



STATUTORY INSTRUMENTS.

**S.I. No. 595 of 2017**



EUROPEAN UNION (MEDIUM COMBUSTION PLANTS)  
REGULATIONS 2017

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I, DENIS NAUGHTEN, Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) (as amended by section 2 of the European Communities Act 2007 (No. 18 of 2007)) and for the purpose of giving effect to Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015<sup>i</sup>, hereby make the following Regulations:

*Citation*

1. These Regulations may be cited as the European Union (Medium Combustion Plants) Regulations 2017.

*Entry into Force*

2. These Regulations shall come into effect on 19 December 2017.

*Interpretation*

3. (1) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these regulations as it has in the Directive.

(2) In these Regulations, unless the context otherwise requires:

“Authorised Officer” means a person appointed in writing by the Agency;

“the Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act, 1992 (No. 7 of 1992);

“combustion plant” means any technical apparatus in which fuels are oxidised in order to use the heat thus generated;

“the Commission” means the Commission of the European Communities;

“the Directive” means Directive 2015/2193 of the European Parliament and Council on the limitation of emissions of certain pollutants into the air from medium combustion plants;

“existing medium combustion plant” means a medium combustion plant put into operation before 20 December 2018 or for which a permit was granted before 19 December 2017 provided that the plant is put into operation no later than 20 December 2018;

“MCP Register” means the Register established pursuant to Regulation 6;

<sup>i</sup>OJ L 313, 28.11.2015, p. 1–19

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 29th December, 2017.*

“medium combustion plant” means a combustion plant to which Regulation 4 applies;

“the Minister” means the Minister for Communications, Climate Action and Environment;

“new medium combustion plant” means a medium combustion plant other than an existing medium combustion plant;

“prosecutor” means the Agency or the Director of Public Prosecutions.

*Scope*

4. (1) These Regulations apply to combustion plants with a rated thermal input equal to or greater than 1 MW and less than 50 MW irrespective of the fuel that they use.

(2) These Regulations shall also apply to a combination formed by new medium combustion plants pursuant to Regulation 10 including a combination where the total rated thermal input is equal to or greater than 50 MW, unless the combination constitutes an Industrial Emissions activity for the purposes of the Environmental Protection Agency Act 1992 as amended.

(3) These Regulations shall not apply to:

- (i) any combustion plant which constitutes an Industrial Emissions activity for the purposes of the Environmental Protection Agency Act 1992 as amended;
- (ii) combustion plants to which the European Communities (Control of Emissions of Gaseous and Particulate Pollutants from Non-Road Mobile Machinery) (Amendment) Regulations 2012 (S.I. No. 407 of 2012) apply;
- (iii) on-farm combustion plants with a total rated thermal input less than or equal to 5 MW, that exclusively use unprocessed poultry manure, as referred to in Article 9(a) of Regulation (EC) No 1069/2009 of the European Parliament and Council, as a fuel;
- (iv) combustion plants in which the gaseous products of combustion are used for direct heating, drying or any other treatment of objects or materials;
- (v) combustion plants in which the gaseous products of combustion are used for direct gas-fired heating used to heat indoor spaces for the purpose of improving workplace conditions;
- (vi) post-combustion plants designed to purify the waste gases from industrial processes by combustion, and which are not operated as independent combustion plants;

- (vii) any technical apparatus used in the propulsion of a vehicle, ship or aircraft;
- (viii) gas turbines and gas and diesel engines, when used on offshore platforms;
- (ix) facilities for the regeneration of catalytic cracking engines;
- (x) facilities for the conversion of hydrogen sulphide into sulphur;
- (xi) reactors used in the chemical industry;
- (xii) coke battery furnaces;
- (xiii) cowpers;
- (xiv) crematoria;
- (xv) combustion plants firing refinery fuels alone or with other fuels for the production of energy within mineral oil and gas refineries;
- (xvi) recovery boilers within installations for the production of pulp.

(4) These Regulations shall not apply to research activities, development activities or testing activities relating to medium combustion plants.

*Competent Authority*

5. The Agency shall be the competent authority in the State for the purposes of the Directive and these Regulations.

*Register*

6. (1) The Agency shall cause to be established a register (the MCP register) for all medium combustion plants in the State falling within the scope of these Regulations;

(2) The Agency shall enter in the MCP register the information specified in Schedule 1 to these Regulations obtained pursuant to Regulation 8(1) and any other information that the Agency considers appropriate;

(3) The Agency shall make the information contained in the MCP register available to the public, including via the internet, in accordance with Directive 2003/4/EC.

*Requirement to Register*

7. (1) (a) A new medium combustion plant shall not be operated without being registered in the MCP register.

(b) As of 1 January 2024, an existing medium combustion plant with a rated thermal input of greater than 5 MW shall not be operated without being registered in the MCP register.

