
INDUSTRY POSITION

19 April 2015



Potential amendment to Council Document 6576/15 on inter-institutional file 2014/0268 (COD) setting out requirements for “replacement engine”

CECE, CEMA and EUROMOT support the initiative of the Council to introduce provisions for “replacement engine”. These associations have consistently highlighted that inclusion of replacement engine provisions, that were omitted from the initial proposal COM (2014) 581, is essential. However, CECE, CEMA and EUROMOT strongly believe that the proposed text must be improved in the following areas.

1. The time limit for placing on market must be increased to at least 25 years
 - A time limit of 10 years is too short to be able to properly maintain machines in the field.
 - Limiting machine life by restricting availability of replacement engines to a certain time period is contrary to principles of circular economy and contrary to principles used for other sectors such as on-highway vehicles where no such restrictions exist.
 - If Council is intent on limiting the ability of manufacturers to support their customers with replacement engines then the time limit must recognize that most non-road mobile machines are high-value long-life capital investments, not consumer goods that may only last up to 10 years. The engine will typically represent less than 10% of machine value
 - Data used in the 2007 review of directive 97/68/EC for a broad cohort of non-road machines with power greater than 37 kW indicated that approximately 5% of machines were expected to still be operational in the EU beyond 22 years. The largest machines, which are often the machines with highest utilization and consequently require periodic engine replacement, may remain operational in the EU for more than 30 years.

For the above reasons the equivalent US legislation permits like-for-like replacement engines to be produced for machines up to 40 years old. A time limit of 25 years is more consistent

with the data from the 2007 review and is mid-way between the value in the current Council document and that permitted in the USA.

2. Concerns regarding mandatory retrieval of replaced engine must be addressed
 - Whilst a process of retrieval of engines that have been replaced can be implemented, it is important to note that the owner of the engine to be retrieved is not subject to the regulation. Consequently, because the engine is outside of the ownership and control of the manufacturer, such processes can never ensure 100% retrieval.
 - It is essential to ensure that those engines that are retrieved can be re-manufactured and made available on market without being subject to further regulation. Engine remanufacturing is part of the circular economy, providing an important source to repair machines in the field, especially those with older engine types. Most importantly, remanufacturing plants and the employment they provide, depend upon a source of retrieved engine 'cores' and a market for the re-manufactured product.
 - Options such as export from the EU or destruction of the engine should also be available.
3. To be effective and proportionate, any reporting requirements should be simple to implement and should not require changes to existing supply chains
 - It is impractical to report separately to each member state approval authority. If reporting is required then it should be to an approval authority used by the manufacturer.
 - To be effective any reporting should preferably make use of existing reporting procedures/channels. It must also recognise that there is often a considerable time lapse between supply of a replacement engine and retrieval of replaced engine.
 - Reporting requirements should not require changes to existing commercial arrangements and supply chains. For example, holding stock of replacement engines at distribution centres and dealers, and the use of spare, so-called 'swing' engines, by certain industries, should not be impeded by reporting requirements.
4. Where an engine installed in a machine requires replacement but part of the emission control system does not, it should be possible to supply the engine without that part

Where an engine installed in a machine requires replacement, but part of the emission control system of the engine, such as the after-treatment or electronic control unit, does not, it is not economic to replace the entire type-approved configuration. Consequently there should be a process to enable supply of the replacement engine without these parts.

(Amendment proposal in detail provided on the next pages)

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Amendment Proposal [1]CHAPTER I, *SUBJECT MATTER, SCOPE AND DEFINITIONS*, Article 3, definitions*Text proposed in Council Document
6576/15**Amendment*

...

(9a) “replacement engine” means an engine that

(a) is exclusively used to replace an engine already placed on the market and installed in a non-road mobile machine, and

(b) complies with an emission stage which is lower than the one currently applicable;

...

...

(9a) “replacement engine” means an engine that is **both placed on the market and used for the exclusive purpose** to replace an engine already placed on the market and installed in a non-road mobile machine;*Justification*

There is no requirement to include in the definition the condition to comply with an emission stage lower than the one currently applicable. The proposed amendment enables the scope of the definition to additionally include current stage engines where they are for the exclusive purpose of replacement of an engine in an existing machine. Conversely, the amendment does not prevent the use, for replacement purposes, of a current stage engine placed on the market for general use in conformity with the regulation, without that engine becoming a replacement engine.

Amendment Proposal [2]CHAPTER XIV, *FINAL PROVISIONS*, Article 57, transitional provisions*Text proposed in Council Document
6576/15**Amendment*

...

