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Subject: 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

- Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. The Commission submitted its proposal, based on Article 192(1) TFEU, to the Council and the European Parliament on 20 December 2013 as part of the "Clean Air Programme for Europe" Strategy.
2. At its meeting on 17 December 2014, the Council agreed on a general approach on the abovementioned proposal. On this basis, the Presidency entered into negotiations with the European Parliament with a view to a first-reading agreement. A first informal trilogue took place on 21 May 2015.

3. On 27 May 2015, COREPER agreed on changes to the general approach, giving the Presidency the mandate to pursue negotiations at the second informal trilogue that took place on 2 June 2015.
4. Tripartite meetings on technical level with the EP and the Commission were held on 26 May and on 4, 12 and 18 June 2015.
5. At the third informal trilogue meeting on 23 June 2015, an agreement *ad referendum* on a possible final compromise package was reached. The main elements of this possible package were presented to delegations at COREPER on 24 June 2015 and are now contained in the consolidated and marked text set out in the Annex¹ to this note.

II. ANALYSIS OF THE COMPROMISE TEXT WITH A VIEW TO AN AGREEMENT

6. The consolidated text set out in the Annex contains the modifications, agreed *ad referendum* at the last trilogue, to the last mandate approved by Coreper on 17 June 2015 (10102/15). They include in particular:
 - i) issue of Annex III: Article 5(4) now contains the *obligation*, for zones concerned by air quality problems, to assess the need of stricter emission limit values than established by this Directive, in the context of the plans developed under the Air Quality Directive; the wording of recital 13 was adapted accordingly and also reflects Article 5(5) on the relevant exchange of information to be organised by the Commission with Member States, the industries concerned and non-governmental organisations;

¹ Changes to the original Commission proposal are indicated in ***bold italics*** and **■** for deletions.

- ii) operating hours: decrease of the generally applicable number of operating hours (500 hours in Article 5(2a) and Article 5(3a) eligible for an exemption from the emission limit values of Annex II, while maintaining the limit for emergencies and extraordinary circumstances at 1000 hours;
 - iii) Register: the compromise text for Article 4(6) clarifies when to include data on existing plants in the register and provides for the inclusion of information on changes to MCP;
 - iv) Emission monitoring, Annex IV: the new point 1a of part 1 clearly indicates the alternative measurement method, based on a specific number of operating hours, that plants covered by the derogation for limited operating hours can use instead of yearly periodic measurements;
 - v) Article 12(3), reporting: the Commission is tasked to provide, by the way of implementing acts, the reporting formats not only in relation to the general implementation reports but also regarding the information to be provided under the new paragraph 1a of Article 12 on the estimated total annual emissions of carbon monoxide and on the concentration of these emissions;
 - vi) Article 12a, review: a deadline (1 January 2020) was inserted for the Commission's review of the progress on energy efficiency of medium combustion plants and the Article has been restructured, for reasons of clarity.
7. The Presidency considers this possible compromise agreement a balanced package that preserves most of the Council's priorities.

III. CONCLUSION

8. The Permanent Representative Committee is invited to:
- analyse the consolidated text as set out in the Annex to this note and confirm final agreement on an overall compromise text on this basis; and
 - authorise the Presidency, if appropriate, to send a letter to the European Parliament stating that if the Parliament were to adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form as set out in the Annex to this note, subject to the previous revision of the text by the lawyer-linguists, the Council would, in accordance with Article 294 paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.
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DIRECTIVE (EU) 2015/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of
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 ... (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.

Whereas:

- (1) Decision *No 1386/2013/EU* of the European Parliament and of the Council ⁴ (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. ***In many areas of the Union, air quality levels are still above the limits that the Union itself has set, and 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 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.

⁴ 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 acts implementing Directive 2009/125/EC of the European Parliament and of the Council **■** ⁵. *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 ⁶ from 7 January 2013, while Directive 2001/80/EC of the European Parliament and of the Council ⁷ 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 ⁸ 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 *dust* 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.

⁵ 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).

⁶ 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).

⁷ 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).

⁸ COM(2013)286 final.

- (8) The Communication from the Commission to the Council and the European Parliament "A Clean Air Programme for Europe"⁹ 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 Pollution¹⁰, 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.
- (8a) Medium combustion plants should be developed and operated in such a way 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 or deciding on major investments.*
- (8b) 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.*
- (9) 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 are fired by waste and thereby covered by Chapter IV of that Directive, should be excluded from the scope of this Directive.*
- (9a)** ■ 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.