(c) As of 1 January 2029, an existing medium combustion plant with a rated thermal input of less than or equal to 5 MW shall not be operated without being registered in the MCP register.

(2) The operator of a medium combustion plant shall apply to the Agency for registration in the MCP register in accordance with the following time frames:

- (a) at least two months prior to being put into operation in the case of new medium combustion plants;
- (b) prior to 1 November 2023 in the case of existing medium combustion plants with a rated thermal input greater than 5MW;
- (c) prior to 1 November 2028 in the case of existing medium combustion plants with a rated thermal input of less than or equal to 5MW.

*Procedure for Registration and information to be supplied*

8. (1) The operator of a medium combustion plant required to register under Regulation 7 shall inform the Agency of the operation of, or the intention to operate, the medium combustion plant, and provide the Agency with the information specified in Schedule 1 to these Regulations and such other information, including monitoring data, as the Agency may deem appropriate.

(2) The operator of a medium combustion plant shall inform the Agency without undue delay of any planned change to the plant which would affect the applicable emission limit values, and the Agency shall update the register, accordingly.

(3) The operator of a medium combustion plant shall provide the Agency with such further information related to the operation of the plant as the Agency may from time to time request.

(4) The Agency may prescribe a format for the submission of the information referred to in this Regulation.

*Time frame for registration*

9. (1) The Agency shall register a medium combustion plant within one month of the operator providing all the information required by the Agency under Regulation 8(1), and inform the operator of the registration.

(2) The Agency may prescribe a format for a Certificate of Registration.

*Aggregation Rules*

10. (1) A combination formed by two or more new medium combustion plants shall be considered to be a single medium combustion plant for the purposes of these regulations, and their thermal input shall be added together for the purpose of calculating the total rated thermal input of the plant, where:

- (i) The waste gases of such medium combustion plants are discharged through a common stack; or

- (ii) Taking into account technical and economic factors, the waste gases of such medium combustion plants could, in the opinion of the Agency, be discharged through a common stack.

(2) For the purposes of Regulation 10(1), individual combustion plants with a rated thermal input less than 1 MW should not be considered in the calculation of the total rated thermal input of a combination of combustion plants.

*Emission limit values and conditions of operation*

11. (1) Without prejudice to Part IV of the Environmental Protection Agency Act 1992 as amended, where applicable, and subject to Regulation 11(6), the emission limit values set out in Schedule 2 of these Regulations shall apply to medium combustion plants in accordance with the time frames set out in this Regulation.

(2) From 1 January 2025, emissions into the air of SO<sub>2</sub>, NO<sub>x</sub>, and dust from an existing medium combustion plant with a rated thermal input greater than 5 MW shall not exceed the emission limit values set out in Tables 2 and 3 of Part 1 of Schedule 2 of these Regulations.

(3) From 1 January 2030, emissions into the air of SO<sub>2</sub>, NO<sub>x</sub>, and dust from an existing combustion plant with a rated thermal input of less than or equal to 5 MW shall not exceed the emission limit values set out in Tables 1 and 3 of Part 1 of Schedule 2 of these Regulations.

(4) From 20 December 2018, emissions into the air of SO<sub>2</sub>, NO<sub>x</sub>, and dust from a new medium combustion plant shall not exceed the emission limit values set out in Part 2 of Schedule 2 of these Regulations.

(5) In zones or parts of zones not complying with the air quality limit values laid down in the Air Quality Standards Regulations 2011 (S.I. No. 180/2011), the Agency shall consider the need to apply stricter emission limit values to individual medium combustion plants than the emission limit values set out in these Regulations, as part of the development of air quality plans referred to in Regulation 22 of the Air Quality Standards Regulations 2011 (above), taking into account any information published by the Commission pursuant to Article 6(10) of the Directive, provided that applying such emission limit values would effectively contribute to a noticeable improvement of air quality.

(6) Notwithstanding the provisions of subparagraphs (1) — (4) of this Regulation, the Agency may prescribe stricter emission limit values for a medium combustion plant where it considers such is necessary for the protection of human health or the environment.

(7) Existing medium combustion plants which are part of Small Isolated Systems or Micro Isolated Systems shall comply with the emission limit values set out in Tables 1, 2 and 3 of Part 1 of Schedule 2 from 1 January 2030.

*Calculation of Emission Limit Values for plants using two or more fuels*

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

- (a) taking the emission limit value relevant for each individual fuel as set out in Schedule 2 of these Regulations;
- (b) determining the fuel-weighted emission limit value, which is obtained by multiplying the individual emission limit value referred to in point (a) by the thermal input delivered by each fuel, and dividing the product of multiplication by the sum of the thermal inputs delivered by all fuels; and
- (c) aggregating the fuel-weighted emission limit values.

