

Gouvernemental Decision no. 1058/09.08.2006
on minimum requirements for improving the safety and health protection of workers
potentially at risk from explosive atmospheres

Chapter I
GENERAL PROVISIONS

Art. 1. - This Decision lays down minimum requirements for the safety and health protection of workers potentially at risk from explosive atmospheres as defined in Article 3

Art. 2. - The provisions of law of safety and health at work no. 319/2006 and of the Governmental Decisions transposing relevant individual Directives are fully applicable to the domain referred to in Article 1, without prejudice to more restrictive and/or specific provisions contained in this Decision.

Art. 3. - For the purposes of this Decision, "explosive atmosphere" is defined according to art. 2 par. (1) of the Governmental Decision no. 752/2004 regarding laying down of the conditions for putting on the market of the equipment and protective systems designed for use in potentially explosive atmospheres, with subsequent modifications.

Art. 4. - The provisions of this Decision not apply to:

- a) areas used directly for and during the medical treatment of patients;
- b) the use of appliances burning gaseous fuels in accordance with the provisions of Governmental Decision no. 453/2003 regarding establishment of conditions for putting on the market of appliances burning gaseous fuels, republished;
- c) the manufacture, handling, use, storage and transport of explosives or chemically unstable substances;
- d) mineral-extracting industries covered by Governmental Decision no. 1.050/2006 regarding minimum requirements for assuring security and health of the workers in mineral-extracting industries through drilling or Governmental Decision no. 1.049/2006 regarding minimum requirements for assuring security and health of the workers in surface and underground mineral-extracting industries
- e) the use of means of transport by land, water and air, includes in the pertinent provisions of the international agreements and in the national legislation transposing Community Directives giving effect to those agreements. Means of transport intended for use in a potentially explosive atmosphere shall not be excluded.

CHAPTER II
OBLIGATIONS OF THE EMPLOYER

Art. 5. - (1) With a view to preventing, within the meaning the provisions of Article 7 par. (3) of the Law no. 319/2006 and providing protection against explosions, the employer shall take technical and/or organisational measures appropriate to the nature of the operation, in order of priority and in accordance with the following basic principles:

- a) the prevention of the formation of explosive atmospheres, or where the nature of the activity does not allow that,
- b) the avoidance of the ignition of explosive atmospheres, and
- c) the mitigation of the detrimental effects of an explosion so as to ensure the health and safety of workers.

(2) These measures referred to in par. (1) shall where necessary be combined and/or supplemented with measures against the propagation of explosions and shall be reviewed regularly and, in any event, whenever significant changes occur.

Art. 6. - (1) In carrying out the obligations laid down in Article 7 par. (4) and Article 12 par. (1) of Law no. 319/2006, the employer shall assess the specific risks arising from explosive atmospheres, taking account at least of:

- a) the likelihood that explosive atmospheres will occur and their persistence,

- b) the likelihood that ignition sources, including electrostatic discharges, will be present and become active and effective,
- c) the installations, substances used, processes, and their possible interactions,
- d) the scale of the anticipated effects.

(2) Explosion risks shall be assessed overall.

(3) Places which are or can be connected via openings to places in which explosive atmospheres may occur shall be taken into account in assessing explosion risks.

Art. 7. – To ensure the safety and health of workers, and in accordance with the basic principles of risk assessment and those laid down in Article 5, the employer shall take the necessary measures so that:

a) where explosive atmospheres may arise in such quantities as to endanger the health and safety of workers or others, the working environment is such that work can be performed safely,

b) in working environments where explosive atmospheres may arise in such quantities as to endanger the safety and health of workers, appropriate supervision during the presence of workers is ensured in accordance with the risk assessment by the use of appropriate technical means.

Art. 8. - (1) Where workers from several undertakings are present at the same workplace, each employer shall be responsible for all matters coming under his control.

(2) Without prejudice to the individual responsibility of each employer as provided for in Law no. 319/2006, the employer responsible for the workplace in accordance with national law and/or practice shall coordinate the implementation of all the measures concerning workers' health and safety and shall state, in the explosion protection document referred to in Article 10, the aim of that coordination and the measures and procedures for implementing it.

Art. 9. - (1) The employer shall classify places where explosive atmospheres may occur into zones in accordance with Annex no.1.

(2) The employer shall ensure that the minimum requirements laid down in Annex no.2 are applied to places covered by paragraph (1).

(3) Where necessary, places where explosive atmospheres may occur in such quantities as to endanger the health and safety of workers shall be marked with signs at their points of entry in accordance with Annex no.3.

Art. 10. - (1) In carrying out the obligations laid down in Article 7, the employer shall ensure that a document, hereinafter referred to as the "explosion protection document", is drawn up and kept up to date.

(2) The explosion protection document shall demonstrate in particular:

- a) that the explosion risks have been determined and assessed,
- b) that adequate measures will be taken to attain the aims of this Decision,
- c) those places which have been classified into zones in accordance with Annex no. 1,
- d) those places where the minimum requirements set out in Annex no.2 will apply,
- e) that the workplace and work equipment, including warning devices, are designed, operated and maintained with due regard for safety, according to the provisions of safety at work regulations,

f) that arrangements have been made for the safe use of work equipment, in accordance with provisions of Governmental Decision regarding the minimum safety and health requirements for the use of work equipment by workers at work, transposing Council Directive 89/655/CEE.

