



Council of the
European Union

021505/EU XXVI. GP
Eingelangt am 17/05/18

Brussels, 17 May 2018
(OR. en)

8991/18

Interinstitutional File:
2018/0142 (COD)

ENT 89
ENV 304
MI 350
AGRI 236
CODEC 776

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	16 May 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 289 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending and correcting Regulation (EU) No 167/2013 on the approval and market surveillance of agricultural and forestry vehicles

Delegations will find attached document COM(2018) 289 final.

Encl.: COM(2018) 289 final



Brussels, 16.5.2018
COM(2018) 289 final

2018/0142 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending and correcting Regulation (EU) No 167/2013 on the approval and market
surveillance of agricultural and forestry vehicles

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Reasons for and objectives of the proposal

The term ‘agricultural and forestry vehicles’ covers a wide range of different vehicle types with at least two axles, e.g. narrow-track tractors, extra-wide tractors, track-laying tractors, trailers and interchangeable towed equipment such as rollers, tillers, seed drills.

Type-approval requirements applying to agricultural and forestry vehicles are set out in Directive 2003/37/EC¹ and its implementing Directives, which have been repealed with effect from 1 January 2016 and replaced by Regulation (EU) No 167/2013² and its four delegated acts and one implementing act.

Regulation (EU) No 167/2013 sets out the general fundamental provisions on functional safety, occupational safety and environmental performance. It empowers the Commission to lay down the corresponding detailed technical requirements, test procedures and limit values, where applicable, in four delegated acts on (i) occupational safety (vehicle construction requirements); (ii) functional safety; (iii) braking; and (iv) environmental and propulsion performance. These four delegated acts were published in the OJEU between December 2014 and February 2015.

Regulation (EU) No 167/2013 limited the power of the Commission to adopt delegated acts to a period of 5 years, which will expire on 21 March 2018. As there is a continuous need to update elements of these delegated acts to technical progress or to introduce other amendments in line with the Commission empowerment, the draft proposal also amends Article 71(2) of Regulation (EU) No 167/2013 to provide for the power to adopt delegated acts of another 5 years with the possibility for tacit extension.

In addition, certain terms and editorial errors in Regulation (EU) No 167/2013 need to be corrected as well as a limited number of points upgraded to technical progress following the first implementation period of these acts.

Since the type-approval requirements in Regulation (EU) No 167/2013 have already been applicable on a mandatory basis since 1 January 2016, this act is proposed for adoption at the earliest possible date and, contrary to most type-approval acts, does not provide for a separate application date.

¹ Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003 on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC (OJ L 171, 9.7.2003, p. 1.).

² Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 60, 2.3.2013, p. 1).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of this act is the same as that of the act to be amended, Article 114 of the Treaty on the Functioning of the European Union.

- **Subsidiarity**

Regulation (EU) No 167/2013 lays down EU type-approval requirements with a view to achieving total harmonisation of provisions at EU level. Any corrections and amendments to Regulation (EU) No 167/2013 can therefore only be done by the Union. This does not only prevent fragmentation of the internal market, but also ensures equal environmental and safety standards across the Union. It also offers advantages of economies of scale: products can be made for the entire Union market, instead of being customised to obtain national type-approval for every single Member State.

This proposal therefore complies with the subsidiarity principle.

- **Proportionality**

Regulation (EU) No 167/2013, which contains the EU type-approval requirements, is based on the principle of total harmonisation. The corrections and amendments to be included in the requirements of Regulation (EU) No 167/2013 on the basis of the findings during the first implementation period are therefore considered the most suitable ones to achieve the objective outlined in recital 11 of Regulation (EU) No 167/2013, namely to set out the technical requirements for achieving a high level of vehicle safety and environmental performance.

- **Choice of the instrument**

The use of a Regulation is considered to be appropriate because it amends the existing Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The Commission wishes to upgrade to technical progress Regulation (EU) No 167/2013 by updating certain requirements and correcting certain editorial errors following feedback received by stakeholders and Member States in the first implementation period. More precisely, this act introduces clarifications to two definitions of tractor categories and corrects certain terms important for the uniform application of the Regulation without possible interpretations as well as the references to a repealed legislative act.

It also extends the power conferred on the Commission to adopt delegated acts for 5 more years and sets out its tacit renewal, unless the Council or the European Parliament expressly

object to it. The Commission has already received requests from stakeholders and Member States to extend this power.

