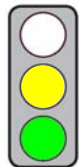


KEY ISSUES

Objective of the Regulation: The Commission wishes to harmonise and strengthen the provisions on the technical roadside inspection of motor vehicles and their trailers.

Parties affected: Holders and drivers of commercial vehicles, inspectors.



Pros: (1) Enlarging the scope to include commercial vehicles under 3.5 t is appropriate, since badly maintained light commercial vehicles can also jeopardise other road users and the environment.

(2) The obligation to carry out a visual assessment of the cargo during each roadside inspection, together with the additional possibility to subject the cargo securing to a detailed inspection, increases road transport safety, as this is impacted significantly by cargo and the securing thereof.

Cons: The transition from a Directive to a Regulation is inappropriate.

CONTENT

Title

Proposal COM(2012) 382 of 13 July 2012 for a **Regulation** of the European Parliament and of the Council on the **technical roadside inspection of the roadworthiness of commercial vehicles** circulating in the Union and repealing Directive 2000/30/EC

Brief Summary

► Background and targets

- Motor vehicles for the commercial transport of goods and persons and their trailers [“commercial vehicles”, Art. 3 No. 6] are subjected to two tests due to their “intensive use”, namely:
 - periodic tests (DIR 2009/40/EC and the Regulation Proposal COM(2012) 380 on the roadworthiness of motor vehicles and their trailers, s. [CEP Policy Brief](#)) and
 - irregular roadside inspections (existing DIR 2000/30/EC and current Regulation Proposal), which are carried out on public roads randomly and unexpectedly, in order to verify their compliance with the technical requirements and environmental provisions “at anytime and anywhere in the EU” (p. 2).
- In the case of roadside inspections,
 - although for example between 2007 and 2008 approx. 300,000 vehicles had to be withdrawn from traffic due to their being in a bad condition (Recital 7),
 - “a high number of vehicles” were also inspected which displayed no deficiencies (p. 6).
- The Commission wishes
 - to harmonise and strengthen the provisions on roadside inspections (DIR 2000/30/EC) and
 - to introduce a risk rating system for companies using commercial vehicles.
- The targets are
 - a 50% reduction in road fatalities by 2020 compared to 2010,
 - a reduction in road transport emissions and
 - the inspection of mainly commercial vehicles with technical deficiencies.

► Scope

- The Regulation covers the following commercial vehicles (Art. 2 (1), s. [CEP Overview](#)):
 - motor vehicles used for the carriage of goods with at least four wheels and a maximum speed of more than 25 km/h (“vans” and “trucks”);
 - motor vehicles used for the carriage of passengers with at least eight seats plus driver’s seat and a maximum speed of more than 25 km/h (“busses”); and
 - trailers including semi-trailers.
- Member States
 - must inspect annually at least 5% of the affected commercial vehicles registered in their territory (Art. 5)
 - and may also carry out roadside inspections for other vehicles (Art. 2 (2)).

► Risk rating and vehicle selection for roadside inspections

- Each Member State must establish a risk rating system for companies using commercial vehicles, through which each company is assigned a risk profile – either low, medium or high (Art. 6 (2) in conjunction with Annex I).
- The rating is based on the number and severity of the deficiencies identified by regular inspections and roadside inspections of the commercial vehicles of a company within the previous three years (Art. 6 (1) in conjunction with Annex I).