(2) The Agency may prescribe a stricter emission limit value for a medium combustion plant than the emission limit value calculated under Regulation 12(1) where the Agency considers such to be necessary for the protection of human health or the environment.

*Exemptions, derogations and variations from limit values*

13. (1) (a) Subject to Regulation 20, 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, shall not be required to comply with the emission limit values set out in Tables 1, 2 and 3 of Part 1 of Schedule 2 to these Regulations, but shall where they use solid fuel comply with an emission limit value for dust of 200 mg/Nm<sup>3</sup>;

(b) The time limit referred to in (a) above shall be extended to 1000 hours in the following cases of emergency or extraordinary circumstances:

(i) where the medium combustion plant concerned provides for backup power production in connected islands in the event of an interruption of the main power supply to an island; or

(ii) where the medium combustion plant concerned is used for heat production, in the event of an exceptionally cold weather event.

(c) Where a plant firing solid fuels is the subject of an extension of time under subparagraph (b) above, it shall comply with an emission limit value for dust of 200 mg/Nm<sup>3</sup>.

(2) Until 1 January 2030, existing medium combustion plants with a rated thermal input greater than 5 MW and which are used to drive gas compressor stations required to ensure the safety and security of a national gas transmission system, shall be exempt from compliance with the emission limit values for NO<sub>x</sub> set out in Table 3 of Part 1 of Schedule 2 of these Regulations.

(3) Subject to Regulation 20, 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, shall not be required to comply with the emission limit values set out in Part 2 of Schedule 2 but, where they burn solid fuels, shall comply with an emission limit value for dust of 100mg/Nm<sup>3</sup>.

- (4) (a) The Agency may grant a derogation for a maximum period of six months from the obligation to comply with the emission limit values for SO<sub>2</sub> provided for in Regulation 11(2), 11(3) and 11(4) above, in respect of a medium combustion plant which normally uses low-sulphur fuel, in cases where the operator is unable to comply with those emission limit values because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage.
- (b) The Agency may grant a derogation from the obligation to comply with the emission limit values provided for in Regulation 11(2), 11(3) and 11(4) 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 where the plant would need to be equipped with secondary abatement equipment if it were to be able to comply with those Regulations. The period for which such a derogation is granted shall not exceed ten days except where the operator demonstrates to the competent authority that a longer period is justified.
- (c) An operator seeking a derogation pursuant to subparagraphs (a) or (b) shall apply to the Agency for a certificate of derogation not later than 24 hours after the operator has decided to use an alternative fuel because of an interruption in the supply of low-sulphur fuel or gas, as the case may be, and shall submit such evidence as may be necessary to justify its application.
- (d) An operator may submit supplementary supporting evidence to the Agency within 14 days of the making of the application for a derogation.
- (e) The Agency may, in taking a decision on an application for a derogation, take into account any additional information other than that submitted by the operator.
- (f) Where the Agency proposes to take account of any additional information, it shall issue a notice in writing to the operator informing the operator of the additional information in question and inviting the operator to comment within such period as the Agency may allow, which shall not exceed 14 days from the date of the notice.
- (g) Where the Agency believes that the circumstances justifying the grant of a derogation have not been established, it may refuse the derogation.
- (h) Where the Agency decides to grant a derogation, the derogation shall have effect from the date on which the operator applied for the derogation; and it shall be a good defence to any proceedings pursuant to these Regulations to prove that an application for a derogation was made within time and subsequently granted.

- (i) Where the Agency refuses to grant a derogation, it shall not be a good defence to any enforcement proceedings to prove that an application for a derogation was pending and had not been determined at the time of any non-compliance.
- (j) The Agency shall inform the Commission, within one month, of any derogation granted under subparagraph 4(a) or subparagraph 4(b) of this Regulation.

(5) The Agency may attach such conditions to the granting of an exemption or derogation under this Regulation as it deems necessary for the protection of human health or the environment.

*Obligations of the Operator*

14. (1) The operator of a medium combustion plant shall carry out monitoring of emissions in accordance with the monitoring regime adopted by the Agency under Regulation 19.

(2) For medium combustion plants using multiple fuels, the monitoring of emissions shall be done while firing a fuel or fuel mix that is likely to result in the highest level of emissions and during a period representing normal operating conditions.

(3) The operator shall keep a record of and process all monitoring results in such a way as to enable the verification of compliance with the emission limit values in accordance with the rules set out in Part 2 of Schedule 3.

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

(b) Where secondary abatement equipment is required to meet the emission limit values applying to a medium combustion plant, the operator shall have a written operating procedure specifying actions to be taken in the event of failure or malfunction of that equipment.

(c) The written procedure referred to in subparagraph 4(b) of this Regulation shall include measures to minimise risk to human health and the environment including reduced operation or stopping the plant where necessary, and the need to inform the Agency within forty-eight hours of the failure or malfunction.

