Commission Delegated Regulation (EU) 2018/989 of 18 May 2018 amending and correcting Delegated Regulation (EU) 2017/654 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 (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2018/989

of 18 May 2018

amending and correcting Delegated Regulation (EU) 2017/654 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

(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/EC[(1)], and in particular Article 25(4)(a-d), Article 26(6), Article 42(4)(b) and Article 43(5) thereof,

Whereas:

(1) In order to enable the use of certain fuels legally marketed in some Member States without imposing an additional burden on manufacturers, the permitted content of fatty-acid methyl ester ('FAME') should be 8,0 % v/v instead of 7,0 % v/v.

(2) In order to ensure consistency with Article 7(2) of Commission Implementing Regulation (EU) 2017/656[(2)], where an existing RLL test report is submitted to obtain a Stage V type approval in accordance with that Article, it should be permitted to use the same version of 'F' test type cycle for the purposes of checking the conformity of production of engines type-approved on that cycle.

(3) In order to improve the testing procedures for engines without an after-treatment system, specific requirements for determining deterioration factors should be established for engines without an after-treatment system.

(4) In order to consider all possible emission control strategies, the technical requirements relating to emission control strategies should include the base emission control strategy and not only the auxiliary emission control strategy.

(5) Emission control strategies' requirements were originally laid down for engines subject to a transient cycle. However, those requirements are not suitable for engines only

subject to the NRSC which are not tested on a transient cycle. Existing engine transient emission control strategies should therefore be adapted to those engines by distinguishing between the conditions on the emission test (steady-state only) and any other operating conditions (transient).

(6) In order to take into account the regeneration of an after-treatment system during the demonstration based on random point selection in accordance with point 3 of Annex V to Commission Delegated Regulation (EU) 2017/654[(3)] and to clarify that an engine after-treatment system may regenerate before the emission test cycle is run, the test requirements referred to in point 4 of Annex V of Delegated Regulation (EU) 2017/654 should be modified accordingly with new specific provisions on regeneration.

(7) In addition, to reduce the likelihood of regeneration during the test, the minimum sample time when the discrete-mode NRSC is used for the demonstration based on random point selection in accordance with point 3 of Annex V to Delegated Regulation (EU) 2017/654 should be reduced to 3 minutes per point.

(8) For the purpose of comprehensiveness, the manufacturer should include in the information folder as set out in Part A of Annex I to Implementing Regulation (EU) 2017/656 demonstration reports documenting the demonstrations conducted pursuant to specific technical requirements and procedures set out in Delegated Regulation (EU) 2017/654.

(9) The reference to the provisions of Regulation (EU) 2016/1628 requiring that deterioration factors are taken into account in the emission laboratory test results set out in Article 4 of Delegated Regulation (EU) 2017/654 is incorrect and should be corrected.

(10) To ensure consistency of Regulation (EU) 2016/1628 and all Delegated and Implementing Regulations adopted pursuant to that Regulation, some requirements applicable to engine-after-treatment system families should also be applicable to engine families, or groups of engine families.

(11) Certain changes should be made to provisions containing contradictions or redundant information and certain references should be corrected.

(12) Following the publication of Delegated Regulation (EU) 2017/654, further errors of different types, such as terminology and numbering, have been detected and need to be corrected.

(13) Delegated Regulation (EU) 2017/654 should therefore be amended and corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2017/654

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

(1) the following Article 20a is inserted:

Article 20a

Transitional provisions

1 Notwithstanding the application of the provisions of this Regulation, as amended by Commission Delegated Regulation (EU) 2018/989, approval authorities shall, until 31 December 2018, also continue to grant EU type-approvals to engine types or engine families in accordance with this Regulation, in its version applicable on 6 August 2018.

