

Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC (Text with EEA relevance)

CHAPTER II

GENERAL OBLIGATIONS

Article 5

Obligations of Member States

- 1 Member States shall establish or appoint approval authorities and market surveillance authorities in accordance with this Regulation.
- 2 Member States shall notify the Commission of the establishment and appointment of the approval and market surveillance authorities referred to in paragraph 1, including their names, postal and electronic addresses and areas of responsibility. The Commission shall publish a list and details of the approval authorities on its website.
- 3 Member States shall only permit the placing on the market of:
 - a engines that are covered by a valid EU type-approval granted in accordance with this Regulation, regardless of whether they are already installed in non-road mobile machinery; and
 - b non-road mobile machinery in which engines as referred to in point (a) are installed.
- 4 Member States shall not prohibit, restrict or impede the placing on the market of:
 - a engines on grounds relating to aspects of their construction and functioning covered by this Regulation, where those engines satisfy its requirements;
 - b non-road mobile machinery on grounds relating to gaseous and particulate pollutant emissions from engines installed in such machinery, where those engines fall within the scope of this Regulation and satisfy its requirements.
- 5 Member States shall organise and carry out market surveillance and the control of engines on the market in accordance with Chapter III of Regulation (EC) No 765/2008.

Article 6

Obligations of approval authorities

- 1 Approval authorities shall ensure that manufacturers applying for EU type-approval comply with this Regulation.
- 2 Approval authorities shall only grant EU type-approval to engine types or engine families that comply with this Regulation.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/1628 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)

3 Approval authorities shall make public, by means of IMI, a register of all engine types and engine families for which EU type-approvals have been granted, extended or withdrawn, or in respect of which an application for EU type-approval has been rejected.

That register shall contain at least the following information:

- a name and address of the manufacturer and name of the company, if different;
- b trade name(s) or trade mark(s), as appropriate, belonging to the manufacturer;
- c designation of the engine types covered by the EU type-approval of the engine type or, where applicable, by the EU type-approval of the engine family;
- d engine category;
- e number of the EU type-approval, including the number of any extensions;
- f date of granting, extension, refusal or withdrawal of the EU type-approval; and
- g the content of the sections 'General engine information' and 'Final emission result' of the test report referred to in Article 24(12).

Article 7

Obligations of market surveillance authorities

1 Market surveillance authorities shall perform documentary checks and, where appropriate, physical and laboratory checks of engines, on an adequate scale and on the basis of adequate samples. When doing so, they shall take account of established principles of risk assessment, of any complaints and of any other relevant information.

2 Market surveillance authorities may require economic operators to make such documentation and information available as is deemed necessary for the purpose of carrying out the authorities' activities.

Article 8

General obligations of manufacturers

1 Manufacturers shall ensure that when their engines are placed on the market they are manufactured and approved in accordance with this Regulation.

2 Where manufacturers modify an engine which is subject to EU type-approval in such a manner that it subsequently qualifies to belong to a different category or sub-category, they shall be responsible for ensuring that the engine complies with the requirements applicable to that category or sub-category.

Where a legal person modifies an engine in such a way that it no longer complies with the emission limits applicable to it according to its category or sub-category, that person shall be considered to be responsible for re-establishing compliance with those emission limits.

3 Manufacturers shall be responsible to the approval authority for all aspects of the EU type-approval process and for ensuring conformity of production, regardless of whether they are directly involved in all stages of the construction of an engine.

4 Manufacturers shall ensure that procedures are in place for series production to remain in conformity with the approved type and for monitoring emissions of in-service engines in accordance with Article 19.

Changes in the design or characteristics of an engine type and changes in the requirements with which an engine type is declared to be in conformity shall be taken into account in accordance with Chapter VI.

5 In addition to the statutory marking referred to in Article 32, manufacturers shall indicate, on the engines they have manufactured and place on the market or, where that is not possible, in a document accompanying the engine, their name, registered trade name or registered trade mark and the address in the Union at which they can be contacted.

