



**European Materials Handling Federation**

**European Commission proposal for a “Regulation on the approval and market surveillance of non-road mobile machinery circulating on public roads” (COM (2023) 178 final)**

**FEM position paper**

**14/07/2023**

**Executive Summary**

The European Materials Handling Federation (FEM) supports the European Commission's proposal for a Regulation on the type-approval for non-road mobile machinery. We believe such a legislative initiative fills a significant gap in the Internal Market, making the sale of such machinery across Member States simpler.

However, FEM identifies several concerns and suggestions to bring forward to policymakers:

- Firstly, we regret the exclusion of towed equipment from the scope of the proposal. As there is currently no harmonised technical requirement for towed equipment concerning road circulation, FEM suggests the inclusion of harmonised technical requirements for towed equipment to close the regulatory gap. Consequently, we propose a revision of the definition of 'non-road mobile machinery' to include towed equipment. The same definition shall also be amended taken into the account the entering into force of the new Machinery Regulation.
- FEM also suggests amending certain general obligations, particularly the requirement to have an EU-type approval for all non-road mobile machinery placed on the market. As it is currently written, the new requirements seem to apply even to those machines not intended to circulate on public roads, which could lead to legal uncertainties and conflicts with existing legislation. Therefore, we propose a few alterations to the language to limit the scope to machinery intended for public road use.  
We also raise concerns about requiring manufacturers to provide email addresses on machinery or accompanying documentation. Such a requirement is not necessary as it is already included in the Machinery Regulation. To avoid double regulating it, we propose this requirement is deleted from this Regulation.
- Regarding transitional provisions and the entry into force, we support the 8-year period for national type-approval legislation to apply. However, clarification is required on how machinery excluded from the Regulation's scope will operate after this period.



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## Introduction

FEM, the European Materials Handling Federation, welcomes the European Commission proposal for a Regulation on the type-approval for non-road mobile machinery as a crucial step towards a high level of harmonised and safe circulation of non-road mobile machinery on EU public roads. The proposed Regulation will finally mitigate one of the last remaining gaps in the Internal Market, simplifying the process for manufacturers to sell their machines in various Member States. Examples of materials handling machines that will be impacted by this Regulation are telehandlers, industrial cranes and rough terrain cranes (*see pictures in Annex I*).

### 1. Article 2: scope

FEM welcomes the scope of the proposed Regulation, applying to non-road mobile machinery where it is placed on the market and intended to circulate, with or without a driver, on a public road.

However, we regret that the European Commission did not include towed equipment in the scope of the proposed Regulation. Currently, no existing harmonised technical requirement concerning road circulation is suitable for towed equipment:

- In the agricultural sector, towed equipment is covered by Regulation (EU) 167/2013 under vehicle category S. However, category S vehicles are, by definition, limited to agriculture or forestry application. Moreover, category S vehicles must be designed to be towed by a tractor. As a result, many types of towed equipment present in the Single Market do not fall into the category S.
- Towed equipment cannot be categorised as belonging to category O trailers, as, according to Art. 3 of the Directive 2007/46/EC, trailers are defined as 'any non-self-propelled vehicle on wheels which is designed and constructed to be towed by a motor vehicle'. Moreover, part A of Annex II of the Directive 2007/46/EC includes category O trailers designed and constructed for the carriage of goods or of persons, as well as for the accommodation of persons. Options are present to define towed machines as 'special purpose vehicles' within category O. However, no categories for maximum design speed are specified. Therefore, all category O vehicles must comply with requirements related to a maximum design speed of 80 km/h or more (eg. braking, steering, tire speed categories etc.). As a result, towed equipment cannot be covered by category O either. The related requirements do not fit with the intended use.

FEM therefore believes that the future legislation on road circulation requirements for non-road mobile machinery should provide harmonised technical requirements for towed equipment, in order to close the gap in the European regulations for road circulation, and to harmonise corresponding regulations for all types of vehicles moving on public roads, including self-propelled machines and towed equipment (*please see Annex II containing the example of self-erecting Tower Cranes, a typical product not falling into category O*).

Moreover, FEM very much welcomes the exemption provided in the case of non-road mobile machinery produced in small series. This provision will help manufacturers mitigate the financial impact of compliance with the new Regulation.



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## 2. Article 3: Definitions

The proposed definition of 'non-road mobile machinery', referring to any self-propelled mobile machinery within the scope of the Machinery Directive designed or constructed to perform work is too broad and might lead to misinterpretations.

While we understand that the definition aims at distinguishing non-road mobile machinery from vehicles, we believe that the last part of the sentence is unnecessary.

Additionally, because of the reasons outlined above, FEM believes the definition of 'non-road mobile machinery' should include towed equipment.

Moreover, given that the new Machinery Regulation entered into force on 29 June 2023, the reference to the Machinery Directive should be replaced with the new Machinery Regulation.

Therefore, we propose to amend the definition as follows:

*'non-road mobile machinery' means any self-propelled mobile machinery **and towed equipment**, falling within the scope of ~~Directive 2006/42/EC~~, **Regulation 2023/1230/EC** that is designed or constructed with the purpose to perform work;*

## 3. Article 6: General obligations

The proposed general obligations require that non-road mobile machinery placed on the Single Market must have been granted an EU-type approval and must have been designed and manufactured in accordance with that type. By the wording used in the proposed Regulation, this requirement seems to apply to all non-road mobile machinery placed on the market, including those not intended to circulate on public roads. We trust this was not the intent of the European Commission, as this would clash with already existing EU legislation, such as the Machinery Regulation.

