

2006 No. 29

ENVIRONMENTAL PROTECTION

The Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2006

<i>Made</i> - - - -	<i>9th January 2006</i>
<i>Laid before Parliament</i>	<i>13th January 2006</i>
<i>Coming into force</i> - -	<i>17th February 2006</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State is the Minister designated(b) for the purposes of section 2(2) of that Act in relation to measures relating to the reduction of emissions of pollutants from internal combustion engines.

Citation and commencement

1.—(1) These Regulations may be cited as the Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2006.

(2) These Regulations shall come into force on 17th February 2006.

Amendment of Regulations

2. The Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999(c) are amended in accordance with regulations 3 to 17.

Interpretation

3.—(1) Regulation 2 (interpretation) is amended as follows.

(a) 1972 c.68. By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c.51) regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(b) S.I. 1998/745.

(c) S.I. 1999/1053, as amended by S.I. 2002/1649 and S.I. 2004/2034.

(2) In paragraph (1)(a), for the words from “as amended by”(a) to the end substitute “as amended by instruments up to and including European Parliament and Council Directive 2004/26/EC(b)”.

(3) In paragraph (1)(q), for the words “a member State” substitute “an EEA State”.

(4) After paragraph (1)(q) insert—

“(qa) “EEA State” means a member State, Norway, Iceland or Liechtenstein;”.

(5) After paragraph (1)(z) insert—

“(za) “inland waterway vessel” means—

(i) a vessel intended for use on inland waterways having a length of 20 metres or more and having a volume of 100 m³ or more according to the formula defined in section 2.2.8a of Annex 1; or

(ii) a tug or pusher craft having been built to tow or to push or to move alongside vessels of 20 metres or more,

which is not an excluded vessel within the meaning of paragraph (1A);

(zb) “locomotive” means a self-propelled piece of on-track equipment designed for moving or propelling cars that are designed to carry freight, passengers and other equipment, but which is not itself designed or intended to carry freight, passengers (other than those operating the locomotive) or other equipment;

(zc) “railcar” means a self propelled on-track vehicle specifically designed to carry goods or passengers;

(zd) “Stage”, in relation to an engine falling within a category specified in column 1 of any Table in Schedule 8 to these Regulations, means the Stage indicated for that category in column 6 of the Table;

(ze) “original equipment manufacturer (or “OEM”) has the meaning given in paragraph 9 of Schedule 9.”.

(6) After paragraph (1) insert—

“(1A) “Excluded vessel”, in relation to an inland waterway vessel, means—

(a) a vessel intended for passenger transport carrying no more than 12 people in addition to the crew;

(b) a recreational craft with a length of less than 24 metres (as defined in Article 1(2) of Directive 94/25/EC(c));

(c) a service craft belonging to supervisory authorities;

(d) a fire-service vessel;

(e) a naval vessel;

(f) a fishing vessel on the fishing vessels register of the European Community; and

(g) a sea-going vessel, including a sea-going tug and a pusher craft operating or based on tidal waters or temporarily on inland waterways, provided that it carries a valid navigation or safety certificate as defined in section 2.2.8b of Annex 1.

(a) Paragraph (1)(a) defines the term “Directive 97/68/EC”. That Directive has been amended by Commission Directive 2001/63/EC (OJ L227, 23.08.2001, p.41), European Parliament and Council Directive 2002/88/EC (OJ L35, 11.02.2003, p.28) and European Parliament and Council Directive 2004/26/EC (OJ L225, 25.06.2004, p.3). Directive 97/68/EC was added to Annex II of the EEA Agreement by Article 1 of the Decision of the EEA Joint Committee No 115/1999 of 24th September 1999 (OJ L325, 21.12.2000, p.29).

(b) OJ L225, 25.06.2004, p.3 (incorporating changes made by the corrigendum to the original version of the Directive published in OJ L146, 30.04.2004, p.1).

(c) European Parliament and Council Directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft (OJ L164, 30.06.1994, p.15), as amended by instruments up to and including Regulation (EC) No. 1882/2003 (OJ L284, 31.10.2003, p.1).

(1B) For the purposes of these Regulations, expressions which are used, but not defined, in these Regulations and which are also used in Directive 97/68/EC shall have same meaning as in that Directive.”.

Scope and exclusions

- 4.—(1) Regulation 3 (scope and exclusions) is amended as follows.
- (2) In paragraph (1)(a) omit the words “on the ground,”.
- (3) In paragraph (3)—
- (a) for sub-paragraph (a), substitute—
- “(a) ships which are not inland waterway vessels,”; and
- (b) omit sub-paragraph (b).

Provisions applying to CI engines only

5. After regulation 3 insert—

“Provisions applying to CI engines only

Categories of CI engines and applicable limit values on emissions

3A.—(1) For the purposes of these Regulations, a CI engine falls within a category specified in column 1 of Table 1, 2, 3, 4 or 5 in Schedule 8 to these Regulations if—

- (a) the engine is one to which the Table applies, and
- (b) the power output or swept volume of the engine is within the range for that category specified in column 2 of the Table (or, in the case of certain categories specified in Table 3, both the power output and swept volume of the engine are within that range).

(2) The question whether an engine is one to which a particular Table applies is to be determined in accordance with Part 1 of Schedule 8 to these Regulations.

