II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2021/1398

of 4 June 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/EC ([1]), 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 Commission Delegated Regulation (EU) 2017/654 ([2]) 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.

([1]) OJ L 252, 16.9.2016, p. 53.

([2]) 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).

(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-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 04 ([3]) 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 Council ([4]), 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 23 August 2021 remain valid.

(9) Delegated Regulation (EU) 2017/654 should therefore be amended accordingly,

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 24 August 2021 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.

([3]) 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).

([4]) 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).

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 June 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes I, IV, V and XIII are amended as follows:

(1) in Annex I, point 2.6.2 is replaced by the following:

'2.6.2. Where the approval authority determines that, with regard to the selected parent engine the submitted application does not fully represent the engine family defined in Annex IX to Implementing Regulation (EU) 2017/656, an alternative and if necessary an additional reference test engine may be selected by the approval authority and tested.';

(2) in Annex IV, Appendix 1 is amended as follows:

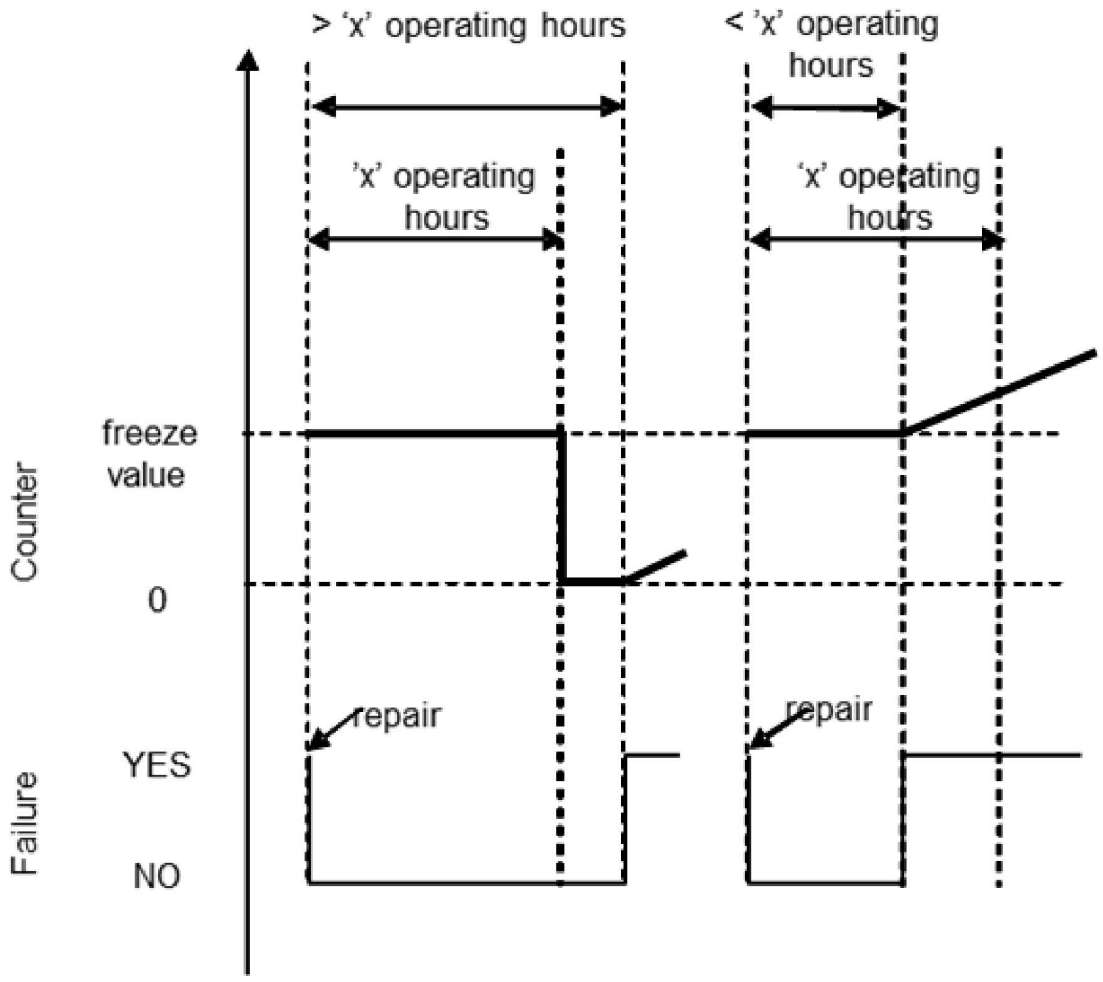
(a) point 11.4.2.1.4 is replaced by the following:

'11.4.2.1.4. Once frozen, the counter shall be reset to zero when the monitors relevant to that counter have run at least once to completion of their monitoring cycle without having detected a malfunction and no malfunction relevant to that counter has been detected during at least 36 engine operating hours since the counter was last held (see Figure 4.4).';

(b) Figure 4.4 is replaced by the following:

'*Figure 4.4*

Reactivation and resetting to zero of a counter after a period when its value has been frozen

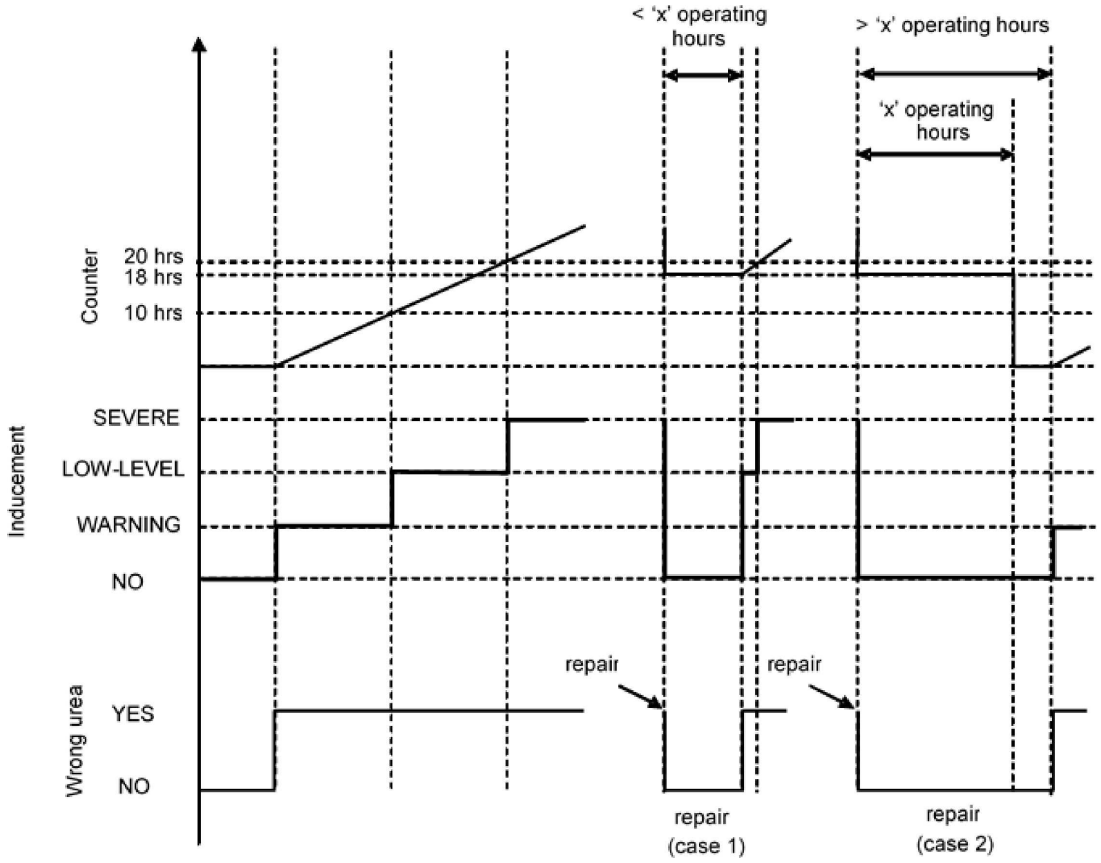


Where "x" is not less than 36 operating hours';

(c) Figure 4.6 is replaced by the following:

