

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 XIV

FINAL PROVISIONS

Article 57

Penalties

1 Member States shall provide for penalties for infringement of this Regulation, and of the delegated or implementing acts adopted pursuant to this Regulation, by economic operators or OEMs. The penalties provided for shall be effective, proportionate and dissuasive.

Member States shall notify the Commission of those provisions by 7 October 2018 and shall notify the Commission without delay of any subsequent amendments affecting them.

Member States shall take all measures necessary to ensure that the penalties are implemented.

- 2 Infringements subject to a penalty shall include:
- a making false declarations, in particular during the EU type-approval procedures, the procedures leading to a recall or the procedures relating to exemptions;
 - b falsifying test results in relation to an EU type-approval or the monitoring of in-service engines;
 - c withholding data or technical specifications which could lead to the recall of engines, or to the refusal or the withdrawal of an EU type-approval;
 - d using defeat strategies;
 - e refusing to provide access to information;
 - f placing on the market engines subject to EU type-approval without EU type-approval, or falsifying documents or statutory markings with the intention of doing so;
 - g placing on the market transition engines and non-road mobile machinery in which such engines are installed in violation of the exemption provisions;
 - h being in violation of the restrictions set out in Article 35(3) and (4);
 - i placing on the market an engine modified in such a way that it is no longer in conformity with the specifications of its EU type-approval;
 - j installing an engine in non-road mobile machinery for a use other than the exclusive use provided for in Article 4;
 - k placing on the market a special purpose engine under Article 34(5) or (6) for use in non-road mobile machinery other than that provided for in those paragraphs;
 - l placing on the market an engine under Article 34(7) or (8) and Article 58(9), (10) or (11) for use in machinery other than that provided for in those paragraphs;

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 XIV. (See end of Document for details)

- m placing on the market non-road mobile machinery in which engines subject to EU type-approval under this Regulation are installed, without such approval;
- n placing on the market non-road mobile machinery that is in violation of a restriction regarding non-road mobile machinery set out in Article 34(8).

Article 58

Transitional provisions

1 Without prejudice to Chapters II and III, this Regulation shall not invalidate, before the dates for placing on the market of engines set out in Annex III, any EU type-approval or exemption.

2 Approval authorities may, in accordance with the relevant legislation applicable on 5 October 2016, continue to grant EU type-approvals until the mandatory dates for the EU type-approval of engines set out in Annex III and continue to grant exemptions in accordance with that legislation until the mandatory dates for the placing on the market of engines set out in Annex III.

Member States may, in accordance with the relevant legislation applicable on 5 October 2016 continue to permit the placing on the market of engines until the mandatory dates for the placing on the market of engines set out in Annex III.

3 By way of derogation from this Regulation, engines which have received an EU type-approval pursuant to the relevant legislation applicable on 5 October 2016, or which meet the requirements set out by the Central Commission for the Navigation of the Rhine (CCNR) and adopted as CCNR Stage II, in the framework of the Revised Convention for Rhine Navigation, may continue to be placed on the market until the dates for the placing on the market of engines set out in Annex III.

In such cases, national authorities shall not prohibit, restrict or impede the placing on the market of engines complying with the approved type.

4 Engines which on 5 October 2016 did not fall within the scope of Directive 97/68/EC may continue to be placed on the market on the basis of the national rules in force, if any, until the dates for the placing on the market of engines set out in Annex III.

5 Without prejudice to Article 5(3), Article 18(2) and, where applicable, Directive 2008/57/EC and Commission Regulation (EU) No 1302/2014⁽¹⁾, transition engines and, where applicable, the non-road mobile machinery in which those transition engines are installed may continue to be placed on the market during the transition period provided that the machinery in which the transition engine is installed has a production date not later than 18 months following the start of the transition period.

[^{F1}For engines of sub-categories of category NRE for which the date set out in Annex III for the placing on the market of Stage V engines is 1 January 2020, Member States shall authorise the extension of the transition period and of the 18-month period referred to in the first subparagraph by an additional 12 months for OEMs with a total yearly production of less than 100 units of non-road mobile machinery equipped with internal combustion engines. For the purposes of the calculation of that total yearly production, all OEMs under the control of the same natural or legal person shall be considered to be a single OEM.]

