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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the approval and market surveillance of non-road mobile machinery circulating on public roads and amending Regulation (EU) 2019/1020**

(Text with EEA relevance)

{SEC(2023) 145 final} - {SWD(2023) 64 final} - {SWD(2023) 65 final} -  
{SWD(2023) 66 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • **Reasons for and objectives of the proposal**

This proposal aims to fill a gap in EU legislation for non-road mobile machinery. Non-road mobile machinery is a broad category of machinery fitted with a means for its own propulsion. These machines are regularly used in certain sectors or for specific purposes, for example they are used as construction, agricultural, garden, municipal or material handling equipment. Many technical aspects of non-road mobile machinery are harmonised at EU level (e.g. machinery safety, electromagnetic compatibility, noise emissions while the machine is carrying out works, exhaust emissions, etc.). In addition, a number of those machines occasionally need to circulate on public roads, mostly to move from one working place to another and as a result they are placed on the Union market for that purpose, as well. However, laying down requirements, for example on safety, solely for the circulation of mobile machinery on public roads remains within the sole remit of the Member States.

The fact that there are currently different national regulatory regimes causes additional costs and administrative burdens for the non-road mobile machinery sector. A costs and benefits study carried out by the European Commission in 2019 indicated that laying down uniform requirements at EU level could help the sector save 18% to 22% in compliance costs. It is expected that over a period of 10 years this proposal could generate up to €846 million in savings for all stakeholders. Since the administrative cost is estimated at 4% of the total, the overall **administrative saving** is calculated as **€3,38 million per year**. In particular, the need to comply with various national requirements for road circulation when designing, testing and manufacturing these machines creates additional costs for manufacturers. The absence of harmonisation delays the introduction of new products in the EU and constitutes an entry barrier (particularly for small to medium-sized enterprises (SMEs)). It also hinders the circulation of mobile machinery across the EU. The current proposal aims to address this situation by laying down harmonised rules for non-road mobile machinery to strengthen the single market while ensuring a high level of road safety.

#### • **Consistency with existing policy provisions in the policy area**

For many years, various aspects of non-road mobile machinery have been harmonised at EU level, such as the health and safety essential requirements relating to the design and construction of machinery (Directive 2006/42/EC)<sup>1</sup>, pollutant emissions from non-road mobile machinery (Regulation (EU) 2016/1628)<sup>2</sup>, noise emissions from certain types of machinery (Directive 2000/14/EC)<sup>3</sup>, and electromagnetic disturbances generated by these machines (Directive 2014/30/EC)<sup>4</sup>.

The Machinery Directive 2006/42/EC is the main regulatory basis for the free movement of non-road mobile machinery in the single market. It requires that such mobile machinery

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<sup>1</sup> Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery.

<sup>2</sup> 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.

<sup>3</sup> Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors.

<sup>4</sup> Directive 2014/30/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 electromagnetic compatibility.

placed on the single market meet the essential health and safety requirements laid down in its Annex I. These requirements cover aspects of the off-road travelling function of mobile machinery such as slowing down, stopping, braking, seating positions, restraint systems, etc. However, the essential health and safety requirements laid down by the Machinery Directive are only designed to address occupational safety (i.e. when machinery is at work), but do not cover the safety aspects related to the circulation of this machinery on public roads<sup>5</sup>.

Many aspects of the technical safety of vehicles, including the requirements for road circulation, are harmonised at EU level by vehicle type-approval legislation such as Regulation (EU) 2018/858 on the approval and market surveillance of motor vehicles and their trailers, or Regulation (EU) No 167/2013 on the approval and market surveillance of agricultural and forestry vehicles. These legislative acts do, however, not cover self-propelled non-road mobile machinery.

The proposal follows, to the extent possible, the approach and structure of the EU type-approval framework for motor vehicles (Regulation (EU) 2018/858)<sup>6</sup> and agricultural and forestry vehicles (Regulation (EU) No 167/2013)<sup>7</sup>, to maximise consistency with existing vehicle legislation. As regards the technical requirements and administrative provisions, the proposal is closely based on Regulation (EU) 167/2013. On the other hand, regarding market surveillance, the proposal follows similar provisions as included in Regulation (EU) 2018/858 which are also based on the New Legislative Framework<sup>8</sup>. Further, it similarly introduces a Forum for Exchange of Information on Enforcement to aid national authorities in applying and enforcing the requirements of this Regulation in a uniform manner across the Union. This ensures a level playing field and avoids divergent practices being applied across the Union.

The proposal does not affect the applicability of other Union legislation applicable to non-road mobile machinery, and is complementary, i.a., to the Union legislation relating to:

- (a) essential health and safety requirements relating to the design and construction of machinery, such as Directive 2006/42/EC;
- (b) pollutant emissions by non-road machinery, such as Regulation (EU) 2016/1628;
- (c) noise emissions, such as Directive 2000/14/EC;
- (d) electromagnetic compatibility, such as Directive 2014/30/EU or Directive 2014/53/EU.

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<sup>5</sup> On 21 April 2021, the Commission adopted a proposal for a new regulation on machinery products to replace the current Machinery Directive. Like the current Directive, the proposed regulation will not cover the safety aspects related to the circulation of mobile machinery on public roads. Interinstitutional negotiations on the proposed regulation are ongoing. The proposed regulation can be found at: <https://ec.europa.eu/docsroom/documents/45508>.

<sup>6</sup> Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ L 151, 14.6.2018, p. 1).

<sup>7</sup> Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural or forestry vehicles (OJ L 60, 2.3.2013, p. 1).

<sup>8</sup> In 2008, a new legislative framework was adopted to improve the single market for goods and to strengthen the conditions for placing a wide range of products on the EU market. This package of measures aims to improve market surveillance and to boost the quality of conformity assessments. It also clarifies the use of CE marking and creates a toolbox of measures for use in product legislation ([https://ec.europa.eu/growth/single-market/goods/new-legislative-framework\\_en](https://ec.europa.eu/growth/single-market/goods/new-legislative-framework_en)).

- **Consistency with other EU policies**

This initiative is consistent and complementary to existing legislative frameworks of EU harmonisation legislation, in particular the framework for the approval and market surveillance of vehicles and the New Legislative Framework, as mentioned above.

It also helps implement EU strategies on single market legislation and the EU industrial strategy. It will simplify the regulatory requirements for manufacturers of non-road mobile machinery in line with the Commission's communication *Updating and simplifying the Community acquis*<sup>9</sup>, which identified the type-approval system for motor vehicles as a priority area for simplification of Community legislation. Indeed, this initiative addresses one of the last remaining categories of vehicles for road circulation. The initiative is also part of the efforts to accelerate the green and digital transformation of the EU industry as encouraged by the May 2021 industrial strategy update<sup>10</sup>.

Finally, the proposal helps achieve the EU objective to make roads safer as outlined, in particular, in the Commission staff working document *EU Road Safety Policy Framework 2021-2030 - Next steps towards "Vision Zero"*<sup>11</sup>. The Commission adopted this staff working document as part of the Europe on the Move package in May 2018. It sets out how EU road safety policy is being translated into action.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis of the proposal is Article 114 of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity**

The proposal creates a harmonised regulatory framework for non-road mobile machinery to replace, after a transitional period, the different regulatory regimes that currently exist in the Member States. It aims to improve the functioning of the single market, while ensuring a high level of road safety. The different regulatory regimes in the Member States have created discrepancies in the single market, they are an economic and administrative burden and create barriers to the free circulation of non-road mobile machinery. Harmonising the safety rules for the road circulation of non-road mobile machinery and ensure its free movement for those aspects can only be done at EU level.

Without EU action, the single market will remain fragmented, leading to ever more diverging road circulation requirements for mobile machinery across the EU.

Creating an EU type-approval framework for mobile machinery and a corresponding market surveillance framework is the only means to achieve a fairer and deeper single market for the

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<sup>9</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions *Updating and simplifying the Community acquis*, 11.02.2003, COM(2003) 71 final (<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0071:FIN:en:PDF>).

<sup>10</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe's recovery*, COM(2021) 350 final (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:350:FIN>).

<sup>11</sup> Commission staff working document SWD(2019) 283 final (<https://transport.ec.europa.eu/system/files/2021-10/SWD2190283.pdf>).

sector. These results could not be achieved to a comparable degree by national legislation. Indeed, the different approaches at national level create barriers to entry for manufacturers located in one Member State and wishing to export to other Member States. This means such manufacturers will have to tailor their products to the specific national requirements in each Member State and bear the associated regulatory costs.

- **Proportionality**

The proposal complies with the proportionality principle because it does not go beyond what is necessary to achieve the objectives of ensuring the proper functioning of the single market while at the same time providing a high level of public road safety.

The proposal follows the logic, with some adaptations, of the well-established type-approval framework for motor vehicles and agricultural and forestry vehicles, as mentioned above. This reference framework has proven its appropriateness to stimulate a single market for those vehicles. Maintaining a high level of similarity between the proposal and the EU type-approval framework for motor vehicles will reduce the administrative burden of implementing the act. Where possible and duly justified, the framework has been simplified to take into account that several safety aspects of these machines are already regulated by the essential health and safety requirements laid down in Annex I to the Machinery Directive.

- **Choice of the instrument**

The use of a regulation is considered appropriate and necessary because it gives assurances about the direct and harmonised application of the procedures and requirements laid down by this act. A directive with transposition requirements risks using considerable resources of national administrations without adding value in terms of road safety. The technical and detailed nature of harmonisation, and the frequent adaptation to technical progress limits the practical opportunities for national administrations to deviate from the provisions of this proposal.

The proposal continues to build on the split-level approach already introduced in the EU type-approval framework for motor vehicles. This approach provides for legislation in three steps:

- the fundamental provisions and the scope are laid down by the European Parliament and the Council in a regulation based on Article 114 TFEU in accordance with the ordinary legislative procedure;
- the detailed technical specifications based on the fundamental provisions will be laid down in delegated acts adopted by the Commission in accordance with Article 290 TFEU; and
- implementing acts setting out the administrative provisions, such as the template for the information document and the type-approval certificates, the certificate of conformity, etc. will be adopted by the Commission in accordance with Article 291 TFEU.

### **3. RESULTS OF *EX POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Stakeholder consultations**

Numerous consultations over this file have been taking place over time, as follows:

In 2016, surveys to 35 stakeholders were carried out as input for a study on the EU harmonisation of the requirements for the road circulation of non-road mobile machinery<sup>12</sup>;

In 2017, Feedback on the Inception Impact Assessment was received<sup>13</sup> and a workshop was organised to collect views from the national authorities (ministries of transport) on the possible policy options forward;

In 2018, a workshop 2 was organised, for a more in-depth discussion on the preferred policy option and initiating a debate on technical requirements<sup>14</sup>;

In 2019, surveys to 90 stakeholders were carried out as input for a costs and benefit study<sup>15</sup>, a targeted consultation for Member States in 23 EU languages was carried out between May and September 2019 via EU survey<sup>16</sup>, and a workshop addressed to member state authorities, technical services, notified bodies and Europe-wide stakeholder organisations was organised in December 2019, to share the outcomes of the costs and benefits study and the targeted consultation, and to further discuss the policy options, scope and technical requirements<sup>17</sup>;

In 2020, a public consultation in 23 EU languages via EU survey was launched and open during 12 weeks from Nov. 2020 to Feb. 2021<sup>18</sup>;

In 2021, a workshop was organised with all main stakeholders, to share the main findings of the public consultation process and make progress on policy options, scope and technical requirements<sup>19</sup>;

In 2022, a workshop was organised with all main stakeholders, to share and gather feedback on the main features of the legislative proposal for the road approval of non-road mobile machinery under preparation<sup>20</sup>.

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<sup>12</sup> “Study on the EU harmonisation of the requirements for the road circulation of mobile machinery”. ECORYS, 2016. Available at: [https://single-market-economy.ec.europa.eu/sectors/mechanical-engineering/mobile-machinery\\_en](https://single-market-economy.ec.europa.eu/sectors/mechanical-engineering/mobile-machinery_en).

<sup>13</sup> Available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1198-Road-circulation-requirements-for-mobile-machinery\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1198-Road-circulation-requirements-for-mobile-machinery_en).

<sup>14</sup> Working documents are available in the library section of the CIRCABC interest group “New legislative initiative - Road circulation approval requirements for non-road mobile machinery”.

<sup>15</sup> “Cost/benefit analysis study for Impact Assessment on road circulation of Non-road mobile machinery”, PPMI, 2019. Available at: <https://op.europa.eu/en/publication-detail/-/publication/c0d598e2-17d8-11ea-8c1f-01aa75ed71a1/language-en>.

