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COUNCIL DIRECTIVE 95/50/EC

of 6 October 1995

on uniform procedures for checks on the transport of dangerous goods by road

(OJ L 249, 17.10.1995, p. 35)

Amended by:

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		No	page	date
►**M1**	Directive 2001/26/EC of the European Parliament and of the Council of 7 May 2001	L 168	23	23.6.2001
►**M2**	Commission Directive 2004/112/EC of 13 December 2004	L 367	23	14.12.2004

Corrected by:

►**C1** Corrigendum, OJ L 87, 8.4.2000, p. 34 (95/50/EC)

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COUNCIL DIRECTIVE 95/50/EC

of 6 October 1995

on uniform procedures for checks on the transport of dangerous goods by road

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission ([1]),

Having regard to the opinion of the Economic and Social Committee ([2]),

Acting in accordance with the procedure laid down in Article 189c of the Treaty ([3]),

Whereas the Community has adopted a number of measures for the establishment of an internal market comprising an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaty;

Whereas checks on the transport of dangerous goods by road are carried out in accordance with Council Regulation (EEC) No 4060/89 of 21 December 1989 on the elimination of controls performed at the frontiers of Member States in the field of road and inland waterway transport ([4]) and Council Regulation (EEC) No 3912/92 of 17 December 1992 on controls carried out within the Community in the field of road and inland waterway transport in respect of means of transport registered or put into circulation in a third country ([5]);

Whereas the Council has adopted 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 ([6]); whereas the respective procedures for checking and the definitions relating to this type of transport should accordingly be harmonized in order for compliance with the safety standards laid down therein to be verified more effectively;

Whereas the Member States should ensure a sufficient level of checks on the vehicles concerned throughout their territory while, where possible, avoiding the proliferation of such checks;

Whereas, in the light of the principle of subsidiarity, Community action is therefore necessary to improve the level of safety of the transport of dangerous goods;

Whereas checks should be carried out using a list of common items applicable to such transport throughout the Community;

Whereas it is necessary to draw up a list of infringements deemed sufficiently serious by all Member States to result in the application to the vehicles concerned of appropriate measures depending on the circumstances or the requirements of safety, including, where appropriate, refusal to admit the vehicles concerned to the Community;

Whereas, in order to improve compliance with saftey standards for the transport of dangerous goods by road, it is necessary to make provision for checks to be carried out in undertakings as a preventive measure or when serious infringements of laws on the transport of dangerous goods have been recorded at the roadside;

([1]) OJ No C 26, 29. 1. 1994, p. 10 and OJ No C 238, 26. 8. 1994, p. 4.
([2]) OJ No C 195, 18. 7. 1994, p. 18.
([3]) Opinion of the European Parliament of 3 May 1994 (OJ No C 205, 25. 7. 1994, p. 55), Council Common Position of 21 November 1994 (OJ No C 354, 13. 12. 1994, p. 1) and Decision of the European Parliament of 14 March 1995 (OJ No C 89, 10. 4. 1995, p. 29).
([4]) OJ No L 390, 30. 12. 1989, p. 18. Regulation amended by Regulation (EEC) No 3356/91 (OJ No L 318, 20. 11. 1991, p. 1).
([5]) OJ No L 395, 31. 12. 1992, p. 6.
([6]) OJ No L 319, 12. 12. 1994, p. 7.

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Whereas the checks in question must apply to all consignments of dangerous goods transported by road wholly or partly within the territory of the Member States, irrespective of the point of departure or the destination of the goods or the country in which the vehicle is registered;

Whereas, in the event of serious or repeated infringements, the competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established may be asked to take appropriate measures and whereas they shall inform the requesting Member State of any follow-up measures taken;

Whereas the application of this Directive should be monitored on the basis of a report to be submitted by the Commission,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive shall apply to checks carried out by Member States on the transport of dangerous goods by road in vehicles travelling in their territory or entering it from a third country.

It shall not apply to the transport of dangerous goods by vehicles belonging to or under the responsibility of the armed forces.

2. This Directive shall not, however, affect the Member States' right, with due regard to Community law, to carry out checks on the national and international transport of dangerous goods within their territories performed by vehicles not covered by this Directive.

