



Policy rule on application, granting and supervision on type- approvals by the RDW

having regard to Section 4:83 of the Dutch General Administrative Law Act (Algemene Wet Bestuursrecht: 'Awb'), Section 4b of the Dutch Road Traffic Act 1994 (Wegenverkeerswet 1994)

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1. INTRODUCTION

This policy rule is based on Section 4:81 of the Dutch General Administrative Law Act. This policy rule explains how the RDW handles its statutory powers in relation to the granting of type-approvals to Manufacturers and the supervision on the conformity of production.

The RDW's powers arise from national legislation, such as Section 4b of the Dutch Road Traffic Act 1994 and the Dutch Road Transport Department Rates Regulations. These powers also stem from European and international Type-approval legislation for which the frameworks can be found in, among others, Regulations (EU) No 167/2013; 168/2013; No. 2018/858; No. 2016/1628 and Directive No. 2007/46/EC and the UN Convention of 1958 ('58 Agreement), as well as relevant directives, rules and regulations referred to in the aforementioned legislation).

The purpose of this policy rule is to provide clarity and legal certainty to Manufacturers to whom the RDW grants or has granted a Type-approval with a view to promoting compliance by the Manufacturers with the legal requirements and improving the effectiveness of supervision by the RDW.

2. DEFINITIONS

In this policy rule, the terms below have the following meaning:

- a. Application: A request from the Manufacturer to the RDW in which a Type-approval is requested, including the supervision on the Conformity of Production.
- b. A plus-assessment: Document assessment by the RDW, in which the manufacturer is asked to send CoP test reports, an overview of all type approvals with the production amount and the numbers of CoP tests that have been carried out per type approval for predetermined years and any additional questions can be asked.
- c. Audit: Systematic, independent and documented process to test the integral operational management or the results of an organisation, or part of it, against predetermined criteria.
- d. Assessment: an assessment can consist of a document review, Audits and, if necessary, a product assessment.
- e. Commission: The European Commission.
- f. Communication concerning initial assessment: written confirmation from the RDW that the initial assessment (IA) has been concluded positively and a Type-approval certificate can be granted.

- g. COP procedure: the procedure described in the applicable legislation whereby it is verified that vehicles, systems, components or technical units have been produced by the Manufacturer in accordance with the approved type.
- h. Initial assessment: The part of the procedure concerning Conformity of production that precedes the granting of the Type-approval certificate, whereby the approval authority already looks into whether the Manufacturer has adopted adequate measures and procedures to ensure that products can be produced in accordance with the approved type. The initial assessment is abbreviated as IA.
- i. Manufacturer: a natural person or legal entity described in the applicable type-approval legislation who is responsible for all aspects of the type-approval of a vehicle, system, component or technical unit or of the individual approval of a vehicle or for the permit procedure for vehicle parts and equipment, for the safeguarding of the conformity of production and for market supervision matters relating to vehicles, systems, components, technical units, vehicle parts and equipment produced, regardless of whether or not that person or entity is directly involved in all phases of the design and construction of the particular vehicle, system, component or particular technical unit.
- j. Approval Authority: the authority designated by a Member State or party in or pursuant to legislation for the issue, any withdrawal and refusal or refusal of approval certificates for a vehicle or system, component or separate technical unit of a vehicle; which authority is competent to handle the authorisation procedure for vehicle parts and equipment and which acts as a contact point for the approval authorities of other Member States; which is (are) competent to designate the technical services and which must ensure that the Manufacturer fulfils its obligations in relation to the conformity of the production; the RDW is designated as the approval authority.
- k. Withdrawal: The withdrawal of a Type-approval certificate at the Manufacturer's request or in response to ascertained violations of type-approval requirements or reprehensible conduct.
- l. Conformity of Production (CoP): The aim of the procedure is to guarantee that all products are produced in accordance with the approved type.
- m. RDW: The Dutch vehicle approval and information authority, mentioned in Section 4a, first subsection, of the Dutch Road Traffic Act 1994.
- n. Travel expenses: The travel expenses referred to in Section 5, first subsection, of the Dutch Road Transport Department Rates Regulation.
- o. Type-approval procedure: the procedure described in the applicable legislation whereby an approval authority certifies by means of a type-approval that a type of vehicle, system, component or technical unit complies with the applicable administrative law stipulations and technical regulations.

