

P7_TC1-COD(2011)0197

Position of the European Parliament adopted at first reading on 9 October 2013 with a view to the adoption of Directive 2013/.../EU of the European Parliament and of the Council on recreational craft and personal watercraft *and repealing Council Directive 94/25/EC*

(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 procedure²,

¹ OJ C 43, 15.2.2012, p. 30.

² *Position of the European Parliament of 9 October 2013.*

Whereas:

- (1) Directive 94/25/EC of the European Parliament and of the Council of 16 June 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft¹ was adopted in the context of establishing the internal market in order to harmonise safety characteristics of recreational craft in all Member States and to remove obstacles to trade in recreational craft between Member States.
- (2) Originally, Directive 94/25/EC covered only recreational craft of a minimum hull length of 2,5 m and a maximum length of 24 m. Directive 2003/44/EC of the Council and the European Parliament of 16 June 2003 amending Directive 94/25/EC² extended the scope of Directive 94/25/EC to include personal watercraft, and integrated environmental protection requirements into the amended Directive by adopting exhaust emission limits (CO, HC, NOx and particulates) and noise limits levels for propulsion engines, for both compression-ignition engines and spark-ignition engines.

¹ OJ L 164, 30.6.1994, p. 15.

² OJ L 214, 26.8.2003, p. 18.

- (3) Directive 94/25/EC is based on the New Approach principles, as set out in the Council Resolution of 7 May 1985 on a new approach to technical harmonisation and standards¹ Thus, it sets out only the essential ■ requirements applying to recreational craft, whereas technical details are adopted by the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (Cenelec) in accordance with Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services². Conformity with the harmonised standards so set, the reference numbers of which are published in the *Official Journal of the European Union*, provides a presumption of conformity with the requirements of Directive 94/25/EC. Experience has shown that those basic principles have worked well in this sector and should be maintained and even further promoted.
- (4) Technological developments in the market have, however, raised new issues with respect to the environmental requirements of Directive 94/25/EC. In order to take account of those developments and to provide clarification in relation to the framework within which products covered by this Directive may be marketed, certain aspects of Directive 94/25/EC should be revised and enhanced and, in the interests of clarity, that Directive should be *repealed and* replaced by this Directive.

¹ OJ C 136, 4.6.1985, p. 1.

² OJ L 204, 21.7.1998, p. 37.

- (5) 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 products¹ lays down horizontal provisions on the accreditation of conformity assessment bodies, on the CE marking and on the Union market surveillance framework for, and controls of, products entering the Union market which also apply to products covered by this Directive.
- (6) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products² provides common principles and reference provisions for the purposes of legislation based on the New Approach principles. In order to ensure consistency with other sectoral product legislation, it is appropriate to align certain provisions of this Directive to that Decision, in so far as sectoral specificities do not require a different solution. Therefore, certain definitions, the general obligations of economic operators, the presumption of conformity, ■ rules on CE marking, requirements for conformity assessment bodies and notification procedures and the provisions concerning procedures dealing with products presenting a risk should be aligned to that Decision. *Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation³ provides for a procedure for objections to harmonised standards where those standards do not entirely satisfy the requirements of this Directive.*

¹ OJ L 218, 13.8.2008, p. 30.

² OJ L 218, 13.8.2008, p. 82.

³ *OJ L 316, 14.11.2012, p. 12.*

- (7) In order to facilitate the ***understanding and uniform*** application of this Directive by ***economic operators*** and national authorities, the scope and definitions of Directive 94/25/EC should be clarified. In particular, it should be clarified that amphibious vehicles are excluded from the scope of this Directive. It is also necessary to specify what kind of canoes and kayaks are excluded from the scope of this Directive and to clarify that only personal watercraft intended for sports and leisure are covered by this Directive.
- (8) It is also appropriate to provide definitions of “watercraft built for own use”, ***of "hull length"*** and of “private importer” specific to this sector in order to facilitate the understanding and uniform application of this Directive. ***It is necessary to extend the current definition of 'propulsion engine' to also cover innovative propulsion solutions.***

- (9) The products covered by this Directive that are placed on the Union market or put into service should comply with the relevant legislation of the Union, and economic operators should be responsible for the compliance of products, in relation to their respective roles in the supply chain, so as to ensure a high level of protection of public interests, such as health and safety and the protection of consumers and of the environment, and to guarantee fair competition on the Union market.
- (10) All economic operators intervening in the supply and distribution chain should take appropriate measures to ensure that products covered by this Directive do not endanger the health and safety of persons, property or the environment when correctly constructed and maintained and that they make available on the market only products which comply with the relevant legislation of the Union. This Directive should provide a clear and proportionate distribution of obligations which correspond to the role of each operator in the supply and distribution *chain*.
- (11) As certain tasks can be executed only by the manufacturer, it is necessary to distinguish clearly between the manufacturer and operators further down the distribution chain. It is also necessary to distinguish clearly between the importer and the distributor, as the importer introduces products from third countries to the Union market. The importer should thus make sure that those products comply with the applicable Union requirements.

- (12) The manufacturer, having detailed knowledge of the design and production process, is best placed to carry out the complete conformity assessment procedure. Conformity assessment should therefore remain the obligation of the manufacturer alone.
- (13) It is necessary to ensure that products covered by this Directive entering the Union market from third countries comply with all applicable Union requirements, and in particular that appropriate assessment procedures have been carried out by manufacturers with regard to those products. Provision should therefore be made for importers to make sure that the products they place on the market comply with the applicable requirements and that they do not place on the market products which do not comply with such requirements or which present a risk. For the same reason, provision should also be made for importers to make sure that conformity assessment procedures have been carried out and that *the CE* marking and documentation drawn up by manufacturers are available for inspection by the supervisory authorities.
- (14) Where the distributor makes a product covered by this Directive available on the market after it has been placed on the market by the manufacturer or the importer, it should act with due care to ensure that its handling of the product does not adversely affect its compliance. Both importers and distributors are expected to act with due care in relation to the requirements applicable when placing or making products available on the market.

- (15) When placing a product covered by this Directive on the market, importers should indicate on the product their name and the address at which they can be contacted. Exceptions should be provided for in cases where the size or nature of a component does not allow for such an indication.
- (16) Any economic operator that either places a product on the market under its own name or trademark or modifies a product in such a way that compliance with *the* applicable requirements may be affected should be considered to be the manufacturer and should assume the obligations of the manufacturer.
- (17) Distributors and importers, being close to the market place, should be involved in market surveillance tasks carried out by competent national authorities, and should be prepared to participate actively, providing those authorities with all necessary information relating to the product concerned.
- (18) The import of recreational craft and personal watercraft ■ from third countries to the Union *by natural or legal persons established within the Union* is a specific feature of this sector. However, Directive 94/25/EC ■ contains *a small number of* provisions *which apply or could be deemed as applying to* private importers as regards performing the conformity assessment (post-construction assessment). Therefore, there is a need to clarify the other obligations of private importers which should be in principle harmonised with those of manufacturers, with some exceptions related to the non-commercial nature of their activities.

- (19) Ensuring the traceability of a product throughout the whole supply chain helps to make market surveillance simpler and more efficient. An efficient traceability system facilitates the market surveillance authorities' task of tracing economic operators who made non-compliant products available on the market.
- (20) For reasons of clarity and consistency with other New Approach Directives, it is necessary to specify explicitly that products covered by this Directive may be placed on the market or put into service only if they meet the general requirement not to endanger the health and safety of persons, property or the environment, and only if they meet the essential requirements set out in this Directive.

- (21) *For engines adapted for marine use as propulsion engines, where the source engine is already type-approved in accordance with Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 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 machinery¹, or Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information², persons adapting engines should be able to rely on the proof of conformity issued by the original engine manufacturer where those adaptations have not altered the exhaust emission characteristics.*
- (22) Options for further reducing the exhaust emission limits of recreational marine engines have been assessed in the report on the possibilities of further improving the environmental characteristics of recreational craft engines, submitted pursuant to Article 2 of Directive 2003/44/EC ■ . That report concluded that it is appropriate to set stricter limits than those set out in Directive 2003/44/EC. The limits should be set at a level that reflects the technical development of cleaner marine engine technologies and that allows progress towards the harmonisation of exhaust emission limits worldwide. The CO-limits, however, should be raised in order to allow the significant decrease of other air pollutants *to reflect technological feasibility and to achieve the fastest possible implementation while ensuring that the socio-economic impact on this economic sector is acceptable* .

¹ OJ L 59, 27.2.1998.p. 1.

² OJ L 188, 18.7.2009 p. 1.

- (23) Depending on the fuel and power category, the test cycles for engines in marine applications described in the relevant *harmonised standard* should be used, ***and until they are available, those described in the relevant ISO standard, taking into account the values fixed in Annex I, Part B, point 2.3. Test cycles should be developed for all combustion engines which are part of the propulsion system, including hybrid power installations.***
- (24) The test fuels used to assess the conformity of craft with the exhaust emission limits should reflect the composition of the fuels used in the relevant market and therefore the European test fuels should be used in the type approval in the Union. However, since manufacturers from third countries may not have access to European reference fuels, it is necessary to allow approval authorities to accept that engines be tested with other reference fuels. The choice of reference fuels should however be limited to those specifications set out in the relevant ISO standard in order to ensure quality and comparability of test results.
- (25) In order to contribute to the protection of the marine environment, it is appropriate to adopt a requirement imposing mandatory installation of holding tanks to watercraft fitted with toilets.

- (26) Accident statistics show that the risk of inversion of *habitable* multihull *recreational* craft is ■ low. In spite of this low risk, it is appropriate to *consider that there is a risk of inversion of habitable multihull recreational craft and, if susceptible to such inversion, they should remain afloat in the inverted position and escape should be practicable.*
- (27) In accordance with the principle of subsidiarity, the provisions of this Directive should not affect Member States' entitlement to lay down such requirements as they may deem necessary concerning navigation on certain waters for the purpose of protection of the environment, *including from noise pollution*, the fabric of waterways, and ensuring safety of waterways, provided that those provisions do not require modification to the watercraft which is in conformity with this Directive *and that those provisions are justified and proportionate to the objectives to be achieved.*
- (28) The CE marking, indicating the conformity of a product, is the visible consequence of a whole process comprising conformity assessment in a broad sense. The general principles governing the CE marking are set out in Regulation (EC) No 765/2008. Rules governing the affixing of the CE marking to watercraft, components and *propulsion* engines should be laid down in this Directive. It is appropriate to enlarge the obligation to affix the CE marking also to all inboard engines and stern drive engines without integral exhaust which are regarded as meeting the essential requirements set out in this Directive.

- (29) It is crucial to make clear to manufacturers, *private importers* and users that by affixing the CE marking to the product, the manufacturer declares that the product is in conformity with all applicable requirements and takes full responsibility thereof.
- (30) The CE marking should be the only marking of conformity indicating that the product covered by this Directive is in conformity with Union harmonisation legislation. However, other markings should be allowed as long as they contribute to the improvement of consumer protection and are not covered by Union harmonisation legislation.
- 31) In order to ensure compliance with the essential **■** requirements, it is necessary to lay down appropriate conformity assessment procedures to be followed by the manufacturer. Those procedures should be set by reference to conformity assessment modules laid down in Decision No 768/2008/EC. Those procedures should be devised in the light of the level of the risk which may be inherent in the watercraft, engines and components. Therefore each category of conformity should be supplemented by an appropriate procedure or a choice between several equivalent procedures.

- (32) Experience has shown that it is appropriate to allow a wider range of conformity assessment modules ■ for components. As regards conformity assessment of exhaust emission and noise emission requirements, a distinction should be made between the cases where the harmonised standards have been used and where they have not, since in the latter cases, it is justified to require a more stringent conformity assessment procedure. Furthermore, the possibility of using the reference boat data for noise emissions testing should be suppressed as superfluous, since it has not been used in practice.
- (33) ***In order to provide clear information about the acceptable operating environment of watercraft, the titles of the watercraft design categories should only be based on the essential environmental conditions for navigation, namely wind force and significant wave height. Four design categories, A, B, C and D, specify ranges of wind force and of significant wave height for the purpose of design with explanatory notes.***

- (34) Directive 94/25/EC contains rules on the post-construction assessment of recreational craft carried out by any natural or legal person established within the Union who places the product on the market *or puts it into service* in cases where ■ the manufacturer *does not* fulfil ■ the responsibilities for the *product's* conformity with the Directive. For consistency, it is appropriate to extend the scope of post-construction assessment to cover not only recreational craft but also personal watercraft. For the purpose of clarity, it should be specified in which situations post-construction assessment may be used. Furthermore, as regards import, its use should be restricted to cases of non-commercial import by private importers to prevent abuse of post-construction assessment for commercial purposes. There is also a need to widen the obligation of the person asking for the post-construction assessment to provide documents to the notified body in order to ensure a reliable assessment of the conformity of the product by the notified body.
- (35) Since it is necessary to ensure a uniformly high level of performance of bodies performing conformity assessment of products covered by this Directive throughout the Union, and since all such bodies should perform their functions at the same level and under conditions of fair competition, obligatory requirements should be set for conformity assessment bodies wishing to be notified in order to provide conformity assessment services under this Directive.

