

COUNCIL DIRECTIVE

of 24 November 1988

amending Directive 82/501/EEC on the major-accident hazards of certain industrial activities

(88/610/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the protection of man and the environment calls for the provisions of Directive 82/501/EEC ⁽⁴⁾, as last amended by Directive 87/216/EEC ⁽⁵⁾, to be strengthened with regard to the storage of dangerous substances or preparations;

Whereas the present amendment to Directive 82/501/EEC extends and strengthens Annex II of that Directive concerning the storage of dangerous substances or preparations, whether in bulk or in packaged form;

Whereas the storage of dangerous substances or preparations may present 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 the storage of dangerous substances or preparations to which Directive 82/501/EEC must 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';

Whereas the provisions with regard to information to the public laid down in Article 8 of 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 of that Directive is appropriately and effectively informed, in a harmonized way throughout the whole Community, on all matters relating to safety; whereas area and persons liable to be affected are defined by reference to the nature, extent and likely effects of possible major accidents occurring in the industrial activities;

Whereas it is necessary that the content of the information referred to in Article 8 of Directive 82/501/EEC 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 persons concerned, without a request being made, through some kind of public information media, such as leaflets or information boards;

Whereas, in its Resolution adopted on 24 November 1986, the Council 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 Commission will present a proposal for a complete and systematic revision of the Annexes of Directive 82/501/EEC once further experience has been obtained;

Whereas the Advisory Committee on Safety, Hygiene and Health Protection at Work, set up by Decision 74/325/EEC ⁽⁶⁾, has been consulted,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 82/501/EEC is hereby amended as follows:

1. Article 8 (1) shall be replaced by the following:

'1. Member States shall ensure that information on safety measures and on the correct behaviour to adopt

⁽¹⁾ OJ No. C 119, 6. 5. 1988, p. 2.

⁽²⁾ OJ No C 290, 14. 11. 1988.

⁽³⁾ OJ No C 208, 8. 8. 1988, p. 5.

⁽⁴⁾ OJ No L 230, 5. 8. 1982, p. 1.

⁽⁵⁾ OJ No L 85, 28. 3. 1987, p. 36.

⁽⁶⁾ OJ No L 185, 9. 7. 1974, p. 15.

in the case of an accident is supplied in an appropriate manner, and without their having to request it, to persons liable to be affected by a major accident originating in a notified industrial activity within the meaning of Article 5. The information shall be repeated and updated at appropriate intervals. It shall also be made publicly available.

Such information shall contain that laid down in Annex VII.'

2. Annex II shall be replaced by that in Annex A to this Directive.
3. The following shall be added to Annex IV:
 - 'e) **Oxidizing substances:**
Substances which give rise to highly exothermic reaction when in contact with other substances, particularly flammable substances'
4. Annex VII, which appears in Annex B to this Directive, shall be added.

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 Directive, this Directive shall apply at the latest on 1 June 1991.

2. In the case provided for in paragraph 1, the declaration provided for in Article 9 (3) of Directive 82/501/EEC shall be submitted to the competent authority at the latest on 1 June 1991 and the supplementary declaration provided for in Article 9 (4) of the said Directive shall be submitted to the competent authority at the latest on 1 June 1994.

Article 3

1. Member States shall take the measures necessary to comply with this Directive at the latest on 1 June 1990. 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.

Done at Brussels, 24 November 1988.

For the Council

The President

V. KEDIKOGLOU

ANNEX A

ANNEX II

STORAGE OTHER THAN OF SUBSTANCES LISTED IN ANNEX III ASSOCIATED WITH AN INSTALLATION REFERRED TO IN ANNEX I

This Annex applies to storage of dangerous substances and/or preparations at any place, installation, premises, building or area of land, isolated or within an establishment, being a site used for the purpose of storage, except where that storage is associated with an installation covered by Annex I and where the substances in question appear in Annex III.

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

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

Substances or groups of substances	Quantity (tonnes) \geq	
	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 fertilizers ⁽²⁾	1 250	10 000
7. Sodium chlorate	25	250
8. 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. Diphenyl methane di-isocyanate (MDI)	20	200
28. Toluene di-isocyanate (TDI)	10	100

⁽¹⁾ This applies to ammonium nitrate and mixtures of ammonium nitrate where the nitrogen content derived from the ammonium nitrate is greater than 28 % by weight and aqueous solutions of ammonium nitrate where the concentration of ammonium nitrate is greater than 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 greater than 28 % by weight (a compound fertilizer contains ammonium nitrate together with phosphate and/or potash).

PART II

Categories of substances and preparations not specifically named in part I

The quantities of different substances and preparations ⁽¹⁾ 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 ⁽²⁾	Quantity (tonnes) ≥	
	for application of Articles 3 und 4	for application of Article 5 ⁽³⁾
1. Substances and preparations that are classified as 'very toxic'	5	20
2. Substances and preparations that are classified as 'very toxic', 'toxic' ⁽⁴⁾ , 'oxydizing' or 'explosive'	10	200
3. Gaseous substances and preparations including those in liquefied form, which are gaseous at normal pressure and which are classified as 'highly flammable' ⁽⁵⁾	50	200
4. Substances and preparations (excluding gaseous substances and preparations covered under item 3 above) which are classified as 'highly flammable' or 'extremely flammable' ⁽⁶⁾	5 000	50 000

⁽¹⁾ Preparations are mixtures or solutions consisting of two or more substances (Directive 79/831/EEC).

⁽²⁾ The categories of substances and preparations are as defined in the following Directives and their amendments:

- Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances,
- Council Directive 73/173/EEC of 4 June 1973 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 of 7 November 1977 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of paints, varnishes, printing inks, adhesives and similar products,
- Council Directive 78/631/EEC of 26 June 1978 on the approximation of the laws of the Member States relating to the classification, packaging and labelling of dangerous preparations (pesticides),
- Council Directive 88/379/EEC of 7 June 1988 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations.

⁽³⁾ Articles 5 (1) (a) and 5 (1) (b), third indent, apply where appropriate.

⁽⁴⁾ Where the substances and preparations are in a state which gives them properties capable of creating a major-accident hazard.

⁽⁵⁾ This includes flammable gases as defined in Annex IV (c) (i).

⁽⁶⁾ This includes highly flammable liquids as defined in Annex IV (c) (ii).

ANNEX B

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 held, of the person giving the information.
 - (c) Confirmation that the site is subject to the regulations and/or administrative provisions implementing the Directive and that the notification referred to in Article 5 or at least the declaration provided for in Article 9 (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, in the case of storage covered by Part II of Annex II, the generic names or the general danger classification of the substances and preparations 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) Adequate information on how the population concerned will be warned and kept informed in the event of an accident.
 - (h) Adequate information on the actions the population concerned should take, and on the behaviour they should adopt, in the event of an accident.
 - (i) Confirmation that the company is required to make adequate arrangements on site, including liaison with the emergency services, to deal with 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 cooperate with any instructions or requests from the emergency services at the time of an accident.
 - (k) Details of where further relevant information can be obtained, subject to the requirements of confidentiality laid down in national legislation.
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