than those set out in this Directive, as part of the development of air quality plans referred to in Article 23 of Directive 2008/50/EC, taking into account the results of the information exchange referred to in paragraph 10 of this Article, provided that applying such emission limit values would effectively contribute to a noticeable improvement of air quality.

[+] OJ: please insert the date: 12 months from the date of transposition of this Directive.

10. The Commission shall organise an exchange of information with Member States, the industries concerned and non-governmental organisations on the emission levels achievable with best available and emerging technologies and the related costs.

The Commission shall publish the results of the exchange of information.

11. The competent authority may grant a derogation for a maximum period of six months from the obligation to comply with the emission limit values provided for in paragraphs 2 and 7 for SO_2 in respect of a medium combustion plant which normally uses low-sulphur fuel, in cases where the operator is unable to comply with those emission limit values because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage.

Member States shall inform the Commission, within one month, of any derogation granted under the first subparagraph.

12. The competent authority may grant a derogation from the obligation to comply with the emission limit values provided for in paragraphs 2 and 7 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 secondary abatement equipment. The period for which such a derogation is granted shall not exceed ten days except where the operator demonstrates to the competent authority that a longer period is justified.

Member States shall inform the Commission, within one month, of any derogation granted under the first subparagraph.

13. Where a medium combustion plant simultaneously uses two or more fuels, the emission limit value for each pollutant shall be calculated by:

(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 product of multiplication by the sum of the thermal inputs delivered by all fuels; and

(c) aggregating the fuel-weighted emission limit values.

Article 7

Obligations of the operator

1. Member States shall ensure that the operator carries out monitoring of emissions in accordance with, as a minimum, Part 1 of Annex III.

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. The operator shall keep a record of and process all monitoring results in such a way as to enable the verification of compliance with the emission limit values in accordance with the rules set out in Part 2 of Annex III.

4. For medium combustion plants using secondary abatement equipment in order to meet the emission limit values, the operator shall keep a record of, or information proving, the effective continuous operation of that equipment.

5. The operator of a medium combustion plant shall keep the following:

(a) the permit or the proof of registration by the competent authority and, if relevant, its updated version and related information;

(b) the monitoring results and information referred to in paragraphs 3 and 4;

(c) where applicable, a record of operating hours as referred to in Article 6(3) and in Article 6(8);

(d) a record of the type and quantities of fuels used in the plant and of any malfunctions or breakdown of secondary abatement equipment;

(e) a record of the events of non-compliance and the measures taken, as referred to in paragraph 7.

The data and information referred to in points (b) to (e) of the first subparagraph shall be kept for a period of at least six years.

6. The operator shall, without undue delay, make available the data and information listed in paragraph 5 to the competent authority upon request. The competent authority may make such a request in order to allow the check of compliance with the requirements of this Directive. The competent authority shall make such a request if a member of the public requests access to the data or information listed in paragraph 5.

7. In the event of non-compliance with the emission limit values set out in Annex II, the operator shall take the measures necessary to ensure that compliance is restored within the shortest possible time, without prejudice to the measures required under Article 8. Member States shall lay down rules for the type, frequency and format of information concerning events of non-compliance to be provided by operators to the competent authority.

8. The operator shall provide the competent authority with all necessary assistance to enable it to carry out any inspections and site visits, to take samples and to gather any information necessary for the performance of its duties for the purposes of this Directive.

9. The operator shall keep the periods of start-up and shut-down of the medium combustion plant as short as possible.

Article 8

Compliance check

1. Member States shall ensure that valid values for emissions monitored in accordance with Annex III do not exceed the emission limit values set out in Annex II.

2. Member States shall set up an effective system, based on either environmental inspections or other measures, to check compliance with the requirements of this Directive.

3. In the event of non-compliance, in addition to the measures taken by the operator under Article 7(7), Member States shall ensure that the competent authority requires the operator to take any measures necessary to ensure that compliance is restored without undue delay.

Where non-compliance causes a significant degradation of local air quality, the operation of the medium combustion plant shall be suspended until compliance is restored.

Article 9

Changes to medium combustion plants

Member States shall take the necessary measures to ensure that the operator informs the competent authority, without undue delay, of any planned change to the medium combustion plant which would affect the applicable emission limit values.