[^{F1}For engines of sub-categories of category NRE for which the date set out in Annex III for the placing on the market of Stage V engines is 1 January 2020, used in mobile

cranes, the transition period and the 18-month period referred to in the first subparagraph shall be extended by 12 months.]

For engines of category NRS with an engine power of less than 19 kW used in snow throwers, the transition period and the 18-month period referred to in the first subparagraph shall be extended by 24 months.

[^{F2}For engines of all sub-categories for which the date set out in Annex III for the placing on the market of Stage V engines is 1 January 2019, except for the engines referred to in the fourth subparagraph, the transition period and the 18-month period referred to in the first subparagraph shall be extended by 12 months.]

6 Subject to paragraph 5 of this Article, transition engines shall meet at least one of the following requirements:

- a be in conformity with engine types or engine families the EU type-approval of which is no longer valid pursuant to point (a) of Article 30(2), and are, on the engines' production dates, covered by a valid EU type-approval that is in compliance with the latest applicable emission limits defined in the relevant legislation applicable on 5 October 2016.
- b belong to a power range that was not subject to pollutant emission type-approval at Union level on 5 October 2016; or
- c be used or intended to be used in an application that was not subject to pollutant emission related type-approval at Union level on 5 October 2016.

7 The period for placing transition engines on the market shall be limited to:

- a 24 months from the applicable date for the placing on the market of engines set out in Annex III, in the case set out in the first subparagraph of paragraph 5;
- b 36 months from the applicable date for the placing on the market of engines set out in Annex III, in the case set out in the second and third subparagraphs of paragraph 5;
- c 48 months from the applicable date for the placing on the market of engines set out in Annex III, in the case set out in the fourth subparagraph of paragraph 5;

[^{F2}d 36 months from the applicable date for the placing on the market of engines set out in Annex III, in the case set out in the fifth subparagraph of paragraph 5.]

8 Manufacturers shall ensure that transition engines placed on the market during the transition period comply with the marking referred to in point (d) of Article 32(2).

9 Notwithstanding Article 5(3), Article 18(2) and Article 22, Member States may, for a period that ends no later than 17 September 2026 authorise the placing on the market of engines of category RLL with a maximum net power greater than 2 000 kW that do not comply with the emission limits set out in Annex II to be installed in locomotives which only run on a technically isolated 1 520 mm railway network. During that period, the engines placed on the market shall, as a minimum, comply with the emission limits that engines had to meet to be placed on the market on 31 December 2011. The approval authorities of the Member States shall grant EU type-approval and shall authorise the placing on the market of such engines.

10 Notwithstanding Articles 5(3) and 18(2), Member States shall authorise the placing on the market of replacement engines, for a period not longer than 15 years, starting from the applicable dates for the placing on the market of Stage V engines set out in Annex III, provided that the engines belong to a category equivalent to NRS with a reference power no less than 19 kW, or belong to a category equivalent to NRG, where the replacement engine and the original engine belong to an engine category or power range that was not subject to type-approval at Union level on 31 December 2016.

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 XIV. (See end of Document for details)

11 Notwithstanding Articles 5(3) and 18(2), Member States shall authorise the placing on the market of replacement engines, for a period not longer than 20 years, starting from the applicable dates for the placing on the market of Stage V engines set out in Annex III, provided that the engines:

- a belong to category NRE with a reference power no less than 19 kW and no greater than 560 kW, and comply with an emission stage that expired not more than 20 years before the placing on the market of those engines and that is at least as stringent as the emission limits that the engine to be replaced had to meet when it was placed on the market originally;
- b belong to a category equivalent to NRE and with a reference power greater than 560 kW, where the replacement engine and the original engine belong to an engine category or power range that was not subject to type-approval at Union level on 31 December 2016.

12 Member States may decide not to apply this Regulation, for a period ending no later than 17 September 2026 to engines installed in cotton harvesting machinery.

13 Manufacturers shall ensure that replacement engines comply with the marking referred to in point (e) of Article 32(2).

