
STATUTORY INSTRUMENTS

2006 No. 2393

ENVIRONMENTAL PROTECTION

The Agricultural or Forestry Tractors (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2006

<i>Made</i>	- - - -	<i>5th September 2006</i>
<i>Laid before Parliament</i>		<i>11th September 2006</i>
<i>Coming into force</i>	- -	<i>12th October 2006</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972⁽¹⁾ in relation to measures relating to the reduction of emissions of pollutants from internal combustion engines⁽²⁾.

Accordingly, in exercise of the powers conferred upon him by that section, he makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Agricultural or Forestry Tractors (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2006 and shall come into force on 12th October 2006.

Interpretation

2. In these Regulations, “the 2002 Regulations” means the Agricultural or Forestry Tractors (Emission of Gaseous and Particulate Pollutants) Regulations 2002⁽³⁾.

Amendment of regulation 2 of the 2002 Regulations

3. (1) Regulation 2 of the 2002 Regulations (interpretation) shall be amended as follows.

(2) After the definition of “the 1988 Regulations”, the following definition shall be inserted—
““the 2005 Regulations” means the Tractor etc (EC Type-Approval) Regulations 2005⁽⁴⁾;”.

(3) For the definition of “category”, there shall be substituted—

(1) 1972 c.68.
(2) S.I. 1998/745.
(3) S.I. 2002/1891.
(4) S.I. 2005/390.

““category” means, in relation to an engine, the category specified in column (4) of Table 1 in Schedule 1 to which the engine belongs by virtue of its engine power output, production date and date of initial entry into service, respectively specified in columns 1, 2 and 3 of that Table, where, in columns (2) and (3), each date is specified by a series of three numbers, the first number denoting the day in the month, the second number denoting the month, and the third number denoting the year;”.

(4) In the definition of “Council Directive 97/68/EC”, after the word “machinery”, there shall be inserted—

“, as last amended by Directive 2004/26/EC of the European Parliament and of the Council of 21st April 2004 amending Directive 97/68/EC on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (5)

(5) In the definition of “Council Directive 2000/25/EC”, after the word “tractors”, there shall be inserted—

“, as last amended by Directive 2005/13/EC of the Commission of the European Communities of 21st February 2005 amending Directive 2000/25/EC of the European Parliament and of the Council of 22nd May 2000 concerning the emission of gaseous and particulate pollutants by engines intended to power agricultural or forestry tractors, and amending Annex I to Directive 2003/37/EC of the European Parliament and of the Council concerning the type-approval of agricultural forestry tractors(6);”.

(6) After the definition of “Council Directive 2000/25/EC”, the following definition shall be inserted—

““Council Directive 2003/37/EC” means Directive 2003/37/EC of the European Parliament and of the Council of 26th May 2003 on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC(7), as last amended by Directive 2005/13/EC of the Commission of the European Communities of 21st February 2005 amending Directive 2000/25/EC of the European Parliament and of the Council of 22 May 2000 concerning the emission of gaseous and particulate pollutants by engines intended to power agricultural or forestry tractors, and amending Annex I to Directive 2003/37/EC of the European Parliament and of the Council concerning the type-approval of agricultural forestry tractors (8);”.

(7) In the definition of “enforcement authority”, the words “, and in carrying out that duty he may act through the Vehicle Certification Agency, an Executive Agency of the Department for Transport, Local Government and the Regions” shall be omitted.

(8) After the definition of “enforcement authority”, the following definition shall be inserted—
 ““engine manufacturer” means, in relation to a tractor engine to be placed on the market under the flexibility scheme, the manufacturer of the engine;”.

(9) After the definition of “exempted engine”, the following definition shall be inserted—
 ““flexibility scheme” means—

- (a) a scheme for the placing on the market of tractor engines which has been approved by the UK type approval authority under the provisions of Schedule 3, or
- (b) a flexibility scheme authorised by any other approval authority in accordance with Article 3a and Annex IV of Council Directive 2000/25/EC;”.

(10) For the definition of “limit values”, there shall be substituted—

(5) OJ No L146, 30.04.2004, p 1.