(5) The operator of a medium combustion plant shall retain the following:

- (i) the certificate of registration issued by the Agency and, if relevant, its updated version and related information;
- (ii) the monitoring results and information referred to in paragraphs 3 and 4;

- (iii) where applicable, a record of operating hours as referred to in Regulation 13(1) and in Regulation 13(3);
  - (iv) a record of the type and quantities of fuels used in the plant and of any malfunctions or breakdown of secondary abatement equipment;
  - (v) a record of the events of non-compliance and the measures taken, as referred to in paragraph 8 of this Regulation.
- (6) (a) The data and information referred to in subparagraphs (5)(ii) to (5) (v) above shall be kept for a period of at least six years.
- (b) The Agency may prescribe standards and formats for the information referred to in subparagraphs 5(ii) to 5(v).
- (7) (a) The operator shall, without undue delay, make available the data and information listed in Regulation 14(5) to the Agency upon request.
- (b) The Agency may make such a request in order to verify compliance with the requirements of these Regulations and of the Directive.
- (c) The Agency shall make such a request if a member of the public requests access to the data or information listed in Regulation 14(5).
- (8) In the event of non-compliance with the emission limit values set for a medium combustion plant, the operator shall notify the Agency as soon as is practicable and take the measures necessary to ensure that compliance is restored within the shortest possible time, without prejudice to the measures required under Regulation 15.
- (9) The Agency shall lay down rules for the type, frequency and format of information concerning events of non-compliance to be provided by operators to the Agency.
- (10) The operator shall provide the Agency with all necessary assistance to enable it to carry out any inspections and site visits, to take samples and to gather any information necessary for the performance of its duties for the purposes of this Directive.
- (11) The operator shall keep the periods of start-up and shut-down of the medium combustion plant as short as possible. The Agency may require the operator of a medium combustion plant to prepare, maintain and implement written procedures to be followed for start-up and shut-down.
- (12) The operator of a medium combustion plant shall comply with such other conditions as the Agency may have set for the plant in connection with its registration and operation for the purposes of environmental protection.

### *Compliance*

15. (1) The operator of a medium combustion plant shall ensure that values for emissions monitored in accordance with Schedule 3 and validated do not

exceed the emission limit values set out in Schedule 2, or such stricter limits as the Agency may have established for a medium combustion plant.

(2) The Agency shall establish an effective system, based on either environmental inspections or other measures, to check compliance with the requirements of these Regulations.

(3) In the event of non-compliance, in addition to the measures taken by the operator under Regulation 14(8), the Agency shall require the operator to take any measures necessary to ensure that compliance is restored without undue delay.

(4) Where it appears to the Agency that non-compliance by an operator with the terms of these Regulations may be causing a significant degradation of local air quality, it shall serve a notice on the operator informing him that it appears this may be the case, providing him with any relevant evidence in its possession, and inviting him to make a submission in response to the notice within 14 days of the date of the notice.

(5) Where the operator makes a submission in reply to such notice, the Agency shall consider it.

(6) The Agency shall, as soon as possible after the expiry of the period of 14 days from the date of the notice, and having considered any submission made to it, determine whether there is a non-compliance and whether such non-compliance is causing significant degradation of local air quality.

(7) Where the Agency determines that non-compliance with the terms of these Regulations is causing significant degradation of local air quality it shall serve a notice on the operator which shall (a) notify him of this conclusion and (b) require him to take steps (which the Agency may specify) to terminate the non-compliance and (c) require the plant to cease operating until compliance with these Regulations is restored.

(8) The operator of a medium combustion plant who receives a notice under paragraph (7) may appeal to the District Court against the notice within a period of 21 days beginning on the date of such receipt.

(9) On the hearing of an appeal by the medium combustion plant operator to whom the notice relates, the District Court may—

- (a) make an order affirming or setting aside the notice,
- (b) make an order remitting the notice to the Agency for reconsideration by it and the making of a new determination, or
- (c) make any other order that it considers just and equitable in the circumstances.

*Reporting*

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

(2) The Agency shall, by 1 October 2026 submit a report to the Minister and to the Commission on the estimate of the total annual emissions of SO<sub>2</sub>, NO<sub>x</sub> and dust from medium combustion plants, grouped together by plant type, fuel type and capacity class.

(3) The Agency shall, by 1 January 2021, report to the Minister and the Commission on the total annual emissions of CO and provide any other available information on the concentration of emissions of CO from medium combustion plants, grouped together by fuel type and capacity class.

*Offences*

17. (1) Any person who—

(a) contravenes or fails to comply with:

(i) the provisions of Regulations 7(1), 7(2), 8(1), 8(2), 8(3), 14(1), 14(2), 14(3), 14(4), 14(5), 14(6)(a), 14(7)(a), 14(8), 14(10), 14(11), 14(12), or 15(1); or

(ii) the terms of a Notice issued by the Agency under Regulations 15(7) or 20(1), 20(2), or 20(4); or

(b) in purported compliance with Regulations 8, 13, 14, or 20 provides information which is to his or her knowledge false or misleading in a material way,

shall be guilty of an offence.

(2) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Agency.

(3) Where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of a person, being a director, manager, secretary or other officer of that body, a person involved in the management of that body, or a person who was purporting to act in any such capacity, that person shall also be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(4) A person guilty of an offence under:

- (a) Regulations 7(1), 7(2), 8(1), 8(2), or 8(3) of these Regulations is liable on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both.
- (b) any other Regulation of these Regulations is liable—
  - (i) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both.
  - (ii) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years, or both.

(5) Where a person is convicted of an offence under these Regulations, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Prosecutor, the costs and expenses, measured by the court, incurred by the Agency or the local authority concerned in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of directors, employees, consultants and advisers engaged by the Agency or, as appropriate, the appropriate local authority.

#### *Interaction with other licensing regimes*

18. Medium combustion plants which are part of an activity licensed pursuant to Part IV of the Environmental Protection Agency Act 1992 as amended shall be deemed to have fulfilled the requirements of Regulation 7 through compliance with the provisions of that Act;

#### *Monitoring Regime*

19. (1) The Agency shall adopt a monitoring regime based on the requirements set out in Part 1 of Schedule 3, and shall include such additional provisions in the monitoring regime as it considers appropriate to facilitate the operation of the scheme.

(2) The Agency may from time to time amend, modify, revoke or replace a monitoring regime adopted under sub-paragraph (1).

(3) The monitoring regime shall specify the frequency with which monitoring results are to be submitted to the Agency.

(4) Where the Agency adopts, amends, modifies, revokes or replaces a monitoring regime adopted under sub-paragraph (1) it shall publish notice of its decision to do so electronically, and shall give notice of its decision to any operator registered on the MCP Register.

#### *Issue of Notices*

20. (1) The Agency may issue a notice to the operator of a medium combustion plant requiring the operator to submit to the Agency any information in the operator's possession relating to the medium combustion plant.

(2) The Agency may issue a notice to any person having, or potentially having, information relating to the operation of a medium combustion plant requiring that person to submit any such information to the Agency.

(3) The Agency may publish electronically a notice prescribing a form of Certificate of Registration for the purposes of Regulation 9, a form of Certificate of Derogation for the purposes of Regulation 13, and a form of Certificate of Stricter Emission Limit Values for the purposes of Regulation 11(5), 11(6), or 12(2).

(4) The Agency may issue a notice to the operator where it:

- (a) considers that it may be necessary to impose stricter emission limit values for the purposes of Regulation 11(5), 11(6), or 12(2); or
- (b) considers that the operator may need to take any action to achieve compliance with these Regulations; or
- (c) considers that a plant which otherwise qualifies for exemption from emission limit values under Regulations 13(1) or 13(3) should be exempted from emission limit values for a smaller number of hours than those Regulations provide.

(5) Any notice issued pursuant to paragraph (4) shall indicate:

- (a) what stricter emission limit values the Agency considers it may be necessary for the Agency to impose, or what action the Agency considers it may be necessary for the operator to take, or the number of hours for which an exemption from emission limit values should apply, as the case may be;
- (b) the reasons, considerations or evidence which the Agency proposes to take into account; and
- (c) that the operator may make a submission on the matter within such period as the Agency may prescribe, which shall not be less than 14 days and not more than 28 days.

(6) The operator may make a submission in reply to a Notice served on it under paragraph (4).

(7) Any submission in reply to a Notice served under paragraph (4) which is received out of time shall be invalid and shall not be considered by the Agency.

(8) The Agency shall, having considered any submission made within the time prescribed,

- (a) decide, in the case of a notice served pursuant to subparagraph (4)(a), whether to impose any stricter emission limit values (which may be less restrictive, but shall not be more restrictive, than those outlined in the Notice) and issue a notice to the operator setting out the Agency's

determination and the reasons for it, and, if appropriate, enclosing a Certificate of Stricter Emission Limit Values for the purposes of Regulation 11(5), 11(6), or 12(2).

- (b) decide, in the case of a notice served pursuant to subparagraph (4)(b), whether to require the operator to take any of the actions proposed (or any modifications to those actions or any alternative actions reasonably arising on foot of the submissions) and issue a notice to the operator setting out the Agency's determination and the reasons for it.
- (c) decide, in the case of a notice served pursuant to subparagraph (4)(c), the number of hours (not being less restrictive than the provisions of Regulations 13(1) or 13(4) as the case may be), for which that plant may be exempted from emission limit values.

*Authorised Officer*

21. (1) The Agency may appoint in writing one or more persons, as it considers appropriate, to be an authorised officer or authorised officers for the purposes of ensuring compliance with these Regulations.

(2) Every authorised officer appointed under this Regulation shall be furnished with a warrant of his or her appointment and shall if requested by any person thereby affected, produce such warrant of appointment to that person for inspection.

- (3) An appointment under this Regulation shall cease—
  - (a) if the Agency revokes the appointment,
  - (b) in the case of an appointment that is for a fixed period, on the expiry of the period, or
  - (c) if the person appointed ceases to be an officer of the Agency.
- (4) An authorised officer may, for the purposes of these Regulations:
  - (a) enter on any premises at all reasonable times between the hours of 9 a.m. and 6 p.m. or, if there is an imminent threat of environmental damage, at any time for any purpose connected with these Regulations,
  - (b) at such premises do all things reasonably necessary for the purpose for which the entry is made and, in particular,
    - (i) may survey, carry out inspections, examinations and checks, take photographs, take samples, and take measurements,
    - (ii) examine any plant, machinery, equipment, installation or matter on the premises,

- (iii) make enquiries relating to the occupational activity or any process or procedure carried out on the premises,
  - (iv) examine preventive or remedial works being carried out on the premises,
  - (v) require that the premises and anything at it be left undisturbed for so long as is reasonably necessary for a purpose referred to at subparagraph (i), (ii), (iii) or (iv), or
  - (vi) do anything as may be required by the Agency for the proper performance of its functions under these Regulations,
- (c) at such premises inspect and take copies of, any books, records, other documents (including documents stored in non-legible form) or extracts therefrom, which he or she finds in the course of his or her inspection;
- (d) remove such photographs, samples, books, records or documents from such premises and detain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under these Regulations;
- (e) require the operator or company or his or her agent or employee or any person at the premises or person in charge of the premises and any person employed there to give to him or her such assistance and information and to produce to him or her such books, documents or other records (and in the case of documents or records stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person's power or procurement, as he or she may reasonably require for the purposes of his or her functions under these Regulations;
- (f) direct that any matter or thing not be moved from the premises without his or her consent;
- (g) secure for later inspection any premises or part of any premises for as long as is reasonably necessary for the purposes of any examination or investigation or any other purpose connected with these Regulations.
- (5) When performing a function under these Regulations, an authorised officer may, subject to any warrant under paragraph (7), be accompanied by such number of authorised officers or members of An Garda Síochána as he or she considers appropriate.
- (6) An authorised officer shall not enter a dwelling other than—
- (a) with the consent of the occupier, or
  - (b) in accordance with a warrant issued under paragraph (7).

(7) (a) Where an authorised officer in the exercise of his or her powers under this Regulation is prevented from entering any premises, or if the authorised person has reason to believe that evidence related to a suspected offence under these Regulations may be present in any premises and that the evidence may be removed there from or destroyed, or if the authorised person has reason to believe that there is a significant immediate risk to the environment, the authorised person or the person by whom he or she was appointed may apply to the District Court for a warrant under this article authorising the entry by the authorised person onto or into the premises.

(b) If, on application being made to the District Court under this Regulation, the District Court is satisfied on the sworn information of the authorised officer, that he or she has been prevented from entering a premises, the Court may issue a warrant authorising a named authorised officer accompanied by such other authorised officers or members of An Garda Síochána as may be necessary, at any time or times, not later than one month from the date of issue of the warrant, to enter the dwelling and perform the functions of an authorised officer under subparagraphs (a) to (g) of paragraph (4).

(8) Any person who obstructs or interferes with an authorised officer or a member of the Garda Síochána in the course of exercising a power conferred on him or her by these Regulations or a warrant under paragraph (7), or impedes the exercise by the officer or member, as the case may be, of such power, or fails or refuses to comply with a request or requirement of, or to answer a question asked by, the officer or member pursuant to this section, or in purported compliance with such request or requirement or in answer to such question gives information to the officer or member that he or she knows to be false or misleading in any material respect, is guilty of an offence.

(9) Where an authorised officer believes, upon reasonable grounds, that a person has committed an offence under this Regulation he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides.

SCHEDULE 1

INFORMATION TO BE PROVIDED BY THE OPERATOR TO THE  
AGENCY

1. Rated thermal input (MW) of the medium combustion plant;
2. Type of the medium combustion plant (diesel engine, gas turbine, dual fuel engine, other engine or other medium combustion plant);
3. Type and share of fuels used according to the fuel categories laid down in Schedule 2;
4. Date of the start of the operation of the medium combustion plant or, where the exact date of the start of the operation is unknown, proof of the fact that the operation started before 20 December 2018;
5. Sector of activity of the medium combustion plant or the facility in which it is applied (NACE code);
6. Expected number of annual operating hours of the medium combustion plant and average load in use;
7. Where the option of exemption under Regulation 13(1) or 13(3) is used, a declaration signed by the operator that the medium combustion plant will not be operated more than the number of hours referred to in those paragraphs;
8. Name and registered office of the operator and, in the case of stationary medium combustion plants, the address where the plant is located.