Textual Amendments

- F1** Substituted by Regulation (EU) 2020/1040 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EU) 2016/1628 as regards its transitional provisions in order to address the impact of the COVID-19 crisis (Text with EEA relevance).
- F2** Inserted by Regulation (EU) 2020/1040 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EU) 2016/1628 as regards its transitional provisions in order to address the impact of the COVID-19 crisis (Text with EEA relevance).

Article 59

Report

1 By 31 December 2021, Member States shall inform the Commission of the application of the EU type-approval procedures laid down in this Regulation.

2 By 31 December 2022, on the basis of the information supplied under paragraph 1, the Commission shall submit a report to the European Parliament and to the Council on the application of this Regulation.

Article 60

Review

1 By 31 December 2018, the Commission shall submit a report to the European Parliament and to the Council regarding the assessment of the possibility of laying down harmonised measures for the installation of retrofit emission control devices in engines in non-road mobile machinery that has already been placed on the Union market. That report shall also address technical measures and financial incentive schemes as a means of helping Member States to comply with Union air quality legislation, by assessing possible action against air pollution in densely populated areas, and with due respect for the Union rules on state aid.

2 By 31 December 2020, the Commission shall submit a report to the European Parliament and to the Council regarding:

- a the assessment of further pollutant emission reduction potential, on the basis of available technologies and a cost-benefit analysis.

In particular, for engines of categories IWP and IWA, the assessment of the technological and economic feasibility of:

- (i) a further reduction in the emission limit value for PN and NO_x emissions;
 - (ii) a further reduction in the A-factor for fully and partially gaseous-fuelled engines in the framework of a climate-neutral operation compared to diesel-fuelled engines; and
 - (iii) the addition of PN limit values to those engine categories for which such values have not been set out in Annex II to this Regulation;
- b the identification of potentially relevant pollutant types that do not fall within the scope of this Regulation.

3 By 31 December 2025, the Commission shall submit a report to the European Parliament and to the Council regarding the use of the exemption clauses provided for in Article 34(4) and (5), and the monitoring of the results of the emission tests set out in Article 19 and the conclusions thereof.

In addition, the report shall evaluate the tests required for EU type-approval as set out in Articles 24 and 25, with a particular focus on the extent to which those tests correspond to real engine operation conditions, and it shall also evaluate the feasibility of introducing tests for particulate pollutant emissions as part of the in-service testing set out in Article 19.

4 The reports referred to in paragraphs 2 and 3 shall:

- a be based on consultation with the relevant stakeholders;
- b take into account existing related Union and international standards; and
- c be accompanied, where appropriate, by legislative proposals.

Article 61

Amendments to Directive 97/68/EC

Directive 97/68/EC is amended as follows:

- (1) in Article 9(4a), the following subparagraphs are added:

By way of derogation from the first subparagraph, Member States may authorise, on request by an OEM, the placing on the market of engines that meet Stage III A emission limit values, provided that those engines are intended for installation in non-road mobile machinery to be used in potentially explosive atmospheres, as defined in point (5) of Article 2 of Directive 2014/34/EU of the European Parliament and of the Council⁽²⁾.

Manufacturers shall provide the approval authority with evidence that the engines are installed exclusively in non-road mobile machinery certified as fulfilling those requirements. A label bearing the text “Engine for restricted use in machinery manufactured by”, followed by the name of the OEM and the unique reference of

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 XIV. (See end of Document for details)

the associated derogation shall be affixed to any such engines, beside the engine statutory marking set out in section 3 of Annex I.

By way of derogation from the first subparagraph, Member States may grant EU type-approval and authorise the placing on the market of engines of category RLL with a maximum net power greater than 2 000 kW that do not comply with the emission limits set out in Annex II, that are to be installed in locomotives which only run on a technically isolated 1 520 mm railway network. Those engines shall, as a minimum, comply with the emission limits that engines had to meet to be placed on the market on 31 December 2011.;

(2) in Article 10, the following paragraph is added:

8. Member States may decide not to apply this Directive to engines installed in cotton harvesting machinery..

Article 62

Amendment to Regulation (EU) No 1024/2012

In the Annex to Regulation (EU) No 1024/2012, the following point is added:

[^{X1}10. 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⁽³⁾: Article 44..]

