



**EUROPEAN COMMISSION**  
**DIRECTORATE GENERAL**  
**JOINT RESEARCH CENTRE**  
 Institute for the Protection and Security of the Citizen  
 Traceability and Vulnerability Assessment Unit



## Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances – Guidance on technical implementation issues

The following questions have been put to the services of the European Commission by the National Authorities of the Member States. The technical guidance provided below by the Commission is the result of discussions with the representatives of the Member States.

This technical guidance does not represent an official position of the Commission and cannot be invoked as such in the context of legal proceedings. Final judgements concerning the interpretation of the Directive can only be made by the European Court of Justice.

Ref. N°	QUESTION	GUIDANCE ON TECHNICAL IMPLEMENTATION
1	<p><u>Definition of dangerous substance</u></p> <p>The definition for dangerous substance given in Article 3(10) of the Directive includes “... <i>and present as a raw material, product, by-product, residue or intermediate...</i>”. A multinational company has made an interpretation that solvents involved in a chemical process are excluded because they are not covered by the above list. Are solvents covered by the Directive?</p>	<p>Yes, solvents are covered by the Directive. The text “...<i>raw material, product, by-product, residue or intermediate, etc.</i>” is intended as a comprehensive list covering all cases of chemicals present at an establishment. This intent is made more clear in recital (12) of the Directive, as given below :</p> <p><i>” Where dangerous substances are present in establishments above certain quantities the operator should provide the competent authority with sufficient information to enable it to identify the establishment, the dangerous substances present and the potential dangers”.</i> However, it can be noted that there may be some cases which, although there could be a theoretical argument to suggest that they could fit within the scope of the Directive, are clearly not intended to be covered e.g. asbestos used in building materials for the construction of buildings.</p>
2	<p><u>Demolition Activities</u></p> <p>In what respect does the Directive apply to the demolition of a building (e.g. power station) or means of transport (e.g. railway carriage) containing asbestos, where the asbestos had been used in materials for the construction of the</p>	<p>Asbestos does not seem to be classified for any of the health hazard categories covered by the Directive?</p>

	<p>structure or means of transport concerned?</p> <p>Would the removal of asbestos board used in buildings or means of transport be within the scope of the Directive?</p>	<p>No; the agreed interpretation of “dangerous substances” notes that <i>there may be some cases which, although there could be a theoretical argument to suggest that they could fit within the scope of the Directive, are clearly not intended to be covered e.g. asbestos used in building materials for the construction of buildings.</i></p> <p>A building in demolition would not normally come under Seveso II, nor would a railway carriage in demolition. Similarly, the removal of asbestos board used in buildings or means of transport is not within the scope of the Directive.</p> <p>However a site whose activity was the demolition of railway carriages containing toxic materials could do so; in general the materials concerned would be treated in the same way as waste.</p>
3	<p><u>Labelling of dangerous substances</u></p> <p>Does the Directive apply to substances which are <u>labelled</u> as toxic but not classified as toxic (e.g. carcinogens, mutagens, teratogens)?</p>	<p>No, it is the <u>classification</u> under CLP-Regulation (EC) No 1272/2008 (as amended and updated) which matters - unless of course the substances are named in Part 2 of Annex I.</p>
4	<p><u>Powders</u></p> <p>Are powders covered by the Directive?</p>	<p>Annex I of the Directive does not distinguish between physical characteristics of the substances covered except where clearly stated. Therefore powders are covered by the Directive in so far as they are a powder of a named substance under Part 2 of Annex 1 or are classified according to the categories listed in Part 1 of Annex 1.</p>
5	<p><u>Ionizing radiation</u></p> <p>With reference to Article 2.2 (b) relating to the exclusion of hazards created by ionizing radiation, does the Directive apply to nuclear materials which are also toxic?</p>	<p>The exclusion of “hazards created by ionising radiation originating from substances” is an acknowledgement of the existing comprehensive arrangements within the Member States for dealing with nuclear materials. Given this situation, it is not considered necessary to apply Seveso III to ‘toxic’ nuclear materials at the same time as nuclear legislation, as this would give rise to unnecessary duplication and confusion. However, dangerous substances (as defined within SevesoIII) which do not pose a hazard created by ionizing radiation are covered by the Seveso III Directive even if they are within a nuclear establishment.</p>
6	<p><u>No entry in Column 2</u></p> <p>For Part 2 substances which have no entry in column 2, does this mean that Articles 7 and 10 are applied only once the value in column 3 is reached, or are Articles 7 and 8 applicable as soon as there is any of the substance present?</p>	<p>The first interpretation is correct: Articles 7 and 10 apply together when the column 3 threshold is reached.</p>
7	<p><u>2% Rule</u></p> <p>Can the “2% rule” (Point 3 in the Notes to Annex I) be applied to a substance in</p>	<p>Yes. (The word ‘only’ is intended to refer to the quantities under consideration, not</p>