The competent authority shall update the permit or the registration, as appropriate, accordingly.

Article 10

Competent authorities

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

Article 11

Reporting

1. Member States shall, by 1 October 2026 and by 1 October 2031, submit a report to the Commission with qualitative and quantitative information on the implementation of this Directive, on any action taken to verify compliance of the operation of medium combustion plants with this Directive and on any enforcement action for the purposes thereof.

   The first report referred to in the first subparagraph shall include an estimate of the total annual emissions of SO_2, NO_x and dust from medium combustion plants, grouped by plant type, fuel type and capacity class.

2. Member States shall also submit a report to the Commission, by 1 January 2021, with an estimate of the total annual emissions of CO and any information available on the concentration of emissions of CO from medium combustion plants, grouped by fuel type and capacity class.

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.

   The Commission shall, by way of implementing acts, specify the technical formats for reporting in order to simplify and streamline reporting obligations for the Member States in relation to the information referred to in paragraphs 1 and 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15.

4. The Commission shall, within twelve months of the receipt of the reports from Member States in accordance with paragraph 1 of this Article, and taking into account information made available in accordance with Article 6(11) and Article 6(12), submit a summary report to the European Parliament and to the Council.

5. When carrying out its duties under paragraphs 3 and 4, the Commission shall be assisted by the European Environment Agency.

Article 12

Review

1. By 1 January 2020, the Commission shall review progress in relation to the energy efficiency of medium combustion plants and assess the benefits of setting minimum energy efficiency standards in line with best available techniques.

2. By 1 January 2023, the Commission shall assess the need to review the provisions concerning plants which are part of SIS or MIS, as well as Part 2 of Annex II, on the basis of state-of-the-art technologies.

   As part of this review, the Commission shall also assess whether for certain or all types of medium combustion plants there is a need to regulate CO emissions.

   Thereafter, a review shall take place every ten years and shall include an assessment of whether it is appropriate to set stricter emission limit values in particular for new medium combustion plants.

3. The Commission shall submit a report on the results of the reviews referred to in paragraphs 1 and 2 to the European Parliament and to the Council accompanied by a legislative proposal where appropriate.

Article 13

Amendment of Annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 14 in order to adapt point 2 of Part 2 of Annex III to technical and scientific progress.

Article 14

Exercise of the delegation

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 Commission shall draw up a report in respect of the delegation of power not 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 three months before the end of each period.

[+] OJ: please insert the date of entry into force of this Directive.

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 to revoke 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

Committee procedure

1. The Commission shall be assisted by the committee established by Article 75(1) of Directive 2010/75/EU. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

Article 16

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 …[+] at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 17

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by …[++]. They shall immediately inform the Commission thereof.

   When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

[+] OJ: please insert the date of transposition of this Directive.

[++] OJ: please insert the date: two years from the date of entry into force of this Directive.

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

Article 18

Entry into force

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

Article 19

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg,

For the European Parliament	*For the Council*
The President	*The President*

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 (diesel engine, gas turbine, dual fuel engine, other engine or other medium combustion plant);

3. Type and share of fuels used according to the fuel categories laid down in Annex II;

4. Date of the start of the operation of the medium combustion plant or, where the exact date of the start of the operation is unknown, proof of the fact that the operation started before …[+];

5. Sector of activity of the medium combustion plant or the facility in which it is applied (NACE code);

6. Expected number of annual operating hours of the medium combustion plant and average load in use;

7. Where the option of exemption under Article 6(3) or Article 6(8) is used, a declaration signed by the operator that the medium combustion plant will not be operated more than the number of hours referred to in those paragraphs;

8. Name and registered office of the operator and, in the case of stationary medium combustion plants, the address where the plant is located.

[+] OJ: please insert the date: 12 months from the date of transposition of this Directive.

ANNEX II

Emission limit values referred to in Article 6

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_2 content of 6 % for medium combustion plants using solid fuels, 3 % for medium 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

Table 1

Emission limit values (mg/Nm^3) for existing medium combustion plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW, other than engines and gas turbines

Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO_2	200 (1)(2)	1 100	-	350	-	200 (3)
NO_x	650	650	200	650	250	250
Dust	50	50	-	50	-	-

(1) The value does not apply in the case of plants firing exclusively woody solid biomass.