⁹ COM(2013) xxx final.

¹⁰ COM(2005) 446 final.

- (9b) *As medium combustion plants firing refinery fuels within mineral oil and gas refineries and recovery boilers within installations for the production of pulp are subject to emission levels associated with BAT set out in best available techniques (BAT) conclusions already established under Directive 2010/75/EU, this Directive should not apply to such plants.*
- (9c) *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 below 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 regulatory gaps, the provisions of this Directive should also apply to a combination formed by medium combustion plants where the total rated thermal input is equal to or more than 50 MW, without prejudice to the provisions of Chapter III of Directive 2010/75/EU.*
- (10) 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.
- (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.
- (11a) *The emission limit values set out in Annex II should not apply to medium combustion plants located in the Canary Islands, French Overseas Departments, and the archipelagos of Madeira and Azores, because of the technical and logistical issues associated with those plants' isolated location. Member States should 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.*

- (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.
- (12a) 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.*
- (12b) Due to the infrastructural constraints faced by existing medium combustion plants which are part of small or micro isolated systems and the need to facilitate their interconnection, these plants should be given more time to adapt to the emission limit values set out in this Directive.*
- (12c) Considering the overall benefits of district heating in terms of contributing to reduced domestic use of fuels causing high air pollution, and in terms of energy efficiency improvement and CO₂ emission reduction, existing medium combustion plants which provide a substantial amount of their useful heat production to a public network for district heating, may be given more time to adapt to the emission limit values set out in this Directive. Considering recent investments in biomass plants aiming at increasing the use of renewable energy sources which have already led to reduced pollutants emission and to take account of related investment cycles, more time may be given to these plants to adapt to the emission limit values set under this Directive.*
- (12d) Considering 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, more time may be given to medium combustion plants driving such stations to adapt to the emission limit values for NO_x set under this Directive.*

- (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. ***This 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 in this Directive as part of the development of air quality plans according to Directive 2008/50/EC. 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.***
- (14) 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.***
- (14a) ***In order to ensure effective implementation and enforcement of this Directive, inspections should, where possible, be coordinated with those under other Union legislation, as appropriate.***
- (14b) ***The provisions of this Directive regarding 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*** ¹¹.

¹¹ ***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).***

- (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 ***and avoid duplication***, 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.
- (16a) 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 the state of the art technologies. In this context, the Commission should also consider the opportunity of setting out specific emission limit values for other pollutants, such as carbon monoxide (CO) and possible minimum energy efficiency standards.***
- (17) In order to adapt to scientific and technical progress, the power to adopt acts to adjust the provisions on ***assessment of compliance*** set out in ***paragraph 2 of Part 2 of 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.

- (17a) *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*¹².
- (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 documents¹³, 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,

¹² *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).*

¹³ OJ C 369, 17.12.2011, p. 14.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter

This Directive lays down rules to control emissions of sulphur dioxide, nitrogen oxides 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 lays down rules also to monitor emissions of carbon monoxide.

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.

1a. This Directive shall also apply to a combination formed by new medium combustion plants pursuant to Article 3a, including where the total rated thermal input of such combination is equal to or more than 50 MW, unless the combination is a combustion plant covered by Chapter III of Directive 2010/75/EU.

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;

(aa) combustion plants covered by Directive 97/68/EC of the European Parliament and of the Council ¹⁴;

(ab) on-farm combustion plants with a total rated thermal input not exceeding 5 MW, which are exclusively using unprocessed poultry manure, as referred to in Article 9(a) of Regulation (EC) No 1069/2009 of the European Parliament and of the Council ¹⁵, as a fuel;

■

(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;

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

(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;

■

(fa) gas turbines and gas and diesel engines used on offshore platforms;

¹⁴ ***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).***

¹⁵ ***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).***

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

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

(fd) reactors used in the chemical industry;

(fe) coke battery furnaces;

(ff) cowpers;

(fg) crematoria;

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

(fi) recovery boilers in installations for the production of pulp.