Article 2

For the purposes of this Directive:

— 'vehicle' shall mean any motor vehicle intended for use on the road, whether complete or incomplete, which has at least four wheels and a maximum design speed exceeding 25 km/h, together with its trailers, with the exception of vehicles which run on rails, of agricultural and forestry tractors and of all mobile machinery,

— 'dangerous goods' shall mean dangerous goods defined as such in Directive 94/55/EC,

— 'transport' shall mean any road transport operation performed by a vehicle wholly or partly on public roads within the territory of a Member State, including the loading and unloading of goods covered by Directive 94/55/EC, without prejudice to the arrangements laid down by the laws of the Member States concerning liability in respect of such operations,

— 'undertaking' shall mean any natural or legal person, whether or not profit-seeking, any association or group of persons without legal personality, whether or not profit-seeking, and any body coming under a public authority, whether itself possessing legal personality or dependent on an authority having such personality, which carry, load or unload dangerous goods or cause them to be carried and those which temporarily store, collect, package or take delivery of such goods as part of a transport operation and are located in the territory of the Community,

— 'check' shall mean any check, control, inspection, verification or formality carried out by the competent authorities for reasons of safety inherent in the transport of dangerous goods.

Article 3

1. The Member States shall ensure that a representative proportion of consignments of dangerous goods transported by road is subject to the checks laid down by this Directive, in order to check their compliance with the laws on the transport of dangerous goods by road.

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2. Such checks shall be carried out in the territory of a Member State in accordance with Article 3 of Regulation (EEC) No 4060/89 and Article 1 of Regulation (EEC) No 3912/92.

Article 4

1. In order to carry out the checks provided for in this Directive, the Member States shall use the checklist in Annex I. A copy of this checklist or a certificate showing the result of the check drawn up by the authority which carried it out shall be given to the driver of the vehicle and presented on request in order to simplify or avoid, where possible, subsequent checks. This paragraph shall not prejudice Member States' right to carry out specific measures for detailed checks.

2. The checks shall be random and shall as far as possible cover an extensive portion of the road network.

3. The places chosen for these checks must permit infringing vehicles to be brought into compliance or, if the authority carrying out the check deems it appropriate to be immobilized on-the-spot or at a place desginated for that purpose by the said authority without causing a safety hazard.

4. Where appropriate and provided that this does not constitute a safety hazard, samples of the goods transported may be taken for examination by laboratories recognized by the competent authority.

5. Checks shall not exceed a reasonable length of time.

Article 5

Without prejudice to other penalties which may be imposed, vehicles in respect of which one or more infringements of the rules on the transport of dangerous goods, in particular infringements listed in Annex II, are established may be immobilized either on-the-spot or at a place designated for this purpose by the authorities carrying out the check and required to be brought into conformity before continuing their journey or may be subject to other appropriate measures, depending on the circumstances or the requirements of safety including, where appropriate, refusal to allow such vehicles to enter the Community.

Article 6

1. Checks may also be carried out at the premises of undertakings, as a preventive measure or where infringements which jeopardize safety in the transport of dangerous goods have been recorded at the roadside.

2. The purpose of such checks shall be to ensure that safety conditions for the transport of dangerous goods by road comply with the relevant laws.

Where one or more infringements, in particular those listed in Annex II, have been established in respect of the transport of dangerous goods by road, the transport in question shall be brought into conformity before the goods leave the undertaking or shall be subject to other appropriate measures.

Article 7

1. Member States shall assist one another in order to give proper effect to this Directive.

2. Serious or repeated infringements jeopardizing the safety of the transport of dangerous goods committed by a non-resident vehicle or undertaking must be reported to the competent authorites in the Member State in which the vehicle is registered or in which the undertaking is established.

The competent authorities of the Member State in which serious or repeated infringements have been recorded may ask the competent authorities of the Member State in which the vehicle is registered or in which the undertaking is established for appropriate measures to be taken with regard to the offender or offenders.

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The latter competent authorities shall notify the competent authorities of the Member State in which the infringements were recorded of any measures taken with regard to the transporter or the undertaking.

Article 8

If the findings of a roadside check on a vehicle registered in another Member State give grounds for believing that serious or repeated infringements have been committed which cannot be detected in the course of that check in the absence of the necessary data, the competent authorities of the Member States concerned shall assist one another in order to clarify the situation. Where, to that end, the competent Member State carries out a check in the undertaking, the other Member States concerned shall be notified of the results.

Article 9

1. Each Member State shall send the Commission for each calendar year not later than twelve months after the end of that year a report, drawn up in accordance with the model in Annex III, on the application of this Directive, including the following particulars:

— if possible, determined or estimated volume of dangerous goods transported by road (in tonnes transported or in tonnes/kilometres),

— number of checks carried out,

— number of vehicles checked by place of registration (vehicles registered nationally, in other Member States or in third countries),

— number and types of infringements recorded,

— type and number of penalties imposed.

