



Council of the
European Union

006282/EU XXVI. GP
Eingelangt am 18/12/17

Brussels, 18 December 2017
(OR. en)

15857/17

ENT 274
ENV 1078
MI 973
DELECT 256

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 15 December 2017

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: C(2017) 8469 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 15.12.2017
amending Delegated Regulation (EU) No 44/2014, as regards vehicle
construction and general requirements, and Delegated Regulation (EU) No
134/2014, as regards environmental and propulsion unit performance
requirements for the approval of two- or three-wheel vehicles and
quadricycles

Delegations will find attached document C(2017) 8469 final.

Encl.: C(2017) 8469 final



Brussels, 15.12.2017
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COMMISSION DELEGATED REGULATION (EU) .../...

of 15.12.2017

amending Delegated Regulation (EU) No 44/2014, as regards vehicle construction and general requirements, and Delegated Regulation (EU) No 134/2014, as regards environmental and propulsion unit performance requirements for the approval of two- or three-wheel vehicles and quadricycles

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The term 'L-category vehicles' covers a wide range of light vehicle types with two, three or four wheels, e.g. powered cycles, two- and three-wheel mopeds, two- and three-wheel motorcycles, motorcycles with side-cars and four-wheel vehicles (quadracycles) such as on-road quads, all-terrain vehicles and quadrimobiles.

Type-approval requirements applying to 'L-category vehicles' as of 1 January 2016 are set out in Regulation (EU) No 168/2013¹ and its four delegated and implementing acts.

The Commission has conducted in accordance with Regulation (EU) No 168/2013 Article 23(4) a comprehensive environmental effect study. The result of the study pointed out recommendations for improvements to Regulation (EU) No 168/2013, as well as Commission Delegated Regulation (EU) No 44/2014, and Commission Delegated Regulation (EU) No 134/2014 supplementing Regulation (EU) No 168/2013. In order to ensure accurate application of those Regulations, the issues identified during the study should be addressed by way of amendments to the said regulations.

During the implementation phase the Commission has kept track of provisions that need to be corrected or clarified as result of feedback received by stakeholders and national authorities. Any change of the wording deemed necessary to improve clarity of the text in the delegated acts has been included in this amending act.

In order to ensure continuous improvement and adaptation to technical progress of the legal framework for the type-approval of L-category vehicles, which is applicable on a mandatory basis as of 1 January 2016, to address the outcome of the above mentioned study and some flaws in the two delegated acts supplementing Regulation (EU) No 168/2013, this amending act has been compiled and is proposed for adoption.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In the preparation of this act, the Commission carried out appropriate consultations at expert level comprising the relevant industrial stakeholders, social partners and Member State experts.

This act has been subject to a public consultation through the Better Regulation Portal from 16 October 2017 to 13 November 2017; comments received have been duly considered.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

(a) Legal basis

The legal basis of this delegated act is Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 February 2013 on the approval and market surveillance of two or three-wheel vehicles and quadracycles, more specifically Articles 18(3), 21(5) and 23 (12) of that Regulation.

(b) Choice of instruments

¹ Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadracycles (OJ L 60, 2.3.2013, p. 52).

The use of a Delegated Regulation is considered to be appropriate because it amends two other Commission Delegated Regulations.

COMMISSION DELEGATED REGULATION (EU) .../...

of 15.12.2017

amending Delegated Regulation (EU) No 44/2014, as regards vehicle construction and general requirements, and Delegated Regulation (EU) No 134/2014, as regards environmental and propulsion unit performance requirements for the approval of two- or three-wheel vehicles and quadricycles

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles², and in particular Articles 18(3), 21(5) and 23(12) thereof,

Whereas:

- (1) On the basis of the Commission report to the European Parliament and the Council on the comprehensive effect study of the environmental step Euro 5 for L-category vehicles³ in accordance with Article 23(4) of Regulation (EU) No 168/2013, and taking into account issues encountered by approval authorities and stakeholders in applying Regulation (EU) No 168/2013, Commission Delegated Regulation (EU) No 44/2014⁴ and Commission Delegated Regulation (EU) No 134/2014⁵, certain changes and clarifications should be made in the Delegated Regulations in order to ensure their smooth application.
- (2) In order to ensure effective functioning of the EU type-approval system for L-category vehicles, the technical requirements and test procedures set out in Delegated Regulations (EU) No 44/2014 and (EU) No 134/2014 should be continuously improved and adapted to technical progress.
- (3) Annex IV to Delegated Regulation (EU) No 44/2014 contains the equation to be used for checking compliance of produced vehicles, systems, components and separate technical units with the approved type. The equation should be amended to ensure clarity. Annex XII to Delegated Regulation (EU) No 44/2014 should be amended with respect to the engine operation window for misfire detection to ensure that the imposed requirements are technically feasible. Annex XII should also be amended to enable a technical upgrade to new standards developed for the interface between generic scan tools and the vehicle with respect to the on-board diagnostic (OBD)

² OJ L 60, 2.3.2013, p. 52.

