



Human Environment and Transport  
Inspectorate  
*Ministry of Infrastructure  
and Water Management*

## **Process Description for Recognition and Supervision of Recognized Bodies for the Transport of Dangerous Goods**

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## Introduction

The legislation concerning the transport of dangerous goods<sup>1</sup> lists a number of activities that may only be performed by companies that have been duly recognized by a competent authority. In the Netherlands, the conditions applicable to obtaining such recognition are described in the Regulation concerning Recognized Bodies for the Transport of Dangerous Goods<sup>2</sup> (*Regeling erkende instanties vervoer gevaarlijke stoffen*, hereafter referred to as "the Regulation"). The activities concerned are those listed in Article 2 of the Regulation.

The Dutch Human Environment and Transport Inspectorate (*Inspectie Leefomgeving en Transport* or ILT, hereafter referred to as "the Inspectorate") has been designated as the competent authority responsible for granting recognition and monitoring compliance.

This document describes the procedure for applying for recognition (chapter 1), additional provisions if the recognition is granted (chapter 2) and the supervision during the period for which recognition is granted (chapter 3). The scope of this document covers the Regulation and it is recommended to use the Regulation alongside this document.

In the appendix the list of questions used during the audit is included. The Inspectorate has the option to differ from the questions on the list. The list can be used as a tool to submit a complete application. No rights can be derived from this annex.

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<sup>1</sup> I.e. the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID), the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN), the International Maritime Dangerous Goods Code (IMDG Code), and the International Maritime Solid Bulk Cargoes Code (IMSBC Code).

<sup>2</sup> As promulgated in Netherlands Government Gazette no. 19721, 2009 and amended in Netherlands Government Gazette no. 20447, 2010 and Netherlands Government Gazette no. 1497, 2013.

# 1 Procedure to apply for recognition

## 1.1 Applying for recognition

A company that wishes to obtain recognition must submit an application to the Inspectorate, using the application form available on the Inspectorate's website. An application must be submitted together with the documents listed in the appendix of the application form. The application will be assessed based on the details entered in the application form, the documents enclosed, and the information provided. Applications are processed in accordance with the provisions of Title 4.1 of the General Administrative Law Act (*Algemene Wet Bestuursrecht, AWB*), within a period of eight weeks. This statutory processing period can be extended based on article 4:14 sub 3 of the AWB if it is not possible to assess the application within the period of eight weeks. The extension of the processing period is done in consultation with the applicant.

### *Steps in the application process*

The procedure for obtaining recognition are divided into three steps, which are explained in the sections below:

- 1.2 Assessing the admissibility of the application
- 1.3 Initial audit
- 1.4 Decision

## 1.2 Assessing the admissibility of the application

After receiving the application, the Inspectorate assesses whether the information provided is complete, exhaustive, and up-to-date. If this is the case, the application is taken into consideration and the Inspectorate will notify the applicant accordingly.

The application is *not* taken into consideration:

- If the statutory requirements for taking the application into consideration have not been fully met, and/or
- If the information provided is insufficient to be able to assess the application.

The Inspectorate will notify the applicant if the application is incomplete. The applicant will then be given an opportunity to make changes and/or provide additional information within a period to be determined by the Inspectorate. Within four weeks after receipt of the additional documentation, or the expiration of the determined period, the Inspectorate has to decide whether the application will be taken into consideration. If the Inspectorate does not take a decision within four weeks, then the application will be assessed based on the received information. The statutory processing period commences from the moment the Inspectorate receives the application. The statutory processing period will be postponed from the moment the applicant is notified that the application is incomplete, and commences again from the moment the Inspectorate receives the additional documents.

### *Application fee*

A fee will be charged for processing the application. The fee consists of a determined legal fee and the travel and accommodation costs if the Inspectorate has to travel abroad to carry out an audit. The determined legal fee is published on the website of the Inspectorate. If it is necessary to travel abroad the Inspectorate will make an estimate of the costs. The actual costs will be calculated afterwards and charged to the applicant.

### **1.3 Initial audit**

During the initial audit an assessment is performed to determine if the applicant meets the requirements stated in Section 2 of the Regulation. The initial audit is part of the assessment of the application for recognition.

The purpose of the initial audit is to assess whether the applicant has organized its operational processes and systems and has implemented control measures in such a manner that the requirements stated in the Regulation are met.

