

Non-road Mobile Machinery Engine Exhaust Emission Type-Approvals issued by the UK Vehicle Certification Agency (VCA)

No-deal ('hard') Brexit and the application of Regulation (EU) 2019/26 complementing Union type-approval legislation

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In the case of a so-called 'hard' Brexit where the UK withdraws from the EU on 29 March 2019 or a later date without a deal, certain EU exhaust emission type-approvals issued by the UK VCA (identified with lower case 'e11' prefix) will no longer be accepted for placing engines on the EU market. However, for non-road mobile machinery (NRMM) the situation is complicated by the transition from type-approvals issued under 97/68/EC to those issued under Regulation (EU) 2016/1628 for Stage V.

Due to the structure of that legislation and its corresponding exemptions and transition clauses both valid and invalid type-approvals may co-exist in different engine categories and are treated differently. This document aims to provide clarity for all actors involved.

1. Tables 1 and 2 (page 3 and 4, respectively) set out all engine categories for which EU type-approvals are 'INVALID' as of 01 January 2019, consistent with the principle in part C. of the 06 March 2019 European Commission Brexit preparedness notice 'Type approval (motor vehicles, certain other vehicles and engines) - Questions and answers'¹. The purposes for which those type-approvals can still be used, according to Directive 97/68/EC and Regulation (EU) 2016/1628, comprise transition engines (including Stage IIIB for narrow track tractors according to Regulation (EU) 167/2013), replacement engines and 56 - 130 kW OEM flexibility engines. The duration for which placing on the market can continue is governed by Regulation (EU) 2016/1628 (see industry Stage V FAQ document²) and is unaffected by Brexit. As clarified by Recital 20 and Art. 7 of Regulation (EU) 2019/26, manufacturers holding e11 type-approvals for these categories may, after a no-deal Brexit, continue to use those existing e11 type-approvals for placing on the EU market such engines, and for the placing on the market, entry into service and registration of NRMM or agricultural and forestry vehicles into which the engines are installed.
2. Table 3 (page 4) sets out all engine categories for which type-approvals remain 'VALID' on 01 January 2019. Manufacturers holding e11 approvals for these categories may obtain new EU

¹ https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notice_en#grow

² <https://www.euromot.eu/wp-content/uploads/2018/09/NRMM-Stage-V-FAQ.pdf>

type-approvals from an EU-27 member-state for these engine categories according to Art. 4 and 5 of Regulation (EU) 2019/26 to ensure their continued ability to place engines of these categories on the EU market in event of a no-deal Brexit. Regulation (EU) 2019/26 refers to EU-27 member-states as 'Union' member states and the new EU type-approvals that they issue as 'Union' type-approvals. The Union type-approval document will have a unique type-approval number but will also mention the prior e11 type-approval number.

3. The mention of the prior e11 type-approval number in the new Union type-approval document enables the manufacturer to provide documentary evidence that an engine type marked with the e11 type-approval number is identical to an engine type marked with the new Union type-approval number.
4. Any manufacturer that obtains a new Union type-approval using Art. 4 and 5 of Regulation (EU) 2019/26 must also, according to Art. 6 of that Regulation, arrange for the Union approval authority to take over the obligations of the VCA in respect to all EU type-approvals granted by VCA to that manufacturer since 01 January 2008, irrespective of whether those type-approvals are still used for placing on the market, unless the manufacturer already has a corresponding arrangement with another Union approval-authority.
5. Where available, a UNECE R96 type-approval up to and including Stage IIIB for NRMM and Stage IV for agricultural and forestry vehicles may be used instead of an EU type-approval for placing NRMM engines on the EU market, irrespective of the contracting party that issued the approval. The validity of UNECE type-approvals for use on the EU market is unaffected by Brexit.
6. Consistent with recital (17) of Regulation (EU) 2019/26, in the case that a manufacturer obtains according to Art. 4 and 5 of Regulation (EU) 2019/26 a new Union type-approval, engines (separate technical units) produced prior to the date of effectivity of that new approval on basis of the corresponding UK-issued type-approval and placed on market while EU legislation still applies in UK may still enter service or be registered in the EU after that legislation ceases to apply, i.e. only the first of those steps, placing on market of the engine, must take place before the EU type-approval legislation ceases to apply in UK. An engine needs to be installed before it can enter service and engines are not registered independently from an NRMM. In consequence, an NRMM containing such an engine may still be produced, placed on the market, enter into service or (where applicable) be registered after the date the UK withdraws from the EU in case of no-deal (hard) Brexit, where that engine was placed on the market beforehand. This principle applies equally to agricultural and forestry vehicles. See also part B. of the 06 March 2019 European Commission Brexit preparedness notice 'Type approval (motor vehicles, certain other vehicles and engines) - Questions and answers' .
7. The concept of engines (separate technical units) and vehicles placed on the Union (EU-27) market before the withdrawal date and corresponding examples are set out in part A. of the 06 March 2019 European Commission Brexit preparedness notice 'Type approval (motor vehicles, certain other vehicles and engines) - Questions and answers'³. According to this notice, in the case of a no-deal (hard) Brexit an engine placed only on the UK market before the withdrawal date is not accepted after the withdrawal date as having being placed on the Union (EU-27) market before that date.