- p. Type-approval: the procedure whereby an Approval Authority certifies that a type of vehicle, system, component or technical unit complies with the applicable administrative law stipulations and technical regulations.
- q. Type-approval certificate: the document by which the Approval Authority officially certifies that a type-approval has been granted for a type of vehicle, system or component or technical unit.
- r. Technical Service categories A and B: an organisation or authority designated by the Approval Authority to conduct tests as a testing laboratory or assess third-party tests.
- s. Technical Service category C: the technical service designated by the RDW to regularly verify, assess, and monitor the procedures applied by the Manufacturer for conformity of production.
- t. Technical Service category D: The technical service designated by the RDW to supervise or conduct tests or inspections for verifying conformity of production.
- u. Recall: A measure by which the Manufacturer aims to affect the return of a product that is not safe or that is not in accordance with the Type-approval granted and which has already been provided to the end user.
- v. Outsourcing partner: the party authorised by the RDW that supervises, on the RDW's behalf, the Conformity of Production.
- w. Compliance statement: written confirmation by the RDW that the Manufacturer has been assessed (Audit) by the RDW (on location) and that the production process has been approved for production in accordance with the relevant type-approval specifications.

3. APPLICATION FOR TYPE-APPROVAL

3.1 Submission of Application

3.1.1 An Application is submitted to the RDW by means of a type-approval application form adopted by the RDW and available on the RDW's website.

3.1.2 Prior to submission of an Application, a type-approval number must be reserved. This submission is preferably done by the Technical Service using a form developed for this, available on the RDW's website (www.rdw.nl).

3.1.3 For the Initial Assessment (IA) and the Conformity of Production, which are both part of the Type-approval application procedure, a special form (CoP form) must be used, which can be found on the RDW's website; this form contains the documentation required for the RDW's assessment.

3.1.4 If the Manufacturer wants to have the required tests conducted by the RDW, the form developed for this must be used, which can be found on the RDW's website.

3.1.5 Further information and questions about the Application can be sent to typeapproval@rdw.nl.

3.1.6 Further information and questions about CoP can be sent to cop@rdw.nl.

3.1.7 Further information and questions about the conduct of tests in the context of approvals can be sent to VRTtesten@rdw.nl.

3.1.8 If a party other than the Manufacturer submits the Application, such as a technical service, the Manufacturer must provide this party as authorised representative with a power of attorney that can be presented at the RDW's request. In that case, the form must be sent as annex to the Application.

3.2 Handling of Application

3.2.1 After receipt of the Application and additional information/documentation requested with that, the RDW will check whether the information provided is sufficient to process the application. If that is not the case, the Applicant is given a further period within which the information must be provided. After the period has lapsed unused, or the information requested has not been fully provided, the RDW may decide not to handle the Application any further.

3.3 Decision on the Application

3.3.1 Regardless of whether the outcome is a granting or refusal of a type-approval, the RDW's decision will be provided with reasons.

3.3.2 The model certificate prescribed by EU legislation is included as annex with the decision referred to in 3.3.1.

3.3.3 In the event no model certificate is prescribed in the specific vehicle legislation, a version of the model certificate mentioned in 3.3.2 and adapted by the RDW will be used.

3.3.4 Applications from Manufacturers established in a country for which a negative travel advice from the Dutch Ministry of Foreign Affairs applies at that moment can be refused because in those cases the expectation is that supervision of the production locations in accordance with the prescribed COP procedures will be impossible, or possible only to a lesser extent.

3.3.5 The lead time for issuing a Type-approval certificate depends on the product group for which approval has been requested; this is published on the RDW's website. This could take longer if the Manufacturer is also asking the RDW to conduct or arrange tests in connection with the Application.

3.3.6 The period for granting the Type-approval certificate is suspended with effect from the day the RDW invites the Manufacturer to supplement the application as referred to in 3.2.1 until that information has been provided.

