

Position Paper on the “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”

Introduction

The European Commission and the Council published their proposals for a review of the EU air quality legislation. MARCOGAZ wishes to express its main concerns about the proposed **Medium Combustion Plants Directive (MCPD) (2013/0442 (COD))** that will cover all combustion installations between 1 and 50MW (thermal input).

MARCOGAZ comments

MARCOGAZ as the technical association of the European Natural Gas Industry is also concerned with gas combustion processes. MARCOGAZ is also expert in medium combustion plants used in the Natural Gas Industry.

According to the experience of the Natural Gas Industry, the number of 400.000 appliances falling under this Directive is an under estimation.

MARCOGAZ wants to point out that the ELV's¹ set by the proposal for Directive 2013/0442(COD) have to be economically and technologically feasible. Especially the proposed ELV's for gas fired engines are unrealistic and unacceptable. Even with new engines it is almost impossible to respect the proposed limits.

The Commission proposal as amended by the Council foresees the possibility for Member States to grant exemptions from compliance with the ELVs set out in the MCPD for plants which do not operate more than 1000 (normal) operating hours per year rolling average of a period of 5 years. But in order to increase legal certainty for the operation of installations and to prevent a lack of harmonization between Member States with respect to the imposed ELV's for installations with low load mode, MARCOGAZ advocates a general immediate exemption in the Directive for installations with low number of operating hours from the proposed emission limit values and the requirements with respect to monitoring. Not only the currently proposed ELV's are too low, but also the required frequency of monitoring is too high for installations with such a low number of operating hours. Therefore, if a general exemption is not granted by the Directive, distinct ELV's and monitoring requirements should be set for plants which do not operate more than 1000 (normal) operating hours per year.

¹ Emission Limit Values

MARCOGAZ also would like to stress the importance of a Directive that is as much consistent as possible with the IED², but also taking into account the goal to lower administrative burdens. This will enhance compliance to the Directives and reduce unwanted distortion of competition between plants on both sides of the 50 MW limit. Therefore we support the proposal of Article 5a, regarding limited lifetime derogation, of the general approach of the Council but wish to observe that also here the need of legal certainty should lead also to the necessity of a general exemption.

MARCOGAZ supports the Council proposal to delete the Article 5.4 of the Commission's proposal since this gives more reasonable flexibility to the national Authorities in function of local environmental necessities.

MARCOGAZ proposals

MARCOGAZ would like to propose the following amendments:

a) General

The low threshold (1 MW) should be revised due to MARCOGAZ arguments in chapter b): The very low emissions of natural gas appliances make it unnecessary to impose such an additional administrative burden to these commercial and residential users. A limit of 5 MW is more reasonable.

Introduce the use of a confidence interval (equal to IED) in order to validate emission measurements (20% for NO_x & SO_x, 30% for PM).

Modify limited lifetime derogation, similar to IED.

Include higher emission limit values for combustion plant which were granted a permit before 27th November 2002 or 2003 which do not operate more than 1.500 operating hours per year as a rolling average over a period of 5 years, similar to IED.

Include a possible exemption from compliance with the emission limit values for district heating plants, similar to IED, as proposed by the Council.

Include an explicit provision that installations operating below 1000 h/year do not have to comply with the emission limit values in order to increase legal certainty for the operation of installations and to prevent a lack of harmonization between Member States, instead of giving the Member States the right to have them excluded. These installations should also be excluded from the monitoring requirements.

Use the definitions of operating hours as described in the IED: "operating hours' means the time, expressed in hours, during which a combustion plant, in whole or in part, is operating and discharging emissions into the air, excluding start-up and shut-down periods" as proposed by the Council.

² Industrial Emissions Directive

Monitoring requirements:

- Add a specific provision in the Directive to formally exclude installations operating less than 1000 h/year from the monitoring requirement. The same for installations with limited lifetime. In any case, the periodicity should be 3 years, as is the case according to the German Clean Air Code, or 4 years as in the Dutch legislation.
- Provide a possibility to postpone measurement if the plant is not used in a given period (e.g. back-up boilers), avoiding that way a start-up and measurement procedure and shut-down only because of the measurements.

b) Specific

See the changes and comments in the text of the Commission draft dated 18.12.2013 as modified in the general approach of the Council hereafter.

Art.2, n°1

MARCOGAZ proposes to reduce the scope as follows:

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.

*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. **The lower limit is 5 MW for natural gas as fuel.***

Justification:

- Natural gas is known to be the fuel with the lowest emissions. That can be demonstrated by considering the emission factors for the different fuels (see Annex 1 – “Examples of the Danish Center for Environment”).
 - o http://envs.au.dk/fileadmin/Resources/DMU/Luft/emission/2012/Emf_internet_januar2014_GHG.htm
 - o http://envs.au.dk/fileadmin/Resources/DMU/Luft/emission/2012/Emf_internet_januar2014_HM_POP.htm
- Increasing the lower limit means reduction of administrative burden for a high number of small plants which are also situated in the service and the residential sector.

