# Commission Regulation (EU) No 321/2013 of 13 March 2013 concerning the technical specification for interoperability relating to the subsystem 'rolling stock — freight wagons' of the rail system in the European Union and repealing Decision 2006/861/EC (Text with EEA relevance)

## COMMISSION REGULATION (EU) No 321/2013

## of 13 March 2013

## concerning the technical specification for interoperability relating to the subsystem 'rolling stock — freight wagons' of the rail system in the European Union and repealing Decision 2006/861/EC

## (Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community,[(1)] and in particular Article 6(1) second subparagraph thereof,

Whereas:

(1) Article 12 of Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency[(2)] requires the European Railway Agency (the Agency) to ensure that the technical specifications for interoperability (TSIs) are adapted to technical progress, market trends and social requirements and to propose to the Commission the amendments to the TSIs which it considers necessary.

(2) With Decision C(2010) 2576 of 29 April 2010, the Commission gave the Agency a mandate to develop and review the technical specifications for interoperability with a view to extending their scope to the European Union's entire rail system. Under the terms of that mandate, the Agency was asked to extend the scope of the Technical Specification for Interoperability relating to the subsystem 'rolling stock — freight wagons' to the European Union's entire rail system.

(3) On 1 February 2012 the European Railway Agency submitted a recommendation on the revised Technical Specification for Interoperability (TSI) relating to the subsystem 'rolling stock — freight wagons'.

(4) The TSI on 'rolling stock — freight wagons' should not impose the use of specific technologies or technical solutions except where this is strictly necessary for the interoperability of the European Union's rail system.

(5) The TSI on rolling stock which is to be established by this Regulation does not cover all the essential requirements set out in Annex III to Directive 2008/57/EC. In accordance

**Changes to legislation:** *There are outstanding changes not yet made to Commission Regulation (EU) No 321/2013. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

with Article 5(6) of Directive 2008/57/EC, the technical aspects that are not covered should be identified as open points.

(6) In accordance with Article 17(3) of Directive 2008/57/EC, Member States are to notify to the Commission and other Member States the technical rules, the conformity assessment and verification procedures to be used in specific cases, and the bodies responsible for carrying out these procedures.

(7) The TSI on 'rolling stock — freight wagons' should refer to Commission Decision 2010/713/EU of 9 November 2010 on modules for the procedures for assessment of conformity, suitability for use and EC verification to be used in the technical specifications for interoperability adopted under Directive 2008/57/EC of the European Parliament and of the Council[(3)].

(8) In accordance with Article 11(5) of Directive 2008/57/EC, the TSI on 'rolling stock — freight wagons' should allow, for a limited period of time, interoperability constituents to be incorporated into subsystems without certification, provided that certain conditions are met.

(9) Commission Decision 2006/861/EC of 28 July 2006 concerning the technical specification of interoperability relating to the subsystem 'rolling stock — freight wagons' of the trans-European conventional rail system[(4)] should therefore be repealed.

(10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established in accordance with Article 29(1) of Directive 2008/57/EC,

HAS ADOPTED THIS REGULATION:

*Article 1*

The technical specification for interoperability (TSI) relating to the 'rolling stock — freight wagons' subsystem of the entire European Union's rail system, as set out in the Annex, is hereby adopted.

*Article 2*

1 The TSI shall apply to the 'rolling stock — freight wagons' subsystem as described in **[**[F1]point 2.7 of Annex II to Directive (EU) 2016/797 of the European Parliament and of the Council[(5)] **]**.

2 The TSI shall apply to freight wagons with a maximum operating speed lower than or equal to 160 km/h and a maximum axle load lower than or equal to 25 t.

3 The TSI shall apply to freight wagons which are intended to be operated on one or more of the following nominal track gauges: 1 435 mm, 1 524 mm, 1 600 mm, and 1 668 mm. The TSI shall not apply to freight wagons operating mainly on the 1 520 mm track gauge, which may occasionally be operated on 1 524 mm track gauge.

**Textual Amendments**

**F1** Substituted by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament

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and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 (Text with EEA relevance).

*Article 3*

The TSI shall apply to all new freight wagon rolling stock of the European Union's rail system, taking into account Section 7 of the Annex.

The TSI set out in the Annex shall also apply to existing freight wagon rolling stock:

(a) **[**F1when it is renewed and upgraded in accordance with section 7.2.2 of the Annex to this Regulation;**]**

(b) with regard to specific provisions, such as the traceability of axles in point 4.2.3.6.4 and the maintenance plan in point 4.5.3**[**F2;**]**

(c) **[**F1with regards to the marking 'GE' as depicted in point 5 of Appendix C of the Annex, wagons of the existing fleet which have been authorised in accordance with Commission Decision 2006/861/EC as amended by Decision 2009/107/EC or with Decision 2006/861/EC as amended by Decisions 2009/107/EC and 2012/464/EU and meeting the conditions set out in point 7.6.4 of Decision 2009/107/EC may receive this marking 'GE' without any additional third party assessment or new authorisation for placing on the market. The use of this marking in wagons in operation remains under the responsibility of the railway undertakings**[**F3;**]]**

(d) **[**F4when the area of use is extended in accordance with art. 54(3) of Directive (EU) 2016/797, provisions in Section 7.2.2.4 of the Annex to this Regulation shall apply.**]**

The detailed technical scope of this Regulation is set out in Chapter 2 of the Annex.