'Figure 4.6

Filling with poor reagent quality

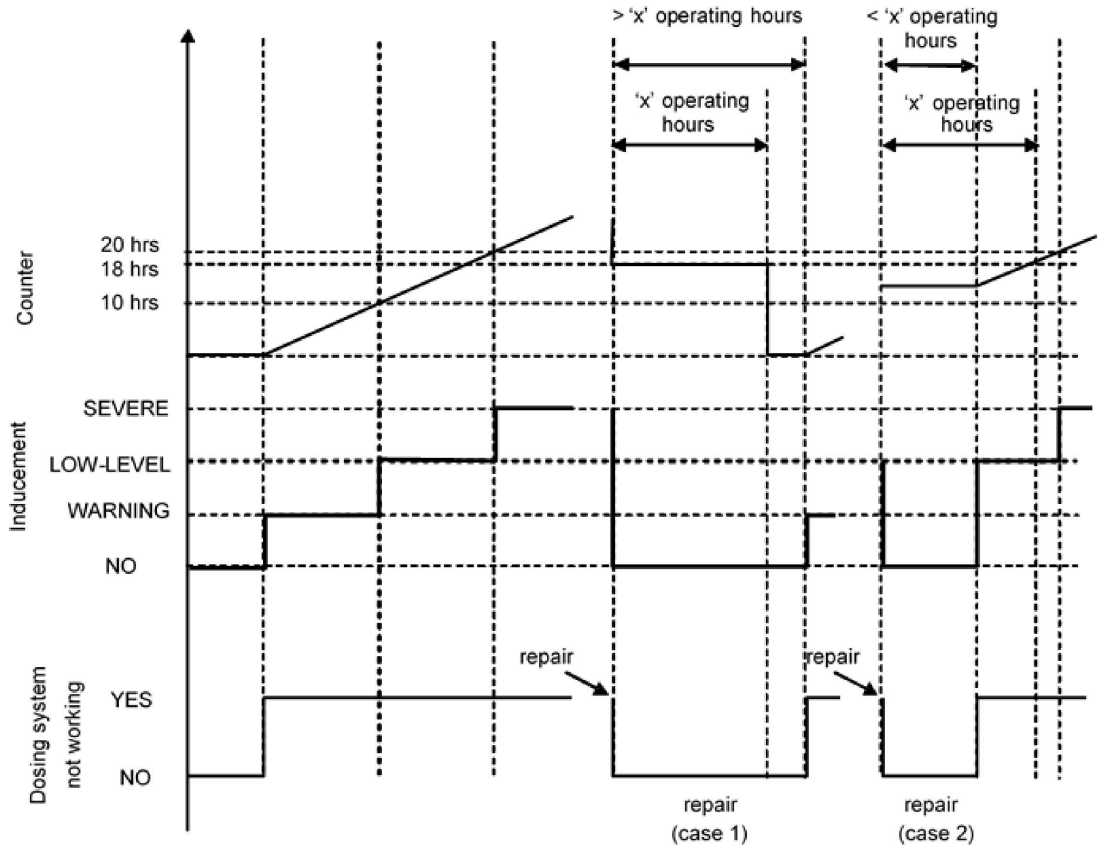


Where "x" is not less than 36 operating hours';

(d) Figure 4.7 is replaced by the following:

'Figure 4.7

Failure of the reagent dosing system



Where "x" is not less than 36 operating hours';

(3) in Annex V, point 1, the fifth paragraph is replaced by the following:

'The manufacturer may request that the technical service excludes operating points from any of the control areas set out in section 2 during the demonstration set out in section 3. The technical service shall grant this exclusion, upon agreement of the approval authority, if the manufacturer demonstrates that the engine is never capable of operating at such points when used in any non-road mobile machinery combination.';

(4) Annex XIII is amended as follows:

(a) point 1 is amended as follows:

(i) sub-point (2) is replaced by the following:

'(2) type-approvals in conformity with the 06 series of amendments to UNECE Regulation No 49 *, where a technical service confirms that the engine type meets:

(a) the requirements set out in Appendix 2 of Annex IV, when the engine is exclusively intended for use in the place of Stage V engines of categories IWP and IWA, in accordance with Article 4(1), point (1)(b) of Regulation (EU) 2016/1628; or

(b) the requirements set out in Appendix 1 of Annex IV for engines not covered by paragraph (a),

and where an approval authority confirms that the manufacturer complies with the obligations set out in Article 19 of Regulation (EU) 2016/1628.

