Basic information

2010/0377(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Control of major-accident hazards involving dangerous substances Repealing Directive 96/82/EC, Seveso II 1994/0014(SYN) **Subject** 3.70.10 Man-made disasters, industrial pollution and accidents 3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport)	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ENVI Environment, Public Health and Food Safety	ÁDER János (PPE)	08/02/2011
	Shadow rapporteur ROSSI Oreste (PPE) WESTLUND Åsa (S&D) PANAYOTOV Vladko Todorov (ALDE) SCHLYTER Carl (Verts /ALE) RIVASI Michèle (Verts/ALE) ROSBACH Anna (ECR) WILS Sabine (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	HÉNIN Jacky (GUE/NGL)	14/03/2011
IMCO Internal Market and Consumer Protection	HANDZLIK Małgorzata (PPE)	10/02/2011

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3180	2012-06-26
Environment	3103	2011-06-21
Environment	3139	2011-12-19

European Commission	

Commission DG	Commissioner
Environment	POTOČNIK Janez

Key events

Date	Event	Reference	Summary
21/12/2010	Legislative proposal published	COM(2010)0781	Summary
18/01/2011	Committee referral announced in Parliament, 1st reading		
21/06/2011	Debate in Council		Summary
04/10/2011	Vote in committee, 1st reading		
12/10/2011	Committee report tabled for plenary, 1st reading	A7-0339/2011	Summary
19/12/2011	Debate in Council		Summary
13/06/2012	Debate in Parliament		
14/06/2012	Decision by Parliament, 1st reading	T7-0254/2012	Summary
14/06/2012	Results of vote in Parliament		
26/06/2012	Act adopted by Council after Parliament's 1st reading		
04/07/2012	Final act signed		
04/07/2012	End of procedure in Parliament		
24/07/2012	Final act published in Official Journal		

Technical information

Procedure reference	2010/0377(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 96/82/EC, Seveso II 1994/0014(SYN)
Legal basis	Treaty on the Functioning of the European Union TFEU 192-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ENVI/7/04950

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE464.978	19/05/2011	
Amendments tabled in committee		PE467.297	28/06/2011	
Amendments tabled in committee		PE467.346	30/06/2011	
Committee opinion	IMCO	PE464.762	16/08/2011	
Committee opinion	ITRE	PE464.945	28/09/2011	
Committee report tabled for plenary, 1st reading/single reading		A7-0339/2011	12/10/2011	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0254/2012	14/06/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00022/2012/LEX	04/07/2012	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0781	21/12/2010	Summary
Document attached to the procedure	SEC(2010)1590	21/12/2010	
Document attached to the procedure	SEC(2010)1591	21/12/2010	
Commission response to text adopted in plenary	SP(2012)540	12/07/2012	
Follow-up document	COM(2017)0122	09/03/2017	
Follow-up document	COM(2021)0487	20/08/2021	
Follow-up document	COM(2021)0599	29/09/2021	
Follow-up document	COM(2025)0508	19/09/2025	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	IT_SENATE	COM(2010)0781	28/02/2011	
Contribution	PT_PARLIAMENT	COM(2010)0781	11/03/2011	
Contribution	RO_SENATE	COM(2010)0781	23/03/2011	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1003/2011	15/06/2011	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Directive 2012/0018 OJ L 197 24.07.2012, p. 0001	Summary

Control of major-accident hazards involving dangerous substances

2010/0377(COD) - 21/06/2011

The Council took note of a **progress report** about ongoing work on the revision of the Seveso directive on the control of major-accident hazards involving dangerous substances.

During the discussions among Member States, a **broad common understanding** has been reached on several elements of the proposal, such as the obligations of the operator, emergency plans and domino effect.

Some aspects of the draft directive **must be further discussed**:

- scope**:** the key issue is the alignment of Annex I to the CLP Regulation and the impact on the scope of the Seveso III Directive and the changes related to health hazards and relevant exposure routes;
- derogations, in particular for individual establishments;
- provisions relating to information to the public, including provision for information to be kept permanently online;
- public consultation and participation in decision-making and access to justice where existing Union legislation (such as Directive 2003/4/EC and Directive 2003/35/EC) needs to be taken into account;
- inspections, in particular their content and periodicity; information system and exchanges where information to the public and reporting objectives need to be more clearly differentiated, although the deletion of the reference to the establishment of automated data exchange systems was supported;
- the role of the "forum" and the use of delegated acts;
- the delegation of powers to the Commission. Any delegation of powers will be limited in time and tacitly extended;
- transposition in relation to correlation tables.

