Directive (EU) 2015/2193 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)

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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)],

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 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.

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(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.

(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[(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 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.

(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.

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(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[(8)]. 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.

(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[(9)].

(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.

(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[(10)].

(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.