<sup>16</sup> Working document ‘NRMM-2019.03 MS Targeted Consultation Feedback’ summarising the findings of the targeted consultation carried out by the Commission on differences between member states approval systems for the road circulation of non-road mobile machinery. Available in the library section of the CIRCABC interest group “New legislative initiative - Road circulation approval requirements for non-road mobile machinery”.

<sup>17</sup> Working documents, such as ‘NRMM-2019.07 Draft Minutes Workshop NRMM 9 Dec 2019 rev1’ summarising discussion with stakeholders, are available in the library section of the CIRCABC interest group “New legislative initiative - Road circulation approval requirements for non-road mobile machinery”.

<sup>18</sup> Public consultation outcomes available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1198-Road-circulation-requirements-for-mobile-machinery/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1198-Road-circulation-requirements-for-mobile-machinery/public-consultation_en).

<sup>19</sup> Working documents, such as ‘NRMM-2021.05 Draft Minutes Workshop NRMM 6 May 2021’ summarising discussions with stakeholders, are available in the library section of the CIRCABC interest group “New legislative initiative - Road circulation approval requirements for non-road mobile machinery”.

In addition, several bilateral meetings with stakeholders were organised for a deeper analysis on certain aspects of the file.

A comparison of the stakeholder views on the policy options (majority of views) are summarised here below:

Policy option	Member States road approval authorities	Manufacturers and distributors	Rental companies and end users	Technical services
PO 0: Baseline	-	-	-	-
PO 1a: Type-approval	-	-	-	Preferred
<b>PO 1b: Simplified type -approval</b>	<b>Preferred</b>	<b>Preferred</b>	<b>Preferred</b>	-
PO 2: CE marking	-	-	-	-
Directive	-	-	-	-
<b>Regulation</b>	<b>Preferred</b>	<b>Preferred</b>	<b>Preferred</b>	<b>Preferred</b>
<b>Mandatory</b>	<b>Preferred optional at first, and mandatory later on</b>	-	-	Preferred
<b>Optional</b>		<b>Preferred</b>	<b>Preferred</b>	-
Self propelled and towed machinery in scope	-	Preferred	-	-
<b>Only self propelled machinery in scope</b>	<b>Preferred</b>	-	<b>Preferred</b>	-
No maximum design speed limit		Preferred	-	-
<b>Maximum design speed limit 40 Km/h</b>	<b>Preferred</b>	-	<b>Preferred</b>	-

- **Impact assessment**

This proposal is supported by an impact assessment. Related information can be found at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1198-Road-circulation-requirements-for-mobile-machinery\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/1198-Road-circulation-requirements-for-mobile-machinery_en).

The policy options considered are set out below.

- Option 0 – baseline. No action.
- Option 1 – EU approval of the entire mobile machine granted by Member State authorities (old approach). This policy option follows the principles of EU legislation on vehicles, where the technical specifications to comply with the general requirements are integrated into the legislation.
  - 1.a – type approval. For most components, systems and separate technical units, the road approval would involve a third party.
  - 1.b – simplified type approval. For components, systems and separate technical units that are more critical for road safety, the conformity assessment would involve a third party (independent authorised body). For components, systems and separate technical units that are

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<sup>20</sup> Working document ‘NRMM-2022.02 220608\_Presentation Workshop NRMM 08.06’, available in the library section of the CIRCABC interest group “New legislative initiative - Road circulation approval requirements for non-road mobile machinery”.

less critical for road safety, the conformity assessment would be based on reports or self-certification by the manufacturer.

- Option 2 – CE marking of the entire mobile machine granted by the manufacturer (new approach). This policy option follows the principles of new EU legislation on the non-road use of mobile machinery (e.g. the Machinery Directive), where only the essential safety requirements are embedded in law, not the detailed technical specifications.

In principle, all options can be implemented by issuing either a directive or a regulation.

The following aspects of the legislation were also assessed: (i) making it mandatory (replacing the current 27 national rules) or optional (an alternative to the current 27 national rules); (ii) including (or not) towed equipment in the scope; and (iii) limiting (or not) the scope to non-road mobile machinery with a maximum design speed not exceeding 40 km/h.

The preferred policy option is 1.b (simplified type approval), mandatory (after a transitional period), covering self-propelled machinery only (not towed), with a maximum design speed limit of 40 km/h, in the form of a regulation.

The type-approval system that details technical specifications in the legislation is the widely accepted and trusted framework for road safety in EU. It should be simplified to be proportionate and to take account of the characteristics of non-road mobile machinery (low circulation frequency). A mandatory policy seems more adequate after a transitional period, during which manufacturers will have the choice whether to apply for the EU type-approval (and benefit from the free movement) or to apply for national legislation (valid for that country only).

The rules would only cover self-propelled machinery since the vast majority of towed equipment can already be type-approved under other vehicle categories. Machinery covered by the regulation would have a maximum design speed set at 40 km/h. A higher speed is not deemed necessary nor appropriate for this type of machinery. Indeed, manufacturers of faster vehicles can in principle opt for the currently available type-approval procedures for the other vehicle categories.

Given that noise emissions of most of the non-road mobile machinery at stake is already covered by the Directive 2000/14/EC<sup>21</sup>, that non-road mobile machinery represents a very small portion of the vehicles on EU roads, and that the maximum design speed in scope will be limited to 40 km/h, it does not appear necessary to foresee specific noise requirements in addition of those already existing.

Lastly, since the technical requirements will be highly detailed and will leave practically no room for discretion by the Member States when transposing them, a regulation is preferred.

A harmonised simplified type-approval policy for road circulation will have the following implications for the stakeholders involved.

- Manufacturers and distributors will: i) have an easier market entry; ii) eliminate delays linked to multiple EU countries' approvals; iii) benefit from a reduction by a

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<sup>21</sup> Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors.



fifth of the compliance costs; iv) enhance their competitiveness in and outside the EU.

- Rental companies and end users will: i) benefit from a reduction by a fifth of the compliance costs; ii) easily use and re-sell machinery across intra-EU borders; iii) have more choice of non-road mobile machinery; iv) have access to more innovative designs.
- Member States authorities: will need to adapt to the new systems, however this is not seen as a problem or a significant burden by the affected authorities.
- Technical services: will need to adapt to the new system, and will see an increase on workload and revenue, although this may be mitigated by the fact that approvals will likely decrease in number since manufacturers will have to undergo them in one EU country only.
- Road users: will benefit from harmonised rules that ensure high road safety across the EU.

The total benefits for economic operators are as follows: estimated net savings of EUR 846 million over 10 years, of which EUR 502 million for manufacturers and distributors and EUR 344 million for rental companies and end users. The increased turnover for technical services is partially offset by a decrease in the total number of approvals.

The estimated costs for manufacturers, distributors, rental companies and end users are offset by far by the estimated savings. The net savings are estimated above.

In the non-road mobile machinery sector, 98% of companies are SMEs, which account for 18% of revenues and 30% of employment. Many SMEs are strong exporters and will benefit significantly from having simplified EU-wide rules. Others will be able to keep applying the national rules. The net savings for SMEs are estimated at €152 million over 10 years.

There are estimated societal benefit will be higher road safety across the EU.

The RSB (Regulatory Scrutiny Board) issued its opinion on 10/12/2021, following which this impact assessment was revised as follows:

RSB recommendations	Revisions introduced
<b>(B) Summary of findings</b>	
(1) The report does not sufficiently explain why mutual recognition does not work in this sector and why promoting the respect of the mutual-recognition principle is not one of the policy options.	Section 2 on problem description now discusses in more detail why mutual recognition does not function in the non-road mobile machinery sector, despite being an area of technical regulation without EU harmonisation. In addition, the analysis on why mutual recognition does not work and would not work in the future has been further expanded in sections 5.1 and 5.3, explaining why a policy option aiming to promote the practical implementation of the mutual recognition principle was discarded.
(2) The report does not provide convincing evidence that a lack of harmonised rules results in more accidents involving non-road mobile machinery. It does not justify	Section 7 explains better why harmonised requirements would likely increase the level of road safety of non-road mobile machinery across the EU, and why road safety requires equal requirements and technical solutions, and not just sufficiently high requirements. This supports the choice of the preferred option, since a main determining factor is its higher score on road safety.

why the initiative aims at equal requirements and technical solutions for road safety.	The assessment of the options in section 6 explains how this initiative will contribute specifically to road safety and specifies whether all options can deliver on the objectives. Section 4 on specific objective discusses the limitations of road safety as an objective of the new policy, and how, despite this, road safety would be enhanced by the adoption of the proposed policy.
(3) The report is unclear about the methodology used to estimate costs and cost savings. It does not present the reliability and robustness of the evidence base.	Section 2 on problem description provides now a clear overview of the different cost categories, describing in more detail the costs incurred by each of the affected groups (manufacturers, distributors, rental companies, end users and authorities). Section 2 explains as well how indirect costs are estimated and discuss whether they are realistic or risk to be overestimated, and specifies which costs and savings correspond to. Additional clarifications on the methodology used to estimate costs and cost savings, the sources of information and main assumptions, have been added in sections 2 and 6, as well as in this Annex 1, where the reliability of the estimates has been assessed, as well as the possible uncertainties affecting the evidence base.
(4) It is unclear why the report does not assess the additional design elements as part of the main policy options. It does not explain to what extent the assessment of impacts and the choice of the preferred option would change if these design elements were taken into account in the analysis.	The report justifies in section 6 why additional design elements affecting the obligatory nature as well as the scope of harmonised rules are assessed separately from the main policy options. In section 7, it also calculates the impacts as a result of the choices made on these design elements. In particular, the report considers in section 7 how the estimated impacts would change if EU and national rules coexist or if the scope of application is narrowed. It also clarifies that the choice of the preferred option would not change in light of these specific design elements. The costs and benefits in the standardised table in Annex 3 has been changed to incorporate the additional design elements that are part of the preferred option.
<b>(C) What to improve</b>	
(1) Mutual recognition	The problem description section 2 discusses in more detail why mutual recognition does not function in the mobile machinery sector, despite being an area of technical regulation without EU harmonisation, and why as a consequence there is no policy option aiming to promote the practical implementation of the mutual recognition principle.
(2) The problem description should provide a clear overview of the different cost categories.	The problem description section 2 describes in more detail the costs incurred by manufacturers due to market entry delays, distinguishing them clearly from the direct costs, and how they are estimated, per each of the affected groups (manufacturers, distributors, users, rental companies and authorities). Annexes 1 and 4 include more details on data limitations and calculation methods.
(3) Why harmonised requirements	Section 6 explains why harmonised requirements would likely increase the level of road safety of mobile machinery across the EU, and why road safety requires equal requirements and technical solutions, and not just sufficiently high requirements.
(4) Road safety as secondary objective	Section 4 explains clearly that road safety is a secondary objective rather than one of the main specific objectives. Section 6 clarifies how this initiative will contribute specifically to road safety, and how and to what extent each of the options can deliver on the

	objectives set.
(5) New policy versus implementing legislation.	Section 8 clarifies what is decided now, based on this impact assessment, and what will be decided later through implementing legislation.
(6) Methodology used to quantify costs and savings	Section 6 presents the sources of information and main assumptions, providing more detail in Annexes 1 and 4, assessing the reliability of the estimates and possible uncertainties affecting the evidence base.
(7) Assessment of additional design elements	Section 6 explains why additional design elements affecting the scope and take up of harmonised rules are assessed separately from the analysis of the main policy options and considers how the impacts would change as a result of the choices made on these design elements. The costs and benefits table in Annex 4 include the additional design elements that are part of the preferred option.

#### 4. BUDGETARY IMPLICATIONS

Member States will face some adaptation costs to adjust to the new regulation. However, since they already handle several type-approval frameworks for other vehicles, they have the structure and technical services in place to handle this additional regulation without it imposing a significant burden.

This initiative has no impact on the EU budget.

#### 5. OTHER ELEMENTS

##### • **Implementation plans and monitoring, evaluation and reporting arrangements**

Once implemented, the actual impacts of the chosen policy option need to be monitored and compared to the objectives and the expected impacts. A Commission expert group will meet regularly and gather expertise from the mobile machinery sector, in order to analyse the applicability and implementation of this regulation in all EU countries.

At least the following indicators are proposed to collect the necessary information:

- number of EU approvals for new non-road mobile machinery granted in each Member State;
- number of national approvals for new mobile machinery granted in each Member State, compared to the average of the number of national approvals granted in the 5 last calendar years previous to the entry into application of the new regulation;
- reporting on road accidents with mobile machinery by Member States;
- direct costs of compliance for EU type-approval per each new type of machinery (this indicator can only be assessed by means of a survey-based process, as carried out as part of the impact assessment study; carrying out such a survey again after full implementation of the new legislation would provide a comparative figure); and
- indirect cost savings with EU approval per each new type of machinery (market delays): by means of a survey-based process, after full implementation of the new legislation.