(3) Where an engine would, in accordance with paragraph (1), fall within two or more categories—

- (a) the engine is to be taken as falling within the category for which the period specified in column 3 of the Table is current at the date when the engine is placed on the market, and
- (b) the limit values that apply to the emissions of gaseous and particulate pollutants from the engine are those that are specified in the provision of Annex 1 which is listed for that category in column 4.

(4) But, in connection with the issue of type approval certificates under these Regulations, regulation 3C(3) shall apply to determine the category within which an engine falls (instead of paragraph (3)).

(5) Where the period referred to in paragraph (3)(a) has expired in relation to any category of engine, the entry for that category in the Table has effect only for the purposes of—

- (a) in the case of an engine which is to be replaced, determining the limit values that the engine had to meet when it was originally placed on the market (see regulation 7A), and
- (b) determining the application in any particular case of any provision of Schedule 9 which refers to the limit values that applied to a category of engine under the immediately preceding Stage.

(6) Part 2 of Schedule 8 contains—

- (a) Table 1 (intermittent speed CI engines: use in applications not covered by Tables 3 to 5);
- (b) Table 2 (constant speed CI engines: use in applications not covered by Tables 3 to 5);
- (c) Table 3 (CI engines: propulsion of, and auxiliary use in, inland waterway vessels);
- (d) Table 4 (CI engines: propulsion of locomotives); and
- (e) Table 5 (CI engines: propulsion of railcars).

General duty relating to placing on the market of CI engines

3B.—(1) No person shall place on the market any engine (whether or not already installed in machinery) unless—

- (a) the requirements listed in paragraph (2) have been complied with in relation to the engine, or
- (b) Schedule 9 to these Regulations contains provision which has the effect of allowing the engine to be placed on the market notwithstanding that one or more of those requirements is not complied with.

(2) The requirements are that—

- (a) the approval authority has issued a type approval certificate,
- (b) the engine conforms to the requirements of the type approval,
- (c) the engine has affixed to it markings in accordance with regulation 11(1), including the type approval number, and
- (d) the emissions of gaseous and particulate pollutants from the engine comply with the limit values that apply to the engine by virtue of regulation 3A.

Provisions for grant of type approval certificate for CI engines

3C.—(1) An application may be made under regulation 8 for a type approval certificate for an engine type or engine family in any case where a type approval certificate issued under these Regulations is required for the purposes of regulation 3B.

(2) The approval authority shall not issue a certificate pursuant to regulation 9(1) if—

- (a) the engine provided in connection with the application does not meet the requirements specified in these Regulations, or
- (b) the emissions of gaseous and particulate pollutants from the engine do not comply with the limit values that apply to the engine by virtue of paragraph (3).

(3) Where an engine would, in accordance with regulation 3A(1), fall within two or more categories—

- (a) the engine is to be taken as falling within the category for which the period specified in column 5 of the Table is current at the date when the application for a type approval certificate is made, and
- (b) the limit values that apply to the emissions of gaseous and particular pollutants from the engine are those that are specified in the provision of Annex 1 which is listed for that category in column 4.

(4) Paragraph (2)(b) does not apply in the circumstances specified in paragraph 19 of Schedule 9.”.

Placing on the market: SI engines only

6.—(1) Regulation 4 (general duty relating to placing on the market) is amended as follows.

(2) For the heading and paragraph (1) substitute—

“Provisions applying to SI engines only”

General duty relating to placing on the market of SI engines

4.—(1) Subject to regulations 6A and 7, no person shall place on the market any SI engine (whether or not already installed in machinery) unless the requirements of paragraph (2) have been complied with in relation to it.”.

(3) In paragraph (2)—

- (a) for the words “The requirements in respect of any engine are” substitute “The requirements in respect of any SI engine are”;
- (b) omit sub-paragraphs (d) and (e);
- (c) in sub-paragraph (f), omit the words “is a SI engine and”; and
- (d) in sub-paragraphs (g) and (h), omit the words “a SI engine”.

Classes of SI engines

7.—(1) Regulation 5 (categories of engines) is amended as follows.

(2) For the heading and paragraph (1) substitute—

“Classes of SI engines

5.—(1) This regulation defines the classes of SI engine for the purposes of regulations 4, 6 and 7.”.

(3) Omit paragraph (2).

Type approval: SI engines only

8.—(1) Regulation 6 (provisions for grant of type approval certificate) is amended as follows.

(2) For the heading substitute “Provisions for grant of type approval certificate for SI engines”.

(3) Omit paragraphs (1) and (2).

(4) In paragraphs (4) and (5) for the words “Subject to regulation 15” substitute “Subject to regulation 6A”.

Exemptions: SI engines only

9.—(1) After regulation 6 insert(a)—

“Exemptions for SI engines

6A.—(1) The requirements of regulation 4 shall not apply to—

- (a) SI engines produced directly or indirectly on behalf of and for use only by the armed services; and
- (b) replacement SI engines which comply with regulation 7A.