- (36) In order to ensure a consistent level of quality in the performance of conformity assessment of products covered by this Directive, it is necessary not only to consolidate the requirements that conformity assessment bodies wishing to be notified must fulfill, but also, in parallel, to set requirements that notifying authorities and other bodies involved in the assessment, notification and monitoring of notified bodies must fulfill.
- (37) Regulation (EC) No 765/2008 complements and strengthens the existing framework for the market surveillance of products covered by Union harmonisation legislation, including products covered by this Directive. Member States should therefore organise and carry out market surveillance of those products in accordance with that Regulation, and where applicable, in accordance with Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety¹.
- (38) In order to increase transparency and to reduce processing time, it is necessary to improve the existing safeguard procedure allowing the Commission to examine the justification for a measure taken by a Member State against products it considers to be non-compliant, with the aim of making it more efficient and of drawing on expertise available in the Member States.

¹ OJ L 11, 15.1.2002, p. 4.

- (39) The existing system should be complemented by a procedure allowing interested parties to be informed of measures taken with regard to products covered by this Directive presenting a risk to the health and safety of persons or to other aspects of public interest protection. It should also allow market surveillance authorities, in cooperation with the relevant economic operators, to act at an earlier stage in respect of such products.
- (40) Where Member States and the Commission agree as to the justification for a measure taken by a Member State, no further involvement of the Commission should be required.
- (41) In order to take into account the progress of technical knowledge and new scientific evidence, 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 to amend **points 2.3, 2.4 and 2.5 as well as Section 3** of Part B and Section 3 of Part C of Annex I, **■** and Annexes V, VII and IX. ***In the future, this will allow the Commission to include test cycles for hybrid engines and to introduce biofuel blended test fuels in the table of test fuels once those test fuels have been internationally accepted.*** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. **■** The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

- (42) In order to ensure uniform conditions for the implementation of this Directive, 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 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 powers¹.
- (43) *The advisory procedure should be used for the adoption of implementing acts requesting the notifying Member State to take the necessary corrective measures in respect of notified bodies that do not meet or no longer meet the requirements for their notification.*
- (44) The examination *procedure* should be used for the adoption of *implementing* acts ensuring that this Directive is applied in a uniform manner, in particular as regards the supplementary provisions *set out* in Article 24 on conformity assessment procedures, and as regards the requirements on the *watercraft* design categories, *watercraft identification*, builder's plate, *owner's manual*, *gas system*, discharge prevention, *reporting questionnaire* and navigation lights.

¹ OJ L 55, 28.2.2011, p. 13.

- (45) *The Commission should, by means of implementing acts and, given their special nature, acting without the application of Regulation (EU) No 182/2011, determine whether measures taken by Member States in respect of a product presenting a risk to the health or safety of persons, to property or to the environment are justified.*
- (46) *The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to conformity assessment, watercraft design categories, navigation lights, discharge prevention and gas appliances which present a risk to the health or safety of persons, property or to the environment, imperative grounds of urgency so require.*
- (47) *In line with established practice, the committee set up by this Directive can play a useful role in examining matters concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.*
- (48) In order to enforce the monitoring and the efficiency of this Directive, Member States should *complete a questionnaire* on the application of this Directive. *The Commission* ■ should then draw up and publish a ■ report *on the application of this Directive.*

- (49) Member States should lay down rules on penalties applicable to infringements of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (50) In order to allow manufacturers and other economic operators sufficient time to adapt to the requirements laid down by this Directive, it is necessary to provide for a sufficient transitional period after the entry into force of this Directive during which products which comply with Directive 94/25/EC may *still* be placed on the market.
- (51) *In order to facilitate the application of this Directive by small and medium-sized manufacturers of outboard spark-ignition propulsion engines with power equal to or less than 15 kW and to allow them to adapt to the new requirements, it is appropriate to provide for a specific transitional period for those manufacturers.*

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(52) Since the objective of this Directive, namely to ensure a high level of protection of human health and safety and protection of environment whilst guaranteeing the functioning of the internal market by setting harmonised ■ requirements for products covered by this Directive and minimum requirements for market surveillance, 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 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 Directive does not go beyond what is necessary in order to achieve that objective.

(53) *Directive 94/25/EC should therefore be repealed,*

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Directive lays down requirements for the design and manufacture of products referred to in Article 2(1) and rules on their free movement in the Union.

Article 2

Scope

1. This Directive shall apply to the following products:
 - (a) recreational craft and partly completed recreational craft;
 - (b) *personal watercraft and partly completed* personal watercraft;
 - (c) components listed in Annex II when placed on the Union market separately, hereinafter referred to as “components”;
 - (d) propulsion engines which are installed or specifically intended for installation on or in watercraft;
 - (e) propulsion engines installed on or in watercraft that are subject to a major engine modification;
 - (f) watercraft that are subject to major craft conversion.

2. This Directive shall not apply to the following products:

- (a) with regard to the design and construction requirements set out in Part A of Annex I:
 - (i) watercraft intended solely for racing, including rowing racing boats and training rowing boats, labelled as such by the manufacturer;
 - (ii) canoes and kayaks designed to be propelled *solely* by *human* power ■ , gondolas and pedalos;
 - (iii) ■ surfboards *designed solely to be propelled by wind and to be operated by a person or persons standing*;
 - (iv) surfboards ■ ;
 - (v) original historical watercraft and individual replicas thereof designed before 1950, built predominantly with the original materials and labelled as such by the manufacturer;
 - (vi) experimental watercraft, provided that they are not ■ placed on the Union market;

- (vii) watercraft built for own use, provided that they are not subsequently placed on the Union market during a period of five years ***from the putting into service of the watercraft***;
- (viii) watercraft specifically intended to be crewed and to carry passengers for commercial purposes, ***without prejudice to paragraph 3***, regardless of the number of passengers;
- (ix) submersibles;
- (x) air cushion vehicles;
- (xi) hydrofoils;
- (xii) external combustion steam powered watercraft, fuelled by coal, coke, wood, oil or gas;
- (xiii) amphibious ***vehicles, i.e. wheeled or track-laying motor vehicles, which are able to operate both on water and on solid land***;

- (b) with regard to exhaust emission requirements set out in Part B of Annex I :
- (i) propulsion engines installed or specifically intended for installation on the following products:
- watercraft intended solely for racing and labelled as such by the manufacturer;
 - experimental watercraft, ***provided that they are not*** placed on the Union market;
 - watercraft specifically intended to be crewed and to carry passengers for commercial purposes, without prejudice to paragraph 3, ■ regardless of the number of passengers;
 - submersibles;
 - air cushion vehicles;
 - hydrofoils;
 - amphibious ***vehicles, i.e. wheeled or track-laying motor vehicles, which are able to operate both on water and on solid land;***

- (ii) original and individual replicas of historical propulsion engines, which are based on a pre-1950 design, not produced in series and fitted on watercraft referred to in points (v) or (vii) of point (a);
 - (iii) propulsion engines built for own use provided that they are not subsequently placed on the *Union* market during a period of five years ***from the putting into service of the watercraft***;
 - (c) with regard to noise emission requirements referred to in Part C of Annex I:
 - (i) all ***watercraft*** referred to in point (b);
 - (ii) watercraft built for own use, ***provided that they are not*** subsequently placed on the Union market during a period of five years ***from the putting into service of the watercraft***.
3. The fact that the same watercraft could ***also*** be used for charter or for ***sports and leisure*** training shall not prevent it being covered by this Directive when it is placed on the Union market for recreational purposes.

Article 3
Definitions

For the purposes of this Directive the following definitions shall apply:

1. "watercraft" means any recreational craft or personal watercraft;
2. "recreational craft" means any *watercraft* of any type, *excluding personal watercraft*, intended for sports and leisure purposes of hull length from 2,5 m to 24 m, ■ regardless of the means of propulsion;
3. "personal watercraft" means a watercraft intended for sports and leisure purposes of less than 4 m in *hull* length which uses a *propulsion* engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;

4. “watercraft built for own use” means a watercraft *predominantly* built by its future user for his own use ■ ;
5. “propulsion engine” means any spark or compression ignition, internal combustion engine used *directly or indirectly* for propulsion purposes;
6. “major engine modification” means the modification of a *propulsion* engine which could potentially cause the engine to exceed the emission limits set out in Part B of Annex I or increases the rated power of the engine by more than 15 %;
7. “major craft conversion” means a conversion of a watercraft which changes the means of propulsion of the watercraft, involves a major engine modification, or alters the watercraft to such an extent that *it may not meet the applicable essential safety and environmental requirements laid down in this Directive*;
8. “means of propulsion” means the ■ method by which the watercraft is *propelled* ;
9. “engine family” means the manufacturer's grouping of engines which, through their design, have similar exhaust or noise emission characteristics ■ ;
10. *"hull length" means the length of the hull measured in accordance with the harmonised standard;*

11. "making available on the market" means any supply of a product for distribution, consumption or use on the Union market *in the course of a commercial activity*, whether in return for payment or free of charge;
12. "placing on the market" means the first making available of a product on the Union market;
13. "putting into service" means the first use of a product covered by this Directive in the Union by its end-user;
14. "manufacturer" means any natural or legal person who manufactures a product or has such a product designed or manufactured, and markets that product under his name or trademark;
15. "authorised representative" means any natural or legal person established within the Union who has received a written mandate from the manufacturer to act on his behalf in relation to specified tasks;
16. "importer" means any natural or legal person established within the Union who places a product from a third country on the Union market;

17. "private importer" means any natural or legal person established within the Union who imports in the course of a non-commercial activity a product from a third country into the Union with the intention of putting it into service for his own use;
18. "distributor" means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes a product available on the market;
19. "economic operators" means the manufacturer, the authorised representative, the importer and the distributor;
20. "harmonised standard" means *harmonised standard as defined in point (c) of Article 2(1) of Regulation (EU) No 1025/2012*;
21. "accreditation" means accreditation as defined in Article 2(10) of Regulation (EC) No 765/2008;
22. "national accreditation body" means *national* accreditation body as defined in Article 2(11) of Regulation (EC) No 765/2008;

23. "conformity assessment" means the process demonstrating whether the requirements of this Directive relating to a product have been fulfilled;
24. "conformity assessment body" means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
25. "recall" means any measure aimed at achieving the return of a product that has already been made available to the end-user;
26. "withdrawal" means any measure aimed at preventing a product in the supply chain from being made available on the market;
27. "market surveillance" means the activities carried out and measures taken by public authorities to ensure that products comply with the applicable requirements set out in Union harmonisation legislation and do not endanger health, safety or any other aspect of public interest protection;
28. "CE marking" means a marking by which the manufacturer indicates that the product is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;

29. "Union harmonisation legislation" means any Union legislation harmonising the conditions for the marketing of products.

Article 4

Essential requirements

1. The products referred to in Article 2(1) may be made available or put into service only if they do not endanger the health and safety of persons, property or the environment when correctly maintained ***and used in accordance with their intended purpose***, and only on the condition that they meet the applicable essential requirements set out in Annex I.
2. Member States shall ensure that the products referred to in Article 2(1) are not ***made available*** on the market or put into service unless they comply with the requirements of paragraph 1.

