

COMMISSION DIRECTIVE 2004/112/EC**of 13 December 2004****adapting to technical progress Council Directive 95/50/EC on uniform procedures for checks on the transport of dangerous goods by road****(Text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Having regard to the Treaty establishing the European Community,

Directive 95/50/EC is hereby amended as follows:

Having regard to Council Directive 95/50/EC of 6 October 1995 on uniform procedures for checks on the transport of dangerous goods by road⁽¹⁾ and in particular Article 9a thereof,

Annexes I, II and III are replaced by Annexes I, II and III to this Directive.

Article 2

Whereas:

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than one year after its publication. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

(1) 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⁽²⁾ laid down uniform rules for the transportation of dangerous goods in the Community.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

(2) The Annexes to Directive 95/50/EC are related to the Annexes to Directive 94/55/EC. Adaptation to scientific and technical progress of the Annexes to Directive 94/55/EC may have an effect on the Annexes to Directive 95/50/EC.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

(3) In order to take into account Commission Directive 2003/28/EC of 7 April 2003 adapting for the fourth time to technical progress Council Directive 94/55/EC on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road, the Annexes to Directive 95/50/EC should be amended.

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

Article 4

(4) The measures provided for in this Directive are in accordance with the opinion of the Committee on the transport of dangerous goods set up by Directive 94/55/EC,

This Directive is addressed to the Member States.

Done at Brussels, 13 December 2004.

For the Commission
Jacques BARROT
Member of the Commission

⁽¹⁾ OJ L 249, 17.10.1995, p. 35. Directive as amended by Directive 2001/26/EC of the European Parliament and of the Council (OJ L 168, 23.6.2001, p. 23).

⁽²⁾ OJ L 319, 12.12.1994, p. 7. Directive as last amended by Commission Directive 2003/28/EC (OJ L 90, 8.4.2003, p. 45).

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.

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

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

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.

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
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⁽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.