#### *Procedure*

A document study is conducted and interviews are held with management and/or staff. In addition, "reality checks" are performed to check whether the control measures have actually been implemented in the operational processes and systems.

#### *Article 17 of the Regulation: subcontracting*

Article 17 pertains to all companies that perform activities on behalf of the Recognized Body or perform activities subject to supervision of the Recognized Body. These companies and the activities they carry out within the scope of the Regulation are also part of the scope of the initial audit. The Recognized Body holds final responsibility for the work performed by these companies.

#### *Audit Report*

The findings of the initial audit are recorded in a draft Audit Report. To provide the applicant with a fair hearing, the report is discussed with the applicant so that any factual inaccuracies may be corrected. The final version of the Audit Report is then prepared. When evaluating the findings, a distinction is made between "non-conformities" and "remarks".

#### *Non-conformity*

The term "non-conformity" is used to refer to findings that provide evidence of non-compliance with one or more of the requirements stated in Section 2 of the Regulation.

#### *Remark*

The term "remark" is used to refer to findings without a direct effect on compliance with the requirements stated in Section 2 of the Regulation. Remarks should be regarded as indications that certain aspects of the operational processes or systems require improvement.

#### *Procedure following audit*

Recognition is granted by means of a decision if no non-conformities have been discovered during the audit.

If non-conformities are discovered, this means that one or more of the requirements stated in Section 2 of the Regulation have not been met. In such cases, recognition will not be granted. However, the applicant will be given an opportunity to rectify the non-conformity(ies) within a term defined by the Inspectorate. The Inspectorate can conduct a follow-up audit to assess if all non-conformities have been demonstrable rectified. If this is the case, recognition will be granted. If not all non-conformities have been rectified, recognition will not be granted.

Recognition can be granted even if remarks have been identified during the initial audit. It is the responsibility of the company to include the remarks within their continuous process of improvement. The process of improvement and the follow up on the remarks can be part of the monitoring audit (see chapter 3).

#### *Action plan*

If the company is given an opportunity to rectify non-conformities, an action plan must be drawn up for this purpose. In this plan the company must describe the steps it intends to take in order to rectify the non-conformities. Also the time necessary to execute these steps must be part of the action plan. Partly based on this action plan the Inspectorate will determine the final date before which the non-conformities must be rectified. The statutory processing period of the application will be postponed until this date.

### **1.4 Decision**

After the initial audit has been performed, a decision is made to either accept the application (i.e. grant recognition) or reject it (i.e. refuse recognition).

- The application is accepted: the applicant receives a decision confirming that the company is recognized to perform the activities described within the decision. This decision specifies the applicable authorizations, conditions and restrictions, as well as the activities or section numbers for which recognition has been granted.
- The application is rejected: the applicant receives a decision informing it that the application has been rejected and the reasons why it has been rejected.

Under the provisions of the General Administrative Law Act (AWB), an appeal may be lodged against the decision. Instructions on lodging an appeal are provided in the decision.

The Inspectorate will publish the official name of the recognized body as well as the address of the Dutch office and the recognized activities on its website. Rejected applications are not published.

Recognition is granted for a period of ten years from the date of publication. Recognition is granted under the condition of continued compliance with the requirements of the Regulation. The Inspectorate will verify compliance by conducting regular monitoring audits (see Chapter 3 of this document). If it is determined that the recognized body is no longer in compliance the recognition can be suspended or withdrawn.

## 2 Additional provisions

### 2.1 Interim changes

If a Recognized Body intends to make any changes to one or more of the elements listed in Article 3 of the Regulation, it must first submit these to the Inspectorate for approval. This requirement is based on Article 6 of the Regulation.

Such changes may require a new initial audit. The scope of which will be limited to the elements to be changed and the consequences of these changes on the whole process.

If the findings show that the changes may result in the requirements of the Regulation no longer being complied with, the changes may not be implemented. If changes are implemented nevertheless, the Inspectorate can take legal actions such as revoking the recognition.

### 2.2 Extension of the recognition

A Recognized Body must submit a new application if it wishes to extend its recognition to other activities. The procedure for submitting such a new application is the same as the procedure for submitting the initial application (see chapter 1).