2a. 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 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_x) means nitric oxide and nitrogen dioxide, expressed as nitrogen dioxide (NO₂);
- (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 [1 year after the date of transposition] ***or for which a permit was granted before [date of transposition] pursuant to national legislation provided that the plant is put into operation no later than [1 year after date of transposition];***
- (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;
- (12a) *‘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 ¹⁶;*
- (12b) *‘micro isolated system’ (MIS) means a micro isolated system as defined in point 27 of Article 2 of Directive 2009/72/EC;*
- (13) ‘fuel’ means any solid, liquid or gaseous combustible material;
- (13a) *‘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;*
- (14) ‘waste’ means *waste as defined in Article 3(1) of Directive 2008/98/EC of the European Parliament and of the Council ¹⁷;*
- (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;

¹⁶ *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).*

¹⁷ *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).*

- (c) vegetable waste from agriculture and forestry;
- (d) vegetable waste from the food processing industry, if the heat generated is recovered;
- (e) 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;
- (f) cork waste;
- (g) 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;

(15a) 'gas oil' means:

- (i) any petroleum-derived liquid fuel falling within CN code 2710 19 25, 2710 19 29, 2710 19 47, 2710 19 48, 2710 20 17 or 2710 20 19, or**
- (ii) 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;**

(15b) 'natural gas' means naturally occurring methane with not more than 20 % (by volume) of inerts and other constituents.

(15c) 'heavy fuel oil' means:

- (i) any petroleum-derived liquid fuel falling within CN code 2710 19 51 to 2710 19 68, 2710 20 31, 2710 20 35, 2710 20 39, or**

(ii) *any petroleum-derived liquid fuel, other than gas oil as defined in points 13a, 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;*

(16) ‘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;*

(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;

█

(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.

Article 3a
Aggregation

The combination formed by two or more new medium combustion plants shall be considered to be a single medium combustion plant for the purpose of this Directive and their rated thermal input 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 judgment of the competent authority, be discharged through a common stack.*

Article 4

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 registration.*
- 1a. *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 above 5 MW is operated without permit or registration.*

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 5 MW or less is operated without permit or 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.*

4. The competent authority shall register, *or start the procedure for granting a permit to the medium combustion plant within one month following the notification or information submitted by the operator and shall inform the operator thereof.*

6. **█** The competent authorities shall *hold a register with information on each medium combustion plant including* the information listed in Annex I *and the* information obtained *according to Article 9. Existing plants shall be included in the register from the date of registration or from the date when granted a permit. The competent authorities shall make available to the public, including via the Internet, the register, in accordance with Directive 2003/4/EC.*
- 6a. *Without prejudice to the obligation to hold a permit or a registration, 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.*
- 6b. *For medium combustion plants which are part of an installation covered by Chapter II of Directive 2010/75/EU, the requirements of this Article are deemed to be fulfilled through compliance with the provisions of that Directive.*
- 6c. *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 the permit or registration contains the information required by this Article.*

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 **█** 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, and the archipelagos of Madeira and Azores. Member States 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 air of sulphur dioxide, nitrogen oxides and **dust** from an existing medium combustion plant with a rated thermal input above 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 air of sulphur dioxide, nitrogen oxides and **dust** 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 **Tables 1 and 3 of** Part 1 of Annex II.

- 2a.** 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.

In the following cases of emergency or where extraordinary circumstances apply, Member States may extend the limit to 1000 hours:

- *for backup power production in connected islands in the event of breakup of the main power supply to the island;*
- *medium combustion plants used for heat production in cases of exceptionally cold weather events.*

In *all cases set out in this paragraph*, for plants firing solid fuels, an emission limit value for *dust* of 200 mg/Nm³ shall apply.

- 2b. *Existing medium combustion plants being part of SIS and 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.*
- 2c. *Until 1 January 2030, existing medium combustion plants with a rated thermal input above 5 MW may be exempted from compliance with the emission limit values set in Annex II provided that at least 50 % of the useful heat production of the plant, as a rolling average over a period of 5 years, is delivered in the form of steam or hot water to a public network for district heating. The emission limit values set by competent authorities shall not exceed 1100 mg/Nm³ for SO₂ and 150 mg/Nm³ for dust.*

Until 1 January 2030, 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, may be exempted from compliance with the dust emission limit values set in Annex II. The emission limit values set by competent authorities shall not exceed 150 mg/Nm³ 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.