	one location at an establishment when the same substance is present elsewhere at quantities greater than 2%? (This question addresses the scope of the word 'only' in the Note: "Dangerous substances present at an establishment <i>only</i> in quantities equal to or less than 2 %...")	the total amount of substance.)  However, it is important to note that there is a second condition for the "2% rule" to be applied, i.e. that the substance in question cannot act as an initiator of a major accident elsewhere on the site.
8	<u>2% rule - Summation rule</u>  For the application of the summation rule, how should the authorities treat the case of a substance which has two classifications, and is present in quantities greater than 2% of one of its qualifying thresholds but less than 2% of the other? Clearly, the summation rule must be applied for the classification for which the quantity exceeds 2%, but should it also be applied in the case when the quantity is less than 2% (assuming the condition that the substance cannot act as an initiator of a major accident elsewhere is satisfied)?	According to note 3 to Annex I, this question only arises if the substance in question is in a location such that it cannot act as an initiator of a major accident elsewhere on the site. Provided that condition is satisfied, the answer to the question is "no". The substance's presence should only count towards the summation rule for the classification for which its quantity exceeds 2% of the qualifying quantity.  Of course, if the establishment comes under the Directive, then, when the safety report is being drawn up, the true hazard presented by the substance must be evaluated.
9	<u>Contaminated Soil</u>  How should contaminated soil be treated?	Note 5 to Annex I states that "in the case of dangerous substances which are not covered by Regulation (EC) N° 1272/2008, including waste, (...) but which possess or are likely to possess equivalent properties in terms of major-accident potential, these shall be provisionally assigned to the most analogous category or dangerous substance falling within the scope of this Directive. Therefore where contaminated soil is stored or processed on a site, it should be treated on the basis of its properties as a mixture. However, soil which is in the ground does not bring an establishment under the Directive.  If the classification cannot be carried out by this procedure (meaning the referenced Regulation in Note 5 to Annex I) other relevant sources of information may be used e.g. information concerning the origin of the waste, practical experience, testing, transport classification or classification according to the European waste legislation.
10	<u>Summation rule</u> a) Does the summation rule apply when an establishment has several Part 2 substances? The specific query arose from a company which holds quantities of both ethylene oxide and propylene oxide which are just below the qualifying quantities given in Part 2 for each substance. (e.g. 4 tonnes of each). The company has stated that there is no mention of the summation rule applying to part 2 substances in note 4 to Annex I and therefore the summation rule does not apply. Is this correct?  b) A similar question under this heading concerns the carcinogens named in Part I: does a site holding a total of more than 2 <i>tons</i> of them in total, but less than 2 tons of each individual substance, thus become a top-tier site?	a) This is not a correct interpretation of the Directive. The fact that a substance is listed in Part 2 does not preclude its " <i>classification</i> " under Part 1 for the application of the summation rule. Taking the example of ethylene oxide and propylene oxide: Ethylene oxide is in Part 2 and, reading Note 4 (a) to Annex I, propylene oxide is a " <i>substance having the same classification from Part 2</i> ", therefore the rule applies using the quantities set out in Part 2 for both substances when making the addition.  b) Yes: the carcinogens are listed as one item in Annex I Part 2, and therefore should be considered as one item.

	<p>c) When the Part 1 / Part 2 summation rule is applied, which thresholds should be taken for the Part 2 substances - those for each of the substances involved, or that for the category? Also, when a Part 2 substance is being added to Part 1 substances, <i>how</i> should the summation be carried out? Consider the case of an establishment with:</p> <p>x kg. of chlorine, which is classified both acute toxic 2 inhalation and Aquatic acute 1 and is an Annex I Part 2 named substance, with a lower threshold of 10 tonnes;</p> <p>y kg. of unnamed acute toxic 2 substances;</p> <p>z kg. of unnamed "Section E1" substances.</p> <p>Which formula should be used for the lower-tier threshold:</p> <p>i) <math>x/10000 + y/50000 &gt; 1</math> or <math>x/10000 + z/200000 &gt; 1</math>?</p> <p>ii) <math>(x + y)/50000 &gt; 1</math> or <math>(x+z/200000) &gt; 1</math>?</p>	<p>c) The thresholds to be used are those for the substance concerned, not for the category; and for categories in Section H and Section E it must be checked separately if the sum of fractions is equal or bigger than 1, in other words, formula (i). (A similar calculation may of course have to be carried out for categories in Section P).</p>
11	<p><u>Summation Rule</u></p> <p>Section O in Annex I Part 1 contains three subcategories. Should these be considered together for the application of the summation rule?</p>	<p>No. Substances with O classifications should be summed only among themselves. Because the hazard of these three subcategories is fundamentally distinct, there is no reason to sum the Section O categories together.</p>
12	<p><u>Summation Rule</u></p> <p>To what category do polichlorodibenzofurans and polychlorodibenzodioxins belong for the purposes of the summation rule?</p>	<p>To Section H - in that the risks of exposure are linked to short- or long-term toxic effects.</p>
13	<p><u>Fuel Additives:</u></p> <p>How shall fuel additives which contain substantial amounts of solvent naphtha,, diesel or similar substances be regarded ? Usually such fuel additives are preparations of solvents with substances like ethylene-vinyl acetate copolymer or blends of solvents with various other hydrocarbon components classified R 51/53, with a proportion of normally more than 60 % of solvent. Shall the preparation be classified R 51/53 because of the solvent or diesel amount or can it be grouped into "petroleum products"?</p>	<p><b>TO BE DISCUSSED</b></p> <p>Tables 1 - 4 of annex III of Directive 1999/45 contain percentage thresholds for preparations, which indicate if a mixture is "dangerous for the environment". If the preparation contains <math>\geq 2,5</math> % of another R 50 – 53 substance the whole mixture is classified R 51/53; the same applies if the R 51/53 content is <math>\geq 25</math> %.</p> <p>In the case of a mixture as described in the question both fractions could be have an R 51/53 (or even R 50 – 53) phrase., so in principle the whole preparation would need this classification. But as the legislator's intent was to create a special group of named substances being aware that this means an increased threshold it is justified to apply this reasoning also to the question of concern. If therefore a mixture as described would be classified by its content of a petroleum product, it shall be regarded as a petroleum product altogether (thus having no R 51/53 phrase). Only if the qualifying fraction of the non-petroleum product exceeds 25 %, the whole mixture shall be grouped into category 9.</p>
14	<p><u>Petroleum Products</u></p> <p>How is the group of named substances "petroleum products" defined?</p>	<p><b>TO BE DISCUSSED WITH MS</b></p>

