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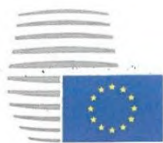
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| From: | General Secretariat of the Council |
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| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the approval and market surveillance of non-road mobile machinery circulating on public roads and amending Regulation (EU) 2019/1020 - Letter to the Chair of the Committee on the Internal Market and Consumer Protection |

Following the Permanent Representatives Committee meeting of 15 March 2024 which endorsed the final compromise text with a view to agreement, delegations are informed that the Presidency sent the attached letter, together with its Annex, to the Chair of the European Parliament IMCO Committee.



SGS 24 / 001490

Council of the
European Union

Brussels, 15 March 2024

Ms Anna CAVAZZINI
Chair of the Committee on the Internal Market and Consumer Protection
European Parliament
Rue Wiertz 60
BE-1047 Brussels

Subject: 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

Dear Ms Cavazzini,

Following the informal negotiations on this proposal between the representatives of the three institutions, today the Permanent Representatives Committee agreed with the final compromise text.

I am therefore now in a position to inform you that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU, in the exact form of the text set out in the Annex to this letter (subject to revision by the lawyer-linguists of the two institutions), the Council, in accordance with Article 294(4) TFEU, will approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the position of the European Parliament.

On behalf of the Council, I also wish to thank you for your close cooperation which should enable us to reach agreement on this file at first reading.

Yours sincerely,

Pierre CARTUYVELS
Chair of the
Permanent Representatives Committee
(Part 1)

Copy: Mr Thierry BRETON, Commissioner for the Internal Market
Mr Tom VANDENKENDELAERE, European Parliament rapporteur

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 Committee¹,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C [...], [...], p. [...].

Whereas:

- (1) Self-propelled mobile machinery, falling within the scope of Directive 2006/42/EC of the European Parliament and of the Council², that is designed or constructed with the purpose to perform work, ('non-road mobile machinery') might need, whether occasionally or *regularly*, to circulate on public roads, mostly to move from one working place to another.
- (1a) The aim of this Regulation is to cover self-propelled machinery only. Towed machinery equipment is not covered by this Regulation because such equipment is normally towed by motor vehicles under the scope of Regulation (EU) 2018/858 of the European Parliament and of the Council. Such equipment should be covered by Regulation (EU) 2018/858, which regulates the type-approval of motor vehicles including their trailers. The Commission should address the need for establishing, under Regulation (EU) 2018/858, detailed technical requirements relating to the road safety of the specific category of towed machinery equipment, in so far as such equipment is not subject to such requirements under the existing rules.*

² 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).

- (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 Council³, Directive 2000/14/EC of the European Parliament and of the Council⁴, Directive 2014/30/EU of the European Parliament and of the Council⁵ or Directive 2014/53/EU of the European Parliament and of the Council⁶, 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.

³ 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).

⁴ 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 (*OJ L 162 3.7.2000, p. 1*).

⁵ 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).

⁶ 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).

- (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 ***and individual type-approval systems*** for the road safety of non-road mobile machinery intended to circulate on public roads.
- (5a) The objective of this Regulation is to address the risks associated with the intended circulation of non-road mobile machinery on public roads. Thus, non-road mobile machinery that, in practice, is not intended to circulate on public roads should be excluded from the scope of this Regulation.***
- (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. ***Any space should be considered as a seating position if it is designed for use when the non road mobile machinery is circulating on the public road and can be reasonably used as such and it allows the 5th percentile adult female to be seated.***
- (7a) ***This Regulation should cover only non-road mobile machinery intended for circulation on public roads and that is placed on the Union market from the date of application of this Regulation and is either new non-road mobile machinery produced by a manufacturer established in the Union or non-road mobile machinery, whether new or second-hand, imported from a third country.***
- (7b) ***This Regulation should apply to non-road mobile machinery intended to circulate on public roads irrespective of its propulsion system and, therefore, should also apply to electric and hybrid machinery. This Regulation should be without prejudice to the electric safety requirements related to electric drives laid down by Regulation (EU) 2023/1230 of the European Parliament and of the Council⁷.***
- (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 ***either*** fast non-road mobile machinery ***or non-road mobile machinery not exceeding 6 km/h***. This Regulation should therefore not apply to mobile machinery with a maximum design speed ***not exceeding 6 km/h or exceeding 40 km/h***.