3.3.7 The period for granting the Type-approval certificate can be suspended if there is a payment arrears or any other failure to comply with a statutory regulation in relation to already existing approvals that have been granted to the same Manufacturer. The period commences at the start of the time period the RDW offers for the remedying of these defects and ends after the defects have been remedied.

4. CHANGES TO EXISTING TYPE-APPROVALS

4.1 Contact persons

4.1.1 The Manufacturer is responsible for keeping the contact details it has provided to the RDW up to date. The Manufacturer must report any changes immediately, but no later than within five working days, to the e-mail address cop@rdw.nl.

4.1.2 The change referred to in the previous paragraph can be reported by a technical service designated to the RDW if this technical service was reported to the RDW previously as an authorised representative of the Manufacturer.

4.1.3 The Manufacturer appoints a CoP contact person for communication with the RDW who the point of contact in relation to Audits is and for passing on relevant changes.

4.1.4 The Manufacturer also appoints a contact person in its organisation who can be contacted as the person responsible for all CoP aspects. This could be the same person as the CoP contact person.

4.2 Notification and application forms for changes

4.2.1 The CoP form referred to above (see article 3.1) must be used to report changes that the Manufacturer must report to the RDW in accordance with the applicable legislations.

If, in the opinion of the RDW, the change gives rise to a revision or extension of the Type-approval certificate or the documents belonging with that, or causes a new type to arise, then the Manufacturer must apply for this using the application form that can be found on the RDW's website.

4.3 Request for transfer of Type-approvals

4.3.1 A Type-approval is a (property) right that cannot be transferred. This is because this right is not only registered to the Manufacturer to whom the approval has been granted but is also inextricably connected with the type definition that contains the Manufacturer's name. If the name of the Manufacturer changes, according to the vehicle regulations, the type changes. Because of this, the existing Type-approval can no longer be used for the production. Added to this is the fact that according to the legislation, in a number of cases the RDW can or even must withdraw the Type-approvals. These specific provisions of the type-approval legislation make it clear that this legislation is opposed to the transfer of Type-approvals. The RDW therefore cannot honour requests to that effect.

4.4 Mergers and other changes in the legal form of the Manufacturer

4.4.1 Under certain conditions, the RDW can deviate from the provisions of 4.3 in the event of a merger or change in the legal form of the Manufacturer to whom the Type-approval has been granted. This Manufacturer is required to submit an application for the change to the Type-approval(s) as quickly as possible.

4.4.2 The Manufacturer uses the forms mentioned in point 3.1 for the application mentioned in the previous point.

5. SUPERVISION ON TYPE-APPROVALS

5.1 Manner and frequency of supervision

5.1.1 The RDW is required to exercise supervision on the Manufacturers in relation to Type-approvals issued by the RDW. The RDW does this by means of document assessment, Audits and, if necessary, product assessment.

5.1.2 The Manufacturer must, using implemented procedures it has agreed on with the RDW, demonstrate that the requirements stipulated by the legislation are satisfied in order to guarantee the conformity of production. The requirements relate to, among other things, assembly, construction, performance, sustainability and applicable administrative requirements from the legislation.

5.1.3 With reference to a risk analysis, the Manufacturer determines the necessary controls that are essential to guarantee the conformity of production and ensures that it performs, documents, analyses these controls itself and that it adjusts these controls during the production process where necessary at the points and/or moments in time.

- 5.1.4 The Manufacturer's production locations will be assessed by the RDW and recognized if approved by the RDW. The production locations can only be expanded with the RDW's permission, which can be requested using the CoP form mentioned in 4.2.1.
- 5.1.5 The Manufacturer demonstrates that in the phases prior to, during and after the production process, it is in control of all essential aspects important for guaranteeing the conformity of production.
- 5.1.6 It is not permitted to have one or more aspects of the activities referred to in 5.1.2 take place at a production location that has not been recognized by the RDW. The Manufacturer is and remains responsible for the conformity of the production. The provisions on it being in control contained in 5.1.5 apply accordingly. If a Manufacturer wishes to include a new production location in its production process, it must apply to the RDW for this in the manner mentioned in 5.1.4.
- 5.1.7 In addition to any requirements in the specific legislation, the frequency of the surveillance is determined also on the basis of a risk analysis by the RDW.
- 5.1.8 The risk factors in the aforementioned risk analysis could include, among others, the lack of an ISO certificate, observations in previous assessments, the nature of the product, when the most recent Audit took place, complaints and other information about product deviations known to the RDW.
- 5.1.9 Without prejudice to the other provisions in this policy rule concerning the frequency of surveillance, the RDW can perform supervisory activities at any time in accordance with the applicable legislation.
- 5.1.10 Audits can be performed on the RDW's behalf by outsourcing partners designated for this purpose by the RDW or by technical services category C.

