

Application of German StörfallV in Industrial Parks Recommendation of Hazardous Incident Commission (SFK-GS-44)

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Historical Development: From Establishment to Industrial Park (IP)

The development of the industry, especially Chemical Parks (CP)

- Old and new German federal states: Different starting position, but similar results.
 - Global trends / economic survival fight.
 - Retention of the common substance switching.
 - Ongoing ex- corporate linkages.
 - Different power of the infrastructure companies.
- The change processes are not always transparent ...
 - for the employees
 - for the neighbours
 - for the authorities

... and are still going on.

CP – Models in Germany

Above all, historically have formed different chemical park -models, which have to survive in the market:

- **„BASF - model “** (major - user - location)
One dominating operator
- **„Infracor - model “**
"Infra" (still) belongs to the same commercial group like the essential users
- **"Infraserv model"**
users are partly (still) owners of the "Infra", "industrial park"
- **„Leuna - model “**
No close connection between user and infrastructure company
- **„Bitterfeld - model “**
several infrastructure service providers, "open" park

IP: Basic Legal Problems

No longer together: one location - one operator, but:

- one common source of danger with different responsible operators
- The definition of a operator has severe consequences on many areas of legal regulation.

Public law has to accept the decision of enterprises to make use of civil law requirements

- Operators in an IP may not be regarded as a unique commercial group
- Common responsibility according the different sources of danger

Further information:

Friedenstab/Jochum/Peter/Spindler: „Industriepark und Störfallrecht“, Carl Heymann publishing company;

www.umweltbundesamt.de/anlagen/sicherheitsorganisation.htm#parks

Major Accident Control: many operators, but a common source of danger

The whole danger potential must be controlled by the operators in a common way.

- Consideration of neighbouring danger sources
 - This is a basic duty for all operators
 - Essentially: Information and cooperation in the chemical park
- StörfallV sets the protection target but gives no special procedure to reach it
 - Operator decides how he takes into account the whole danger
 - Authority can intervene only exceptionally
 - Regulations due to "location contracts,, often exceed public law requirements
- The whole danger potential is to be taken into consideration in
 - Safety concept, safety management system
 - Internal and external emergency planning
- Documentation in the safety report & examination by authority.

Recommendation of Hazardous Incident Commission (SFK)

(1/7)

The recommendation (SFK-GS-44)indicates minimal requirements and "best practice" for the following subjects:

- Neighbourhood concept
- Cooperation and exchange of information
- Coordination of basic management systems
- Coordination of emergency preparedness and response
- Admission regulations to protect interference from unauthorized people
- Supervision according to §16 StörfallV in the industrial park

Recommendation of Hazardous Incident Commission (SFK) (2/7)

Neighbourhood concept

- Splitting up industrial sites among different independent operators creates neighbours in a juridical sense
- Federal air pollution control act does not make any distinction between external and internal neighbour
- Legal regulations focus on the (remote) external neighbour, that is why internal neighbours often face immoderately sharp regulations
- **Application of the commensurability principle can help**
- **SFK demands clarification of the neighbourhood concept in German air pollution control act**

Recommendation of Hazardous Incident Commission (SFK)

(3/7)

Cooperation and exchange of information

- Most important instrument to control the danger from whole site
- Especially demanded by §15 StörfallV to control possible domino effects,
- In addition, for all users of an industrial park important
- Also co-ordination of (risk-)communication with authorities and the public is recommended
- Basis is a clear definition and regulation of the (new) internal interfaces by private contracts.

"Best Practice": Common location committees; key function of the site operator

Recommendation of Hazardous Incident Commission (SFK) (4/7)

Co-ordination of the management systems

- (Safety) management systems are often specific for different enterprise
- Determined elements, nevertheless, have strong location relation and should be regulated, hence, uniformly
- In industrial park (new) interfaces are created, which have to be taken into account in the individual SMS,

Instruments: Common location committees; contracts under private law

Recommendation of Hazardous Incident Commission (SFK) (5/7)

Coordination of emergency preparedness and response

- Most important to control of the whole danger potential
- "Best Practice": „ Industrial park – fire brigade “ with comprehensive competence over the whole industrial park
- However: „ Industrial park – fire brigade “ not in the harmony with North Rhine-Westphalia FSHG!
- Minimum requirements: cooperation by private contracts; close collaboration with external fire fighters
- Again: Key function of site operator

Recommendation of Hazardous Incident Commission (SFK) (6/7)

Admission regulations to protect interference from unauthorized people

- Special requirements / problems by often big number of different enterprises in the location
- "Best Practice": uniform supervision (common site fence and common security service)
- Minimum requirements : Good coordination of the security measures of the different enterprises
- Key function for site operator, if necessary contracting one external service provider for all.

Recommendation of Hazardous Incident Commission (SFK) (7/7)

Supervision according to §16 StörfallV in the industrial park

- Supervision system of the authorities must take into consideration special industrial park – situation, like:
 - Control of the whole danger potential
 - Different interfaces between the operators
 - Common surveillance checks

Major Accident Control: Duties of site operator or infrastructure society

Important operator's duties of major accident control can be transferred to the site operator or infrastructure society.

- Perception of cooperation duties (§6 paragraph 3 No. 2, StörfallV)
 - common information of the public (§11)
 - Grouping of the information for the external emergency planning
- Support of the local enterprises assessing their contribution to the whole danger potential
 - Deriving MAPP and SMS
 - Safety report (§9) and internal and external emergency plan (§10): integration of common site aspects
- Central support and consultation in the case of a major accident
 - internal and external communication with the external fire fighters
 - Fulfilment of report obligations
- Co-ordination of the overall emergency response

Facit

The transfer from individual establishment to a chemical park ...

- changes the expiries in the location often only a little
 - nevertheless, leads to numerous new interfaces
 - is in most cases compatible with the given regulations
 - however, considerable interpretation is needed, that is why:
 - *SFK recommendation; UBA R&D-report; VCI statements; environmental alliance Hessen;*
 - Conflicts only in few cases to juridical limits
 - Chemical Substance Act
 - Federal Pollution Control Act
 - Some Emergency Response Acts of the Länder , e.g. private fire brigade
- ... hence, requires practical solutions with comprehensive contracts among the playing partners.**