(6) OJ No.L55, 1.3.2005, p.35.

(7) OJ No. L171, 9.7.2003, p 1.

(8) OJ No L55, 1.3.2005, p 35.

““limit values” means, in relation to a category of engine, the maximum permitted amounts of carbon monoxide, hydrocarbons (if applicable), oxides of nitrogen (if applicable), sum of the amounts of hydrocarbons and oxides of nitrogen (if applicable) and particulates specified for that category of engine in Table 2 in Schedule 1, determined in accordance with the provisions of Annex III of Council Directive [97/68/EC](#).”.

(11) After the definition of “limit values”, there shall be inserted—

““placing on the market” means the action of making an engine or tractor available for the first time on the market, for payment or free of charge, with a view to distribution or use in a Member State; and, in particular, this definition is to be interpreted as including the following cases:

- (a) when a tractor engine is supplied by an engine manufacturer to a tractor manufacturer, it shall be considered to be placed on the market;
- (b) when a tractor is placed on the market, its engine shall be considered to be placed on the market;”.

(12) For the definition of “relevant date”, there shall be substituted—

““relevant date” means,

- (a) in relation to a relevant engine, or an agricultural or forestry tractor fitted with a relevant engine other than an engine of category E or F, the first day of the period of entry into service specified in the row of column (3) of Table 1 in Schedule 1 that applies to the engine; or
- (b) in relation to an agricultural or forestry tractor fitted with a relevant engine of category E or F, the day falling six months after the first day of the period of entry into service specified in the row of column (3) of Table 1 in Schedule 1 that applies to the engine;”.

(13) For the definition of “replacement engine”, there shall be substituted—

““replacement engine” means a newly built relevant engine—

- (a) which replaces an engine in a machine;
- (b) which has been supplied for this purpose only; and
- (c) either—
 - (i) to which a label bearing the text “REPLACEMENT ENGINE” is affixed to a label on the engine, or
 - (ii) where the owner’s manual in relation to the engine in question contains the text “REPLACEMENT ENGINE”;”.

(14) After the definition “replacement engine” the following definition shall be inserted—

““Stage” means, in relation to an engine placed on the market under a flexibility scheme, any period of time which elapses between a date that, under Article 4(3) of Council Directive [2000/25/EC](#), applies to engines of the same power output as the engine in question, and the next such date;”.

(15) After the definition of “stage”, the following definition shall be inserted—

““tractor” has the same meaning as “agricultural or forestry tractor”;”.

(16) After the definition of “tractor engine”, the following definitions shall be inserted—

““type-approval authority” means any of the bodies appointed as the approval authority in a Member State in accordance with Council Directive [2003/37/EC](#);

“UK type-approval authority” has the same meaning as in regulation 2 of the 2005 Regulations”.

Substitution of Regulation 3 of the 2002 Regulations

4. For regulation 3 of the 2002 Regulations (application of Regulations) there shall be substituted

“Application of Regulations

3. These Regulations apply to every tractor engine (whether or not for the time being installed in a tractor) which falls within a category specified in column (4) of Table 1 in Schedule 1, unless it is—

- (a) an engine which is installed or intended to be installed in an agricultural or forestry tractor for export to a state which is not a Member State;
- (b) an exempted engine; or
- (c) an engine which has, at any time in the past, been placed on the market under a flexibility scheme.”.

Substitution of Regulation 4 of the 2002 Regulations

5. For regulation 4 of the 2002 Regulations (application of Regulations) there shall be substituted

“Prohibition on entering engines or tractors into service

4. (1) No person shall enter into service for the first time on or after the relevant date any relevant engine (other than a replacement engine) unless the engine complies with the limit values for the category to which it belongs.

(2) No person shall enter into service for the first time on or after the relevant date any replacement engine, unless the engine complies with the limit values for the category to which the engine it replaces belonged.

(3) No person shall enter into service for the first time on or after the relevant date any agricultural or forestry tractor fitted with a relevant engine unless the engine complies with the limit values for the category to which it would have belonged if it had been manufactured and entered into service on the day the tractor was entered into service for the first time.