⁷ ***Regulation (EU) 2023/1230 of the European Parliament and of the Council of 14 June 2023 on machinery and repealing Directive 2006/42/EC of the European Parliament and of the Council and Council Directive 73/361/EEC (OJ L 165 29.6.2023, p. 1).***

- (9) *In some specific well-defined cases the manufacturers should have a choice to use national schemes, EU type-approval or EU individual approval. Given the particularities of prototypes of non-road mobile machinery used on the road under the responsibility of the manufacturer to carry out specific development test programmes or field tests, non-road mobile machinery designed and constructed or adapted for use by civil protection, fire services and forces responsible for maintaining public order and non-road mobile machinery used primarily in quarries or airports, it is appropriate to allow manufacturers' flexibility regarding the approval scheme to apply.*
- (9a) *This can also be the case for small and medium sized enterprises producing non-road mobile machinery in number of units that are made available on the market, registered or entered into service not exceeding, per year and in each Member State, 70 units of a type.*
- (9b) *Though Member States will be able to establish national schemes for the non-road mobile machinery described in recitals 9 and 9a, the Member States that have not established such a scheme should require the manufacturer, for that mobile machinery, to follow this Regulation. In addition, the Member States that have established such a scheme should allow the manufacturer to choose to follow this Regulation 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 *masses, axle loads or ground contact pressure*, could damage the surface of public roads or other road infrastructure *or, due to its fully automated driving systems for on-road use*, it is appropriate to provide the discretion to Member States to prohibit the circulation *on the public road or the registration* of such machinery, even if it has been type-approved in accordance with this Regulation. *In order to have a high level of harmonisation for non-road mobile machinery across the Union, it is important that Member States only prohibit the circulation on public roads of a limited number of machines. Therefore, both Member States and the Commission should set sufficient high thresholds and allow as many type-approved machines as possible to circulate on their public roads.*
- (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. *The technical requirements should take into account synergies between the machinery function and the on-road use function of the non-road mobile machinery. In order to keep these technical requirements sufficiently future-proof, the Commission can lay down rules for additional requirements due to technical and scientific progress, such as driver assistance systems and automated and remotely operated driving systems.*
- (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 *with* 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. ***The sampling rate should be proportionate to the production volumes. Member States should ensure that their approval and market surveillance authorities have the necessary resources, such as sufficient budgetary, human and material resources, including a sufficient number of competent personnel, expertise, procedures and other arrangements to exercise the powers that are conferred on them under Article 14 of Regulation (EU) 2019/1020.***
- (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 Council⁸ 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.

⁸ 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).

- (16a) *It is important that, for non-road mobile machinery, there should be an economic operator established in the Union so that market surveillance authorities have someone to whom requests can be addressed, including requests for information regarding a product's compliance with this Regulation, and who can cooperate with market surveillance authorities in making sure that immediate corrective action is taken to remedy instances of non-compliance. The economic operators who should perform those tasks are the manufacturer or an authorised representative mandated by the manufacturer for this purpose. The manufacturer should ensure that a mandated authorised representative is appointed at all times as long as the manufacturer holds a type-approval according to this Regulation.*
- (17) In order to ensure uniform conditions for the implementation of the EU type-approval **and EU individual 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 Council⁹.

⁹ 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).

- (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 *methodology for the determination* of the thresholds that may be applied 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-Making¹⁰. 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.

¹⁰ OJ L 123, 12.5.2016, p. 1.

