

COMMISSION OF THE EUROPEAN COMMUNITIES

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PROPOSAL FOR A COUNCIL DIRECTIVE
AMENDING FOR THE SECOND TIME DIRECTIVE 82/501/EEC
ON THE MAJOR-ACCIDENT HAZARDS OF CERTAIN INDUSTRIAL ACTIVITIES

(submitted by the Commission)

SUMMARY

This proposal aims to extend the scope of the Directive 82/501/EEC to the storage of dangerous chemicals and to strengthen its provisions regarding information to the public.

EXPLANATORY MEMORANDUM

I. INTRODUCTION

After the accident which occurred in Basel (Switzerland) on 1 November 1986, the Commission examined the requirements laid down in the Council Directive 82/501/EEC on the major-accident hazards of certain industrial activities, in order to evaluate their adequacy in the light of the experience gained from this accident and the need and opportunity of reinforcing the present measures for the prevention of similar accidents, with particular regard to the storage of dangerous chemicals.

After an examination of the scope of the present Directive in relation to storage, the Commission, together with the Committee of Competent Authorities responsible for the implementation of the Directive 82/501/EEC, concluded that the present Directive was not sufficient to ensure the adequate prevention of a major accident caused by dangerous storage.

The Council of the Environment Ministers, in its Resolution adopted on the 24 November 1986, invited the Commission to review the Community measures for the prevention of major accidents and the limitation of their consequences and, if necessary, to present appropriate proposals.

In addition, the European Parliament, in the five Resolutions on the Basel accident adopted during the Plenary Session of 11-12 December 1986, urged the Commission to reinforce the requirements of the Directive 82/501/EEC with respect to dangerous storage.

Furthermore, the European Parliament, in the Resolution closing the consultation procedure on the Commission proposal for a Council Directive amending Directive 82/501/EEC, which was adopted during the Plenary Session on 19 February 1987, once more urged the Commission to strengthen the provisions of the Directive concerning the storage of dangerous chemicals.

During this same Plenary Session, the Commission in answering the European Parliament gave the assurance that it would present in the near future, a proposal for a revision of the Directive to cover the storage of dangerous chemicals and to improve and strengthen the provisions relating to information to the public with regard to dangerous installations.

II. COMMENTS ON THIS PROPOSAL FOR A DIRECTIVE

This proposal aims to extend the scope of the Directive 82/501/EEC to the storage of dangerous chemicals and to strengthen its provisions regarding information to the public.

The Directive 82/501/EEC as it is now, only covers two kinds of storage of dangerous chemicals :

- a) the storage outside an industrial activity (isolated storage) : in this case, only 10 substances or groups of substances are covered by the provisions of the Directive;
- b) the storage associated with the industrial operation inside an industrial installation : in this case, all storage of dangerous (i.e. toxic, very toxic, flammable and explosive) chemicals are covered by the Directive.

The present proposal will extend the scope of the Directive to all dangerous storage at any place, building or area, isolated or within an industrial installation, no matter whether it is storage of chemicals in bulk or in packaged form.

In order to identify dangerous storage, an approach based on a list of named substances (Part I of Annex II) and on a list of categories of danger (Part II of Annex II) is used, together with their respective threshold quantities. The list of substances (28 substances) enables the identification of the storage where the most dangerous and widely used substances are held ; the list of categories ensures that all other storage involving dangerous substances or preparations, which are classified as toxic, very toxic, explosive, oxidizing, extremely flammable or highly flammable under other relevant Community Directives, are also covered.

With regard to information to the public, the present proposal, which consists of the addition of a new paragraph to Art. 8.1 and the introduction of a new Annex, will define the ways in which the information on certain dangerous industrial activities shall be communicated to the public and will establish the minimum content of this information.

In particular, the new paragraph of Art. 8.1 will require that the information has to be communicated to the concerned persons, on an active basis, without a request being made, through some kind of public information media such as, for example, leaflets or information boards. The content of the information to be communicated is clearly set out in the proposed Annex VII so as to ensure that people are well informed on all appropriate matters relating to safety.

The Commission will anyway constantly monitor how the Directive functions and will propose a more comprehensive revision once further experience has been gained.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES.

Having regard to the Treaty establishing the European Economic Community, and in particular Article 130 S thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the protection of man and the environment calls for the provisions of Directive 82/501/EEC (1) to be strengthened with regard to the storage of dangerous substances or preparations;

Whereas the storage of dangerous substances or preparations presents a major-accident hazard both when the storage is associated with an industrial operation and when the storage is isolated or located within an installation, without being associated with an industrial operation;

Whereas it is necessary that the provisions of the Directive 82/501/EEC be extended to the storage of dangerous substances or preparations in bulk and in packaged form;

Whereas the storage of dangerous substances or preparations to which the Directive 82/501/EEC should be applied can be identified by a list of chemical names or by a list of categories of danger according to the classification and labelling requirements laid down in other relevant Community Directives, together with their respective threshold quantities; whereas such categories of substances or preparations should be the ones classified as "very toxic", "toxic", "explosive", "oxidizing", "extremely flammable" and "highly flammable";