(4) In this regulation, if the relevant date is before the date when the Agricultural or Forestry Tractors (Emission of Gaseous and Particulate Pollutants) (Amendment) Regulations 2006 (“the 2006 Regulations”) came into force, then, in relation to a relevant engine to which these Regulations did not apply before that date, references to “the relevant date” shall be read as references to the date when the 2006 Regulations came into force.”.

Substitution of Schedule 1 to the 2002 Regulations

6. Schedule 1 to the 2002 Regulations shall be replaced with the following—

“SCHEDULE 1

Regulation 2

Table 1

Categories of Engines and Relevant Dates

(1) Power Output (P) in kW	(2) Production date	(3) Date of initial entry into service	(4) Category
130 ≤ P ≤ 560	On or before 29.06.2001	30.06.2003 to 30.12.2003	A
	30.06.2001 to 30.12.2001	30.06.2001 to 30.12.2003	A
	On or before 30.12.2001	31.12.2003 to 30.12.2007	E

	31.12.2001 to 30.12.2005	31.12.2001 to 30.12.2007	E
	On or before 30.12.2005	31.12.2007 to 30.12.2012	H
	31.12.2005 to 30.12.2010	31.12.2005 to 30.12.2012	H
	On or before 30.12.2010	31.12.2012 to 30.12.2015	L
	31.12.2010 to 30.12.2013	31.12.2010 to 30.12.2015	L
	On or before 30.12.2013	31.12.2015 onwards	Q
	31.12.2013 onwards	31.12.2013 onwards	Q
75 ≤ P < 130	On or before 29.06.2001	30.06.2003 to 30.12.2004	B
	30.06.2001 to 30.12.2002	30.06.2001 to 30.12.2004	B
	On or before 30.12.2002	31.12.2004 to 30.12.2008	F
	31.12.2002 to 30.12.2006	31.12.2002 to 30.12.2008	F
	On or before 30.12.2006	31.12.2008 to 30.12.2013	I
	31.12.2006 to 30.12.2011	31.12.2006 to 30.12.2013	I
	On or before 30.12.2011	31.12.2013 to 29.09.2016	M
	31.12.2011 to 29.09.2014	31.12.2011 to 29.09.2016	M
	On or before 29.09.2014	30.09.2016 onwards	R
	30.09.2014 onwards	30.09.2014 onwards	R
56 ≤ P < 75	On or before 29.06.2001	30.06.2003 to 30.12.2005	C
	30.06.2001 to 30.12.2003	30.06.2001 to 30.12.2005	C
	On or before 30.12.2003	31.12.2005 to 30.12.2009	G
	31.12.2003 to 30.12.2007	31.12.2003 to 30.12.2009	G
	On or before 30.12.2007	31.12.2009 to 30.12.2013	J
	31.12.2007 to 30.12.2011	31.12.2007 to 30.12.2013	J
	On or before 30.12.2011	31.12.2013 to 29.09.2016	N
	31.12.2011 to 29.09.2014	31.12.2011 to 29.09.2016	N
	On or before 29.09.2014	30.09.2016 onwards	R
	30.09.2014 onwards	30.09.2014 onwards	R
37 ≤ P < 56	On or before 29.06.2001	30.06.2003 to 30.12.2005	C
	30.06.2001 to 30.12.2003	30.06.2001 to 30.12.2005	C
	On or before 30.12.2003	31.12.2005 to 30.12.2009	G
	31.12.2003 to 30.12.2007	31.12.2003 to 30.12.2009	G
	On or before 30.12.2007	31.12.2009 to 30.12.2014	J
	31.12.2007 to 30.12.2012	31.12.2007 to 30.12.2014	J
	On or before 30.12.2012	31.12.2014 onwards	P

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	31.12.2012 onwards	31.12.2012 onwards	P
$19 \leq P < 37$	On or before 30.12.2001	31.12.2003 to 30.12.2008	D
	31.12.2001 to 30.12.2006	31.12.2001 to 30.12.2008	D
	On or before 30.12.2006	31.12.2008 onwards	K
	31.12.2006 onwards	30.12.2006 onwards	K
$18 \leq P < 19$	On or before 30.12.2001	31.12.2003 onwards	D
	31.12.2001 onwards	31.12.2001 onwards	D