5.2 Supervision planning

- 5.2.1 The RDW determines the audit date unilaterally and notifies the Manufacturer of this by e-mail in a timely fashion.
- 5.2.2 The Manufacturer must confirm by e-mail its receipt of the audit date as soon as possible and within the stipulated period, which is usually two weeks, after which the RDW can make all the preparations for conducting the aforementioned Audit.
- 5.2.3 If a Manufacturer's production location is located in a country/area for which a negative travel advice has been issued by the Dutch Ministry of Foreign Affairs, the Manufacturer must, at the request of the RDW and within a reasonable period set by the RDW, come up with an action plan that will guarantee the safety of the RDW employee(s), provided this is reasonably possible.

5.2.4 The Audit can be moved at the request of the Manufacturer and only with the consent of the RDW. In that case, the travel expenses already incurred, as referred to in Section 17 of the Dutch Road Transport Department Rate Regulations, will be charged.

5.2.5 If an Audit cannot be performed due to the actions of the Manufacturer or due to a circumstance that must be attributed to the Manufacturer, all costs already incurred will be charged. This does not apply if the RDW cancels the Audit due to circumstances that are at its own expense.

5.3 IA for new Manufacturers

5.3.1 In the context of the IA procedure, an administrative document assessment is carried out. An information meeting always takes place before an application is submitted by the Manufacturer and the assessment is carried out. Results of the performed administrative document assessment are shared with the Manufacturer in an IA-report. If it concerns a positive assessment, the Manufacturer will receive a confirmation by e-mail by means of a "Communication concerning initial assessment".

5.3.2 An appointment for the execution of the first Audit will be made immediately after issuing the "Communication concerning initial assessment" and will be performed by RDW employees within 12 months. If the Manufacturer has not yet produced within 12 months, the Manufacturer must declare this via the statement of not producing within 12 months, after which the first Audit may be postponed once. The "communication concerning initial assessment" expires after two years. If, within these two years, no type approval has been requested, or the Manufacturer has not produced, the "communication concerning initial assessment" will expire.

5.3.3 If an IA Audit cannot be carried out because of unforeseen circumstances, the provisions in article 5.2.5 also apply in this context.

5.3.4 If there is reason to do so, the RDW can decide to perform a factory/company visit before a decision is made on the initial assessment. If the Manufacturer does not have a certified quality system, a factory/company visit will always take place as part of the initial assessment.

5.3.5 If deviations are found in the administrative document assessment or the factory/company visit, the Manufacturer may be given the opportunity to take corrective actions. Corrective actions must be taken within the period set by RDW, at the latest three months after the submission of the Audit Report (or the report containing the re-assessment). The follow-up of deviations is communicated by the Manufacturer to the RDW. The Manufacturer has three options in total (first application and two re-assessments) to provide documents correctly and completely.

5.3.6 The first assessment is assessed negatively if the Manufacturer has not taken corrective measures or communicated them to the RDW within three months, or if the Manufacturer has not remedied the deviations after two attempts after the first application.

5.4 Planning for surveillance at CoP-certified Manufacturers

5.4.1 Prior to the expiry of the "Compliance Statement", the RDW or the outsourcing partner / Technical service category C will inform the Manufacturer that has already undergone an IA procedure and to the extent that it has been recognized by the RDW, by e-mail when the Audit will take place. The Manufacturer must confirm this date within 2 weeks.

5.4.2 If an Audit cannot be carried out because of unforeseen circumstances, the provisions in article 5.2.5 also apply in this context.