³ The report of the study: "Effect study of the environmental step Euro 5 for L-category vehicles", EU-Books (ET-04-17-619-EN-N).

⁴ Commission Delegated Regulation (EU) No 44/2014 of 21 November 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to the vehicle construction and general requirements for the approval of two- or three-wheel vehicles and quadricycles (OJ L 25, 28.1.2014, p. 1).

⁵ Commission Delegated Regulation (EU) No 134/2014 of 16 December 2013 supplementing Regulation (EU) No 168/2013 of the European Parliament and of the Council with regard to environmental and propulsion unit performance requirements and amending Annex V thereof (OJ L 53, 21.2.2014, p. 1).

systems. Appendix 2 to Annex XII should be amended to provide clarification on several items that are monitored with respect to the OBD requirements set out therein. New appendices should be added to Annex XII to ensure the correct implementation of in-use performance ratios.

- (4) Certain equations should be adapted in Annexes II, III and IV to Delegated Regulation (EU) No 134/2014 to provide more clarity. Annex VI to that Delegated Regulation should be amended to ensure the correct application of test requirements regarding the durability of pollution control devices. The classification requirements of the Standard Road Cycle for L-Category Vehicles (SRC-LeCV) in Annex VI should be adapted to ensure the correct application of those requirements during testing. The use of the Approved Mileage Accumulation (AMA) cycle laid down in Annex VI for class III vehicles should be phased out in accordance with the conclusions of the comprehensive environmental effect study. Annex VI should also be amended to allow the use of bench ageing as an alternative to the actual physical durability testing with full or partial mileage accumulation.
- (5) One of the measures against excessive hydrocarbon emissions from L-category vehicles is to limit the evaporative emissions of those vehicles. For that purpose, Annex VI(C) to Regulation (EU) No 168/2013 lays down hydrocarbon mass limits for vehicle categories L3e, L4e, L5e-A, L6e-A and L7e-A. The evaporative emissions of those vehicles are measured at type-approval. One of the requirements of the type IV Sealed House evaporative Emission Determination (SHED) test is either to fit a rapidly aged carbon canister or to apply an additive deterioration factor when fitting a degreened carbon canister. The comprehensive environmental effect study investigated whether or not it was cost beneficial to apply SHED testing to vehicle categories L1e, L2e, L5e-B, L6e-B, L7e-B and L7e-C. As the result of the study demonstrated that that method was not cost beneficial, Annex V to Delegated Regulation (EU) No 134/2014 should be amended to allow the continuous use of the already established alternative and more cost beneficial method of permeation testing in the Euro 5 step for manufactures of category L1e, L2e, L5e-B, L6e-B, L7e-B and L7e-C vehicles.
- (6) On the basis of the comprehensive environmental effect study, the Commission concluded that the mathematical procedure for the verification of durability requirements set out in Article 23(3) of Regulation (EU) No 168/2013 should be phased out by 2025. The study pointed out that that theoretical procedure did not ensure that the durability requirements set out in Regulation (EU) No 168/2013 were met in reality. To mitigate the impact of phasing out that method, the study proposed to introduce bench ageing as an alternative procedure to the actual durability testing procedure with full mileage and partial mileage accumulation. Bench ageing is a well-established procedure often applied to vehicles falling within the scope Directive 2007/46/EC of the European Parliament and of the Council⁶. Annex VI to Delegated Regulation (EU) No 134/2014 should be amended to introduce the bench ageing procedure derived from the requirements set out in Commission Regulation (EC) No 692/2008⁷ and UNECE Regulation No 83⁸ and adapted to fit the requirements needed for L-category vehicles.

⁶ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ L 263, 9.10.2007, p. 1).

⁷ Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council on type-approval of motor vehicles

- (7) Delegated Regulation (EU) No 44/2014 and Delegated Regulation (EU) No 134/2014 should be amended at the same time to ensure that the Euro 5 step can be correctly implemented for all the L-category vehicles concerned as laid down in the table of Annex IV to Regulation (EU) No 168/2013.
- (8) Delegated Regulation (EU) No 44/2014 and Delegated Regulation (EU) No 134/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) No 44/2014

Delegated Regulation (EU) No 44/2014 is amended as follows:

- (1) in Article 2, point 42 is replaced by the following:
"(42) 'driving cycle' means a test cycle consisting of engine key-on, driving mode where a malfunction would be detected if present, and engine key-off;";
- (2) Annexes IV and XII are amended in accordance with Annex I to this Regulation.

Article 2

Amendments to Delegated Regulation (EU) No 134/2014

Annexes II to VI, Annex VIII and Annex X to Delegated Regulation (EU) No 134/2014 are amended in accordance with Annex II to this Regulation.

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, 15.12.2017

The Commission
The President
Jean-Claude JUNCKER

⁸ with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 199 28.7.2008, p. 1).
Regulation No 83 of the Economic Commission for Europe of the United Nations (UNECE) — Uniform provisions concerning the approval of vehicles with regard to the emission of pollutants according to engine fuel requirements [2015/1038] (OJ L 172, 3.7.2015, p. 1).