2. The Commission shall send the European Parliament and the Council, for the first time in 1999 and subsequently at least every three years, a report on the application of this Directive by the Member States, stating the particulars in accordance with paragraph 1 above.

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Article 9a

The amendments necessary to adapt the Annexes to scientific and technical progress in the fields covered by this Directive, in particular to take account of amendments to Directive 94/55/EC, shall be adopted in accordance with the procedure laid down in Article 9b.

Article 9b

1. The Commission shall be assisted by the committee on the transport of dangerous goods set up by Article 9 of Directive 94/55/EC, hereinafter referred to as the Committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC ([1]) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

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Article 10

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1997. They shall forthwith inform the Commission thereof.

([1]) OJ L 184, 17.7.1999, p. 23.

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When these provisions are adopted by the Member States, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the essential provisions of domestic law which they adopt in the field governed by this Directive.

Article 11

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 12

This Directive is addressed to the Member States.

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ANNEX I

CHECKLIST

1. Place of check ..... 2. Date ..... 3. Time .....

4. Vehicle nationality mark and registration number .....

5. Trailer/semi-trailer nationality mark and registration number .....

6. Undertaking carrying out transport/address .....

7. Driver/driver's assistant .....

8. Consignor, address, place of loading [1] [2] .....

9. Consignee, address, place of unloading [1] [2] .....

10. Total quantity of dangerous goods per transport unit .....

11. ADR 1.1.3.6 quantity limit exceeded	☐ yes	☐ no	
12. Mode of transport	☐ in bulk	☐ package	☐ tank
Documents on board			
13. Transport document	☐ inspected	☐ infringement established	☐ not applicable
14. Instructions in writing	☐ inspected	☐ infringement established	☐ not applicable
15. Bilateral/multilateral agreement/national authorisation	☐ inspected	☐ infringement established	☐ not applicable
16. Certificate of approval for vehicles	☐ inspected	☐ infringement established	☐ not applicable
17. Driver's training certificate	☐ inspected	☐ infringement established	☐ not applicable
Transport operation			
18. Goods authorised for transport	☐ inspected	☐ infringement established	☐ not applicable
19. Vehicles authorised for goods carried	☐ inspected	☐ infringement established	☐ not applicable
20. Provisions related to the mode of transport (bulk, package, tank)	☐ inspected	☐ infringement established	☐ not applicable
21. Mixed loading prohibition	☐ inspected	☐ infringement established	☐ not applicable
22. Loading, securing of the load and handling [3]	☐ inspected	☐ infringement established	☐ not applicable
23. Leakage of goods or damage to package [3]	☐ inspected	☐ infringement established	☐ not applicable
24. UN packaging marking/tank marking [2] [3] (ADR 6)	☐ inspected	☐ infringement established	☐ not applicable
25. Package marking (e.g. UN no) and labelling [2] (ADR 5.2)	☐ inspected	☐ infringement established	☐ not applicable
26. Tank/vehicle placarding (ADR 5.3.1)	☐ inspected	☐ infringement established	☐ not applicable

[1] To be filled only if relevant for an infringement.

[2] To be stated under 'remarks' for groupage transport operations.

[3] Check of visible violations.

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27. Vehicle/transport unit marking (orange plate, elev. temp.) (ADR 5.3.2-3)	☐ inspected	☐ infringement established	☐ not applicable

Equipment on board

28. General purpose safety equipment specified in ADR	☐ inspected	☐ infringement established	☐ not applicable
29. Equipment according to the goods carried	☐ inspected	☐ infringement established	☐ not applicable
30. Other equipment specified in the instructions in writing	☐ inspected	☐ infringement established	☐ not applicable
31. Fire extinguisher(s)	☐ inspected	☐ infringement established	☐ not applicable
39. The most serious risk category of established infringements, if any	☐ Category I	☐ Category II	☐ Category III

40. Remarks .....

41. Authority/officer having carried out the inspection .....

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ANNEX II

INFRINGEMENTS

For the purposes of this Directive, the following non-exhaustive list, classified into three risk categories (Category I being the most serious), gives a guideline on what is to be regarded as infringement.

The determination of the appropriate risk category must take account of the particular circumstances and be left to the discretion of the enforcing body/officer at the roadside.

Failures that are not listed under the risk categories shall be classified according to the descriptions of the categories.

