

## EURELECTRIC views on the Council's general approach on the Medium Combustion Plants Directive February 2015

### KEY MESSAGES

EURELECTRIC welcomes the Council's general approach adopted on 17 December 2014, in particular the following positive developments:

- **Limited lifetime derogation for MCPs:** given the size of the plants in the scope of the MCPD, the implementation of the proposed measures will prove economically challenging. Limited lifetime derogation as proposed by the Council would ease the transition for these plants in a cost-effective manner.
- **1000 hours exemption:** many MCPs operate for a limited number of hours each year for a number of essential purposes (emergency power supply, backup for renewables, additional supply during cold winter weather, break down for an island connected to the mainland). Under such limited and variable operation, it is not feasible to achieve the Annex II emission limits and the suggestion of Council to grant a 1000 hours exemption is therefore welcome.
- **Deletion of article 5.4 and Annex III:** more stringent benchmark values in zones not complying with air quality limit values from Directive 2008/50/EC that would apply exclusively to MCPs regardless of the origin of the pollution (transport, residential, manure spreading) could lead to inefficient measures. Member states are always free to introduce more protective measures. Deleting article 5.4 and Annex III is therefore the best option.
- **Better consideration of outermost regions and small/micro isolated systems (SIS/MIS):** outermost regions and SIS/MIS face specific challenges, for geographical and logistic reasons, that may not evolve over time. Their characteristics have to be fully accounted for.
- **Better consideration of the specific challenges faced by smaller installations:** in general, the measures proposed by the Council for Annex II eases the problems smaller installations will face with the proposal, especially given the limited environmental impact of smaller installations.

EURELECTRIC has reservations on the introduction of an **aggregation rule** for MCPs given the size of the installations. A careful technical and economic assessment is crucial and this can only be requested from new plants.

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## EURELECTRIC VIEWS ON KEY ISSUES

COMMISSION PROPOSAL	COUNCIL GENERAL APPROACH (17 December 2014)	EURELECTRIC VIEWS
<b>Article 2a –Scope (new)</b>		
	<p><u>This Directive shall not apply to research activities, development activities or the testing activities relating to medium combustion plants.</u></p> <p><u>Member States may establish specific conditions for the application of this paragraph.</u></p>	<p><b>Support Council general approach.</b></p> <p>This paragraph introduces a similar provision to article 2.2 in Directive 2010/75/EU on industrial emissions (IED).</p>
<b>Article 3.2-Definitions</b>		
<p>(2) ‘emission limit value’ means <b>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;</b></p>		<p><b>Amendment proposal.</b></p> <p>(2)‘emission limit value’ means <b>the mass, expressed in terms of certain specific parameters, concentration and/or level of an emission, which may not be exceeded during one or more periods of time;</b></p> <p style="text-align: center;">Justification</p> <p>This amendment aims at ensuring consistency with article 3.4 of Directive 2010/75/EU on industrial emissions (IED) which already establishes a definition of emission limit value. This is also in line with the principles of the Ambient Air Quality Directive.</p>
<b>Article 3.6-Definitions</b>		
<p>(6) ‘existing combustion plant’ means a combustion plant put into operation before [1 year after the date of transposition];</p>	<p>(6) ‘existing combustion plant’ means a combustion plant put into operation before [1 year after the date of transposition] <u>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];</u></p>	<p><b>Support Council general approach.</b></p> <p>The draft Directive proposes that new plants have to meet the emission limit values if their first operation takes place a year (or more) after transposition of the Directive. However, the level of emissions from a plant is determined during the design and specification for the plant. The required level of performance is then specified in the environmental permit for the plant. The permit or registration can be issued several years ahead of the construction and commissioning of the plant. As a</p>

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		result, using the date of first operation to define whether a plant is classified as “new” is not appropriate, as the date of issue of the environmental permit for the plant determines the emissions performance of the plant. This was recognised in both the Large Combustion Plant Directive (LCPD) and the IED which used the date of the granting of a permit as the criterion for determining whether a plant was existing or new.
<b>Article 3.16-Definitions</b>		
(16) ‘operating hours’ means the time, expressed in hours, during which a combustion plant is discharging emissions into the air;	‘operating hours’ means the time, expressed in hours, during which a combustion plant is <u>operating and</u> discharging emissions into the air, <u>excluding start-up and shut-down periods</u> ;	<b>Support Council general approach.</b> Contrary to the IED, the MCP proposal includes start-up and shut-down periods in its scope, which would place more stringent requirements on smaller combustion plants. When starting up a plant, there are a range of controls and procedures which are mandatory because of health and safety issues. SU and SD times and practices are not flexible. This is a regulated area and the priority is to get the unit to a stable situation after which secondary abatement equipment can be introduced.
<b>Article 3a-Aggregation rules (new)</b>		
	1. The combination formed by <u>two or more new medium combustion plants shall be considered as a single medium combustion plant for the purpose of this Directive and their rated thermal input added for the purpose of calculating the total rated thermal input of the plant, where:</u> - <u>the waste gases of such medium combustion plants are discharged through a common stack; or</u> - <u>taking into account technical and economic factors, [...] the</u>	<b>Support Council general approach.</b> While aggregation rules exist for Large Combustion Plants in the IED (article 29), they present operational and compliance challenges while presenting no environmental benefit as unit-specific limit values provide equal control on emissions. An approach limited to new plants taking into account technical and economic factors is sufficient.