Editorial Information

X1 Substituted by [Corrigendum to Regulation \(EU\) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations \(EU\) No 1024/2012 and \(EU\) No 167/2013, and amending and repealing Directive 97/68/EC \(Official Journal of the European Union L 252 of 16 September 2016\)](#).

Article 63

Amendment to Regulation (EU) No 167/2013

Article 19 of Regulation (EU) No 167/2013 is amended as follows:

(1) paragraph 3 is replaced by the following:

3. The provisions on engine categories, exhaust emission limits, test cycles, emission durability periods, exhaust emission requirements, the monitoring of emissions of in-service engines and the conduct of measurements and tests, as well as the transitional provisions and provisions allowing the early EU type-approval and the placing on the market of Stage V engines laid down for non-road mobile machinery in Regulation (EU) 2016/1628 of the European Parliament and of the Council⁽⁴⁾ and the delegated and implementing acts adopted pursuant thereto shall apply.

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 XIV. (See end of Document for details)

For the purposes of the placing on the market, registration or entry into service of tractors of categories T2, T4.1 and C2, the engines in the power range 56-130 kW meeting the Stage III B requirements shall be considered to be transition engines as defined in point (32) of Article 3 of Regulation (EU) 2016/1628.;

(2) in paragraph 6, the following subparagraph is added:

By way of derogation from the principle set out in the second subparagraph, the Commission shall be empowered to amend, by 31 December 2016, Commission Delegated Regulation (EU) 2015/96⁽⁵⁾, so that:

- (a) for the purposes of EU type-approval for tractors of categories T2, T4.1 and C2, the period of postponement set out in Article 11(4) of Delegated Regulation (EU) 2015/96 is four years; and
- (b) under the flexibility scheme referred to in Article 14 of Delegated Regulation (EU) 2015/96, the flexibility allowed pursuant to point 1.1.1 of Annex V to that Delegated Regulation is increased to 150 % for tractors of categories T2, T4.1 and C2..

Article 64

Repeal

1 Without prejudice to Article 58(1) to (4) of this Regulation, Directive 97/68/EC is repealed with effect from 1 January 2017.

2 References to the repealed Directive shall be construed as references to this Regulation.

Article 65

Entry into force and application

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

2 This Regulation shall apply from 1 January 2017, with the exception of Article 61, which shall apply from 6 October 2016.

From 6 October 2016, approval authorities shall not refuse to grant EU type-approval for a new engine type or engine family nor prohibit its placing on the market where that engine type or engine family complies with Chapters II, III, IV and VIII and the delegated and implementing acts adopted pursuant to 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 XIV. (See end of Document for details)

- (1) Commission Regulation (EU) No 1302/2014 of 18 November 2014 concerning a technical specification for interoperability relating to the ‘rolling stock — locomotives and passenger rolling stock’ subsystem of the rail system in the European Union (OJ L 356, 12.12.2014, p. 228).
- (2) Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (OJ L 96, 29.3.2014, p. 309).’;
- (3) [^{XI}OJ L 252, 16.9.2016, p. 53’.]
- (4) Regulation (EU) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations (EU) No 1024/2012 and (EU) No 167/2013, and amending and repealing Directive 97/68/EC (OJ L 252, 16.9.2016, p. 53)’;
- (5) Commission Delegated Regulation (EU) 2015/96 of 1 October 2014 supplementing Regulation (EU) No 167/2013 of the European Parliament and of the Council as regards environmental and propulsion unit performance requirements of agricultural and forestry vehicles (OJ L 16, 23.1.2015, p. 1).’.

Editorial Information

- XI** Substituted by [Corrigendum to Regulation \(EU\) 2016/1628 of the European Parliament and of the Council of 14 September 2016 on requirements relating to gaseous and particulate pollutant emission limits and type-approval for internal combustion engines for non-road mobile machinery, amending Regulations \(EU\) No 1024/2012 and \(EU\) No 167/2013, and amending and repealing Directive 97/68/EC \(Official Journal of the European Union L 252 of 16 September 2016\)](#).

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 XIV.