(3) The explosion protection document shall be drawn up prior to the commencement of work and be revised when the workplace, work equipment or organisation of the work undergoes significant changes, extensions or conversions.

(4) The employer may combine existing explosion risk assessments, documents or other equivalent reports produced under other provisions of the national legislation transposing other European Union acts.

Art. 11. - (1) Work equipment for use in places where explosive atmospheres may occur which is already in use or is made available in the undertaking or establishment for the first

time before 6 December 2002 shall comply till 31 December 2006 with the minimum requirements laid down in Annex no.2, Part A, if no other provision of the national legislation transposing an European Directive is applicable or is so only partially.

(2) Work equipment for use in places where explosive atmospheres may occur which is made available or which will be made available in the undertaking or establishment for the first time after 6 December 2002 shall comply with the minimum requirements laid down in Annex no. 2, Parts A and B.

(3) Workplaces which contain places where explosive atmospheres may occur and which are used for the first time after 6 December 2002 shall comply with minimum requirements set out in this Decision.

(4) Where workplaces which contain places where explosive atmospheres may occur are already in use before 6 December 2002, they shall comply with the minimum requirements set out in this Decision no later than three years after that date.

(5) If, after the date at which this Decision is entering in force, any modification, extension or restructuring is undertaken in workplaces containing places where explosive atmospheres may occur, the employer shall take the necessary steps to ensure that these comply with the minimum requirements set out in this Decision.

CAPITOLUL III FINAL PROVISIONS

Art. 12. - In drawing up the national policies for the protection of the health and safety of workers, Ministry of Labour, Social Solidarity and Family shall take into account the guidelines of any guide of good practice drew up by the European Commission, referring to the provisions of Articles 5 to 10, Annexe no. 1 and Annexe no. 2, part A.

Art. 13. - Ministry of Labour, Social Solidarity and Family shall make relevant information available to employers, at their request, in accordance with Article 12, with particular reference to the guide of good practice

Art. 14. - (1) For application of this decision, Ministry of Labour, Social Solidarity and Family adopt, whenever it is the case, new necessary provisions in order to conform to the provisions of this Decision.

(2) Ministry of Labour, Social Solidarity and Family shall communicate to the Commission the text of the provisions of domestic law which they have already adopted or adopt in the field governed by this Decision.

Art. 15. - Purely technical adjustments to the annexes 1-3 shall be adopted by Ministry of Labour, Social Solidarity and Family, if are made necessary by

a) the adoption of Directives on technical harmonisation and standardisation in the field of explosion protection, and/or

b) technical progress, changes in international regulations or specifications, and new findings on the prevention of and protection against explosions,

Art. 16. - Ministry of Labour, Social Solidarity and Family shall report to the Commission every five years on the practical implementation of the provisions of this Decision, indicating the points of view of social partners.

Art. 17. - Annexes no. 1 to 3 are integral parts of this Decision.

Art. 18. - This Decision shall enter into force at 1 October 2006.

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This decision transposes Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), published In Official Journal no. L23 of 28 January 2000.

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CLASSIFICATION OF PLACES WHERE EXPLOSIVE ATMOSPHERES MAY OCCUR

Preliminary note

The following system of classification must be applied to places where precautions in accordance with Articles 5, 6, 9 and 10 of this Decision are taken.

1. Places where explosive atmospheres may occur

A place in which an explosive atmosphere may occur in such quantities as to require special precautions to protect the health and safety of the workers concerned is deemed to be hazardous within the meaning of this decision.

A place in which an explosive atmosphere is not expected to occur in such quantities as to require special precautions is deemed to be non-hazardous within the meaning of this Decision..

Flammable and/or combustible substances are considered as materials which may form an explosive atmosphere unless an investigation of their properties has shown that in mixtures with air they are incapable of independently propagating an explosion.

2. Classification of hazardous places

Hazardous places are classified in terms of zones on the basis of the frequency and duration of the occurrence of an explosive atmosphere.

The extent of the measures to be taken in accordance with Annex II, Part A, is determined by this classification.

Zone 0

A place in which an explosive atmosphere consisting of a mixture with air of flammable substances in the form of gas, vapour or mist is present continuously or for long periods or frequently.

Zone 1

A place in which an explosive atmosphere consisting of a mixture with air or flammable substances in the form of gas, vapour or mist is likely to occur in normal operation occasionally.

Zone 2

A place in which an explosive atmosphere consisting of a mixture with air of flammable substances in the form of gas, vapour or mist is not likely to occur in normal operation but, if it does occur, will persist for a short period only.

Zone 20

A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is present continuously, or for long periods or frequently.

Zone 21

A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is likely to occur in normal operation occasionally.

Zone 22

A place in which an explosive atmosphere in the form of a cloud of combustible dust in air is not likely to occur in normal operation but, if it does occur, will persist for a short period only.

