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2022/0080 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) 2016/1628 as regards the extension of the empowerment of the Commission to adopt delegated acts

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Regulation (EU) 2016/1628 limited all empowerments of the Commission to adopt delegated acts to a period of five years which expired on 6 October 2021. As there is a need to constantly update elements of the type-approval acts to technical progress or to introduce other amendments in line with the empowerments, the draft proposal amends Article 55(2) of Regulation (EU) 2016/1628 to provide for an empowerment of another five years with the possibility for tacit extension.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 114 of the Treaty on the Functioning of the European Union

• Subsidiarity (for non-exclusive competence)

The subsidiarity principle applies since the proposal does not fall under the exclusive competence of the Union.

As the proposal involves amendments to existing EU legislation, only the EU can effectively address the issues. Furthermore, the policy objectives cannot be sufficiently achieved by actions of the Member States. European Union action is necessary to avoid the emergence of barriers to the single market notably in the field of NRMM engines, and because of the transnational nature of air pollution.

The proposal therefore complies with the subsidiarity principle

• Proportionality

The proposal complies with the proportionality principle because it does not go beyond what is necessary in order to achieve the objectives of ensuring the proper functioning of the internal market while at the same time providing for a high level of public safety and environmental protection.

• Choice of the instrument

Regulation amending a Regulation

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

This proposal is not accompanied by a separate impact assessment, as an impact assessment for Regulation (EU) 2016/1628 has already been undertaken. This proposal does not alter that Regulation on substance and does not impose new obligations on the concerned parties. It aims at extending the powers of the Commission to update certain elements to technical progress and to introduce other amendments in line with the empowerments.

4. BUDGETARY IMPLICATIONS

The proposal does not have a budgetary impact for the EU institutions.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) 2016/1628 of the European Parliament and of the Council[2] lays down essential provisions on the emission of gaseous and particulate pollutants and type-approval for internal combustion engines for non-road mobile machinery, and empowers the Commission to lay down the technical specifications in delegated and implementing acts. Article 55(2) of that Regulation conferred this delegation of power to the Commission for a limited period of five years, which expired on 6 October 2021. As there is a need to update elements of the type-approval legislation to technical progress or to introduce other amendments in line with the empowerments, including a delegated act that sets in-service monitoring requirements for internal combustion engines installed in non-road mobile machinery, the empowerment of the Commission to adopt delegated acts should be extended with the possibility of further extension.

(2) Regulation (EU) 2016/1628 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 55 of Regulation (EU) 2016/1628, paragraph 2 is replaced by the following:

‘2. The power to adopt delegated acts referred to in Articles 19(2), Article 24(11), Article 25(4), Article 26(6), Article 34(9), Article 42(4), Article 43(5) and Article 48

[1] OJ C , , p. .

[2] Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC (OJ L 252, 16.9.2016, p. 53).

shall be conferred on the Commission for a period of ten years from 6 October 2016. The Commission shall draw up a report in respect of the delegation of power not later than 6 January 2026 and nine months before the end of each following five-year period. The delegation of power shall be tacitly extended for periods of five years, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.'

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*