The inspectorate can decide to perform a limited audit focusing only on the new activities for which recognition is applied for. In this case the existing recognition will be extended after acceptance of the application, keeping the validity date of the existing recognition. A new recognition is granted for a period of ten years after acceptance of the application if the complete process and all activities within the scope of the recognition (including the activities for which recognition is already granted) will be audited once more.

### 2.3 Annual reports to the Minister

Article 15 of the Regulation stipulates that Recognized Bodies must submit an annual report to the Minister of Infrastructure and the Environment. As the Inspectorate has been appointed as the competent authority for the implementation of the Regulation, these annual reports must be submitted to the Inspectorate. The Regulation specifies the content but not the format of these reports. For each recognized activity information must be provided about how often the activity was performed and what the results were. In addition, details must be provided concerning any follow-up and its results in case of a negative decision. The Inspectorate can use this information for analytical purposes.

### 2.4 Complaints and notifications

In addition to the regular monitoring audits, the Inspectorate may subject a Recognized Body to additional investigation in response to complaints and/or notifications received by the Inspectorate. The Inspectorate can investigate all complaints and notifications about Recognized Bodies.

## 3 Supervision of Recognized Bodies

### 3.1 Purpose and procedure

Once a company has been recognized under the provisions of the Regulation, the Inspectorate will monitor its continued compliance with the conditions and requirements specified in the Regulation. Compliance is monitored by means of so-called monitoring audits. This audit focuses mainly on the functioning of the operating processes and systems.

### 3.2 Monitoring cycle

After recognition has been granted the Recognized Body will be included in the monitoring audit schedule of the Inspectorate. The first monitoring audit is performed within two years after recognition has been granted. The monitoring frequency after that depends on the audit findings. However, the interval between two monitoring audits shall never exceed four years.

### 3.3 Scope and process of the monitoring audit

The scope of the monitoring audit covers the requirements stated in the Regulation and the activities for which recognition is granted. The Inspectorate can decide to focus on a limited amount of activities during the audit. The company will be informed about the scope of the audit.

Companies performing activities under the responsibility of the recognised body to which the Regulation is applicable are also part of the monitoring audit. Findings at these companies leads to interventions targeting the recognised body.

#### *Process*

The findings of the audit will be recorded in an audit report. In this report the findings will be classified as 'non-conformities' or 'remarks' using the same definition as being done during an initial audit (see chapter 1.3).

The audit report will then be sent to the department within the Inspectorate responsible for granting the recognition. This department will contact the recognized body to give it the opportunity to clarify the reported findings.

Non-conformities in the audit report must be rectified by the Recognized Body within a period determined by the Inspectorate. For this the Recognized Body needs to make an action plan mentioning the actions to be taken and the time necessary. The Inspectorate will verify if the non-conformities are rectified after the determined period either by document study or a follow-up audit.

The process of the monitoring audit stops when there are no non-conformities, or those are rectified within the determined period. The recognized body will be informed about this in writing.

### **3.4 Suspending / revoking the recognition**

If the non-conformities are not rectified within the determined period the Inspectorate can suspend or revoke the recognition.

If the Inspectorate decides to suspend the recognition partly or completely the recognized body will be informed by means of a decision intention to suspend. The recognized body has two weeks to send its view to the Inspectorate. Based on this view the Inspectorate can decide to revise its decision and not execute the suspension.

The suspension will be executed if the recognized body has not submitted a view within two weeks or if the submitted view has not lead to another judgement. This suspension will also be mentioned on the website of the Inspectorate.

In the decision to suspend the recognition a period is set in which the recognized body may not longer execute the actions for which it is recognized. In this period the recognized body has the opportunity to rectify the non-conformities and demonstrate this to the Inspectorate. The Inspectorate can choose to perform an additional audit to verify if all non-conformities are rectified.

If the non-conformities are rectified within the given period the Inspectorate will withdraw the suspension with a new decision.

The Inspectorate will revoke the recognition if the non-conformities are not rectified within the suspension period.

If the non-conformities are such that immediate intervention is necessary, the Inspectorate can decide to revoke the recognition immediately without the steps of suspending and the possibility to send a view.

After recognition has been revoked the company's name will be removed from the Inspectorate's website.

If the Inspectorate decides to suspend or revoke the recognition, the Recognized Body concerned will be notified by means of a decision. An appeal may be lodged against this decision under the provisions of the General Administrative Law Act (AWB).