Art.2, n°2, (a)

combustion plants which are covered by Chapter III or Chapter IV of Directive 2010/75/EU;

*combustion plants which are covered by Chapter III or Chapter IV of Directive 2010/75/EU, **except plants under article 29 no. 3 of this Directive 2010/75, which do have to meet requirements of Annex II of the present Directive***

Clarification from the Commission is urgently needed regarding the overlap between the MCPD and the IED and its consequences. The draft of the proposal of Council tends in that direction but still too much legal uncertainty. In other cases the Commission has used FAQ's in cases where the legislation stays unclear.

Art.3, n°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;

*'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 **based on the application of primary emission abatement measures;***

Justification:

- As argued in the Commission draft Introduction, Chapter 2, page 4, ELV's should be based on the application of primary emission abatement measures. It should also be taken into the definition.

Art.3, n°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 **operating and discharging emissions into the air excluding start-up and shut-down periods;***

Justification:

- We propose to be in line with IED Art. 3 def. 27 and support the proposal of the general approach of the Council.

Art.4, n°5

Existing medium combustion plants may be exempted from the notification obligation referred to in paragraph 2 provided that all information referred to in paragraph 3 has been made available to the competent authorities.

*Existing medium combustion plants may be exempted from the notification obligation referred to in paragraph 2 provided that all information referred to in paragraph 3 has been made available to the competent authorities, **who will inform the operator before (twelve months after the date of transposition) of the registration.***

Justification:

- The operator should be informed on the registration which has been made without his active participation.

Art.5, n°2, §1 & 2

The rated thermal input mentioned in the two first paragraphs have to be adapted according to the proposal for scope (see proposal for Art. 2 no. 1).

Art.5, n°2, §3

Member States may exempt existing medium combustion plants which do not operate more than 500 operating hours per year Member States may exempt from compliance with the emission limit values set out in Part 1 of Annex II. In that case, for plants firing solid fuels, an emission limit value for particulate matter of 200 mg/Nm³ shall apply.

~~Member States may exempt~~ Existing medium combustion plants which do not operate more than ~~1000~~ **500** operating hours per year **(5 rolling years average)** ~~Member States may exempt~~ **are exempted** from compliance with the emission limit values set out in Part 1 of Annex II. In that case, for plants firing solid fuels, an emission limit value for particulate matter of 200 mg/Nm³ shall apply.

Justification:

- To ensure a fair competition between operators in different Member States, the 1000 operating hours rule should be mandatory for all Member States.
- MARCOGAZ suggests replacing 1000 by 1500 to be in line with IED.

Art.5, n°3

From [1 years after the date of transposition] emissions into air of sulphur dioxide, nitrogen oxides and particulate matter from a new medium combustion plant shall not exceed the emission limit values set out in Part 2 of Annex II.

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

Member States may exempt new medium combustion plants which do not operate more than 500 operating hours per year from compliance with the emission limit values set out in Part 2 of Annex II. In that case, for plants firing solid fuels, an emission limit value for particulate matter of 100 mg/Nm³ shall apply.

~~Member States may exempt~~ **New** medium combustion plants which do not operate more than ~~1000~~ **500** operating hours per year **(5 rolling years average)** **are exempted** from compliance with the emission limit values set out in Part 2 of Annex II. In that case, for plants firing solid fuels, an emission limit value for particulate matter of 100 mg/Nm³ shall apply.

Justification:

- The operators need enough time to adapt their units, qualification and purchasing process for ongoing projects. E.g.: delivery time for gas turbines at the moment is about 18 months after conclusion of a contract.
- To ensure a fair competition between operators in different Member States, the 1000 operating hours rule should be mandatory for all Member States.

Art.5, n°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.

~~*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.*~~

Justification:

- MARCOGAZ recognizes the positive impact of using an indicative approach rather than the use of more stringent ELV's ("benchmark values") for zones not complying with EU air quality limit values laid down in Directive 2008/50/EC on ambient air quality and cleaner air for Europe. This makes it possible to have, even within countries, different zones of emission limit values. According to MARCOGAZ this will enhance unwanted "border effects" and create competition distortion, in opposition to the text "EUROPE 2020 - A strategy for smart, sustainable and inclusive growth" invoked as the basis of the draft Directive. MARCOGAZ recommends the removal of Article 5.4 and Annex III and introduce the principle as set out in Art. 18 of IED, which allows authorities to set stricter values.

Art.6, n°4 (Council general approach 3a.)

For medium combustion plants applying secondary abatement equipment in order to meet the emission limit values, the effective operation of that equipment shall be monitored continuously and the results thereof recorded.