(9) By way of derogation from this Regulation, replacement engines may continue to be placed on the market after the applicable introduction date for placing on the market of engines set out in Annex III if all the following conditions are fulfilled:

(a) Where the replacement engine was subject to type-approval at Union level on ...*,

...

(9) By way of derogation from this Regulation, **with the exception of engines to be installed in inland waterway vessels and hand-held SI engines**, replacement engines may continue to be placed on the market after the applicable introduction date for placing on the market of engines set out in Annex III if all the following conditions are fulfilled:

- i. it had received an EU type-approval pursuant to the relevant legislation applicable on ...*, and
 - ii. the time between the termination date of the emission stage for which the EU type-approval was granted and the actual date of placing on the market of the replacement engine does not exceed a period of 10 years.
- (b) Where the replacement engine was not subject to type-approval at Union level on ...*,
- i. it complied with the national rules in force, if any, on ...*, and
 - ii. the time between the applicable introduction date for placing on the market of engines set out in Annex III and the actual date of placing on the market of the replacement engine does not exceed a period of 10 years.
- (c) The replacement engine complies with an emission stage that the engine to be replaced had to meet when originally placed on the market or, alternatively, complies with a more stringent emission stage;
- (d) The replacement engine bears the marking required by this Regulation;
- (e) The replaced engine is retrieved from the EU market;
- (f) The placing on the market of an replacement engine and the retrieve of the replaced engine from the EU market is notified to the approval authority where the replacement engine is placed on the market.
10. The Commission shall be empowered to adopt by means of implementing acts the template for the marking referred to in paragraphs 8 and 9(d) of this Article, including its mandatory essential information. Those implementing acts shall be adopted in accordance with the examination
- (a) Where the replacement engine was subject to type-approval at Union level on ...*,
 - i. it had received an EU type-approval pursuant to the relevant legislation applicable on ...*, and
 - ii. the time between the termination date of the emission stage for which the EU type-approval was granted and the actual date of placing on the market of the replacement engine does not exceed a period of **25** years.
 - (b) Where the replacement engine was not subject to type-approval at Union level on ...*,
 - i. it complied with the national rules in force, if any, on ...*, and
 - ii. the time between the applicable introduction date for placing on the market of engines set out in Annex III and the actual date of placing on the market of the replacement engine does not exceed a period of **25** years.
 - (c) The replacement engine complies with an emission stage that the engine to be replaced had to meet when originally placed on the market or, alternatively, complies with a more stringent emission stage;
 - (d) The replacement engine bears the marking required by this Regulation;
 - (e) The replaced engine is retrieved **for re-manufacture, or export from the EU, or is destroyed**;
 - (f) The placing on the market of an replacement engine and the retrieve **or destruction** of the replaced engine from the EU market is notified to **an** approval authority **that is used by the manufacturer**;
 - (g) **Where the replacement engine type is placed on the market without either the exhaust after-treatment**

procedure referred to in Article 54(2) by [31 December 2016];

11. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning the notification and retrieval of engines referred to in paragraph 9 points (e) and (f) of this Article. Those delegated acts shall be adopted by [31 December 2016].

* OJ: please insert date of entry into force of this Regulation

system or the electronic control unit, the correct exhaust after-treatment system and electronic control unit are used;

10. The Commission shall be empowered to adopt by means of implementing acts the template for the marking referred to in paragraphs 8 and 9(d) of this Article, including its mandatory essential information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 54(2) by [31 December 2016];
11. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning the notification and retrieval of engines referred to in paragraph 9 points (e) and (f) of this Article. Those delegated acts shall be adopted by [31 December 2016].

* OJ: please insert date of entry into force of this Regulation

Justification

Limiting machine life by restricting availability of replacement engines is contrary to the principles of the circular economy. Most non-road mobile machines are high-value long-life capital investments not consumer goods and some may remain operational in the EU for more than 30 years. The proposed amendment will ensure that replacement engines are available for a sufficient period to enable machines in the field to be maintained, unlike the proposal in the Council paper.

It is essential to ensure engines that are replaced and retrieved can be re-manufactured and made available on market as part of the circular economy. Most importantly, remanufacturing plants and the employment they provide, depend upon a source of retrieved engines and a market for the re-manufactured product.

To be effective and proportionate, any reporting requirements should be simple to implement and should not require changes to existing supply chains.

Where an engine installed in a machine requires replacement but either the exhaust after-treatment or the electronic control unit does not, it should be possible to supply the engine without those parts as long as the correct parts are used on the machine.

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Our **EU Transparency Register** identification number is **6284937371-73**.

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