(2) The requirements of regulations 4(2)(a), (b) and (c) shall not apply to SI engines which—

- (a) are approved by the competent approval authorities in another EEA State in accordance with Directive 97/68/EC;
- (b) conform to the requirements of the approval; and

(a) The inserted text reproduces the provision that was formerly regulation 15 of the Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999 (“the 1999 Regulations”), with amendments to limit its application to SI engines. Regulation 15 of the 1999 Regulations is revoked by regulation 14 of these Regulations.

(c) have affixed to them the markings as defined in section 3 of Annex 1, including the type approval number.

(3) Subject to paragraph (5), the requirements of regulations 4(2)(g) and 6(4) shall be replaced by the requirements of regulations 4(2)(f) and 6(3) for a SI engine which—

- (a) falls within a small volume engine family; and
- (b) is not manufactured by a small volume engine manufacturer;

so long as the engine family which is intending to benefit from this exemption has a different cylinder displacement from any engine family which has been manufactured by the same manufacturer and which has already benefited from the exemption.

(4) Subject to paragraph (5), the requirements of regulations 4(2)(h) and 6(5) shall be replaced by the requirements of regulations 4(2)(f) and 6(3) for a SI engine which—

- (a) falls within a small volume engine family; and
- (b) is manufactured by a small volume engine manufacturer;

so long as the engine family which is intending to benefit from this exemption has a different cylinder displacement from any engine family which has been manufactured by the same manufacturer and which has already benefited from the exemption.

(5) The total number of SI engines being exempted in accordance with paragraphs (3) and (4) shall not exceed 25,000 per engine family in any one calendar year.

(6) The machinery listed in paragraph 7 of article 9a of Directive 97/68/EC which is not manufactured by a small volume engine manufacturer shall be exempt from the requirements of regulations 4(2)(g) and 6(4) for three years (from the date applicable to the class of engine specified in column 2 of the table to regulation 4) so long as the engine complies with the requirements of regulation 4(2)(f).

(7) The machinery listed in paragraph 7 of article 9a of Directive 97/68/EC which is manufactured by a small volume engine manufacturer shall be exempt from the requirements of regulations 4(2)(h) and 6(5) for three years (from the date applicable to the class of engine specified in column 3 of the table to regulation 4) so long as the engine complies with the requirements of regulation 4(2)(f).”.

Transitional provisions: SI engines only

10.—(1) Regulation 7 (transitional provisions in respect of placing on the market)(a) is amended as follows.

(2) For the heading substitute “Transitional provisions in respect of placing on the market: SI engines”.

(3) Omit paragraph (1).

Provisions applying to both CI and SI engines

11.—(1) Regulation 7A (replacement engines) is amended as follows.

(2) For the heading and paragraph (1) substitute—

“ Provisions applying to CI and SI engines

Replacement engines: CI and SI engines

7A.—(1) This regulation shall apply to—

- (a) replacement CI engines other than engines designed for the propulsion of inland waterway vessels, locomotives or railcars; and
- (b) replacement SI engines.”.

(a) The provisions of regulation 7(1) are spent.

Application to EEA States

12.—(1) In regulation 8(1)(c) (application for type approval), regulation 9(2) (approval of engines) and regulation 13(5) (non-conformity with the approved type or family), for the words “member State” substitute “EEA State”(a).

(2) In regulation 12 (provision of technical service) and regulation 13(2)(b) and (3) (non-conformity with the approved type or family), for the words “member States” substitute “EEA States”.

Conformity

13.—(1) Regulation 11 (conformity) is amended as follows.

(2) In paragraph (4) for the words from “the list shall be sent” to the end substitute “the list shall be sent in accordance with the requirements of paragraph (10)”.

(3) In paragraph (6) for the words from “within 45 days” to “under regulation 6,” substitute “, in accordance with the requirements of paragraph (10),”.

(4) After paragraph (9) add—

“(10) The list under paragraph (4), and the declaration under paragraph (6), shall be sent—

(a) within 45 days after the end of each calendar year; and

(b) when there is a change to the limit values on emissions of gaseous and particulate pollutants which, by virtue of regulation 3C(3) or 6, apply to engines belonging to the engine type or engine family in respect of which the type approval certificate has been issued.”.

CI engines: exemptions, end of series engines and equivalent type approvals

14. Omit regulations 15 (exemptions), 15A (end of series engines) and 15B (equivalent type approvals)(b).

Offences

15. In regulation 17 (offences), in paragraph (a) for the words “regulation 4” substitute “regulation 3B or 4”.

Declarations of compliance with Directive 82/714/EC

16. After regulation 20 (liability of persons other than the principal offender) insert—

“PART 4

Declarations of Compliance with Directive 82/714/EC 21

21.—(1) The Secretary of State shall not issue a Declaration of Compliance in respect of an inland waterway vessel in any case where the engine or engines of the vessel do not meet the requirements of Directive 97/68/EC.

(a) Directive 97/68/EC was added to Annex II of the EEA Agreement by article 1 of the Decision of the EEA Joint Committee No 115/1999 of 24th September 1999 (OJ L325, 21.12.2000, p.29).

(b) In relation to compression ignition engines, the provisions of regulations 15(1) and (2) and 15B are reproduced (with amendment) in paragraphs 2, 4, 7 and 8 of Schedule 9 to the 1999 Regulations. In relation to spark ignition engines, the provisions of regulation 15 are reproduced (with amendment) in regulation 6A of the 1999 Regulations (as inserted by regulation 9 of these Regulations).

