
STATUTORY INSTRUMENTS

2018 No. 764

The Non-Road Mobile Machinery (Type-Approval and Emission of Gaseous and Particulate Pollutants) Regulations 2018

Defeat Devices

14.—(1) For the purposes of articles 18 and 57 of the NRMM Regulation, “use of defeat strategies” or “using defeat strategies” is where an engine manufactured by a person—

- (a) is placed on the market in the United Kingdom; and
- (b) that engine is fitted with a defeat device.

(2) A separate offence under article 18(4) the NRMM Regulation⁽¹⁾ is committed in respect of each such engine placed on the market.

(3) Where, following examination of engines associated with a single engine type approval, the enforcement authority is satisfied that two or more of those engines—

- (a) are engines which have been affixed with a statutory marking under article 32 of the NRMM Regulation in respect of that approval; and
- (b) are fitted with a defeat device,

each engine associated with that single engine type approval is to be taken to be similarly fitted with a defeat device unless proved otherwise by the manufacturer.

(4) In paragraph (3), an engine is associated with an engine type approval if the statutory marking affixed to the engine under article 32 of the NRMM Regulation cites the type approval number for that type approval.

(5) In this regulation—

“auxiliary emission control strategy” has the meaning given in article 1(10) of Commission Delegated Regulation (EU) 2017/654;

“Commission Delegated Regulation (EU) 2017/654” means Commission Delegated Regulation (EU) 2017/654 supplementing Regulation (EU) 2016/1628 of the European Parliament and of the Council on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery⁽²⁾;

“defeat device” means—

- (a) a defeat strategy; or
- (b) an auxiliary emission control strategy which is prohibited under point 2.3.7 of Annex IV of Commission Delegated Regulation (EU) 2017/654;

(1) Article 18(4) of the NRMM Regulation is supplemented by Commission Delegated Regulation (EU) 2017/654 dealing with misuse of an auxiliary emission control strategy.

(2) OJ No. L 102, 13.4.2017, p. 1.

“placed on the market” means supplying to a third party or making available for distribution or use in the course of a commercial activity, whether in return for payment or free of charge, and includes exposure for sale to a third party.