	<p>Is shale oil a petroleum product?</p>	<p>The group of named substances “petroleum products” at first is defined by five subgroups:</p> <ul style="list-style-type: none"> <li>(a) gasolines and naphthas,</li> <li>(b) kerosenes (including jet fuels),</li> <li>(c) gas oils (including diesel fuels, home heating oils and gas oil blending streams)</li> <li>d) heavy fuel oils</li> <li>(e) alternative fuels serving the same purposes and with similar properties as regards flammability and environmental hazards as the products referred to in points (a) to (d)</li> </ul> <p>“Petroleum” in its meaning in English language is a synonym for “crude oil” which indicates that only products originating from crude oil are concerned. Shale oil therefore is no petroleum product. It has to be classified by its flash point or properties dangerous for the environment either in categories <b>P5 or E</b>.</p> <p>Petroleum products may be defined by their production conditions, for example:</p> <ul style="list-style-type: none"> <li>- gasoline and naphtha: boiling range of -20° C – 250° C and C-range of C4-C12</li> <li>- kerosene: boiling range of 70° C – 290° C and C-range of C7 – C17</li> <li>- gas oils: boiling range of 150° C – 500° C and a C-range of C9 – C25</li> </ul> <p>More information may be taken from the CONCAWE reports 92/103 (gasoline), 94/106 (kerosene) and 95/107 (gas oils).</p> <p>If the definition by distillation ranges is not known or not feasible to identify, the UN/ADR codes can serve as information source, as they define as follows:</p> <ul style="list-style-type: none"> <li>- 1202 gas oils and diesel</li> <li>- 1203 gasoline</li> <li>- 1223 kerosene</li> </ul> <p>(1288 is the UN/ADR code for shale oil).</p>
15	<p><u>Petroleum Products</u></p> <p>Should pentane be counted under this heading?</p>	<p>No</p>
16	<p><u>Additives to petroleum products</u></p> <p>If the final use of a substance is to be added, in small percentages, to automotive petrol, does that mean that the substance should be regarded as being assimilated to the category “petroleum products”?</p>	<p>No. The substance must be classified on the basis of its intrinsic properties; its final use is not relevant.</p>
17	<p><u>Nickel compounds</u></p> <p>What does the term “nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)” (Annex I Part 1) cover? Does it cover nickel metal? Are the compounds named in brackets intended to be examples, or an exhaustive list?</p>	<p>Nickel metal is not covered. The list is exhaustive.</p>

18	<p><u>Phosphorus</u></p> <p>Does the Directive cover phosphorus?</p>	<p>Yes, white phosphorus is classified within the category H2 (Acute Toxic) in Part 1 of Annex I.</p>
19	<p><u>Town gas</u></p> <p>Does town gas come under the category “liquefied extremely flammable gases (including LPG) and natural gas”?</p>	<p>No. Unless it is liquefied, town gas should be treated as an extremely flammable gas (Annex I Part 1 Category P2).</p>
20	<p><u>Potassium Nitrate</u></p> <p>In the Notes 17 and 18, potassium nitrate is defined as “composite potassium-nitrate based fertilisers” without any further limits in terms of hazard potential or without referring to certain types of fertilisers defined in Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers.</p> <p>Does this mean that all composite potassium-nitrate based fertilisers come into the named group even if the fertiliser does not have any dangerous properties?</p>	<p>No; the named group only applies to those composite potassium-nitrate based fertilisers which have the same hazardous properties as pure potassium nitrate, regarding the physical conditions listed in notes 17 and 18 (prilled/granular or crystalline form).</p>
21	<p><u>Methanol</u></p> <p>How should solutions of methanol be treated? Note 2 to Annex I states that “... mixtures shall be treated in the same way as pure substances provided they remain within concentration limits set according to their properties...”. Since methanol has different concentration limits for its different properties, (acutely toxic, chronically toxic, and flammable), it is not clear which concentration limit applies.</p>	<p>The concentration limit, which is used only when determining if the Seveso Directive applies, is 10%, the lower of the toxic concentration limits. This means that solutions of methanol continue to be treated as methanol so long as the methanol concentration is 10% or more.</p> <p>Any other interpretation would lead to inconsistent results.</p>
22	<p><u>Ammonium Nitrate Fertilisers, Entry 2 Part 2 (Note 14)</u></p> <p>Ammonium nitrate fertilisers are defined as “straight ammonium nitrate-based fertilisers and ammonium nitrate-based compound/composite fertilisers” based on “the nitrogen content as a result of ammonium nitrate”.</p> <p>Should the calculation of nitrogen content derived from ammonium nitrate also include all nitrate ions for which a molecular equivalent of ammonium ions are present in the mixture even if the ammonium ions and nitrate ions come from salts other than ammonium nitrate?</p>	<p>Yes. As established in UN ADR Special Provision 186, it is standard practice in determining the nitrogen content of ammonium nitrate fertilisers to count all nitrate ions for which a molecular equivalent of ammonium ions are present in the mixture. The chemical nature of the source of the ions for this calculation is not taken into consideration.</p> <p><b>Concluded at the 24<sup>th</sup> CCA meeting</b></p>