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	<u>waste gases of such medium combustion plants could be discharged through a common stack.</u>	
<b>Article 4.6.b-Permit or registration (new)</b>		
	6b. <u>For medium combustion plants which are part of an installation covered by chapter II of Directive 2010/75/EU on industrial emissions, the requirements of this Article are deemed to be fulfilled through compliance with the provisions of that Directive.</u>	<b>Support Council general approach.</b> Combustion plants below 50MW operated at IED sites and already permitted under chapter 1 and Chapter 2 of the IED should be exempted from the specific obligations for registration (article 4) and the pursued “system of environmental inspections of medium combustion plants” (article 7) to avoid double regulation. Those plants are sufficiently covered by the IED rules for permitting and inspection. Plant emissions of these units are already reported under E-PRTR. See also article 5.1.a proposed by the Council.
<b>Article 5.1 – Emission limit values (new)</b>		
	<u>1. For medium combustion plants located in the Canary Islands, French Overseas Departments, and the archipelagos of Madeira and Azores, the emission limit values set out in Annex II shall not apply. Member States shall set emission limit values for these plants in order to reduce their emissions to air and the potential risks to human health and the environment.</u>	<b>Support Council general approach.</b> Outermost regions present specific geographical and logistical challenges.
<b>Article 5.1.a – Emission limit values (new)</b>		
	<u>1.a Member States may exempt medium combustion plants which are part of an installation covered by Chapter II of Directive 2010/75/EU from compliance with the emission limit values set out in Annex II and the provisions of article 6 for those pollutants for which emission limit values apply pursuant to the provisions of article 13(5) and article 15(3) of</u>	<b>Support Council general approach.</b> For combustion plants below 50MW operated at IED sites and already permitted under chapter 1 and Chapter 2 of the IED only the emission limit values from Annex II of the MCPD should apply if there are no relevant BAT conclusions. See also article 4.6.b proposed by the Council.

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	<u>Directive 2010/75/EU for these plants.</u>	
<b>Article 5.2 – Emission limit values</b>		
(...) Member States may exempt existing medium combustion plants which do not operate more than <b>500</b> operating hours per year from compliance with the emission limit values set out in <b>Part 1</b> of Annex II. In that case, for plants firing solid fuels, an emission limit value for <b>particulate matter</b> of 200 mg/Nm <sup>3</sup> shall apply.	(...) Member States may exempt existing medium combustion plants which do not operate more than <b>[...] 1000</b> operating hours per year <u>as a rolling average over a period of 5 years</u> from compliance with the emission limit values set out in <b>Parts 1a, 1b and 1c</b> of Annex II. In that case, for plants firing solid fuels, an emission limit value for <u>dust</u> of 200 mg/Nm <sup>3</sup> shall apply.	<b>Support Council general approach.</b> Many MCPs operate for a limited number of hours each year for a number of essential purposes, including emergency power supply, as backup for renewables, for additional supply during cold winter weather and in the case of break down for an island connected to the mainland. Under such limited and variable operation, it is not feasible to achieve the Annex II emission limits. A derogation from these limits is essential to enable these MCPs to provide these vital services. A cap of 1000 operating hours per annum for the derogation will ensure that all the different categories of essential limited operation can be included, while excluding plants that operate at higher levels that can feasibly achieve the emission limits. The IED already includes similar derogations for emergency and peak plant operation for Large Combustion Plants. This separate MCPD derogation is tailored for the circumstances of essential MCP operation.
<b>Article 5.3 – Emission limit values</b>		
(...) Member States may exempt new medium combustion plants which do not operate more than <b>500</b> operating hours per year from compliance with the emission limit values set out in <b>Part 2</b> of Annex II. In that case, for plants firing solid fuels, an emission limit value for <b>particulate matter</b> of 100 mg/Nm <sup>3</sup> shall apply.	(...) Member States may exempt new medium combustion plants which do not operate more than <b>[...] 1000</b> operating hours per year <u>as a rolling average over a period of 5 years</u> from compliance with the emission limit values set out in <b>Part 2a, 2b and 2c</b> of Annex II. In that case, for plants firing solid fuels, an emission limit value for <u>dust</u> of 100 mg/Nm <sup>3</sup> shall apply.	<b>Support Council general approach.</b> Many MCPs operate for a limited number of hours each year for a number of essential purposes, including emergency power supply, as backup for renewables, for additional supply during cold winter weather and in the case of break down for an island connected to the mainland. Under such limited and variable operation, it is not feasible to achieve the Annex II emission limits.