Table 2

Limit Values

(1) Category	(2) Carbon monoxide (CO) (g/ kWh)	(3) Hydrocarbon (HC) g/k Wh	(4) Oxides of nitrogen (NOx) (g/ kWh)	(5) Sum of hydrocarbons and oxides of nitrogen (HC+NOx) g/kWh	(6) Particulates (PT) (g/kWh)
A	5.0	1.3	9.2	Not applicable	0.54
B	5.0	1.3	9.2	Not applicable	0.70
C	6.5	1.3	9.2	Not applicable	0.85
D	5.5	1.5	8.0	Not applicable	0.8
E	3.5	1.0	6.0	Not applicable	0.2
F	5.0	1.0	6.0	Not applicable	0.3
G	5.0	1.3	7.0	Not applicable	0.4
H	3.5	Not applicable	Not applicable	4.0	0.2
I	5.0	Not applicable	Not applicable	4.0	0.3
J	5.0	Not applicable	Not applicable	4.7	0.4
K	5.5	Not applicable	Not applicable	7.5	0.6
L	3.5	0.19	2.0	Not applicable	0.025
M	5.0	0.19	3.3	Not applicable	0.025
N	5.0	0.19	3.3	Not applicable	0.025
P	5.0	Not applicable	Not applicable	4.7	0.025
Q	3.5	0.19	0.4	Not applicable	0.025
R	5.0	0.19	0.4	Not applicable	0.025"

Amendment to Schedule 2 to the 2002 Regulations

7. (1) Schedule 2 to the 2002 Regulations shall be amended as follows.

(2) In paragraph 1(1)(a), for the words “prohibition on entering engines into service”, there shall be substituted “prohibition on entering engines or tractors into service”.

(3) In paragraph 5(1), after the words “a relevant engine”, there shall be inserted “or a tractor fitted with a relevant engine”.

(4) In paragraph 5(2), after the words “relevant engine” in the first place in which they appear, there shall be inserted “or a tractor fitted with a relevant engine”.

(5) For paragraph 5(2)(a), there shall be substituted—

“(a) “(a) describe either—

(i) the engine to which the notice relates and any tractor in which it is installed in a manner sufficient to identify it, or

(ii) the tractor to which the notice relates in a manner sufficient to identify it;”.

(6) For paragraph 5(5) there shall be substituted—

“(5) Where a suspension notice has been served on any person in respect of an engine or a tractor, no further suspension notice shall be served on that person in respect of the same engine or tractor, unless proceedings against that person for an offence under paragraph (1)(a) are pending at the end of the period specified in the first-mentioned notice.”.

(7) For paragraph 7(2) there shall be substituted—

“(2) Where—

(a) a relevant engine, or agricultural or forestry tractor, purchased under this paragraph by or on behalf of an enforcement authority is submitted to a test; and

(b) the test leads to

(i) the bringing of proceedings for an offence under paragraph 1(1)(a) in relation to a relevant engine or a tractor fitted with a relevant engine; or

(ii) the serving of a suspension notice in respect of a relevant engine or a tractor fitted with a relevant engine, and

(c) the authority is requested to do so and it is practicable for the authority to comply with the request,

the authority shall allow the person from whom the goods were purchased or any person who is a party to the proceedings or who has an interest in any relevant engine, or tractor fitted with a relevant engine, to which the notice relates, to have the engine tested.”.

(8) For paragraph 9(1) there shall be substituted—

“(1) A customs officer may, for the purpose of facilitating the exercise by an enforcement authority, or duly authorised officer of such an authority, of any powers conferred on the authority or officer by these Regulations seize any imported relevant engine or any imported agricultural tractor in which a relevant engine is installed or any records, and detain them for not more than two working days.”

Introduction of the Flexibility Scheme into the 2002 Regulations

8. After Schedule 2 to the 2002 Regulations, the following Schedule shall be inserted—

“SCHEDULE 3

Regulation 2

UK Flexibility Schemes

Introduction

1. An engine may be placed on the market under a flexibility scheme if the scheme in question satisfies the requirements of this Schedule and the engine falls within the limits of the scheme.

