COMMISSION DECISION

of 26 June 2007

amending for the second time Decision 2005/263/EC authorising Member States to adopt certain derogations pursuant to Council Directive 94/55/EC with regard to the transport of dangerous goods by road

(notified under document number C(2007) 2587)

(Only the Danish, English, Finnish, Portuguese and Swedish texts are authentic)

(Text with EEA relevance)

(2007/447/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road [1], and in particular Article 6(9) thereof,

Whereas:

(1) Pursuant to Article 6(9) of Directive 94/55/EC, Member States must give the Commission advance notification of their derogations for the first time by 31 December 2002 or up to two years after the last date of application of the amended versions of the Annexes to the Directive.

(2) By Commission Decision 2005/263/EC of 4 March 2005 authorising Member States to adopt certain derogations pursuant to Directive 94/55/EC with regard to the transport of dangerous goods by road [2], the Commission authorised Member States to adopt the derogations listed in Annexes I and II to that Decision.

(3) Commission Directive 2006/89/EC adapted for the sixth time Annexes A and B to Directive 94/55/EC. By virtue of that Directive, Member States have to bring into force the necessary national legislation no later than 1 July 2007, as the last date of application referred to in Article 6(9) of Directive 94/55/EC is 30 June 2007.

(4) Denmark, Finland, Ireland, Portugal and the United Kingdom notified the Commission by 31 December 2006 that they wished to adopt new derogations and to amend their existing derogations in Annexes I and II to Decision 2005/263/EC. The Commission has examined these notifications for compliance with the conditions laid down in Article 6(9) of Directive 94/55/EC and has approved them. Those Member States should therefore be authorised to adopt the derogations in question.

(5) It is therefore necessary to amend the Annexes to Decision 2005/263/EC.

(6) The measures provided for in this Decision are in accordance with the opinion of the Committee on the transport of dangerous goods set up under Article 9 of Directive 94/55/EC,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2005/263/EC is hereby amended as follows:

1. Annex I shall be amended as set out in Annex I to this Decision.

2. Annex II shall be amended as set out in Annex II to this Decision.

Article 2

This Decision is addressed to the Kingdom of Denmark, Ireland, the Republic of Finland, the Republic of Portugal and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 26 June 2007.

For the Commission

Jacques BARROT

Vice-President

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[1] OJ L 319, 12.12.1994, p. 7. Directive as last amended by Commission Directive 2006/89/EC (OJ L 305, 4.11.2006, p. 4).

[2] OJ L 85, 2.4.2005, p. 58. Decision as amended by Decision 2005/903/EC (OJ L 328, 15.12.2005, p. 62).

ANNEX I

Derogations for Member States on small quantities of certain dangerous goods

In Annex I to Decision 2005/263/EC, the following derogations are to be read as follows:

DENMARK

RO-SQ 2.1 (amended)

Subject: Road transport of packagings or articles containing wastes or residues of dangerous goods collected from households and certain enterprises for the purpose of disposal.

Reference to the Annex to the Directive: Part 2, 3, 4.1, 5.2, 5.4 and 8.2.

Content of the Annex to the Directive: Principles for classification, special provisions, packing provisions, marking and labelling provisions, transport document and training.

Reference to the national legislation: Bekendtgørelse nr. 437 af 6. juni 2005 om vejtransport af farligt gods, § 4 stk. 3.

Content of the national legislation: Inner packagings or articles containing waste or residues of dangerous goods collected from households or certain enterprises may be packed together in outer packagings. The contents of each inner packaging and/or each outer packaging must not exceed set mass or volume limits. Derogations from the provisions concerning classification, packaging, marking and labeling, documentation and training.

Comments: It is not possible to carry out an accurate classification and apply all ADR provisions when wastes or residual amounts of dangerous goods are collected from households and certain enterprises for the purpose of disposal. The waste is typically contained in packagings which have been sold in retail sale.

IRELAND

RO-SQ 7.4 (amended)

Subject: Exemption from some of the provisions of the ADR on the packaging, marking and labelling of small quantities (below the limits in 1.1.3.6) of time-expired pyrotechnic articles of classification codes 1.3G, 1.4G and 1.4S of Class 1 of the ADR, bearing the respective substance identification numbers UN 0092, UN 0093, UN 0191, UN 0195, UN 0197, UN 0240, UN 0312, UN 0403, UN 0404 or UN 0453 for carriage to the nearest military barracks for disposal.

Reference to the Annex to the Directive: 1.1.3.6, 4.1, 5.2 and 6.1.

Content of the Annex to the Directive: Disposal of out-of-date pyrotechnics.

Content of the national legislation: The provisions of the ADR on the packaging, marking and labelling of expired pyrotechnic articles bearing the UN numbers UN 0092, UN 0093, UN 0403 or UN 0404 for carriage to the nearest military barracks do not apply provided the general packaging provisions of the ADR are complied with and additional information is included in the transport document. This applies only to local transport, to the nearest military barracks, of small quantities of these time-expired pyrotechnics for safe disposal.

Reference to the national legislation: Regulation 82(10) of the Carriage of Dangerous Goods by Road Regulations 2004.

Comments: The carriage of small quantities of time-expired marine emergency flares, especially from pleasure boat owners and ship chandlers, to military barracks for safe disposal has created difficulties, particularly in relation to packaging requirements. The derogation is for small quantities (below those specified in 1.1.3.6) for local transport.

THE UNITED KINGDOM

RO-SQ 15.4 (amended)

Subject: Exemption from the requirement for vehicles carrying low-level radioactive material to carry fire-fighting equipment (E4).