- Inspectors are obliged to select “as a priority” commercial vehicles of companies with a high risk profile; other commercial vehicles should be selected for inspection only when there is a suspicion that the vehicle presents a risk to road safety (Art. 9).
- ▶ **Method of roadside inspections**
 - A roadside inspection comprises an “initial roadside inspection” (Art. 10 (1)) and, at the discretion of the inspector, a “more detailed inspection” (Art. 10 (2)). Moreover, an inspector may also choose to inspect the cargo securing (Art. 13 in conjunction with Annex IV).
 - The “initial roadside inspection” consists of (Art. 10 (1)):
 - checking the roadworthiness certificate and, where available, the latest roadside inspection report
 - carrying out a visual inspection of the condition of the commercial vehicle and its cargo
 - The “detailed roadside inspection” must include an inspection of at least the braking equipment, steering, axles, wheels, tyres, suspension and environmental nuisance (e.g. emissions and oil leakage) in line with the prescribed inspection procedures (e.g. functional testing) (Art. 10 (2) in conjunction with Annex II).
 - The “detailed roadside inspection” must be carried out
 - either at a testing centre that is not more than 10 km away from the place of the roadside inspection (Art. 11 (2)),
 - or by a “mobile inspection unit” suitable for assessing the condition of the vehicle’s brakes, steering, suspension and emissions (Art. 11 (3)); with regard to other forms of environmental pollution (such as oil leakage), axles, wheels and tyres, a visual assessment is carried out.
- ▶ **Evaluation of deficiencies and possible follow-up action**
 - For each item of the commercial vehicle to be inspected (e.g. braking system; Art. 12 (1) in conjunction with Annex II) and cargo securing (e.g. lashing; Art. 13 in conjunction with Annex IV), lists of possible deficiencies are provided.
 - Inspectors must assign detected deficiencies to one of the following levels of severity (Art. 12 (2)), on which follow-up actions depend (Art. 14):
 - “Minor deficiencies” have no significant effect on the safety of the vehicle and do not entail any follow-up measures.
 - “Major deficiencies” prejudice vehicle safety or put other road users at risk. They must be rectified without delay. The inspector may order that the commercial vehicle be inspected again within a period fixed by the inspector.
 - “Dangerous deficiencies” constitute a direct risk to road safety. The commercial vehicle must be removed from traffic until the deficiencies have been rectified.
- ▶ **Requirements for the inspector and inspection facilities**
 - Inspectors:
 - must comply with minimum competence and training requirements when carrying out a “detailed inspection”, e.g. three years’ professional experience [Art. 10 (5) in conjunction with Art. 12 (1) and Annex VI Regulation Proposal COM(2012) 380];
 - may not participate in the roadside inspection of a commercial vehicle if they carried out the previous regular inspection of the same commercial vehicle (Art. 8 (2)); and
 - must be free of any conflict of interest during the roadside inspection, in particular as regards the holder of the vehicle inspected (Art. 8 (3)).
 - The inspection facilities and “mobile control units” must fulfil minimum technical requirements [Art. 11 (1) in conjunction with Art. 11 (1) and Annex V Regulation Proposal COM(2012) 380].
- ▶ **Information exchange and international cooperation**
 - On completion of a more “detailed inspection”, the inspector draws up a report and provides the driver, inspection authority and registration authority with a copy thereof (Art. 16 in conjunction with Annex V).
 - Member States must establish a “contact point” which in particular (Art. 17 (1)):
 - is responsible for the exchange of information with authorities from other Member States and
 - submits to the Commission a statistical evaluation of the data collected on the commercial vehicles inspected (e.g. of detected deficiencies; Art. 20 (1)).
 - The Member States must, at least six times a year, carry out concerted roadside inspections (Art. 19).
- ▶ **Commission’s amendments to the Regulation**
 - The Commission may amend the scope through delegated acts (Art. 290 TFEU) in order to take account of changes to the vehicle categories (Framework Directive 2007/46/EC on the approval of vehicles) (Art. 21 and 22).
 - The Commission may modify the specifications of the risk rating, the prescribed inspection items and methods, the deficiency evaluation, the cargo securing, the report on technical roadside inspection and the reporting forms conveyed to the Commission (Annexes I to VI) through delegated legal acts (Art. 290 TFEU) (Art. 21 and 22).

Key Changes to the Status quo

- ▶ To date, the requirements for technical roadside inspection of commercial vehicles have been stipulated under a Directive (2000/30/EC); now they will be ruled by a Regulation.
- ▶ To date, only vehicles for the transport of goods and trailers of more than 3.5 t and busses have been affected. Now motor vehicles for the transport of goods and trailers of less than 3.5 t are also affected if their maximum speed exceeds 25 km/h.
- ▶ New is that Member States must inspect at least 5% of the affected commercial vehicles registered on their territory.
- ▶ New is that a risk rating system for companies using commercial vehicles is to be introduced.
- ▶ New is that each roadside inspection must include a visual inspection of the cargo.
- ▶ New are the minimum requirements for inspectors, inspection facilities and “mobile inspection units”.
- ▶ New is that Member States must carry out concerted roadside inspections at least six times a year.

Statement on Subsidiarity by the Commission

According to the Commission, the current technical requirements for roadside inspections of commercial vehicles set a minimum level at EU level. According to the Commission, their implementation by Member States has led to diverse rules with negative impacts on both road safety and the internal market. Therefore, the targets set under the Regulation cannot be achieved by Member States but only at EU level. (P. 7).

Policy Context

The Commission wishes to heighten road safety [Transport White Paper, COM(2011) 144; s. [CEP Policy Brief](#)]. The Regulation Proposal serves to implement the strategy for safe vehicles according to the Guidelines on Road Transport Safety 2011–2020 [COM(2010) 389]. In addition, it is to contribute to implementing the strategy for clean and efficient vehicles [Communication COM(2010) 186; s. [CEP Policy Brief](#)], EU climate policy [Communication COM(2008) 30; s. [CEP-Dossier](#)] and the EU air quality objectives (REG 2008/50/EC). The Regulation is part of the “roadworthiness package” comprising also a Regulation Proposal on the regular technical inspection of vehicles [COM(2012) 380; s. [CEP Policy Brief](#)] and a Directive Proposal on the registration documents for vehicles [COM(2012) 381].

