

Review

Environmental, Safety & Health



European Commission publishes proposals to strengthen rules on the control of major accident hazards involving chemicals

Safety incidents at chemical plants can have severe consequences; Seveso, Bhopal, Toulouse and Buncefield are examples which have resulted in multiple fatalities and serious environmental pollution, as well as significant costs. The Seveso II Directive has been meeting its objectives; major accidents have fallen by approximately 20% since 2000. However, amendments are required to ensure that the high levels of protection are maintained. Businesses need to be aware of the impact that these amendments will have on the classification of chemicals, major accident prevention policies, safety reports and emergency planning, as well as the increased inspection standards and public involvement. Although the changes will have most impact within the EU, the Seveso approach has historically been followed worldwide.

On 21 December 2010, the European Commission published draft revisions to the Seveso II Directive, which is aimed at preventing major accidents involving large quantities of dangerous substances. The new Directive should apply from 1 June 2015. The revisions were prompted by, and will align the legislation to, changes in EU chemicals law (classification of dangerous substances) and will also clarify and update other provisions.

The Seveso II Directive provides a tiered approach to the level of controls required by duty holders, with organisations managing larger quantities of chemicals being subject to stricter rules. Operators of establishments where hazardous substances are present must notify their activities and establish a major accident prevention policy. Operators of 'upper tier' establishments must also establish a safety report and put a safety management system and an internal emergency plan in place. Public authorities are subject to additional requirements, discussed below, relating to external emergency plans and public information on safety measures for upper-tier establishments, domino effects, land-use planning, accident reporting and inspections.

The main objectives, and the changes proposed to achieve them, are as follows:

- To align the directive to changes in the EU system of classification of dangerous substances to which it refers, and to ensure that the same hazards are described and labelled in the same way all around the world.
 - The former category "Very Toxic" has been aligned to the European category "Acute Toxic 1" and "Toxic" to "Acute Toxic 2" (all exposure routes) and "Acute Toxic 3" (dermal and inhalation routes).
 - Several more specific categories for physical hazards that did not exist before replace the more general old categories for oxidizing, explosive, and flammable hazards.
 - Updated reference to the European Regulation for liquefied flammable gases; the inclusion of anhydrous ammonia, boron trifluoride, and hydrogen sulphide as named substances, previously covered by their hazard categories, to keep their thresholds unchanged; the inclusion of heavy fuel oil in the entry for petroleum products; clarifications to the notes in relation to ammonium nitrate; and an update of the toxic equivalency factors for dioxins.

- To include mechanisms to adapt the Directive to deal with substances that are at a later date included / excluded.
 - The possibility to exclude substances from being regarded as dangerous substances for the purposes of the Directive because they do not present a major-accident hazard (see Article 4). Among the excluded areas are the offshore exploration and exploitation of minerals, including hydrocarbons. The criteria for the derogations would be established by further legislation by 30 June 2013.
- To improve the level and quality of information that is available to the public in the event of an accident by improving the way information is collected, made available, managed and shared.
 - The proposal retains the current requirements that information should actively be made available to persons liable to be affected by a major accident and also kept permanently available, however it leaves open who is responsible for the provision of such information. The main changes are to extend the information for all establishments to include basic information (name, address and activities), details of information about major-accident hazards, inspections carried out and where further information can be obtained; and for upper-tier establishments, a summary of the major-accident scenarios; key information from the external emergency plan; and where appropriate transboundary impacts; and, to have this information kept permanently available to the public online and provided to a central database at Union level. It also extends the information obligations to include information about neighbouring establishments relating to domino effects.
 - The proposal also brings more accidents within the reporting system by reducing the quantity threshold laid down in section 1.1 to 1% of the upper-tier threshold. There is a new 12 month deadline for the submission of reports to avoid lengthy delays in the reporting of accidents by Member States. This will aid prevention of future accidents by allowing early reporting and analysis of accidents and near-misses involving significant high quantities of dangerous substances so that information and lessons learned can be shared.
 - The Seveso Plants Information Retrieval System (SPIRS) database will be available to the public.
 - There are new rules on confidentiality placing greater weight on openness and transparency while providing for non-disclosure of information in duly justified cases where confidentiality is required such as for security reasons.
- To involve the public in decision-making;
 - The public should be able to give its opinion in certain cases relating to land-use planning, modifications to existing establishments, and external emergency plans.
 - Member States should ensure that the public concerned, including interested environmental NGOs, have access to administrative or judicial review to challenge any acts or omissions that could breach their rights in relation to access to information or consultation and participation in decision-making.
 - In relation to emergency planning for upper-tier establishments, there are new requirements for public consultation on external emergency plans.

- To introduce stricter inspection standards to ensure the effective implementation and enforcement of safety rules.
 - It is made clear that all establishments must have a major-accident prevention policy and a safety management system proportionate to the hazards. New provisions are introduced requiring that the MAPP should be available in writing and sent to the competent authority and that it should be updated at least every five years or in the event of significant modifications within their establishment. Another change is a reference to the possible use of safety performance indicators, which can be an effective tool to improve safety and assist in monitoring, assessment and enforcement.
 - In relation to emergency planning the separation of responsibilities between operators and competent authorities in relation to the review, testing and updating of internal and external emergency plans is made clear. The competent authority has to draw up the external emergency plan within 12 months after receipt of the necessary information from the operator. The new proposals also make clearer references to the need to address possible domino effects and off-site mitigatory actions to address major accident scenarios impacting on the environment.
 - Safety reports are subject to additional requirements in relation to information about neighbouring establishments and other external risks and hazards, such as environmental risks and hazards; about lessons learned from past accidents; and about equipment to limit the consequences of major accidents.
 - Requirement for Member States to make available sufficient resources for inspections and encourage exchange of information.
 - Introduction of new provisions setting out the measures to be taken in the event of non-compliance, including prohibitions of use and other penalties (for Member States to decide).
- To reduce unnecessary administration burdens.
 - Member States with more than one competent authority must appoint one to take the lead in coordinating activities.

The proposal is accompanied by an impact assessment which was produced following the review process, including stakeholder consultation and various studies on the effectiveness of existing rules and the impact of possible options for improvements.

For further information please see <http://ec.europa.eu/environment/seveso/review.htm> or contact Rob Elvin, whose contact details are below.

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