23	<p><u>Waste</u></p> <p>Does the Directive cover waste?</p>	<p>Yes; Note 5 to Annex I of the Seveso III-Directive makes reference to Regulation (EC) No 1272/2008 and mentions waste explicitly. Therefore waste is treated on the basis of its properties as a mixture. It is the obligation of an operator to define the classification of this mixture. If the classification cannot be carried out by the procedures under Regulation (EC) N° 1272/2008; other relevant sources of information may be used, e.g. information concerning the origin of the waste, practical experience, testing, transport classification or classification according to the European waste legislation.</p>
24	<p><u>Named gas above its boiling point</u></p> <p>If a gaseous substance named in Annex I Part 2 is kept as a liquid above its boiling point, which thresholds apply to it: those given in Annex I Part 2, or those of an extremely flammable liquid (Annex I Part 1 Cat. P5a)</p>	<p>The thresholds to be used are those of Annex I Part 2. The substance is still the same substance, and Annex I Part 2 states explicitly that the thresholds of Part 2 take precedence over those of Part 1. This does not apply however to the substances listed in Part 2 which include a reference to Note 21 to Annex I, for which the lowest qualifying quantities shall apply.</p>
25	<p><u>Pyrotechnic Articles</u></p> <p>Note 8 to Annex I provides that:</p> <p>“In the case of articles containing explosive or pyrotechnic substances or preparations, if the quantity of the substance or preparation contained is known, that quantity shall be considered for the purposes of this Directive. If the quantity is not known, then, for the purposes of this Directive, the whole article shall be treated as explosive.”</p> <p>Does this mean that it is acceptable to use the net explosive content (NEC) to determine Seveso coverage of pyrotechnic articles?</p> <p>If so, what tests and certifications are considered as acceptable proof of the net explosive content?</p>	<p>The net explosive content (NEC) should be used to calculate thresholds to determine Seveso coverage of pyrotechnic articles and also in summing substances using the summation rule.</p> <p>The NEC has to be printed on the label of the pyrotechnic article according to Article 12.2 of Directive 2007/23/EC. The Directive has to be applied by the Member States by 4 July 2010 for consumer fireworks and by 4 July 2013 for professional fireworks and all other pyrotechnic articles. However, some existing national authorisations for pyrotechnic articles may remain valid until 2017 on the territory of certain Member States.</p> <p>If the NEC is not known and cannot be sought from the manufacturer or cannot be checked, then the gross weight would be used.</p> <p>The use of a net content of a preparation for calculation of a threshold within Seveso uniquely applies to explosive and pyrotechnic articles.</p> <p><b>Concluded at the 24<sup>th</sup> CCA meeting</b></p>
26	<p><u>Pyrotechnic Articles</u></p> <p>Should the explosive or pyrotechnic substances or mixtures contained in articles be treated as having the same classification as the article itself?</p>	<p>For substances, mixtures or articles classified under UN/ADR as HD1.1, 1.2, 1.3, 1.4, 1.5 and 1.6, the answer is yes, provided that the substance/mixture remains packaged with the article in the same configuration as when the classification was made.</p> <p>An explosive/pyrotechnic substance or mixture may have a different classification</p>