- (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 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 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.
- (22a) With a view to facilitating the implementation of the harmonised European provisions of this Regulation, after its entry into force, Member States should refrain, during the transitional period, from adopting new national technical regulations for the approval of non-road mobile machinery circulating on public roads which are not aligned with, those established in this Regulation. The transitional period is applicable only in those Member States that have in place, during that period, any existing or new national technical regulations for the approval of non-road mobile machinery circulating on public roads.***
- (22b) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union (the “Charter”). Accordingly, this Regulation should be interpreted and applied with respect to those rights and principles, in particular the right to respect for private and family life, which includes the right to respect for one’s home in accordance with Article 7 of the Charter.***

(23) Since the objective of this Regulation, namely laying down harmonised technical requirements, administrative requirements and procedures for the **EU** type-approval **and EU individual 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 **EU individual approval**, and placing on the market of **all new** 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 (*'U-category vehicles'*) where it is placed on the market and intended to circulate, *whether occasionally or regularly*, 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;
 - (aa) non-road mobile machinery with a maximum design speed not exceeding 6 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 *exclusively* 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].



3. *For the following non-road mobile machinery, the manufacturer may decide to apply for the EU type-approval, the EU individual approval or to comply with the relevant national legislation, where appropriate:*
- (a) *non-road mobile machinery where the number of units per type does not exceed 70 per year and in each Member State;*
 - (b) *prototypes of non-road mobile machinery used on the road under the responsibility of the manufacturer to carry out specific development test programmes or field tests, if they have been specifically designed and constructed for that purpose.*
 - (c) *non-road mobile machinery designed and constructed for use principally in quarries, port or airport facilities;*
 - (d) *vehicles designed and constructed or adapted for use by civil protection, fire services and forces responsible for maintaining public order.*

Article 3

Definitions

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

- (1) ‘non-road mobile machinery’ means any self-propelled mobile machinery *with a propulsion system*, falling within the scope of Directive 2006/42/EC, that is designed *and* constructed with the purpose to perform work;
- (1a) ‘*new non-road mobile machinery*’ means a non-road mobile machinery which has *never been placed on the market in the Union*;
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- (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;

- (4a) ***'Fully automated driving system' means a driving system of a non-road mobile machinery that has been designed and constructed to move autonomously without any driver supervision.***
- (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;
- (7a) ***'EU individual approval' means the certification from an approval authority that a particular non-road mobile machinery, whether unique or not, 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;
- (13a) ‘manufacturer's representative for type-approval’ means any natural or legal person established in the Union who is duly appointed by the manufacturer on the base of an agreement to carry out all of the manufacturer's obligations related to the EU type-approval and the relevant procedures including the task specified in Articles 17, 18 and 21. This agreement must be presented at the request of the type-approval authority;***
- (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, ***in the Union, in*** 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;
- (21a) ‘EU individual approval certificate’ means the document issued by the approval authority which certifies that a particular non-road mobile machinery is individual 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 **group** of non-road mobile machinery, including variants and versions of variants of that machinery, that shares
■ at least the following essential **aspects**:

■

(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),

■

■

(24) ‘variant’ means non-road mobile machinery of the same type which does not differ in at least the following **aspects, where applicable**:

(a) body structural concept or type of body work,

(b) stage of completion,

(c) **propulsion system** (internal **combustion engine/hybrid/electric/hybrid-electric or other**),

(d) operating principle,

■

■

■

(h) powered axles (number, position, interconnection),

■

- █
- (k) transmission (type),
 - (l) *protective structures*,
 - (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 *its safe circulation on public roads and other* 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;
- (31a) ‘virtual testing method’ means computer simulations, including calculations, to demonstrate that a non-road mobile machinery fulfils the technical requirements without requiring the use of a physical vehicle, system, component or separate technical unit;**
- (33) ‘seating position’ means any location capable of accommodating one person seated.**

Article 3a

Vehicle category of non-road mobile machinery

For the purposes of this Regulation, the following vehicle category shall apply for all non-road mobile machinery type-approved under this Regulation: ‘category U’.

