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# Preventing serious accidents – local administration competence, responsibility and legal basis in Germany

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## Germany in the heart of Europe

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## Germany and their 9 neighbouring countries

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### Federal structure of Germany

1. 16 Federal Lands
2. 13 Federal Lands which are not municipalities
3. 3 Federal Lands which are municipalities

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### Responsibilities in the area of equipment safety

Germany Government

- Ministry of the Environment: Application of European Accident Law (with an exception: Protection against disasters/ external emergency planning)
- Ministry of the Interior: Co-ordination in the scope of protection against disasters

Local centre

German Government

- Lands Ministries of the Interior + regional offices: Application of European Accident Law, external emergency planning
- Accident Law implementation: Lands Ministries of the Interior + regional offices; Lands Ministries of the Interior + disaster protection regional Office

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### Legal grounds (1)

UN/ECE agreement on effects of trans-border industrial accidents (in brief: industrial accidents agreement)

- Valid as of 19 April 2000.
- in 1998 ratified by Germany (as 11<sup>th</sup> state altogether and as 4<sup>th</sup> EU member state)
- Ratification caused a number of problems due to existing regulations (II Seveso directive and accidents decree).

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### Legal grounds (2)

96/82/EG Council directive of 9 December 1996 on controlling hazards caused by heavy accidents involving hazardous substances (in short: II Seveso directive)

- Recently altered by 2003/105/EG directive (altered II Seveso directive)
- Adjusted on the state level by an Accidents Directive and a Federal Act on Emissions Protection (most recent alterations in 2005)

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### Industrial accidents agreement (1)

Important regulations in bilateral co-operation

- Art. 4: Identification of hazardous activities
- Art. 6: prevention
- Art. 8: Readiness and preparedness
- Art. 9: Disseminating information and notifying the public
- Art. 10: Notification systems in case of industrial accidents
- Art. 11: reaction
- Art. 12: Mutual assistance

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### Industrial accidents agreement (2)

Usage of Art. 4 (identification of hazardous activities) in connection with appendix I

- Relationship of appendix I UNECE agreement to appendix II, II Seveso directive

- Since the last alteration in appendix I of the agreement, the documents have been largely consistent (valid as of 19 March 2008)
- Criteria of substance spread
  - a) air path
  - b) water path
- A list of substances in a VO accident is identical with the list of substances in II Seveso directive

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### **Industrial accidents agreement (3)**

Usage of Art. 6 (prevention)

- Less crucial for bilateral co-operation
- Main requirements in § 3 VO accident and Art. 5 of II Seveso directive (principal obligations of the user) have been regulated identically
- In the German law, the obligations are more concrete and detailed
  - What needs to be taken into account is sources of hazards, both plant related, and dependent on the type and origin of hazard, as well as actions of unauthorised persons (§ 3, VO accident)
  - The requirements reflect the level of contemporary technology, and staff training, i.e., provision of alarm, measurement, control, and protection systems, and maintenance & repair (§§ 4 and 6 VO accident)

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### **Industrial accidents agreement (4)**

Preventive measures

- The following state regulations are in keeping with EU regulations
  - The concept of preventing accidents in connection with a preventive measures management system
  - Safety report
  - Controlling settlement (§ 50, Federal Act on Emission Protection)
  - inspection

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### **Industrial accidents agreement (5)**

Usage of Art. 8 (readiness and preparedness)

- National law stresses preventive measures
  - § 3 (3) (principal obligations of the user) VO accident The user must take preventive measures in order to harness the effects of accidents as efficiently as possible
- Basic tool: Emergency plans
  - The user makes internal emergency plans (applied in case of VO accident)
  - Appropriate government makes external emergency plans (applied in Acts protecting against disasters in the Lands)
  - EU and Germany highly praise trying out
  - Trials and tests carried out at least every 3 years

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### **Industrial accidents agreement (6)**

Additional requirements to Art. 8 (readiness and preparedness) in the national law (VO accident)

- § 5 (requirement to harness the effects of accidents) The user's obligation – to take appropriate construction, technical and organisational measures
- § 6 (additional requirements): The user's obligations, for example: Maintenance and repair (in keeping with technical condition) and staff training
- § 12 (remaining obligations) The user must nominate a person responsible in case of an accident

Moreover: Regional exercises

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### **Industrial accidents agreement (7)**

Usage of Art. 9 (disseminating information and notifying the public)

- Art. 13 of II Seveso directive and § 11 VO accident (information on means of security) Potentially involved individuals and institutions ought to be notified. Trials and tests carried out at least every 3 years  
Safety report must be available to the general public.
- Art. 11 of II Seveso directive and Lands Disaster Protection Acts General public's participation in identifying and updating external emergency plans
- § 11 VO accident (like in Art. 13 (2) of II Seveso directive): Obligations of German users to notify the general public extend also to non-EU states

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**Industrial accidents agreement (8)**

Usage of Art. 10 (notification systems in case of industrial accidents)

- Local centre of the Ministry of the Interior is a National Contact Point within the UNECE for Industrial Accidents Notification (IAN)
  - The Ministry is also a contact point where requests for assistance are received.
- In case of damages to water which spread beyond national borders: Alarm and warning systems of international river committees (ex. IKRS, IKSO, IKSD)

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**Industrial accidents agreement (9)**

Usage of Art. 11 (prevention)

- Main requirements in § 3 VO accident and Art. 5 of II Seveso directive (principal obligations of the user) have been regulated identically
- In the German law, the obligations are more concrete and detailed
  - § 5 (requirement to harness the effects of accidents)
    - Construction measures
    - Equipping with technical preventive resources
    - Technical and organisational protective measures
    - Immediate consultation of appropriate administration offices and resources involved
  - § 6 VO accident (additional requirements):
    - Staff training aimed at preventing unwanted behaviour

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**Industrial accidents agreement (10)**

Preventive measures

- The following state regulations are in keeping with EU regulations
- Emergency plans
- Safety measures information
- Inspection :The user is obliged to prove that they have envisaged appropriate resources to counter the effects of industrial accidents within and outside the plant.

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**Industrial accidents agreement (11)**

Usage of Art. 12 (reciprocal assistance) through bilateral agreements

- Between Germany and its 9 neighbours
- Between Germany and other countries, such as Hungary, Lithuania, Russia
- Between German Lands and a neighbouring country
- Approx. 60 agreements altogether

Including bilateral agreements on protection of waters (ex. Danube protection agreement of 1994, 10 participating states)

A local centre of the Ministry of the Interior is nominated as a Contact Point.