Flexibility Schemes: general

2. A flexibility scheme under this Schedule shall be a scheme for the placing on the market of engines which fall within a category specified in column (4) of Table 1 in Schedule 1—

- (a) that would all be of the same category (referred to in this Schedule as “the relevant category”) if manufactured and entered into service on the day the application for approval under paragraph 3 is made, and
- (b) that are installed or intended to be installed in tractors manufactured by a tractor manufacturer (referred to in this Schedule as “the tractor manufacturer”).

Approval

3. (1) The requirement of this paragraph is that the scheme is approved by the UK type-approval authority pursuant to an application made under this paragraph.

(2) An application for approval under this paragraph—

- (a) may be made only by the tractor manufacturer;
- (b) shall include—
 - (i) a sample of the labels referred to in paragraphs 6(a) and (b); and
 - (ii) such information as the UK type-approval authority may request in order to enable it to determine whether or not to approve the scheme; and
- (c) may request that the limit on the number of engines that may be placed on the market under the scheme be determined in accordance with paragraph 5(3).

(3) The UK type-approval authority shall notify the tractor manufacturer of its decision whether or not to approve the scheme.

Limit values requirement

4. An engine may only be placed on the market under a flexibility scheme approved under paragraph 3 if, had it been entered into service for the first time immediately before the first day of the stage that is in force at the time when the engine is placed on the market, it would have complied with the limit value requirements then imposed by Council Directive [2000/25/EC](#).

Number of engines that may be placed on the market under a flexibility scheme

5. (1) The total number of engines placed on the market under a flexibility scheme shall not exceed the maximum number determined in accordance with this paragraph.

(2) Unless sub-paragraph (3) applies, the maximum number is 20 per cent. of—

- (a) if, at the time when the application under paragraph 3 is made, the tractor manufacturer has been marketing tractors with engines of the relevant category in the territory of the Member States for a period of less than 5 years, the arithmetic mean of the tractor

manufacturer's relevant annual sales over the period in which such marketing has taken place; or

- (b) in any other case, the arithmetic mean of the relevant annual sales, over the 5 years preceding the application made under paragraph 3.

(3) If a request has been approved under paragraph 3(2)(c) the maximum number, in relation to engines with a power output (measured in kilowatts) within the range specified in column 1 of the Table, is the number specified in column 2.

(4) In this paragraph, a reference to the "relevant sales" is a reference to the number of tractors that have been—

- (a) fitted with an engine with a power output within the same power output range as engines of the relevant category;
- (b) sold by the tractor manufacturer; and
- (c) sold in the territory of a member State.

Table

Alternative fixed number of engines that may be placed on the market under a flexibility scheme

<i>Column 1</i>	<i>Column 2</i>
Power output of Engines (P)	Number of engines
$19 \leq P < 37$ kW	200
$37 \leq P < 75$ kW	150
$75 \leq P < 130$ kW	100
$130 \leq P < 560$ kW	50

Labelling requirements

6. The requirements of this paragraph are that—

- (a) when the engine is placed on the market by the engine manufacturer, a label bearing the following text has been permanently affixed to the engine by the engine manufacturer—

“Engine placed on the market under the flexibility scheme”; and that

- (b) when a tractor in which an engine to which the flexibility scheme applies is installed is placed on the market by the tractor manufacturer, the following label has been permanently affixed to the tractor by the tractor manufacturer—

“TRACTOR No.....(sequence of tractors) OF... (total number of tractors in respective power band) WITH ENGINE No ... WITH TYPE APPROVAL (Dir. 2000/25/EC) No...”.

Reports

7. (1) Whilst the flexibility scheme is in force, the tractor manufacturer shall, before the end of every period of six months, beginning with the date on which the decision to approve the scheme has been notified under paragraph 3(3), provide the relevant type-approval authorities with a report on the implementation of the flexibility scheme.

(2) A report under sub-paragraph (1) shall include cumulative data relating to the scheme, including at least the following—

- (a) the number of engines placed on the market and their serial numbers;

- (b) the number of tractors placed on the market and their serial numbers;
- (c) the member States in which tractors covered by the scheme have been placed on the market.

