



Statens vegvesen
Norwegian Public Roads
Administration

European Commission
Directorate-General for Energy and Transport
Unit E1
B-1049 Brussels

BELGIUM

Executive unit:
Directorate of Public Roads

Contact person/direct line:
Ingrid M. Heggebø Lutnæs -
22073286

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Revision of the Community legislation on the recording equipment in road transport (tachographs)

The Norwegian Public Roads Administration (NPRA) is the Member State Authority responsible for the Digital Tachograph system. National legislation is prepared by the NPRA and submitted to the Ministry of Transport. Representatives from the NPRA attend the meetings organised by the Commission on this matter, as well as participating in working groups and projects related to Digital Tachograph use. The NPRA, together with the police, is responsible for enforcement.

The NPRA would like to comment on some of the points and questions raised in the consultation paper concerning the revision of the Community legislation on the recording equipment in road transport (Tachographs), regulation (EC) No 3821/85. We appreciate the work that has been done by the Commission which provides a sound basis for this work. Even though many of the questions address very technical issues, and some are more relevant for the manufacturers than for the NPRA as a Member State Authority, there are some important issues which are raised. In addition to our comments to the paper, we like to suggest changes in the regulation. The following points are numbered to correspond to the various sections in the consultation paper.

2. Characteristics of the next generation of tachographs

The legislation should focus on essential requirements for the equipment, leaving the details to the manufacturers in order not to inhibit technical improvements. At the same time, harmonisation of tachograph displays is of great value for drivers and control officers. This enables drivers and control officers to easily recognise the different functions.

The NPRA is in favour of the possibility of remote downloading of the digital tachograph. This will make the working days easier for drivers who are working consecutive weeks far from their transport company. However, the remote download must have integrated all the

Postal address
Statens vegvesen
Vegdirektoratet
Postboks 8142 Dep
N-0033 Oslo
NORWAY

Telephone: +47 02030
Telefax: +47 22 07 37 68
firmapost@vegvesen.no

Office address
Brynsengfaret 6A
0667 OSLO

Address for invoices
Statens vegvesen
Regnskap
Båtsfjordveien 18
N-9815 VADSØ, NORWAY
Telephone: +47 78 94 15 50
Telefax: +47 78 95 33 52

necessary steps to ensure the security of the system and to manage the digital signature during tachograph data download.

3. Principles and scope

The NPRA is opposed to letting vehicles which are occasionally used in the scope of Regulation (EC) No 561/2006 to use different means of recording activities. This will create even more difficulties for a harmonised interpretation than at present. When can other means of recording be accepted? How will “occasional” use be understood?

The regulation should stipulate more clearly than at present which vehicles are within the scope of this regulation. It can be difficult to accept that a driver who drives a vehicle registered for 10 persons 1 hour once every third week is subject to Regulation 561/2006 article 2 b), needs a tachograph and driver card and must register working time etc, while a driver driving a vehicle with 3,4 tonnes carriage of goods 10 hours a day in competition with others can do this with no registration requirement according to Regulation 561/2006 article 2 a). When it comes to traffic safety, which is the most dangerous? The first driver can hardly be seen as a professional driver. A clarification of what it is meant to be regulated will be most welcome if this could be included in the revision of Regulation 3821/85 article 3.

4. Type Approval

The NPRA is in favour of recording equipment with compatible downloading (using an adapter if necessary), and papers for print-outs and tachograph cards must be interchangeably. We are in favour of retrofit, but in cases where the regulation has changed, and this makes a difference for the use of equipment, one should not retrofit old equipment which follows the old regulation when it does not satisfy the requirements of the new regulation.

The conclusion and overall rule must be that retrofit of equipment must be in line with the regulation at the time it is retrofitted.

5. Installation and inspection

There is no doubt that the current situation, which allows the authorities in each member state to set the rules for approving workshops and fitters, is not sufficient. The regulation should have some basic provisions stipulating certain criteria. A suggestion that should be feasible in every member state is to require that both workshop and fitters have to be trained in digital tachograph installation regularly (for instance every 2 years), and every time the regulation is changed. Today national authorities can issue a lifetime authorisation for fitters working with digital tachographs. Further, there is a clear need for uniform basic provision stipulating certain minimum criteria of training and skills. This will also promote confidence in the work which has been done by fitters in approved workshops in the different member states.

6. Use of equipment

For enforcement purposes and to better determine whether there is any manipulation device on the tachograph, it is of great value to have a precise location. The starting and stopping locations should be recorded more precisely than today, when only the country code has to be registered. This can be done more precisely, for example using GPS, as suggested.

There is a need for exchange of electronic data on the cards between the card issuing authorities. This is the only possible way to minimise the administrative burden when it comes to checking the cards. This will also have an impact on the roadside check to develop the electronically exchange on this matter. This should be explicitly stipulated in the regulation.