5.5 Performance of Audit

5.5.1 Audits are carried out by inspectors of the RDW, auditors from outsourcing partners or auditors from technical services category C.

5.5.2 The Manufacturer must cooperate with the performance of the Audit.

5.5.3 The Manufacturer must ensure that the persons mentioned in 5.5.1 can perform their work under safe conditions during the Audit in accordance with the Framework Directive 89/391/EEC on the safety and health of workers.

5.5.4 The inspector or auditor draws up an audit report from the Audit and sends this to the Manufacturer. This includes any observations by the RDW (points for improvement) and non-Conformity (deviations) that may vary in severity.

5.5.5 The Manufacturer ensures that documents and procedures relating to the conformity of production referred to in 5.1.1 to 5.1.4, inclusive, are available during the audit for the auditors or inspectors mentioned in 5.5.1, unless other agreements have been laid down with them in this respect.

5.5.6 The Manufacturer can be given the opportunity to take corrective measures within a certain period of time after the audit date in order to remedy the ascertained deviations. This time period depends on the nature and seriousness of the shortcoming.

5.5.7 Within the time period referred to in the previous point, the Manufacturer must inform the RDW in detail about the measures taken.

5.5.8 If the Audit has been completed with a positive result, the RDW issues a Compliance Statement for the duration of a maximum of 3 years.

6. OFFICIAL LANGUAGE

- 6.1 Verbal and written communication between the Vehicle Regulations & Licensing (VRT) division of the RDW and the Manufacturer takes place in Dutch or in English.
- 6.2 This policy rule is formulated in the Dutch language and translated by the RDW into the English language. In the event of any differences between the Dutch text of the policy rule and the English text, the Dutch version of the policy rule will prevail.
- 6.3 During the application procedure and the Audit in the context of the Initial assessment (IA) or surveillance on the Conformity of production, the representative of the Manufacturer must have sufficient command of the English language at a technical content level. If this is not the case, the Manufacturer must engage an interpreter or a representative of the Technical Service who has sufficient command of the language in the opinion of the RDW.
- 6.4 Contrary to the first point paragraph of this article, Dutch is always the official language during the objection and appeal procedure against a decision on a Type-approval or other decision by the RDW. In this procedure, the Manufacturer must ensure it has a Dutch-speaking interpreter.

7. COSTS, RATES AND INVOICING

- 7.1 The costs of handling the application and the surveillance will be charged in accordance with the Road Transport Department Rates Regulations.
- 7.2 The costs can consist of, among other things, a fixed annual surveillance rate (contribution fee), the assessment costs of the Application, the Initial assessment (IA), the CoP audit, the administrative audit, the travel and subsistence expenses and the corrective measures.
- 7.3 The technical hourly rate is applied to the Initial assessment (IA), the Audit including the preparation and finalisation, as well as the assessment of the Corrective Measures following an Audit or an administrative audit
- 7.4 If an application for approval/Initial assessment (IA) is withdrawn by the applicant or put aside by the RDW, all reasonable costs incurred up to the point of withdrawal or putting aside will be charged.
- 7.5 The full invoice numbers and debtor numbers, etc must be stated on payments.
- 7.6 As a rule, the RDW applies a payment term of 30 days. This may be different in certain cases. If that is the case, the RDW will mention this and indicate this on the relevant invoices.

8. END OF VALIDITY OF TYPE-APPROVAL CERTIFICATE

8.1 The applicable legislation mentions the cases in which a granted approval becomes invalid. The invalidity can occur by operation of law or as a result of suspension or withdrawal of the approval by the RDW. Because the withdrawal is sometimes mandatory and sometimes optional, it is clarified below how the most common situations are dealt with.

8.2 In every one of the cases below, a type-approval granted by the RDW will be withdrawn by the RDW:

- a. At the Manufacturer's request.
- b. In the event of a definitive stop on production of the type for which approval was granted.

8.3 In every one of the following cases, the RDW can suspend a type-approval, and if this does not result in the situation being remedied, or remedied in a timely manner, the suspension can be followed by withdrawal and/or another sanction mentioned in chapter 9.