Reference to the Annex to the Directive: 8.1.4.

Content of the Annex to the Directive: Requirement for vehicles to carry fire-fighting appliances.

Reference to the national legislation: The Radioactive Material (Road Transport) Regulations 2002, Regulation 5(4)(d).

Content of the national legislation: Removes requirement to carry fire extinguishers when carrying only excepted packages (UN 2908, 2909, 2910 and 2911).

Restricts the requirement where only a small number of packages are carried.

Comments: Carriage of fire-fighting equipment is in practice irrelevant to the transport of UN 2908, 2909, 2910 and 2911, which are often carried in small vehicles.

RO-SQ 15.11 (amended)

Subject: Alternative to display of orange plates for small consignments of radioactive material in small vehicles.

Reference to the Annex to the Directive: 5.3.2.

Content of the Annex to the Directive: Requirement for orange plates to be displayed on small vehicles carrying radioactive material.

Reference to the national legislation: The Radioactive Material (Road Transport) Regulations 2002, Regulation 5(4)(d).

Content of the national legislation: Permits any derogation approved under this process. The derogation requested is:

Vehicles must either:

(a) be placarded in accordance with the applicable provisions of ADR paragraph 5.3.2; or

(b) in the case of a vehicles carrying not more than ten packages containing non-fissile or fissile excepted radioactive material and where the sum of the transport indexes of these packages does not exceed 3, may alternatively carry a notice complying with the requirements laid down in national legislation.

ANNEX II

Derogations for Member States on local transport limited to their territory

In Annex II to Decision 2005/263/EC, the following derogations are added:

DENMARK

RO-LT 2.2

Subject: Adoption of RO-LT 14.6

Reference to the national legislation: Bekendtgørelse nr. 437 af 6. juni 2005 om vejtransport af farligt gods, as amended

RO-LT 2.3

Subject: Adoption of RO-LT 15.1

Reference to the national legislation: Bekendtgørelse nr. 437 af 6. juni 2005 om vejtransport af farligt gods, as amended.

PORTUGAL

RO-LT 12.1

Subject: Transport documentation for UN 1965

Reference to the Annex to the Directive: 5.4.1.

Content of the Annex to the Directive: Requirements for transport documentation.

Reference to the national legislation: Despacho DGTT 7560/2004, 16 April 2004, under Article 5, No 1, of Decreto-Lei No 267-A/2003 of 27 October.

Content of the national legislation: The proper shipping name to be indicated in the transport document, as provided for in Section 5.4.1 of the RPE (Regulamento Nacional de Transporte de Mercadorias Perigosas por Estrada), for commercial butane and propane gases covered by the collective heading 'UN No 1965 hydrocarbon gas mixture, liquefied, n.o.s.', transported in cylinders, may be replaced by other trade names as follows:

— 'UN 1965 Butane' in the case of mixtures A, A01, A02 and A0, as described in Subsection 2.2.2.3 of the RPE, transported in cylinders;

— 'UN 1965 Propane' in the case of mixture C, as described in Subsection 2.2.2.3 of the RPE, transported in cylinders.

Comments: The importance of making it easier for economic operators to fill in transport documents for dangerous goods is recognised, provided that the safety of these operations is not affected.

RO-LT 12.2

Subject: Transport documentation for empty uncleaned tanks and containers.

Reference to the Annex to the Directive: 5.4.1.

Content of the Annex to the Directive: Requirements for transport documentation

Reference to the national legislation: Despacho DGTT 15162/2004, 28 July 2004, under Article 5, No 1, of Decreto-Lei No 267-A/2003, of 27 October.

Content of the national legislation: For the return journeys of empty tanks and containers that have transported dangerous goods, the transport document referred to in Section 5.4.1 of the RPE may be replaced by the transport document issued for the immediately preceding journey made to deliver the goods.

Comments: The obligation that the transport of empty tanks and containers that have contained dangerous goods be accompanied by a transport document in accordance with the RPE causes, in certain cases, practical difficulties, which can be kept to the minimum without prejudice to safety.

FINLAND

RO-LT 13.4

Subject: Adoption of RO-LT 14.10

Reference to the national legislation: To be specified in forthcoming legislation.

UNITED KINGDOM

RO-LT 15.3

Subject: Adoption of RO-LT 14.12

Reference to the national legislation: The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2007 Part 1.

RO-LT 15.4

Subject: Collection of used batteries for disposal or recycling.

Reference to the Annex of the Directive: Annexes A and B.

Content of the Annex to the Directive: Special Provision 636

Reference to the national legislation: The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment 2007 part 1.

Content of the national legislation: Permits the following alternative conditions for Special Provision 636 of Chapter 3.3:

Used lithium cells and batteries (UN 3090 and UN 3091) collected and presented for carriage for disposal between the consumer collecting point and the intermediate processing facility, together with other non-lithium cells or batteries (UN 2800 and UN 3028), are not subject to the other provisions of ADR if they meet the following conditions:

— They shall be packed in IH2 drums or 4H2 boxes conforming to the packing group II performance level for solids;

— Not more than 5 % of each package shall be lithium and lithium ion batteries;

— The maximum gross mass of each package shall not exceed 25 kg;

— The total quantity of packages per Transport Unit shall not exceed 333 kg;

— No other dangerous goods may be carried.

Comments: Consumer collection points are usually in retail outlets and it is not practical to train large numbers of people to sort and package used batteries in accordance with ADR. The UK system would operate under guidelines set by the UK Waste and Resources Action Programme and would involve the supplying suitable ADR compliant packaging and appropriate instructions.