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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	13 January 2022
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2022) 54 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 13.1.2022 amending Delegated Regulation (EU) 2018/985 as regards its transitional provisions for certain agricultural and forestry vehicles fitted with engines in the power range greater than or equal to 56kW and less than 130kW in order to address the impact of the COVID-19 crisis

Delegations will find attached document C(2022) 54 final.

Encl.: C(2022) 54 final



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

of 13.1.2022

amending Delegated Regulation (EU) 2018/985 as regards its transitional provisions for certain agricultural and forestry vehicles fitted with engines in the power range greater than or equal to 56kW and less than 130kW in order to address the impact of the COVID-19 crisis

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The COVID-19 pandemic has caused continued supply chain and production disruptions. Due to such disruptions, manufacturers will not always be able to meet the 2021 deadlines applying to the machinery fitted with transition engines in the power range between 56kW and 130kW without sustaining serious economic damage. Manufacturers had until 30 June 2021 to complete the production of the machines fitted with those engines and have until 31 December 2021 to place them on the market.

In light of the continued disruptions, Regulation (EU) 2021/1068 of the European Parliament and of the Council¹ amended Regulation (EU) 2016/1628² for non-road mobile machinery by postponing the deadlines occurring in 2021 for the non-road mobile machinery fitted with transition engines in the power range between 56kW and 130kW.

While there are still supply chain and production distortions, their amplitude and intensity cannot be compared with the ones that prevailed in spring 2020. It was therefore decided that a 6-month extension for the manufacture of the machinery fitted with those engines and a 9-month extension for the placing on the market, instead of 12 months for both in 2020, were sufficient.

Since engines fitted in agricultural and forestry vehicles follow, according to Article 19(3) of Regulation 167/2013³, the Stage V pollutants emission limits and transitional provisions for non-road mobile machinery set out in Regulation (EU) 2016/1628, the extensions laid down in Regulation (EU) 2021/1068 should also be reflected in Regulation (EU) 2018/985⁴ for agricultural and forestry vehicles.

This extension will have no environmental impact, as the concerned transition engines have already been produced and avoidable scrapping can be prevented by postponing the applicable deadlines. This postponement takes into account that the production and sales of agricultural and forestry vehicles are seasonal and the duration of the disruption caused by the COVID-19 pandemic were difficult to predict.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission has already consulted Member States and industry on the consequences of the COVID-19 pandemic. A number of Member States as well as industry stakeholders clearly pointed out the issue of supply disruption and the need to postpone the deadlines for the production and placing on the market of agricultural and forestry vehicles fitted with transition engines.

¹ Regulation (EU) 2021/1068 of the European Parliament and of the Council of 24 June 2021 amending Regulation (EU) 2016/1628 as regards its transitional provisions for certain machinery fitted with engines in the power range greater than or equal to 56kW and less than 130kW, and greater than or equal to 300kW, in order to address the impact of the COVID-19 crisis (OJ L 230, 30.6.2021, 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 OJ L 60, 2.3.2013, p. 1.

⁴ Commission Delegated Regulation (EU) 2018/985 of 12 February 2018 supplementing Regulation (EU) No 167/2013 of the European Parliament and of the Council as regards environmental and propulsion unit performance requirements for agricultural and forestry vehicles and their engines and repealing Commission Delegated Regulation (EU) 2015/96 (OJ L 182, 18.7.2018, p.1).

This act does not alter Regulation (EU) 2018/985 on substance and does not impose new obligations on the concerned parties. It merely reflects the amendment to Regulation (EU) 2016/1628.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

(a) Legal basis

The legal basis of this delegated act is Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles.

(b) Choice of instruments

A regulation is the appropriate instrument to amend Regulation (EU) 2018/985.

**COMMISSION DELEGATED REGULATION (EU) .../... of 13.1.2022 amending
Delegated Regulation (EU) 2018/985 as regards its transitional provisions for certain
agricultural and forestry vehicles fitted with engines in the power range greater than or
equal to 56kW and less than 130kW in order to address the impact of the COVID-19
crisis**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles⁵, and in particular Article 19(6) thereof,

Whereas:

- (1) Pursuant to Article 19(3) of Regulation (EU) No 167/2013, the engines fitted in agricultural and forestry vehicles follow Stage V pollutant emissions limits and transitional provisions laid down in Regulation (EU) 2016/1628 of the European Parliament and of the Council⁶.
- (2) As a result of the continued disruption caused by the COVID-19 pandemic, Regulation (EU) 2021/1068 of the European Parliament and of the Council⁷ amended Regulation (EU) 2016/1628 to postpone the deadlines occurring in 2021 for the non-road mobile machinery fitted with transition engines in the power range between 56kW and 130kW. The deadline of 30 June 2021 for the production of the machinery fitted with those engines was extended by 6 months and the deadline of 31 December 2021 for the placing on the market of the machinery fitted with those engines was extended by 9 months.
- (3) The continued supply chain and production disruption caused by the COVID-19 pandemic still leads to delays for the production and placing on the market of agricultural and forestry vehicles fitted with transition engines in the power range between 56kW and 130kW. In order to ensure the smooth functioning of the internal market, to provide legal certainty, and to avoid potential market disruption, it is necessary to prolong the transitional provisions of Commission Delegated Regulation (EU) 2018/985⁸ for those categories of engines.

⁵ OJ L 60, 2.3.2013, p. 1.

⁶ 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).

⁷ Regulation (EU) 2021/1068 of the European Parliament and of the Council of 24 June 2021 amending Regulation (EU) 2016/1628 as regards its transitional provisions for certain machinery fitted with engines in the power range greater than or equal to 56kW and less than 130kW, and greater than or equal to 300kW, in order to address the impact of the COVID-19 crisis (OJ L 230, 30.6.2021, p. 1).

⁸ Commission Delegated Regulation (EU) 2018/985 of 12 February 2018 supplementing Regulation (EU) No 167/2013 of the European Parliament and of the Council as regards environmental and propulsion unit performance requirements for agricultural and forestry vehicles and their engines and repealing Commission Delegated Regulation (EU) 2015/96 (OJ L 182, 18.7.2018, p.1).

- (4) Delegated Regulation (EU) 2018/985 should therefore be amended accordingly.
- (5) Given that the prolongation of the transitional provisions will have no environmental impact, as the transition engines concerned have already been produced, the extension of the relevant periods should be of 9 and 6 months in order to reflect extended periods provided in Regulation (EU) 2016/1628.
- (6) In view of the fact that the transition period provided for in Article 13(5) of Delegated Regulation (EU) 2018/985 for certain engines is to expire on 31 December 2021 and that manufacturers had until 30 June 2021 to produce the agricultural and forestry vehicles fitted with transition engines of those sub-categories, this Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union* and should apply from 1 July 2021. Such provision is necessary by the continued disruption of the COVID- 19 pandemic that was unforeseen as well as by the need to ensure legal certainty and equal treatment of manufacturers regardless of whether they produce agricultural and forestry vehicles before or after the date of entry into force of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 13, paragraph 5, the following subparagraph is added:

‘ For engines of sub-categories of category NRE for which the mandatory date of application set out in Annex III to Regulation (EU) 2016/1628 in respect of the placing on the market of Stage V engines is 1 January 2020, except for the engines referred to in the third subparagraph, Member States shall authorise the extension of the 24-month period referred to in the first and second subparagraphs by 9 months and the extension of the 18-month period referred to in the second subparagraph by 6 months.’.

Article 2

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

It shall apply from 1 July 2021.

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

Done at Brussels, 13.1.2022

For the Commission
The President
Ursula VON DER LEYEN