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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 16.11.2023 amending Directive 2000/14/EC of the European Parliament and of the Council as regards the methods to measure airborne noise emitted by equipment for use outdoors

Delegations will find attached document C(2023) 7206 final.

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Brussels, 16.11.2023
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COMMISSION DELEGATED REGULATION (EU) .../...

of 16.11.2023

amending Directive 2000/14/EC of the European Parliament and of the Council as regards the methods to measure airborne noise emitted by equipment for use outdoors

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED REGULATION

Directive 2000/14/EC on outdoor noise emission¹ ('the Directive') was adopted on 8 May 2000 and became applicable on 3 January 2002. The EU legal framework relating to noise emission by outdoor equipment was introduced by merging seven specific product directives and two directives on test procedures².

The Directive establishes the legal framework to harmonise rules and procedures related to noise emission in the environment by equipment for use outdoors placed in the EU market. It aims to protect human health and well-being of citizens as well as to protect the environment, by reducing noise emission by equipment for use outdoors, and to contribute to the smooth functioning of the internal market, by harmonising requirements for outdoor equipment with respect to noise emission in order to prevent obstacles to the free movement of such equipment.

The Directive is 'Old Approach' legislation. It prescribes technical requirements and specifications (including references to standards), different from the 'New Approach' legislation that lays down general essential requirements while leaving the use of technical specifications to the manufacturer's discretion. In particular, the Directive sets out harmonised noise limits for an exhaustive list of equipment, detailed methods to measure outdoor equipment's noise levels, conformity assessment procedures and marking requirements.

Annex III, which accounts for half of the text of the Directive, contains the description of the noise measurement methods that the industry needs to comply with for the design and the

¹ Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors (OJ L 162, 3.7.2000, p. 1), amended by Directive 2005/88/EC (OJ L 344, 27.12.2005, p. 44), by Regulation (EC) No 219/2009 (OJ L 87, 31.3.2009, p. 109), and by Regulation (EU) 2019/1243 (OJ L 198, 25.7.2019); corrected by Corrigendum (OJ L 165, 17.6.2006, p. 35 (2005/88/EC)). Original text: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32005L0088>; consolidated text: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02000L0014-20190726>. Commission's sectoral webpage on Noise Emission by Outdoor Equipment: https://ec.europa.eu/growth/sectors/mechanical-engineering/noise-emissions_en.

² Council Directive 79/113/EEC of 19 December 1978 on the approximation of the laws of the Member States relating to the determination of the noise emission of construction plant and equipment (OJ L 33, 8.2.1979, p. 15);

Council Directive 84/532/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to common provisions for construction plant and equipment (OJ L 300, 19.11.1984, p. 111);

Council Directive 84/533/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to the permissible sound power level of compressors (OJ L 300, 19.11.1984, p. 123);

Council Directive 84/534/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to the permissible sound power level of tower cranes (OJ L 300, 19.11.1984, p. 130);

Council Directive 84/535/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to the permissible sound power level of welding generators (OJ L 300, 19.11.1984, p. 142);

Council Directive 84/536/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to the permissible sound power level of power generators (OJ L 300, 19.11.1984, p. 149);

Council Directive 84/537/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to the permissible sound power level of powered hand-held concrete-breakers and picks (OJ L 300, 19.11.1984, p. 156);

Council Directive 84/538/EEC of 17 September 1984 on the approximation of the laws of the Member States relating to the permissible sound power level of lawnmowers (OJ L 300, 19.11.1984, p. 171);

Council Directive 86/662/EEC of 22 December 1986 on the limitation of noise emitted by hydraulic excavators, rope-operated excavators, dozers, loaders and excavator-loaders (OJ L 384, 31.12.1986, p. 1).

conformity assessment of outdoor equipment. These methods are currently outdated and this proposal would allow bringing this significant part of the Directive in line with the technical progress and it would simplify the work of manufacturers and notified bodies by using the currently available version of the standards adopted under Directive 2006/42/EC on machinery³ ('the Machinery Directive'). In addition, the new noise measurements would set a more robust basis for the update of the noise limits through a future revision of the Directive.

This proposal is a result of the Commission's power, according to Article 18a of the Directive, to adopt delegated acts amending Annex III to adapt it to technical progress and is based on the conclusions of the REFIT evaluation of the Directive⁴ published on 16 November 2020, after consulting the Commission Expert Group on Outdoor Noise Emission⁵ ('the expert group').

The Directive complements the requirements of the Machinery Directive with respect to airborne noise emissions. 55 out of the 57 equipment categories that are covered by the Directive fall also under the scope of the Machinery Directive. The Machinery Directive follows the 'New Approach' legislative technique, where manufacturers that apply the relevant harmonised standards benefit of presumption of conformity with the essential health and safety requirements. According to Annex I, section 1.7.4.2 (u) manufacturers could also use the methods indicated in the harmonised standards to measure airborne noise unless otherwise indicated in other Union Directives, which is the case of the Outdoor Noise Directive for those 55 equipment categories. However, the noise measurement methods laid down in Annex III of the Directive are on many occasions outdated because Annex III has not been revised since the Directive was adopted.

The follow-up of the evaluation of the Outdoor Noise Directive is included in the Zero Pollution Action Plan under Flagship 2, for the years 2022-2023, in line with the EU strategy to reduce noise at source and the objectives of the European Green Deal.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

On 16 November 2020 the Commission published the REFIT evaluation of the Directive⁶.

The evaluation's overall conclusion was that the Directive is generally considered effective, efficient, relevant, and coherent, and has EU added value. The Directive was and still is the primary force driving noise emission reduction for outdoor equipment.

Nevertheless, the evaluation identified several issues that affected the operation of the Directive: scope, noise limits, noise measurement methods, conformity assessment procedures, collection of noise data and the alignment to the New Legislative Framework⁷,

³ Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (OJ L 157, 9.6.2006, p. 24–86), amended by Regulation (EC) No 596/2009 (OJ L 188, 18.7.2009, p. 14), by Directive 2009/127/EC (OJ L 310, 25.11.2009, p. 29), by Regulation (EU) No 167/2013 (OJ L 60, 2.3.2013, p. 1), by Directive 2014/33/EU (OJ L 96, 29.3.2014, p. 251) and by Regulation (EU) 2019/1243 (OJ L 198, 25.7.2019); corrected by Corrigendum (OJ L 076, 16.3.2007, p. 35 (2006/42/EC)). Original text: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32006L0042>; consolidated text: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02006L0042-20190726>.

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:715:FIN>

⁵ <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupID=3673>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:715:FIN>

⁷ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30) and Decision No 768/2008/EC of

and pointed out the need either for a revision of the Directive or for the enactment of the Commission's empowerment to adopt delegated acts to adapt the noise measurement methods to the technical progress (Article 18(a) of the Directive).

On 17 March 2021, the Commission presented the results of the evaluation of the Directive to the expert group. Many of the industrial associations and the European standardisation body expressed their support to the amendment of Annex III through a delegated act swiftly followed by a complete revision of the Directive. A very reduced number of industrial associations expressed their support to go directly for a complete revision of the Directive. The latter was also initially the preferred option for many Member States, with some exceptions, but eventually they agreed to pursue the amendment of Annex III through a delegated act first, with the condition that it would then be followed by the revision of the Directive.

While the amendment of Annex III through a delegated act will not address all the problems identified by the evaluation, it will solve more quickly, in comparison with a complete revision of the Directive, one of the most critical issues, which is the update of the noise measurement methods in line with the technical progress and consequently also in line with the standards used under the Machinery Directive.

The amendment of Annex III of the Directive has been discussed with all stakeholders, including Member States, industrial associations, notified bodies, European standardisation organisations, and individual experts on standardisation of noise measurement methods.

The consultation with stakeholders took place through the expert group with the help of the collaborative platform CIRCABC⁸ for communications and the distribution of information and documents. The expert group met in three different occasions to discuss the modifications of Annex III.

Stakeholders have widely agreed with the new noise measurement methods proposed.