(2) “Declaration of Compliance”, in relation to an inland waterway vessel, means a declaration that the vessel complies with the technical requirements for inland waterway vessels laid down in Council Directive 82/714/EC(a).”.

CI engines: categories, exemptions and transitional provisions

17. After regulation 21 (as inserted by regulation 16 above) insert the following Schedules(b)—

“SCHEDULE 8

Regulation 3A

CATEGORIES OF CI ENGINES

PART 1

APPLICATION OF THE TABLES

1. The Tables in Part 2 of this Schedule apply as follows.
2. Table 1 applies to any intermittent speed CI engine other than one to which Table 3, 4 or 5 applies and to any engine falling within paragraph 5(2).
3. Table 2 applies to any constant speed CI engine other than one to which Table 3, 4 or 5 applies.
4. Table 3 applies to—
 - (a) any CI engine which is designed for the propulsion of an inland waterway vessel; and
 - (b) any inland waterway vessel auxilliary engine with a net power output higher than 560kW.
- 5.—(1) Table 4 applies to any CI engine which is designed for the propulsion of locomotives.
(2) Paragraph (1) does not include any auxiliary engine or engine intended to power equipment designed to perform maintenance or construction work on the tracks.
6. Table 5 applies to any CI engine which is designed for the propulsion of railcars.

PART 2

THE TABLES

7. In the Tables in this Part of this Schedule—
 - (a) in column 2 of each entry, the range of power output specified is measured in kilowatts;
 - (b) in column 2 of Table 3 the range of swept volume is measured in litres per cylinder;
 - (c) in columns 3 and 5 of each entry, each sequence of numbers represents a date (for example, “01.01.1999” refers to 1st January 1999);

(a) OJ L301, 28.10.1982, p.1, as amended by the Act of Accession of 1994 (OJ C241, 29.08.1994, p.168) and the Act of Accession of 2003 (OJ L236, 23.09.2003, p.465).

(b) Schedules 1 to 7 to the 1999 Regulations were revoked by S.I. 2002/1649.

- (d) in column 4 of each entry, the references are to the provision of Annex 1 that applies to determine the limit values on emissions of gaseous and particulate pollutants;
- (e) in column 5 of each entry, the letters “N/A” indicate periods that had expired before the coming into force of the Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2006(a).

Table 1 Intermittent speed CI engines: applications not covered by Tables 3 to 5

<i>Column 1 Category</i>	<i>Column 2 Power output (P)</i>	<i>Column 3 Period for placing on market</i>	<i>Column 4 Applicable limit values on emissions</i>	<i>Column 5 Period for type approval application</i>	<i>Column 6 Stage</i>
A	$130 \text{ kW} \leq P \leq 560 \text{ kW}$	01.01.1999 to 31.12.2001	4.1.2.1	N/A	I
B	$75 \text{ kW} \leq P < 130 \text{ kW}$	01.01.1999 to 31.12.2002	4.1.2.1	N/A	I
C	$37 \text{ kW} \leq P < 75 \text{ kW}$	01.04.1999 to 31.12.2003	4.1.2.1	N/A	I
D ₁	$19 \text{ kW} \leq P < 37 \text{ kW}$	01.01.2001 to 31.12.2006	4.1.2.3, table	N/A	II
D ₂	$18 \text{ kW} \leq P < 19 \text{ kW}$	01.01.2001 onwards	4.1.2.3, table	01.01.2000 onwards	II
E	$130 \text{ kW} \leq P \leq 560 \text{ kW}$	01.01.2002 to 31.12.2005	4.1.2.3, table	N/A	II
F	$75 \text{ kW} \leq P < 130 \text{ kW}$	01.01.2003 to 31.12.2006	4.1.2.3, table	N/A	II
G	$37 \text{ kW} \leq P < 75 \text{ kW}$	01.01.2004 to 31.12.2007	4.1.2.3, table	01.01.2003 to 31.12.2006	II
H	$130 \text{ kW} \leq P \leq 560 \text{ kW}$	01.01.2006 to 31.12.2010	4.1.2.4, first table	01.07.2005 to 31.12.2009	IIIA
I	$75 \text{ kW} \leq P < 130 \text{ kW}$	01.01.2007 to 31.12.2011	4.1.2.4, first table	01.01.2006 to 31.12.2010	IIIA
J ₁	$37 \text{ kW} \leq P < 56 \text{ kW}$	01.01.2008 to 31.12.2012	4.1.2.4, first table	01.01.2007 to 31.12.2011	IIIA
J ₂	$56 \text{ kW} \leq P < 75 \text{ kW}$	01.01.2008 to 31.12.2011	4.1.2.4, first table	01.01.2007 to 31.12.2010	IIIA
K	$19 \text{ kW} \leq P < 37 \text{ kW}$	01.01.2007 onwards	4.1.2.4, first table	01.01.2006 onwards	IIIA

(a) S.I. 2006/29.