- 2d. *Until 1 January 2030, Member States may exempt existing medium combustion plants with a rated thermal input above 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 NO_x emission limit values set out in Table 3 of Part 1 of Annex II.*
3. From [*12 months* after the date of transposition] emissions into air of sulphur dioxide, nitrogen oxides and *dust* from a new medium combustion plant shall not exceed the emission limit values set out in Part 2 of Annex II

- 3a. 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 that case, for plants firing solid fuels, an emission limit value for *dust* of 100 mg/Nm³ shall apply.
4. In zones *or part of 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 *than those set out in this Directive, as part of the development of air quality plans in Article 23 of that Directive, taking into account the results of the information exchange referred to in paragraph 5, providing that applying such emission limit values would effectively contribute to a noticeable improvement of the air quality.*
5. 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 information exchange.

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 **■** inform the Commission of any derogation granted under the first subparagraph *within one month.*

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 inform the Commission **■** of any derogation granted under the first subparagraph *within one month*.

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 product of multiplication by the sum of the thermal inputs delivered by all fuels;
 - (c) aggregating the fuel-weighted emission limit values.

Article 6

Obligations of the operator

1. Member States shall ensure that the operators carry out monitoring of emissions at least in accordance with Annex IV, *part 1*.

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 ***according to the rules set out in Annex IV, part 2.***
4. For medium combustion plants applying secondary abatement equipment in order to meet the emission limit values, ***the operator shall keep a record or information proving*** the effective ***continuous*** operation of that equipment **■** .
 - 4a. ***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 paragraph 3 and 4;***
 - (c) ***where applicable, the record of operating hours referred to in Article 5(2a) and in Article 5(3a);***
 - (d) ***a record of the type and amount of fuels used in the plant and of any malfunctions or breakdown of secondary abatement equipment;***
 - (e) ***the record of the events of non-compliance and the measures taken, as referred to in paragraph 4c.***

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

- 4b. *The operator shall, without undue delay, make available the data and information listed in paragraph 4a 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. It shall make such a request if a member of the public requests access to the data or information listed in paragraph 4a.*
- 4c. *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 7. Member States shall establish rules for the type, frequency and format of information concerning events of non-compliance to be provided by operators to the competent authority.*
- 4d. *Operators of medium combustion plants shall provide 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.*
- 4e. *Operators shall keep the periods of start-up and shut-down of the medium combustion plants as short as possible.*

Article 7

Compliance check

- 1. *Member States shall ensure that no valid value of emissions monitored in accordance with Annex IV, exceeds the emission limit values set out in Annex II.*
1. 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.

4. In the event of non-compliance, ***in addition to the measures taken by the operator according to Article 6(4c)***, 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 the non-compliance causes a significant degradation of local air quality, and until compliance is restored, the operation of the plant ***shall be suspended***.



Article 9

Changes to medium combustion plants

1. ***Member States shall take the necessary measures to ensure that*** the operator ***informs*** the competent authority, ***without undue delay***, 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 accordingly. █



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 [*1 year and 9 months after each of the compliance dates for existing plants set out in Article 5(2)*] report to the Commission *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 for the purposes thereof.*

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

- 1a. *Member States shall also report to the Commission, by [two years before the date set in the review clause], an estimate of the total annual emissions and information available on the concentration of emissions of carbon monoxide from medium combustion plants, grouped by fuel type and capacity class.*

3. For the purposes of the reporting referred to in paragraphs 1 and 1a, 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 pursuant to paragraph 1 and 1a of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14a.

4. The Commission shall, within twelve months from the receipt of the reports from Member States in accordance with **paragraph 1** , and taking into account information made available in accordance with Articles 5 (6) **and 5(7)** , submit a summary report to the European Parliament and to the Council.

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

Article 12a

Review

1. ***By 1 January 2020, the Commission shall review progress in energy efficiency of medium combustion plants and assess the benefits of setting minimum energy efficiency standards in line with best available techniques.***
2. ***The Commission shall, by 1 January 2023, assess the need to review the provisions as regards plants being part of SIS/MIS as well as Part 2 of Annex II and on the basis of the state of the art of 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 carbon monoxide emissions.