The new regulation should be evaluated within 5 years of its entry into application.

- **Detailed explanation of the specific provisions of the proposal**

To the extent possible, the proposal follows the structure of Regulation (EU) No 167/2013. The proposed act concerns a European Economic Area (EEA) matter and should therefore extend to the EEA.

## CHAPTER I

This chapter sets out the purpose of the proposal, namely to:

- lay down the technical requirements for the road safety of non-road mobile machinery falling within the scope of the proposal, and the administrative provisions for the EU type approval of such machinery; and
- set the rules and procedures for the market surveillance of non-road mobile machinery that falls within the scope of EU type approval in accordance with this proposal.

In addition, it determines the scope, by stipulating that it applies to non-road mobile machinery that is placed on the EU market, and by listing specific exceptions. For example, this chapter provides that the proposal does not apply to individual approvals, any vehicle that falls within the scope of Regulation (EU) No 167/2013, Regulation (EU) No 168/2013 or Regulation (EU) 2018/858 or non-road machinery with a maximum design speed exceeding 40 km/h.

Lastly, in Article 3, it includes definitions of the terms used in the proposal.

## CHAPTER II

This chapter set outs the obligations of Member States, approval authorities and economic operators (manufacturers, manufacturer's representative, importers and distributors).

In particular, it obliges Members States:

- to permit the placing on the market, registration or entry into service of only non-road mobile machinery that satisfies the requirements set out in the proposal; and
- to organise and carry out market surveillance activities and checks of non-road mobile machinery entering the market in accordance with Chapters IV, V and VII of Regulation (EU) 2019/1020.

Manufacturers are obliged to ensure that only compliant non-road machinery is placed on the market.

It also lists the technical requirements for the road safety of non-road mobile machinery. The Commission is empowered to adopt delegated acts to specify the detailed technical requirements, procedures and tests.

Lastly, it includes a general provision, requiring that non-road mobile machinery is made available, put into service or registered only if it is in conformity.

## CHAPTERS III-VIII

These chapters include provisions on the EU type-approval procedure and related issues such as the EU type-approval certificate, the certificate of conformity and marking.

More specifically, there are provisions on: (i) the application and information folder that must be submitted; (ii) how and when the approval authority must grant type approval; (iii) the EU type-approval certificate and its amendment when it is necessary; (iv) the procedures for demonstrating conformity with the technical requirements; (v) the validity of EU type

approvals; and (vi) the obligation to deliver a certificate of conformity and affix the statutory plate with the marking.

#### CHAPTER IX

This chapter contains provisions on EU market surveillance, checks of non-road machinery entering the EU market, and EU safeguard procedures. It integrates provisions from Decision No 768/2008/EC and has cross references to the recent Market Surveillance Regulation (Regulation (EU) 2019/1020).

#### CHAPTER X

Under this chapter, the manufacturer is obliged to provide technical information that does not diverge from the particulars approved by the approval authority.

#### CHAPTER XI

This chapter lays down the requirements relating to technical services and the procedures for designating such services.

#### CHAPTER XII

This chapter includes details on the exercise of the Commission's powers to adopt implementing and delegated acts pursuant to the proposal.

#### CHAPTER XIII

This chapter establishes a forum, amends Regulation (EU) 2019/1020, provides for penalties, and reporting and specifies the dates of entry into force and application.

In this chapter, there is a transitional provision allowing Member States, for a period of 8 years from the date of applicability of the Regulation, to apply any national regulations legislation on national type-approval of non-road mobile machinery for circulating on public roads. In the case where non-road machinery complies with that national legislation will not benefit from the free movement.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the approval and market surveillance of non-road mobile machinery circulating on public roads and amending Regulation (EU) 2019/1020**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>22</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Self-propelled mobile machinery, falling within the scope of Directive 2006/42/EC of the European Parliament and of the Council<sup>23</sup>, that is designed or constructed with the purpose to perform work, ('non-road mobile machinery') might need, whether occasionally or often, to circulate on public roads, mostly to move from one working place to another.
- (2) Certain aspects of the design and construction of non-road mobile machinery are already covered by Union harmonisation legislation, in particular Regulation (EU) 2016/1628 of the European Parliament and of the Council<sup>24</sup>, Directive 2000/14/EC of the European Parliament and of the Council<sup>25</sup>, Directive 2014/30/EU of the European

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<sup>22</sup> OJ C [...], [...], p. [...].

<sup>23</sup> Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (OJ L 157, 9.6.2006, p. 24).

<sup>24</sup> 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).

<sup>25</sup> Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors.

Parliament and of the Council<sup>26</sup> or Directive 2014/53/EU of the European Parliament and of the Council<sup>27</sup>, and Directive 2006/42/EC.

- (3) As regards the safety of mobile machinery, Directive 2006/42/EC is the main regulatory act applying to that machinery when placed on the Union market. It sets out essential health and safety requirements covering the off-road travelling function of mobile machinery such as slowing down, stopping, braking, driving positions, restraint systems, etc. However, the essential health and safety requirements, set out in that Directive, are only designed to address safety when machinery is at work, but do not cover the safety aspects of this machinery when circulating on public roads.
- (4) Due to the absence of harmonised rules on the road safety of non-road mobile machinery, economic operators that produce or make available on the Union market non-road mobile machinery are facing significant costs associated to the different regulatory requirements in the Member States. In addition, the road safety, for that machinery, is not ensured uniformly in the whole territory of the Union. Consequently, it is necessary to establish harmonised rules at Union level with respect to the road safety of non-road mobile machinery.
- (5) For the purposes of the development and operation of the internal market of the Union, it is appropriate to establish a harmonised type-approval system for the road safety of non-road mobile machinery intended to circulate on public roads.
- (6) Since the purpose of this Regulation is to address the risks stemming from the road circulation of non-road mobile machinery designed and constructed for performing work and not for the transport of persons, animals or goods (except to carry materials that contribute to the operation of the machine), this Regulation should not apply to machinery whose only objective is the mere transport of persons, animals or goods. All types of new personal mobility devices (stand-up and seated e-scooters, electrically assisted pedal cycles including electrically power assisted cycles and those intended for carrying commercial cargo, self-balancing vehicles including self-balancing personal transporters and hoverboards, electric unicycles, electric skateboards and 'One-wheel' boards, among others) will therefore not be subject to this Regulation.
- (7) Given the purpose of this Regulation to address road circulation of non-road mobile machinery designed and constructed for performing work, and not to transport workers, mobile machinery which is equipped with more than three seating positions, including the driver's seating position, should also be excluded from this Regulation.
- (8) Slow non-road mobile machinery is the majority of the non-road mobile machinery market. In addition, some Member States have established a road circulation speed limit for non-road mobile machinery at 40 km/h. Moreover, as road safety risks are proportional to the road speed, it would not be coherent for a framework, that addresses safety risks only for non-road mobile machinery and not for regular vehicles to cover fast non-road mobile machinery. This Regulation should therefore not apply to mobile machinery with a maximum design speed of more than 40 Km/h.

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<sup>26</sup> Directive 2014/30/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 electromagnetic compatibility (OJ L 96, 29.3.2014, p. 79).

<sup>27</sup> Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

- (9) Individual approvals can be of use for machinery that is circulating in the territory of only one Member State and therefore such approvals should be excluded from the scope of this Regulation.
- (10) Given that small and medium enterprises produce non-road mobile machinery in small series, of which the number of units that are made available on the market, registered or entered into service do not exceed, per year and in each Member State, 50 units per that type, it is appropriate to allow for national small series type-approval and should be therefore excluded from the scope of this Regulation. The manufacturer, should, however, be able to apply for an EU type-approval in order to benefit from the free movement.
- (11) Given that, in certain instances, non-road mobile machinery, due to its excessive dimensions, would not allow for sufficient manoeuvrability on public roads or, due to its excessive weight or masses, could damage the surface of public roads or other road infrastructure, it is appropriate to provide the discretion to Member States to prohibit the circulation of such machinery, even if it has been type-approved in accordance with this Regulation.
- (12) In order to minimise the risk of injury to persons and of damage to road infrastructure, while a non-road mobile machinery is circulating on a public road, technical requirements should be set out. The technical requirements should include subjects relating to road safety such as vehicle structure integrity, maximum design speed, speed governor, speed limitation devices and speedometer, braking devices, steering, field of vision, and masses and dimensions
- (13) In order to reduce administrative burden for economic operators, this Regulation should allow for the use of components and separate technical units in non-road mobile machinery that have been type-approved in accordance to Regulation (EU) 167/2013 or Regulation (EU) 2018/858.
- (14) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that they only make available on the market non-road mobile machinery which is in conformity with this Regulation. It is necessary to provide for a clear and proportionate distribution of obligations which correspond to the role of each economic operator in the supply and distribution chain.
- (15) With a view to ensure that the procedure for monitoring conformity of production, which is one of the cornerstones of the EU type-approval system, has been correctly implemented and functions properly, manufacturers should be regularly checked by the competent authority or by an appropriately qualified technical service designated for that purpose.
- (16) In order to ensure legal certainty, it is necessary to clarify that rules on Union market surveillance and control of products entering the Union market provided for in Regulation (EU) 2019/1020 of the European Parliament and of the Council<sup>28</sup> apply to non-road mobile machinery covered by this Regulation and in relation to the aspects addressed or covered by the technical requirements of this Regulation and thereby amend Annex I to that Regulation in order to list, in that Annex, the references of this Regulation.

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<sup>28</sup> Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).



- (17) In order to ensure uniform conditions for the implementation of the EU type-approval procedure and certain administrative provisions of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>29</sup>.
- (18) Closer coordination between national authorities through information exchange and coordinated assessments under the direction of a coordinating authority is fundamental in order to ensure a consistently high level of safety and of health within the internal market. It would also lead to more efficient use of scarce resources at national level. For this purpose, an advisory Forum should be established for Member States and the Commission with the objective of promoting best practices, exchanging information and coordinating activities related to the enforcement of this Regulation. Given the establishment of such a Forum and considering its tasks, it should not be necessary to establish a separate administrative cooperation group, as required by Article 30 (2) of Regulation (EU) 2019/1020. However, the Forum should be considered as an administrative cooperation group for the purposes of the Union Product Compliance Network referred to in Article 29 of that Regulation.
- (19) In order to supplement this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the harmonisation of the thresholds that may be applied by Member States in relation to the excessive dimensions and masses of non-road mobile machinery, the applicability of the elements of the technical requirements, for laying down detailed technical requirements, test procedures and test methods, for virtual testing, for arrangements with regard to conformity of production and for specifying rules in relation to technical services. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>30</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (20) Member States should lay down rules on penalties applicable to infringements of this Regulation and make sure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (21) The Commission should report to the European Parliament and the Council on the operation of this Regulation and, based on information provided by Member States, reconsider, if needed, the question of whether to submit an exclusive legislative proposal for the harmonisation of the individual approval system at Union level or extend the transitional period for the national type-approval.
- (22) In order to enable Member States and national authorities as well as economic operators to prepare for the application of the new rules introduced by this Regulation, a date of application falling after the date of the entry into force should be set. It is

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<sup>29</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.02.2011, p. 13).

<sup>30</sup> OJ L 123, 12.5.2016, p. 1.

also necessary to provide for a transitional period allowing the manufacturers, during that period, to comply with this Regulation and benefit from the free movement or to comply with the relevant national type-approval legislation.

- (23) Since the objective of this Regulation, namely laying down harmonised technical requirements, administrative requirements and procedures for the type-approval of new non-road mobile machinery, while circulating on public roads, as well as the rules and procedures for the market surveillance of such machinery, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

## **CHAPTER I**

### **SUBJECT MATTER, SCOPE AND DEFINITIONS**

#### *Article 1*

##### *Subject matter*

1. This Regulation lays down technical requirements, administrative requirements and procedures, for the EU type-approval and placing on the market of non-road mobile machinery intended to circulate on public roads.
2. This Regulation also lays down rules and procedures for the market surveillance of the non-road mobile machinery.

#### *Article 2*

##### *Scope*

1. This Regulation applies to non-road mobile machinery where it is placed on the market and intended to circulate, with or without a driver, on a public road.
2. This Regulation does not apply to the following:
  - (a) non-road mobile machinery with a maximum design speed exceeding 40 km/h;
  - (b) non-road mobile machinery equipped with more than three seating positions, including the driver's seating position;
  - (c) machinery, as defined in Article 2 (a) of Directive 2006/42/EC, primarily intended for the transport of one or more persons or animals, or any goods other than instruments or auxiliaries required for the performance of work, materials resulting from or necessary for the work or for intermediate storage and materials transported on construction sites;
  - (d) vehicles, including motor vehicles, tractors, trailers, two-wheel or three-wheel vehicles, quadricycles and interchangeable towed equipment, falling within the scope of Regulation (EU) No 167/2013, Regulation (EU) No 168/2013 or Regulation (EU) 2018/858;

- (e) non-road mobile machinery that was placed on the market, registered or entered into service before [OP: please insert the date = the date of application of this Regulation];
- (f) individual approvals of non-road mobile machinery for circulating on public roads, granted in accordance with national legislation, and to non-road mobile machinery that complies with that national legislation;
- (g) approvals of non-road mobile machinery produced in small series, for circulating on public roads, granted in accordance with national legislation, and to non-road mobile machinery that complies with that national legislation.