6 Upon reasoned request, manufacturers shall provide the OEM with a duplicate of the statutory marking referred to in Article 15(4).

7 Manufacturers shall ensure that, while they are responsible for an engine, storage or transport conditions do not jeopardise its compliance with this Chapter and Chapter III.

8 Manufacturers shall keep the EU type-approval certificate with its attachments as referred to in Article 23(1) and, where applicable, a copy of the statement of conformity referred to in Article 31 at the disposal of the approval authorities for a period of 10 years after the placing on the market of an engine.

9 Manufacturers shall provide national authorities, upon reasoned request and via the approval authority, with a copy of the EU type-approval certificate for an engine. That copy shall be in a language which can be easily understood by the requesting national authority.

10 For the purpose of EU type-approval of engines, manufacturers established outside the Union shall appoint a single representative established within the Union to represent them in their dealings with the approval authority.

11 For the purpose of market surveillance, manufacturers established outside the Union shall appoint a single representative established within the Union, which may be the representative referred to in paragraph 10.

Article 9

Obligations of manufacturers concerning engines that are not in conformity

1 A manufacturer who has reason to believe or considers that one of its engines placed on the market is not in conformity with this Regulation shall immediately conduct an investigation into the nature of the suspected non-conformity and the likely extent of its occurrence.

Based on the outcome of the investigation, the manufacturer shall take corrective measures to ensure that engines in production are brought into conformity with the approved engine type or engine family in a timely manner.

The manufacturer shall immediately inform the approval authority that granted the EU type-approval of the investigation, giving details, in particular, of the non-conformity and of any corrective measures taken.

2 Notwithstanding paragraph 1, a manufacturer shall not be required to take corrective measures in respect of an engine which is not in conformity with this Regulation as a result of modifications made after it has been placed on the market and that were not authorised by the manufacturer.

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Article 10

Obligations of manufacturers' representatives for market surveillance

As a minimum, manufacturers' representatives for market surveillance shall perform the following tasks, which shall be specified in the written mandate received from the manufacturer:

- (a) ensure that the EU type-approval certificate with its attachments as referred to in Article 23(1) and, where applicable, a copy of the statement of conformity referred to in Article 31 can be made available to the approval authorities for a period of ten years following the placing on the market of an engine;
- (b) provide the approval authority, upon reasoned request, with all the information and documentation necessary to demonstrate the conformity of production of an engine;
- (c) cooperate with the approval and market surveillance authorities, at their request, in respect of any action taken under the mandate.

Article 11

General obligations of importers

1 Importers shall place on the market only compliant engines which have received EU type-approval.

- 2 Before placing on the market an EU type-approved engine, importers shall ensure that:
- a the EU type-approval certificate with its attachments as referred to in Article 23(1) is available;
 - b the engine bears the statutory marking referred to in Article 32;
 - c the engine complies with Article 8(5).

3 For a period of ten years following the placing on the market of the engine, importers shall keep, where applicable, a copy of the statement of conformity referred to in Article 31 at the disposal of the approval and market surveillance authorities, and shall ensure that the EU type-approval certificate with its attachments as referred to in Article 23(1) can be made available to those authorities, upon request.

4 Importers shall indicate, on the engine or, where that is not possible, in a document accompanying the engine, their name, registered trade name or registered trade mark and the address at which they can be contacted.

5 Importers shall ensure that the engine is accompanied by the information and instructions referred to in Article 43.

6 Importers shall ensure that while they are responsible for an engine, storage or transport conditions do not jeopardise its compliance with this Chapter or Chapter III.

7 Importers shall provide a requesting national authority, upon reasoned request, with all the information and documentation necessary to demonstrate the conformity of an engine. That information and documentation shall be in a language which can be easily understood by the requesting national authority.

Article 12

Obligations of importers concerning engines that are not in conformity

1 An importer that has reason to believe or considers that an engine is not in conformity with this Regulation, and in particular that it does not correspond to its EU type-approval, shall not place the engine on the market until it has been brought into conformity.