The future Polish Presidency plans to continue work on the draft Directive, with two meetings of the Environment working group already scheduled in July 2011. Taking into account the progress made since January 2011 and the calendar of the European Parliament, the possibility of a first reading agreement could be envisaged at this stage.

Control of major-accident hazards involving dangerous substances

2010/0377(COD) - 21/12/2010 - Legislative proposal

PURPOSE: to revise Directive 96/82/EC (Directive Seveso II) due to changes in the EU system of classification of dangerous substances to which the Directive refers.

PROPOSED ACT: Directive of the European Parliament and of the Council. .

BACKGROUND: Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (the Seveso II directive) is aimed at preventing major accidents involving large quantities of dangerous substances (or mixtures thereof) as listed in its Annex I and to limit the consequences of such accidents for man and the environment. The Directive, which applies to around 10 000 establishments in the EU, has contributed to reducing the probability and consequences of such accidents and increasing the level of protection in the Union. It must, however, be **amended due to changes in the EU system of classification of dangerous substances to which the Directive refers**.

The review process, which was launched in 2008, revealed that that overall the existing provisions are fit for purpose and that no major changes are required. However, a number of areas were identified where limited amendments would be appropriate in order to clarify and update certain provisions and to improve implementation and enforceability while maintaining or slightly increasing the level of protection for health and environment.

IMPACT ASSESSMENT: the main problems covered in the impact assessment related to the alignment of Annex I to Regulation (EC) 1272/2008 on classification, labelling and packaging of substances and mixtures (the CLP Regulation) and the impact on the scope of the Directive, which was the key issue. Other issues related to information to the public and information management systems and land-use planning, and other detailed provisions which could usefully be clarified or updated.

- As regards the alignment of Annex I, the Commission is proposing the option that, in addition to a very limited impact on scope shared with other options, maintains a high level of protection taking into account the most likely and relevant exposure routes in the event of a major accident. To deal with situations arising over time from the alignment where substances are included/excluded under the Directive that do/do not present a major-accident hazard, a package of corrective mechanisms to adapt Annex I via delegated acts is proposed.

- As regards information to the public, etc, it is proposed to improve the level and quality of information and how this is collected, managed, made available, updated and shared in an efficient and streamlined way.

LEGAL BASE: Article 192(1) (protection of the environment) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the main reason for the revision of the Seveso II Directive is to **align its Annex I to Regulation (EC) No. 1272/2008 on classification, labelling and packaging of dangerous substances and mixtures (the CLP Regulation)**, which amends and repeals Directives 67/548/EEC and 1999/45 /EC to which the Seveso II Directive currently refers. The CLP rules become definitive with effect from 1 June 2015.

The main changes relate to health hazards. The former category "Very Toxic" has been aligned to the CLP category "Acute Toxic 1" and "Toxic" to "Acute Toxic 2" (all exposure routes) and "Acute Toxic 3" (dermal and inhalation routes.) Several more specific CLP categories for physical hazards that did not exist before replace the more general old categories for oxidizing, explosive, and flammable hazards. For the new category of flammable aerosols, the thresholds have been adapted proportionately to those that apply currently based on their flammable properties and components; and for reasons of consistency, the group of pyrophoric substances has been completed by the inclusion of pyrophoric solids.

The new Annex I Part 2 retains the old Part 1 largely unchanged. The only changes are the following: (i) an updated reference to the CLP Regulation for liquefied flammable gases; (ii) the inclusion of anhydrous ammonia, boron triflouride, and hydrogen sulphide as named substances, previously covered by their hazard categories, to keep their thresholds unchanged; (iii) the inclusion of heavy fuel oil in the entry for petroleum products; (iv) clarifications to the notes in relation to ammonium nitrate; (v) and an update of the toxic equivalency factors for dioxins.