As regards non-road mobile machinery produced in small series, the manufacturer may choose either to apply for EU type-approval or to comply with the relevant national legislation referred to in point (g) of the first subparagraph.

### *Article 3*

#### ***Definitions***

For the purposes of this Regulation, the following definitions apply:

- (1) ‘non-road mobile machinery’ means any self-propelled mobile machinery, falling within the scope of Directive 2006/42/EC, that is designed or constructed with the purpose to perform work;
- (2) ‘individual approval’ means the certification from an approval authority that a particular non-road machinery, whether unique or not, satisfies the relevant national administrative provisions and technical requirements for national individual approval of non-road mobile machinery;
- (3) ‘non-road mobile machinery produced in small series’ means the national type-approval of a type of non-road mobile machinery of which the number of units that are made available on the market, registered or entered into service cannot exceed, per year and in each Member State, 50 units per that type;
- (4) ‘system’ means an assembly of devices combined to perform one or more specific functions in a non-road mobile machinery and that is subject to the technical requirements;
- (5) ‘component’ means a device that is intended to be part of a non-road mobile machinery that can be type-approved independently of that machinery;
- (6) ‘separate technical unit’ means a device that is intended to be part of a non-road mobile machinery that can be type-approved separately;
- (7) ‘EU type-approval’ means the certification from an approval authority that a type of non-road mobile machinery satisfies the relevant provisions of this Regulation;
- (8) ‘market surveillance authority’ means the authority of a Member State responsible for carrying out market surveillance on the territory of that Member State;
- (9) ‘approval authority’ means the authority of a Member State, notified to the Commission by that Member State, with competence for all aspects of the type-approval of a non-road mobile machinery, for issuing and, if appropriate, for withdrawing or refusing approval certificates, for acting as the contact point for the approval authorities of the other Member States, for designating the technical

services, and for ensuring that the manufacturer meets its obligations regarding the conformity of production;

- (10) ‘national authority’ means an approval authority or any other authority involved in and responsible for market surveillance, border control or registration in a Member State in respect of non-road mobile machinery;
- (11) ‘technical service’ means an independent organisation or body designated by the approval authority as a testing laboratory to carry out tests or as a conformity assessment body to carry out the initial assessment and other tests or inspections, on behalf of the approval authority, it being possible for the approval authority itself to carry out those functions;
- (12) ‘manufacturer’ means any natural or legal person who manufactures non-road mobile machinery or has non-road mobile machinery designed or manufactured, and markets that machinery under his or her name or trade mark;
- (13) ‘manufacturer's representative for market surveillance’ means any natural or legal person established in the Union who is duly appointed by the manufacturer to carry out the tasks specified in Article 8;
- (14) ‘importer’ means a natural or legal person established in the Union who places on the market a non-road mobile machinery that has been manufactured in a third country;
- (15) ‘distributor’ means a dealer or any other natural or legal person in the supply chain, other than the manufacturer or the importer, who makes available on the market a non-road mobile machinery;
- (16) ‘economic operator’ means the manufacturer, the manufacturer's representative for market surveillance, the importer or the distributor;
- (17) ‘placing on the market’ means making available a non-road mobile machinery for the first time in the Union;
- (18) ‘making available on the market’ means any supply of a non-road mobile machinery for distribution or use on the market in the course of a commercial activity, whether in return for payment or free of charge;
- (19) ‘entry into service’ means the first use, for its intended purpose, in the Union, of a non-road mobile machinery;
- (20) ‘registration’ means the administrative authorisation for the entry into service including for road traffic of a non-road mobile machinery, involving the identification of the latter and the issuing to it of a serial number to be known as the registration number, be it permanently or temporarily;
- (21) ‘EU type-approval certificate’ means the document issued by the approval authority which certifies that a type of non-road mobile machinery is type-approved in accordance with this Regulation;
- (22) ‘certificate of conformity’ means the document issued by the manufacturer, as provided for in this Regulation, which certifies that a produced non-road mobile machinery conforms to the approved type of non-road mobile machinery;
- (23) ‘non-road mobile machinery type’ means a particular category or class of non-road mobile machinery, including variants and versions of variants of that machinery, that shares in at least the following essential respects:
  - (a) category or class,

- (b) manufacturer,
  - (c) type designation given by the manufacturer,
  - (d) essential construction and design characteristics,
  - (e) backbone chassis/chassis with side members/articulated chassis (obvious and fundamental differences),
  - (f) axles (number) or tracks (number),
  - (g) in the case of multi-stage built non-road mobile machinery, the manufacturer and the type of the previous stage non-road mobile machinery;
- (24) ‘variant’ means non-road mobile machinery of the same type which does not differ in at least the following respects:
- (a) body structural concept or type of body work,
  - (b) stage of completion,
  - (c) engine (internal combustion/hybrid/electric/hybrid-electric),
  - (d) operating principle,
  - (e) number and arrangement of cylinders,
  - (f) power difference of no more than 30 % (the highest power being no more than 1,3 times the lowest power),
  - (g) cylinder capacity difference of no more than 20 % (the highest figure being no more than 1,2 times the lowest figure),
  - (h) powered axles (number, position, interconnection),
  - (i) steered axles (number and position),
  - (j) maximum laden mass differing by no more than 10 %,
  - (k) transmission (type),
  - (l) rollover protection structure,
  - (m) braked axles (number);
- (25) ‘version of a variant’ means vehicles which consist of a combination of items shown in the information package;
- (26) ‘technical requirements’ means the technical requirements listed in Article 15;
- (27) ‘information package’ means the information package referred to in Article 19(4);
- (28) ‘holder of EU type-approval’ means the natural or legal person who applied for EU type-approval and to whom an EU type approval certificate has been issued;
- (29) ‘non-road mobile machinery presenting a serious risk’ means non-road mobile machinery that, based on an appropriate risk assessment that takes account of the nature of the hazard and the likelihood of its occurrence, presents a serious risk in relation to the aspects covered by this Regulation;
- (30) ‘recall’ means any measure aimed at achieving the return of non-road mobile machinery that has already been made available to the end-user;
- (31) ‘withdrawal’ means any measure aimed at preventing non-road mobile machinery in the supply chain from being made available on the market.

# CHAPTER II

## OBLIGATIONS

### *Article 4*

#### *Obligations of Member States*

1. Member States shall establish or appoint the authorities competent in matters concerning approval and market surveillance in accordance with this Regulation. Member States shall notify the Commission of the establishment and appointment of such authorities.
2. The notification of the approval and market surveillance authorities shall include their name, address, including electronic address, and area of responsibility. The Commission shall publish on its website a list and details of the approval authorities.
3. Member States shall only permit the making available on the market, registration, entry into service or circulation on public roads of non-road mobile machinery that complies with this Regulation.
4. Member States shall not, for the aspects covered by this Regulation, prohibit, restrict or impede the making available on the market, registration, entry into service or circulation on public roads of non-road mobile machinery that complies with this Regulation.
5. By way of derogation from paragraph 4, Member States may limit or prohibit the circulation on public roads of non-road mobile machinery, which satisfies the following criteria:
  - (a) due to its excessive dimensions, the machinery would not allow for sufficient manoeuvrability on public roads; or
  - (b) due to its excessive weight or masses, the machinery could damage the surface of public roads or other road infrastructure.

The Commission is empowered to adopt delegated acts in accordance with Article 47 to supplement this Regulation establishing the thresholds values, including for the machinery's maximum road laden mass, beyond which the non-road mobile machinery's dimensions, weight and masses are considered as excessive in the meaning of point (a) and (b) of the first subparagraph. These delegated acts may establish the categories or classes of non-road machinery concerned.

6. Member States shall organise and carry out market surveillance activities and controls of non-road mobile machinery entering the market in accordance with Chapters IV, V and VII of Regulation (EU) 2019/1020.

### *Article 5*

#### *Obligations of approval authorities*

1. Approval authorities shall ensure that manufacturers applying for EU type-approval comply with their obligations under this Regulation.

2. Approval authorities shall approve only such non-road mobile machinery that satisfy the requirements of this Regulation.
3. Approval authorities shall carry out their duties under this Regulation independently and impartially. They shall cooperate efficiently and effectively, and shall share information relevant to their role and functions.

## *Article 6*

### ***General obligations of manufacturers***

1. Manufacturers shall ensure that non-road mobile machinery that they place on the market belongs to a type that has been granted an EU type-approval and it is designed and manufactured in accordance with that type.
2. Manufacturers shall ensure that an EU type-approved non-road mobile machinery that they place on the market bears the statutory plate and marking, required by this Regulation, the certificate of conformity accompanies that machinery and the documents, information and instructions for the user have been drawn up as required by this Regulation..
3. For the purposes 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 Article 17 or an additional representative. The manufacturer's representative for market surveillance shall perform the tasks specified in the mandate, as provided for in Article 8.
4. Manufacturers shall indicate their name, registered trade name or registered trade mark, and the postal address and the email address at which they can be contacted, on their non-road mobile machinery or, where that is not possible, on its packaging or in a document accompanying that machinery. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities.
5. Manufacturers shall be responsible to the approval authority for all aspects of the approval process and for ensuring conformity of production, whether or not they are directly involved in all stages of the construction of a non-road mobile machinery.
6. Manufacturers shall ensure that procedures are in place for series production to remain in conformity with the approved type. Changes in design or characteristics of a non-road mobile machinery and changes in the requirements to which that machinery is declared to conform shall be taken into account in accordance with Chapter V.
7. Manufacturers shall ensure that, while an EU type-approved non-road mobile machinery is under their responsibility and is intended to be made available on the market, storage or transport conditions do not jeopardise its conformity with this Regulation.

## *Article 7*

### ***Specific obligations of manufacturers***

1. Manufacturers who have sufficient reason to believe that a non-road mobile machinery which they have made available on the market is not in conformity with

this Regulation shall immediately take the corrective measures necessary to bring that non-road mobile machinery into conformity, to withdraw it or to recall it, as appropriate.

The manufacturer shall immediately inform the approval authority which granted the EU type-approval, giving details of the non-conformity and of any measures taken.

2. Manufacturers who have sufficient reason to believe that a non-road mobile machinery which they have made available on the market presents a serious risk shall immediately inform the approval and the market surveillance authorities of the Member States in which the non-road mobile machinery was made available on the market to that effect, giving details of the non-conformity and any corrective measures taken.
3. Manufacturers shall keep, at the disposal of the approval authorities, the information package and a copy of the certificates of conformity, for a period of 10 years after the placing on the market of a non-road mobile machinery.
4. Following a reasoned request from a national authority, manufacturers shall provide that authority through the approval authority with a copy of the EU type-approval certificate translated in a language which can be easily understood by that authority.

Manufacturers shall cooperate with the national authority on any action taken in accordance with Article 19 of Regulation (EU) 2019/1020 to eliminate the risks posed by their non-road mobile machinery which have been placed on the market, registered or entered into service.

5. Manufacturers shall examine any complaints they receive relating to risks, suspected incidents or non-compliance issues with the non-road mobile machinery that they have placed on the market.

In case of a substantiated complaint, manufacturers shall inform their distributors and importers thereof.

Manufacturers shall keep a record of complaints referred to in the first paragraph, including for each complaint a description of the issue and the details needed to identify the affected type of non-road mobile machine.

#### *Article 8*

##### ***Obligations of manufacturer's representatives concerning market surveillance***

The manufacturer's representative for market surveillance shall perform the tasks specified in the mandate received from the manufacturer. That mandate shall allow a representative to do the following:

- (a) have access to the information folder referred to in Article 18 and the certificates of conformity;
- (b) following a reasoned request from an approval authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of production of a non-road mobile machinery;
- (c) cooperate with the approval or market surveillance authorities, at their request, on any action taken to eliminate the serious risk posed by non-road mobile machinery covered by their mandate.



