

Economic Commission for Europe

Inland Transport Committee

Working Party on the Transport of Dangerous Goods

**Joint Meeting of the RID Committee of Experts and the
Working Party on the Transport of Dangerous Goods**

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Item 2 of the provisional agenda

Tanks

Comments on the report of the informal working group on the inspection and certification of tanks

Transmitted by the European Union Agency for Railways (ERA)

Summary

Executive summary: This document proposes further amendments to the proposal made by the Working group on the inspection and certification of tanks for ensuring consistency of the proposal with the railway vehicle authorisation process within EU and for clarification.

Reference documents: Annex I of ECE/TRANS/WP.15/AC.1/2017/38, Annex II of September 2017 informal document INF10.

Introduction

The Agency would like to thank the United Kingdom delegation for inviting it to the meeting of the working group on inspection and certification of tanks and to give a presentation on the 4th railway package vehicle authorisation process applicable to all wagons, including tank-wagons and battery-wagon. The 4th Railway Package (4th RP) vehicle authorisation process will enter into force from 16 June 2019 to 16 June 2020 in the EU Member States depending on the actual transposition of the Directive (EU) 2016/797¹ and the resulting entry into force in each Member States.

Hereinafter the Agency would like to draw the attention on few amendments which might still be necessary to improve the consistency of the working group proposal with the 4th RP authorisation process for allowing a smooth implementation of the both legislations.

Proposed amendments

First proposal

1. Clarity of the scope of the approval procedure and provisions.

¹ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union, *OJ L 138, 26.5.2016, p. 44*

Further clarification may be needed to the scope of application of the approval procedure (in annex I of document 2017/38 and to the provisions of chapter 6.8). According to the current proposals, the approval procedure applies to “battery-vehicles” however it has to be understood as applying to the “battery part” of battery-vehicles.

It is proposed to adopt a similar drafting approach for battery-vehicles provisions than for tank-vehicles provisions, for the same reasons.

2. Proposed clarification

It is proposed to change

[RID] “battery-vehicle” with “battery (battery-wagon)” throughout the proposals where the provisions are concerning only the battery part of the battery-wagon, and,

[ADR] “battery-vehicle” with “battery (battery-vehicle)” throughout the proposals where the provisions are concerning only the battery part of the battery-vehicle.

3. Justification

Within the EU, the authorisation process of railway vehicles falls within the scope of the Directive (EU) 2016/797 and the related Implementing Acts (these implementing acts namely Implementing Act on Vehicle Authorisation and Implementing Act on the EC verification procedure for subsystems are in the last stage of development for completing the 4th Railway Package) and from the viewpoint of Directive (EU) 2016/797 a tank-wagon/battery-wagon is a railway vehicle.

The vehicle authorisation process will use, as a formal input, the approval delivered for the tank part/battery part of tank-wagons/battery-wagons.

The proposed amendments will bring further clarity and legal certainty on the scope of application of the RID provisions and Directive (EU) 2016/797 respectively.

Second proposal

4. Consistent timing between tank/battery certificates and vehicle authorisation process

The approval process of tanks/batteries will not be covered by the Implementing Act on Vehicle Authorisation nor the Implementing Act on the EC verification procedure. In the framework of the Directive (EU) 2016/797, the approval process of tanks is covered by RID, and will be treated as “other applicable legal acts of the Union” that the vehicle must comply with (pursuant to Annex IV of Directive (EU) 2016/797).

The applicant for the type authorisation and/or vehicle authorisation for placing on the market is the only responsible for ensuring that the vehicle meets all the applicable requirements (including essential requirements as described in article 3 of the Directive (EU) 2016/797 and other legal acts of the Union). Whereas in the past, under the Directive (EU) 2008/57, this responsibility was given to the Notified Bodies in charge of the EC verification procedure for the subsystems, under the 4th railway package it has been transferred to the applicant for the placing on the market of the mobile subsystems.

This means that the application for authorisation cannot be submitted to the authorising entity until all the evidences needed to demonstrate that the vehicle complies with all the applicable requirements are available. Therefore, the approval process described in RID for tanks/batteries approval must have been completed before applying for a vehicle authorisation foreseen under Directive (EU) 2016/797.

After the application, the timeframes defined in the Directive (EU) 2016/797 (1 month for completeness check, 4 months for the assessment of the application) apply.

There is the risk, in particular in the cases where an initial inspection for entry into service is required, that the authorisation process is delayed if the applicants for authorisation and/or for the subsystem(s) are not aware of the above constraints.

5. Proposed change

Add a footnote in 1.8.7.8.4 in RID:

"The documents referred to in this section shall be part of the technical file accompanying the "EC" declaration of verification for the subsystem pursuant to article 15 of Directive (EU) 2016/797.

In the same manner, the file accompanying the application for authorisation shall include the "EC" declaration(s) of verification of the mobile subsystems of which a vehicle is composed.