Article 5

National provisions concerning navigation

This Directive shall not prevent Member States from adopting provisions concerning navigation on certain waters for the purpose of protection of the environment, the fabric of waterways, and ensuring safety of waterways, provided that those provisions do not require modification to watercraft conforming to this Directive ***and that those provisions are justified and proportionate.***

Article 6

Free movement

1. Member States shall not impede the making available on the market or, ***without prejudice to Article 5,*** the putting into service in their territory of watercraft complying with this Directive.
2. Member States shall not impede the making available on the market of partly-completed watercraft where the manufacturer or the importer declares, in accordance with **■** Annex III, that they are intended to be completed by others.
3. Member States shall not impede the making available on the market or putting into service of components complying with this Directive which are intended to be incorporated into watercraft, in accordance with the declaration of the manufacturer or the importer, ***as*** referred to in ***Article 15.***

4. Member States shall not impede the making available on the market or putting into service of any of the following *propulsion engines*:
- (a) **■** engines, whether or not installed in watercraft, complying with this Directive;
 - (b) engines *installed in watercraft and* type-approved in accordance with Directive 97/68/EC **■** which are in compliance with stage III A, stage III B or stage IV emission limits for CI engines used in other applications than propulsion of inland waterway vessels, locomotives and railcars, as provided for in point 4.1.2. of Annex I to that Directive, *complying with this Directive, with the exclusion of the exhaust emission requirements set out in Part B of Annex I*;
 -
 - (c) *engines installed in watercraft and type-approved in accordance with Regulation (EC) No 595/2009, complying with this Directive, with the exclusion of the exhaust emission requirements set out in Part B of Annex I.*

Points (b) and (c) of the first subparagraph shall apply subject to the condition that where an engine is adapted for installation in a watercraft, the person undertaking the adaptation shall ensure that full account is taken of the data and other information available from the engine manufacturer in order to ensure that, when installed in accordance with the installation instructions provided by the person adapting the engine, that engine will continue to meet the exhaust emission requirements of either Directive 97/68/EC or of Regulation (EC) No 595/2009, as declared by the engine manufacturer. The person adapting the engine shall declare, as referred to in Article 15, that the engine will continue to meet the exhaust emission requirements of either Directive 97/68/EC or of Regulation (EC) No 595/2009, as declared by the engine manufacturer, when installed in accordance with the installation instructions supplied by the person adapting the engine.

5. At trade fairs, exhibitions, demonstrations and other similar events Member States shall not impede the showing of products referred to in Article 2(1) which do not comply with this Directive, provided that a visible sign clearly indicates that such products do not comply with this Directive and will not be made available or put into service in the Union until they have been made to comply.

CHAPTER II
OBLIGATIONS OF ECONOMIC OPERATORS *AND PRIVATE*
IMPORTERS

Article 7

Obligations of manufacturers

1. When placing their products on the market, manufacturers shall ensure that they have been designed and manufactured in accordance with the requirements set out in Article 4(1) and Annex I.
2. Manufacturers shall draw up the technical documentation in accordance with Article 25 and carry out the conformity assessment procedure applicable or have it carried out in accordance with Articles 19 to 22 and Article 24.

Where compliance of a product with the applicable requirements has been demonstrated by that procedure, manufacturers shall draw up *a* declaration ■ , as referred to in Article 15 and *mark and* affix the CE marking, as set out in *Articles 17 and 18*.

3. Manufacturers shall keep the technical documentation and a copy of the ■ declaration , *as referred to in Article 15*, for 10 years after the product has been placed on the market.

4. Manufacturers shall ensure that procedures are in place for series production to remain in conformity. Changes in product design or characteristics and changes in the harmonised standards *by reference* to which conformity of a product is declared shall be adequately taken into account.

When deemed appropriate with regard to the risks presented by a product, manufacturers shall, to protect the health and safety of consumers, carry out sample testing of products made available on the market, investigate, and, if necessary, keep a register of complaints, of non-conforming products and product recalls, and shall keep distributors informed of any such monitoring.

5. Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the components does not allow it, that the required information is provided on the packaging or in a document accompanying the product ■ .
6. Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product. The address shall indicate a single point at which the manufacturer can be contacted.

7. Manufacturers shall ensure that the product is accompanied by instructions and safety information in *the owner's manual in* a language or languages which can be easily understood by consumers and other end users, as determined by the Member State concerned.
8. Manufacturers who consider or have reason to believe that a product which they have placed on the market is not in conformity with this Directive shall immediately take the necessary corrective measures to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product presents a risk, manufacturers shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
9. Manufacturers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of the product, in a language *which can be* easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

Article 8

Authorised representatives

1. A manufacturer may, by a written mandate, appoint an authorised representative.
2. The obligations laid down in Article 7(1) and the drawing up of technical documentation shall not form part of the authorised representative's mandate.
3. An authorised representative shall perform the tasks specified in the mandate received from the manufacturer. The mandate shall allow the authorised representative to do at least the following:
 - (a) keep a copy of the **■** declaration , *as referred to in Article 15*, and the technical documentation at the disposal of national surveillance authorities for 10 years after the product has been placed on the market;

- (b) further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of a product;
- (c) cooperate with the competent national authorities, at their request, on any action taken to eliminate the risks posed by products covered by their mandate.

Article 9

Obligations of importers

1. Importers shall place only compliant products on the Union market.
2. Before placing a product on the market, importers shall ensure that the appropriate conformity assessment procedure has been carried out by the manufacturer. They shall also ensure that the manufacturer has drawn up the technical documentation, that the product bears the CE marking, *as referred to in Article 17*, and is accompanied by the documents required in accordance in Article 15 and point 2.5 of Part A of Annex I, point 4 of Part B of Annex I and point 2 of Part C of Annex I and that the manufacturer has complied with the requirements set out in Article 7(5) and (6).

Where an importer considers or has reason to believe that a product is not in conformity with the requirements set out in Article 4(1) and Annex I, he shall not place the product on the market until it has been brought into conformity. Furthermore, where the product presents a risk, the importer shall inform the manufacturer and the market surveillance authorities to that effect.

3. Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, in the case of components where that is not possible, on the packaging or in a document accompanying the product.
4. Importers shall ensure that the product is accompanied by instructions and safety information in *the owner's manual in* a language or languages *which can be* easily understood by consumers and other end-users, as determined by the Member State concerned.
5. Importers shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Article 4(1) and Annex I.
6. When deemed appropriate with regard to the risks presented by a product, importers shall, to protect the health and safety of consumers, carry out sample testing of **█** products *made available on the market*, investigate, and, if necessary, keep a register of complaints, of non-conforming products and product recalls, and shall keep distributors informed of such monitoring.

7. Importers who consider or have reason to believe that a product which they have placed on the market is not in conformity with this Directive shall immediately take the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate. Furthermore, where the product presents a risk, importers shall immediately inform the competent national authorities of the Member States in which they made the product available to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.
8. Importers shall, for a period of 10 years after the product has been placed on the market, keep a copy of the **■** declaration, *as referred to in Article 15*, at the disposal of the market surveillance authorities and ensure that the technical documentation can be made available to those authorities, upon request.
9. Importers shall, further to a reasoned request from a competent national authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product in a language which can be easily understood by that authority. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

Article 10

Obligations of distributors

1. When making a product available on the market distributors shall act with due care in relation to the requirements of this Directive.
2. Before making a product available on the market distributors shall verify that the product bears the CE marking, *as referred to in Article 17*, that it is accompanied by the documents required in Article 7(7), Article 15 and point 2.5 of Part A of Annex I, point 4 of Part B of Annex I and point 2 of Part C of Annex I and by instructions and safety information in a language or languages which can be easily understood by consumers and other end-users in the Member State in which the product is to be made available on the market, and that the manufacturer and the importer have complied with the requirements set out in Article 7(5) and (6) and Article 9(3).

Where a distributor considers or has reason to believe that a product is not in conformity with the requirements set out in Article 4(1) and Annex I, he shall not make the product available on the market until it has been brought into conformity. Furthermore, where the product presents a risk, the distributor shall inform the manufacturer or the importer, as well as the market surveillance authorities, to that effect.

3. Distributors shall ensure that, while a product is under their responsibility, storage or transport conditions do not jeopardise its compliance with the requirements set out in Article 4(1) and Annex I.
4. Distributors who consider or have reason to believe that a product which they have made available on the market is not in conformity with this Directive shall make sure that the corrective measures necessary to bring that product into conformity, to withdraw it or recall it, if appropriate, are taken. Furthermore, where the product presents a risk, distributors shall immediately inform the competent national authorities of the Member States in which they made the product available *on the market* to that effect, giving details, in particular, of the non-compliance and of any corrective measures taken.

5. Distributors shall, further to a reasoned request from a competent national authority, provide that authority with all the information and documentation necessary to demonstrate the conformity of the product. They shall cooperate with that authority, at its request, on any action taken to eliminate the risks posed by products which they have made available on the market.

Article 11

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 Directive and he shall be subject to the obligations of the manufacturer under Article 7, where he places a product on the market under *his* name or trademark or modifies a product already placed on the market in such a way that compliance with the requirements of this Directive may be affected.

Article 12

Obligations of private importers

1. If **■** the manufacturer *does not* fulfil **■** the responsibilities for the conformity of the product with this Directive, a private importer, ***before putting the product into service, shall ensure that it has been designed and manufactured in accordance with the requirements set out in Article 4(1) and Annex I and*** carry out or have carried out the obligations of the manufacturer set out in Article 7(2),(3),(7) and (9).

2. If the required technical documentation is not available from the manufacturer, the private importer shall have it drawn up using appropriate expertise ■ .
3. The private importer shall ensure that the name and address of the *notified* body which has carried out the conformity assessment of the product is marked on the product.

Article 13

Identification of economic operators

1. Economic operators shall, on request, identify the following to the market surveillance authorities:
 - (a) any economic operator who has supplied them with a product;
 - (b) any economic operator to whom they have supplied a product.

Economic operators shall be able to present the information referred to in the first *subparagraph* for a period of 10 years after they have been supplied with the product and for a period of 10 years after they have supplied the product.

2. Private importers shall, on request, identify to the market surveillance authorities the economic operator who has supplied them with the product.

Private importers shall be able to present the information referred to in the first subparagraph for a period of 10 years after they have been supplied with the product.

CHAPTER III

CONFORMITY OF THE PRODUCT

Article 14

Presumption of conformity

Products which are in conformity with harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* shall be presumed to be in conformity with the requirements covered by those standards or parts thereof, set out in Article 4(1) and Annex I.



Article 15

EU declaration of conformity *and declaration in accordance with Annex III*

1. The EU declaration of conformity shall state that the fulfilment of requirements specified in Article 4(1) and Annex I *or those referred to in points (b) or (c) of Article 6(4)* has been demonstrated.

2. The EU declaration of conformity shall have the model structure set out in Annex IV to this Directive, shall contain the elements specified in the relevant modules set out in Annex II to Decision No 768/2008/EC *as well as in Annex V to this Directive*, and shall be continuously updated. It shall be translated into the language or languages required by the Member State on whose market the product is made available or put into service.
3. By drawing up the EU declaration of conformity, the manufacturer, **█** private importer *or the person adapting the engine referred to in points (b) and (c) of Article 6(4)* shall assume responsibility for the compliance of the product.
4. The EU declaration of conformity *referred to in paragraph 3* shall **█** accompany the following *products when they are made available on the market or put into service*:
 - (a) **█** watercraft **█** ;
 - (b) **█** components when placed on the market separately;
 - (c) propulsion engines **█** .

5. ***The declaration by the manufacturer or the importer set out in Annex III for partly completed watercraft shall contain the elements specified in that Annex and shall accompany partly completed watercraft. It shall be translated into the language or languages required by the Member State on whose market the product is made available.***

Article 16

General principles of the CE marking

The CE marking shall be subject to the general principles set out in Article 30 of Regulation (EC) No 765/2008.

Article 17

Products subject to CE marking

1. The following products ***are subject to*** CE marking when they are made available on the market or put into service:
 - (a) ***watercraft;***
 - (b) ***components;***
 - (c) ***propulsion engines.***

█

2. Member States shall presume that the products referred to in paragraph 1 bearing the CE marking comply with this Directive.