## Article 9

### ***General obligations of importers***

1. Importers shall ensure that non-road mobile machinery that they place on the market belongs to a type that has been granted an EU type-approval and conforms to that type.
2. Importers shall ensure that an EU type-approved non-road mobile machinery that they place on the market bears the statutory plate and marking, required by this Regulation, the certificate of conformity accompanies that machinery, the documents, information and instructions for user have been drawn up as required by this Regulation, and the obligations set out in Article 6 (3) and (4), where applicable, have been fulfilled.
3. Importers shall indicate their name, registered trade name or registered trade mark, and the postal address and the email address at which they can be contacted, on the non-road mobile machinery or, where that is not possible, on its packaging or in a document accompanying that machinery. The address shall indicate a single point at which the manufacturer can be contacted. The contact details shall be in a language easily understood by end-users and market surveillance authorities.
4. Importers shall ensure that, while an EU type-approved non-road mobile machinery is under their responsibility and is intended to be made available on the market, storage or transport conditions do not jeopardise its conformity with the relevant provisions of this Regulation.

## Article 10

### ***Specific obligations of importers***

1. Importers shall not make available on the market non-road mobile machinery that is not in conformity with this Regulation, until it has been brought into conformity.
2. Importers who have sufficient reason to believe that a non-road mobile machinery which they have made available on the market is not in conformity with this Regulation shall immediately take the corrective measures necessary to bring that non-road mobile machinery into such conformity, to withdraw it or to recall it, as appropriate.
3. Importers who have sufficient reason to believe that a non-road mobile machinery which they have made available on the market presents a serious risk shall immediately inform the manufacturer, the approval and the market surveillance authorities of the Member States in which they have placed it on the market or entered it into service.  
  
The importer shall also inform them of any action taken and give details of the serious risk and any corrective measures taken by the manufacturer.
4. Importers shall, for a period of 10 years after the placing on the market of the non-road mobile machinery, keep a copy of the certificate of conformity at the disposal of the approval and market surveillance authorities and shall ensure that the information package can be made available to those authorities, upon request of those authorities.

5. Importers shall, following a reasoned request from a national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a non-road mobile machinery in a language which can be easily understood by that authority. Importers shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by a non-road mobile machinery which they have placed on the market.
6. Importers shall keep a record of complaints and recalls relating to non-road mobile machinery that they have placed on the market, and shall keep their distributors informed of such complaints and recalls.

## *Article 11*

### ***General obligations of distributors***

1. When making an EU type-approved non-road mobile machinery available on the market, distributors shall act with due care in relation to the relevant provisions of this Regulation.
2. Before making an EU type-approved non-road mobile machinery available on the market, distributors shall verify that the following conditions have been fulfilled:
  - (a) the non-road mobile machinery bears the statutory plate and marking, required by this Regulation;
  - (b) the certificate of conformity accompanies that machinery;
  - (c) the documents, information and instructions for the user have been drawn up as required by this Regulation;
  - (d) the obligations set out in Article 6 (3) and (4) and Article 9 (3), where applicable.
3. Distributors shall ensure that, while an EU type-approved non-road mobile machinery is under their responsibility, storage or transport conditions do not jeopardise its conformity with this Regulation.

## *Article 12*

### ***Specific obligations of distributors***

1. Where distributors have sufficient reason to believe that non-road mobile machinery is not in conformity with this Regulation, they shall inform thereof the manufacturer, the importer and the approval authority that granted the EU type-approval, and shall not make available on the market that machinery until it has been brought into conformity.
2. Distributors who have sufficient reason to believe that a non-road mobile machinery which they have made available on the market is not in conformity with this Regulation shall inform the manufacturer, the importer and the approval authority that granted the EU type-approval.
3. Distributors who have sufficient reason to believe that a non-road mobile machinery which they have made available on the market presents a serious risk, shall immediately inform the manufacturer, the importer and the approval and the market surveillance authorities of the Member States in which they made it available on the market.

The distributor shall also inform them of any action taken and give details, in particular, of the serious risk and of corrective measures taken by the manufacturer.

4. Distributors shall, following a reasoned request from a national authority, ensure that the manufacturer provides the national authority with the information specified in Article 7(4) or that the importer provide the national authority with the information specified in Article 10(4). They shall cooperate with that authority, at its request, on any action taken in accordance with Article 19 of Regulation (EU) 2019/1020 to eliminate the risks posed by the non-road mobile machinery which they have made available on the market.
5. Distributors shall immediately inform the relevant manufacturer of any complaints they received relating to risks, suspected incidents or non-conformity issues with non-road mobile machinery that they have made available on the market.

### *Article 13*

#### ***Cases in which obligations of manufacturers apply to importers and distributors***

An importer or distributor shall be considered a manufacturer for the purposes of this Regulation and shall be subject to the obligations of the manufacturer in any of the following cases:

- (a) where the importer or distributor makes available on the market, registers or is responsible for the entry into service of a non-road mobile machinery under its name or trademark;
- (b) where the importer or distributor modifies that machinery in such a way that compliance with this Regulation may be affected.

### *Article 14*

#### ***Identification of economic operators***

Economic operators shall, on request, identify to the approval and market surveillance authorities, for a period of 10 years after the placing on the market of non-road mobile machinery, the following:

- (a) any economic operator who has supplied them with a non-road mobile machinery;
- (b) any economic operator to whom they have supplied a non-road mobile machinery.

### *Article 15*

#### ***Technical requirements for non-road mobile machinery***

1. Non-road mobile machinery shall be designed, constructed and assembled so as to minimise the risk of injury to the occupants and to other persons and of damage to road infrastructure, in the machinery's surrounding area, while that non-road mobile machinery is circulating on a public road.
2. The Commission is empowered to adopt delegated acts in accordance with Article 47 concerning detailed rules on the requirements set out in paragraph 1 for the following elements:

- (a) vehicle structure integrity;
- (b) maximum design speed, speed governor, speed limitation devices and speedometer;
- (c) braking devices;
- (d) steering;
- (e) field of vision;
- (f) windscreen wipers;
- (g) glazing and its installation;
- (h) indirect vision devices;
- (i) lighting and lighting installations;
- (j) vehicle exterior and accessories in on road position, including working equipment and swinging structure;
- (k) audible warning devices and their installation;
- (l) heating systems, defrost and demist;
- (m) registration plate spaces;
- (n) statutory plate and marking;
- (o) dimensions;
- (p) masses, including maximum on-road laden mass;
- (q) fuel tanks;
- (r) tyres;
- (s) reverse gear;
- (t) tracks;
- (u) mechanical couplings;
- (v) driver and other occupants' seating positions and restrain systems;
- (w) operator's manual for road use;
- (x) operator's controls for on-road use;
- (y) on-road information, warnings and markings.

The delegated acts referred to in the first subparagraph may lay down detailed rules for any other element, where that is necessary, due to technical and scientific progress, and to ensure compliance with paragraph 1.

The delegated acts referred to in the first subparagraph shall also, where appropriate, include detailed rules on the following:

- (a) test procedures chosen from those listed in Article 21(3);
- (b) test methods;
- (c) limit values or parameters, in relation to any of the elements listed in the first subparagraph;

- (d) description of equipment or parts that non-road mobile machinery shall be equipped with;
- (e) specific characteristics of the non-road mobile machinery.

The delegated acts referred to in the first subparagraph shall specify the classes or categories concerned by the detailed rules and may provide different detailed rules for different classes or categories of non-road mobile machinery.

#### *Article 16*

#### ***Making available on the market, registration or entry into service of non-road mobile machinery***

1. Non-road mobile machinery shall not be made available on the market, registered or entered into service, unless it is in conformity with this Regulation.
2. Non-road mobile machinery shall be in conformity with this Regulation only if the obligations set out in this Regulation, corresponding to that machinery, have been fulfilled.

### **CHAPTER III**

## **EU TYPE-APPROVAL PROCEDURE**

#### *Article 17*

#### ***Application for EU type-approval***

1. A natural or legal person may submit an application for EU type-approval in any Member State.  
The application for EU approval shall be submitted to an approval authority.  
In the case where the applicant for EU type-approval is established outside the Union, that applicant shall appoint a single representative established within the Union to represent him or her before the approval authority.
2. The EU type-approval shall consist of the approval of a non-road mobile machinery as a whole by means of a single operation.
3. Only one application for EU type-approval shall be submitted in respect of a particular type of non-road mobile machinery in only one Member State and to only one approval authority therein.
4. A separate application for EU type-approval shall be submitted for each type to be approved.

#### *Article 18*

#### ***Information folder***

1. The applicant for EU type-approval, when submitting an application in accordance with Article 17(1), shall provide the approval authority with an information folder.

2. The information folder shall include the following:
  - (a) an information document;
  - (b) all data, drawings, photographs and other relevant information;
  - (c) the EU declaration of conformity provided for in the applicable Union legislation harmonising the conditions for the marketing of products;
  - (d) any information requested by the approval authority in the context of the application procedure.
3. The information folder shall be supplied in paper format, or in an electronic format that is accepted by the technical service and by the approval authority.
4. The Commission shall lay down templates for the information document and for the information folder by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).

## **CHAPTER IV**

### **CONDUCT OF EU TYPE-APPROVAL PROCEDURES**

#### *Article 19*

##### *General provisions on conduct of EU type-approval procedures*

1. Approval authorities shall grant only one EU type-approval for each type of non-road mobile machinery.
2. Approval authorities shall verify all of the following:
  - (a) the conformity of production arrangements referred to in Article 22; and
  - (b) the compliance of the type of non-road mobile machinery with the applicable technical requirements.

If an approval authority finds that a type of non-road mobile machinery, though conforming to the relevant technical requirements presents a serious risk, it may refuse to grant EU type-approval. In that case, it shall immediately send to the approval authorities of the other Member States and the Commission a detailed file explaining the reasons for its decision and setting out the evidence for its findings.

3. The approval authority shall inform the approval authorities of the other Member States of its refusal or withdrawal of any EU type-approval without delay, together with the reasons for its decision, by means of a common secure electronic exchange system.
4. The approval authority shall put together an information package consisting all of the following:
  - (a) information folder accompanied by the test reports and all other documents added by the technical service or by the approval authority to the information folder in the course of carrying out their functions;
  - (b) index listing the contents of the information package, suitably numbered or otherwise marked so as to identify clearly all the pages and the format of each document such as to present a record of the successive steps in the

management of the EU type-approval, in particular the dates of revisions and updating. The approval authority shall keep information contained in the information package available for a period of 10 years after the end of validity of the approval concerned.

5. The Commission may have access to the common secure electronic exchange system, referred to in paragraph 3 and Articles 20(3), 25(3) and 26(5). The Commission may adopt implementing acts laying down the format of the electronic documents that are to be made available through that system, the exchange mechanism, the procedures to inform authorities on the granting of EU type-approvals, on amendments, refusals and withdrawals thereof and on the relevant security measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).

## *Article 20*

### *EU type-approval certificate*

1. When an EU type-approval is granted, an EU type-approval certificate shall be issued by the approval authority to the applicant for EU type-approval.  
The EU type-approval certificate shall remain valid as long as the EU type-approval is valid.  
The EU type approval certificate shall be amended by the approval authority when the relevant EU type approval is amended.
2. The EU type-approval certificate shall contain all of the following attachments:
  - (a) the information package;
  - (b) the test results sheet;
  - (c) name and specimen of the signature of the person authorised to sign a certificates of conformity and a statement of their position in the company;
  - (d) a filled-out specimen of the certificate of conformity.
3. EU type-approval certificates shall be numbered in accordance with a harmonised system laid down by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2). The approval authority shall, within one month of issuing the EU type-approval certificate, send to the approval authorities of the other Member States a copy of the EU non-road mobile machinery type-approval certificate, together with the attachments, by means of a common secure electronic exchange system.
4. The EU type-approval certificate shall be issued on the basis of the template established by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2). In respect of each type of non-road mobile machinery, the approval authority shall:
  - (a) complete all the relevant sections of the EU type-approval certificate, including the test results sheet appended thereto;
  - (b) compile the index to the information package;

- (c) issue the completed certificate, together with its attachments, to the applicant for EU type-approval, without delay.
- 5. The Commission shall lay down the template for the test results sheet referred to in paragraph 2, point (b) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).
- 6. In the case of an EU type-approval for which, in accordance with Article 29, restrictions have been imposed as to its validity, the EU type-approval certificate shall specify those restrictions.
- 7. The approval authority shall establish a list of applicable requirements or acts and append that list to the EU type-approval certificate. The Commission shall adopt the template for such a list by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).