<i>Column 1 Category</i>	<i>Column 2 Power output (P)</i>	<i>Column 3 Period for placing on market</i>	<i>Column 4 Applicable limit values on emissions</i>	<i>Column 5 Period for type approval application</i>	<i>Column 6 Stage</i>
L	130 kW ≤ P ≤ 560 kW	01.01.2011 to 31.12.2013	4.1.2.5, first table	01.01.2010 to 31.12.2012	IIIB
M	75 kW ≤ P < 130 kW	01.01.2012 to 30.09.2014	4.1.2.5, first table	01.01.2011 to 30.09.2013	IIIB
N	56 kW ≤ P < 75 kW	01.01.2012 to 30.09.2014	4.1.2.5, first table	01.01.2011 to 30.09.2013	IIIB
P	37 kW ≤ P < 56 kW	01.01.2013 onwards	4.1.2.5, first table	01.01.2012 onwards	IIIB
Q	130 kW ≤ P ≤ 560 kW	01.01.2014 onwards	4.1.2.6, table	01.01.2013 onwards	IV
R	56 kW ≤ P < 130 kW	01.10.2014 onwards	4.1.2.6, table	01.10.2013 onwards	IV

Table 2 Constant speed CI engines: applications not covered by Tables 3 to 5

<i>Column 1 Category</i>	<i>Column 2 Power output (P)</i>	<i>Column 3 Period for placing on market</i>	<i>Column 4 Applicable limit values on emissions</i>	<i>Column 5 Period for type approval application</i>	<i>Column 6 Stage</i>
D ₁	19 kW ≤ P < 37 kW	01.01.2007 to 31.12.2010	4.1.2.3, table	01.01.2007 to 31.12.2009	II
D ₂	18 kW ≤ P < 19 kW	01.01.2007 onwards	4.1.2.3, table	01.01.2007 onwards	II
E	130 kW ≤ P ≤ 560 kW	01.01.2007 to 31.12.2010	4.1.2.3, table	01.01.2007 to 31.12.2009	II
F	75 kW ≤ P < 130 kW	01.01.2007 to 31.12.2010	4.1.2.3, table	01.01.2007 to 31.12.2009	II
G	37 kW ≤ P < 75 kW	01.01.2007 to 31.12.2011	4.1.2.3, table	01.01.2007 to 31.12.2010	II
H	130 kW ≤ P < 560 kW	01.01.2011 onwards	4.1.2.4, first table	01.01.2010 onwards	IIIA
I	75 kW ≤ P < 130 kW	01.01.2011 onwards	4.1.2.4, first table	01.01.2010 onwards	IIIA
J	37 kW ≤ P < 75 kW	01.01.2012 onwards	4.1.2.4, first table	01.01.2011 onwards	IIIA
K	19kW ≤ P < 37 kW	01.01.2011 onwards	4.1.2.4, first table	01.01.2010 onwards	IIIA

Table 3 CI engines: propulsion of, and auxiliary use in, inland waterway vessels

<i>Column 1 Category</i>	<i>Column 2 Swept volume (SV)/ Power output (P)</i>	<i>Column 3 Period for placing on market</i>	<i>Column 4 Applicable limit values on emissions</i>	<i>Column 5 Period for type approval application</i>	<i>Column 6 Stage</i>
VI:1	$SV < 0.9$, and $P \geq 37$ kW	01.01.2007 onwards	4.1.2.4, second table	01.01.2006 onwards	IIIA
VI:2	$0.9 \leq SV < 1.2$	01.01.2007 onwards	4.1.2.4, second table	01.07.2005 onwards	IIIA
VI:3	$1.2 \leq SV < 2.5$	01.01.2007 onwards	4.1.2.4, second table	01.07.2005 onwards	IIIA
VI:4	$2.5 \leq SV < 5$	01.01.2009 onwards	4.1.2.4, second table	01.01.2007 onwards	IIIA
V2:1	$5 \leq SV < 15$	01.01.2009 onwards	4.1.2.4, second table	01.01.2008 onwards	IIIA
V2:2	$15 \leq SV < 20$, and $P \leq$ 3300 kW	01.01.2009 onwards	4.1.2.4, second table	01.01.2008 onwards	IIIA
V2:3	$15 \leq SV < 20$, and P >3300 kW	01.01.2009 onwards	4.1.2.4, second table	01.01.2008 onwards	IIIA
V2:4	$20 \leq SV < 25$	01.01.2009 onwards	4.1.2.4, second table	01.01.2008 onwards	IIIA
V2:5	$25 \leq SV < 30$	01.01.2009 onwards	4.1.2.4, second table	01.01.2008 onwards	IIIA

Table 4 CI engines: propulsion of locomotives

<i>Column 1 Category</i>	<i>Column 2 Power output (P)</i>	<i>Column 3 Period for placing on market</i>	<i>Column 4 Applicable limit values on emissions</i>	<i>Column 5 Period for type approval application</i>	<i>Column 6 Stage</i>
RLA	$130 \leq P \leq 560$	01.01.2007 to 31.12.2011	4.1.2.4, third table	01.01.2006 to 31.12.2010	IIIA
RHA	$P > 560$	01.01.2009 to 31.12.2011	4.1.2.4, third table	01.01.2008 to 31.12.2010	IIIA
RB	$P > 130$	01.01.2012 onwards	4.1.2.5, third table	01.01.2011 onwards	IIIB