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		Derogation from these limits is essential to enable these MCPs to provide these vital services. A cap of 1000 operating hours per annum for the derogation will ensure that all the different categories of essential limited operation can be included, while excluding plants that operate at higher levels that can feasibly achieve the emission limits. The IED already includes similar derogations for emergency and peak plant operation for Large Combustion Plants. This separate MCPD derogation is tailored for the circumstances of essential MCP operation.
<b>Article 5.4 – Emission limit values</b>		
4. In zones not complying with EU air quality limit values laid down in Directive 2008/50/EC, Member States shall apply, for individual medium combustion plants in those zones, emission limit values based on the benchmark values laid down in Annex III or on stricter values established by the Member States, unless it is demonstrated to the Commission that applying such emission limit values would entail disproportionate costs and that other measures ensuring compliance with the air quality limit values have been included in the air quality plans required under Article 23 of Directive 2008/50/EC.	Deleted.	<b>Support Council general approach.</b> Article 5.4 and Annex III of the proposal would apply to existing and new plants alike, at the date of transposition of the MCP Directive. These provisions are not in line with the subsidiarity principle (article 5 TUE). While article 193 TUE allows member states to maintain or introduce more stringent measures, article 5.4 imposes it to member states. This would lead to measures being applied exclusively to MCPs regardless of the possible other source(s) of pollution (transport, residential burning, manure spreading ...). The introduction of an article similar to article 18 IED on environmental quality standards instead of the proposed article 5.4 is more appropriate.
<b>Article 5a – Limited lifetime derogation (new)</b>		
	1. Member States may exempt existing medium combustion plants from compliance with the limit values set out in Part 1a, 1b and 1c of Annex II and the monitoring and reporting	<b>Support Council general approach.</b> The proposed 2025 deadline for compliance for existing plants >5MWth is economically challenging given the small size

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	<p>requirements set out in Article 6 and Annex IV for 5 years from the applicable dates set out in Article 5(2) provided that the following conditions are fulfilled:</p> <p>(a) the operator of the combustion plant undertakes, in a written declaration submitted to the competent authority by 1 January 2024, not to operate the plant for more than 11,000 operating hours, starting from 1 January 2030 and ending no later than 31 December 2034 for plants with a rated thermal input between 1 and 5 MW and starting from 1 January 2025 and ending no later than 31 December 2029 for plants with a rated thermal input above 5 MW;</p> <p>(b) the operator is required to submit each year to the competent authority a record of the number of operating hours since the applicable dates set out in Article 5(2)</p> <p>2. Each Member State shall communicate to the Commission in the reports mentioned in paragraphs 1 and 2 of Article 12 a list of any combustion plants to which paragraph 1 applies, including their total rated thermal input and the fuel types used. For plants subject to paragraph 1, Member States shall communicate annually to the Commission a record of the number of operating hours since 1 January 2025 or 1 January 2030 as applicable.</p>	<p>of these plants and the balance to be made between the costs of upgrade or even total replacement compared to the environmental consequences of operating until the end of the plant's life. Very similar circumstances apply to existing plants &lt;5MWth and limited lifetime derogation for these plants as well will provide a cost effective transitional measure.</p>
<b>Annex III - Benchmark values for more stringent emission limit values referred to in Article 5(4)</b>		
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	Deleted	<p><b>Support Council general approach.</b></p> <p>Article 5.4 and Annex III of the proposal would apply to existing and new plants alike, at the date of transposition of the MCP Directive. These provisions are</p>

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<p>waste gases and at a standardised O<sub>2</sub> content of 6 % for combustion plants using solid fuels, 3 % for combustion plants, other than engines and gas turbines, using liquid and gaseous fuels and 15 % for engines and gas turbines.</p> <p>Emission limit value benchmarks (mg/Nm<sup>3</sup>) for medium combustion plants other than engines and gas turbines. [Table from EC proposal]</p> <p>Emission limit value benchmarks (mg/Nm<sup>3</sup>) for engines and gas turbines [Table from EC proposal]</p>		<p>not in line with the subsidiarity principle (article 5 TUE). While article 193 TUE allows member states to maintain or introduce more stringent measures, article 5.4 imposes it to member states. This would lead to measures being applied exclusively to MCPs regardless of the possible other source(s) of pollution (transport, residential burning, manure spreading ...). The introduction of an article similar to article 18 IED on environmental quality standards instead of the proposed article 5.4 is more appropriate.</p>
<b>Annex IV Part1.3 – Emission Monitoring-Monitoring of emissions by the operator</b>		
<p>3. The first measurements shall be carried out within <b>three</b> months following the registration of the plant.</p>	<p>3. The first measurement shall be carried out within <u>six</u> months following <b>the permit</b> or the registration of the plant <b>or the date of start of the operation, whichever is the latest.</b></p>	<p><b>Amendment proposal.</b></p> <p>3. The first measurement shall be carried out within <b>twelve</b> months following the permit or the registration of the plant or the date of start of the operation, whichever is the latest.</p> <p>Justification</p> <p>Thousands, if not tens of thousands of existing MCP will become subject to the Directive requirements on 1 January 2025 and 2030. There are insufficient qualified personnel to complete the required testing across all European units within a six month period and it is unlikely that test-houses would develop the required increase in resource for two temporary peak periods.</p>