- **Stakeholder consultations**

The Commission informed the participants of the Working Group on Agricultural Tractors (WGAT) on 13 June 2017 about its intention to submit this proposal and briefly explained its content and context. Although there was no possibility for feedback due to the ongoing political validation procedure at the time of the WGAT, there has been no reaction to date from industry stakeholders, approval authorities, technical services or social partners. However, the provisions of the enclosed act are based on corresponding requests made by Member States and stakeholders. It is expected that they will therefore support the enclosed draft document in the planned discussions on it in the first and second quarter of 2018, in parallel with the Interservice Consultation.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending and correcting Regulation (EU) No 167/2013 on the approval and market surveillance of agricultural and forestry vehicles

(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 Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The descriptions of T1 and T2 category vehicles require clarification regarding the position of the axle closest to the driver for tractors with reversible driving position and regarding the method of calculating the height of the centre of gravity. In order to accurately and uniformly establish the height of the centre of gravity for T2 category vehicles, reference should be made to internationally applicable standards which determine the centre of gravity of a tractor.
- (2) Regulation (EU) No 167/2013 empowers the Commission to adopt delegated acts for a period of five years, which will expire on 21 March 2018. As there is a continuing need to update various elements of the type-approval process as laid down by Regulation (EU) No 167/2013 and the acts adopted pursuant to it, in particular to adapt it to technical progress or to introduce corrections, the period for the exercise of the delegation of power laid down in that Regulation should be extended with also the possibility for further tacit extensions.
- (3) Recital (28) and Article 76(1) of Regulation (EU) No 167/2013 of the European Parliament and of the Council³, erroneously refer to the repeal of Council Directive

³ Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 060 2.3.2013, p. 1).

74/347/EEC⁴ rather than to the repeal of Directive 2008/2/EC⁵, which codified the former Directive. It is therefore necessary to correct those references in Regulation (EU) No 167/2013.

- (4) In Article 2(2) of Regulation (EU) No 167/2013, the term ‘interchangeable machinery’ should be replaced by the term ‘interchangeable towed equipment’ in order to ensure the correct and consistent use of terminology throughout that Regulation.
- (5) In Article 12(3) of Regulation (EU) No 167/2013, importers are erroneously required to retain a copy of the certificate of conformity rather than that of a type-approval certificate in respect of products that are not in conformity with that Regulation or which present a serious risk. Article 12(3) should therefore be corrected to refer to the appropriate document.
- (6) Article 25(1) of Regulation (EU) No 167/2013 erroneously requires that an EU type-approval certificate contains, as an attachment, the test results rather than the test results sheet. Consequently, Article 25(1) should be corrected to refer to the appropriate attachment.
- (7) As this Regulation modifies Regulation (EU) No 167/2013 without expanding its regulatory content, and since the objectives of this Regulation 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 as 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 Regulation does not go beyond what is necessary in order to achieve those objectives.
- (8) Regulation (EU) No 167/2013 should therefore be amended and corrected accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 167/2013

Regulation (EU) No 167/2013 is amended as follows:

- (1) Article 4 is amended as follows:

(a) in point (2), the following sentence is added:

‘for tractors with a reversible driving position (reversible seat and steering wheel), the closest axle to the driver is the one fitted with the largest diameter tyres;’;

⁴ Council Directive 74/347/EEC of 25 June 1974 on the approximation of the laws of the Member States relating to the field of vision and windscreen wipers for wheeled agricultural or forestry tractors (OJ L 191 15.7.1974, p. 5).

⁵ Directive 2008/2/EC of the European Parliament and of the Council of 15 January 2008 on the field of vision and windscreen wipers for wheeled agricultural or forestry tractors (Codified version) (OJ L 24, 29.1.2008, p. 30).

(b) in point (3), the words ‘measured in relation to the ground’ are replaced by the words ‘determined in accordance with ISO standard 789-6:1982 and measured in relation to the ground’;

(2) in Article 71, paragraph 2 is replaced by the following:

‘2. The power to adopt delegated acts referred to in Article 17(5), Article 18(4), Article 19(6), Article 20(8), Article 27(6), Article 28(6), Article 45(4), Article 49(3), Article 53(12), Article 61 and Article 70 shall be conferred on the Commission for a period of ten years from 22 March 2013. The delegation of power shall be tacitly extended for further periods of five years, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. The Commission shall draw up a report in respect of the delegation of power not later than 22 June 2022 and nine months before the end of each subsequent five-year period.’

Article 2

Corrections to Regulation (EU) No 167/2013

Regulation (EU) No 167/2013 is corrected as follows:

(1) recital 28 is corrected as follows:

(a) the second indent is deleted;

(b) the following indent is inserted after the indent relating to Directive 2000/25/EC of the European Parliament and of the Council:

‘ —Directive 2008/2/EC of the European Parliament and of the Council of 15 January 2008 on the field of vision and windscreen wipers for wheeled agricultural or forestry tractors(*),

(*) OJ L 24, 29.1.2008, p. 30.’;

(2) in Article 2(2), the word ‘machinery’ is replaced by the words ‘towed equipment’;

(3) in Article 12(3), the words ‘certificate of conformity’ are replaced by the words ‘type-approval certificate’;

(4) in Article 25(1), point (b) is replaced by the following:

‘(b) the test results sheet;’;

(5) Article 76(1) is corrected as follows:

(a) the words ‘74/347/EEC,’ are deleted;

(b) the words ‘2008/2/EC,’ are inserted after the words ‘2000/25/EC,’.

Article 3

Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President