Legislative Procedure

13 July 2012 Adoption by the Commission

Options for Influencing the Political Process

Leading Directorate General:	DG Mobility and Transport
Committees of the European Parliament:	Transport and Tourism (leading)
Committees of the German Bundestag:	Not yet provided
Decision mode in the Council:	Qualified majority (approval by a majority of Member States and at least 255 out of 345 votes; Germany: 29 votes)

Formalities

Legal competence:	Art. 91 TFEU (Transport)
Form of legislative competence:	Shared competence (Art. 4 (2) TFEU)
Legislative procedure:	Art. 294 TFEU (ordinary legislative procedure)

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

The technical roadside inspection of commercial vehicles creates incentives for companies to service their vehicles and to maintain them in a technically sound condition, also during the period between regular inspections, for commercial vehicles may be subjected to an unexpected inspection at any time. This can lead to additional costs where deficiencies are identified. Thus the number of commercial vehicles with technical deficiencies – e.g. in the braking system or the catalytic converter – is reduced in road traffic. This results in a fundamental increase in road safety, contributes to the protection of third parties and can reduce emissions. Moreover, roadside inspections prevent companies with poorly maintained commercial vehicles from gaining a competitive advantage at the expense of third parties over those companies who never fail to keep their vehicles in good condition.

Extending the scope of the Regulation to include light commercial vehicles – trucks and their trailers – below 3.5 t is appropriate, for light commercial vehicles are used to a similar degree as often as heavier commercial vehicles and in the case of poor maintenance can also jeopardise other road users and the environment. Besides, the number of light commercial vehicles has increased steadily in previous years.

The Member States' obligation to inspect at least 5% of the commercial vehicles registered on their territory every year ensures that in each Member State a minimum number of commercial vehicles are inspected and that roadside inspections actually have a positive impact on road safety and environmental protection.

The inspector's obligation to carry out a visual inspection of the cargo during each roadside inspection, together with the additional possibility to subject the cargo securing to a thorough inspection, increases road transport safety, since this is affected significantly by cargo and the securing thereof.

Categorising deficiencies according to their severity level and the related prescriptions for the further use of commercial vehicles increase road transport safety, as this makes it easier to ensure that technical deficiencies in commercial vehicles are rectified and that commercial vehicles with deficiencies which endanger safety do not participate in road transport throughout the EU.

Minimum requirements for inspectors, inspecting facilities and equipment provide for a minimum level of testing quality.

Impact on Efficiency and Individual Freedom of Choice

Establishing a risk rating system for commercial vehicles reduces the costs for companies which maintain their cars in good condition, as their vehicles are stopped less often for roadside inspections than those of high-risk profile companies. This creates incentives for companies to keep their commercial vehicles in a good condition. However, the establishment of such a system also increases the administrative costs of the inspection authorities, as they must draw up a risk profile for every company that uses commercial vehicles, and this requires a lot of data. Moreover, they must constantly update the system and provide inspectors with the relevant data on time, so as to make sure they can stop the commercial vehicles mainly of those companies with a high-risk profile.

What also raises costs is the inspection authorities' obligation to inspect at least 5% of the affected commercial vehicles every year, in as far as this has not occurred before.

The possibility to use mobile inspection units for detailed inspections reduces the costs of companies and inspection authorities, as the inspection can be carried out on-site and thus saves time.

Impact on Growth and Employment

Insignificant

Impact on Europe as a Business Location

Insignificant.

Legal Assessment

Competency

Unproblematic. The EU may adopt measures to improve road safety (Art. 91 (1) lit. c TFEU), including the proposed rules on technical roadside inspection of commercial vehicles. Provided they serve to reduce traffic-related greenhouse gas emissions and other environmental impacts, they can be based on the EU competency for environmental protection (Art. 192 (1) TFEU).

Subsidiarity

Unproblematic. In view of the cross-border character of road transport, EU-wide rules on the technical roadside inspection of commercial vehicles are in line with the principle of subsidiarity (Art. 5 (3) TEC).

Proportionality

The transition from a Directive, which provides Member States with the freedom of design under the framework of national implementing acts (Art. 288 (3) TFEU), **to a directly applicable Regulation** (Art. 288 (2) TFEU) **is inappropriate**, for it is in the legal nature of Directives and minimum requirements that they can be implemented differently in Member States. Hence, different national rules do not, as the Commission criticises (p. 7), justify the form of a Regulation, which interferes more substantially in the powers of Member States.

Compatibility with EU Law

Unproblematic.

Compatibility with German Law

Unproblematic.

Conclusion

Expanding the scope to include commercial vehicles below 3.5 t is appropriate, since poorly maintained light commercial vehicles can also jeopardise other road users. The obligation to carry out a visual inspection of the cargo during each roadside inspection and the additional possibility to subject the cargo securing to a detailed inspection raises road transport safety, as this is significantly impacted by cargo and the securing thereof. The transition of a Directive to a Regulation is inappropriate.