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COVER NOTE

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

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: C(2021) 3751 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 4.6.2021 amending Delegated Regulation (EU) 2017/654 supplementing Regulation (EU) 2016/1628 of the European Parliament and of the Council with regard to the acceptance of approvals granted in accordance with Regulations Nos 49 and 96 of the Economic Commission for Europe of the United Nations (UNECE)

Delegations will find attached document C(2021) 3751 final.

Encl.: C(2021) 3751 final



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COMMISSION DELEGATED REGULATION (EU) .../...

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amending Delegated Regulation (EU) 2017/654 supplementing Regulation (EU) 2016/1628 of the European Parliament and of the Council with regard to the acceptance of approvals granted in accordance with Regulations Nos 49 and 96 of the Economic Commission for Europe of the United Nations (UNECE)

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The term non-road mobile machinery "NRMM" covers a wide range of different machinery, including small handheld equipment (lawn mowers, chain saws,...), construction machinery (excavators, loaders, dozers,...) or agricultural & farming machinery (harvesters, cultivators,...), but also railcars, locomotives and inland waterway vessels.

Type-approval requirements applying to engines installed in NRMM have been set out in Directive 97/68/EC of the European Parliament and of the Council¹, which has been repealed by Regulation (EU) 2016/1628 of the European Parliament and of the Council², and its two delegated and one implementing Commission acts, which apply as from 1 January 2017 and 3 of May 2017 respectively.

Through UNECE Regulation No 96 (05) series of amendments, the international legal framework of the United Nations has recently been aligned with the currently applicable EU emission limits and type-approval requirements for internal combustion engines for agricultural and forestry vehicles and non-road mobile machinery. Therefore, the European Commission wishes to amend Delegated Regulation (EU) 2017/654³ to allow engine manufacturers to seek type-approval directly in accordance with this Regulation by obtaining approval under the relevant UNECE Regulation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In the preparation of this act, the Commission carried out appropriate consultations with the relevant stakeholders, social partners and Member States experts.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis of this delegated act is 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

¹ Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (OJ L 59, 27.2.1998, p. 1)

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.)

³ Commission Delegated Regulation (EU) 2017/654 of 19 December 2016 supplementing Regulation (EU) 2016/1628 of the European Parliament and of the Council with regard to technical and general requirements relating to emission limits and type-approval for internal combustion engines for non-road mobile machinery (OJ L 102, 13.4.2017, p. 1.)

Commission Delegated Regulation (EU) .../... of 4.6.2021 amending Delegated Regulation (EU) 2017/654 supplementing Regulation (EU) 2016/1628 of the European Parliament and of the Council with regard to the acceptance of approvals granted in accordance with Regulations Nos 49 and 96 of the Economic Commission for Europe of the United Nations (UNECE)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to 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/EC⁴, and in particular Article 24(11), Article 25(4), points (b) and (c), Article 34(9), point (c), and Article 42(4), point (a), thereof,

Whereas:

- (1) Technical services have been entrusted with decision-making functions in the case of non-acceptance of the representativeness of the proposed parent engine of a family of engines fuelled with natural gas/biomethane (NG) or liquefied petroleum gas (LPG), including dual-fuel engines. Considering the overall impact of those decisions on the type-approval process, however, issuing those decisions should be the responsibility of type-approval authorities.
- (2) Point 11.4.2.1.4 of Appendix 1 to Annex IV to Delegated Regulation (EU) 2017/654 requires that the counter, once frozen, may only be reset to zero where no NO_x control malfunction has been detected during the preceding 40 engine operating hours. The relevant version of UNECE Regulation No 49 requires, however, that no NO_x control malfunction be detected during the preceding 36, rather than during the preceding 40 engine operating hours. This misalignment prevents the acceptance of the equivalence of type-approvals granted under the relevant version of UNECE Regulation No 49. A less stringent requirement of a minimum of 36 hours should, therefore, be deemed sufficient for the purposes of granting an EU type-approval under Regulation (EU) 2016/1628.
- (3) According to the fifth paragraph of point 1 of Annex V to Delegated Regulation (EU) 2017/654, technical services can exclude operating points from any of the engine control areas for conducting the non-road steady-state test cycle. However, considering the overall impact of such decisions on the type-approval process, it is appropriate to require that the approval authorities agree to such exclusions.
- (4) The emission limits, the general and technical requirements and the test methods set out in the 06 series of amendments to UNECE Regulation No 49 and in the 05 series of amendments to UNECE Regulation No 96 are consistent with those of Regulation (EU) 2016/1628, with the exception of Article 19 of that Regulation. Therefore, type-