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.
 - 1a. Member States shall ensure that their approval and market surveillance authorities have the necessary resources for the proper performance of their duties.*
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 *and market surveillance* 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 ***or the registration*** of non-road mobile machinery ***that have been approved in accordance with this Regulation***, which satisfies the following criteria:
 - (a) due to its excessive dimensions, the machinery would not allow for sufficient manoeuvrability on public roads; ■
 - (b) due to its excessive ***masses, axle loads or ground contact pressure***, the machinery could damage the surface of public roads or other road infrastructure;

(ba) due to its fully automated, or remotely operated, driving system for on-road use, it is subject to restrictions in the national traffic law.

The Commission is empowered to adopt delegated acts in accordance with Article 47 to supplement this Regulation establishing the ***methodology for the determination of EU wide threshold values, to be established by means of the implementing acts referred to in the subparagraph below, as regards*** machinery's maximum road laden mass ***on road, axle loads or ground contact pressure*** 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. ■

The Commission shall adopt implementing acts setting out the threshold values in accordance with this methodology. These thresholds values may differ in respect of different groups 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.

- 6a. *Member States shall take the necessary measures to ensure that market surveillance authorities are entitled, in accordance with national law, to exercise the powers that are conferred on them under Article 14 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.
- 3a. *For the purpose of enabling market surveillance authorities to carry out checks, approval authorities shall make available to market surveillance authorities the necessary information related to the type-approval of the non-road mobile machinery that is subject to compliance verification checks. That information shall include at least the information included in the EU type-approval certificate and its attachments. Approval authorities shall provide that information to the market surveillance authorities without undue delay.*
- 3b. *Where an approval authority has been informed in accordance with Chapter IX that a non-road mobile machinery is suspected of presenting a serious risk or of being in non-compliance, it shall take all necessary measures to review the type-approval granted and, where appropriate, correct or withdraw the type-approval depending on the reasons and the seriousness of the deviations demonstrated.*

Article 6

General obligations of manufacturers

1. Manufacturers shall ensure that non-road mobile machinery that they place on the market *either* belongs to a type that has been granted an EU type-approval and it is designed and manufactured in accordance with that type *or has been granted an EU individual approval*.
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, **■** 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.
- 7a. ***Manufacturers shall ensure that their non-road mobile machinery is not designed to incorporate strategies or other means that alter the performance exhibited during test procedures in such a way that they do not comply with this Regulation when operating under conditions that can reasonably be expected in normal operation.***

Article 7

Specific obligations of manufacturers

1. Manufacturers who have sufficient reason to believe that ***type-approved*** non-road mobile machinery which they have made available on the market is not in conformity with ***the requirements of*** 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, ***and to notify the user of that non-conformity.***

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 ***risk*** and any corrective measures taken. ***Manufacturers shall immediately inform the users via appropriate means.***

3. Manufacturers shall keep, at the disposal of the approval *and market surveillance* 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 *immediately* 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 *machinery*.

Article 8

Obligations of manufacturer's representatives concerning market surveillance

1. 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 *or market surveillance* authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of production of a *type-approved* non-road mobile machinery *in accordance with this Regulation*;
 - (c) cooperate with the approval or market surveillance authorities, at their request, on any action *in accordance with Chapter IX of this Regulation relating to* non-road mobile machinery covered by their mandate;
 - (d) *immediately inform the manufacturer about complaints and reports relating to risks, suspected incidents or non-compliance issues that relate to non-road mobile machinery covered by that mandate*;
 - (e) *have the right to terminate the mandate without penalty if the manufacturer acts contrary to its obligations under this Regulation.*
2. *A manufacturer's representative who terminates the mandate on the grounds referred to in point (e) of paragraph 1 shall immediately inform the approval authority that granted the type-approval.*

Article 9

General obligations of importers

1. Importers shall ensure that non-road mobile machinery that they place on the market *either* belongs to a type that has been granted an EU type-approval and conforms to that type *or has been granted an EU individual approval.*
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 *the requirements of* 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 *the requirements of* 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 *for circulating on public roads*

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, installation of lighting and visual warnings and markings**;
- (j) ■ 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 ■ ;
- (q) **energy storage systems**;
- (r) tyres;
- (s) reverse gear;
- (t) tracks;
- (u) mechanical couplings;
- (v) driver and other occupants' seating positions and restrain systems;
- (w) **additions to the operator's manual specific** for road use;
- (x) operator's controls ■ .