The importer shall inform, without undue delay, the manufacturer and the market surveillance authorities, as well as the approval authority that granted the EU type-approval, thereof.

2 An importer that has reason to believe or considers that an engine which it has placed on the market is not in conformity with this Regulation shall immediately conduct an investigation into the nature of the suspected non-conformity and the likely extent of its occurrence.

Based upon the outcome of the investigation, the importer shall take corrective measures and inform the manufacturer thereof to ensure that engines in production are brought into conformity with the approved engine type or engine family in a timely manner.

Article 13

General obligations of distributors

1 When making an engine available on the market, distributors shall act with due care with regard to the requirements of this Regulation.

2 Before making an engine available on the market, distributors shall verify that:

- a the manufacturer has complied with Article 8(5);
- b where applicable, the importer has complied with Article 11(2) and (4);
- c the engine bears the statutory marking referred to in Article 32;
- d the information and instructions referred to in Article 43 are available in a language that can be easily understood by the OEM.

3 Distributors shall ensure that while they are responsible for an engine, storage or transport conditions do not jeopardise its compliance with this Chapter or Chapter III.

4 Distributors shall, upon reasoned request, ensure that the manufacturer provides the requesting national authority with the documentation specified in Article 8(8), or that the importer provides the requesting national authority with the documentation specified in Article 11(3).

Article 14

Obligations of distributors concerning engines that are not in conformity

1 Where a distributor has reason to believe or considers that an engine is not in conformity with this Regulation, it shall not make the engine available on the market until it has been brought into conformity.

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2 The distributor shall inform the manufacturer or the manufacturer's representative if it has reason to believe or considers that an engine which it has made available on the market is not in conformity with this Regulation, to ensure that the corrective measures necessary to bring the engines in production into conformity with the approved engine type or engine family are taken in accordance with Article 9 or 12.

Article 15

Obligations of OEMs concerning the installation of engines

1 OEMs shall install EU type-approved engines in non-road mobile machinery in accordance with the instructions provided by the manufacturer pursuant to Article 43(2), and in a manner that does not adversely affect the engine's performance with regard to its gaseous and particulate pollutant emissions.

2 Where an OEM does not follow the instructions referred to in paragraph 1 of this Article, or modifies an engine in the course of its installation in non-road mobile machinery in a manner that adversely affects the engine's performance with regard to its gaseous and particulate pollutant emissions, that OEM shall be considered to be a manufacturer for the purposes of this Regulation and shall, in particular, be subject to the obligations laid down in Articles 8 and 9.

3 OEMs shall install EU type-approved engines in non-road mobile machinery only in accordance with the kinds of exclusive use provided for in Article 4.

4 Where the statutory marking of the engine referred to in Article 32 is not visible without removing parts, the OEM shall affix to the non-road mobile machinery, in a visible manner, a duplicate of the marking as referred to in that Article and in the relevant implementing act, provided by the manufacturer.

5 Where non-road mobile machinery with an installed transition engine is placed on the market in accordance with Article 58(5), OEMs shall indicate the non-road mobile machine production date as part of the marking on the machine.

6 Where a manufacturer delivers to an OEM an engine separately from its exhaust after-treatment system in accordance with Article 34(3), the OEM shall, where applicable, provide the manufacturer with information relating to the assembly of the engine and its exhaust after-treatment system.

Article 16

Application of manufacturers' obligations to importers and distributors

An importer or distributor that makes an engine available on the market under its name or trade mark, or that modifies such an engine in such a way that its compliance with the applicable requirements may be affected, shall be considered to be a manufacturer for the purposes of this Regulation and shall, in particular, be subject to the obligations laid down in Articles 8 and 9.

Article 17

Notification obligation for economic operators and OEMs

Economic operators and OEMs shall, upon request, notify the approval and market surveillance authorities of the following, for a period of five years from the date of placing on the market:

- (a) any economic operator who has supplied them with an engine;
- (b) any economic operator or, where identifiable, any OEM to whom they have supplied an engine.

Changes to legislation:

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