³ https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notice_en#grow

Table 1: List of INVALID engine categories as of 01 January 2019 (Part 1 : Variable speed CI)

Description	Stage	Category	Placing on market of engine and placing on market, entry into service and (where applicable) registration of NRMM or agricultural and forestry vehicle continues to be permitted after Brexit (i.e. after 29 March 2019 or later date agreed between UK and EU) using e11 engine exhaust emission type-approval that already became invalid on or before 01 January 2019 (Recital 20 and Art. 7 of Regulation (EU) 2019/26)					UNECE R96 permitted as alternative? ⁽¹⁾
			Narrow track tractor sell-off	OEM flexibility (including narrow track tractor)	Transition	Narrow track transition	Replacement ⁽²⁾	
Variable speed 130 ≤ P < 560 kW	IV	Q			X		X	Y ⁽³⁾
Variable speed 37 ≤ P < 56 kW	IIIB	P			X		X	Y
Variable speed 56 ≤ P < 75 kW	IIIB	N	X	X		X	X	Y
Variable speed 75 ≤ P < 130 kW	IIIB	M	X	X		X	X	Y
Variable speed 130 ≤ P < 560 kW	IIIB	L					X	Y
Variable speed 19 ≤ P < 37 kW	IIIA	K			X		X	Y
Variable speed 37 ≤ P < 75 kW	IIIA	J					X	Y
Variable speed 75 ≤ P < 130 kW	IIIA	I					X	Y
Variable speed 130 ≤ P < 560 kW	IIIA	H					X	Y
Variable speed 37 ≤ P < 75 kW	II	G					X	Y
Variable speed 75 ≤ P < 130 kW	II	F					X	Y
Variable speed 130 ≤ P < 560 kW	II	E					X	Y
Variable speed 18 ≤ P < 37 kW	II	D					X	Y
Variable speed 37 ≤ P < 75 kW	I	C					X	Y
Variable speed 75 ≤ P < 130 kW	I	B					X	Y
Variable speed 130 ≤ P < 560 kW	I	A					X	Y

⁽¹⁾ Including UNECE R96 type-approvals issues by UK (E11).

⁽²⁾ Replacement engines may only be used to replace engines already installed in existing NRMM or agricultural and forestry vehicles.

⁽³⁾ Ag tractor only at this time. Future acceptance for NRMM subject to amendments to Annex XIII of Regulation (EU) 2017/654.

Table 2: List of INVALID engine categories as of 01 January 2019 (Part 2: Other categories)

Description	Stage	Category	Placing on market of engine and placing on market, entry into service and (where applicable) registration of NRMM continues to be permitted after Brexit (i.e. after 29 March 2019 or later date agreed between UK and EU) using e11 engine exhaust emission type-approval that already became invalid on or before 01 January 2019 (Recital 20 and Art. 7 of Regulation (EU) 2019/26)			UNECE R96 permitted as alternative? ⁽¹⁾
			OEM flexibility	Transition	Replacement ⁽²⁾	
Constant speed $19 \leq P < 37$ kW	IIIA	K		X	X	Y
Constant speed $37 \leq P < 75$ kW	IIIA	J ⁽³⁾		X	X	Y
Constant speed $130 \leq P < 560$ kW	IIIA	H		X	X	Y
Constant speed $37 \leq P < 75$ kW	II	G	X		X	Y
Constant speed $75 \leq P < 130$ kW	II	F	X		X	Y
Constant speed $130 \leq P < 560$ kW	II	E			X	Y
Constant speed $18 \leq P < 37$ kW	II	D			X	Y
IWT propulsion < 300 kW	IIIA	V ⁽⁴⁾		X		N
Locomotive propulsion	IIIA	RL			X	N
Locomotive propulsion	IIIA	RH			X	N
Railcar propulsion	IIIA	RCA			X	N
SI engines	I	SN, SH		X ⁽⁵⁾		N
SI engines	II	SN, SH		X		N

⁽¹⁾ Including UNECE R96 type-approvals issued by UK (E11).

⁽²⁾ Replacement engines may only be used to replace engines already installed in existing NRMM.

⁽³⁾ Invalid approval for types $37 \leq P < 56$ kW. Valid approval for engine types ≥ 56 kW (Art. 30(3) of Regulation (EU) 2016/1628).

⁽⁴⁾ Invalid approval for types $P < 300$ kW. Valid approval for engine types ≥ 300 kW (Art. 30(3) of Regulation (EU) 2016/1628).

⁽⁵⁾ Small volume engine family exemption only.