Among the excluded areas are the offshore exploration and exploitation of minerals, including hydrocarbons. The Commission will assess the appropriate way to strengthen environmental legislation with provisions that may be necessary to complement existing environmental legislation in relation to pollution control, inspection and accident prevention and management as regards individual offshore installations, ensuring a high level of protection of the environment in such activities. Corresponding legislative proposals will include either extending the scope of existing legislation to offshore oil and gas installations or a stand-alone initiative for such operations.

BUDGETARY IMPLICATIONS: the proposal has no implication for the Union budget.

Control of major-accident hazards involving dangerous substances

2010/0377(COD) - 12/10/2011 - Committee report tabled for plenary, 1st reading/single reading

The Committee on the Environment, Public Health and Food Safety adopted a report by János ÁDER (EPP, HU) on the proposal for a directive of the European Parliament and of the Council on control of major-accident hazards involving dangerous substances. The committee recommends that the position of the European Parliament in first reading following the ordinary legislative procedure should be to amend the Commission proposal. The main amendments are as follows:

Delegated acts: the Commission proposal states that the Commission should be empowered to adopt delegated acts for adoption of criteria for derogations and amendments to the Annexes to the Directive. However, the committee considers that **only amendments to Annexes II to VI of the Directive should be done through delegated acts**. It states that Annexes I and VII to the Directive contain fundamental elements. Therefore, any amendments to those elements should be subject to the ordinary legislative procedure.

More specifically, it should be possible to amend by delegated acts:

- Part 3 of Annex I (List of dangerous substances-Substances and mixtures excluded from the Directive pursuant to Article 2(2)(h) and Article 4(1) which changes the scope, but only for very specific situations) and

- the Annexes II to VI.

Amendments to Part 1 (categories of substances and mixtures) **and 2** (named substances) of **Annex I - and to Annex VII** (criteria for derogations pursuant to Article 4) can have large impacts on the scope and **should therefore be dealt with through the ordinary legislative procedure.**

Derogations: Members consider that the assessment of possible derogations should start swiftly, in particular after the change of classification of a dangerous substance, to avoid unnecessary burdens for operators and competent authorities.

Criteria for derogations pursuant to Article 4 will be decided through the ordinary legislative procedure rather than through powers delegated to the Commission. The committee has amended Annex VII, stating that It is not acceptable to leave the Annex completely empty during the legislative procedure. This amendment includes the existing criteria as specified in Commission Decision 98/433/EC. The Commission is invited to come forward with a proposal for new criteria, so that they can still be included in the basic act.

Members clarified that where it is demonstrated, on the basis of the criteria set out in Annex VII that particular substances or mixtures covered by Parts 1 or 2 of Annex I are under specific conditions incapable of creating a major accident hazard, in particular due to their physical form, properties, classification, concentration or generic packaging, and should thus benefit from a derogation, the Commission may adopt delegated acts in order to list those substances and mixtures together with the applicable conditions, in Part 3 of Annex I.

The Commission shall consult the forum prior to listing substances in Part 3 of Annex I and about notifications. Previously, the Commission merely had to inform the forum.

Where a Member State considers that a dangerous substance not listed in Parts 1 or 2 of Annex I, presents a major-accident hazard, or that a threshold is too high, it may take appropriate measures and shall notify the Commission. In the event that the Commission considers that the non-listed dangerous substance should be listed in Part 1 or Part 2 of Annex I it shall present to that effect a legislative proposal to the European Parliament and to the Council.

The committee states that where it concerns very specific well defined cases, the addition of substances to Part 1 or 2 could result in a substantial extension of the scope, with potentially large economic impacts. As Member States may take appropriate measures if they consider that a dangerous substance presents a major-accident hazard, they will be able to act anyhow if necessary. The Commission will notify other Member States. Changing the scope for the EU as a whole should, however, subsequently take place trough the ordinary legislative procedure.

Where appropriate, the **Commission may adopt delegated acts in order to lower the threshold** of the substances in Part 1 or Part 2 of Annex I.

With regard to **derogations for establishments rather than for substances**, the proposal allows the competent authority of the Member State to authorise derogations at the level of individual establishments. As the level of protection should not decrease, the committee decided to **maintain in all cases at least the lower-tier requirements and to only allow for derogations for the information requirements for upper-tier establishments** (Article 9, (10 (b), 11, 13(2)).