		<p>depending on whether it is:</p> <ol style="list-style-type: none"> <li>1) not part of any article and therefore consists only of the pure substance or mixture</li> <li>2) part of an individual pyrotechnic article</li> <li>3) part of a package of such articles packaged in accordance with the applicable transport or storage norms (Note that there also may be different packaging arrangements for the same pyrotechnic article and their classifications may differ accordingly.)</li> </ol> <p>Moreover, the article classification only applies to the explosive and pyrotechnic substance or mixture when it is part of that article. In particular, if the packaging has changed or been removed since the article was originally classified, the classification must be re-evaluated or re-tested under the new conditions.</p> <p>Seveso coverage should refer to the classification of the article that applies to the condition in which the article is normally held on site.</p> <p>It should also be noted that only substances/mixtures belonging to articles classified under UN/ADR as HD1.4 are considered SEVESO category P1b. This category does not cover substances or mixtures outside the UNADR classified packaging.</p> <p><b>Concluded at the 24<sup>th</sup> CCA meeting</b></p>
27	<p><u>On-site mitigatory action</u></p> <p>What is meant by Annex IV(2)(d): <i>Arrangements for providing assistance with on-site mitigatory action?</i></p>	<p>This could include arrangements for the provision of expertise or the supply of specific equipment to control releases, antidotes, protective clothing....</p>
28	<p><u>Short-time application of the Directive</u></p> <p>What should be done about establishments which come under the Directive only for a short period of time, e.g. under 6 months?</p>	<p>The Directive does not contain any provisions to take account of qualifying quantities being exceeded only for a short amount of time and therefore is applicable even for a short time period where qualifying quantities are exceeded. In order to avoid having to re-submit notifications and safety reports, an establishment may therefore wish to fulfil its obligations under the Directive even if subsequently there should be a period when the quantities of substances present could take it below the qualifying quantities for application of the Directive.</p>
29	<p><u>“Serious deficiency”</u></p> <p>Under what circumstances should a Prohibition of Use (Art. 19 &amp; Art. 10(6)) be issued? What is meant by “seriously deficient” (Art. 17(1))? In particular, is</p>	<p>The circumstances justifying prohibition of use, rather than other sanctions, are essentially a matter for Member States’ judgement, in the light of their individual procedures. The text of the Directive states ‘SHALL prohibit’ with respect to serious deficiencies, but ‘MAY prohibit’ for matters of notification, etc. In the second case,</p>

	this appropriate if the failure is a matter of form (e.g. no notification) rather than strictly a matter of safety?	the intent is to allow Member States to use a range of measures as appropriate to encourage compliance, but to retain the possibility of prohibition for cases of blatant disregard for the notification, etc. requirements of the Directive.
30	<u>ILO</u> What is the interface between Seveso III and ILO Convention No. 174, especially concerning pipelines and nuclear installations?	Member States who have fully ratified the ILO convention no 174 will be expected to implement measures in accordance with this Convention. In areas which are not covered by Seveso III, e.g. pipelines, it is assumed that Member States are extending the scope of Seveso III in their national laws or taking appropriate separate initiatives.
31	<u>“Significant increase”</u> What is a “significant increase” in the quantity of dangerous substance, requiring notification (Art. 7)? 10%?	This is likely to be dependent on the particular circumstances. The 10% suggested may well be a reasonable figure for many cases. However, where there is already a very large quantity of dangerous substances present, 10% could perhaps significantly exceed ‘5% of the qualifying quantity laid down in column 3 of Annex I’ which is one of the criteria for notification of a major accident. In at least these cases, less than 10% may be considered ‘significant’.
32	<u>“Change in the nature” of a substance</u> What is a “change in the nature” of a substance, requiring notification (Art. 7)? Another substance or a substance having another classification?	Clearly a substance with another classification is a change. However, a change from one substance to another which is similar physically and chemically, and has the same classification, might in some circumstances not require a new notification – provided the information provided under Art. 7(1)(d) <i>sufficient to identify the ... category of substances involved</i> remains valid.
33	<u>Probabilities of scenarios</u> Annex II, 4(a) states that a safety report should include a “...description of the major-accident scenarios and their probability or the conditions under which they occur...”. Does this mean that a company can choose whether or not to indicate the probabilities of the scenarios?	This provision was intended to cover in a flexible way the varying national approaches to the presentation of major-accident scenarios. In the absence of more specific national legislation, the Directive itself does not mandate one approach in preference to the other.
34	<u>2% rule</u> Does the “2% rule” (Note 4 to Annex I) mean that a Safety Report does not have to deal with such small isolated quantities of hazardous substances?	No, the “2% rule” only applies to establishing the scope of the Directive. Once an establishment comes within the scope, the Safety Report should cover all hazardous substances involved in the process or stored as such on site. However, it may be that for small isolated quantities which can neither cause a major accident themselves nor act as an initiator in a major-accident scenario elsewhere on site, a detailed risk analysis with major-accident scenarios is not required; still the safety report should mention the substances and explain why they do not present a major-accident hazard.
35	<u>Major Transport Routes</u> Article 13 of the Seveso II Directive refers to “major transport routes” as one target to maintain appropriate distances from a site covered by the Directive. What shall be regarded as “major transport routes”?	The practical evaluation of a transport route as a “major route” depends always on the individual situation because the distribution of traffic density may vary widely. Transport routes with traffic frequencies <u>below</u> the following values may not be considered as major ones: <ul style="list-style-type: none"> <li>- roads with less than 10.000 passenger vehicles per 24 hours</li> <li>- railroads with less than 50 passenger trains per 24 hour.</li> </ul> Transport routes with traffic frequencies <u>above</u> the following values shall be considered in any case to represent major transport routes