(2) 300 mg/Nm^3 in the case of plants firing straw.

(3) 400 mg/Nm^3 in the case of low calorific gases from coke ovens in the iron and steel industry.

Table 2

Emission limit values (mg/Nm^3) for existing medium combustion plants with a rated thermal input greater than 5 MW, other than engines and gas turbines

Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO_2	200 (1)(2)	400 (3)	-	350 (4)	-	35 (5)(6)
NO_X	650	650	200	650	200	250
Dust	30 (7)	30 (7)	-	30	-	-

(1) The value does not apply in the case of plants firing exclusively woody solid biomass.

(2) 300 mg/Nm^3 in the case of plants firing straw.

(3) 1 100 mg/Nm^3 in the case of plants with a rated thermal input greater than 5 MW and less than or equal to 20 MW.

(4) Until 1 January 2030, 850 mg/Nm^3 in the case of plants with a rated thermal input greater than 5 MW and less than or equal to 20 MW firing heavy fuel oil.

(5) 400 mg/Nm^3 in the case of low calorific gases from coke ovens, and 200 mg/Nm^3 in the case of low calorific gases from blast furnaces, in the iron and steel industry.

(6) 170 mg/Nm^3 in the case of biogas.

(7) 50 mg/Nm^3 in the case of plants with a rated thermal input greater than 5 MW and less than or equal to 20 MW.

Table 3

Emission limit values (mg/Nm^3) for existing engines and gas turbines

Pollutant	Type of medium combustion plant	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO_2	Engines and gas turbines	-	120	-	15 (1)(2)
NO_X	Engines	190 (3)(4)	190 (3)(5)	190 (6)	190 (6)
	Gas turbines (7)	200	200	150	200
Dust	Engines and gas turbines	-	10 (8)	-	-

(1) 60 mg/Nm^3 in the case of biogas.

(2) 130 mg/Nm^3 in the case of low calorific gases from coke ovens, and 65 mg/Nm^3 in the case of low calorific gases from blast furnaces, in the iron and steel industry.

(3) 1850 mg/Nm^3 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.

(4) 250 mg/Nm^3 in the case of engines with a rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

(5) 250 mg/Nm^3 in the case of engines with a rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW; 225 mg/Nm^3 in the case of engines with a rated thermal input greater than 5 MW and less than or equal to 20 MW.

(6) 380 mg/Nm^3 for dual fuel engines in gas mode.

(7) Emission limit values are only applicable above 70 % load.

(8) 20 mg/Nm^3 in the case of plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 20 MW.

PART 2

Emission limit values for new medium combustion plants

Table 1

Emission limit values (mg/Nm^3) for new medium combustion plants other than engines and gas turbines

Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO_2	200 (1)	400	-	350 (2)	-	35 (3)(4)
NO_x	300 (5)	300 (5)	200	300 (6)	100	200
Dust	20 (7)	20 (7)	-	20 (8)	-	-

(1) The value does not apply in the case of plants firing exclusively woody solid biomass.

(2) Until 1 January 2025, 1 700 mg/Nm^3 in the case of plants which are part of SIS or MIS.

(3) 400 mg/Nm^3 in the case of low calorific gases from coke ovens, and 200 mg/Nm^3 in the case of low calorific gases from blast furnaces, in the iron and steel industry.

(4) 100 mg/Nm^3 in the case of biogas.

(5) 500 mg/Nm^3 in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

(6) Until 1 January 2025, 450 mg/Nm^3 when firing heavy fuel oil containing between 0,2 % and 0,3 % N and 360 mg/Nm^3 when firing heavy fuel oil containing less than 0,2 % N in the case of plants which are part of SIS or MIS.

(7) 50 mg/Nm^3 in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW; 30 mg/Nm^3 in the case of plants with a total rated thermal input greater than 5 MW and less than or equal to 20 MW.