Scope: Members point out that substances listed in Part 3 of Annex I are not excluded from the scope of the Directive, they only enjoy special treatment if strict conditions are fulfilled.

A new clause states that further extension of the scope of the Directive shall be preceded by an impact assessment.

Definitions: certain definitions are amended and new definitions are inserted, for terms such as 'neighbouring establishment' or 'neighbouring site', ‘appropriate safety distance’ ,and ‘domino effect’.

General obligations of the operator: a new clause states that the establishment must operate according to best available techniques, in particular in relation to safety aspects, pursuant to Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control), without any derogations.

Notification: Members add to requirements listed a certificate from the management of the establishment to the effect that the operator would be able to deal with the consequences of an accident involving dangerous substances.

The notification shall be sent to local authorities as well as the competent authority.

Members amended the time limits for notifications.

Major-accident prevention policy (MAPP): the document setting out the MAPP must also be sent to **local authorities** and shall include the operator's overall aims and principles of action, the timetable and measures for the attainment of these objectives the role and responsibility of management and shall demonstrate how a high level of protection with respect to major-accident hazards is continuously ensured. It must be **publicly available** on request.

Again, the committee amended the time limits for the document setting out the MAPP.

It added that the MAPP should be implemented by appropriate means, structures and management systems. For upper-tier establishments, it shall be implemented by safety management systems in accordance with Annex III. Member States shall require lower-tier establishments to implement the MAPP by means of a safety management system proportionate to the major-accident hazards, and to the complexity of the organisation or activities of the establishment, unless they consider it unnecessary.

Domino effect: the competent authority must identify all lower-tier and upper-tier establishments or groups of establishments where the likelihood and the possibility or consequences of a major accident may be increased because of the location and the proximity of such establishments, **or the natural**

risks associated with their geographical position, and their inventories of dangerous substances, or the proximity of other sites. Where the information provided by the is not sufficient or available, the competent authority must obtain information directly from the neighbouring establishments or sites, and makes it available to the operators.

The competent authority must take into account the domino effect when drawing up external emergency plans.

Safety report: the committee amended the time limits for the report. In addition, **several amendments are made to Annex II** (Minimum data and information to be considered in the safety report) **and Annex III** (Information referred to in the provisions on the safety report on the management system and the organisation of the establishment with a view to the prevention of major accidents.)

Information to the public: the text is amended to state that the information referred to in Part 1 and 2 of Annex V should be permanently available to the public, including in an electronic format, and that the **information referred to in Part 2a of Annex V is made available to the public at least upon reques** t. The information shall be kept up to date, and reviewed at least every three years.

Annex V contains the items of information to be made permanently available to the public, including through the internet. The committee proposes a requirement to explain the dangerous substances in simple terms on the internet and to indicate when an establishment has been inspected. The more detailed and specialised information on the dangerous substances and on the inspections should at least be made available on request. Member States can then decide themselves whether they consider it to be appropriate to put the more detailed and technical information on the internet.

Public consultation and participation in decision-making: the public must be given early and effective opportunities to participate in certain matters, including the safety report.

Information to be supplied by the operator following a major accident: Members expanded this list to include: (i) restoration of the environment, in the event of proven environmental damage to its original condition, where possible, and to appropriately compensate the population affected, as provided for in Directive 2004/35/EC on environmental liability; (ii) taking all necessary measures to inform victims of their rights; (iii) informing the public concerned of the relevant accident and of the measures undertaken by the operator and initiatives undertaken by the competent authority.

Forum: the forum shall include representatives of industry, workers and non-governmental organisations promoting the protection of human health and /or the environment in support of the application, implementation and technical adaptation of the Directive.

Inspections: the committee amended the text to state that the period between two site visits shall not exceed one year for upper-tier establishments and three years for lower-tier establishments, unless the competent authority has drawn up an inspection programme based on a systematic appraisal of major-accident hazards of the establishments concerned. If an inspection has identified an important case of non-compliance with this Directive, an additional site visit shall be carried out within six months.

On the point, **Members relaxed the Commission's requirements** stating that the tightening of legislation in the Commission proposal is unjustified in terms of safety technology. The existing system, which takes into account the inspection programme, has proven its worth and provides authorities with the necessary flexibility of a risk-oriented inspection programme. The proposed amendment would burden operators and authorities with extra costs without gain in safety.