~~*For medium combustion plants applying secondary abatement equipment **in order to meet the emission limit values**, the effective operation of that equipment shall be monitored continuously and the results thereof recorded.*~~

Justification:

- To avoid confusion between emission measurement and monitoring of effective operation of secondary abatement system.
- We support the Council's proposal.

Annex I, n°6

The expected number of operating hours of the medium combustion plant and the average load in use;

~~*The expected number of operating hours of the medium combustion plant and the average load in use;*~~

Justification:

- For power, heat and natural gas supply the operation of those plants is only limited by external factors or even not predictable (depending on demand or weather condition, etc.). Instead of the expected number of operating hours the information should apply to the maximum permissible operation time. The requested, expected average load has consequently to be deleted.
- We support the Council's proposal.

Annex I, n°8

In case the second subparagraph of Article 5(2) is used, a declaration signed by the operator to operate the plant not more than 300 hours per year;

*In case the second subparagraph of Article 5(2) is used, a declaration signed by the operator to operate the plant not more than **1000** hours per year;*

Justification:

- Consistency with Article 5.2.

Annex II, Part 1 (1c. in the Council's proposal), n°2 - Emission limit values for engines and gas turbines – new footnote for engines fueled with natural gas at NO_x value

190⁽²⁾

190^{(2), (4)}

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~~***(4) 250 mg/Nm³ for every single engine ... < 5 MW***~~

Justification:

- The Danish Gas Technology Centre has performed a study for engines installed in Denmark for the Danish EPA showing that existing natural gas engines in the range from 1-5 MW fired will have severe problems with the NO_x emission limit value of 190 mg/m³. Due to geometrical design of major parts of the existing engines these engines might not be able to comply with a regulation of 190 mg/m³. There is no need for a separate clause for new engines as new small engines will be able to comply with the suggested NO_x limitations.

Annex II, Part 1 (1c. in the Council's proposal)

With consideration to remarks from Council there may be a requirement for additional derogation similar to IED, where aggregation of plant is foreseen.

Annex II, Part 1, n°2 (2c. in the Council's proposal) - Emission limit values for engines and gas turbines – new footnotes for engines and gas turbines fueled with natural gas operated less than 1500 hours per year

	Draft 18.11.13	Marcogaz proposal
NO _x - Engines	190 ⁽²⁾	190 ^{(2), (5)}
NO _x – Gas turbines ⁽³⁾	150	150 ⁽⁵⁾
Footnotes	-	<i>(5) For engines and gas turbines which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003, and which do not operate more than 1 500 operating hours per year as a rolling average over a period of 5 years, the emission limit value for NO_x is 380 mg/m³ for engines and 300 mg/Nm³ for gas turbines</i>

Justification:

- Similar to IED for existing turbines and engines which do not operate more than 1 500 operating hours per year as a rolling average over a period of 5 years.

Annex IV No. 1

Periodic measurements of SO₂, NO_x and particulate matter shall be required at least every three years for medium combustion plants the rated thermal input of which is greater than 1 MW and less than 20 MW, and at least annually for medium combustion plants the rated thermal input of which is equal to or greater than 20 MW but less than 50 MW.

*Periodic measurements of SO₂, NO_x and particulate matter shall be required **at least** every three years **or after 4500 operating hours whichever comes later. for medium combustion plants the rated thermal input of which is greater than 1 MW and less than 20 MW, and at least annually for medium combustion plants the rated thermal input of which is equal to or greater than 20 MW but less than 50 MW.***

Justification:

- MCPD plants should be treated less stringent than IED plants. A period of three years is adequate, also in comparison with existing national legislation for this scope of plants. Frequent measurement increases costs for operators, but does not – in the usual case of compliance – improve the environmental situation.
- The Council's proposal of an alternative of maximum 4500 operating hours creates too much problems and only one limit is creates less legal uncertainty.

Annex IV No. 2

Measurements are only required for pollutants for which an emission limit value is laid down in Annex II for the plant concerned

*Measurements are only required for pollutants for which an emission limit value is laid down in **Article 5 in combination with** Annex II for the plant concerned*

Justification:

- In Article 5 several there is the regulation to exempt plants with less than 500 hours per year from compliance with Annex II. For those plants the monitoring is not necessary, although the type of combustion plant is mentioned in Annex II. To clarify the exemption not only from Annex II, but also from Annex IV, the phrase should be implemented.

Annex IV

At the emission limit value level, the values of the 95% confidence intervals of a single measured result shall not exceed the following percentages of the emission limit values:

- ***Sulphur dioxide: 20%***
- ***Nitrogen oxides: 20%***
- ***Particulate matters: 30%***

Justification:

- According IED Annex V, Part 3, Point 9.

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