

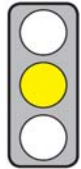
ROADWORTHINESS TESTS FOR MOTOR VEHICLES

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KEY ISSUES

Objective of the Regulation: The Commission wishes to harmonise and tighten the periodic roadworthiness tests for motor vehicles and their trailers.

Parties affected: Holders of motor vehicles, testing bodies for motor vehicles.



Pros: (1) Extending the scope to include two- and three-wheeled motor vehicles is appropriate since these motor vehicles can also cause accidents due to technical deficiencies.

(2) Minimum requirements for inspectors, testing bodies and testing devices ensure that there are minimum standards for testing quality.

Cons: (1) The requirement of an annual test for motor vehicles and light commercial vehicles as of the seventh year leads to additional costs for their holders and infringes the principle of proportionality, as even with longer testing intervals the incidence of accidents caused by deficient vehicles remains very small.

(2) The transition from a Directive to a Regulation is disproportionate.

CONTENT

Title

Proposal COM(2012) 380 of 13 July 2012 for a **Regulation** of the European Parliament and of the Council on **periodic roadworthiness tests for motor vehicles and their trailers** and repealing Directive 2009/40/EC. Accompanying working documents by the Commission's officials: **SWD(2012) 206** and **SWD(2012) 207**

Brief Summary

► Background and objectives

- Motor vehicles and their trailers (vehicles) must, after having been registered for the first time, be regularly submitted to periodic “roadworthiness tests” in order to ensure that vehicles on the road “remain roadworthy and safe” (Explanatory Memorandum, p. 2).
- According to the Commission, technical deficiencies cause [SWD(2012) 207, p. 3]
 - 6% of all traffic accidents that “may be linked” to 2000 deaths each year (Recital 5) and
 - an average increase in traffic-related emissions of 3.5%.
- Currently, 10% of motor vehicles have deficiencies with which they would not pass the test [SWD(2012) 206, p. 6; SWD(2012) 207, p. 2].
- The Commission wishes to harmonise and tighten the existing test requirements (Directive 2009/40/EC). The aim is to:
 - increase traffic safety in order to halve the number of traffic-related deaths by 2020, starting from 2010;
 - reduce traffic-related emissions in order to improve environmental protection.

► Scope

- The Regulation covers (Art. 2 (1), s. [CEP Overview](#))
 - vehicles used for the carriage of persons and goods with at least two wheels and a maximum speed of more than 25 km/h,
 - trailers and agricultural and forestry tractors with a maximum speed of more than 40 km/h.
- Exempted from this rule are (Art. 2 (2))
 - vehicles “of historic interest” which are older than 30 years (Art. 3 No. 7),
 - vehicles belonging to armed forces, fire services, civil protection and emergency or rescue services and
 - vehicles used by agricultural, horticultural, forestry, farming or fishery undertakings with a maximum design speed not exceeding 40 km/h.
- Member States may adopt national requirements concerning roadworthy tests for vehicles exempted from the Regulation (Art. 2 (3)).

► Responsibilities

- Motor vehicles must be periodically tested in the Member States where they are registered (Art. 4 (1)).
- Tests must be carried out by the competent authorities or by so-called “testing centres” (Art. 4 (2)); “testing centres” can also be private bodies (e.g. TÜV, DEKRA, motor vehicle workshops; Art. 3 No. 15).

► Frequency of testing

- The following vehicles must be tested four years after the date on which the vehicle was first registered at the latest, then two years and thereafter annually (Art. 5 (1); s. [CEP Overview](#)):
 - two- and three-wheeled vehicles (vehicle category L);