		<ul style="list-style-type: none"> <li>- motorways (speed limit &gt; 100 km/h) with more than 200.000 vehicles per 24 hours or 7000 vehicles per peak hour</li> <li>- other roads (speed limit ≤ 100 km/h) with more than 100.000 vehicles per hour or more than 4000 vehicles per peak hour</li> <li>- railroad lines with more than 250 trains per 24 hours or more than 60 trains per peak hour (both directions together)</li> </ul> <p>Airports shall be assessed individually.</p> <p><b>Concluded at the 15<sup>th</sup> CCA meeting</b></p>
36	<p><u>Article 2(c) – Intermediate temporary storage:</u></p> <p>Article 2(c) of the Seveso III Directive excludes from its scope:</p> <p>“the transport of dangerous substances and directly related intermediate temporary storage by road, rail, internal waterways, sea or air, <b>outside the establishments covered by this Directive</b>, including loading and unloading and transport to and from another means of transport at docks, wharves or marshalling yards;”</p> <p>How to interpret “outside the establishments covered by this Directive”?</p> <p>Existing case: Can the operator of an establishment, consisting of a warehouse that stores 20 tonnes of very toxic substances, claim that 15 tonnes are storage in the transport chain (often called “transit storage”)? If yes, then the transit storage is to be excluded and the establishment is to be considered as a lower tier establishment. If not, then the establishment is to be considered as an upper tier establishment.</p>	<p>The warehouse is to be considered as an establishment as meant in article 3(1). Its purpose is to store dangerous substances. 20 tonnes of very toxic substances are present on a continuous basis. Exclusion 2(c)c refers to the necessary intermediate storage in the transport chain outside establishments, not to the storage in warehouses specifically designed and used for the storage of dangerous substances on a regular basis.</p> <p>The correct application of article 2(c) is to consider the whole warehouse as a unique establishment and, in particular, as an upper-tier establishment.</p> <p><b>Concluded at the 16<sup>th</sup> and 17<sup>th</sup> CCA meeting</b></p>
37	<p><u>Use of bio-fuels</u></p> <p>Ethanol/petrol fuel blends with a content of up to 5 % of ethanol intended to be used for automotive purposes fall already under the general exemption for petroleum products.</p> <p>How shall blends with more than 5 % ethanol be treated?</p>	<p>The question refers to two different groups of substances:</p> <p>a) <u>Mixtures/blends of petrol (or diesel or other “petroleum products”, where “petroleum” refers to a certain originating substance produced from crude oil) with a content of up to 5% of ethanol</u></p> <p>The Amendment of the Seveso Directive, by setting high threshold levels for the named substance “petroleum products”, grants a general exemption as the technology and safety systems for petrol and petroleum products are very much standardised and the legislator intended to avoid that small scale filling stations are covered by the Directive. In line with Directive 2003/30/EC on the promotion of the use of biofuels or other renewable fuels for transport and Directive 98/70/EC relating to the quality of petrol and diesel fuels, a mixture or blend of petrol with a content of up to 5 % of</p>

		<p>ethanol intended to be used for automotive purposes falls under this exemption.</p> <p>b) <u>Mixtures/blends with more than 5% of ethanol, and especially those where the component in majority is ethanol (bio-fuels)</u></p> <p>In general, blends and other mixtures have to be treated equally according to their properties. The Seveso Directive, referring to the CLP Regulation 1272/2008, provides for appropriate procedures on how to determine flammability hazards and how to classify mixtures.</p> <p>Clearly, blends/mixture with high content of ethanol (as, for example the bio-fuel commonly known as <b>E85</b> with a content of 76-86 % ethanol and 14-24 % petrol) cannot be regarded as a petroleum product, because of their composition. Under the current framework of Annex I, blends with a majority of ethanol may be regarded as a mixture of “normal” flammable liquids and should be classified according to the classification/testing methods and criteria described in Regulation 1272/2008. Since no classification of these mixtures according to Regulation 1272/2008 and no concentration limits are currently available, self-classification by the producers is necessary and depending on the flammability hazards of the mixture the thresholds of the relevant Seveso category of Annex I Part 1 category should apply..</p> <p><u>Note:</u> Currently, there is no consolidated classification of these mixtures across the industry. Tests performed by the Swedish Petroleum Institute, covering a variety of products and including both summer (85% ethanol) and winter (70% ethanol) quality resulted in classifying the mixtures as R11. Furthermore, the Material Safety Data Sheet of E85 provided by the US Dept.of Energy estimate the initial boiling point at 35.6 C, which justifies its classification as R11 and application of category P5c of Annex I Part 1 of the Seveso Directive with thresholds of 5000/50000 t.</p> <p><b>Concluded at the 19<sup>th</sup> CCA meeting</b></p> <p>Note: Note 19 to Annex I of the Seveso III Directive provides that "for the purpose of the implementation of this Directive, upgrade biogas may be classified under entry 18 of Part 2 of Annex I where it has been processed in accordance with applicable standards for purified and upgraded biogas ensuring a quality equivalent to that of natural gas, including the content of methane, and which has a maximum of 1 % Oxygen.</p>
38	<p><u>Coverage of airports in the Seveso II Directive:</u></p> <p>When assessing whether Seveso applies to a given airport establishment, should the content (normally kerosene) of the fuel tanks of on-ground aircrafts be taken into account?</p>	<p>No.</p> <p>The scope of the Seveso III directive is not intended to include aviation safety. As the aircrafts are on-ground only for a limited time, the content of their fuel tanks of aircrafts should not be taken into account in view of deciding whether the airport</p>