Article 18

Rules and conditions for affixing the CE marking

1. The CE marking shall be affixed visibly, legibly and indelibly to the products referred to in Article 17(1). In case of components, where that is not possible or not warranted on account of the size or nature of that product, it shall be affixed to the packaging and to the accompanying documents. ***In the case of watercraft, the CE marking shall be affixed on the watercraft builder's plate mounted separately from the watercraft identification number. In the case of a propulsion engine, the CE marking shall be affixed on the engine.***
2. The CE marking shall be affixed before the product is placed on the market or put into service. **The CE** marking, and the identification number referred to in paragraph 3, may be followed by a pictogram or any other mark indicating a special risk or use.
3. The CE marking shall be followed by the identification number of the notified body, where that body is involved in the production control phase ***or in the post-construction assessment.***

The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer or ***his*** authorised representative, ***or by the person referred to in Article 19(2), (3) or (4).***

CHAPTER IV

CONFORMITY ASSESSMENT

Article 19

Applicable conformity assessment procedures

1. The manufacturer ■ shall apply the procedures set out in the modules referred to in Articles 20, 21 and 22 before placing on the market products referred to in Article 2(1).
2. The private importer shall apply the procedure referred to in Article 23 before putting into service a product referred to in Article 2(1) if ■ the manufacturer ■ has *not* carried out the conformity assessment for the product concerned.
3. Any person placing on the market or putting into service *a propulsion* engine or a watercraft after a major modification or conversion thereof, or any person changing the intended purpose of a watercraft not covered by ■ this Directive in a way that it falls under its scope, shall apply the procedure referred to in Article 23 before placing the product on the market or putting it into service.
4. Any person placing on the market a watercraft built for own use before the end of the five-year period referred to in point (vii) of point (a) of Article 2(2) shall apply the procedure referred to in Article 23 before placing the product on the market.

Article 20

Design and construction

1. With regard to design and construction of recreational craft the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:
 - (a) For design categories A and B referred to in point 1 of Part A of Annex I:
 - (i) For recreational craft **of hull length** from 2,5 m to **less than** 12 m ■ , any of the following modules:
 - Module A1 (internal production control plus supervised product testing) ;
 - Module B (EU type-examination) together with Module C, D, E or F;
 - Module G (conformity based on unit verification);
 - Module H (conformity based on full quality assurance).
 - (ii) For recreational craft **of hull length** from 12 m to 24 m ■ , any of the following modules:
 - Module B (EU type-examination) together with Module C, D, E or F;
 - Module G (conformity based on unit verification);
 - Module H (conformity based on full quality assurance).

- (b) For design category C referred to in point 1 of Part A of Annex I:
- (i) For recreational craft *of hull length* from 2,5 m to *less than* 12 m ■ , any of the following modules:
- where the harmonised standards relating to points 3.2 and 3.3 of Part A of Annex I are complied with: Module A (internal production control), Module A1 (internal production control plus supervised product testing), Module B (EU type-examination) together with Module C, D, E or F, Module G (conformity based on unit verification) or Module H (conformity based on full quality assurance);
 - where the harmonised standards relating to points 3.2 and 3.3 of Part A of Annex I are not complied with: Module A1 (internal production control plus supervised product testing), Module B (EU type-examination) together with Module C, D, E or F, Module G (conformity based on unit verification) or Module H (conformity based on full quality assurance);

- (ii) For recreational craft *of hull length* from 12 m to 24 m ■ , any of the following modules:

■

- *Module B (EU type-examination) together with Module C, D, E or F;*
- *Module G (conformity based on unit verification);*
- *Module H (conformity based on full quality assurance).*

- (c) For design category D referred to in point 1 of Part A of Annex I:

for recreational craft *of hull length* from 2,5 m to 24 m ■ , any of the following modules:

- Module A (internal production control) ;
- Module A1 (internal production control plus supervised product testing) ;
- Module B (EU type-examination) together with Module C, D, E or F;

- Module G (conformity based on unit verification);
 - Module H (conformity based on full quality assurance).
2. With regard to design and construction of personal watercraft any of the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:
- (a) Module A (internal production control);
 - (b) Module A1 (internal production control plus supervised product testing);
 - (c) Module B (EU type-examination) together with Module C, D, E or F;
 - (d) Module G (conformity based on unit verification);
 - (e) Module H (conformity based on full quality assurance).
3. With regard to design and construction of components any of the following procedures set out in Annex II to Decision No 768/2008/EC shall apply:
- (a) Module B (EU type-examination) together with Module C, D, E or F;
 - (b) Module G (conformity based on unit verification);
 - (c) Module H (conformity based on full quality assurance).

Article 21

Exhaust emissions

With regard to exhaust emissions, for products referred to in points (d) and (e) of Article 2(1), the engine manufacturer ■ shall apply the following procedures set out in Annex II to Decision No 768/2008/EC:

- (a) where tests are conducted using the harmonised standard, any of the following modules:
 - (i) Module B (the EU type-examination) together with Module C, D, E or F;
 - (ii) Module G (conformity based on unit verification);
 - (iii) Module H (conformity based on full quality assurance);
- (b) where tests are conducted without using the harmonised standard, ***any of the following modules:***
 - (i) ***Module B (the EU type-examination) together with Module C 1;***
 - (ii) ***Module G (conformity based on unit verification).***

Article 22

Noise emissions

1. With regard to noise emissions for recreational craft with stern drive *propulsion* engines without integral exhausts or inboard propulsion engine installations *and for* recreational craft with stern drive *propulsion engines* without integral exhausts or with inboard propulsion *engine* installations which are subject to major craft conversion and subsequently placed *on* the ■ market within five years following conversion, the ■ manufacturer ■ shall apply the following procedures set out in Annex II to Decision No 768/2008/EC:
 - (a) where tests are conducted using the harmonised standard for noise measurement, any of the following modules:
 - (i) Module A1 (internal production control plus supervised *product* testing);
 - (ii) Module G (conformity based *on* unit verification);
 - (iii) Module H (conformity based on full quality assurance).
 - (b) Where tests are conducted without using the harmonised standard for noise measurement, Module G (conformity based *on* unit verification).

(c) Where the Froude number and power displacement ratio method is used for assessment, any of the following modules:

(i) Module A (internal production control);

(ii) Module G (conformity based *on* unit verification);

(iii) Module H (conformity based on full quality assurance).

2. With regard to noise emissions for personal watercraft and outboard *propulsion* engines and stern drive *propulsion* engines with integral exhausts intended for installation on recreational craft, the personal watercraft or engine manufacturer shall apply the following procedures set out in Annex II to Decision No 768/2008/EC:

(a) Where tests are conducted using the harmonised standard for noise measurement, *any of the following modules*:

(i) Module A1 (internal production control plus supervised *product* testing);

(ii) Module G (conformity based *on* unit verification);

(iii) Module H (conformity based on full quality assurance).

(b) Where tests are conducted without using the harmonised standard for noise measurement, Module G (conformity based on unit verification).

Article 23

Post-construction assessment

The post-construction assessment referred to in Article 19(2), (3) and (4) shall be carried out as set out in Annex V.

Article 24

Supplementary requirements

1. When Module B of Annex II to Decision No 768/2008/EC is used, the EU type examination shall be carried out in the manner specified in the second indent of point 2 of that module.

A production type referred to in Module B may cover several versions of the product provided that:

- (a)* the differences between the versions do not affect the level of safety and the other requirements concerning the performance of the product; **and**
- (b)* **versions of the product are referred to in the corresponding EU-type examination certificate, if necessary through amendments to the original certificate.**

2. When Module A1 of Annex II to Decision No 768/2008/EC is used, the product checks shall be carried out on one or several watercraft representing the production of the manufacturer and the supplementary requirements set out in Annex VI to this Directive shall apply.

3. The possibility of using accredited in-house bodies referred to in Modules A1 and C1 of Annex II to Decision No 768/2008/EC shall not be applicable.
4. When Module F of Annex II to Decision No 768/2008/EC is used, the procedure described in Annex VII to this Directive shall apply for the assessment of conformity with the exhaust emission requirements.
5. When Module C of Annex II to Decision No 768/2008/EC is used, with regard to the assessment of conformity with the exhaust emission requirements of this Directive and if the manufacturer is not working under a relevant quality system as described in Module H of Annex II to Decision No 768/2008/EC, a notified body chosen by the manufacturer shall carry out product checks or have them carried out at random intervals determined by that body, in order to verify the quality of the internal checks on the product. When the quality level appears unsatisfactory or when it seems necessary to verify the validity of the data presented by the manufacturer, the procedure set out in Annex VIII to this Directive shall apply.

Article 25

Technical documentation

1. The technical documentation referred to in Article 7(2) shall contain all relevant data **and** details of the means used by the manufacturer to ensure that the product complies with the requirements set out in Article 4(1) and Annex I. It shall, in particular, contain the **relevant** documents listed in Annex IX.
2. ***The technical documentation shall ensure that the design, construction, operation and assessment of conformity may be clearly understood.***

CHAPTER V

NOTIFICATION OF CONFORMITY ASSESSMENT BODIES

Article 26

Notification

Member States shall notify the Commission and the other Member States of the bodies authorised to carry out third-party conformity assessment tasks under this Directive.

Article 27

Notifying authorities

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies for the purposes of this Directive, and for the monitoring of notified bodies, including compliance with the provisions of Article 32.
2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.
3. Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in paragraph 1 to a body which is not a governmental entity, that body shall be a legal entity and shall comply *mutatis mutandis* with the requirements laid down in Article 28. In addition, that body shall have arrangements to cover liabilities arising out of its activities.
4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

Article 28

Requirements relating to notifying authorities

1. *A notifying authority* shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.
2. *A notifying authority* shall be organised and operated so as to safeguard the objectivity and impartiality of *its* activities.
3. *A notifying authority* shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.
4. *A notifying authority* shall not offer or provide any activities that conformity assessment bodies perform or consultancy services on a commercial or competitive basis.
5. *A notifying authority* shall safeguard the confidentiality of the information *it obtains*.
6. *A notifying authority* shall have a sufficient number of competent personnel at *its* disposal for the proper performance of *its* tasks.

Article 29

Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 30

Requirements relating to notified bodies

1. For the purposes of notification under this Directive, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 11.
2. A conformity assessment body shall be established under national law and shall have legal personality.
3. A conformity assessment body shall be a third-party body independent of the organisation or the product 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 products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products which they assess, nor the ■ representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design or manufacture, the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities 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 judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.
6. A conformity assessment body shall be capable of carrying out the conformity assessment tasks assigned to it by the provisions of Articles 19 *to* 24 and in relation to which it has have been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure and each kind or category of products in relation to which it has been notified, a conformity assessment body shall have at its disposal the necessary:

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out ensuring the transparency and ability of reproduction of those procedures.

It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified body and other activities;

- (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the technology of the product in question and the mass or serial nature of the production process.

It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

7. The personnel responsible for carrying out the conformity assessment activities shall have the following:
- (a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;
 - (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;
 - (c) appropriate knowledge and understanding of the essential requirements, the applicable harmonised standards, the relevant Union harmonisation legislation and the relevant national legislation;
 - (d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.
8. The impartiality of the conformity assessment bodies, their top level management and of the assessment personnel shall be *guaranteed*.

The remuneration of the top level management and assessment personnel of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the Member State in accordance with its national law, or the Member State itself is directly responsible for the conformity assessment.
10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under Articles 19 *to* 24 or any provision of national law giving effect to *it*, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
11. Conformity assessment bodies shall participate in, or ensure that their assessment personnel are informed of, the relevant standardisation activities and the activities of the notified body coordination group established under Article 42, and shall apply as general guidance the administrative decisions and documents produced as a result of the work of that group.

Article 31

Presumption of conformity

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union* it shall be presumed to comply with the requirements set out in Article 30 in so far as the applicable harmonised standards cover those requirements.



Article 32

Subsidiaries of and subcontracting by notified bodies

1. Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Article 30 and shall inform the notifying authority accordingly.
2. Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.
3. Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4. Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by them under Articles 19 *to* 24.

Article 33

Application for notification

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.
2. *The* application referred to in paragraph 1 shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and the product or products for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Article 30.
3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Article 30.

Article 34

Notification procedure

1. Notifying authorities may notify only conformity assessment bodies which have satisfied the requirements laid down in Article 30.
2. Notifying authorities shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.
3. The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules, product or products concerned and the relevant attestation of competence.
4. Where a notification is not based on an accreditation certificate as referred to in Article 33(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Article 30.

5. The body concerned may perform the activities of a notified body only where no objections are raised by the Commission or the other Member States within two weeks of a notification where an accreditation certificate is used or within two months of a notification where accreditation is not used.

Only such a body shall be considered a notified body for the purposes of this Directive.

6. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

Article 35

Identification numbers and lists of notified bodies

1. The Commission shall assign an identification number to each notified body.

It shall assign a single such number even where the body is notified under several Union acts.

Member States shall in addition assign an identification code to a notified body that has been authorised by a notifying authority to undertake the post-construction conformity assessments.