■

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 *may provide different detailed rules for different groups of non-road mobile machinery and shall specify whether their provisions apply to non-road mobile machinery intended to circulate on public roads with driver, without driver or both.*

- 2a.** *When adopting the delegated acts referred to in paragraph 2, the Commission shall ensure that the requirements laid down in those delegated acts are aligned and consistent with, and complementary to requirements applicable to non-road mobile machinery pursuant to other acts of Union law, in particular Regulation (EU) 2023/1230. In the preparation of those delegated acts, the Commission shall carry out appropriate consultations, including with the relevant stakeholders.*

Article 16

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

1. Non-road mobile machinery *intended for circulation on public roads* 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. *The manufacturer or its representatives shall submit to the approval authority an application for EU type-approval and the information folder referred to in Article 18.*

■

■

In the case where the *manufacturer* is established outside the Union, that *manufacturer* shall appoint a single representative established within the Union to represent him or her before the approval authority. *In the case where the manufacturer is established inside the EU, that manufacturer may appoint such a representative.*

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 ***manufacturer or its representatives***, 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) ***a copy of*** 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 **and presenting** a record of the successive steps in the management of the EU type-approval, in particular the dates of revisions and **updates**. 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 **manufacturer or its representatives** 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 ***manufacturer or its representatives*** 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 **manufacturer or its representatives** shall demonstrate compliance with the applicable technical requirements by establishing technical documentation.
3. The technical documentation referred to in paragraph 2 shall **include a declaration of compliance from the manufacturer or**, if tests are required by the delegated acts adopted pursuant to this Regulation, **relevant test reports** resulting from the following test procedures:
 - (a) testing carried out by the manufacturer. ***For testing procedures included in this subparagraph the responsibility of the type-approval authority will be limited to checking that both the declaration and the testing reports are included within the file.***
 - (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 **manufacturer or its representatives** 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 **manufacturer or its representatives** 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 **manufacturer or its representatives** 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 ***supplementing this Regulation by*** 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, ***directly***, in cooperation with, ***or on the basis*** of the ***verification already carried out by the approval authority of another Member State***, 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, ***directly***, in cooperation with, ***or on the basis*** of the ***verification already carried out by the approval authority of another Member State***, 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 approval authority may decide to take all necessary corrective or restrictive measures laid down in Chapter IX.*
6. The Commission is empowered to adopt delegated acts in accordance with Article 47 concerning the detailed arrangements with regard to conformity of production, *such as the detailed conditions under which approval authorities may not refuse the verification already carried out by the approval authority of another Member State.*

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 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 *for placing non-road mobile machinery on the market* shall become invalid **24** 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 *by the manufacturer* in paper format, free of charge.

3a. *The approval authority receiving the certificate of conformity, as structured data in electronic format, shall:*

- (a) ensure that it can be accessed by the approval authorities, market surveillance authorities and registration authorities of the Member States and by the Commission; and*
- (b) give read-only access.*

Member States shall establish the organisation and structure of their data network to enable data reception of the certificates of conformity, preferably by making use of existing systems for the exchange of structured data.

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 *of the paper and electronic formats* for the certificate of conformity adopted by the Commission by means of implementing acts referred to in *paragraph 5a*.

All data exchanges in accordance with this Article shall be performed by means of secure data exchange protocols specified in implementing acts referred to in paragraph 5a.