		<p>establishment is covered by Seveso.</p> <p>This does not mean that airport establishments are excluded from the scope of the Directive. Quantities of dangerous substances (including kerosene) in storage facilities or in the distribution network at airports should still be taken into account in view of deciding whether Seveso applies.</p> <p><b>Concluded at the 18<sup>th</sup> CCA meeting</b></p>
39	<p><u>Buildings and areas of public use, in the context of Art.13</u></p> <p>Which buildings and areas shall be regarded as "buildings and areas of public use" as mentioned in article 13 of the Seveso III Directive? Is it possible to indicate threshold values?</p>	<p>"Buildings and areas of public use" are any kind of buildings or areas of public or private property, where it is reasonably anticipated that the public will be present on a non-permanent basis (such as supermarkets, public service buildings, amusement parks, sport stadiums and important transport interchanges) and/or where it may be difficult to organise people in the event of an emergency (such as schools, hospitals, kindergarten and houses for the elderly). Administrative buildings are also included, with the exception of those that only receive visitors on occasion (e.g. business partners), who are then considered to be under the charge of the person being visited, in the sense that this person can direct them in the correct behaviour in the case of an alert.</p> <p><b>Concluded at the 25<sup>th</sup> CCA meeting</b></p>
40	<p><u>Preparations</u> <b>January 2005</b></p> <p>The second indent of note 3 (b) (1) does not explicitly refer to "preparations". Why is this?</p>	<p>The indent is taken word-for-word from the "Seveso I" Directive, which does not refer to preparations. However, the intent is to include preparations.</p>
	<p><u>Substances toxic after long-term exposure</u> <b>January 2005</b></p> <p>How should substances with risk phrase R48 be treated? R48 means that the substance is only considered toxic in the event of long-term exposure.</p>	<p>The risk phrase A-48 only appears in combination with other risk phrases. It can be used in combination with risk phrases R 23, R 24 and R 25. Such a substance or preparation is toxic. However it can also be used in combination with risk phrases R20, R 21 and R 22. Such a substance or preparation is harmful.</p> <p>A substance or preparation with the risk phrase R 48 is classified as toxic, and included in the Seveso II Directive, only in combination with one or more of the risk phrases R 23, R 24 and R 25. Harmful substances are not included in the categories in Annex I, Part 2. Thus, a substance or preparation with risk phrase R 48 in combination with one of the phrases R 20, R 21 and R 22 lies outside the scope of the Directive.</p>
	<p><u>Pyrotechnic substances</u> <b>January 2005</b></p> <p>In the calculation of the qualifying quantities of dangerous substances for fireworks containing pyrotechnic substances, is it necessary to include the mass of the container / packaging material?</p>	<p>According to Annex I, Part 2, Note 2 (a) (ii), "a pyrotechnic substance is a substance (or mixture of substances) <i>designated</i> to produce heat, light, sound, gas or smoke or a combination of such effects through non-detonating self-sustained exothermic chemical reactions". However, the container / packaging material will not normally be <i>designated</i> to produce such effects.</p> <p>Moreover, in the Classification and Packaging Directive (Directive 67/548/EEC), 7<sup>th</sup></p>

		<p>ATP - Adaptation to the Technical Progress, 1990) it is clearly stated in Article 22, paragraph 1.b. that “the materials constituting the packaging and fastenings <i>must not be susceptible</i> to adverse attack by the contents, or liable to form dangerous compounds with the contents”. Therefore, the packaging of explosives should not create risk, since otherwise it would be in conflict with the Classification Directive.</p> <p>It is therefore recommended not to count the weight of the packaging material in the inventory of fireworks and explosive substances in general.</p>
	<p><u>‘Unclassified’ substances dangerous for the environment</u> <b>January 2005</b></p> <p>The notes in Part 2 identify that substances and preparations are classified in accordance with Council Directives (as amended) 67/548/EEC (Substances), 88/379/EEC (Preparations) and 78/631/EEC (Pesticides) and then go on to say</p> <p><i>‘In the case of substances and preparations which are not classified as dangerous according to any of the above Directives ... the procedures for provisional classification shall be followed according to the relevant Article of the appropriate Directive’.</i></p> <p>However of these Directives only the ‘Substances’ Directive has provisional classification procedures for substances which may be dangerous for the environment.</p>	<p>A new Preparations Directive, 99/45/EC (OJ L200, 30.7.99, p.1-68) appears to resolve this difficulty.</p>
	<p><u>List of carcinogens</u> <b>January 2005</b></p> <p>In several (but not all) language versions, the last entry in the list of carcinogens is “1,3 Propanesultone 4-nitrodiphenyl”. This substance is not known.</p>	<p>This is a typing error; it refers to two substances and should read “1, 3 Propanesultone and 4-nitrodiphenyl”.</p>
	<p><u>Automotive Petrol and other petroleum spirits</u> <b>January 2005</b></p> <p>Are all petroleum fractions to be considered as falling into the Annex I Part 1 category of <i>automotive petrol and other petroleum spirits</i>, or only those used as fuel <u>and</u> coming into a Part 2 category?</p> <p>A further question concerns the compatibility of the various linguistic versions of the Directive in the words following “automotive petrol”: exactly what is meant to be covered by “petroleum spirits”, “essences minérales”, “ardoliefracties”, “essenze minerali”, “fracciones ligeras”, “sonstige Benzine” and so on?</p> <p>What of fractions of petroleum which are not classified as flammable?</p>	<p>Petroleum spirits other than those used for fuel <u>are</u> also included.</p> <p>The intent is to include:</p> <ul style="list-style-type: none"> <li>- light fractions of petroleum - whether or not used as fuel</li> <li>- automotive fuel developed from sources other than petroleum.</li> </ul> <p>Heavy oils (e.g. diesel) and medium oils (e.g. white spirit, kerosene) are NOT included in this category. This is clear from, e.g., the English, French, and Spanish.</p> <p>The distinction between heavy and light oils can be defined in different ways, e.g. on the basis of flashpoint, boiling point, or chemical composition (how many “C” atoms). While the Commission does not propose to mandate any one test, we would suggest that flashpoint may be the most generally useful; one example of such a definition is that petroleum spirits are those with an Abel flashpoint less than 22.8° C.</p> <p>The general principles of manufacturer/dealer/importer responsibility apply; these</p>