Table 5 CI engines: propulsion of railcars

<i>Column 1 Category</i>	<i>Column 2 Power output (P)</i>	<i>Column 3 Period for placing on market</i>	<i>Column 4 Applicable limit values on</i>	<i>Column 5 Period for type approval</i>	<i>Column 6 Stage</i>
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			<i>emissions</i>	<i>application</i>	
RCA	P > 130	01.01.2006	4.1.2.4,	01.07.2005	IIIA
		to	fourth	to	
		31.12.2011	table	31.12.2010	
RCB	P > 130	01.01.2012	4.1.2.5,	01.01.2011	IIIB
		onwards	second	onwards	
			table		

SCHEDULE 9

Regulation 3B

CI ENGINES: EXEMPTIONS AND TRANSITIONAL PROVISIONS

PART 1

ALL CI ENGINES: TABLES 1 TO 5

1. This Part of this Schedule applies to a CI engine falling within a category specified in any Table in Schedule 8 to these Regulations.

Armed services

2. The requirements of regulation 3B shall not apply to CI engines which are produced directly or indirectly on behalf of and for use only by the armed services.

Launch and recovery vessels

3. The requirements of regulation 3B shall not apply to—

- (a) CI engines for use in machines intended primarily for the launch and recovery of lifeboats; or
- (b) CI engines for use in machines intended primarily for the launch and recovery of beach launched vessels.

Engines approved in other EEA States

4. The requirements of regulation 3B(2)(a), (b) and (c) shall not apply to CI engines which—

- (a) are approved by the competent approval authorities in another EEA State in accordance with Directive 97/68/EC;
- (b) conform to the requirements of the approval; and
- (c) have affixed to them the markings as defined in section 3 of Annex 1, including the type approval number.

Transition to Stage IIIA, IIIB or IV: prior production dates

5.—(1) A manufacturer may place on the market a qualifying CI engine notwithstanding that it does not comply with the limit values on the emissions of gaseous and particulate pollutants that apply to the engine by virtue of regulation 3A.

(2) “Qualifying CI engine” means an engine which—

- (a) falls within a category specified in a Table in Schedule 8 to these Regulations for which the Stage indicated in column 6 of the Table is IIIA, IIIB or IV;
- (b) has a production date before the beginning of the period specified for that category in column 3 of the Table;
- (c) is placed on the market no later than two years after the beginning of that period; and

- (d) is of an engine type or family which complies with the limit values (if any) on the emissions of gaseous and particulate pollutants which, by virtue of regulation 3A, applied to the category of engines specified in the same Table with the same power output but under the immediately preceding Stage.

PART 2

CI ENGINES IN APPLICATIONS COVERED BY TABLE 1 OR TABLE 2

6. This Part of this Schedule applies to a CI engine falling within a category specified in Table 1 or 2 in Schedule 8 to these Regulations.

Replacement engines

7. The requirements of regulation 3B shall not apply to replacement CI engines which comply with regulation 7A.

Equivalent type approval

8.—(1) In relation to CI engines which fall within categories A, B or C, the type approvals specified in sections 1.1, 1.2 and 1.3 of Annex 12 shall be regarded as being equivalent to a type approval issued in accordance with these Regulations so long as the engine has affixed to it any markings that are specified by the relevant type approval.

(2) In relation to CI engines which fall within categories D₁, D₂, E, F or G, the type approvals specified in sections 2.1, 2.2, 2.3 and 2.4 of Annex 12 shall be regarded as being equivalent to a type approval issued in accordance with these Regulations so long as the engine has affixed to it any markings that are specified by the relevant type approval.

Transition to Stage IIIA, IIIB and IV: flexibility schemes

9.—(1) If the requirements of paragraphs 11 to 13 are complied with in relation to a flexibility scheme approved under paragraph 10, an eligible CI engine may be placed on the market under the scheme, notwithstanding that the engine does not comply with the limit values on the emissions of gaseous and particulate pollutants that apply to the engine by virtue of regulation 3A.

(2) A flexibility scheme is a scheme for the placing on the market of eligible CI engines with a view to their use in a particular type of non-road mobile machinery.

(3) In paragraphs 10 to 13, a person who manufactures a type of non-road mobile machine is referred to as an original equipment manufacturer or “OEM”.

(4) In this paragraph and paragraph 11 “eligible CI engine” means—

- (a) an intermittent speed or constant speed CI engine falling within any of categories H to K (Stage IIIA categories);
- (b) an intermittent speed CI engine falling within any of categories L to P (Stage IIIB categories); or
- (c) an intermittent speed CI engine falling within category Q or R (Stage IV categories).

10.—(1) An application for approval under this paragraph of a flexibility scheme—

- (a) must be made to the approval authority; and
- (b) may be made only by the original equipment manufacturer of the non-road mobile machinery into which an engine subject to the scheme is, or is to be, installed.

(2) An application must specify whether the engines subject to the scheme fall within a Stage IIIA, IIIB or IV category and must include—

- (a) a sample of the labels referred to in paragraph 11(c);
- (b) a sample of the labels referred to in paragraph 13(1)(a); and

(c) such information as the approval authority may request in order to enable it to determine whether or not to approve the scheme.

(3) An application may request approval for the limit on the number of engines that may be placed on the market under the scheme to be determined in accordance with paragraph 12(4) (instead of in accordance with paragraph 12(2)).