2. The Commission shall make publicly available the list of the bodies notified under this Directive, including the identification numbers *and, if applicable, codes* that have been allocated to them and the activities for which they have been notified.

The Commission shall ensure that that list is kept up to date.

Article 36

Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified body no longer meets the requirements laid down in Article 30, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.

2. In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 37

Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention regarding, the competence of a notified body or the continued fulfillment by a notified body of the requirements and responsibilities to which it is subject.
2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the body 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 notified body does not meet or no longer meets the requirements for its notification, it shall ***adopt an implementing act requesting*** the notifying Member State ■ to take the necessary corrective measures, including ***withdrawal of*** notification if necessary.

That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 50(2).

Article 38

Operational obligations of notified bodies

1. Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in Articles 19 *to* 24.
2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators *and private importers*. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

In so doing they shall nevertheless respect the degree of rigour and the level of protection required for the compliance of the product with this Directive.

3. Where a notified body finds that requirements laid down in Article 4(1) and Annex I or in corresponding harmonised standards have not been met by a manufacturer *or a private importer*, it shall require that manufacturer *or private importer* to take appropriate corrective measures and shall not issue a conformity certificate.
4. Where, in the course of the monitoring of conformity following the issue of a certificate, a notified body finds that a product is no longer in compliance, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.

5. Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw any certificates, as appropriate.

Article 39

Appeal procedure

Member States shall ensure that an appeal procedure against decisions of the notified bodies is available.

Article 40

Information obligation on notified bodies

1. Notified bodies shall inform the notifying authority of the following:
 - (a) any refusal, restriction, suspension or withdrawal of a certificate; ■
 - (b) any circumstances affecting the scope of and conditions for notification;
 - (c) any request for information which they have received from market surveillance authorities regarding conformity assessment activities;

- (d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.
2. Notified bodies shall provide the other bodies notified under this Directive carrying out similar conformity assessment activities covering the same products with relevant information on issues relating to negative and, on request, positive conformity assessment results.

Article 41

Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for notification policy.

Article 42

Coordination of notified bodies

The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Directive are put in place and properly operated in the form of a sectoral group or groups of notified bodies.

Member States shall ensure that the bodies notified by them participate in the work of that group or groups, directly or by means of designated representatives.

CHAPTER VI

UNION MARKET SURVEILLANCE, CONTROL OF PRODUCTS ENTERING THE UNION MARKET AND SAFEGUARD PROCEDURES

Article 43

Union market surveillance and control of products entering the Union market

Article 15(3) and Articles 16 to 29 of Regulation (EC) No 765/2008 shall apply to **■** products covered by this Directive.

Article 44

Procedure for dealing with products presenting a risk at national level

1. Where the market surveillance authorities of one Member State ■ have sufficient reason to believe that a product covered by this Directive presents a risk to the health or safety of persons, *to property or to the environment*, they shall carry out an evaluation in relation to the product concerned covering *the relevant* requirements laid down in this Directive. The relevant economic operators or the private importer shall cooperate as necessary with the market surveillance authorities.

In the case of an economic operator, where, in the course of that evaluation, the market surveillance authorities find that the product does not comply with the requirements laid down in this Directive, they shall without delay require the relevant economic operator ■ to take *the* appropriate corrective action to bring the product into compliance with those requirements, to withdraw the product from the market, or to recall it within a reasonable period, commensurate with the nature of the risk, as they may prescribe.

In the case of a private importer, where, in the course of that evaluation, the market surveillance authorities find that the product does not comply with the requirements laid down in this Directive, the private importer shall be informed without delay of the appropriate corrective action to be taken to bring the product into compliance with those requirements, to suspend the putting into service of the product or to suspend the use of the product, commensurate with the nature of the risk.

The market surveillance authorities shall inform the relevant notified body accordingly.

Article 21 of Regulation (EC) No 765/2008 shall apply to the measures referred to in the second *and third* subparagraphs of this paragraph.

2. Where the market surveillance authorities consider that non-compliance is not restricted to their national territory, they shall inform the Commission and the other Member States of the results of the evaluation and of the actions which they have required the relevant economic operator **█** to take.

3. The economic operator shall ensure that ***the*** appropriate corrective action is taken in respect of all the products concerned that it has made available on the market throughout the Union.

The private importer shall ensure that ***the*** appropriate corrective action is taken in respect of the product that he has imported in the Union for his own use.

4. Where the relevant economic operator does not take adequate corrective action within the period referred to in the second subparagraph of paragraph 1, the market surveillance authorities shall take all appropriate provisional measures to prohibit or restrict the product being made available on their national market, to withdraw the product from that market or to recall it.

Where the private importer does not take adequate corrective action **■**, the market surveillance authorities shall take all appropriate provisional measures to prohibit ***the putting into service of the product, or prohibit*** or restrict the ***use of the product in their territory***.

The market surveillance authorities shall inform the Commission and the other Member States, without delay, of those measures.

5. The information referred to in paragraph 4 shall include all available details, in particular the data necessary for the identification of the non-compliant product, the origin of the product, the nature of the non-compliance alleged and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the relevant economic operator or the private importer. In particular, the market surveillance authorities shall indicate whether the non-compliance is due to either:
 - (a) failure of the product to meet requirements relating to the health or safety of persons, *the protection of property or the environment* laid down in this Directive; or
 - (b) shortcomings in the harmonised standards referred to in *Article 14* conferring a presumption of conformity.

6. Member States other than the Member State initiating the procedure under this Article shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at their disposal relating to the non-compliance of the product concerned, and, in the event of disagreement with the notified national measure, of their objections.
7. Where, within three months of receipt of the information referred to in paragraph 4, no objection has been raised by either a Member State or the Commission in respect of a provisional measure taken by a Member State, that measure shall be deemed justified.
8. Member States shall ensure that appropriate restrictive measures are taken in respect of the product concerned, such as withdrawal of the product from their market, without delay.

Article 45

Union safeguard procedure

1. Where, on completion of the procedure set out in Article 44(3) and (4), objections are raised against a measure taken by a Member State, or where the Commission considers a national measure to be contrary to Union legislation, the Commission shall without delay enter into consultation with the Member States and the relevant economic operator or operators or the private importer and shall evaluate the national measure. On the basis of the results of that evaluation, the Commission shall ***adopt an implementing act determining*** whether the national measure is justified or not.

The Commission shall address its decision to all Member States and shall immediately communicate it to them and the relevant economic operator or operators or the private importer.

2. If the national measure is considered justified, all Member States shall take the measures necessary to ensure that the non-compliant product is withdrawn from their market, and shall inform the Commission accordingly. If the national measure is considered unjustified, the Member State concerned shall withdraw the measure.
3. Where the national measure is considered to be justified and the non-compliance of the product is attributed to shortcomings in the harmonised standards referred to in point (b) of Article 44(5) of this Directive, the Commission shall ***apply the procedure of Article 11 of Regulation (EU) No 1025/2012.***

Article 46

Formal non-compliance

1. Without prejudice to Article 44, where a Member State makes one of the following findings, it shall require the relevant economic operator or the private importer to put an end to the non-compliance concerned:
 - (a) the **CE** marking, has been affixed in violation of Article 16, Article 17 or Article 18;
 - (b) the **CE** marking, *as referred to in Article 17*, has not been affixed;
 - (c) the EU declaration of conformity *or the declaration referred to in Annex III* has not been drawn up;
 - (d) the EU declaration of conformity *or the declaration referred to in Annex III* has not been drawn up correctly;

- (e) the technical documentation is either not available or not complete;
- (f) *the information set out in Article 7(6) or Article 9(3) is absent, false or incomplete;*
- (g) *any other administrative requirement provided for in Article 7 or Article 9 is not fulfilled.*

2. Where the non-compliance referred to in paragraph 1 persists, the Member State concerned shall take all appropriate measures to restrict or prohibit the product being made available on the market or ensure that it is recalled or withdrawn from the market, or in the case of a product imported by a private importer for his own use, that its use is prohibited or restricted.

CHAPTER VII

DELEGATED ACTS AND IMPLEMENTING ACTS

Article 47

Delegated power

The Commission shall be empowered to adopt delegated acts in accordance with Article 48 to amend the following ■ :

- (a) *in order* to take into account the progress of technical knowledge and new scientific evidence:
- (i) *points 2.3, 2.4 and 2.5 as well as Section 3 of Part B and Section 3 of Part C of Annex I;*
 - (ii) *Annexes VII and IX; and*
- (b) *Annex V in order to take into account the progress of technical knowledge, the adequacy of ensuring equivalent conformity and new scientific evidence.*

Article 48

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 47 shall be conferred on the Commission for a period of five years from ...* . The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the 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 47 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.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

* *OJ: date of entry into force of this Directive.*

5. A delegated act adopted pursuant to Article 47 shall enter into force only if no objection has been expressed either by the European Parliament or 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 the Council.

Article 49

Implementing acts

- 1.** *In order to take into account the progress of technical knowledge and to ensure that this Directive is applied in a uniform manner, the Commission may adopt implementing acts concerning the following:*
- (a) detailed procedures for the implementation of Article 24, taking into account the specific conformity assessment needs of the products covered by this Directive;*
 - (b) the detailed application of the watercraft design categories set out in point 1 of Part A of Annex I, including on the use of weather terminology and measurement scales used therein;*
 - (c) detailed procedures for the watercraft identification set out in point 2.1 of Part A of Annex I, including clarification of terminology, and assignment and administration of manufacturer's codes granted to manufacturers established outside the Union;*
 - (d) the information on the builder's plate set out in point 2.2 of Part A of Annex I;*

- (e) the application of the Regulations on navigation lights set out in point 5.7 of Part A of Annex I;*
- (f) arrangements for discharge prevention, in particular as regards operation of holding tanks, set out in point 5.8 of Part A of Annex I;*
- (g) the installation and testing of gas appliances and permanently installed gas systems on watercraft;*
- (h) the format and content of owner's manuals;*
- (i) the format and content of the reporting questionnaire to be completed by Member States as referred to in Article 51.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 50(3).

- 2. On duly justified imperative grounds of urgency when a product presents a serious risk to the health and safety of persons, property or to the environment, in respect of points (a), (b), (e), (f) and (g) of paragraph 1, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 50(4).*

Article 50

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. ***Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.***
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply **■** .
4. ***Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.***
5. ***The committee shall be consulted by the Commission on any matter for which consultation of sectoral experts is required by Regulation (EU) No 1025/2012 or by any other Union legislation.***

6. *The Committee may furthermore examine any other matter concerning the application of this Directive raised either by its chair or by a representative of a Member State in accordance with its rules of procedure.*

CHAPTER VIII

SPECIFIC ADMINISTRATIVE PROVISIONS

Article 51

Reporting

By and every five years thereafter, Member States shall complete a questionnaire issued by the Commission on the application of this Directive.*

*By ...** ... and every five years thereafter, the Commission, with reference to the responses of Member States to the questionnaire referred to in the first paragraph, shall draw up and submit to the European Parliament and to the Council a report on the application of this Directive.*

Article 52

Review

*By ...** the Commission shall submit a report to the European Parliament and to the Council on the following:*

* *OJ: seven years after the date of entry into force of this Directive.*


** *OJ: eight years after the date of entry into force of this Directive.*

- (a) the technical feasibility for further reducing the emissions of marine propulsion engines and introducing requirements for evaporative emissions and fuel systems that apply to propulsion engines and systems taking into account the cost efficiency of technologies and the need to agree globally harmonised values for the sector, taking into account any major market initiatives; and*
- (b) the impact on consumer information and on manufacturers, in particular small and medium-sized enterprises, of the watercraft design categories listed in Annex I, which are based on resistance to wind force and significant wave height, taking into account developments in international standardisation. That report shall include an evaluation of whether the watercraft design categories require additional specifications or subdivisions, and shall suggest additional sub categories, as appropriate.*

The reports referred to in points (a) and (b) of the first paragraph shall, where appropriate, be accompanied by legislative proposals.



Article 53
Penalties

Member States shall lay down rules on penalties  which may include criminal sanctions for serious infringements, applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented.

The penalties provided for shall be effective, proportionate and dissuasive and may be increased if the relevant economic operator or the private importer has previously committed a similar infringement of this Directive.



CHAPTER IX
FINAL AND TRANSITIONAL PROVISIONS

Article 54

Transposition

1. Member States shall adopt and publish, by ...* , the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those measures .