**Textual Amendments**

**F1** Substituted by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 (Text with EEA relevance).

**F2** Substituted by Commission Regulation (EU) 2015/924 of 8 June 2015 amending Regulation (EU) No 321/2013 concerning the technical specification for interoperability relating to the 'rolling stock — freight wagons' subsystem of the rail system in the European Union (Text with EEA relevance).

**F3** Substituted by Commission Implementing Regulation (EU) 2020/387 of 9 March 2020 amending Regulations (EU) No 321/2013, (EU) No 1302/2014 and (EU) 2016/919 as regards the extension of the area of use and transition phases (Text with EEA relevance).

**F4** Inserted by Commission Implementing Regulation (EU) 2020/387 of 9 March 2020 amending Regulations (EU) No 321/2013, (EU) No 1302/2014 and (EU) 2016/919 as regards the extension of the area of use and transition phases (Text with EEA relevance).

*Article 4*

**[**F1 1 With regard to 'open points' set out in Appendix A, the conditions to be complied with for the verification of the essential requirements of Directive (EU) 2016/797 shall be those laid down by national rules in force in the Member State which is part of the area of use of the vehicles covered by this Regulation.**]**

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2 Within six months of the entry into force of this Regulation, each Member State shall send the other Member States and the Commission the following information, provided it has not already been sent to them under Decision 2006/861/EC:

a the list of the applicable technical rules referred to in paragraph 1;

b the conformity assessment and verification procedures to be carried out to apply those rules;

**[**F1 c the bodies designated to carry out the conformity assessment and verification procedures with respect to the open points.**]**

**Textual Amendments**

**F1** Substituted by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 (Text with EEA relevance).

*Article 5*

**[**F1 1 With regard to specific cases set out in Section 7.3 of the Annex, the conditions to be met for the verification of the essential requirements of Directive (EU) 2016/797 shall be those laid down in Section 7.3 of the Annex or by national rules in force in the Member State which is part of the area of use of the vehicles covered by this Regulation.**]**

2 Within six months of the entry into force of this Regulation, each Member State shall notify to the other Member States and to the Commission:

a the applicable technical rules referred to in paragraph 1;

b the conformity assessment and verification procedures to be carried out to apply the technical rules referred to in paragraph 1;

**[**F1 c the bodies designated to carry out the conformity assessment and verification procedures for the national rules relating to the specific cases set out in point 7.3 of the Annex.**]**

**Textual Amendments**

**F1** Substituted by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 (Text with EEA relevance).

*Article 6*

1 Without prejudice to the agreements which have already been notified under Decision 2006/861/EC and shall not be notified again, Member States shall notify the Commission, within six months of the entry into force of this Regulation, any national, bilateral, multilateral or international agreements under which freight wagons, falling under the scope of this Regulation, are operated.

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2 Member States shall forthwith notify the Commission any future agreements or modifications of existing agreements.

*Article 7*

In accordance with Article 9(3) of Directive 2008/57/EC, within one year of the entry into force of this Regulation, each Member State shall communicate to the Commission a list of projects being implemented within its territory and that are at an advanced stage of development.

*Article 8*

**[**F1 1 An EC certificate of verification for a subsystem that contains interoperability constituents which do not have an EC declaration of conformity or suitability for use may be issued during a transition period ending on 1 January 2024, provided the provisions set out in Section 6.3 of the Annex are met.**]**

**[**F1 2 The production or upgrade/renewal of the subsystem using non-certified interoperability constituents shall be completed within the transition period set out in paragraph 1, including placing on the market.**]**

3 During the transition period set out in paragraph 1:

a the reasons for non-certification of any interoperability constituents shall be properly identified in the verification procedure referred to in paragraph 1;

b the national safety authorities shall report on the use of non-certified interoperability constituents in the context of authorisation procedures in their annual report referred to in **[**F1 Article 19 of Directive (EU) 2016/798 of the European Parliament and of the Council**]**(6).

**[**F1 4 After a transition period ending on 1 January 2015, newly produced interoperability constituents of ‘rear-end signals’, shall be covered by the required EC declaration of conformity.**]**

**Textual Amendments**

**F1** Substituted by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 (Text with EEA relevance).

***[**F5 Article 8a***

**[**F1 1 Notwithstanding the provisions in Section 6.3 of the Annex, an EC certificate of verification may be issued for a subsystem containing components corresponding to the ‘friction element for wheel tread brakes’ interoperability constituent that does not have an EC declaration of conformity during a transition period ending on 1 January 2024, if the following conditions are met:

a the component was manufactured before the date of application of this Regulation; and

b the interoperability constituent has been used in a subsystem that had been approved and placed on the market in at least one Member State before the date of application of this Regulation.**]**