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* Regulation No 49 of the Economic Commission for Europe of the United Nations (UN/ECE) – Uniform provisions concerning the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines and positive ignition engines for use in vehicles (OJ L 171, 24.6.2013, p. 1).';

(ii) the following sub-point (3) is added:

'(3) type-approvals in conformity with the 05 series of amendments to UNECE Regulation No 96 ** of engine families or engine types of category NRE, as set out in Table I-1 of Annex I to Regulation (EU) 2016/1628, where an approval authority confirms that the manufacturer complies with the obligations set out in Article 19 of Regulation (EU) 2016/1628.

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** Regulation No 96 of the Economic Commission for Europe of the United Nations (UN/ECE) – Uniform provisions concerning the approval of 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 107, 17.4.2019, p. 1).';

(b) the following points 2 to 4.1 are added:

'2. For engine families or engine types of category NRG, NRSh, NRS, SMB and ATS, type-approvals in conformity with the 05 series of amendments to UNECE Regulation No 96, of engines that correspond to the engine categories set out in Tables I-2, I-3 and I-4 and Tables I-9 to I-10 of Annex I to Regulation (EU) 2016/1628 and, where applicable, the corresponding statutory marking, shall be recognised as equivalent to EU type-approvals granted and statutory marking required in accordance with Regulation (EU) 2016/1628, where an approval authority confirms that the manufacturer complies with the obligations set out in Article 19 of Regulation (EU) 2016/1628.

3. For special purpose engines (SPE) falling within the scope of Article 34, paragraphs 5 and 6 of Regulation (EU) 2016/1628, of category NRE with reference power not less than 19 kW and not more than 560 kW, Stage IIIA type-approvals in conformity with the 02 ***, 03 **** or 04 ***** series of amendments to UNECE Regulation No 96 of engines families or engine types of category NRE, as set out in Table VI-1 of Annex VI to Regulation (EU) 2016/1628 and, where applicable, the corresponding statutory marking, shall be recognised as equivalent to EU type-approvals granted and statutory marking required in accordance with that Regulation.

3.1. Additional requirements:

Engines based on a type-approval which is accepted as equivalent to an EU type-approval in accordance with point 3 shall meet the requirements of Annex XII to Delegated Regulation (EU) 2017/654.

4. For the following emission stages, type-approvals on the basis of UNECE Regulations of engine families or engine types belonging to the categories listed below and, where applicable, the corresponding statutory marking shall be recognised as equivalent to EU type-approvals granted and statutory marking required under Directive 97/68/EC, in accordance with the transitional provisions set out in Article 58 of Regulation (EU) 2016/1628:

(1) Stage IV: type-approvals of engines belonging to category Q and R as set out in Article 9 of Directive 97/68/EC in conformity with the 04 series of amendments to UNECE Regulation No 96;

(2) Stage IIIB: type-approvals of engines belonging to category L, M, N and P as set out in Article 9 of Directive 97/68/EC in conformity with the 03 or 04 series of amendments to UNECE Regulation No 96;

(3) Stage IIIA: type-approvals of engines belonging to category H, I, J and K as set out in Article 9 of Directive 97/68/EC in conformity with the 02, 03 or 04 series of amendments to UNECE Regulation No 96;

(4) Stage II: type-approvals of engines belonging to category D, E, F and G as set out in Article 9 of Directive 97/68/EC in conformity with the 01 ******, 02, 03 or 04 series of amendments to UNECE Regulation No 96;

(5) Stage I: type-approvals of engines belonging to category A, B and C as set out in Article 9 of Directive 97/68/EC in conformity with the 00 series ******* of amendments to UNECE Regulation No 96.

4.1. Additional requirements

Engines based on a type-approval which is accepted as equivalent to the EU type-approval in accordance with point 4 shall be accompanied by a statement of conformity and the supplementary information in its statutory marking as required by Articles 31 and 32(2) of Regulation (EU) 2016/1628 and as set out in Annexes II and III to Implementing Regulation (EU) 2017/656.

*** 02 series of amendments is not published in the OJ.

**** 03 series of amendments is not published in the OJ.

***** 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).

****** 01 series of amendments is not published in the OJ.

******* 00 series of amendments is not published in the OJ.'.