

VDMA Comments

on the draft Directive on the Limitation of Emissions of Certain Pollutants into the Air from Medium Combustion Plants (1-50 MW) COM(2013) 919 final

I. Introduction

VDMA represents over 3,100 primarily medium-sized member companies in the capital goods industry and is therefore one of the leading industry associations in Europe. With revenues of € 206 billion (2013) and 993,000 employees (2014) in Germany, the sector is the largest industrial employer.

Our member companies are affected by the proposed Directive in two ways. On the one hand, they manufacture medium combustion plants or its components. On the other, they operate such plants.

VDMA supports the European approach of harmonising emissions legislation. We outline various points below which we believe should be taken into account to ensure an effective and practice-oriented approach to regulating medium combustion plants.

II. Clarifying the scope

a. With regard to Directive 2010/75/EU

The proposed Directive should be drafted more clearly with regard to the area of application so that uncertainty over interpretation by users and duplication of regulation are avoided. Types of plants which are already governed by the Industrial Emissions Directive 2010/75/EU (also IED Directive) and are covered by a BREF must be excluded from the scope of the proposed Directive. Legal uncertainty will otherwise exist over the set of rules to be applied.

b. With regard to Directive 2009/125/EC

Rules on emissions must be consistent with energy efficiency legislation to avoid conflicting goals, which result in provisions with different technical requirements or solutions for the same product. Plants which are already covered by the Directive on establishing a framework for the setting of ecodesign requirements for energy-related products (2009/125/EC, also referred to as the Ecodesign Directive) should be exempted from the scope. This should also apply to plants for which only energy efficiency requirements have been stipulated as part of ecodesign regulations. The need for additional requirements, such as emission limits, will be regularly assessed as part of product-specific preliminary studies. The plants with the greatest environmental impact will be excluded from the market as a result of ecodesign implementing measures. Therefore, it is not clear what the environmental benefit would be if a new legal instrument for combustions plants was adopted for technologies that are already covered by Directive 2009/125/EC. Plants covered by ecodesign implementing measures are already regulated with regard to their

environmental impact. A double regulation should be avoided. This also applies to combined heat and power plants which are already covered and defined in the Energy Efficiency Directive (2012/27/EU).

c. With regard to Directive 97/68/EC

The draft Directive can be interpreted to the effect that combustion engines in Non-Road Mobile Machinery (NRMM) could fall under the scope of the Directive. NRMM is however already regulated in Directive 97/68/EC on emissions from internal combustion engines to be installed in non-road mobile machinery. The power range covered by Directive 97/68/EC partially overlaps with the MCP proposal. Moreover, a proposal for a revision of directive 97/68/EC is expected in September 2014, which will foreseeably propose to extend its scope to an applicable power range without upper limit. VDMA therefore asks that NRMM should be expressly excluded from the scope of the Directive on Medium Combustion Plants in order to avoid legal uncertainty.

d. Exemption for temporarily used plants

Temporarily used plants, e.g. emergency power generation plants, should be exempted from the scope of the Directive. These plants are only operated upon specific demand. It is not a continuous and therefore comparable. Gas quality, plant and environmental temperatures and the period of use concerned are usually entirely different. With the use of such plants, top priority is given to the objective of the back-up power generation required. These plants are not designed for continuous operation as they are immediately switched off when the normal status of the original plant has been restored or, for example, the peak requirements no longer need to be met. In order to resolve the issue a definition could be added as in, or similar to, the 2nd German Ordinance on the Curbing of Emissions (2. BImSchV §15).

III. Material requirements

a. Taking account of different processes in a differentiated way

The draft Directive does not take account of differences in processes or limit values. In this respect, the draft is too general. A similar approach to the IED Directive is desirable. Provided no BAT conclusions exist, the competent authority determines the authorisation requirements after prior consultation with the operator based on the best available techniques which it has stipulated for the activities or processes concerned. This enables, where required, a certain degree of flexibility and avoids rigid structuring of authorisation provisions.

b. Taking account of gas quality

The different and fluctuating gas qualities found on the market, which consequently leads to different results in terms of the composition of emission gases (different sulphur content in the gases), must categorically be taken into account as part of the emissions approach. Unfortunately, these differences, in particular in the event of the discontinuous operation of plants, do not permit constant and reproducible emissions values. This aspect is unfortunately completely overlooked in this draft Directive.

c. No publication of monitoring data

The public disclosure of monitoring data is unacceptable in VDMA's view. This data enables conclusions to be drawn on production processes and the capacity utilisation of various plants which constitutes sensitive and internal company data.

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