5a. The Commission shall adopt implementing acts concerning the certificate of conformity in paper format, setting out, in particular:

- (a) the template for the certificate of conformity;*
- (b) the security elements to prevent forgery of the certificate of conformity; and*
- (c) the specification concerning the manner of signing of the certificate of conformity.*

Taking into account the data that are required to be provided on the certificate of conformity in paper format, the Commission shall adopt implementing acts concerning certificates of conformity in electronic format setting out, in particular:

- (a) the basic format and structure of the data elements of the certificates of conformity in electronic format and the messages used in the exchange;*
- (b) minimum requirements for secure data exchange, including the prevention of data corruption and data misuse, and measures to guarantee the authenticity of the electronic data, such as the use of digital signature;*
- (c) the means of exchange of the data of the certificate of conformity in electronic format.*

The implementing acts referred to in this paragraph shall be adopted in accordance with the examination procedure referred to in Article 46(2).

- 5b. *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 ***shall not contain*** 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 ■ 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

1. 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 *reflect* technological developments.
2. As soon as the relevant acts have been amended, any restriction in the Commission decision authorising the exemption shall be lifted.

3. 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 VIIIa

INDIVIDUAL APPROVAL

Article 30a

EU individual approval

1. ***Member States shall grant an EU individual approval for a non-road mobile machinery that complies with the requirements laid down in this Regulation.***
2. ***An application for an EU individual approval for a non-road mobile machinery shall be submitted by the owner of the vehicle, the manufacturer, the manufacturer's representative or the importer.***
3. ***The delegated acts referred to in paragraph 2 of Article 15 may provide different detailed rules for non-road mobile machinery that is subject to individual approval. Those rules shall cover the test procedures referred to in Article 21(3)(b) and (c) and shall consist of non-destructive and simplified procedures in order to demonstrate compliance of the individual non-road mobile machinery by means of physical, virtual and mechanical assessment.***
4. ***The EU individual approval certificate shall be given a unique number in accordance with a harmonised numbering system, which shall at least allow for the identification of the Member State which granted the EU individual approval.***

5. *The Commission shall adopt implementing acts laying down the template and the numbering system of EU individual approval certificates. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).*

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 *the requirements of* 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 *or is not in conformity with this Regulation*, 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 *or is brought into conformity. That period shall be proportionate to the seriousness of the risk or non-conformity.*
2. **█**
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 **█** 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 ***national authorities*** 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 ***mobile*** machinery that presents a serious risk ***those*** corrective or restrictive measures shall also be notified via ***the Safety Gate Rapid Alert System referred to in Article 25 of Regulation (EU) 2023/988 of the European Parliament and of the Council***¹¹.

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, ***its*** origin **■**, the nature of the alleged non-compliance or the risk involved, the nature and duration of the national **■** 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 **■** 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.

¹¹ ***Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 and Directive (EU) 2020/1828, and repealing Directive 2001/95/EC and Council Directive 87/357/EEC (OJ L 135, 23.5.2023, p. 1).***

3. Member States other than the Member State that takes ■ measures shall inform within one month after the notification referred to in paragraph 1, the Commission and the other Member States of any ■ 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 similar ■ 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 ■ 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 **the owners** 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.

Article 33a

Non-compliant EU type-approval

1. *Where an approval authority finds that a type-approval that has been granted does not comply with this Regulation, it shall refuse to recognise that approval.*
2. *The approval authority shall notify its refusal to the approval authority that granted the EU type-approval, to the approval authorities of the other Member States, and to the Commission. Where within one month after the notification, the non-compliance of the type-approval is confirmed by the approval authority that granted the EU type-approval, that approval authority shall withdraw the type-approval.*
3. *Where, within one month after the notification referred to in paragraph 2, an objection has been raised by the approval authority that granted the EU type-approval, the Commission shall consult the Member States without delay, in particular the approval authority that granted the type-approval and the relevant economic operator.*

4. *On the basis of the consultation referred to in paragraph 3 of this Article, the Commission shall adopt implementing acts to decide if the refusal of recognition of EU type-approval referred to in paragraph 1 of this Article is justified. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2). The Commission shall immediately communicate the decision referred to in the first subparagraph to the relevant economic operators. The Member States shall implement such acts without delay and shall inform the Commission accordingly.*
5. *Where the Commission establishes that a type-approval that has been granted is not compliant with this Regulation, it shall consult the Member States without delay, in particular the approval authority that granted the type-approval and the relevant economic operator. On the basis of consultations referred to in the first subparagraph of this paragraph the Commission shall adopt an implementing act to decide on the refusal of the recognition of type-approval referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 46(2).*
6. *Articles 31, 32 and 33 apply to non-road mobile machinery that are the subject of a non-compliant type-approval and that are already made available on the market.*

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. ***The approval authorities shall provide indications on the minimum information and instructions that need to be made available.***
3. The information referred to in paragraph 2 shall be provided in ***additions to*** the operator's manual ***specific*** 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 ***in an easily accessible*** electronic format.