- vehicles having at least four wheels with not more than eight seats in addition to the driver's seat (vehicle category M1);
- commercial vehicles having at least four wheels with a maximum permissible mass not exceeding 3.5 t (vehicle category N1); and
- trailers with a total mass of between 0.75 t and 3.5 t (vehicle category O2).
- The following vehicles must be tested at least annually (Art. 5 (1) and (2); s. [CEP Overview](#)):
 - vehicles having at least four wheels with a mileage exceeding 160.000 km (vehicle categories M1, N1);
 - vehicles having at least four wheels with more than 8 seats in addition to the driver's seat (vehicle categories M2, M3);
 - commercial vehicles having at least four wheels and their trailers with a maximum permissible mass exceeding 3.5 t (vehicle categories N2, N3, O3, O4);
 - trailers and agricultural and forestry tractors with a maximum speed of more than 40 km/h (vehicle category T5); and
 - taxis or ambulances.
- ▶ **Identification, assessment and monitoring of deficiencies**
 - Tests must cover the prescribed test items (e.g. braking system) and is to be carried out using the applicable testing method (e.g. visual inspection) (Art. 6 in conjunction with Annex II).
 - For each test item there is a list of possible deficiencies (Art. 7 (1) in conjunction with Annex III).
 - Inspectors must attribute to each deficiency detected one of the following three levels of severity (Art. 7 (2)), upon which the follow-up usability of the vehicle depends (Art. 9):
 - “Minor deficiencies” have no effect on the vehicle safety. The holder must rectify the deficiencies “without delay”. The vehicle “may not need” to be re-tested
 - “Major deficiencies” affect the safety of vehicles or threaten other road users. The competent authority – testing centres are not authorised – decides under which conditions the vehicle may be used. Within six weeks the vehicle must be tested again.
 - “Dangerous deficiencies” constitute a direct danger to traffic safety. The vehicle concerned must not participate in road traffic until the deficiencies are rectified.
 - The testing centre issues
 - for each tested vehicle a “roadworthiness certificate” containing the result of the test, its odometer value and the overall assessment of the vehicle (Art. 3 No. 12, Art. 8 (1) in conjunction with Annex IV) and which must be submitted during the next assessment (Art. 8 (4)), as well as
 - a “proof” of each vehicle having successfully passed such a test; each Member State must recognise the proof (Art. 10).
- ▶ **Requirements for inspectors, testing centres and testing devices**
 - Inspectors
 - must fulfil the minimum competence and training requirements laid down in the Regulation (e.g. three years of professional experience) (Art. 12 (1) in conjunction with Annex VI) and
 - when assessing must be free of any conflict of interest, in particular with regard to the holder of the vehicle to be tested (Art. 12 (4)).
 - Testing centres and testing devices must comply with certain technical minimum requirements (Art. 11 (1) in conjunction with Annex V).
 - Member States set up “supervisory bodies” which (Art. 3 No. 16, Art. 13 (1) in conjunction with Annex VII)
 - are responsible for the authorisation of *testing centres*,
 - monitor compliance with minimum requirements for inspectors, testing centres and testing devices, and
 - must be independent of testing centres and vehicle producers.
- ▶ **Information exchange and international cooperation**
 - The testing bodies must communicate electronically to the registration office, the testing centres and the competent authorities the test results, including the odometer value (Art. 8 (3) and (5)).
 - The Member States must designate a “national contact point” responsible for the exchange of information with the other Member States and the Commission regarding the application of the Regulation (Art. 14 (1)).
 - The Commission examines the feasibility, costs and benefits of an electronic platform for exchanging vehicle information between the testing centres, public authorities and vehicle manufacturers (Art. 15).

Key Changes to the Status quo

- ▶ To date, the rules regarding periodic roadworthiness tests for motor vehicles have been stipulated under a Directive (2009/40/EC); now they are to be laid down in a Regulation.
- ▶ To date, only motor vehicles with at least four wheels and trailers and a total mass of more than 3.5 t were affected. Now two- and three wheeled vehicles, trailers with a total mass of less than 3.5 t and agricultural and forestry tractors with a maximum speed of more than 40 m/h are also affected.

- ▶ To date, motor vehicles with up to eight seats plus driver's seat and commercial vehicles of less than 3.5 t had to be tested at the latest four years following their first registration and then at least every two years. Now they must be tested at the latest four years following their first registration, then every two years at the latest and then annually.
- ▶ New is that minimum requirements for inspectors, testing centres and testing devices have been introduced.
- ▶ New is that the Member States must establish a "supervisory body".

Statement on Subsidiarity by the Commission

According to the Commission, the implementation of the applicable minimum requirements by Member States has resulted in very different rules. Moreover, not all Member States have set stricter testing standards than those stipulated by the Directive [SWD(2012) 207, p. 4]. This has a negative effect on traffic safety and the internal market. Hence the objective of the Regulation cannot be achieved at Member State level. (Explanatory Memorandum p. 6 et sqq.)

Policy Context

The Commission wishes to increase road transport safety [White Paper Transport, COM(2011) 144; s. [CEP Policy Brief](#)]. The Regulation Proposal serves to implement the strategy for safe vehicles pursuant to the policy orientations on road safety 2011–2020 [COM(2010) 389]. In addition, it is to contribute to the strategy for clean and efficient vehicles [Communication COM(2010) 186; s. [CEP Policy Brief](#)], the EU Climate Policy [Communication COM(2008) 30; s. [CEP Dossier](#) in German only] and the EU ambient air quality targets (Directive 2008/50/EC). The Regulation is part of a "roadworthiness package" which also comprises a Regulation Proposal for the technical roadside inspection of commercial vehicles [COM(2012) 382] and a Directive Proposal on registration documents for vehicles [COM(2012) 381].

Legislation Procedure

13 July 2012 Adoption by the Commission

Options for Influencing the Political Process

Leading Directorate General:	DG Mobility and Transport
Committees of the European Parliament:	Transport and Tourism
Committees of the German Bundestag:	to be designated
Decision mode in the Council:	Qualified majority (approval by a majority of Member States and at least 255 out of 345 votes; Germany: 29 votes)

Formalities

Legal competence:	Art. 91 TFEU (Transport)
Form of legislative competence:	Shared competence (Art. 4 (2) TFEU)
Legislative procedure:	Art. 294 TFEU (ordinary legislative procedure)

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

The periodic testing of motor vehicles' roadworthiness reduces the number of vehicles with technical deficiencies in the road transport. This increases transport safety in principle, contributes to third party safety and can help reduce emissions which have a harmful impact on the climate. For technical deficiencies (e.g. in the brake system or in exhaust filters) can lead to accidents and/or create additional pollutant emissions.