(1) OJ L230, 5.8.1982 P.1

Whereas the provisions with regard to information to the public laid down in Article 8 of the Directive 82/501/EEC, need to be strengthened and better defined in order to ensure that any person liable to be affected by a major accident originating in a notified industrial activity within the meaning of Article 5, is appropriately and effectively informed, in an harmonized way throughout the whole Community, on all matters relating to safety; whereas area and persons liable to be affected are defined by the emergency plans of the industrial activities ;

Whereas it is necessary that the content of the information referred to in Article 8 of the Directive 82/501/CEE shall be clearly specified; whereas, in order to mitigate the consequences of a major accident, the persons concerned need to know the potential hazards and the measures to be taken; whereas it is necessary that such information has to be communicated on an active basis to the concerned persons without a request being made, through some kind of public information media, such as leaflets or information boards;

Whereas the Council of the Environment Ministers in its Resolution adopted on the 24th November 1986, has invited the Commission to review the Community measures for the prevention of major accidents and the limitation of their consequences and, if necessary, to present appropriate proposals;

Whereas the Advisory Committee on Safety, Hygiene and Health Protection at Work, set up by Council Decision 74/325/EEC (2) has been consulted;

HAS ADOPTED THIS DIRECTIVE :

Article 1

Directive 82/501/EEC is amended as follows :

1. Article 8.1 is replaced by the following :

"Member States shall ensure that persons liable to be affected by a major accident originating in a notified industrial activity within the meaning of Article 5 are informed in an appropriate manner of the safety measures and of the correct behaviour to adopt in the event of an accident.

The information shall be communicated to the above-mentioned persons without their request and shall also be published. Such information shall at least contain the items laid down in Annex VII and shall be repeated and updated at appropriate intervals."

2. Annex II is replaced by the Annex I hereto.

3. Annex II hereto is added to the Directive as Annex VII.

Article 2

1. In the case of existing industrial activities which will be subject to the provisions of Directive 82/501/EEC for the first time following adoption of this amendment, this Directive shall apply at the latest on ... (24 months after its notification).
2. In this case also, the declaration provided for in Article 9 (3) of Directive 82/501/EEC shall be submitted to the Competent Authority at the latest on ... (24 months after its notification) and the supplementary declaration provided for in Article 9 (4) of Directive 82/501/EEC shall be submitted to the Competent Authority at the latest on ... (5 years after its notification).

Article 3

1. Member States shall take the measures necessary to comply with this Directive at the latest on ... (18 months after its notification). They shall forthwith inform the Commission thereof.
2. Member States shall communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive.

Article 4

This Directive is addressed to the Member States.

ANNEX I

STORAGE OF DANGEROUS SUBSTANCES

OTHER THAN THAT COVERED BY ART. 1.2 (a), FIRST INDENT

Storage is storage of dangerous substances at any place, installation, premise, building or area of land, isolated or within an establishment, except where that storage is associated with an installation covered by Annex I.

The quantities set out below in Parts I and II relate to each storage or group of storage belonging to the same manufacturer where the distance between the storage is not sufficient to avoid, in foreseeable circumstances, any aggravation of major-accident hazards. These quantities apply in any case to each group of storage belonging to the same manufacturer where the distance between the storage is less than 500 m.

The quantities to be considered are the maximum quantities which are or are liable to be in storage at any one time.

PART I

Named Substances

In the case where a substance (or a group of substances) listed in Part I falls also within a category of Part II, the quantities set out in Part I should be used.

Substances or groups of substances	Quantities (Tonnes) ≥	
	For application of Articles 3 and 4	For Application of Article 5
1. Acrylonitrile	20	200
2. Ammonia	50	500
3. Chlorine	10	75
4. Sulphur dioxide	25	250
5. Ammonium nitrate ⁽¹⁾	350	2.500
6. Ammonium nitrate in the form of fertilisers ⁽²⁾	1.250	10.000
7. Sodium chlorate	25	250
8. Liquid oxygen	200	2.000
9. Sulphur trioxide	15	100
10. Carbonyl chloride (Phosgene)	0,750	0,750
11. Hydrogen sulphide	5	50
12. Hydrogen fluoride	5	50
13. Hydrogen cyanide	5	20

14. Carbon disulphide	20	200	
15. Bromine	50	500	
16. Acetylene	5	50	
17. Hydrogen	5	50	
18. Ethylene oxide	5	50	
19. Propylene oxide	5	50	
20. 2-Propenal (Acrolein)	20	200	
21. Formaldehyde (concentration \geq 90 %)	5	50	
22. Bromomethane (Methyl bromide)	20	200	
23. Methyl isocyanate	0,150	0,150	
24. Tetraethyl lead or tetramethyl lead	5	50	
25. 1,2 Dibromoethane (Ethylene dibromide)	5	50	
26. Hydrogen chloride (liquefied gas)	25	250	
27. Diisocyanato-diphenylmethane (MDI)	20	200	
28. Tolylene diisocyanate (TDI)	5	50	

- (1) This applies to ammonium nitrate and mixtures of ammonium nitrate where the nitrogen content derived from the ammonium nitrate is $> 28\%$ by weight and aqueous solutions of ammonium nitrate where the concentration of ammonium nitrate is $> 90\%$ by weight.
- (2) This applies to straight ammonium nitrate fertilizers which comply with Directive 80/876/EEC and to compound fertilizers where the nitrogen content derived from the ammonium nitrate is $> 28\%$ by weight (a compound fertilizer contains ammonium nitrate together with phoshate and/or potash).