The main concern of the expert group was the fact that the adoption of the delegated act is linked to the condition that there should not be any direct impact on the results of the noise measurements of equipment subject to noise limits (Article 12 of the Directive). By default, if the noise measurement methods change, the resulting noise levels of the equipment may also change. For equipment under Article 12, this could lead to potential non-compliances with the Directive if the new noise values are higher than the established noise limits even though the equipment has not changed. To avoid this, the Commission proposed, for these particular cases, to give the possibility to manufacturers to declare the noise values measured according to the original methods established in the Directive, as long as the noise limits laid down in Article 12 are not revised.

Another point that was thoroughly discussed during all the meetings of the expert group was the methodology to calculate the uncertainty factor, that the Directive did not include. Due to the lack of progress in the standardisation forum on this subject it was not possible to include a methodology on this subject.

For the evaluation of the Directive, different data sources were used, various Member States and stakeholders' consultations in the relevant working parties were carried out, as well as several studies were undertaken, to collect updated information on the performance of equipment in the scope and to explore the need and possibility for revision:

the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

⁸ <https://circabc.europa.eu/ui/group/597bb16c-7f1d-48ea-9afe-3d5248208547>

- the “Study on the experience in the implementation and administration of Directive 2000/14/EC relating to the noise emission in the environment by equipment for use outdoors” (the “NOMEVAL” study)⁹ in 2007;
- the “Impact assessment on possible policy options for reviewing the Outdoor Equipment Noise Directive” (the “ARCADIS” study) in 2009¹⁰;
- the “Study on the merger of the Directive on noise from outdoor equipment, 2000/14/EC, with the Machinery Directive, 2006/42/EC” (the “CEPS study”) in 2013¹¹;
- the “Study on the suitability of the current scope and limit values of Directive 2000/14/EC relating to the noise emission in the environment by equipment for use outdoors” (the “ODELIA” study)¹² in 2015-2016;
- the “Supporting study for an evaluation¹³ and impact assessment¹⁴ of Directive 2000/14/EC on noise emission by outdoor equipment” (the “VVA study”) in 2017-2018.

The information about the noise measurement methods collected during the evaluation of the Directive, in particular the information included in the NOMEVAL study, the ODELIA study, the opinions submitted by the stakeholders, and also the current standards including noise measurement methods identified for all equipment categories, have served as a basis for the preparation of the delegated act. All comments and positions papers received from the different stakeholders during the preparation process of this delegated act have been distributed to all the members of the expert group through CIRCABC and discussed during the expert group meetings.

The Commission did not find necessary to perform an impact assessment of the proposal. The modifications that this proposal introduce are limited to the replacement of the noise measurement methods already used by manufacturers and notified bodies with new ones, without introducing any additional burden. The economic impact would be therefore limited to the one-time investment made by these stakeholders to adapt their facilities to the new methods and to perform the new noise measurement for the existing models on the market. The models of equipment placed on the market are not expected to change as a consequence of the new methods. Manufacturers will still be required to design their machines to keep the noise emissions at the lowest level to comply with the Machinery Directive as indicated above. Therefore, there is no environmental or social impact expected.

3. LEGAL ELEMENTS OF THE DELEGATED REGULATION

The objective of this delegated regulation is to amend Annex III on method of measurement of airborne noise emitted by equipment for use outdoors to adapt it to technical progress as set out in Article 18(a).

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⁹ <https://ec.europa.eu/docsroom/documents/1639>

¹⁰ <https://ec.europa.eu/docsroom/documents/1635>

¹¹ <https://ec.europa.eu/docsroom/documents/4985>

¹² <https://ec.europa.eu/docsroom/documents/18281>

¹³ <https://op.europa.eu/en/web/eu-law-and-publications/publication-detail/-/publication/90f4d795-e192-11e8-b690-01aa75ed71a1>

¹⁴ <https://op.europa.eu/en/web/eu-law-and-publications/publication-detail/-/publication/69de2e48-e17d-11e8-b690-01aa75ed71a1>

More specifically, Article 18(a) provides that the amendment cannot have any direct impact on the measured sound power level of equipment listed in equipment described in Article 12, in particular through the inclusion of references to relevant European standards.