Members state that where **best available technology** control systems are in place, inspections can be coordinated with the available data to facilitate the inspections.

Inspections shall be coordinated with inspections under other Union legislation, in particular Directive 2010/75/EU.

Reporting: Members specify that every four years the Commission shall submit to the European Parliament and to the Council a report on the major accidents that have occurred within the Union and their potential impact upon the efficient functioning of this Directive. However, following any accident considered as extremely serious in terms of number of victims or major damage to the environment, a report shall be drawn up with the aim of preventing possible new damage.

Access to information: the text is amended to state that if the operator has requested not to disclose certain parts of the safety report or the inventory of dangerous substances the competent authorities may refuse access in accordance with Article 4 of Directive 2003/4/EC.

Access to justice: the committee considers that in line with the Aarhus convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, the public will have access to justice and be able to legally review procedural and substantive legality of acts and omissions by private persons or public authorities. Access to justice **with regard to other requirements such as general obligations of the operators, inspections and safety reports will therefore also be possible for the public**.

Amendment of Annexes: within six months of an adaptation to technical progress being adopted as provided for in Regulation (EC) No 1272/2008, the Commission shall assess whether Annex I needs to be adapted, taking into account the potential for major accidents linked to a substance and the criteria adopted for the purposes of applying Article 4.

Review: the Commission shall examine:

- by 1 June 2013, whether offshore exploration and exploitation of minerals, including hydrocarbons, should be included in the scope of this Directive
- by 1 June 2015, whether transport of dangerous substances in pipelines, including pumping stations, should be included in the scope of the Directive;

- by 1 June 2015, whether further substances meeting the criteria for classification as carcinogenic, mutagenic or toxic to reproduction category 1A or 1B pursuant to Regulation (EC) No 1272/2008, mixtures containing such substances, and certain nanomaterials should be added to Annex I;

- by 1 June 2015, whether any substances meeting the criteria for classification as persistent, bioaccumulative and toxic, or as very persistent or very bioaccumulative in accordance with the criteria set out in Annex XIII of Regulation (EC) No 1907/2007 should be added to Annex I.

Legislative proposals shall be submitted where appropriate.

By 1 June 2020, and every three years thereafter, the Commission shall submit to the European Parliament and to the Council a report reviewing the implementation of the Directive.

Annexes: substantial amendments are made to the Annexes, including Parts of Annex I.

Control of major-accident hazards involving dangerous substances

2010/0377(COD) - 19/12/2011

The Council took note of a **progress report** regarding the proposal for a directive on control of major-accident hazards involving dangerous substances.

Extensive and intensive negotiations have taken place within the Council and with the European Parliament on this proposal and although progress was made on several political and technical issues, there are still some key elements of the directive that must be further discussed before an agreement is reached between the co-legislators.

Control of major-accident hazards involving dangerous substances

2010/0377(COD) - 14/06/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted 593 votes in favour, 12 against and 6 abstentions a legislative resolution on the proposal for a directive of the European Parliament and of the Council on control of major-accident hazards involving dangerous substances. Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments are the result of a compromise between Parliament and Council. The main amendments are as follows:

Scope: Parliament excluded from the scope of the Directive the storage of gas at underground offshore sites including both dedicated storage sites and sites where exploration and exploitation of minerals, including hydrocarbons are also carried out.

It added that onshore underground gas storage in natural strata, aquifers, salt cavities and disused mines and chemical and thermal processing operations and storage related to those operations which involve dangerous substances, as well as operational tailings disposal facilities, including tailing ponds or dams, containing dangerous substances shall be included within the scope of this Directive.

Moreover, the text notes that unwanted effects from the alignment to Regulation (EC) No 1272/2008 and subsequent adaptations to that Regulation having an impact on the classification of substances and mixtures may occur. On the basis of criteria included in this Directive, the Commission must assess whether, notwithstanding their hazard classification, there are dangerous substances that do not present a major-accident hazard and, where appropriate, **submit a legislative proposal to exclude the dangerous substance concerned from the scope of this Directive**. The assessment should start swiftly, in particular after the change of classification of a substance or mixture, in order to avoid unnecessary burdens for operators and competent authorities in the Member States. Exclusions from the scope of the Directive should not prevent any Member State from maintaining or introducing more stringent protective measures.