(3) In this paragraph, “relevant type-approval authorities” means the type-approval authorities that have jurisdiction for the territories, or part of territories, of member States in which engines or tractors have been placed on the market under the flexibility scheme.

Voluntary end of the scheme

8. (1) If, before the maximum number of engines determined under paragraph 5 has been placed on the market, the tractor manufacturer wishes to terminate the flexibility scheme, he shall provide the relevant type-approval authorities with a report under paragraph 7 that shall state that fact (in addition to including the data required under that paragraph).

(2) Once a report has been provided to a relevant type approval authority under subparagraph (1) above, the flexibility scheme shall cease to have effect and no further engine shall be placed on the market under the scheme.

(3) In this paragraph, “relevant type-approval authority” has the same meaning as in paragraph 7.”.

Signed by authority of the Secretary of State

5th September 2006

G Merron
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Agricultural or Forestry Tractors (Emission of Gaseous and Particulate Pollutants) Regulations 2002 (“the 2002 Regulations”), in order to implement Directive [2005/13/EC](#) of the Commission of the European Communities of 21st February 2005 (“the Directive”), as far as it relates to the entry into service of tractors and tractor engines. The provisions of this Directive relating to the type-approval of tractors will be implemented separately, by an amendment to the Tractor etc (EC Type-Approval) (Amendment) Regulations 2005.

These provisions of the Directive introduce new limit values which the emissions of particulate pollutants of tractor engines will no longer be allowed to exceed on the first entry into service of the engine. The Directive sets the date from which these limit values will apply. It also requires Member States to introduce a flexibility scheme, under which a limited number of engines that comply only with the emission limit value stage immediately preceding the currently applicable stage may be placed on the market. Finally, it provides that replacement engines only need to comply with the limit values that applied to the engine they replace when it was first entered into service.

In addition, these Regulations ensure that the directives referred to in the 2002 Regulations are read as last amended, and that they are consistent with the new Tractor etc (EC Type-Approval) Regulations 2005.

The structure of the Tables in Schedule 1 to the 2002 Regulations, specifying the categories of engines, relevant dates and limit values the 2002 Regulations, is modified.

To achieve the above purposes, *regulation 3* amends the definitions used in the 2002 Regulations.

Regulation 4 amends the provision of the 2002 Regulations that relate to their application. In accordance with Article 1(2) of Directive [2005/13/EC](#), replacement engines will no longer be exempt, and the Regulations will not apply to engines placed under the market under a flexibility scheme, as is required by Article 1(3) of the same directive.

Regulation 5 replaces regulation 4 of the 2002 Regulations, so that the rules on replacement engines imposed by Article 1(2) of Directive [2005/13/EC](#) are implemented. It also inserts, as a new regulation 4(4), a provision which prevents requirements from being imposed retroactively. Finally, it expressly applies some requirements to tractors as well as to their engines.

In connection with this issue, *regulation 7* makes minor amendments to Schedule 2 (Offences, Enforcement and Other Matters) to the 2002 Regulations, to make it clear that the powers of enforcement available in relation to engines are also available in relation to tractors.

Regulation 6 replaces Schedule 1 to the 2002 Regulations. The structure of Table 1 (categories of engines and relevant date) is modified. The Table now indicates the category of the engine by reference to its power output range, date of initial entry into service, and production date. It includes the new categories, as is required by Article 1(4)(b) of Directive [2005/13/EC](#). Table 2 has also been modified to include the new limit values that apply to the new categories of engines, and to reflect the fact that, for some of these categories of engines, the engine must comply with one global limit value for the sum of the emissions of hydrocarbons and oxides of nitrogen.

Regulation 8 inserts a new Schedule 3 to the 2002 Regulations, which sets out the requirements for the UK flexibility scheme.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from Tony Baker at the Department for Transport (tel: 020 7944 2063 or e-

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mail: TonyT.Baker@dft.gsi.gov.uk), or from the website of the Office of Public Sector Information: www.opsi.gov.uk. A transposition note has also been prepared, and is available from the same sources.