These are the comments the NPRA has to the consultation paper.

The NPRA would also like to make additional proposals regarding the current articles in regulation 3821/85.

Article 12 – Installation and inspection

It must be possible like today to identify which workshops have been approved, and connection between workshop and workshop card. However, this is not sufficient for enforcement on roadside checks. One possible solution is to identify the workshop by using the seals number as identification. When it comes to using an IT network for enforcement, it would be useful if the seals numbers are available to identify the workshops during the roadside check. The NPRA will like to propose that this be included in the regulation.

Article 14 nr 3 a) – use of equipment

- “normal residence means the place where a person usually lives, that is for at least 185 days each calendar year”

This is not a practical solution, and counting calendar days is not used by the member states. It is not practical for drivers to get a driver card 185 days into the calendar year if the driver needs it from the time he/she has moved from one member state to another member state and needs the card from “day one”. Using a strict interpretation of the existing regulation, the solution would be to send him back to where he had been living 185 days in the same calendar year, but since he is not living in that member state anymore, he is not “usually” living there, which is the condition in the regulation. As long as the regulation has *normal residence* as a condition for issuing a driver card, it should be issued from day one. Accordingly, the wording should be changed to “*normal residence means the place where a person normally lives*”.

A driver can manage to move between different countries to get many driver cards (unless electronic exchange of data works perfectly). When exchange of electronic data is working perfectly in the member states and also in the non EU-AETR countries, the provision governing normal residence can still exist. (However, the condition of 185 days each calendar year must be taken out because it is not practical.) The possibility of checking the uniqueness of the cards in the member states and in non EU-AETR countries is crucial.

The possibility of having more than one driver card will still occur in third countries since these countries don't produce tachograph cards and most likely never will. Their drivers will never have a driver card. The wording *normal residence* creates difficulties for drivers from third countries which don't issue driver cards. Consequently, *normal residence* is not the best solution because of the drivers from third countries, and it will always contain the possibility

of holding of more than one driver card, which is the biggest threat to the system. The NPRA finds the preferred solution to be that the requirement of a *normal residence* is revoked and replaced by a centralised agency for card issuing.

Article 14 no. 4

Replacement of a driver card within *five working days* is related only to cards which are damaged, malfunction, lost or stolen. This is not been regarded as for issuing of cards for the first time.

The NPRA would like to propose a totally different solution using a card with a chip (as in the current driver card) which fills the functions of driving licence, driver card and Certificate of Professional Competence (CPC). This single card would replace three different cards (serving as three cards in one). This would prevent drivers from speculating in “losing” their driver card or lending the card to other drivers (as is the case today). We understand that this would have a significant impact on other regulations and directives, but it should be taken into consideration nevertheless, since it would solve the problems of drivers using each others’ driver cards. Moreover, the drivers would have the benefit of needing only one card instead of having three cards.

While keeping the system as it is today, the requirement for first time issuance should be the same as for the other occasions when cards have been damaged, malfunction, lost or stolen. Two options remain when it comes to driving without a driver card:

1. According to the existing general rule, a driver can never drive before he has been issued his first driver card. However, if the issuing authority doesn’t manage to produce a card within 5 days (which is the rule for replacement cards today), then the driver is authorised to drive producing printouts. The underlying presumption is that the member state authority is to blame.
2. A driver can be allowed to drive from the time he has applied for a driver card, with no 5-day waiting period.

Solution number one is preferable. According to drivers and transport companies, the digital tachograph has been on the market for such a long time that drivers know the rules for when they need a card. Transport companies don’t normally send new drivers on shorter than a 5-day notice. Accordingly, it should be manageable to let the driver be the owner of his first card as a principal rule (as the drivers have five days to wait for their driver card after submitting an application). They are not allowed to drive before they have applied, nor before they have received the driver card for the first time issuance. But what the drivers can not find acceptable is when they can not drive after five days even though it is the card issuing authority which is responsible for not issuing the card. So the regulation should be changed to permit driving and taking printouts in these cases. We propose the following text:

- The issuing authority must issue driver cards within five working days. If the driver has not received his card after five days, and this is the responsible of the card issuing authority, driver must follow requirements in article 15 nr 1 paragraph five.

Article 14 no. 4 c)

Currently cards which are suspended or withdrawn shall be returned to the card issuing authority. In some member states it might be necessary to keep the card as evidence in a court case when downloading data from the card is not sufficient. The NPRA proposes a provision stipulating that the authority in the member state which has confiscated the card can keep it for use as evidence before a court. A practical solution would be to make sure that electronic exchange of information between the member states takes place so that the driver will have the opportunity to apply for a new driver card.

The NPRA appreciates the work which is being done by the Commission with regard to tachographs and looks forward to future developments in this matter.

Department of Road Users and Vehicles
Regards



Kjell S. Bjørvig



Bente Nygren