PART II

CATEGORIES OF SUBSTANCES AND PREPARATIONS NOT SPECIFICALLY NAMED IN PART I

The quantities of different substances and preparations of the same category are cumulative. Where there is more than one category specified in the same entry, the quantities of all substances and preparations of the specified categories in that entry must be summed up.

Categories of substances and preparations (1)	Quantities (tonnes) ≥	
	For application of Articles 3 and 4	For application of Article 5 (2)
1. Substances and preparations that are classified as "very toxic"	5	10
2. Substances and preparations that are classified as "very toxic", "toxic", "oxidizing" or "explosive"	10	100
3. Gaseous substances and preparations, including those in liquefied form, which are gaseous at normal pressure and which are classified as "highly flammable" (3)	50	200
4. Substances and preparations (excluding gaseous substances covered under item 2 above) which are classified as "highly flammable" or "extremely flammable" (4)	5.000	50.000

(1) The categories of substances and preparations are as defined in the following Directives and their amendments :

- Council Directive 67/548/EEC on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances;
- Council Directive 73/173/EEC on the approximation of Member States' laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous preparations (solvents);
- Council Directive 77/728/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of paints, vanishes, printing inks, adhesives and similar products;
- Council Directive 78/631/EEC on the approximation of the laws of the Member States relating to the classification, packaging and labelling of dangerous preparations (pesticides);
- Council Directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations (under discussion).

(2) Art. 5.1 (a) and 5.1 (b) third indent apply where appropriate.

(3) This includes Flammable gases as defined in Annex IV (c) (i)

(4) This includes Highly flammable liquids as defined in Annex IV (c) (ii)

ANNEX II

ANNEX VII

ITEMS OF INFORMATION TO BE COMMUNICATED TO THE PUBLIC
IN APPLICATION OF ARTICLE 8.1

- a) Name of company and address of site.
- b) Identification, by position, of the person giving the information.
- c) Confirmation that the site is subject to the current regulations and/or administrative provisions concerning the industrial activities and that the notification referred to in Article 5 or at least the declaration provided for in Article 9 paragraph 3 has been submitted to the Competent Authority.
- d) An explanation in simple terms of the activity undertaken on the site.
- e) The common names or, if not possible, the generic names or the general danger classification of the substances involved on site which could give rise to a major-accident, with an indication of their principal dangerous characteristics.
- f) General information relating to the nature of the major-accident hazards, including their potential effects on the population and the environment.
- g) Details on how the population concerned will be warned and kept informed in the event of an accident.
- h) Details of the actions and behaviour the population concerned should take in the event of an accident.
- i) An assurance that the company has made adequate arrangements on site, including liaison with the emergency services, to deal with foreseeable accidents and to minimize their effects.
- j) A reference to the off-site emergency plan drawn up to cope with any off-site effects from an accident. This should include advice to co-operate with any instructions or requests from the emergency services at the time of an accident.
- k) Details of where further information can be obtained, such as general information on the preventive safety measures taken in the industrial activity and on the emergency plan, subject to the requirements of confidentiality laid down in national legislation.

Fiche d'impact de certains actes législatifs sur les PME et l'emploi

1. OBLIGATIONS ADMINISTRATIVES DECOULANT DE L'APPLICATION DE LA LEGISLATION POUR LES ENTREPRISES

Notification aux Autorités Compétentes selon les dispositions de l'Article 5 de la Directive 82/501/CEE

2. AVANTAGES POUR L'ENTREPRISE

- OUI/~~NON~~

- LESQUELLES

Les mesures de sécurité imposées aux installations dangereuses permettront de prévenir les accidents et d'en limiter les conséquences. La meilleure information du public permettra de limiter les conséquences des accidents.

3. INCONVENIENTS POUR L'ENTREPRISE

(Coûts supplémentaires)

- ~~OUI~~/~~NON~~

Il y aura des coûts supplémentaires seulement pour les entreprises qui ne respectent pas les exigences de sécurité.

- ~~CONSEQUENCES~~

4. EFFETS SUR L'EMPLOI Statu quo

5. Y A-T-IL EU CONCERTATION PREALABLE AVEC LES PARTENAIRES SOCIAUX ?

- OUI/~~NON~~

- AVIS DES PARTENAIRES SOCIAUX : Majorité des avis favorables

- Comité consultatif pour la sécurité, l'hygiène et la protection de la santé sur le lieu de travail

- différentes associations industrielles européennes telles que : CEFIC, CONCAWE, CMC Engrais, European LPG Association, Marcogaz, Industrial Gases Committee.

6. Y A-T-IL UNE APPROCHE ALTERNATIVE MOINS CONTRAIGNANTE ?

Non