In addition, the delegated regulation seeks the coherence with the state of the art reflected in the harmonised standards, which references are published in the *Official Journal of the European Union*, that give presumption of conformity with essential requirement 1.7.4.2. (u) on information on airborne noise emissions as set out in the Machinery Directive.

The proposed date of applicability of the delegated regulation is 24 months from its entry into force and the delegated regulation will therefore not affect equipment placed on the Union market before that date of applicability.

The delegated regulation has no implications for the EU budget.

COMMISSION DELEGATED REGULATION amending Directive 2000/14/EC as regards the methods to measure airborne noise emitted by equipment for use outdoors

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors¹⁵, and in particular Article 18(a) thereof,

Whereas:

- (1) Pursuant to Article 4 of Directive 2000/14/EC, Member States are to ensure that equipment as referred to in Article 2(1) is not placed on the market or put into service until the manufacturer or its authorised representative established in the Union ensures that the equipment bears the indication of the guaranteed sound power level, which pursuant to Article 3(f) shall be determined in accordance with the requirements laid down in Annex III.
- (2) Pursuant to Section 1.5.8, second paragraph, of Annex I to Directive 2006/42/EC of the European Parliament and of the Council¹⁶, Member States are to ensure that manufacturers assess the level of noise emissions of machines. Pursuant to Section 1.7.4.2, point (u) of that Annex, Member States are to ensure that manufacturers provide information on airborne noise emissions, including information on the method used to measure airborne noise, which should be the most appropriate method for the machinery when harmonised standards are not applied, unless the method is specified in other Union legislation and its use is mandatory, which is the case of Directive 2000/14/EC. Manufacturers of equipment that falls under the scope of both Directive 2006/42/EC and Directive 2000/14/EC are therefore required to measure the noise emissions of such equipment in accordance with the methods established in Directive 2000/14/EC.
- (3) Article 12 of Directive 2000/14/EC contains a Table in which the permissible sound power level of equipment for outdoors use is laid down. That Table has been updated by Directive 2005/88/EC of the European Parliament and of the Council¹⁷. The methods to measure noise, which are laid down in Annex III to Directive 2000/14/EC, have however not been updated since its adoption. It is therefore necessary to bring these methods in line with technical progress and progress in European standardisation.
- (4) Different measurement methods may have different conditions or limitations which can impact the calculated sound power level. The permissible sound power levels in Article 12 of Directive 2000/14/EC were established using the measurement methods

¹⁵ OJ L 162, 3.7.2000, p. 1.

¹⁶ Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast) (OJ L 157, 9.6.2006, p. 24).

¹⁷ Directive 2005/88/EC of the European Parliament and of the Council of 14 December 2005 amending Directive 2000/14/EC on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors (OJ L 344, 27.12.2005, p. 44).

adopted in year 2000. If guaranteed sound power levels of equipment listed in Article 12 are calculated in accordance with the new measurement methods, and the permissible sound power levels have not been updated accordingly, then both noise values may not be fully comparable and the variation of the calculated guaranteed sound power level due to the change of the noise measurement method could lead to a change in the conformity of the equipment. Where doubts about the conformity of equipment arise due to a change of the noise measurement methods, it is therefore necessary, for the sake of comparability, to provide for the calculation of the sound power levels with the same measurement methods used to establish the permissible sound power levels.

- (5) Directive 2000/14/EC should therefore be amended accordingly.
- (6) It is necessary to provide economic operators with sufficient time to adapt to the new requirements. The application of this Delegated Regulation should therefore be deferred,

HAS ADOPTED THIS REGULATION:

Article 1

Annex III to Directive 2000/14/EC is replaced by the text in the Annex to this Regulation.

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*.

It shall apply from [*Note to PO: insert exact date – [...] 24 months after entry into force of this Regulation*].

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

Done at Brussels, 16.11.2023

For the Commission
The President
Ursula VON DER LEYEN