Assessment of major-accident hazards for a particular dangerous substance: the Commission shall assess, where appropriate or in any event on the basis of a notification by a Member State, whether it is impossible in practice for a particular dangerous substance covered by Part 1 (categories of dangerous substances) or listed in Part 2 (named dangerous substances) of Annex I (Dangerous substances), to cause a release of matter or energy that could create a major accident under both normal and abnormal conditions which can reasonably be foreseen. **Following this assessment, the Commission shall, if appropriate, present a legislative proposal** to the European Parliament and to the Council **to exclude the dangerous substance concerned from the scope of this Directive.**

The assessment shall take into account certain specified information (see below), and shall be based on one or more of the following characteristics: (i) the physical form of the dangerous substance under normal processing or handling conditions or in an unplanned loss of containment; (ii) the inherent properties of the dangerous substance, in particular those related to dispersive behaviour in a major-accident scenario, such as molecular mass and saturated vapour pressure; (iii) the maximum concentration of the substances in the case of mixtures.

Information necessary for assessing the health, physical and environmental hazard properties of the dangerous substance concerned shall include: (i) a comprehensive list of properties necessary to assess the dangerous substance's potential for causing physical, health or environmental harm; (ii) physical and chemical properties (for instance molecular mass, saturated vapour pressure, inherent toxicity, boiling point, reactivity, viscosity, solubility and other relevant properties); (iii) health and physical hazard properties (for instance reactivity, flammability, toxicity together with additional factors such as mode of attack on the body, injury to fatality ratio, and long-term effects, and other properties as relevant); (iv) environmental hazard properties (for instance ecotoxicity, persistence, bio-accumulation, potential for long-range environmental transport, and other properties as relevant); (v) where

available, the Union classification of the substance or mixture; (vi) information about substance-specific operating conditions (for instance temperature, pressure and other conditions as relevant) under which the dangerous substance is stored, used and/or may be present in the event of foreseeable abnormal operations or an accident such as fire.

References to derogations in the Commission proposal are deleted.

Delegated acts: the Commission proposal stated that the Commission should be empowered to adopt delegated acts for adoption of criteria for derogations and amendments to the Annexes to the Directive. However, the amended text states that the Commission will be empowered to adopt delegated acts in respect of amending Annexes II to VI to adapt them to technical progress.

General obligations of the operator: Member States shall ensure that the operator is obliged to take all necessary measures to prevent major accidents and to limit their consequences for human health and the environment.

Major-accident prevention policy (MAPP): the MAPP shall include the operator's overall aims and principles of action, the role and responsibility of management, as well as the **commitment towards continuously improving the control of major-accident hazards**, and ensuring a high level of protection.

The text specifies that the MAPP shall be implemented by appropriate means, structures and by a safety management system, in accordance with Annex III, proportionate to the major-accident hazards, and the complexity of the organisation or the activities of the establishment. For lower-tier establishments, the obligation to implement the MAPP may be fulfilled by other appropriate means, structures and management systems, proportionate to major-accident hazards, taking into account the principles set out in Annex III.

Domino effect: the competent authority must identify all lower-tier and upper-tier establishments or groups of establishments where the risk or consequences of a major accident may be increased because of the geographical position and the proximity of such establishments, and their inventories of dangerous substances.

Where the competent authority has additional information to that provided by the operator, it shall make this information available to that operator, if it is necessary for the application of provisions on the domino effect.

Safety report: the text adds in Annex II that the safety report must also contain a description of any technical and non-technical measures relevant for the reduction of the impact of a major accident.

The safety report shall be sent to the competent authority within the following time-limits: (i) for new establishments, a reasonable period of time prior to the start of construction or operation, or prior to the modifications leading to a change in the inventory of dangerous substances; (ii) for existing upper-tier establishments, 1 June 2016; (iii) for other establishments, two years from the date from which the Directive applies to the establishment concerned.

In the event of the **modification** of an installation, establishment, storage facility, or process or of the nature or physical form or quantity of dangerous substances which could have significant consequences for major-accident hazards, or could result in a lower-tier establishment becoming an upper-tier establishment or vice versa , Member States shall ensure that the operator reviews, and where necessary updates the notification, the MAPP, the safety management system and the safety report and informs the competent authority of the details of those updates in advance of that modification.