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

3. ***The Commission shall report 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 *paragraph 2 of Part 2 of Annex IV* 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 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.
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 14a
Committee

1. ***The Commission shall be assisted by the committee established by Article 75(1) of Directive 2010/75/EU of the European Parliament and of the Council. 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 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: 2 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

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 combustion plant*);
 3. Type and share of fuels used according to the fuel categories laid down in Annex II;
 4. The 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 [12 months after the date of transposition]*;
 5. Sector of activity of the medium combustion plant or the facility in which it is applied (NACE code);
 6. The expected number of *annual* operating hours of the medium combustion plant and the average load in use;
 7. **■**
 8. In case **■** Article 5(2a) *or* Article 5(3a) is used, a declaration signed by the operator to operate the plant not more than *the amount of* hours *referred to in those paragraphs*;
 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.
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ANNEX II

Emission limit values referred to in Article 5

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 O₂ 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

Table 1

Emission limit values (mg/Nm³) for **existing** combustion plants, other than engines and gas turbines, **with a total rated thermal input between 1 and 5 MW**

Pollutant	Solid biomass	Other solid fuels	<i>Gas oil</i>	<i>Liquid fuels other than gas oil</i>	Natural gas	Gaseous fuels other than natural gas
SO ₂	200 ⁽¹⁾⁽²⁾	1100	-	350	-	200 ⁽³⁾
NO _x	650	650	200	650	250	250
Dust	50	50	-	50	-	-

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

⁽²⁾ *300 mg/Nm³ in case of plants firing straw.*

⁽³⁾ *400 mg/Nm³ in case of low calorific gases from coke oven (iron and steel industry).*

Table 2

Emission limit values (mg/Nm³) for existing combustion plants, other than engines and gas turbines, with a total rated thermal input above 5 MW

Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO₂	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 case of plants firing exclusively woody solid biomass.*

⁽²⁾ *300 mg/Nm³ in case of plants firing straw.*

⁽³⁾ *1100 mg/Nm³ in case of plants with total a rated thermal input between 5 and 20 MW.*

⁽⁴⁾ *Until 01/01/2030, 850 mg/Nm³ in case of plants with a total rated thermal input between 5 and 20 MW firing heavy fuel oil.*

⁽⁵⁾ *400 mg/Nm³ in case of low calorific gases from coke oven and 200 mg/Nm³ in case of low calorific gases from blast furnace (iron and steel industry).*

⁽⁶⁾ *170 mg/Nm³ in case of biogas.*

⁽⁷⁾ *50 mg/Nm³ in case of plants with a total rated thermal input between 5 and 20 MW.*

Table 3

■ Emission limit values (mg/Nm³) for **existing** engines and gas turbines

Pollutant	Type of <i>combustion plant</i>	<i>Gas oil</i>	Liquid fuels <i>other than gas oil</i>	Natural gas	Gaseous fuels other than natural gas
SO ₂	Engines and gas turbines	-	120	-	15 ⁽⁻¹⁾ ^(-1a)
NO _x	Engines	190 ⁽¹⁾ ^(1a)	190 (1) ^(1b)	190 ⁽²⁾	190 ⁽²⁾
	Gas turbines ⁽³⁾	200	200	150	200
Dust	Engines and gas turbines	-	10 ^(3a)	-	-

⁽¹⁾ 60 mg/Nm³ in case of biogas.

^(1a) 130 mg/Nm³ in case of low calorific gases from coke oven and 65 mg/Nm³ in case of low calorific gases from blast furnace (iron and steel industry).

⁽¹⁾ 1850 mg/Nm³ 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.

^(1a) 250 mg/Nm³ in case of engines with total rated thermal input between 1 and 5 MW.

^(1b) 250 mg/Nm³ in case of engines with total rated thermal input between 1 and 5 MW; 225 mg/Nm³ in case of engines with total rated thermal input between 5 and 20 MW.

⁽²⁾ 380 mg/Nm³ for dual fuel engines in gas mode.

⁽³⁾ Emission limit values are only applicable above 70 % load.

^(3a) 20 mg/Nm³ in case of plants with a total rated thermal input between 1 and 20 MW.

Part 2

Emission limit values for new medium combustion plants

Table 1

Emission limit values (mg/Nm³) for *new* medium combustion plants other than engines and gas turbines

Pollutant	Solid biomass	Other solid fuels	<i>Gas oil</i>	<i>Liquid fuels other than gas oil</i>	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 case of plants firing exclusively woody solid biomass.

⁽²⁾ Until 01/01/2025, 1700 mg/Nm³ in case of plants being part of Small Isolated Systems (SIS) and Micro Isolated Systems (MIS).