## *Article 21*

### ***Demonstrating compliance for EU type-approval***

- 1. For the purpose of granting EU-type approval, compliance shall be demonstrated with the requirements of this Regulation, and in particular the applicable technical requirements.
- 2. The applicant for EU type-approval shall demonstrate compliance with the applicable technical requirements by establishing technical documentation.
- 3. The technical documentation referred to in paragraph 2 shall, if tests are required by the delegated acts adopted pursuant to this Regulation, include relevant test reports resulting from the following test procedures:
  - (a) testing carried out by the manufacturer;
  - (b) testing carried out by a technical service designated to perform such activity or the accredited in-house technical service, referred to in Article 40, of that manufacturer;
  - (c) testing carried out by the manufacturer under the supervision of a technical service designated to perform such activity, other than an accredited in-house technical service referred to in Article 40.
- 4. For the EU-type approval of non-road mobile machinery, components or separate technical unit which are type-approved in accordance with the procedures and requirements set out in Regulation (EU) 167/2013 or Regulation (EU) 2018/858 shall be accepted, if they are correctly installed and integrated into the non-road mobile machinery and do not affect the conformity of that machinery with the applicable technical requirements.
- 5. The format of the test reports referred to in paragraph 3 shall comply with the general requirements as laid down by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).
- 6. The applicant for EU type-approval shall make available to the approval authority as many non-road mobile machinery as are required under the relevant delegated acts



adopted pursuant to this Regulation for the performance of the tests required by those delegated acts.

The required tests shall be performed on non-road mobile machinery which are representative of the type to be approved.

However, the applicant for EU type-approval may select, subject to the agreement with the approval authority, a non-road mobile machinery which is not a representative of that type but combines a number of the most unfavourable features with regard to the required level of performance. Virtual testing methods may be used to aid decision-making during the selection process.

7. Subject to the agreement of the approval authority, virtual testing methods may be used as alternatives to the test procedures referred to in paragraph 3 at the request of the applicant with respect to those requirements established in the delegated acts adopted pursuant to paragraph 9.
8. Virtual testing methods shall fulfil the conditions set out in the delegated acts adopted pursuant to paragraph 9.
9. In order to ensure that the results obtained through virtual testing are as meaningful as those obtained through physical testing, the Commission is empowered to adopt delegated acts in accordance with Article 47 setting out the requirements, compliance with which can be tested by means of virtual testing and the conditions under which the virtual testing are to be performed.

## *Article 22*

### ***Conformity of production arrangements***

1. An approval authority which grants an EU type-approval shall take the necessary measures to verify, if necessary in cooperation with the approval authorities of the other Member States, that adequate production arrangements have been made to ensure that the non-road mobile machinery in production conforms to the approved type and documented control plans, to be agreed with the holder of EU type-approval for each approval.
2. The approval authority shall verify that the holder of EU type-approval has issued a sufficient number of samples of certificates of conformity in accordance with Article 27 and that the holder of EU type-approval has made adequate arrangements to ensure that the data in the certificates of conformity are correct.
3. An approval authority which has granted an EU type-approval shall take the necessary measures in relation to that approval to verify, if necessary in cooperation with the approval authorities of the other Member States, that the arrangements referred to in paragraphs 1 and 2 continue to be adequate so that non-road mobile machinery in production will continue to conform to the approved type and that certificates of conformity continue to comply with Article 27.
4. The approval authority which has granted the EU type-approval may carry out any of the checks or tests, required for the EU type-approval, on samples taken at the premises of the holder of EU type-approval, including production facilities.
5. When an approval authority which has granted an EU type-approval establishes that the arrangements referred to in paragraphs 1 and 2 are not being applied, deviate significantly from the arrangements and control plans agreed or are no longer

considered to be adequate, even though production is continued, it shall either take the necessary measures to ensure that the procedure for conformity of production is followed correctly or withdraw that EU type-approval.

The Commission is empowered to adopt delegated acts in accordance with Article 47 concerning the detailed arrangements with regard to conformity of production.

## **CHAPTER V**

### **AMENDMENTS TO EU TYPE-APPROVAL**

#### *Article 23*

##### *General provisions*

1. The holder of EU type-approval shall inform without delay the approval authority that granted the EU type-approval of any change in the particulars recorded in the information package.
2. That approval authority shall decide which of the procedures laid down in Article 24 is to be followed.
3. Where necessary and after consulting the holder of EU type-approval, the approval authority may decide that an amendment of EU type-approval needs to be granted.
4. The holder of EU type-approval to be amended shall submit an application for the amendment of an EU type-approval to the approval authority that granted the EU type-approval to be amended.
5. Where the approval authority establishes that, for the purposes of making an amendment to an EU type-approval, inspections or tests need to be repeated, it shall inform the holder of the EU type-approval to be amended accordingly.

The procedures referred to in Article 24 shall apply only if, on the basis of those inspections or tests, the approval authority concludes that the requirements for EU type-approval continue to be fulfilled.

#### *Article 24*

##### *Amendments to the EU type-approval*

1. Where the approval authority verifies that the particulars recorded in the information package have changed, the approval authority shall grant an amendment to the EU-type approval for which the application was submitted in accordance with Article 23.
2. The approval authority shall designate the amendment as a ‘revision’ if inspections or tests are not required to be repeated.

In such a case, the approval authority shall issue the revised pages of the information package as necessary, marking each revised pages to show clearly the nature of the change and the date of reissue. A consolidated, updated version of the information package, accompanied by a detailed description of the changes, shall be deemed to meet that requirement.

3. The approval authority shall designate the amendment as an ‘extension’ if any of the following occurs:
  - (a) further inspections or tests are required;
  - (b) any information on the EU type-approval certificate, with the exception of its attachments, has changed;
  - (c) new requirements under any delegated acts adopted pursuant to this Regulation become applicable to the type-approved non-road mobile machinery.
4. Whenever amended pages of the information package or a consolidated, updated version of that package are issued, the index to the information package attached to the type-approval certificate shall be amended accordingly to show either the date of the most recent extension or revision or the date of the most recent consolidation of the updated version.
5. No amendment to the EU type-approval of a non-road mobile machinery shall be required if the new requirements referred to in paragraph 3, point (c) are, from a technical point of view, irrelevant to that type of non-road mobile machinery.

#### *Article 25*

##### ***Issue and notification of amendments***

1. In the case of a revision, the revised documents or the consolidated, updated version, as appropriate, including the revised index to the information package, shall be issued by the approval authority to the holder of EU type-approval.
2. In the case of an extension, the approval authority shall issue an updated EU type-approval certificate denoted by an extension number, incremented in accordance with the number of successive extensions already granted. That certificate shall clearly show the reason for the extension and the date of reissue of the updated EU type-approval certificate. All relevant sections of that certificate, the attachments thereto, and the index to the information package shall be updated.

That updated certificate and its attachments shall be issued by the approval authority to the holder of EU type-approval.
3. The approval authority shall notify any amendment made to EU type-approvals to the approval authorities of the other Member States, by means of a common secure electronic exchange system.

## **CHAPTER VI**

### **VALIDITY OF EU TYPE-APPROVAL**

#### *Article 26*

##### ***Termination of validity***

1. EU type-approvals shall be granted for an unlimited duration.

2. An EU type-approval shall become invalid in each of the following cases:
  - (a) production of the EU type-approved non-road mobile machinery is definitively discontinued voluntarily;
  - (b) new requirements applicable to the EU type-approved non-road mobile machinery become mandatory for the making available on the market, registration, or entry into service of non-road mobile machinery, and it is not possible to update the type-approval in accordance with Chapter V;
  - (c) the validity of the EU type-approval expires by virtue of a restriction in accordance with Article 29(3);
  - (d) the EU type-approval has been withdrawn in accordance with Article 22(5).

However, in the case of the first subparagraph, point (b), the EU type-approval and the relevant EU type-approval certificate shall become invalid 18 months after the date of applicability of the new requirements referred to in the first subparagraph, point (b).

3. Where only one variant within a type or one version within a variant is affected, the EU type-approval of the non-road mobile machinery in question shall become invalid only in so far as the particular variant or version is concerned.
4. When production of a particular type of non-road mobile machinery is definitively discontinued, the holder of EU type-approval shall notify the approval authority that granted the EU type-approval for that non-road mobile machinery thereof.
5. Within one month of receiving the notification referred to in paragraph 4, the approval authority which granted the EU type-approval for the non-road mobile machinery shall inform the approval authorities of the other Member States, accordingly by means of a common secure electronic exchange system.
6. Without prejudice to paragraphs 4 and 5, in cases where an EU type-approval of a non-road mobile machinery is due to become invalid, the holder of EU type-approval shall notify the approval authority that granted the EU type-approval thereof.

The approval authority that granted the EU type-approval shall without delay communicate all relevant information to the approval authorities of the other Member States by means of a common secure electronic exchange system.
7. The communication referred to in paragraph 6 shall specify, in particular, the date of production and the vehicle identification number of the last non-road mobile machinery produced.

## CHAPTER VII

# CERTIFICATE OF CONFORMITY AND THE STATUTORY PLATE WITH THE MARKING

### *Article 27*

#### *Certificate of conformity*

1. The manufacturer shall deliver a certificate of conformity to accompany each non-road mobile machinery that is manufactured in conformity with the EU type-approved non-road mobile machinery.
2. The certificate of conformity shall be delivered free of charge to the end-user together with the non-road mobile machinery. Its delivery may not be made dependent on an explicit request or the submission of additional information to the holder of EU type-approval.
3. The certificate of conformity may be provided either in paper or in electronic format. However, if the purchaser requests, at the time of the purchase of the non-road mobile machinery, a paper format of that certificate, that certificate shall be provided in paper format free of charge.
4. For a period of 10 years after the production date of the non-road mobile machinery, the manufacturer shall, at the request of the non-road mobile machinery owner, issue a duplicate of the certificate of conformity against a payment not exceeding the cost of issuing it. The word ‘duplicate’ shall be clearly visible, in the language that the certificate of conformity was drawn up, on the face of any duplicate certificate.
5. The manufacturer shall use the template for the certificate of conformity adopted by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2). The certificate of conformity shall be designed to prevent forgery. To that end, the implementing acts shall provide that the format used in the certificate shall be protected by several security features. The certificate of conformity shall be drawn up in an official language of a Member State. Any approval authority may request from the manufacturer the certificate of conformity to be translated into its own official languages.
6. The person authorised to sign certificates of conformity shall be in the organisation of the manufacturer and duly authorised by the management to fully engage the legal responsibility of the manufacturer with respect to the design and the construction or to the conformity of the production of the non-road mobile machinery.
7. The certificate of conformity shall be completed in its entirety and without containing restrictions as regards the use of the non-road mobile machinery other than those provided for in this Regulation..
8. The certificate of conformity shall, for non-road mobile machinery approved in accordance with Article 29(2), display in its title the phrase ‘For non-road mobile machinery, type-approved in application of Article 29(2) of [OP: please insert the full name and date of this regulation - adopted act] (provisional approval)’.

9. Without prejudice to paragraph 1, the manufacturer may transmit the certificate of conformity by electronic means to the registration authority of any Member State.

#### *Article 28*

##### ***Statutory plate with the marking of non-road mobile machinery***

1. The manufacturer of a non-road mobile machinery shall affix to each non-road mobile machinery manufactured in conformity with the approved type a statutory plate with marking.
2. The statutory plate with the marking shall be in accordance with the model set out by the Commission by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2). The first such implementing acts shall be adopted by [*OP: please insert the date – 30 months from the date of entry into force of this regulation.*].

## **CHAPTER VIII**

### **NEW TECHNOLOGIES OR NEW CONCEPTS**

#### *Article 29*

##### ***Exemptions for new technologies or new concepts***

1. The application referred to in Article 17 may be submitted in respect of a type of non-road mobile machinery that incorporates new technologies or concepts which are incompatible with the applicable technical requirements.
2. The approval authority shall, after assessing all of the following conditions are met, grant the EU type-approval for the non-road mobile machinery referred to in paragraph 1:
  - (a) the application states the reasons why the technologies or concepts in question are incompatible with the applicable technical requirements;
  - (b) the application describes the implications in relation to the covered aspects of the new technology and the measures taken in order to ensure at least an equivalent level of protection in relation to the covered aspects as that provided by the requirements from which exemption is sought;
  - (c) test descriptions and results carried out by a technical service designated to perform such activity or by the accredited in-house technical service, referred to in Article 38, of that manufacturer demonstrate that the condition in point (b) is met.
3. The granting of such an EU type-approval exempting new technologies or new concepts shall be subject to authorisation by the Commission. That authorisation or the refusal to grant an authorisation shall be given by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 46(2).

Where appropriate, such implementing act shall specify whether the authorisation given by it is subject to any restrictions, including a validity period.

In all cases, the EU type-approval shall be valid for at least 36 months.

4. Pending the decision on authorisation by the Commission, the approval authority may grant a provisional EU type-approval.

However, such EU type-approval shall be valid only in the territory of that Member State, in respect of a type of non-road mobile machinery covered by the exemption sought, and the Member States of which the approval authority accepted that approval in accordance with paragraph 5.

The approval authority that granted the provisional EU type-approval shall inform the Commission and other approval authorities without delay by means of a file containing the information referred to in paragraph 2 that all the conditions referred to in that paragraph are fulfilled.