Emergency plan: the public concerned must be given early opportunity to give its opinion on external emergency plans when they are being established or substantially modified.

Information to the public: the information must be available electronically, and for upper-tier establishments, all persons likely to be affected by a major accident must receive regularly and in the most appropriate form, without having to request it, **clear and intelligible information** on safety measures and requisite behaviour in the event of a major accident. The information shall include at least the information referred to in Annex V and also be supplied to **all buildings and areas of public use.** ,It must be supplied at least every five years and periodically reviewed and where necessary, updated, including in the event of modifications to an establishment.

Public consultation and participation in decision-making: the text states that the public concerned must be given an early opportunity to give its opinion on specific individual projects relating to: (i) planning for new establishments; (ii) significant modifications to establishments; (iii) new developments around establishments where the siting or developments may increase the risk or consequences of a major accident.

Where general plans or programmes are being established relating to points (i) or (iii) above, the public must be given early and effective opportunities to participate in their preparation and modification or review using the procedures set out in Directive 2003/35/EC on public participation in respect of the drawing up of certain plans and programmes relating to the environment.

Member States shall identify the public entitled to participate for these purposes including relevant non-governmental organisations meeting any relevant requirements imposed under national law, such as those promoting environmental protection.

This provision does not apply to plans and programmes for which a public participation procedure is carried out under Directive 2001/42/EC.

The detailed arrangements for informing the public and consulting the public concerned shall be determined by the Member States.

Reasonable time-frames for the different phases shall be provided, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively in environmental decision-making.

Action to be taken by the competent authority following a major accident: the text adds that following a major accident, the competent authority must inform the persons likely to be affected, of the accident which has occurred and, where relevant, of the measures undertaken to mitigate its consequences.

Inspections: the period between two consecutive site visits shall not exceed **one year for upper-tier establishments and three years for lower-tier establishments**, unless the competent authority has drawn up an inspection programme based on a systematic appraisal of major-accident hazards of the establishments concerned.

Within **four months** after each inspection, the competent authority shall communicate the conclusions of the inspection and all the necessary actions identified to the operator. If an inspection has identified an important case of non-compliance with this Directive, an **additional inspection shall be carried out within six months.**

Information system and exchanges: the amended text states that for establishments covered by the Directive, Member States shall supply the Commission with at least the following information: (i) the name or trade name of the operator and the full address of the establishment concerned; (ii) the activity or activities of the establishment.

The Commission shall keep up to date a database containing the information supplied by Member States. Access to the database shall be restricted to persons authorised by the Commission or the competent authorities of the Member States.

Access to information and confidentiality: in the interests of transparency, the competent authority must be required to make any information held pursuant to this Directive available to any natural or legal person who so requests in accordance with Directive 2003/4/EC.

Access to justice: Member States shall ensure that (i) any applicant requesting information pursuant to the provisions on access to access to information or information to the public of the Directive is able to seek a review in accordance with Directive 2003/4/EC of the acts or omissions of a competent authority in relation to such a request; (ii) in their respective national legal system, members of the public concerned have access to the review procedures set up in Directive 2011/92/EU for cases subject to certain provisions on public consultation.

Guidance: a new clause states that the Commission may develop guidance on safety distance and domino effects.

Amendment of Annexes: the Commission shall be empowered to adopt delegated acts in order to **adapt Annexes II to VI to technical progress**. Such adaptations shall not result in substantial changes in the obligations of the Member States and the operators as laid down in this Directive.

Reporting and Review: by 30 September 2020, and every four years thereafter, the Commission, on the basis of information submitted by Member States and of information held in databases, and taking into account the implementation of Article 4 (Assessment of major-accident hazards for a particular dangerous substance), shall submit a report on the implementation and efficient functioning of the Directive, including information on major accidents that have occurred within the Union and their potential impact upon the implementation of the Directive. The Commission shall include in the first of those reports an assessment of the need to amend the scope of the Directive. Any report may, where appropriate, be accompanied by a legislative proposal.

