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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 21 August 2020

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

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 6.8.2020
amending Delegated Regulation (EU) 2018/985 as regards its
transitional provisions in order to address the impact of the COVID-19
crisis

Delegations will find attached document C(2020) 5473 final.

Encl.: C(2020) 5473 final



Brussels, 6.8.2020
C(2020) 5473 final

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

of 6.8.2020

**amending Delegated Regulation (EU) 2018/985 as regards its transitional provisions in
order to address the impact of the COVID-19 crisis**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Engines fitted in agricultural and forestry vehicles follow, pursuant to article 19(3) of Regulation 167/2013¹, the Stage V pollutants emission limits and transitional provisions set out in the non-road mobile machinery Regulation (EU) 2016/1628. Due to the COVID-19 outbreak, the deadline of 30 June 2020 set for the production of machinery and vehicles fitted with certain subcategories of transition engines was postponed by 1 year through an amendment of Regulation 2016/1628 on 15 July 2020.

It is therefore necessary to amend accordingly Commission Delegated Regulation (EU) 2018/985² in order to reflect the amendment carried out in Regulation (EU) 2016/1628 and Regulation (EU) No 167/2013.

This prolongation will have no environmental impact, as the concerned transition engines have already been produced and avoidable scrapping can be prevented by the postponement of the vehicles production fitted with them. In addition, this prolongation is coupled with the fact that tractors' production is seasonal and it is difficult to predict the exact duration of the delays caused by the COVID-19 disruption.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

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

This act does not alter Regulation (EU) 2018/985 on substance and does not impose new obligations on the concerned parties. It is a reflection of the amendment to Regulation (EU) 2016/1628 and primarily aims at providing, for exceptional reasons in the context of the current COVID-19 outbreak, an extension of 12 months for the production and placing on the market of agricultural and forestry vehicles fitted with transition engines.

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

¹ OJ L 60, 2.3.2013, p. 1.

² 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).

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

Commission Delegated Regulation (EU) .../... of 6.8.2020 amending Delegated Regulation (EU) 2018/985 as regards its transitional provisions in order to address the impact of the COVID-19 crisis

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 vehicles³, 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 Council⁴.
- (2) As a result of the disruption caused by the COVID-19 outbreak, Regulation (EU) 2020/1040 of the European Parliament and of the Council⁵ extended the transition period provided for in Regulation (EU) 2016/1628 by 12 months for certain engine sub-categories.
- (3) Commission Delegated Regulation (EU) 2018/985⁶ that lays down requirements relating to emission limits and EU type-approval procedures for agricultural and forestry vehicles as well as for their engines should therefore be amended accordingly.
- (4) Given in addition that the prolongation of the transitional provisions will have no environmental impact, as the transition engines concerned have already been produced, coupled with the fact that it is difficult to predict the exact duration of the delays caused by the COVID-19 disruption, the extension of the relevant periods should be of 12 months as provided in Regulation (EU) 2020/1040 of the European Parliament and of the Council.
- (5) 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 2020 and that manufacturers had until 30 June 2020 to produce the agricultural and forestry

³ OJ L 60, 2.3.2013, p. 1.

⁴ 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).

⁵ Regulation (EU) 2020/1040 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EU) 2016/1628 as regards its transitional provisions in order to address the impact of the COVID-19 crisis (OJ L 231, 17.7.2020, p. 1).

⁶ 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).

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 2020. Such provision is warranted by the unforeseeable and sudden nature of the COVID-19 outbreak 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 of Delegated Regulation (EU) 2018/985, paragraph 5 is amended as follows:

(1) in the third subparagraph, the first sentence is replaced by the following:

‘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 is 1 January 2020, Member States shall authorise the extension of the 24-month period and of the 18-month period referred to in the first and second subparagraphs by additional 12 months for vehicle manufacturers with a total yearly production of less than 100 units of agricultural and forestry vehicles equipped with an engine.’;

(2) the following fourth subparagraph is added:

‘For engines of all sub-categories 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 is 1 January 2019, the 24-month period and the 18-month period referred to in the first and second subparagraphs shall be extended by 12 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 2020.

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

Done at Brussels, 6.8.2020

For the Commission
The President
Ursula VON DER LEYEN