They shall apply those measures from ...* . When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

* *OJ: 24 months after the date of entry into force of this Directive.*

Article 55

Transitional period

1. Member States shall not impede the making available on the market or the putting into service of products covered by Directive 94/25/EC which are in conformity with that Directive and which were placed on the market or put into service before ...^{*} .
2. Member States shall not impede the making available on the market or the putting into service of outboard SI *propulsion* engines with power *equal to or less than* 15 kW which comply with the stage I exhaust emission limits laid down in point 2.1 of Part B of Annex I and which were manufactured by small and medium-sized enterprises as defined in Commission Recommendation 2003/361/EC¹ and placed on the market before ...^{**} .

Article 56

Repeal

Directive 94/25/EC is repealed with effect from ...^{***} . References to the repealed Directive shall be construed as references to this Directive.

* *OJ: three years after the date of entry into force of this Directive.*

¹ OJ L 124, 20.5.2003, p. 36.

** *OJ: six years after the date of entry into force of this Directive.*

*** *OJ: two years after the date of entry into force of this Directive.*

Article 57

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 58

Addressees

This Directive is addressed to the Member States.

Done at ,

For the European Parliament

The President

For the Council

The President

ANNEX I

ESSENTIAL REQUIREMENTS

A. Essential requirements for the design and construction *of products referred to in Article 2(1)*

1. ***WATERCRAFT*** DESIGN CATEGORIES

Design category	Wind force (Beaufort scale)	Significant wave height ($H^{1/3}$, metres)
A	exceeding 8	exceeding 4
B	up to, and including, 8	up to, and including, 4
C	up to, and including, 6	up to, and including, 2
D	up to, and including, 4	up to, and including, 0,3

Explanatory notes:

- A. *A recreational craft given design category A is considered to be designed for winds that may exceed wind force 8 (Beaufort scale) and significant wave height of 4 m and above but excluding abnormal conditions, such as storm, violent storm, hurricane, tornado and extreme sea conditions or rogue waves.*
- B. *A recreational craft given design category B is considered to be designed for a wind force up to, and including, 8 and significant wave height up to, and including, 4 m .*

- C. *A watercraft given design category C is considered to be designed for a wind force up to, and including, 6 and significant wave height up to, and including, 2 m* .
- D. *A watercraft given design category D is considered to be designed for a wind force up to, and including, 4 and significant wave height up to, and including, 0,3 m* , with occasional waves of 0,5 m maximum height .

Watercraft in each design category must be designed and constructed to withstand the parameters in respect of stability, buoyancy, and other relevant essential requirements listed in this Annex, and to have good handling characteristics.

2. GENERAL REQUIREMENTS

2.1. Watercraft identification

Each watercraft shall be marked with an identification number including the following information:

- (1) *country code of the manufacturer,*

- (2) *unique code of the manufacturer assigned by the national authority of the Member State,*
- (3) unique serial number,
- (4) month and year of production,
- (5) model year.

Detailed requirements for the *identification number* referred to in the first paragraph are set out in the relevant harmonised standard.

2.2. *Watercraft builder's* plate

Each watercraft shall carry a permanently affixed plate mounted separately from the *watercraft* identification number, containing ■ at least *the* following information:

- (a) manufacturer's name, registered trade name or registered trade mark, *as well as contact address*;
- (b) CE marking, *as provided for in Article 18*;
- (c) *watercraft* design category in accordance with Section 1;
- (d) manufacturer's maximum recommended load derived from point 3.6 excluding the weight of the contents of the fixed tanks when full;
- (e) number of persons recommended by the manufacturer for which the watercraft was designed ■ .

In the case of *post-construction assessment*, the contact details and the *requirements* referred to in point ■ (a) ■ shall include those of the notified body which has carried out the conformity assessment.

2.3. Protection from falling overboard and means of reboarding

Watercraft shall be designed to minimise the risks of falling overboard and to facilitate reboarding. *Means of reboarding shall be accessible to or deployable by a person in the water unaided.*

2.4. Visibility from the main steering position

For *recreational craft*, the main steering position shall give the operator, under normal conditions of use (speed and load), good all-round visibility.

2.5. Owner's manual

Each *product* shall be provided with an owner's manual in accordance with Article 7(7) and Article 9(4). That *manual* shall *provide all the information necessary for safe use of the product drawing particular attention to set up, maintenance, regular operation, prevention of risks and risk management.*

3. INTEGRITY AND STRUCTURAL REQUIREMENTS

3.1. Structure

The choice *and* combination of materials and its construction shall ensure that the watercraft is strong enough in all respects. Special attention shall be paid to the design category in accordance with Section 1, and the manufacturer's maximum recommended load in accordance with point 3.6.

3.2. Stability and freeboard

The watercraft shall have sufficient stability and freeboard considering its design category in accordance with Section 1 and the manufacturer's maximum recommended load in accordance with point 3.6.

3.3. Buoyancy and flotation

The watercraft shall be constructed as to ensure that it has buoyancy characteristics appropriate to its design category in accordance with Section 1 ■ and the manufacturer's maximum recommended load in accordance with point 3.6. ***All habitable multihull recreational craft susceptible of inversion shall have sufficient buoyancy to remain afloat in the inverted position.***

Watercraft of less than six metres in length that are susceptible to swamping when used in their design ***category*** shall be provided with appropriate means of flotation in the swamped condition.

3.4. Openings in hull, deck and superstructure

Openings in hull, deck(s) and superstructure shall not impair the structural integrity of the watercraft or its weather tight integrity when closed.

Windows, port lights, doors and hatch covers shall withstand the water pressure likely to be ***encountered*** in their specific position, as well as point loads applied by the weight of persons moving on deck.

Through hull fittings designed to allow water passage into the hull or out of the hull, below the waterline corresponding to the manufacturer's maximum recommended load in accordance with point 3.6, shall be fitted with a means of shutoff which shall be readily accessible.

3.5. Flooding

All watercraft shall be designed so as to minimise the risk of sinking.

Where appropriate, particular attention shall be paid to:

- (a) cockpits and wells, which should be self-draining or have other means of keeping water out of the *watercraft* interior;
- (b) ventilation fittings;
- (c) removal of water by pumps or other means.

3.6. Manufacturer's maximum recommended load

The manufacturer's maximum recommended load (fuel, water, provisions, miscellaneous equipment and people (in kilograms)) for which the watercraft was designed, shall be determined in accordance with the design category (Section 1), stability and freeboard (point 3.2) and buoyancy and flotation (point 3.3).

3.7. Life raft stowage

All **recreational craft** of design categories A and B, and **recreational craft** of design categories C and D longer than six metres shall be provided with one or more stowage points for a life raft (life rafts) large enough to hold the number of persons the **recreational craft** was designed to carry as recommended by the manufacturer. Life raft stowage point(s) shall be readily accessible at all times.

3.8. Escape

All habitable multihull recreational craft susceptible of inversion shall be provided with viable means of escape in the event of inversion. Where there is a means of escape provided for use in the inverted position, it shall not compromise the structure (point 3.1), the stability (point 3.2) or buoyancy (point 3.3) whether the recreational craft is upright or inverted.

Every habitable recreational craft shall be provided with viable means of escape in the event of fire.

3.9. Anchoring, mooring and towing

All watercraft, taking into account their design category and their characteristics, shall be fitted with one or more strong points or other means capable of safely accepting anchoring, mooring and towing loads.

4. HANDLING CHARACTERISTICS

The manufacturer shall ensure that the handling characteristics of the watercraft are satisfactory with the most powerful ***propulsion*** engine for which the ***watercraft*** is designed and constructed. For all ***propulsion*** engines, the maximum rated engine power shall be declared in the owner's manual.

5. INSTALLATION REQUIREMENTS

5.1. Engines and engine *compartments*

5.1.1. Inboard engine

All inboard mounted engines shall be placed within an enclosure separated from living quarters and installed so as to minimise the risk of fires or spread of fires as well as hazards from toxic fumes, heat, noise or vibrations in the living quarters.

Engine parts and accessories that require frequent inspection and/or servicing shall be readily accessible.

The insulating materials inside *the engine compartment* shall not sustain combustion.

5.1.2. Ventilation

The engine compartment shall be ventilated. The **■** ingress of water into the engine compartment through **■** openings must be *minimised*.

5.1.3. Exposed parts

Unless the engine is protected by a cover or its own enclosure, exposed moving or hot parts of the engine that could cause personal injury shall be effectively shielded.

5.1.4. Outboard *propulsion* engine ■ starting

Every outboard propulsion engine fitted on any watercraft shall have a device to prevent ■ the engine being started in gear, except:

- (a) when the engine produces less than 500 Newton's (N) of static thrust;
- (b) when the engine has a throttle limiting device to limit thrust to 500 N at the time of starting the engine.

5.1.5. Personal watercraft running without driver

Personal watercraft shall be designed either with an automatic *propulsion* engine cut-off or with an automatic device to provide reduced speed, circular, forward movement when the driver dismounts deliberately or falls overboard.

5.1.6. Tiller-controlled outboard propulsion engines shall be equipped with an emergency stopping device which can be linked to the helmsman.

5.2. Fuel system

5.2.1. General

The filling, storage, venting and fuel-supply arrangements and installations shall be designed and installed so as to minimise the risk of fire and explosion.

5.2.2. Fuel tanks

Fuel tanks, lines and hoses shall be secured and separated or protected from any source of significant heat. The material the tanks are made of and their method of construction shall be in accordance with their capacity and the type of fuel.

Petrol fuel tank spaces shall be ventilated.

Petrol fuel tanks shall not form part of the hull and shall be:

- (a) protected against fire from ***any*** engine and from all other sources of ignition;
- (b) separated from living quarters.

Diesel fuel tanks may be integral with the hull.

5.3. Electrical system

Electrical systems shall be designed and installed so as to ensure proper operation of the watercraft under normal conditions of use and shall be such as to minimise risk of fire and electric shock.

All electrical circuits, except engine starting circuits supplied from batteries, shall remain safe when exposed to overload.

Electric propulsion circuits shall not interact with other circuits in such a way that either would fail to operate as intended.

Ventilation shall be provided to prevent the accumulation of *explosive gases which* might be emitted from batteries. Batteries shall be firmly secured and protected from ingress of water.

5.4. Steering system

5.4.1. General

Steering and propulsion control systems shall be designed, constructed and installed in order to allow the transmission of steering loads under foreseeable operating conditions.

5.4.2. Emergency arrangements

Every sailing recreational craft and single-propulsion engine non-sailing recreational craft with remote-controlled rudder steering systems shall be provided with emergency means of steering the ***recreational craft*** at reduced speed.

5.5. Gas system

Gas systems for domestic use shall be of the vapour-withdrawal type and shall be designed and installed so as to avoid leaks and the risk of explosion and be capable of being tested for leaks. Materials and components shall be suitable for the specific gas used to withstand the stresses and exposures found in the marine environment.

Each ***gas*** appliance ***intended by the manufacturer for the application for which it is used shall be so installed in accordance with the manufacturer's instructions***. Each gas-consuming appliance must be supplied by a separate branch of the distribution system, and each appliance must be controlled by a separate closing device. Adequate ventilation must be provided to prevent hazards from leaks and products of combustion.

All watercraft with a permanently installed gas system shall be fitted with an enclosure to contain all gas cylinders. The enclosure shall be separated from the living quarters, accessible only from the outside and ventilated to the outside so that any escaping gas drains overboard.

In particular, any permanently installed gas system shall be tested after installation.

5.6. Fire protection

5.6.1. General

The type of equipment installed and the layout of the watercraft shall take account of the risk and spread of fire. Special attention shall be paid to the surroundings of open flame devices, hot areas or engines and auxiliary machines, oil and fuel overflows, uncovered oil and fuel pipes and routing of electrical wiring in particular away from heat sources and hot areas.

5.6.2. Fire-fighting equipment

Recreational craft shall be supplied with fire-fighting equipment appropriate to the fire hazard, or the position and capacity of fire-fighting equipment appropriate to the fire hazard shall be indicated. The craft shall not be put into service until the appropriate fire-fighting equipment is in place. Petrol engine *compartments* shall be protected by a fire extinguishing system that avoids the need to open the *compartment* in the event of fire. Where fitted, portable fire extinguishers shall be readily accessible and one shall be so positioned that it can easily be reached from the main steering position of the recreational craft.

5.7. Navigation lights, *shapes and sound signals*

Where navigation lights, *shapes and sound signals* are fitted, they shall comply with the 1972 COLREG (The International Regulations for Preventing Collisions at Sea) or CEVNI (European Code for Interior Navigations for inland waterways) Regulations as appropriate.