Extending the scope to include two- and three-wheeled motor vehicles is appropriate, for these motor vehicles can also cause accidents due to technical deficiencies. Moreover, it is precisely the health of drivers of these motor vehicles which is particularly in danger in the case of an accident.

The holder's obligation at a test to submit proof of the previous test, and tracking the odometer value and its electronic communication to the testing and registration authorities, help strengthen the internal market, for this makes it easier to detect manipulations of the odometer value, which is a distinctive feature of buying used cars. This helps reduce the number of motor vehicles with manipulated odometer values and thus improves the information environment for consumers interested in the quality of used cars. Thus they are less inclined to shy away from buying used cars in other Member States.

The categorisation of deficiencies according to their severity level and the resulting requirements regarding the further use of the motor vehicles increase road transport safety, for this is more likely to ensure that technical deficiencies of motor vehicles are rectified and that motor vehicles with dangerous deficiencies are not admitted to road transport throughout the EU.

Minimum requirements for inspectors, testing centres and testing devices ensure a minimum level of testing quality.

Impact on Efficiency and Individual Freedom of Choice

Shorter testing intervals for old motors than for new vehicles are generally appropriate, as they normally have more technical deficiencies. However, **the annual testing requirement for motor vehicles and light commercial vehicles as of the seventh year** or an odometer value of 160,000 km **goes too far**. For this rule **creates additional costs and invested time for holders** without actually guaranteeing additional benefits. In Germany, for instance, where motor vehicles are tested only every two years as of the third year, the share of motor vehicles with deficiencies relating to an accident are below one percent. In Spain, too, where motor vehicles are tested every two years as of their fifth year and as of their eleventh year annually, the share of motor vehicles with deficiencies relating to an accident is slightly above one percent. And even in those cases it is often unclear whether or not the technical deficiency or rather the driver's conduct was really the cause of the accident.

Impact on Growth and Employment

More frequent tests can create new jobs in testing centres on the one hand, but the higher testing costs for older company vehicles create negative impulses for growth and employment in the sectors concerned.

Impact for Europe as a Business Location

Insignificant.

Legal Assessment

Competency

The EU may adopt measures to improve transport safety (Art. 91 (1) lit. c TFEU), which includes the proposed rules on periodic technical roadworthiness tests for motor vehicles. Provided they help reduce traffic-related emissions of harmful substances, they can be based on EU competency for environmental protection (Art. 192 (1) TFEU).

Subsidiarity

In view of the partly cross-border nature of road traffic, EU-wide rules for roadworthiness tests for motor vehicles are in line with the principle of subsidiarity (Art. 5 (3) TEU).

Proportionality

The requirement of the annual testing of older motor vehicles infringes the principle of proportionality (Art. 5 (4) TEU), for practice demonstrates that also in the case of longer testing intervals, the incidence of accidents caused by deficient motor vehicles is very small. Moreover, the alleged relationship between shortened intervals and a reduction in accidents has not yet been proved. Therefore, the costs which such a rule will create are disproportionate to its questionable benefit.

The transition from a Directive, which leaves leeway to Member States within the framework of national implementing acts (Art. 288 (3) TFEU), **to a directly applicable Regulation** (Art. 288 (2) TFEU) **is disproportionate**, for it is in the legal nature of Directives and minimum requirements that they may be implemented differently by Member States. Consequently, different national rules alone, of which the Commission complains [SWD(2012) 206, p. 32], do not justify the legal form of a regulation, which interferes more severely into Member States' powers. The Commission fails to provide here any compelling explanation. Besides, at least partial aspects of EU-wide rules can also be regulated in detail by a Directive [ECJ, Case 316/93 (Vaneetveld), Opinion by Advocate General Jacobs, No 28]. Even the insufficient implementation of EU rules in single Member States does not justify the form of a regulation, for this problem exists irrespective of the legal form.

Compatibility with EU Law

Unproblematic.

Compatibility with German Law

Due to its direct applicability, the proposed Regulation will either replace the corresponding rules of the German Road Traffic Act (Straßenverkehrs-Zulassungs-Verordnung (StVZO)) or – provided minimum requirements are stipulated – require adjustments (§ 29, Annexes VIII and VIIIa StVZO). There particularly need to be amendments in terms of the testing frequency rule: while in Germany passenger cars currently do not have to be tested until three years following their first registration and then every two years (No. 2.1.2.1 Annex VIII StVZO), in future an annual test will become mandatory as of the seventh years and/or an odometer value of 160,000 km and more (Art. 5 (1) and 2; s. [CEP Overview](#)).

Conclusion

Extending the scope to include two- and three-wheeled motor vehicles is appropriate, since these motor vehicles can also cause accidents due to technical deficiencies. Minimum requirements for inspectors, testing bodies and testing devices ensure that there are minimum standards for testing quality. The requirement of an annual test for motor vehicles and light commercial vehicles as of the seventh year leads to additional costs for their holders and infringes the principle of proportionality, as even in the case of longer testing intervals the incidence of accidents due to deficient vehicles is also very small. The transition of a Directive to a Regulation is also disproportionate.