(4) The approval authority must notify the OEM of its decision whether or not to approve the scheme.

11. In relation to an eligible CI engine falling within a particular category, the requirements of this paragraph are that—

(a) the engine is placed on the market before the end of the period specified for that category in column 3 of the Table;

(b) the engine complies with the limit values on the emissions of gaseous and particulate pollutants which, by virtue of regulation 3A, applied to the category of engines specified in the same Table with the same power output but under the immediately preceding Stage; and

(c) the text “ENGINE PLACED ON MARKET UNDER THE FLEXIBILITY SCHEME” is attached to a label on the engine.

12.—(1) The number of engines falling within each category that are placed on the market under a flexibility scheme must not exceed the maximum determined in accordance with this paragraph.

(2) Unless sub-paragraph (4) applies, the maximum number is 20 per cent of the relevant average of annual sales of the non-road mobile machinery in which engines falling within the category are installed.

(3) The relevant average is to be calculated—

(a) as the arithmetic mean of the OEM’s annual sales on the European Economic Area market over the preceding 5 years; or

(b) if equipment of the OEM has been marketed in the European Economic Area for a period of less than 5 years, on the basis of the period for which the OEM has marketed equipment in the European Community.

(4) Where a request has been approved under paragraph 10(3) in relation to a category of engine with power output (measured in kW) within the range specified in column 1 of the following Table, the maximum number of engines falling within that category which may be placed on the market under the scheme is the number specified in column 2.

<i>Column 1</i>	<i>Column 2</i>
<i>Power output of engine category (P)</i>	<i>Maximum number of engines</i>
19 kW ≤ P < 37 kW	200
37 kW ≤ P < 75 kW	150
75 kW ≤ P < 130 kW	100
130 kW ≤ P < 560 kW	50

13.—(1) The OEM must—

(a) in relation to each non-road mobile machinery in which an engine placed on the market under a flexibility scheme is installed, affix a label bearing the following text (inserting the information indicated, as appropriate)—

“MACHINE No....(*sequence of machines*) OF... (*total number of machines in respective power band*) WITH ENGINE No ... WITH TYPE APPROVAL (Dir 97/68/EC) No...”;

- (b) within one month of the approval authority giving a notification under paragraph 10(4), send particulars of the scheme to the competent approval authorities of every other EEA State; and
 - (c) provide those authorities and the approval authority with a report on the implementation of the scheme.
- (2) A report under sub-paragraph (1)(c) must be sent at least once every 6 months after the approval is given, until such time as the final report is sent indicating that the maximum number of engines permitted under paragraph 12 have been placed on the market and that the scheme is terminated accordingly.
- (3) A report under sub-paragraph (1)(c) must include cumulative data relating to the scheme, including—
- (a) the number of engines placed on the market and their serial numbers;
 - (b) the number of non-road mobile machinery placed on the market and their serial numbers; and
 - (c) the EEA States in which non-road mobile machinery covered by the scheme have been placed on the market.

PART 3

CI ENGINES IN INLAND WATERWAY VESSELS: TABLE 3

14. This Part of this Schedule applies to a CI engine falling within a category specified in Table 3 in Schedule 8 to these Regulations.

CCNR requirements

- 15.**—(1) The requirements of regulation 3B shall not apply to CI engines which—
- (a) meet the requirements established by CCNR Stage I, the emission limit values for which are set out in Annex 14; and
 - (b) are placed on the market on or before 30th June 2007.
- (2) The requirements of regulation 3B shall not apply to CI engines which meet the requirements established by CCNR Stage II, the emission limit values for which are set out in Annex 15.
- (3) References to the requirements established by CCNR Stage I or II are to requirements applying to inland waterway vessels which—
- (a) are established in the framework of the Mannheim Convention for the Navigation of the Rhine (as amended at the date on which these Regulations come into force^(a)); and
 - (b) have been formally recognised by the Central Commission of Navigation on the Rhine as being equivalent to such requirements of Directive 97/68/EC as apply to inland waterway vessels.

PART 4

CI ENGINES IN LOCOMOTIVES: TABLE 4

16. This Part of this Schedule applies to a CI engine falling within a category specified in Table 4 in Schedule 8 to these Regulations.

(a) The Mannheim Convention was signed on 17th October 1868 and establishes principles for navigation on the Rhine which are still in force today. On 17th October 1963 the Convention was amended without modification of the basic principles and integrated into the Revised Convention for Rhine Navigation. A number of protocols have been added up to and including Protocol Number 5 on 28th April 1999.

Transition to Stage IIIA: existing contracts

17. The requirements of regulation 3B shall not apply to CI engines which are—
- (a) manufactured pursuant to a contract to purchase the engine which was entered into before 20th May 2004; and
 - (b) placed on the market no later than—
 - (i) in the case of an engine with a power output within the range specified for category RLA, 31st December 2008;
 - (ii) in the case of an engine with a power output within the range specified for category RHA, 31st December 2010.

Transition to Stage IIIB: existing contracts

18.—(1) A manufacturer may place on the market a qualifying CI engine notwithstanding that it does not comply with the limit values that apply to it by virtue of regulation 3A.