The provisional nature and the limited territorial validity shall be apparent from the heading of the type-approval certificate and the heading of the certificate of conformity. The Commission may adopt implementing acts in order to provide for templates for the type-approval certificate and the certificate of conformity for the purposes of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).

5. An approval authority, other than the authority referred to in paragraph 4, may accept in writing the provisional EU type-approval referred to in paragraph 4, so that the validity of that provisional approval is extended in the territory of that Member State.
6. Where the Commission refuses the authorisation, the approval authority shall immediately give notice to the holder of the provisional type-approval referred to in paragraph 3 that the provisional approval will be revoked six months after the date of applicability of the implementing act referred to in paragraph 3.

However, non-road mobile machinery may be placed on the market, registered or entered into service in the Member State of which the approval authority granted that approval and in any Member State of which the approval authority accepted that approval, if:

- (a) that machinery was manufactured in conformity with the provisional EU type approval before it ceased to be valid;
- (b) that machinery bears the statutory plate and marking, required by this Regulation;
- (c) the provisional certificate of conformity accompanies that machinery; and
- (d) the documents, information and instructions for the user have been drawn up as required by this Regulation.

#### *Article 30*

##### ***Subsequent amendment of delegated and implementing acts***

7. Where the Commission authorises the granting of an exemption pursuant to Article 29, it shall immediately take the necessary steps to amend the delegated or implementing acts concerned to technological developments.
8. As soon as the relevant acts have been amended, any restriction in the Commission decision authorising the exemption shall be lifted.

9. If the necessary steps to amend the delegated or implementing acts have not been taken, the Commission may, at the request of the Member State which granted the approval, authorise, by means of an implementing decision adopted in accordance with the examination procedure referred to in Article 46(2), the Member State to extend the EU type-approval.

## **CHAPTER IX**

### **SAFEGUARD CLAUSES**

#### *Article 31*

##### ***National evaluation of non-road mobile machinery suspected of presenting a serious risk or not being in conformity***

1. Where, based on their own market surveillance activities, or based on information provided by an approval authority or a manufacturer or based on complaints, the market surveillance authority of a Member State has sufficient reasons to believe that a non-road mobile machinery presents a serious risk or is in not conformity with this Regulation, it shall carry out an evaluation of the non-road mobile machinery concerned with respect to the relevant provisions of this Regulation.
2. The relevant economic operators and the relevant approval authorities shall cooperate fully with the market surveillance authorities.

#### *Article 32*

##### ***National procedures for dealing with non-road mobile machinery presenting a serious risk or not being in conformity***

1. Where, after having performed the evaluation pursuant to Article 31, the market surveillance authority finds that a non-road mobile machinery presents a serious risk, it shall require without delay that the relevant economic operator take all appropriate corrective measures without delay to ensure that the non-road mobile machinery concerned no longer presents that risk.
2. Where, after having performed the evaluation pursuant to Article 31, the market surveillance authority finds that a non-road mobile machinery is not in conformity with this Regulation and that it does not present a serious risk as referred to in paragraph 1, that authority shall require without delay that the relevant economic operator takes all appropriate corrective measures within a reasonable period to bring that machinery into conformity. That period shall be proportionate to the seriousness of non-compliance.
3. Economic operators shall, in accordance with the obligations set out in Articles 6 to 13, ensure that all appropriate corrective measures are taken in respect of all concerned non-road mobile machinery that they have placed on the market, registered or entered into service.
4. Where economic operators do not take appropriate corrective measures within the relevant period referred to in paragraph 1 or 2 or where the risk requires rapid action, the national authorities shall take all appropriate provisional restrictive measures to



prohibit or restrict the making available on the market, the registration, including a prohibition from circulating on public roads, or the entry into service of the concerned non-road mobile machinery, on their national market, or to withdraw them from that market or to recall them.

5. Article 18 of Regulation (EU) 2019/1020 shall apply to the restrictive measures referred to in paragraph 4.

### *Article 33*

#### ***Corrective and restrictive measures at Union level***

1. The market surveillance authority taking either a corrective or a restrictive measures in accordance with Article 32 shall notify the Commission and the national authorities of other Member States without delay, by means of the information and communication system referred to in Article 34(1) of Regulation (EU) 2019/1020.

It shall also inform without delay the approval authority that granted the approval about its findings. In the cases of non-road machinery that presents a serious risk the corrective or restrictive measures shall also be notified via the Rapid Information Exchange System (RAPEX) referred to in Article 12 of Directive 2001/95/EC of the European Parliament and of the Council <sup>31</sup>.

The information provided in accordance with the first and second subparagraph shall include all available details, including the data necessary for the identification of the concerned non-road mobile machinery, the origin of that mobile machinery, the nature of the alleged non-compliance or the risk involved, the nature and duration of the national corrective and restrictive measures taken, and the arguments put forward, when those arguments are put forward, by the relevant economic operator.

2. The Member State that takes the corrective or restrictive measure shall indicate whether the risk or the non-compliance is due to the following:
  - (a) the failure of the non-road mobile machinery to comply with this Regulation;  
or
  - (b) shortcomings in the relevant regulatory acts adopted pursuant to this Regulation.
3. Member States other than the Member State that takes corrective or restrictive measures shall inform within one month after the notification referred to in paragraph 1, the Commission and the other Member States of any corrective or restrictive measures they have adopted and of any information at their disposal relating to the non-compliance or the risk of the non-road mobile machinery concerned, as well as, in the event of disagreement with the notified national measure, of their objections.
4. Where, within three months after the notification referred to in paragraph 1, no objection has been raised by either another Member State or the Commission in respect of a notified national measure, the other Member States shall ensure that

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<sup>31</sup> Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4).

similar corrective or restrictive measures are taken without delay within their territories in respect of the non-road mobile machinery concerned.

5. Where, within three months after the notification referred to in paragraph 1, another Member State or the Commission raises an objection in respect of a notified national measure, or where the Commission considers that a notified national measure is contrary to Union law, the Commission shall consult the Member States concerned and the relevant economic operator or operators without delay.
6. On the basis of the consultation referred to in paragraph 5, the Commission shall adopt implementing acts to decide on harmonised corrective or restrictive measures at Union level. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).
7. The Commission shall immediately communicate the decision referred to in paragraph 6 to the relevant economic operator or operators. Member States shall enforce measures contained in the acts referred to in paragraph 6 without delay and shall inform the Commission accordingly.
8. Where the Commission considers that a notified national measure is unjustified or contrary to Union law, the Member State concerned shall withdraw or adapt the measure, in accordance with the Commission decision referred to in paragraph 6.
9. Where the risk or non-compliance is attributed to shortcomings in regulatory acts adopted pursuant to this Regulation, the Commission shall propose the necessary amendments to the acts concerned.
10. Where a corrective measure is considered to be justified in accordance with this Article or is subject to the implementing acts as referred to in paragraph 6, that measure shall be available free of charge to holders of registrations for the affected non-road mobile machinery. Where repairs have been carried out at the registration holder's expense before the adoption of the corrective measure, the manufacturer shall reimburse the cost of such repairs up to the cost of the repairs required by that corrective measure.

## **CHAPTER X**

### **PROVISION OF TECHNICAL INFORMATION**

#### *Article 34*

##### *Information intended for users*

1. The manufacturer shall not supply any technical information related to the particulars provided for in this Regulation which diverges from the particulars approved by the approval authority.
2. The manufacturer shall make available to users all relevant information and necessary instructions describing any conditions or restrictions linked to the use of a non-road mobile machinery.
3. The information referred to in paragraph 2 shall be provided in the operator's manual for road use.

4. The operator's manual for road use, including the information referred to in paragraph 2, shall be made available with the non-road mobile machinery and supplied:
  - (a) in the official languages of the Member State where the non-road mobile machinery is to be placed on the market, registered or entered into service; and
  - (b) in paper or electronic format.

When the operator's manual is provided in electronic format, the manufacturer shall provide information in printed or paper format on how to access or find that manual, in the official languages of the Member State where the non-road mobile machinery is to be placed on the market, registered or entered into service.

## **CHAPTER XI**

### **DESIGNATION AND NOTIFICATION OF TECHNICAL SERVICES**

#### *Article 35*

##### *Requirements relating to technical services*

1. Designating approval authorities shall ensure that before they designate a technical service pursuant to Article 37, that service meets the requirements laid down in paragraphs 2 to 10 of this Article.
2. A technical service shall be established under the national legislation and have legal personality except for a technical service belonging to a type-approval authority and except for an accredited in-house technical service of the manufacturer, as referred to in Article 38.
3. A technical service shall be a third-party body independent of the process of design, manufacturing, supply or maintenance of the non-road mobile machinery it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of non-road mobile machinery which it assesses, tests or inspects may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered as fulfilling the requirements of the first subparagraph.
4. A technical service, its top-level management and the personnel responsible for carrying out the categories of activities for which they are designated in accordance with Article 37(1) shall not be the designer, manufacturer, supplier or maintainer of the non-road mobile machinery which they assess, nor represent parties engaged in those activities. This shall not preclude the use of assessed non-road mobile machinery referred to in paragraph 3 that are necessary for the operation of the technical service or the use of such non-road mobile machinery for personal purposes.
5. A technical service shall ensure that the activities of its subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of the categories of activities for which it has been designated.

6. A technical service and its personnel shall carry out the categories of activities for which it has been designated with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgment or the results of their assessment activities, especially such pressures or inducements emanating from persons or groups of persons with an interest in the results of those activities.
7. A technical service shall be capable of carrying out all the categories of activities for which it has been designated in accordance with Article 37(1), by demonstrating to the satisfaction of its designating approval authority, that it has:
  - (a) personnel with appropriate skills, specific technical knowledge and vocational training as well as sufficient and appropriate experience to perform the task;
  - (b) descriptions of the procedures relevant for the categories of activities for which it is seeking to be designated, ensuring the transparency and reproducibility of those procedures;
  - (c) procedures for the performance of the categories of activities for which it is seeking to be designated which take due account of the degree of complexity of the technology of the non-road mobile machinery in question, and the mass or serial nature of the production process; and
  - (d) means necessary to perform in an appropriate manner the tasks connected with the categories of activities for which it is seeking to be designated and that it has access to all necessary equipment or facilities.

In addition, it shall demonstrate to the designating approval authority its compliance with the rules laid down in the delegated acts referred to in Article 41 which are relevant for the categories of activities for which it is designated.

8. The technical services, their top-level management and the assessment personnel shall be impartial. They shall not engage in any activity that may conflict with their independence of judgment or integrity in relation to the categories of activities for which they are designated.
9. Technical services shall take out liability insurance related to their activities unless liability is assumed by the Member State in accordance with their national legislation, or the Member State itself is directly responsible for the conformity assessment.
10. The personnel of a technical service shall observe professional secrecy with regard to all information obtained in carrying out their tasks under this Regulation or any provision of national legislation giving effect to it, except in relation to the designating approval authority or where required by Union or national legislation. Proprietary rights shall be protected.

#### *Article 36*

##### ***Subsidiaries of and subcontracting by technical services***

1. Technical services may subcontract some of their activities for which they have been designated in accordance with Article 37(1) or have those activities carried out by a subsidiary only with the agreement of their designating approval authority.

2. Where a technical service subcontracts specific tasks connected with the categories of activities for which it has been designated or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meet the requirements set out in Article 35 and shall inform the designating approval authority accordingly.
3. Technical services shall take full responsibility for the tasks performed by any of their subcontractors or subsidiaries, wherever these are established.
4. Technical services shall keep at the disposal of the designating approval authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the tasks performed by them.

#### *Article 37*

##### ***Designation of technical services***

1. Technical services shall be designated for one or more of the following categories of activities, depending on their field of competence:
  - (a) category A: technical services which carry out the tests referred to in this Regulation in their own facilities;
  - (b) category B: technical services which supervise the tests referred to in this Regulation, where such tests are performed in the manufacturer's facilities or in the facilities of a third party;
  - (c) category C: technical services which assess and monitor on a regular basis the manufacturer's procedures for controlling conformity of production;
  - (d) category D: technical services which supervise or perform tests or inspections for the surveillance of conformity of production.
2. An approval authority may be designated as a technical service for one or more of the activities referred to in paragraph 1.
3. Technical services of a third country, other than those designated in accordance with Article 38, may be notified for the purposes of Article 41, but only if such an acceptance of technical services is provided for by a bilateral agreement between the Union and the third country concerned. This shall not prevent a technical service established under the national legislation in accordance with Article 35(2) from establishing subsidiaries in third countries, provided that the subsidiaries are directly managed and controlled by the designated technical service.