However, to avoid legal uncertainty, we propose the deletion from Article 1(1) and 2(1) of the wording referring to the placing on the market of a NRMM, i.e.:

*Article 1 (1):*

*This Regulation lays down technical requirements, administrative requirements and procedures, for the EU type-approval ~~and placing on the market~~ of non-road mobile machinery intended to circulate on public roads.*

*Article 2(1)*

*This Regulation applies to non-road mobile machinery where it is ~~placed on the market and~~ intended to circulate, with or without a driver, on a public road.*

Additionally, the new obligations would require manufacturers to indicate the email address at which they can be contacted, on their non-road mobile machinery or, when that is not possible, on its packaging or in a document accompanying that machinery. This requirement should not be included in the general obligations, as this same requirement is already included in the Machinery Regulation, under Article 10.6. Given that, as per the definition of 'non-road mobile machinery' all machinery falling into the scope of this Regulation needs to be compliant with the Machinery Regulation, the requirement to indicate the manufacturer's email address should not be imposed twice.



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#### **4. Transitional provisions and entry into force**

FEM welcomes that the proposed Regulation allows Member States to apply any national legislation on national type-approval of non-road mobile machinery for 8 years from the date of application. We understand that during this period, manufacturers can choose either to apply for EU type-approval or to comply with relevant national legislation.

However, FEM requests a clearer wording specifying that, in the case of non-road mobile machinery excluded from the scope of this Regulation, as per Article 2.2, those will still be able to continue to follow national legislation after those 8 years.

#### **Conclusion**

In conclusion, FEM believes that the proposed Regulation on the type-approval for non-road mobile machinery holds great value for the European materials handling industry. This Regulation sets the stage for a more efficient and secure circulation of non-road mobile machinery on EU public roads. FEM highlights the need for specific improvements to enhance the scope, definitions, and general obligations outlined in the proposal. Additionally, FEM urges the inclusion of harmonised technical requirements for towed equipment to bridge the existing regulatory gaps.

FEM remains committed to collaborating with policymakers to foster a favorable regulatory environment, especially on the related technical requirements that are currently being developed.



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## Annex I

### FEM telehandlers



### FEM industrial cranes



### FEM rough terrain cranes



### FEM industrial fork-lift trucks





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**FEM rough-terrain fork-lift truck**



**FEM rough terrain variable-reach truck**



**FEM slewing variable-reach truck**





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## Annex II

### Self-erecting tower cranes :

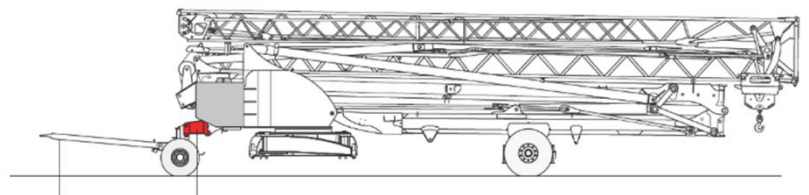
#### Specifications :



- Trailer made of a self-erecting Tower Crane (the frame is the crane structure itself), with removable axles
- Limited to 25 km/h
- Main markets in France, Germany and Austria
- Pneumatic drum brakes without ABS/EBS, with manual load valve
- No suspension on single axles
- Front 'dolly' and additional trailer axle : modular concept :
  - Large variation of sizes and weight depending on crane model
  - Axles can be towed without crane



#### DJ126M/S125(D)





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**DJ126M**

Caractéristiques	Direction à pivot
Charge admissible :	12 t
Poids :	1035 kg
Frein :	300 X 135
Roues :	4 pneumatiques (9,5 R17.5)
	Indice de charge vitesse : 143/141

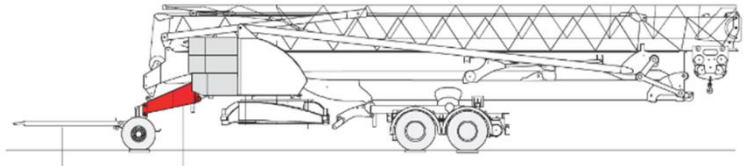
Niveau représenté : 120MM équipé du kit 105A



**S215M**

Caractéristiques	Tandem 2 essieux à roues simples
Charge admissible :	21 t
Poids :	2400 kg (sans kit)
Frein :	406 X 120
Roues :	4 pneumatiques (385 / 65 R22.5)
Type de suspension :	Indice de charge vitesse : 160/158L
Signalisation :	Mécanique (à ressorts)
	Barre de signalisation conforme à la norme CE
	Prise électrique ISO 24V7 broches
	Prise électrique pour raccordement

## DJ126M/S215M



### About FEM

FEM has represented European manufacturers of materials handling, lifting and storage equipment since it was founded in 1953. One of the largest mechanical engineering sectors, the European materials handling industry employs nearly 300,000 people and generates more than €60bn annual turnover.