- (2) "Qualifying CI engine" means an engine which—
- (a) falls within category RB;
 - (b) is manufactured pursuant to a contract to purchase the engine which was entered into before 20th May 2004;
 - (c) is placed on the market no later than 31st December 2013; and
 - (d) complies with the limit values on the emissions of gaseous and particulate pollutants which, by virtue of regulation 3A, applied to the category of engines specified in Table 4 in Schedule 8 with the same power output but under the immediately preceding Stage.

19.—(1) If sub-paragraph (2) applies, the approval authority may issue a type approval certificate pursuant to regulation 9 notwithstanding that the requirements of regulation 3C(2)(b) are not met in relation to the engine provided in connection with the application for type approval.

- (2) This sub-paragraph applies if—
- (a) a contract to purchase engines of the engine type or family to which the application for type approval relates was entered into before 20th May 2004;
 - (b) the application for type approval is made in the period beginning with 1st January 2011 and ending with 31st December 2012; and
 - (c) the engine complies with the limit values on emissions of gaseous and particulate pollutants which, by virtue of regulation 3A, applied to the category of engines specified in Table 4 in Schedule 8 with the same power output but under the immediately preceding Stage."

Signed by authority of the Secretary of State

9th January 2006

S.J.Ladyman
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Non-Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999 (S.I. 1999/1053) (“the 1999 Regulations”). They implement the provisions of European Parliament and Council Directive 2004/26/EC. That Directive amends Directive 1997/68/EC on the approximation of the laws of the member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery, so as to impose new emissions limits on certain types of engine already covered by Directive 1997/68/EC and to extend that Directive’s scope to include engines installed in inland waterway vessels, locomotives and railcars.

Regulation 4 amends provisions of the 1999 Regulations which determine the engines to which the 1999 Regulations apply.

Regulations 5 and 17 insert new provisions into the 1999 Regulations so as to deal with compression ignition engines separately from spark ignition engines.

Regulation 5 inserts new regulations 3A, 3B and 3C of the 1999 Regulations which apply to compression ignition engines only and which make provision as to the limit values for emissions of gaseous and particulate pollutants.

The inserted regulation 3A of the 1999 Regulations introduces the Tables that appear as Schedule 8 to the 1999 Regulations (inserted by *regulation 17*) and sets out how the Tables apply. It explains how to determine which category a compression ignition engine falls into and how to determine the limit values that apply to emissions of gaseous and particulate pollutants from the engine. This depends on the type of engine, the non-road mobile machinery into which it is installed and the power output of the engine (or its swept volume per cylinder for inland waterway vessels). The limit values that apply then generally depend on the date when the engine is placed on the market by reference to the periods specified in column 3 of each entry in the Tables in Schedule 8.

The inserted regulation 3B of the 1999 Regulations sets out the requirements that a compression ignition engine must meet before it can be placed on the market. It also introduces Schedule 9 to the 1999 Regulations (also inserted by *regulation 17*) which specifies the circumstances in which engines which do not comply with some or all of those requirements may nevertheless be placed on the market.

Paragraph 15 of the inserted Schedule 9 refers to engines which meet certain requirements established in the framework of the Mannheim Convention for the Navigation of the Rhine. Information relating to the Convention can be obtained from the Central Commission for Navigation on the Rhine, Palais du Rhin, 2, Place de la République, 67082 Strasbourg, France (telephone number: 00 33 (0)3 88 52 20 10 and email address: ccnr@ccr-zkr.org).

Where the requirements imposed by inserted regulation 3B of the 1999 Regulations include the need for a type approval certificate from the UK competent authority, inserted regulation 3C of the 1999 Regulations specifies the requirements that must be met before the certificate will be issued. For these purposes, the limit values that apply to a particular engine depend on the date when the application for a certificate is made by reference to the periods specified in column 5 of each entry in the Tables in Schedule 8.

Regulations 6 to 15 include a number of amendments that carry through the separate treatment of compression ignition engines and spark ignition engines. Certain provisions of the 1999 Regulations revoked by these amendments are reproduced, for spark ignition engines, in regulation 6A of the 1999 Regulations (inserted by *regulation 9*) and, for compression ignition engines, in Schedule 9 to the 1999 Regulations. In addition, *regulation 11* excludes certain engines from regulation 7A of the 1999 Regulations, *regulation 12* makes a number of

amendments to take account of the fact that Directive 1997/68/EC applies to the European Economic Area and *regulation 13* contains amendments consequential on amendments to the 1999 Regulations which are made by *regulation 5*.

Regulation 16 prohibits the Secretary of State from issuing a Declaration of Compliance with the technical requirements applying to inland waterway vessels laid down in Directive 82/714/EC in any case where the engine or engines installed in a vessel do not comply with Directive 1997/68/EC.

A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Department for Transport, Zone 2/15, Great Minster House, 76 Marsham Street, London, SW1P 4DR. Copies have been placed in the Library of each House of Parliament.

A copy of the Transposition Note is also available from the Department for Transport.

Copies of the Regulatory Impact Assessment and of the Transposition Note may also be accessed on the HMSO website www.opsi.gov.uk.

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ENVIRONMENTAL PROTECTION

**The Non-Road Mobile Machinery (Emission of Gaseous and
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