In the event there are several infringements per transport unit, only the most serious risk category (as indicated under item 39 in Annex I to this Directive) shall be applied for reporting purposes (Annex III to this Directive).

1. **Risk Category I**

Where failure to comply with relevant ADR provisions creates a high-level risk of death, serious personal injury or significant damage to the environment such failures would normally lead to taking immediate and appropriate corrective measures such as immobilisation of the vehicle.

Failures are:

1. The dangerous goods being carried are prohibited for transport
2. Leakage of dangerous substances
3. Carriage by a prohibited mode or an inappropriate means of transport
4. Carriage in bulk in a container which is not structurally serviceable
5. Carriage in a vehicle without an appropriate certificate of approval
6. Vehicle no longer complies with the approval standards and presents an immediate danger (otherwise it goes in risk category II)
7. Non-approved packaging is used
8. Packaging does not conform to the applicable packing instruction
9. The special provisions for mixed packing have not been complied with
10. The rules governing the securing and stowage of the load have not been complied with
11. The rules governing mixed loading of packages have not been complied with
12. The permissible degrees of filling of tanks or packages have not been complied with
13. The provisions limiting the quantities carried in one transport unit have not been complied with
14. Carriage of dangerous goods without any indication of their presence (e.g. documents, marking and labelling on the packages, placarding and marking on the vehicle)
15. Carriage without any placarding and marking on the vehicle
16. Information relevant to the substance being carried enabling determination of a risk category I offence is missing (e.g. UN number, proper shipping name, packing group)
17. Driver does not hold a valid vocational training certificate
18. Fire or an unprotected light is being used
19. The ban on smoking is not being observed.

2. **Risk Category II**

Where failure to comply with relevant ADR provisions creates a risk of personal injury or damage to the environment such failures would normally lead to taking appropriate corrective measures such as requiring rectification at the site of control if possible and appropriate, but at the completion of the current transport movement at the latest.

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Failures are:

1. The transport unit comprises more than one trailer/semi-trailer
2. Vehicle no longer complies with the approval standards but does not present an immediate danger
3. The vehicle is not carrying operational fire extinguishers as required; a fire extinguisher can still be deemed operational if only the prescribed seal and/or the expiry date are missing; however, this does not apply if the fire extinguisher is visibly no longer operational, e.g. pressure gauge at 0
4. The vehicle does not carry the equipment required in the ADR or in the instructions in writing
5. Test and inspection dates and use periods of packaging, IBCs or large packaging have not been complied with
6. Packages with damaged packaging, IBCs or large packaging or damaged uncleaned empty packaging are being carried
7. Carriage of packaged goods in a container which is not structurally serviceable
8. Tanks/tank containers (including ones that are empty and uncleaned) have not been closed properly
9. Carriage of a combination packaging with an outer packaging which is not closed properly
10. Incorrect labelling, marking or placarding
11. There are no instructions in writing conforming to the ADR, or the instructions in writing are not relevant to the goods carried
12. The vehicle is not properly supervised or parked.

3. **Risk Category III**

Where failure to comply with relevant provisions result in a low level of risk of personal injury or damage to the environment and where appropriate corrective measures do not need to be taken at the roadside but can be addressed at a later date at the undertaking.

Failures are:

1. The size of placards or labels or the size of letters, figures or symbols on placards or labels does not comply with the regulations
2. Information in the transport documentation other than that in risk category I/(16) is not available
3. The training certificate is not on board the vehicle but there is evidence that the driver holds it.

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ANNEX III

MODEL STANDARD FORM FOR THE REPORT TO BE SENT TO THE COMMISSION CONCERNING INFRINGEMENTS AND PENALTIES

Country: ..... Year: .....

CHECKS ON THE TRANSPORT OF DANGEROUS GOODS BY ROAD

		Place of registration of vehicles (1)			Total number
		Country of check	Other EU Member States	Third countries	
Number of transport units checked on the basis of the contents of the load (and ADR)					
Number of transport units not conforming to ADR					
Number of transport units immobilised					
Number of infringements noted, according to risk category (2)	Risk category I				
	Risk category II				
	Risk category III				
Number of penalties imposed, according to penalty type	Caution				
	Fine				
	Other				

ESTIMATED TOTAL QUANTITY OF DANGEROUS GOODS TRANSPORTED BY ROAD:	**..... t**	**or ..... t.km**

(1) For the purposes of this Annex the country of registration is that of the motor vehicle.
(2) In the event that there are several infringements per transport unit, only the most serious risk category (as indicated under item 39 in Annex I) shall be applied.