When the operator's manual is provided in electronic format, the manufacturer shall provide information ■ 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 ***be independent and*** 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.

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 Council¹² 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.

¹² 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).

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 ***supplementing this Regulation by setting out*** 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 ***and, where relevant, any subsidiary or subcontractor***, 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 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 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 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.

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.

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

Committee procedure

1. The Commission shall be assisted by the **■** Technical Committee — Agricultural Vehicles **■** (TC-AV), established *by* Regulation (EU) No 167/2013. *That committee shall be 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 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 [*the date of entry into force of this Regulation.*]. 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.
 - 3a. *Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. **■** Delegated *acts* adopted pursuant to Article 4 (5), Article 15(2), Article 21(9), Article 22(6) *or* Article 39 shall enter into force only if no objection has been expressed either by the European Parliament or *by* 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.
- 5a. *The Commission shall adopt the delegated acts referred to in Article 4(5), Article 15(2), Article 21(9), Article 22(6) and Article 39 before ... [24 months from the date of entry into force of this Regulation].*

CHAPTER XIII

FINAL PROVISIONS

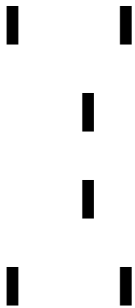
Article 48

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'.'

Forum for Exchange of Information on Enforcement



1. The Forum *for Exchange of Information on Enforcement* (*‘the Forum’*) established by the Commission in accordance with Article 11 of Regulation (EU) 2018/858 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.



6. **Article 11(1), (4), (5), (6) and (7) of Regulation (EU) 2018/858 shall apply mutatis mutandis. whenever relevant for the purpose of the implementation of this Regulation stakeholders involved in safety matters related to road circulation shall be invited as observers to the Forum.**
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, ***at least***:
 - (a) making false declarations during approval procedures or ***while corrective or restrictive measures are imposed in accordance with Chapter IX***;
 - (b) falsifying test results for type-approval , ***for in-service conformity or for market surveillance***;
 - (c) withholding data or technical specifications which could lead to recall, refusal or withdrawal of ***the EU type-approval certificate***;
 - (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 ...**[96 months from** the date of **entry into force 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 ... **[84 months from** the date **of entry into force** 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 **and EU individual approvals granted pursuant to 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 the date **of entry into force** of this Regulation.

Article 52

Transitional provisions

By way of derogation from this Regulation, until **11** years from the date of ***entry into force of this Regulation***, 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 **11** years from the date of ***entry into force of this Regulation***. During that period, the manufacturer may choose either to apply for EU type-approval, ***apply for EU individual 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.

From [date of entry into force], national authorities may grant EU type-approval for a new type of non-road mobile machinery or EU individual approval for a new non-road mobile machinery and shall not, without prejudice to Article 4(5) and Chapter IX, prohibit registration, placing on the market or entry into service of a new non-road mobile machinery where the non-road mobile machinery concerned complies with this Regulation and the delegated and implementing acts adopted pursuant to this Regulation, if a manufacturer so requests.

As soon as it granted EU type-approval for a new type of non-road mobile machinery or EU individual type-approval for a new non-road mobile machinery following paragraph 1, national authorities shall not refuse to grant other EU type-approval or other EU individual type-approval when it is in compliance with this Regulation and the delegated and implementing acts adopted pursuant to this Regulation, if a manufacturer so requests.

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 ... ,

For the European Parliament

For the Council
