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Delegations will find attached document D033702/02.

Encl.: D033702/02



Brussels, **XXX**
[...](2014) **XXX** draft

COMMISSION REGULATION (EU) No .../..

of XXX

**on the technical specification for interoperability relating to the subsystem ‘rolling stock
- noise’ amending Decision 2008/232/EC and repealing Decision 2011/229/EU**

(Text with EEA relevance)

COMMISSION REGULATION (EU) No .../..

of XXX

on the technical specification for interoperability relating to the subsystem ‘rolling stock - noise’ amending Decision 2008/232/EC and repealing Decision 2011/229/EU

(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, and in particular Article 6(1) thereof¹,

Whereas:

- (1) Article 12 of Regulation (EC) No 881/2004 of the European Parliament and of the Council² 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 any amendments to the TSIs which it considers necessary.
- (2) By Decision C(2010)2576 of 29 April 2010, the Commission gave the Agency a mandate to develop and review the TSIs with a view to extending their scope to the whole rail system in the Union, and to carry out a study on the pertinence of merging the noise requirements for high-speed and conventional rolling stock (‘HS’ and ‘CR’ RST). The conclusion of the study ERA/REP/13-2011/INT was that one TSI should cover both CR and HS RST. In consequence, noise requirements for CR and HS RST should be merged.
- (3) Section 7.2 of the Annex to Decision 2011/229/EU³ provides for a comprehensive review and updating by the Agency of the TSI relating to noise based on which a report and, if necessary, a proposal should be submitted to the Commission.
- (4) On 3 September 2013 the Agency submitted recommendation ERA/REC/07-2013/REC on the adoption of the TSI relating to noise.

¹ OJ L 191, 18.7.2008, p. 1

² Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency (Agency Regulation) (OJ L 220, 21.6.2004, p. 3)

³ Commission Decision of 4 April 2011 concerning the technical specifications of interoperability relating to the subsystem ‘rolling stock – noise’ of the trans-European conventional rail system (OJ L 99, 13.4.2011, p.1)

- (5) In order to adapt to technological progress and encourage modernisation, innovative solutions should be promoted and their implementation should, under certain conditions, be accepted. Where an innovative solution is proposed, the manufacturer or his authorised representative should state in what way it deviates from or how it complements the relevant provision of the TSI. The innovative solution should be assessed by the Commission. If this assessment is positive, the Agency should develop the appropriate functional and interface specifications of the innovative solution, as well as the relevant assessment methods.
- (6) In a mid-term, an analysis should be made with a view to reducing noise emitted by existing vehicles while taking into account the competitiveness of the rail sector. It concerns especially freight wagons and is important in order to increase acceptance of rail freight traffic among the citizens.
- (7) In accordance with Article 17(3) of Directive 2008/57/EC, Member States are to notify the Commission and the other Member States the conformity assessment and verification procedures to be used for specific cases as well as the bodies responsible for carrying out those procedures.
- (8) Rolling stock currently operates under existing national, bilateral, multilateral or international agreements. It is important that those agreements do not hinder current and future progress towards interoperability. The Member States should therefore notify such agreements to the Commission.
- (9) Commission Decision 2011/229/EU should therefore be repealed.
- (10) Decision 2008/232/EC should be amended accordingly as regards the limits for stationary noise, the interior noise levels and the boundary characteristics linked to exterior noise.
- (11) 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

This Regulation lays down the technical specification for interoperability (TSI) relating to the ‘rolling stock — noise’ subsystem of the rail system in the Union, as set out in the Annex.

Article 2

The TSI shall apply to the rolling stock which falls within the scope of Regulation (EU) No [new LOC and PAS TSI]⁴ and Regulation (EU) No 321/2013⁵.

⁴ Full title and reference to be included when available

⁵ 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 (OJ L 104, 12.4.2013, p.1)

Article 3

Within six months of the entry into force of this Regulation, Member States shall notify the Commission all agreements containing requirements relating to noise emission limits, provided they were not already notified under Decisions 2006/66/EC⁶ or 2011/229/EU.

The agreements to be notified shall be:

- (a) national agreements between the Member States and railway undertakings or infrastructure managers, agreed on either a permanent or a temporary basis and necessitated by the specific or local nature of the intended transport service;
- (b) bilateral or multilateral agreements between railway undertakings, infrastructure managers or safety authorities which deliver significant levels of local or regional interoperability;
- (c) international agreements between one or more Member States and at least one third country, or between railway undertakings or infrastructure managers of Member States and at least one railway undertaking or infrastructure manager of a third country which deliver significant levels of local or regional interoperability.