#### *Article 38*

##### ***Accredited in-house technical services of the manufacturer***

1. An accredited in-house technical service of a manufacturer may be designated only for carrying out activities under category A, as referred to in point (a) of Article 37(1). That technical service shall constitute a separate and distinct part of the undertaking and shall not be involved in the design, manufacturing, supply or maintenance of the non-road mobile machinery, systems, components or separate technical units it assesses.
2. An accredited in-house technical service shall be designated by the approval authority of a Member State and meet the following requirements:

- (a) the accredited in-house technical service shall be accredited by a national accreditation body as defined in point 11 of Article 2 of Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>32</sup> and in accordance with the rules referred to in Article 39;
  - (b) the accredited in-house technical service and its personnel shall be organisationally identifiable and have reporting methods within the undertaking of which they form part which ensure their impartiality and demonstrate it to the relevant national accreditation body;
  - (c) neither the accredited in-house technical service nor its personnel shall engage in any activity that might conflict with their independence of judgment or integrity in relation to the categories of activities for which they have been designated;
  - (d) the accredited in-house technical service shall supply its services exclusively to the undertaking of which it forms part.
3. An accredited in-house technical service need not be notified to the Commission for the purposes of Article 41, but information concerning its accreditation shall be given by the undertaking of which it forms part or by the national accreditation body to the designating approval authority at the request of that authority.

#### *Article 39*

#### ***Rules for the assessment of technical services and accredited in-house technical services***

The Commission is empowered to adopt delegated acts in accordance with Article 47 concerning the rules with which the technical services have to comply for their assessment in accordance with Article 40 and the accreditation of in-house technical services in accordance with Article 38.

#### *Article 40*

#### ***Assessment of the skills of the technical services***

1. The designating approval authority shall draw up an assessment report demonstrating that the candidate technical service has been assessed for its compliance with the requirements of this Regulation and the delegated acts adopted pursuant to this Regulation. That report may include a certificate of accreditation issued by an accreditation body.
2. The assessment on which the report referred to in paragraph 1 is based shall be conducted in accordance with the rules laid down in a delegated act referred to in Article 39. The assessment report shall be reviewed at least every three years.
3. The assessment report shall be communicated to the Commission upon request. In such cases, where the assessment is not based on an accreditation certificate issued by a national accreditation body attesting that the technical service fulfils the

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<sup>32</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

requirements of this Regulation, the designating approval authority shall provide the Commission with documentary evidence which attests the technical service's competence and the arrangements in place to ensure that the technical service is monitored regularly by the designating approval authority and satisfies the requirements of this Regulation and the delegated acts adopted pursuant to this Regulation.

4. The approval authority that intends to be designated as a technical service in accordance with Article 37(2) shall document compliance through an assessment conducted by auditors independent of the activity being assessed. Such auditors may be from the same organisation provided that they are managed separately from personnel undertaking the assessed activity.
5. An accredited in-house technical service shall comply with the relevant provisions of this Article.

#### *Article 41*

##### ***Procedures for notification***

1. Member States shall notify to the Commission the name, the address including electronic address, the responsible persons and the category of activities with respect to each technical service they have designated, as well as any subsequent modifications to those designations. The notification act shall state for which subjects listed in the Annex to this Regulation the technical services have been designated.
2. A technical service may conduct the activities referred to in Article 37(1) on behalf of the designating approval authority responsible for the type-approval only if it has been notified before hand to the Commission in accordance with paragraph 1 of this Article.
3. The technical service referred to in paragraph 2 may be designated by several designating approval authorities and notified by the Member States of these designating approval authorities irrespective of the category or categories of activities it will conduct in accordance with Article 37(1).
4. Member States shall notify the Commission of any subsequent relevant changes to the designation.
5. Where a specific organisation or competent body carrying out an activity not included in those referred to in Article 37(1), needs to be designated in application of the delegated acts adopted pursuant to this Regulation, the notification shall be made in accordance with this Article.
6. The Commission shall publish on its website a list and details of the technical services notified in accordance with this Article.

#### *Article 42*

##### ***Changes to designations***

1. Where a designating approval authority has ascertained or has been informed that a technical service designated by it no longer meets the requirements laid down in this

Regulation, or that it is failing to fulfil its obligations, the designating approval authority shall restrict, suspend or withdraw the designation as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. The Member State that has notified this technical service shall immediately inform the Commission accordingly. The Commission shall modify the information published referred to in Article 41(6) accordingly.

2. In the event of restriction, suspension or withdrawal of the designation, or where the technical service has ceased its activity, the designating approval authority shall take appropriate steps to ensure that the files of that technical service are either processed by another technical service or kept available for the designating approval authority or for the market surveillance authorities at their request.

#### *Article 43*

##### ***Challenge to the competence of technical services***

1. The Commission shall investigate all cases where it has doubts, or doubt is brought to its attention, regarding the competence of a technical service or the continued fulfilment by a technical service of the requirements and responsibilities to which it is subject.
2. The Member State of the designating approval authority shall provide the Commission, on request, with all information relating to the basis for the designation or the maintenance of the designation of the technical service concerned.
3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.
4. Where the Commission ascertains that a technical service does not meet or no longer meets the requirements for its designation, it shall inform the Member State of the designating approval authority accordingly.

The Commission shall request that Member State to suspend, restrict or withdraw the designation, where necessary.

Where a Member State fails to take the necessary corrective measures, the Commission may adopt implementing acts to decide to restrict, suspend or withdraw the designation of the technical service concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2). The Commission shall notify the Member State concerned of those implementing acts and shall update the information published referred to in Article 41(6) accordingly.

#### *Article 44*

##### ***Operational obligations of technical services***

1. Technical services shall carry out the categories of activities for which they have been designated on behalf of the designating approval authority and in accordance with the assessment and test procedures provided for in this Regulation. .
2. Technical services shall supervise or shall themselves carry out the tests required for approval or inspections as set out in this Regulation. The technical services shall not



conduct tests, assessments or inspections for which they have not been duly designated by their approval authority.

3. Technical services shall at all times:
  - (a) allow their designating approval authority to witness the technical service during the conformity assessment as appropriate; and
  - (b) without prejudice to Article 35(10) and Article 45, provide their designating approval authority such information on their categories of activities falling under the scope of this Regulation as may be requested.
4. Where a technical service finds that requirements laid down in this Regulation have not been met by a manufacturer, it shall report this to the designating approval authority with a view for the designating approval authority requiring the manufacturer to take appropriate corrective measures and subsequently not to issue a type-approval certificate unless the appropriate corrective measures have been taken to the satisfaction of the approval authority.
5. Where, in the course of monitoring conformity of production following the issue of a type-approval certificate, a technical service acting on behalf of the designating approval authority finds that a non-road mobile machinery no longer is in conformity with this Regulation, it shall report this to the designating approval authority. The approval authority shall take the appropriate measures as provided for in Article 22.

#### *Article 45*

##### ***Information obligations of technical services***

1. Technical services shall inform their designating approval authority of the following:
  - (a) any non-conformity encountered which may require a refusal, restriction, suspension or withdrawal of a type-approval certificate;
  - (b) any circumstances affecting the scope of and conditions for their designation;
  - (c) any request for information which they have received from market surveillance authorities regarding their activities.
2. On request from their designating approval authority, technical services shall provide information on the activities within the scope of their designation and on any other activity performed, including cross-border activities and subcontracting.

## **CHAPTER XII**

### **IMPLEMENTING ACTS AND DELEGATED ACTS**

#### *Article 46*

##### ***Committee procedure***

1. The Commission shall be assisted by the ‘Technical Committee — Agricultural Vehicles’ (TC-AV), established under Article 69 of Regulation (EU) No 167/2013, which is a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

#### *Article 47*

#### ***Exercise of the delegation***

1. The power to adopt the delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 4 (5), Article 15(2), Article 21(9), Article 22(6) and Article 39 shall be conferred on the Commission for a period of five years from [*OP: .... -please insert the date of entry into force.*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of that five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 4(5), Article 15(2), Article 21(9), Article 22(6) and Article 39 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, including a revising or amending or repealing delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 4 (5), Article 15(2), Article 21(9), Article 22(6) and Article 39 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

## **CHAPTER XIII**

### **FINAL PROVISIONS**

#### *Article 48*

#### ***Amendment to Regulation (EU) 2019/1020***

In Annex I to Regulation (EU) 2019/1020 the following point is added:

'71. [Regulation XXX] 'on the approval and market surveillance of non-road mobile machinery circulating on public roads and amending Regulation (EU) 2019/1020'.

## *Article 49*

### *Forum*

1. The Commission shall establish, chair and manage a Forum for Exchange of Information on Enforcement ('the Forum').

The Forum shall be composed of representatives appointed by each Member State representing their approval authorities and market surveillance authorities.

Whenever appropriate, technical services, representatives of the European Parliament, of the industry and of the relevant economic operators, as well as of stakeholders involved in safety matters, may be invited as observers to the Forum in accordance with the rules of procedures referred to in paragraph 6.

2. The advisory tasks of the Forum shall have as their objective the promotion of best practices, in order to facilitate the uniform interpretation and implementation of this Regulation.

The Forum shall consider:

- (a) matters related to the uniform interpretation of the requirements laid down in this Regulation;
- (b) the results of the activities relating to type-approval and market surveillance;
- (c) matters of general relevance with regard to the implementation of the requirements laid down in this Regulation in relation to the assessment, designation and monitoring of technical services;
- (d) infringements by economic operators;
- (e) implementation of the corrective or restrictive measures laid down in Chapter IX;
- (f) the planning, coordination and results of market surveillance activities.

3. As part of its advisory task and taking into account the outcome of the considerations under paragraph 2, the Forum may express an opinion or issue a recommendation.

4. When expressing an opinion or issuing recommendations the Forum shall endeavour to reach a consensus. If no such consensus can be reached, the Forum shall express its opinion or issue its recommendations by a simple majority of the Member States. Each Member State shall have one vote. Member States with diverging positions may request that their positions and the grounds on which they are based be recorded in the Forum's opinion or recommendations.

5. When adopting implementing acts, the Commission shall duly take into account the opinions expressed by the Forum in accordance with paragraph 2.

6. The Forum shall establish its rules of procedure

7. For the purposes of this Regulation:

- (a) Articles 30(2) and 32 of Regulation (EU) 2019/1020 shall not apply;

- (b) references to ‘ADCO’, in Articles 11(8), 30(1) and (3), 31(2) and 33 of Regulation (EU) 2019/1020, shall be read as references to the Forum.

#### Article 50

##### **Penalties**

1. Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that the penalties are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by *[OP: please insert the date – the exact day that precedes the date of applicability of this regulation.]*, notify those provisions to the Commission and shall notify it, without delay, of any subsequent amendment affecting them.
2. The types of infringements which are subject to penalties shall include:
  - (a) making false declarations during approval procedures or procedures leading to a recall;
  - (b) falsifying test results for type-approval or in-service conformity;
  - (c) withholding data or technical specifications which could lead to recall, refusal or withdrawal of type-approval;
  - (d) refusal to provide access to information;
  - (e) economic operators making available on the market or entering into service non-road mobile machinery subject to approval without such approval or falsifying documents or markings with that intention;
  - (f) economic operators not fulfilling their obligations;
  - (g) non-compliance by technical services in respect of the requirements for their designation.

#### Article 51

##### **Review**

1. By *[OP: please insert the date – 60 months from the date of application of this regulation.]*, the Commission shall present a report to the European Parliament and to the Council on the implementation of this Regulation, accompanied, where appropriate, by relevant legislative proposals.
2. The report shall be based on a consultation of relevant stakeholders, shall take into account any related European or international standards and the information referred to in paragraph 3.
3. By *[OP: please insert the date – 48 months from the date of application of this regulation.]*, Member States shall inform the Commission on the following:
  - (a) the application of the type-approval and market surveillance procedures laid down in this Regulation.
  - (b) the number of EU type-approvals granted pursuant to this Regulation since *[OP: please insert the date – date of application of this regulation.]*;

- (c) the national requirements for national small series type-approval, national individual approval and national type approval, and the number of such approvals granted since [OP: please insert the date – date of application of this regulation.].

#### *Article 52*

##### ***Transitional provisions***

By way of derogation from this Regulation, until ...[please insert *date: 8 years from the date of application*], Member States may apply any national legislation on national type-approval of non-road mobile machinery for circulating on public roads *on non-road mobile machinery that is placed on the market between ..... [Please insert date of application] and ...[please insert *date: 8 years from the date of application*]*. During that period, the manufacturer may choose either to apply for EU type-approval or to comply with relevant national legislation.

#### *Article 53*

##### ***Entry into force and application***

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

It shall apply from [OP: please insert the date – 36 months from the date of entry into force of this regulation.]

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

Done at Brussels,

*For the European Parliament*

*For the Council*