5.8. Discharge prevention and installations facilitating the delivery ashore of waste

Watercraft shall be constructed so as to prevent the accidental discharge of pollutants (oil, fuel, etc.) overboard.

Any toilet fitted in a recreational craft shall be connected solely to a holding tank system or water treatment system.

Recreational craft with installed holding tanks shall be fitted with a standard discharge connection to enable pipes of reception facilities to be connected with the ***recreational*** craft discharge pipeline.

In addition, any through-the-hull pipes for human waste shall be fitted with valves which are capable of being secured in the closed position.

B. Essential requirements for exhaust emissions from propulsion engines

Propulsion engines shall comply with the essential requirements for exhaust emissions set out in this Part.

1. **PROPULSION ENGINE IDENTIFICATION**

1.1. Each engine shall be clearly marked with the following information:

- (a) engine manufacturer's ***name, registered trade name or registered trade mark and contact address; and, if applicable, the name and contact address of the person adapting the engine;***
- (b) engine type, engine family, if applicable;
- (c) a unique engine ***serial*** number;
- (d) CE marking, ***as provided for in Article 18.***

1.2. The marks referred to in point 1.1 must be durable for the normal life of the engine and must be clearly legible and indelible. If labels or plates are used, they must be attached in such a manner that the fixing is durable for the normal life of the engine, and the labels/plates cannot be removed without destroying or defacing them.

- 1.3. The marks must be secured to an engine part necessary for normal engine operation and not normally requiring replacement during the engine life.
- 1.4. The marks must be located so as to be readily visible after the engine has been assembled with all the components necessary for engine operation.

2. EXHAUST EMISSION REQUIREMENTS

Propulsion engines shall be designed, constructed and assembled so that when correctly installed and in normal use, emissions shall not exceed the limit values obtained from point 2.1, *Table 1* and point 2.2, *Tables 2* and 3:

2.1. Values applying for the purposes of Article 55(2) and Table 2 of point 2.2:

Table 1								
(g/kWh)								
Type	Carbon monoxide $CO = A + B/P_N^n$			Hydrocarbons $HC = A + B/P_N^n$			Nitrogen oxides NO _x	Particulates PT
	A	B	n	A	B	n		
Two-stroke spark ignition	150,0	600,0	1,0	30,0	100,0	0,75	10,0	Not applicable
Four-stroke spark ignition	150,0	600,0	1,0	6,0	50,0	0,75	15,0	Not applicable
Compression ignition	5,0	0	0	1,5	2,0	0,5	9,8	1,0

Where A, B and n are constants in accordance with the table, P_N is the rated engine power in kW.

2.2. Values applying from **■** ... * :

Table 2:			
Exhaust emission limits for compression ignition (CI) engines(++)			
Swept Volume <i>SV</i> (L/cyl)	Rated Engine Power P_N (kW)	Particulates PT (g/kWh)	Hydrocarbons + Nitrogen Oxides HC + NO_x (g/kWh)
$SV < 0,9$	$P_N < 37$	The values referred to in table 1	
	$37 \leq P_N < 75^{(+)}$	0,30	4,7
	$75 \leq P_N < 3700$	0,15	5,8
$0,9 \leq SV < 1,2$	$P_N < 3700$	0,14	5,8
$1,2 \leq SV < 2,5$		0,12	5,8
$2,5 \leq SV < 3,5$		0,12	5,8
$3,5 \leq SV < 7,0$		0,11	5,8

* **OJ: two years after the date of entry into force of this Directive.**

- (+) Alternatively, ***compression-ignition*** engines with rated engine power at or above 37 kW and below 75 kW and with a swept volume below ***0,9*** L/cyl shall not exceed a PT emission limit of ***0,20*** g/kWh and a combined HC+***NOx*** emission limit of ***5,8*** g/kWh.
- (++) Any compression-ignition engine shall not exceed a Carbon monoxide (CO) emission limit of 5,0 g/kWh.

Table 3: Exhaust emission limits for spark ignition (SI) engines

Type of engine	Rated Engine Power P_N (kW)	Carbon monoxide CO (g/kWh)	Hydrocarbons + Nitrogen Oxides HC + NO_X (g/kWh)
Stern-drive and inboard engines	$P_N \leq 373$	75	5
	$373 < P_N \leq 485$	350	16
	$P_N > 485$	350	22
Outboard engines and PWC engines	$P_N \leq 4,3$	$500 - (5,0 \times P_N)$	30
	$4,3 < P_N \leq 40$	$500 - (5,0 \times P_N)$	$15,7 + \left(\frac{50}{P_N^{0.9}} \right)$
	$P_N > 40$	300	$15,7 + \left(\frac{50}{P_N^{0.9}} \right)$

2.3. Test cycles ■ :

■ Test cycles and weighting factors to be applied:

The following requirements of ISO standard 8178-4:2007 shall be used, taking into account the values set out in the table below.

For variable speed CI engines test cycle E1 or E5 shall ***be applied or alternatively, above 130 kW, test cycle E3 may be applied.*** For variable speed SI engines test cycle E4 shall be applied. ■

<i>Cycle E1, Mode number</i>	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>Speed</i>	<i>Rated speed</i>		<i>Intermediate speed</i>		<i>Low-idle speed</i>
<i>Torque, %</i>	<i>100</i>	<i>75</i>	<i>75</i>	<i>50</i>	<i>0</i>
<i>Weighting factor</i>	<i>0,08</i>	<i>0,11</i>	<i>0,19</i>	<i>0,32</i>	<i>0,3</i>
<i>Speed</i>	<i>Rated speed</i>		<i>Intermediate speed</i>		<i>Low-idle speed</i>
<i>Cycle E3, Mode number</i>	<i>1</i>		<i>2</i>	<i>3</i>	<i>4</i>
<i>Speed, %</i>	<i>100</i>		<i>91</i>	<i>80</i>	<i>63</i>
<i>Power, %</i>	<i>100</i>		<i>75</i>	<i>50</i>	<i>25</i>
<i>Weighting factor</i>	<i>0,2</i>		<i>0,5</i>	<i>0,15</i>	<i>0,15</i>
<i>Cycle E4, Mode number</i>	<i>1</i>		<i>2</i>	<i>3</i>	<i>4</i>
<i>Speed, %</i>	<i>100</i>		<i>80</i>	<i>60</i>	<i>40</i>
<i>Torque, %</i>	<i>100</i>		<i>71,6</i>	<i>46,5</i>	<i>25,3</i>
<i>Weighting factor</i>	<i>0,06</i>		<i>0,14</i>	<i>0,15</i>	<i>0,25</i>
<i>Cycle E5, Mode number</i>	<i>1</i>		<i>2</i>	<i>3</i>	<i>4</i>
<i>Speed, %</i>	<i>100</i>		<i>91</i>	<i>80</i>	<i>63</i>
<i>Power, %</i>	<i>100</i>		<i>75</i>	<i>50</i>	<i>25</i>
<i>Weighting factor</i>	<i>0,08</i>		<i>0,13</i>	<i>0,17</i>	<i>0,32</i>

Notified bodies may accept tests carried out on the basis of other tests cycles as specified in a harmonised standard and as applicable for the engine duty cycle.

2.4. Application of the ***propulsion*** engine family and choice of parent ***propulsion*** engine

The engine manufacturer shall be responsible for defining those engines from his range which are to be included in ***an engine*** family.

A parent engine shall be selected from an engine family in such a way that its emissions characteristics are representative for all engines in that engine family. The engine incorporating those features that are expected to result in the highest specific emissions (expressed in ***g/kWh***), when measured on the applicable test cycle, should normally be selected as the parent engine of the family.

2.5. Test fuels

The test fuel used for exhaust emission testing shall meet the following characteristics:

<i>Petrol Fuels</i>				
<i>Property</i>	<i>RF-02-99</i>		<i>RF-02-03</i>	
	<i>Unleaded</i>		<i>Unleaded</i>	
	<i>min</i>	<i>max</i>	<i>min</i>	<i>max</i>
<i>Research Octane Number (RON)</i>	<i>95</i>	<i>---</i>	<i>95</i>	<i>---</i>
<i>Motor Octane Number (MON)</i>	<i>85</i>	<i>---</i>	<i>85</i>	<i>---</i>
<i>Density at 15 °C (kg/m³)</i>	<i>748</i>	<i>762</i>	<i>740</i>	<i>754</i>
<i>Initial boiling point (°C)</i>	<i>24</i>	<i>40</i>	<i>24</i>	<i>40</i>
<i>Mass fraction of sulphur (mg/kg)</i>	<i>---</i>	<i>100</i>	<i>---</i>	<i>10</i>
<i>Lead content (mg/l)</i>	<i>---</i>	<i>5</i>	<i>---</i>	<i>5</i>
<i>Reid vapour pressure (kPa)</i>	<i>56</i>	<i>60</i>	<i>---</i>	<i>---</i>
<i>Vapour pressure (DVPE) (kPa)</i>	<i>---</i>	<i>---</i>	<i>56</i>	<i>60</i>

<i>Diesel Fuels</i>				
<i>Property</i>	<i>RF-06-99</i>		<i>RF-06-03</i>	
	<i>min</i>	<i>max</i>	<i>min</i>	<i>max</i>
<i>Cetane number</i>	<i>52</i>	<i>54</i>	<i>52</i>	<i>54</i>
<i>Density at 15 °C (kg/m³)</i>	<i>833</i>	<i>837</i>	<i>833</i>	<i>837</i>
<i>Final boiling point (°C)</i>	<i>---</i>	<i>370</i>	<i>---</i>	<i>370</i>
<i>Flash point (°C)</i>	<i>55</i>	<i>---</i>	<i>55</i>	<i>---</i>
<i>Mass fraction of sulphur (mg/kg)</i>	<i>To be reported</i>	<i>300 (50)</i>	<i>---</i>	<i>10</i>
<i>Mass fraction of ash (%)</i>	<i>To be reported</i>	<i>0,01</i>	<i>---</i>	<i>0,01</i>

Notified ***bodies*** may accept tests carried out on the basis of other tests fuel as specified in a harmonised standard.

3. DURABILITY

The manufacturer of the engine shall supply engine installation and maintenance instructions, which if applied should mean that the engine in normal use will continue to comply with the limits set out in *points 2.1 and 2.2* throughout the normal life of the engine and under normal conditions of use.

This information shall be obtained by the engine manufacturer by use of prior endurance testing, based on normal operating cycles, and by calculation of component fatigue so that the necessary maintenance instructions may be prepared by the manufacturer and issued with all new engines when first placed on the market.

The normal life of the engine is *as follows*:

- (a) For CI engines: 480 hours of operation or 10 years, whichever occurs first;
- (b) For SI inboard or stern drive engines with or without integral exhaust:
 - (i) *for the engine category $P_N \leq 373$ kW*: 480 hours of operation or 10 years, whichever occurs first,
 - (ii) for engines in the category $373 < P_N \leq 485$ kW: 150 hours of operation or three years, whichever occurs first,
 - (iii) for the engine category $P_N > 485$ kW: 50 hours of operation or one year, whichever occurs first;
- (c) personal watercraft engines: 350 hours of operation or five years, whichever occurs first;
- (d) outboard engines: 350 hours of operation or 10 years, whichever occurs first

4. OWNER'S MANUAL

Each engine shall be provided with an owner's manual in *a* language or languages *which can be easily understood by consumers and other end-users, as* determined by the Member State in which the engine is to be marketed.

The owner's manual shall:

- (a) provide instructions for the installation, *use* and maintenance needed to assure the proper functioning of the engine to meet the requirements of Section 3 (Durability);
- (b) specify the power of the engine when measured in accordance with the harmonised standard.

C. Essential requirements for noise emissions

Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall comply with the essential requirements for noise emissions set out in this Part.

1. NOISE EMISSION LEVELS

- 1.1. Recreational craft with inboard or stern drive engines without integral exhaust, personal watercraft and outboard engines and stern drive engines with integral exhaust shall be designed, constructed and assembled so that noise emissions shall not exceed the limit values in the following table:

Rated Engine Power (single engine) In kW	Maximum Sound Pressure Level = L_{pASmax} In dB
$P_N \leq 10$	67
$10 < P_N \leq 40$	72
$P_N > 40$	75

where P_N = rated engine power in kW of a single engine at rated speed and L_{pASmax} = maximum sound pressure level in dB.