⁴ OJ L 252, 16.9.2016, p. 53.

approvals granted in conformity with the 06 series of amendments to UNECE Regulation No 49 and the 05 series of amendments to UNECE Regulation No 96 should be recognised as equivalent to the EU type-approvals granted and statutory marking required in accordance with Regulation (EU) 2016/1628, as far as an approval authority ensures that the manufacturer complies with the requirements set out in Article 19 of Regulation (EU) 2016/1628.

- (5) For the purpose of ensuring compliance with Article 19 of Regulation (EU) 2016/1628, the manufacturer of engines approved in conformity with the 06 series of amendments to UNECE Regulation No 49 or the 05 series of amendments to UNECE Regulation No 96 should request one or more approval authority(ies) to supervise its compliance with the obligations set out in Article 19 of Regulation (EU) 2016/1628.
- (6) The emission limits, the general and technical requirements and the test methods set out in the 00, 01, 02, 03 and 04⁵ series of amendments to UNECE Regulation No 96 are consistent with those for Stages I, II, IIIA, IIIB and IV pollutant emission limits set out in Directive 97/68/EC of the European Parliament and of the Council⁶, and for special purpose engines (SPE) falling within the scope of paragraphs 5 and 6 of Article 34 of Regulation (EU) 2016/1628. Therefore, type-approvals granted in conformity with the 00, 01, 02, 03 and 04 series of amendments to UNECE Regulation No 96 should be recognised as equivalent to the EC type-approvals granted and statutory marking required for Stages I, II, IIIA, IIIB and IV in accordance with Directive 97/68/EC and special purpose engines (SPE) EU type approvals granted in accordance with Regulation (EU) 2016/1628.
- (7) In order to enable a clear identification of the engine and to ensure compliance with the applicable administrative provisions, engines placed on the market in accordance with type-approvals granted in conformity with the 00, 01, 02, 03 and 04 series of amendments to UNECE Regulation No 96 should be accompanied by the applicable statement of conformity and supplementary marking, in accordance with Articles 31 and 32(2) of Regulation (EU) 2016/1628.
- (8) The requirements set out in this Regulation are, from a technical point of view, irrelevant with regard to the emission performance of engines. It is therefore appropriate that EU type-approvals of an engine type or engine family approved in accordance with Delegated Regulation (EU) 2017/654, in its version applicable on [*please OJ insert the date of the day before of application of this Regulation*] remain valid.
- (9) Delegated Regulation (EU) 2017/654 should therefore be amended accordingly,

⁵ Regulation No 96 of the Economic Commission for Europe of the United Nations (UN/ECE) — Uniform provisions concerning the approval of compression ignition (C.I.) engines to be installed in agricultural and forestry tractors and in non-road mobile machinery with regard to the emissions of pollutants by the engine (OJ L 88, 22.3.2014, p. 1).

⁶ Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (OJ L 59, 27.2.1998., p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/654

Delegated Regulation (EU) 2017/654 is amended as follows:

- (1) in Article 20a, the following paragraph 3 is added:
 - ‘3. EU type-approvals of an engine type or engine family approved in accordance with Delegated Regulation (EU) 2017/654 before [*PO please insert the date of the day of application of this Regulation*] shall remain valid.’;
- (2) Annexes I, IV, V and XIII to Delegated Regulation (EU) 2017/654 are amended in accordance with the Annex to this Regulation.

Article 2

Entry into force

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, 4.6.2021

For the Commission
The President
Ursula VON DER LEYEN