This means that an applicant can submit the application for authorisation only after having finalised the tank/battery approval process described in RID with tangible evidence."

6. Justification

The footnote will help mitigating the risk of unnecessary delays in vehicle authorisation processes within the EU.

Third proposal

7. Area of validity of tank/battery approvals and area of use of a tank/battery-vehicles

All the conditions and restrictions linked to the tank/battery approval process have repercussion on the conditions for use and other restrictions of the vehicle on which these tanks/batteries will be fixed.

The repercussions have to be considered at first stage by the applicant for the vehicle type authorisation and/or vehicle authorisation for placing on the market, based on the "EC" Declaration(s) of verification established by the applicant for the subsystem(s) reflecting the conditions of the approval of the tank/battery (if any). The application for authorisation must reflect the conditions (restrictions) derived from the process of approval of the tank.

As a result of the assessment of the application file, the vehicle authorising entity can also impose additional conditions for use and other restrictions (which may be coming from the approval process of the tank/battery or not; the authorising entity will not repeat the assessments performed during the tank/battery approval process).

From the reading of the Working Group proposals, the Agency assumes that once a first competent authority grants an approval for a tank/battery, this approval is automatically recognised by other competent authorities. However, this is not explicitly stated in the proposal.

If this interpretation is correct, this would mean that the approval granted by a competent authority is valid for all signatories of the RID (and therefore, valid in the EU), and that there are no additional conditions for use and restrictions related to the area of use of the tank/battery to be taken into account for the vehicle/vehicle type authorisation (within the EU) than the one defined by the first approving competent authority, if any.

It would mean also that if the RID is aiming at having the possibility to limit the approval to (a) given country(ies), this should be also clarified in the text.

If applicable, the restriction of the area of use of a tank-wagon/battery-wagon will be based on the validity of the approval of the tank/battery which will be transferred to a restriction in the area of use of the tank-wagon/battery-wagon and shall be included by the applicant in the application for authorisation and by the authorising entity in the issued vehicle/vehicle type authorisation.

8. Proposed change

Clearly state in the legal text the level of mutual recognition between signatories of RID regarding the approval granted by a competent authority.

9. Justification

Improved clarity on the relationship between the validity scope of the RID approval process and the authorisation process foreseen by the Directive (EU) 2016/797 and the related Implementing Acts concerning the definition of the area of use.

For information on possible effect of initial and periodic inspection on vehicle authorisations

10. Suspension, revocation and/or amendment of a vehicle/vehicle type authorisation within EU

Article 26 of Directive (EU) 2016/797 deals with the non-compliance of vehicles or vehicle types with essential requirements, and describes the process of suspension, revocation or amendment of a vehicle and/or vehicle type authorisation. This is therefore a process foreseen by the Directive.

- Article 26(1) describes the obligations of railway undertakings when they find that a vehicle does not meet the essential requirements: take the corrective measures to bring the vehicle into conformity and inform the Agency and any national safety authority concerned of the measures taken. If the railway undertaking has evidence that the non-compliance was existing already at the time when the authorisation for placing on the market was issued, it shall also inform the Agency and the concerned national safety authorities.
- Article 26(2) describes the obligation for a national safety authority when it becomes aware that a vehicle or vehicle type, when used as intended, does not meet one of the essential requirements, it shall inform the railway undertaking and ask it to take the necessary corrective measures. The national safety authority shall inform the Agency and other national safety authorities concerned (including those in a territory where application for authorisation is ongoing).
- Article 26(3) gives the possibility to apply temporary safety measures when the corrective measures applied by the railway undertaking do not ensure the conformity with the essential requirements and this leads to a serious safety risk. This includes the suspension of an authorisation by the Agency or by the national safety authority (it may be applied in parallel).
- Article 26(4) states that, in the cases described in Article 26(3), the Agency or the national safety authority that issued the authorisation may decide to revoke or amend the authorisation when it is proved that the essential requirement was not met at the time of authorisation.

The latest draft Implementing Act on Vehicle Authorisation, that will be submitted for voting to the RISC Committee 80 (November 2017), also includes some provisions

related to suspension/revocation/amendment in its chapter 9, articles 56 and 57, which are aligned with the Directive.

If, during the periodical inspections to be carried out by the competent authority in the framework of RID, it is necessary to revoke a type approval, this may result in a suspension/revocation/amendment of the authorisation of a vehicle issued by a national safety authority or the European Union Agency for Railways, pursuant to article 26 of Directive (EU) 2016/797.

However, the procedure must be triggered either by the railway undertaking or by a national safety authority (under its supervisory role), following the provisions of the Directive (EU) 2016/797. A competent authority in the framework of RID cannot revoke the authorisation of a vehicle/vehicle type; it can however revoke the type approval of a tank/battery, and the impact of this revocation may have an impact on the vehicle/vehicle type authorisation.