2 Notwithstanding the application of the provisions of this Regulation, as amended by Commission Delegated Regulation (EU) 2018/989, the Member States shall, until 30 June 2019, also permit the placing on the market of engines based on an engine type approved in accordance with this Regulation, in its version applicable on 6 August 2018.;

(2) Annex I is amended in accordance with Annex I to this Regulation;

(3) Annex II is amended in accordance with Annex II to this Regulation;

(4) Annex III is amended in accordance with Annex III to this Regulation;

(5) Annex IV is amended in accordance with Annex IV to this Regulation;

(6) Annex V is amended in accordance with Annex V to this Regulation;

(7) Annex VI is amended in accordance with Annex VI to this Regulation;

(8) Annex VII is amended in accordance with Annex VII to this Regulation;

(9) Annex VIII is amended in accordance with Annex VIII to this Regulation;

(10) Annex IX is amended in accordance with Annex IX to this Regulation;

(11) Annex XIII is amended in accordance with Annex X to this Regulation;

(12) Annex XV is amended in accordance with Annex XI to this Regulation.

Article 2

Corrections to Delegated Regulation (EU) 2017/654

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

(1) Article 4 is replaced by the following:

Article 4

Methodology for adapting the emission laboratory test results to include the deterioration factors

The emission laboratory test results shall be adapted to include the deterioration factors, comprising those related with the measurement of the particle number (PN) and with gaseous-fuelled engines, referred to in Article 25(1)(c) of Regulation (EU)

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/989. (See end of Document for details)*

2016/1628, in accordance with the methodology laid down in Annex III to this Regulation.;

(2) Annex I is corrected in accordance with Annex XII to this Regulation;

(3) in Annex II, point 3.3.2 is replaced by the following:

3.3.2. The initial assessment and verification of product conformity arrangements may also be carried out in cooperation with the approval authority of another Member State, or the appointed body designated for this purpose by the approval authority.;

(4) Annex III is corrected in accordance with Annex XIII to this Regulation;

(5) Annex IV is corrected in accordance with Annex XIV to this Regulation;

(6) Annex V is corrected in accordance with Annex XV to this Regulation;

(7) Annex VI is corrected in accordance with Annex XVI to this Regulation;

(8) Annex VII is corrected in accordance with Annex XVII to this Regulation;

(9) Annex VIII is corrected in accordance with Annex XVIII to this Regulation.

Article 3

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, 18 May 2018.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2018/989. (See end of Document for details)*

ANNEX I

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

(1) point 1.2.2 is replaced by the following:

1.2.2. In the absence of either a standard from the European Committee for Standardization ("CEN standard") for non-road gas-oil or a table of fuel properties for non-road gas-oil in Directive 98/70/EC of the European Parliament and of the Council[4], the diesel (non-road gas-oil) reference fuel in Annex IX shall represent market non-road gas-oils with a sulphur content not greater than 10 mg/kg, cetane number not less than 45 and a fatty-acid methyl ester ("FAME") content not greater than 8,0 % v/v. Except where otherwise permitted in accordance with points 1.2.2.1, 1.2.3 and 1.2.4, the manufacturer shall make a corresponding declaration to the end-users in accordance with the requirements in Annex XV that operation of the engine on non-road gas-oil is limited to those fuels with a sulphur content not greater than 10 mg/kg (20 mg/kg at point of final distribution) cetane number not less than 45 and a FAME content not greater than 8,0 % v/v. The manufacturer may optionally specify other parameters (e.g. for lubricity).;

(2) point 1.2.2.1 is amended as follows:

(a) the first paragraph is replaced by the following:

> The engine manufacturer shall not indicate at any time that an engine type or engine family may be operated within the Union on market fuels other than those that comply with the requirements in this point unless the manufacturer additionally complies with the requirement in point 1.2.3;

(b) point (c) is replaced by the following:

(c) In the case of diesel (non-road gas-oil), Directive 98/70/EC and also both a cetane number not less than 45 and FAME not greater than 8,0 % v/v.;

(3) point 2.4.1.4 is deleted.

ANNEX II

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

(1) the following point 6.2.3.1 is inserted:

6.2.3.1. Notwithstanding point 6.2.3, in the case of engines of category RLL where an existing test report is used for type-approval in accordance with Article 7(2) of Implementing Regulation (EU) 2017/656, the per cent load and power and the weighting factor for the mode number of the test cycle type F for the purpose of this Annex may be the same as that used for the type-approval test.;

(2) in point 6.2.4, the words ', as determined in accordance with Annex III' are replaced by the words 'that were determined in accordance with Annex III';

(3) in point 6.4, the third sentence is replaced by the following: