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Price: EUR 4

⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 275/2010

of 30 March 2010

implementing Regulation (EC) No 295/2008 of the European Parliament and of the Council, as regards the criteria for the evaluation of the quality of structural business statistics**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS REGULATION:

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

Article 1

The criteria for the evaluation of quality and the contents of the quality reports to be provided by the Member States are laid down in the Annex.

Having regard to Regulation (EC) No 295/2008 of the European Parliament and of the Council of 11 March 2008 concerning structural business statistics ⁽¹⁾, and in particular Article 11(2)(j) thereof,

Article 2

The data and metadata supplied for quality reports shall be transmitted or uploaded in electronic format to the single entry point for data at the Commission (Eurostat) by any organisation designated by the national authorities. Transmission shall comply with an appropriate interchange standard specified by Eurostat.

Whereas:

(1) Regulation (EC) No 295/2008 established a common framework for the collection, compilation, transmission and evaluation of European statistics on the structure, activity, competitiveness and performance of businesses in the European Union.

Article 3

The first quality report, for the data for the reference year 2008, shall be delivered by 31 March 2011. An extra 3 months for transmission of the quality reports for the reference year 2008 has been granted to Belgium, Cyprus, Germany, Greece, Luxembourg, Malta, Romania and the United Kingdom. Subsequent reports shall be transmitted to the Commission (Eurostat) at the latest 27 months after the end of the reference period for which the data were collected.

(2) For the purposes of comparing the benefits of the availability of the data with the costs of collection and the burden on business, especially on small enterprises, a quality evaluation should be carried out in accordance with Article 6 of Regulation (EC) No 295/2008. It is therefore necessary to establish the quality evaluation criteria and the key indicators.

Article 4

The Commission (Eurostat) shall evaluate the quality of the data transmitted and shall prepare and publish reports on the quality of European statistics.

(3) The measures provided for in this Regulation are in accordance with the opinion of the European Statistical System Committee,

Article 5

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

⁽¹⁾ OJ L 97, 9.4.2008, p. 13.

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

Done at Brussels, 30 March 2010.

For the Commission

The President

José Manuel BARROSO

ANNEX

Quality reports and criteria for the evaluation of the quality of structural business statistics

SECTION I

Quality reports

Supplementary guidance on interpretation of the common quality criteria is set out in the Structural Business Statistics Manual produced by the Commission (Eurostat) in cooperation with the Member States. The quality report shall contain both quantitative and qualitative information. The Commission (Eurostat) shall provide the results for those quantitative indicators which can be calculated from data provided by Member States. Member States shall comment on the indicators and assist Eurostat with interpreting them, in the light of their collection methodology, and shall provide the remaining quantitative indicators and qualitative information.

Member States shall provide:

- a report covering the quality aspects of Annexes I to IV to Regulation (EC) No 295/2008. If deemed necessary, Member States may provide separate reports on Annexes I, II, III and IV to that Regulation,
- a report covering the quality aspects of Annex V to Regulation (EC) No 295/2008,
- a report covering the quality aspects of Annex VI to Regulation (EC) No 295/2008,
- a report covering the quality aspects of Annex VII to Regulation (EC) No 295/2008,
- a report covering the quality aspects of Annex VIII to Regulation (EC) No 295/2008. If the information needed to compile the statistics of Annex VIII to that Regulation is collected by the same survey as of its Annexes I to IV, a separate report on the quality aspects of its Annex VIII need not be provided,
- a report covering the quality aspects of Annex IX to Regulation (EC) No 295/2008.

SECTION II

Timeline

Every year starting from 2011, the Commission (Eurostat) shall supply the Member States, by the end of January, with quality reports on reference year t-3, partly pre-filled with quantitative indicators and other information available to the Commission (Eurostat).

Every year Member States shall supply the Commission (Eurostat), by 31 March, with the completed quality reports.

SECTION III

Quality criteria

Data transmitted by Member States on the statistics of Annexes I to IX to Regulation (EC) No 295/2008 shall be evaluated against the quality criteria listed in Article 12(1) of Regulation (EC) No 223/2009 of the European Parliament and of the Council ⁽¹⁾, i.e. relevance, accuracy, timeliness, punctuality, accessibility, clarity, comparability and coherence.

1. Relevance

Relevance means the degree to which statistics meet current and potential needs of the users.

2. Accuracy

Accuracy means the closeness of estimates to the unknown true values.

⁽¹⁾ OJ L 87, 31.3.2009, p. 164.

3. *Coherence*

Coherence means the adequacy of the data to be reliably combined in different ways and for various uses.

4. *Comparability*

Comparability means measurement of the impact of differences in applied statistical concepts, measurement tools and procedures, where statistics are compared between geographical areas, sectoral domains or over time.

5. *Timeliness and punctuality*

Timeliness means the period between the availability of the information and the event or phenomenon it describes. Punctuality means the delay between the date of release of the data and the target date (the date by which the data should have been delivered).

6. *Accessibility and clarity*

Accessibility and clarity means the conditions and modalities by which users can obtain, use and interpret data.

SECTION IV

Series of quantitative indicators to be provided by Member States regarding accuracy (and reliability)

The quantitative indicators described in this section need to be provided only for the statistics listed in Annexes I to IV to Regulation (EC) No 295/2008, as specified below. The data shall be transmitted using the technical format described in Section V of the Annex to this Regulation.

1. *Coefficients of variation*

The following information needs to be provided only if sample surveys or a combination of sample surveys and administrative data are used:

Member States shall report information on the characteristics, levels and series specified below. Aspects to be taken into account for calculation of the coefficients of variation shall be further defined in cooperation with Member States. A description of the method used for calculation of the coefficients of variation (including software) shall be included in the quality report.

- (a) For the annual enterprise statistics on the activities covered by NACE Rev. 2, Sections B to J and L to N, and division 95 (data provided under series 1A, 2A, 3A and 4A, as defined in Commission Regulation (EC) No 251/2009 ⁽¹⁾), the coefficient of variation of the following characteristics (as defined in Commission Regulation (EC) No 250/2009 ⁽²⁾) shall be provided in the level of detail of the activity breakdown specified below:

— Characteristic 12110 at NACE Rev. 2 three-digit level (groups),

— Characteristics 11110, 12110, 12150, 13310, 15110 and 16110 at NACE Rev. 2 section level for Sections B to J and L to N and NACE Rev. 2 two-digit level (divisions) for divisions 45 to 47 and 95.

- (b) For the annual enterprise statistics broken down by size classes of employment on the activities covered by NACE Rev. 2, Sections C to J and L to N, and division 95 (data provided under series 1B, 2B, 3B and 4B), the coefficient of variation shall be provided in the level of detail of the activity breakdown and for the size classes of employment specified below:

— Characteristics 11110, 12110, 12150 and 16110,

— NACE Rev. 2 section level for Sections B to J and L to N and NACE Rev. 2 two-digit level (divisions) for division 95,

⁽¹⁾ OJ L 86, 31.3.2009, p. 170.

⁽²⁾ OJ L 86, 31.3.2009, p. 1.

- Size classes 0-9, 10-19, 20-49, 50-249 and 250 + for NACE Rev. 2, Sections B to F, and 0-1, 2-9, 10-19, 20-49, 50-249 and 250 + for NACE Rev. 2, Sections G to J and L to N, and division 95.

2. Unit non-response

The following information shall be provided if sample surveys, a combination of sample surveys and administrative data or administrative data only are used. Aspects to be taken into account for calculation of unit non-response shall be further defined in cooperation with Member States.

Member States shall report the weighted unit non-response information on the activities covered by NACE Rev. 2, Sections B to J and L to N, and division 95 at NACE Rev. 2 three-digit level. If several surveys/administrative sources are used for characteristics 11110, 12110, 12150, 13310, 15110 and 16110, separate unit non-response indicators shall be transmitted, mentioning the variable number in the field concerned. Unit non-response shall be weighted, preferably by number of persons employed. Alternatively, turnover may be used.

SECTION V

Technical format for transmission of the quality report and quality indicators

For transmission of the report and the series of quality indicators, the appropriate dataset identifiers shall be used. The detailed content of the quality reports shall be agreed in cooperation with the Member States. Member States shall complete the pre-filled quality reports and return them to the Commission (Eurostat). For reporting the two quality indicators (coefficients of variation and unit non-response), the record structure defined below shall be used, which is similar to the technical format for transmission of structural business statistics.

1. Dataset identifiers

The following dataset identifiers shall be used for reporting on quality criteria for structural business statistics:

Series type	Name	Dataset identifier
Coefficients of variation for variable 12110 at NACE three-digit level for NACE Rev. 2, Sections B to J and L to N, and division 95	QAG	RSBSQUAL_QAG_A
Coefficients of variation for variables 11110, 12110, 12150, 13310, 15110 and 16110 at NACE Rev. 2 section level for Sections B to J and L to N and also at NACE Rev. 2 division level for divisions 45, 46, 47 and 95	QAS	RSBSQUAL_QAS_A
Coefficients of variation for variables 11110, 12110, 12150 and 16110 at NACE Rev. 2 section level for Sections H to J and L to N and also at NACE Rev. 2 division level for division 95 and by size class	Q1B	RSBSQUAL_Q1B_A
Coefficients of variation for variables 11110, 12110, 12150 and 16110 for NACE Rev. 2, Sections B to E, giving details by NACE section and by size class	Q2B	RSBSQUAL_Q2B_A
Coefficients of variation for variables 11110, 12110, 12150 and 16110 for NACE Rev. 2, Section G, giving details by NACE section and by size class	Q3B	RSBSQUAL_Q3B_A
Coefficients of variation for variables 11110, 12110, 12150 and 16110 for NACE Rev. 2, Section F, giving details by NACE section and by size class	Q4B	RSBSQUAL_Q4B_A
Weighted unit non-response rates for NACE Rev. 2, Sections B to J and L to N	QN	RSBSQUAL_QN_A
Quality report	QR	RSBSQUAL_QR_A

2. Dataset structure

This paragraph lays down the structure of the records that must be provided. The codes to be used shall be those contained in the standard code lists for the reference database. These code lists shall be included in the Structural Business Statistics Manual at least 2 months before the first data transmission. The code lists shall serve only to establish the codes to be used for transmitting the data and changes may in no way increase the level of detail requested by Regulation (EC) No 251/2009. The technical format for transmission of the quantitative data required by this Regulation shall also be set out in the Structural Business Statistics Manual.

Field	Description
Series	Code for series QAG, QAS, Q1B, Q2B, Q3B, Q4B or QN
Year	Code for the reference year
Territorial unit	Corresponds to the country code
Size class	Code for the size class
Economic activity	NACE Rev. 2 code: sections, divisions or groups
Variable	Code for the characteristic related to the quality indicator
Indicator	Code for the quality indicator
Indicator value	Numeric value of the indicator; numeric value of the quality indicator multiplied by 10 and subsequently rounded to the nearest integer

COMMISSION REGULATION (EU) No 276/2010**of 31 March 2010****amending Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards Annex XVII (dichloromethane, lamp oils and grill lighter fluids and organostannic compounds)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Council Directive 76/769/EEC as regards restrictions on the marketing and use of lamp oils and grill lighter fluids ⁽⁴⁾ was adopted on 28 May 2009.

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

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ⁽¹⁾, and in particular Article 131 thereof,

(4) Commission Decision 2009/425/EC amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of organostannic compounds for the purpose of adapting its Annex I to technical progress ⁽⁵⁾ was adopted on 28 May 2009.

(5) Following the provisions on transitional measures in Article 137 of REACH, it is appropriate to amend Annex XVII to Regulation (EC) No 1907/2006 in order to incorporate the restrictions provided for by Decisions 455/2009/EC, 2009/424/EC and 2009/425/EC.

Whereas:

(6) Regulation (EC) No 1907/2006 should therefore be amended accordingly.

(1) Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations ⁽²⁾ established in its Annex I restrictions for certain dangerous substances and preparations. Regulation (EC) No 1907/2006 repealed and replaced Directive 76/769/EEC with effect from 1 June 2009. Annex XVII to that Regulation replaces Annex I to Directive 76/769/EEC.

(7) This Regulation should enter into force as a matter of urgency so that these restrictions are included in the Annex XVII to Regulation (EC) No 1907/2006 as soon as possible.

(2) Decision No 455/2009/EC of the European Parliament and of the Council amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of dichloromethane ⁽³⁾ was adopted on 6 May 2009.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 133 of Regulation (EC) No 1907/2006.

HAS ADOPTED THIS REGULATION:

(3) Commission Decision 2009/424/EC amending, for the purpose of adapting to technical progress, Annex I to

Article 1

Annex XVII to Regulation (EC) No 1907/2006 is amended in accordance with the Annex to this Regulation.

⁽¹⁾ OJ L 396, 30.12.2006, p. 1.

⁽²⁾ OJ L 262, 27.9.1976, p. 201.

⁽³⁾ OJ L 137, 3.6.2009, p. 3.

⁽⁴⁾ OJ L 138, 4.6.2009, p. 8.

⁽⁵⁾ OJ L 138, 4.6.2009, p. 11.

Article 2

This Regulation shall enter into force on the day following 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, 31 March 2010.

For the Commission

The President

José Manuel BARROSO

ANNEX

In Annex XVII to Regulation (EC) No 1907/2006, the table setting out the designation of the substances, groups of substances and mixtures and the conditions of restriction is amended as follows:

1. Entry 3 is replaced by the following:

3. Liquid substances or mixtures, which are regarded as dangerous according to the definitions in Directive 67/548/EEC and Directive 1999/45/EC.	1. Shall not be used in: — ornamental articles intended to produce light or colour effects by means of different phases, for example in ornamental lamps and ashtrays, — tricks and jokes, — games for one or more participants, or any article intended to be used as such, even with ornamental aspects, 2. Articles not complying with paragraph 1 shall not be placed on the market. 3. Shall not be placed on the market if they contain a colouring agent, unless required for fiscal reasons, or perfume, or both, if they: — can be used as fuel in decorative oil lamps for supply to the general public, and, — present an aspiration hazard and are labelled with R65 or H304, 4. Decorative oil lamps for supply to the general public shall not be placed on the market unless they conform to the European Standard on Decorative oil lamps (EN 14059) adopted by the European Committee for Standardisation (CEN). 5. Without prejudice to the implementation of other Community provisions relating to the classification, packaging and labelling of dangerous substances and mixtures, suppliers shall ensure, before the placing on the market, that the following requirements are met: (a) lamp oils, labelled with R65 or H304, intended for supply to the general public are visibly, legibly and indelibly marked as follows: "Keep lamps filled with this liquid out of the reach of children"; and, by 1 December 2010, "Just a sip of lamp oil — or even sucking the wick of lamps — may lead to life-threatening lung damage"; (b) grill lighter fluids, labelled with R65 or H304, intended for supply to the general public are legibly and indelibly marked by 1 December 2010 as follows: "Just a sip of grill lighter may lead to life threatening lung damage"; (c) lamp oils and grill lighters, labelled with R65 or H304, intended for supply to the general public are packaged in black opaque containers not exceeding 1 litre by 1 December 2010. 6. No later than 1 June 2014, the Commission shall request the European Chemicals Agency to prepare a dossier, in accordance with Article 69 of the present Regulation with a view to ban, if appropriate, grill lighter fluids and fuel for decorative lamps, labelled R65 or H304, intended for supply to the general public. 7. Natural or legal persons placing on the market for the first time lamp oils and grill lighter fluids, labelled with R65 or H304, shall by 1 December 2011, and annually thereafter, provide data on alternatives to lamp oils and grill lighter fluids labelled R65 or H304 to the competent authority in the Member State concerned. Member States shall make those data available to the Commission.'
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2. In Entry 20, the following paragraphs 4, 5 and 6 are added to the second column:

	4. Tri-substituted organostannic compounds: (a) Tri-substituted organostannic compounds such as tributyltin (TBT) compounds and triphenyltin (TPT) compounds shall not be used after 1 July 2010 in articles where the concentration in the article, or part thereof, is greater than the equivalent of 0,1 % by weight of tin. (b) Articles not complying with point (a) shall not be placed on the market after 1 July 2010, except for articles that were already in use in the Community before that date. 5. Dibutyltin (DBT) compounds: (a) Dibutyltin (DBT) compounds shall not be used after 1 January 2012 in mixtures and articles for supply to the general public where the concentration in the mixture or the article, or part thereof, is greater than the equivalent of 0,1 % by weight of tin. (b) Articles and mixtures not complying with point (a) shall not be placed on the market after 1 January 2012, except for articles that were already in use in the Community before that date. (c) By way of derogation, points (a) and (b) shall not apply until 1 January 2015 to the following articles and mixtures for supply to the general public: — one-component and two-component room temperature vulcanisation sealants (RTV-1 and RTV-2 sealants) and adhesives, — paints and coatings containing DBT compounds as catalysts when applied on articles, — soft polyvinyl chloride (PVC) profiles whether by themselves or coextruded with hard PVC, — fabrics coated with PVC containing DBT compounds as stabilisers when intended for outdoor applications, — outdoor rainwater pipes, gutters and fittings, as well as covering material for roofing and façades, (d) By way of derogation, points (a) and (b) shall not apply to materials and articles regulated under Regulation (EC) No 1935/2004. 6. Dioctyltin (DOT) compound: (a) Dioctyltin (DOT) compounds shall not be used after 1 January 2012 in the following articles for supply to, or use by, the general public, where the concentration in the article, or part thereof, is greater than the equivalent of 0,1 % by weight of tin: — textile articles intended to come into contact with the skin, — gloves, — footwear or part of footwear intended to come into contact with the skin, — wall and floor coverings, — childcare articles, — female hygiene products,
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	— nappies, — two-component room temperature vulcanisation moulding kits (RTV-2 moulding kits). (b) Articles not complying with point (a) shall not be placed on the market after 1 January 2012, except for articles that were already in use in the Community before that date.'
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3. The following entry 59 is added:

'59. Dichloromethane CAS No 75-09-2 EC No: 200-838-9	1. Paint strippers containing dichloromethane in a concentration equal to or greater than 0,1 % by weight shall not be: (a) placed on the market for the first time for supply to the general public or to professionals after 6 December 2010; (b) placed on the market for supply to the general public or to professionals after 6 December 2011; (c) used by professionals after 6 June 2012. For the purposes of this entry: (i) "professional" means any natural or legal person, including workers and self-employed workers undertaking paint stripping in the course of their professional activity outside an industrial installation; (ii) "industrial installation" means a facility used for paint stripping activities. 2. By way of derogation from paragraph 1, Member States may allow on their territories and for certain activities the use, by specifically trained professionals, of paint strippers containing dichloromethane and may allow the placing on the market of such paint strippers for supply to those professionals. Member States making use of this derogation shall define appropriate provisions for the protection of the health and safety of those professionals using paint strippers containing dichloromethane and shall inform the Commission thereof. Those provisions shall include a requirement that a professional shall hold a certificate that is accepted by the Member State in which that professional operates, or provide other documentary evidence to that effect, or be otherwise approved by that Member State, so as to demonstrate proper training and competence to safely use paint strippers containing dichloromethane. The Commission shall prepare a list of the Member States which have made use of the derogation in this paragraph and make it publicly available over the Internet. 3. A professional benefiting from the derogation referred to in paragraph 2 shall operate only in Member States which have made use of that derogation. The training referred to in paragraph 2 shall cover as a minimum: (a) awareness, evaluation and management of risks to health, including information on existing substitutes or processes, which under their conditions of use are less hazardous to the health and safety of workers; (b) use of adequate ventilation; (c) use of appropriate personal protective equipment that complies with Directive 89/686/EEC.
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Employers and self-employed workers shall preferably replace dichloromethane with a chemical agent or process which, under its conditions of use, presents no risk, or a lower risk, to the health and safety of workers.

Professional shall apply all relevant safety measures in practice, including the use of personal protective equipment.

4. Without prejudice to other Community legislation on workers protection, paint strippers containing dichloromethane in concentrations equal to or greater than 0,1 % by weight may be used in industrial installations only if the following minimum conditions are met:

- (a) effective ventilation in all processing areas, in particular for the wet processing and the drying of stripped articles: local exhaust ventilation at strip tanks supplemented by forced ventilation in those areas, so as to minimise exposure and to ensure compliance, where technically feasible, with relevant occupational exposure limits;
- (b) measures to minimise evaporation from strip tanks comprising: lids for covering strip tanks except during loading and unloading; suitable loading and unloading arrangements for strip tanks; and wash tanks with water or brine to remove excess solvent after unloading;
- (c) measures for the safe handling of dichloromethane in strip tanks comprising: pumps and pipework for transferring paint stripper to and from strip tanks; and suitable arrangements for safe cleaning of tanks and removal of sludge;
- (d) personal protective equipment that complies with Directive 89/686/EEC comprising: suitable protective gloves, safety goggles and protective clothing; and appropriate respiratory protective equipment where compliance with relevant occupational exposure limits cannot be otherwise achieved;
- (e) adequate information, instruction and training for operators in the use of such equipment.

5. Without prejudice to other Community provisions concerning the classification, labelling and packaging of substances and mixtures, by 6 December 2011 paint strippers containing dichloromethane in a concentration equal to or greater than 0,1 % by weight shall be visibly, legibly and indelibly marked as follows:

“Restricted to industrial use and to professionals approved in certain EU Member States — verify where use is allowed.”

COMMISSION REGULATION (EU) No 277/2010**of 31 March 2010****concerning the authorisation of 6-phytase as a feed additive for poultry for fattening and breeding other than turkeys for fattening, for poultry for laying and for pigs other than sows (holder of authorisation Roal Oy)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, an application was submitted for the authorisation of the preparation set out in the Annex to this Regulation. That application was accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) The application concerns the authorisation of the enzyme 6-phytase (EC 3.1.3.26) produced by *Trichoderma reesei* (CBS 122001) as a feed additive for poultry for fattening and breeding other than turkeys for fattening, for poultry for laying and for pigs other than sows, to be classified in the additive category 'zootechnical additives'.
- (4) The European Food Safety Authority (the Authority) concluded in its opinion of 11 November 2009⁽²⁾ that 6-phytase (EC 3.1.3.26) produced by *Trichoderma reesei*

(CBS 122001) does not have an adverse effect on animal health, human health or the environment and that the use of that preparation can improve the performance of the animals. The Authority does not consider that there is a need for specific requirements of post market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Community Reference Laboratory set up by Regulation (EC) No 1831/2003.

- (5) The assessment of that preparation shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised, as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'digestibility enhancers', is authorised as an additive in animal nutrition subject to the conditions laid down in that Annex.

Article 2

This Regulation shall enter into force on the 20th day following 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, 31 March 2010.

For the Commission

The President

José Manuel BARROSO

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ *The EFSA Journal* 2009; 7(11):1380.

ANNEX

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						Units of activity/kg of complete feedingstuff with a moisture content of 12 %			
Category of zootechnical additives. Functional group: digestibility enhancers									
4a12	Roal Oy	6-phytase EC 3.1.3.26	Additive composition: Preparation of 6-phytase (EC 3.1.3.26) produced by <i>Trichoderma reesei</i> (CBS 122001) with a minimum activity of: 40 000 PPU ⁽¹⁾ /g in solid form 10 000 PPU/g in liquid form Characterisation of the active substance: 6-phytase (EC 3.1.3.26) produced by <i>Trichoderma reesei</i> (CBS 122001) Analytical method: ⁽²⁾ Colorimetric method quantifying the activity of 6-phytase by measuring released inorganic phosphate from sodium phytate by analysing the colour formed by reduction of a phosphomolybdate complex.	Poultry for fattening and breeding other than turkeys for fattening	—	250 PPU	—	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to pelleting. 2. Maximum recommended dose per kilogram of complete feed for all authorised species: 1 000 PPU 3. For use in feed containing more than 0,23 % phytin- bound phosphorus. 4. For safety: breathing protection, glasses and gloves shall be used during handling.	21.4.2020
				Poultry for laying		125 PPU			
				Pigs other than sows		250 PPU			

⁽¹⁾ 1 PPU is the amount of enzyme which liberates 1 µmol of inorganic phosphate from sodium phytate per minute at pH = 5.0 and 37C °.

⁽²⁾ Details of the analytical methods are available at the following address of the Community Reference Laboratory: www.irmm.jrc.be/crl-feed-additives

COMMISSION REGULATION (EU) No 278/2010**of 31 March 2010****amending Regulation (EC) No 1276/2008 on the monitoring by physical checks of exports of agricultural products receiving refunds or other amounts and Regulation (EC) No 612/2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾, and in particular Articles 170(c) and 194(a), in conjunction with Article 4 thereof,

Whereas:

(1) Pursuant to Article 15 of Commission Regulation (EC) No 1276/2008 ⁽²⁾ the customs office has to note information on physical checks, on exemption of physical checks, on the checks on sealing, or on substitution checks on T5 control copies or equivalent documents, as set out in the Annexes III to VII to that Regulation.

(2) Article 51 of Commission Regulation (EC) No 1043/2005 of 30 June 2005 implementing Council Regulation (EC) No 3448/93 as regards the system of granting export refunds on certain agricultural products exported in the form of goods not covered by Annex I to the Treaty, and the criteria for fixing the amount of such refunds ⁽³⁾ provides that for certain goods listed in its Annex IV, an analysis is to be carried out in order to determine whether those products are eligible for a refund. The customs office of export should note that an analysis has been carried out.

(3) In accordance with Article 5(8) of Commission Regulation (EC) No 612/2009 ⁽⁴⁾, the customs office has to visually check the conformity of the products with the export declarations and note the checks carried out in box D of the T5 control copy or equivalent document by one of the entries listed in Annex II to that Regulation.

(4) It appears that the required notes in their different linguistic versions and handwritings can be difficult to read or to understand by the authorities involved. It is therefore appropriate to simplify the procedures by replacing handwritten notes on T5 control copies by uniform codes.

(5) Those physical checks and substitution checks should be carried out on the basis of risk management, implying that the professional reputation of the exporter is one of the elements to take into account. The information required under Regulations (EC) No 1276/2008 and (EC) No 612/2009 in a control copy T5 serves, amongst others, to notify to the customs office of exit or the customs office to which the T5 control copy is sent, the control measures taken. It appeared that in cases where a T5 control copy was not filled in correctly, the customs office's risk based selection process of control measures was made difficult. As a correct filled T5 control copy is one indicator of the exporter's professionalism and of his compliance to the applicable rules, it is therefore deemed to be appropriate to notify imperfections of the T5 control copy to the authorities responsible for the adjustment of the exporter's risk profile in the Member State where the T5 control copy was issued.

(6) Regulations (EC) No 1276/2008 and (EC) No 612/2009 should therefore be amended accordingly.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1276/2008 is amended as follows:

1. In Article 2, the following point is added:

'(m) "Control code" means information expressed by the letter "A" followed by four digits generated by electronic means, in printing, or in clearly legible handwriting.'

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 339, 18.12.2008, p. 53.

⁽³⁾ OJ L 172, 5.7.2005, p. 24.

⁽⁴⁾ OJ L 186, 17.7.2009, p. 1.

2. Article 15 is replaced by the following:

'Article 15

T5 control copy

1. For the purposes of Article 912c(3) and (4) of Regulation (EEC) No 2454/93, when applicable, customs authorities shall note on the control copy T5, or the equivalent document accompanying the products, the relevant control codes set out in Annex IIa to this Regulation, in accordance with the following rules:

(a) the customs office of export shall note in box D the relevant control code listed in Part 1 of Annex IIa, corresponding to whether:

(i) a physical check on export refunds provided in Article 4 of this Regulation has been carried out;

(ii) an analysis has been carried out in accordance with Article 51 of Commission Regulation (EC) No 1043/2005 (*);

(iii) it is a food aid export under Regulation (EC) No 2298/2001 exempted from physical check;

(b) the customs office of exit or the customs office to which the T5 control copy is sent shall, after having carried out the checks on the integrity of seals referred to in Article 7 of this Regulation, note in box J the relevant control code listed in Part 2 of Annex IIa, corresponding to whether:

(i) the seal is in conformity, or the absence of a seal is justified as referred to in Article 5(8) of Commission Regulation (EC) No 612/2009 (**);

(ii) the seal is missing or it was broken;

(c) the customs office of exit or the customs office to which the T5 control copy is sent shall note in box J the relevant control code listed in Part 3 of Annex IIa, corresponding to whether:

(i) the findings of the substitution check referred to in Article 8 of this Regulation are in conformity;

(ii) a sample has been taken under the substitution check referred to in Article 8 or the specific substi-

tution check referred to in Article 9 of this Regulation, but the findings are not yet available due to ongoing verification by laboratory analysis;

(iii) the findings of the specific substitution check referred to in Article 9 are in conformity;

(iv) the findings of the substitution check referred to in Article 8 or the specific substitution check referred to in Article 9 are not in conformity.

2. The customs office of exit or the customs office to which the T5 control copy is sent shall mention in box J of the T5 control copy its Customs Office Reference number as referred to in point 8 of Annex 37c to Regulation (EEC) No 2454/93.

In the case referred to in paragraph 1(c)(ii), the customs office concerned shall, as soon as the verification is finalised, note the findings of this verification in box J of a copy of the T5 control copy sent previously, by using the relevant control code referred to in paragraph 1(c).

In the case referred to in paragraph 1(c)(iv), the customs office that made the findings shall:

(a) attach to the copy of the T5 control copy which will be returned to the paying agency according to the procedure of Article 912c(4) of Regulation (EEC) No 2454/93, a copy of the control report as set out in paragraph 5 of this Article, indicating the checks carried out and the reasons why the relevant rules on export refunds might not have been complied with; and

(b) request that the paying agency notifies them of the action taken as a result of the findings.

3. If selection procedures for checks on the integrity of seals referred to in Article 7, or for substitution checks referred to in Article 8, or specific substitution checks referred to in Article 9, and therefore the application of risk management, are made difficult due to incomplete information indicated in the T5 control copy, the customs office of exit or the customs office to which the T5 control copy is sent shall note in box J, as supplementary information, one of the control codes listed in Part 4 of Annex IIa.

4. The customs office of exit or the customs office to which the T5 control copy is sent shall take steps to make available to the Commission at any time details of the number of:

(a) T5 control copies and equivalent documents taken into account for the purposes of the checks on the integrity of seals referred to in Article 7, for the purposes of substitution checks referred to in Article 8, and specific substitution checks referred to in Article 9;

(b) checks carried out on integrity of seals referred to in Article 7;

(c) substitution checks carried out referred to in Article 8;

(d) specific substitution checks carried out referred to in Article 9.

A duplicate or a copy of the document shall remain at the customs office of exit or the customs office to which the T5 control copy or equivalent document is sent, as the case may be, and it shall be accessible for consultation.

5. Every substitution check and specific substitution check referred to in Articles 8 and 9 shall be the subject of a report drawn up by the customs official who carries it out.

The report shall permit monitoring of the checks carried out and shall bear the date and the name of the customs official. Without prejudice to Article 9 of Regulation (EC) No 885/2006 it shall be accessible for consultation for three years from the year of export at the customs office which carried out the check, or at one place in the Member State.

(*) OJ L 172, 5.7.2005, p. 24.

(**) OJ L 186, 17.7.2009, p. 1.

3. Annexes III to VII are deleted.

4. A new Annex IIa is inserted the text of which is set out in Annex I to this Regulation.

Article 2

Regulation (EC) No 612/2009 is amended as follows:

1. In Article 5(8), the second subparagraph is replaced by the following:

‘Before affixing seals, the customs office of export shall visually check the conformity of the products with the export declarations. The number of visual checks shall not be less than 10 % of the number of export declarations, other than those in respect of which the products covered by them have been physically checked or selected for a physical check under Article 3 of Regulation (EC) No 1276/2008. The customs office shall note this check in box D of the T5 control copy or equivalent document by using the control code as defined in Article 2(m) of Regulation (EC) No 1276/2008 and as set out in Annex II to this Regulation.’

2. Annex II is replaced by the text set out in Annex II to this Regulation.

Article 3

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

It shall apply as from 1 July 2010.

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

Done at Brussels, 31 March 2010.

For the Commission

The President

José Manuel BARROSO

ANNEX I

‘ANNEX IIa

Control codes concerning checks carried out by the customs office of export, the customs office of exit or the customs office to which the T5 control copy is sent

PART 1

Findings of check as referred to in Article 15(1)(a) of Regulation (EC) No 1276/2008	Control code
A physical check on export refunds provided in Article 4 of Regulation (EC) No 1276/2008 has been carried out	A1000
An analysis has been carried out in accordance with Article 51 of Regulation (EC) No 1043/2005	A1100
It is food aid export under Regulation (EC) No 2298/2001 exempted from a physical check	A1200

PART 2

Findings of check as referred to in Article 15(1)(b) of Regulation (EC) No 1276/2008	Control code
Seal is in conformity, or the absence of a seal is justified as referred to in Article 5(8) of Regulation (EC) No 612/2009	A2000
Seal is missing or it was broken	A2100

PART 3

Findings of check as referred to in Article 15(1)(c) of Regulation (EC) No 1276/2008	Control code
Findings of the substitution check referred to in Article 8 of Regulation (EC) No 1276/2008 are in conformity	A3000
Sample has been taken under the substitution check referred to in Article 8 or the specific substitution check referred to in Article 9 of Regulation (EC) No 1276/2008, but the findings are not yet available due to ongoing verification by laboratory analysis	A3100
Findings of the specific substitution check referred to in Article 9 of Regulation (EC) No 1276/2008 are in conformity	A3200
Findings of substitution check referred to in Article 8 or specific substitution check referred to in Article 9 of Regulation (EC) No 1276/2008 are not in conformity	A3300

PART 4

Findings of check as referred to in Article 15(3) of Regulation (EC) No 1276/2008	Control code
Application of risk management is made difficult because the rate of refund was not mentioned on the T5 control copy or equivalent document without the exporter being exempted according to Article 9 of Regulation (EC) No 612/2009	A4000
Application of risk management is made difficult because the T5 control copy or equivalent document did not mention the entry referred to in Article 8 and Annex III of Regulation (EC) No 612/2009	A4100
Application of risk management is made difficult because the T5 control copy or equivalent document was not correctly or not completely filled in on other aspects	A4200

ANNEX II

‘ANNEX II

Type of checks and results	Control code
Article 5(8) of Regulation (EC) No 612/2009 Conformity of the products has been checked by visual check before affixing seal according to Article 5(8) of Regulation (EC) No 612/2009	A1300'

COMMISSION REGULATION (EU) No 279/2010**of 31 March 2010****amending Council Regulation (EU) No 1284/2009 imposing certain specific restrictive measures in respect of the Republic of Guinea**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU) No 1284/2009 of 22 December 2009 imposing certain specific restrictive measures in respect of the Republic of Guinea, ⁽¹⁾ and in particular Article 15 thereof,

Whereas:

- (1) Annex II to Regulation (EU) No 1284/2009 lists the persons, groups and entities covered by the freezing of funds and economic resources under that Regulation.

- (2) Council Decision 2010/186/CFSP ⁽²⁾ amends the Annex to Common Position 2009/788/CFSP ⁽³⁾. Annex II to Regulation (EU) No 1284/2009 should, therefore, be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex II to Regulation (EU) No 1284/2009 is hereby amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 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, 31 March 2010.

*For the Commission,
On behalf of the President,
João VALE DE ALMEIDA
Director-General for External Relations*

⁽¹⁾ OJ L 346, 23.12.2009, p. 26.

⁽²⁾ OJ L 83, 30.3.2010, p. 23.

⁽³⁾ OJ L 281, 28.10.2009, p. 7.

ANNEX

Annex II to Regulation (EU) No 1284/2009 is amended as follows:

The following entries shall be removed:

	Name (and possible aliases)	Identifying information (date and place of birth (d.o.b. and p.o.b.), passport (Pass.)/ID card number etc.)	Reasons
2.	Major-General Mamadouba (alias Mamadou) Toto CAMARA	d.o.b: 01/01/46 Pass: R00009392	Minister for Security and Civil Protection
3.	General Sékouba KONATÉ	d.o.b: 01/01/64	Minister for Defence
16.	Commandant Kelitigui FARO	d.o.b: 03/08/72 Pass: R0003410	
43.	Mr Kabinet (alias Kabiné) KOMARA	d.o.b: 08/03/50 Pass: R0001747	Prime Minister

COMMISSION REGULATION (EU) No 280/2010**of 31 March 2010****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector ⁽²⁾, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 April 2010.

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

Done at Brussels, 31 March 2010.

*For the Commission,
On behalf of the President,**Jean-Luc DEMARTY
Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.⁽²⁾ OJ L 350, 31.12.2007, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	174,7
	JO	92,7
	MA	159,0
	TN	159,0
	TR	125,7
	ZZ	142,2
0707 00 05	JO	64,0
	MA	87,9
	MK	87,5
	TR	126,1
	ZZ	91,4
0709 90 70	MA	135,1
	TR	113,9
	ZZ	124,5
0805 10 20	EG	48,9
	IL	54,7
	MA	50,9
	TN	55,1
	TR	65,6
	ZZ	55,0
0805 50 10	EG	63,7
	IL	91,6
	TR	62,3
	ZA	71,7
	ZZ	72,3
0808 10 80	AR	78,3
	BR	85,6
	CA	74,4
	CL	83,3
	CN	70,8
	MK	23,6
	US	137,8
	UY	71,4
	ZA	119,2
	ZZ	82,7
0808 20 50	AR	97,5
	CL	96,2
	CN	87,6
	MX	100,0
	UY	106,8
	ZA	96,7
	ZZ	97,5

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

COMMISSION REGULATION (EU) No 281/2010**of 31 March 2010****fixing the import duties in the cereals sector applicable from 1 April 2010**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 1249/96 of 28 June 1996 laying down detailed rules for the application of Council Regulation (EEC) No 1766/92 in respect of import duties in the cereals sector ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

- (1) Article 136(1) of Regulation (EC) No 1234/2007 states that the import duty on products falling within CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002, ex 1005 other than hybrid seed, and ex 1007 other than hybrids for sowing, is to be equal to the intervention price valid for such products on importation increased by 55 %, minus the cif import price applicable to the consignment in question. However, that duty may not exceed the rate of duty in the Common Customs Tariff.

- (2) Article 136(2) of Regulation (EC) No 1234/2007 lays down that, for the purposes of calculating the import duty referred to in paragraph 1 of that Article, representative cif import prices are to be established on a regular basis for the products in question.

- (3) Under Article 2(2) of Regulation (EC) No 1249/96, the price to be used for the calculation of the import duty on products of CN codes 1001 10 00, 1001 90 91, ex 1001 90 99 (high quality common wheat), 1002 00, 1005 10 90, 1005 90 00 and 1007 00 90 is the daily cif representative import price determined as specified in Article 4 of that Regulation.

- (4) Import duties should be fixed for the period from 1 April 2010 and should apply until new import duties are fixed and enter into force,

HAS ADOPTED THIS REGULATION:

Article 1

From 1 April 2010, the import duties in the cereals sector referred to in Article 136(1) of Regulation (EC) No 1234/2007 shall be those fixed in Annex I to this Regulation on the basis of the information contained in Annex II.

Article 2

This Regulation shall enter into force on 1 April 2010.

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

Done at Brussels, 31 March 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 161, 29.6.1996, p. 125.

ANNEX I

Import duties on the products referred to in Article 136(1) of Regulation (EC) No 1234/2007 applicable from 1 April 2010

CN code	Description	Import duties ⁽¹⁾ (EUR/t)
1001 10 00	Durum wheat, high quality	0,00
	medium quality	0,00
	low quality	0,00
1001 90 91	Common wheat seed	0,00
ex 1001 90 99	High quality common wheat, other than for sowing	0,00
1002 00 00	Rye	39,03
1005 10 90	Maize seed other than hybrid	16,98
1005 90 00	Maize, other than seed ⁽²⁾	16,98
1007 00 90	Grain sorghum other than hybrids for sowing	39,03

⁽¹⁾ For goods arriving in the Community via the Atlantic Ocean or via the Suez Canal the importer may benefit, under Article 2(4) of Regulation (EC) No 1249/96, from a reduction in the duty of:

- 3 EUR/t, where the port of unloading is on the Mediterranean Sea, or on the Black Sea,
- 2 EUR/t, where the port of unloading is in Denmark, Estonia, Ireland, Latvia, Lithuania, Poland, Finland, Sweden, the United Kingdom or the Atlantic coast of the Iberian peninsula.

⁽²⁾ The importer may benefit from a flatrate reduction of EUR 24 per tonne where the conditions laid down in Article 2(5) of Regulation (EC) No 1249/96 are met.

ANNEX II

Factors for calculating the duties laid down in Annex I

17.3.2010-30.3.2010

1. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

(EUR/t)

	Common wheat ⁽¹⁾	Maize	Durum wheat, high quality	Durum wheat, medium quality ⁽²⁾	Durum wheat, low quality ⁽³⁾	Barley
Exchange	Minneapolis	Chicago	—	—	—	—
Quotation	151,61	106,35	—	—	—	—
Fob price USA	—	—	169,70	159,70	139,70	95,52
Gulf of Mexico premium	49,68	11,23	—	—	—	—
Great Lakes premium	—	—	—	—	—	—

⁽¹⁾ Premium of 14 EUR/t incorporated (Article 4(3) of Regulation (EC) No 1249/96).⁽²⁾ Discount of 10 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).⁽³⁾ Discount of 30 EUR/t (Article 4(3) of Regulation (EC) No 1249/96).

2. Averages over the reference period referred to in Article 2(2) of Regulation (EC) No 1249/96:

Freight costs: Gulf of Mexico–Rotterdam: 26,75 EUR/t

Freight costs: Great Lakes–Rotterdam: — EUR/t

COMMISSION REGULATION (EU) No 282/2010**of 31 March 2010****amending the representative prices and additional import duties for certain products in the sugar sector fixed by Regulation (EC) No 877/2009 for the 2009/10 marketing year**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (single CMO Regulation) ⁽¹⁾,

Having regard to Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector ⁽²⁾, and in particular Article 36(2), second subparagraph, second sentence thereof,

Whereas:

- (1) The representative prices and additional duties applicable to imports of white sugar, raw sugar and certain syrups

for the 2009/10 marketing year are fixed by Commission Regulation (EC) No 877/2009 ⁽³⁾. These prices and duties have been last amended by Commission Regulation (EU) No 264/2010 ⁽⁴⁾.

- (2) The data currently available to the Commission indicate that those amounts should be amended in accordance with the rules and procedures laid down in Regulation (EC) No 951/2006,

HAS ADOPTED THIS REGULATION:

Article 1

The representative prices and additional duties applicable to imports of the products referred to in Article 36 of Regulation (EC) No 951/2006, as fixed by Regulation (EC) No 877/2009 for the 2009/10, marketing year, are hereby amended as set out in the Annex hereto.

Article 2

This Regulation shall enter into force on 1 April 2010.

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

Done at Brussels, 31 March 2010.

*For the Commission,
On behalf of the President,*

Jean-Luc DEMARTY
*Director-General for Agriculture and
Rural Development*

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 178, 1.7.2006, p. 24.

⁽³⁾ OJ L 253, 25.9.2009, p. 3.

⁽⁴⁾ OJ L 80, 26.3.2010, p. 46.

ANNEX

Amended representative prices and additional import duties applicable to white sugar, raw sugar and products covered by CN code 1702 90 95 from 1 April 2010

(EUR)

CN code	Representative price per 100 kg net of the product concerned	Additional duty per 100 kg net of the product concerned
1701 11 10 ⁽¹⁾	35,27	0,70
1701 11 90 ⁽¹⁾	35,27	4,32
1701 12 10 ⁽¹⁾	35,27	0,57
1701 12 90 ⁽¹⁾	35,27	4,03
1701 91 00 ⁽²⁾	38,59	5,94
1701 99 10 ⁽²⁾	38,59	2,76
1701 99 90 ⁽²⁾	38,59	2,76
1702 90 95 ⁽³⁾	0,39	0,29

⁽¹⁾ For the standard quality defined in point III of Annex IV to Regulation (EC) No 1234/2007.⁽²⁾ For the standard quality defined in point II of Annex IV to Regulation (EC) No 1234/2007.⁽³⁾ Per 1 % sucrose content.

DIRECTIVES

COMMISSION DIRECTIVE 2010/26/EU

of 31 March 2010

amending Directive 97/68/EC of the European Parliament and of the Council 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

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 97/68/EC of 16 December 1997 of the European Parliament and of the Council 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 ⁽¹⁾, and in particular Articles 14 and 14a thereof,

Whereas:

- (1) Article 14a of Directive 97/68/EC sets out the criteria and the procedure for extending the period referred to in Article 9a(7) of that Directive. Studies carried out in accordance with Article 14a of Directive 97/68/EC show that there are substantial technical difficulties to comply with stage II requirements for professional use, multi-positional, hand-held mobile machinery in which engines of classes SH:2 and SH:3 are installed. It is therefore necessary to extend the period referred to in Article 9a(7) until 31 July 2013.
- (2) Since the amendment of Directive 97/68/EC in 2004, technical progress has been made in the design of diesel engines with a view to make them compliant with the exhaust emission limits for stages IIIB and IV. Electronically controlled engines, largely replacing mechanically controlled fuel injection and control systems, have been developed. Therefore, the current general type-approval requirements in Annex I to Directive 97/68/EC should be adapted accordingly and general type-approval requirements for stages IIIB and IV should be introduced.

- (3) Annex II to Directive 97/68/EC specifies the technical details of the information documents that need to be submitted by the manufacturer to the type-approval authority with the application for engine type-approval. The details specified regarding the additional anti-pollution devices are generic and should be adapted to the specific after-treatment systems that need to be used to ensure that engines comply with exhaust emission limit stages IIIB and IV. More detailed information on the after-treatment devices installed on the engines should be submitted to enable type-approval authorities to assess the engine's capability to comply with stages IIIB and IV.
- (4) Annex III to Directive 97/68/EC sets out the method testing the engines and determining their level of emissions of gaseous and particulate pollutants. The type-approval testing procedure of engines to demonstrate compliance with the exhaust emission limits of stage IIIB and IV should ensure that the simultaneous compliance with the gaseous (carbon monoxide, hydrocarbons, oxides of nitrogen) and the particulate emission limits is demonstrated. The non-road steady cycle (NRSC) and non-road transient cycle (NRTC) should be adapted accordingly.
- (5) Point 1.3.2 of Annex III to Directive 97/68/EC foresees the modification of the symbols (section 2.18 of Annex I), the test sequence (Annex III) and calculation equations (Appendix III to Annex III), prior to the introduction of the cold/hot composite test sequence. The type approval procedure to demonstrate compliance with the exhaust emission limits of stage IIIB and IV requires the introduction of a detailed description of the cold start cycle.
- (6) Section 3.7.1 of Annex III to Directive 97/68/EC sets out the test cycle for the different equipment specifications. The test cycle under point 3.7.1.1 (specification A) needs to be adapted to clarify which engine speed needs to be used in the type approval calculation method. It is also necessary to adapt the reference to the updated version of the international testing standard ISO 8178-4:2007.

⁽¹⁾ OJ L 59, 27.2.1998, p. 1.

- (7) Section 4.5 of Annex III to Directive 97/68/EC outlines the emissions test run. This section needs to be adapted to take account of the cold start cycle.
- (8) Appendix 3 of Annex III to Directive 97/68/EC sets out the criteria for the data evaluation and calculation of the gaseous emissions and the particulate emissions, for both the NRSC test and the NRTC test set out in Annex III. The type approval of engines in accordance with stage IIIB and IV requires the adaptation of the calculation method for the NRTC test.
- (9) Annex XIII to Directive 97/68/EC sets out the provisions for engines placed on the market under a 'flexible scheme'. To ensure a smooth implementation of stage IIIB, an increased use of this flexibility scheme may be needed. Therefore, the adaptation to technical progress to enable the introduction of stage IIIB compliant engines needs to be accompanied by measures to avoid that the use of the flexibility scheme may be hampered by notification requirements which are no longer adapted to the introduction of such engines. The measures should aim at simplifying the notification requirements and the reporting obligations, and at making them more focused and tailored to the need for market surveillance authorities to respond to the increased use of the flexibility scheme that will result from the introduction of stage IIIB.
- (10) Since Directive 97/68/EC provides for the type-approval of stage IIIB engines (category L) as from 1 January 2010 it is necessary to provide for the possibility to grant type approval from that date.
- (11) For reasons of legal certainty this Directive should enter into force as a matter of urgency.
- (12) The measures provided for in this Directive are in accordance with the opinion of the Committee established in Article 15(1) of Directive 97/68/EC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 97/68/EC

Directive 97/68/EC is amended as follows:

1. in Article 9a(7), the following subparagraph is added:

'Notwithstanding the first subparagraph, an extension of the derogation period is granted until 31 July 2013, within the category of top handle machines, for professional use, multi-positional, hand-held hedge trimmers and top handle tree service chainsaws in which engines of classes SH:2 and SH:3 are installed.';
2. Annex I is amended in accordance with Annex I to this Directive;
3. Annex II is amended in accordance with Annex II to this Directive;

4. Annex III is amended in accordance with Annex III to this Directive;
5. Annex V is amended in accordance to Annex IV to this Directive;
6. Annex XIII is amended in accordance with Annex V to this Directive.

Article 2

Transitional provision

With effect from the day following the publication of this Directive in the Official Journal, Member States may grant type-approval in respect of electronically controlled engines which comply with the requirements laid down in Annexes I, II, III, V and XIII to Directive 97/68/EC, as amended by this Directive.

Article 3

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the Directive within 12 months after the publication of the Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 31 March 2011.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

Entry into force

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

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 31 March 2010.

For the Commission

The President

José Manuel BARROSO

ANNEX I

The following section 8 is added to Annex I to Directive 97/68/EC:

8. TYPE APPROVAL REQUIREMENTS FOR STAGES IIIB AND IV

8.1. This section shall apply to the type-approval of electronically controlled engines, which uses electronic control to determine both the quantity and timing of injecting fuel (hereafter “engine”). This section shall apply irrespective of the technology applied to such engines to comply with the emission limit values set out in sections 4.1.2.5 and 4.1.2.6 of this Annex.

8.2. Definitions

For the purpose of this section, the following definitions shall apply:

8.2.1. “*emission control strategy*” means a combination of an emission control system with one base emission control strategy and with one set of auxiliary emission control strategies, incorporated into the overall design of an engine or non-road mobile machinery into which the engine is installed.

8.2.2. “*reagent*” means any consumable or non-recoverable medium required and used for the effective operation of the exhaust after-treatment system.

8.3. General requirements

8.3.1. Requirements for base emission control strategy

8.3.1.1. The base emission control strategy, activated throughout the speed and torque operating range of the engine, shall be designed as to enable the engine to comply with the provisions of this Directive

8.3.1.2. Any base emission control strategy that can distinguish engine operation between a standardised type approval test and other operating conditions and subsequently reduce the level of emission control when not operating under conditions substantially included in the type approval procedure is prohibited.

8.3.2. Requirements for auxiliary emission control strategy

8.3.2.1. An auxiliary emission control strategy may be used by an engine or a non-road mobile machine, provided that the auxiliary emission control strategy, when activated, modifies the base emission control strategy in response to a specific set of ambient and/or operating conditions but does not permanently reduce the effectiveness of the emission control system:

(a) where the auxiliary emission control strategy is activated during the type approval test, sections 8.3.2.2 and 8.3.2.3 shall not apply;

(b) where the auxiliary emission control strategy is not activated during the type approval test, it must be demonstrated that the auxiliary emission control strategy is active only for as long as required for the purposes identified in section 8.3.2.3.

8.3.2.2. The control conditions applicable to this section are all of the following:

(a) an altitude not exceeding 1 000 metres (or equivalent atmospheric pressure of 90 kPa);

(b) an ambient temperature within the range 275 K to 303 K (2 °C to 30 °C);

(c) the engine coolant temperature above 343 K (70 °C).

Where the auxiliary emission control strategy is activated when the engine is operating within the control conditions set out in points (a), (b) and (c), the strategy shall only be activated exceptionally.

8.3.2.3. An auxiliary emission control strategy may be activated in particular for the following purposes:

(a) by onboard signals, for protecting the engine (including air-handling device protection) and/or non-road mobile machine into which the engine is installed from damage;

(b) for operational safety and strategies;

(c) for prevention of excessive emissions, during cold start or warming-up, during shut-down;

- (d) if used to trade-off the control of one regulated pollutant under specific ambient or operating conditions, for maintaining control of all other regulated pollutants, within the emission limit values that are appropriate for the engine concerned. The purpose is to compensate for naturally occurring phenomena in a manner that provides acceptable control of all emission constituents.

8.3.2.4. The manufacturer shall demonstrate to the technical service at the time of the type-approval test that the operation of any auxiliary emission strategy complies with the provisions of section 8.3.2. The demonstration shall consist of an evaluation of the documentation referred to in section 8.3.3.

8.3.2.5. Any operation of an auxiliary emission control strategy not compliant with section 8.3.2 is prohibited.

8.3.3. Documentation requirements

8.3.3.1. The manufacturer shall provide an information folder accompanying the application for type-approval at the time of submission to the technical service, which ensures access to any element of design and emission control strategy and the means by which the auxiliary strategy directly or indirectly controls the output variables. The information folder shall be made available in two parts:

- (a) the documentation package, annexed to the application for type-approval, shall include a full overview of the emission control strategy. Evidence shall be provided that all outputs permitted by a matrix, obtained from the range of control of the individual unit inputs, have been identified. This evidence shall be attached to the information folder as referred to in Annex II;

- (b) the additional material, presented to the technical service but not annexed to the application for type-approval, shall include all the modified parameters by any auxiliary emission control strategy and the boundary conditions under which this strategy operates and in particular:

- (i) a description of the control logic and of timing strategies and switch points, during all modes of operation for the fuel and other essential systems, resulting in effective emissions control (such as exhaust gas recirculation system (EGR) or reagent dosing);

- (ii) a justification for the use of any auxiliary emission control strategy applied to the engine, accompanied by material and test data, demonstrating the effect on exhaust emissions. This justification may be based on test data, sound engineering analysis, or a combination of both;

- (iii) a detailed description of algorithms or sensors (where applicable) used for identifying, analysing, or diagnosing incorrect operation of the NO_x control system;

- (iv) the tolerance used to satisfy the requirements in section 8.4.7.2, regardless of the used means.

8.3.3.2. The additional material referred to in point (b) of section 8.3.3.1 shall be treated as strictly confidential. It shall be made available to the type-approval authority on request. The type-approval authority shall treat this material as confidential.

8.4. Requirements to ensure correct operation of NO_x control measures

8.4.1. The manufacturer shall provide information that fully describes the functional operational characteristics of the NO_x control measures using the documents set out in section 2 of Appendix 1 to Annex II and in section 2 of Appendix 3 to Annex II.

8.4.2. If the emission control system requires a reagent, the characteristics of that reagent, including the type of reagent, information on concentration when the reagent is in solution, operational temperature conditions and reference to international standards for composition and quality must be specified by the manufacturer, in section 2.2.1.13 of Appendix 1 and in section 2.2.1.13 of Appendix 3 to Annex II.

8.4.3. The engine emission control strategy shall be operational under all environmental conditions regularly pertaining in the territory of the Community, especially at low ambient temperatures.

8.4.4. The manufacturer shall demonstrate that the emission of ammonia during the applicable emission test cycle of the type approval procedure, when a reagent is used, does not exceed a mean value of 25 ppm.

8.4.5. If separate reagent containers are installed on or connected to a non-road mobile machine, means for taking a sample of the reagent inside the containers must be included. The sampling point must be easily accessible without requiring the use of any specialised tool or device.

8.4.6. Use and maintenance requirements

8.4.6.1. The type approval shall be made conditional, in accordance with Article 4(3), upon providing to each operator of non-road mobile machinery written instructions comprising the following:

- (a) detailed warnings, explaining possible malfunctions generated by incorrect operation, use or maintenance of the installed engine, accompanied by respective rectification measures;
- (b) detailed warnings on the incorrect use of the machine resulting in possible malfunctions of the engine, accompanied by respective rectification measures;
- (c) information on the correct use of the reagent, accompanied by an instruction on refilling the reagent between normal maintenance intervals;
- (d) a clear warning, that the type-approval certificate, issued for the type of engine concerned, is valid only when all of the following conditions are met:
 - (i) the engine is operated, used and maintained in accordance with the instructions provided;
 - (ii) prompt action has been taken for rectifying incorrect operation, use or maintenance in accordance with the rectification measures indicated by the warnings referred to in point (a) and (b);
 - (iii) no deliberate misuse of the engine has taken place, in particular deactivating or not maintaining an EGR or reagent dosing system.

The instructions shall be written in a clear and non-technical manner using the same language as is used in the operator's manual on non-road mobile machinery or engine.

8.4.7. Reagent control (where applicable)

8.4.7.1. The type approval shall be made conditional, in accordance with the provisions of section 3 of Article 4, upon providing indicators or other appropriate means, according to the configuration of the non-road mobile machinery, informing the operator on:

- (a) the amount of reagent remaining in the reagent storage container and by an additional specific signal, when the remaining reagent is less than 10 % of the full container's capacity;
- (b) when the reagent container becomes empty, or almost empty;
- (c) when the reagent in the storage tank does not comply with the characteristics declared and recorded in section 2.2.1.13 of Appendix 1 and section 2.2.1.13 of Appendix 3 to Annex II, according to the installed means of assessment.
- (d) when the dosing activity of the reagent is interrupted, in cases other than those executed by the engine ECU or the dosing controller, reacting to engine operating conditions where the dosing is not required, provided that these operating conditions are made available to the type approval authority.

8.4.7.2. By the choice of the manufacturer the requirements of reagent compliance with the declared characteristics and the associated NO_x emission tolerance shall be satisfied by one of the following means:

- (a) direct means, such as the use of a reagent quality sensor.
 - (b) indirect means, such as the use of a NO_x sensor in the exhaust to evaluate reagent effectiveness.
 - (c) any other means, provided that its efficacy is at least equal to the one resulting by the use of the means of points (a) or (b) and the main requirements of this section are maintained.
-

ANNEX II

Annex II to Directive 97/68/EC is amended as follows:

1. Section 2 of Appendix 1 is replaced by the following:

‘2. MEASURES TAKEN AGAINST AIR POLLUTION

- 2.1. Device for recycling crankcase gases: yes/no (*)
- 2.2. Additional anti-pollution devices (if any, and if not covered by another heading)
- 2.2.1. Catalytic converter: yes/no (*)
- 2.2.1.1. Make(s):
- 2.2.1.2. Type(s):
- 2.2.1.3. Number of catalytic converters and elements
- 2.2.1.4. Dimensions- and volume of the catalytic converter(s):
- 2.2.1.5. Type of catalytic action:
- 2.2.1.6. Total charge of precious metals:
- 2.2.1.7. Relative concentration:
- 2.2.1.8. Substrate (structure and material):
- 2.2.1.9. Cell density:
- 2.2.1.10. Type of casing for the catalytic converter(s):
- 2.2.1.11. Location of the catalytic converter(s) (place(s) and maximum/minimum distance(s) from engine):
- 2.2.1.12. Normal operating range (K):
- 2.2.1.13. Consumable reagent (where appropriate):
- 2.2.1.13.1. Type and concentration of reagent needed for catalytic action:
- 2.2.1.13.2. Normal operational temperature range of reagent:
- 2.2.1.13.3. International standard (where appropriate):
- 2.2.1.14. NO_x sensor: yes/no (*)
- 2.2.2. Oxygen sensor: yes/no (*)
- 2.2.2.1. Make(s):
- 2.2.2.2. Type:
- 2.2.2.3. Location:
- 2.2.3. Air injection: yes/no (*)
- 2.2.3.1. Type (pulse air, air pump, etc.):
- 2.2.4. EGR: yes/no (*)
- 2.2.4.1. Characteristics (cooled/uncooled, high pressure/low pressure, etc.):
- 2.2.5. Particulate trap: yes/no (*)
- 2.2.5.1. Dimensions and capacity of the particulate trap:
- 2.2.5.2. Type and design of the particulate trap:
- 2.2.5.3. Location (place(s) and maximum/minimum distance(s) from engine):
- 2.2.5.4. Method or system of regeneration, description and/or drawing:
- 2.2.5.5. Normal operating temperature (K) and pressure (kPa) range:
- 2.2.6. Other systems: yes/no (*)
- 2.2.6.1. Description and operation:

(*) Strike out what does not apply.’

2. Section 2 of Appendix 3 is replaced by the following:

- '2. MEASURES TAKEN AGAINST AIR POLLUTION
- 2.1. Device for recycling crankcase gases: yes/no (*)
- 2.2. Additional anti-pollution devices (if any, and if not covered by another heading)
- 2.2.1. Catalytic converter: yes/no (*)
- 2.2.1.1. Make(s):
- 2.2.1.2. Type(s):
- 2.2.1.3. Number of catalytic converters and elements
- 2.2.1.4. Dimensions- and volume of the catalytic converter(s):
- 2.2.1.5. Type of catalytic action:
- 2.2.1.6. Total charge of precious metals:
- 2.2.1.7. Relative concentration:
- 2.2.1.8. Substrate (structure and material):
- 2.2.1.9. Cell density:
- 2.2.1.10. Type of casing for the catalytic converter(s):
- 2.2.1.11. Location of the catalytic converter(s) (place(s) and maximum/minimum distance(s) from engine):
- 2.2.1.12. Normal operating range (K)
- 2.2.1.13. Consumable reagent (where appropriate):
- 2.2.1.13.1. Type and concentration of reagent needed for catalytic action:
- 2.2.1.13.2. Normal operational temperature range of reagent:
- 2.2.1.13.3. International standard (where appropriate):
- 2.2.1.14. NO_x sensor: yes/no (*)
- 2.2.2. Oxygen sensor: yes/no (*)
- 2.2.2.1. Make(s):
- 2.2.2.2. Type:
- 2.2.2.3. Location:
- 2.2.3. Air injection: yes/no (*)
- 2.2.3.1. Type (pulse air, air pump, etc.):
- 2.2.4. EGR: yes/no (*)
- 2.2.4.1. Characteristics (cooled/uncooled, high pressure/low pressure, etc.):
- 2.2.5. Particulate trap: yes/no (*)
- 2.2.5.1. Dimensions and capacity of the particulate trap:
- 2.2.5.2. Type and design of the particulate trap:
- 2.2.5.3. Location (place(s) and maximum/minimum distance(s) from engine):
- 2.2.5.4. Method or system of regeneration, description and/or drawing:
- 2.2.5.5. Normal operating temperature (K) and pressure (kPa) range:
- 2.2.6. Other systems: yes/no (*)
- 2.2.6.1. Description and operation:

(*) Strike out what does not apply.'

ANNEX III

Annex III to Directive 97/68/EC is amended as follows:

1. Section 1.1 is replaced by the following:

‘1.1. This Annex describes the method of determining emissions of gaseous and particulate pollutants from the engine to be tested.

The following test cycles shall apply:

- the NRSC (non-road steady cycle) appropriate for the equipment specification which shall be used for the measurement of the emissions of carbon monoxide, hydrocarbons, oxides of nitrogen and particulates for stages I, II, IIIA, IIIB and IV of engines described in points (i) and (ii) of section 1.A of Annex I, and
- the NRTC (non-road transient cycle) which shall be used for the measurement of the emissions of carbon monoxide, hydrocarbons, oxides of nitrogen and particulates for stages IIIB and IV of engines described in point (i) of section 1.A of Annex I,
- for engines intended to be used in inland waterway vessels the ISO test procedure as specified by ISO 8178-4:2002 and IMO ⁽¹⁾ MARPOL ⁽²⁾ 73/78, Annex VI (NO_x Code) shall be used,
- for engines intended for propulsion of railcars an NRSC shall be used for the measurement of gaseous and particulate pollutants for stage IIIA and for stage IIIB,
- for engines intended for propulsion of locomotives an NRSC shall be used for the measurement of gaseous and particulate pollutants for stage IIIA and for stage IIIB.

⁽¹⁾ IMO: International Maritime Organisation.

⁽²⁾ MARPOL: International Convention for the Prevention of Pollution from Ships.’

2. Section 1.3.2 is replaced by the following:

‘1.3.2. NRTC test

The prescribed transient test cycle, based closely on the operating conditions of diesel engines installed in non-road machinery, is run twice:

- the first time (cold start) after the engine has soaked to room temperature and the engine coolant and oil temperatures, after treatment systems and all auxiliary engine control devices are stabilised between 20 and 30 °C,
- the second time (hot start) after a twenty-minute hot soak that commences immediately after the completion of the cold start cycle.

During this test sequence the above pollutants shall be examined. The test sequence consists of a cold start cycle following natural or forced cool-down of the engine, a hot soak period and a hot start cycle, resulting in a composite emissions calculation. Using the engine torque and speed feedback signals of the engine dynamometer, the power shall be integrated with respect to the time of the cycle, resulting in the work produced by the engine over the cycle. The concentrations of the gaseous components shall be determined over the cycle, either in the raw exhaust gas by integration of the analyser signal in accordance with Appendix 3 to this Annex, or in the diluted exhaust gas of a CVS full-flow dilution system by integration or by bag sampling in accordance with Appendix 3 to this Annex. For particulates, a proportional sample shall be collected from the diluted exhaust gas on a specified filter by either partial flow dilution or full-flow dilution. Depending on the method used, the diluted or undiluted exhaust gas flow rate shall be determined over the cycle to calculate the mass emission values of the pollutants. The mass emission values shall be related to the engine work to give the grams of each pollutant emitted per kilowatt-hour.

Emissions (g/kWh) shall be measured during both the cold and hot start cycles. Composite weighted emissions shall be computed by weighting the cold start results 10 % and the hot start results 90 %. Weighted composite results shall meet the limits.'

3. Section 3.7.1 is replaced by the following:

'3.7.1. Equipment specification according to section 1.A of Annex I:

3.7.1.1. Specification A

For engines covered by points (i) and (iv) of section 1.A of Annex I, the following 8-mode cycle ⁽¹⁾ shall be followed in dynamometer operation on the test engine:

Mode No	Engine speed (r/min)	Load (%)	Weighting factor
1	Rated or reference (*)	100	0,15
2	Rated or reference (*)	75	0,15
3	Rated or reference (*)	50	0,15
4	Rated or reference (*)	10	0,10
5	Intermediate	100	0,10
6	Intermediate	75	0,10
7	Intermediate	50	0,10
8	Idle	—	0,15

(*) Reference speed is defined in section 4.3.1 of Annex III.

3.7.1.2. Specification B

For engines covered by point (ii) of section 1.A of Annex I, the following 5-mode cycle ⁽²⁾ shall be followed in dynamometer operation on the test engine:

Mode No	Engine speed (r/min)	Load (%)	Weighting factor
1	Rated	100	0,05
2	Rated	75	0,25
3	Rated	50	0,30
4	Rated	25	0,30
5	Rated	10	0,10

The load figures are percentage values of the torque corresponding to the prime power rating defined as the maximum power available during a variable power sequence, which may be run for an unlimited number of hours per year, between stated maintenance intervals and under the stated ambient conditions, the maintenance being carried out as prescribed by the manufacturer.

3.7.1.3. Specification C

For propulsion engines ⁽³⁾ intended to be used in inland waterway vessels the ISO test procedure as specified by ISO 8178-4:2002 and IMO MARPOL 73/78, Annex VI (NO_x Code) shall be used.

Propulsion engines that operate on a fixed-pitch propeller curve shall be tested on a dynamometer using the following 4-mode steady-state cycle ⁽⁴⁾ developed to represent in-use operation of commercial marine diesel engines.

Mode No	Engine speed (r/min)	Load (%)	Weighting factor
1	100 % (Rated)	100	0,20
2	91 %	75	0,50
3	80 %	50	0,15
4	63 %	25	0,15

Fixed speed inland waterway propulsion engines with variable pitch or electrically coupled propellers shall be tested on a dynamometer using the following 4-mode steady-state cycle ⁽⁵⁾ characterised by the same load and weighting factors as the above cycle, but with engine operated in each mode at rated speed:

Mode No	Engine speed (r/min)	Load (%)	Weighting factor
1	Rated	100	0,20
2	Rated	75	0,50
3	Rated	50	0,15
4	Rated	25	0,15

3.7.1.4. Specification D

For engines covered by point (v) of section 1.A of Annex I, the following 3-mode cycle ⁽⁶⁾ shall be followed in dynamometer operation on the test engine:

Mode No	Engine speed (r/min)	Load (%)	Weighting factor
1	Rated	100	0,25
2	Intermediate	50	0,15
3	Idle	—	0,60

⁽¹⁾ Identical with C1 cycle as described in paragraph 8.3.1.1 of ISO 8178-4:2007 standard (corrected version 2008-07-01).

⁽²⁾ Identical with D2 cycle as described in paragraph 8.4.1 of the ISO 8178-4: 2002(E) standard.

⁽³⁾ Constant-speed auxiliary engines must be certified to the ISO D2 duty cycle, i.e. the 5-mode steady-state cycle specified in section 3.7.1.2, while variable-speed auxiliary engines must be certified to the ISO C1 duty cycle, i.e. the 8-mode steady-state cycle specified in section 3.7.1.1.

⁽⁴⁾ Identical with E3 cycle as described in Sections 8.5.1, 8.5.2 and 8.5.3 of the ISO 8178-4: 2002(E) standard. The four modes lie on an average propeller curve based on in-use measurements.

⁽⁵⁾ Identical with E2 cycle as described in Sections 8.5.1, 8.5.2 and 8.5.3 of the ISO 8178-4: 2002(E) standard.

⁽⁶⁾ Identical with F cycle of ISO 8178-4: 2002(E) standard.'

4. Section 4.3.1 is replaced by the following:

4.3.1. Reference speed

The reference speed (n_{ref}) corresponds to the 100 % normalised speed values specified in the engine dynamometer schedule of Appendix 4 of Annex III. The actual engine cycle resulting from denormalisation to the reference speed depends largely on selection of the proper reference speed. The reference speed shall be determined by the following formula:

$$n_{ref} = \text{low speed} + 0,95 \times (\text{high speed} - \text{low speed})$$

(the high speed is the highest engine speed where 70 % of the rated power is delivered, while the low speed is the lowest engine speed where 50 % of the rated power is delivered).

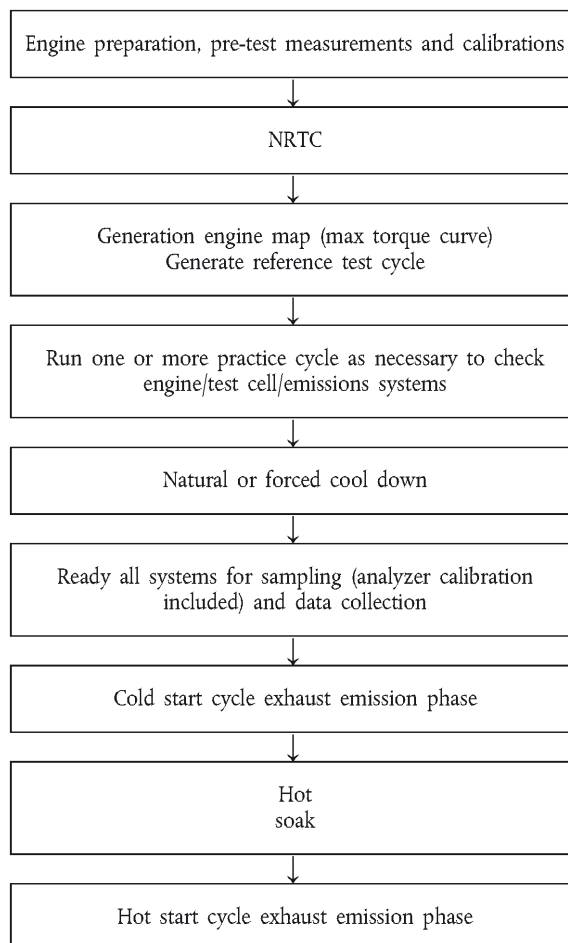
If the measured reference speed is within ± 3 % of the reference speed as declared by the manufacturer, the declared reference speed may be used for the emissions test. If the tolerance is exceeded, the measured reference speed shall be used for the emissions test ⁽¹⁾.

⁽¹⁾ This is consistent with the ISO 8178-11:2006 standard.'

5. Section 4.5 is replaced by the following:

4.5. Emissions test run

The following flow chart outlines the test sequence:



One or more practice cycles may be run as necessary to check engine, test cell and emissions systems before the measurement cycle.

4.5.1. *Preparation of the sampling filters*

At least one hour before the test, each filter shall be placed in a petri dish, which is protected against dust contamination and allows air exchange, and placed in a weighing chamber for stabilisation. At the end of the stabilisation period, each filter shall be weighed and the weight shall be recorded. The filter shall then be stored in a closed petri dish or sealed filter holder until needed for testing. The filter shall be used within eight hours of its removal from the weighing chamber. The tare weight shall be recorded.

4.5.2. *Installation of the measuring equipment*

The instrumentation and sample probes shall be installed as required. The tailpipe shall be connected to the full-flow dilution system, if used.

4.5.3. *Starting the dilution system*

The dilution system shall be started. The total diluted exhaust gas flow of a full-flow dilution system or the diluted exhaust gas flow through a partial flow dilution system shall be set to eliminate water condensation in the system, and to obtain a filter face temperature between 315 K (42 °C) and 325 K (52 °C).

4.5.4. *Starting the particulate sampling system*

The particulate sampling system shall be started and run on by-pass. The particulate background level of the dilution air may be determined by sampling the dilution air prior to entrance of the exhaust into the dilution tunnel. It is preferred that background particulate sample be collected during the transient cycle if another PM sampling system is available. Otherwise, the PM sampling system used to collect transient cycle PM can be used. If filtered dilution air is used, one measurement may be done prior to or after the test. If the dilution air is not filtered, measurements should be carried out prior to the beginning and after the end of the cycle and the values averaged.

4.5.5. *Checking the analysers*

The emission analysers shall be set at zero and spanned. If sample bags are used, they shall be evacuated.

4.5.6. *Cool-down requirements*

A natural or forced cool-down procedure may be applied. For forced cool-down, good engineering judgement shall be used to set up systems to send cooling air across the engine, to send cool oil through the engine lubrication system, to remove heat from the coolant through the engine cooling system, and to remove heat from an exhaust after-treatment system. In the case of a forced after-treatment cool down, cooling air shall not be applied until the after-treatment system has cooled below its catalytic activation temperature. Any cooling procedure that results in unrepresentative emissions is not permitted.

The cold start cycle exhaust emission test may begin after a cool-down only when the engine oil, coolant and after-treatment temperatures are stabilised between 20 °C and 30 °C for a minimum of 15 minutes.

4.5.7. *Cycle run*

4.5.7.1. *Cold start cycle*

The test sequence shall commence with the cold start cycle at the completion of the cool-down when all the requirements specified in section 4.5.6 are met.

The engine shall be started according to the starting procedure recommended by the manufacturer in the owner's manual, using either a production starter motor or the dynamometer.

As soon as it is determined that the engine is started, start a "free idle" timer. Allow the engine to idle freely with no-load for 23 ± 1 s. Begin the transient engine cycle such that the first non-idle record of the cycle occurs at 23 ± 1 s. The free idle time is included in the 23 ± 1 s.

The test shall be performed according to the reference cycle as set out in Annex III, Appendix 4. Engine speed and torque command set points shall be issued at 5 Hz (10 Hz recommended) or greater. The set points shall be calculated by linear interpolation between the 1 Hz set points of the reference cycle. Feedback engine speed and torque shall be recorded at least once every second during the test cycle, and the signals may be electronically filtered.

4.5.7.2. Analyser response

At the start of the engine the measuring equipment shall be started, simultaneously:

- start collecting or analysing dilution air, if a full flow dilution system is used,
- start collecting or analysing raw or diluted exhaust gas, depending on the method used,
- start measuring the amount of diluted exhaust gas and the required temperatures and pressures,
- start recording the exhaust gas mass flow rate, if raw exhaust gas analysis is used,
- start recording the feedback data of speed and torque of the dynamometer.

If raw exhaust measurement is used, the emission concentrations (HC, CO and NO_x) and the exhaust gas mass flow rate shall be measured continuously and stored with at least 2 Hz on a computer system. All other data may be recorded with a sample rate of at least 1 Hz. For analogue analysers the response shall be recorded, and the calibration data may be applied online or offline during the data evaluation.

If a full flow dilution system is used, HC and NO_x shall be measured continuously in the dilution tunnel with a frequency of at least 2 Hz. The average concentrations shall be determined by integrating the analyser signals over the test cycle. The system response time shall be no greater than 20 s, and shall be coordinated with CVS flow fluctuations and sampling time/test cycle offsets, if necessary. CO and CO₂ shall be determined by integration or by analysing the concentrations in the sample bag collected over the cycle. The concentrations of the gaseous pollutants in the dilution air shall be determined by integration or by collection in the background bag. All other parameters that need to be measured shall be recorded with a minimum of one measurement per second (1 Hz).

4.5.7.3. Particulate sampling

At the start of the engine the particulate sampling system shall be switched from by-pass to collecting particulates.

If a partial flow dilution system is used, the sample pump(s) shall be adjusted so that the flow rate through the particulate sample probe or transfer tube is maintained proportional to the exhaust mass flow rate.

If a full flow dilution system is used, the sample pump(s) shall be adjusted so that the flow rate through the particulate sample probe or transfer tube is maintained at a value within $\pm 5\%$ of the set flow rate. If flow compensation (i.e. proportional control of sample flow) is used, it must be demonstrated that the ratio of main tunnel flow to particulate sample flow does not change by more than $\pm 5\%$ of its set value (except for the first 10 seconds of sampling).

NOTE: For double dilution operation, sample flow is the net difference between the flow rate through the sample filters and the secondary dilution airflow rate.

The average temperature and pressure at the gas meter(s) or flow instrumentation inlet shall be recorded. If the set flow rate cannot be maintained over the complete cycle (within $\pm 5\%$) because of high particulate loading on the filter, the test shall be voided. The test shall be rerun using a lower flow rate and/or a larger diameter filter.

4.5.7.4. Engine stalling during the cold start test cycle

If the engine stalls anywhere during the cold start test cycle, the engine shall be preconditioned, then the cool-down procedure repeated; finally the engine shall be restarted, and the test repeated. If a malfunction occurs in any of the required test equipment during the test cycle, the test shall be voided.

4.5.7.5. Operations after cold start cycle

At the completion of the cold start cycle of the test, the measurement of the exhaust gas mass flow rate, the diluted exhaust gas volume, the gas flow into the collecting bags and the particulate sample pump shall be stopped. For an integrating analyser system, sampling shall continue until system response times have elapsed.

The concentrations of the collecting bags, if used, shall be analysed as soon as possible and in any case not later than 20 minutes after the end of the test cycle.

After the emission test, a zero gas and the same span gas shall be used for re-checking the analysers. The test will be considered acceptable if the difference between the pre-test and post-test results is less than 2 % of the span gas value.

The particulate filters shall be returned to the weighing chamber no later than one hour after completion of the test. They shall be conditioned in a petri dish, which is protected against dust contamination and allows air exchange, for at least one hour, and then weighed. The gross weight of the filters shall be recorded.

4.5.7.6. Hot soak

Immediately after the engine is turned off, the engine cooling fan(s) shall be turned off if used, as well as the CVS blower (or disconnect the exhaust system from the CVS), if used.

Allow the engine to soak for 20 ± 1 minutes. Prepare the engine and dynamometer for the hot start test. Connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems. Start the CVS (if used or not already on) or connect the exhaust system to the CVS (if disconnected). Start the sample pumps (except the particulate sample pump(s), the engine cooling fan(s) and the data collection system.

The heat exchanger of the constant volume sampler (if used) and the heated components of any continuous sampling system(s) (if applicable) shall be preheated to their designated operating temperatures before the test begins.

Adjust the sample flow rates to the desired flow rate and set the CVS gas flow measuring devices to zero. Carefully install a clean particulate filter in each of the filter holders and install assembled filter holders in the sample flow line.

4.5.7.7. Hot start cycle

As soon as it is determined that the engine is started, start a "free idle" timer. Allow the engine to idle freely with no-load for 23 ± 1 s. Begin the transient engine cycle such that the first non-idle record of the cycle occurs at 23 ± 1 s. The free idle time is included in the 23 ± 1 s.

The test shall be performed according to the reference cycle as set out in Appendix 4 to Annex III. Engine speed and torque command set points shall be issued at 5 Hz (10 Hz recommended) or greater. The set points shall be calculated by linear interpolation between the 1 Hz set points of the reference cycle. Feedback engine speed and torque shall be recorded at least once every second during the test cycle, and the signals may be electronically filtered.

The procedure described in previous sections 4.5.7.2 and 4.5.7.3 shall then be repeated.

4.5.7.8. Engine stalling during the hot start cycle

If the engine stalls anywhere during the hot start cycle, the engine may be shut off and re-soaked for 20 minutes. The hot start cycle may then be rerun. Only one hot re-soak and hot start cycle restart is permitted.

4.5.7.9. Operations after hot start cycle

At the completion of the hot start cycle, the measurement of the exhaust gas mass flow rate, the diluted exhaust gas volume, the gas flow into the collecting bags and the particulate sample pump shall be stopped. For an integrating analyser system, sampling shall continue until system response times have elapsed.

The concentrations of the collecting bags, if used, shall be analysed as soon as possible and in any case not later than 20 minutes after the end of the test cycle.

After the emission test, a zero gas and the same span gas shall be used for re-checking the analysers. The test will be considered acceptable if the difference between the pre-test and post-test results is less than 2 % of the span gas value.

The particulate filters shall be returned to the weighing chamber no later than one hour after completion of the test. They shall be conditioned in a petri dish, which is protected against dust contamination and allows air exchange, for at least one hour, and then weighed. The gross weight of the filters shall be recorded.'

