



Council of the  
European Union

155524/EU XXVII. GP  
Eingelangt am 02/10/23

Brussels, 2 October 2023  
(OR. en)

13579/23

MI 798  
ENT 199  
COMPET 927  
ENV 1055  
DELECT 145

## COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	28 September 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2023) 6388 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 27.9.2023 amending and correcting Delegated Regulation (EU) No 134/2014 as regards certain references to Regulations of the United Nations Economic Commission for Europe (UNECE) and the availability of certain pure gases

Delegations will find attached document C(2023) 6388 final.

Encl.: C(2023) 6388 final



EUROPEAN  
COMMISSION

Brussels, 27.9.2023  
C(2023) 6388 final

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

**of 27.9.2023**

**amending and correcting Delegated Regulation (EU) No 134/2014 as regards certain references to Regulations of the United Nations Economic Commission for Europe (UNECE) and the availability of certain pure gases**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

The term ‘L-category vehicles’ covers a wide range of vehicle types with two, three and four wheels, e.g. two- and three-wheel mopeds, two- and three-wheel motorcycles, motorcycles with sidecars, and light four-wheel vehicles (quadricycles), such as on-road quads and quadrimobiles.

UNECE regulations Nos 9, 41, 63 and 92 on sound emissions for L-category vehicles have been updated and their latest series of amendments should therefore be included in EU law. The changes notably include a widened scope of application of the Additional Sound Emission Provisions (ASEP) to reflect more closely real-world motorcycle urban and extra-urban operation with the introduction of the following parameters: vehicle speed range, engine speed range and the number of gears tested and the acceleration condition. It is therefore necessary to amend Annex I to Commission Delegated Regulation (EU) No 134/2014 to include a reference to the latest series of amendments to UNECE regulations Nos 9, 41, 63 and 92.

This delegated act also amends Delegated Regulation (EU) No 134/2014 to take into account the disruption of the supply of helium gas caused by Russia’s war of aggression against Ukraine. Helium gas is essential to obtain purified hydrogen, which is necessary to perform exhaust emission testing under that Regulation. In this context and taking into consideration that nitrogen is already used as an alternative inert gas to helium for both light passenger and commercial vehicles and heavy-duty vehicles, it is necessary to amend Delegated Regulation (EU) No 134/2014 to include nitrogen as an optional gas in the mixture to obtain purified hydrogen.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

To prepare this act, the Commission carried out appropriate consultations with the relevant experts, stakeholders, social partners and Member State experts.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The legal basis of this delegated act is Article 23(12) of 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 quadricycles<sup>1</sup>.

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<sup>1</sup> OJ L60, 2.3.2013, p. 52.

**Commission Delegated Regulation (EU) .../... of 27.9.2023 amending and correcting Delegated Regulation (EU) No 134/2014 as regards certain references to Regulations of the United Nations Economic Commission for Europe (UNECE) and the availability of certain pure gases**

(Text with EEA relevance)

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 quadricycles<sup>1</sup>, and in particular Article 23(12) thereof,

Whereas:

- (1) In order to take into consideration the latest updates to regulations Nos 9<sup>2</sup>, 41<sup>3</sup>, 63<sup>4</sup> and 92<sup>5</sup> of the United Nations Economic Commission for Europe (UNECE) on sound emissions for L-category vehicles, which include a broadened scope of application of the additional sound emission provisions to reflect more closely real-world motorcycle urban and extra-urban operations, it is necessary to amend Annex I to Commission Delegated Regulation (EU) No 134/2014<sup>6</sup> to include a reference to the latest series of amendments of those UNECE regulations.
- (2) In order to reduce administrative burden for national authorities and manufacturers, the date of application of the latest series of amendments of UNECE regulations Nos 9, 41, 63 and 92 should be aligned with the application of the Euro 5+ requirements introduced in Commission Implementing Regulation (EU) 2020/239<sup>7</sup>.
- (3) Russia's war of aggression against Ukraine has disrupted the supply of helium gas, which is essential to obtain purified hydrogen necessary for performing exhaust

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<sup>1</sup> OJ L60, 2.3.2013, p. 52.

<sup>2</sup> Regulation No 9 of the Economic Commission for Europe of the United Nations (UNECE) — Uniform provisions concerning the approval of category L2, L4 and L5 vehicles with regard to sound emission [2018/1704] (OJ L 290, 16.11.2018, p. 1–27).

<sup>3</sup> Regulation No 41 of the Economic Commission for Europe of the United Nations (UNECE) — — [Uniform provisions concerning the approval of motor cycles with regard to noise [2023/320] (OJ L 43, 13.2.2023, p. 14–51

<sup>4</sup> Regulation No 63 of the Economic Commission for Europe of the United Nations (UNECE) — Uniform provisions concerning the approval of L1 category vehicles with regard to sound emission [2018/1705] (OJ L 290 16.11.2018 p. 28-53).

<sup>5</sup> Regulation No 92 of the Economic Commission for Europe of the United Nations (UNECE) — Uniform provisions concerning the approval of non-original replacement exhaust silencing systems (NORESS) for vehicles of categories L1, L2, L3, L4 and L5 with regard to sound emission [2018/1707] (OJ L 290 16.11.2018, p. 162-176).

<sup>6</sup> 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 053 21.2.2014, p. 1).

<sup>7</sup> Commission Implementing Regulation (EU) 2020/239 of 20 February 2020 amending Implementing Regulation (EU) No 901/2014 with regard to the adaptation of the templates for type-approval procedures for two- or three-wheel vehicles and quadricycles to the environmental steps Euro 5 and Euro 5+ requirements (OJ L 48, 21.2.2020, p. 6).

emission testing. Given the current situation and the fact that nitrogen is already used as an alternative inert gas to helium for both light passenger and commercial vehicles and heavy-duty vehicles, it is necessary to include nitrogen in Delegated Regulation (EU) No 134/2014 as an optional gas in the mixture to obtain purified hydrogen.

- (4) Regulation (EU) No 168/2013 made an incorrect reference to the UNECE regulation on sound requirements applicable to vehicle categories L4e and L6e-A. This error was subsequently corrected, but the corresponding change was not introduced in Delegated Regulation (EU) No 134/2014. Table 8-1 in Annex IX to that Regulation should therefore be corrected to reflect the changes already introduced in Regulation (EU) No 168/2013.
- (5) There is an error in one of power factors used in the equation in Appendix 2.2, point 3.3., of Annex X. This equation should be the same as the one referred to in Appendix 2.1, point 3.3., of Annex X. For the sake of legal certainty, this error should be corrected.
- (6) Delegated Regulation (EU) No 134/2014 should therefore be amended and corrected accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

##### **Amendments to Delegated Regulation (EU) No 134/2014**

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

#### *Article 2*

##### **Corrections to Delegated Regulation (EU) No 134/2014**

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

#### *Article 3*

##### **Transitional provisions**

1. This Regulation shall not invalidate any EU type-approval granted to vehicles or to systems, components or separate technical units by [*Please PO enter the date of entry into force of this Regulation*], unless the relevant requirements applying to such vehicles, systems, components or separate technical units have been modified, or new requirements have been added by this Regulation.

2. Approval authorities shall continue to grant extensions of EU type-approvals referred to in paragraph 1.

#### *Article 4*

##### **Entry into force and application**

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 the Member States.

Done at Brussels, 27.9.2023

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*