## SCHEDULE 2

## EMISSION LIMIT VALUES REFERRED TO IN REGULATION 11

All emission limit values set out in this Schedule are defined at a temperature of 273·15 K, a pressure of 101·3 kPa and after correction for the water vapour content of the waste gases and at a standardised O<sub>2</sub> content of 6 % for medium combustion plants using solid fuels, 3 % for medium combustion plants, other than engines and gas turbines, using liquid and gaseous fuels and 15 % for engines and gas turbines.

## Part 1

## Emission limit values for existing medium combustion plants

*Table 1*

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

Pollutant	Solid biomass	Other solid fuels	Gas coal	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	200 <sup>(1)(2)</sup>	1 100	-	350	-	200 <sup>(3)</sup>
NO <sub>x</sub>	650	650	200	650	250	250
Dust	50	50	-	50	-	-

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

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

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

Table 2

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

Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	200 <sup>(1)</sup> <sup>(2)</sup>	400 <sup>(3)</sup>	-	350 <sup>(4)</sup>	-	35 <sup>(5)(6)</sup>
NO <sub>x</sub>	650	650	200	650	200	250
Dust	30 <sup>(7)</sup>	30 <sup>(7)</sup>	-	30	-	-

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

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

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

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

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

<sup>(6)</sup> 170mg/Nm<sup>3</sup> in the case of biomass.

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

Table 3

Emission limit values (mg/Nm<sup>3</sup>) for existing engines and gas turbines

Pollutant	Type of medium combustion plant	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	Engines and gas turbines	-	120	-	15 <sup>(1)</sup> <sup>(2)</sup>
NO <sub>x</sub>	Engines	190 <sup>(3)</sup> <sup>(4)</sup>	190 <sup>(3)</sup> <sup>(5)</sup>	190 <sup>(6)</sup>	190 <sup>(6)</sup>
	Gas turbines <sup>(7)</sup>	200	200	150	200
Dust	Engines and gas turbines	-	10 <sup>(8)</sup>	-	-

<sup>(1)</sup> 60 mg/Nm<sup>3</sup> in the case of biogas.

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

<sup>(3)</sup> 1 850 mg/Nm<sup>3</sup> in the following cases

(i) For diesel engines the construction of which commenced before May 2006.

(ii) For dual fuel engines in liquid mode.

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

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

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

<sup>(7)</sup> Emission limit values are only applicable above 70% load.

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

## Part 2

## Emission limit values for new medium combustion plants

Table 1

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

Pollutant	Solid biomass	Other solid fuels	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	200 <sup>(1)</sup>	400	-	350 <sup>(2)</sup>	-	35 <sup>(3)</sup> <sup>(4)</sup>
NO <sub>x</sub>	300 <sup>(5)</sup>	300 <sup>(5)</sup>	200	300 <sup>(6)</sup>	100	200
Dust	20 <sup>(7)</sup>	20 <sup>(7)</sup>	-	20 <sup>(8)</sup>	-	-

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

<sup>(2)</sup> Until 1 January 2025, 1 700  $\text{mg}/\text{Nm}^3$  in the case of plants which are part of SIS or MIS.

<sup>(3)</sup> 400  $\text{mg}/\text{Nm}^3$  in the case of low calorific gases from coke ovens, and 200  $\text{mg}/\text{Nm}^3$  in the case of low calorific gases from blast furnaces, in the iron and steel industry.

<sup>(4)</sup> 100  $\text{mg}/\text{Nm}^3$  in the case of biogas.

<sup>(5)</sup> 500  $\text{mg}/\text{Nm}^3$  in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than 5 MW.

<sup>(6)</sup> Until 1 January 2025, 450  $\text{mg}/\text{Nm}^3$  where firing heavy fuel oil containing between 0.2 % and 0.3% N and 360  $\text{mg}/\text{Nm}^3$  when firing heavy fuel oil containing less than 0.2% N in the case of plants which are part of SIS or MIS.