- a. In the event of the making of false statements during approval procedures or while corrective or restrictive measures apply.
- b. In the event of forging test results for type-approvals or market supervision.
- c. In the event of withholding information or technical specifications that could lead to recalling of vehicles, systems, components and separate technical units, or to the refusal or withdrawal of a Type-approval certificate.
- d. Refusing access to information.
- e. In the event of failing to satisfy the Manufacturer's payment obligation.
- f. In the event of an application for bankruptcy for the Manufacturer that has been granted the approval.
- g. If it has emerged that manipulation devices have been used in the approved product.
- h. If a prompt response is not received to questions from the RDW in the context of supervision of the conformity of production.
- i. In the event necessary changes are not notified to the RDW on time, such as those mentioned in chapter 4.
- j. If timely confirmation of an audit is not given or an audit is refused, or in the event of a no-show at an audit by or on behalf of the RDW in the context of the supervision on production.
- k. If the Manufacturer's employees provide inaccurate information and this information is necessary for the application for the approval or for the conformity of production.
- l. If, because of negative travel advice, a production location of the Manufacturer cannot be reached, the approvals may be withdrawn because the RDW cannot in that case exercise supervision on the conformity of production.
- m. In the event of aggression/violence against RDW employees.

- n. The refusal to cooperate fully with an Audit or monitoring activities of the RDW or other failure to satisfy the obligations arising from the law.
- o. If, having been given the opportunity to do so, the Manufacturer does not demonstrate within the time period stipulated by the RDW that the shortcomings ascertained have been resolved.
- p. In the event of non-compliance by the Manufacturer with other requirements from the Type-approval legislation.

9. SANCTIONS

- 9.1 Undesirable behaviour/shortcomings on the part of Manufacturers must always be appropriately sanctioned, so that they are corrected and prompted to change. Sanctions are sometimes necessary to correct behaviour, to remedy shortcomings and to send a broad signal that something is not tolerated. When imposing a punishment, among other things the following are taken into account: the seriousness of the behaviour/shortcoming, the context of the case, whether there is a recurrence/recidivism. This article only contains the most important principles with regard to remedial and disciplinary sanctions.
- 9.2 The measures referred to in article 8 regarding the end of validity of the type-approval in the form of suspension and withdrawal are, in principle, applied in the form of remedial sanctions with the aim of putting an end to the violation and restoring order on the market. In principle, the withdrawal applies for an indefinite period of time. The suspension, on the other hand, has a temporary duration that is related to the seriousness and nature of the violation. The RDW states the start date and end of the suspension in the particular sanction decision, along with the reasons for this. The RDW must immediately inform the Commission and the other type-approval authorities of the other Member States of any suspension or withdrawal of a type-approval.
- 9.3 In addition to the remedial sanctions referred to in 9.2, the RDW may impose an Order subject to a penalty on the Manufacturer. This is only possible in the cases referred to in Sections 25, 27, 29, subsection three, and Section 30, subsection three, respectively, of the Dutch Road Traffic Act 1994. The purpose of the Order subject to penalty is to put an end to the violation as soon as possible. In the case of an Order subject to a penalty, an amount is forfeited per time unit. Just like the suspension and withdrawal, this is a remedial sanction, and therefore not a fine. The RDW states the amount of the penalty in the particular sanction decision, along with the reasons for this.
- 9.4 In addition to the remedial sanctions mentioned in 9.2 and 9.3, it is also possible to impose punitive sanctions on the Manufacturer in the form of an administrative fine, whether or not following the remedial sanctions referred to above in 9.2 and 9.3. This is only possible in the cases referred to in Sections 25, 27 and 29, subsection three, Section 30, subsection three, respectively, of the Dutch Road Traffic Act 1994.
- 9.5 When determining the administrative fine, the RDW takes into account the maximum amounts specified in Section 174a, subsections two and three, of the Dutch Road Traffic Act 1994 and gives the reasons for the sanction in the sanction decision.

10. ENTRY INTO FORCE AND PUBLICATION

10.1 This policy rule takes effect on 1 February 2021 and may be changed periodically.

10.2 Publication of this policy rule takes place by sending it to Manufacturers and by publication on the website of the RDW.