6. Appendix 3 is amended as follows:

(a) Section 2.1.2.4 is replaced by the following:

2.1.2.4. Calculation of the specific emissions

The specific emissions (g/kWh) shall be calculated for each individual component in the following way:

$$\text{Individual gas} = \frac{(1/10)M_{\text{gas,cold}} + (9/10)M_{\text{gas,hot}}}{(1/10)W_{\text{act,cold}} + (9/10)W_{\text{act,hot}}}$$

where:

$M_{\text{gas,cold}}$ = total mass of gaseous pollutant over the cold start cycle (g)

$M_{\text{gas,hot}}$ = total mass of gaseous pollutant over the hot start cycle (g)

$W_{\text{act,cold}}$ = actual cycle work over the cold start cycle as determined in Annex III section 4.6.2 (kWh)

$W_{\text{act,hot}}$ = actual cycle work over the hot start cycle as determined in Annex III section 4.6.2 (kWh)

(b) Section 2.1.3.1 is replaced by the following:

2.1.3.1. Calculation of mass emission

The particulate masses $M_{\text{PT,cold}}$ and $M_{\text{PT,hot}}$ (g/test) shall be calculated by either of the following methods:

$$(a) M_{\text{PT}} = \frac{M_f}{M_{\text{SAM}}} \times \frac{M_{\text{EDFW}}}{1\,000}$$

where

M_{PT} = $M_{\text{PT,cold}}$ for the cold start cycle

M_{PT} = $M_{\text{PT,hot}}$ for the hot start cycle

M_f = particulate mass sampled over the cycle (mg)

M_{EDFW} = mass of equivalent diluted exhaust gas over the cycle (kg)

M_{SAM} = mass of diluted exhaust gas passing the particulate collection filters (kg)

The total mass of equivalent diluted exhaust gas mass over the cycle shall be determined as follows:

$$M_{\text{EDFW}} = \sum_{i=1}^{I=n} G_{\text{EDFW},i} \times \frac{1}{f}$$

$$G_{\text{EDFW},i} = G_{\text{EXHW},i} \times q_i$$

$$q_i = \frac{G_{\text{TOTW},i}}{(G_{\text{TOTW},i} - G_{\text{DILW},i})}$$

where

$G_{\text{EDFW},i}$ = instantaneous equivalent diluted exhaust mass flow rate (kg/s)

$G_{\text{EXHW},i}$ = instantaneous exhaust mass flow rate (kg/s)

q_i = instantaneous dilution ratio

$G_{\text{TOTW},i}$ = instantaneous diluted exhaust mass flow rate through dilution tunnel (kg/s)

$G_{\text{DILW},i}$ = instantaneous dilution air mass flow rate (kg/s)

f = data sampling rate (Hz)

n = number of measurements

$$(b) M_{PT} = \frac{M_f}{r_s \times 1\,000}$$

where

M_{PT} = $M_{PT,cold}$ for the cold start cycle

M_{PT} = $M_{PT,hot}$ for the hot start cycle

M_f = particulate mass sampled over the cycle (mg)

r_s = average sample ratio over the test cycle

where

$$r_s = \frac{M_{SE}}{M_{EXHW}} \times \frac{M_{SAM}}{M_{TOTW}}$$

M_{SE} = sampled exhaust mass over the cycle (kg)

M_{EXHW} = total exhaust mass flow over the cycle (kg)

M_{SAM} = mass of diluted exhaust gas passing the particulate collection filters (kg)

M_{TOTW} = mass of diluted exhaust gas passing the dilution tunnel (kg)

NOTE: In case of the total sampling type system, M_{SAM} and M_{TOTW} are identical

(c) Section 2.1.3.3 is replaced by the following:

2.1.3.3. Calculation of the specific emissions

The specific emissions (g/kWh) shall be calculated in the following way:

$$PT = \frac{(1/10)K_{p,cold} \times M_{PT,cold} + (9/10)K_{p,hot} \times M_{PT,hot}}{(1/10)W_{act,cold} + (9/10)W_{act,hot}}$$

where

$M_{PT,cold}$ = particulate mass over the cold start cycle (g/test)

$M_{PT,hot}$ = particulate mass over the hot start cycle (g/test)

$K_{p,cold}$ = humidity correction factor for particulate over the cold start cycle

$K_{p,hot}$ = humidity correction factor for particulate over the hot start cycle

$W_{act,cold}$ = actual cycle work over the cold start cycle as determined in section 4.6.2. of Annex III, (kWh)

$W_{act,hot}$ = actual cycle work over the hot start cycle as determined in section 4.6.2. of Annex III, (kWh)

(d) Section 2.2.4 is replaced by the following:

2.2.4. Calculation of the specific emissions

The specific emissions (g/kWh) shall be calculated for each individual component in the following way:

$$\text{Individual gas} = \frac{(1/10)M_{gas,cold} + (9/10)M_{gas,hot}}{(1/10)W_{act,cold} + (9/10)W_{act,hot}}$$

where

$M_{gas,cold}$ = total mass of gaseous pollutant over the cold start cycle (g)

$M_{gas,hot}$ = total mass of gaseous pollutant over the hot start cycle (g)

$W_{act,cold}$ = actual cycle work over the cold start cycle as determined in section 4.6.2. of Annex III (kWh)

$W_{act,hot}$ = actual cycle work over the hot start cycle as determined in section 4.6.2. of Annex III. (kWh)

(e) Section 2.2.5.1 is replaced by the following:

‘2.2.5.1. Calculation of the mass flow

The particulate masses $M_{PT,cold}$ and $M_{PT,hot}$ (g/test) shall be calculated as follows:

$$M_{PT} = \frac{M_f}{M_{SAM}} \times \frac{M_{TOTW}}{1\,000}$$

where

M_{PT} = $M_{PT,cold}$ for the cold start cycle

M_{PT} = $M_{PT,hot}$ for the hot start cycle

M_f = particulate mass sampled over the cycle (mg)

M_{TOTW} = total mass of diluted exhaust gas over the cycle as determined in section 2.2.1. (kg)

M_{SAM} = mass of diluted exhaust gas taken from the dilution tunnel for collecting particulates (kg)

and,

M_f = $M_{f,p} + M_{f,b}$, if weighed separately (mg)

$M_{f,p}$ = particulate mass collected on the primary filter (mg)

$M_{f,b}$ = particulate mass collected on the back-up filter (mg)

If a double dilution system is used, the mass of the secondary dilution air shall be subtracted from the total mass of the double diluted exhaust gas sampled through the particulate filters.

$$M_{SAM} = M_{TOT} - M_{SEC}$$

where,

M_{TOT} = mass of double diluted exhaust gas through particulate filter (kg)

M_{SEC} = mass of secondary dilution air (kg)

If the particulate background level of the dilution air is determined in accordance with section 4.4.4 of Annex III, the particulate mass may be background corrected. In this case, the particulate masses $M_{PT,cold}$ and $M_{PT,hot}$ (g/test) shall be calculated as follows:

$$M_{PT} = \left[\frac{M_f}{M_{SAM}} - \left(\frac{M_d}{M_{DIL}} \times \left(1 - \frac{1}{DF} \right) \right) \right] \times \frac{M_{TOTW}}{1\,000}$$

where

M_{PT} = $M_{PT,cold}$ for the cold start cycle

M_{PT} = $M_{PT,hot}$ for the hot start cycle

M_f , M_{SAM} , M_{TOTW} = see above

M_{DIL} = mass of primary dilution air sampled by background particulate sampler (kg)

M_d = mass of the collected background particulates of the primary dilution air (mg)

DF = dilution factor as determined in section 2.2.3.1.1’

(f) Section 2.2.5.3 is replaced by the following:

‘2.2.5.3. Calculation of the specific emissions

The specific emissions (g/kWh) shall be calculated for in the following way:

$$PT = \frac{(1/10)K_{p,cold} \times M_{PT,cold} + (9/10)K_{p,hot} \times M_{PT,hot}}{(1/10)W_{act,cold} + (9/10)W_{act,hot}}$$

where

$M_{PT,cold}$ = particulate mass over the cold start cycle of NRTC, (g/test)

$M_{PT,hot}$ = particulate mass over the hot start cycle of NRTC, (g/test)

$K_{p, cold}$ = humidity correction factor for particulate over the cold start cycle

$K_{p, hot}$ = humidity correction factor for particulate over the hot start cycle

$W_{act, cold}$ = actual cycle work over the cold start cycle as determined in section 4.6.2. of Annex III, (kWh)

$W_{act, hot}$ = actual cycle work over the hot start cycle as determined in section 4.6.2 of Annex III, (kWh)

ANNEX IV

Annex V is amended as follows:

The second row of the table of the Annex, entitled 'NON-ROAD MOBILE MACHINERY REFERENCE FUEL FOR CI ENGINES TYPE APPROVED TO MEET STAGE IIIB AND IV LIMIT VALUES', is amended to read:

'Density at 15 °C	kg/m ³	833	865	EN-ISO 3675'
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ANNEX V

Annex XIII is amended as follows:

1. Sections 1.5 and 1.6 are replaced by the following:

- 1.5. The OEM shall provide the approval authority with any information connected with the implementation of the flexibility scheme that the approval authority may request as necessary for the decision.
- 1.6. The OEM shall provide any requesting type approval authority in the Member States, with any information that the type approval authority requires in order to confirm that any engine claimed to be, or labelled as being, placed on the market under a flexibility scheme is properly so claimed or labelled.'

2. Section 1.7 is deleted.

DECISIONS

COMMISSION DECISION

of 31 March 2010

amending Decision 2009/1/EC granting a derogation requested by the Republic of Bulgaria pursuant to Decision 2008/477/EC on the harmonisation of the 2 500-2 690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community

(notified under document C(2010) 1987)

(Only the Bulgarian text is authentic)

(2010/194/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision)⁽¹⁾, and in particular Article 4(5) thereof,

Having regard to Commission Decision 2008/477/EC of 13 June 2008 on the harmonisation of the 2 500-2 690 MHz frequency band for terrestrial systems capable of providing electronic communications services in the Community⁽²⁾, and in particular Article 2(2) thereof,

Whereas:

(1) By Commission Decision 2009/1/EC⁽³⁾, the Republic of Bulgaria has been authorised to postpone the implementation of Decision 2008/477/EC in North Bulgaria until 31 December 2009 and in South Bulgaria until 31 December 2010.

(2) The Republic of Bulgaria has informed the Commission that, due to unforeseen reduction in budget revenues in 2009 as a result of the economic crisis, the necessary financial resources were not available for releasing within the deadlines set by Decision 2009/1/EC the 2 500-2 690 MHz band in order to designate it and make it available, on a non-exclusive basis, for terrestrial systems capable of providing electronic communications services. Consequently, this band is still occupied on an exclusive basis by mobile electronic communication equipment used for national security needs in Bulgaria.

(3) By letter of 25 November 2009, the Republic of Bulgaria therefore requested the extension by one year of the transitional derogation granted by Decision 2009/1/EC. Bulgaria also provided a progress report on the implementation of Decision 2008/477/EC.

(4) Bulgaria has provided sufficient justification to its request for an extension of the transitional derogation. Bulgaria has informed the Commission that in 2009, it took the necessary non-financial preparatory measures to assign new frequencies to the national security service in order to replace the 2 500-2 690 MHz band and that the necessary financial resources would be made available in 2010 for the deployment of the new mobile radio communication system to be used for national security purposes.

(5) The members of the Radio Spectrum Committee indicated at the Committee meeting on 10-11 December 2009 that they do not object to this extension of the transitional derogation.

(6) The requested extension would not unduly defer implementation of Decision 2008/477/EC nor create undue differences between Member States with respect to competitive or regulatory situations. The request is justified and an extension of the transitional derogation by one year would be appropriate to facilitate the full implementation of Decision 2008/477/EC,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2009/1/EC is amended as follows:

1. in Article 1, '31 December 2009' is replaced by '31 December 2010' and '31 December 2010' is replaced by '31 December 2011';

⁽¹⁾ OJ L 108, 24.4.2002, p. 1.

⁽²⁾ OJ L 163, 24.6.2008, p. 37.

⁽³⁾ OJ L 2, 6.1.2009, p. 6.

2. in Article 3, '16 January 2010' is replaced by '16 January 2011' and '16 January 2011' is replaced by '16 January 2012'.

Article 2

This Decision is addressed to the Republic of Bulgaria.

Done at Brussels, 31 March 2010.

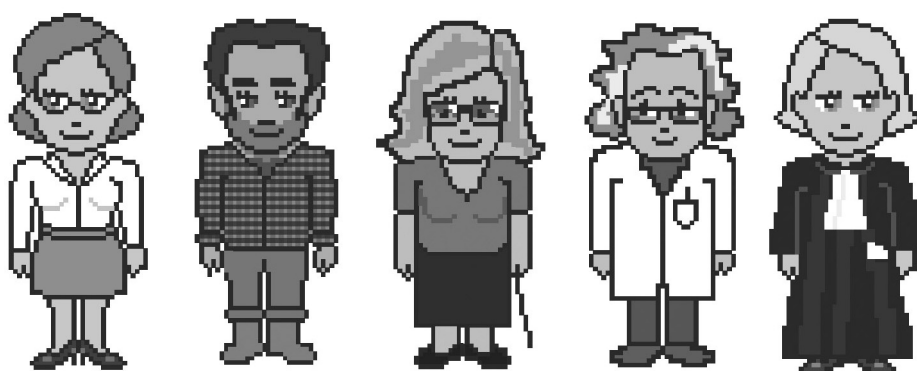
For the Commission

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