## Appendix: List of questions used during the audit

Subject: Audit of compliance with the provisions of the Regulation concerning Recognized Bodies for the Transport of Dangerous Goods				
Points of attention	+	-	Comments / explanation	
<b>1. Independence, objectivity, impartiality</b>				
1.1	How does the Recognized Body ensure that no tariffs or other requirements are applied that would unnecessarily hinder the performance of activities? (Article 7)			
1.2	How is the independence and impartiality of the <u>company</u> safeguarded <i>vis-à-vis</i> clients and other parties involved? (Article 8.1)			
1.3	How does the company safeguard the independence and impartiality of its <u>employees</u> <i>vis-à-vis</i> clients and other parties involved? (Article 8.1)			
1.4	How does the company ensure that the remuneration of employees involved in inspection and/or certification activities does not depend on the number of activities performed or the results of those activities? (Article 8.2)			
<b>2. Quality assurance system</b>				
2.1	Has the company implemented a suitable quality assurance system, and has this system been recorded in writing in a document? (Article 9)			
2.2	Does this quality assurance system describe the organizational, personnel-related and procedural quality assurance mechanisms? (Article 9)			
2.3	How does the company ensure that the activities are performed in conformity with the applicable requirements laid down in the Regulation concerning the Transport of Dangerous Goods			

	by Inland Waterways ( <i>Regeling vervoer over de binnenwateren van gevaarlijke stoffen</i> ), the Regulation concerning the Transport of Dangerous Goods by Road ( <i>Regeling vervoer over land van gevaarlijke stoffen</i> ), and the Regulation concerning the Transport of Dangerous Goods by Railway ( <i>Regeling vervoer over de spoorweg van gevaarlijke stoffen</i> ) and the International Maritime Solid Bulk Cargoes Code (IMSBC Code) (Article 11)			
2.4	How does the company ensure that no information about inspection activities is provided to third parties without prior written permission from the client? (Article 14.1)			
2.5	How does the company ensure that its employees maintain confidentiality? (Article 14.2)			
2.6	How does the company ensure that an annual report is submitted to the Minister? (Article 15)			
2.7	If any changes are made to the activities, how does the company ensure that the revised documents and information concerning the quality assurance system and/or the company's independence and impartiality and/or the company's insurance coverage are submitted to the Inspectorate before such changes are made? (Article 6)			
2.8	How does the company ensure that, prior to performing any activity, the client is informed about the activities to be performed, as well as the method and the assessment criteria to be used? (Article 13)			
2.9	How does the company ensure that the recognition is used within twelve months after it has			

	been granted? (Article 16.1)			
2.10	How does the company ensure that the recognition is not left unused for a period of more than twelve consecutive months? (Article 16.2)			
<b>3. Expertise</b>				
3.1	How does the company ensure that its employees possess sufficient professional competence to <i>perform</i> the activities? (Article 10.1)			
3.2	How does the company ensure that its employees possess sufficient professional competence to <i>supervise</i> the performance of the activities? (Article 10.1)			
3.3	Does the quality assurance system devote sufficient attention to training, qualifications, and experience? (Article 10.2)			
<b>4. Subcontracting</b>				
4.1	Will one or more of the activities referred to in Article 2 (2) (a) be outsourced to third parties?			
4.2	Has the method to be used been laid down in writing in a model agreement before the work is outsourced? (Article 17 (1a))			
4.3	How does the company ensure that the client is informed of the intention to outsource the work, and how does the company record the client's explicit consent for the intended outsourcing of the work and the subcontractor selected? (Article 17 (1b))			
4.4	How does the Recognized Body ensure that it retains the right to issue a final judgement on the inspection or certification? (Article 17 (1c))			
4.5	How does the company ensure that the subcontractor complies			

	at least with the requirements stated in Article 8 (independence, impartiality, remuneration), Article 9 (quality assurance system), Article 10 (training) and Article 14 (confidentiality) of the Regulation? (Article 17 (1d))			
4.6	How does the company ensure that the subcontractor does not subcontract the work to third parties? (Article 17 (1e))			
4.7	Does the company maintain a register of all outsourced inspection or certification activities? (Article 18 (1))			
4.8	Does this register state the name of the subcontractor, the reference number of the certificate and the reference number of the inspection report for each object inspected or certification procedure performed? (Article 18 (2))			
<b>5. Marginals</b>				
5.1				