Table 3: List of VALID engine categories (current Stage) as of 01 January 2019

Description	Placing on market of engine after Brexit (i.e. after 29 March 2019 or later date agreed between UK and EU) using e11 engine exhaust emission type-approval not permitted ⁽¹⁾ . New Union engine exhaust emission type-approval required (Art. 4 and 5 of Regulation (EU) 2019/26).		UNECE R96 permitted as alternative? ⁽¹⁾
	Stage	Category	
Any category	V	Any	N ⁽³⁾
Variable speed $56 \leq P < 130$ kW	IV	R	Y ⁽⁴⁾
Constant speed $37 \leq P < 75$ kW	IIIA	J ⁽⁵⁾	Y
Constant speed $75 \leq P < 130$ kW	IIIA	I	Y
IWT propulsion ≥ 300 kW Aux > 560 kW	IIIA	V ⁽⁶⁾	N
IWT constant speed Aux $130 \leq P \leq 560$ kW	IIIA	H ⁽⁶⁾	Y
IWT variable speed Aux $130 \leq P \leq 560$ kW	IV	Q ⁽⁶⁾	N
Locomotive propulsion	IIIB	RB	N
Railcar propulsion	IIIB	RCB	N

⁽¹⁾ Where placing on market of engine took place before Brexit, placing on market, entry into service and (where applicable) registration of NRMM or agricultural forestry vehicle continues to be permitted after Brexit (i.e. after 29 March 2019 or later date agreed between UK and EU) using e11 engine exhaust emission type-approvals that are mentioned in a corresponding Union type-approval issued before that date (Recital 17 and Art. 5 of Regulation (EU) 2019/26).

⁽²⁾ Including UNECE R96 type-approvals issued by UK (E11).

⁽³⁾ Future acceptance subject to amendment to Annex XIII of Regulation (EU) 2017/654.

⁽⁴⁾ Ag tractor only at this time. Future acceptance for NRMM subject to amendment to Annex III of Regulation (EU) 2017/654.

⁽⁵⁾ Valid approval for engine types ≥ 56 kW. Invalid approval for types $37 \leq P < 56$ kW (Art. 30(3) of Regulation (EU) 2016/1628).

⁽⁶⁾ Valid approval for engine types ≥ 300 kW. Invalid approval for types $P < 300$ kW (Art. 30(3) of Regulation (EU) 2016/1628).

DISCLAIMER

This guidance document (hereinafter 'guidance') reflects the common view of the associations⁴ involved in the drafting, as regards the legal provisions of Regulation (EU) 2019/26, and it must not be considered or intended as a legally binding text for any reason whatsoever. This guidance shall be intended as a living document; its content could be modified or updated by the associations involved, based on updates of the legislation, and according to their understanding on the matter.

The associations accept no responsibility for the recommendations, advice, statements and conclusions expressed or implied in this guidance and give no warranty, representation or assurance with respect to the accuracy or validity of the same. Only the text of the Regulation is authentic in law. Accordingly, in case of discrepancies between the content and interpretation of this guidance and the text of the legislation (Regulation (EU) 2019/26), the legislation shall be applied.

CONTACT

CECE

The Committee of European Construction Equipment (www.cece.eu) is the recognised organisation representing and promoting the European construction equipment manufacturers and related industries to achieve a fair competitive environment via harmonised standards and regulations. CECE is a European network consisting of a secretariat in Brussels and national association offices in 13 different European countries. The industry behind CECE comprises 1,200 companies. In 2014, these equipment manufacturers had a total turnover of 25 billion € and employed 130,000 people directly.

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CEMA

CEMA is the European association representing the agricultural machinery industry. For 50 years CEMA has acted as a network of national associations and provides services, advice and a common European industry view on relevant topics. The industry represented by CEMA includes 4,500 manufacturers of agricultural equipment employing directly 135,000 persons and indirectly in the distribution and service network another 125,000 persons. The companies are mainly small and medium-sized manufacturers according to the EU definition and they have a total turnover of 26 billion euro.

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EGMF

The European Garden Machinery Industry Federation – EGMF – has been the voice of the entire garden machinery industry in Europe since 1977. With 30 European corporate members and 7 National Associations representing manufacturers of garden, landscaping, forestry and turf maintenance equipment, EGMF has the most powerful network in this sector in Europe.

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EUnited Municipal Equipment

EUnited Municipal Equipment is the European Association of Municipal Equipment Manufacturers. The association represents the leading manufacturers of mobile machines used in municipalities and other public areas.

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EUROMOT

EUROMOT is the European Association of Internal Combustion Engine Manufacturers. Established in 1991, EUROMOT membership includes all major manufacturers of internal combustion engines in Europe and the World, spark ignition and compression ignition, in total 40 companies. The EUROMOT members employ approximately 200.000 highly skilled people directly worldwide. The European market turnover for the business represented exceeds 25 billion Euros.

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EUROPGEN

Established circa 1987 is the European Association for the Generating set industry within Europe. Its aim is to advise all its members of the new directives and information within this industry and promote unity.

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FEM

Created in 1953, the European Materials Handling Federation represents, defends and promotes European manufacturers of materials handling, lifting and storage equipment. FEM speaks for 15 members representing some 1,000 companies (mostly SMEs) employing 160,000 people directly and with an annual turnover of more than €50 billion.

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⁴ The associations involved are CECE, CEMA, EGMF, EUnited Municipal Equipment, EUROMOT, Europgen and FEM