Notes:

1. Layers, deposits and heaps of combustible dust must be considered as any other source which can form an explosive atmosphere.

2. "Normal operation" means the situation when installations are used within their design parameters.

ANNEX no.2

A. MINIMUM REQUIREMENTS FOR IMPROVING THE SAFETY AND HEALTH PROTECTION OF WORKERS POTENTIALLY AT RISK FROM EXPLOSIVE ATMOSPHERES

Preliminary note

The obligations laid down in this Annex apply to:

- places classified as hazardous in accordance with Annex no.1 whenever required by the features of workplaces, workstations, the equipment or substances used or the danger caused by the activity related to the risks from explosive atmospheres,
- equipment in non-hazardous places which is required for, or helps to ensure, the safe operation of equipment located in hazardous places.

1. Organisational measures

1.1. Training of workers

The employer must provide those working in places where explosive atmospheres may occur with sufficient and appropriate training with regard to explosion protection.

1.2. Written instructions and permits to work

Where required by the explosion protection document:

- work in hazardous places must be carried out in accordance with written instructions issued by the employer,
- a system of permits to work must be applied for carrying out both hazardous activities and activities which may interact with other work to cause hazards.

Permits to work must be issued by a person with responsibility for this function prior to the commencement of work.

2. Explosion protection measures

2.1. Any escape and/or release, whether or not intentional, of flammable gases, vapours, mists or combustible dusts which may give rise to explosion hazards must be suitably diverted or removed to a safe place or, if that is not practicable, safely contained or rendered safe by some other suitable method.

2.2. If an explosive atmosphere contains several types of flammable and/or combustible gases, vapours, mists or dusts, protective measures shall be appropriate to the greatest potential risk.

2.3. Prevention of ignition hazards in accordance with Article 6 of this Decision must also take account of electrostatic discharges, where workers or the working environment act as charge carrier or charge producer. Workers must be provided with appropriate working clothes consisting of materials which do not give rise to electrostatic discharges that can ignite explosive atmospheres.

2.4. Plant, equipment, protective systems and any associated connecting devices must only be brought into service if the explosion protection document indicates that they can be safely used in an explosive atmosphere. This applies also to work equipment and associated connecting devices which are not regarded as equipment or protective systems within the meaning of Governmental decision no. 752/2004 regarding laying down of the conditions for putting on the market of the equipment and protective systems designed for use in potentially explosive atmospheres, with subsequent modifications, transposing Directive 94/9/EC if their incorporation into an installation can in itself give rise to an ignition hazard. Necessary measures must be taken to prevent confusion between connecting devices.

2.5. All necessary measures must be taken to ensure that the workplace, work equipment and any associated connecting device made available to workers have been designed, constructed, assembled and installed, and are maintained and operated, in such a way as to minimise the risks of an explosion and, if an explosion does occur, to control or minimise its propagation within that workplace and/or work equipment. For such workplaces appropriate measures must be taken to minimise the risks to workers from the physical effects of an explosion.

2.6. Where necessary, workers must be given optical and/or acoustic warnings and withdrawn before the explosion conditions are reached.

2.7. Where required by the explosion protection document, escape facilities must be provided and maintained to ensure that, in the event of danger, workers can leave endangered places promptly and safely.

2.8. Before a workplace containing places where explosive atmospheres may occur is used for the first time, its overall explosion safety must be verified. Any conditions necessary for ensuring explosion protection must be maintained.

Such verification must be carried out by persons competent in the field of explosion protection as a result of their experience and/or professional training.

2.9. Where the risk assessment shows it is necessary:

- it must be possible, where power failure can give rise to the spread of additional risks, to maintain equipment and protective systems in a safe state of operation independently of the rest of the installation in the event of power failure,
- manual override must be possible in order to shut down the equipment and protective systems incorporated within automatic processes which deviate from the intended operating conditions, provided that this does not compromise safety. Only workers competent to do so may take such action,
- on operation of the emergency shutdown, accumulated energy must be dissipated as quickly and as safely as possible or isolated so that it no longer constitutes a hazard.

B. CRITERIA FOR THE SELECTION OF EQUIPMENT AND PROTECTIVE SYSTEMS

If the explosion protection document based on a risk assessment does not state otherwise, equipment and protective systems for all places in which explosive atmospheres may occur must be selected on the basis of the categories set out in Government Decision no. 752/2004, with subsequent modification, transposing Directive 94/9/EC.

In particular, the following categories of equipment must be used in the zones indicated, provided they are suitable for gases, vapours or mists and/or dusts as appropriate:

- in zone 0 or zone 20, category 1 equipment,
- in zone 1 or zone 21, category 1 or 2 equipment,
- in zone 2 or zone 22, category 1, 2 or 3 equipment.

Warning sign for places where explosive atmospheres may occur, pursuant to Article 9(3) of this Decision.:



Place where explosive atmospheres may occur

Distinctive features:

- triangular shape,
- black letters on a yellow background with black edging (the yellow part to take up at least 50 % of the area of the sign).

Other explanatory data may be added.