For twin-engine and multiple-engine units of all engine types an allowance of 3 dB may be applied.

- 1.2. As an alternative to sound measurement tests, recreational craft with inboard engine configuration or stern drive engine configuration, without integral exhaust, shall be deemed to comply with the noise requirements set out in point 1.1 if they have a Froude number of $\leq 1,1$ and a **Power to Displacement** ratio of ≤ 40 and where the engine and exhaust system are installed in accordance with the engine manufacturer's specifications.
- 1.3. “Froude number” F_n shall be calculated by dividing the maximum **recreational craft** speed V (m/s) by the square root of the waterline length lwl (m) multiplied by a given gravitational **acceleration** constant, g , of $9,8 \text{ m/s}^2$.

$$F_n = \frac{V}{\sqrt{g \cdot lwl}}$$

“Power to Displacement ratio” shall be calculated by dividing the rated engine power P_N (in kW) by the **recreational craft**’s displacement D (in tonnes)

$$\text{Power to Displacement ratio} = \frac{P_N}{D}$$

2. OWNER'S MANUAL

For recreational craft with inboard engine or stern drive engines without integral exhaust and personal watercraft, the owner's manual required under point 2.5 of Part A, shall include information necessary to maintain the *recreational* craft and exhaust system in a condition that, insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

For outboard engines and stern drive engines with integral exhaust, the owner's manual required under Section 4 of Part B shall provide the instructions necessary to maintain the engine in a condition, that insofar as is practicable, will ensure compliance with the specified noise limit values when in normal use.

3. DURABILITY

The provisions on the durability in Section 3 of Part B shall apply *mutatis mutandis* to the compliance with the requirements on noise emissions set out in *Section 1 of this part*.

ANNEX II

COMPONENTS *OF WATERCRAFT*

- (1) Ignition-protected equipment for inboard and stern drive petrol engines and petrol tank spaces;
- (2) Start-in-gear protection devices for outboard engines;
- (3) Steering wheels, steering mechanisms and cable assemblies;
- (4) Fuel tanks intended for fixed installations and fuel hoses;
- (5) Prefabricated hatches, and port lights.

ANNEX III

DECLARATION BY THE MANUFACTURER OR *THE IMPORTER OF THE* PARTLY COMPLETED WATERCRAFT

(Article 6(2))

The declaration by the *manufacturer* or *the importer* established in the Union referred to in Article 6(2) shall contain the following:

- (a) the name and address of the manufacturer;
- (b) the name and address of the representative of the manufacturer established in the Union or, if appropriate, of the person responsible for the placing on the market;
- (c) a description of the partly completed watercraft;
- (d) a statement that the partly completed watercraft complies with the essential requirements that apply *at* this stage of construction; this shall include references to the relevant harmonised standards used, or references to the specifications in relation to which compliance is declared at this stage of construction; furthermore, it is intended to be completed by other legal or natural persons in full compliance with this Directive.

■

ANNEX IV

EU DECLARATION OF CONFORMITY *No xxxxxxxx*¹

1. No xxxxxx (***Product: product, batch, type, or serial number***):
2. Name and address of the manufacturer or his authorised representative [The authorised representative must also give the business name and address of the manufacturer] or the private importer.
3. This declaration of conformity is issued under the sole responsibility of the manufacturer or the private importer or the person referred to in Article 19(3) or (4) of Directive...^{*}.
4. Object of the declaration (identification of product allowing traceability. It may include a photograph, where appropriate):
5. The object of the declaration described in ***point 4*** is in conformity with the relevant Union harmonisation legislation:
6. References to the relevant harmonised standards used or references to the ***other technical*** specifications in relation to which conformity is declared:

¹ ***It is optional to assign a number to the declaration of conformity.***
^{*} ***OJ: insert number of this Directive.***

7. Where applicable, the notified body ... (name, number) performed ... (description of intervention) and issued the certificate:
8. Identification of the person empowered to sign on behalf of the manufacturer or his authorised representative ■
9. Additional information:

The EU declaration of conformity shall include a statement of the *propulsion engine* manufacturer *and that of the person adapting an engine in accordance with points (b) and (c) of Article 6(4) that:*

(a) when installed in a watercraft, in accordance with the installation instructions accompanying the engine, the engine will meet:

(i) the exhaust emission requirements of this Directive ■ ;

- (ii) the limits of Directive 97/68/EC as regards engines type-approved in accordance with Directive 97/68/EC which are in compliance with stage III A, stage III B or stage IV emission limits for CI engines used in other applications than propulsion of inland waterway vessels, locomotives and railcars, as provided for in point 4.1.2 of Annex I to that Directive; or*
- (iii) the limits of Regulation (EC) No 595/2009 as regards engines type-approved in accordance with that Regulation.*

The engine must not be put into service until the watercraft into which it is to be installed has been declared in conformity, if so required, with the relevant provision of this Directive ■ .

If the engine has been placed on the market *during* the additional transitional period provided *for* in Article 55(2), the EU declaration of conformity shall contain an indication thereof.

Signed for and on behalf of:

(place and date of issue)

(name, function) (signature)

ANNEX V

EQUIVALENT CONFORMITY BASED ON POST-CONSTRUCTION ASSESSMENT

(module PCA)

1. Conformity based on post-construction assessment is the procedure to assess the equivalent conformity of a product for which ■ the manufacturer ■ has *not* assumed the responsibility for the product's conformity with *this* Directive, and whereby a natural or legal person referred to in Article 19(2), (3) or (4) who is placing the product on the market or putting it into service under his own responsibility is assuming the responsibility for the equivalent conformity of *the* product. This person shall fulfill the obligations laid down in points 2 and 4 and ensure and declare on his sole responsibility that the product concerned, which has been subject to the provisions of point 3, is in conformity with the applicable requirements of this Directive.

2. The person who is placing the product on the market or putting it into service shall lodge an application for a post-construction assessment of the product with a notified body and must provide the notified body with the documents and technical file enabling the notified body to assess the conformity of the product with the requirements of this Directive and any available information on the use of the product after its first putting into service.

The person who is placing such a product on the market or putting it into service shall keep these documents and information at the disposal of the relevant national authorities for 10 years after the product has been assessed on its equivalent conformity in accordance with the post-construction assessment procedure.

3. The notified body shall examine the individual product and carry out calculations, tests and other assessments, to the extent necessary to ensure that the equivalent conformity of the product with the relevant requirements of this Directive is demonstrated.

The notified body shall draw up and issue a certificate and a related report of conformity concerning the assessment carried out and shall keep a copy of the certificate and related report of conformity at the disposal of the national authorities for 10 years after it has issued these documents.

The notified body shall affix its identification number next to the CE marking on the approved product or have it affixed under its responsibility.

In case the assessed product is a watercraft, the notified body shall also have affixed, under his responsibility, the watercraft identification number as referred to in point 2.1 of Part A of Annex I, whereby the field for the country code of the manufacturer shall be used to indicate the country of establishment of the notified body and the fields for the unique code of the manufacturer assigned by the national authority of the Member State to indicate the post-construction assessment identification code assigned to the notified body, followed by the serial number of the post-construction assessment certificate. The fields in the watercraft identification number for the month and year of production and for the model year shall be used to indicate the month and year of the post-construction assessment.

4. CE marking and EU declaration of conformity

4.1. The person who is placing the product on the market or putting it into service shall affix the CE marking and, under the responsibility of the notified body referred to in Section 3, the latter's identification number to the product for which the notified body has assessed and certified its equivalent conformity with the relevant requirements of this Directive.

4.2. The person who is placing the product on the market or putting it into service shall draw up an EU declaration of conformity and keep it at the disposal of the national authorities for 10 years after the date the post-construction assessment certificate has been issued. The declaration of conformity shall identify the product for which it has been drawn up.

A copy of the EU declaration of conformity shall be made available to the relevant authorities upon request.

4.3. In the case the assessed product is a watercraft, the person who is placing the watercraft on the market or putting it into service shall affix to the watercraft the builder's plate described in point 2.2 of Part A of Annex I, which shall include the words "post-construction assessment", and the watercraft identification number described in point 2.1 of Part A of Annex I, in accordance with the provisions set out in Section 3.

5. The notified body shall inform the person who is placing the product on the market or putting it into service of his obligations under this post-construction assessment procedure.

ANNEX VI

SUPPLEMENTARY REQUIREMENTS WHEN INTERNAL PRODUCTION CONTROL PLUS SUPERVISED PRODUCTION TESTS SET OUT IN MODULE A1 IS USED (ARTICLE 24(2))

Design and construction

On one or several watercrafts representing the production of the manufacturer one or more of the following tests, equivalent calculation or control shall be carried out by the manufacturer or on his behalf:

- (a) test of stability in accordance with point 3.2 of Part A of Annex I;
- (b) test of buoyancy characteristics in accordance with point 3.3 of Part A of Annex I.

Noise emissions

For recreational craft fitted with inboard or stern drive engines without integral exhaust and for personal watercraft, on one or several watercraft representing the production of the watercraft manufacturer, the sound emission tests defined in Part C of Annex I shall be carried out by the watercraft manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

For outboard engines and stern drive engines with integral exhaust, on one or several engines of each engine family representing the production of the engine manufacturer, the sound emission tests defined in Part C of Annex I shall be carried out by the engine manufacturer, or on his behalf, under the responsibility of a notified body chosen by the manufacturer.

Where more than one engine of an engine family is tested, the statistical method described in Annex VII shall be applied to ensure conformity of the sample.

ANNEX VII

CONFORMITY OF PRODUCTION ASSESSMENT FOR EXHAUST AND NOISE EMISSIONS

1. For verifying the conformity of an engine family, a sample of engines shall be taken from the series. The manufacturer shall decide the size (n) of the sample, in agreement with the notified body.
2. The arithmetical mean X of the results obtained from the sample shall be calculated for each regulated component of the exhaust and noise emission. The production of the series shall be deemed to conform to the requirements ("pass decision") if the following condition is met:

$X + k \cdot S \leq L$
S is standard deviation, where:
$S^2 = \frac{\sum (x - X)^2}{(n - 1)}$
X = the arithmetical mean of the results <i>obtained from the sample</i>
x = the individual results <i>obtained from</i> the sample
L = the appropriate limit value
n = the number of engines in the sample
k = statistical factor depending on n (see table below)

n	2	3	4	5	6	7	8	9	10
k	0,973	0,613	0,489	0,421	0,376	0,342	0,317	0,296	0,279
n	11	12	13	14	15	16	17	18	19
k	0,265	0,253	0,242	0,233	0,224	0,216	0,210	0,203	0,198
If $n \geq 20$ then $k = 0,860 / \sqrt{n}$.									

ANNEX VIII

SUPPLEMENTARY PROCEDURE TO BE APPLIED UNDER CONFORMITY TO TYPE BASED ON INTERNAL PRODUCTION CONTROL (MODULE C)

In the cases referred to in Article 24(5) when the quality level appears unsatisfactory, the following procedure shall apply:

An engine is taken from the series and subjected to the test described in Part B of Annex I. Test engines shall have been run in, partially or completely, in accordance with the manufacturer's specifications. If the specific exhaust emissions of the engine taken from the series exceed the limit values in accordance with Part B of Annex I, the manufacturer may ask for measurements to be done on a sample of engines taken from the series and including the engine originally taken. To ensure the conformity of the sample of engines with the requirements of this Directive, the statistical method described in Annex VII shall be applied.

ANNEX IX

TECHNICAL DOCUMENTATION

The technical documentation referred to in Article 7(2) and Article 25 shall, as far as it is relevant for the assessment, contain the following:

- (a) A general description of the type;
- (b) Conceptual design and manufacturing drawings and schemes of components, sub-assemblies, circuits, and other relevant data;
- (c) Descriptions and explanations necessary for the understanding of said drawings and schemes and the operation of the product;
- (d) A list of the standards referred to in Article 14, applied in full or in part, and descriptions of the solutions adopted to fulfil the essential requirements when the standards referred to in Article 14 have not been applied;

- (e) Results of design calculations made, examinations carried out and other relevant data;
- (f) Test reports, or calculations namely on stability in accordance with point 3.2 of Part A of Annex I and on buoyancy in accordance with point 3.3 of Part A of Annex I;
- (g) Exhaust emissions test reports demonstrating compliance with Section 2 of Part B of Annex I;
- (h) Sound emissions test reports demonstrating compliance with Section 1 of Part C of Annex I.