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

<sup>(8)</sup> 50  $\text{mg}/\text{Nm}^3$  in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

Table 2

Emission limit values (mg/Nm<sup>3</sup>) for new engines and gas turbines

Pollutant	Type of medium combustion plant	Gas oil	Liquid fuels other than gas oil	Natural gas	Gaseous fuels other than natural gas
SO <sub>2</sub>	Engines and gas turbines	-	120 <sup>(1)</sup>	-	15 <sup>(2)</sup>
NO <sub>x</sub>	Engines <sup>(3)(4)</sup>	190 <sup>(5)</sup>	190 <sup>(5)(6)</sup>	95 <sup>(7)</sup>	190
	Gas turbines <sup>(8)</sup>	75	75 <sup>(9)</sup>	50	75
Dust	Engines and gas turbines	-	10 <sup>(10)(11)</sup>	-	-

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

<sup>(2)</sup> 40 mg/Nm<sup>3</sup> in the case of biogas.

<sup>(3)</sup> Engines running between 500 and 1 500 hours per year may be exempt from compliance with those emission limit values if they are applying primary measures to limit NO<sub>x</sub> emissions and meet the emission limit values set out in footnote (4)

<sup>(4)</sup> Until 1 January 2025 in SIS and MIS, 1 850 mg/Nm<sup>3</sup> for dual fuel engines in liquid mode and 380 mg/Nm<sup>3</sup> in gas mode; 1 300 mg/Nm<sup>3</sup> for diesel engines with ≤ 1 200 rpm with a total rated thermal input less than or equal to 20 MW and 1 850 mg/Nm<sup>3</sup> for diesel engines with a total rated thermal input greater than 20 MW; 750 mg/Nm<sup>3</sup> for diesel engines with > 1 200 rpm.

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

<sup>(6)</sup> 225 mg/Nm<sup>3</sup> for diesel engines with a total rated thermal input less than or equal to 20 MW with ≤ 1 200 rpm.

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

<sup>(8)</sup> These emission limit values are only applicable above 70% load.

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

<sup>(10)</sup> Until 1 January 2023, 75mg/Nm<sup>3</sup> for diesel engines which are part of SIS or MIS.

<sup>(11)</sup> 20 mg/Nm<sup>3</sup> in the case of plants with a total rated thermal input equal to or greater than 1 MW and less than or equal to 5 MW.

## SCHEDULE 3

## MONITORING OF EMISSIONS AND ASSESSMENT OF COMPLIANCE

## PART 1

## Monitoring of emissions by the operator

1. Periodic measurements shall be required at least:
  - every three years for medium combustion plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 20 MW,
  - every year for medium combustion plants with a rated thermal input greater than 20 MW.
2. As an alternative to the frequencies referred to in point 1, in the case of medium combustion plants which are subject to Regulation 13(1) or 13(3), periodic measurements may be required at least each time the following numbers of operating hours have elapsed:
  - three times the number of maximum average annual operating hours, applicable pursuant to Regulation 13(1) or 13(3), for medium combustion plants with a rated thermal input equal to or greater than 1 MW and less than or equal to 20 MW,
  - the number of maximum average annual operating hours, applicable pursuant to Regulation 13(1) or 13(3), for medium combustion plants with a rated thermal input greater than 20 MW.

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

3. Measurements shall be required only for:
  - (a) pollutants for which an emission limit value is laid down in this Directive for the plant concerned;
  - (b) CO for all plants.
4. The first measurements shall be carried out within four months of the registration of the plant, or of the date of the start of the operation, whichever is the latest.
5. As an alternative to the measurements referred to in points 1, 2 and 3(a), as regards SO<sub>2</sub>, other procedures, verified and approved by the Agency, may be used to determine the SO<sub>2</sub> emissions.
6. As an alternative to the periodic measurements referred to in point 1, Member States may require continuous measurements.

In the case of continuous measurements, the automated measuring systems shall be subject to checking by means of parallel measurements with the reference methods at least once per year and the operator shall inform the Agency about the results of those checks.

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

## PART 2

### Assessment of compliance

1. In the case of periodic measurements, the emission limit values referred to in Regulation 11 shall be regarded as having been complied with if the results of each of the series of measurements or of the other procedures defined and determined in accordance with the rules laid down by the Agency, do not exceed the relevant emission limit value.

2. In the case of continuous measurements, compliance with the emission limit values referred to in Regulation 11 shall be assessed as set out in point 1 of Part 4 of Annex V to Directive 2010/75/EU. The validated average values are determined as set out in points 9 and 10 of Part 3 of Annex V to Directive 2010/75/EU.

3. For the purpose of the calculation of the average emission values, the values measured during the periods referred to in Regulation 13(4)(a) or 13(4)(b) as well as during the start-up and shut-down periods shall be disregarded.



Given under my official seal,  
19 December 2017.

DENIS NAUGHTEN,  
Minister for Communications, Climate Action and  
Environment.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations give effect to 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.

The Regulations designate the Environmental Protection Agency as the competent authority for the purposes of the Directive, provide for a mandatory system of registration for combustion plants with a rated thermal input equal to or greater than 1 MW and less than 50 MW irrespective of the fuel that they use, and provide for emission limit values for specified pollutants for those plants.

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