(8) 50 mg/Nm^3 in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

Table 2

Emission limit values (mg/Nm^3) for new engines and gas turbines

Pollutant	Type of medium combustion plant	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO_2	Engines and gas turbines	-	120 (1)	-	15 (2)
NO_x	Engines (3) (4)	190 (5)	190 (5) (6)	95 (7)	190
	Gas turbines (8)	75	75 (9)	50	75
Dust	Engines and gas turbines	-	10 (10)(11)	-	-

(1) Until 1 January 2025, 590 mg/Nm^3 for diesel engines which are part of SIS or MIS.

(2) 40 mg/Nm^3 in the case of biogas.

(3) Engines running between 500 and 1 500 hours per year may be exempted from compliance with those emission limit values if they are applying primary measures to limit NO_x emissions and meet the emission limit values set out in footnote (4).

(4) Until 1 January 2025 in SIS and MIS, 1 850 mg/Nm^3 for dual fuel engines in liquid mode and 380 mg/Nm^3 in gas mode; 1 300 mg/Nm^3 for diesel engines with ≤ 1200 rpm with a total rated thermal input less than or equal to 20 MW and 1 850 mg/Nm^3 for diesel engines with a total rated thermal input greater than 20 MW; 750 mg/Nm^3 for diesel engines with > 1200 rpm.

(5) 225 mg/Nm^3 for dual fuel engines in liquid mode.

(6) 225 mg/Nm^3 for diesel engines with a total rated thermal input less than or equal to 20 MW with ≤ 1200 rpm.

(7) 190 mg/Nm^3 for dual fuel engines in gas mode.

(8) These emission limit values are only applicable above 70 % load.

(9) Until 1 January 2025, 550 mg/Nm^3 for plants which are part of SIS or MIS.

(10) Until 1 January 2025, 75 mg/Nm^3 for diesel engines which are part of SIS or MIS.

(11) 20 mg/Nm3 in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

ANNEX III

Monitoring of emissions and assessment of compliance

PART 1

Monitoring of emissions by the operator

1. Periodic measurements shall be required at least:

– every three years for medium combustion plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 20 MW,

– every year for medium combustion plants with a rated thermal input greater than 20 MW.

2. As an alternative to the frequencies referred to in point 1, in the case of medium combustion plants which are subject to Article 6(3) or Article 6(8), periodic measurements may be required at least each time the following numbers of operating hours have elapsed:

– three times the number of maximum average annual operating hours, applicable pursuant to Article 6(3) or Article 6(8), for medium combustion plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 20 MW,

– the number of maximum average annual operating hours, applicable pursuant to Article 6(3) or Article 6(8), for medium combustion plants with a rated thermal input greater than 20 MW.

The frequency of periodic measurements shall in any case not be lower than once every five years.

3. Measurements shall be required only for:

(a) pollutants for which an emission limit value is laid down in this Directive for the plant concerned;

(b) CO for all plants.

4. The first measurements shall be carried out within four months of the grant of a permit to, or registration of, the plant, or of the date of the start of the operation, whichever is the latest.

5. As an alternative to the measurements referred to in points 1, 2 and 3(a), as regards SO_2, other procedures, verified and approved by the competent authority, may be used to determine the SO_2 emissions.

6. As an alternative to the periodic measurements referred to in point 1, Member States may require continuous measurements.

   In the case of continuous measurements, the automated measuring systems shall be subject to checking 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 checks.

7. Sampling and analysis of polluting substances and measurements of process parameters as well as any alternatives used as referred to under points 5 and 6 shall be based on methods enabling reliable, representative and comparable results. Methods complying with harmonised EN standards shall be presumed to satisfy this requirement. During each measurement, the plant shall be operating under stable conditions at a representative even load. In this context, start-up and shut-down periods shall be excluded.

PART 2

Assessment of compliance

1. In the case of periodic measurements, the emission limit values referred to in Article 6 shall be regarded as having been complied with if the results of each of the series of measurements or of the other procedures defined and determined in accordance with the rules laid down by the competent authority, do not exceed the relevant emission limit value.

2. In the case of continuous measurements, compliance with the emission limit values referred to in Article 6 shall be assessed as set out in point 1 of Part 4 of Annex V to Directive 2010/75/EU.

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

3. For the purpose of the calculation of the average emission values, the values measured during the periods referred to in Article 6(11) and Article 6(12) as well as during the start-up and shut-down periods shall be disregarded.