



An Roinn Fiontar, Trádála agus Nuálaíochta **Department of Enterprise, Trade and Innovation**

Public Consultation

European Commission Proposal for a Directive on the Control of Major-Accident Hazards Involving Dangerous Substances (the “Seveso III Directive”)

1. Current Legislation

EU Directive 96/82/EC (the “Seveso II” Directive) is aimed at preventing major accidents involving dangerous substances and limiting the consequences in the event of such a major accident. The Directive was amended in 2003 by EU Directive 2003/105/EC. The “European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006” (S.I. No. 74 of 2006) transpose the Seveso II Directive, as amended, into Irish law.

2. Reason for the Commission Proposal for a new Seveso III Directive

The European Commission adopted a proposal for a new Seveso III Directive on 21 December 2010. The existing Directive has to be amended due to changes in the EU system of classification of dangerous substances introduced by 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 EU Commission decided in 2008 to launch a wider review of the Directive, and the current proposal reflects changes additional to classification of substances.

3. Main Changes Proposed by the Commission

A. Article 2 - Scope

Article 2 defines the scope of the Directive, which applies to establishments where dangerous substances listed in Annex I are present above prescribed thresholds. Some changes have been made to the exclusions to the Directive under Article 2 (Article 4 of the current Directive) including specific reference being made to underground gas storage and underground waste storage.

B. Article 3 - Definitions

Some clarifications have been made to existing definitions and several new definitions have been added, for example definitions of “lower-tier establishment” and “upper-tier establishment”, “the public” and “inspection” have been included in the text.

C. Article 4 – Derogation and Safeguard Clauses

This is a new Article which is intended to provide for the exclusion of substances from being regarded as dangerous substances for the purposes of the Directive because they do not present a major accident hazard.

D. Article 6 – Notification

This Article extends the information obligations in relation to notifications. In addition, operators will be required to update their notifications at least every five years.

E. Article 7 – Major-Accident Prevention Policy

A number of changes have been made here, for example the introduction of a requirement that the major-accident prevention policy (MAPP) should be available in writing and sent to the competent authority and that it should be updated at least every 5 years.

F. Article 8 – Domino Effect

Changes made here include clarifications to make it clear that the key aim is to ensure that operators exchange information with neighbouring establishments, including those that fall outside the scope of the Directive.

G. Article 9 – Safety Report

The relationship between the major-accident prevention policy (MAPP) and the safety management system (SMS) is clarified. The need for the safety report to demonstrate that possible major-accident scenarios have been taken into account is among the changes proposed.

H. Article 11 – Emergency Plans

This Article requires that public consultation on external emergency plans (EEPs) is in line with the principles of the relevant provisions of Directive 2003/35/EC implementing the Aarhus Convention; and makes clearer the separation of responsibilities between operators and competent authorities in relation to the review, testing and updating of internal and external emergency plans. A new obligation is for the competent authority to draw up the external emergency plan within 12 months after receipt of the necessary information from the operator.

I. Article 12 – Land-Use Planning

A number of changes have been made here, for example, clarification that the aim is to protect the environment as well as human health and to provide the possibility for competent authorities to require lower-tier establishments to provide sufficient risk-related information for the purposes of land-use planning.

J. Article 13 – Information to the Public

Changes proposed here include extension of the information to include basic information for all establishments which is provided to the Commission under Article 19 of the current Directive but is not made publicly available; for upper-tier establishments a summary of the major-accident scenarios and key information from the external emergency plan; and without precluding other forms of communication, to have this information kept permanently available to the public online and provided to a central database at Union level as provided for in Article 20.

K. Article 14 – Public Consultation and Participation in Decision-Making

This is a new Article that builds on and extends the requirements laid down in Article 13(5) of the current Directive requiring that the public should be able to give its opinion in certain cases relating to land-use planning, modifications to existing establishments, external emergency plans, etc.

L. Articles 15 and 16 – Information to be Supplied by the Operator

Following a Major Accident (15) and Information to be Supplied by the Member State Following a Major Accident (16)

The main change is setting a 12 months deadline for the submission of reports to avoid lengthy delays in the reporting of accidents by Member States.

M. Articles 17, 18, 19 and 27 – Competent Authority (17), Prohibition of Use (18), Inspections (19) and Penalties (27)

Some of the changes proposed here include the introduction of a requirement under Article 17 for Member States with more than one competent authority to appoint one to take the lead in coordinating activities; changes to the existing requirements regarding inspections under Article 19; and a new Article 27 dealing with penalties.

N. Article 21 - Confidentiality

This sets out new rules on confidentiality, which are based on Directive 2003/4/EC implementing the provisions of the Aarhus Convention.

O. Article 22 - Access to Justice

This Article is a new provision aimed at bringing the Directive more into line with the Aarhus Convention.

P. Articles 23 to 26 – Amendment of Annexes (23), Exercise of Delegation (24), Revocation of Delegation (25), and Objections to Delegated Acts (26).

Article 23 provides that Annexes I to VII will be adapted to technical progress by delegated acts.

Q. Annex I – List of Dangerous Substances

The order of Parts 1 and 2 of Annex I have been reversed. The main change in terms of the content concerns health hazards.

R. Annex V – Items of Information to be Communicated to the Public as Provided for in Article 13(1) and (2)(a).

The main changes to the list of requirements are in Part 1, for all establishments, the inclusion of inspections carried out; where further information can be obtained; and transboundary impacts where appropriate among other changes.

4. Deadline for submissions

The Department of Enterprise, Trade and Innovation invites views on the Commission's proposal. Submissions should be sent by email to chemicals@deti.ie to arrive no later than 28 February 2011. Please note that all submissions will be published.

**Department of Enterprise, Trade and Innovation
January 2011**