The text adds that in the context of relevant Union legislation, the Commission may examine the need to address **the issue of financial responsibilities of the operator in relation to major accidents, including issues related to insurance.**

Control of major-accident hazards involving dangerous substances

2010/0377(COD) - 04/07/2012 - Final act

PURPOSE: to improve the control of major-accident hazards involving dangerous substances (Seveso III).

LEGISLATIVE ACT: Directive 2012/18/EU of the European Parliament and Council the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC.

CONTENT: following an agreement with the European Parliament on first reading, the Council adopted a Directive on control of major-accident hazards involving dangerous substances. The text of the Directive is the outcome of technical work and extensive and intensive negotiations between the Council, the European Parliament and the European Commission ("trilogues"), during the Hungarian, Polish and the Danish Presidencies.

The new Directive will replace, by 1 June 2015, the current Seveso II Directive which applies to around 10,000 establishments in the EU. It lays down rules for the prevention of major accidents which involve dangerous substances, and the limitation of their consequences for human health and the environment, with a view to ensuring a high level of protection throughout the Union in a consistent and effective manner.

The main objectives of the Directive are the following:

- align Annex I (defining the substances falling within the scope of the Directive) to changes in the EU system of classification of dangerous substances to which it refers;
- adapt Annex I to deal with situations occurring after the alignment where substances are included/excluded, that do/do not present a major-accident hazard;
- strengthen the provisions relating to public access to safety information, participation in decision-making and access to justice, and improve the way information is collected, managed, made available and shared;
- introduce stricter standards for inspections of installations to ensure the effective implementation and enforcement of safety rules.

Specifically, **the new Directive covers the following**:

- **the Commission shall assess**, where appropriate or in any event on the basis of a notification by a member state, whether it is impossible in practice for a particular dangerous substance to cause a release of matter or energy that could create a major accident under both normal and abnormal conditions which can reasonably be foreseen ;

- **the operator** will be obliged to take all necessary measures to prevent major accidents and to limit their consequences for human health and the environment;

- with the view to preventing major accidents, the operator shall draw up a **document in writing** setting out the major-accident prevention policy (MAPP) which shall include the commitment towards continuously improving the control of major-accident hazards, and ensuring a high level of protection;

- in order to **reduce the risk of domino effects**, operators should cooperate in the exchange of appropriate information and in informing the public, including neighbouring establishments that could be affected;

- in the case of establishments where dangerous substances are present in significant quantities, the operator must provide the competent authority with information in the form of a **safety report**;

- in the case of establishments where dangerous substances are present in significant quantities, it is necessary to establish **internal and external emergency plans** and to establish procedures to ensure that those plans are tested and revised as necessary and implemented in the event of a major accident or the likelihood;

- **after a major accident**, the competent authorities must inform the persons likely to be affected, of the accident which has occurred and, where relevant, of the measures undertaken to mitigate its consequences;

- **the information is permanently available to the public**, including electronically. For «upper-tier» establishments, member states shall also ensure that, all persons likely to be affected by a major accident receive regularly and in the most appropriate form, without having to request it, clear and intelligible information on safety measures and requisite behaviour in the event of an accident;

- **the public concerned is given an early opportunity to give its opinion** on specific individual projects relating to: i) planning for new establishments; ii) significant modifications to establishments; iii) new developments around establishments where the siting or developments may increase the risk;

- Member States shall ensure that the competent authorities organise a **system of inspections** and that all establishments are covered by an inspection plan at national, regional or local level and shall ensure that this plan is regularly reviewed. The period between two consecutive site visits shall not exceed one year for upper-tier establishments and three years for lower-tier establishments.

By 30 September 2020, and every four years thereafter, the Commission, shall **report** on the implementation and efficient functioning of this Directive, including information on major accidents that have occurred within the Union and their potential impact upon the implementation of this Directive.

ENTRY INTO FORCE: 13/08/2012.

TRANSPOSITION: 31/05/2015.

APPLICATION: to apply from 01/06/2015.

DELEGATED ACTS: the Commission can adopt delegated acts to take account of technoogical changes. The power to adopt delegated acts shall be conferred on the Commission for a period of **five years** from 13 August 2012 (tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension). The European Parliament or the Council can object to delegated acts within a period of **two months** of notification of that act (this notification can be extended by two months). If the European Parliament or the Council objects, the delegated act will not come into force.