

## COMMISSION DECISION

of 26 June 1998

on harmonised criteria for dispensations according to Article 9 of Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances

(notified under document number C(1998) 1758)

(Text with EEA relevance)

(98/433/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances<sup>(1)</sup>, and in particular Article 9 thereof,

Whereas Article 9 of Directive 96/82/EC establishes that Member States shall require the operators of certain establishments to produce safety reports;

Whereas Article 9(6)(a) of Directive 96/82/EC establishes that where it is demonstrated to the satisfaction of the competent authority that particular substances present at the establishment, or any part thereof, are in a state incapable of creating a major-accident hazard, then the Member State may, in accordance with the criteria referred to in subparagraph (b), limit the information required in safety reports to those matters which are relevant to the prevention of residual major-accident hazards and the limitation of their consequences for man and the environment;

Whereas these criteria do not affect the determination of the qualifying quantities of dangerous substances for the application of Article 9 of Directive 96/82/EC;

Whereas Article 9(6)(b) of Directive 96/82/EC establishes that before the Directive is brought into application, the Commission, acting in accordance with the procedure laid down in Article 16 of Council Directive 82/501/EEC

of 24 June 1982 on the major-accident hazards of certain industrial activities<sup>(2)</sup>, shall establish harmonised criteria for the decision by the competent authority that an establishment is in a state incapable of creating a major-accident hazard within the meaning of subparagraph (a);

Whereas the measures provided for in this Decision are in accordance with the opinion of the committee set up pursuant to Article 16 of Directive 82/501/EEC,

HAS ADOPTED THIS DECISION:

*Article 1*

For the purposes of Article 9(6) of Directive 96/82/EC on the control of major-accident hazards involving dangerous substances the Commission hereby adopts the harmonised criteria given in the Annexe to this Decision.

*Article 2*

This Decision is addressed to the Member States.

Done at Brussels, 26 June 1998.

*For the Commission*

Ritt BJERREGAARD

*Member of the Commission*

<sup>(1)</sup> OJ L 10, 14. 1. 1997.

<sup>(2)</sup> OJ L 230, 5. 8. 1982. Directive as amended by Directive 87/216/EEC (OJ L 85, 28. 3. 1987, p. 36), Directive 88/610/EEC (OJ L 336, 7. 12. 1988, p. 14) and Directive 91/692/EEC (OJ L 377, 31. 12. 1991, p. 48).

*ANNEX***Harmonised criteria for dispensations according to Article 9 of Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances**

A dispensation according to Article 9(6) may be granted if at least one of the following generic criteria is fulfilled:

**1. Physical form of substance**

Substances in solid form, such that, under both normal conditions and any abnormal conditions which can reasonably be foreseen, a release, of matter or of energy, which could create a major-accident hazard, is not possible.

**2. Containment and quantities**

Substances packaged or contained in such a fashion and in such quantities that the maximum release possible under any circumstances cannot create a major-accident hazard.

**3. Location and quantities**

Substances present in such quantities and at such distances from other dangerous substances (at the establishment or elsewhere) that they can neither create a major-accident hazard by themselves nor initiate a major accident involving other dangerous substances.

**4. Classification**

Substances which are defined as dangerous substances by virtue of their generic classification in Annex I, Part 2 to Directive 96/82/EC, but which cannot create a major-accident hazard, and for which therefore the generic classification is inappropriate for this purpose.

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