Article 4

The procedures for assessment of conformity, suitability for use and EC verification set out in Section 6 of the Annex to this Regulation shall be based on the modules defined in Commission Decision 2010/713/EU⁷.

Article 5

1. With regard to the specific cases listed in Section 7.3.2 of the Annex, the conditions to be met for the verification of interoperability in accordance with Article 17(2) of Directive 2008/57/EC shall be the applicable technical rules in use in the Member State which authorises the placing in service of the subsystems covered by this Regulation.
2. Within six months of the entry into force of this Regulation, each Member State shall inform the Commission and the Member States about:
 - (a) the technical rules referred to in paragraph 1;
 - (b) the conformity assessment and verification procedures to be carried out in application of the technical rules referred to in paragraph 1;

⁶ Commission Decision of 23 December 2005 concerning the technical specification for interoperability relating to the subsystem rolling stock — noise of the trans-European conventional rail system (OJ L 37, 8.2.2006, p.1)

⁷ Commission Decision 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, OJ L 319, 4.12.2010, p. 1

- (c) the bodies designated in accordance with Article 17(3) of Directive 2008/57/EC in order to carry out the conformity assessment and verification procedures with respect to the specific cases set out in Section 7.3.2. of the Annex to this Regulation.

Article 6

Compliance with the lower exposure action values set out in Article 3 of Directive 2003/10/EC of the European Parliament and of the Council⁸ shall be ensured by compliance with the driver's cabin interior noise level, as set out in point 4.2.4 of the Annex to this Regulation as well as by appropriate operational conditions to be defined by the railway undertaking.

Article 7

1. In order to adapt to technological progress, innovative solutions may be proposed by the manufacturer or its authorised representative which do not comply with the specifications set out in the Annex and/or for which the assessment methods set out in the Annex cannot be applied.
2. Innovative solutions may be related to the rolling stock subsystem, its parts and its interoperability constituents.
3. Where an innovative solution is proposed, the manufacturer or his authorised representative established within the Union shall state in what way it deviates from or how it complements the relevant provisions of this TSI and shall submit the deviations to the Commission for analysis. The Commission may request the opinion of the Agency on the proposed innovative solution.
4. The Commission shall deliver an opinion on the proposed innovative solution. If this opinion is positive, the appropriate functional and interface specifications and the assessment method, which need to be included in the TSI in order to allow the use of this innovative solution, shall be developed by the Agency and subsequently integrated into the TSI during the revision process pursuant to Article 6 of Directive 2008/57/EC. If the opinion is negative, the proposed innovative solution shall not be used.
5. Pending the review of the TSI, a positive opinion delivered by the Commission shall be considered as an acceptable means of compliance with the essential requirements of Directive 2008/57/EC and may therefore be used for the assessment of the subsystem.

⁸ Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise), OJ L 42, 15.2.2003, p. 38

Article 8

The declaration of verification and/or conformity to type of a new vehicle established in accordance with Decision 2011/229/EU shall be considered valid:

- for locomotives, EMUs, DMUs and coaches until the type or design certificate needs to be renewed as stated in Decision 2011/291/EU for cases where the latter decision was applied, or until 31 May 2017 for other cases;
- for wagons until 13 April 2016.

The declaration of verification and/or conformity to type of a new vehicle established in accordance with Decision 2008/232/EC shall be considered valid until the type or design certificate needs to be renewed as stated in this Decision.

Article 9

1. Decision 2011/229/EU is repealed with effect from 1 January 2015.
2. In the Annex to Decision 2008/232/EC, points 4.2.6.5, 4.2.7.6 and 7.3.2.15 are deleted with effect from 1 January 2015.
3. The provisions referred to in paragraphs 1 and 2 shall however continue to apply in relation to projects authorised in accordance with the TSI annexed to those Decisions and, unless the applicant requests to apply this Regulation, to projects relating to new vehicles and to the renewal or upgrading of existing vehicles which are at an advanced stage of development, are the subject of a contract in force on the date of publication of this Regulation or cases referred to in Article 8 of this Regulation.

Article 10

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

It shall apply from 1 January 2015. However, an authorisation for placing into service may be granted in application of the TSI as set out in the Annex to this Regulation, before 1 January 2015.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the Commission
The President
José Manuel BARROSO