⁽³⁾ 400 mg/Nm³ in case of low calorific gases from coke oven and 200 mg/Nm³ in case of low calorific gases from blast furnace (iron and steel industry).

⁽⁴⁾ 100 mg/Nm³ in case of biogas.

⁽⁵⁾ 500 mg/Nm³ in case of plants with a total rated thermal input between 1 and 5 MW.

⁽⁶⁾ Until 01/01/2025, 450 mg/Nm³ when firing heavy fuel oil containing between 0.2% and 0.3 % N and 360 mg/Nm³ when firing heavy fuel oil containing less than 0.2 % N in case of plants being part of SIS and MIS.

⁽⁷⁾ 50 mg/Nm³ in case of plants with a total rated thermal input between 1 and 5 MW; 30 mg/Nm³ in case of plants with a total rated thermal input between 5 and 20 MW.

⁽⁸⁾ 50 mg/Nm³ in case of plants with a total rated thermal input between 1 and 5 MW.

Table 2

Emission limit values (mg/Nm³) for **new engines and gas turbines**

Pollutant	Type of 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 ^(-1a)
NO _x	Engines ^{(-1b)(-1c)}	190 ⁽¹⁾	190 ^{(1)(1a)}	95 ⁽²⁾	190
	Gas turbines ⁽³⁾	75	75 ^(3a)	50	75
<u>Dust</u>	Engines and gas turbines	-	10 ^{(3b)(3c)}	-	-

⁽⁻¹⁾ **Until 01/01/2025, 590 mg/Nm³ for diesel engines being part of SIS and MIS.**

^(-1a) **40 mg/Nm³ in case of biogas.**

^(-1b) **Engines running between 500 and 1500 hours per year may be exempted from compliance with these emission limit values in case they are applying primary measures to limit NO_x emissions and meet the emission limit values set out in footnote ^(-1c).**

^(-1c) **Until 01/01/2025 in SIS and MIS, 1850 mg/Nm³ for dual fuel engine in liquid mode and 380 mg/Nm³ in gas mode; 1300 mg/Nm³ for diesel engines with ≤ 1200 rpm equal to or below 20 MW and 1850 mg/Nm³ for diesel engines above 20 MW; 750 mg/Nm³ for diesel engines with > 1200 rpm.**

⁽¹⁾ 225 mg/Nm³ for dual fuel engines in liquid mode.

^(1a) **225 mg/Nm³ for diesel engines with a total rated thermal input equal to or below 20 MW with ≤ 1200 rpm.**

⁽²⁾ 190 mg/Nm³ for dual fuel engines in gas mode.

⁽³⁾ Emission limit values are only applicable above 70 % load.

^(3a) **Until 01/01/2025, 550 mg/Nm³ for plants being part of SIS and MIS.**

^(3b) **Until 01/01/2025, 75 mg/Nm³ for diesel engines being part of SIS and MIS.**

^(3c) **20 mg/Nm³ in case of plants with a total rated thermal input between 1 and 5 MW.**

¹⁸ Annex III is deleted.

ANNEX IV

Emission monitoring *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 greater than 1 MW and less than 20 MW,
 - *every year* for medium combustion plants *with a* rated thermal input equal to or greater than 20 MW .

1a. As an alternative, for medium combustion plants which are subject to the provisions of Article 5(2a) or Article 5(3a), periodic measurements may be required at least every:

- *3 times the number of maximum average yearly operating hours, applicable pursuant to those provisions, for medium combustion plants with a rated thermal input greater than 1MW and less than 20 MW,*
- *the number of maximum average yearly operating hours, applicable pursuant to those provisions, for medium combustion plants with a rated thermal input equal to or greater than 20 MW.*

The frequency of periodic measurements shall in any case not be lower than every 5 years.

2. Measurements are only required for:
- (i) pollutants for which an emission limit value is laid down in *this Directive* for the plant concerned,
 - (ii) *carbon monoxide (CO) emissions for all plants.*

3. The first measurements shall be carried out within *four* 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 SO₂ referred to in point 1, other procedures, verified and approved by the competent authority, may be used to determine the SO₂ emissions.

4a. 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 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.

5. Sampling and analysis of polluting substances and measurements of process parameters as well as any alternatives used as referred to under point 4 *and 4a*, 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 the 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 5 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 according to the rules laid down by the competent authorities, 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 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.

3. *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.*