		products must be tested for their flammability and classified accordingly.
<u>Liquefied extremely flammable gases ...</u> <b>January 2005</b>	What is covered by the entry in Annex I Part 1 “Liquefied extremely flammable gases (including LPG) and natural gas”? Note 3(c)(2) to Annex I Part 2 seems to imply that there may be some liquefied extremely flammable gases which are not covered by this term, and would therefore come under Annex I Part 2.	The entry covers natural gas, whether gaseous or liquefied, and ALL liquefied extremely flammable gases. Note 3(c)(2) is only a definition of extremely flammable gas and is necessary for both Part 1 and Part 2 but does not affect whether a particular substance comes under Part 1 or 2. The exclusion in Note 3(c)(2) is not strictly necessary as the heading to Part 1 makes it clear that Part 1 takes precedence over Part 2.
<u>Harmonized criteria for Art. 9 (6)</u> <b>January 2005</b>	Will it be necessary to await the harmonised criteria under Art 9(6) and the reviews of carcinogens and substances dangerous for the environment before transposing the Directive?	The text of Council Directive 96/82/EC as published in the OJ dated 14/1/97, must be fully transposed into national laws, regulations and administrative provisions by 3 Feb 1999 at the latest. It is not necessary to await the outcome of other work/reviews.
<u>Transitional period for the notification</u> <b>January 2005</b>	Is there no transitional period for the notification of existing establishments which will come under the Directive because of changes in its scope in comparison with the Seveso I Directive?  What about establishments which enter into the scope of the Directive because of subsequent changes in the classification of substances? When do they have to notify the competent authorities, and when - for top-tier sites - do they have to submit safety reports?	These establishments have to be considered as existing establishments for which a transitional period of one year applies (Article 6, paragraph 1, second indent). For other establishments which come under the Directive during the course of that transitional year, the deadline could be the end of the transitional year.  As for establishments which come under the Directive subsequently, notification should be immediate, and the safety report should be drawn up “without delay” (applying Art 9(3) 4th indent by analogy). The interpretation of “without delay” is a matter for the Member State authorities concerned.
<u>Intermediate external emergency measures</u> <b>January 2005</b>	Doesn't it seem reasonable that some measures should be taken before the external emergency plans have been drawn up, bearing in mind a 3 year delay is possible as stated in Article 11?	For <i>new</i> establishments, <i>Internal Emergency Plans</i> have to be drawn up prior to the start of operation. For <i>existing</i> establishments previously covered by the SEVESO I Directive, the <i>Internal Emergency Plan</i> has to be drawn up before 3 February 2001. For <i>existing</i> establishments previously not covered by the SEVESO I Directive, the <i>Internal Emergency Plan</i> has to be drawn up before 3 February 2002. The same deadlines apply to the requirement for the operator to supply the information to the competent authorities to enable external emergency plans to be drawn up. The competent authorities are obliged to draw up <i>External Emergency Plans</i> . No specific deadline for this is set down in the Directive, but it can be inferred that it must be done within a reasonable period of time after receipt of the necessary information.  However, it may be noted that a management system is required without delay; such a management system must include planning for emergencies, as stated in Annex III of the Directive. As is noted in answer B-12, terms such as “without delay” are to be interpreted by the authorities of the Member State concerned.

	<p><u>Substances toxic after long-term exposure</u> <b>February 2006</b></p> <p>How should substances with risk phrase R48 be treated? R48 means that the substance is only considered toxic in the event of long-term exposure.</p>	<p>The risk phrase A-48 only appears in combination with other risk phrases. It can be used in combination with risk phrases R 23, R 24 and R 25. Such a substance or preparation is toxic. However it can also be used in combination with risk phrases R20, R 21 and R 22. Such a substance or preparation is harmful.</p> <p>A substance or preparation with the risk phrase R 48 is classified as toxic, and included in the Seveso II Directive, only in combination with one or more of the risk phrases R 23, R 24 and R 25. Harmful substances are not included in the categories in Annex I, Part 2. Thus, a substance or preparation with risk phrase R 48 in combination with one of the phrases R 20, R 21 and R 22 lies outside the scope of the Directive.</p>